

6. Commission experience demonstrates the difficulty of "turning the clock back" after interests become established, after the public has relied upon the Commission's action, and after substantial expenditures have been made.

7. Congress should not be by-passed on matters of basic national policy.

In essence, the foregoing seven points are as relevant today as they were when we advanced them in 1958.

These hearings come at a propitious time, a time when the Federal Communications Commission is considering the report of its Subscription Television Committee, which proposes the establishment of a nationwide pay television service.

The Commission, in common with numerous other administrative agencies, is an arm of Congress. The purpose of these agencies is not to make national policies but to implement policies Congress has enacted.

No one can deny, in light of the record of the FCC proceeding, the many congressional hearings, and legislator and public expressions on this subject, that to impose a pay television service on the broadcast frequencies, as has been proposed, has become a highly controversial issue of national significance.

Whether pay television should be authorized in any form—in broad scope as heretofore urged by its relatively few proponents or in restricted, and intensely regulated form as suggested by the report of the FCC's Subscription Television Committee, is precisely the type of question which should not be resolved by an administrative agency, no matter how broad its general statutory powers. It is one which Congress alone should determine.

It is common knowledge that the price which the free television system can pay for exhibition rights is determined principally by the value to advertisers of commercial messages associated with various programs. Assuredly, there is a limit to the price advertisers can and will pay for program sponsorship and, hence, a limit beyond which free television cannot bid for exhibition rights.

However, the price which pay TV entrepreneurs would be willing to pay for exhibition rights is limited only by the aggregate price which the viewing public is willing and able to pay to see the program. It is a virtual certainty that pay TV could afford to pay more for certain programming and could outbid free television for the most popular attractions.

Consequently, it is clear that pay TV would have detrimental effects on the present free system. Given the opportunity, it would inevitably result in the "siphoning off" of attractions such as the world's series, professional and collegiate football games, as well as some of the most popular entertainment programs. While the siphoning might not occur overnight, in time much of the most popular fare on free television would be removed to pay TV.

Additionally, unrestricted pay TV, using existing television channels, would deprive the public of significant numbers of hours of free television service and could threaten the operation of the national television networks. If all stations are permitted to engage in pay TV operation, people who reside in areas which receive signals from only one, two or three stations would suffer a substantial and real loss of service.