

-94-

that, as matters develop, soccer might be shown on STV. Should special problems in this or other areas occur, we shall face them as they arise.

270. Finally, it is our belief that only sports events that are broadcast live should be afforded protection, and the rule reflects this view. It appears unlikely that STV would wish, or be able, to sell taped sports programs. To the extent that they should do so, we believe that this sort of programming should be open to competition between the two TV services. This means, then, that the showing of such programs as ABC's Wide World of Sports, or the CBS Sports Spectacular which consist, generally, of taped sports events would not prevent the showing of similar programs on STV.

271. In addition to the foregoing, we are adopting a rule prohibiting STV stations from devoting more than 90% of their STV programming hours to feature films and sports combined, the percentage, generally speaking, to be applied on the basis of annual STV hours broadcast. Once again, this is similar to the proposal of the Joint Committee. That group suggests that not more than 50% of the STV time be devoted to films. This, coupled with sports events, they aver, would be an equitable balance that would give STV sufficient programming on which to operate, and yet require it to mine new program sources and give the sort of diversity of programming that it has promised. We believe that the Joint Committee's concept is a good one, but that its proposed restriction is of a harshness that could spell the death knell of STV before it even began. It would appear from the Hartford and Etobicoke experiences that feature films will be a staple part of the STV programming. To reduce the amount of this to 50% in an STV operation would be to raise serious doubts about whether it could be viable.

272. The figure of 90% which we select is, as with all lines of demarcation (voting age of 21, for example), arbitrary to some extent. However, it is roughly based on the information in the table of paragraph 17 above, and appears to be a reasonable one in terms of the Hartford operation. Using the figures of that table, it appears that the average length of a single program was about 1.7 hours, and that films and sports events occupied about 91% of the STV programming hours. 47/

273. This rule, of course, does not limit STV operators to showing for only 10% of their STV broadcast hours programs like opera, ballet, theater, and other programs of their choice exclusive of feature films and sports. They may show more if they wish. Calculating percentages on an annual basis, as we do with our AM-FM non-duplication rules, will provide flexibility. However, we wish to avoid the possibility that some STV operators might have an overload of opera, ballet, theater and similar programs during, say, the summer months when there might be less STV viewing, in order that they could devote more STV broadcast hours to mass-appeal feature films during other months when there might be more viewing. Therefore, in the absence of a showing of good reason for not doing so, we shall expect STV stations to devote at least 5% of their STV broadcast hours in any calendar month to programming other than sports and feature films.

47/ The table supplies us with the number of programs per year in each category, and the total number of showings for each category. Thus, in terms of number of separate programs, films constituted 72% of the offerings and sports, 13%, for a total of 85% for the combined categories. In terms of number of showings, films occupied 86.5% and sports, 4.5% for a combined total of 91%.