

*Downed*

January 19, 1970

MEMORANDUM FOR

General George Lincoln  
Director  
Office of Emergency Preparedness

I have reviewed your suggested changes to our memorandum on domestic satellite policy with respect to national security and emergency preparedness objectives.

I have incorporated your two suggestions, with some changes in the interest of brevity and style, as follows:

(1) The public policy objectives on pages 1 and 2 of the memorandum now read as follows:

- assuring full and timely benefit to the public of the economic and service potential of satellite technology.
- insuring maximum learning about the possibilities for satellite services.
- minimizing unnecessary regulatory and administrative impediments to technological and market development by the private sector.
- encouraging more vigorous innovation and flexibility within the communications industry to meet a constantly changing spectrum of public and private communications requirements at reasonable rates.
- discouraging anti-competitive practices -- such as discriminatory pricing or interconnection practices and cross-subsidization between public monopoly and private service offerings -- that inhibit the growth of a healthy structure in communications and related industries.

-- assuring that national security and emergency preparedness needs are met.

(2) Rather than adding an entire second paragraph to the end of the memorandum with respect to the right of DOD and other agencies to use a domestic system, I have come directly out and said it in a sentence to be incorporated in the last paragraph. That paragraph now reads (addition):

It is most important that the establishment and operation of domestic satellite communications facilities be consistent with our obligations and commitments to INTELSAT and the International Telecommunications Union, with other foreign policy considerations, and with national security communications planning and requirements. With respect to INTELSAT, it is particularly important that domestic systems not threaten the operational integrity or economic viability of the global services provided through that system. It is also important that provision be made for use of domestic satellite services by national security and emergency preparedness agencies when appropriate. We are satisfied that domestic satellite communications facilities authorized in accordance with the preceding recommendations will meet all these conditions. We further see no reason why the Communications Satellite Corporation, established by Congress as the chosen instrument for United States participation in INTELSAT, should not be permitted to compete for domestic satellite service on an equal basis under the above guidelines.

Would you please let me know if these changes fail to reflect properly the changes you suggested.

Clay T. Whitehead  
Staff Assistant

cc: Mr. Flanigan  
Mr. Whitehead  
Central Files

CTWhitehead:jm



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF EMERGENCY PREPAREDNESS  
WASHINGTON, D.C. 20504

JAN 19 1970

MEMORANDUM FOR DR. CLAY T. WHITEHEAD

SUBJECT: Policy Considerations on Domestic Satellite  
Communications

Subsequent to our conversation on January 15, my staff discussed with OSD the need to make explicit reference to the national security and emergency preparedness aspects of domestic satellite communications.

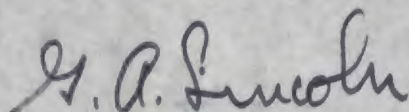
I suggest you include the following statements in your memorandum to FCC:

1. On page 2, after the section reading "discourage anti-competitive practices ... in communications and related industries" insert:

-- assure that when domestic satellite communications are established they are compatible and fully integrated, where appropriate, with existing domestic and international public telecommunications services --  
especially to satisfy national security and emergency preparedness needs.

2. At the end of page 8, insert a paragraph saying:

-- It is also essential that provision be made for use of domestic communication satellite services in support of national security and emergency preparedness efforts, when appropriate. Since the operational existence of nationwide systems of rapid voice, data, and record communications is indispensable to national security and emergency preparedness, the Department of Defense and other agencies rely upon commercial domestic satellite services to improve the total telecommunications capability available for these purposes.

  
G. A. Lincoln  
Director

EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF SCIENCE AND TECHNOLOGY  
WASHINGTON, D.C. 20506

January 13, 1970

MEMORANDUM FOR

Dr. Clay T. Whitehead  
The White House

Subject: Comments on OEP Memorandum of January 9, 1970,  
Re: Domestic Satellite Communications

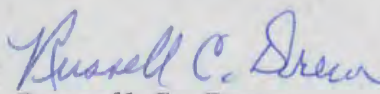
The following brief comments are in response to your request for analysis of subject memorandum from the viewpoint of the Technical Committee and are preliminary to a more detailed response on the general subject matter of the OEP memorandum.

On page 3, paragraph III, technological reservations are listed which appear to be of little consequence to the major issues addressed in the basic policy statement. The first point raised questions whether interference problems created by a large number of satellite ground stations would impact the character of earth station terminals for domestic and international systems. Although the Technical Committee did not conduct site surveys, such surveys have been completed in several key areas and have indicated that adequate provision for domestic satellite terminals can be made in proximity to all major urban areas. It was realized that careful, and in some cases detailed, coordination and planning would be necessary to avoid harmful interference with terrestrial systems. Because of this requirement at dense communications hubs, domestic ground stations may be required to locate at some distance from the center of the urban area being served. This is an economic penalty, but it is unavoidable if the present shared band is to be used. It seems clear that the domestic system would use terminals that were separate from those used for the international system. In particular, the potential for using a smaller diameter antenna, coupled with the most advanced satellite technology, would seem to be highly likely. Whether CATV systems had ground station terminals or not does not appear to be a technical question but rather a question of policy toward the CATV operators and their interconnection through networking or for other purposes.



The second major point concerns satellite spacing to the synchronous orbit. In the Technical Committee report, this question was considered and it was the opinion of the members, including the representatives of the DTM, that conservative spacing of about  $6^{\circ}$  would provide adequate intersatellite separations, particularly if technical coordination between satellites in adjoining slots was carried out under direction of the FCC. With the conservative spacing of  $6^{\circ}$ , there remain fifteen or sixteen potential satellite locations capable of serving the contiguous 48 States. Of these sixteen orbital positions, five would have the additional capability of providing simultaneous coverage to Alaska and Hawaii in addition to the 48 contiguous States. These orbital locations appear adequate for several domestic systems, plus Canadian and other potential international use. If service to Alaska and Hawaii is desired, without requiring access to the complete contiguous 48 States, additional orbital space is available over the Pacific that would provide adequate service to these areas. I agree that the definition of a specific number of degrees spacing between satellites that will be adequate to insure freedom from harmful interference when used with a specific size ground station antenna requires further study and analysis. The issue here is not the definition of these precise numbers but the identification of conservative standards (which we have done) that are nevertheless adequate to the domestic communications satellite needs for several initial systems.

I believe the technical issues raised in this memorandum are not sufficiently related to the substance of the policy statement to warrant its revision for technical reasons. There are, of course, many other aspects to be considered, and I will be outlining these points in a subsequent memorandum.

  
Russell C. Drew  
Technical Assistant

UNITED STATES GOVERNMENT

# Memorandum

TO : Clay T. Whitehead

DATE: 2 January 1970

FROM : Thomas G. Moore, CEA

SUBJECT: OEP Memorandum on the Proposed Policy on Domestic  
Satellite Communications

I have carefully reviewed General Lincoln's memorandum and the attached material and while I support his general objectives, I find that the conclusions do not follow from the objectives. Whether or not there are economies of scale in satellite communications is unproved. In a free competitive society, those who advocate restricting entry should have the obligation of proving its necessity. Relatively free entry in a new industry is hardly the radical and fundamental departure suggested in his memorandums.

Free unfettered competition has throughout our economy led to high quality and technological innovation. While the Bell System has been progressive, competition can play a substantial role in continuing and increasing the rate of innovation.

The memorandums raise the question of the public interest aspects of satellites providing services that are not economic. It is a fundamental principle of economies and of good government that subsidies not be marked in cross subsidization. If educational systems or Alaska need service that cannot pay for itself, such service should be directly subsidized.

In summary, then, I stand by the Report of the Economic Committee on Domestic Satellites. I also continue to support your original draft memorandum to Dean Burch as properly reflecting the long-run public interest of this country.

*Thomas G. Moore*

Thomas G. Moore

CC: BC  
TM:em







The Postmaster General  
Washington, D.C. 20260

December 31, 1969

Dear Dr. Whitehead:

Reference is made to my letter of December 24, with regard to the proposed memorandum from the White House to the Chairman of the Federal Communications Commission concerning the Administration's policy on domestic applications of communications satellites.

Our recommended editorial changes in the letter referred to your draft of December 18. I am listing below these changes as they would apply to the revision of December 20.

The first such change is on page 5, where we suggest that the fifth line be revised by adding a comma after the word "entity" and inserting the words "public or private," before the word "should."

Second, we suggest that the final period on page 7 be changed to a comma, and that the last sentence be amended by the addition of the words "including Government corporations."

With these two changes, we would have no objection to release of the memorandum.

Sincerely,

Winton M. Blount

Dr. Clay T. Whitehead  
Staff Assistant  
The White House  
Room 110, Executive Office Building  
Washington, D. C. 20500

*qualified public or private entity, including Govt & corpns,*

✓

THE CHAIRMAN OF THE  
COUNCIL OF ECONOMIC ADVISERS  
WASHINGTON

December 30, 1969

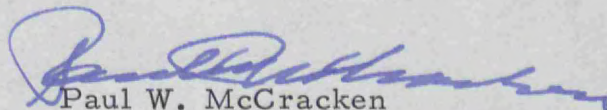
MEMORANDUM FOR CLAY T. WHITEHEAD

Subject: Memorandum on Domestic Satellite

We believe that competition is the best method to achieve efficient services, an exploration of the market potential, and the maximum innovation. Consequently, we support the objectives of your proposed memorandum to Dean Burch. Entry into the domestic satellite market should be as free as possible.

The proposed memorandum is fine except for the first paragraph on page 7, second sentence which is unclear and needs rewording.

(#3)

  
Paul W. McCracken





The Postmaster General  
Washington, D.C. 20260

December 24, 1969

Dear Dr. Whitehead:

This is in reply to your memorandum of December 18, asking whether we have any problems with regard to the proposed memorandum from the White House to the Chairman of the Federal Communications Commission concerning the Administration's policy on domestic applications of communications satellites.

As presently drafted, the memorandum is not as clear as we would like it to be with respect to the right of a Governmental entity such as the Post Office to establish its own satellite system or procure satellite services from commercial operators.

The problem could be resolved by two minor editorial changes that would not involve any explicit reference to the Post Office.

The first such change is on page 5, where we suggest that the eighth line from the bottom be revised by adding a comma after the word "entity" and inserting the words "public or private," before the word "should."

Second, we suggest that the final period on page 8 be changed to a comma, and that the last sentence be amended by the addition of the words "including Government corporations."

With these two changes, we would have no objection to release of the memorandum.

Sincerely,

Winton M. Blount

Dr. Clay T. Whitehead  
Staff Assistant  
The White House  
Room 110, Executive Office Building  
Washington, D.C. 20500

DEPARTMENT OF JUSTICE

ROUTING SLIP

TO:	NAME	DIVISION	BUILDING	ROOM
1.	<i>Dr. Whitehead</i>			
2.				
3.				
4.				

<input type="checkbox"/> SIGNATURE	<input type="checkbox"/> COMMENT	<input type="checkbox"/> PER CONVERSATION
<input type="checkbox"/> APPROVAL	<input type="checkbox"/> NECESSARY ACTION	<input checked="" type="checkbox"/> AS REQUESTED
<input type="checkbox"/> SEE ME	<input type="checkbox"/> NOTE AND RETURN	<input type="checkbox"/> NOTE AND FILE
<input type="checkbox"/> RECOMMENDATION	<input type="checkbox"/> CALL ME	<input type="checkbox"/> YOUR INFORMATION
<input type="checkbox"/> ANSWER OR ACKNOWLEDGE ON OR BEFORE _____		
<input type="checkbox"/> PREPARE REPLY FOR THE SIGNATURE OF _____		

REMARKS *Don has referred to responses like OED's as basically "dead-head" operations"; my comments are eclectic and I will send a point-by-point refuting comment when they are typed.*

FROM:	NAME	BUILDING & ROOM	EXT.	DATE
	<i>Kenneth Robinson</i>			



(1) Only a very broad, and I think, unlikely, reading of FCC v. RCA Communications, Inc. 1/ would support the contentions of the Office of Emergency Preparedness. Overall, I think their proposal should be viewed in the context of a number of imponderables, which for want of better organizational thinking on my part I shall list briefly before attempting to specifically deal with their arguments.

To begin with, your proposals should be viewed as representative of recent trends, which have swamped the "anticompetitive spirit of the thirties, and the condemnation of 'destructive' or 'cut-throat' competition and 'disorderly' or 'chaotic' economic development" 2/ that seems the basis for OEP's objections. Similar objections to broad competitive policies are recurrent particularly in state courts. For example, in Illinois State Telephone Company v. Illinois Commerce Commission, the Illinois Supreme Court argued

[T]he public interest in an established utility's service is paramount as against a would-be competitor who is also a utility.

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1/ 346 U.S.86 (1953)

2/ W. Jones, REGULATED INDUSTRIES 736 (1967).

A fortiori there would seem to be no public interest in favoring a non-regulated competitor over a utility already in the field. 3/

Moreover, the anticompetitive bias arises in some rare agency decisions. In MCI 4/ Chairman Hyde dissented from the licensing of a competing microwave system primarily because he felt that undue weight had been given the potential for common carrier competition.

However, the Supreme Court does not, I believe, favor such positions. Competition, the Court has repeatedly declared, is our "fundamental national policy," 5/ and the antitrust standards reflecting that policy are the norm, not the exception. 6/

Antitrust is as deeply imbedded in the American scene as baseball, bourbon whiskey and aspirin. 7/

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3/ 234 N.E.2d 769 (Ill. Sup. Ct. 1968); accord, State ex rel. Utilities Commission, 158 S.E.2d 855 (N.C. Sup. Ct. 1968).

4/ In re Microwave Communications, Inc., 16 P.& F. Radio Reg. Zd 1037, 1060 (dissenting opinion)

5/ United States v. Philadelphia Nat'l Bank, 374 U.S. 321, 341, 348-50 (1963).

6/ United States v. First City Nat'l Bank, 386 U.S. 361, 366 (1967).

7/ Fortas Portents for New Anti-trust Policy, 10 Antitr. Bull. 41 (1965). Accord, Report of the Presidents Task Force on Productivity and competition, 5 CCH Trade Reg. Rep. ¶50,250 (June 16, 1969).



Hence the Court has repeatedly reversed administrative agencies for failure to place almost overweening emphasis upon the competitive aspects of their determinations. 8/ In Federal Maritime Commission v. Aktiebalaget Svenska Amerika Linien 9/ the Court reversed a determination regarding the legality of shipping conference procedures for failing to place almost conclusive weight on the potential for an antitrust law violation. The Northern Natural Gas case is generally read as meaning that an administrative agency must place a similarly extraordinary weight on competitive inferences. In sum, the clear trend in Supreme Court cases is to stress heavily the importance of competition.

[C]ompetition isn't some kind of disease. It's the food of progress. Our economy has grown to its present size on the vitamins of competition. So this new struggle for the communications market is more of an opportunity than a threat. 10/

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8/ Cf. Silver v. New York Stock Exchange, 373 U.S. 341 (1963); In re Comm'n Rate Structures of Nat'l Securities Exchanges, SEC File No. 4-144, 5CCH Securities L. Rep. ¶77,707; In re Procurement Competition, FPC Dkt. No. R-345 (1969).

9/ 390 U.S. 238, 243 (1968).

10/ Bell System, TELEPHONE BULLETIN, May 1961, at p.16.

(2) In RCAC, the Supreme Court held that competition in the international communications field could be justified only upon some further showing of resulting public benefits.<sup>11/</sup> While stating explicitly that "[t]here can be no doubt that competition is a relevant factor in weighing the public interest," the Court criticized the Commission's "sterile, abstract" findings and remanded the case for further consideration. This represented the contemporary reasoning that competition is "destructive and wasteful, especially when both carriers provide identical services. <sup>12/</sup>

On remand, though, the FCC ruled and expressly found that: (1) since 1934 competition had been steadily increasing in radio-telegraph; (2) Mackay and RCAC (the two carriers concerned had prospered; and (3) competition was at least partly responsible for the maintenance of low rates and steadily improving and expanding service. It also noted that certain complaints about RCAC service disappeared after Mackay competition was authorized. <sup>13/</sup> Similar findings have been made repeatedly in international record communications cases. <sup>14/</sup>

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11/ 346 U.S. at 94; accord, Western Union Internat'l, Inc., 38 F.C.C. 611, 614 (1965).

12/ E.g., General Teleph. Co. of the N.W., 16 P.&F. Radio Reg. 2d 159, 163 (Rev. Bd. 1969).

13/ RCAC, Inc., F.C.C. 55-699 (1955), aff'd, 238 F.2d 24 (D.C. Cir. 1956), cert. denied, 352 U.S. 1004 (1957).

14/ E.g., Western Union Teleg. Co., 24 F.C.C. 535, 585, 589-91 (1958); Mackay Radio & Teleg. Co., 25 F.C.C. 667 (1958), modified, 25 F.C.C. 1197 (1958).



In regulating the domestic communications common carrier industry, the Commission has stressed the importance of competition in Above 890, where spectrum for microwave services intended to compete with common carrier services was allocated. 15/ The Commission stressed the importance of engendering competition. In Microwave Communications, Inc., the first such competing service was authorized. 16/

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15/ 27 F.C.C. 359 (1959).

16/ 16 P. & F. Radio Reg. 2d 1037 (1969).

## Summary

Communications services are regulated as to entry and price, of course, and the role of competition may not be quite as clear as in a non-regulated industry. Indeed, in the 1953 RCAC case, the Supreme Court held that because of regulation of price and entry, the national policy favoring competition may not be fully applicable to the international communications common carrier industry.

Where there is technological stability, the RCAC holding may have some residual validity. In such a context, the primary concern is to ensure a fair price and full service, and theoretically this can be approximated by regulation designed only a reasonable profit. Even here, however, competition may be useful and indeed necessary, for the practical difficulties of regulation are notorious. Construing the Interstate Commerce Act, from which the 1934 Federal Communications Act was derived, the Supreme Court stressed that

[T]he Commission should not manifest special solicitude for that criterion which directs attention to the situation of protesting carriers, at the expense of that which directs attention to the situation of [the public] when those criteria have contrary implications. \*\*\* Hence the adequacy of existing services for normal needs and the willingness and ability of an existing carrier to render the service are not the end of the matter. The 'distinct need' of the [public] may nonetheless not be served by existing services,



if the new service is better tailored to fit the special requirements of a shipper's business, the length of its purse, or the select nature . . . of the service that is desired. 17/

The Federal Communications Commission has put the matter more bluntly

[E]ven assuming, arguendo, that [the existing carrier] will be seriously injured, it does not necessarily follow that this would result in injury to the public. . . . 18/

Traditional regulation becomes even less adequate when a major technological innovation appears or is likely. Congress has, therefore, stressed competition, because this will insure that the benefits of innovation will be passed along to the consumer by those firms responsible for the innovation, and the others will have to match the cost or quality changes regardless of their investment in older, less efficient plant. Particularly if the industry is oligopolistic with substantial entry barriers and if all major firms have a substantial investment in preexisting plant, Congress has feared that absent competition they can delay introduction of the innovation until they have fully recouped their investments.

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17/ I.C.C. v. J-T Transport Co., 368 U.S. 81, 89, 92 (1961).

18/ In re Finer Living, Inc., 8 P.& F. Radio Reg. 2d 1160, 1163 (1967); accord, Pacific Telatronics, Inc., 4 P.& F. Radio Reg. 2d 145, 156 (1964); California Interstate Telephone Co. v. FCC, 1 P.& F. Radio Reg. 2d 2095 (D.C. Cir. 1964).

19/ See, e.g., 1958 Amendments to the Interstate Commerce Act, 72 Stat. 572 (1958), 49 U.S.C. §15(a)(3)(1958).

Similary, the Supreme Court has repeatedly found competition to be the best policy.

We therefore hold that the antitrust test formulated by the Commission is an appropriate refinement of the statutory "public interest" standard. 20/

From the outset, communications has been considered an industry in which competitive standards are particularly relevant. 21/ At the threshold of communications satellite technology, the Bell System and the FCC reported that the system should be "an integrated part of the total communication system of each carrier. 22/ The Attorney General strongly disagreed

I think you could say that the airplane was just another means of transportation, that the automobile was just another means of land transportation.

I heard this described as evolutionary rather than revolutionary . . . I think to regard this as a mere evolution of existing facilities does not . . . indicate an interest in speed . . . and development.23/

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20/ FMC v. Svenska Americka Linien, 390 U.S. 238, 246 (1968).

21/ See, e.g., Hearings Before the Antitrust Subcommittee of the House Committee on the Judiciary, 84th Cong., 2d Sess., v. 6 pp. 4120-23 (1956)(Testimony of Victor R. Hansen, Ass't Att'y General in charge of the Antitrust Division).

22/ See First Report, Dkt No. 14024, F.C.C. Release No. 61-676, ¶6(b) (May 24, 1961).

23/ Hearings on S. 2650 and S.2814 Before the Senate Committee on Aeronautical and Space Sciences, 87th Cong., 2d Sess. 387(1962).



Moreover, from the beginning it was realized that satellite communications were a unique means of introducing needed competition into the industry.

The administration places great importance on competition because the communications industry is particularly susceptible to domination by one company. . . . I am not impugning the motives of AT&T but pointing to an objective fact. . . . 24/

President Kennedy, stating his administration's policy, urged a

structure of ownership or control which will assure the maximum possible competition. 25/

Hence the Comsat Act stated a major goal was "to maintain and strengthen competition in the provision of communication services to the public." 26/

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24/ Hearings on H. R. 10115 and H.R. 10138 Before the House Committee on Interstate and Foreign Commerce, 87th Cong. 2d Sess., pt. 2, p. 565 (1964)(testimony of the Att'y Gen.); accord, Report of the President's Task Force on Competition and Productivity, 5 CCH Trade Reg. Rep. ¶ 50,250, p.55, 510 June 16, 1969).

25/ Statement of the President on Communications Satellite Policy, July 24, 1961, reprinted in Hearings Before the Subcommittee on Monopoly of the Senate Select Committee on Small Business, 87th Cong., 1st Sess. 16 (1961).

26/ Comsat Act §102(c), 47 U.S.C. §701(c)(1964).

The Supreme Court has stressed that the FCC has the broadest of powers to adopt regulatory procedures

Nothing . . . in the Act's history, [surrounding language] or purposes limits the Commission . . . . Underlying the whole [Act] is recognition of the rapidly fluctuating factors characteristic of [the industry] and of the corresponding requirement that the administrative process possess sufficient flexibility to adjust to these factors. . . . Congress in 1934 acted in a field that was demonstrably 'both new and dynamic' and it therefore gave the Commission 'a comprehensive mandate' with 'not niggardly but expansive powers.' 27/

Chairman Burch has stated

[The public interest comes before] the economic difficulties - real or fancied - of those with competing interests. 28/

The Attorney General has stated

We must do all that we can to insure that 'competition' remains a vital principle and does not become an outworn slogan. . . . For competition, however vigorous, is, in reality the most benign of economic regulators. . . . [T]here is every indication that competitive markets promote rather than impede, efficiency; and there is no assurance that a business of enormous size will be directed with greater skill or will conduct more productive research than less swollen organizations. The imperative of competition - rather than the seductive illusion that what is big must also be very good - is our best guarantee of progress. 29/

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27/ United States v. Southwestern Cable Co., 392 U.S. 157, 172-73 (1968).

28/ Washington Post, January 10, 1970, p. C5, col. 4-5.

29/ Address by the Att'y Gen., 5 CCH Trade Reg. Rep. ¶50,250, at pp. 55,472-73 (March 27, 1969).



Quotations do not, certainly, decide issues, but they are indicative of both policy and the probable success of that policy. I conclude that your proposals are fully consonant with contemporary circumstances, and to the considerable extent that the contentions of OEP are "anachronisms, difficult to reconcile" with subsequent occurrences 30/ they ought not be persuasive.

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30/ Cf. *Lear v. Adkins*, 395 U.S. 653, 663 (1969).

~~CONFIDENTIAL~~

THE WHITE HOUSE

WASHINGTON

December 20, 1969

DRAFT

DECLASSIFIED  
E.O. 13526, Sec. 3.3h

MEMORANDUM FOR

By MW, NARA, Date 11/24/12

Honorable Dean Burch  
Chairman  
Federal Communications Commission

The development of Federal policy on domestic satellite communications has ~~been~~ <sup>proved to be both difficult</sup> ~~long delayed~~ <sup>and time consuming</sup>. The Administration is concerned that the delay not be prolonged and that the policies adopted reflect all important dimensions of the public interest, including the international aspects of geostationary orbital and radio resources. Based on our review of relevant technical, economic, and public interest considerations, the Administration offers the following comments and recommendations to the Commission.

#### Public Policy Objectives

In telecommunications, the government's responsibility to safeguard and promote the public interest involves primarily the encouragement of reliable communications services for public, business, and government use at reasonable rates, and the assurance of a healthy environment for continuing innovations in services and technology. This general goal must, of course, be made more specific for particular policy issues. In our review of the domestic satellite issue, we have concentrated on the following objectives:

- assure full benefit to the public of the economic and service potential of satellite technology.
- insure maximum learning about the problems and possibilities of satellite services.
- minimize unnecessary regulatory or administrative impediments to technological and market development by the private sector.

~~CONFIDENTIAL~~



- encourage more vigorous innovation and flexibility within the communications industry to meet a constantly changing spectrum of public and private communications requirements at reasonable rates.
- discourage anti-competitive practices -- such as discriminatory pricing or interconnection practices and cross-subsidization between public monopoly and private service offerings -- that inhibit the growth of a healthy structure in communications and related industries.

### The Technical Framework

The establishment and operation of domestic satellite communications facilities is technically feasible within the present state of the art, and readily foreseeable technological advances will further enhance this capability. Technical considerations place no serious constraints on policies governing the ownership or mode of operation (single- or multi-purpose) of domestic satellite communications facilities. These technical considerations, though of great importance in the detailed engineering, operations, and economics of specific systems, can be dealt with effectively under any foreseeable ownership arrangements.

The issue of radio resource scarcity for satellite communications has been overstated to a significant degree. While the communications capacity of this resource is [undoubtedly] finite, the ability to accommodate additional radio services is greatly expandable through administrative, technological, and operational innovation.

standards For example, the Commission may wish to establish a minimum [acceptable earth station antenna diameter] in order to ensure immediate capacity for a particular number of satellites. (and anticipating future growth.)

Since some of the orbital locations and associated spectrum usage of interest for United States domestic satellites might also be potentially useful to other western hemisphere nations, a question of United States monopolization could conceivably arise. However, even 10 to 12 United States domestic satellites (a high estimate of likely early system development) would represent only a small fraction of the number which could be accommodated for western hemisphere use with the current state of the art. Therefore, orbital capacity is not expected to be a problem at this time. As demand for satellite communication expands, it may become

Note: specifics are covered later.

Recommend omitting  
standing alone, without  
what follows, it could  
be misconstrued, and  
it doesn't seem  
to add anything.

Basic policies governing the establishment and operation of domestic satellite communications facilities should be essentially the same as those for terrestrial facilities. Subject to appropriate conditions to preclude harmful interference and anticompetitive practices, any financially qualified entity should be permitted to establish and operate domestic satellite facilities for its own needs; join with related entities in common-user, cooperative facilities; establish facilities for lease to prospective users; or establish facilities to be used in providing specialized carrier services on a competitive basis. Subject to the constraints outlined below, common-carriers should be free to establish facilities for either switched public message or specialized services, or both.

The number or classes of potential offerors of satellite services should not be limited arbitrarily. Nor should there be any a priori ranking of potential types of systems (common-carrier vs. specialized carrier vs. private; or satellite vs. terrestrial). Only in the event that specific applications pose immediate and irreconcilable conflict in the use of radio and orbital resources would an a priori public interest exclusion of proposals be warranted. In particular, the potential economic impact of private or common-user satellite systems on terrestrial common-carriers or specialized carriers should not be a factor in the authorization of such systems.

All prospective entrants should be afforded equal opportunity to establish and operate domestic satellite communications facilities by adoption of the following guidelines.

(1) Facilities to be established by independent entities for their own private use should be required to demonstrate only the financial and technical qualifications to implement their system proposals. There is no valid public interest requirement in such cases to require a showing of economic viability or optimization, nor should the potential economic impact of such operations on common or specialized carriers be a factor in the authorization of such facilities.

(2) Facilities to be established as part of a common user cooperative system should be authorized in accord with the same principles as for fully independent facilities. However, to avoid restraints on competition, the opportunity for all potential users of similar services to participate without discrimination in such cooperatives should be made a condition of their authorization.



(8) The Commission may wish to establish a minimum acceptable earth station diameter, such as 30 feet, in order to accommodate a given number of initial United States domestic satellites in the 4 and 6 GHz spectrum allocations without excessive use of orbital resources. Although it is very unlikely that the initial filing period will approach the limit such a standard would impose, the standard should in that event be raised. Conversely, if applications were all well below this number, and a reasonable case were made on economic and operational grounds, the standard could be released in specific cases. To the extent possible within the state of the art, the satellite antenna radiation pattern should encompass only the specific land areas to be served.

In a time of rapid technological, economic, and social change, we would be ill-advised to adopt a definitive policy without the flexibility for future review or to adopt an overly restrictive policy simply because of our inability to predict future developments. We, therefore, recommend that the above policies be adopted on an interim basis, such as three to five years, to permit vigorous exploration and development of satellite service possibilities. During this period, the Commission should monitor the industry structure and service offerings to determine if natural monopoly or other conditions develop that require more restrictive entry conditions or warrant direct rate regulation for specialized satellite services. At the end of the interim period, a full review of the policy and industry structure should be made.

It is most important that the establishment and operation of domestic satellite communications facilities be consistent with our obligations and commitments to INTELSAT and to the International Telecommunications Union, with other foreign policy considerations, and with national security communications planning and requirements. With respect to INTELSAT, it is particularly important that domestic systems not threaten the operational integrity or economic viability of the global services provided through this system. We are satisfied that domestic satellite communications facilities authorized in accordance with the preceding recommendations will meet all these conditions. We further see no reason why the Communications Satellite Corporation, established by Congress as the chosen instrument for United States participation in INTELSAT, should not be permitted to compete for domestic satellite service on an equal basis with other United States corporations.