

The distinguishing characteristics of the Federal Communications Commission's authorization of subscription television in this case is the experimental or trial basis upon which the system is to operate for the duration of its three years authority.

The Commission's belief that the statutory authority to institute a test also carries with it the statutory authority to authorize pay television on a permanent basis, is a proposition which finds no support either in the Court's holding in *Connecticut Committee*, or any other court decision of which the Joint Committee is aware. It should be obvious that the statutory framework and guidelines which would be required to support a nation-wide permanent pay television system is far different from the type of legislation required to support a small experiment so limited in size as the Hartford test, and with such a necessarily inconclusive effect on the free broadcast system. The dangerous effect which pay television will have on the free television system does not arise from a limited system of tests. It arises precisely because such testing is fruitless and futile. The dangers of pay television will not be apparent until the system is extensive enough to accomplish the very things feared. At this point, the existence of an extensive and expensive pay television operation will present the Commission with a *fait accompli*. Section 303(g) of the present Communications Act, as the Court noted in *Connecticut Committee*, expressly confers jurisdiction on the Commission to authorize "experiments." There is no provision, however, in the Act which would authorize the Commission to permanently authorize a system so radically different in nature from the present American free broadcasting system, and with such a potentially destructive effect on that system.

Indeed, the precise difference between the power to authorize limited tests of pay television systems, and the power to authorize pay television on a permanent basis was clearly pointed out by Congressman Harris, the then Chairman of the House Interstate and Foreign Commerce