

should not, as a matter of public policy, intrude in the programming or the business and economic aspects of broadcasting.

"It is precisely because of this philosophy, for example, that CBS took the position, before the Congress, that no legislation should be enacted which would forbid *wired* pay television (as distinguished from *over-the-air* pay television, where the government must make a choice between uses of broadcast spectrum space). CBS took this position in recognition of the fact that wired pay television could, if successful, present a serious-competitive challenge to the present system of broadcasting.

"The same philosophy compels CBS to refrain from supporting the proposed Rules. While it is possible that unrestricted and unregulated CATV may economically hurt the present system of broadcasting, CATV does not propose to use broadcasting spectrum space."

As indicated in the above-quoted Comments CBS has previously urged the Congress not to enact legislation which would forbid wired subscription television.

CONCLUSION

We submit that the Hartford subscription television trial does not furnish support for the conclusion that the nationwide authorization of over-the-air subscription television would be in the public interest.

Because we strongly believe that Hartford, if anything, supports the contrary conclusion, we have not undertaken to comment on the restrictions which might be applied to subscription television were it authorized by the Commission or the rules under which it might operate.

Respectfully submitted.

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Its Attorneys.

ASSOCIATION OF MAXIMUM SERVICE TELECASTERS, INC.,
Washington, D.C., October 20, 1967.

HON. TORBERT HART MACDONALD,
U.S. House of Representatives,
Rayburn House Office Building, Washington, D.C.

DEAR CHAIRMAN MACDONALD: I appreciated the privilege of appearing before the Subcommittee on Communications and Power of the House Committee on Interstate and Foreign Commerce on October 13, 1967. In my prepared statement I presented the position of MST in opposition to the establishment of a system of pay television by the FCC. Although copies of my prepared statement were made available to each of the members of the Subcommittee, it may be of interest to you to see my analysis of the FCC's proposed "two-year" sports rule, since this is a matter which was not covered in detail in my prepared statement.

It was quite evident during last week's hearings that there was considerable confusion as to what the FCC's Pay-TV Committee recommended regarding the availability of sports events now broadcast on free television for showing on pay-TV. Moreover, this confusion was compounded further by the testimony of Mr. Robert Hall, the "sports expert" for Skiatron Electronics and Television Corporation, when he appeared before the Subcommittee on October 16, 1967.

What has come to be called the "two-year rule" on sports events was intended by the Pay-TV Committee to prevent pay-TV from siphoning sports events now presented on free television. In my presentation to the Subcommittee I analyzed how the proposed FCC rule intended to accomplish the desired result of limiting siphoning, and whether the proposed FCC rule would be successful in achieving this result. I pointed out that, contrary to what appeared to be a common misconception, the proposed "two-year" limitation on siphoning amounted at the most to only a one-year limitation and in many instances was no limitation at all. In making this point I quoted from the relevant paragraphs of the Pay-TV Committee's Report. I cited specific language that was used by the Report in making clear that "regularly televised" by free television in the pay-TV community for two years preceding the proposed pay-TV broadcast meant free television broadcast in *each* of two consecutive years. Therefore, if the sports event were "regu-