

and the public could see the Series provided they were able to go to the theater and pay for it for one year.

"Now, we do not say that this would necessarily happen on a national basis overnight but it could happen on a selected basis in Market A and B this year, in C and D next year, and, incidentally, Zenith said that they did not expect to go into operation all over the country; they are just talking about a couple of markets at a time; Mr. Wright made that point the other day—they could do this progressively and so on until in a relatively short time, for all practical purposes, the World Series would be taken out of the realm of free television and into a completely pay TV setup.

"Certainly there would be outcries from the public. There were outcries from the public when Championship fights were put into the theaters on a pay basis and taken off free television. You have reminded us on several occasions, again this week, that there were very serious outcries from Arizona this spring on this very matter, in the case of the Clay-Foley Championship fight. But the situation still exists. That is part of what we are up here talking about today.

"Now let us turn to the second type of sports event set up by the proposed Commission rules, that of the non-specific sports event; the game which is played as a part of a regular season. The proposed Commission rules cover this as well. I refer you now to paragraphs 266 and 267, commencing at the bottom of page 92 of the proposed FCC Report.

"If a substantial number of non-specific events, such as home games or away from home games, or the so-called Games of the Week, were televised over free television in the pay TV community and were, and I quote from the proposed FCC Report, 'within each of the two years preceding the proposed STV broadcasting thereof', then no games in that category may be presented by pay television in that community.

"As the proposed FCC Report states, the standard is to be applied on a category by category basis, and, here I quote again from the Report, 'If during one but not both of the two years preceding proposed STV broadcast, a substantial number of events in a category were not televised in a community, the category will be considered not to have been regularly televised therein and STV may show the contests in that category.' That means all such contests.

"Now, that is the rule that is proposed. Does it prevent siphoning? A pay TV promoter could use his economic leverage to purchase the games in a category of non-specific sport events such as regular season home baseball games, which may not have been broadcast in the community over free television, and present them without any delay. For example, assume that a baseball team plays 80 home games and no games in this category are broadcast on free television in the home community. Pay TV could purchase the television rights to all of the home games in this category the very next season, while the away from home games previously broadcast by television could be withdrawn from free television by the ball club during that season so that they, too, could be made available to pay TV the following year. The same situation could exist if some but not all of the home games were broadcast on free television.

"Now, I hope this may help clear up the so-called two-year provision which I think is a snare and a delusion."

WASHINGTON, D.C., October 9, 1967.

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COMMUNICATIONS AND POWER,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Rayburn House Office Building, Washington, D.C.:

The attached "Comments of International Telemeter Corporation" were filed with the Federal Communications Commission in Docket No. 11279, on October 10, 1966, in the Commission's rule-making proceeding looking toward the adoption of Rules and Regulations to provide for subscription television service.

It is respectfully requested that the attached Comments be incorporated in the record of the Hearings on Subscription Television to be conducted before the House Subcommittee on Communications and Power. These comments set forth in some detail the position of International Telemeter Corporation with respect to the various issues pending before the Federal Communications Commission in the subscription television rule-making proceeding.

Respectfully submitted,

ARNOLD & PORTER,
Counsel for International Telemeter Corp.