

FCC's right to regulate program content if we have pay or subscription TV?

Mr. DINGELL. As I understand the law, program content cannot be regulated on a day-to-day basis by the Federal Communications Commission.

Mr. BROWN. They were talking about percentages. I am talking about their proposed regulation of pay-TV.

Mr. DINGELL. I think this would raise questions which would have to be reviewed by the courts before we would have a final answer as to whether or not they do have authority. But more importantly, I think that you have to look at the awful thicket that this regulation is going to lead the FCC into. First of all, it will lead to a fight. Then they are going to have to determine whether these people are carrying forward their responsibility.

With a commission that appears to be as overworked as this Commission appears to be, or at least one which is so clogged with minutiae, it is doubtful that they will get down to this question.

Mr. BROWN. I would like to get your comments again because I did not quite follow them when you were in your colloquy with Mr. Ottinger about the desirability of network executives and advertisers in free TV determining what programs shall be aired and the Public Broadcasting Corp. board in the ETV bill that we just passed deciding program content and the undesirability of people determining what they are willing to pay to see.

I don't quite follow how it is desirable for this board of directors of Public Broadcasting and the network executives and advertisers to make that determination in those two areas but it is not desirable for people to be able to put in their quarter or whatever it is to see what they want to see.

Mr. DINGELL. You mean to pay the quarter at the box to decide what they want to see?

Mr. BROWN. Yes.

Mr. DINGELL. First of all, we don't know whether they will do it on a flat charge basis or do it on a quarter in the slot basis for a particular program.

The fourth order and report is sufficiently far from final implementation that it could undergo many changes before we get at this.

First of all, the Public Television Corp. that we set up in the public television bill is not going to dictate programing. We tried very hard to insulate the people of this country from that.

Mr. BROWN. They will be making a determination about where the Federal money will be spent for program development.

Mr. DINGELL. They will. They will make some determinations of this kind and I hope they will be wise ones.

But I have to say that the marketplace enters into what happens on free TV now. If a program is not watched the advertisers drop it. I recognize that we have to afford management the wisdom to make the judgments that are necessary as to when the public is going to accept a particular program or like a particular kind of advertising.

I have no objection to that.

Mr. MACDONALD. I am sorry, the time of the gentleman has expired. Thank you very much, Mr. Dingell, for a very fine presentation.

Mr. DINGELL. Thank you, Mr. Chairman.