

receiver legislation. The Commission there recognized that the potential programming to be offered by a single new UHF facility was so necessary to the public interest that it was to be protected from destructive competition by CATV systems which sought to import distant signals. The necessity of such protection led the Commission to take jurisdiction over CATV and to require a showing by any CATV system desiring to import distant signals that such importation would not adversely affect existing stations and, particularly, new UHF facilities.²⁰ It is obvious, of course, that instituting a pay television station over a UHF facility effectively deprives the public in that community (at least during the prime time listening hours) of the benefits of free UHF service, in the same way as if that UHF station had been driven off the air by a CATV system which imported distant signals. Yet, the concern with the protection of the viability of a scarce television frequency manifested by the Commission in the case of CATV systems is nowhere manifested or even recognized by the Committee in considering the effect of the authorization of pay television.

40. The Committee at least attempted to evaluate the second potential detriment of permanent pay TV, *i.e.*, the effect which it might have upon the free service. Its error in this regard, however, lay in accepting the results of the Hartford test as a responsible gauge upon which to measure future impact.

²⁰ There are now pending before the Commission numerous hearings in which a CATV system is required to justify extension of signals into an area with only a single UHF facility in it. See, *e.g.*, the hearing on the Dalton, Ga. CATV system (Docket No. 17066).