

no information as to the impact a successful pay television system would have on free television. The Commission, however, appears to have succumbed to a belief that, having authorized the test, it must now accord weight to its results. The experience in Hartford does not provide a basis for the conclusions which the Commission is attempting to draw and, at this stage, the Commission, in the public interest, should either terminate the test authorization or, at best, permit Pay-TV to continue in a limited test context in the hope that the ensuing years will produce the necessary data or that Pay-TV will recognize its own limitations and quietly fade away. Free television has not remained stagnant during the period and its value to the public is such that its continued growth should not be retarded.

The entire problem has now been complicated by the development of CATV. CATV has mushroomed to such an extent that the Commission is now attempting to assess its impact on free television. Certainly, the Commission cannot permit a new attack from a different source — Pay-TV — without first determining that free TV can survive under the existing conditions.

We are still of the opinion that the Commission does not have the necessary authority to grant Pay-TV on a permanent basis. Even more important, in light of the dangers inherent in a successful Pay-TV operation, the Commission should seek Congressional guidance before the problem becomes insurmountable.

The Commission has seen fit to request guidance from Congress concerning CATV. Pay-TV presents even greater regulatory problems and the Commission has the opportunity of securing guidance before the situation becomes catastrophic.