

importation would not have the adverse impact which the Commission envisioned.²¹ The Commission, in considering CATV, recognized that new UHF stations would be marginal, and that even small shifts in viewing might be sufficient to destroy them. No such recognition can be discerned in the Committee's Report. The obvious threat to non-pay TV UHF stations is virtually ignored.

48. Moreover, it is no answer to imply that UHF stations will be aided because they might apply for pay TV authority and therefore supplement their free TV revenue by pay TV revenue (see Par. 76). In a five-station market with more than one UHF station, in which only one station can become a pay TV outlet, obviously the UHF station which does not obtain the pay TV franchise could not possibly be helped by a fractionalization of its audience. And it is a contradiction in terms to argue that the *pay* TV UHF station will be helped so that UHF will be thereby fostered. The pay TV UHF station may be helped to survive financially, but it will survive *not* as the type of UHF station originally envisioned by the Commission, but as primarily a pay TV station which also happens to show some free television at non-prime time hours as the price it must pay for the privilege of reaping the pay TV bonanza. Petitioners submit that the Commission's strenuous attempts to aid UHF stations were not undertaken for the sole purpose of having stations broadcast free UHF programming during the daytime hours only.

49. The danger in the Committee's glib use of the Hartford figures as projections, and in its failure to realize that it simply does not have sufficient meaningful data upon which to base its conclusions, is made manifest by the catastrophic results which might occur if the Committee's speculations are erroneous.

²¹ See, e.g., CATV Second Report and Order, 6 R.R. 2d 1717, 1772-1781, and particularly Par. 123 at 1777-78.