

AMERICAN CIVIL LIBERTIES UNION,
Washington, D.C., October 19, 1967.

HON. HARLEY O. STAGGERS,
Chairman, Interstate and Foreign Commerce Committee, U.S. House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I am enclosing copies of comments of the American Civil Liberties Union which were filed with the Federal Communications Commission concerning proposals for Subscription TV Service.

I believe the comments are self-explanatory, and I would appreciate it if they could be included in the record of the hearings on Subscription TV recently conducted by your Committee.

Sincerely yours,

LAWRENCE SPEISER,
Director, Washington Office.

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 SERVICE) TO PROVIDE FOR SUBSCRIPTION TV SERVICE

Comments of the American Civil Liberties Union, February 8, 1967—Supplement to the October 7, 1966 Comments

INTRODUCTION

The American Civil Liberties Union has concluded that subscription or pay-by-the-program television (herein termed STV) offers a means of increasing diversity in broadcasting under regulations which insure civil liberties objectives.

It was not possible for the ACLU to deal with all of the many and inter-related questions raised by the FCC's "Further Notice" in the time allotted for comments. In its "Comments" of October 7, 1966, the ACLU therefore stated ". . . we intend to present supplementary comment on the broader issues noted above, hopefully by January 30, 1967."

In order to place these supplementary comments in context with ACLU's original comments, as well as avoid the need to make separate references to them, they are excerpted in the following section.

EXCERPTS FROM ACLU COMMENTS OF OCTOBER 7, 1966

"... we regard *diversity*¹ of expression as an application of the First Amendment's *free speech guarantees*. . . .

"We wish to emphasize that our criteria and objectives for STV, whether over-the-air or cable, are that it meets the requirement of diversity preferably through the *self-regulatory effects of free and fair competition*, but where competition is not, or cannot be, effective, that the government provide equally effective regulation including through implementation, where necessary, of the Commission's fairness doctrine and Section 315 of the Federal Communications law. . . .

"The ACLU believes that STV . . . cannot be regarded as simply a 'beneficial supplement' (in the language of the Commission's notice) to present over-the-air broadcasting, but *must be considered to be an independent system of public communications* which demands appraisal of its inherent capabilities, potentials, and regulatory requirements in the public interest. A wholly new relationship between the public and the producer of the program or service will be created when the public makes a direct payment. . . .

"On the premise that (1) STV can be a system for presenting new and different programming, and (2) open competition will enhance diversity, *the Civil Liberties Union favors no restriction as to permitting STV to function in all markets*, regardless of the number of television stations therein.

"... consistent with these objectives of fostering STV as a resource for diversity, the ACLU believes that the public will be best served by *separation*

¹ *Italic added throughout excerpt.*