clearly indicates that a widespread public demand for the institution of a pay television system simply does not exist.[36]

Finally, and most importantly, the Commission should not attempt to authorize pay television on a permanent basis since it is plain that the Communications Act gives no guidelines to the Commission as to the manner in which pay television should be operated. One of the most pressing problems raised by a permanent pay television system is the question of rate regulation. There is serious doubt under the *Sanders Brothers* and *Pulitzer Publishing* cases[37] as to whether the Commission may regulate the rates which may be charged by a pay television licensee to its subscribers. Proponents of pay television vigorously assert that such regulation is not authorized by the present Act. The Commission, in the First Report, did not decide this question. Nevertheless, it would be a total abdication of responsibility for the Commission to allow the institution of charges to the public by Commission licensees for the use of the public airways in the face of the very real possibility that it has no statutory authority to regulate rates.

In short, subscription television represents a marked departure from the present pattern of broadcast operations. It raises, for the first time, fundamental policy questions which, heretofore, there has been little or no occasion to consider. Its introduction will cause dislocation, disruption and confusion in the industry. Clearly, the Congress is the proper body to legislate a change of this magnitude and consequence, even if it can be determined that the Commission has the requisite jurisdiction to authorize a permanent pay television system. The determination of whether or not pay television should be permanently authorized, and, if so, the circumstances which should surround its operation, are legislative functions. They should not be undertaken in the absence of a clear Congressional mandate.

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[36] It is also significant that after the cessation of the Etobicoke-Mimico test, less than 20 per cent of Telemeter's subscribers indicated regret that the system had stopped, despite the fact that Telemeter sought an expression of opinion from all of its subscribers. See Telemeter Comments, p. 7.

[37] Sanders Brothers v. FCC, 309 U. S. 470; Pulitzer Broadcasting Company v FCC, 68 U. S. App. D. C. 124, 94 F.2d 249.