

STATEMENT BY  
CLAY T. WHITEHEAD, DIRECTOR  
OFFICE OF TELECOMMUNICATIONS POLICY

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

February 20, 1973

This is the first occasion that I have had to appear before this Subcommittee to discuss the activities of the Office of Telecommunications Policy, and I appreciate the opportunity. The statement which I have prepared for you covers the activities and programs of the Office in 1972-1973 in detail. With your permission, I will briefly summarize it.

The first area is common carrier communications. This sector of the communications industry historically has meant only traditional telephone and telegraph services, provided on a monopoly basis by vertically integrated companies. In recent years, however, new communications technologies have been developed and specialized services and service concepts such as computer time-sharing, telephone answering, interconnection, and brokerage have come into being on a competitive basis. Indeed, vigorous competition in this new field is economically inevitable, unless artificially prohibited by government policy. OTP's efforts are aimed at coming to grips with the difficult policy question of how this new competitive sector, and the traditional sector which may remain monopolistic, can co-exist in the public interest.

Cable TV is a second area of OTP involvement. Cable has the potential for becoming a medium of major significance in its own right, providing a technological basis for more consumer choice and diversity. Cable can also be the vehicle for new communications services, such as widespread access to computers, education, and the like. However, there is no satisfactory division of regulatory authority between the Federal Government and the States, and cable is too often viewed by industry and government alike solely as an adjunct to over-the-air broadcasting. The FCC has recently issued rules designed to end the long freeze on cable growth, and we are at work on a long-range policy to guide cable's future development.

In the broadcasting field, we have been examining various aspects of the regulatory environment to determine where it is possible to lessen government involvement in the process of getting information -- news and entertainment -- to the public. Our most fundamental goal is to find ways of enhancing First Amendment rights and interests. We are continuing to work with the FCC and the Congress on the lessening of radio regulation, which we proposed in 1971. We have developed legislative proposals for the modification of license renewals policies and procedures, which we expect to submit to the Congress for its consideration this year.

In the area of government communications, there has long been a concern that better management and policy direction were needed. Last year, we took several specific actions to reduce expenditures and improve our communications capability. Various problems in the EBS and emergency warning procedures were resolved. The long-standing FTS/AUTOVON merger controversy was resolved. Important technical and managerial improvements in the spectrum allocation process were begun. We also established a planning process for coordinating anticipated government satellites and navigation systems. We have concluded that the best approach to government communications planning and policy is prospective; and to that end, last year OTP created the Government Communications Policy and Planning Council.

We have also reviewed the structure of the U.S. international communications industry and have developed a policy framework within which regulatory practices can be improved, and industry can continue to improve its performance and efficiency. I believe that our policy in this area will provide a solid foundation for guiding and evaluating whatever specific changes in legislative or regulatory provisions may be necessary or appropriate in the future.

Mr. Chairman, I have reviewed only some of the most important aspects of OTP's work, and briefly at that. I hope that this short review, together with my longer statement, provides the Subcommittee with a good picture of the role we play in developing communications policy and, on behalf of the executive branch, acting as a partner in the policy process with the Congress, the FCC, and the public. In particular, I think OTP and the Commission have maintained a sound balance between the FCC's independence in administering the Communications Act and its function as an arm of the Congress, on the one hand, and its ability to cooperate with the executive branch on long-range policy considerations on the other.

Mr. Chairman, I believe OTP has made a good start in grappling with some of the basic communications issues we are facing. Only recently have we as a people come to understand how extensively communications affects us: how we deal with one another, form our national character and identity, engage in our political process, and make our economy more productive. We can turn the tremendous advances in communications technology to our benefit only if there is informed public debate and discussion on major communications policy issues. This is what we have been endeavoring to do, and I am glad that together with the Congress, the FCC, industry, and the public, we are making good progress.

Mr. Chairman, I would be pleased to respond to any questions that the Subcommittee may have.

*Pastore (class)*

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

DIRECTOR

February 19, 1973

Honorable John O. Pastore  
Chairman, Communications Subcommittee  
Committee on Commerce  
United States Senate  
Washington, D. C. 20510

Dear Mr. Chairman:

The Office of Telecommunications Policy has reviewed the structure and regulation of the international communications industry, and I am enclosing a copy of the Administration's policy proposals which have resulted from that review.

Over the past two years, OTP has conducted studies and discussions with U.S. international carriers, interested government departments, and foreign entities. We have found that our international communications industry has consistently been able to provide valuable, reliable, and high quality services. We also have found a complex industry structure, in part the result of Federal legislation and regulatory action, that is strained by new technologies and new services.

We believe that our policy proposals provide a definitive framework within which legislative and other changes can be made in the future as necessary or appropriate to the expected rapid expansion of our international communications industry.

I am looking forward to further discussions with you and your Subcommittee on this important matter.

Sincerely,

  
Clay T. Whitehead

Enclosure

*Pastore (cc)*

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

February 19, 1973

DIRECTOR

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

Dear Mr. Chairman:

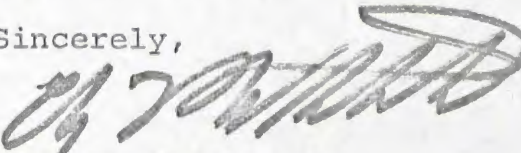
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I am looking forward to further discussions with you and your Subcommittee on this important matter.

Sincerely,



Clay T. Whitehead

Enclosure

*Pastor (class)*

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

February 19, 1973

DIRECTOR

Honorable Dean Burch  
Chairman  
Federal Communications Commission  
Washington, D. C.

Dear Dean:

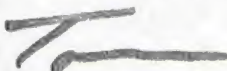
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We believe that our policy proposals provide a definitive framework within which legislative and other changes can be made in the future as necessary or appropriate to the expected rapid expansion of our international communications industry.

I am looking forward to further discussions with you and other members of the FCC on this important matter.

Sincerely,



Clay T. Whitehead

Enclosure

February 19, 1973

Honorable Harley Staggers  
Chairman, Committee on Interstate  
and Foreign Commerce  
U.S. House of Representatives  
Washington, D. C. 20515

Dear Mr. Chairman:

The Office of Telecommunications Policy has reviewed the structure and regulation of the international communications industry, and I am enclosing a copy of the Administration's policy proposals which have resulted from that review.

Over the past two years, OTP has conducted studies and discussions with U.S. international carriers, interested government departments, and foreign entities. We have found that our international communications industry has consistently been able to provide valuable, reliable, and high quality services. We also have found a complex industry structure, in part the result of Federal legislation and regulatory action, that is strained by new technologies and new services.

We believe that our policy proposals provide a definitive framework within which legislative and other changes can be made in the future as necessary or appropriate to the expected rapid expansion of our international communications industry.

I am looking forward to further discussions with you and your Committee on this important matter.

Sincerely,

Clay T. Whitehead

Enclosure

cc:

DO Records	✓ Mr. Smith
DO Chron	Mr. Lamb
Mr. Whitehead	Mr. Goldberg
Eva	Mr. Klaperman

CTWhitehead:HGoldberg:sbw 2/19/73

*Pastore*

February 17, 1973

**MEMORANDUM FOR**

**Honorable Todd Hullin  
The White House**

The attached copy of a memorandum for the President from Clay Whitehead on reruns and the prime-time rule hopefully will deal with the questions raised in our meeting this past Thursday. The original memorandum to the President has been submitted through Bruce Kehrli. As you can see under Recommendation, if the President selects Option 2, we should take this position no later than February 20 which coincides with Mr. Whitehead's appearance before Senator Pastore's Communications Subcommittee.

I would appreciate any help you can give us in this matter.

**Brian P. Lamb  
Assistant to the Director**

**Attachment**

**cc:  
DO Records  
DO Chron  
Mr. Whitehead  
Mr. Goldberg  
Eva**

**BPLamb:jm**

*Pastore*

February 17, 1973

MEMORANDUM FOR

Honorable Ron Ziegler  
The White House

The attached copy of a memorandum for the President from Clay Whitehead on reruns and the prime-time rule hopefully will deal with the questions raised in our meeting this past Thursday. The original memorandum to the President has been submitted through Bruce Kehrli. As you can see under Recommendation, if the President selects Option 2, we should take this position no later than February 20 which coincides with Mr. Whitehead's appearance before Senator Pastore's Communications Subcommittee.

I would appreciate any help you can give us in this matter.

cc:

Brian P. Lamb  
Assistant to the Director

~~DetBeckwith~~  
DO Chron  
Mr. Whitehead  
Mr. Goldberg  
Eva

CTW mb:jm  
BPLa

*Pastore*  
February 17, 1973

MEMORANDUM FOR

Honorable Bruce Kehrli  
The White House

The attached memoranda are being submitted to the President at the request of John Ehrlichman and Ron Ziegler. They are concerned that the President may not have a clear understanding of the scope and effect of decisions he reached earlier concerning the Administration's efforts regarding the FCC's prime-time rule and a further inquiry by the FCC into the networks' dominance of programming.

Because of testimony he must give on Tuesday, February 20, before Senator Pastore's Communications Subcommittee, Mr. Whitehead's most immediate concern is to get an answer to the reruns memorandum by 10:00 a.m. on Tuesday. The second memorandum on network programming dominance is not time critical.

I would appreciate any help you can give us on those matters.

Brian P. Lamb  
Assistant to the Director

Attachment

cc:  
DO Records  
DO Chron  
Mr. Whitehead  
Mr. Goldberg  
Eva

BPLamb:jm

ADMINISTRATIVELY CONFIDENTIAL

OFFICE OF TELECOMMUNICATIONS POLICY

EXECUTIVE OFFICE OF THE PRESIDENT

WASHINGTON, D.C. 20504

February 17, 1973

DIRECTOR

MEMORANDUM FOR THE PRESIDENT

FROM: Clay T. Whitehead *Clay T. Whitehead*  
SUBJECT: Reruns and the Prime-Time Rule

In your September letter to John Gavin of the Screen Actors Guild, you agreed that something should be done about the increase of network reruns in prime time. You asked me to study the rerun problem and to seek a voluntary solution from the networks before exploring regulatory remedies. A copy of our report is at Tab A.

The study shows reruns and the unemployment they produce to be merely symptomatic of the root problem facing the program industry: the great economic power of the networks. CBS and NBC refused voluntary action; ABC was more polite, but no more forthcoming.

We have concluded that regulatory restrictions on percentages would simply lead the networks to lower program quality or to turn to foreign production. To be effective, such direct restrictions probably would require government rules on program quality, which we should not encourage. Our study also showed the prime-time rule to be as large a factor in Hollywood unemployment as reruns; my earlier memo on that rule, which you approved, is at TAB B.

I believe we should consider the following options:

1. Make the rerun report public, with no call for FCC action. Take no public position on repeal of the prime-time rule.
2. Send the rerun report to FCC for appropriate review, but make no recommendations as to their action. Take a low-key public posture that the prime-time rule should be repealed for this fall's TV season.
3. Send the rerun report to FCC, with a high visibility call for action on the rerun problem. Call for repeal of the prime-time rule at the same time.

ADMINISTRATIVELY CONFIDENTIAL

Discussion:

Option 1 has the advantage of burying the rerun issue, when we cannot come out forcefully for percentage restrictions, and avoids the image of meddling in the FCC's prime-time proceeding. However, there is a risk of jeopardizing Administration credibility on these issues, given your personal commitment to Gavin, the networks' recalcitrance on the rerun issue, the importance of prime-time rule repeal to Hollywood, and my public criticism of the prime-time rule following your approval of our position on this matter.

Option 2 defers the rerun issue by having the FCC study it, while still keeping the spirit of your commitment to Hollywood. The publicity of an FCC review would keep the pressure on the networks at least to avoid future rerun increases. Hollywood would be pleased by our taking a public position in favor of the prime-time rule's repeal. However, the unions want more vigorous action on reruns, and this option seems to duck somewhat our rerun commitments. The press will see this as Administration economic pressure to achieve political ends.

Option 3 has the same advantages of Option 2, but the higher visibility exacerbates the negative side of that option. Even though CBS and NBC are on record for repeal of the prime-time rule, calling attention to our involvement in both issues could lead the press to see this as a serious intrusion into network program content. While this would keep the pressure on the networks, it could unnecessarily fuel the criticism of the Administration as being anti-First Amendment.

Recommendation:

On balance, I recommend that we follow the low-key, public position approach of Option 2, which keeps the heat on the networks. We must, however, take this position no later than February 20, since reply comments in the FCC's prime-time proceeding are due on February 26, and any later announcement by us would cause a delay. Such a delay would effectively preclude FCC recision of the prime-time rule in time for next fall's TV season. My February 20 "oversight" hearing before Senator Pastore offers a good forum for us to take this type of public position, since it would be submerged in the overall hearings.

APPROVE \_\_\_\_\_ DISAPPROVE \_\_\_\_\_ OTHER \_\_\_\_\_

## (BROADCASTERS)

WASHINGTON (UPI) -- UNDER INTENSE QUESTIONING, CLAY T. WHITEHEAD TUESDAY STUCK BY HIS PROPOSAL THAT BROADCASTERS BE MADE RESPONSIBLE FOR THE CONTENT OF NETWORK NEWSCASTS, BUT SAID HE SHOULD HAVE EXPLAINED IT BETTER AND USED LESS COLORFUL LANGUAGE IN FIRST PRESENTING IT.

WHITEHEAD, DIRECTOR OF THE WHITE HOUSE OFFICE OF TELECOMMUNICATIONS POLICY, INSISTED THAT THE BROADCASTING LEGISLATION THE ADMINISTRATION WILL PROPOSE SOON IS AIMED AT LESSENING GOVERNMENT CONTROL OF BROADCASTING, NOT INCREASING IT.

WHITEHEAD APPEARED BEFORE THE SENATE COMMERCE SUBCOMMITTEE ON COMMUNICATIONS, CHAIRED BY SEN. JOHN O. PASTORE, D-R. I.

THE CONTROVERSY WAS BEGUN BY A WHITEHEAD SPEECH IN INDIANAPOLIS SAYING THAT BROADCASTERS SHOULD BE HELD RESPONSIBLE FOR THE CONTENT OF NETWORK PROGRAMMING.

PASTORE ASKED, "IF YOU HAD IT TO DO OVER AGAIN, WOULD YOU SAY THE SAME THING AGAIN? I'M GIVING YOU AN OPPORTUNITY FOR ATTRITION."

WHITEHEAD REPLIED, "I WOULD HAVE TO SAY THAT IN ALL HONESTY, I WOULD SAY THE SAME THING AGAIN GIVEN THE OPPORTUNITY. I THINK I WOULD TAKE A LITTLE MORE TIME TO MAKE IT CLEAR TO MY AUDIENCE."

HE ACKNOWLEDGED THERE HAD BEEN MISUNDERSTANDING AND CONFUSION OVER HIS SPEECH. HE ALSO ACKNOWLEDGED THAT HE USED "STRONG AND COLORFUL LANGUAGE" IN AN EFFORT TO MAKE HIS POINT AND STIR PUBLIC DEBATE, BUT HE AID SUCH COLORFUL LANGUAGE "DID NOT SERVE A VERY USEFUL PURPOSE."

WHITEHEAD SAID THAT UNDER THE PRESENT SYSTEM, A CITIZEN WHO HAS A COMPLAINT ABOUT TELEVISION PROGRAMMING HAS NO PLACE TO GO. THE LOCAL STATION TELLS HIM ITS THE NETWORK'S FAULT, THE NETWORK HAS NO TIME TO BOTHER WITH HIM, AND THE GOVERNMENT AND THE CONGRESS CANNOT HELP.

HE SAID THAT WHEN A CITIZEN SEES SOMETHING HE CONSIDERS WRONG, "HE HAS A RIGHT TO COMPLAIN. WE HAVE TO BE CONCERNED THAT WE HAVE PLACED THE RESPONSIBILITY WHERE IT BELONGS IN OUR SOCIETY."

BROADCASTERS MUST TAKE RESPONSIBILITY FOR THEIR PROGRAMMING, HE SAID, "SO IT'S NOT NECESSARY FOR THE GOVERNMENT, THE FCC OR THE CONGRESS TO EXERCISE MORE RESPONSIBILITY."

WHITEHEAD SAID THE LEGISLATION THE ADMINISTRATION WILL PROPOSE WILL BE "A CLARIFICATION OF THE PROCESS" UNDER WHICH THE FCC HEARS COMPLAINTS AND RENEWS LICENSES.

HE INDICATED THAT THERE WOULD BE EXTENSIVE CLARIFICATION OF THE "FAIRNESS DOCTRINE" WHICH REQUIRES BROADCASTERS TO GIVE EQUAL TIME FOR DISSENTING VIEWS. HE SAID HE AGREED WITH THE FAIRNESS PROVISION WAS WRITTEN INTO THE LAW, BUT COURT AND ADMINISTRATIVE INTERPRETATIONS HAD MADE THE FAIRNESS DOCTRINE "VIRTUALLY INCOMPREHENSIBLE."

Monday 2/19/73

4:10 Carole advises:

Messrs. Ehrlichman and Cole have talked and have agreed that you should just plan on finessing your testimony tomorrow with answers that we are studying everything. The President won't get to your memos before Tuesday and that's why you should do this.

Mr. Cole will probably call you later this evening.

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

February 16, 1973

DIRECTOR

MEMORANDUM FOR

Honorable Ken Cole  
The White House

I discussed the attached with John Ehrlichman yesterday afternoon in just about this much detail. Also, Mr. Paulson from your staff was in the meeting with Ken Dam, Jon Rose and myself. Jon and Ken thought neither Shultz nor Flanigan would have any problems, and Ehrlichman seemed to have no problems. However, you may wish to confirm that with them.



Clay T. Whitehead

Attachment

OFFICE OF TELECOMMUNICATIONS POLICY

EXECUTIVE OFFICE OF THE PRESIDENT

WASHINGTON, D.C. 20504

February 16, 1973

DIRECTOR

MEMORANDUM FOR

Honorable Jon Rose  
Honorable Ken Dam

As we discussed yesterday, I will enunciate on Tuesday, at hearings of the Senate Communications Subcommittee, the following general statement of an Administration proposed policy on international communications unless you advise that Mr. Schultz or Mr. Flanigan have objections.

1. After lengthy study and consideration, we conclude there should be no forced merger of international record companies or of international transmission facilities. (Should be no opposition.)

2. Federal regulation of carriers owning international transmission facilities (i.e., satellites or undersea cables) should not involve such detailed intrusions into the investment and operating decisions of the industry as has sometimes been done in the past. (Again, no opposition in principle, except perhaps FCC.)

3. International communications services other than public telephone service (i.e., record and other specialized services) should be provided on a competitive basis, including open entry for firms wishing to offer such services to the public and only such regulatory oversight as is necessary to protect the public from anti-competitive practices. (ITT, RCA, Western Union International will object to open entry.)

4. Changes should be made in the Communications Satellite Act of 1962 to reflect the INTELSAT agreements and the maturity of Comsat as a private enterprise common carrier. (No objection likely, but fears by ATT, RCA, ITT, WUI this could mean competition as in #3 above.)

5. There should be a clarification by executive order of how the executive branch will exercise its responsibility for cable landing licenses and satellite approvals in order to permit international common carriers to do advance planning

and make necessary commitments with their foreign partners with some assurance of Federal agreement, and to reduce friction in governmental dealings with foreign nations on these matters. (No objection in principle, but likely Congressional apprehension that this could mean Executive encroachment on FCC authority--which we do not intend.)

I will further advise the Committee that this is a prospective policy that should be implemented in carefully considered steps over a period of time. The executive branch is prepared now to begin detailed discussions on each aspect of the policy with the FCC and the industry, with a view toward recommending whatever legislative or other changes may be necessary or appropriate in the future.

The most controversial, and politically most significant, aspect of this policy is that any meaningful attempt to inject competition into the provision of transmission facilities (i.e., overseas cables and satellites) runs up against ATT monopoly of overseas cables and ATT's control over the routing of telephone traffic (which accounts for some 90% of the total traffic). Argued to a logically consistent extreme, competition probably can work effectively only if ATT is not allowed to own any cables beyond what it now owns. The reason is that ATT is likely to continue to route all of its traffic over its own cables, preventing the rate-paying public from realizing the cost advantages of satellites. (An alternative would be to allow ATT to own and operate satellite facilities, but that would essentially doom Comsat and is, in any event, precluded by the INTELSAT agreement.)

As we also discussed, the Antitrust Division of the Justice Department and some in OTP support the proposal that ATT not be allowed to own new cables. Although I am not persuaded by ATT's argument that such a step would do serious harm to its communications capability or to our balance of payments, when all factors other than competition are considered, I believe that we do not have adequate grounds for taking such action. Nonetheless, ATT's operational predilection for cable rather than the cheaper satellites, together with its economic incentives to use its own cable facilities (on which they may earn a rate of return, unlike their use of satellites), is well known.

You should anticipate, therefore, that we may find it necessary in our discussions about the implementation of this policy to suggest or require that ATT operate its international cable facilities as a separate subsidiary, dealing at arm's length

with its domestic telephone monopoly. This could counter some of ATT's artificial incentives for using cables and most importantly, through the improved opportunity for public and regulatory scrutiny, would deter serious abuse of their monopoly power. Such an approach would still require rather detailed governmental regulation of ATT's traffic routing to assure that the public realizes the benefits of the lower-cost satellite circuits. But it should be a less meddlesome type of regulation than we now have.

I will want to discuss these issues with you and Ken Cole after the Tuesday hearings before we proceed on any specific course of action beyond the general policy statement. John Ehrlichman suggests we use the CEP apparatus for coordinating our actions, and I concur.



Clay T. Whitehead

cc: Ron Ziegler  
Ken Cole

January 31, 1973

MEMORANDUM FOR

Honorable Charles W. Colson  
The White House

I have been informed that Senator Pastore will hold oversight hearings on OTP Tuesday, February 20. This is considerably earlier than we expected, but assuming that the OMB and White House clearance processes work moderately well, we should be ready on all important substantive matters.

In view of what is likely to be a spirited and largely hostile confrontation on OTP's policies, missions, and priorities, I think it is critical that I see the President before those hearings, if necessary, for only a few minutes. Aside from the obvious reasons, Senator Pastore has had a long history of insisting that the senior telecommunications official in the Administration have direct contact with the President.

I will be sending a formal request for such a meeting in the near future unless you advise otherwise.

Clay T. Whitehead

cc:  
DO Records  
DO Chron  
Mr. Whitehead ✓  
Eva  
Mr. Eagle

CTWhitehead:jm

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

February 14, 1973

DIRECTOR

To: Jon Rose✓  
Ken Dam

From: Tom Whitehead

Attached is our international communications policy proposal with one approach to legislative implementation. It is now being formally coordinated in State, Defense, and Justice, but earlier discussions with these agencies lead us to believe there will be no substantive problems. It will be made public on February 20 during Senator Pastore's oversight hearing on the Office of Telecommunications Policy.

The entire policy is aimed at extending into international communications the competitive structure which is emerging in the domestic communications sector. The purpose is to encourage the timely introduction of innovative technology producing improved customer service at lower rates.

The "Explanation" Section tells exactly what we are proposing and why. The two main points of the legislation are:

1. Comsat will become more nearly like a commercial communications corporation.
2. Domestic telephone monopolies will not be allowed to own any new facilities for international communications (submarine cables, earth stations, high frequency radio, etc.); existing facilities will be "grandfathered."

Since Executive Branch clearance will be completed Thursday afternoon, I want to be in a position to say Friday that the policy is an Administration proposal. The question remaining is whether the legislation, very unpalatable to ATT, should be couched as an Administration position, or as one end of the spectrum along which the Government could go to implement the policy after discussion with the Federal Communications Commission, industry, Congress, and the public.

Attachment

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

February 13, 1973

GENERAL COUNSEL

Honorable Wilfred H. Rommel  
Assistant Director for Legislative  
Reference  
Office of Management and Budget  
Washington, D. C. 20503

Dear Mr. Rommel:

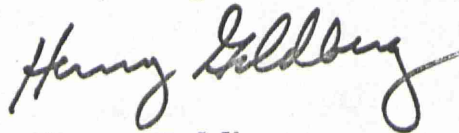
Enclosed are copies of a proposed communication  
to be transmitted to the Congress relative to:

Amendments to the Communications Satellite  
Act of 1962, as amended, and

Amendment to the Communications Act of 1934,  
as amended.

Please advise this Office as to the relationship  
of the proposed communication to the Program of the  
President.

Sincerely,

A handwritten signature in dark ink, appearing to read "Henry Goldberg", written in a cursive style.

Henry Goldberg  
Acting General Counsel

Enclosures

## EXPLANATION

The legislative proposals described below reflect a policy that will improve the structure and performance of the U.S. international communications industry and Government oversight thereof. Broadly stated, that policy is to create conditions that will allow competition among U.S. international communications firms, thereby reducing need for detailed regulatory intervention in industry decisionmaking and simplifying relationships with foreign entities.

Constraints which arbitrarily limit the free play of competitive forces have crept into the existing regulatory framework, so that decisions affecting the selection of transmission facilities and provision of services are now made more by regulatory fiat than by carrier or consumer preferences. Competitive trends emerging in the domestic communications sector should also be extended into international communications and are expected to stimulate the timely introduction of innovative technology leading to improved customer service at lower rates. In so doing, the distinctions that now exist in structure and regulation between our domestic communications industry and the international segment will be largely eliminated. The revised structure will eliminate artificial incentives to use less efficient facilities for handling new traffic

growth and will allow new communication services to be brought to the using public more rapidly.

The provision of international public message telephone service will remain a monopoly service within the framework of the present industry structure. However, no domestic telephone company, for reasons described below, will be allowed to invest in new international transmission facilities in the future. Anyone else, however, will be permitted to own and operate international cable, high frequency radio, and specialized satellite communication facilities. Such persons will also be permitted to own earth stations to directly access INTELSAT communications satellites and any specialized satellite communication systems, such as aeronautical and maritime systems.

The bill to amend the Communications Satellite Act of 1962 is intended:

(1) To reduce unique statutory provisions that apply to Comsat unlike other commercial common carrier corporations by:

- (a) eliminating Presidentially appointed and common carrier directors from the Comsat board;
- (b) eliminating the special class of carrier stock;

- (c) limiting all stockholders equally regarding stock ownership.

(2) To allow any authorized person to establish earth stations to work with the INTELSAT space segment.

(3) To expand Comsat's authority by empowering it:

- (a) to participate in the establishment and operation of domestic communication satellite systems on a non-exclusive basis;
- (b) to participate in the establishment and operation of specialized communication satellite systems (such as aeronautical or maritime) outside INTELSAT on a non-exclusive basis;
- (c) to participate in the establishment of submarine cable and other radio facilities to provide international communication services on a non-exclusive basis;
- (d) to market its services directly to all interested persons.

A companion bill, also in this package, excludes domestic telephone monopoly carriers from competing in the ownership of international facilities in the future. To create conditions necessary for effective competition among international facilities owners, it is necessary to exclude from international facility ownership telephone carriers with a domestic monopoly traffic base. The domestic telephone monopolies will be required to obtain

any new capacity for foreign communications from competing U.S. international facilities owners. The demand for new facilities to handle an international traffic growth of between 15% and 20% per annum will be a major stimulant to efficient and competitively priced international facilities development.

As competition emerges in the development of new international facilities, some of the existing, largely ad hoc and restrictive, regulatory policies can be modified. Eventually, there should be no need for such detailed regulatory decisions as circuit-by-circuit activation authorizations. The current concept of limiting international record service carriers to gateway cities can be abolished, along with artificial market divisions, such as the current AVD constraints set by the FCC. For the initial period of transition from a highly regulated structure to a freer, competitive industry, FCC regulations and oversight, particularly to prevent service pricing abuses, will be necessary. Eventually the need for rate base regulation should be terminated, and regulation of international facilities owners should be limited to oversight to prevent excesses or predatory pricing abuses. It is not proposed to rewrite the legislative authority for Federal regulation, but, in due time, it may be possible to reduce the detail of regulation over investments and rates.

In addition to these legislative proposals, OTP will shortly circulate for Executive Branch coordination a draft Executive Order which will more clearly define the Executive's role in international facility planning coordination. A structure will be proposed wherein the Secretary of State, assessing foreign policy considerations; the Secretary of Defense, assessing national security considerations; and the Director of the Office of Telecommunications Policy, assessing national policy considerations, can produce timely guidance to the Federal Communications Commission and to U.S. international facilities owners. This coordinated Executive guidance will eliminate some of the doubt and concern currently experienced by U.S. entities attempting to reach formal new facilities agreements with foreign entities. The new coordinative process and closer relations with the FCC will produce a more favorable climate for U.S. entities and an improved level in our foreign relations connected with communications facilities deployment and services.

It is possible, although unlikely, that over time, as this new framework is applied to the international industry, through the process of competition and elimination of inefficient operators, a major or dominant entity may emerge. If the forces of the competitive market produce

such a result, the Executive Branch will make a timely review and recommend appropriate revisions to its current policy.

If, at a later date, legislation would be required to correct any major imbalance or distortion in the industry, the Office of Telecommunications Policy will initiate a coordinated review looking toward a timely adjustment should such action be deemed necessary.

SECTION BY SECTION ANALYSIS OF AMENDMENTS TO  
COMMUNICATIONS SATELLITE ACT OF 1962

Section 1 - identifies this bill as the International Communications Act of 19 .

Section 2 - (Section 103 of the Act) sets forth new definitions which are applicable particularly to Sections 201 and 305 of the Act.

- (a) The definition of "communications satellite system" in Section 103(1) is expanded to include any satellite system, in addition to INTELSAT. The redefinition of this term is the basis for significant changes in other sections, wherein that term is used, viz,

Section 4 (Section 201 of the Act) wherein the powers and duties of the President, NASA, and the FCC currently have reference only to "the communications satellite system"; and

Section 7 (Section 305 of the Act) which currently authorizes the corporation to function only in "a commercial communications satellite system".

The Communications Satellite Act currently recognizes Comsat as the U.S. chosen instrument to represent this country in the INTELSAT organization, and the Act is written with references throughout, in the singular, to "the communications satellite system". While Comsat's special role is retained, the possible emergence of other systems is now recognized in the new definitions.

- (b) The term "satellite terminal station" is deleted and two new definitions, "fixed satellite terminal station" and "mobile satellite terminal station" (Sections 103(2)(a) and 103(2)(b) of the Act), are introduced.

By virtue of Section 4 infra (Section 201(c)(1) of the Act), all authorized persons are permitted to build fixed satellite terminal stations.

By virtue of Section 8 infra (Section 305(a) of the Act), the corporation is authorized to expand its activities into specialized satellite services involving mobile stations, such as aeronautical and maritime services.

- (c) The definition of special carrier stock ownership (Section 103(7) of the Act) is deleted in consequence of Section 5 infra which eliminates such stock.

Section 3 - amends the President's, NASA's, and the FCC's authority under Section 201 of the Act in accordance with the definitions introduced in Section 2 supra, and for other purposes. Sections 201(a)(1), 201(a)(5), and 201(c)(8) are deleted because they are no longer relevant; and Section 201(c)(9) is deleted as redundant.

The introductory phrase of Section 201 is modified to take into account the existence of the INTELSAT consortium and the potential establishment of other satellite systems by United States entities.

The original Section 201(a)(1) is deleted. The new, revised Section 201(a)(1) was formerly Section 201(a)(2). This section now provides that the President shall provide for continuous review of all phases of the development and operation of satellite systems. Since any satellite system involves activities in outer space and the United States Government has international obligations under several treaties and conventions relating to such activities, the President, or his designated agent, must maintain a watch over such activities in the national interest. Matters of international involvement include use of radio frequencies, launch and

flight of objects to operate beyond the territorial limits of the United States, and other international coordination requirements which must be overseen by the President or his delegated agent.

The original Section 201(a)(3) is the proposed 201(a)(2) and is unchanged.

The original Section 201(a)(4), which is the proposed 201(a)(3), is amended by adding reference to other telecommunication entities who may become involved in the establishment of communication satellite systems. This revision gives the President the responsibility to oversee the foreign relations aspects of such activities with a view toward assuring compatibility with the foreign policy of the United States.

The original Section 201(a)(5) is deleted and the proposed 201(a)(4) is the original Section 201(a)(6) which remains unchanged.

The original Section 201(a)(7) is the proposed 201(a)(5) and has only consequential editorial revision.

Section 4 - This provision revises the original Section 303(a) of the Act to eliminate provisions stipulating any arbitrary size of the Comsat Board of Directors and any other provisions which are related to Presidentially appointed or common carrier elected directors. The corporation is treated, insofar as possible, as any other stock corporation would be under the laws of the District of Columbia. The purpose here

is to remove governmental and special carrier presence from Comsat's management structure.

Section 5 - The amendments here are intended to eliminate reference to a special class of stock authorized originally to be owned by authorized common carriers.

The revision of Section 304(b) maintains a limit on public stock ownership at the same level set forth in the original legislation. Since that level was 10% of one half, to keep the same share count relationship, the ownership limit is maintained at 5% of all stock. If this level would result in an undue taking or denial of stock to some existing holder of public shares, its revision slightly upward would be tolerable in the view of this Office.

The revision of 304(d) is a consequential editorial change, as are the deletions of paragraphs 304(e) and (f).

Section 6 - This revision of Section 305 will revise Comsat's authority to allow it to:

- (a) include offerings of domestic and specialized (such as aeronautical and maritime) satellite services in its functions (see 305(a)(4) and (5));
- (b) engage in establishment of cable or radio facilities to provide foreign communication services (see 305(a)(6)); and
- (c) sell services to all interested users of satellite services (see 305(a)(2) and (b)(4)).

Proposed by the Office of  
Telecommunications Policy

For the 93d Congress

A B I L L

To amend the Communications Act of 1934, as amended, to facilitate regulation of, and encourage increased competition in, the provision of international communication facilities by U.S. telecommunications entities:

Section 214 is amended by addition of a new subparagraph as follows:

"(e) Effective July 1, 1973, or thirty days after the enactment of this provision, whichever is later, no common carrier engaged in telephone exchange service or telephone toll service will be granted authority pursuant to this section to acquire an ownership interest in, establish, or own any facilities intended predominantly for provision of foreign communication services; Provided however: That such facilities authorized before the effective date of this provision may be retained and operated by such carrier in accordance with the terms of such authorization. The Commission shall establish such rules and regulations as may be necessary to implement this paragraph."

Proposed by the Office of  
Telecommunications Policy

For the 93d Congress

A B I L L

To amend certain provisions of the Communications Satellite Act of 1962, as amended, to encourage increased competition and efficiency in the provision of international communication facilities by United States communications entities and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. This Act may be cited as the "International Communications Act of 19 ."

Sec. 2. Section 103 of the Communications Satellite Act of 1962, as amended, is amended as follows:

(a) Section 103(1) is amended to read as follows:

"the term 'communications satellite system' or 'systems' refers to any system or systems of communications satellites in space, the purpose of which is to relay telecommunication information between satellite terminal stations, fixed or mobile, together with such

associated equipment and facilities for tracking, guidance, control, and command functions as are not part of the generalized launching, tracking, control, and command facilities for all space purposes;"

(b) Section 103(2) is redesignated "Section 103(2)(a)" and amended:

(1) by inserting the word "fixed" before the words "satellite terminal station", and

(2) by adding the following after Section 103(2)(a):

"(2)(b) the term "mobile satellite terminal station" refers to a complex of communication equipment located on an aircraft, ship, or other vehicle capable of being moved and which ordinarily does move, and which is capable of transmitting telecommunications to or receiving telecommunications from a communications satellite system".

(c) Section 103(7) is amended to read as follows:

"(7) The term 'communications common carrier' has the same meaning as the term 'common carrier' has when used in the Communications Act of 1934, as amended; and the term 'authorized carrier' means a communications common carrier which has been authorized by the Communications Act of 1934, as amended,

to provide services by means of communications satellites."

(d) The following is added after Section 103(10):

"(11) The term 'telecommunication satellite entity' means any person authorized by the Commission to engage in telecommunications by means of a communications satellite system and related satellite terminals, fixed or mobile."

Sec. 3. Section 201 of the Communications Satellite Act of 1962, as amended, is amended as follows:

(a) The introductory sentence of Section 201 is amended to read as follows:

"Sec. 201. In order to achieve the objectives and to carry out the purposes of this Act in regard to United States participation in the International Telecommunications Satellite Organization (Intelsat) and other communications satellite systems:"

(b) Section 201(a)(1) is amended as follows:

"(a) The President shall--

(1) provide for continuous review of all phases of the development and operation of communications satellite systems, including the activities of the corporation authorized under Title III of this Act;"

- (c) Sections 201(a)(2) and 201(a)(5) are deleted;
- (d) Section 201(a)(4) is redesignated 201(a)(3) and is amended to read as follows:

"exercise such supervision over relationships of United States telecommunication satellite entities with foreign governments or entities or with international bodies as may be appropriate to assure that such relationships shall be consistent with the national interest and foreign policy of the United States;"

- (e) Sections 201(a)(3), and 201(a)(6) are redesignated 201(a)(2) and 201(a)(4) respectively.
- (f) Section 201(a)(7) is redesignated 201(a)(5) and amended by adding an "s" to the word "system".
- (g) Section 201(b) is amended as follows:

"(b) The National Aeronautics and Space Administration shall--

- (1) advise the Commission on technical characteristics of communications systems;
- (2) cooperate with United States telecommunication satellite entities in research and development to the extent deemed appropriate by the Administration in the public interest;

- (3) assist United States telecommunication satellite entities in the conduct of research, development, and operational programs by furnishing, when requested, on a reimbursable basis, such satellite launching and associated services as the Administration deems necessary for the most expeditious and economical development of communications satellite systems;
- (4) consult with United States telecommunication satellite entities with respect to the technical characteristics of communications satellite systems;
- (5) furnish to the corporation on request and on a reimbursable basis satellite launching and associated services required for the establishment, operation, and maintenance of the communications satellite system of Intelsat; and
- (6) to the extent feasible, furnish other services, on a reimbursable basis, to the corporation or other telecommunication satellite entities in connection with establishment and operation of communications satellite systems."

- (h) Section 201(c) is amended to read as follows:

"(1) insure effective competition, including the use of competitive bidding where appropriate, in the procurement by the corporation and communications common carriers of apparatus, equipment, and services required for the establishment and operation of the Intelsat communications satellite system and related fixed satellite terminal stations; and the Commission shall consult with the Small Business Administration and solicit its recommendations on measures and procedures which will insure that small business concerns are given an equitable opportunity to share in the procurement program of the corporation for property and services, including but not limited to research, development, construction, maintenance, and repair."

- (i) Section 201(c)(2) is amended to read as follows:

"(2) insure that all present and future authorized carriers shall have nondiscriminatory use of, and equitable access to, the communications satellite system of Intelsat and related fixed satellite terminal stations operated by the corporation and other authorized carriers under just and reasonable charges, classifications, practices, regulations, and other terms and conditions and regulate the manner in which

available facilities of such systems and stations are allocated among such users thereof:"

(j) Section 201(c)(3) is amended by inserting the word "fixed" before the words "satellite terminal stations".

(k) Section 201(c)(4) is amended by inserting the words "fixed and mobile" before the words "satellite terminal stations".

(l) Section 201(c)(6) is amended to read as follows:

"(6) approve technical characteristics of operational communications satellite systems to be employed by a United States telecommunication satellite entity and of related fixed and mobile satellite terminal stations; and "

(m) Section 201(c)(7) is amended to read as follows:

"(7) grant appropriate authorizations for the construction and operation of fixed and mobile satellite terminal stations, either to the corporation, to authorized carriers, or to other telecommunication satellite entities, as will best serve the public interest, convenience, and necessity; and in determining the public interest, convenience, and necessity the Commission shall authorize the construction and operation of such stations by such persons, without preference among them;"

(n) Section 201(c)(10) is redesignated 201(c)(8) and is amended by striking out the words "carriers" and substituting therefor "authorized carriers", and by inserting the word "fixed" before the words "satellite terminal stations".

(o) Section 201(c)(11) is redesignated 201(c)(8).

Sec. 4. Section 303(a) of the Communications Satellite Act of 1962, as amended, is amended to read as follows:

"The corporation shall have a board of directors consisting of not less than three individuals who shall be elected annually by the stockholders of the corporation, of whom one shall be elected annually by the board to serve as chairman: Provided however, that effective one year after this Act takes effect no directors incumbent shall be eligible to hold office as members of the board unless elected in accordance with this section. The corporation may adopt such by-laws as shall, notwithstanding the provisions of the District of Columbia Business Corporation Act, provide for the continued ability of the board to transact business under such circumstances of national emergency as the President of the United States, or the officer designated by him, may determine, would not permit a prompt meeting of a majority of the board to transact business.

Sec. 5. Section 304 of the Communications Satellite Act of 1962, as amended, is amended:

- (a) by striking out in section 304(a) the word "subsections" and the words "and (d)" and substituting therefor the word "subsection".
- (b) by striking out section 304(b) and substituting therefor the following:

"(b) at no time shall any stockholder or any syndicate or affiliated group of stockholders own more than 5 per centum of the shares of voting stock of the corporation issued and outstanding."
- (c) by deleting in section 304(d) the words:

"which are held by holders other than authorized carriers."
- (d) by deleting sections 304(e) and 304(f).

Sec. 6. Section 305 of the Communications Satellite Act of 1962, as amended, is amended as follows:

- (a) Section 305(a)(1) is amended by deleting the word "a" and by striking out the word "system" and substituting therefor "systems".
- (b) Section 305(a)(2) is amended by striking out the words "authorized entities" and substituting therefor "persons" and by deleting the word "and" at the end of the subsection.

(c) The following is added after section 305(a)(3):

"(4) establish, own and operate satellite facilities intended to provide specialized services such as aeronautic or maritime satellite services on a common carrier and non-exclusive basis, alone or in conjunction with other entities;

(5) establish, own, and operate communications satellite facilities intended primarily for domestic satellite services, on a common carrier and non-exclusive basis, alone or in conjunction with other entities, and

(6) establish, own, and operate other radio or cable facilities intended primarily for provision of foreign communication services, on a common carrier and non-exclusive basis, alone or in conjunction with other entities."

(d) Section 305(b)(4) is amended by striking out the words "authorized users" and substituting therefor "persons", by deleting the word "the" before the words "communications satellite", and by adding an "s" to the word "system".

(e) Section 305(b)(5) is amended by adding an "s" to the word "system".

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

February 13, 1973

GENERAL COUNSEL

Honorable Wilfred H. Rommel  
Assistant Director for Legislative  
Reference  
Office of Management and Budget  
Washington, D. C. 20503

Dear Mr. Rommel:

Enclosed are copies of a proposed communication  
to be transmitted to the Congress relative to:

Amendments to the Communications Satellite  
Act of 1962, as amended, and

Amendment to the Communications Act of 1934,  
as amended.

Please advise this Office as to the relationship  
of the proposed communication to the Program of the  
President.

Sincerely,

A handwritten signature in dark ink, appearing to read "Henry Goldberg", written in a cursive style.

Henry Goldberg  
Acting General Counsel

Enclosures

## EXPLANATION

The legislative proposals described below reflect a policy that will improve the structure and performance of the U.S. international communications industry and Government oversight thereof. Broadly stated, that policy is to create conditions that will allow competition among U.S. international communications firms, thereby reducing need for detailed regulatory intervention in industry decisionmaking and simplifying relationships with foreign entities.

Constraints which arbitrarily limit the free play of competitive forces have crept into the existing regulatory framework, so that decisions affecting the selection of transmission facilities and provision of services are now made more by regulatory fiat than by carrier or consumer preferences. Competitive trends emerging in the domestic communications sector should also be extended into international communications and are expected to stimulate the timely introduction of innovative technology leading to improved customer service at lower rates. In so doing, the distinctions that now exist in structure and regulation between our domestic communications industry and the international segment will be largely eliminated. The revised structure will eliminate artificial incentives to use less efficient facilities for handling new traffic

growth and will allow new communication services to be brought to the using public more rapidly.

The provision of international public message telephone service will remain a monopoly service within the framework of the present industry structure. However, no domestic telephone company, for reasons described below, will be allowed to invest in new international transmission facilities in the future. Anyone else, however, will be permitted to own and operate international cable, high frequency radio, and specialized satellite communication facilities. Such persons will also be permitted to own earth stations to directly access INTELSAT communications satellites and any specialized satellite communication systems, such as aeronautical and maritime systems.

The bill to amend the Communications Satellite Act of 1962 is intended:

(1) To reduce unique statutory provisions that apply to Comsat unlike other commercial common carrier corporations by:

- (a) eliminating Presidentially appointed and common carrier directors from the Comsat board;
- (b) eliminating the special class of carrier stock;

(c) limiting all stockholders equally regarding stock ownership.

(2) To allow any authorized person to establish earth stations to work with the INTELSAT space segment.

(3) To expand Comsat's authority by empowering it:

(a) to participate in the establishment and operation of domestic communication satellite systems on a non-exclusive basis;

(b) to participate in the establishment and operation of specialized communication satellite systems (such as aeronautical or maritime) outside INTELSAT on a non-exclusive basis;

(c) to participate in the establishment of submarine cable and other radio facilities to provide international communication services on a non-exclusive basis;

(d) to market its services directly to all interested persons.

A companion bill, also in this package, excludes domestic telephone monopoly carriers from competing in the ownership of international facilities in the future. To create conditions necessary for effective competition among international facilities owners, it is necessary to exclude from international facility ownership telephone carriers with a domestic monopoly traffic base. The domestic telephone monopolies will be required to obtain

any new capacity for foreign communications from competing U.S. international facilities owners. The demand for new facilities to handle an international traffic growth of between 15% and 20% per annum will be a major stimulant to efficient and competitively priced international facilities development.

As competition emerges in the development of new international facilities, some of the existing, largely ad hoc and restrictive, regulatory policies can be modified. Eventually, there should be no need for such detailed regulatory decisions as circuit-by-circuit activation authorizations. The current concept of limiting international record service carriers to gateway cities can be abolished, along with artificial market divisions, such as the current AVD constraints set by the FCC. For the initial period of transition from a highly regulated structure to a freer, competitive industry, FCC regulations and oversight, particularly to prevent service pricing abuses, will be necessary. Eventually the need for rate base regulation should be terminated, and regulation of international facilities owners should be limited to oversight to prevent excesses or predatory pricing abuses. It is not proposed to rewrite the legislative authority for Federal regulation, but, in due time, it may be possible to reduce the detail of regulation over investments and rates.

In addition to these legislative proposals, OTP will shortly circulate for Executive Branch coordination a draft Executive Order which will more clearly define the Executive's role in international facility planning coordination. A structure will be proposed wherein the Secretary of State, assessing foreign policy considerations; the Secretary of Defense, assessing national security considerations; and the Director of the Office of Telecommunications Policy, assessing national policy considerations, can produce timely guidance to the Federal Communications Commission and to U.S. international facilities owners. This coordinated Executive guidance will eliminate some of the doubt and concern currently experienced by U.S. entities attempting to reach formal new facilities agreements with foreign entities. The new coordinative process and closer relations with the FCC will produce a more favorable climate for U.S. entities and an improved level in our foreign relations connected with communications facilities deployment and services.

It is possible, although unlikely, that over time, as this new framework is applied to the international industry, through the process of competition and elimination of inefficient operators, a major or dominant entity may emerge. If the forces of the competitive market produce

such a result, the Executive Branch will make a timely review and recommend appropriate revisions to its current policy.

If, at a later date, legislation would be required to correct any major imbalance or distortion in the industry, the Office of Telecommunications Policy will initiate a coordinated review looking toward a timely adjustment should such action be deemed necessary.

SECTION BY SECTION ANALYSIS OF AMENDMENTS TO  
COMMUNICATIONS SATELLITE ACT OF 1962

Section 1 - identifies this bill as the International Communications Act of 19 .

Section 2 - (Section 103 of the Act) sets forth new definitions which are applicable particularly to Sections 201 and 305 of the Act.

(a) The definition of "communications satellite system" in Section 103(1) is expanded to include any satellite system, in addition to INTELSAT. The redefinition of this term is the basis for significant changes in other sections, wherein that term is used, viz,

Section 4 (Section 201 of the Act) wherein the powers and duties of the President, NASA, and the FCC currently have reference only to "the communications satellite system"; and

Section 7 (Section 305 of the Act) which currently authorizes the corporation to function only in "a commercial communications satellite system".

The Communications Satellite Act currently recognizes Comsat as the U.S. chosen instrument to represent this country in the INTELSAT organization, and the Act is written with references throughout, in the singular, to "the communications satellite system". While Comsat's special role is retained, the possible emergence of other systems is now recognized in the new definitions.

- (b) The term "satellite terminal station" is deleted and two new definitions, "fixed satellite terminal station" and "mobile satellite terminal station" (Sections 103(2)(a) and 103(2)(b) of the Act), are introduced.

By virtue of Section 4 infra (Section 201(c)(1) of the Act), all authorized persons are permitted to build fixed satellite terminal stations.

By virtue of Section 8 infra (Section 305(a) of the Act), the corporation is authorized to expand its activities into specialized satellite services involving mobile stations, such as aeronautical and maritime services.

- (c) The definition of special carrier stock ownership (Section 103(7) of the Act) is deleted in consequence of Section 5 infra which eliminates such stock.

Section 3 - amends the President's, NASA's, and the FCC's authority under Section 201 of the Act in accordance with the definitions introduced in Section 2 supra, and for other purposes. Sections 201(a)(1), 201(a)(5), and 201(c)(8) are deleted because they are no longer relevant; and Section 201(c)(9) is deleted as redundant.

The introductory phrase of Section 201 is modified to take into account the existence of the INTELSAT consortium and the potential establishment of other satellite systems by United States entities.

The original Section 201(a)(1) is deleted. The new, revised Section 201(a)(1) was formerly Section 201(a)(2). This section now provides that the President shall provide for continuous review of all phases of the development and operation of satellite systems. Since any satellite system involves activities in outer space and the United States Government has international obligations under several treaties and conventions relating to such activities, the President, or his designated agent, must maintain a watch over such activities in the national interest. Matters of international involvement include use of radio frequencies, launch and

flight of objects to operate beyond the territorial limits of the United States, and other international coordination requirements which must be overseen by the President or his delegated agent.

The original Section 201(a)(3) is the proposed 201(a)(2) and is unchanged.

The original Section 201(a)(4), which is the proposed 201(a)(3), is amended by adding reference to other telecommunication entities who may become involved in the establishment of communication satellite systems. This revision gives the President the responsibility to oversee the foreign relations aspects of such activities with a view toward assuring compatibility with the foreign policy of the United States.

The original Section 201(a)(5) is deleted and the proposed 201(a)(4) is the original Section 201(a)(6) which remains unchanged.

The original Section 201(a)(7) is the proposed 201(a)(5) and has only consequential editorial revision.

Section 4 - This provision revises the original Section 303(a) of the Act to eliminate provisions stipulating any arbitrary size of the Comsat Board of Directors and any other provisions which are related to Presidentially appointed or common carrier elected directors. The corporation is treated, insofar as possible, as any other stock corporation would be under the laws of the District of Columbia. The purpose here

is to remove governmental and special carrier presence from Comsat's management structure.

Section 5 - The amendments here are intended to eliminate reference to a special class of stock authorized originally to be owned by authorized common carriers.

The revision of Section 304(b) maintains a limit on public stock ownership at the same level set forth in the original legislation. Since that level was 10% of one half, to keep the same share count relationship, the ownership limit is maintained at 5% of all stock. If this level would result in an undue taking or denial of stock to some existing holder of public shares, its revision slightly upward would be tolerable in the view of this Office.

The revision of 304(d) is a consequential editorial change, as are the deletions of paragraphs 304(e) and (f).

Section 6 - This revision of Section 305 will revise Comsat's authority to allow it to:

- (a) include offerings of domestic and specialized (such as aeronautical and maritime) satellite services in its functions (see 305(a)(4) and (5));
- (b) engage in establishment of cable or radio facilities to provide foreign communication services (see 305(a)(6)); and
- (c) sell services to all interested users of satellite services (see 305(a)(2) and (b)(4)).

Proposed by the Office of  
Telecommunications Policy

For the 93d Congress

A B I L L

To amend the Communications Act of 1934, as amended, to facilitate regulation of, and encourage increased competition in, the provision of international communication facilities by U.S. telecommunications entities:

Section 214 is amended by addition of a new subparagraph as follows:

"(e) Effective July 1, 1973, or thirty days after the enactment of this provision, whichever is later, no common carrier engaged in telephone exchange service or telephone toll service will be granted authority pursuant to this section to acquire an ownership interest in, establish, or own any facilities intended predominantly for provision of foreign communication services; Provided however: That such facilities authorized before the effective date of this provision may be retained and operated by such carrier in accordance with the terms of such authorization. The Commission shall establish such rules and regulations as may be necessary to implement this paragraph."

Proposed by the Office of  
Telecommunications Policy

For the 93d Congress

A B I L L

To amend certain provisions of the Communications Satellite Act of 1962, as amended, to encourage increased competition and efficiency in the provision of international communication facilities by United States communications entities and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. This Act may be cited as the "International Communications Act of 19 ."

Sec. 2. Section 103 of the Communications Satellite Act of 1962, as amended, is amended as follows:

- (a) Section 103(1) is amended to read as follows:
- "the term 'communications satellite system' or 'systems' refers to any system or systems of communications satellites in space, the purpose of which is to relay telecommunication information between satellite terminal stations, fixed or mobile, together with such

associated equipment and facilities for tracking, guidance, control, and command functions as are not part of the generalized launching, tracking, control, and command facilities for all space purposes;"

(b) Section 103(2) is redesignated "Section 103(2)(a)" and amended:

(1) by inserting the word "fixed" before the words "satellite terminal station", and

(2) by adding the following after Section 103(2)(a):

"(2)(b) the term "mobile satellite terminal station" refers to a complex of communication equipment located on an aircraft, ship, or other vehicle capable of being moved and which ordinarily does move, and which is capable of transmitting telecommunications to or receiving telecommunications from a communications satellite system".

(c) Section 103(7) is amended to read as follows:

"(7) The term 'communications common carrier' has the same meaning as the term 'common carrier' has when used in the Communications Act of 1934, as amended; and the term 'authorized carrier' means a communications common carrier which has been authorized by the Communications Act of 1934, as amended,

to provide services by means of communications satellites."

(d) The following is added after Section 103(10):

"(11) The term 'telecommunication satellite entity' means any person authorized by the Commission to engage in telecommunications by means of a communications satellite system and related satellite terminals, fixed or mobile."

Sec. 3. Section 201 of the Communications Satellite Act of 1962, as amended, is amended as follows:

(a) The introductory sentence of Section 201 is amended to read as follows:

"Sec. 201. In order to achieve the objectives and to carry out the purposes of this Act in regard to United States participation in the International Telecommunications Satellite Organization (Intelsat) and other communications satellite systems:"

(b) Section 201(a)(1) is amended as follows:

"(a) The President shall--

(1) provide for continuous review of all phases of the development and operation of communications satellite systems, including the activities of the corporation authorized under Title III of this Act;"

- (c) Sections 201(a)(2) and 201(a)(5) are deleted;
- (d) Section 201(a)(4) is redesignated 201(a)(3) and is amended to read as follows:

"exercise such supervision over relationships of United States telecommunication satellite entities with foreign governments or entities or with international bodies as may be appropriate to assure that such relationships shall be consistent with the national interest and foreign policy of the United States;"

- (e) Sections 201(a)(3), and 201(a)(6) are redesignated 201(a)(2) and 201(a)(4) respectively.
- (f) Section 201(a)(7) is redesignated 201(a)(5) and amended by adding an "s" to the word "system".
- (g) Section 201(b) is amended as follows:

"(b) The National Aeronautics and Space Administration shall--

- (1) advise the Commission on technical characteristics of communications systems;
- (2) cooperate with United States telecommunication satellite entities in research and development to the extent deemed appropriate by the Administration in the public interest;

- (3) assist United States telecommunication satellite entities in the conduct of research, development, and operational programs by furnishing, when requested, on a reimbursable basis, such satellite launching and associated services as the Administration deems necessary for the most expeditious and economical development of communications satellite systems;
- (4) consult with United States telecommunication satellite entities with respect to the technical characteristics of communications satellite systems;
- (5) furnish to the corporation on request and on a reimbursable basis satellite launching and associated services required for the establishment, operation, and maintenance of the communications satellite system of Intelsat; and
- (6) to the extent feasible, furnish other services, on a reimbursable basis, to the corporation or other telecommunication satellite entities in connection with establishment and operation of communications satellite systems."

(h) Section 201(c) is amended to read as follows:

"(1) insure effective competition, including the use of competitive bidding where appropriate, in the procurement by the corporation and communications common carriers of apparatus, equipment, and services required for the establishment and operation of the Intelsat communications satellite system and related fixed satellite terminal stations; and the Commission shall consult with the Small Business Administration and solicit its recommendations on measures and procedures which will insure that small business concerns are given an equitable opportunity to share in the procurement program of the corporation for property and services, including but not limited to research, development, construction, maintenance, and repair."

(i) Section 201(c)(2) is amended to read as follows:

"(2) insure that all present and future authorized carriers shall have nondiscriminatory use of, and equitable access to, the communications satellite system of Intelsat and related fixed satellite terminal stations operated by the corporation and other authorized carriers under just and reasonable charges, classifications, practices, regulations, and other terms and conditions and regulate the manner in which

available facilities of such systems and stations are allocated among such users thereof:"

(j) Section 201(c)(3) is amended by inserting the word "fixed" before the words "satellite terminal stations".

(k) Section 201(c)(4) is amended by inserting the words "fixed and mobile" before the words "satellite terminal stations".

(l) Section 201(c)(6) is amended to read as follows:

"(6) approve technical characteristics of operational communications satellite systems to be employed by a United States telecommunication satellite entity and of related fixed and mobile satellite terminal stations; and "

(m) Section 201(c)(7) is amended to read as follows:

"(7) grant appropriate authorizations for the construction and operation of fixed and mobile satellite terminal stations, either to the corporation, to authorized carriers, or to other telecommunication satellite entities, as will best serve the public interest, convenience, and necessity; and in determining the public interest, convenience, and necessity the Commission shall authorize the construction and operation of such stations by such persons, without preference among them;"

(n) Section 201(c)(10) is redesignated 201(c)(8) and is amended by striking out the words "carriers" and substituting therefor "authorized carriers", and by inserting the word "fixed" before the words "satellite terminal stations".

(o) Section 201(c)(11) is redesignated 201(c)(8).

Sec. 4. Section 303(a) of the Communications Satellite Act of 1962, as amended, is amended to read as follows:

"The corporation shall have a board of directors consisting of not less than three individuals who shall be elected annually by the stockholders of the corporation, of whom one shall be elected annually by the board to serve as chairman: Provided however, that effective one year after this Act takes effect no directors incumbent shall be eligible to hold office as members of the board unless elected in accordance with this section. The corporation may adopt such by-laws as shall, notwithstanding the provisions of the District of Columbia Business Corporation Act, provide for the continued ability of the board to transact business under such circumstances of national emergency as the President of the United States, or the officer designated by him, may determine, would not permit a prompt meeting of a majority of the board to transact business.

Sec. 5. Section 304 of the Communications Satellite Act of 1962, as amended, is amended:

- (a) by striking out in section 304(a) the word "subsections" and the words "and (d)" and substituting therefor the word "subsection".
- (b) by striking out section 304(b) and substituting therefor the following:

"(b) at no time shall any stockholder or any syndicate or affiliated group of stockholders own more than 5 per centum of the shares of voting stock of the corporation issued and outstanding."
- (c) by deleting in section 304(d) the words:

"which are held by holders other than authorized carriers."
- (d) by deleting sections 304(e) and 304(f).

Sec. 6. Section 305 of the Communications Satellite Act of 1962, as amended, is amended as follows:

- (a) Section 305(a)(1) is amended by deleting the word "a" and by striking out the word "system" and substituting therefor "systems".
- (b) Section 305(a)(2) is amended by striking out the words "authorized entities" and substituting therefor "persons" and by deleting the word "and" at the end of the subsection.

(c) The following is added after section 305(a)(3):

- "(4) establish, own and operate satellite facilities intended to provide specialized services such as aeronautic or maritime satellite services on a common carrier and non-exclusive basis, alone or in conjunction with other entities;
- (5) establish, own, and operate communications satellite facilities intended primarily for domestic satellite services, on a common carrier and non-exclusive basis, alone or in conjunction with other entities, and
- (6) establish, own, and operate other radio or cable facilities intended primarily for provision of foreign communication services, on a common carrier and non-exclusive basis, alone or in conjunction with other entities."

(d) Section 305(b)(4) is amended by striking out the words "authorized users" and substituting therefor "persons", by deleting the word "the" before the words "communications satellite", and by adding an "s" to the word "system".

(e) Section 305(b)(5) is amended by adding an "s" to the word "system".