

reinterpretations of the rule by the Commission that could have a paralyzing effect on large areas of program procurement for STV without there being any evidence that a need exists for such a restriction (Kaiser). In addition, a restrictive rule might inhibit, channel, or otherwise bind creative activity (Trigg-Vaughn) and prevent diversity of programming (ACLU). Even if one succeeded in drafting a restrictive rule, it might not be adequate to protect against siphoning. For example, if a rule were adopted like the one suggested in the Further Notice which would prohibit STV from carrying certain types of programs common to free TV such as those in which continuing characters are presented from week to week in a series using a common setting or central program concept, it would not protect against the siphoning of all of the other types of programs which free TV carries (AMST, NBC).

241. The Hartford trial and Etobicoke have demonstrated what the programming of STV will probably be (Telemeter, Zenith-Teco). That programming shows that serious siphoning of programs or talent from free TV is unlikely (Telemeter, Zenith-Teco). Thus, there is no need to have restrictive rules to protect against siphoning (Zenith-Teco). If there were such a rule, it would probably have little influence on the actual programming anyway (Telemeter).

242. However, and without conceding that the Commission has the authority to regulate programming, it might be desirable to have a broad regulation that could serve the purpose of casting STV into the mold in which it is most likely to develop, if for no other reason than to placate the alleged fears of the opponents of STV (Telemeter). This rule or policy might provide that STV stations are expected not to duplicate free TV programming, and are expected to provide programs of the type shown at Hartford, *i.e.*, current movies, sports events not carried on free TV, and the like, with the content thereof to be determined by the licensee or STV entrepreneur (Telemeter).

243. A rule prohibiting commercials is acceptable (Teleglobe, Trigg-Vaughn). Yet, since the impact of commercials on program diversity of STV is unknown, any rule or policy used by the Commission should be viewed as in the nature of an experiment to see how programming diversity is affected (ACLU). Possibly, prohibiting commercials on STV would violate principles of free competition (ACLU).