

Apparently, the FCC has been sold a bill of goods in this matter. We think that California in its vote against it showed the will of the people even though it was declared illegal.

We are sorry that we can give no constructive criticism on this proposal rule-making because we feel that any part of it is destructive to the TV viewing of the country as a whole.

Yours very truly,

A. K. SMITH, *President.*

WGN CONTINENTAL BROADCASTING Co.,
Chicago, Ill., October 10, 1967.

Hon. TORBERT H. MACDONALD,
Chairman, Subcommittee on Communications and Power, House Interstate and Foreign Commerce Committee, U.S. House of Representatives, Washington, D.C.

MY DEAR CHAIRMAN MACDONALD: As President of the corporate licensees of television stations WGN-TV, Chicago, Illinois, KDAL-TV, Duluth, Minnesota, and KWGN-TV, Denver, Colorado, I am writing in support of H.R. 12435, a bill sponsored by the Honorable John D. Dingell of Michigan. This bill would prohibit the Federal Communications Commission from authorizing over-the-air pay television.

The proposed Fourth Report and Order adopted by the Commission's Subscription Television Committee would authorize over-the-air pay television on a permanent basis. Such an action by the Commission would run wholly counter to the scope of its statutory jurisdiction and the will of the Congress. The Commerce Committees of both houses of Congress have expressed their views either questioning the jurisdiction of the Commission to license pay television operations or stating that such operations should not be authorized by the Commission without specific authorization by law.

The jurisdiction of the Commission to act in this area is at best questionable and is an additional reason why it should be barred from proceeding further with the permanent establishment of pay television without specific Congressional approval.

If the Commission were to establish pay television, the rates of this new pay-as-you-go service would have to be regulated to protect the public.

However, if pay television is "broadcasting," as the Commission has found, there is no authority in the Communications Act to regulate the rates charged for pay television. Since the Commission's Subscription Television Committee admits that its "authority to regulate rates for the new service—a broadcast service—is open to question," the Commission should get Congressional guidance before proceeding any further.

Pay television is, by any standards, a basic modification of the American system of free broadcasting and consequently, any decision on the authorization of such a service should originate with the Congress and not the Commission. Obviously, the Commission should not be allowed to establish on a permanent basis a service for which there has been neither a public demand nor an indication of public benefit. It has never been established that (1) there is either a substantial need or public demand for pay television or (2) that pay television would provide a meaningful supplement to existing free television broadcasting.

The contention that subscription television will provide a beneficial supplement to existing television service is not supported by the record. Ninety-one percent of the programming ultimately provided in the Hartford experiment consisted of sports events and feature films, a current staple of conventional television broadcasts. Even the Commission's Subscription Television Committee noted in its proposed Report that "... the major part of the programming as opponents had argued, will be of a kind that will appeal to a mass audience."

Thus, in reality, pay television had little to offer that has viewer appeal which is not now offered by free television or which cannot be offered by free television or public television.

We have faith in the capacity of our nation's free television system to meet and grow with the public's changing needs, tastes and interests. This system presently offers and will continue to offer the best way of serving the public. Pay television poses a grave threat to free television as we know it today. If Congress allows the Commission to establish pay television, the ability of free television to provide effective service to the entire public (including those unable to pay for service) would be drastically curtailed. Indeed, the public, those of means