THE WHITE HOUSE

WASHINGTON

December 8, 1972

MEMORANDUM TO: BRIAN LAMB

FROM: PAT BUCHANAN

These paragraphs seem to go to the heart of the matter of what Tom is trying to say.

Pat

And so, ladies and gentlemen, let me, as someone often puts it, make myself perfectly clear.

Just as a newspaper publisher is held accountable for the wire copy that appears in his newspaper -- so television station executives and managers must be held accountable for what goes out over their airwaves -- no matter the origin.

Station executives have final responsibility for program balance -- whether or not that program emanates from their own newsroom, or from a distant network. The old argument that, quote, "We had nothing to do with that report, and could do nothing about it," is an evasion of responsibility and unacceptable as a defense.

Station managers and executives who fail to act to correct imbalance or consistent bias from the networks -- or who acquiesce by silence in the same -- will be considered as accessories, and held fully accountable. The stations are yours -- you are responsible for what they run. And you gentlemen must be held to account.

1. Too obtuse for the general audience.

2. First Amendment argument sounds like the network viewpoint.

3. The reason for the Fairness Doctrine is the limited number of outlets and the monopoly position of the networks -- at least that is the reason it has become so important.

4. Broadcasters are constantly complaining about the First Amendment. They have to realize that it cuts two ways. It protects their First Amendment rights, but the Government has to make sure that the First Amendment rights are recognized as those whose views are not expressed. Broadcasters have been myopic in not recognizing it and in pushing their own rights over the public rights.

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

December 21, 1972

DIRECTOR

MEMORANDUM FOR MR. FLANIGAN

The development of a coherent national policy for international communications is one of the major tasks of this Office. The Congress, particularly Senator Pastore, Chairman of the Senate Communications Subcommittee, has pressured us on this issue by saying that it is our most important task.

There has been a long history of confusion and interagency disagreement on international communications policy. This arises primarily from the inability of the Executive to make international commitments binding on the FCC and the corresponding unresponsiveness of the FCC in implementing Administration policies. The present jerry-rigged process of muddling through, which results from the Commission's exaggerated presence in international policymaking, must be dealt with.

To be pejorative, the situation now is that ATT has a monopoly on international telephone services and is the dominant owner of international cables; RCA, ITT, and WUI have a "cartel" of sorts managed by the FCC on all telegraph and voice/data services. Comsat is not allowed to offer any services at retail, and all carriers, except Comsat, are allowed to earn profits on their use of cables, but not on their use of satellites.

Comsat is part Government and part business. It performs a unique role as the chosen entity in international satellite services, but, as a consequence, faces greater government involvement and oversight than do other carriers.

Attached at Tab A is the policy we have developed for this area. It is being coordinated with the Departments of State and Justice, but has not been discussed with the FCC. In summary, it provides for:

1. Removing specific Government controls and restrictions on Comsat so that it may become an independent private company in the sense that other communications companies are independent and private.

2. Establishing coordination procedures between the Executive (OTP and State) and the FCC to deal with U. S. international communications carriers, foreign governments, and foreign communications entities.

3. Bringing classes of communications carriers for international service into the same competitive framework as domestic carriers, eliminating unnecessary market division and allowing free, open entry by new carriers.

The practical effects of these changes will be that the Executive can reach understandings with foreign governments on general communications matters which will not be subject to capricious reversal by the FCC. ATT will continue to have a monopoly on international telephone service, but ATT will have to create a special subsidiary to own and operate undersea cables and deal at arm's length with it. The three international record carriers along with any other qualified entrant will be allowed to offer any services other than public telephone service and may treat their use of undersea cables or satellites as business expenses or as capitalized costs.

It is difficult to foresee any general political concern over this policy. There is not likely to be much general press interest except to note that this Administration is not preserving the status quo monopolies of the large communications companies. ATT will argue that a separate subsidiary would make their operations more difficult and uneconomic, but there is no basis for this in fact beyond the inconvenience of doing it. Comsat officials would generally approve this move since they feel themselves to be second-class citizens. The three record carriers will be unhappy. (With 15-35 per cent annual return on equity and protection form competitive entry they've got a good thing going.)

If we were proposing to break up the record carriers or to require ATT to divest their cable operations, I would be more concerned about the economic viability of this policy. However, we are only saying that new companies <u>may</u> be formed that lease international transmission facilities from ATT or Comsat and offer services that communications users find attractive and that Bell, as phone service monopoly, deal at arms length with Bell or others as facility owners. (Incidentally, Tropical Radio & Telegraph Corporation has recently expanded its Caribbean-based operations with its first through circuit to Italy. TRT is the most likely first new entrant under these policy revisions).

We are drafting legislation to implement this policy and plan to introduce it into the OMB clearance process fairly soon for purposes of coordination with the FCC. The specific recommendations would be packaged of course with a general statement on the growing importance of international communications for U. S. industry, the leadership position of the U. S. in communications technology, and the potential of communications for better world understanding and cooperation.

If you see any problems with this approach or would like to discuss it before we proceed further, please let me know. I have attached at Tab B a memorandum summarizing all of our major suggestions for communications initiatives for next year for your information and to give you an idea on how the international part fits into the overall package.

Tom

Clay T. Whitehead

Attachments

INTERNATIONAL COMMUNICATION POLICY INITIATIVES - 1973

Industry Structure Issues - Proposed Actions

OTP is drafting and will coordinate through OMB a legislative package on industry structure which will:

-- Eliminate Presidential appointees (3 out of a total of 15) from the Comsat Board of Directors and eliminate the special class of stock held by communications common carriers, which will make Comsat a standard corporation with stock publicly held and without any privileged status for common carriers.

-- Permit ownership of international communication facilities by a greater number of companies, as investors, who will lease facilities to common carriers. International communications carriers will be divided into two classes--transmission facilities owners and service carriers. No carrier will be permitted to own major international transmission facilities and provide customer services with the single exception of AT&T, for which special regulatory provisions will have to be devised. Service carriers would have the option of treating their facility lease costs as non-capitalized expenses (outside the rate base), or to prepay lease costs for certain minimum prescribed periods, in which case they could capitalize the costs. Comsat would retain its international satellite ownership role. Greater competition among service carriers will be possible without requiring new entrants to lay out enormous initial investments.

-- Require separation from AT&T of its international long-lines operations, to become a corporate subsidiary.

Comsat will be granted greater autonomy in the management and operation of its corporate affairs. The original objectives justifying stock ownership and representation on the Comsat Board of Directors by other common carriers and Presidentially appointed directors have been fully realized and no longer apply. Comsat is now a healthy, viable organization with a well established technical and managerial competence and is entirely capable of conducting its affairs free from external financial support and other assistance. Several of the original common carrier shareholders have sold their stock and relinquished their seats on the Comsat Board. We think this to be a salutory development and should now be required of all carriers.

The ownership of INTELSAT-related earth stations has been a source of aggravation since the FCC adopted an interim policy of joint ownership--Comsat owning 50% and other carriers owning 50%, but with Comsat managing all U.S. earth stations carrying INTELSAT traffic. We are proposing Comsat have the right of first refusal on the ownership of all INTELSAT-related earth stations. This assures Comsat the management control necessary to guarantee a system integrity in the operation of the INTELSAT system. The Earth Station Operation Committee, established to exercise oversight of Comsat station management, has been a friction point tending to outweigh the advantages of such an arrangement. Nor has carrier investment in earth stations proved to be a sufficient stimulus to carrier use of the satellite system to justify a policy of continued divided ownership.

Intra-governmental and Foreign Relations

OTP has drafted and is coordinating with State Department a legislative proposal which will modify the nature and extent of FCC and Executive Branch relations concerning international negotiations on major communication system plans and developments. Improving the effectiveness and consistency of government participation in international facilities and services planning and development is required.

The continuing prospect of an unresponsive FCC in the international political arena can be dealt with in a manner similar to the way we have dealt with international aviation agreements. Our goal in this area is to give the Executive a final authority, based on foreign relations and security considerations, to ensure appropriate international arrangements for communication systems can be agreed on a timely and conflict-free basis.

General Regulatory Policies to Apply

In May 1971, OTP transmitted recommended policy guidelines to the FCC for use in the Commission's discharge of its responsibilities for international communications regulation. While some elements of these proposals were implemented by the Commission, others were ignored. In order to strengthen the impact of our recommendations, a series of proposed regulatory guidelines on international communications will be sent to the Congress as a declaration of Administration policy. These guidelines would include:

-- New facilities should be approved only when necessary to meet valid growth requirements and only upon demonstration that they will result in the lowest additional cost* for comparable circuit capacity, reliability, and quality. These criteria should result in the lowest overall cost to the using public, since rate-regulated carriers are normally allowed to recover from their customers through their tariff offerings all investments and operating costs plus a rate of return on investment.

-- Tariff rates cannot be used as a valid public-interest criterion for approval of investments in new facilities, since they reflect the effects of past investment costs, rate-averaging, promotional pricing, and other deviations from true service costs. Only in the unusual circumstances in which two types of facilities are burdened identically by these factors do tariff rates provide a useful measure of the comparative costs of existing facilities, and clearly such rates cannot provide a measure of future costs.

-- Excess capacity or redundant facilities should be authorized to the extent reasonably necessary to make allowance for failure of facilities and to enable automatic restoration of interrupted service--but not in excess of this requirement. Redundant facilities to enable automatic restoration should be required where this is the least-cost means of obtaining the overall continuity and reliability of service which is needed. This does not necessarily require duplication of circuits on different types of facilities, and such a fixed policy would be unnecessarily costly to the public.

-- Public policy does not require a particular ratio between satellite and undersea cable circuit capacity. Both modes may be needed to meet special service requirements and should be vigorously developed, but within broad limits the ratio should be allowed to evolve in response to operational needs and economic considerations. Enforcement of an arbitrary ratio will, in general, raise the overall cost to the using public and lessen the vigor with which industry pursues improvements in both technologies.

*Based on present value of added investment and expected operating costs at relevant traffic (demands) levels. If the cost differenti between alternative facilities is within the range of estimation uncertainty, the least-cost criteria should not be rigidly enforced

-- Cable and satellite circuits are comparable for most uses, and neither technology is inherently superior in a broad sense. Therefore, research and, where appropriate, development of both cable and satellite technology should be encouraged through competitive economic incentives not directly related to the successful deployment of a particular facility.

-- The rapid development of international direct distance dialing should be encouraged through improvements in the continuity and reliability of international transmission service.

Tab B

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

December 6, 1972

DIRECTOR

MEMORANDUM FOR

Honorable John Ehrlichman
The White House

Since its inception two years ago, OTP has enabled the Administration to play a larger role in communications policy. Many of our accomplishments have resulted from quick reaction to immediate problems, such as the President's concern with television reruns and the FCC's inability to deal with the domestic satellite issues. Now OTP is prepared to advance a series of affirmative initiatives that can be tied to the President's program for next year.

I believe this package is consistent with the President's programs, restructuring government to let the private sector play its role, and enhance rather than erode our most important traditions regarding government and the communications media. Almost no Federal expenditures are involved, and some budget savings could be realized. A brief summary of the most significant of these initiatives is attached at Tab A. The first two (broadcasting and cable) have by far the largest political implications.

During the past twenty years, the communications industry has grown rapidly and undergone great technical change. It has contributed greatly to GNP and had great impact on our national life. The pace of both the economic and technical advance is clearly going to continue to increase at even faster rates over the next few years. Everyone -- particularly minority and special interest groups -- wants some type of political or ownership control over the media; and many business interests want a share of the new communications markets. The FCC's procedures (like those of most Federal regulatory agencies) are ill-suited to deal effectively with the rapid technical change and the politically charged issues of communications.

There will, therefore, be both the opportunity and the need for firm Administration leadership in establishing some basic policy directions. Decisions made during the second Nixon term will largely determine the extent to which the benefits of the communications revolution are realized by the public and by industry -- and whether communications regulation by the Federal Government will be locked into the same kind of morass as transportation and power or whether a more competitive, free-enterprise framework is created.

The OTP initiatives are intended to restructure government regulation in an evolutionary way to guide the growth of communications technology and services in keeping with two main principles: (1) there should be more reliance on free enterprise and competition in communications rather than monopoly and government regulation, and (2) bureaucratic controls over the content of the media should be minimized. If the OTP program can be implemented in keeping with these principles, we can encourage the growth of at least three new multi-billion dollar industries: the broadband cable television industry, the computer information services industry, and the mobile communications industry. Such growth would contribute substantially to our economy and could help relieve unemployment in such critical sectors as the aerospace, electronics, and the film and television production industries.

As a result of the public broadcasting issue and our key role in the cable TV compromise, OTP is visible politically on the Hill and therefore vulnerable if we do not advance a substantive program of accomplishment. Similarly, the Administration's image on communications matters has been colored by the network news battle, and we need a more statesman like record of policy development and advocacy to stand on.

I am sending this same package to Pete Flanigan, emphasizing the international area, and have discussed the broadcasting section with Chuck Colson. I believe the President should be appraised of the overall effort, with special emphasis on broadcasting and cable TV. If time permits, it would be highly useful for me to discuss the most important aspects with you and him. However, the most important thing is to get approval to proceed so we can be ready to go early next year.

I would be happy to discuss this with you or to supply any further information you need.

Clay T. Whitehead

Attachment

I. BROADCASTING

Goal

Bring broadcast regulation more in line with our private enterprise media philosophy, stem the tide of demands by activist groups for free broadcast time, and correct the anticompetitive power of the TV networks.

Initiatives

A. Support statutory extension of broadcast license terms to five years; place burden of proof on renewal challengers; prohibit FCC establishment of program standards.

B. Support eventual elimination of detailed case-by-case enforcement of the Fairness Doctrine, but only when public confidence in broadcasting warrants and Congressional passage is feasible (not 1973).

C. Attempt to reduce obstacles blocking establishment of new commercial TV networks by changes in AT&T tariffs, FCC networking rules, and possible antitrust actions.

Impact

Initiatives A and B will be supported by most broadcasters, although they would prefer a simple extension of the license term. Minority and activist opposition would be mixed. There is likely to be little general public interest. Would require some effort to get key Congressional support.

Initiative C would be opposed by all broadcasters but should find some public and Congressional support if handled in the positive tone of more programming diversity and competition. Initiative A (and to a lesser extent B) is a prerequisite to the success of C as well as to establish our credibility on First Amendment issues.

II. CABLE TELEVISION

Goal

Create a new legislative framework for development of broadband cable television and the many entertainment, informational, and educational services a new cable television industry could provide (following Cabinet committee report).

Initiatives

Introduce legislation following recommendations of the Cabinet committee to create a statutory policy framework (now lacking) for the development and regulation of the cable television industry. This would resolve such issues as programs and channels for pay, networking competition with broadcasting, cross-media ownership of cable systems, and division of jurisdiction between the Federal Government and the States.

The committee recommends a pilot program to evaulate the use of cable to deliver government services more efficiently and to shorten the lag in bringing the technology to the marketplace. The program will cost $25 million in FY74.

Impact

Assuming a moderate level of Presidential impetus, there is a good chance that some influential Congressmen and Senators, cable operators, broadcasters, and other media people would support such legislation. Others in the cable and broadcast industries will oppose it; but in the public's eye, they could be depicted as protecting their narrow economic interests by keeping more program choice from the audience. The biggest political issue would be "pay TV." The ability of customers to buy programming directly by the program or by the channel over cable is too important to allow it to be prohibited, but it is unlikely that the Congress would pass cable legislation that did not, in some way, retain certain program types (like professional sports) on "free" TV. Privacy safeguards would be built into the legislation to counteract "Big Brother" fears. Cable is here (10% of homes) and growing rapidly (up to 50% of homes by 1980). Hard-line broadcasters and theater owners are the only opponents. This is a positive initiative--costing no tax dollars--one the President can get behind and make the growth of cable service a Nixon accomplishment. The pilot program will help make this a more exciting initiative, convey movement in bringing technology to bear on government programs, and accelerate the marketability of the new technologies.

III. DOMESTIC COMMON CARRIER INDUSTRY

Goal

Promote more efficiency and competition in the domestic common carrier industry as new communications services arise.

Initiatives

A. Legislation to promote competition:

1. To authorize bulk leasing, brokerage, and resale of common carrier services;
2. To require identification of the extent of cross-subsidization among various common carrier services and enterprises;
3. To include economic efficiency, as well as equity, as a criterion for FCC approval of facilities and rate structures;
4. To limit the scope of FCC jurisdiction over non-monopoly services;
5. To extend domestic rates for telephone calls to Hawaii and Alaska.

B. Create an interagency study group to analyze and determine policy regarding the future role of the Bell Telephone System in providing common carrier services in competition with specialized competitive communications services.

Impact

The major impact would be to increase competition to AT&T, a move that would be vigorously opposed by that company and many of its stockholders, but supported by major elements of the electronics and communications industries. The public has little love for the phone company, and the Congress would feel little grassroots pressure to leap into the fray to protect AT&T's monopoly services.

IV. INTERNATIONAL COMMON CARRIER INDUSTRY

Goal

Restructure regulation of the U.S. international common carrier communications industry to eliminate artificial distinctions between voice and record (data) message carriers, to enhance the private enterprise character of Comsat, and to introduce more competition into satellite and undersea cable construction.

Legislation Initiative to Correct Deficiencies in the International Common Carrier Industry

A. Require the FCC to coordinate with the executive branch so that effective government-industry agreements with foreign governments regarding international communications facilities can be negotiated.

B. Terminate privileged common carrier ownership and participation in Comsat and eliminate Presidentially appointed directors from the Board.

C. Clarify statutory guidance to the FCC for regulating U.S. international carriers to allow more competition, redefine the classes of such carriers to reduce the obsolete distinction between voice and data communications, and to put satellites and undersea cables on a comparable basis under law.

Impact

The Byzantine structure of the U.S. international communications industry, as shaped by the FCC, is inefficient and not competitive. There is almost no public perception of the issue, and since there are only a few companies in the international market (AT&T, RCA, ITT, Comsat, and Western Union International), the general press is likely to interpret this mainly as an economic decision without political overtones. Industry opposition would probably not be uniform, and some companies would support those parts of the initiative that benefited them. Provision A may be opposed by FCC which would view it as a transfer of some FCC power to the executive branch. We have been under pressure from the Congress to submit our policy since last year and have delayed as long as possible. We will really take heat if we do not now proceed.

V. GOVERNMENT COMMUNICATIONS

Goal

Improve the Federal Government's own use of communications resources to achieve national security objectives. Minimize overlapping responsibilities, improve performance of public safety agencies, and realize government savings in the procurement of communications facilities and services.

Initiatives

A. Reorganize and streamline government communications and computer systems management to achieve more effective mechanisms for Presidential guidance, and to cut present budget and staff levels.

1. Short-term communications management improvements:

   a. replace National Communications System staff and responsibilities with formal coordination by the Council for Government Communications Policy and Planning.

   b. streamline responsibilities and functions of Defense Communications Agency.

   c. eliminate non-essential Department of Commerce communications functions and shift OTP support functions to National Bureau of Standards or GSA.

2. Combining communications/computer systems management.

   a. assign OTP lead responsibility for computer/communications area; to be coordinated with OMB computer responsibilities.

   b. establish arrangements for coordination of Executive Office computer/communications systems.

   c. Direct agencies to combine management of computers and communications.

B. Establish executive branch policy for purchasing of telecommunications services and equipment, including coordination of procedures for budgeting and frequency assignments.

C. Coordination and consolidation of government radio navigation systems and satellite communications systems.

D. Policy statement and experiment on the inclusion of economic value in assignment of radio frequency to government agencies.

E. Program to determine the environmental aspects of electromagnetic radiation.

F. Review Federal department and agency funding of programming (including public service announcements) intended for broadcast to the general public or for schoolroom instructional purposes.

Impact

With the exceptions of initiatives F and G, this package is entirely an executive branch "housekeeping" matter, and, as much, will have little or no outside impact. The environmental study initiatives (F) are noncontroversial and "pro-consumer." Initiative G could generate public controversy, since it will be seen in part as an attempt to cut back on the HEW efforts to mold "child development" through TV programs. In view of a general public and congressional tolerance of HEW "social engineering," the Administration could be painted as regressive on this issue. However, the "Big Brother" fear works for us here.