

5. Although at times the Committee's Report overlooks or ignores the fact, it cannot be emphasized too strongly that a system which demands direct payment of fees by the public in order to receive programs broadcast on publicly controlled broadcast facilities represents a major and drastic change in the nature of American broadcasting. Prior to the advent of pay television, commercial broadcasting had been supported solely by advertisers. There was, and is, no direct financial relationship between a listener and a broadcast licensee. The absence of this relationship is more than just a matter of commercial choice. It represents an important feature distinguishing broadcasting from public utilities, and common carriers — a distinction which was explicitly recognized by Congress when it drafted and adopted the Communications Act.⁴

6. This single fact also sharply distinguishes pay television from other changes in broadcasting which have occurred over the years, such as color television, FM broadcasting, simplexing, multiplexing and functional music operations.⁵ It also distinguishes pay television from CATV, since in CATV there is no direct financial relationship between a listener and a *broadcast licensee*. The relationship is between a listener and the CATV operator who

⁴ See, e.g., the remarks of Senator Broussard who, during the debates on the Communications Act of 1927, stated "radio makes no direct charges, whereas the others (telephone and telegraph) are in the business of serving the public for direct pay." 67 Cong. Rec. 12504. See also Pulitzer Publishing Co. v. F.C.C., 68 U. S. App. D. C. 124, 126, 94 F.2d 249, 251.

⁵ Although it is true that certain subscribers of functional music pay for the privilege of receiving material broadcast over the air, it is also clear that the general listening audience does not pay for this broadcasting. Stores, factories and buildings which desire such operations purchase them so as to provide the public in those stores and buildings with background music as an additional service. The public is not simultaneously deprived of the service.