

conditions promulgated by the Commission to assure minimal impact on free television.

The significant factor common to both Pay-TV and to CATV systems proposing to extend Grade B signals of broadcast stations beyond their contours into the top 100 markets is the introduction of programming into a given market not otherwise available on free television in the said market. The foremost concern to which the Commission has addressed itself in both the CATV and Pay-TV proceedings is the impact on free television. In attempting to assess the impact on free television from CATV systems operating in the top 100 markets, the Commission adopted rules which require a hearing. In attempting to assess the impact on free television from Pay-TV, the Commission can do no less. The method by which the pertinent issue (impact) is to be ascertained cannot justifiably vary because the sources of the impact are different. Indeed, the need for a hearing to determine impact prior to the grant of a Pay-TV authorization is more apparent in view of the dearth of information available to the Commission concerning Pay-TV in contrast to the abundance of information which was available to the Commission at the time it adopted the CATV rules.

PROPOSED RULES

No Pay-TV station shall be permitted to operate in the 100 largest markets except upon a showing, approved by the Commission, that such operation shall be consistent with the public interest, and specifically the establishment and healthy maintenance of free television broadcast service in the area. Commission approval of a request to operate a Pay-TV station in the foregoing circumstances will be granted where the Commission, after consideration of the request and all related material in a full evidentiary hearing, determines that the requisite showing has been made. The market size shall be determined by the rating of the American Research Bureau on the basis of net weekly circulation for the most recent year.