

Underlying the issuance of the Further Notice of Proposed Rule Making in this docket is a fundamental two-fold assumption of the Commission that a basic decision with respect to pay television may be made at this time. The assumption is:

(1) That the shape of the free television industry is sufficiently fixed so that the impact upon it from a pay television authorization may be measured with sufficient precision for regulatory purposes; and

(2) That the form a nationwide pay television system will take is sufficiently known at this point so that Federal regulation may be intelligently applied.

As indicated elsewhere herein, the Joint Committee believes the Commission may not rely upon the Hartford test as a basis for authorizing a nationwide Pay-TV system, and is without sufficient data from that test to determine what the impact of nationwide Pay-TV will be on the traditional free television service. It is the further position of the Joint Committee, however, that the Commission is not able at this point to assess what form a pay television system is likely to take, nor is it in a position to assess the nature of the television system which may finally evolve in this country with or without pay television. Knowledge concerning both these factors is essential if the Commission's action with respect to Pay-TV will safeguard the oft-repeated concern for maintenance of healthy free television service.

The unsettling and unknown factor in the equation at this point is the burgeoning growth of the community antenna television industry, not only in small and isolated communities but in large cities, and the possibility that such CATV activity will itself become a vehicle for Pay-TV operations. In its current deliberations in the CATV field, the Commission has refused to make final decisions as to the role of CATV in the national television structure, and as we shall show, until basic decisions have been taken with regard to the CATV industry, and its role in the national television allocations structure is understood, no action should, or properly can, be taken to authorize a nationwide Pay-TV service.