

limited to one system per market and one market per system (Third Report, par. 8, 16 R.R. at 1540b). The Commission also reaffirmed its decision in the First Report that when "sufficient and meaningful" data became available, it would hold public hearings to decide whether pay television should be permanently authorized. (See First Report, par. 92, 16 R.R. 1533). The Commission, in limiting the nature and scope of the proposed test operations, was explicitly recognizing the obvious danger inherent in allowing extensive trial operations. The Commission clearly indicated that the limitations were imposed precisely to forestall the possibility that trials would be "so extensive as to constitute the virtual establishment of a service about which final decisions on a number of important points must be reserved until later." (First Report, par. 63, 16 R.R. at 1524). More particularly, the Commission in its First, Second and Third Reports has consistently stressed the need for sufficient and meaningful data on the many questions which it must decide.

B. The Instant Proceeding

On March 24, 1966, the Commission instituted the instant Further Notice of Proposed Rule Making in which, the Joint Committee submits, the Commission abandoned its heretofore careful approach to the questions at issue. Thus, the Commission in the instant Notice made a preliminary determination that "it appears that it may well be in the public interest to authorize such operations on a permanent nation-wide basis" (Further Notice, par. 10), and then shifted the emphasis of the proceeding away from what the Commission had previously indicated the next step in the procedure would be (*i.e.*, public hearings in which the results of the Hartford test could be analyzed).⁶ The Further Notice, instead, placed the emphasis of the proceeding not upon *whether* a permanent nationwide Pay-TV system should be established, but upon the specific

⁶ See First Report, 16 R.R. at 1533.