

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

FILED by M.A. D.C.
SEP 30 1998
CLERK U.S. DIST. CT.
S.D. OF FLA. - MIAMI

CBS Broadcasting Inc., et al.,)
)
Plaintiffs,)
)
v.)
)
PrimeTime 24 Joint Venture,)
)
Defendant.)
_____)

CIV-Nesbitt No. 96-3650
Magistrate Judge Johnson

ORDER CONCERNING IMPLEMENTATION OF PRELIMINARY INJUNCTION

Pursuant to the stipulation of all parties, it is hereby ORDERED that the July 10, 1998 Supplemental Order Granting Plaintiffs' Motion for Preliminary Injunction is modified in the following respects:

1. Effective date for termination of existing subscribers: Paragraph 5 of the July 10, 1998 Supplemental Order is hereby modified to read as follows:

With respect to subscribers signed up by PrimeTime from March 11, 1997 to the date of this Order, PrimeTime shall come into compliance with ¶¶ 2-3 above (as now in force or later modified) no later than February 28, 1999.

5. Notifying subscribers about waivers. For any subscriber as to which the relevant station(s) have provided written consents to PrimeTime 24 by December 8, 1998, PrimeTime 24 shall provide (or shall direct the relevant distributor to provide) by January 8, 1999 a letter to the pertinent subscriber, in a form to be agreed on between plaintiffs and defendant, stating that his or her satellite network service is to be continued because the pertinent station(s) have consented to that service. If such written consents are provided by January 8, 1999, PrimeTime 24 shall provide (or direct the relevant distributor to provide) the subscriber with such a letter by February 8, 1999. Any consent granted by a station shall be subject to any conditions contained in the consent letter from the station.

6. Reservations of rights. Plaintiffs reserve all of their rights to seek to enforce all aspects of the July 10, 1998 Supplemental Order except as specifically modified herein. Except as part of an effort to enforce this Order, no party shall use any other party's stipulation to this Order against that party in this or any other litigation or proceeding. PrimeTime 24 and its distributors reserve all of their rights to contend that the Court's July 10, 1998 Supplemental Order and/or this Order is subject to and/or superseded by future actions relating to SHVA by the FCC or Congress, and otherwise to seek modification of the July 10, 1998 Supplemental Order. Plaintiffs reserve their rights to oppose any such argument or request. The provision of lists pursuant to ¶ 4 above, and any information obtained from those lists, shall not be used against PrimeTime 24 or its distributors in this or any other litigation or proceeding. Without limiting the generality of the preceding sentence, the provision of lists pursuant to ¶ 4 above shall be without prejudice to the right of PrimeTime 24 and its distributors to maintain that subscribers on such lists need not be terminated due to intervening circumstances, and to the right of plaintiffs to oppose that position.

Nothing in this Order shall constitute any admission by PrimeTime 24 that any of its customers are able to receive local network signals. PrimeTime 24 reserves all of its appellate rights with respect to the Court's May 13, 1998 Order and July 10, 1998 Supplemental Order, including as modified by ¶ 1 hereof. PrimeTime 24 further reserves its position that it is entitled to serve the affected subscribers and its right to seek to have the preliminary injunction vacated in whole or in part. Plaintiffs reserve their rights to oppose any such request.

It is so ordered this September 30, 1998.


United States District Judge

cc: David M. Rogero, Esq.
Thomas Olson, Esq.
Natacha Steimer, Esq.
Andrew Schwartz, Esq.
Stephen Deutsch, Esq.
Brian Spector, Esq.

2. Ample notice of termination. PrimeTime 24 shall provide (or shall direct its distributors to provide) ample advance written notice of termination to each subscriber whose CBS or Fox service from PrimeTime 24 the distributor or PrimeTime 24 expect to terminate under the July 10, 1998 Supplemental Order.

3. Letter concerning options in light of termination. In giving such advance notice of termination, PrimeTime 24 shall provide (or shall direct that its distributors provide) each affected subscriber with a letter, in a form to be agreed on between plaintiffs and defendant, concerning options for receiving local network signals. The letter shall also explain that the July 10, 1998 Supplemental Order permits continued satellite delivery of network signals to subscribers who have obtained consent from the relevant station(s) or who have been tested and found not to receive a Grade B intensity signal from a network station of the relevant network.

4. Provision of lists for consideration of possible consent to continued service. No later than November 15, 1998, PrimeTime 24 shall provide plaintiffs with a list of all existing subscribers that PrimeTime 24 or its distributors expect to terminate under the Court's July 10, 1998 Supplemental Order as now in force. The plaintiffs, and any other CBS or Fox station receiving these lists, shall use the lists only for purposes of determinations by stations about whether, in the sole judgment of the station(s), to advise PrimeTime 24 that the station(s) consent(s) to satellite delivery of network programming to particular subscribers. The networks and stations shall not use the lists to communicate directly with subscribers, and shall not provide the lists to third parties except to obtain assistance in carrying out the purposes described above.