

of the service argue that there is no demand for subscription television and that it will only provide that which is, or will be, available from commercial television, educational television, and the new corporation for public broadcasting. ACTS is not prepared to tell this committee that one side or the other holds the whole truth.

We are, however, prepared to state that we support authorization of subscription television service so that it may have a chance to prove its value and viability. If in competition with existing facilities subscription television services can obtain subscribers and flourish, then obviously it is providing a service the public wants and for which it is willing to pay.

If the systems cannot obtain subscribers, then it is equally clear that it is not providing a service desired by the public.

But this competitive, marketplace test can be of value only if the subscription services compete on exactly the same footing as the existing facilities.

The FCC's proposal for authorizing subscription television does not provide the basis for a true competitive test of the service's public value and economic viability. Rather, it creates subscription television as a form of regulatory hybrid, within the Commission's rules for some purposes outside the rules for others, in what appears to be an attempt to shoehorn into the national system a new service for which there was no clear evidence of public demand.

Establishment of subscription television as a special form of television service will prevent proper assessment of its true role. The opponents of the service will contend that it survives only because of the special treatment afforded by the FCC's rules. Proponents will argue that the service has never reached its potential because of the limiting impact of the rules. In all of this it will be the public which is most directly affected.

There is no question but that the FCC's authorization of subscription television service represents a major development in the national television distribution system. While the FCC has the jurisdiction to act, ACTS believes that it must be the role of the Congress to insure that the step is taken with all the safeguards appropriate for such an undertaking. It must insure that the FCC takes no half measure in authorizing this service but utilizes the full scope of its regulatory authority to insure proper accommodation of the new service into the existing system to the ultimate benefit of the public. The FCC's present proposal does not accomplish this goal.

Our concern for the establishment of conditions for a true competitive test between subscription television service and existing free facilities leads to one additional but crucial point. Subscription television must be clearly and unequivocally limited for over-the-air UHF use and not be authorized for use by community antenna television (CATV) systems.

The reason for this position is twofold:

A true test of the viability of subscription television cannot be obtained if the service is to be subsidized by the revenues of CATV systems which derive their revenues from the sale of programming being broadcast by free commercial facilities. There is, of course, the factor that broadcasters are naturally repugnant to see the programming they pay for used to support a competing service.