

programming warranted the deprivation to the public of a scarce broadcast frequency and (b) even if so, the effect which it would have upon the free service. Perhaps the most revealing aspect of the Committee's Report, however, is that it never realistically assessed the first of these questions, and it attempted to solve the second of them upon a totally inadequate basis (*i.e.*, the Hartford failure), buttressed by the sheerest form of speculation and conjecture.

37. The first, and most obvious detriment is that, in order to give the public a few more current motion picture films, and some sports events, the public will thereby be deprived of the ability to receive a scarce broadcast frequency on a free basis. To state the obvious, if there are 5 channels allocated to a particular community, and one of them is being used as a pay television facility, there are no longer 5 free television allocations; there are 4. The public is simply deprived of the programming which it otherwise would have received, but for the pay television operation. Yet, nowhere in the Committee's Report is there any realistic recognition of the fact that the institution of a pay television system would rob the public of the benefits of a scarce frequency. Indeed, at one point, the Committee refused even to acknowledge that the public would be deprived of *anything*. Thus, at Paragraph 75, the Committee can blithely state that listeners "will not be deprived of anything" if pay television is authorized, apparently forgetting the plain and simple fact that authorization of a pay television station deprives the public of the use of that station on a free basis.

38. Moreover, the Committee failed to consider the importance of the fact (heavily stressed by the Committee in another context) that the audience to be reached by pay television is a minority, and one