

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. F.C.C.*,⁸ 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.

11. It is true, of course, that the Communications Act gives the Commission broad regulatory powers over the broadcast field. 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 Bros.*, *supra*.

12. The Commission asserted in its Further Notice of Proposed Rule Making, and the Committee asserted in its Report, that the Commission's decision as to its jurisdictional power was supported by the Court of Appeals' decision in *Connecticut Committee Against Pay-TV v. F.C.C.* The Commission has asserted that if

⁸ 112 U. S. App. D. C. 248, 301 F.2d 835, cert. den. 371 U. S. 816 (1962).