

-50-

144. Conclusions. Because we believe that STV can furnish a beneficial supplement to the programming of free TV and that it might well provide a wholesome stimulation that would improve free TV and the overall programming available to the public, we believe that it should be authorized. However, as indicated in previous portions of this document, although the Hartford trial did furnish information that has proved helpful in making reasonable estimates of the future, its proscribed nature has left numerous areas about which we are legitimately concerned. Until we know more about how STV will develop on a nation-wide scale, we feel it best to proceed with caution. For this reason, the rules which we adopt are designed to strike a reasonable balance that will not hamstring the development of the new service and yet will provide safeguards against the occurrence of events that might be contrary to the public interest.

145. One area of concern is that of the pre-empting of time by STV from free TV. The Third Report provided that STV trial operations might be conducted only in communities lying within the Grade A contours of at least four commercial TV stations including the station of the STV applicant. It mentioned that one of the primary reasons for this provision was to assure the continued availability of substantial amounts of free TV programming to the public, *i.e.*, to prevent undue pre-empting of free TV time. We stated in that report that it was our intent to suspend judgment on the question of whether there should be such a market limitation if permanent STV were authorized. The Further Notice, having referred to the foregoing in paragraphs 31 and 32, announced that, in the light of the Hartford information, we tentatively agreed with the view of Zenith and Teco that STV should not be so restricted. However, we specified this matter as Issue (1), the present issue, and invited comments thereon.

146. We have carefully weighed the comments, including those summarized in the immediately preceding paragraphs as well as those mentioned in paragraphs 80, 81, 88, and 104 above, and believe on further consideration that the tentative conclusion of the Further Notice should be rejected. For reasons stated below, we are now of the view that, at least for the present, STV should be restricted to communities lying within the Grade A contours of at least five commercial TV stations including that of the STV operator, and are adopting a rule to that effect. ^{36/} (It is thus more stringent than the requirement of the Third Report.) This conclusion has been anticipated in paragraphs 108-110. The following supplements those paragraphs.

^{36/} This rule appears in Section 73.642(a) of Appendix D. As may be noted, it also contains other provisions designed to restrict pre-empting of time. One is that, not counting the station of the applicant, at least four of the stations must be in operation. Another, discussed under Issue (4) below, provides that in the five-station markets where STV will be permitted, only one station in the market may engage in STV operations. It may also be noted that the rule requires that the entire community, not merely part of it, be located within the five Grade A contours.