

Those, briefly, are some of the reasons why we feel compelled to oppose pay television: it will black out free channels; it will siphon away free programs; and it will divide the audience along economic lines.

THE FALLACY OF THE TEST

Let me turn now to the imminent issue—the issue on which the controversy concerning pay television has tended to focus. That issue is whether there should not be some sort of test of pay television. I think that perhaps confusion arises out of the fact that different people are talking about different tests—and sometimes the same people are talking about different tests at different times. And nobody has really stopped to analyze what, if anything, needs to be tested or how success or failure can be measured.

What I want to do now is to demonstrate: first, that no test is necessary; second, that the entire concept that there can be a democratic public choice with respect to pay television is fallacious; and third, that the test proposed by the FCC cannot achieve the Commission's objectives.

A TRIAL IS UNNECESSARY

You have been told that a trial is necessary because the FCC lacks the decisional facts required to determine whether pay television would be in the public interest. But the decisional facts sufficient to justify denial of the pay television proposals are available in abundance.

There is no dispute with respect to the blackout of free channels. When a station is broadcasting pay television, it is blacked out for those who want to see free programs.

There is no dispute with respect to divisiveness. It must be clear that the prosperous family will be able to view more programs than the average family.

There is no genuine dispute with respect to the siphon. The pay-television promoters have said, over and over again, that they intend to put on the air the mass-appeal attractions which are now on free television. And the FCC itself has stated in its Report "that some kinds of programs hitherto available under the present system would probably be subjected to a charge on the viewer." Indeed, ordinary common sense shows that producers, stars, writers, motion picture companies and others will respond to the lure of higher pay just as everybody else does. If they can make more money out of pay television than out of free television, they will move to the greener pastures.

In addition, it is clear that people would rather see a baseball game free than pay for it. And all available evidence indicates that people would pay for the programs they like best if they could not get them without paying. A Gallup Poll found that 31 percent of those interviewed said that they would pay for the Ed Sullivan Show if they could not see it free. Surveys by Politz, Pulse, Roper, and the major league baseball owners have reached similar conclusions.

On the other hand, there is a striking absence of decisional facts to demonstrate the advantages of pay television. The briefs led by the proponents' lawyers contain only the vaguest and most illusory promises. No principal of any major proponent has appeared before the FCC or this Committee. Where a small group of people are proposing a scheme which bears within it so much danger and disadvantage to the public, one wonders what has happened to the old-fashioned concept of asking a proponent to meet a burden of proof.

The Canadian Royal Commission on Broadcasting, a Government body composed of distinguished citizens, had these same proponents before it. This Commission had no difficulty in making the predictions which resulted in their rejection of pay television. They said "subscription television would tend to canalize for its own use the great popular programmes now offered free to the viewing public."

We feel that the decisional facts for free television and against pay television are clear. A test is unnecessary. An informed decision can be made now.

A TEST CANNOT ESTABLISH MAJORITY PUBLIC CHOICE

Not only is the test unnecessary, but the very concept of a test is, in this case, fallacious. The broad argument is made that America is built on new enterprises which must have an opportunity to succeed or fail in the market place. Therefore it is urged that the public should be permitted to decide the fate of pay television by accepting or rejecting it. This sounds overwhelmingly sensible