

Section 303(e) allows regulation of the apparatus to be used; and 303(f) grants the Commission power to make such regulations as are necessary to prevent electrical interference between stations and to carry out the provisions of the Act. The balance of Section 303 covers miscellaneous rules to insure the proper technical operation of all stations. None of these provisions even remotely indicate that the Commission has authority to authorize a permanent pay television system.

The only part of Section 303 which gives any support to the interpretation adopted by the Commission in the First Report is Section 303(g) which empowers the Commission to study new uses for radio and to provide for experimental uses for frequencies and generally to encourage the larger and more effective use of radio in the public interest. Unquestionably, this section grants the Commission the power to run technical tests such as the ones carried out by Zenith in 1950. This section, as interpreted by the Court of Appeals in *Connecticut Committee Against Pay-TV v. FCC*, *supra*, also allows the Commission to authorize trial experiments such as the Hartford test. However, there is a vast difference between allowing the Commission to conduct experimental tests, and authorizing it to establish pay television on a permanent basis. The Communications Act, as now written, neither sets out nor attempts to set out the kind of regulatory scheme that would be necessary to encompass a permanent pay television system. The right to experiment included in Section 303(g) does not supply the statutory deficiency.

It is true, of course, that the Communications Act gives the Commission broad regulatory powers over the broadcast field. As the Commission correctly indicated, broadcasting is a rapid and dynamic field and Congress allowed the Commission great flexibility to enable it to cope with new problems as they developed. It is also true, and the Courts have already indicated, that these powers are not all encompassing and that matters regarding the manner in which stations derive their revenue, as well as other internal business affairs, were never conceived as being within the Commission's regulatory power. See *Sanders Brothers*, *supra*.