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90. The latter point--that STV and free TV would compete for the same programs--is made by many opponents. It is variously argued that STV would cater to the same general audience tastes as free TV since the trial at Hartford showed that most of the programming would consist of mass circulation entertainment (movies and sports), that STV would siphon off most of the popular free TV programs with a devastating effect on the latter service, that siphoning of top shows would result in news and public service programming (which involve substantial losses) vanishing from free TV because of loss of financial earnings from the lost shows, that a showing of a program on STV dilutes the potential free TV audience and vice versa, that although talent, absent any contractual limitation, could work for STV and free TV, it cannot do so at the same time, that if the talent is a performer he might suffer the same problem of audience dilution as movies, that STV would bid away selective mass appeal programs such as the World Series and professional football games since those involved would have a choice of whether to use STV or free TV, and that in addition to siphoning the most popular free TV programming STV would siphon other programs as well as producers, writers, and directors of entire serials and specials.

91. Both ABC and CBS discuss selective program siphoning. ABC says that CBS is presently paying \$19,000,000 for the right to show the NFL football games and that it appears that this is near the limit of what free TV can pay. It states that although it is difficult to estimate what STV penetration would be nationally, if only 15,000,000 sets were tuned in to professional football games at a cost of \$1.00 for each game, over a 14-game season revenues of \$210,000,000 would be obtained--an amount which dwarfs the \$19,000,000 that CBS pays. Thus it is implied that STV could outbid free TV for such games.

92. Although questioning some of the reasoning of Zenith and Teco underlying the assumption that about \$32,000,000 would be available to STV for procurement of sports events (if there were 20% penetration in the top 175 markets), CBS says that even assuming that figure, the Zenith-Teco statement that free TV spends about \$50,000,000 for selected sports events so that STV could presumably not outbid free TV for them is not correct. CBS maintains that STV could concentrate its programming dollars on the lion's share of the major events and thereby siphon them from free TV.

93. Finally, ABC argues that there is no effective protection against siphoning. It states that if STV is authorized on a nation-wide basis and siphoning then develops, the immense capital investments and the establishment of viewing patterns will make it difficult, if not impossible, for the Commission to take effective regulatory action. ABC says that it was this sort of consideration that led it to urge the Commission to assert jurisdiction over CATV. As to taking action now to prevent siphoning by Commission rule, it is asserted that the limitation of STV programming to box-office attractions is impractical, and in any event would raise Section 326 and First Amendment problems.