

Finally, we remind the Commission of the conclusions reached concerning proposals to authorize a subscription television service in the United Kingdom in the Report of the Committee on Broadcasting 1960—the so-called Pilkington Report, published in 1962:

"We do not doubt the intentions of those who propose to put on minority programmes. But the dynamic of profitability would compel the pursuit of the biggest audiences. We are unable to accept that a service financed by subscription would in the event either widen the range of programming, or complement the present services. We conclude that a service of subscription could provide a few items of programming which a service financed in any other way could not, but that it would not make good the deficiencies viewers find in the present services." (Paragraph 987)

"Subscription television is necessarily much the dearest way of providing a service. If the case for introducing it is to be made out its supporters have, therefore, to show that the service would bring marked increases in the range and quality of programming. They have also to show that these advantages would not be offset by a decrease in the range and quality of the existing services. In our view, it is highly unlikely that a service of subscription television would significantly increase the range and quality of programming. *If it were commercially successful, it would certainly and significantly reduce the value to viewers of the present services. Some viewers would, if the service did not have national coverage, be unable to make this reduction good by paying for the subscription service; others would not be able to afford to; the rest would pay where now they do not.* We concluded in Chapter XVIII that the next two national services to be provided should not be financed by subscription. We now recommend that no service of subscription television be authorized, whether by wire, or, if frequencies become available, by radio." (Paragraph 1001, emphasis added.)

IV. THE HARTFORD TRIAL ESTABLISHES THAT SUBSCRIPTION TELEVISION WOULD IN FACT DIVIDE THE AMERICAN TELEVISION AUDIENCE ALONG ECONOMIC LINES

Hartford indicates that subscription television must obtain rights to major sports events and motion picture features to get an audience. Much of this product would be siphoned away from free television. Opponents of subscription television, including CBS, have long argued that the authorization of a nationwide subscription television system would for the first time divide the American television public on an income basis. If Hartford establishes anything, it establishes the validity of CBS' position. It is significant that Petitioners' Table No. 2 (Petitioners' Comments, p. 21) indicates that only 1.5% of the Hartford subscribers had income levels of less than \$4,000 while 29.1% of American families fell within such category. Petitioners dismiss 30% of the country's population in the following manner:

"The small percentages of subscribers with incomes of less than \$4,000 a year in Tables 2, 3 and 4 are not surprising, since a \$3,000 annual family budget has been described by President Johnson as the boundary below which any family must be considered to live in poverty and to which the nation's anti-poverty program is being directed. This so-called poverty segment of our population unfortunately does not provide a market for any goods and services beyond minimal shelter, food, clothing, and medical care. Economic Report of the President, transmitted to the Congress January 1964, pp. 58-59. A considerable portion of those in this poverty classification may also represent that 8% of U.S. families who do not own television receivers." (Petitioners' Comments, p. 22)

At a time when this nation's domestic resources are being directed towards eliminating poverty and integrating those in the lowest economic strata of our population into the mainstream of American life, we submit that the public convenience, interest and necessity will not be advanced by using scarce spectrum space for a subscription television service that would for all practical purposes be unavailable to 30% of our population. This unfairness to a substantial element of our population is further compounded by the fact that major programming now seen on free television would be siphoned away by subscription television.

Petitioners talk of the impossibility of setting up fences to protect free television. The only fences being contemplated in this proceeding are those designed to keep out 30% of the public from an alleged "beneficial supplement" to the existing free service.