

free television that was available on free television — a commitment that is not now being made.

3. The Experience In Hartford Does Not Provide
A Basis For Evaluating The Extent To Which
A Successful Pay-TV System Would Siphon
Talent And Programs From Free TV

Every program which is suitable for Pay-TV is suitable for free TV. The exhibition of a movie on Pay-TV dilutes the potential free television audience and vice versa. In this context any use by one affects the other. Talent useful to free television is also useful to pay television and vice versa. Although, absent contractual restriction or limitation, talent could work for free and Pay-TV, it cannot do so at the same time. If the talent in question is a performer rather than an author, he or she may be subject to the same problems of audience dilution as the movie.

Stated otherwise, the two techniques, free TV and Pay-TV, are directly and actively competitive for talent and programs as well as audience. Obviously people will not pay for what is available free, but this is axiomatic only as long as the program remains free.

The word "box-office" is not susceptible of any real meaning. It is used as a magical incantation to create an illusion of a difference that the proponents know does not exist. One episode of "The Man From UNCLE" constitutes a television program. Two episodes tied together constitute a movie for which people are now paying at neighborhood theaters throughout the country. The availability of the Yankees on free television did not deter Pay-TV, the Los Angeles Dodgers and the San Francisco Giants from contracting for the exclusive presentation of Dodger and Giant games on pay television to the exclusion of the home audiences.

The competition for product and talent is obvious. The purpose of a test was to determine whether a successful Pay-TV system would destroy free TV. In this context Hartford was of no value whatsoever.