

Mr. Dingell, is there any question in your mind as to whether the FCC would have jurisdiction to regulate subscription television if it were delivered by cable, rather than through the air?

Mr. DINGELL. Well, you run into this problem in connection with the regulations. The FCC has control of rates for regulatory purposes in interstate commerce. Now, there are certain exceptions that have been made to this in areas where TV broadly affects intrastate commerce and, of course, they have control over rates in international carriage. So, the FCC would have the power of regulating rates for services of this type if it were to be sent by wire.

The other regulation would be carried out by communities and States under their appropriate State and local laws where the transmissions were entirely intrastate in nature.

Mr. VAN DEERLIN. Would it be your idea that if the Commission did have jurisdiction that it should exercise some of the restraints over programing, on subscription television, that it envisions doing on over-the-air delivery?

Mr. DINGELL. Well, I am not altogether sure, first of all, that the Commission has the authority under the law that it professes to control programing on subscription television over the airways. I would not be altogether sure whether it would have the authority to regulate its programing over the wires if it were to try to assert that.

I have not studied these points in any great depth, but the consideration I have given to the matter indicates to me there is a grave question whether the Commission would have this authority either under the Federal Communications Act or under the Constitution.

Mr. VAN DEERLIN. You do not limit this to subscription television, then?

Mr. DINGELL. No.

Mr. VAN DEERLIN. You would doubt that it has the authority over programing in regular commercial television?

Mr. DINGELL. That is correct.

Mr. VAN DEERLIN. I notice you use an argument against subscription television that was used against public television—that it would compete for talent and, notably, that it would compete for talent with public television.

Do you think this is a very strong argument?

Mr. DINGELL. I am not so troubled about public television competing with, let us say, the general area of commercial telecasting. Apparently the networks and the stations were not particularly troubled about this and generally tended to support the legislation establishing public television that this great committee just recently guided through the House.

But, public television is a rather difficult situation. It is new, young; it hasn't got its financing in order yet. It has not gotten all its stations on the air. The corporation has not yet been fully established and it is not in a position where it can really stand additional competitive pressures, in my opinion.

My feeling is that if we are interested in good, high-quality programing in this country, good television, television that will offer the things that the Commission said it would offer but the fact it did not, that we should encourage this by public television, by encouraging public television, by affording a climate in which it can grow and