

At the same time, families that could *not* afford to subscribe to STV, *would be deprived of programs they may now view free of charge.*²⁷ In this connection, it must be noted that Zenith-Teco submitted a table showing the breakdown of Hartford STV subscribers by family income level relative to the proportion of income for all families in the United States to support the argument that STV is not solely for the wealthy.²⁸ The STV Report accepts this argument and even suggests that to the extent low income level families did not subscribe, they could not afford television sets, let alone STV.²⁹ However, it is unrealistic to take the results of the Hartford experiment, with its 4,633 subscribers and its limited amount of programs, and generalize to a STV operation-situation in which there is an established, nationwide operation.

But even accepting the validity of this generalization, the Zenith-Teco statistics indicate that approximately 30 percent of all families in the United States could not afford to subscribe to STV and the STV Report so concedes.³⁰ The suggestion that such low income families could not even afford television sets is incorrect, when applied to the Hartford situation. The statistics for Hartford County show that 96 percent of total households are television households.³¹ Moreover, the percentage of low income families who did not subscribe in Hartford is probably greater than 30 percent, since Zenith-Teco did not break down the \$4,000-\$6,999 income level category. It may be that most of the 40.8 percent of the Hartford subscribing families fall into the upper reaches of this category. It must also be noted that, while 30 percent or more of Hartford low income families did not subscribe to STV, STV at Hartford was not as expensive as it could be nationwide, since, to attract subscribers, program and decoder rental discounts were given.³² Moreover, an average weekly program expenditure of approximately \$1.25 appears to be much lower than subscribing families would have to spend to view a substantial pattern of programming provided by a regular STV operation, rather than the experimental Hartford STV operation.

3. *Siphoning of free television programming and program talent*

The STV Report defines the program-siphoning effect as the diversion of programs from free television to STV and concludes that some program siphoning, which would be contrary to the public interest, might occur. But the problem is much more severe than the STV Report indicates. It is well recognized that one of television broadcasting's greatest challenges is to secure an adequate amount of program material worth broadcasting.³³ Therefore, free television is highly vulnerable to selective program and talent siphoning by STV. Program siphoning by STV would be inevitable when one takes into account that STV programming would be largely duplicative of free television programming. STV and free television would be competing for the same type of programming, with STV having great leverage because it could use its large financial resources for "selective" program siphoning and because it would need only a fraction of the audience needed to support free television programming to make it financially viable.

Because of the very real danger of selective program siphoning by STV, the proposed rules are designed to minimize the adverse effects of that danger upon free television. MST will analyze some of these proposed rules below.

It is somewhat simplistic to view the siphoning problem solely in terms of program siphoning.

The danger is also one of STV's siphoning performers, producers, directors, writers and other program talent from free television. The primary danger of talent siphoning is not that of restrictive contracts, which the STV Committee has said it will "view with a jaundiced eye."³⁴ The more subtle, but real, danger is that STV would have the financial resources to tie a performer to STV without resorting to restrictive agreements. If STV can contract with such stars as Ed

²⁷ The STV Report states that families in the low income groups, who can afford television sets, but not STV, "will be able to continue to see ample amounts of free programming, so they will not be deprived of anything. . . ." (STV Report, ¶ 75.) However, this assumes that STV would not have the adverse impact on free television, in terms of siphoning free television programs, that MST submits it would.

²⁸ See STV Report, App. B, p. 2.

²⁹ STV Report, ¶ 74, at 25.

³⁰ *Id.* at 25.

³¹ See 1967 Television Factbook, Services Volume, p. 56-a.

³² See STV Report, App. B, p. 3.

³³ See, e.g., Speech of Commissioner Lee Loevinger before Geneva World Conference on World Peace Through Law, p. 19 (July 11, 1967).

³⁴ STV Report, ¶ 277.