

release)". Thus, it would appear, the Hartford subscribers placed greater stress on film quality than they did on film release date.⁴

Upon analysis, it appears that of the 432 films for which the Hartford subscribers spent 83% of their dollars (Petitioners' Comments, p. 19) 228 have since been released to free television.⁵ Of these 76 had been released prior to the end of the second year of the trial period. It therefore appears that, to a very large degree, the advantage which subscription television promises to the public is not that it will receive programs of a *type* not otherwise available on free television but that, for a price, subscription television will somewhat accelerate the presentation of feature films to the public.

The Hartford findings serve to underscore the plain fact that the function of reducing the lag between theatrical and television release dates is hardly important enough to warrant the use of broadcast channels for a system depending almost completely on such fare.

There is, moreover, every indication that the function which subscription television might perform in somewhat accelerating the availability of feature films is becoming of even less significance as free television continues to develop its potential. When the proceeding in this Docket was first begun, it may have been possible to argue, as subscription television proponents in fact did, that feature films available on free television were older features, of comparatively minor calibre, many of them obtained from foreign sources. This was due to a combination of reasons, among them the inability of free television circulation to support the costs of film rights, union and guild restrictions on the use of recent films and, not unimportantly, the belief of major film producers and distributors that subscription television, or a variant thereof, would replace the theater box office and be a new market for their output of current films as well as for their backlog of existing films.

However the number of major theatrical feature films released to free television increased rapidly during the late 1950's and that increase continues today. There are presently more than 12,000 feature films released for free television broadcasting.⁶ During the current (1966-67) season 120 feature films of high calibre have been scheduled for television broadcast by the networks alone. These include such outstanding films as *Fail Safe* (1964), *The Bridge on the River Kwai* (1957), *Music Man* (1962), *Bye Bye Birdie* (1963), *Advise and Consent* (1962), *Breakfast at Tiffany's* (1961), *Lilies of the Field* (1963), *A Raisin in the Sun* (1961), *Two for the Seesaw* (1962) and *The Ugly American* (1963).

Thus the progress of events since the Commission's First Report and Order in 1957 has almost completely negated the prime program claim of subscription television.⁷

B. Sports

Other than feature films the audience attraction of greatest popular appeal to the Hartford subscribers was the presentation of spectator sports. This type of programming occupies a significant portion of the program schedules of both network and independent stations throughout the country. Indeed the sports diet offered on free television—comprising as it does professional baseball, football, basketball and ice hockey games played in the professional leagues, together with a heavy schedule of championship golf, college football, bowling, as well as outstanding attractions of tennis, track and field and lesser sports—has led some observers to question whether the American public can continue to absorb so large a quantity of sports programming.

Again, as in the case of feature pictures, Petitioners' real claim is not that the Hartford trial presented programming of a different type than that available on free television but that it presented a number of specific sports events which in fact were not carried by free television. We concede the contention of Peti-

⁴ This phenomenon was recently demonstrated by the huge audience obtained for the network showing of a 1957 feature, *The Bridge on the River Kwai*, which was estimated to have been viewed by 60 million people. *Variety*, September 28, 1966.

⁵ Source: Broadcast Information Bureau.

⁶ *TV Feature Film Source Book*, Vol. 7 (1966).

⁷ This fact has not been lost on outside observers. Columnist Jack Gould in the *New York Times* of September 28, 1966, commenting on the recent decision of major motion picture producers to agree to release large additional blocks of feature films to the networks, wrote: "As a result of the separate agreements, more than 112 features, including so-called 'blockbusters' that commanded record box-office grosses in theaters, will be reaching the home screen over a period of five years." Mr. Gould had reference to acquisitions announced in late September 1966 by CBS and ABC. The CBS films, to be acquired from MGM, include at least 14 films released to theaters in 1965 and 1966.