

The TV Antitrust Suits

Observers Say Loss of Funds Could Hurt News but Not Help Programing

By JOHN J. O'CONNOR

The commercial television networks could be hurt on the bottom line of their profit statements. Any threat to profits could hurt news and public-affairs operations. And the over-all TV schedule is unlikely to show any improvement in terms of quality. That is the consensus of broadcasting experts both inside and outside the industry on the possible effects of the Justice Department's antitrust suits against the Columbia Broadcasting System, the National Broadcasting Company, the American Broadcasting Company and Viacom International, a former subsidiary of C.B.S.

Filed last Friday, the suits would force the networks out of the business of producing entertainment programs.

Professing amazement and labeling the case "without merit," network officials stressed that around 90 percent of their current prime-time evening schedule was already obtained from outside producers. All agreed, however, that the case would be fought in the courts.

Similar Suits

Although network officials felt the suits appeared to be "hastily drawn," it turns out that the same suits had been sitting in a Justice Department drawer for at least a year and a half. And similar suits had been proposed by Justice Department staff lawyers at least twice before, in the late 1950's and in the early 1960's.

Why now? That question is prompting the most immediate speculation, and the answers, wrapped in pleas of "not for attribution," generally fall into two scenarios that might be

called "Agnew's Revenge" and "Justice's Ruse."

In the first, the suits are seen as continuing evidence of the Nixon Administration's hostility toward the network. Evidence cited includes Vice President Agnew's anti-network speech in November, 1969, and last year's controversy over C.B.S.'s "The Selling of the Pentagon."

In the second scenario, the Justice Department is currently leaderless, and staff lawyers see an opportunity to offset some of the bad publicity surrounding the settlement of the International Telephone & Telegraph Corporation antitrust case. Also, the Administration saw an opportunity to dilute its pro-Big Business image.

N.A.B. Convention

All, of course, remains speculation, but not entirely without foundation. The Nixon Administration's interest in broadcasting was dramatically underlined last week at the annual convention of the National Association of Broadcasters, a lobbying organization for commercial broadcasters, representing the local affiliates.

Held in Chicago, the convention featured major addresses by Secretary of the Treasury John B. Connally; Herbert G. Klein, the White House Director of Communications, and Clay T. Whitehead, director of the White House's Office of Telecommunications Policy. Siding with the broadcasters on all controversial issues currently racking the industry, the officials emphasized their belief that better broadcaster profits were the best solutions.

According to one veteran observer, who feels the Administration's performances at the Chicago convention were "most vicious and immoral," the implied message to the station owners was clear: "Just keep still while we bust the networks."

Another observer pointed out that the affiliates, often under politically conservative ownership, have historically been critical of the networks, and that whatever weakens the network strengthens the stations.

Effect of Suits

Too many questions remain to determine to what extent, if at all, the networks would be weakened by the Justice Department's suits.

In breaking news of the suits on Thursday, before they were actually filed, Robert D. Wood, president of the C.B.S. television network, advised affiliates that the Government sought to "transfer control of network schedules, including what programs are put on the air and when, to advertising agencies and motion picture producers"

The suits, however, specifically state that responsibility for programs accepted for broadcast would continue to lie with the networks. The extent and procedural structure of that responsibility is a crucial factor in the case.

Ad agencies are nearly unanimous in their opposition to less network involvement in high-risk programing development.

When a network puts "development funding" up front for a series idea, it retains the right of approval over concept, script, casting and production. The networks contend that this system at least retains the potential for innovative programing, for occasional experiments with new ideas. One official argues that, for instance, "Laugh-In" wouldn't have got on the air without N.B.C.'s participation.

Not Much to Defend

Here, however, the networks run into their most severe problem, having nothing to do with the possibility of either economic or political harassment. A defense of the current network structure would be much more convincing, it is argued, if there were more network content to defend.

For years, critics have been pointing out that the networks were abandoning their responsibilities to quality programing, that the machine was more concerned with profits than with the public good.

The selective viewer, the more informed or "intellectual" viewer, was increasingly ignored in the battle for the mass audience. The result today is that the networks have no articulate constituency willing to fight for them. The overwhelming reaction to the Justice Department suits can be summed up in one question: "How much worse could television be?"

Perhaps it could be worse in the coverage of news and public affairs, the one area in which the networks have displayed consistent integrity.

A Justice Department official has emphasized that the suits have "absolutely nothing to do with news, public affairs or sports presentations." But if the suits do bite into network profits, that contention would appear naive.

Prime-time news specials cost money. They do not attract large ratings, and they do not attract sponsors wary of controversy. If the suits were to have a material effect on network profits, one broadcasting official pointed out, then "obviously we can't support a \$100-million news habit."