

run."⁷ Yet an illusory standard of "recency" is the only way in which the STV Committee expects 85 percent of STV programming would be a "beneficial supplement" to free television.

As for sports programming, the other major component of projected STV program formats, STV proponents stated that they would be able to offer heavyweight championship fights and blacked out games.⁸

The STV Report treats this as rendering STV a "beneficial supplement" by offering sports events not regularly available on free television. Again the Report sees what free television programming is (or was) and concludes that this pattern must be present in the future and proposes rules to assure that it will. But while these proceedings have been going on, an increasing number of heavyweight championships and home games, which STV proponents said they alone would present, have become available on free television.

The Commission must compare what the STV Report expects to be STV's "beneficial supplement" with the programming that free television is offering now and can be expected to offer in the foreseeable future, and not what free television programming was when this proceeding began. Local free television stations and the national networks have responded to the changing tastes and needs of the public with flexible program formats, which include feature films; regularly-scheduled variety and dramatic programs and entertainment, news and public affairs specials; and many different types of sports events.⁹ With respect to sports events, free television has moved from the days when boxing, wrestling and baseball were the staples to coverage of many diverse types of sports.¹⁰ The STV Report recognized that changing sports programming patterns with respect to broadcast of home games, title boxing matches and soccer will create problems to which solutions are presently unknown.¹¹ It would be much simpler for the proponents of STV if free television programming would remain static. But, free, commercial television has consistently demonstrated its capacity, when demand is sufficient, to pay for very expensive sports,¹² film features¹³ and other programming.

The All-Channel Receiver Act has greatly facilitated the growth of UHF broadcasting by increasing the percentage of homes that have television receivers capable of receiving UHF transmissions and, thus, encouraging the establishment of new UHF stations.¹⁴ Most of these new UHF stations are likely to be unaffiliated with the three major commercial television networks and will have to rely on diverse program sources. To be financially viable, these new UHF

⁷ STV Report, ¶ 104.

⁸ STV Report, ¶ 84.

⁹ See discussion of proposed STV program rules, *infra*.

¹⁰ When the Hartford experiment began, none of the networks presented professional hockey or basketball (over two-thirds of the Hartford sports presentations), whereas both are now presented on free television. One of the proponents of pay television said in 1955, "Nevertheless television today is not portraying certain outstanding sports events and is likely to do so less in the future." Comments of Skiatron Electronics and Television Corporation, June 8, 1955, p. 42. Free television has proven this prediction to be inaccurate. Some professional sports rely on free television to build up an audience for the sport. For example, professional soccer was on free television for the first time last season and promoters expect free television to help establish soccer as a popular spectator sport in the United States.

¹¹ See STV Report, ¶¶ 267-69.

¹² E.g., CBS Television Network purchased the rights to broadcast certain National Football League contests, not including the championship, the Pro Bowl and the Playoff Bowl, for \$37.6 million for two years. *Broadcasting*, January 3, 1966, p. 124. The NBC Television Network has purchased television and radio rights to the World Series, All-Star Games and weekly "Game of the Week" telecasts for the 1969, 1970 and 1971 seasons for \$50 million. *The Washington Post*, August 5, 1967, p. D1.

¹³ For example, recent trends show that some commercial advertisers are willing to provide support to enable free television to show recent "blockbuster" films. The Ford Motor Company is paying \$2.5 million to sponsor and promote the telecast of "Mutiny on the Bounty" on ABC in September 1967. *New York Times*, August 2, 1967, p. 59, col. 4.

¹⁴ Under the stimulus of the All-Channel Receiver Act, commercial UHF broadcasting has grown significantly. As of July 21, 1966, there were 122 commercial UHF stations on the air (90 licensed and 32 with CP's) and 96 stations with CP's, but not on the air. As of July 27, 1967, there were 126 commercial UHF stations on the air (101 licensed and 25 with CP's), 3 stations licensed, but not on the air, and 135 stations with CP's, but not on the air. *Compare Broadcasting*, August 1, 1966, p. 92, with *Broadcasting*, July 31, 1967, p. 106. UHF penetration figures show a rise of over 10 percent in 12 months; 22.8 percent of all television sets in the United States were equipped for UHF in August, 1965, while 33.8 percent of all sets were so equipped in August, 1966. See U.S. Bureau of the Census, *Current Housing Reports—Housing Characteristics—Households With Television Sets in the United States*, August, 1966, p. 2 (February 1967). Moreover, based upon data compiled by the American Research Bureau in February and March, 1967, out of 62 metropolitan areas in the United States in which UHF is a "significant factor," 19 have UHF penetration rates of 90 percent or more. See 7 *Television Digest* 29 (July 17, 1967).