

VI. Conclusions

61. It is gratifying to note that the Committee has recognized the potentially disastrous effect which pay TV could have on the free service by at least attempting to impose conditions to protect free TV. Petitioners believe that the conditions which the Committee would impose, though laudable, are not stringent nor comprehensive enough to obtain the result which the Committee desires. The additional conditions which petitioners believe should have been imposed, and the reasons for their imposition, have been discussed at length at pp. 52-70 of the October, 1966 Comments submitted by the Joint Committee Against Toll TV, and will not be repeated here. Suffice it to say that the overwhelming weakness of the Committee's recommended conditions is that they are easily surmounted merely by withholding material from free TV for a two-year period, with the knowledge that thereafter such material can reap, unhampered, the profits of pay TV. Again, it takes no great insight to realize that proponents of pay TV systems could well decide to make good any loss which a program producer may suffer during the two-year hiatus. There is simply no way for the Commission to prevent circumvention of its conditions.

62. And it is particularly distressing that the Committee has rejected the suggestion that, if pay TV is permanently authorized, individual pay TV stations should not be licensed until after they demonstrate in an evidentiary hearing that operation of the station will not damage the free stations in the community, and will affirmatively serve the public interest. The Commission has required such hearings in the case of CATV systems desiring to import distant signals precisely because it was unable to determine without proper evidence