29. Under these conditions, it is simply fallacious to argue that a "market place" exists, the operation of which would protect the public. There is no "market place" when there is a government-authorized monopoly. Petitioners are unaware of any instance in which a government-sanctioned monopoly has been established without clear indication that the rates charged the public are to be regulated.

30. The Committee asserts rate regulation to be unnecessary because there was "nothing in the Hartford trial to indicate that rates will be exorbitant." It asserts that the rates charged appeared "reasonable." (Par. 222) Yet, the Committee did not indicate the gauge by which it determined the rates to be "reasonable" or "non-exorbitant." The Committee did not indicate whether reasonableness was to be determined by return on investment, by capitalization of assets, by comparison to the price of similar events in non-television media such as legitimate stage, motion picture theatres, sports arenas or by a combination of these methods.[15] The Committee simply cannot make

[15] The Committee cited with apparent approval the fact that at Hartford nine persons viewed a heavyweight fight at a cost of $3.00 while the same fight was shown on closed circuit television for a price of $5.00 per head. Yet, the fact that the per capita cost was less on pay television does not mean that the pay television cost to the subscriber was "fair" and "reasonable." Such a judgment could only be made after assessing RKO's cost in presenting the fight, and allocating that cost over the number of subscribers. Thus, it may be that RKO's cost per subscribing set was 25¢ for which it then charged $3.00. At the same time, the per capita cost to the theatre owner may have been $2.50 so that he may have made a $2.50 profit on a $2.50 investment. Under these circumstances, which of the two arrangements was "fairer"? And, more pertinent, should the pay TV station have been allowed to reap over a 1,000% profit when the only reason for him making any profit at all was that he was allowed to use publicly-owned spectrum space?

Of course, it should be noted that the operators of the Hartford test lost over three million dollars. As the Committee recognized, these business enterprises are not charities. In order to recoup their expenses, the prices which they would charge would logically have to be higher than those which they did charge at Hartford. Under the circumstances, the fact that they were willing to absorb a loss during the test period is hardly a sound basis upon which to postulate the costs to the public which would accrue under a permanent system.