

FCC

Telecommunication

4/28/69

Mr. Flanigan:

I have had discussions with NAB people at which Everett Ehrlich was present (see attached article from Broadcasting Magazine). I thought you might like to read it before your 3:30 meeting with him.

Do you want me to attend that meeting?

Tom Whitehead

From Broadcasting, March 31, 1969 p. 36

X The White House looks into FCC's future

The Nixon administration has begun examining the composition and policies of the FCC.

Last week two White House staff executives met with an invited group of broadcasters to get their views on current broadcast regulation. The discussion reportedly ranged over many matters, but the most emphasis was placed on the present vulnerability of licensees at renewal time, FCC rule-makings that would break up multimedia ownerships, and the make-up of the commission itself.

The man who called the meeting was Dr. Clay T. Whitehead, deputy to Robert Ellsworth, special assistant to the President. Also present was Abbott Washburn, now a consultant to the White House staff. Mr. Washburn was deputy director of the U.S. Information Agency during the Eisenhower admin-

istration and later headed a Washington public-relations firm.

Broadcasters in attendance were Grover Cobb, of KXGN Great Bend, Kan., chairman of the National Association of Broadcasters board; Vincent T. Wasilewski, NAB president; Clair R. McCollough, Steinman Stations; John F. Dille, Communicana Group; Robert W. Ferguson, of WTRF-TV Wheeling, W. Va., chairman of the NAB's television code board; Everett H. Erlick, executive vice president, ABC; Richard W. Jencks, president, CBS/Broadcast Group, and Thomas Ervin, executive vice president, NBC.

During the discussion of FCC personnel problems, it was said later, FCC Commissioner Nicholas Johnson was mentioned by name, although the White House officials gave no indication of any change of assignment for him. It was mentioned that Chairman Rosel Hyde's term expires next June 30, but there was no word as to whether he would be asked to remain beyond then.

It was also mentioned that the term of FCC Commissioner Kenneth Cox, a Democrat, expires June 30, 1970.

Another meeting with the broadcasters may be called in a few weeks, the White House officials reportedly said.

Dr. Whitehead, who holds degrees in business administration and engineering from Massachusetts Institute of Technology, has been assigned to study policy making and organization of the FCC and several other regulatory agencies. His immediate superior, Mr. Ellsworth, a former congressman from Kansas, was reported last week to be under consideration for an ambassadorial post.

In addition to acting as a consultant to the White House, Mr. Washburn is the U.S. government's acting representative to the International Telecommunications Satellite Consortium, assuming the duties of Leonard H. Marks, who has resigned to resume his communications-law practice.

THE WHITE HOUSE

WASHINGTON

December 18, 1969

MEMORANDUM FOR

Mr. Peter Flanigan
Dr. Lee A. DuBridge
Mr. Paul McCracken
General George A. Lincoln

As you know, we have been reviewing the issue of what the government's policy should be with regard to the use of satellites for domestic communications services. A working group was established in August to review the economic and technical considerations; a summary of those reports is attached. Also attached is a proposed memorandum for the FCC stating the Administration's policy recommendations. I would appreciate your comments as soon as possible since we would like to plan for release as soon as possible. The working group made no recommendations because of factors other than economic and technical considerations needed to be considered in formulating policy. These are discussed below:

Social, economic, and national security objectives

Our economy and our society are becoming increasingly dependent on telecommunications. The telephone, television and radio, and now data communication, are an integral part of our commercial and social way of life. However, apart from the content of public broadcasting, the government's prime concern is that the telecommunications industries operate efficiently, do not engage in discriminatory or other anticompetitive practices, do not realize excessive monopoly profits, and vigorously pursue innovations in lower-cost technology or new services. Apart from government-owned telecommunications facilities, the national security interest implies the same objectives.

There are, of course, specific objectives the government may declare as with any industry. For example, it has always been government policy to encourage widespread access to telephone

service and to broadcast stations; and the military services may require particularly reliable, redundant, or survivable communications capabilities. No such special objectives appear at this time to suggest negating or compromising the basic objective of a healthy and vigorous industry structure for domestic satellite services.

INTELSAT and other international considerations

The primary consideration with respect to INTELSAT is that the economic viability of the global system not be jeopardized and that the announcement of a U.S. policy at this time not upset our negotiations on permanent arrangements for the INTELSAT consortium. While it is true that a domestic U.S. system would take away some traffic between the Mainland and Hawaii, Puerto Rico, and later Alaska, this is not sufficiently large to impair the economic strength of INTELSAT -- especially in view of the growing demand for international communications. Further, Governor Scranton, who heads the U.S. Delegation to the INTELSAT Conference, does not feel the proposed domestic satellite policy will cause any problems in our negotiations; to the contrary, it may be of some assistance.

National interest in an early system

There is some concern in Congress that we should be the first nation, or at least among the first, to use satellites in domestic communications. While national pride and prestige are important considerations, there are important reasons why they should not dominate in this case. (1) We should not impose such objectives on the domestic economy unless a significant national interest is to be served; this does not appear to be the case here. (2) The United States enjoys particularly sophisticated, reliable, extensive, and low-cost terrestrial communication facilities; satellites may well be economically useful in less well developed or more sparsely settled nations before they are in the United States. (3) The United States and other nations already use INTELSAT satellite services for domestic traffic, and the United States already benefits from the prestige of having developed satellite communications technology and the INTELSAT system.

The desirability of competitive forces

The telecommunications industry is in transition from a relatively small and self-contained industry dominated by the provision of switched public message (telephone) service on a monopoly basis to a large, rapidly changing industry providing a wide range of economically and socially important services. Regulatory policies and the industry structure are heavily oriented toward centrally planned, often monopolistic, operations. There can be no argument that the past performance has on the whole been superb. However, the rapid technological, social, and economic change surrounding the industry is causing problems. There are increasing numbers of specialized service demands and of potential suppliers eager to meet those demands. It is very difficult, however, for the FCC in spite of its fine staff to keep track of and be responsive to such rapid change within the past framework.

There can be no abdication by the FCC of their regulatory responsibilities and no untrammelled competition that would be detrimental to the public interest. But the public interest is also damaged by the inability of the Commission to deal decisively with these problems in the traditional manner of highly centralized planning and negotiated compromise. We must move incrementally toward more competition in the communications industry; a good place to start is with a wholly new technology that is largely separable from the provision of public message service.

Effect on existing services

There is no immediate threat to any cross-subsidized services from satellite systems per se. It is possible, however, that a new data communications network could compete vigorously with Western Union in the provision of teletype service. Should Western Union lose much or all of this business, the viability of the public telegraph service would be in question. Such a situation should be dealt with on its merits only after it proves to be a problem; it should not be an a priori consideration in precluding competition.

Clay T. Whitehead
Staff Assistant

SUMMARY OF ECONOMIC AND
TECHNICAL COMMITTEE REPORTS
DOMESTIC SATELLITE WORKING GROUP

The Working Group has limited its deliberations to technical and economic issues bearing on domestic communications satellite policy. Before formulating such policy, other matters must also be considered. Among these other considerations are:

- the impact on social, economic, and national security objectives;
- the impact on INTELSAT and other international considerations with regard to orbital and spectrum usage;
- the importance to the national interest of early establishment of a domestic satellite system;
- the desirability of introducing competitive forces into the domestic communication industry and the effect of such forces on rate making practices now pursued in landline services;
- the effect on services now being furnished by terrestrial means, but which may not be economically viable under conditions of competitive alternatives since they are currently subsidized by more profitable services.

The report is considered to be a sound basis for policy decisions insofar as technical and economic matters are concerned.* However, since no examination of the problems beyond these areas was undertaken, no recommendations with respect to policy are offered.

* However, not all members of the technical committee agree fully with the economic committee's analysis, so that this composite summary does not necessarily represent a unanimous point of view of all members of the working group.

The Technical Framework

The establishment of U. S. domestic communications satellite facilities is technically feasible within the present state of the art, and there are spectrum and orbital resources available to accommodate several Western hemisphere satellite systems within the presently allocated 4 and 6 GHz bands. At least one transmit/receive earth station can be located in or near most urban areas, although the most suitable locations may be a number of miles from dense communications centers. A larger number of receive-only stations can be located in proximity to urban areas, particularly if some degradation of signal quality is not important. The exact number and location of earth stations is a subject for detailed engineering on a case-by-case basis.

Radio relay networks and satellite earth stations can share the 4 and 6 GHz frequency bands without harmful interference, provided reasonable precautions are taken in the design, location, and operation of the systems. To permit a large number of satellites, it is desirable that earth station antenna be as large as economically feasible. It, therefore, may be necessary to set minimum antenna standards based on geographic location in conjunction with satellite orbital location.

Technical considerations place no serious constraints on the formulation of policies for the ownership or mode of operation (single- or multi-purpose) of domestic communication facilities. Though of great importance in the engineering, operations, and economics of specific systems, these considerations can be dealt with effectively under any reasonable ownership structure.

The Economic Framework

The most immediately apparent potential for domestic communication satellites is to provide transmission and routing functions for long-haul television distribution. A second possibility is to provide highly specialized broad band services for thinly dispersed and highly specialized broad band users.

Several institutional arrangements for satellite service were considered. The two primary alternatives were: 1) a single system in which all satellites are established and managed by a chosen instrument, for which relatively detailed system characteristics and operating rules would be specified by the FCC and to which conventional regulatory

constraints would be applied; and 2) a more flexible industry structure permitting relatively open entry and where government involvement in technical design, operations, and management would be minimized.

These two basic options were evaluated from the standpoint of maximum contribution to the public interest in reliable, low-cost telecommunications services. Five criteria were used for this purpose: reasonableness of rates; service flexibility; technical and service innovation; efficient use of satellite facilities and radio resources; and new opportunities for learning.

1) The U. S. experience is that with multiple suppliers, competitive market forces tend to keep rates at reasonable levels. Even in regulated industries, competition has been a useful complement to regulation. The lack of evidence for economies of scale in satellite service and the competitive availability of large capacity, low-cost terrestrial networks suggests that excessive rates would be both unlikely and untenable under conditions of open entry. On the other hand, a chosen instrument would receive close scrutiny by the regulatory authorities, and it could be expected that rates allowed would restrict earnings to a reasonable level.

2) A large organization has greater resources and capability for service flexibility than a small organization. Yet, several smaller organizations may be more responsive to customer needs than a single large organization; this is especially true in areas of rapid technological and economic change. It is also true that the mere opportunity for competitive entry will provide incentives for initial entrants to explore new services that they otherwise might ignore. Unless the only entrant is a dedicated television distribution system, therefore, the competitive entry option can be expected to offer the greatest flexibility in meeting customer demands.

3) Technical innovation is more likely to occur where there are several competing manufacturers, and this is in turn more likely to occur with multiple operating entities than with a single chosen instrument. A chosen instrument may well be very innovative in offering new services, yet there is somewhat more opportunity for new services to be offered when entry is not sharply restricted.

-4-

4) Efficient satellite use requires both economic efficiency and efficient use of orbital and spectrum resources. Since there does not appear to be evidence of strong economies of scale or of specialization, either of the two options appear comparable in terms of economic efficiency. The type of regulatory control associated with a chosen instrument might avoid wasteful use of orbital capacity; and the current state of the art is such that reasonable standards for earth station and satellite design could be specified by the FCC to assure that the same result is achieved under conditions of open entry. The development of an open entry structure would be well suited to the transfer of systems and spectrum resources to more productive uses in the future without detailed Federal intervention in corporate operations that would be required with a single chosen entity.

5) A final objective of a domestic satellite policy is to increase learning about possible uses, costs, and services. A chosen instrument could be assigned certain public interest responsibilities to explore and offer potentially uneconomic services and to carry on technical research. However, the primary uncertainties relate to cost and to market and service innovations. The incentives provided by competition among a number of entities are expected to result in a more vigorous examination of these uncertainties than would be expected from a chosen instrument.

Under either of the two basic options considered here, the FCC will exercise its licensing authority over spectrum usage. Interference with existing terrestrial microwave installations represents a potential problem area for any prospective domestic satellite operator, and future satellite systems may cause interference with one another. Procedures for resolving differences over interference questions between satellite services and terrestrial carriers should receive careful attention. Satellite operating entities should have equal status with respect to access to radio spectrum as the terrestrial users.

Under either policy option, a potential exists for cross-subsidization of services and for limiting entry through interconnection and access restrictions. Such practices could result in inequitable rate structures or anticompetitive practices and should be minimized.

As previously noted, technical considerations appear to pose no serious constraints to the adoption of either of the two basic policies examined in the economic study. The economic considerations appear to favor the competitive entry option although the chosen instrument option is also viable should public policy considerations suggest that course is preferable. Although there are substantial uncertainties as to the economics and technical operation of domestic communication satellite services, these are not so great as to justify any delay in proceeding with licensing of such services. For this reason, it may be desirable to adopt a policy on an interim basis with subsequent review in the light of actual experience.

4/29/69

(Memo to the Secretary of Defense from the President
designating the Military Assistant to the President as
the point of contact in the White House for providing
requirements and policy direction to the White House
Communications Agency (WHCA)

(M I S S I N G)

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

December 11, 1969

MEMORANDUM FOR TOM WHITEHEAD

FROM: JONATHAN ROSE

SUBJECT: DECEMBER 6 MEMORANDUM ON DTM

Tom, I have been politely, but firmly, told by John Ehrlichman's office that they do not wish to receive discursive memoranda such as yours over Peter's signature of December 6 regarding DTM. They wish to have memoranda in final form prepared for presentation to the President for Ehrlichman's approval which will include options and recommendations rather than discussions of possibilities. I merely pass this on for your future guidance with respect to circulation of such memoranda for staff comment.

John - for your info.
Jon

Fed Comm
Org.

December 8, 1969

MEMORANDUM FOR COLONEL HUGHES

Attached for your information is a copy of the final version of our Recommendation on Executive Branch Organization for Telecommunications Matters. You will note that I have adopted many of your suggestions. I have, however, omitted any reference to the White House Communications Agency since I feel that this is not a matter appropriate for discussion and comment throughout the Administration.

I agree only in part with your view that WHCA should be totally outside the purview of the new Office of Telecommunications Policy. Neither the Director of Telecommunications Policy nor his staff should be involved in WHCA operations in any way. However, it is important that the Director be the President's principal adviser on telecommunications matters. It is essential, therefore, that he personally be fully informed about the needs, capabilities, and activities of WHCA.

I believe that the appropriate way to handle this very confidential matter is through an understanding between the President, his immediate staff, his Military Aide, and the Director of Telecommunications Policy. This is more appropriately handled through a memorandum from the President outlining how that matter is to be handled than in an Executive Order establishing organizational responsibilities throughout the executive branch. Such a procedure would provide more flexibility and more confidentiality.

I would welcome any further views you have on this document, since it is now being circulated for comment among the various Federal departments and agencies.

Clay T. Whitehead
Staff Assistant

Attachment

cc: Mr. Flanigan
Mr. Kriegsman
Mr. Whitehead
Central Files

CTWhitehead:jm/ed