



REMARKS OF

Clay T. Whitehead, Director

Office of Telecommunications Policy
Executive Office of the President

at the

Magazine Publishers Association
Management Conference

Palm Beach, Florida

May 1, 1972

To an outsider passing by our meeting place today, it probably seems very strange indeed that someone from the esoteric-sounding Office of Telecommunications Policy is addressing a group responsible for something as familiar as magazines. If the passerby is as aware of your business as he is of your product, he'd expect that the only Government official you'd be hearing from would be one with some authority over postal rates. As the awkward name of my Office is intended to convey, we also have nothing to do with policy for the magazine publishing industry, or other print media. I doubt that you would want a Government agency to have this responsibility. But Government has a large role in determining policy for the electronic media, and the magazine publishing industry will come to be progressively dependent on the electronic communications media for production and distribution of its product. Therefore, developments in the electronic media and Government policy for these media become quite relevant for your industry.

Let me begin with a brief description of OTP, and the relationship it is intended to have with the electronic communications media. There has long been a concern that the Federal Government needed better management and policy direction of its own multi-billion dollar telecommunications activities; and also some capability to assess the implications and policy needs of the rapid expansion of telecommunications in our economy and society.

My Office has both those broad responsibilities, plus certain direct responsibilities for emergency and national security communications and for the Federal agencies' use of the radio spectrum. Additionally, the Director of OTP is designated as the President's principal adviser on telecommunications matters, and OTP serves as the central focus of communications policy development for the executive branch.

With respect to the Federal Government's own communications activities, OTP has strong authority for implementing and enforcing policy. In the area of national policy, our role is that of spokesman for the executive branch in the dialogue with the Congress, the FCC, and the public. We also suggest policy approaches and make recommendations to provide a framework for that dialogue.

But what's going on in communications that makes an entity such as OTP necessary? One answer is that communications have always had an impact on us as a people. Communications affect intimately how we deal with one another; how we see ourselves as people, as a country; and how we see our world; it affects how we exchange ideas; how we conduct our political processes. It's only recently, when change has come at such a fast pace, that we have noticed the impact of communications. Communications are growing, growing in use; growing in kinds of service; growing in scope and growing in importance to us. This rapid growth makes it all the harder to plan and to make policy.

It is clear that communications of all types will have quite a different shape in the last quarter of the Twentieth Century, but it's very difficult to see what that shape will be. What will be its effect on our lives? How will it affect our economy? It is the prime responsibility of the Office of Telecommunications Policy to grapple with such questions, to evaluate possible answers, and to suggest policies or, at least, approaches for Government action.

Before discussing the interplay between developments in the electronic media and the print media, it may be well to note briefly some of the changes that may be in store for the electronic media, as we see them from our vantage point at OTP.

Right now the dominant electronic mass medium is broadcast television--a technology with a capacity to deliver a limited number of channels to the home. In turn the economics of programming is heavily influenced by this technology. It leads those who control access to the limited number of channels to maximize advertising dollars by presenting programs that are of some interest to a mass audience, and of special interest to only a few. The missing element in television is the opportunity for meaningful viewer choice as to what will be seen on the home screen.

The two new technologies of video cassettes and broadband cable television are likely to have a big impact on the present structure of the electronic media. While it's too early to assess the full impact of cassette technology, it is already starting

to attract the kind of interest that could make it an important medium and, perhaps, a strong competitor to the print media, especially magazines. Broadband cable's future impact is similarly not capable of precise prediction, but it has an enormous potential due mainly to its capacity to drop 20 or 40 or more channels at the viewer's doorstep. Now that the "freeze" on cable development has been lifted by the FCC, and long-range policy is being hammered out by the FCC, OTP and the Congress, cable will proliferate more channels to more communities throughout the country. It's clear that the present economics of television programming can't support production of quality, mass-appeal programs to fill all those cable channels.

Mass appeal programming is certain to continue, but economic factors indicate that cable cannot be dependent solely on this type of programming. With lots of channels and the relatively low transmission costs they entail, there will be exciting new opportunities to reach specialized audiences, not just minority audiences having special ethnic or cultural interests, but slivers of the mass entertainment audience. There are opportunities not only for diversity of programs and program sources, but also, for the first time, for meaningful consumer choice.

But where is the money going to come from to support this new programming? Perhaps, as in the magazine industry, there could be a mixed system of advertiser and subscriber revenues for the electronic media. Indeed, the future electronic media, incorporating video cassette and broadband cable technologies, is likely to have competitive conditions very similar to those

in the present magazine publishing industry. This suggests a burgeoning new competition between the electronic media and the print media--a possibility that I'm sure has not escaped you.

Look what happened to the mass-appeal, mass-circulation magazines in the face of competition from the highly efficient broadcast television mass medium. The magazine industry suffered from a loss of advertisers, but it also adapted by providing the special interest fare that TV did not, and some believe, could not provide. But what will happen if electronic media make a similar adaptation, as cables and cassettes work new programming and economic patterns on the home screen? What will happen to a magazine industry tied to old production techniques and the Postal Service's technology and rates, when cable entrepreneurs want your subscribers as their subscribers? What will happen to your revenues as companies seeking to advertise to a selected special interest audience can use broadband cable channels instead of, or at least in addition to, your pages? What will happen when special, nonprogram services are provided to cable subscribers; when the subscriber can become his own magazine editor and call up the information he desires for visual display or hard copy in his home?

I hope you will answer these questions in the same spirit that magazines met the earlier challenge of mass-appeal television; and I don't mean to hold up as an example those magazines that threw in the towel. Once again magazines will have to adapt

and compete if they are to survive. And you can adapt and compete best by using electronic communications techniques to your advantage--by becoming part of the electronic media and using your present skills to become strong and effective competitors.

Our policies should allow magazine publishers to use their skills, their talent, and their experience in such a way as to turn the new communications technologies to their own advantage. In doing so you can provide incalculable benefit to the public by increasing the range and variety of program services that can be offered in the new communications media. The opportunities are everywhere.

For example, if new second-class postal rates take distance into account, why not use the new electronic delivery systems to transmit magazines for printing at multiple locations? A new domestic communications satellite system will be in operation in five or so years and it will wipe out distance as a factor in transmission rates. The development of specialized carriers for long-haul microwave communications offers publishers similar opportunities to turn electronic delivery to your production advantages. What cost savings can be realized by using such transmission techniques in conjunction with local and regional common carrier type printing facilities and local mail deliveries, newsstand sales, or even home delivery by private companies?

Even today, some publishers are making use of common carriers' electronic transmission services to cut production

costs and increase efficiency. We are working diligently to assure that competition and innovation are provided for now in the common carrier and specialized carrier industries, so they will be responsive to new demands for service when publishers and other users turn to electronic transmission.

Magazine publishers can also use the new cassette and cable technologies for distribution as well as production. Why not consider a multi-media magazine, using print for presentation of detailed and systematically-organized information and using audio or video to supplement this data? If this sounds fanciful, stop and consider that TV Guide may already be the first such endeavor. Look at the enormous specialization of subject matter in today's periodicals and consider what you could do to transfer it to multi-channel cable systems. Subscribers and advertisers would be willing to pay for magazine-type program series on subjects such as automobiles, boating, business, hobbies, fishing and hunting, gardening, home decorating, news and public affairs, fashions, sports, and travel. The people who already publish magazines on these and other subjects offer a natural source of talent and expertise to become program originators and packagers for broadband cable systems. Viewing special appeal programs may also stimulate interest in subjects dealt with in TV programs, and lead to an increased demand for magazines to expand upon and reinforce the information presented by television.

In short, there is every reason to believe that the competitive impact of new communications technologies will stimulate rather than stifle the magazine publishing business,

especially if publishers are allowed to compete freely in the use of broadband cable. This brings me back full circle to OTP and other governmental entities charged with responsibility for developing policy for electronic communications media.

We have the responsibility for choosing policies for the new transmission technologies and for selecting policies that will determine who is entitled to use those transmission technologies for what purposes. Anyone unfamiliar with the way in which the electronic media are regulated may think it odd that Government determines who gets to use these technologies for what purposes. But this is what happens when Government arrogates to itself the detailed supervision of the communications industries. This Administration believes there are serious defects in this regulatory approach. We believe that Government should advance public interest objectives through policy guidelines rather than through detailed regulation. With respect to developing policy for the new communications transmission technologies, our objectives should be to provide the appropriate economic incentives so that the would-be viewer and the would-be programmer can interact as easily and as constructively as possible. Why should there be any artificial barriers imposed to preclude the use of the new communications technology by magazine publishers?

There is another important reason why we are concerned about expanding regulation in the communications media. We all must be vigilant in guarding against regulation of the content of speech in broadband cable systems and other developing communications

1261

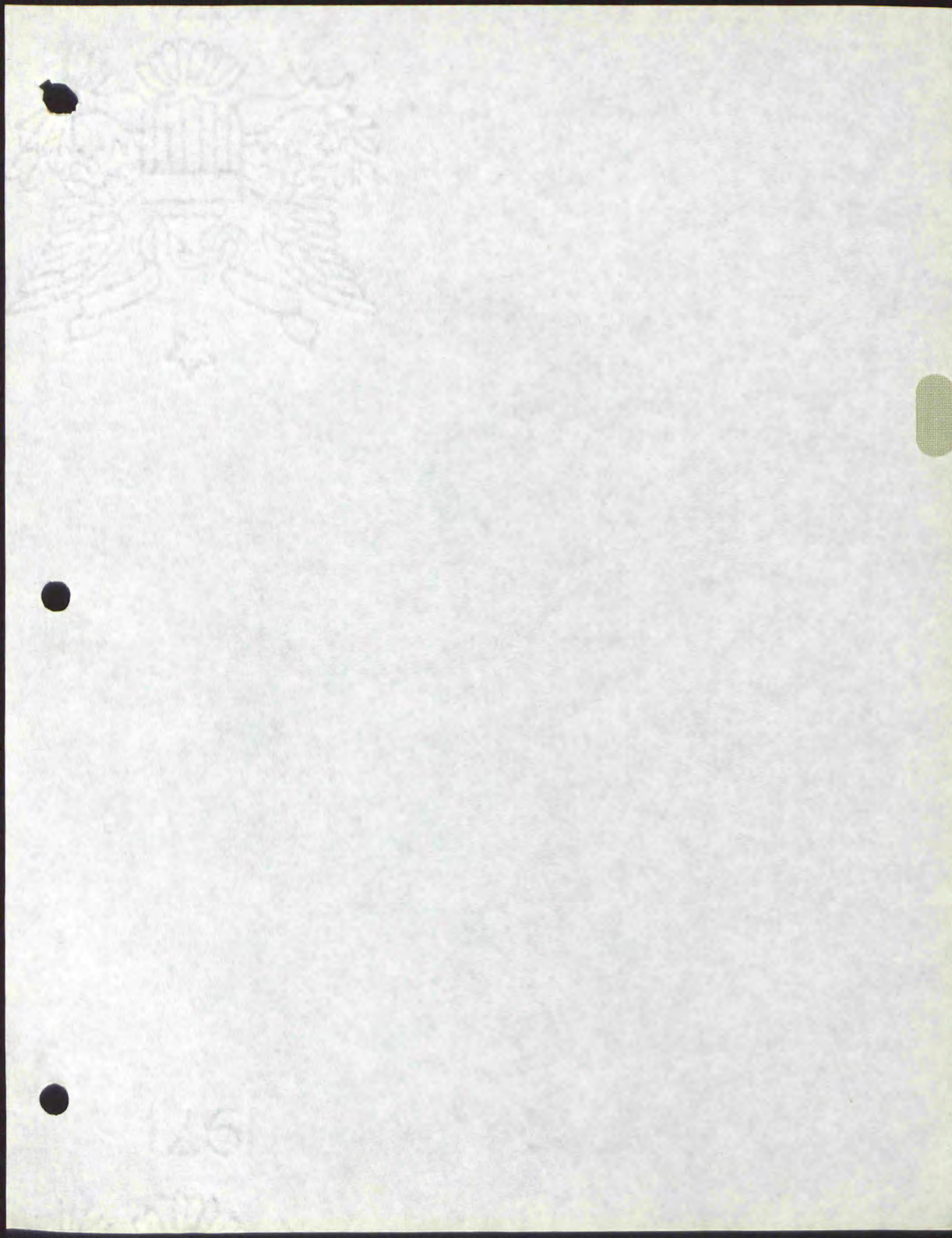


AMERICAN WOMEN IN RADIO AND TELEVISION

LAS VEGAS, NEVADA

MAY 5, 1972

(NO NOTES)



Lecture by Dr. Clay T. Whitehead, Director of OTP

- At Ministry of Posts & Telecommunications

On July 27, 1972 -

(Applause)

Thank you very much. I regret that I was unable to understand the introduction. I trust that it was not too unfavorable. It always makes me nervous when I address an audience such as this, the people who are experts in the field of telecommunications. I cannot consider myself as being an expert in this field, particularly when I try to talk about the future of telecommunications and realize that you are the people who are making the future happen.

So I trust that you will understand that I take a really broad perspective, which is, after all, my job. When I talk about the specifics of your particular area of specialization, I hope you will forgive me for not saying much about the details of your specialized areas.

The first thing that has to be said about the future of telecommunications is that it is going to be a very large future, very opportune future, and, of course, we hope it will be a very constructive future.

The history of telecommunications has been one of rapid growth, rapidly changing technology; fortunately or unfortunately, this does not seem to be behind us. The rapid developments are

continuing in basic research and, in a few years, that will translate itself into more and more applied research and, within a few years further on, we can be sure of even more new products, new services, improved products and improved services. The rapid change, we can be quite confident, is going to be with us well into the future.

I am sure that you are all familiar with the concept of exponential growth, geometric growth. That is the history of telecommunications. And it looks to be continued in the future. The international telephone and telegraph traffic is doubling every three or four years. The world telephone population is also doubling at almost the same rate. In advanced countries, almost everyone has a telephone; yet the number of telephones still grows exponentially and the volume of traffic is growing at an even higher growth rate. So you can see that the technology is driving this very wide usefulness of telecommunications in business and in society. In not too many years, telecommunications is going to be a very large and important segment of our world.

Well, as if that success would not cause enough opportunities and enough problems for telecommunications in the future, I think we have to recognize that there is something rather different going on today. It is not only a growth in the quality and volume of telecommunications services, but now also a growth in the scope and type of services available.

For almost half a century now, telecommunications has included telegraph, telephone and broadcasting. But that will change in the future. Most of the progress and most of the development we have seen over the past fifty years have been improvements in the quality of each of the services. And that certainly will be continued. But more and more, beginning I would say from 1960 to 1965, we found the possibility for new services, new kinds of services, and new demand for those services. I can cite such services as cable television, data communication, Telex service, the possibility of computer/communication services, indeed, the whole range of information services which can be provided remotely via telecommunications.

The new information services are not strictly speaking communication services as we have historically understood it. Yet, the people in the telecommunications field are going to be the people who have to see that this whole range of new services is brought to the public. So the point I want to make clear is that not only do we have the very rapid continuing exponential growth in a quantitative sense in all services, but also we will likely see an exponential growth in a qualitative way in new services.

For fifty years or more, the problems of telecommunication services have been principally technical problems and service problems; for example, how to improve technology to provide the existing services in more reliable ways and in more economical ways and keeping up with the increasing demand. The types of

services have not changed very much. The service to the public has not changed very much in its essential form. In short, the problems in telecommunications in the past have largely been internal to the telecommunications field.

The problems of technology, the problems of service quality and so forth are certainly not behind us. They will continuously be with us. But it is important to realize that the field of telecommunications has arrived at a new level. More and more problems of telecommunications will not be internal to telecommunications. More and more they will have to be with the interface between telecommunications and the rest of the world--the interface between telecommunications and politics, between telecommunications and economy, between telecommunications and government policies, and so forth. More and more we will have to figure out how to use telecommunications, how to fit it into our world, and how to adapt our world to it.

Communications has reached the point now where it can no longer be viewed as simply an industry or collection of more or less connected industries. Not even the term "information industry," captures the new world of telecommunications of the future. Rather, we have to come to consider telecommunications as an important resource, a social resource and an economic resource, equally as important as the traditional resources of labor, land, water, minerals, power and the like.

In our use of all those traditional resources, the government plays an important role. In the future, it will play an increasingly important role in developing policies for the use of those resources. In our natural resources, we, of course, orient policies towards conservation, towards effective use. In the man-made resource of telecommunication, we have to pay attention to those kinds of things. If we include in the world of telecommunications both transmission of information and the processing and use of information, then we have very nearly an unlimited future for this field. We will have to develop the policies for its effective use and growth.

It is in many ways more difficult to talk about the policies for communications than to talk about technological improvement and technological change. Policy, by its very nature, is a rather approximate kind of thing to deal with. It brings in a whole range of political processes. It confuses technology with politics, with economics, with psychology and the like. But that is the price that communications has to pay for being such a vital resource and for being useful to the people of the world.

There is an interesting analogy between the development of communications and the development of your country since the war. The first task, of course, facing Japan was to develop its economy, to develop its own capabilities. Very

properly your attention was turned to the development of your economy into a strong and vital resource. Great attention was paid to developing your capacity and capabilities. In recent years, we are seeing a change, since you have developed these capabilities into a very powerful and very dynamic economy. More and more the problems Japan faces are not internal problems. The problem is rather the interface between Japan's economy and the rest of the world. This is the kind of change and attendant difficulties we are seeing in telecommunications.

Just as Japan is finding it somewhat wrenching to make this transition to deal with the complexities and difficulties brought about by its new world role as an important and vital contributor to the world economy, so it will be difficult for those of us in telecommunications to make the change from focusing on pure problems of telecommunications to dealing with the interface between telecommunications and the rest of the world. In a sense, the people in telecommunications, as the people in Japan, are the victims of their own success.

Let me discuss just briefly some of the policy problems, some of the interface problems that I think we will be facing in the next ten or fifteen years. These problems, I think you will see, are driven by technology; there is a very strong technological component to them. But the solutions lie more in sociology, in institutions, and in politics rather than in technology. We have a rule of thumb in OTP that in thinking about the future of telecommunications, we just assume that

whatever communication service we can think of is technologically possible, and we focus on the economic, political, sociological and institutional problems. And it is that focus I would like to take for the remainder of this talk.

Let me talk first about international communications, for that is in many ways what brings us here today. International communications for many years were highly expensive and highly specialized services. Government and perhaps a few corporations were the users of international telecommunications. In a short span of time that is changed. With the introduction of undersea telephone cable and with the introduction of a global satellite system, we have a quite new world of international telecommunications. Telephone, telex and telegraph traffic flow now in great quantities and relatively freely around the world. Television broadcasting has been changed by satellite to permit not only point-to-point communications, but now worldwide, live broadcasting. The whole world, thanks to telecommunications, was able to watch the first man step on the surface of the moon. The whole world watched as President Nixon visited China. The whole world watched as the Olympic Games were held in Japan. More and more the world is being tied together by telecommunications.

Communications internationally is becoming increasingly widespread, and more and more it is ignoring national boundaries just as the multinational corporation has grown. Of course,

governments must find ways to deal with this, and the increasing dependence of the world economy and world politics on communications makes it very important to deal with it in a responsive way and in a constructive way.

Our first principal policy in this area should be the encouragement of the free and open exchange of information throughout the world. We should encourage the very rapid growth of telecommunications tying the countries of the world together, and we should assure that it is available to potential users, whether private citizens, governments, or industries, at low cost and in a very responsive way. The principal responsibility for doing that job resides with those in the international telecommunication business, principally the carriers. But the governments have an important role to play to make sure the political and institutional barriers do not impose themselves unnecessarily.

This will not always be possible to the extent we would like it, for government, of course, always must reflect political objectives; and we find many of those in the growing field of telecommunications. Sometimes these are constructive objectives, such as assuring that all parts of the country are tied together into the international telecommunications network. Sometimes they are constructive objectives in that small countries are worried about the bringing in of foreign television programs that they feel might result in cultural domination of their own society. These are important political

objectives that must be taken into account. However, some nations will try to use telecommunications for their own rather narrow political purposes. Some countries want to exclude and impede the flow of information because of reasons drawn from their own internal politics. Some countries want to use their own geographical location for their own temporary technological advantage to increase their own political power. These are the things that we have to be aware of.

To give you just one recent example of this interconnection between technology, economics, and politics in the international telecommunications field, I recall a question came up at the recent World Administrative Radio Conference on Space Telecommunications in Geneva. There were many countries who felt that satellites could be used for educational television such as the experiment we are planning with the Government of India and for other possible uses. However, there was a considerable reaction by many countries against allowing this kind of service. There was a move to prohibit the use of the appropriate part of the radio spectrum for distribution of television signals, and the reason for this was that small countries were afraid of direct broadcast for propaganda or commercial purposes from satellites owned by large countries. In fact, that is a legitimate concern, but the effect of the prohibition they wanted to introduce would have been also to prohibit educational television services. It would have made impossible what is technologically possible, that is to say,

distribution of educational programming to remote areas of many of the less developed countries themselves, and it would have interposed a possible prohibition, a very strong impediment, to the growth of certain important, purely domestic communication services in some of the more advanced countries. This I cite simply as an example of interconnectedness in the complexities of the problems of the future of international telecommunications.

To cite another brief example, the planning of facilities for international communications is far more complex than it used to be. We have institutional problems in that different institutions are involved in supplying satellite technology and satellite communications links. We have problems in that satellite communications are used to serve wide points, whereas cables go from one point to another point. But, of course, as we get more and more cables and as the world network gets more and more interconnected, the problems of finding what is the best technological and the most economic way to communicate point to point becomes exceedingly more complex because of this interconnectedness. You have to consider the effect on flow-through of information as well as the origination and termination of traffic. We also have to consider that, because of our policy of encouraging access of telecommunications in remote areas in less developed countries, we have an extensive degree of cross-subsidization in our world telecommunication network. So, all of these factors -- interconnectedness, tariffs, rate-making structures, the social and political objectives of tying the world together, encouraging the

countries to come into the world telecommunications network -- all these things must be taken into account in planning just one telecommunication link.

So, I think you can see that planning international telecommunications facilities is taking on a new order of complexity. This complexity of interconnectedness is made more vexing by the wide disparity of domestic telecommunication systems we find among various countries. Countries, such as the United States and Japan, have very sophisticated and very widespread telecommunication systems in their own countries. Many countries don't have that. I think we will have a very low cost and flexible international network, but utility of that will be limited if you can get only to one or two points in a country, and then can't get the next three or four miles to the party with whom you wish to communicate.

Much of the telecommunication technology that we are developing in most sophisticated countries can be applied, if appropriately modified, to serve some of the very important needs of less developed countries. This is something I think we should pay very important attention to. Educational television, particularly, can offer a way, at reasonable price, for many of the countries to educate their citizens much faster than they ever would be able to do through written words. So, I think we in advanced countries have an important obligation to telecommunications in this field.

Let me move now from international communications to domestic communications. I will talk principally about my

country, but I think it is not too much different from what you are seeing and will see in your own country. Japan and the United States are probably the two most developed countries in the world of telecommunications. And that looks like it is likely to continue. Even though we have the problems of tying together the rest of the world, developing the rest of the world for telecommunications, you will no doubt see very rapid internal domestic development of telecommunications in both countries.

Domestically, we in the United States see the future of telecommunications being almost embarrassingly rich. The possibilities are so great that we find it hard to know how to deal with them. This rapid quality change I am talking about means we will have a whole host of new kinds of communications services, and, quite frankly, our biggest problems are figuring out how to deal with them, how to get them introduced in a sensible way into the market place, and to make sure that they don't cause excessive difficulties for the existing important telecommunications services.

In the mass electronic media, television and radio broadcasting, we see the most important factor for the future being cable television. Already some fifteen percent of homes in the United States are wired, and this is growing at a quite rapid rate of growth. So, maybe as many as fifty percent of U.S. homes will be wired by 1980. When we get to the point where roughly half the homes are wired, then

we will have to look at cable television not as cable television any more, but as a broadband distribution system. And cable will then be a medium in its own right. The primary feature of that medium will be channels, many channels; a medium of plenty, rather than as we know it today, a medium of channel scarcity.

Newer systems being installed in the United States typically have forty or more channels. This is likely to be increased in the future because the systems are being designed with conduits to permit addition of new cables and with amplifiers being located at easily accessible points, so high capacity amplifiers can be added later.

The projected cost for cable television in the not-too-distant future looks to be on the order of a tenth or a hundredth of a cent per home per channel hour. The practical effect of that is that the cost for television transmission within the United States in say, ten or twenty years, is likely to be negligible compared to preparation of programs and payment for programs.

Cable television is inherently a local medium, but with interconnection with satellites and microwave, it is also a national medium. And with the development of new terminal technologies, with the very rapidly reducing cost of video tape recording facilities, we begin to see the development in the United States of a highly flexible, high capacity network,

with low cost transmission, recording and signaling capabilities being very widely distributed. So it is not too much to project that in twenty or more years, it will be possible for a viewer in the United States to call up essentially any kind of program or information material he wants, when he wants it, at a price he can probably afford to pay.

This is going to represent real political problems and real economic problems, making the transition from the mass media structure that we have today to that of the future. We can't destroy the economic base that we have; we have to have sensible transition. This will make very difficult problems of government policy. It will mean, I think, quite different government policies toward mass media generally. Government, hopefully, will not have to exert much control of the content of programming as they have in the past.

We have observed, of course, similar kinds of problems in what we call the common carrier area of communication, that is to say, point-to-point communication. We have the possibility of a whole host of new services. Data communications will be one of the first, but looking beyond that, very flexible information services involving storage, input/output, retrieval, processing, shifting around all kinds of information. Putting it into the context of a simple telephone call, as an example, we see very quickly the possibility for not just switching in the sense of connecting station A to station B, but rather, connecting to a person, wherever he may be. We see the

possibility of very widespread mobile communications. The possibility exists that in ten or twenty years essentially every vehicle will be equipped with a telephone. We see the possibility of specialized communications networks interconnected with the basic national common carrier network.

In trying to deal with point-to-point communications, we find two principal problems. One is the basic unpredictability of what people want to use communications for. So we have a rather chicken-and-egg problem in trying to design a network to accommodate what we know will be a very enormous demand, but not knowing what the character or shape of that demand will be.

The other problem is the institutional problem. We have come to think of common carrier communications as being a natural monopoly. Our belief in that is being shaken by the development of technology. It may well be that the old technology did represent a natural monopoly. But much of the new technology does not. Certainly, we have to preserve the benefit of economies of scale, but we increasingly will have to allow the benefit of economies of specialization. The problem is to make it possible for competition and specialization to coexist with monopoly and standardization. This is going to be one of the recurrent themes in planning for the future of common carrier communications.

Well, I have talked too long. I talked all around the future of telecommunications without telling you what it will be. That is, of course, because it is impossible to predict

the future of telecommunications. One predictable thing, though, is that there will be change and it will continue to be very rapid change. What I have tried to suggest is a flavor of the kind of future that we will have. What this kind of future means, I think, is that those of us with responsibility for telecommunications must put our focus on adaptability, on the ability to deal with change and accommodate it as it arises, and to deal with the impact and influence of our telecommunications facilities as well as to provide the facilities themselves.

If there are any questions, I would be pleased to answer them. Thank you very much.

(Applause)

126



REMARKS OF

Clay T. Whitehead, Director

Office of Telecommunications Policy
Executive Office of the President

before the

San Francisco Chapter
National Academy of Television Arts and Sciences

Mark Hopkins
San Francisco, California

September 14, 1972

Last year around this time I made a speech in New York City that got some attention because of my proposals for restructuring the framework in which the government regulates broadcasting. I attempted to deal with fundamental problems, such as license renewals, the Fairness Doctrine, public access, and the whole scheme of radio regulation. We've done more work on these proposals and have had many constructive discussions about them with people in the broadcast industry and others. Soon we may be able to take concrete action in some of these areas--license renewals may be the first.

But these proposals constituted the second half of my speech last year. The first half--which got much less notice--dealt with the new television season of 1971-72, some harsh realities of the television business and how the viewers perceive and react to the programs provided to them. Now there's a new fall season. I'm going to kick it off by stressing some of the same realities.

I'll start with my annual predictions about the new television season that began this week. I predict that CBS will have success with its ethnic lineup, especially "Bridget Loves Bernie," in which a rich Irish girl marries a poor Jewish boy, who is disowned by his family after showing up at Friday night services in a McGovern sweatshirt. NBC will find a large audience for its "Ghost Story" series, which tells the haunting tale of Lyndon Johnson's role at the Democratic convention. The biggest surprise of the season will be ABC's "The Rookies," starring Sargent Shriver--it should get a rating of at least 1000 percent.

The opening of a new TV season is an exciting time. Television has the viewer's attention. It's a novelty again. While the professionals anxiously scan the overnights, the viewers have a grand time. For them, the television industry is what they see on their sets. What the advertisers are buying, or what the prime time access rule is all about hardly enters their picture. They see the best movies, the best of the series, the greatest specials, the biggest name guest stars--it's enough to make them want to stay glued to their sets for the life of a 13-week contract. But the bloom wears off quickly. The audience has learned by now that the new season isn't a rebirth of television's golden age; it's just another new season. Soon we will hear the familiar complaints about the blandness, the sameness, the lack of quality, the commercials, the violence and all the rest. The people want it the way it was back in the fall, but this level of programming isn't sustained, and the viewers urge the government to do something about television. So

as we go into a new season we should look beyond the excitement of the new programs and deal with some difficult, continuing realities of the TV business. But look at the complexities involved.

It is an unpleasant fact that broadcasting is the only medium of expression under direct regulation. In the regulatory process the government tries to avoid content regulation and keep its attention focused on the technical and operational aspects. But something must be done about the realities of television. To regulate TV within the public interest context of the Communications Act, the FCC has to devote some attention, at least indirectly, to the programming seen by the viewers. This Administration has strongly and consistently urged that regulatory involvement in broadcast content be kept to a bare minimum, and that the Communication Act's public interest constraints not be permitted to overshadow the Constitution's principles of free expression. We shall continue to urge this approach most strongly, for it's the only approach consistent with the First Amendment and with the maintenance of a private enterprise broadcast system in this country.

The FCC has worked well in the very difficult and anomalous position of regulating a medium of expression in a country that values the First Amendment as its most precious right. But it's not the only arm of government that has an interest in or a responsibility for this crucial balancing of interests. OTP was created two years ago, with the support of the FCC and the approval of the Congress, to advise the President on these sensitive questions. Some have suggested that once created, OTP should stay silent; but it is wholly appropriate and necessary for the Executive Branch to grapple with the important communications issues of our time. Given the pervasiveness of broadcasting, the importance of television in our society, and the fast changing technologies, it's essential that the President have available to him a source of expert, independent judgment. That's why there is an OTP.

I believe OTP has played its role responsibly and with restraint. We have attempted to stay above the smoke of the battle and take a long view. There are, however, immediate problems that also come to the attention of the Executive Branch. One of these problems is the question of network reruns. Once the glow of the new season fades, the viewers will be up in arms when they realize the extent to which the networks are

programming reruns. A study made by the Hollywood unions, which have been hit hard because of this practice, claims that the general nationwide average of reruns in network prime time is close to 60 percent. This has happened slowly, but it's now getting to critical proportions. I've read that the networks are working with a 44-week schedule, which contemplates 20 or 22 weeks of reruns, and this doesn't even take the summer weeks into account.

The problem was recently brought to the President's attention by the program production industry and its talent and craft unions. The President has written to John Gavin, the head of the Screen Actors Guild, expressing general agreement that the increasing number of reruns constitutes an economic threat to the program production industry. And the President has asked OTP to look into this matter and recommend appropriate action.

From what I've seen already, this will be a good profit year in the TV industry. I've also heard that the Hollywood studios are on the ropes--that at any one time there are many craft unions with 50% to 75% of their members out of work. It is not clear whether there is a relationship between either of these facts and the spreading blight of reruns, but this is a matter that requires some close scrutiny. The skilled and creative people in the film industry constitute a great national resource--one that sustains the TV industry and provides enjoyment for millions of Americans. This resource is now drastically under-used--and it is the TV viewing public that suffers.

It may be cheaper to buy programming overseas, where production costs may be recovered before the program is put on the international market, but it's certainly not in the public interest nor in the networks' long-range interests, to have our domestic program production industry sapped of its vitality. After all, this resource of creative talent and skills is capable of generating audience interest in television during September and October every year and, if given the chance, it could sustain that interest right through to June.

The rerun problem is complicated. It's irresponsible to criticize the entertainment programs the viewer sees on his screen and blame evil-intentioned network executives for not doing better. We have to understand the economic complexities of why the program industry resource is under-used, and why the system produces the kind of programs it does. We are going to look at the rerun problem carefully, and make our recommendations

to the FCC, if necessary, or urge the networks to take whatever action is deemed appropriate.

The mix of public interest, film industry employment, and broadcast schedule factors, which is present in the rerun problem, is also present in the prime time access problem. Some argue forcefully for abolition of the prime time rule as the salvation of Hollywood--after all it seems to be costing the studios some \$50 million annually. And it is questionable whether the public has gotten much out of the game shows and quiz shows that so often fill the 7:30 p.m. time slot. I don't think all the facts are in yet on the prime time rules. But I do think it's time for the FCC to take a close look at the effect of the rules, as Dean Burch has indicated they will. Chairman Burch is an outstanding regulator who has always taken an open-minded approach; when the requirements don't serve their intended purpose, he moves to change them. I'm confident all concerned will get a fair hearing on the prime time rules.

The prime time access rule and the rerun problem are a part of the need for more program diversity and more program choices for the viewers. In many ways, these needs result from the fact that we have only three national television channels of programming in prime time. As long as we are working within a three-network system, we have to deal with problems such as reruns and prime time access as best we can. But, from a longer-run policy perspective, creation of new networks may well be the only way to meet the needs of program diversity and audience choice.

Some have charged that OTP has opposed development of public broadcasting into a fourth national network because we wanted to stifle dissent or protect the commercial networks' profits. Nothing could be further from the point; we simply believe that the government has no business creating and subsidizing a national television network. But it is perfectly consistent with our legal and economic traditions to help expand program diversity and viewer choice by creating conditions favorable to the development of additional commercial networks or other new program suppliers.

This, you may say, sounds like "pie in the sky." After all, the practical problems of starting up additional networks have been insurmountable. True enough; the high costs of interconnection and the need to achieve a critical mass of major market affiliates have blocked the chances for successful operations of new networks. But the times are changing:

First, the "open skies" policy for domestic satellites could substantially lower the costs of national and regional network interconnection. When combined with an open entry policy for ownership and use of ground receiving stations by broadcasters and cable operators, satellites could facilitate affiliations with new national, regional and specialized programming networks.

Second, the critical mass problem of collecting enough major market affiliates could be eased by cable TV development. The new networks do not have to look like the present networks or operate in the same way. There does not appear to be any reason why new networks can't be combinations of broadcast stations and cable systems, or why they can't simply be real-time program syndicators.

All of us owe the viewers our best effort in dealing with the important issues raised by the communications revolution that is upon us. They will get the Administration's best effort, whether we are dealing with longer range policy for the technologies that could offer new services and expand the range of programs available to the viewers or whether we are grappling with a problem such as the one posed by reruns. The consumer movement has made those of us in government sensitive to the fact that our policies have to be formulated in terms of their impact on the consumers. That is also the proper perspective for broadcasting's leaders. I hope that we can work together to expand television's role as a vital factor in our national life.



REMARKS OF

Henry Goldberg, Acting General Counsel

Office of Telecommunications Policy
Executive Office of the President

at the

North Carolina Association of Broadcasters

Wilmington, North Carolina
October 16, 1972

In an election year, a good deal of public attention is focused on Washington. This matches Washington's attention, which is most often riveted on itself. I'll stick to the Washington theme and talk about some of the things that occupy our time at the Office of Telecommunications Policy (OTP). I think this will give you some idea of what we are and how we view our role.

OTP has a multifaceted role. But I think you would be most interested in those aspects that affect broadcasting. First of all, why should the President, through OTP, have anything to do with this medium?

There are many alternative dictionary definitions of the word "medium." One set of definitions conveys these meanings: "A substance regarded as the means of transmission of a force or effect"; or "a surrounding or enveloping substance"; or "a channel of communications." In one sense, all of these meanings apply to broadcasting. It touches all issues. It affects how we deal with one another; how we see ourselves as people and as a country; and how we see our world; it affects how we exchange ideas; how we conduct our political processes. And because it is all these things, the relationship between the media and the government is one of the most important issues we face. In this regard, it is essential that the Executive

Branch speak with an effective voice in this vital area and work on an equal basis with the FCC and the Congress in coming to grips with the complex issues presented by broadcasting.

Think about these issues and then ask the more relevant question: How could a conscientious President ignore the issues and not participate in the policymaking process with the other branches of government?

While the term "policymaking" sounds pretty ivory tower-ish, it includes such everyday things as the FCC passing on a Section 315 question, a Court of Appeals reviewing a license challenge case, or the Congress determining what to do about sports blackouts. But policymaking also involves seeing the relationships among these day-to-day actions. You need time for this, free of the pressures of backlogged applications and clogged congressional committee calendars. Executive Branch entities, such as OTP, are well suited to this kind of policymaking. We can add a different perspective to the policy process; an added dimension that can be of substantial assistance to the Congress and the FCC.

But even this more abstract type of policymaking doesn't exist in a vacuum. Fundamental principles must underlie all policy. In order to understand OTP's present and future policies, you have to understand the principles that guide OTP in these, its formative years. Those

principles are that private enterprise is better than government-run enterprise, that competition in the marketplace is better than regulation in Washington, and that the First Amendment is a better guarantee of freedom of expression in broadcasting than any other doctrine.

It's interesting to note what others say about a government agency that is dedicated to these principles. Naturally, some say very complimentary things about OTP, but these things aren't very newsworthy. Others say things that are not so complimentary.

For example, Congressman Macdonald of Massachusetts, Chairman of the House Communications Subcommittee, has described OTP as "the most serious, continuing threat to the independence of the free broadcasting system of this country." Others have taken OTP to task for our actions on public broadcasting. Our study of the expansion of TV network reruns in prime time is considered by some to be unspeakable--or at least their remarks to me are unprintable.

In some ways such criticism is understandable, but it clearly misses the point. It's simply a disadvantage of creating a policymaking entity in the White House--your policies are always considered by some to be politically motivated. But let me discuss a few of OTP's present policies and activities and you can decide whether OTP is a threat to the independence and freedom of broadcasters.

Let's take a hot topic first. I'm sure you all know that, last month, the President expressed concern about the proliferation of rerun TV programs in network prime time. He asked OTP to study this problem. Some have said that this means the Administration is trying to control program content. Even broadcasters and network officials, who give us credit for sincerely believing in the private enterprise, free speech principles I referred to, think that we have departed from those principles on the rerun question. I think this criticism is misplaced.

Under the First Amendment, government is precluded from making value judgments on the content of programs, when it makes laws governing the media. Of course, this does not mean that government cannot carefully regulate some business practices and economic incentives of media owners. After all, the antitrust laws apply to newspapers, newswire services, motion picture distributors, and broadcasters. Closer to home, the FCC regulates many business activities of networks and stations. This kind of government action is constitutionally valid because concentrations of economic power in the communications media have an adverse effect on the values of free expression and the competitive exchange of ideas which the First Amendment is intended to preserve.

Relating this to the rerun question, we are not making a value judgment on the content of rerun programs. We are

not even saying that reruns, as a category of programs, are bad. We are saying that the networks' business practice of expanding reruns in the prime time hours that they control is an appropriate subject of government inquiry; by the FCC, by OTP, or other agencies. In this instance, OTP is taking the lead and is making a thorough economic study of the rerun practice and its impact on important public interest goals. In doing so, we have an obligation to get all the facts and to exercise the kind of judgment and restraint that government must exercise in dealing with economic regulation of the communications media.

We are fulfilling that obligation. During the past month, OTP's Chief Economist and I have had lengthy meetings with representatives of the networks, other broadcasters, the unions and guilds, the major and independent production studios, and the leading TV advertisers. We have asked all concerned to provide detailed economic and statistical data regarding reruns and other programming practices. We are analyzing this information and will be holding more sessions with the interested parties during the next few weeks.

Our recommendations to the President will be weighed carefully. We hope rerun restrictions do not have to be imposed by rule. We hope the networks will take voluntary

action. But, if government regulation is necessary, it will be the minimum regulation needed to achieve the objective. We should be ready to reach some preliminary conclusions in about six weeks.

In another area of OTP's current activities--cable television--we find broadcasters not so concerned about government restrictions on programming. Broadcasters urge controls on cable carriage of distant signal programs, sports programs, and any programs for which a fee is charged the viewers. OTP believes that distant signal regulation is appropriate, because it is economic structure regulation that will allow integration of a new communications technology into our mass media and could, ultimately, expand the range of viewers' program choices.

This kind of regulation can establish the framework for marketplace competition between cable and broadcast TV, but within this framework, the competition must be fair. Right now, there is a danger that some aspects of the competition will not be fair because an essential element of the FCC's distant signal regulation is missing. The compromise agreed upon by cable operators, broadcasters, and the program companies, was predicated on the expectancy that the parties would agree on new copyright legislation requiring cable to pay its fair share to program production

sources. The compromise is almost one year old and the FCC cable rules have been in effect for over six months, but we appear to be no closer to new copyright legislation than we were at the outset.

There can be no meaningful development of cable until this matter is settled. One of the first bills introduced in the next Congress should be a copyright bill that the concerned industries, the FCC, the Administration, and the public can support, and that the Congress can enact without further delay.

I'm not sure, however, that the other kinds of restrictions some broadcasters would impose on cable programming would be in the public interest or broadcasting's own interest. Look ahead to a day when the cable and broadcast technologies are simply two ways to provide television programs to the public. If the government can impose negative program restrictions on cable channels--such as no series programs for a fee--it could just as easily affirmatively require presentation of certain types of programs on broadcast TV. In short, once the precedent of program requirements is established for television, whether on cable channels or broadcast channels, can it be very long before the entire camel of government control, not just its nose, is in your tent? This is the kind of consideration that the President's Cabinet Committee on

Cable TV is taking into account, as it works on a policy to guide the creation and development of a new cable industry.

It seems that radio is always last on the agenda, and I suppose I'm guilty of treating it the same way. About a year ago, OTP's Director made the startling observation that radio was different from television. He said that, whatever the reasons for detailed regulation of broadcast operations on scarce TV channels, those reasons did not apply to radio. He said that we had to rethink radio regulation and experiment with ways to restore freedom from government's heavy hand in this diverse and competitive medium.

Until that time, freedom in radio broadcasting had been given lip service but little else. But now the issue of radio deregulation is starting to hold peoples' attention. The FCC has seriously embarked on what it calls radio reregulation. The Commission is to be commended for this. It is unusual--indeed courageous--for a regulatory agency to suggest that the public interest would be better served by doing less of what it has always done. The Commission is starting slowly on this path by cutting some of the red tape that ensnares radio licensees. But elimination of outmoded regulatory requirement should not

stop at simply making it easier to operate a radio station. There's more at stake than the convenience of licensees or reduction of the administrative burden on the FCC. What is at issue is the authority of the government to regulate content on an important medium of expression, when the justification for that regulation is open to substantial question.

This issue will never be faced if broadcasters themselves are indifferent to their freedom; if they tolerate government intrusion on their journalistic and programming judgment once they no longer have to read the meters or give station ID's so often.

In recent and rather remarkable speeches, Richard Jencks of CBS and Julian Goodman of NBC recognized this essential aspect of the OTP proposal for radio deregulation. Mr. Jencks appealed to his networks' radio affiliates to support the proposal in its original form--which was a call for a far-reaching experiment in radio deregulation. Mr. Goodman made the principal focus of his remarks the elimination of case-by-case enforcement of the licensees' Fairness Doctrine obligations, another of OTP's major proposals. But he urged that radio be used as the test-bed for modifying fairness enforcement in television broadcasting.

As long as we're talking about experiments, let me suggest one for radio licensees as they prepare their next renewal applications. As you fill out the Section IV-A's,

read the questions carefully and ask yourselves what information about your programs the government really needs to have. Will the public interest be disserved if some of those questions go unanswered? More fundamentally, what may the FCC properly do with the answers to these programming questions? I'm certainly not suggesting that you ignore the questions. I am suggesting that you answer them this time and remember them and work for a change in this status quo with as much diligence and dedication as broadcasting's adversaries work to change other status quo's. It will take this kind of commitment to be sure that you don't have to answer those questions three years from now, or even five years from now if Congressman Broyhill's renewal bill is passed.

This just about concludes my remarks today. I started by saying I wanted to discuss the things that OTP is doing, why we are doing them, and what we hope to accomplish in furtherance of our principles. What lies ahead? If given the opportunity, OTP intends to continue on the path of separating government from control of media content and relying more on marketplace competition rather than government regulation to achieve public interest goals. For example, this path may well lead in the shortrun to OTP support of license renewal legislation.

Not too many years ago, broadcasters looked to the future and saw only more problems ahead. Now there are some bright spots on the horizon. I hope one of them can be OTP, even though we won't always see eye to eye. Certainly, OTP cannot solve all of these problems, some of the problems may even be insoluble. But we can work together with you toward a common objective of preserving and expanding the benefits that a private and independent broadcasting system has provided the public.

REMARKS OF

Clay T. Whitehead, Director

Office of Telecommunications Policy
Executive Office of the President

before the

International Conference on
Computer Communications

Washington Hilton Hotel
Washington, D.C.

October 24, 1972

COMPUTER COMMUNICATIONS SPEECH
October 24, 1972

No one questions that today we are in the midst of a virtual information explosion. Computers and communications are being scattered worldwide. There are very few phases of our life that have not been touched, in one way or another, by these new developments. Computer communications systems are rather limited thus far, but they are growing fast.

The development of data communications is having profound effects both on the users and suppliers of these information systems. Data communications development has been the focus for the drive to introduce competition into previously regulated sectors of the communications industry. Now both customer-owned terminal equipment and specialized common carriers, catering to the data users, are permitted. Innovations in both equipment and services are being introduced and made available to users at an accelerated rate.

Today, many traditional industries, such as securities, airlines, and banking, have been completely restructured through the use of data communications. New ones are also being established.

In addition, computer communications developments promise substantial improvements and expansion in a number of important governmental services such as health care, education, and library systems.

Government information of all kinds, from FBI crime control data to real estate and vital statistics at the county and local government level, are now readily retrievable and accessible to users. The result has been both an increase in the efficiency of government and a narrowing of the gap between government and citizen.

I would now like to concentrate on and briefly explore a few of the implications and effects of government regulatory policy on computer communications -- both present and future.

Government policies will have a profound effect on the growth and development of the information industry. Past experience in communications has taught us that a policy designed to regulate the transmission of information often affects the content of the information that is ultimately conveyed. In the broadcasting field, for example, Government regulations affecting the number of television channels, programming requirements, and program financing have been instrumental in shaping the character of television programming.

The regulatory problems in the computer communications area do not fall into either of the rather neat regulatory categories of broadcasting and common carriage. Computers are available in a wide variety of configurations and prices, and their services are provided in a freely competitive atmosphere. When information services expand into the communications area, however, present regulatory decisions require that they must operate in a totally different structure centered around the more conventional forms of regulated communications. This adds an unnecessary inflexibility into data communications operations.

We need to develop a dynamic and flexible regulatory framework for communications which is less oriented towards the traditional technologies. Policies need to be developed that provide the proper economic and social incentives for the balanced growth of the new technologies which today are precariously straddling the traditional regulatory boundary lines. In this

vein, the development of the new specialized common carriers has prompted a reexamination of some of the basic principles of present common carrier policies.

We must find some means of accommodating all of the special requirements of data transmission in an industry whose major revenue source is voice traffic. The flexibility and adaptability of the common carriers networks have been ably demonstrated in recent years; but fundamental problems remain. It may be best to establish specialized value-added networks to overcome differences in the capabilities of the facilities available and the requirements of the data customer. These networks would utilize the common carrier's transmission facilities with the switching, error control, and other special services being provided by separate equipment. However we do it, we must balance economies of specification and economies of scale.

We must find solutions to issues like the individual's legal right to privacy and the industry's technical problem of providing the security in their systems necessary to safeguard and insure that privacy.

We must fully consider the property rights of the creator of an information source or data bank when developing access rules for their use. Only a proper balancing of creator rewards and access costs will promote quality and diversity in new sources and their utilization.

Finally, we must work out the problems raised by the international trade of both information services and pure remote computing.

Government policymaking in communications must meet several important criteria if we are to deal with the new technologies becoming available. It must be anticipatory. If it is not, then it becomes nothing more than a defense of the status quo and a red tape frustration to new systems and services.

It must project into the future. Major changes in computer hardware will become widespread in about six to seven years; however, it traditionally has taken from 15 to 20 years to implement a fundamental change in communications.

Policymaking cannot operate in a vacuum. The policymakers require inputs from both the suppliers of the communications as well as the users. These inputs are especially important in the area we are discussing here today, for now there is interposed between the supplier and the ultimate user an important intermediary, the operator of the computer.

The ultimate objective of regulatory policy in the communications sector is to develop a properly structured competitive framework wherein the most productive use can be made of future developments and of national resources.

But even the most enlightened restructuring of the regulatory framework is not going to solve all of the problems. It is also essential that representatives of the two technical disciplines involved, the computer operators and the communicators, sit down and work out some of the difficulties themselves. Our own experience in this field has shown that a definite knowledge gap exists between the providers of these two services as to their present needs and capabilities. This

schism is even more obvious in the important area of future planning. The gap in communications between these two industries must be closed. Government has been at fault, but it is ultimately up to you.

If this sounds like a large order, I think we must bear in mind that we are speaking of a new technology and a new industry. The opportunity is there for all of us to guide it into the proper framework where it can provide the most good to society as a whole. It is important, therefore, that we stand back and take a long, hard, searching look into present and future problems in this area.

The emphasis of this Conference is rightly placed on the total problem. We need meetings that transcend the boundaries of academic disciplines, of industries, and of nations. The results of dialogues such as these will have a tremendous influence on the solution to your long-range problems and they can't help but lead to better informed government regulation. I wish you the best of luck.



Ludy
16

REMARKS OF
Clay T. Whitehead, Director
Office of Telecommunications Policy
Executive Office of the President

before the

California Community
Television Association

Anaheim, California

November 16, 1972

I am always glad to have the opportunity to return to California. It may be true what they say about Maine in regard to our national elections. But in many phases of our national life, we have to look to California to see the future trends.

I have read of the accomplishments of the cable industry here in California and have also kept in touch with some of your future plans. The development of the potential of cable communications is a challenging task, and I commend your efforts at meeting this challenge.

However, the development of the cable television industry cannot proceed much further until it is put on a solid structural foundation. Right now cable television is suffering from an identity problem. What type of business are you? Are you a public utility? Are you an adjunct to the broadcasting business? Are you merely in the business of laying copper and stringing wires? Are you in the pay television business? Are you multi-channel broadcasters? Is this one business or many separate businesses?

It is important that the cable industry's identity crisis be cured. The public wants to know what services the

cable industry will provide; the Government needs to know what kind of industry it is going to regulate; and the financial community wants to know in what kind of business it is going to invest.

In order to answer these questions, a number of thorny policy issues must be resolved. Both the Office of Telecommunications Policy (OTP) and the Cabinet committee on cable television have exhaustively studied these issues and have sought solutions which will result in a more up-to-date regulatory framework for both cable and over-the-air broadcasting.

These policy issues cannot be postponed. And it is important that resolution come in the form of legislation from Congress. If there was ever any doubt as to the necessity for Congressional legislation in this area, it was dispelled by Supreme Court Chief Justice Burger. The Chief Justice recognized the immediacy of the problem and the need for Congressional resolution when he stated in the Midwest Video case: "The almost explosive development of CATV suggests the need of a comprehensive reexamination of the statutory scheme as it relates to this new development, so that the basic policies are considered by Congress and not left entirely to the Commission and the courts."

In enacting this legislation, Congress should bear in mind two important principles that have been distilled from past experience with legislation in the regulatory areas.

First, it is dangerous enough to give vague mandates to the regulatory agencies when drafting legislation dealing with fixed technologies. And when you have to deal with a rapidly expanding technology like cable, the problem becomes even more complicated.

The legislation, therefore, should not be cast in any permanent mold but rather should allow for the evolving status of cable. This could best be done by Congress defining specifically what the public interest is in this area and also the scope and limits of the FCC's jurisdiction. Thus the FCC would have clearly defined regulatory standards to follow. Moreover, the statute would be flexible enough to accomodate itself to the changing face of broadband communications technologies.

Second, the legislation should come in one comprehensive legislative package and not be done on a detail-by-detail, "as need arises" basis. If Congress were to adopt this piecemeal approach, the cable field would be replete with

a number of very specific bills dealing with particular problems at particular points of time. The result would be a complicated set of rules and regulations and the total absence of any comprehensive policy standards and goals to guide the FCC.

Along with the development of a legislative framework for cable itself, the copyright issue is of immediate importance. This problem stands squarely in the way of any long-range development of the cable industry and must be resolved in the near future. The Administration is firmly committed to a regulatory structure for cable and over-the-air broadcasting that is posited on free and open competition. But this competition must be fair; and until this copyright issue is resolved, the possibility--and the appearance--of unfair competition by cable operators remains. An equitable solution to this copyright problem must be found.

In legislation dealing with the cable medium in its own right, two of the most important issues are access, and the division of regulatory responsibilities.

The access issue must be resolved. Everyone agrees that no private entity should be allowed to control all the

cable channels in a given community. The problem is in developing a flexible means for preventing such potential concentrations of power.

There are three major policy options available to the Cabinet committee and OTP for dealing with cable monopoly problems. One option would be for cable companies to be regulated from the beginning as public utilities; the problems of monopoly abuse, thus need never arise. However, cable television is a dynamic, evolving business and to subject it at the outset to the whole panoply of public utility rules and regulations would very likely have the effect of inhibiting its growth and viability to the point of denying its usefulness.

A second option would be simply to leave the industry as it presently exists under FCC regulation. But this approach also raises problems. It may only postpone the inevitable transition to public utility regulation. Cable television systems are natural monopolies in specific geographic areas and as their penetrations into the markets increased under this policy so would their monopoly power. The Government would have to gradually tighten its regulatory control. And to protect the public from the monopoly

power it sanctioned, the Government would have to bind the cable system owner so tightly in Government red tape that he would be unable to use his monopoly power. The end result--public utility regulation--would be the same as the first policy option.

A third option would be for the Government to recognize the several different businesses involved in cable communications--program creation, origination, supply, and program transmission--and to separate those aspects that are tied to the technical or transmission monopoly from those, such as program supply, that are characterized by free and open competition. Only the former would be subject to the strict type of regulation in order to avoid monopoly power.

This last option places primary reliance on an effective structuring of the cable television industry and on our free market incentives. It is also more consistent with the private enterprise system and our traditional Government-business relationships.

The second issue is the division of regulatory responsibility between Federal, State, and local authorities over cable television. As you well know, the cable television

industry inevitably will be subject to Federal and local, and probably State, regulation. The potential of cable television is so great that effective regulations may be needed at all levels; but these regulations need not be overlapping and duplicative. The goal should be a balance among Federal, State, and local regulation--not a confusing balance of power but sensible, clearly delineated responsibilities and functions. And to avoid any possible conflicts, the functions granted at one level should be denied at the other levels.

The cable policy will also have to determine under what conditions the public will be allowed to buy and the industry to sell programming. This is not the old pay television siphoning problem.

It is clear that advertisers are not likely to be allocating much more than present amounts for television coverage. The search for new revenues, therefore, must go elsewhere and what could be a better source than the television viewer?

Why not allow a mixed system of funding program costs? Such a system--tapping advertisers and subscribers--

would provide the sort of incentive needed for expansion of consumer program choice. Since mass appeal program revenues are limited, television would have to turn to the more specialized viewing audience. And these specialized audiences would be willing to pay only if the programming presented something above and beyond the current mass appeal offerings. This type of programming--dependent as it would be on its attractiveness to a specialized audience--would thus represent a net addition to, rather than a replacement of, our mass appeal programming. Moreover, advertising revenues would still continue for these mass appeal programs. The mixed system would simply provide a whole new source of funding. And the benefits from this funding would be evident in an increased diversity in programming.

The important thing is for the public's interest to prevail in the area of pay cable television. The viewing public should have the opportunity to decide whether it wants to pay for the kind of specialized programming above and beyond current offerings that pay cable television can provide. The television consumer should be able to vote with his dollars on the issue of pay cable television.

The Administration's interest in cable television is the public's interest. And we believe that the public's interest can be best served by properly structuring the cable industry in the free enterprise mold. Cable television ought to be allowed to grow as a business proposition. With the proper checks and balances, the public is best served by businesses growing and developing as businesses.

I should stress, however, that cable television's impact stretches beyond its everyday business operations. Cable television is becoming an important new public medium as well as a big business. Thus although we support cable television, we cannot simply support everything that is good for the cable business in the short-run. We also have to focus necessarily on the long-run and on the checks and balances that should be established for you.

Cable television is on the verge of becoming a very important industry. It is no longer the "poor relation" in the family of communications industries. Rather it has the potential to become a full-fledged member of the family and even give birth to some new offspring of its own. If it wishes to become such an adult, it must accept the

long-term public interest responsibilities that come with such status.

The Administration wants the long-term resolution of these cable policies to result in a regulatory framework that is favorable to the growth and development of the cable industry. We hope you recognize this fact and work with us in developing these policies for the cable industry.



17
Remarks of

Clay T. Whitehead, Director

Office of Telecommunications Policy
Executive Office of the President

at the

Arts/Media Conference
National Council on the Arts
National Endowment for the Arts

National Academy of Sciences
Washington, D.C.

December 1, 1972

When OTP got into operation in 1970, we immediately became involved with a number of specialized and often heavy communications issues-- frequency spectrum management, the President's war powers in communications, common carrier regulations, international communications conferences, the economic regulation of broadcasting, and the rights and obligations of the First Amendment.

You can see why I was so pleased to receive a memo from the President not long ago asking all agency heads to develop programs for aiding the arts. It gave me an excuse to spend some time thinking about the arts. And it also gave me the chance to spend some time with Nancy Hanks and others of the Endowment. The result is that we are beginning to have conferences like this.

When we talk about communication technologies and the arts, we have to be careful. Most Government bureaucrats, lawyers, and engineers look at communication technologies as mediums for transmission-- "mediums" meaning "channels" or "pipelines" of communications.

But to perhaps a majority of this audience, a "medium" is the substance the artists work with--oils, acrylics, and clay. The new communications technologies have an important impact on mediums in both senses of the word--in the first sense and in the second sense.

The presentation here today shows the potential impact communications technologies can have on mediums in the artistic sense of the word--
Medium Sense 1.

It is always hazardous to predict the future of art and of technology, and it is particularly hazardous to predict the combination. But if history is any guide, we are likely to see a development along the lines already followed by the film medium-- a progression from accurately depicting reality--to transforming reality--to the creation of a new abstract reality of the artist's own making.

You are seeing some of this progression today in the form of video and audio synthesizers, strobe lights, stop action, animation, computer-generated art, and video paintings.

While it is exciting to think about communications and Medium Sense 1, Government policy is usually concerned with Medium Sense 2; and it is interesting that the new technical arts are compatible with the new electronic transmission mediums -- radio, TV broadcasting, cable TV, etc.

It is interesting that the compatibility between these new technologies exists; but what practical meaning does it have, especially when you consider that already well developed art forms don't find their way onto the television screen?

The problem is not the limitation of the stereo FM channel or the video broadcast signal. The problem is what we put into it. And the current priorities favor soap operas, reruns, situation comedies, and news as higher priority over the best of our arts and cultural programs.

Why don't we find room? Is no one interested in seeing it? Is no one interested in producing it? On the contrary, we are in a period of great growth and ferment in artistic and cultural interests not only in New York and San Francisco, but in Minneapolis, Dallas, Atlanta, and even Washington, D.C. But why is none of that evident when you're watching your television screen? Why are classical music stations going off the air at a time when classical record sales are expanding? Of the programs that receive critical acclaim, why are so many British rather than American? Do they have better television transmitters? Are they culturally and artistically more diverse than the United States?

Maybe it is the structure of broadcasting. British television is essentially noncommercial. They can produce a program schedule to satisfy the special interests and hopefully to raise the public taste. We, on the other hand, are the only country with a predominantly private enterprise broadcast system. Other than in broadcasting, our private

enterprise system has been able to support the arts and, indeed, a growth of the arts along with some intelligently directed Government assistance. Why aren't we able to do that in television? Is it because there is a conspiracy by the TV networks and advertisers against artists? Are there more skilled TV managers in England? Does England have more money to spend on television?

These aren't the problems. The problem is that we have placed our national television system into an economic and regulatory box that has little room for the arts. One side of the box is the limited number of television channels available. The second side is the commercial incentive to please most of the people most of the time. Third, is the vast concentration of economic power in the three television networks. The fourth side is public policy, the side that, depending on your point of view, holds or forces the other three together.

How does public policy affect the other three sides? The limited number of channels is the result of regulatory decisions as much as technology. The commercial incentive to appeal to a maximum audience can be tempered with public subsidy such as we have done with public broadcasting and the Endowment. And public policy can sanction or diminish concentrations of economic power in private hands.

Where should public policy focus? Not with Medium Sense I. We all agree that public policy should not make judgments about good or bad programming any more than good or bad art. Rather it should focus on Medium Sense 2. The objective of public policy should be to get as much of the diversity and creativity that is in this country through the transmission medium and onto the home television screen.

Two ways come to mind for the Government to achieve this goal. The first is the "Government push." Government could foster economic monopoly in television in order to saddle the TV industry with even more programming responsibilities. The Government could push into the system programming that is of higher quality, more diverse, more artistic, and the like. We could then require the commercial broadcasting system to provide so many hours of classical music, literature discussions, video art, and the like. And set up a Government-funded network to do what is totally uneconomical, since even monopolies can be saddled with only so much public service responsibilities.

The problem with "Government push" is that it involves the Government in the medium in both senses of the word. The Government could not avoid determining which art or which artistic mediums are good art or good programming. In order to decide what to push through the system, the Government and the political process one way or another would become an arbiter of public taste.

The alternative to "Government push" might be called "Demand Pull." Under this policy, the Government would implement policies which would reduce the economic concentration in the system and would expand outlets. Viewer demand forces would "pull" whatever types of programming they wanted right through the transmission medium onto their TV screen.

This "Demand Pull" route would rely on an effective harnessing of the free enterprise system -- to apply in television the incentives which are so successful in other sectors of our economy. People can buy what they want in movies, records, books, magazines, etc. Perhaps a tremendously diverse market for the arts might be possible in television too.

The "Demand Pull" system would also achieve two further important goals. First it would minimize the need for Governmental decisionmaking as to what the people should see. There would be minimal interference with the "medium" in the first or artistic sense of the word. The people would decide what they wanted to see by voting for programs with their dollars in the diverse marketplace rather than voting in the ballot box.

Secondly, and more importantly for this conference today, this route would enlarge the base of economic support for the arts. Public subsidies, no doubt, will continue to be needed for the traditional arts as well as for

the arts intended for the television screen. But the emphasis of public subsidy would be properly placed on creative people, as Nancy Hanks has done so well, rather than on edifices.

Television will always reflect someone's concept of quality, reality, and art. The question is whose concept. It can be the voter, the Government and the television networks; or it can be the artist and his audience. We think the freer the flow there is between the artist and the audience the better. And I hope you will think carefully which philosophy is best for the arts in the long run.



18
For Release 10:00 a.m.
Monday, December 18, 1972

Remarks of

Clay T. Whitehead, Director

Office of Telecommunications Policy
Executive Office of the President

at the

Sigma Delta Chi Luncheon
Indianapolis Chapter

Indiana State Teachers Association Building
Indianapolis, Indiana

December 18, 1972

In this calm during the holidays, we in Washington are thinking ahead to 1973; among other things, planning our testimony before Congressional committees. For my part, I am particularly concerned about testimony on broadcast license renewal legislation. Broadcasters are making a determined push for some reasonable measure of license renewal security. Right now they are living over a trap door the FCC can spring at the drop of a competing application or other renewal challenge. That is a tough position to be in, and, considering all the fuss about so-called "intimidation," you would think that there wouldn't be much opposition to giving broadcasters a little more insulation from government's hand on that trap door.

But there is opposition. Some tough questions will be asked--even by those who are sympathetic to broadcasters. Questions about minority groups' needs and interests. Questions about violence. Questions about children's programming; about reruns; about commercials; about objectivity in news and public affairs programming--in short, all questions about broadcasters' performance in fulfilling their public trust. These are questions the public is asking. Congress is asking the questions, too; Senatore Pastore on violence; Senator Moss on drug ads; Representative Staggers on news misrepresentations.

Despite this barrage of questioning, the Congress is being urged to grant longer license terms and renewal protection to broadcasters. Before voting it up, down, or around, the Congress will have to judge the broadcasters' record of performance.

And where do we see that performance? It leaps out at you every time you turn on a TV set, and it's definitely not all that it could be. How many times do you see the rich variety, diversity, and creativity of America represented on the TV screen? Where is the evidence of broadcasters doing their best to serve their audiences, rather than serving those audiences up to sell to advertisers? And, most disturbing of all, how do broadcasters demonstrate that they are living up to the obligation--as the FCC puts it-- to "assume and discharge responsibility for planning, selecting, and supervising all matter broadcast by the stations, whether such matter is produced by them or provided by networks or others."

It's been easy for broadcasters to give lip service to the uniquely American principle of placing broadcasting power and responsibility at the local level. But it has also been easy--too easy--for broadcasters to turn around and sell their responsibility along with

their audiences to a network at the going rate for affiliate compensation.

The ease of passing the buck to make a buck is reflected in the steady increase in the amount of network programs carried by affiliates between 1960 and 1970. It took the FCC's prime time rule to reverse this trend, but even so, the average affiliate still devotes over 61% of his schedule to network programs. This wouldn't be so bad if the stations really exercised some responsibility for the programs and commercials that come down the network pipe. But all that many affiliates do is flip the switch in the control room to "network," throw the "switch" in the mailroom to forward viewer complaints to the network, sit back, and enjoy the fruits of a very profitable business.

Please don't misunderstand me when I stress the need for more local responsibility. I'm not talking about locally-produced programs, important though they are. I'm talking now about licensee responsibility for all programming, including the programs that come from the network.

This kind of local responsibility is the keystone of our private enterprise broadcast system operating under the First Amendment protections. But excessive concentration of control over broadcasting is as bad

when exercised from New York as when exercised from Washington. When affiliates consistently pass the buck, to the networks, they're frustrating the fundamental purposes of the First Amendment's free press provision.

The press isn't guaranteed protection because it's guaranteed to be balanced and objective--to the contrary, the Constitution recognizes that balance and objectivity exist only in the eye of the beholder. The press is protected because a free flow of information and giving each "beholder" the opportunity to inform himself is central to our system of government. In essence, it's the right to learn instead of the right to be taught. The broadcast press has an obligation to serve this free flow of information goal by giving the audience the chance to pick and choose among a wide range of diverse and competing views on public issues.

This may all seem rather philosophical. Cynics may argue that all television, even the news, is entertainment programming. But in this age when television is the most relied upon and, surprisingly, the most credible of our media, we must accept this harsh truth: the First Amendment is meaningless if it does not apply fully to broadcasting. For too long we have been interpreting the First Amendment to fit

the 1934 Communications Act. As many of you know, a little over a year ago I suggested ways to correct this inversion of values. One way is to eliminate the FCC's Fairness Doctrine as a means of enforcing the broadcasters' fairness obligation to provide reasonable opportunity for discussion of contrasting views on public issues.

Virtually everyone agrees that the Fairness Doctrine enforcement is a mess. Detailed and frequent court decisions and FCC supervision of broadcasters' journalistic judgment are unsatisfactory means of achieving the First Amendment goal for a free press. The FCC has shown signs of making improvements in what has become a chaotic scheme of Fairness Doctrine enforcement. These improvements are needed. But the basic Fairness Doctrine approach for all its problems, was, is and for the time being will remain a necessity; albeit an unfortunate necessity. So, while our long range goal should be a broadcast media structure just as free of government intrusion, just as competitive just as diverse as the print media, there are three harsh realities that make it impossible to do away with the Fairness Doctrine in the short run.

First, there is a scarcity of broadcasting outlets. Second, there is a substantial concentration of economic and social power in the networks and their affiliated TV stations. Third, there is a tendency for broadcasters and the networks to be self-indulgent and myopic in viewing the First Amendment as protecting only their rights as speakers. They forget that its primary purpose is to assure a free flow and wide range of information to the public. So we have license renewal requirements and the Fairness Doctrine as added requirements--to make sure that the networks and stations don't ignore the needs of those 200 million people sitting out there dependant on TV.

But this doesn't mean that we can forget about the broader mandates of the First Amendment, as it applies to broadcasting. We ought to begin where we can to change the Communications Act to fit the First Amendment. That has always been and continues to be the aim and intent of this Administration. We've got to make a start and we've got to do it now.

This brings me to an important first step the Administration is taking to increase freedom and responsibility in broadcasting.

OTP has submitted a license renewal bill for clearance through the Executive Branch, so the bill can be introduced in the Congress early next year. Our bill doesn't simply add a couple of years to the license term and guarantee profits as long as broadcasters follow the FCC's rules to the letter. Following rules isn't an exercise of responsibility; it's an abdication of responsibility. The Administration bill requires broadcasters to exercise their responsibility without the convenient crutch of FCC program categories or percentages.

The way we've done this is to establish two criteria the station must meet ~~before~~ the FCC will grant renewal. First, the broadcaster must demonstrate he has been substantially attuned to the needs and interests of the communities he serves. He must also make a good faith effort to respond to those needs and interests in all his programs, irrespective of whether those programs are created by the station, purchased from program suppliers, or obtained from a network. The idea is to have the broadcaster's performance evaluated from the perspective of the people in his community and not the bureaucrat in Washington.

Second, the broadcaster must show that he has afforded reasonable, realistic, and practical opportunities for the presentation and discussion of conflicting views on controversial issues.

I should add that these requirements have teeth. If a station can't demonstrate meaningful service to all elements of his community, the license should be taken away by the FCC. The standard should be applied with particular force to the large TV stations in our major cities, including the 15 stations owned by the TV networks and the stations that are owned by other large broadcast groups. These broadcasters, especially, have the resources to devote to community development, community service, and programs that reflect a commitment to excellence.

The community accountability standard will have special meaning for all network affiliates. They should be held accountable to their local audiences for the 61% of their schedules that are network programs, as well as for the programs they purchase or create for local origination.

For four years, broadcasters have been telling this Administration that, if they had more freedom and stability, they would use it to carry out their responsibilities. We have to believe this, for if broadcasters were simply masking their greed and actually seeking a so-called "license to steal," the country would have to give up on the idea of private enterprise broadcasting. Some are urging just that; but this

Administration remains unshaken in its support of the principles of freedom and responsibility in a private enterprise broadcasting system.

But we are equally unshaken in our belief that broadcasters must do more to exercise the responsibility of private enterprise that is the prerequisite of freedom. Since broadcasters' success in meeting their responsibility will be measured at license renewal time, they must demonstrate it across the board. They can no longer accept network standards of taste, violence, and decency in programming. If the programs or commercials glorify the use of drugs; if the programs are violent or sadistic; if the commercials are false or misleading, or simply intrusive and obnoxious; the stations must jump on the networks rather than wince as the Congress and the FCC are forced to do so.

There is no area where management responsibility is more important than news. The station owners and managers cannot abdicate responsibility for news judgments. When a reporter or disc jockey slips in or passes over information in order to line his pocket, that's plugola, and management would take quick corrective action. But men also stress or suppress information in accordance with their beliefs. Will station licensees or network executives also take action against this ideological plugola?

Just as a newspaper publisher has responsibility for the wire service copy that appears in his newspaper--so television station owners and managers must have full responsibility for what goes out over the public's airwaves--no matter what the origin of the program. There should be no place in broadcasting for the "rip and read" ethic of journalism.

Just as publishers and editors have professional responsibility for the news they print, station licensees have final responsibility for news balance--whether the information comes from their own newsroom or from a distant network. The old refrain 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.

Broadcasters and networks took decisive action to insulate their news departments from the sales departments, when charges were made that news coverage was biased by commercial considerations. But insulating station and network news departments from management oversight and supervision has never been responsible and never will be. The First Amendment's guarantee of a free press was not supposed to create a privileged class of men called journalists, who are immune from criticism by government or restraint by publishers and

editors. To the contrary, the working journalist, if he follows a professional code of ethics, gives up the right to present his personal point of view when he is on the job. He takes on a higher responsibility to the institution of a free press, and he cannot be insulated from the management of that institution.

The truly professional journalist recognizes his responsibility to the institution of a free press. He realizes that he has no monopoly on the truth; that a pet view of reality can't be insinuated into the news. Who else but management, however, can assure that the audience is being served by journalists dedicated to the highest professional standards? Who else but management can or should correct so-called professionals who confuse sensationalism with sense and who dispense elitist gossip in the guise of news analysis?

Where there are only a few sources of national news on television, as we now have, editorial responsibility must be exercised more effectively by local broadcasters and by network management. If they do not provide the checks and balances in the system, who will?

Station managers and network officials who fail to act to correct imbalance or consistent bias from the networks--or who acquiesce by silence--can only be considered willing participants, to be held fully accountable by the broadcaster's community at license renewal time.

Over a year ago, I concluded a speech to an audience of broadcasters and network officials by stating that:

"There is a world of difference between the professional responsibility of a free press and the legal responsibility of a regulated press. . . . Which will you be--private business or government agent--a responsible free press or a regulated press? You cannot have it both ways--neither can government nor your critics."

I think that my remarks today leave no doubt that this Administration comes out on the side of a responsible free press.

RADIO TV REPORTS, INC.

4435 WISCONSIN AVE. N.W., WASHINGTON, D. C. 20016, 244-3540

FOR MR. BRIAN LAMB

PROGRAM CBS Morning News

STATION WTOP TV
CBS Network

DATE December 20, 1972 7:00 A.M. CITY Washington, D.C.

AN INTERVIEW WITH CLAY WHITEHEAD

NELSON BENTON: Dr. Clay Whitehead, who's the administration's Director of the Office of Telecommunications, has joined us this morning to talk about some other aspects of the flow of information, specifically a speech that Dr. Whitehead made this week which included, to put it rather concisely (and maybe not altogether accurately), a recommendation that local stations be responsible for the objectivity of network news broadcasts as possibly a condition of the renewal of their broadcasting licenses.

Dr. Whitehead, let me say good morning -- and ask you if that's a fairly accurate summary of what you recommended.

DR. CLAY WHITEHEAD: Well, it's an accurate summary of part of it, Nelson. The responsibility we're talking about there that the broadcasting station has is nothing more, nothing less, than he's always had. We've always looked to the local broadcaster to be responsible for what he transmits over his facilities. What we're trying to do here is to create a situation where there is more freedom for the broadcaster; get them a little bit out from under some of these very detailed regulations that they now are experiencing from the FCC; give them a little more stability in their license, a little bit longer term, extended from three years to five years, so that they don't have to spend quite so much of their time filling out forms and can spend a little more of their time trying to program to their community.

Now, if you're going to take a step like that, say the broadcaster shouldn't be a form-filler, he ought to be a leader of his community who finds out what his community needs and wants and programs to meet that, and the government should back off a little bit in what they require of him, then we think it's only fair to public to ask that broadcaster to exercise more responsibility, to pay more attention to that responsibility he's had all along.

BENTON: Well, it -- your speech has already been

interpreted by some -- and I meant I think specifically Senator Vance Hartke of Indiana said that it sounds like another move toward government censorship of news. How would you react to -- to that criticism?

WHITEHEAD: Well, I haven't seen the senator's comments, but our intent is 100 percent to the contrary. To my way of thinking, the way the government would censor the news is through expanding its regulatory controls towards getting more and more detailed as to what it requires of the television stations. We don't want that. What we want is to have the broadcaster to be a fairly independent man, a leader of community, who exercises responsibility for what he shows to his community. And we think the way to do that is to give him a little more freedom -- and, hopefully, this is just the first step...

BENTON: By that you mean a longer license period?

WHITEHEAD: Longer license period. And secondly, to say that in deciding whether or how we're going to renew this license, we're not going to ask whether you're satisfying what some bureaucrats in Washington want, but we're going to ask how well is he going out and making a strong effort to find out what his community wants, what do they need, and programming to meet that. Now, if he is a network-affiliated station, that means that he also has to be responsible for what he carries from the network.

BENTON: Well, that -- that's -- that's where the question comes up. How does a local station which takes a news program from a network -- how does -- how does he become responsible? Do you prefeed the news and let the local station edit? Do you send out transcripts? How do you implement this sort of thing? That's what -- that's what I can't quite understand.

WHITEHEAD: Well, it's certainly not easy. If it were easy, you'd see more examples of it. Now, we don't want to get into the business of telling the local broadcaster and the network precisely what their relationship would be -- should be. But we are saying that they ought to pay more attention to it, they ought to work together more closely, and the local stations ought to play a larger role in the process of deciding what's coming down the network pipe.

If the local station manager doesn't think it's appropriate, if he thinks that there's too much violence in the children's programs, if he thinks that some issue is being consistently slanted on the network news, then it's his responsibility either to cut that off or to say, "All right, I'll show it, but I'm going to have something else on that I originate, or that I get from some other national source, that I think will round

out what's available from my network."

JOHN HART: Mr. Whitehead, you talked about ideological plugola in news broadcasts, and you're talking a great deal about network affiliates. Is it your belief that independent stations have less ideological plugola in their news broadcasts than the networks do?

WHITEHEAD: John, I don't think you can make a generalization like that. The -- there are many more affiliated stations, stations affiliated with networks, than there are independent stations. And each network show goes out to so many more people, there is so much more power in one network show than there is in each individual independent-station show, that you just have to be concerned with that affiliate/network relationship than you are with the performance of one independent station in one area.

HART: That leads me to a second question. Do you feel that local stations are more capable of more professional news judgments, then, by putting them in this policeman's role over the network?

WHITEHEAD: I don't think it's a policeman's role, and I don't think it's a question of where the capability for more professionalism lies. What we are saying is simply that professionalism should be spread around and a local station should contribute to the professional judgment of the network. There's no indication at all that the three national networks have a monopoly on professionalism.

HART: Well now, you -- I don't understand what's new. You've made a lot of news with this speech. You -- you in your speech talked about two things, the two requirements, two criteria: the broadcaster must demonstrate he's been substantially attuned to the needs and interests of the communities; and, second, he must show that he's afforded reasonable, realistic, and practical opportunities for presentation and discussion of conflicting views on controversial issue. The FCC has these rules already. What's new in your proposal?

WHITEHEAD: The main new thing about our proposal is the first criterion. That is not now written into the law. To the extent the FCC looks to the community's needs and interests, it's just because they think it's a good idea. By and large, the FCC has many of its own standards for what's good programming. We're saying that should be changed. The FCC should not have program categories. They should not tell local stations that they should do such and such a percentage of this, such and such a percentage of that. To the contrary, they ought to judge

the local station by how well he meets his community's needs.

HART: And it's not doing that...

WHITEHEAD: That is the change.

HART: And it's not doing that now?

WHITEHEAD: Only to some extent.

BENTON: Dr. Whitehead, I'd like to ask you about your recommendations that network news departments hear from affiliates and hear from their own management. You say management should be the overseer of news judgments. Don't -- don't you know that networks do indeed hear from their affiliates about what is broadcast on the news programs?

WHITEHEAD: Well, of course they do. Network executives will tell you that, and the station managers of the affiliated stations will tell you that. But they will also -- in the same breath, the station affiliate will say, "But it's so hard for me to have an effect. I'm just one affiliate, and there's that big network up there." And the network executive's reaction is: "Oh, I wouldn't think of interfering in the news process." Well, they have to accept the same kind of responsibility for professional judgment that newspaper publishers and editors accept.

BENTON: Well, my -- my experience may have been slightly different from yours. But I'd like to go on to something else. In your speech, when you were talking about professionals, you said that sometimes there were so-called professionals who confuse sensationalism with sense and who dispense elitist gossip in the guise of news analysis. Could you cite some specifics on that, sir?

WHITEHEAD: I don't want to cite any specifics. This is not a -- a vendetta...

BENTON: Why not?

WHITEHEAD: ...against any particular individuals or any particular network. I think almost anyone who watches television would have his own pet example of that kind of thing. And I'm not even saying that that is terribly widespread. What I am saying is that where it does exist -- and we all know it does exist from time to time -- it's the responsibility not just of the news department but of the affiliated stations and of the very top network management to correct that. It's the -- when they don't -- when management doesn't correct this, it

just creates an opportunity for people to come in and ask for more and more federal regulation.

Do you remember...

BENTON: But doesn't this...

WHITEHEAD: Remember, Nelson, what we're trying...

[Both men speak at once]

BENTON: ...more federal regulation?

WHITEHEAD: No. To the contrary, what this bill does is take the first step towards unraveling what has become a very big maze of federal regulation of broadcasting. And that is not the kind of direction we want to go for the long run in this country.

HART: Mr. Whitehead... -

WHITEHEAD: We're taking here the first step to pull back from that, and simply saying that if we're going to do that we have to look to our leaders in broadcasting to voluntarily exercise more responsibility. And that means they do it on their own hook, and not come running down to Washington and say, "All right, all right -- tell us what's responsible." It's their job to figure it out.

HART: Mr. Whitehead, don't you think it's your responsibility, having raised this issue of ideological plugola, and in fairness to those broadcasters who don't practice that, to name the instances that you have in mind?

WHITEHEAD: No, I don't think that at all, John. When government gets in the business of singling out particular individuals, it gets to be an attack on them rather than a comment on policy and on the kind of institutions we want in this society. We're trying to make some constructive responsible change here in the -- the way the government handles its relationship with broadcasting. And you don't do that by singling out particular individuals or particular instances of misperformance.

BENTON: Dr. Whitehead, thank you very much for coming in this morning. We've run out of time. Dr. Clay Whitehead of the Office of Telecommunications Policy.

FOR MR. BRIAN LAMB

PROGRAM The Today Show

STATION WRC TV
NBC Network

DATE December 21, 1972 7:00 A.M. CITY Washington, D.C.

AN INTERVIEW WITH CLAY WHITEHEAD

FRANK McGEE: A spokesman for President Nixon in the field of communications made a speech the other day that's causing great controversy. The speech concerned the content and the control of the content of network television programs, especially news programs. The speaker, Clay T. Whitehead, head of the White House Office of Telecommunications Policy, said legislation would be introduced to hold local stations accountable for network programs. And in the speech Whitehead said local stations failing to correct what he called "imbalance or consistent bias on the networks" would be held fully accountable at license renewal time.

Well, some broadcasters and some congressmen have said this would mean government control of the news if the proposals made in Whitehouse's -- Whitehead's speech actually become law.

Mr. Whitehead is in our Washington studio now with Today Washington editor Bill Monroe.

Gentlemen?

BILL MONROE: Good morning, Frank.

Mr. Whitehead, is it accurate to say that the legislation that you propose would do several things that broadcasters have advocated, such as extending license-renewal periods from three to five years, and keep exactly the same performance standard for license renewal, including responsiveness to community needs and doing a reasonable job of presenting conflicting viewpoints on public issues?

CLAY T. WHITEHEAD: That's about right, Bill. It -- the bill itself does three things. It does extend the license-renewal term. It does go to the question of what are the criteria for license renewal, but it says that the criteria ought to

be the performance of the broadcaster in terms of what his community thinks is important. And secondly -- thirdly, it denies the FCC the authority to substitute its own criteria for what the community should have over that of the community.

MONROE: Would it be accurate to say that the changes you've proposed in this bill are entirely in the direction of getting the government to some extent off the back of the broadcaster, and that there's no new provision at all that goes in the direction of tighter government control?

WHITEHEAD: That's quite correct. The broadcasters have been telling us for years that federal regulation of broadcasting has become too onerous; it's become too much concerned with red tape. They spend all their time with their lawyers and filling out forms and looking to Washington for what they ought to do. That they would serve their communities better, which is, after all, their fundamental responsibility, if they had a little more security in their license.

So we have taken them at their word. We have said that we can make some improvements. We can pull back a little of the federal involvement, a little of the federal regulation. But if we're going to do that for the broadcaster, then we feel that the broadcaster has to be doubly careful to live up to the responsibility that he already has right now. We're not adding any more. We're just saying, "Live up to it. Show your community more evidence that you're living up to your responsibility to program for them." You can't give more freedom if you don't at the same time ask for more responsibility.

MONROE: How does this bill, which does not itself seem to threaten the freedom of broadcasters, square with that tough speech you made? You said in the -- your talk that local stations, as Frank just mentioned, should crack down on network bias and that local stations should be accountable to their communities for doing this at license time, which clearly implied a tougher regulatory formula. But this toughness doesn't seem to show up in any specific provision in the bill.

WHITEHEAD: It's important that you understand, Bill, that we're not coming after a tougher regulatory formula. We're being tougher in saying to the broadcasting community, "You live up to your responsibility as responsible community leaders. Do it voluntarily. Don't come to the government and keep asking us to tell you what's right for you to do." And we're recognizing that a lot of people do have problems with broadcasting today. Viewers have problems with things they don't like that they see. It's not just news. It's programming across the board. It's commercials. It's drug advertisements. It's violence. It's children's programming. People complain to their stations,

and the stations say, "Well, what can I do? I'm just one station, and I can't control what that network does." The station-owner complains to the network, and the network says, "Well, gee, you know it's really tough, because you're just one station and you don't see the whole thing."

Well, the station-owner took his license and he said, "I will serve my community." Similarly, the network, when it undertakes to serve affiliated stations all around the country, it undertakes a responsibility to listen to what the people in those communities say. We want that process to work. We want there to be checks and balances. We feel it's much better that those checks and balances come from the communities around the country, from professional broadcasters, than it come from Washington.

MONROE: Mr. Whitehead, some people feel that you are jawboning local stations, pressuring local stations, telling them that "We will help you get legislation easing your license-renewal troubles. But we, the White House, expect you to ride herd on network news and tone down critical coverage of the administration." Why couldn't the package of the speech and the bill be interpreted this way?

WHITEHEAD: I think that it can only be interpreted that way by people who want to be insulated themselves from criticism. The package has to go together -- more freedom: more responsibility. It's just as simple as that. We're not trying to get a better deal for the views of this administration. To the contrary, we're saying that there ought to be a wide range of views. The public ought to be able to see all kinds of views. They ought to have facts presented to them. And then they can pick and choose what they believe in.

Where we have so much concentration in broadcasting -- we only have three national sources of television news, the three TV networks -- now, that implies a special responsibility to make sure that all points of view are gotten across, and not just some homogenized view that seems, in some eyes, to be the most accurate or the most representative.

MONROE: Frank?

McGEE: Mr. -- Mr. Whitehead, the operative words in the past, it seems to me, in granting a license have been that the holder of the license must operate in the public interest, convenience, and necessity. Now you're saying, however -- or you did the other day -- that the local station must also take steps to make sure that what could be interpreted and misinterpreted by some as bias and consistent imbalance in the news be corrected, or they will be held fully accountable at license

time. Now, that to me sounds like tighter controls.

WHITENEAD: It's really to the contrary, Frank. First of all, we emphasized in the speech that he would be held accountable at license-renewal time for all of his programming, and he would be held accountable by his community. Now, it's true that the current standard in the law is the public interest, convenience, and necessity. But the courts and the FCC have been moving more and more in the direction of substituting their own ideas of what's good programming for that of the local broadcaster and that of the community. We already have a number...

McGEE: But -- excuse me...

WHITENEAD: ...of different program categories, and the FCC is now being driven to consider specifying certain percentages.

McGEE: Excuse me, Mr. Whitehead...

WHITENEAD: We think that's the wrong way to go.

McGEE: Excuse me, Mr. Whitehead. You keep insisting that it's the local station manager here who's being required to -- to live up to his responsibilities and -- and yet you're telling him that if he doesn't live up to his responsibilities, as defined by the FCC, at license-renewal time he's in jeopardy. Now, the control is not being exercised really by the local station manager under those circumstances. This is being exercised by FCC commissioners who are appointed by the White House.

WHITENEAD: Frank, as long as we have the limited number of television stations, the FCC is going to have to decide who should be allowed to operate those stations.

McGEE: Granted, Mr. Whitehead. And that's why it seems to me that you're really not putting the responsibility on the station manager: you're telling him, "Unless you behave properly in the eyes of the people that we've appointed to the FCC, you may lose your license."

WHITENEAD: What I'm telling you, Frank, is that right now the FCC and the courts are moving in the direction of setting their own criterion for what is responsible performance. What we would like to do is change that, limit that, and say that they can only look at it from the standpoint of the community's frame of reference.

MONROE: Mr. Whitehead, we will have a few other questions for you on this subject in just a moment. Right now back to Frank in New York.

McGEE: Mr. Clay T. Whitehead is in our Washington studio with Today Washington editor Bill Monroe; and we're discussing, on the one hand, a speech he made the other day and, on the other hand, some proposed legislation to be introduced affecting broadcasting, primarily news.

Now, Mr. Whitehead, most of the people involved in this business are fairly sophisticated and not naive. And it strikes a good many of them that what might be happening here is that a very tough speech -- this touches on what Bill said a while ago -- a very tough speech may be delivered, on the one hand, and a substantially milder proposal might be put into legislation. And even though the regulations are milder, the speech will not be forgotten, and behavior will be patterned accordingly. Now, is that what -- is that -- is that the ploy?

WHITEHEAD: I don't think it's a ploy, Frank. Good heavens, when the government of the United States undertakes to remove some of the restrictions it has been applying to a very important industry, to...

McGEE: But those are economic restrictions.

WHITEHEAD: ...take the risk and say we're willing to demonstrate some faith in the responsibility of the men who run this institution of broadcasting, then I don't think that the rest of that speech should be forgotten. The public has to expect more tangible evidence that responsibility is being exercised -- both by the local station and by the network.

MONROE: Mr. Whitehead, you're a man who speaks for the President of the United States. Now, do you have any concern about weakening the independence of news media when you pass out strong advice on news handling to local stations, who know that they can only get their licenses renewed through a commission appointed by your boss, the President?

WHITEHEAD: I don't have that problem if I know what the standards are that these commissioners are going to act under, and that these standards are laid down by the Congress, and that these commissioners are not responsible to the President once they're appointed; they're responsible to the courts and to the Congress and to the people. And if the criteria are good, as I think these criteria that we've laid out are, then I don't have any problem with that at all.

MONROE: If you tell local stations, and they feel you're speaking for the White House, that they should correct network bias, what kind of bias do you suppose they will think you're talking about -- bias toward the administration, or against it?

WHITEHEAD: Well, I think first of all they'll recognize

that we're talking about all programming and we're not just talking about news. And I think they will take our views as saying, "You should put on a wider range of views; you should be more self-critical; you should work more with your network; you should seek to get your network to be more interested in what you think is good news, what kinds of things should be covered." We're not just talking about getting favorable treatment for one political point of view. And anyone who tries to make it that is really changing the circumstances of the debate that we're trying to create here.

MONROE: Didn't you do something like this, as a matter of fact, in Public Television, whose coverage of public affairs the administration seemed to dislike from time to time? You emphasized, I believe, that local stations should get control of the Public Television network, national news and information programs should be reduced -- to the point where the administration has now almost maneuvered the Public Television network out of the news and information business.

WHITEHEAD: It's much the same kind of principle. This is the only major country in the world that has gone the route of private-enterprise broadcasting with the control and the responsibility by people in the communities they serve. Now, if you want to go the other way, if you want to say we're going to have all this nationalized and we're all going to have it controlled from a few points, I suppose you could do that. That's not the way this administration would like to go. We would like to have the voice of the community heard in what programming is going on. And that applies in commercial television and that applies in Public Television. Now, there is a special problem in Public Television, where you're taxing the people to do politically controversial programming. Using a tax dollar makes a -- a real substantive difference there. But that -- otherwise it's the same principle.

MONROE: Well, in talking about the stations being accountable to the local community, doesn't it really come down, as Frank noted a while ago, to accountability to the Federal Communications Commission appointed by the President, four Republicans, three Democrats? For instance, you talk about accountability to the community at license-renewal time. This is accountability, is it not, to the Federal Communications Commission.

WHITEHEAD: It depends on how the Federal Communications Commission goes about doing its business. If they sit there and say, "We're going to measure performance by what we think is good, and what the guy who appointed us as President thinks is good," then maybe your cynicism is justified. But if these are honorable men who say, "We want to see a good responsible private-enterprise broadcast system. We want to pull back a bit from federal regulation. And we want to make these license

decisions that we have to make by law, we want to make them based on the point of view of the community, the needs of the community, the characteristics of the community, what that community says to us they want," then I think it becomes a much more neutral kind of process and can work much better.

MONROE: The administration has taken some pride in appointing, bit by bit, what is often looked on as a Nixon Supreme Court. Why would it not be possible for the administration to appoint what could come to be looked on as a Nixon Federal Communications Commission, though that may not have happened at the present time?

WHITEHEAD: Well, I have every confidence that President Nixon has appointed people to the FCC who share his general philosophy: that there should be a less burdensome regulation. And if you look at the debates and the decisions made by the FCC, I think you'll see a rather consistent pattern of his appointees going in the direction I've been describing, while some of the other people on the commission are going in the direction of more government control, more government specification of what broadcasting is going to do. And I am quite proud to say that there is that difference. And I think that the -- the viewing public would much prefer to have more exercise of responsibility by their local station manager; they'd like to see him have a bigger say in what the network is doing, not just on news, but on everything they watch.

MONROE: Mr. Whitehead, you mentioned a bit ago that there are only a few sources of national news. Wouldn't there be more sources of national news if the administration had not discouraged Public Television, particularly on the network basis, from going into news and information?

WHITEHEAD: There's no doubt that we need more sources of national television news. The idea of competition is just basic to the way our mass media structure works. We have to remember, though, that we have a separation in this country between the government and the media, and we ought to continue that. And you have to remember that when Public Television uses tax dollars for this kind of controversial programming, that you seriously erode that separation. Now, if Public Television wants to use dollars they raise from the viewers for that purpose, that's quite all right. And if someone wants to set up a competing fourth commercial network, or a fifth commercial television network, I think that the -- the government and the viewing public would only applaud.

MONROE: Frank?

McGEE: Mr. Whitehead, less than a month ago Herbert

Klein, the White House Communications Director, appeared on this program and said the administration did not favor greater regulation of news programs -- in fact, did not want proposals placed before Congress because you'd get more regulation than you wanted. Did he not know of your proposals at that time? Was he less than forthcoming? Or is this a recent innovation?

WHITEHEAD: Well, I think Mr. Klein's statement is perfectly consistent with what I've been saying. And we have had many discussions within this administration about how we should go about getting more freedom, more security within the broadcasting business, make it more of a business instead of a government agent. What he was saying is perfectly consistent with what I'm saying.

MONROE: Does President Nixon favor the principles of the bill you are proposing, Mr. Whitehead?

WHITEHEAD: He certainly does.

MONROE: Has he seen the bill?

WHITEHEAD: No. The bill is now at the stage of -- of going through what we call the Executive Branch clearance process, where we get comments of all the various government agencies and further refine the bill. What I've done is to give a statement of the general principles which we are firmly behind. And the actual bill will be coming along a little later.

MONROE: Thank you very much, Clay Whitehead, of the White House Telecommunications Office. Now back to Frank in New York.

McGEE: And our thanks as well.