

STATEMENT BY

CLAY T. WHITEHEAD, DIRECTOR
OFFICE OF TELECOMMUNICATIONS POLICY

before the

Subcommittee on Communications and Power
Honorable Torbert H. Macdonald, Chairman
Committee on Interstate and Foreign Commerce
U.S. House of Representatives

April 17, 1973

Mr. Chairman and members of the Subcommittee, I welcome the opportunity to come here today to discuss the various license renewal bills which have been introduced to amend the Communications Act of 1934.

When the basic structure for the American system of broadcasting was created in the 1920's and 1930's, it was decided that this system should reflect the institutional values and traditions of this country. The structure, therefore, was built on the twin concepts of individual responsibility and localism -- concepts essential to all social and economic institutions, including the media for mass communications.

Built into this broadcast system structure, however, was another important element, which clearly distinguishes broadcasting from the other outlets for expression in this country. Unlike these other media, the broadcast media are federally licensed to preclude property rights in the radio frequency spectrum and to prevent interference among broadcast signals. This fundamental decision was made by the Congress in the Radio Act of 1927 and again in the Communications Act of 1934.

This licensing system presents the Government with a unique dilemma. On the one hand, the Act requires the Federal

Communications Commission to grant applications for broadcast licenses if the public interest, convenience, and necessity are served thereby. This necessarily means that the Commission will have to pass judgment in some way on the totality of the broadcaster's service, an important component of which is the broadcaster's programming. On the other hand, however, the broadcast media should have the full protection of the First Amendment.

This dilemma requires a delicate balancing act on the part of the Government which must be performed within the license renewal process. The FCC and the courts have wrestled with this dilemma in licensing continually since 1934. And as broadcasting has become increasingly powerful and important as a medium of expression and information in our society, the pressures on the licensing system have intensified.

The manner in which renewals are treated goes to the heart of the Government's relationship to broadcasting. The procedures and criteria governing the license renewal process have a profound effect on the daily operations of licensees and the way in which they determine their public interest responsibilities. Considering the power of broadcasting in our society today, these procedures and criteria potentially could have a stifling effect on the free flow of information and ideas to the public.

Current procedures in the license renewal system -- and the trends in broadcast regulation generally over the last decade -- raise the possibility of an unnecessary and unhealthy erosion in First Amendment rights in broadcasting. This could happen if broadcasters, affected by the uncertainty and instability of their business, seek economic safety by rendering the type of program service that will most nearly assure renewal of their license; and that license is, after all, the right to function as a medium of expression. If the Government sets detailed performance criteria to be applied at renewal time, the result could be that the Government's criteria, instead of the local community's needs and interests, would become the touchstone for measuring the broadcaster's public interest performance. Stability in broadcast licensing is, therefore, an important goal of public policy.

Counterbalancing the goal of stability in the license renewal process, however, is the prohibition in the Communications Act against anyone acquiring a property right in the broadcast license. The public has access to the broadcast media only through the broadcaster's transmitter, unlike their access to printing presses and the mails. The First Amendment rights of those who do not own broadcast stations

thus must also be recognized, along with society's interest in a diversity of information and ideas. The Government has an affirmative duty under the Communications Act and the First Amendment, therefore, to foster competition in broadcasting. So the spur of competition and the threat of non-renewal also are indispensable components of the renewal process.

These are lofty and complex considerations. There is room for differing views on the priorities and about the proper balance to be struck. This Administration is convinced, however, that the issues at stake warrant widespread public awareness and debate. They transcend short-run political differences. The age of electronic mass media is upon us; the decisions the Congress makes on license renewal and on other broadcasting and cable matters it will face in the next few years will have a major effect on the flow of information and expression in our society for the rest of this century.

I would now like to address myself, briefly, to the provisions of H.R. 5546 -- the Administration's license renewal bill.

H.R. 5546 would, if enacted, make four major changes with respect to present practice and procedures in the license renewal process: (1) it extends the term of broadcast

licenses from three to five years; (2) it eliminates the requirement for a mandatory comparative hearing for every competing application filed for the same broadcast service; (3) it prohibits any restructuring of the broadcasting industry through the renewal process; and (4) it prohibits the FCC from using predetermined categories, quotas, formats and guidelines for evaluating the programming performance of the license renewal applicant.

Mr. Chairman, my letter to the Speaker of the House transmitting the Administration's proposed bill sets forth in detail the reasoning behind each of our proposals. With your permission, I would like to insert that letter ^{with the accompanying section-by-section analysis} into the record at this point and discuss briefly the four changes we propose.

1. Longer License Term

The first change in the Act made by the Administration's bill would extend broadcast license terms from three to five years.

In 1934, when the Communications Act was enacted, a three-year term was a reasonable precaution in dealing with a new industry. All other transmission licenses are issued for five years, however, and a five-year term would seem

more in keeping with the present maturity of the industry and the modern complexities of broadcasting.

An increased license term would strengthen the First Amendment rights of both broadcasters and the public. It would reduce the opportunity for government interference and the disruption that more frequent, often capricious, challenges can have on the free and unfettered flow of information.

2. Comparative Hearing Procedures

The second change would eliminate the present requirement for an automatic, lengthy, and costly comparative hearing whenever a competing application is filed for the same broadcast license. The FCC would be able to exercise its independent judgment as to whether a comparative hearing is necessary. In the initial stage, the renewal challenger would bear the burden of demonstrating that the renewal applicant has not met the criteria of the Act; a hearing would be required only if the Commission had cause to believe that the broadcaster's performance might not warrant renewal.

It is important to remember that at stake in a comparative hearing is not only the incumbent's license, but also his

right to do business as a private enterprise medium of expression. The incumbent, therefore, should not be deprived of the right to stay in business unless clear and sound reasons of public policy demand such action. This change would afford the licensee a measure of stability and some necessary procedural protections.

Nothing in this second change would affect the ability of community groups to file petitions to deny license renewal applications. Many of these petitions have in the past served the important purpose of bringing the licensees' performance up to the public interest standard and driving home to broadcasters the interests of the communities they serve.

3. Prohibition Against Restructuring Through the Renewal Process

The third change is designed to preclude the FCC from any restructuring of the broadcasting industry through

the license renewal process. Presently, the Commission can implement policy relating to industry structure -- such as a policy restricting newspaper ownership of broadcast stations -- through the criteria it uses to decide individual renewal challenges. This allows for the restructuring of the broadcasting industry in a haphazard and inconsistent manner.

This change would prohibit the FCC from using against the applicant at renewal time any of its policies that were not reduced to rules. If the FCC wished to impose or change industry-wide policies affecting broadcast ownership or operation, it would have to use its general rulemaking procedures. Besides preventing arbitrary action against individual broadcasters, this has the benefit of assuring that the entire broadcasting industry and all interested members of the public would have full opportunity to participate in the proceeding before the rule was adopted.

By securing important procedural protections for licensees, this change recognizes more fully the First Amendment rights of broadcasters to be free of unpredictable, disruptive Government interference. It also recognizes the public's important right to full participation in any restructuring of such an important medium of expression.

4. Clarification of the Public Interest Standard and Prohibition Against Use of Predetermined Performance Criteria

The Communications Act of 1934 does not anywhere define what constitutes the "public interest, convenience and necessity," and in the intervening years this standard has come to mean all things to all people. To delegate important and sweeping powers over broadcasting to an administrative agency without any more specific guidelines as to their application than the "public interest" is to risk arbitrary, unpredictable ever-increasing regulation.

The FCC has been under pressure to reduce the arbitrariness inherent in this vague standard and establish ever more specific criteria and guidelines. Presently pending before the FCC in Docket Number 19154 is a proposal to establish quotas in certain program categories as representing a prima facie showing of "substantial service." These quotas would be used in the evaluation of a television applicant's program performance in the context of a comparative renewal hearing.

While the Administration recognizes the necessity for a clarification of the FCC's public interest mandate, this clarification should not risk an abridgement of the First Amendment rights of broadcasters and the public.

Our bill is designed to balance this need for clarification of the public interest standard--and the reduction of the potential for arbitrary and intrusive regulation--with the mandates of the First Amendment. It would stipulate that in addition to compliance with the requirements of the Communications Act of 1934 and the FCC rules when evaluating a licensee's performance under the public interest standard, the FCC could apply only the following two criteria:

(1) the broadcaster must be substantially attuned to community needs and interests, and respond to those needs and interests in his programming--this is known as the ascertainment obligation; and (2) the broadcaster must provide reasonable opportunity for discussion of conflicting views on public issues--this is known as the fairness obligation. The FCC would be prohibited from considering any predetermined performance criteria, categories, quotas, percentages, formats, or other such guidelines of general applicability with respect to the licensee's broadcast programming.

These two criteria represent a distillation, as stated by the FCC and the courts, of what the most important aspects of the public interest standard mean in the context of license renewals. They do not add anything new to the broadcaster's responsibilities and have routinely

been applied to licensees in the past. However, in addition to these obligations, the FCC (often at the urging of the courts) has been imposing other less certain and less predictable obligations on licensees under the vague "public interest" mandate.

This fourth change in the Administration's bill is also designed to halt the FCC's movement toward quantification of the public interest. The pending FCC Docket 19154 extends the trend to establish ever more specific programming guidelines as criteria for renewal, and indeed it seems that nothing short of Congressional action can stop it.

The statutory scheme for broadcasting envisions the local broadcaster exercising his own independent judgments as to the proper mix and timing of programming for his local community. The FCC's proposed predetermined program quotas and categories further substitute the Government's judgment for that of the local

licensee. Instead of reflecting a public trust, the broadcast license would be a Government contract with the programming designed in accordance with the specified quotas and categories of the Government.

Mr. Chairman, I would now like to address myself briefly to some of the concerns that have been raised during these hearings and in the press concerning the Administration's bill.

First, some critics have argued that if the Administration feels that the current "public interest" standard is too vague and too sweeping, it should support the enactment by Congress or the FCC of specific program standards such as those proposed by the Commission in Docket 19154. Such criticism seriously confuses the issues. Stability in licensing is, as I have already discussed, an important ingredient in securing First Amendment freedoms in broadcasting. But the ultimate stability of specific and detailed program categories and percentages set by the Government is grossly incompatible with the letter and the spirit of the First Amendment.

The First Amendment expressly prohibits the Congress from abridging the freedom of speech and of the press. Yet when the FCC, as an arm of the Congress, begins determining what is

or what is not good programming and what programming is required in order to be permitted to stay in business, surely this threatens nothing less than abridgment of important First Amendment rights.

The FCC's proposal in Docket Number 19154 would intrude the Government into the content, extent, and even timing, of the broadcaster's programming. Moreover, even if such intrusions are disregarded for the purpose of affording licensees some certainty at renewal time, the FCC's proposal appears to be illusory. As Chairman Burch stated before this Subcommittee, "Quality is what we are after rather than number." Nor, I might add, would there be any assurance that the standards would not be expanded over time.

The second concern centers on the bill's "good faith effort" criterion for evaluating the broadcaster's responsiveness to the needs, interests, problems, and issues he ascertains in his community. This "good faith" standard, along with the fairness obligation, would further elaborate on the present "public interest, convenience, and necessity" standard used by the Commission at renewal time.

This "good faith" standard is an important elaboration of the present vague "public interest" mandate. It is the standard the FCC usually uses to describe the essential responsibility of the licensee, namely to make good faith judgments as to how to meet his community's needs and interests. It also appears in the FCC's 1960 Programming Policy Statement and is reprinted from this statement in an attachment on the renewal form. Moreover, the standard is used successfully in other areas of the law where the Government seeks to strengthen incentives for cooperation by private parties without directing the actual outcome of such cooperation.

The most important point about the good faith standard is that, in the context of FCC review of broadcaster performance, "good faith" is an objective standard of reasonableness and not a subjective standard relating to the broadcaster's intent or state of mind. It makes clear the intent of Congress that the FCC is to focus on the community's definition of its needs and interests in programming rather than imposing on the broadcaster and the community the Commission's own judgments about what is good programming.

Under the "good faith effort" test, the FCC would still have to make judgments about broadcaster performance, but those judgments would be more neutral as to program content.

standard -- or the detailed standards approach. Moreover, the courts would have less amorphous issues, with more direct relationship to relevant constitutional considerations in considering appeals from FCC actions.

The third concern is directed toward the Administration's supposed "backtracking" on the Fairness Doctrine. The supposed evidence for this "backtracking" is the inclusion of the Fairness Doctrine as one of the renewal criteria under our bill.

The licensee's fairness obligation in Section 315(a) of the Communications Act to present representative community views on controversial issues is a long-standing requirement, upheld in the Supreme Court's Red Lion decision, and an established practice of the Commission. It is an unfortunate, but for the time-being necessary, protection of the free speech rights of those who do not own broadcast stations and of the broader interest of the public to a diverse flow of information and ideas.

The Administration has supported the enforcement of this fairness obligation as long as it is done principally on an overall basis at renewal time. What we have not supported is the Commission's present approach of enforcing this obligation on an issue-by-issue, case-by-case basis. It is

this enforcement process that has come to be known commonly as the Fairness Doctrine and has become so chaotic and confused.

The renewal criterion in our bill is not the Fairness Doctrine, as that term has been used to indicate issue-by-issue enforcement. Rather it is the fairness obligation: the unchanged, long-standing requirement of the licensee in Section 315(a) of the Act to "afford a reasonable opportunity for the ~~presentation~~ ^{discussion} of conflicting ~~points of view~~ on ~~commercial~~ issues of public importance." Its inclusion in the renewal standards would serve as an expression of Congressional intent as to the preferred method for its enforcement.

A fourth concern is the one voiced by most of the representatives of the minority groups that have appeared before your Committee. They are concerned that the Administration's bill would effectively cut off the rights of minority groups to challenge the actions of incumbent licensees on their community responsibilities in such areas as minority hiring and minority programming.

It is true that competing applications based on frivolous or unproven grounds would be more easily rejected. But responsible competing applications based on real evidence of the incumbent licensee's abrogation of his public trust are in no way penalized and would still have the benefit of a thorough public hearing.

Indeed, with the explicit language of the ascertainment criterion we propose, the focus of the hearings would be shifted to the community's concerns in each case, away from legalistic conformance to uniform FCC percentages.

Moreover, the Administration bill does not change the existing procedures for petitions to deny, the tool that has been the traditional and most useful recourse of the minority groups; it will still be available to them intact. I should also point out that the extension of the license term is not going to put licensees out of the reach of their local communities or the FCC for the five-year term. Community groups may still file complaints at any time, and the FCC would still have ample interim tools available to it -- such as short-term renewals, license revocations, suspensions, and forfeitures -- to protect the public interest.

Finally, Mr. Chairman, I would like to address the concerns that have been voiced during these hearings and elsewhere about my remarks in a speech in Indianapolis last December 18. There apparently is some puzzlement over the relationship between our bill and that speech, in which I announced our intention to submit license renewal legislation. There also has been concern about the motives behind our bill. I would like to set the record straight.

The central thrust of my Indianapolis speech was that broadcast licensees have not, by and large, been doing an adequate job of listening to their communities and correcting faults in the broadcasting system--faults that are not, and should not, be dealt with through use of government power. Important First Amendment freedoms were secured to broadcast licensees under the Communications Act of 1934. And with these freedoms came important responsibilities for licensees to ensure that the people's right to know is being adequately and fully served. As has so often been pointed out in Congressional hearings over recent years, the licensees have not, unfortunately, always met these responsibilities--in part because it is easier to let Government define the limits of those responsibilities.

My speech was intended to remind broadcasters and the public that such attention takes on even more importance if governmental controls are to be reduced, as we have proposed. The speech and the bill are related--but not in the way portrayed in the press coverage of my speech. The relationship between the proposed bill and my speech is no more than the relationship between freedom and responsibility we find everywhere in our society. This Office has steadily promoted the cause of less rather than more regulation of broadcasting. But the public and the Congress should not think of increasing the freedom in broadcasting by easing government controls

without also expecting some indication that voluntary exercise of responsibility by broadcasters can operate as an effective substitute for such controls.

The core issue is: Who should be responsible for assuring that the people's right to know is served, and where should the initiative come from -- the government or the broadcasters. The speech focused on the three TV networks as the most powerful elements in the broadcast industry and asked how this concentration of power was to be effectively balanced. Some, who now profess to fight for broadcasters' freedom, would rely on regulatory remedies such as increased program category restrictions, burdening the broadcaster and the audience with the clutter of counter-advertising, banning ads in children's programs, ill-defined restrictions on violence, and the like.

Anyone who has followed OTP policy pronouncements knows that we reject this regulatory approach. We have always felt that the initiative should come from within broadcasting.

The broadcaster should take the initiative in fostering a healthy give-and-take on important issues, because that is the essence of editorial responsibility in informing the public. That does not mean constricting the range of information and views available on television.

The public has little recourse to correct deficiencies in the system, except urging more detailed government regulation. The only way broadcasters can control the growth of such regulation is to make more effective the voluntary checks and balances inherent in our broadcast system.

Some broadcasters, including network executives, have claimed they believe the Administration bill to be a good one, but only if clearly separated from the speech in which it was announced. But freedom cannot be separated from responsibility.

Some observers profess to see in our bill a conspiracy to deprive broadcasters of their First Amendment freedoms. But, clearly, it is others, not this Administration, that are calling for more and more government controls over broadcasting.

Many newspaper editors and columnists have opposed the Administration bill, preferring apparently to keep the current panoply of government control over broadcasting. Freedom from government

regulation for part of the printed press, but not for the electronic press escapes reason, especially when many of those who wish to expand government controls over broadcasting would also see these controls as the precedent for similar controls over the print media.

Other critics, I fear, do not wish to diminish the government's power to control broadcast content. They seem quite willing to create and use powerful tools of government censorship to advance their purposes and their view of what is good for the public to see and hear. We disagree. The danger to free expression is the existence of the legal tools for censorship. We are proposing actions to begin to take those tools from the hands of government.

The Administration bill is designed to strengthen the First Amendment freedoms of broadcasters. All four changes promote the cause of less -- rather than more -- government regulation and substitute, as much as possible, the voluntary exercise of responsibility by broadcasters for the often heavy hand of government. I challenge anyone to find in our bill any increase in government power over the media.

In my judgment, Mr. Chairman, the Administration bill is not only the most comprehensive of the many bills before you; it also represents the best attempt at balancing the

competing statutory goals of the Communications Act. The dilemma the Government faces in regard to the regulation of broadcasting is by no means insoluble. And our bill is a step in the direction towards a solution--a solution which means less Government control and more reliance on the licensee's individual initiatives. We are asking the Congress to reduce controls not because broadcasting is perfect, but because its problems should be corrected by the broadcasters and their employees, rather than by government action. Indeed this was the intent of Congress from the very beginning as embodied in the Communications Act. And it is time for Congress now to take an important step towards furthering these long-standing statutory goals.

In your opening statement, Mr. Chairman, you indicated that it was the intention of the Subcommittee to make as complete a record as possible of the many viewpoints and interests affected by the proposed license renewal legislation. You and your Subcommittee are to be commended for focusing attention and debate on these issues, and I welcome the opportunity to add the Administration's comments to this important record.

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

IN REPLY REFER TO:

3200

Honorable Torbert H. Macdonald
Chairman, Subcommittee on
Communications and Power
Committee on Interstate and
Foreign Commerce
House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

This is in response to the Subcommittee's request for the Commission's comments on H.R. 5546, a bill "To amend the Communications Act of 1934 to provide that licenses for the operation of a broadcast station shall be issued for a term of five years, and to establish orderly procedures for the consideration of applications for the renewal of such licenses."

Many of our points on H.R. 5546 have been developed at some length in my testimony of March 14, 1973, where I discussed the Commission's views on amending the Act with regard to broadcast license renewal procedures. Rather than go over the same ground, I shall refer to the pertinent portion of the March 14 statement where this is appropriate.

First, the Commission fully concurs in the provision of the bill (section 307(d)(1)) which would authorize the Commission to grant broadcast licenses for a term not to exceed five years. See Statement, pp. 6-8.

Second, the Commission agrees with the basic purpose of H.R. 5546. As our Statement stressed, there is an urgent need for clarifying legislation in this important area. The public interest requires that there be appropriate stability in the broadcasting industry. It follows that the renewal licensee should be judged upon his past record of performance; if it is "meritorious" (p. 13, Explanation and Sectional Analysis of H.R. 5546), or "substantial", or whatever similar label is employed, (March 14 Statement, p. 9) the renewal applicant should be preferred over any comparative challenger -- regardless of the latter's superiority on such factors as integration of ownership and management, local residence, or diversification of control of the media of mass communications. As

to the diversification factor, we also fully agree with the approach of H.R. 5546 -- namely, that if the broadcast industry is to be restructured, the only sound way is through the rule making process. See Statement of March 14, pp. 10-11.

While there is thus a common goal, we differ from H.R. 5546 in the preferable approach to effect that goal. Our Statement (pp. 2-3) sets forth the fundamental difference between the ordinary, non-competitive renewal situation and the comparative renewal situation. By imposing a single standard to govern both situations, H.R. 5546 could be construed as reducing substantially the competitive spur inherent in the comparative renewal challenge. We believe that legislation along the lines of our 1970 Comparative Policy Statement would strike the most appropriate balance between a desirable competitive spur and necessary industry stability. See March, 14 Statement, pp. 23-24.

Further, for the reasons set out at p. 22 of the March 14 Statement, the Commission does not recommend use of the standard, "good faith effort," (proposed section 307(d)(2)(A)) in making the judgments called for in reviewing a renewal application not subject to a competing application. Indeed, it seems to us that the public interest standard is as good a statutory guideline as is feasible in this area.

Under the bill's approach, the Commission could not consider at renewal any policy that had not been codified into a rule. While we have always sought to act by rule where appropriate, there are some matters that do not lend themselves to rule codification and are better treated by policies applied on a case-by-case basis. We believe that the Commission should retain the flexibility to act in the manner called for under the circumstances.

Even more troublesome is the proviso in H.R. 5546 which would prohibit the Commission from considering "... any predetermined performance criteria, categories, quotas, percentages, formats, or other guidelines of general applicability respecting the extent, nature, or content of broadcast programming" when it applies the renewal criteria in proposed section 307(d)(2)(A). This constraint seems to us to be unwise for several reasons.

Taken in conjunction with the section's prohibition against the application of uncodified Commission policies in considering applications for renewal, this proviso would leave important regulatory gaps -- for example, in areas such as overcommercialization or the broadcast of horse racing information designed to aid illegal gambling. The bill's

explanation specifically points out that the proviso would prevent our overcommercialization policy from being reduced to a rule because it would fall within the prohibition against "predetermined performance criteria." The Commission simply could not consider these policies at renewal time in accessing the merits of a licensee's performance. And without the power to consider these policies at renewal, their effectiveness would be virtually eliminated. We do not here urge that these or other Commission policies should be inviolate or that all would applaud their wisdom. Our point simply is that broadcasting is a dynamic, changing industry where flexibility to act in the public interest is clearly desirable. Similarly, it may serve the public interest, including that of the broadcaster and any petitioner or challenger, to supply appropriate guidelines in some respects in this important field. The bill, by prohibiting "predetermined performance criteria," removes the possibility of establishing such guidelines. And, again, flexibility is sacrificed.

On the hearing procedures to be followed, the Commission agrees that if the renewal applicant demonstrates compliance with the statutory standard set for past performance, that should determine and end the hearing -- without regard to consideration of the challenger's claims in other areas such as diversification or integration of ownership and management. (If the past performance standard of H.R. 5546 were adopted, we do not perceive on what basis a renewal applicant that failed to meet that standard could still be considered in the comparative process, as section 307(d)(3)(B) permits; in all events -- including the absence of a comparative challenger -- such a renewal applicant would have to be denied).

The bill's other criterion for evaluating the renewal applicant's performance is that he fulfill his obligations under the fairness doctrine. But this provision in 307(d)(2)(B) -- that the licensee "...affords reasonable opportunity for the discussion of conflicting views on issues of public importance" -- is already in the statute in those precise words. See section 315(a). We think, therefore, that the bill's reference to the fairness doctrine as a renewal criterion is unnecessary and might lead to confusion.

While there are some minor aspects of the bill which we could discuss, the foregoing represents our major comments. We hope that they are helpful to the Subcommittee in its consideration of this important matter.

This letter was adopted by the Commission on

BY DIRECTION OF THE COMMISSION

Dean Burch
Chairman

CPB ANNUAL REPORT
FY 1972

Growth Pattern 1969-1972

	<u>FY 69</u>	<u>FY 72</u>	<u>% Increase</u>
<u>Number of stations</u>			
Qualified radio	73	122	68
All radio	427	560	31
T. V.	150	223	49
<u>Total number of hours broadcast</u>			
Qualified radio	168,000	709,072	322
T. V.	460,000	720,000	57
System Income	\$118,000,000	\$229,000,000	94
Interconnection hours per wk., T. V.	10	<u>26.7</u>	167

CPB NET ASSETS

FY 1972

- Financial resources provided by:	
- Federal appropriation	\$35,000,000
- Grants and contracts	
- Federal	224,762
- Non-Federal	5,601,340
- Investment income	693,936
	<u>\$41,520,038</u>

CPB DISTRIBUTION

- PBS	\$10,500,000
- NPR	3,100,000

CPB PROGRAM PRODUCTION DISTRIBUTION

<u>- PBS</u>	<u>- NPR</u>
<u>- National Production Centers</u>	<u>- National Production Centers</u>
- Family Communications, Inc.	- NPR
\$905,391	\$1,826,895
- CTW	
\$2,250,000	
- NPACT	
\$1,600,000	
<u>- Stations</u>	<u>- Stations</u>
- WGBH (Boston)	- U. Wisconsin
\$1,871,350	\$156,971
- KCET (L. A.)	- KSJN (St. Paul)
\$1,309,998	\$117,485
- KQED (S. F.)	- WOSU (Columbus, Ohio)
\$703,921	\$113,389
	- WGUC (Cincinnati)
	\$76,555

- WTTW (Chicago)
\$504,500
- SECA (Columbia, S. C.)
\$748,000
- WNET (New York)
\$4,277,109
- WQED (Pitts.)
\$620,000

- TOTAL (10) \$14,790,269

- Others (15) 518,390

- TOTAL (25) \$15,308,659

TOTAL \$2,291,295

INTERCONNECTION

Total Bell System Charges to CPB

- FY 1974

- \$4.0 million

Real AT&T Costs - \$20 million

- FY 1975

- \$4.9 million

Real AT&T Costs - \$24 million

Federal Appropriations

- FY 1969	\$ 5 million	- FY 1971	\$23 million
- FY 1970	\$15 million	- FY 1972	\$35 million
		- FY 1973	\$35 million

CPB Distribution of all Funds to Local Stations

- ✓ - FY 1969 - ~~FY 1972~~ \$11.9 (13%) of \$91.7 million

Examples of CPB Centralization

- 91% of prime time programs (in 1971-1972 season) produced by 7 out of 219
- 25% of prime time programs (in 1971-1973 season) produced by NET
- *estimated* 70% of cultural and performance programs in 1972-1973 season produced by NET
- 50% of news and public affairs in 1972-1973 season produced by WETA and NET
- 18.5 hours/week live interconnection during prime time
- \$2.7 million advertising expenditures

Administration Opposition to HR 13918 Because:

- \$155 million, two-year appropriation too much because of severe budget pressure.
- Inadequate hard, factual data for bill's high funding level.
- Implicit ceiling of 30% distribution to local stations.
- No formula to guarantee local station receipt of CPB 30% fund distribution.
- Drastically increased funding signifies all is OK and perpetuates centralization.

-- Authority to make recess appointments to CPB?

e.g., - 1st Board of Directors of COMSAT in 1962.

- Tom Curtis appointment, confirmation in August 1972.

Dem's office
-(Office of Legal Counsel) opinion on recess appointment.

While the Act does not explicitly require the Corporation to undertake the establishment of interconnection, Congress fully expected that the Corporation would move promptly in this direction. The Report of the Senate Commerce Committee went so far as to state that the Act "directs" that the Corporation assist in the establishment and development of one or more systems of interconnection. The Senate Report also described the development of interconnection as being "of particular immediate importance". The strong interest of Congress in the establishment of interconnection is also evidenced by Section 396(h) of the Act (referred to above) which removed any possible existing barriers to obtaining free or reduced rates for interconnection.

The Act also restricted to some extent the Corporation's involvement in interconnection. Section 396(g)(3) states that the Corporation may not "own or operate" a network or interconnection facility. There seems little doubt, however, from the following paragraph from the Senate Commerce Committee Report that the Corporation was expected to play a major and continuing role in interconnection:

→ "In order to assure an effective working relationship among the Corporation, the various production centers, the individual local stations, and all other parties concerned, the committee feels that a number of alternative methods are available to avoid misunderstanding on the use of interconnections; it might for example appoint an advisory committee, including representatives of local educational broadcast stations, to suggest to it policies for the handling of interconnection or to review the interconnection decisions which it had made over a stated period. As another approach, the Corporation might exercise its interconnection responsibility by special contractual arrangements. It might wish to aid in the formation of a new organization or advisory group, including representatives of the local stations and the program suppliers, to handle day-to-day decisions on interconnection. Whatever special administrative arrangements it makes in exercising its option, the Corporation must retain ultimate responsibility."

CONFERENCE REPORT ON PUBLIC BROADCASTING ACT

page ?

The managers on the part of the House feel that the Corporation needs this flexibility, not to establish a fixed-schedule network operation, but in order to take advantage of special or unusual opportunities that warrant the Corporation directly contracting for interconnection facilities. Even under these circumstances, however, it should be made clear that the decision to broadcast any program for which interconnection is provided by the Corporation remains entirely within the discretion of the local station. In addition, it should be pointed out that this change does not mean that others--such as a group of noncommercial educational broadcast stations or a noncommercial educational radio or television network--could not also arrange for interconnection and receive financial assistance for it in the form of a grant or contract from the Corporation. The conference substitute would permit this to be done.

HOUSE REPORT ON PUBLIC BROADCASTING ACT

Section 39(g)(3) precludes the Corporation from owning or operating "any television or radio broadcast stations, system or network ***." It is assumed that, in compliance with this prohibition, the Corporation will not have a staff of producers, commentators, announcers, and others directly associated with program production: a system of fixed schedule broadcasting; ownership or operative authority over program production equipment, studios, or inter-connection facilities; or station affiliates.

The bill reserves the question of permanent financing for consideration during the next session of Congress. It is felt that since there are no precedents upon which to base judgments, a clearer view than is possible at the present time as to the Corporation's future needs can be obtained after it has gained operational experience.

Senate Debate on Public Broadcasting Act

Pastore: "[S]ince the fundamental purpose of the bill is to strengthen local noncommercial stations, the powers of the Corporation itself must not impinge on the autonomy of local stations."

PUBLIC BROADCASTING

Public Television Act of 1967

S. 1160 Hearings - April 11, 12, 13, 14, 25, 26, 27, and 28, 1967

P. 8 Pastore: "I believe that noncommercial educational programming is not only supplementary, but that it can and will become competitive with commercial TV services... the commercial broadcaster [may] feel relieved of his responsibility to present public affairs and public service programs... it will not and should not happen."

P. 56 Pastore: "In response to a question to Secretary Gardner re partial advertising on PTV such as announcements that a program is due to a grant by such and such ... Isn't that out-and-out commercialism? The minute you begin to advertise a grant, even though philanthropic, it is advertising. I don't think it is contemplated under this Bill at all."

P. 64 Hartke: Quoting from Broadcasting (April 3) regarding interconnection and Federal funds... (Broadcasting) "If adopted in the form of its submission, Lyndon Johnson's Public Television Bill would establish the mechanism for a Federal television system responsive to the prevailing center of power."

Pastore: "In other words, it almost assumes that the President of the United States, in every instance, is a rascal. For some reason or another, it is becoming fashionable to indicate that the one man who is elected by all the people of this country can't be trusted, even to the extent of nominating 15 people who are going to be confirmed by the Senate of the United States. Of course, it is ridiculous."

Pastore: "... [T]his is not an independent, disjointed venture where people can go of willy nilly, 15 of them, and spend the taxpayer's money without being responsible to anyone. And that is the expression used by my colleagues of Indiana (Hartke), that there is no responsibility to anyone. Of course there is. Responsibility is to answer to the Congress of the U.S. as to how they have spent the \$9 million of taxpayer's money."

P. 136 Killian: "The local stations must be the bedrock upon which public television is erected... the Corporation...should provide grants and enter into contracts for programs, but should not itself engage in program production. It should serve the stations, but no control the stations."

P. 184 Pastore: ". . .that the more public money you put into this (public TV), the more you endanger the freedom of expression."

Fred Friendly: "What I am saying--and I would be glad to say it a thousand times--is that I am against--and I hope we all are--Federal money from general revenues going into news and public affairs broadcasting."

Friendly: "If it cost \$275 million a year to run public television, which is the Carnegie figure, I would be against it...I think all we would have then was a license to fail."

Pastore: "I think it would refresh and comfort the Congress of the United States very much if we could do this job without putting up a nickel."

P. 470 Julian Goodman: "Any public medium that deals in the controversies of public affairs is likely to attract sharp reaction from organized groups, individual viewers, and public officials. This has been the experience of commercial broadcasting... It will undoubtedly apply to noncommercial broadcasting."

P. 473 Pastore: "If we gave the Corporation the authority to contract directly with a carrier, which of course you [NBC] do as well, wouldn't that make it a network... I think it was the anxiety of the architects of this Bill, you see, to preserve this idea that it shouldn't become a network."

Report on S. 1160

P. 6 "...will in no way relieve commercial broadcasters of their responsibilities to present public affairs and public service programs, and in general, to program their station in the public interest."

P. 7 "At the same time, however, it should be remembered that local stations are the bedrock of this system...it is not intended, therefore, that these stations be mere conduits for the productions of other stations or other outside sources."

"The Corporation will be prohibited from engaging in political activity or applying political tests in any personnel actions or endorsing political candidates; will assist in the development of an interconnection system and make high quality programs available to educational broadcast stations; will contract for the production and procurement of programs and make payments to stations to support local programs and other costs; will have no authority itself to own or operate any stations, interconnections or production facilities; will submit an annual report to the President for transmittal to Congress."

P. 8 "The Office of Telecommunications Management and DHEW are urged not to delay in providing the initiative and expertise required for a coordinated effort to serve the public's interest through effective development and utilization of public television and other telecommunications media."

"Among its activities, the Corporation is authorized to contract or make grants to program production entities, individuals, and selected noncommercial educational broadcast stations for the production or procurement of programs for national or regional distribution to noncommercial educational broadcast stations."

*Langmuir
-PBS-*

House Hearings on H.R. 7443, H.R. 11807, H.R. 12808

P. 247 Van Deerlin: "Are you comfortable in your dual role of representing the Administration's position before the world in regard to broadcasting, and dealing with OTP?"

Burch: "I am comfortable, Mr. Van Deerlin. I never considered I was ever in the role of representing the Administration's view on telecommunications."

Van Deerlin: "As for the record that has been established under the Fairness Doctrine, you say that there have been no serious complaints [fairness]?"

Burch: "Not from any public communications we have had."

Rooney: "The money that Congress does appropriate, do you think it should remain in CPB and distributed to the local stations?"

Burch: "We support the flow through...to give the local broadcaster a feeling he is something other than a network button pusher, who relays what the network is giving him...and I think it would be a good idea to allow these stations to address their local educational problems particularly."

Macdonald: "...what is your relationship [OTP]?"

Burch: "Our relationship is a very informed one. I see Mr. Whitehead a great deal, I speak to him on the telephone."

Macdonald: "Who speaks for the Administration?"

Burch: "I would say Mr. Whitehead does."

P. 258 Burch: "The Commission has been up here twice to testify on this question, and each time we said we favor permanent financing."

P. 264 Johnson: "Of course, there is also a need for strong local programming. That's why granting a certain portion of the CPB budget to the local

stations through a guaranteed pass-through--either the 30% in your Bill [Macdonald], Mr. Chairman, or the 33% in OTP's interim bill for FY 1973--is a good idea...I would suggest that the ideal funding system would provide one-third to national networks, one-third to local stations, and one-third to individual artists and program producers."

P. 266 Johnson refers to CTW quote on NPR regarding the relationship of federal funding and news and public affairs.

P. 267 "...It might be that if I were head of PBS, I might have decided not to go into public affairs in a big way at this time."

P. 268 Johnson: "Tom Whitehead is an extraordinary competent guy. I think he is almost as independent as anybody in this Administration. I personally like him, and would be proud to have him associated with me in any professional undertaking."

P. 294 CTW: "We expect to solve this problem [financing] before the end of fiscal 1973." ←

"Reduced to their essentials my concerns are that:

1. The independence of the local stations has suffered because CPB has not devoted sufficient funds to station support grants for purely local program production.

2. Local station autonomy has been undercut by the CPB and PBS use of interconnection facilities to establish a fixed schedule, real-time networks, contrary to the intent of 1967 Act.

3. Program diversity has not been enhanced, since national programs are produced or acquired in effect by CPB's 'in-house' production entities, which are also broadcast stations. Moreover, the national programming seeks a mass audience for news, public affairs, and entertainment programs.

4. Not enough attention is devoted to achieving two important balances, the balance between local and national programming, and the broad balance among cultural, entertainment, news, public affairs, educational and instructional programs."

P. 288 Van Deerlin reference to CTW to Congressman Riegle re long-term financing plan for 1971. ←*

Nominations 1972 of 5 new members to CPB

- P. 1 Pastore: "We looked to the Federal Treasury only as a temporary source, but nothing has been forthcoming from either this Administration or the previous Administrations as to how the Corporation should be financed on a permanent basis. I think myself more serious thoughts ought to be given to long-range financing because we are somehow getting into the area of programming. As long as you put taxpayer's money in anything, it is the responsibility of Congress to determine how the money is spent."
- P. 14 Pastore: "Has this come about because you have no authority to do any operational work?"
Macy: "The creation of the PBS was a necessity from the point of view of CPB, because in the statute, we are not permitted to own or to operate any facilities."
- P. 15 Pastore: "I think in that area [public affairs]-- I am addressing myself now to the Board--you have got to be very careful, because there is a tremendous sensitivity that this is a Corporation that is being supported by taxpayer's money. It was never intended to do the job that can be done by the commercial stations and the commercial networks...people are going to say we don't need this, we don't need a fourth network."
- P. 16 Pastore: "...can you tell me what the difference is between his programs and David Frost?"
- P. 17 Pastore: "...[salaries]. In COMSAT, for instance, some of those salaries are even larger than the Justices of the Supreme Court and almost match the salary of the President."

P. 18 Stevens: "...my state, Alaska, and many rural states, are lacking in programming for the new public radio station."

Nomination 1972 - Thomas Curtis

P. 38 Pastore: "Despite the promises of the previous Administration, as well as the present one, no permanent financing plan has been forthcoming... continued failure to do so strikes at the very fiber of public broadcasting--strong, independent local educational stations."

P. 41 Pastore: "The Senator from Tennessee [regarding Baker's opening statement] understands he and I disagree pretty much on much of what he has already said. This Corporation cannot produce any programs itself, it must hand the money over to another entity, only because the law so provides [PBS]."

P. 42 Pastore: "Now I know that there is a gentleman in the White House who doesn't seem to have his heart and soul in public broadcasting, and this is no secret. His name is Mr. Whitehead. And he has been finding fault with public broadcasting and the views that he has expressed are not constant-- I repeat again--with the people who are intimately connected with public broadcasting, the licensees and the public in general."

P. 43 Pastore: "One of the most unfortunate things--I don't know why President Nixon did it--I wish he had talked to me before he vetoed the Bill, but he was persuaded that this had become a vehicle to hurt him politically...It wouldn't do them any harm to open up the windows today and let a little fresh air come in."

P. 44 Cotton: "Until this morning, I didn't know it [public broadcasting] was an issue."

P. 45 Pastore: "So Senator Baker goes down there and Mr. Whitehead goes down there, and they are against this thing, and Senator Pastore doesn't go down there."

PUBLIC BROADCASTING

OTP Position

- Favor concept of public broadcasting. OTP favors a role of Federal funding assistance when the structural problems within public broadcasting organization are resolved. OTP opposes full-time on-live live networking and emasculation of local outlets. CTW has stated that Federal financing should not be used to support news and public affairs programming, but we have implied that non-Federal funds may be so used.

Remember:

- Carnegie Commission and Public Broadcasting Act "bedrock of localism." Not met.
- First Amendment consideration of ^{use of} Federal funds for news and public affairs programs.
- OTP responsibility for public broadcasting cited in November 23, 1970, letter to Pastore. Part of OTP legislative history.

Reaction:

Industry

- Mixed, with local non-production stations support; production centers, CPB/PBS criticism. Commercial networks, critical.

Congress

- Mixed, with Northern Democrat opposition and Southern Democrat and Republican support.

Cotton: "They didn't ask me. I would have been with you on this one."

Hartke asks Curtis if he had been briefed by Administration on politicization of public broadcasting. Curtis responded no.

P. 51 Hartke: "...or the Administration or the Congress, or either one of them, should have a more direct authority to deal with the types of programming that goes into public broadcasting."

Curtis: "Oh, the actual programming, no. In fact, there is even a question of how much the Corporation itself should be in the programming. There are degrees."

Hartke: "...Mr. Buchanan in the White House, who I feel is much more restrictive in his philosophy toward broadcasting generally than Mr. Whitehead." ✓

P. 53 Curtis: "I think, though, that I could easily come to the conclusion that news, for example--

Hartke: "That they should not engage in news?"

Curtis: "If it is true that news is being adequately covered in the commercial area?"

Joseph Beirne's letter to Pastore indicating his belief that the Curtis appointment was meant to dismantle CPB. ✓

FLOOR DEBATE

Public Broadcasting Act of 1967
May 17, 1967

Pastore (Floor Manager)

Title II "...[CPB] to improve and strengthen local stations and to encourage diverse and high quality programming of regional and national interest...Local or regional educational broadcast stations must be free to accept or reject the programs and services which the Corporation will make available. |

Pastore tells of a Bill in 1960 which would compel the networks and the licensees to give a certain number of hours a certain number of weeks before election to the candidates for election to the Office of the Presidency. Result the networks would be relieved from the provisions of Section 315, so that they would not be obliged to give equal time to all candidates.

Hartke: "I think that under Section 315, we should not overlook one very important fact. That is that there is a Fairness Doctrine. I strongly believe that Section 315 is doing much more damage to public campaigning generally than it is doing good...Eliminate Section 315, and simply have the station required to obey the Fairness Doctrine.

SENATE DEBATE ON H.R. 13918
June 22, 1972

Pastore: (following Baker's colloquy) "With reference to commercial broadcasting, no one has been more critical than I have been about violence on television and sex on television so much so that from time to time I have been chided by producers in the business."

Pastore refers to Burch House testimony in which Burch indicated that the FCC had received no fairness complaints.


Beall: "Hidden subsidy (interconnection reduced rates)."

PUBLIC BROADCASTING

In Senate Appropriations Hearing of May 1971 you promised a long-range funding bill by July 1.

Public TV Managers Council (Robert Schenkken) opposed NAEB speech, said local stations best served by existing set-up; urged long range funding.

Cleveland Plain Dealer agreed that public television should devote major efforts to local coverage but some national programming and a secure federal funding plan should be found. (1/3/72)

In January 1972 NPR interview Mr. Whitehead said "We really don't have any way of intimidating anyone. The Congress is the place that is ultimately going to decide how this funding is provided. The President really has no control  whatsoever over the Corporation" (1/17/72) -- Isn't that statement a bit ridiculous in light of the President's vetoes and his packing of the CPB Board. Public Broadcasting is in your hands -- are you going to kill it? If not, when will you come up here with a good permanent plan as you have promised for years?

Mr. Whitehead said "year to year (funding) is just too frequent. I think something in the 3 to 5 year range is about right" (NPR interview Jan. 1972)

FCC supported Macdonald 5-year bill (2/7/72)

Communications Workers of America supported Macdonald bill.

Carnegie Report singles out news and public affairs as a prime area for national programming (2/11/72)

N.Y. Times said 2/11/72 "Mr. Whitehead is not likely to argue that Mr. Buckley be denied a national television platform."

N.Y. Times editorial 2/14/72 charged politics and said "CPB must be allowed to flourish on a regularly funded basis."

Milwaukee Journal (2/14/72) said removing public affairs programming "would, in itself, be an unacceptable form of government control."

Chicago Sun Times (2/15/72) said the Administration is assuring little or no public discussion of major issues by insisting on local control of programming because local stations are subject to terrible local pressures.

Nicholas Johnson proposed that "the ideal funding system would provide 1/3 to national network, 1/3 to local stations and 1/3 directly to individual artists and program producers." (2/16/72)

ACLU Report (2/21/72) implies that decentralization would mean death of innovative and relevant public affairs programming on a national scale because local stations are tied to fundamentally conservative

Senate Report accompanying Public Broadcasting Act of 1967 said "particularly in the area of public affairs your Committee feels that noncommercial broadcasting is uniquely fitted to offer in-depth coverage and analysis which will lead to a better informed and enlightened public." (2/23/72)

Christian Science Monitor (3/7/72) Regional public TV runs a greater risk of becoming a mouthpiece for liberalism because it lacks the constraints of power politics the fledgeling national network center is getting in Washington at the moment. The public, Congress, and the White House should support financially a strong dual national/regional network. And those who run public TV should protect their cause by striving for political objectivity and avoiding any liberal/conservative label."

Los Angeles Times 3/28/72: Public Television a good 4th network but this was not the intent of the Carnegie Report or Congress. Quality national programming is essential to the strength of local stations but local stations need more money. Fear of political bias in government-supported television is a legitimate fear but so is fear of government intrusion into the content of public television.

Walter Cronkite favors public affairs on Public TV. (4/5/72)

National Programming Council for Public Television (NPCPT) censured Mr. Whitehead for downgrading news and public affairs and for no long-range funding. (4/26/72)

TO: ALL STATIONS
ATTENTION: GENERAL MANAGERS AND PUBLIC INFORMATION DIRECTORS

FR: HARTFORD GUNN & GEORGE PAGE. PBS

DT: 5-31-73

ENCLOSED IS A COPY OF THE JOINT AGREEMENT BETWEEN CPB AND PBS WHICH WAS ARRIVED AT ON WEDNESDAY, MAY 23RD AND WHICH HAS BEEN AGREED TO BY THE BOARD OF THE CORPORATION TODAY.

THIS TEXT WILL BE THE BASIS FOR THE DISCUSSION AT THE PRESS CONFERENCE WHICH IS BEING HELD JOINTLY BETWEEN CPB AND PBS ON THE PBS INTERCONNECTION BEGINNING AT 2 P.M. EDT TODAY. PLEASE SHARE THIS WITH ANY MEMBERS OF THE PRESS WHO INTEND TO PARTICIPATE IN THE PRESS CONFERENCE VIA TELEPHONE. THE TELEPHONE NUMBER IS (214) 263-5372.

THE TEXT OF THE AGREEMENT IS AS FOLLOWS:

FOR 2 P.M. EDT.

A JOINT RESOLUTION
OF
THE CORPORATION FOR PUBLIC BROADCASTING AND
THE PUBLIC BROADCASTING SERVICE

RESOLVED, BY THE BOARDS OF THE CORPORATION FOR PUBLIC BROADCASTING AND THE PUBLIC BROADCASTING SERVICE, THAT:

IN ORDER TO EFFECT A VIGOROUS PARTNERSHIP IN BEHALF OF THE INDEPENDENCE AND DIVERSITY OF PUBLIC TELEVISION AND TO IMPROVE THE EXCELLENCE OF ITS PROGRAMS:

TO ENHANCE THE DEVELOPMENT, PASSAGE BY CONGRESS, AND APPROVAL BY THE EXECUTIVE BRANCH OF A LONG-RANGE FINANCING PROGRAM THAT WOULD REMOVE PUBLIC BROADCASTING FROM THE POLITICAL HAZARDS OF ANNUAL AUTHORIZATIONS AND APPROPRIATIONS;

TO FURTHER STRENGTHEN THE AUTONOMY AND INDEPENDENCE OF LOCAL PUBLIC TELEVISION STATIONS; AND

TO REAFFIRM THAT PUBLIC AFFAIRS PROGRAMS ARE AN ESSENTIAL RESPONSIBILITY OF PUBLIC BROADCASTING.

THE BOARDS OF THE CORPORATION FOR PUBLIC BROADCASTING (CPB) AND THE PUBLIC BROADCASTING SERVICE (PBS) DO HEREBY JOINTLY ADOPT THE FOLLOWING AGREEMENT:

1. CPB WILL, IN CONSULTATION WITH PBS, OTHER INTERESTED PARTIES, AND THE PUBLIC, DECIDE ALL CPB FUNDED PROGRAMS THROUGH A CPB PROGRAM DEPARTMENT. THE CONSULTATION PRIOR TO CPB'S DECISION IS VITAL SO THAT THE CPB PROGRAMMING DEPARTMENT WILL UNDERSTAND WHAT THE LICENSEES' NEEDS ARE AND THUS AVOID ANY POSSIBILITY THAT CPB WILL FUND PROGRAMS THAT THE LICENSEES DO NOT WANT. BY SUCH A

CONSULTATION. WELL IN ADVANCE OF CPB PROGRAM DECISIONS, TIME AND VITALLY NEEDED DOLLARS CAN BE SAVED AND THE PUBLIC CAN BE BEST SERVED. IN THE EVENT THAT THE PBS PROGRAM DEPARTMENT DISSENTS FROM ANY PARTICULAR PROGRAM DECISION OF THE CPB PROGRAM DEPARTMENT, THE PBS PROGRAM DEPARTMENT MAY APPEAL TO THE CHIEF EXECUTIVES OF CPB AND PBS. SHOULD THESE EXECUTIVES FAIL TO AGREE, FINAL APPEAL MAY BE MADE TO THE RESPECTIVE CHAIRMEN OF THE TWO ORGANIZATIONS WHOSE JOINT DECISION WILL BE FINAL.

2. ALL NON-CPB FUNDED PROGRAMS, ACCEPTED UNDER PBS BROADCAST JOURNALISM STANDARDS AND NORMAL PBS PRODECURES, WILL HAVE ACCESS TO THE INTERCONNECTION.

3. SHOULD THERE BE ANY CONFLICT OF OPINION AS TO BALANCE AND OBJECTIVITY OF ANY PROGRAMS, REGARDLESS OF THE SOURCE OF FUNDING, EITHER GROUP CAN APPEAL TO A MONITORING COMMITTEE CONSISTING OF THREE CPB TRUSTEES AND THREE PBS TRUSTEES. IT WILL TAKE FOUR VOTES OF THIS COMMITTEE TO BAR A PROGRAM'S ACCESS TO THE INTERCONNECTION.

4. PBS, ON BEHALF OF THE STATIONS, WILL PREPARE A DRAFT SCHEDULE OF PROGRAMS FOR INTERCONNECTION. THE DRAFT SCHEDULE WILL BE FOR ONE YEAR DIVIDED INTO FOUR QUARTERS. IT WILL BE RESUBMITTED EACH QUARTER FOR THE ENSUING FOUR QUARTERS, TO PRESERVE THE MUTUAL INTERESTS OF BOTH CPB AND PBS, CPB WILL BE ADVISED AND CONSULTED IN THE DEVELOPMENT OF THE DRAFT SCHEDULE, AND WHEN EACH SUCH FOUR QUARTER SCHEDULE IS COMPLETED, IT SHALL BE SUBMITTED FOR APPROVAL OF CPB. IN THE EVENT THAT THE CPB PROGRAM DEPARTMENT DOES NOT AGREE TO THE DRAFT SCHEDULE, IT MAY APPEAL TO THE CHIEF EXECUTIVES OF CPB AND PBS. SHOULD THESE EXECUTIVES FAIL TO AGREE, THE ISSUE SHALL BE PRESENTED FOR FINAL DECISION TO THE BOARD CHAIRMEN OF CPB AND PBS. SHOULD THEY FAIL TO AGREE, THEY SHALL CHOOSE A THIRD PERSON TO WHOM THE ISSUE WILL BE PRESENTED AND WHOSE DECISION SHALL BE FINAL. EMERGENCY SCHEDULING DECISIONS WILL BE MADE IN ACCORDANCE WITH PROCEDURES APPROVED BY THE CHAIRMEN OF THE CPB AND PBS BOARDS. IN ANY EVENT, THE DRAFT AND FINAL SCHEDULES SHALL REFLECT THE ARRANGEMENT OF PROGRAMS FOR INTERCONNECTION SERVICE TO STATIONS, AND SHALL NOT BE REGARDED AS A SCHEDULE OF PROGRAMS FOR BROADCAST BY THE STATIONS.

5. THERE IS HEREBY ESTABLISHED A PARTNERSHIP REVIEW COMMITTEE CONSISTING OF AN EQUAL NUMBER OF TRUSTEES OF CPB AND PBS. SUCH COMMITTEE SHALL ASSESS THE WORKING OF THE PARTNERSHIP ON A REGULAR BASIS WITH FORMAL MEETINGS TO BE HELD NOT LESS THAN FOUR TIMES PER YEAR. FOR A FIVE-YEAR PERIOD BEGINNING WITH THE ADOPTION OF THIS JOINT RESOLUTION, THIS COMMITTEE WILL BE CHARGED WITH THE RESPONSIBILITY OF MAKING RECOMMENDATIONS TO THE BOARDS FOR ANY MODIFICATIONS WHICH THEY MAY DEEM DESIRABLE.

6. CPB AND PBS WILL FORMALIZE AN ANNUAL CONTRACT FOR THE PHYSICAL OPERATION OF THE INTERCONNECTION NOT LATER THAN AUGUST 31, 1973. PHYSICAL OPERATION OF THE INTERCONNECTION WILL BE BY PBS AND WILL BE FUNDED BY CPB. ANY DISPUTE AS TO THE TERMS OF THE CONTRACT WILL BE RESOLVED BY THE CHAIRMEN OF CPB AND PBS NO LATER THAN SEPTEMBER 30, 1973. CPB WILL CONTINUE TO FINANCE PBS ACTIVITIES AS IT HAS IN THE PAST UNTIL SEPTEMBER 30, 1973. FOLLOWING THAT DATE, PBS WILL FINANCE ITS OWN ACTIVITIES, RECEIVING FROM CPB ONLY THE FUNDS NECESSARY FOR THE PHYSICAL INTERCONNECTION SERVICES WHICH IT WILL RENDER UNDER THE CONTRACT.

7. CPB AND PBS HEREBY AGREE THAT CPB WILL PROVIDE THE MUTUALLY

DESIRED BEDROCK OF LOCALISM BY UNRESTRICTED GRANTS TO THE PUBLIC TELEVISION STATIONS. UNDER A FORMULA ACCEPTED BY CPB AND PBS, AGGREGATING ANNUALLY NOT LESS THAN 30% AT A \$45 MILLION LEVEL, INCREASING PROPORTIONATELY TO: 40% AT A \$60 MILLION LEVEL, 45% AT A \$70 MILLION LEVEL AND 50% AT AN \$80 MILLION LEVEL. CPB AND PBS WILL EXPRESS THIS COMMITMENT TO THE CONGRESS IN CONNECTION WITH THE PENDING LEGISLATION.

END (31/S)

CTW Statement Summary

- Federal funding presents dilemma
 - need for government support
 - need for insulation
 - bedrock of localism
- CPB contributions to nation's educational/cultural life
- Federal funding
 - grown from (FY 1979) \$5 million to (FY 1974) to \$45 million
- However, serious deficiencies
 - Interconnection (fourth network)
 - Public affairs programming
 - Important component, but centralized
 - Federal tax dollars support
- These issues affect long-range financing.
- Unless Congress abandons public broadcasting as community centered enterprise, long-range funding must await resolution of present uncertainties/deficiencies.
- Debate in 1967 was thorough, stress on localism.
- S1090 inadequate because:
 - two years
 - too much (FY 74) \$60 million, (FY 75) \$80 million
- S1228 good
 - one year would allow sound growth.
 - increase \$10 million to \$45 million over FY 73.
- HEW facilities grants at \$13 million
- Reference to CPB and local station discussions now underway.
 - Need for decentralization of programming.
- Best way to proceed is:
 - Implement plan of Public Broadcasting Act - .
 - Reject interconnection for fixed-schedule networking.
 - *Resolve uncertainties; then fund.*

STATEMENT BY
CLAY T. WHITEHEAD, DIRECTOR
OFFICE OF TELECOMMUNICATIONS POLICY
ON
PUBLIC BROADCASTING AUTHORIZATIONS

P.: The more public money you put into this,
the more you endanger the freedom of expression.

Within (not drifted) But: no fixed rules, can't seem why.
stop rhetoric; work together constructively.

Hobson's Choice

1. % for local sites
2. networking
3. Local input to national decisions
4. Prof. groups vs. broadly based boards
5. Mix of edms, pub aff, history, perf arts, aged; etc
before the

differences always small when
reaching Fed. #
differences just as real,
unresolved as in 1967

Subcommittee on Communications
Honorable John O. Pastore, Chairman
Committee on Commerce
United States Senate

March 28, 1973

Mr. Chairman, and members of the Subcommittee, I welcome the opportunity to appear before you today, to discuss the two pending public broadcast authorization bills S. 1090 and S. 1228.

Federal funding of public broadcasting presents a dilemma. >On the one hand there is a need for the government to support public broadcasting. >On the other hand it should be insulated from government interference. >The Public Broadcasting Act of 1967 attempted to deal with this dilemma, by creating a system based upon the "bedrock of localism", and, by creating an institution—the Corporation for Public Broadcasting—to serve the needs of local stations.

Unquestionably, the Corporation in the few years of its existence has made important contributions to our nation's educational and cultural life. >In view of these achievements, and the promise of educational broadcasting in general, this Administration has demonstrated its support. >We have sought increased appropriations for the Corporation from \$5 million in Fiscal Year 1969, to the present \$45 million requested in Fiscal Year 1974. >Moreover, the Administration has supported steady increases

in funding for the Educational Broadcast Facilities Program.

Nonetheless, despite public broadcasting's positive achievements, there ^{have} remained serious deficiencies. >The purpose of the 1967 Act was to prevent local stations from ever becoming mere conduits for the programming of centralized production sources. >But there was a tendency toward centralized program decision-making by CPB, and PBS, its wholly-funded interconnection service.

Interconnection was viewed by the Congress primarily as a means of program distribution, and not as a means of establishing a fixed-schedule network. >But the distribution of programming over the interconnection system by PBS amounted to precisely the kind of federally-funded "fourth network" which the Congress sought to avoid. >Such a monolithic approach to public broadcasting is inimical to the letter and spirit of the Public Broadcasting Act.

Another problem area is the funding of public affairs programs. >Public affairs and current events programs are important components of public broadcasting's contribution to the flow of information. >Indeed, this type of programming is recognized as part of every broadcaster's responsibilities under the Communications Act of 1934. >But there

is great concern regarding the use of federal appropriations to produce and disseminate such programming at the national level. >This is especially true in view of the tendency to centralize its production in New York or Washington. >In short, reliance on federal monies to support public affairs programming is inappropriate and potentially dangerous. >Robust electronic journalism cannot flourish when federal funds are used to support such programming.

>All of these problems affecting the structure and operations of public broadcasting vitally affect the issue of long-range funding. >It is, of course, possible to amend the Public Broadcasting Act, to convert the system into one built upon the concept of a centralized network. >The Congress could then consider long-range funding for such a system. >But unless and until Congress abandons public broadcasting as a community centered enterprise, multi-year funding must await the resolution of the present uncertainties and deficiencies. >The problems facing public broadcasting in 1973 are quite similar to those that confronted the Congress in 1967. >There is no greater rationale for large-scale, multi-year funding now than there was then.

In 1967, the question of public broadcasting's role was vigorously debated. >The debate was thorough and resulted in legislation which placed the stress on localism—a system in which control would flow upward from strong local stations to the national entities.

>The future funding of such a system, which was the result of much thoughtful and constructive debate, should be right rather than rapid.

We must support public broadcasting, both for what it has accomplished and for its future promise. >This is the reason the President is requesting measured increases in funding for CPB.

With this as background, let me turn to the specifics of S. 1090. >First, the level of funding, is in my judgment too high. >When all of the demands of the Federal budget are considered, it is impossible to devote \$140 million to public broadcasting in Fiscal Years 1974 and 1975.

>Second, until the basic problems that I have discussed are resolved, the Congress should review the funding authorizations annually and observe the Corporation's progress in dealing with these problems.

The Administration's bill—S. 1228—provides for the sound development of public broadcasting by extending for

one-year, CPB's current authorization. > This one-year extension would allow for the growth of public broadcasting to proceed soundly while all elements of the system make progress in resolving the issues under debate.

Continuing the Administration's record of requesting increased funds for public broadcasting, the authorization would add \$10 million to CPB's current level of funding, for a total of \$45 million. > Unfortunately, CPB did not receive its full authorization for Fiscal Year 1973.

> Recognizing that CPB appropriations were caught up in the President's veto of the Labor-HEW appropriations, we now ask for the same increase requested in Fiscal Year 1973, and regret that it is now one year later. > In addition, the HEW request for Fiscal Year 1974 funding of the Educational Broadcast Facilities Program will be at a \$13 million level, despite severe budgetary pressures affecting other HEW programs. *Mr. Condon*

Mr. Chairman, I should like to close on a hopeful note by alluding to the efforts now underway to rationalize and improve the relationship between CPB and the local stations.

> The Corporation must take into account and respond to the needs of all classes and categories of public broadcasting stations around the country. > In undertaking these efforts,

a fundamental principle must be maintained. >It is that decentralization of programming activities is the cornerstone of the public broadcasting structure. >Local stations should play a major role in decision-making in matters of programming, and ultimately must have a realistic choice available in deciding whether to broadcast any CPB-supported or distributed programs. >But this cannot be accomplished if the role of the local station is limited to some form of representation in national entities that make program decisions.

The best way to proceed is to implement the plan of the Public Broadcasting Act and its rejection of use of interconnection facilities for fixed-schedule networking. >This would give local stations the autonomy and authority for complete control over their program schedules. >In particular, it would be unfortunate if we were to have a centralized bureaucracy through which the Corporation would have to deal with the stations. >The goal should be to create an environment in which the Corporation works directly, with all the stations, and seeks at all times to preserve their independence and autonomy.

SUMMARY OF
CURTIS STATEMENT

- CPB is united - most often unanimous.
- Unanimous support for S.1090 (Pastore-Magnuson).
- Endorse extension of educational broadcast facilities.
- Disappointed by veto.
- Extra \$10 million sorely missed.
- S.1090 greatly benefit public radio.
- Community Service Projects.
 - FY 1973 \$6.6 million or 17% of Federal support.
 - FY 1974, under S.1090, \$19 million.
 - FY 1975, under S.1090, \$32 million.
- Need to develop libraries service and facilities.
 - FY 1973 \$200,000
 - FY 1974, under S.1090, \$400,000
 - FY 1975, under S.1090, \$600,000
- CPB encourages effective local, not centralized, control of schedule.
- CPB-PBS relationship.
 - CPB re-examination of role with PBS began in Spring 1972.
 - Cites PBS Articles of Incorporation (authority)
 - Cites Macy, N.Y. Times interview regarding chaos of PBS.
 - Therefore, CPB has unanimously chosen to reassert authority.
 - Cites endorsement from CPB Board, NPR, NAEB, NER Advisory Committee on Nat. Organization.
- Rejects political influence

- Seeks unbalanced and objective controversial programming.
- Cites Rogers Group as greatest import to CPB.
- Cites Long-Range Financing Task Force as great.

Summary of Henry Loomis' Statement

- Endorse S1090 (Pastore-Magnuson)
 - Creation/distribution of original program series requires 18-24 months.
 - One-year bill compromises this essential planning.
- Virtually entire 1974 program production budget of \$13 million to be produced in US.
- Minority Hiring
 - 16 grants since March 1, 1973.
- Public Radio funding
 - FY 1973 Community Service grants \$1.6 million
 - FY 1974 Community Service grants \$5.5 million
 - FY 1975 Community Service grants \$18.6 million
- NPR
 - FY 1974 \$626,000
 - FY 1975 \$1,634,000
- Public TV funding
 - FY 1973 Community Service grants \$5 million
 - FY 1974 Community Service grants \$13.5 million
 - FY 1975 Community Service grants \$23 million
 - to be changed by 150-170 applicants.
- National program production support
 - FY 1973 \$14.7 million
 - FY 1974 \$17.2 million
 - FY 1975 \$18.5 million
- Cites Les Brown Variety article on great potential of PTV
- Need for new education programs
 - \$125,000 in 1972 for research
 - Cites ALPS
- Interconnection
 - FY 1971 \$2 million
 - FY 1974 \$4.9 million

CC: 7800...
(N:MS)

June 18, 1971

Mr. John W. Macy, Jr.
President
Corporation for Public Broadcasting
888 16th Street, N.W.
Washington, D.C. 20006

Mr. Hartford N. Gunn, Jr.
President
Public Broadcasting Service
955 L'Enfant Plaza North, S.W.
Washington, D.C. 20024

Dear John and Hartford:

In April, 1970, Hartford made a speech to the public television conference in New York. Here is an excerpt from that speech.

"To achieve abundance of programming and diversity, Carnegie recommended multiple sources of programming for national distribution -- from the great national program producers such as NET and CTW, from station production centers and from local stations, wherever located.

"The problem became, as we know, how best to distribute these programs so as to provide for choice and diversity in programming while insuring the maximum insulation from possible dictation of content by the source of the funding -- whether it be Congress, a foundation or another source.

"Thus the original Carnegie concept of the Corporation for Public Broadcasting as the network agency had to be replaced by another concept calling for a new organization devoted exclusively to networking. The Public Broadcasting Service, with station managers themselves as the controlling members of its board, is that new organization.

"It is within this framework, with the mandate of providing the maximum program diversity and choice that PBS set out to do its job."

It is now a little over a year since that talk was delivered. PBS has been an operating network for its first full season, and the planning for a second is far along. In late May the managers and/or program managers of the seven production centers (including NET) met in Aspen to assess the development of public broadcasting as it affected them.

The dominant tone of our meeting was one of deep concern.

Again and again, we noted signs that public broadcasting is moving not toward greater and greater program diversity and choice, but toward more and more uniformity: not toward maximum insulation from dictation of content by the source of the funding, but toward increasing concentration of program decisions in the hands of a very few people at PBS and CPB; not toward the creation of a truly different kind of television service reflecting the variety of experience in our nation, but toward a fourth network in which program content is increasingly influenced by the wishes of the timid and the unimaginative; not, in short, toward what the Carnegie Commission had in mind, but toward something far different.

We agreed that, if the current trends we perceive were to go unchecked, the worst of all possible worlds for us would result: a system that places all the key funding, programming, production, promotion and distribution controls in Washington. This would make the production centers no more than field facilities for the central office.

We cited many examples to indicate that the clamp of control is tightening at both ends. At the funding end, CPB is moving to decide in general what the production centers will produce by doling out funds piecemeal only for those programs or series specified and approved in advance. At the network end, PBS is asserting the right to rule, in detail, on the content of programs it distributes to the station.

In short, the production centers looked to the future with gloom. We saw our decision making power eroding. We saw the goal of diversity shrinking to a matter of mere geography, not of judgement.

But are our fears justified? We thought the most constructive response would be to send you this outline of our concerns, then urgently request a meeting with both of you to check your perceptions against ours. If we are misreading the signs, no doubt you can put us right. If we are not, you and we should certainly meet for a candid exchange before anyone feels compelled to take an unyielding position.

Respectfully,

James Day, NET
David Ives, WGBH
Lloyd Kaiser, WQED
James Loper, KCET
William McCarter, WETA
John Taylor, WTTW

Richard Moore, KQED, was not at Aspen and is submitting a separate statement.

(Each center head agreed to have his name typed at the end of this letter so as to avoid the delay of circulating a copy for actual signatures.)

Public Broadcasting

WHITEHEAD ON PUBLIC TV—NEW FACES, SAME PROBLEMS: Year after NAEB convention in Miami was stunned by assertion from OTP Dir. Clay T. Whitehead that White House wanted no part of "centralized, national network" (Vol. 11:43 p1), his message to this week's 48th annual convention in Las Vegas is that there will be no significant increase in federal money next year, that long-range financing is now 2-3 years away at earliest and that Administration remains firmly opposed to using tax money for news & public affairs programming. Whitehead told us in interview last week that he was invited to attend convention, but decided not to "because nothing has changed. It would just be a repeat of what I said last year... The personalities have changed but the problems still remain."

Adding to public TV's financial woes was President's Oct. 27 veto of Labor-HEW appropriation bill which contained \$45 million for CPB and \$15 million for ETV facilities matching funds. Continuing resolution approved by Congress before adjournment allows CPB to operate at last year's \$35-million level until Feb. 28.

Meanwhile, CPB's new Republican-dominated board appears at odds with OTP over 1973 budget. It's understood that Chmn. Thomas Curtis and new Pres. Henry Loomis have been pressuring White House & OMB for \$70-million budget (they first requested \$90 million).

Whitehead called CPB proposal "a half-blind scheme," adding that he would "hope for some increase" over his 1972 recommendation of \$45 million when he submits budget to White House, but "I don't think it can be a very large increase." He also scoffed at Aspen Institute report—prepared before Curtis & Loomis came aboard—which estimated that "a minimum public TV service" would cost \$500 million annually (Vol. 12:35 p2).

Apparent early rift between OTP & new CPB leadership over 1973 budget is underscored by statement from Republican outside OTP who noted "there are some real skeptics" in White House over what kind of changes Loomis & Curtis have in mind. "Not all the problems are over," same Republican said. "There's still a long, long way to go."

During our interview, however, Whitehead expressed confidence that new CPB leadership would begin wholesale policy changes at CPB. "I'm sitting back now," he said. "The new leadership deserves a chance... We will evaluate their performance & continue to monitor it closely. To the extent we agree, then everyone wins, but if we disagree then we'll continue to speak out... We're hopeful we can work together... I think these people are responsible and can see the problems in their proper perspective."

Under former Chmn. Frank Pace and former Pres. John Macy, Whitehead said CPB was "locked into their own perspective. It was hard for them to see things differently. The Corporation needed to have a turnover." But he gave CPB's "uncompromising" position as reason why OTP shelved long-range financing plan last year (Vol. 11:33 p2) and attacked CPB for backing 2-year, \$155-million authorization bill sponsored by Rep. Macdonald (D-Mass.) instead of Administration's one-year plan. Two-year bill was later vetoed (Vol. 12:27 p3). "The CPB people went out on their own and tried to cram the Macdonald bill through Congress without consulting this office," Whitehead said. "CPB had not played the ball game, and that demonstrated to us that long-range financing is something the country just isn't ready for." As result, he said White House now takes harder line on financing, and that unless "serious progress" made "in finding a sensible structure for CPB," long-range financing may be more than 2-3 years distant. "We were prepared to come up with a permanent financing plan this year," he said.

Certain to be discussed at convention is proposal by PBS Pres. Hartford Gunn to create ETV programming cooperative to produce programs requested by stations. Since cooperative would receive all its money from stations, they would have to receive much larger share of federal money than presently through CPB. Even though OTP has traditionally wanted more money for stations, Whitehead told us that Gunn's proposal "isn't balanced" and "may just set up another bureaucracy."

In luncheon address Oct. 31, FCC's newest Comr. Ben Hooks is expected to accuse public broadcasting of programming to an intellectual elite, ignoring the poor. He's also expected to discuss report from NAEB Minority Affairs Dir. Lionei Monagas showing that minorities in public TV stations accounted for only 9.62% of total work force, or 666 out of 6,917. Figure compares with 7.9% in 1971 and 12.1% in 1970.

* * * * *

William E. Duke, CPB's first dir. of public affairs and one of Corp.'s founding executives, resigned last week. Duke was exec. asst. to Sen. Javits (R-N.Y.) for 6 years before joining CPB in 1966. "I feel that I must resign," he said in letter to Loomis, to allow new pres. to reorganize staff. "I hope to stay closely associated with public broadcasting in the years ahead," he added. Loomis has already undertaken major reorganization and last week announced appointment of Thomas G. Gherardi, 30, ex-GSA congressional affairs dir., to new post of gen. counsel and chief govt. relations officer. Gherardi is credited with drafting legislation establishing first permanent financing plan for GSA's building program.

WORKING
DRAFT

Table 5. Radio Service Costs of Selected Countries

<u>Note</u>	<u>Service</u>	<u>Total \$</u>	<u>Per person Expenditure</u>
1.	U.S. CPB-qualified public radio, FY '71		
	CPB-qualified radio system revenue (non-duplicated)	\$12,578,000	\$.06
	Federal contribution	3,429,400	.02
2.	BBC (U.K.) Radio, 1970/71 (non-commercial):		
	BBC radio system (including local stations)	66,117,900	1.19
3.	NHK (Japan) Radio, 1970/71 (non-commercial):		
	Estimated radio share of budget	72,190,000	.69

Note:

1. Source: Corporation for Public Broadcasting
2. Source: BBC Handbook, 1972, p. 210.
3. Source: NHK Handbook, 1971, p. 33. See footnote 7 in the table 5.

622 /

35

Table 4. Television Service Costs by Selected Countries

Note	Service	Total \$	Per Person Expenditure
1.	U.S. Public Television FY '71		
	PTV System Revenues (non-duplicated)	\$166,440,000	\$.81
	All Federal contribution	34,047,000	.17
<hr/>			
	U.S. Commercial Television		
2.	Station and Network revenues 1970	2,808,200,000	13.71
3.	Network revenues only, 1971	1,487,500,000	7.32
<hr/>			
	CBC (Canada) Television, 1970/71		
4.	All CBC-TV expenditures, including commercial programming	166,583,800	7.70
5.	Parliamentary Grant Television	123,733,400	5.81
<hr/>			
6.	BBC (UK) Television, 1970/71 (Totally non-commercial)	183,241,000	3.29
<hr/>			
7.	NHK (Japan) Television, 1971/72 Estimated TV share of Budget (non-commercial)	300,000,000	2.90

Notes:

1. Source, Corporation for Public Broadcasting
2. Source: FCC Release, May 12, 1972
3. Source: FCC Annual Report, Fiscal Year 1971
4. CBC operates other broadcasting services in addition to television. Expenditures shown are for direct television costs and a calculated portion of CBC common costs. The CBC-TV networks operate as commercial services for parts of each broadcast day.
5. "Grant" amount shown is net cost to taxpayers, based on calculated television share of total CBC parliamentary grant of \$166,000,000 less commercial television revenues of \$42,850,000.
6. Source: BBC Handbook, 1972, p. 210.
7. NHK operates both radio and television services. Budget amount shown is calculated television portion of total NHK 1971/72 budget of \$372,190,000.

THE WHITE HOUSE
WASHINGTON

Date 6/11/73

FOR: HANK GOLDBERG

FROM: Hank Paulson

 X For your information


 Per our conversation

Comment:

MEMORANDUM

THE WHITE HOUSE
WASHINGTON

June 8, 1973

MEMORANDUM FOR: HANK PAULSON
FROM: LEONARD GARMENT 
SUBJECT: Funding for the Corporation for
Public Broadcasting

I concur in Tom Whitehead's recommendation and, essentially, for the reasons he gives.

An additional note: Last week George Bush brought Ralph Rogers, the head of PBS, in for lunch. (Rogers, a self-described supporter of the President, was Bush's finance chairman in his Senate campaign.) Rogers and Killian (the new Chairman of the CPB Board) will be asking to see the President shortly. Bush and I feel that it would be desirable for the President to associate himself with the CPB-PBS settlement (certainly not to oppose it). This would, of course, argue strongly for not only accepting the Whitehead recommendations, but perhaps encouraging him to be somewhat more forthcoming in his public statements on the subject. (It should be borne in mind that the new public broadcasting boards ("boards of laymen") consist of community and business leaders whose actual and potential support for the President and the Administration is considerably greater than that of the networks and other national media.)

MEMORANDUM

THE WHITE HOUSE

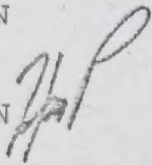
WASHINGTON

June 7, 1973

MEMORANDUM FOR:

RON ZIEGLER
BILL TIMMONS
PETER FLANIGAN
BILL BAROODY
LEN GARMENT
PAT BUCHANAN
DICK MOORE

FROM:

HANK PAULSON 

SUBJECT:

Funding for the Corporation for
Public Broadcasting

Attached is a copy of a memo in which Tom Whitehead recommends that we work out a compromise for a two-year appropriation for CPB at a reduced level of funding rather than vetoing the two-year CPB authorization as we did last year.

I would greatly appreciate it if you would forward your recommendations and comments to me on this matter sometime before c.o.b. today.

Thank you for your cooperation.

Attachment

cc.: KEN COLE

OFFICE OF TELECOMMUNICATIONS POLICY

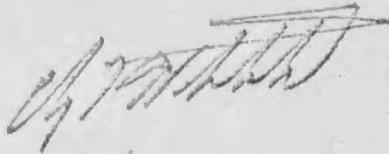
EXECUTIVE OFFICE OF THE PRESIDENT

WASHINGTON, D.C. 20504

June 6, 1973

DIRECTOR

MEMORANDUM FOR THE PRESIDENT

FROM: Clay T. Whitehead 

SUBJECT: Public Broadcasting

Background

Last June you vetoed a two-year public broadcasting authorization bill, providing for funding at a total of \$155 million. Currently, the Corporation for Public Broadcasting (CPB) receives \$35 million in appropriated funds, based on a continuing authorization for Fiscal Year 1973. A bill has passed the Senate providing a two-year \$140 million authorization. House hearings on this bill, and the Administration's proposed one-year authorization at \$45 million, begin June 11.

During the past four months there has been a great deal of ferment in public broadcasting, including charges that the Administration has attempted to influence CPB to preclude funding of news and public affairs programs unfavorable to the Administration and to dismantle the public broadcasting network. This has led to a compromise between the Corporation and the Public Broadcasting Service (PBS, the station organization that operates the network). Key elements of the compromise give CPB a direct voice in determining the funding and scheduling of programs, rather than leaving the choice entirely to PBS. Moreover, questions of balance and objectivity will be determined prior to airing by CPB and PBS directors jointly. The compromise would establish a system of checks and balances between the boards of the 230 local stations, and the centralized program staffs of CPB and PBS, and the CPB board.

The compromise does not achieve all that we would like, but it represents a substantial improvement over the situation that existed prior to your veto. Moreover,

during the next year we will appoint seven of the fifteen-man CPB Board of Directors. Therefore, the combination of an acceptable compromise and the seven board appointments leads me to believe that the time is ripe for a change in our approach to public broadcasting.

Alternative Approaches

There are two alternative approaches: (1) continue to stress problems and dangers in public broadcasting and veto a two-year authorization bill; (2) accept a two-year authorization, but at a lower funding level, and build on the present CPB/PBS compromise to achieve a broader legislative consensus, which would seek a longer-range authorization and more decentralized, local control of funds and programs.

A veto -- if sustained -- would keep public broadcasting dependent upon annual appropriations and check the tendency toward network operations stressing journalistic enterprises. However, it would accomplish little more, if anything, than what we have already accomplished with last year's veto, and it would worsen the Administration's public posture of being against public broadcasting generally.

The advantages of the consensus approach are that we could limit the increases in funding by agreeing not to veto a two-year authorization. We would also avoid the potentially divisive battle to sustain a new veto and improve our chances of continuing to have a voice on the future directions of public broadcasting. The disadvantages are that the Corporation would have increased funding over a longer period of time before all the major issues regarding its objectives are resolved.

Recommended Approach

I recommend that we follow the consensus approach and take the following steps. Prior to my public broadcasting testimony next week, I will discuss our position with the

Subcommittee Chairman (Torbert Macdonald) and with key Republicans (Sam Devine and Bud Brown). In exchange for our agreement not to fight a two-year bill, I shall seek to have the level of funding reduced to around \$100 million for two years. In my testimony, however, I shall continue to oppose mildly two-year funding.

I will also support, albeit with reservations, the CPB/PBS compromise as a step in the right direction. I will announce our desire to reopen discussions to seek a broader consensus on longer range funding for public broadcasting. The objective is to gain support for a legislative restructuring of the public broadcasting system that will emphasize the role of the local station in decentralizing funding and programming decisions, stress cultural and educational programs, and deemphasize government-funded news programming.

Action

Proceed as recommended _____

Other _____

Mr Whitehead

Tom -

(1) The news looks to the sufficient attention to the major long term problem - ie tax funds for the support of programmes. The President should be aware that the funding of public affairs programmes. The current chairman supports a compromise this type of broadcasting - & that in the warrant principal (2) might also support out that \$35 m - is 74 73 \$45 m in 74 74 & 55 m - 74 75 part of yr growth from less than yr, 1974 generally

MM METROMEDIA, INC.
5151 WISCONSIN AVE, N.W.
WASHINGTON, D. C. 20016
TEL: 202-244-5151

MARK EVANS/VICE PRESIDENT
DIRECTOR OF PUBLIC AFFAIRS

January 4, 1973

Dr. Clay Whitehead
Director
Office of Telecommunications
1800 G Street, NW
Washington, D. C.


Dear Dr. Whitehead:

I have watched with great interest the reaction to your recent talk in Indiana regarding license renewal matters. As I read the national press, I recognize there is considerable misunderstanding in regard to your speech as it relates to your proposed legislation.

As Chairman of a special Task Force for the National Association of Broadcasters to seek legislative action on license renewals, I am immensely interested in this matter.

I know I speak for my committee and the national membership of the NAB in requesting from you clarification in order that we might more aptly decide our future course.

Most sincerely,



Mark Evans

ME/jm

OFFICE OF TELECOMMUNICATIONS POLICY
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON, D.C. 20504

January 26, 1973

DIRECTOR

Mr. Mark Evans
Vice President for Public Affairs
Metromedia, Incorporated
5151 Wisconsin Avenue, N. W.
Washington, D. C. 20016

Dear Mark:

I appreciate the concern that you--and the entire broadcasting community--have regarding the relationship between my December 18, 1972, speech on the responsibility of broadcast licensees and our proposed license renewal legislation. On January 11, 1973, I discussed in detail the philosophy and the facts of our proposed bill. Those remarks were not covered as extensively as the initial speech, so I have enclosed a copy for your information. The speech and the bill are related--but not in the way portrayed in the press coverage of my speech.

As you will see, the proposed bill would add nothing to broadcasters' present obligations to be responsible for all the programming presented or carried by the station, regardless of source. Neither OTP nor the White House has any power to affect the grant or denial of any broadcast license. And we have no intent or desire to influence in any way the grants or denials of licenses by the FCC. Moreover, the FCC has consistently refused to involve itself in questions of news bias, slanting or accuracy, unless there is extrinsic evidence of intentional wrongdoing on the part of the licensee. Neither the proposed bill nor the import of my speech would lead any objective observer to think that we desire to change this commendable practice of regulatory restraint.

In short, the bill would add no new burden, impose no new obligation, or require new affirmative showings on the part of any licensee.

As for the speech, it was intended to remind licensees of their responsibilities to correct faults in the broadcasting system that are not (and should not) be reachable by the regulatory processes of government. For network affiliates, exercise of these responsibilities does not

mean that the station manager has to monitor each network feed and "blip" out "ideological plugola" or "elitist gossip." The station management must simply be aware of all the program content on the station. Management should consciously reach its own conclusions as to what mixtures of conflicting views on public issues the station should maintain to inform the public in an adequate manner. Over the license term, the broadcaster should make a conscientious effort to provide reasonable opportunity for discussion of conflicting views on issues and see that he has the opportunity to bring his concerns to the attention of his network.

The relationship between the proposed bill and my speech is no more than the relationship between freedom and responsibility we find everywhere in our society. As you know, this Office has steadily promoted the cause of less rather than more regulation in broadcasting. But the public and the Congress would not think of increasing the freedom in broadcasting by easing government controls without also expecting some indication that voluntary exercise of responsibility by broadcasters can operate as an effective substitute for such controls.

The core issue is: Who should be responsible for assuring that the people's right to know is served, and where should the initiative come from--the government or the broadcasters. The speech focused on the three TV networks as the most powerful elements in the broadcast industry and asked how this concentration of power was to be effectively balanced. Some, who now profess to fight for broadcasters' freedom, would rely on regulatory remedies such as licensing the networks, burdening the broadcaster and the audience with the clutter of counter-advertising, banning ads in children's programs, ill-defined restrictions on violence, and the like.

Anyone who has followed OTP's policy pronouncements knows that we reject this regulatory approach. We have always felt that the initiative should come from within broadcasting.

The broadcaster should take the initiative in fostering a healthy give-and-take on important issues, because that is the essence of editorial responsibility in informing the public. That does not mean constricting

the range of information and views available on television. It does not mean allowing three companies to control the flow of national TV news to the public; accountable to no one but themselves. The public has little recourse to correct deficiencies in the system, except urging more detailed government regulation. The only way broadcasters can control the growth of such regulation is to make more effective the voluntary checks and balances inherent in our broadcast system.

These issues are worthy of widespread debate. But the public discussion taking place outside of the broadcasting community is far below the level of reasoned debate. I grant you that the language I used in the December 18 speech was strong. But those who have twisted an appeal for the voluntary exercise of private responsibility into a call for government censorship--that they can then denounce--have abandoned reasoned debate in favor of polemics.

In the next few months, broadcasters will have a rare opportunity to assist the Congress in choosing the future direction for broadcast regulation.

I hope you can realistically come to grips with the problems and issues involved in broadcast regulation, and help reverse the recent trend toward more extensive, more detailed regulation. Indeed, if OTP's bill is a successful first step in the reversal of this trend, the Congress can be urged to move further in this direction.

But this attempt to increase freedom in broadcasting will be opposed by those who are now complaining most loudly about my speech. One might think that the people who are attempting to portray our efforts as an Administration attempt to stifle criticism would support our proposed legislation, if they actually wanted to diminish government control of broadcasting.

But it seems that they do not wish to diminish the government's power to control broadcast content. They seem quite willing to create and use powerful tools of government censorship to advance their purposes and their view of what is good for the public to see and hear. We disagree. The danger to free expression is the existence

of the legal tools for censorship, not in the political philosophy of the particular Administration in power. We are proposing actions to begin to take those tools from the hands of government. We hope that broadcasters will support us in this endeavor, despite the rhetoric of their present unlikely allies.

In the final analysis, however, no progress can be made in reducing government power over broadcasting unless broadcasters can demonstrate that they can make licensee responsibility work in practice. It is only then that the Congress can be convinced that reliance on the good faith judgment and discretion of licensees is a better way to preserve freedom in broadcasting.

Sincerely,

Clay T. Whitehead