

Both free TV and Pay-TV, as licensees, are recipients of a public trust and both utilize valuable public airways. Unlike free broadcasting, Pay-TV proposes to make a direct charge on the members of the public. It is this basic distinction, a direct charge on the public for services provided over the public's property, which requires government rate regulation. It is the nature of the Pay-TV operation, as in the case of common carriers and public utilities, which dictates rate regulation. If jurisdiction is to be asserted over Pay-TV, concomitantly the Commission must regulate rates. Lacking the express authority to regulate rates in the broadcast industry, it is incumbent upon the Commission to seek legislation in this field in order to validly carry out its assertion of jurisdiction.

**I. CATV Systems Should Be Prohibited
from Originating Programming or
Carrying Pay-TV Programming**

We have previously discussed the significance of CATV in the context of any Pay-TV authorization. Suffice it here to say that if the Commission determines that a nationwide off-the-air Pay-TV authorization is warranted at the present time, the very least that should be done is to prohibit CATV systems from originating programs or functioning or serving as an outlet for Pay-TV programming at least until such time as the Commission is prepared to evaluate the significance of CATV generally on free television.

PROPOSED RULE

No CATV system shall carry Pay-TV programs originating from a Pay-TV broadcast station or originate any programs for carriage to its subscribers.