

FEB 1 1972

Honorable Carl Albert
Speaker of the House of
Representatives
Washington, D. C. 20515

Dear Mr. Speaker:

I am submitting herewith for the consideration of the Congress a proposed revision of section 396 of the Communications Act of 1934, which pertains to public broadcasting.

In the Congressional deliberations preceding enactment of the Public Broadcasting Act of 1967, considerable attention was given to the desirable manner of funding public broadcasting. That important question was ultimately left for later resolution, and funds have since then been authorized on an annual or biennial basis that is generally acknowledged to be less than ideal. During the past year, the Administration has undertaken fundamental consideration of this important question and had hoped to present its recommendations during the past session. It developed, however, that basic questions were involved beyond those pertaining to the level, means and duration of funding. In particular, it became apparent that any program for increased funding without annual Congressional review would have to contain carefully drawn provisions to insure disposition of the funds in accordance with the intent of the Public Broadcasting Act.

We have found no consensus within the public broadcasting community on these matters, and hence have been unable to develop our recommendation as early as we had hoped. There is no controversy, however, concerning the continuing desirability of public broadcasting as envisioned by the 1967 Act, nor is there much doubt of its need for increased funds to continue its healthy development. While, therefore, consideration of an ultimate funding procedure continues, we recommend that the Congress adopt the proposals contained within this legislation for another one-year extension of the Corporation for Public Broadcasting's current funding, at a significantly increased level - \$10 million above that for the present fiscal year. Federal funding will thereby be established at \$45 million, \$5 million of which must be matched by funds derived elsewhere. Despite severe pressures

on the Federal budget, we feel this increase is desirable to continue the progress of an enterprise which is still in its developing stages.

This legislation also reflects an effort to direct assistance specifically to the individual public broadcasting stations, which currently face severe financial burdens. At present the Corporation devotes between \$5 and \$6 of its \$35 million to general operating support of local radio and television stations. The Administration bill seeks to add to this an additional \$10 million for Fiscal 1973. It establishes a mechanism for distribution of a total of \$15 million to the local stations in a manner which assures that they will be effective partners with the Corporation in the development of public broadcasting service for their communities.

This mechanism provides for \$2 million to be distributed to public radio stations--almost doubling the general support funds which the Corporation now provides them. Because of the large number and enormously diverse nature of public radio operations, the manner of distribution of these radio funds is left to the discretion of the Corporation, to be exercised in consultation with station representatives. The proportion of the \$15 million devoted to radio represents the approximate share of total non-Federal public broadcasting support which goes to radio.

The statutory mechanism would also make available \$13 million to approximately 140 licensees of public television stations. Two types of grants would be used for this purpose: a minimum support grant of \$50,000 and a supplemental grant based on the proportion which the licensee's operating budget, exclusive of Federal and Corporation grants, bore to all licensees' operating budgets during Fiscal 1971. The minimum grant would be reduced in those instances where necessary to prevent it from exceeding 25 per cent of the licensee's Fiscal 1971 operating budget (exclusive of Federal and Corporation grants). There would also be an upper limit on the amount of the supplemental grant, since no licensee's operating budget would be considered to exceed \$2 million for grant purposes.

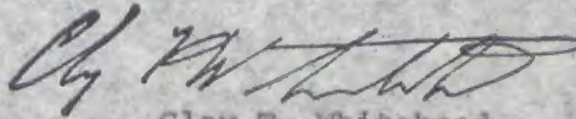
The Public Broadcasting Act needs substantial refinement--not only to establish its final basis of financing, but also to take account of technical change and operational experience during the first five years of its existence. While the needed revisions are being considered by the Administration and the Congress, this proposed bill will enable the sound growth of the system to continue.

- 3 -

The Office of Management and Budget advises that the proposed legislation is in accord with the program of the President.

A similar letter is being sent to the President of the Senate.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Clay T. Whitehead', with a stylized, cursive script.

Clay T. Whitehead

Enclosure

cc: DO Records
DO Chron
Dr. Mansur
Mr. Whitehead = 2 ✓
Mr. Lamb
GC Subj
GC Chron

AScalia:hmy - 1-31-72

A BILL

To amend section 396 of the Communications Act of 1934 to increase and extend for one year the authorization for the Corporation for Public Broadcasting.

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

That subsection (k) of section 396 of the Communications Act of 1934 (47 U.S.C. 396(k)) is amended:

- (1) in paragraph (1) by adding "and for the fiscal year ending June 30, 1973, the sum of \$40,000,000. Provided, however, that \$15,000,000 of the funds authorized to be appropriated pursuant to this subsection shall be distributed by the Corporation in the form of general support grants to licensees of noncommercial educational radio and television broadcast stations in the following manner: \$2,000,000 shall be distributed to licensees of noncommercial educational radio stations according to criteria determined by the Corporation in consultation with representatives of such stations; and \$13,000,000 shall be distributed to licensees of noncommercial educational television broadcast stations by giving each such licensee a minimum support grant of \$50,000 or an amount equal to 25 per cent of the licensee's operating budget during the fiscal year ending June 30, 1971 (exclusive of Federal and Corporation funds), whichever is the lesser amount, and a supplemental support grant equal to the proportion which the licensee's operating budget (exclusive of Federal and Corporation funds) bore to the total of all such licensees' operating budgets (exclusive of Federal and Corporation funds) during the fiscal year ending June 30, 1971, except that no such licensee shall be considered for purposes of the supplemental support grant as having had an operating budget (exclusive of Federal and Corporation funds) in excess of \$2,000,000." and
- (2) in paragraph (2) by striking out "June 30, 1972" and inserting in lieu thereof "June 30, 1973."

Judy

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

before the

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 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. 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.

Tuesday 3/13/73

HEARINGS
3/28, 29/73
10:00 a.m.

3:00

Paul advises that the public broadcasting hearing before Pastore will be held on March 28 and 29 in Room 1318, NSOB (per Zapple).

Friday 3/16/73

TESTIMONY
3/28/73
10:00 a.m.

3:00 Paul talked with Mr. Zapple and Mr. Whitehead is
scheduled to testify at the Public Broadcasting
hearing on Wednesday, March 28, at 10:00 a.m.

Mr. Chairman, members of the committee, I welcome the opportunity to appear before you today to discuss the pending public broadcast authorization bill, S. 1090, and the Administration's plan for increased financing of public broadcasting in fiscal 1974.

You are aware, Mr. Chairman, that I have gone on record as expecting to solve the problem of long-range funding of public broadcasting before the end of fiscal 1973. While that prediction may have been too sanguine, events of the past months are very encouraging. I refer, of course, to the work of the so-called Rogers Group and the proposed new organization to represent all public television licensees before the Corporation, the Congress, the Executive Branch, and the general public.

It is too early to say whether this approach will be adopted and if adopted, how effective it will be. Nonetheless, one is very heartened by the fact that the proposal attempts to provide equitable solutions to the real issues facing public broadcasting today, to wit, control of program content and the use of national interconnection.

Public broadcasting in America *involves a dilemma.*

. One recognizes on the one hand the need for

government support in the creation of a public broadcasting system, and on the other the constitutional requirement to insulate the system from Government interference.

The Public Broadcasting Act of 1967 found ^{a solution by creating} a system upon the "bedrock of localism"; that is, by creating a national organization to serve the needs of individual local units.

Unquestionably, the Corporation for Public Broadcasting in the few years of its existence has made important contributions to our nation's educational and cultural life by presenting programs of diverse excellence. Insofar as the Corporation has had such achievements ^{and promised more.} this Administration has demonstrated its dedication to the ideal of public broadcasting by increasing appropriations to the Corporation from \$5 million in FY 69 to the present \$45 million in FY 74, an increase of 30% over CPB's current funding level.

Nonetheless, the Corporation has disbursed the vast majority of the funds it receives in grants to a relatively few "production centers" for such programs as the Corporation itself deems desirable and which are then distributed over the Corporation's wholly funded network. Such a practice is precisely the "Fourth Network" which Congress sought to avoid. This kind of monolithic approach to public broadcasting is not only inconsistent with the spirit of the

First Amendment, but the Public Communications Act of 1967, which provided for a broadcasting system managed, not according to the uniform dictates of a central bureaucracy, but according to the diverse judgments of separate individuals and companies.

Until these problems are resolved, and they cannot be resolved until the structure of public broadcasting has been more firmly established, the issues regarding long-term funding of public broadcasting cannot be resolved.

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 unfortunately impossible to devote for fiscal years 1974 and 1975 \$130 million. Second, the basic problems of programming control and interconnection are still unresolved issues. Until these are clarified and the directives are better defined, we believe it would be sounder for Congress to review annually the progress of the Corporation in solving these vital problems.

Administration Proposal

The Administration's bill provides for the sound development of public broadcasting by *extending* for 1 year CPB's authorization at an increased funding level.

Because of the significance of the issues facing public broadcasting ^{and which are} yet to be resolved, long-range funding does not seem appropriate at the present time. While these issues are being resolved, our one year ^{extension} would allow the growth of public broadcast system to proceed soundly.

Continuing the Administration's record of increasing funds for public broadcasting the appropriation will have increased by \$40 million from fiscal 1969 to fiscal 1973. The present bill adds \$10 to CPB's current level of funding, for a total of \$45 million, of which \$5 million must be matched by funds denied elsewhere.

Conclusion

Mr. Chairman, I have endeavored to summarize the Administration's position on public broadcast funding. I hope that I have given you some idea of the problems that concern us, and why we believe it is better for now to seek increased funding for another year.

The Congress in the 1967 Act attempted to give practical effect to the Carnegie Commission's plea for freedom in the public broadcasting system, excellence in its programming, and diversity within that excellence.

Despite the arguments of some that diversity and decentralization are impractical and unworkable, or at least not the best way to enhance the national impact of public broadcasting, the Administration is not yet ready to abandon the Congress' grand design.

CPB has made major strides in the relatively short time since it was created. I have focused my attention on problems with the public broadcast system because there are problems. But there are also accomplishments and successes that would have been impossible if there had been no CPB.

CPB is still going through that extraordinarily difficult process of self-examination and self-definition. Whether this maturation process evolves an entity that can live up to the potential envisioned for it depends to some extent on determinations reached by Government.

We are continuing to play our role in a way that we feel best serves CPB, the local stations, and the public. We agree with the view that there must be a workable long-range financing plan, as contemplated by the Public Broadcasting Act of 1967, and the Administration hopes that the circumstances will permit one before the proposed authorization expires.

Friday 1/28/72

HEARING
2/3/72
10:00 a.m.

6:30

Mr. Whitehead will testify before MacDonald's committee
at 10:00 on Thursday, Feb. 3.

2/1/72

10:00

January 26, 1972

MEMORANDUM FOR

Mr. Dean
Mr. Hinchman
Colonel Jiggets
Mr. Joyce
Mr. Lamb
Mr. McCrudden
Mr. Smith

FROM: Antonin Scalia 

There is a substantial possibility that the Director will be called upon to testify before Congressman Macdonald's subcommittee next Tuesday, February 1. We are assured of an unfriendly reception, and, therefore, should prepare as well as possible for the most likely hostile questions.

It would be helpful if each of you would prepare by the end of the week a list of what you consider to be the tough and likely questions in your subject areas, with the most appropriate responses. I hope you will bear in mind that questions about what we have not done are as likely as questions about what we have.

cc: DO Records
DO Chron
~~XXXXXXXXXX~~
GC Subj
GC Chron

Mr. Whitehead ✓
Dr. Mansur

AScalia:hmy - 1-26-72

Tuesday 1/25/72

TESTIFY
2/1/72

3:30

Brian advises that Mr. Whitehead will be requested to testify on Tuesday, February 1, before the House Subcommittee on Communications.