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160. AMST does not think that the proposed rules should be adopted because, among other reasons, in a five-station market it would be possible in peak viewing time to have no free TV available, in a four-station market, it would be possible that there would be no free programming available between 7:30 and 9:30 P.M., and so on with regard to markets of smaller sizes. The Joint Committee suggests restrictions more stringent than those in the proposed rule. Among others, it suggests that no STV station be permitted to devote more than 60% of its broadcast day to STV programming. Thus, whereas our proposal would have imposed no restrictions on STV stations operating in five-station markets, the Joint Committee would impose the 60% restriction on them because the lack of information about the possible impact of STV on free TV "does not warrant the risk of permitting any Pay-TV station to operate on unlimited time in any market."

161. ACLU believes that STV should not be viewed as a beneficial supplement to free TV, but as a different and independent system. Therefore, that group argues, both services will have the greatest chance of developing their potentials if stations are exclusively STV or free TV, and they accordingly propose that there be two classes of TV broadcast stations. This, they state, would best promote diversity (see para. 139) because an exclusively STV station would have the incentive to provide diversified programming for all hours of the day and evening. (In addition to working against diversity, they state that to permit STV and free TV over the same station could lead to various problems which they set forth.) ADA has similar views, but they contain additional ramifications which are discussed later in paragraphs 217-219.

162. Conclusions. In discussing Issue (1) we stated that we were adopting a rule limiting STV operations to markets within the Grade A contours of five commercial TV stations because we believed that assuring adequate amounts of free TV programming to the public was an overriding consideration. We shall not repeat the discussion of the subject which we presented there, but point out that the same considerations lead us to adopt a rule requiring STV stations to broadcast at least the minimum number of free TV hours required by Section 73.651 of the Rules. We believe that, at least at this point in the development of the new service, such a rule is a necessary safeguard.

163. We cannot agree with ACLU and ADA that there should be two classes of stations and that STV stations should not only not broadcast the minimum number of free TV hours, but should be prohibited from doing so. One of the principal arguments made by proponents of STV is that it will promote development of new or marginal stations and of UHF by supplying needed financial support. Clearly the development of which they speak is one that envisaged both STV and free TV on the same station. We are of the opinion that STV and free TV can exist side by side on the same station, each service supplementing the other to the ultimate benefit of the public, and that free programming will not be an undue burden on STV stations.

164. We are adopting a rule limiting STV to five (or more)-station markets, permitting only one STV operation in a market (see Issue (4)), and requiring that STV stations broadcast at least the minimum number of hours of