

As I understand, you are basing your present rulemaking decision on certain portions of the Communications Act and you are stating that STV is broadcasting.

Mr. HYDE. We do state that STV is broadcasting.

Mr. BROYHILL. Yet, it seems that the Commission is recommending rules under which the FCC would go far beyond what you require the broadcasters to do.

Mr. HYDE. The rules do go beyond what is required in conventional broadcasting.

Mr. BROYHILL. Does this mean you have concluded you have authority to do this in STV broadcasting?

Mr. HYDE. Yes, it does, because we believe the authority granted to the Commission by Congress does give the authority to make rules appropriate to a particular type of service. We believe that there can be classifications of broadcast service, indeed there are. We have rules appropriate to FM. We have rules for stereo and FM. We have rules for television broadcasting and, of course, we have rules for AM broadcasting.

The act makes not distinction as between any of these classes of broadcasting.

Mr. BROYHILL. In the proposed rules as I read them the Commission is proposing to lay down certain stringent rules on programing. You have never done this in implementing the first necessary doctrine to broadcasting as a group.

Mr. HYDE. I agree with you that the type of regulation that the committee has recommended here is unique, it is different, it goes beyond anything that the Commission has provided in other cases.

Mr. BROYHILL. It is also not true that in the court case on your experimental system in Hartford, Conn., the court case really went to the question of whether or not you had the authority to authorize a trial test, it did not go to the question of whether or not you had full authority?

Mr. HYDE. The case litigated was for application for experimental authority.

Actually, I am not personally familiar with the briefs and the issues as they were raised before the court. I would prefer to have our general counsel discuss that further. For that purpose I would suggest that if it would meet the pleasure of the committee that we bring our legal memorandums down to date. We will submit a supplement to our legal memorandums which will discuss this case further.

Mr. MACDONALD. Without objection it is so ordered.

(The following information was subsequently submitted:)

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D.C., October 26, 1967.

Hon. TORBERT H. MACDONALD,
House of Representatives, Washington, D.C.

DEAR CONGRESSMAN MACDONALD: When I testified before the Subcommittee on Communications and Power of the House Committee on Interstate and Foreign Commerce on October 9, 1967, questions were raised concerning the authority of the Federal Communications Commission to authorize subscription television operations. At that time I agreed to supply supplemental material to bring up to date the Memorandum of Law (FCC 57-730) on this subject furnished to the Committee on July 3, 1957. That Memorandum, a copy of which is enclosed herewith as attachment A, discusses in detail the provisions of