

STATEMENT OF EVERETT H. ERLICK, VICE PRESIDENT AND GENERAL COUNSEL, AMERICAN BROADCASTING COS., INC.

Mr. ERLICK. Mr. Chairman and members of the subcommittee, my name is Everett H. Erlick. I am vice president and general counsel of the American Broadcasting Cos., Inc.

I appreciate the opportunity to appear before you today to express ABC's views with regard to pay television.

The question of whether the public should be required to pay for radio and television service is by no means a new one.

In the hearings which led to the Radio Act of 1927, industry leaders joined Commerce Secretary Herbert Hoover and others in opposing the establishment of the kind of systems in use in foreign countries requiring the "payment of a fee."

Statutory provisions which might have been construed as authorizing broadcasters to charge listeners a fee were eliminated in joint conferences by the House and Senate. With these deletions, the leaders of the bills, which eventually became the Radio Act of 1927, were able to assure their colleagues that the legislation gave no authority to impose a fee and consequently there was no need to authorize the Commission to regulate rates charged to listeners.

Ensuing developments—between the enactment of the Radio Act of 1927 and the incorporation of its principal provisions into the Communications Act of 1934—confirmed the views shared by Congress and industry that under the American system of broadcasting, the listener or viewer should not be charged a "fee" for the program he receives. This principle had become so well settled that in enacting the Communications Act of 1934, the rate or fee question was not an issue.

Thus, by 1927, and even more convincingly by 1934, broadcasting in the United States had taken on a definite pattern—the cost to be borne by the sponsor and the broadcaster, with no charge to be levied on the public. This pattern, fully known and accepted by Congress, was a keystone of the regulatory concepts embodied in the basic 1927 and 1934 acts.

In our appearance before the House Committee on Interstate and Foreign Commerce on January 22, 1958, ABC summarized its opposition to the authorization of pay television as follows:

1. Pay TV will supply little, if anything, that the public does not receive today on free television—and with each succeeding season television expands its already rounded program service.

2. If pay TV succeeds, the programs now seen on free TV will move to pay TV. The public will be the loser, for it will be forced to pay for programs it now sees free.

3. Those who will suffer most will be people in the lower and middle income groups, those who can least afford to pay. These are the ones to whom a television set is a means through which they can bring their families into contact with everything which is most exciting in the whole field of entertainment, sports, news and information and public affairs—indeed, the whole gamut of our activities as a nation.

4. The Federal Communications Commission was created by Congress to develop and foster our American system of free radio and free television—not to authorize or encourage another system which could lead to its destruction, without first ascertaining the will of Congress.

5. Irrevocable changes should not be made in the system which the Commission was established to aid and develop until the Congress expresses its will.