

and producers have been accustomed to vastly higher pay, after millions of viewers have become habituated if not reconciled to the pay system, hearings will be held to determine whether the fait accompli created by the Commission should be reversed. It may well be too late at that point to reverse the course of history. People will be paying to unscramble pay-television signals, but the pay-television test itself will be hard to unscramble.

The difficulties of these tests are not difficulties of details; they cannot be fixed by a little patching here and there. These difficulties are symptomatic of the fundamental fallacy and impracticability of the basic concept of these tests.

Forty-two million American families watch television on an average of five hours a day. They have invested \$22 billion on the assumption that they would continue to have free access to the channels which have been dedicated to the public use. We feel that the investment and the reliance of the public in these airways deserve Congressional protection.

In the final analysis, there is no easy way out—the matter has to be voted up or down. Tests provide no escape from decision. The decision can be reached by analysis and expert judgment. That must be done here—by you gentlemen who represent the people.

ATTACHMENT B

Before the Federal Communications Commission, Washington, D.C.

Docket No. 11279

IN THE MATTER OF AMENDMENT OF PART 73 OF THE COMMISSION'S RULES AND REGULATIONS (RADIO BROADCAST SERVICES) TO PROVIDE FOR SUBSCRIPTION TELEVISION SERVICE

Comments of Columbia Broadcasting System, Inc., October 7, 1966

I. INTRODUCTION

In its First and Third Reports in this Docket, adopted on October 17, 1957 and on March 23, 1959, respectively, the Commission declared that it was in no position to determine whether the adoption of subscription television would be in the public interest "without the benefit of any significant demonstration of the proposed systems in operation". (*First Report*, para. 47)

Now, almost nine years after the Commission first determined that a trial of subscription television was necessary and should be authorized, the time has come to assess the result of the only trial which was had pursuant to the Commission's action, that which began in Hartford in June 1962.

On the basis of that trial Zenith Radio Corporation and Teco, Inc. (herein referred to as "Petitioners") requested the adoption of rules authorizing subscription television on a nationwide basis and contend that the trial demonstration has now provided a sufficiently adequate basis for concluding that an authorization of subscription television would be in the public interest. The Commission adopted on March 21, 1966 a Further Notice of Proposed Rule Making and Notice of Inquiry in this Docket inviting interested parties to comment on whether subscription television should be authorized on a permanent nationwide basis and, if so authorized, on the possible conditions and limitations which might be appropriate. The Notice invited parties to "focus their comments particularly on whether permanent nationwide subscription television would be in the public interest . . ." and on the issues directly relating to that question (*Notice*, para. 44). In addition, in its Notice of Inquiry, the Commission for the first time in this Docket requested comments as to "the appropriate Federal role, if any, with respect to the establishment and manner of operation of wire or cable subscription television, and how that role should be effected." (*Notice*, para. 48).

We submit that the results of the trial do not support the conclusion which Petitioners urge. If anything, they demonstrate that the public interest would not be served by the Commission's authorization of subscription television and they do so in more dramatic terms than we could have anticipated.

The Hartford trial shows that subscription television would *not* provide a beneficial supplement to the program choices now available to the public through free television but in fact would be duplicative of the programming of free television.

The Hartford trial shows that subscription television furnishes programming aimed almost exclusively at the mass audience, that any hopes that it would