happen to the rating of these programs if anyone attempted to charge the public to see them.[37] No one can expect the public to pay for what someone else provides free.

Further, as the Commission recognized in authorizing the Hartford trial, "a charge for a commercial program or a program being seen elsewhere without charge might very well build in subscribers a resentment of serious financial consequence"[38] to the subscription operator. Certainly, the future operators of subscription television must be credited with some business acumen. It is pertinent in this regard that the operators of closed circuit theater television have never been naive enough to attempt to "siphon" away for their theater box-office any of the 40 top-rated network television programs. They have been content with box-office attractions not available on conventional television such as heavyweight championship fights, home games of professional football teams, etc.

The contention that subscription television could or would siphon all major sports events now seen on conventional television incorporates an economic fallacy which ignores the limitations of the public's recreational budget. For example, a nationwide subscription system operating in the top 175 television markets and achieving a 20% saturation of all U.S. television homes would have approximately ten million subscribers. If each such subscriber would spend an average of $65 per year on programs—the Hartford average—such expenditure would produce $650 million annually in subscription program revenue.

Based upon Hartford trial experience and the historical business patterns of program procurement costs in analogous fields, such as the motion picture industry, 35% of this amount—$227,500,000—would be available for nation-wide subscription program procurement. The remaining 65% would be required to support the maintenance and operation of the subscription technical systems and to pay for the time of subscription television stations.

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[37] The presumption that current network programs would have a value as subscription programs also ignores the high mortality rate of these programs. Thus, the mortality rate for new prime time programs introduced in the 1963-1964 season was as follows: CBS-TV (82%), ABC-TV (50%) and NBC-TV (67%). *Sponsor*, Vol. 18, No. 22, June 1, 1964, p. 41.

[38] *Application of Hartford Phonevision Company*, 20 RR 754, 769 (1961).