

-54-

TV are broadcasting, the purpose of Section 73.651 would be met by permitting STV licensees to fulfill the requirements of that rule by all STV or any combination of STV and free TV broadcasting.

156. It goes on to say that if at a later time it should appear that such a rule is necessary, the Commission can take necessary action. In the meantime, it is said, absence of such a rule at the outset will permit STV to have greater freedom in the programming area and a better opportunity for development.

157. As to limiting STV to certain segments of the broadcast day, or limiting the number of hours of STV, proponents generally oppose such restrictions, stating that the record shows no need for them, that at this stage they would hamper the development of STV, and that the amount of time of broadcasting of STV programming should be determined in the market place.

158. On the other hand, one proponent--Zenith-Teco--states that because single-station markets present a unique problem, and because there is no problem of time availability for free TV in markets within the Grade A contours of five or more stations, the proposed rule with regard to such markets should be adopted. They believe, however, that markets receiving service from two to four Grade A signals, present different considerations. As a practical matter, it is said, network affiliates in such markets are not likely to give up assured profits to enter the speculative STV area. Moreover, the Hartford trial has shown that STV will have greater demands for STV programming in prime time than the proposed rule would permit. These two factors could operate to confine STV to only a few markets where five Grade A signals are received, and where therefore there would be no limit on STV broadcasting. They therefore suggest that the Commission exempt UHF stations in two to four station markets. This would, they urge, permit STV to have the same competitive access to UHF that free TV has always had, and would restrict the rule to VHF where most of the free TV is.

159. They also suggest that any time limitations be applied on the basis of an annual average and not a daily or weekly average, as is permitted with the AM-FM non-duplication rule (Section 73.242), so that programs will not be arbitrarily restricted. Finally, since the meaning of "prime time" is vague, they propose that the rule define the term as the hours between 6:00 p.m. and 11:00 p.m., which is also the period used in the programming portions of the Commission's application forms. Another clarifying suggestion is made by ABC, which points out that ambiguity exists in the proposed rule as to the meaning of "community," which may be cured by language making it clear that it is referring to the community to which the station is licensed.