

(1) Instead of permitting the trial of a particular subscription television system in up to three markets, it permitted a system to be tried in only one market.

(2) Only one system could be tried in a single market.

(3) Whereas the first report had left open the question of whether any receiving equipment might be sold to participating members of the public, the third report announced that the public should not be called upon to buy equipment for trial operations that was not needed for the reception of "free" broadcasts.

The House Interstate and Foreign Commerce Committee then adopted another resolution, stating that its February 6, 1958, resolution should not preclude subscription television trial operations as contemplated by the third report.

On March 26, 1959, on the floor of the House, Chairman Harris summarized the reasons for the committee resolution. He stated that it would be unwise to prevent trial operations of subscription television as long as they were conducted so as to preclude the virtual establishment of a new service, and as long as they did not involve financial risk for subscribers.

He emphasized that promoters of subscription television were on notice that the Congress reserved the right to determine whether to enact legislation to amend the Communications Act to empower the Commission to grant, and to prescribe the conditions under which the Commission would have the power to grant, authorization for extended or permanent operations. He further emphasized that:

Under no circumstances could the action of the Federal Communications Commission and the action of the Committee on Interstate and Foreign Commerce be construed as placing a stamp of approval on subscription television as a permanent service.

After 5 days of hearings before the Commission, the first application filed under the terms of the third report was granted. It authorized RKO General Phonevision Co. (a subsidiary of RKO General, Inc.), licensee of UHF station WHCT, Hartford, Conn., to engage in a 3-year trial operation of subscription television over WHCT.

The Commission's grant of this authorization was challenged in the U.S. Court of Appeals which upheld the Commission's jurisdiction and authority to order such trial operations (*Connecticut Committee Against Pay TV v. FCC*, 301 F. 2d 835 (C.A.D.C., 1958), *cert. denied*, 371 U.S. 816 (1962)).

The Hartford trial operation commenced on June 29, 1962. On May 21, 1965, the authorization was extended for a period of 3 years or until such earlier time as the Commission might terminate the rulemaking proceeding.

Only two other applications for authorization were filed. One was denied because it did not meet the conditions of the third report. The other was granted but the operation never commenced, and the authorization was relinquished on May 1, 1964.

In March 1965, Zenith and Teco, which supplied the equipment used in the Hartford trial operation, filed a joint petition requesting authorization of nationwide subscription television. The pleading