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147. Elsewhere (para. 77) we have indicated that we regard the continued availability of free programming as a most important consideration. This is so because we think that the tremendous investment of the public in television receivers based on the expectation of free service ought to be protected and the millions of viewers who rely on that service for free entertainment should be permitted to do so. Although we are aware of the merits of the arguments that STV should be permitted in all communities--the arguments maintaining that permitting STV in all communities might help marginal or new stations in small communities, might aid UHF in such communities, might promote diversity of programming; arguments that Section 307(b) of the Act requires that STV be allowed in all communities where a demand exists; arguments that we should not regulate in this area until the impact of STV on the free TV structure has been assessed--we are of the opinion that at this stage, where uncertainty about the new service exists with regard to this subject, considerations of protecting against pre-empting are overriding. In smaller markets, pre-empting could substantially reduce the amount of free programming available to the public, as some parties have mentioned. Since it appears likely, from the Hartford trial, that much of the STV programming might be in prime time, the effect would be even more marked, for although the loss in terms of hours is the same regardless of the time of day when the pre-empting occurs, the loss in prime time would generally speaking be a loss of more popular programs.

148. The rule protects against such loss in smaller markets. In the markets where it permits STV, it assures three network services and one independent service. To the extent that existing stations in those markets offer STV, there will be a relatively small amount of time pre-empted. To the extent that STV operations occur on new stations, there will be no pre-empting at all. It gives ample assurance against the dangers to networks, mentioned by ABC and the Joint Committee, which could conceivably result in an untoward weakening of the present broadcast structure. At the same time, the rule will permit a not inconsiderable portion of the nation's population to have the opportunity to use the new service if it so desires. ^{37/} Moreover, this will afford an opportunity to observe what factors evolve in the operation of a nation-wide STV service, such as, for example, the broadening of the base for the purchase of programs which Zenith and Tecu tell us was lacking in a single-city trial, the possible development of an STV network, audience diversion, pre-empting of time, program siphoning, or others. With this additional information we should be in a position to take further steps to guide the development of this service in the public interest as seems appropriate.

149. At the present time there is no certain way of predicting what STV penetration will be after the service has been authorized on a nation-wide

^{37/} The Commission has allocated 5 or more channels to 80 markets which include 80% of the nation's TV homes. STV is potentially available to all of those markets. More immediately, of those markets, 63--including 78.8% of all TV homes--presently have activity on 4 or more channels, i.e., there are licenses, permits, or pending applications for 4 or more stations.