

stations must "counter-program" against the affiliated stations and established independents in their markets by offering programs that appeal to public needs and interests presently unserved by those stations. This means that the new UHF stations do and increasingly will present feature films and sports events not otherwise available over the existing stations in their markets. The total effect of increased UHF penetration in all television markets will be to offer the public more diverse, free program services.

It now appears likely that the role of noncommercial educational television broadcasting in terms of diversity of program content will be greatly strengthened. The Report of the Carnegie Commission on Educational Television placed great stress on free, noncommercial television ("public television") providing the American public with programming of high quality, catering to diverse interests and tastes and not tied to the economics of satisfying a mass audience.¹⁵ Proposed legislation incorporating this concept of programming has been passed by the Senate.¹⁶ Chairman Hyde predicted that passage of the legislation would add 20 noncommercial educational television broadcast stations a year.¹⁷ Ultimately, almost all of the American people will be able to receive this new programming service free of charge.

It can be seen, therefore, that free television broadcasting, both commercial and noncommercial, will continue to expand its programming to meet developing needs and interests. This development offers a much better prospect for beneficial supplementary program services than STV. By diverting stations that would otherwise be providing such services to pay operations, Commission authorization of STV would hinder realization of a beneficial supplementary free television service. STV would not supplement this expanded programming, but would, if allowed to develop as outlined in the STV Report, begin merely by duplicating free television programming and ultimately would siphon off the cream of present programming.¹⁸

B. STV COULD GENERATE ENOUGH REVENUES TO HAVE AN ADVERSE IMPACT ON FREE TELEVISION

Some parties have concluded from the rather disappointing results of the Hartford experiment that STV would not find sufficient public acceptance and support to make it economically viable, and, that, it should not be authorized for this reason. The STV Report recognized that STV might have financial problems but recommended authorization of STV to give it a chance to succeed or fail. However, as we observed at the outset—the real issue before the Commission is not whether STV should be given a chance to fail but what would happen if it succeeds.

Even though there is no public need or demand for STV because it would not offer beneficial supplementary program services, STV could use its economic leverage to procure the free television programming that is most successful in attracting the mass audience and siphon off the cream of this programming. The end result would be that, while there is no significant present public interest in or demand for STV, once established it would create and generate its own demand by siphoning programs that were available free of charge and "snowball" until it destroys free television.

Would STV have the success it needs to give it the economic leverage to begin this "snowballing?" As MST has pointed out, STV does not have to be very successful to impair free television. Even at its inception, with relatively little

¹⁵ "Public television" itself is defined in terms of program content of wide ranging diversity. It "includes all that is of human interest and importance which is not at the moment appropriate or available for support by advertising, and which is not arranged for formal instruction." Carnegie Commission on Educational Television, *Public Television: A Program for Action*, Introductory Note (Bantam ed. 1967).

¹⁶ S. 1160, passed May 16, 1967.

¹⁷ See Testimony of Chairman Hyde before the House Committee on Interstate and Foreign Commerce, July 13, 1967.

¹⁸ Recent developments in the field of low-cost video recording and playback systems, whereby television viewers will be able to purchase television programs and play them back on equipment connected to their home receivers, much like a long playing phonograph record, may perform the limited function contemplated by the STV Report without using broadcast frequencies. See *Broadcasting*, August 28, 1967, pp. 67-68. As one commentator has stated, with such equipment widely available, "the entertainment world presumably would have a means of leapfrogging over such complex systems as pay-as-you-see TV . . . and directly tap the box-office potential of the individual viewing family . . ." Jack Gould, "Soon You'll Collect TV Reels, Like LP's," *New York Times*, September 3, 1967, p. D13.