

41. The folly of such an attempt is made clear by the fact that the Hartford test, despite the promises of RKO to install up to 50,000 units, was limited to a maximum of 4,851 persons who were asked to subscribe to a diet of run-of-the-mill movies, the great majority of which were more than six months old at the time of showing, and at least 149 of which were two years old or older at the time of presentation. The test represented a penetration of 0.6% of the net weekly circulation in the Hartford market, and only 0.3% of the television households in that market. Moreover, as the Committee recognizes (Par. 87), only an average of 267 families tuned in to the programs presented during the Hartford test. And it is not merely the small size of the sample which renders the data virtually meaningless. The Hartford operators did not even purport to obtain a valid scientific statistical sample such as is done, for example, by the rating services. It is simply naive to contend that such data is a meaningful basis upon which to make any predictions or projections of the actual effect of pay TV as a permanent media. Yet, the Committee attempted to do just that.

42. The impossibility of projecting the Hartford test on a national basis is made manifest by the Committee's own Report. The Committee pointed out that two of the most critical statistics in determining impact are (a) the amount of television homes which would adapt to pay TV (*i.e.*, the "penetration rate"), and (b) the average numbers of pay TV homes who would watch each attraction (*i.e.*, the "subscription rate"). Yet, as to the "penetration rate" the Committee recognized that it could not use the Hartford rate since it was simply impossible to do so. The Hartford penetration rate was, in fact, less than 1%, and the Committee realized that such a figure was totally unrealistic. Instead, the Committee noted that the penetration rate was a matter of sheer speculation, although it "guessed" (with no