

Any exhibition of a film or a play before a large audience, whether in theaters, Pay-TV, or free TV, dilutes the market. With respect to film, theater exhibition is a known quantity and free-TV has demonstrated its capacity to pay. Pay-TV will secure the product only where it can demonstrate that Pay TV exhibition alone or in conjunction with a diluted theater market will produce revenues equal to or in excess of revenues that will be available from theater exhibition and free television. Particularly at the outset, Pay-TV will need current and quality films to attract subscribers and a substantial number of subscribers to obtain current and quality films. This circle was never broken in Hartford. If it can be broken, it will require the expenditure of large sums of money in the form of cash guarantees to producers or enlarged percentages, or both. The 35% figure isn't even close.

B. The Deleterious Effects of a Successful Pay-TV System on Free Television Cannot Be Measured By the Statistics of Failure

Although, as we have noted, the beneficial effects of Pay-TV are set forth in terms of a successful Pay-TV system, the ability of Pay-TV to impair free TV is measured in terms of the actual events in Hartford.

1. The Extent Of Audience Siphoning Is Dependent Upon The Number Of Subscribers And The Quality of Programs

There is little doubt that the loss of 267 people (5.5% of the 4,851 subscribers) would have little siphoning effect on a market with a net weekly circulation of about 800,000. This would be true whether the group watched two hours per week or ten hours per week. This is not what the test was intended to demonstrate; nor is it likely that a system which attracted an average audience of 267 people out of an 800,000 potential would remain in existence for long.