

# In Brief

In what is believed to be first ruling of its kind, **U.S. District Court judge in Boston has held that cable systems involved in rate-regulation dispute with franchise authority are entitled to assert their rights in federal court.** Judge Andrew A. Caffrey, in case involving effort of Town of Danvers, Mass., to block Nashoba Cable's plan to raise rates, also held that cable systems may not waive protections given them under Cable Communications Policy Act of 1984, such as that exempting them from rate regulation. Nashoba began serving Danvers subscribers in July 1986 after agreeing to freeze rates for two years. And in June 1988, Nashoba announced plans to increase rates. Danvers said it considered proposed increase violation of pledge to freeze rates—there is dispute as to when two-year period began—and threatened legal action. Nashoba filed suit first, seeking order barring action by Town. Danvers, for its part, claimed court lacked jurisdiction, that issue involved common-law contract dispute, governed by state law. But Caffrey ruled that Cable Act governed, that "Congress apparently intended to prevent crazy-quilt patchwork of local rate regulation and instead intended to subject cable television rates to the competition of the marketplace." Danvers rate freeze, he said, "is precisely the sort of rate regulation the Act prohibits." That was one of two holdings Nashoba's attorney, Stephen Berry, said was "important." Second was Caffrey's assertion that "public policy concerns... militate against permitting a cable services provider to waive key provisions in the statute." However, issue may not be finally resolved. Danvers Town Counsel Paul Kenny said "likelihood is great" that Danvers will appeal decision.

**Beasley Broadcast Group and RKO reached settlement with competing applicants for KRTH-AM-FM Los Angeles for \$86.6 million.** Deal has been in works since last August (BROADCASTING, Aug. 29, 1988). It comes on heels of settlement for WFYR-FM Chicago (see page 75). RKO will receive approximately \$56.2 million, and competing applicants \$30.4 million. KRTH(AM) is fulltimer on 930

khz with 5 kw, and KRTH-FM operates on 101.1 mhz with 58 kw and antenna 2,880 feet above average terrain.

**NBC was cheered by judge's latest ruling in entertainer Wayne Newton's libel case.** U.S. District Judge Myron Crocker said in Los Angeles on Dec. 30, 1988, that Newton has until Feb. 1 to state his acceptance of \$5,275,000 he was awarded following jury trial in Las Vegas two years ago. If he does not accept, he faces new trial on all issues. Newton had originally rejected award because Crocker had reduced jury's verdict of \$19.2 million. Newton's lawyers asked for new trial on question of damages entertainer allegedly suffered as result of three investigative pieces on NBC News broadcasts aired in 1980 and 1981, linking him to reputed organized crime figure. Newton's attorney, Morton Galane, said his client was on vacation in Hawaii and would not decide on his answer to court until his return on Jan. 14.

FCC, in unanimous decision released last week, affirmed Mass Media Bureau's fining of Wisconsin FM for violation of anti-lottery rules. **Bureau levied \$7,500 penalty against WRLS-FM Hayward, Wis.,** for broadcasting advertisements for bingo on behalf of Lac Courte Orielle Tribal Government. Spots allegedly aired regularly between September 1986 and March 1987.

**FCC approved Bell Atlantic's plan to build experimental, integrated fiber optic system in Perryopolis, Pa.** As proposed, Bell Atlantic would build system capable of carrying telephone signals and video services and passing 100 homes. Helicon Corp., city's cable operator, would provide programming for one-year test.

**Satellite Music Network's board of directors last week approved Capital Cities/ABC's proposal to acquire all of its outstanding common stock for \$5.50 per share, cash** ("In Brief," Dec. 26, 1988).

## Cable network numbers on the rise

Combined prime time ratings for seven top cable networks for the fourth quarter of 1988 rose 7% over 1987, increasing from an 11.0 to an 11.8. The increase was tied to USA, CBN Family Channel and Lifetime, whose new fall prime time lineups helped boost those services' fourth-quarter ratings from a combined 3.2 in 1987 to a 4.3 in 1988.

USA's rose from a 1.7 to a 2.1, with a lineup of Miami Vice,

Murder, She Wrote and, at 9 p.m., movies and sporting events.

Lifetime attributed its ratings jump to Cagney & Lacey, which has scored between a 1.0 and a 1.2 in its 8 p.m. time slot. The jump for CBN came from its new prime time lineup of Our House and family movie programming (BROADCASTING, Dec. 26, 1988).

Although it does not have full fourth-quarter ratings, Turner

Broadcasting System has numbers for TNT for the six-week period from Nov. 7 to Dec. 18. From 7 a.m. to 1 a.m., where it had forecast a 0.7, it has scored a 0.9. Its prime time rating of 1.1 is also 0.2 higher than its forecast of 0.9. Its 24-hour rating was a 0.7, 17% ahead of its projected 0.6.

The most successful block has been the Muppet Show. Bugs Bunny, Fraggle Rock children's fare between 6 and 8 p.m., which has averaged a 1.8 rating, 50% higher than the 1.2 Turner had forecast. TNT has signed a contract for Nielsen measurements and expects to begin receiving overnight data this month. Turner estimated TNT was in 19.7 million homes in December, and expected that to jump to 23 million after a number of Jan. 1 launches by systems.

Network	Prime Time		Full Day	
	1988 Rating (HH)	1987 Rating (HH)	1988 Rating (HH)	1987 Rating (HH)
WTBS	2.6 (1,218,000)	2.6 (1,128,000)	1.6 (754,000)	1.6 (684,000)
ESPN	2.5 (1,245,000)	2.6 (1,176,000)	0.9 (448,000)	0.9 (391,000)
USA	2.1 (955,000)	1.7 (700,000)	1.0 (454,000)	0.9 (368,000)
CNN Headline	1.3 (623,000)	1.3 (564,000)	0.9 (424,000)	0.9 (392,000)
CBN	1.2 (540,000)	0.8 (303,000)	0.9 (375,000)	0.6 (238,000)
Nashville	1.1 (449,000)	1.3 (470,000)	0.5 (204,000)	0.6 (213,000)
Lifetime	1.0 (425,000)	0.7 (266,000)	0.6 (243,000)	0.4 (157,000)
Nickelodeon			1.0 (443,900)	0.9 (333,900)
A&E			0.8 (290,000)	0.6 (199,000)
MTV			0.6 (269,600)	0.6 (231,600)
Nick at Nite			0.6 (246,800)	0.4 (127,600)
Weather Channel			0.2 (78,000)	0.2 (65,000)
FNN			0.2 (62,888)	0.2 (51,388)
VH-1			0.2 (61,300)	0.3 (72,000)

USA's prime time runs from 7 to 11 p.m. while CBN's runs from 7 p.m. to midnight. Lifetime's full day is 7:30 a.m. to 1 a.m. Monday through Saturday, Nickelodeon's from 7 a.m. to 8 p.m., Nick at Nite's from 8 p.m. to 7 a.m., FNN's from 6 a.m. to 8 p.m., Discovery's from 9 a.m. to 3 a.m., Weather Channel's 6 a.m. to midnight and Nashville's from 9 a.m. to 3 a.m. Figures for Arts & Entertainment are the sum of its two four-hour programming blocks, from 8 p.m. to 4 a.m.