

Mr. Chairman, it is true that the Congress has not acted on the matter. It is true in the same sense that the Congress has not passed a resolution requesting the National Park Service not to put a cork on Old Faithful Geyser and sell steam to the nearest electric power producer.

In view of the rather abject record compiled during the test run of pay TV, one would not have supposed that any "guidance" was necessary to prevent the Commission from establishing subscription television on a permanent non-experimental basis.

Gentlemen, the Commission has asked us for "guidance." I feel we would be remiss if we do not provide it in a specific and clear a manner as possible. In this regard, there is pending before this Committee H.R. 12435 which I introduced with but one thought in mind. It amends the Communications Act to provide that "Nothing in this Act shall be held to empower the Commission to authorize any person to engage in the broadcasting of pay television programs."

I urge you to recommend to the Full Committee that this bill be favorably reported and sent to the Floor for passage at the earliest possible date. Such action would provide the Federal Communication Commission with the clear intent of Congress and would prevent any recurrence of this seeming inability by the Commission to resolve the subscription problem.

Mr. DINGELL. I ask leave of the chairman that I may be permitted to summarize briefly the comments that I would have given to this distinguished subcommittee on this matter.

Mr. Chairman, for the record, my name is John D. Dingell. I am a Member of Congress from the 16th Congressional District of Michigan.

As you will recall, Mr. Chairman, I have long opposed the use of the free broadcasting spectrum to provide substantial financial profits to private individuals through the device of charges for receipt of broadcasts.

I believe it is a shame that we have to waste the time of this very busy committee to try to rectify an absolutely wrongheaded determination on the part of either the Federal Communications Commission or certain members thereof to establish subscription TV despite the clear expression of Congress to the contrary, and despite the economic failure, the visible lack of public acceptance, and outright public rejection. Despite the repudiation by Congress repeatedly and notwithstanding expressions of outrage from Members of Congress and oppositions from congressional committees, the Commission appears determined to go forward toward establishment of pay or subscription TV.

First of all, this proposal in the fourth order and report of the Federal Communications Commission is on the most doubtful jurisdictional grounds. The agency bottoms its so-called authority to go forward on this under section 303(g) of the Federal Communications Commission Act. A study of that particular section makes it very plain that it authorizes the Commission to "study new uses of radio." The section goes on to "provide for experimental use of frequencies" and then it finally authorizes the Commission "generally to encourage the larger and more effective use of radio in the public interest."

I see nothing in there that authorizes the erection of a tollgate at the family's television set and I see nothing that authorizes the use of subscription TV.

The history of the act is very clear. I can find nothing to indicate that subscription TV was in contemplation of the original authors of the Radio Act. I could find nothing in the amendments to the Federal Communications Act or the act, itself, authorizing the use of tolls and charges at the television set.