

In the First Report the Commission, although admitting that the Communications Act of 1934 makes no specific or direct delegation of power to authorize such a major change in the concept of American broadcasting and the regulatory scheme surrounding it, nevertheless found that power in the statute, and found support for its interpretation in its legislative history. The Commission reasoned that Sections 301 and 303 of the Act gave it broad powers over the use of radio frequencies, and it specifically cited Section 303(g) as giving it the power to study new and experimental use of frequencies and to generally encourage the larger and more effective use of radio in the public interest. It then cited what it considered to be certain specific statutory limitations on the Commission's licensing power (Sections 310(a), 313, 317, 325(a), 325(b) and 326) and concluded that if Congress wished to further limit that power in regard to pay television operations it would have specifically done so. Thus, by this strained interpretation the Commission concluded that it had been given the authority to regulate an industry never conceived of at the time of the drafting of the statute.

The statutory provisions relied upon by the Commission, however (Sections 301 and 303), do *not* support the Commission's interpretation of its power and authority. Section 301 of the Act merely states the general purposes which the Act was drafted to effectuate. This broad statement does not *grant* the Commission any power. It nowhere suggests or even hints that the use of the public channels can be permanently licensed to those who would withhold the benefits of those channels from persons who fail to pay a per-program fee.

The general powers of the Commission are stated in Section 303. Thus, Section 303(b) gives the Commission power to prescribe the nature of the service to be rendered by each station. Section 303(c) allows the Commission to assign frequencies to various classes of stations and to designate the power and the time which they may operate. Section 303(d) allows the Commission to determine the location of the different stations;