SPEECHES GIVEN BY MR. WHITEHEAD

1973 and 1974

1.	American Institute of Aeronautics and Astronautics	1/9/73	Washington, D.C.
2.	National Academy of Television Arts and Sciences	1/11/73	New York, New York
3.	National Religious Broadcasters (No text) - Director read Presidential message	1/31/73	Washington, D.C.
4.	IRTS Annual Faculty/Industry Conference (No text)	2/14/73	Tarrytown, N.Y.
5.	Testimony - Senator Pastore	2/20/73	Washington, D.C.
6.	Testimony - Hearings on the Radiation Control for Health and Safety Act	3/9/73	Washington, D.C.
7.	MIT Club of Washington (No text)	3/14/73	Washington, D.C.
8.	Testimony - Senator Pastore	3/28/73	Washington, D.C.
9.	Florida Cable TV Association (no text)	3/29/73	Daytona, Fla.
10.	Hollywood National Academy of TV Arts and Sciences (No text)	3/31/73	Beverly Hills, Calif.
11.	Testimony - Honorable Tom Steed	4/10/73	Washington, D.C.
12.	Testimony - Torbet Macdonald	4/17/73	Washington, D.C.
13.	National Union Rally (No text)	5/14/73	Washington, D.C.
14.	The Advocates (Interview - no text)	5/16/73	Washington, D.C.
15.	Kutztown State College (No text)	5/31/73	Kutztown, Pa.
16.	Associated Press Radio and TV Association (No text)	6/1/73	New Orleans, La.
17.	Indiana Broadcasters Association	6/8/73	Indianapolis, Ind.
18.	Testimony - Torbert Macdonald	6/12/73	Washington, D.C.
19.	Testimony - Joseph Montoya	6/15/73	Washington, D.C.

20.	National Cable Television Association	6/20/73	Anaheim, Calif.
21.	National Broadcasting Editorial Association (No text)	6/27/73	Washington, D. C.
22.	Testimony - William S. Moorhead	7/31/73	Washington, D. C.
23.	Wharton School of Marketing (no text)	8/3/73	Philadelphia, Pa.
24.	Stanford University (No text)	8/8/73	Stanford, Cal if.
25.	Washington Journalism Center (No text)	9/18/73	Washington, D. C.
26.	National Association of Television Arts and Sciences (no text)	10/11/73	San Francisco, Calif.
27.	National Radio Navigation Symposium	11/14/73	Washington, D.C.
28.	Commonwealth Club of San Francisco (no text)	12/7/73	San Francisco, Calif.

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29.	MIT Seminar (no text)	1/8/74	Cambridge, Mass.
30.	Aspen Conference on Cable (no text) Brookings Institute	1/16/74	Washington, D.C.
31.	Appearance on Martin Agronsky Show (no text)	1/18/74	Washington, D.C.
32.	Appearance on Washington Window	2/3/74	Washington, D.C.
33.	Address to Washington Press Club (no text)	2/7/74	Washington, D.C.
34.	New York Society of Security Analysts	2/12/74	NY, NY
35.	United Church of Christ (no text)	3/18/74	NY, NY
36.	Yale University Seminar (no text)	3/26/74	New Haven, Conn.
37.	House Appropriations Hearing	4/1/74	Washington, D.C.
38.	University of Maryland	4/23/74	College Park, Md.

39.	SPEECH - Federal Communications Bar Assoc. (no text)	5/14/74	Washington, D.C.
40.	TESTIMONY - Senator Montoya, Subcommittee on Treasury	5/30/74	Washington, D.C.
41.	SPEECH - National Convocation of State Legislative Leaders on CATV (transcript)	6/6/74	Albany, New York
✓42.	TESTIMONY - Senator Pastore, Subcomm on Comm.	6/18/74	Washington, D.C.
43.	TESTIMONY - Sen Ervin - FEDNETS (transcript)	6/20/74	Washington, D.C.
44.	TESTIMONY - Senator Hart, Subcommittee on Antitrust and Monopoly	7/9/74	Washington, D.C.
✓45.	TESTIMONY - Senator Pastore, Subcommittee on Communications	8/6/74	Washington, D.C.

Remarks of

Clay T. Whitehead, Director

Office of Telecommunications Policy
Executive Office of the President

at the

Annual Meeting
American Institute of Aeronautics and Astronautics

Sheraton-Park Hotel
Washington, D.C.

January 9, 1973

Last week, three more countries joined the European Economic Community. This expansion of the E.E.C. from six to nine members is almost as significant as its original establishment. In spite of the fact that economic policies and theories are still couched in terms of an "international" economy, in which nations operate as separate individual units, the trend is unmistakably toward a world economy and society. In this world economy, in Peter Drucker's words, "common information generates the same economic appetites, aspirations, and demands -- cutting across national boundaries and languages, and largely disregarding political ideologies as well."

In the world political scene, the same sort of changes are evident. New directions in international politics -- such as President Nixon's recent trips to the People's Republic of China and the Soviet Union -- suggest a movement toward international political harmony and a new understanding of the common aspirations and goals of all nations.

One of the major catalysts behind these developments -- and one which will be even more important in the future -- is communications technology. For example, last December, the permanent charter of INTELSAT was ratified culminating a decade long effort to establish a global commercial communication satellite system.

There are fewer social and economic barriers confronting the introduction of communications technology than most of the other advanced technologies. Communications technology relies on the spoken word rather than on huge repositories of natural and industrial resources. Moreover, it takes only a small corps of highly trained technicians to run an advanced communications system in any country. The remaining operational requirements can be filled by large groups of lesser trained equipment operators and used by or for workers who have only the bare minimum of training. Communications technology thus can provide a much higher rate of social and economic return than the other advanced industrial technologies.

There are signs of a change in the traditional pattern of national economic development. By using the new communications technology, developing countries are able to reduce the time needed to advance their economies and standards of living. Communications technology has developed and been applied in the advanced countries to such an extent that it is a new economic factor of production. Advanced communications systems are now serving as an important impetus toward more productive uses of the traditional factors of production such as land, labor, and capital.

Communications technology is spreading out of the developing countries and into the lesser developed countries. Information and knowledge is not yet uniformly distributed; but it has begun to spread and this proliferation will continue. The result will be a reduction of the traditional time factors in the economic and social development cycles for the lesser developed countries. For example, it is likely to take significantly less time for literacy development and the development of highly trained indigenous entrepreneurs.

Satellites and television offer a means for meeting the world-wide need for education. It is conceivable that for the cost of a few billion dollars, sometime in the future, many small countries could own and operate their own educational satellite system or combine for satellite system use and operation on a regional basis.

The potential of the new communications technology is truly inspiring. The technology is or soon will be here for community reception satellite systems. And it

is time to think about how national or international institutions are going to be used to guide the applications of this new technology and the conditions under which satellite systems are going to operate in the future.

We have recently seen the first efforts of the international community to deal with this new communications technology. Perhaps naturally, but none the less unfortunately, the discussion has focused largely on the dark side of this technology, on the potential for misuse rather than on the immense benefits available from satellite technology. Rather than using as a focal point the tremendous international cooperation that has marked the recent operations of INTELSAT, the global common carrier system, or the potential benefits available from community broadcast systems, UNESCO and the United Nations have unfortunately focused on direct broadcast satellites.

Community reception satellite systems are basically "closed" technological systems. Receiving facilities can be controlled, and the possibility of broadcasting without the consent and cooperation of the recipient country is ruled out.

On the other hand, direct broadcast systems are basically "open" technological systems. Since direct broadcast satellite

signals could be picked up by a home receiver, the possibility of one country broadcasting programs directly into viewers' homes in other countries would exist and could not be easily controlled. Direct broadcast systems are obviously of special significance and present rather special problems.

In November 1972, UNESCO adopted a Declaration of Guiding Principles on the Use of Satellite Broadcasting which envisages restrictions by receiving nations on the content of broadcasts transmitted via outer space. The Declaration specifically stated that States should "reach or promote prior agreements concerning direct satellite broadcasting to the population of countries other than the country of origin of the transmission." Though the UNESCO Declaration is not legally binding, it reflects a widespread apprehension among nations that there are special problems in the use of direct broadcast satellites and a concern about how agreements and restrictions on the operations of any future direct broadcast satellites can be reached.

During the last session of the United Nations, the Soviet Union proposed a convention to govern the use of direct broadcast satellites for television. In contrast to the UNESCO declaration, this convention would be legally binding upon signatory states. The United Nations did not endorse the

Soviet proposal, recognizing that it was too early to adopt a legally binding approach. However, it did adopt a resolution which, as in the case of UNESCO's action, reflected the belief that agreements and some restrictions on direct television broadcasting are necessary.

The United States voted against the UNESCO resolution and the United Nations resolution for very solid reasons. The crux of our objections derived from this country's firm commitment for over 200 years to the principle of freedom of information or the unimpeded flow of information and actions. Our own social and governmental institutions depend on a free and open marketplace for ideas and information. We believe the same principle is important to the well being of the international community, and it is indeed enshrined in the Universal Declaration of Human Rights.

The United States has a proud tradition of respecting freedom and liberty domestically, and also a tradition of respecting the national, ethnic, religious, and cultural values of different societies. Our reasons for objecting to these resolutions were based on the failure of the resolutions to address the fundamental question of how to maintain the principle of the free flow of ideas and information. Both

resolutions left unresolved the complex question of how to achieve a balance between the expansion of communications obtainable through direct satellite broadcasting and legitimate sovereign interests while protecting the freedom of information principle. Most importantly, the resolutions simply did not sufficiently recognize the positive potential of this new technology in helping to better understanding among peoples, in expanding the information flow, and in promoting cultural exchanges, but rather spoke primarily in negative terms regarding possible misuse of this future technology.

The United States has come under some criticism for our opposition to these resolutions. Our opposition has led some critics to claim that we wish to utilize such future systems for disruptive purposes and that the United States might be insensitive to other countries' attitudes.

The United States has a proud record on the rights of self determination and always will. This country has made possible the space age and the broad based applications of space age technology and will continue to follow this tradition. We are a party to the Outer Space Treaty of 1967 which states specifically that:

> In the exploration and use of outer space... Parties to the Treaty shall be guided by the principle of co-operation and mutual assistance and shall conduct all their activities in outer space ... with due regard to the corresponding interests of all other ... Parties to the Treaty ...

You will recall the distinctions I made earlier between the two satellite systems. The community reception systems are essentially controllable, closed technological systems whereas the direct broadcast systems are open and essentially uncontrolled systems. These narrow technical distinctions between the two forms of satellite broadcast may be important operationally but it is extremely difficult, if not impossible, to reflect such distinctions politically. And the danger inherent in all the debate and discussion presently concerning the future direct broadcast satellites is that any controls and restrictions agreed to will apply, with far more devastating impact, to the community satellite systems. These latter systems -- which hold out so much promise to our lesser developed countries -- could be damaged irreparably by any binding precedents set for direct broadcast satellites.

The Office of Telecommunications Policy is the focal point for formulating U. S. policy for the President on this and other issues dealing with satellite communications. This satellite issue is not a major domestic communications issue with serious political ramifications or one that will have an immediate impact on U.S. technology. The reason we are concerned about it is because of the dangerous precedent any serious restrictions on satellite broadcasting would set. This Administration is firmly committed to free and unfettered flow of information worldwide and at home and without the stifling effect of Government intervention and censorship.

The United States is willing to study and explore this whole question of satellite broadcasting. The potential benefits of broadcast satellite systems should not be retarded out of fear of the chance of misuse. Severe and premature restrictions on such future satellites would constitute a giant step backwards, a step which the United States sincerely hopes would not be taken.

If the world ever evolves to the point where it actually becomes, in Marshall McLuhan's term, a "global village," a large part in this evolution will have been played by technological development. And the role that will be played by you people here today -- as the developers and orchestrators of this changing technology -- will be even greater. For this reason, as well as for many others, I hope that your conference is a success. Thank you.

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Remarks of

Clay T. Whitehead, Director

Office of Telecommunications Policy
Executive Office of the President

at the

National Academy of Arts and Sciences

Americana Hotel
New York, New York

January 11, 1973

A few weeks ago in Indianapolis, I delivered a speech which some people misinterpreted and, even worse, quite a few people misunderstood. The speech was about the responsibilities of broadcasting licensees and about the Administration's proposals to change the license renewal process. Most of that speech dealt with the first issue -- the licensee's responsibilities -- and today I want to focus on the second issue, and give you the facts about our license renewal bill.

Our system of broadcasting presents this country with a unique dilemma which goes back to the basic policy embodied in the Communications Act of 1934. Section 309(a) of that Act requires the Federal Communications Commission (FCC) to grant applications for broadcast licenses if "the public interest, convenience, and necessity will be served thereby." This necessarily means that the government will be involved, to some extent, in passing judgment on the heart of the broadcast service -- the broadcaster's programming. But then section 326 of that same Act specifically denies the FCC the "power of censorship" and the power to "interfere with the right of free speech" of the broadcaster.

The implementation of these two statutory goals requires a difficult balancing act. On the one hand, the broadcasting industry must be responsible to the public in its use of the public air waves -- and it is only through the legal processes of the Communications Act that the public has recourse to see that this responsibility is being exercised. On the other hand, the Government can't use the Act to be too active an intermediary between the public and the industry -- even with the best of intentions -- because the net effect would be to make Government agents out of broadcast licensees, rather than establish them as independent voices and sources of information in our marketplace of ideas.

The place in the federal licensing system where these competing statutory goals are most clearly evident is the license renewal process. The burden of balancing these interests is thrust squarely on the FCC's shoulders by the Communications Act, and the Act contemplates that they will

be maintained in a state of equilibrium. But recently instability and uncertainty have developed in the broadcast licensing process. And when something as sensitive as licensing a medium of expression is involved, this instability and uncertainty gives rise to the threat of arbitrary and subjective determinations that promote the Government's own view of what programming is good for the public to see and hear. In this unstable environment, the broadcaster will seek the shelter of whatever safe harbor is available. To ensure that his license is renewed, he will operate his station in a manner that pleases the government, and not one that best serves his local audiences.

To evaluate our proposal, it's important to know what our bill does do, and what it doesn't do. That is what has been most misunderstood and what I want to clear up for you today.

What our bill does not do is change the broadcaster's present obligations to be responsive to his community and to be even-handed in covering important public issues. These long-standing obligations of the broadcaster constitute the two principal criteria for license renewal in our bill: (1) the broadcaster must be substantially attuned to community needs and interests, and respond to those needs and interests in this programming -- this is known as the ascertainment obligation; and (2) the broadcaster must provide reasonable opportunity for discussion of conflicting views on public issues -- this is known as the fairness obligation. These criterion represent a distillation of what the public interest standard means in the context of license renewals, as stated by the Congress and the FCC.

These obligations bear repetition and emphasis, and serve as ideal criteria for license renewal because they require the broadcaster to turn toward his local audiences. He must serve their needs and see that they are adequately informed on public issues. If the broadcaster can render satisfactory service to his communities, based on these two criteria, then his license should be renewed.

Now for what our bill does do. It improves the license renewal process by making four changes in the present practices: (1) it extends the term of broadcast licenses from three to five years; (2) it eliminates the requirement for a comparative hearing whenever a competing application is filed for the same broadcast service; (3) it prohibits any restructuring of the broadcasting industry; and (4) it prohibits the FCC from considering its own predetermined program criteria in applying the ascertainment and fairness standards of the bill.

In the interests of clarity, if not scintillating style, I'd like to bore you with the details of these provisions of our renewal bill.

The first change would extend broadcast license terms from three to five years. When the Communications Act was passed in 1934, the short three year license term was a reasonable precaution in dealing with a new and untried industry. A five year period, however, seems to be a more reasonable period at this stage in broadcasting history. It would inject more stability into the license renewal process and allow the broadcaster more time to determine the needs and interests of his local community and plan long-range programs of community service.

A longer renewal period would also go a long way toward lightening the serious burden that processing applications for renewal places on the FCC's resources and reducing the paperwork backlogs that cause delays in re-licensing stations. For example, as of this week, the trade press reports that 143 television and radio licenses are in limbo awaiting renewal.

Moreover, an extension to five years of the broadcaster's license does not mean he will be put out of the reach of the FCC or that he may ignore his public interest responsibilities for five years at a time. The bill would not affect the powers of the FCC to deal with complaints raised by the public. The licensee would continue to be answerable to his community at any time during the five year period.

The second change the bill would make in the renewal process would be to eliminate the requirement for a comparative hearing whenever a competing application is filed for the same broadcast service. Presently, when a broadcaster's license comes up for renewal and it is challenged by a competing application, the FCC must set a comparative hearing in which the competing applicant and the performance of the present applicant are evaluated together.

The FCC under current procedures, is forbidden from exercising its independent judgment as to whether a comparative hearing is even necessary. Without initially assessing the past performance of the incumbent licensee, the FCC must throw him into a comparative hearing, which usually involves substantial expenditures of time, money and manpower. The comparative hearing is not unlike the medieval trials by battle, and the winner of this trial is not necessarily the person who will best serve the interests of the local community but rather the one who can afford to stay in the heat of battle the longest -- the one with the most time, the deepest pocket, and the best lawyer. Certainly, in this day and age, we can devise more rational and equitable procedures especially when, in all cases, a substantial public interest is at stake.

Our license renewal bill would revise these procedures so that a hearing would be required only if the competing applicant has raised a substantial question regarding the present licensee's performance under the criteria set out in the bill. If the FCC determines there is no question, then the license would be renewed. Only if the Commission is unable to conclude that the licensee's performance warrants renewal would a hearing be required.

The third change in the bill would preclude the FCC from restructuring the broadcasting industry through license renewal hearings. Presently, the Commission can implement policy relating to industry structure -- such as a policy restricting the types of companies that can own TV stations -- through the criteria it uses to decide renewal hearings. This means the policy could be applied in a highly subjective and inconsistent manner.

Restructuring of the broadcasting industry in this manner should not be allowed. Rather, if industry-wide policies are to be changed, they should be changed through the general rulemaking procedures of the FCC, with full opportunities provided to the entire broadcast industry and all members of the public to participate in the proceeding.

The fourth and last change our license renewal bill would make in the renewal process would be to forbid the FCC use of predetermined performance criteria for the evaluation of renewal applications.

The Communications Act of 1934 does not anywhere define what constitutes the "public interest, convenience and necessity." And so, the responsibility for doing so has fallen on the FCC and the courts. As a result the "public interest" has come to mean no more than what the FCC and the courts want it to mean.

Presently, an important factor in determining the licensee's public interest performance is the extent to which he has programmed in 14 specific program categories predetermined by the FCC. And the trend is toward more detailed program categories, more program quotas and more percentages.

The Administration's bill is designed to halt this trend toward quantification of the public interest. Confining the FCC's evaluation of the licensee's performance to the bill's ascertainment and fairness criteria makes the local community the touchstone of the concept of public service embodied in the Communications Act. Serving the local community's needs and interests instead of the desires of the Washington bureaucrats would become the broadcaster's number one priority.

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You will recall my description of the dilemma that the Government faces in regard to the regulation of broadcasting. A lot of criticism that is being levelled at our license renewal bill seems to be coming from those who are unaware of this dilemma or misunderstand the present nature and extent of broadcast regulation.

The critics seem to want it both ways. They say they want to preserve absolutely the broadcaster's First Amendment rights. But they are uncomfortable about leaving such a powerful medium of expression unchecked by Government supervision. So they also feel that the public should have unrestricted rights to bring Government power to bear on the licensee at renewal time.

There is legitimate room for disagreement about how this balancing process can be best achieved. But the dilemma will not go away and those who criticize our bill can't have it both ways. Don't you want limits on government power such as those in our bill? Or do you prefer the current scheme, with its burgeoning program categories, percentages, and renewals every three years? Do you want the Government to exercise more control over broadcasting? Or should the Government withdraw completely from broadcasting regulation and tell minority groups they have no recourse against the licensee?

When I say critics of our bill can't have it both ways, I mean they can't answer yes to all of these questions. There are a number of quite different, and mutually exclusive, approaches to broadcast regulation.

Under one approach, we could expand the present trend of Government control and have the Government take over the broadcaster's responsibility to his local community. Under another approach, the Government could withdraw completely from regulation of broadcasting. This Administration has chosen a third approach, one that would restore equilibrium to the broadcasting system and balance the competing goals of the Communciations Act. This approach relies on the exercise of more private responsibility and voluntary action by broadcast licensees who truly dedicate themselves to the communities they are licensed to serve. Which approach will you choose?

NEWS CONFERENCE

FOLLOWING

Remarks of

CLAY T. WHITEHEAD, DIRECTOR

Office of Telecommunications Polciy
Executive Office of the President

National Academy of Television Arts and Sciences

Americana Hotel
New York, New York

January 11, 1973

Lee Polk: Mr. Whitehead, I noticed that in the New York Times you mentioned 1984 as the target date for ... it occurred ... I just wanted to ask ...

CTW It occurred to me first.

Lee Polk: I wanted to ask you about government regulation. You say it would seem as if broadcasters, and I know that you have not been in the broadcasting to the point you have in telecommunications, but that you indicated that there should be less Government control of broadcasting. I was in Miami when you made the speech about Mr. Vanocur and public affairs programs on public broadcasting. Since that time, Mr. Vanocur has resigned and public affairs broadcasting has diminished to the point where no one resists or it would be eliminated publicly. Wouldn't you say that your Office, as a direct arm to the President, would be, in a sense interferring with what's going on in other programs?

CTW No. First of all the speech I gave in Miami was not a speech about Sander Vanocur. It was not a speech about public affairs programming on public television. The speech was about the nature of public broadcast system where the control was to lie, where the funding was going to come from and pointing up some of the dilemmas that we face when we undertake to use the taxpayers' dollars to fund a medium of expression, and how does the responsibility and the answerability get sorted out.

Secondly, I don't see that there's anything particularly improper about a government official giving a speech about how government monies are used. We have that kind of responsibility. We feel very strongly that public television should develop and this President has steadily increased the funding from 5 million dollars when he took office to the current figure of 45 million dollars that he requested for this year. And, we certainly do think that there is a role for public affairs programming on public television. We simply are honest enough to say that we haven't found out a way to fund public television with the federal dollars and have those federal dollars go for controversial politically-oriented programming in a way that does away with the suspicion that there is some kind of political control. To the extent that public television wants to use foundation funds, to the extent that public television wants to use private funds, what have you, for public affairs programming that's not only appropriate to the Communications Act, it's their responsibility.

Q I would like to identify myself. I am Senator Cox. I am former Chairman of the Board of the Academy and for further purposes of identification, I should say I am also Vice President of Corporate Communications and attorney of litigations before the FCC and a licensed pilot. Now that that's out of the way, I'll get on with it. I have studied your speech; I have also studied your Bill; I have also studied your letter of transmittal and accompanying bill to the House. And one thing really puzzles me. It seems to me that there's a dichotomy between what one Bill says, and what the rhetoric of your speech addresses itself to. The speech certainly raised a very profound issue in terms of the goals of a federally licensed media and a free society. It involves the First Amendment clearly. And I think it's the speech that probably has many of us quite a bit frightened, because it raises the specter of a government standard which you have now spoken of at great lengths this afternoon in connection with the Bill as something you don't want to get involved with. But when you speak of ideological plugolas ... you are faced with the problem of finally adjudicating what constitutes those things. That leads to a line which I read today in theTimes which sounds like something by Franz Kafka as told to . . . "And every housewife knows what an elitist is," now I don't know where you took your poll . . .

CTW Among housewives, obviously.

Q Maybe around the White House. What I'm trying to come to grips with here is, exactly what is your intent, because the Bill does not speak to the intent expressed in your speech of holding the local stations responsible for what the networks are putting on down the line, and how exactly do you want the local stations to control the networks? Because I don't think that your Bill really speaks to that issue at all.

CTW You're quite right. We don't want to set up a Federal standard for these kinds of things, but that doesn't mean that the problems don't exist. We have kind of come to a rather unhappy state of affairs in this country, I think, when we feel that responsibility can only be exercised in Washington, and it's Washington that somehow is the final arbitor of what's going to happen and what needs to be done. If this President is trying to change anything in the domestic scene, it's to change that concept. Now, let's consider how that's applied to broadcasting. Just because we think the

Federal Government shouldn't enforce the standard, just because we in the White House don't try to identify and define who are the "elitists" and what's "gossip" and what's "plugola" and what's not, it's not because those things don't exist. I wouldn't have given the speech that I did in Indianapolis if there weren't some concern that these things do, from time to time, and in various places, exist. The question that I have to address, in my responsibility in Washington, is what is the Federal system whereby these abuses will be checked. Now, if you want to argue that there are no abuses, that none of this exists, the broadcasting industry is somehow perfect or is somehow above criticism, then you can ignore the rest of my remarks.

But if you feel that the profession of broadcasting should concern itself with self-improvement, should concern itself in finding where the professionalism is not being lived up to, and should take corrective measures, then it seems to me, you have to ask yourself where those corrective measures should come from. My speech in Indianapolis gave our conclusion. It said it should not come from Washington because there is too much potential for abuse, because it erodes too seriously the separation between the Government and the media. Alright, then it's got to come from somewhere. The place it should come from is the viewing public and the professionals who have responsibility within the broadcasting system. And those people are the network executives, the network presidents, the station owners, and the station managers. They should be paying more attention to the exercise of voluntary responsibility. The thing about a community leader is that he undertakes to define on behalf of his community, what is responsible. And that's what he ought to be doing, and he ought to be doing it as a community leader on a voluntary basis. And, that's what we think the country has every right to expect of the broadcasting business. That is the only alternative to the people coming to Washington and saying, "Hey, it's not being done within the industry itself. We're complaining to you and we want you to deal with our complaints."

Q Dr. Whitehead, I'm from CBS News. A lot of people watching the progress of public television in the past year have concluded that there has been less and less public affairs as a result of White House pressure to the point where at least one television critic refers to public television now as the "Nixon Network." They think that has happened in part because the White House has driven a wedge between public television stations and central suppliers of programming. Your speech here and the one in Indianapolis don't seem to differentiate between news and public affairs programming, and entertainment programming. And I think that many people fear that by saying the responsibility should rest with the local affiliates, you will similarly drive a wedge between commercial television stations and their central suppliers. How can you assure the American public, let alone the networks, the same kind of "Nixon Network" will not result in commercial television?

CTW But let me tell the people don't trust the rhetoric that comes out of the press either. The only thing that's going to make any difference to the people is what actually happened. Now, our point of view, that we have urged upon the Congress, that we have urged upon public television is not inconsistent with what I've been urging more recently for commercial broadcasting.

The idea of local responsibility is central to our broadcasting system. This country has never tolerated excessive concentrations of power; it doesn't tolerate them in Washington, where we have checks and balances; it doesn't tolerate them in private industry. If the public doesn't like Richard Nixon, they simply don't re-elect him. Do they have that opportunity with the three television networks?

Now, what we're trying to do with public television is to establish a system whereby the needs and interests and education and information and culture and what have you, as defined by the local community, can be met. And we think that the Public Broadcasting Corporation which receives federal money and distributes it and uses

it for the purposes of these local stations should exist to serve them, not to become their headquarters and their master. We don't think it's useful to have a federally funded corporation become the headquarters for a television network, and we don't think that that kind of a system should be allowed, because of its political sensitivity. We don't think that that federally funded entity should be funding highly controversial political programs. It is too tempting to make it into a Nixon network or a Kennedy network, or a Johnson network, or a Muskie network. And if we really wanted to make it into a Nixon network, you might ask yourselves how you would do it. Would you take off public affairs from the federally funded part of public television, or would you replace the Bill Moyers Show with the Ron Ziegler Show? If you really had a malevolent intent, how would you do it? And decide for yourselves, are we malevolent, are we dumb, or are we trying to be responsible? Look at what we're doing.

Q Dr. Whitehead, in your speech you noted correctly that currently before your legislation that the responsibility belongs with the local broadcasters. Why is it necessary for this campaign of rhetoric and charges which were, as you said, you wouldn't want documented in the Times this morning, if we already have the responsibility for broadcasting resting with the local broadcasters should this stay the same, and shouldn't the FCC stay powerful and independent and a bi-partisan regulatory agency without the appearance of a White House agency, which as I understand, was originally for the purpose of only coordinating inter-governmental communication?

CTW The FCC certainly should remain a bi-partisan and independent agency. We have two questions there: One, why the rhetoric if we don't change the responsibility. Second, how should we deal with the FCC?

Reading for the rhetoric is quite simple. We think, along with many, many public critics of public broadcasting that that responsibility could be better

exercised. More importantly, we think the responsibility has to come out in the open; it has to be focused upon. When we are undertaking to change the Government control of broadcasting in the direction of less control, you simply cannot afford to have in this country an institution that is above responsibility. We just can't have that. There has to be responsibility and answerability to someone. Now, as we begin to take away the centralized government control over broadcasting, which I hope and pray is what the people in the press and the industry want, because that's the core of the First Amendment, then we have to ask somebody to take over that responsibility. And, I can't think of anyone better than the people in the industry, the people who have risen to the top who claim to have the responsibility for that institution and claim to be the best people to exercise it.

Now, secondly, how should this Administration, or how should any Administration deal with the FCC? I think it's far better that the FCC remain independent; that it remain bi-partisan; that we not engage in the delusion that it is somehow part of the Executive Branch. The minute that Dean Burch was appointed as Chairman of the FCC, he ceased to work for the President of the United States, and he became answerable to the Congress of the United States. We think that's a sound concept.

How, then, is the Administration, how is the President to get his point of view across to the FCC, across to the public? Is he going to do it quietly through telephone calls from anonymous White House aides who are not answerable to the Congress, over to the FCC? Now, that's quite a plausible way to work, but there's another way to work. And that is to set up a focal point within the Executive Branch, someone who is answerable directly to the President and who speaks publicly, raises these questions publicly, asks that there be public debate about what is now going on, public debate about where we ought to be going, somebody that specifically raises the question about how are we going to get to 1984, rather than try to slide that under the table in

the name of very noble causes insidiously moves us to the result of 1984. Those who would consider 1984 ought to go back and re-read the book. Remember that the large percentage of the people in that society liked what Big Brother was doing for them, because Big Brother was doing in their interest, in their name.

I appreciate that there are those in the audience who feel that this is a malevolent Administration. But, go home tonight and ask yourselves if we're really as dumb as you also seem to think.

Q One of the things that concerns the average citizen today and those of us in the industry, and I speak of those of us in the industry in quotes and address myself to your area, is the private feeling, and I'm not mistaking that for malevolence, and, therefore, I would like to ask you for clarification on two points; if there isn't time, on one point. You have addressed yourself, and I appreciate this, to the public broadcasting area. Those of us who feel strongly in the industry about improving programs are very concerned about the public broadcasting system, Channel 13 and others. The excellence of programming, I think, needs no comment from me. If it is a tendency because of public affairs, aren't we doing a disservice to the industry by the funds are withdrawn and the public broadcasting area is no longer, where do we go towards guidelines for improving our programming.

Number two, in your discussion and comments about the increasing new responsibilities on the local area, I quote you, "the broadcaster, it seems, is substantially attuned to the needs and interests of the community he serves," but what burns me about this is the going into the local level. For example, if something offends me in a local area pertinent to their areas, how do we undo that, or don't we? Is it quantity or quality? These things disturb me very much.

CTW I think both of your points are disturbing. They're disturbing things going on in the communications business and the communications regulation today. And, I think it is healthy that there is some discussion. I quite agree with you that if excessive emphasis on the public affairs being funded by the Federal Government causes the rest of public television to be a casualty, that would be a sad thing. Public television has done many marvelous things and should continue to do so with healthy support from the Federal Government. But, to the extent it is made political, to the extent that we have to have continual debates in the Congress about how public dollars are being used for these controversial things, then it is inevitable that everyone has to pay the consequences of that political discussion.

Secondly, there are many ways one could answer this question about how the local responsibility should be traded off with some national sensibilities, and awareness of national concerns. All I can say to you, I think, is that any weighing of those two concerns is imperfect and everyone has to balance it for himself. We feel that it is the responsibility of a local licensee to be sure that his public is informed about national and international issues. He hardly would be a community leader if he didn't live up to that responsibility. That's not what really is at stake; that's not what is at question. The question is, who will enforce that? And, we are simply saying that it has drifted too far in the direction of Washington enforcement. And we think it would be best to curtail that trend and move back a little bit in the direction of more local entertainment.

Q Two questions on journalism. Primarily, first, when you say the "community should be aware of its leaders," would you care to comment on the idea that Mr. Nixon hasn't held a press conference for the past three months?

CTW I think Mr. Nixon is the best judge of how he can best inform the country, and I don't presume to make that judgment for him.

Q The second question means a very great deal to broadcast journalism: Recently there have been a couple of court decisions, one in Newark and one in Los Angeles, denying, so far, the right of newsmen to protect their sources of information. Would you care to comment on this, the Government's position on that?

CTW It's a very disturbing trend to see reporters being forced by Government to reveal what they view as confidential sources. It's a trend that should not be allowed to develop too far. The question again, is how do we balance competing interests of society. The First Amendment is a very important consideration; public safety, law enforcement, the judicial system, those represent very important considerations. Again, the process has to balance these two considerations out. The position of this Administration is the mandatory legal requirement that reporters turn over their notes should be relied upon only in the direst of circumstances, only when there is an overriding concern on the other side and that, by and large, that is best enforced through the courts rather than trying to define the balance in national legislation -- where, I think, inevitably, the press would suffer more than they are suffering at the hands of the courts.

Q One more, also, don't think this is in line with denying this privilege of that in the same way that the pressure was put on CBS for "The Selling of the Pentagon Papers"?

CTW I don't see the connection.

Q I have to hark back to those three phrases, the "ideological plugola," "elitist gossip," and "accountability" which, whether you like it or not, may become as famous in our times as Rome and "Romanism" and those types and, I thought I had heard the tenor of this phraseology somewhere before. It happened that I was doing a little historical research, and, indeed, I found the granddaddy of your attitude. It was something called the Sedition Act of 1798 which went on the law books of this country, but

briefly, because the country became so ashamed of itself. It resembles your phase of "accountability" is that this Act provided punishment by fine up to $2,000 or imprisonment up to two years, hark the language, Mr. Whitehead, for anyone who should by writing, or the spoken word, bring the Government, the Executive, or the Congress, into disrepute.

Now, what is a $2,000 fine along side the loss of a license because the phraseology did not suit the writer?

CTW The gentleman obviously did not listen to my speech very carefully. Because, I think I made it quite clear that we would oppose any governmental enforcement to correct the abuses that are contained in those somewhat colorful words. Now, I wonder if the questioner is suggesting that elitist gossip and ideological plugola do not exist anywhere at any time . . .

Q It's hardly to be distinguished from the words of the Sedition Act about bringing the Government and the Executive into disrepute. . .

CTW They are equally subjective.

Q Can you make the distinction with the difference or without?

CTW They are equally subjective.

Q Do you have proof that those statements exist?

CTW The Government should not be in the business of enforcing these kinds of things. The Government should stay out of that. The place it should be enforced is within the industry itself. I hope no one here disagrees with that.

Q In the prepared text of your Indianapolis speech, you twice referred to a broadcaster's demonstrating responsibility and accountability at license renewal time, and yet when you delivered that address, you deleted the phrase "at license renewal time." This has been interpreted by some as some kind of implied threat. License renewal time will not be the time the broadcasters would be held accountable. The Government had something else in mind. We're responsible.

CTW Yes. None of us are exactly perfect. I did see the television coverage of that, and I did omit those phrases. They appeared in the credit text, and it was an inadvertent omission on my part, because I was trying to hurry through what I thought was an overlong talk. I stand by the written version of that speech. However, I should point out that in many press reports the phrase in that same sentence "be held responsible by the broadcaster's community at license renewal time" was also omitted. I just wonder if the elimination of the phrase "by the broadcaster's community" was meant to suggest something to the reader that was not suggested in the actual statement. I hope that was equally inadvertent, and for the purposes of clarity.

Q Mr. Whitehead, Dave Pressman, Channel 5 in New York. I think I can focus on the one basic concern of broadcasters and broadcast journalists. In your speech you said that those network executives and station managers who fail to correct your words "imbalance or consistent bias" would be held fully accountable at license renewal time, what we were just discussing.

CTW By their community, at license renewal time.

Q And if the community doesn't hold them responsible, then will the FCC, will the Federal Government?

CTW It's a little hard to see how they could, under our bill, because the only criteria that are allowed are criteria that are based on the local community; and the FCC, under our bill, is explicitly prohibited from considering their own criteria. We, in the White House, are explicitly excluded in this process from telling the FCC what we think are good criteria.

Q But, if the FCC is the traffic cop, if there is an objection from the local community, the FCC makes the decision, is that correct?

CTW That is correct.

Q And the FCC is appointed by the White House, is that correct?

CTW That is correct.

Q So, therefore, what you're saying is that if there is consistent bias as interpreted by the FCC after hearing from the local community, then licenses will be denied.

CTW It would depend on the FCC's judgment as to how serious that was in terms of the total service to that community.

Now, I unfortunately can't figure out a way to do away with the FCC and license renewal time. We are talking about a balance of people's concerns here. We have suggested a way that we think is an improvement over the current situation. Now, I realize there are many people who oppose our change. If they would like the current situation, with its more open opportunity for the FCC to apply its own standards, to work its way every three years instead of every five years and to not justify what it's doing in terms of local community performance and concerns, but simply because it happens to think something is worthwhile and useful, then I suggest that that shows there is something wrong. If we wanted to appoint people to the FCC who would be sufficiently irresponsible, to enforce the short-run political views of this Administration, I suppose we could do that. But we haven't.

Similarly, if we wanted to keep the Communications Act criteria vague, if we wanted to keep it out of the public eye, I suppose we could do that. But we haven't done that. We've tried to strike what we think is a responsible balance. We hope that when the people in this industry look at how we have struck the balance, between the rather extensive regulation that we have today and the total lack of regulation which would leave the community with no recourse, that they will see it as a net improvement.

Q But, ultimately, Federal officials will decide what "bias" is.

CTW I see no way to insulate the people from their government. As I said, they can always un-elect Richard Nixon.

Q What about the question of whether the press, the electronic press, is free to criticize the Government?

CTW There is no question that they are. There is question that they shouldn't be. One of the least noted statements in my speech was that the First Amendment has to apply fully and completely to broadcasting or it doesn't mean a thing in this age of electronic journalism. That is the touchstone, and that ought to be the touchstone of where we're going in broadcasting.

MC Thank you, Mr. Whitehead. And we have one more question, and then we must conclude.

Q Dr. Whitehead, wouldn't the best watchdog over a station's performance be someone who was seeking to take that station away, possibly, on some kind of local violation; and in that regard, wouldn't it be better to maintain the comparative hearings, even if it meant beefing up the staff of the FCC in order to assure that these opposition voices will be heard not someone to refer to as "community leaders," but don't identify.

CTW I don't think so because as the questioner before you pointed out very clearly, it's ultimately the Federal Government that has to make the decision between the competing applicant, the existing licensee, and what the local community needs and wants. As long as we're licensing the use of the public's airways, the Government has to make that kind of decision for the public. The public has every right to look to the Government to make that decision. What we are talking about here is the process and how much insulation does the industry have from the Government as to how much opportunity the Government has to impose its will on the industry.

Q By extending the hearing period from three to five years, you shut off the voice for another two years.

CTW We haven't completely shut it off, what we've said is that we'll take a rather serious complaint to raise the question in the interval.

MC Thank you very much, Mr. Whitehead. Agree or disagree, we are most appreciative to you for keeping up in the avenues of communication of our industry. Thank you again.

Telegram

1973 JAN 29 PM 8:39

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BROADCASTERS REPRESENTS A SIGNIFICANT MILESTONE IN THE HISTORY OF
OUR NATION'S RICH RELIGOUS HERITAGE.
THE PERVASIVE IMPACT OF RADIO AND TELEVISION BROADCASTING
ON PUBLIC VALUES AND TASTE HAS IMMEASURABLY EXTENDED THE ROLE OF
OUR RELIGIOUS BROADCASTERS, AS WELL AS THEIR INFLUENCE ON OUR
DAILY LIVES. THE GROWING SUCCESS OF THREE CONSTTUCTIVE DECADES

SF-1201 (R5-69)

Telegram

ICS IPMWAWH WSH ZCZC 08237/2

1973 JUN 29 PM 8:39

OF PUBLIC SERVICE ATTESTS BOTH TO THE DEVOTION OF AMERICA'S RELIGIOUS BROADCASTERS, AS WELL AS TO THE NEED FOR THEIR MESSAGE IN OUR HOMES AND COMMUNITIES.

ON BEHALF OF COUNTLESS CITIZENS, I EXPRESS MY WARM CONGRATULATIONS TO THOSE WHO ATTEND THIS ANNIVERSARY MEETING AND TO YOUR COLLEAGUES THROUGHOUT THE NATION.

RICHARD NIXON

SF-1201 (R5-69)

IRTS ANNUAL FACULTY/INDUSTRY CONFERENCE

TARRYTOWN, NEW YORK

February 14, 1973

(No text)

STATEMENT BY

CLAY T. WHITEHEAD, DIRECTOR

OFFICE OF TELECOMMUNICATIONS POLICY

before the

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

February 20, 1973

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

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

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

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

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

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

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

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

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

STATEMENT BY

CLAY T. WHITEHEAD, DIRECTOR
OFFICE OF TELECOMMUNICATIONS POLICY

Before the
Senate Committee on Commerce
Hearings on the Radiation Control for Health
and Safety Act, P.L. 90-602
March 9, 1973

It is a pleasure to appear here today and to have the opportunity of testifying about developments in the area of biological hazards from nonionizing electromagnetic radiation. The growth in devices which radiate electromagnetic energy emphasizes the need to assure that this growth is compatible with our own health and well-being.

I have a publication which we are releasing today entitled "Report on Program for Control of Electromagnetic Pollution of the Environment: The Assessment of Biological Hazards of Nonionizing Electromagnetic Radiation." This report covers our activities in this area comprehensively and discusses in detail the new program which we have initiated. The program, though modest in size, is of major significance and I am very hopeful that when it is completed we will have much information that is now lacking. With your permission, Mr. Chairman, I would like to insert this report into the record.

Mr. Chairman, perhaps I should start by explaining the source of the interest of the Office of Telecommunications Policy in this area. It stems primarily from our responsibilities for use of the frequency spectrum by the Federal Government, which is the largest single user. We are also responsible, in coordination with the FCC, for long range planning for spectrum management. Finally, we are responsible for the development of overall national policy in the communications field. Thus, we are concerned from many points of view with any possible dangers or unintended side effects which might result from the use of electromagnetic energy.

Our first effort in this area was to review the literature and research underway in this country and abroad. This review, which was undertaken several years ago, convinced us that little was known about the true impact of electromagnetic radiations upon human beings except in the case of high energy level radiations, where it had been known for some time that burns and other adverse biological effects might result from such radiation. Moreover, there were hardly any research activities or published reports in this country regarding the effects of long-term, low-energy electromagnetic radiation, although some such effects were reported by scientists in the Soviet Union. These reports caused some concern because they might imply central nervous system effects which might affect the judgment of individuals performing critical tasks. There were large but unexplained differences between radiation exposure standards adopted by the Eastern European countries and guidelines used in the United States. There was uncertainty in medical law as indicated by the growing number of controversies concerning liability for injuries allegedly sustained as a result of radiation exposure. In a recent case, for instance, the Veterans Administration awarded disability benefits to a claimant who developed cataracts said to be caused by microwave exposure. The present lack of scientific knowledge makes it difficult to arrive at fair and rational decisions in such cases.

Furthermore, we found questions with respect to the efficacy of intragovernmental research activities in this field. No

organizational structure existed to ensure coordination of effort. Agencies were not sufficiently aware of each others' activities; and some agencies having interests or responsibilities related to this area, such as FCC, FAA, and NSF, were not adequately involved. There was a serious need to assure that Government's efforts were more effective and better directed.

The history of our interest goes back to December 1968, when the Electromagnetic Radiation Management Advisory Council (ERMAC) was established to advise on the subject generally, and on the adequacy of control of electromagnetic radiations arising from communications activities. This Council is composed of experts from outside the Government, from the disciplines associated with the problem, such as engineering, physics, and the biological and medical sciences. The Council conducted a comprehensive review of current knowledge, existing programs within the Government, and potential problems pertaining to biological effects. In December 1971, it recommended a coordinated five-year program of survey, testing, and research among Federal departments and agencies.

In January 1972, I approved and forwarded the above program to departments and agencies for implementation in FY74. The recommended five-year expenditure was approximately $63 million, with annual expenditures of between $10 and $15 million. By comparison, it was estimated that FY72 appropriations in support of related activities already in being were approximately $4 million--

roughly half of which was provided by DOD, and the remainder by HEW and EPA. The FY73 level is estimated at approximately $5.5 million. The FY74 fundings support will be about $6.4 million.

The program outlines research needs and provides guidelines for a coordinated Government-wide effort to generate dependable scientific data for the evaluation of biological hazards. Each agency is responsible for the specifics of its own activities and controls the administration of the funds that are recommended. The major participants are the Department of Health, Education, and Welfare, the Environmental Protection Agency, and the Department of Defense, which together account for approximately 85 percent of the effort. Other agencies with active programs include the Department of Commerce, the National Science Foundation, the Central Intelligence Agency, and the Veterans Administration. The Departments of Agriculture, Interior, and Labor, the Atomic Energy Commission, the Federal Communications Commission, the National Aeronautics and Space Administration, and the U.S. Information Agency also participate. OTP's job is to coordinate the program as a whole and ensure that it runs smoothly.

The current overall effort is composed of some 112 projects, of which 70 are being conducted within the Government, 42 by outside grants or contracts. Twelve basic areas of investigation have been defined, and the contribution of the participating agencies to each area has been determined. For example, in the important area of

genetic and hereditary effects, 30 projects are involved -- 15 within the DOD, 12 in HEW, and 3 in EPA. In the metabolism, endocrinology, and biochemical area, there are 24 projects -- 16 by DOD, 6 by HEW, and 2 by EPA.

I would like now to turn to our findings.

While indications are very preliminary, in the past year we have learned that there may be more effects at lower energy levels than were previously thought to exist. For example, functional changes have been noted in some laboratory animals in the performance of a learned task. I emphasize that these indications are very preliminary, and much more work is needed to determine their significance. Certainly more research must be conducted before the existence of hazards can be definitively established and the need for corrective measures determined.

In the organizational area, we have reaffirmed our earlier view that better research and coordination were necessary, and an interdepartmental working group chaired by OTP has gone a long way toward meeting this need. A cohesive program now exists as the result of positive action to bring the scientific community and the concerned Government agencies together in a cooperative, but directed, effort.

In the future, we will evaluate in depth the strengths and weaknesses of the various activities, identify gaps in the research program, and eliminate unnecessary duplications. Additional guidelines as to priorities and future program direction will be

developed based on these findings. We now have a base from which to proceed and we are looking forward to substantive results as the program evolves.

With the proliferation in the use of radio and other electronic devices in responding to society's demands, we must be more aware of the potential impact of electromagnetic radiations upon people and things and must better understand the mechanisms involved so that corrective actions may be taken as needed. In these endeavors, we must ensure that a sound scientific foundation is established for protecting man and his environment, while at the same time permitting continued effective use of communication equipment with its great social and economic benefits. I am pleased to be able to report to you that the Government has anticipated these needs and is moving to be sure that the scientific information needed will be available to protect man within his growing electromagnetic environment.

MIT CLUB OF WASHINGTON

WASHINGTON, D.C.

March 14, 1973

(No text)

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STATEMENT BY

CLAY T. WHITEHEAD, DIRECTOR

OFFICE OF TELECOMMUNICATIONS POLICY

ON

PUBLIC BROADCASTING AUTHORIZATIONS

before the

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

March 28, 1973

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

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

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

in funding for the Educational Broadcast Facilities Program.

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

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

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

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

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

In 1967, the question of public broadcasting's role was vigorously debated. The debate was thorough and resulted in legislation which placed the stress on localism--a system in which control would flow upward from strong local stations to the national entities. The future funding of such a system, which was the result of much thoughtful and constructive debate, should be right rather than rapid.

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

With this as background, let me turn to the specifics of S. 1090. First, the level of funding, is in my judgment, too high. When all of the demands of the Federal budget are considered, it is impossible to devote $140 million to public broadcasting in Fiscal Years 1974 and 1975. Second, until the basic problems that I have discussed are resolved, the Congress should review the funding authorizations annually and observe the Corporation's progress in dealing with these problems.

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

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

Continuing the Administration's record of requesting increased funds for public broadcasting, the authorization would add $10 million to CPB's current level of funding, for a total of $45 million. Unfortunately, CPB did not receive its full authorization for Fiscal Year 1973. Recognizing that CPB appropriations were caught up in the President's veto of the Labor-HEW appropriations, we now ask for the same increase requested in Fiscal Year 1973 and regret that it is now one year later. In addition, the HEW request for Fiscal Year 1974 funding of the Educational Broadcast Facilities Program will be at a $13 million level, despite severe budgetary pressures affecting other HEW programs.

Mr. Chairman, I should like to close on a hopeful note by alluding to the efforts now underway to rationalize and improve the relationship between CPB and the local stations. The Corporation must take into account and respond to the needs of all classes and categories of public broadcasting stations around the country. In undertaking these efforts,

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

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

FLORIDA CABLE TV ASSOCIATION

DAYTONA BEACH, FLORIDA

March 29, 1973

(No Text)

HOLLYWOOD NATIONAL ACADEMY OF TV ARTS & SCIENCES

BEVERLY HILLS, CALIFORNIA

March 31, 1973

(No text)

STATEMENT BY

CLAY T. WHITEHEAD, DIRECTOR

OFFICE OF TELECOMMUNICATIONS POLICY

BEFORE THE

Subcommittee on Treasury, Post Office
and General Government
The Honorable Tom Steed, Chairman
House of Representatives

April 10, 1973

STATEMENT BY

CLAY T. WHITEHEAD

DIRECTOR, OFFICE OF TELECOMMUNICATIONS POLICY

Mr. Chairman and members of the Subcommittee, I appreciate the opportunity to discuss with you the budget requests of the Office of Telecommunications Policy (OTP) for fiscal year 1974. I believe you have our Budget Estimates for the upcoming fiscal year. With your permission, I would like to submit for the record a more detailed statement of the 1972-1973 Activities and Programs for our Office.

Before discussing our budget requests, I should point out that the past year has been one of great activity for OTP. Briefly, I would like to highlight some of these areas.

In the broadcasting area, we have developed legislative proposals for the modification of license renewal policies and procedures, the need for which we discussed during last year's hearings. We have proposed legislation for increased funding for the Corporation for Public Broadcasting. In addition, OTP completed its study of network practices in prime time television rerun programming, and has forwarded this report to the President and to the Federal Communications Commission.

In the area of cable television, the President's Cabinet Committee Report on Cable Television, which I chair, is nearing completion of its study. This final report will propose long-range policy to guide cable's future development.

Government communications is another significant area of OTP's concern. Last year, various problems in the Emergency Broadcast System and emergency warning procedures were resolved. Also resolved was the controversy of the FTS/AUTOVON merger. In addition, in the field of emergency public safety communications, OTP issued a policy on nationwide implementation of the "911" emergency telephone number.

In other areas, we have reviewed the structure of the U.S. international communications industry and have submitted a policy to the Congress, which would enhance industry performance through improved economic and regulatory incentives within the industry structure.

Mr. Chairman, these are just a few areas with which we have concerned ourselves over the past year. In addition, there are many activities of a continuing nature and we expect more results in the coming year. Let me now turn to our budget requests.

For fiscal year 1974, OTP has requested $3,270,000. This represents an increase of $270,000 over the fiscal year 1973 appropriation of $3,000,000. This is due largely to our request for $1,200,000 for outside research and studies contracts, an increase of $175,000 over last year. As I indicated last year, we do not intend OTP to become yet another overly-large bureaucracy. Indeed, consistent with the President's desire to reduce the size of the Executive Office, we expect to reduce our full time permanent staff to 52 by the end of fiscal year 1974, a reduction of 20% from the authorized level of the current fiscal year.

Despite this planned reduction, we find it necessary to request an increase of $41,000 over the $1,432,000 for personnel compensation in fiscal year 1973. This projected increase is a result of two factors. First, fiscal year 1974 estimates include provisions for increased overtime and for the normal within grade pay increases; and, second, there are additional costs associated with phasing down our personnel to the level of 52 by the end of the fiscal year. Average employment in man years is actually larger in fiscal year 1974 than in 1973. With appropriate changes in our operational plans, I am confident we can fulfill our responsibilities with a reduced staff.

I am prepared to discuss these and other matters with the Subcommittee, and I particularly welcome the opportunity to discuss these matters with the new members of the Subcommiteee and familiarize them with the programs and policies of our Office.

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STATEMENT BY

CLAY T. WHITEHEAD, DIRECTOR
OFFICE OF TELECOMMUNICATIONS POLICY

before the

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

April 17, 1973

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

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

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

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

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

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

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

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

1. Longer License Term

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

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

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

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

2. Comparative Hearing Procedures

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

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

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

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

3. Prohibition Against Restructuring Through the Renewal Process

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

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

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

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

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

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

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

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

Our bill is designed to balance this need for clarification of the public interest standard--and the reduction of the potential for arbitrary and intrusive regulation--with the mandates of the First Amendment. It would stipulate that in addition to compliance with the requirements of the Communications Act of 1934 and the FCC rules when evaluating a licensee's performance under the public interest standard, the FCC could apply only the following two criteria: (1) the broadcaster must be substantially attuned to community needs and interests, and respond to those needs and interests in his programming--this is known as the ascertainment obligation; and (2) the broadcaster must provide reasonable opportunity for discussion of conflicting views on public issues--this is known as the fairness obligation. The FCC would be prohibited from considering any predetermined performance criteria, categories, quotas, percentages, formats, or other such guidelines of general applicability with respect to the licensee's broadcast programming.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NATIONAL UNION RALLY

WASHINGTON, D.C.

May 14, 1973

(No text)

THE ADVOCATES

WASHINGTON, D. C.

May 16, 1973

(Interview - no text)

KUTZTOWN STATE COLLEGE

KUTZTOWN, PA.

May 31 1973

(No text)

ASSOCIATED PRESS RADIO AND TV
ASSOCIATION

NEW ORLEANS, LA.

June 1, 1973

(No Text)

Speech Book
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REMARKS OF

Clay T. Whitehead, Director

Office of Telecommunications Policy
Executive Office of the President

before the

Indiana Broadcasters Association
Holiday Inn
Indianapolis, Indiana

June 8, 1973

Six months ago, here in Indianapolis, I spoke on the subject of broadcaster responsibility and the web of relationships linking the broadcaster, his community, the TV networks, and the government. It's a little early, but Indianapolis evokes memories, and today I'll attempt Phase I of what will have to be a continuing evaluation.

First of all, the speech didn't just happen; it had a context. To understand the speech you have to understand the context -- the history of regulatory and legal decisions that have affected broadcasting during the past ten years. Let me review some of the highlights of that history to show you what I mean.

- In 1962, FCC Chairman Minow complained about the "vast wasteland," and President Kennedy stated that this was an attempt to persuade the networks "to put on better children's programs, more public service."

- In 1963, the FCC placed a new burden on stations, forcing them to program "Fairness Doctrine" responses to their own programs at their own expense.

- In 1964, the FCC set an uncontested TV application for hearing, because, in effect, the applicant hadn't proposed programs of a type the Commission favors.

- In 1968, cigarette commercials were held subject to the Fairness Doctrine and broadcasters (not advertisers) were forced to program information the government thought the people should have.

- In 1969, the WHDH case shattered the broadcaster's belief that he knew what renewal factors he would be judged upon by the FCC.

- And the 1970's opened with the FCC considering proposals to force broadcasters to carry counter-advertising, to take away the broadcasters right to choose what paid messages he should carry, to prescribe how children's programs should be improved, and to set mandatory percentages of various types of TV programming.

During the same time, the courts were expanding the role of the Federal Government, requiring the FCC to monitor what broadcasters are programming and to correct what the courts considered to be defects. In the 1969 Red Lion case, the Supreme Court blessed the vague, yet sweeping,

power of the Fairness Doctrine; other courts went even further in expansive decisions to diminish the editorial judgment and responsibility of the broadcasters.

The trend is clear and it reached its peak when the FCC and the courts deprived Reverend Carl McIntire of a radio station license, essentially for violations of the Fairness Doctrine. Reverend McIntire now thinks his only option is to move his station to a ship to continue broadcasting "outside the domain of the United States." Think of it; with close to 7,000 radio stations in this country, we may be treated to the spectacle of a broadcaster being forced to resort to an off-shore radio station to air his views.

From time to time the Congress has also gotten involved in broadcast program content.

- In 1968 hearings were held on news staging allegations arising out of network coverage of the Democratic Party convention.

- In the summer of 1971 a confrontation was precipitated over CBS's editorial judgment in its documentary, "The Selling of the Pentagon," and Dr. Stanton

narrowly avoided being cited for contempt of Congress for refusing to hand over all the unedited film shot for the program.

- Hearings on violent television programs, children's programs, and sports programs were also a common occurence in the Congress; the object being to get the networks to change their programming.

Of course, the FCC, the courts and the Congress haven't had this territory entirely to themselves. Executive Branch officials have also expressed their concerns about broadcast program content; most notably Vice President Agnew's expressions of concern. But the Executive Branch has no life and death control over broadcasters, as do the other branches of government, so broadcasters can pay the Executive Branch less heed. But, given the trend of increasing government controls, it's easy to see why broadcasters might get edgy when any official makes a critical comment.

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This then, was the clear trend of regulatory history when I spoke here last December. But before I get too deeply involved in evaluating that speech, there's one

other bit of background information that you should have; and that is how we at OTP viewed the trends in broadcasting's regulatory history.

It is the function of OTP to back off from the day-to-day happenings in telecommunications and suggest policies to be applied. When we did this in broadcasting, it took no great discernment on my part to see that something was fundamentally wrong in the relationship between the broadcast media and the government. The media, especially television, seem so powerful, so influential, and so licensed by the government. Many people, including government officials, find it a great temptation to grab hold of television by the license and shake it a bit to achieve some goal that they view to be in the "public interest." Do you think deceptive advertising is a problem? It's easier to force the broadcaster to offset it in counterads than to prove a case at the Federal Trade Commission. Do you think discrimination in hiring should be reduced? The broadcaster is more vulnerable to equal opportunity enforcement by the FCC than the EEOC. Are drugs, violence, and sexual permissiveness current problems? It's easier for the Congress and others to appear to deal with these problems by resorting to the raised eyebrow license renewal threat than to come to grips with these problems in a substantive way.

The list could go on, but there are enough examples to make the point. The point is not that it is bad to find easier ways to solve real problems. The point is that none of us would think it proper for the government to push newspaper or magazine editors around like this. And we simply cannot have an important medium of expression, such as broadcasting, subject to government control of its content, no matter how good the short-run goal, without doing serious damage to the spirit of free thought and expression, which is, after all, the goal of the First Amendment.

Realizing this fundamental point, OTP began to speak out. We criticized the intrusive manner in which the broadcasters fairness obligation was being enforced by the government; we said that the First Amendment was a better guarantee of freedom of expression in broadcasting than the Fairness Doctrine. We called for a substantial lessening of regulation in radio, where a multiplicity of competitive outlets has obviated the need for detailed government control over programs. We stressed the need for more diligent exercise of the broadcaster's private judgment and responsibility, so that government exercise of responsibility may be decreased. We called for changes in the license renewal process so that broadcasters would be less vulnerable to government control

for either good or bad ends -- the definition of which depends, of course, on who's controlling what. At the same time some elements of the working press were involved in a counter-convention, I spoke to the newspaper publisher's association and told them that they were in the same boat with the broadcasters; that government intrusion in broadcasting's journalistic freedom was also a threat to newspapers.

* * * *

This then, is the full background of the speech; the historical trends and OTP's position on broadcast regulation. These were my positions before I came to this city six months ago; these were my positions when I spoke, and they are my positions today. But the Indianapolis speech means more than a reiteration of prior positions.

For the first time a government entity seriously proposed a concrete piece of legislation to lessen governmental power over broadcasting. In the speech, I unveiled an Administration license renewal bill, which would affect a real change in the decade-old trend of increasing government controls over broadcast program content.

But the speech was a cause celebre' and the bill that bears my name has strong odds against its passage, simply

because it bears my name. Did I fail, and, in failing, damage the cause of increased freedom from government control of broadcasting?

I can't answer that question yet. It's too soon to tell. I'm sure that cooler rhetoric and a clearer description of our proposal might have helped get my message across. Perhaps less attention would have been devoted to my speech writing ability and more to my legislative drafting ability. But its too late for these "might have beens." For now, I'd like to explain what I hoped to accomplish last December, what I learned, and what, if anything, was actually accomplished.

What we hoped to accomplish was a rational debate on some very fundamental questions regarding the government's legal relationship with the only medium of expression it licenses.

One question was: Who should exercise responsibility for program content -- broadcasters or the government? The answer that I suggested is that, contrary to the trend, this should be the broadcaster's responsibility in our kind of society and very little of the government's business.

The Communications Act places this responsibility and power in the hands of hundreds of private broadcasters and not government officials, or even a handful of network officials. Government does, and under the Communications Act must, establish the broad outer limits of broadcaster performance, but within what must be broad limits, the broadcaster must determine what programs will best serve his community.

Another question was: When there are abuses in this system of private responsibility, who should correct them -- broadcasters or the government? Here again, whether the concern is children, or racism, or "ideological plugola," the answer must be the broadcaster, and not government power. For better or worse, under the constitutional protection of free speech and free press, we must take our chances with the private broadcaster, if the concept of private licensee responsibility is not to degenerate into a smoke screen for indirect government censorship.

The last question was: Where should responsibility and power over program content go when they are relinquished

by the government, as they would be under our renewal bill? I answered that the responsibility and power should be exercised by the broadcasters themselves who, under present law, are directly responsive to the needs and interests of TV viewers and radio listeners throughout the country. These local stations should act as responsible community leaders and as responsible affiliates of the three national networks in exercising their power. Government can relinquish its power and still assure that the public interest will be served only when program judgments are shared among many diverse broadcasters, responsive to their varying constituencies. This is the rationale of our broadcast system, the rationale of my speech last December, and the rationale of the license renewal bill we sent to Congress.

In expressing this rationale, I learned a number of things. I learned that a communications policymaking office associated with this Administration invariably has its motives questioned and its intentions distorted. The "leads" on news coverage of the speech said that, "White House drafts tough new legislation making stations responsible for network programs." Broadcasters, who should know better,

were quoted as saying that this signalled government censorship of news and entertainment and we might as well be living in the Soviet Union.

Within two or three days the nation's editorial writers and columnists were unlimbering their rhetoric and decrying what they viewed as a White House attempt to shackle the press and increase government regulation.

The Chicago Tribune stated that:

> "Bias, like beauty, is in the eye of the beholder. For government to make a determination of bias, particularly in the media, is tantamount to censorship, especially if government threatens TV or radio stations with the loss of their licenses."

I agreed: I thought that was what I said. The Washington Post said:

> "It is clear that the press does not always live up to the standard which editorial writers sometimes are tempted to ascribe to it. But it is also clear that one man's bias is another man's ultimate truth and that the founding fathers never trusted the government -- any American government -- to be the arbiter between the two as far as speech is concerned. The essence of press freedom is that professional discipline and consumer pressures constitute the safest corrective devices. The antithesis of press freedom is for those correctives to be supplied by the government."

I agreed: I thought that was what I said.

I even said amen to Tom Wicker's New York Times column, pointing out that the remedy for journalistic abuses should not be government regulation of the content of news broadcasts.

But where we parted company was that virtually everyone in the print media thought that the point I was making about the station's responsibility for its programming was a new legal obligation that we had put in our renewal bill. The fact that this is not even mentioned in our bill, and that this responsibility is already the law, shows that the publishers and the press have not been paying attention to the vital issue of law under which broadcast stations are regulated.

In short, their first reaction was automatic; for years they had seen government power being brought to bear on broadcasting. They couldn't believe that we would move to lessen government control of the electronic press. When they finally read the bill and saw that this was in fact the case, their second reaction was one of mistrust. They suspected a deal: the proverbial carrot and stick approach -- the carrot of renewal security and the stick to beat the networks into submission to this Administration. There is

no "stick," and the charge is ludicrous, but the analogy should tell broadcasters something about the esteem in which they are held by those making the charge.

* * * *

It's time now to assess what we have accomplished in our effort to reverse the trend of government's censorial power over the broadcast media.

First of all, we finally got the debate going in earnest on the government's role in regulating broadcasting by focusing public attention on the present degree of control over programs. There is now a greatly heightened awareness of the problems and risks of such regulation. It is ironic that most of this awareness is due to the fact that I have been painted in the press as the principal proponent of the government censorship I oppose. But the important thing is that the awareness exists now and, if it can lead to constructive action to increase freedom of speech in broadcasting, my major goal will have been achieved.

But even short of attaining this major goal, there are a number of hopeful signs. One is that the congressional discussion of our renewal bill's prohibition on FCC-established quotas and percentages of TV programs may well preclude the adoption of the Commission's proposal to this effect. On the Fairness Doctrine aspect, the decision to take away Reverend McIntire's broadcast license proved to be the last straw for Chief Judge Bazelon of the District of Columbia Court of Appeals, who had earlier been a staunch supporter of the Doctrine. In his dissent to the Court's action, he said:

> "In silencing WXUR, the Commission has dealt a death blow to the licensee's freedoms of speech and press. Furthermore, it has denied the listening public access to the expression of many controversial views . . . . if we are to go after gnats with a sledgehammer like the Fairness Doctrine, we ought at least to look at what else is being smashed beneath our blow."

Another very hopeful sign is the Supreme Court's recent decision in the BEM case, which draws an important line against undue government encroachments on the broadcasters' First Amendment rights and editorial responsibility.

Most importantly, we also have an intelligent and comprehensive approach to license renewals being actively considered by the Congress. The Administration's bill does not simply give broadcasters more license security, important as that is in reducing the broadcaster's vulnerability to the government. The bill also would prevent the government from exacting a high price in exchange for license security. Broadcasters would not have to surrender their responsibility for program judgments to the government in order to obtain a reasonable assurance of renewal. I said before that our bill may well not be enacted by the Congress. But unless its key provisions are reflected soon in some license renewal legislation, broadcasters will eventually succumb to the government, and the hopeful signs that I have noted will prove to be nothing but illusions. That's why this Administration will continue in its vigorous efforts to have the Congress enact a comprehensive renewal bill that strengthens the broadcasters' First Amendment rights.

Unless the Congress passes such a bill, the only standard that will guide broadcast regulation will be the double standard.

There are many people, in and out of government, who really do not want to diminish government power over broadcast content. They would rather use the tools of government content control to achieve ends that they believe are good. They would expand the power of government over broadcasting to achieve their ends and deny that power to those with whom they disagree. It's time to start calling this approach by its ancient and dishonorable name -- censorship.

A continuing tug-of-war between competing philosophies using government power over the media is not the answer. The answer is to take the censorship tools from government's hands, in order to make government power a neutral factor in broadcast regulation, with an absolute minimum of content controls. And this is our goal.

Some fear that conservatives will capture the power to bend broadcasting to their will. Others fear just the opposite. But it shouldn't matter to broadcasters in doing their job who is in power in the White House or the Congress any more than it should to newspaper or magazine

publishers. We simply have to take our chances with a free press, which hopefully will be a constructive and responsible institution. A truly free society has no other choice.

~~Sandra~~

Speech
Book

18

STATEMENT BY

CLAY T. WHITEHEAD, DIRECTOR

OFFICE OF TELECOMMUNICATIONS POLICY

ON

PUBLIC BROADCASTING AUTHORIZATIONS

before the

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

June 12, 1973

Mr. Chairman and members of the Subcommittee, I welcome the opportunity to appear before you today to discuss the proposed authorization for public broadcasting.

As you know, OTP supports the principle of long-range financing and acknowledges the inadequacy of current funding arrangements for public broadcasting. We have, nevertheless, taken the position that long-range funding cannot be undertaken before there exists a greater proximity between the goals of the 1967 Public Broadcasting Act and the public broadcasting system's present structure and operation.

Appearing before this Subcommittee in February of 1972, I attempted to outline the areas in which the public broadcasting legislation and public broadcasting operation had gone their separate ways.

I noted at that time that lack of CPB financial support for station operations seriously undermined the autonomy of local stations, the keystone of public broadcasting; that a fixed-schedule, real-time network was coming to

pass, despite the plain meaning of the 1967 Act; that homogeneity through centralized program centers and mass audience techniques existed where the Act called for diversity; that public broadcasting too often failed in striking a reasonable balance between local and national programming, and among cultural, entertainment, informational and instructive programs.

Now this is not to say that public broadcasting did not have many substantial achievements. Along with the achievements there has been continued support from the Administration in the form of requests for appropriation from $5 million in 1969 to $45 million in 1974. I think this demonstrates a real recognition of the achievements of public broadcasting, and demonstrates the falsity of the charge that we are trying to dismantle the system. We must recognize, however, that public broadcasting is meant to be more than a government-funded, high-class variation on the commercial network theme. Therefore, we have taken the position that, until there is whole-hearted compliance with the policies of the 1967 Act and the future directions for public broadcasting are clear, the Congress should not be expected to adopt a plan of long-range insulated funding.

Permit me then, against such a background to turn to the CPB-PBS agreement, which has dealt with some of these concerns, and which, I am delighted to say, has made progress in some areas. For example, OTP had called for a graduated distribution formula to assure local stations of financial support for their local operations. The CPB-PBS compromise incorporates this proposal, and strengthens the autonomy and independence of local public television stations by permitting local stations to share CPB funds on a proportion which increases as the level of Federal funding increases.

The consultative process created by the Agreement may not be the final answer to the problem of local station participation in program decision making, but it does remove some of the obstacles and inspires confidence that CPB and the local stations can work together in finding an equitable solution. Yet the strength of local stations in a public broadcast system of checks and balances will not be felt until the stations have realistic programming alternatives to the programs fed by the national network. We shall continue to work toward that goal.

Similarly, the Agreement's approach to the interconnection problem is a positive step in attempting to minimize the dangers of a fixed-schedule, real-time network, although there remain questions which only time and experience can answer. Whatever your opinion of the CPB-PBS compromise, several major areas require watchful waiting; indeed, if the compromise itself calls for quarterly review by the Partnership Review Committee, is it not appropriate for Congress to review that partnership in an authorization hearing one year from now?

But there are additional reasons why a one year authorization would be appropriate at this time. The future of public broadcasting is still left somewhat uncertain by this compromise. It is only realistic to adopt a wait and see attitude when faced with something which promises to do so much in so vast an enterprise as public broadcasting. It was appropriate in 1967 when Congress wrote the Public Broadcasting Act; it is appropriate now. Indeed, it is not inappropriate to recall that the one time Congress did provide multi-year authorizations, public broadcasting moved to centralized program production and fixed-schedule networking, the two major causes of our present difficulties.

Although the CPB-PBS agreement represents a step forward in dealing with such problems, the new PBS must use caution or else it could itself become a centralized bureaucracy, unresponsive to the needs of its members and forcing them to remit a portion of their grants from CPB to finance PBS operations.

Further, still unresolved is the question of journalistic public affairs programming on a taxpayer-supported broadcasting system. While the Agreement's plan to monitor objectivity and balance in programming is a good faith effort to deal with the problem, it is still fraught with danger.

If Federal funds are used to produce controversial public affairs programming without strong assurances of the objectivity and balance called for in the 1967 Act, the government has abdicated its responsibility to see that public broadcasting is used for all citizens. If the government itself oversees the balance and objectivity, it by that very fact has a chilling effect on vigorous broadcast journalism. It is a dilemma inseparable from government-funded news and information programming.

With this background, let me turn to the specifics of H.R. 2742 and H.R. 5045, which are identical, as well as S. 1090, which was passed by the Senate and referred to the House. First, the level of funding in these bills is too high. When all other demands in the federal budget are considered, it is unfortunately not possible to devote $340 million to public broadcasting for Fiscal Years 1974, 1975, 1976 and 1977 (H.R. 2742; H.R. 5045), or $130 million for Fiscal Years 1974 and 1975.

Appropriations at this level would represent an extraordinary increase in the rate of funding. Moreover, until the basic problems underlying public broadcasting are resolved, and until the CPB-PBS Agreement can be assessed in its operation over a year, the Congress should review the funding authorization next year and observe the Corporation's progress in its new partnership role with PBS.

The Administration's bill, H.R. 4560, provides for the healthy development of public broadcasting by extending for one year and by significantly increasing CPB's current authorization. This period would allow public broadcasting a real test under its new agreement and allow Congress time for evaluation. The Administration's bill requests $10 million increased funding for public broadcasting, for a total of $45 million. In addition, the HEW request for Fiscal Year 1974 funding of the Educational Broadcast Facilities Program will be at a $13 million level, even though other HEW programs are feeling severe budgetary pressures.

Mr. Chairman, Dr. Killian has referred to the CPB-PBS compromise as beginning a new era in public broadcasting. I have noted necessary reservations to certain provisions of that Agreement, but I should like to say for the record that public broadcasting has demonstrated real progress in getting its house in order. The time is now right for the Administration, the Congress and the CPB Task Force on Long-Range Funding to renew our joint efforts at achieving a meaningful, long-range funding program for public broadcasting. We hope that with all of us facing up to the problems there can be a more constructive mood among government, CPB, and the local educational stations.

STATEMENT BY

CLAY T. WHITEHEAD, DIRECTOR

OFFICE OF TELECOMMUNICATIONS POLICY

BEFORE THE

Subcommittee on Treasury, Postal Service
and General Government
The Honorable Joseph Montoya, Chairman
United States Senate

June 15, 1973

STATEMENT BY

CLAY T. WHITEHEAD

DIRECTOR, OFFICE OF TELECOMMUNICATIONS POLICY

Mr. Chairman and members of the Subcommittee, I appreciate the opportunity to discuss with you the budget requests of the Office of Telecommunications Policy (OTP) for fiscal year 1974. I believe you have our Budget Estimates for the upcoming fiscal year. With your permission, I would like to submit for the record a more detailed statement of the 1972-1973 Activities and Programs for our Office.

Before discussing our budget requests, I should point out that the past year has been one of great activity for OTP. Briefly, I would like to highlight some of these areas.

In the broadcasting area, we have developed legislative proposals for the modification of license renewal policies and procedures. We have proposed legislation for increased funding for the Corporation for Public Broadcasting. In addition, OTP completed its study of network practices in prime time television rerun programming, and has forwarded this report to the President and to the Federal Communications Commission.

In the area of cable television, the President's Cabinet Committee Report on Cable Television, which I chair, is nearing completion of its study. This final report will propose long-range policy to guide cable's future development.

Government communications is another significant area of OTP's concern. Last year, various problems in the Emergency Broadcast System and emergency warning procedures were resolved. Also resolved was the controversy of the FTS/AUTOVON merger. In addition, in the field of emergency public safety communications, OTP issued a policy on nationwide implementation of the "911" emergency telephone number.

In other areas, we have reviewed the structure of the U.S. international communications industry and have submitted a policy to the Congress, which would enhance industry performance through improved economic and regulatory incentives within the industry structure.

Mr. Chairman, these are just a few areas with which we have concerned ourselves over the past year. In addition, there are many activities of a continuing nature and we expect more results in the coming year. Let me now turn to our budget requests.

For fiscal year 1974, OTP has requested $3,270,000. This represents an increase of $270,000 over the fiscal year 1973 appropriation of $3,000,000. This is due largely to our request for $1,200,000 for outside research and studies contracts, an increase of $175,000 over last year. As I indicated last year, we do not intend OTP to become yet another overly-large bureaucracy. Indeed, consistent with the President's desire to reduce the size of the Executive Office, we expect to reduce our full time permanent staff to 52 by the end of fiscal year 1974, a reduction of 20% from the authorized level of the current fiscal year.

Despite this planned reduction, we find it necessary to request an increase of $41,000 over the $1,432,000 for personnel compensation in fiscal year 1973. This projected increase is a result of two factors. First, fiscal year 1974 estimates include provisions for increased overtime and for the normal within grade pay increases; and, second, there are additional costs associated with phasing down our personnel to the level of 52 by the end of the fiscal year. Average employment in man years is actually larger in fiscal year 1974 than in 1973. With appropriate changes in our operational plans, I am confident we can fulfill our responsibilities with a reduced staff.

I am prepared to discuss these and other matters with the Subcommittee, and I particularly welcome the opportunity to discuss these matters with the new members of the Subcommiteee and familiarize them with the programs and policies of our Office.

FOREWORD

Calendar 1972 was the second full year of operation of the Office of Telecommunications Policy. The following report summarizes the principal activities of the Office in the four broad areas of its concern, and sets forth the principal programs contemplated during the present year. Omitted are those activities related to internal organization and management, and also to routine operations, such as review of legislation referred for comment by the Office of Management and Budget.

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I. DOMESTIC COMMUNICATIONS

A. Common Carrier Communications

Common carrier communications is for the most part a monopoly public utility service provided by the Bell System and independent telephone companies. The performance of the industry has come under increasing criticism in recent years, and it has been proposed that various segments of common carrier operations be opened to competition. In response to such proposals the carriers have asserted that the benefits of economy of scale and operational integrity derived from integrated ownership and operation far outweigh any potential customer benefits from competition.

OTP has initiated several investigations into these questions. The ultimate aims of these studies are, first, to develop recommendations as to which aspects of common carrier operation can safely be opened to increased competition, and which should remain under integrated control; and, second, to determine the regulatory principles and practices best designed to ensure that noncompetitive operations remain efficient and innovative.

Principal studies and findings to date include the following:

1. Domestic Satellite Communications

OTP has consistently found that there are insufficient economies of scale in domestic satellite communications to warrant government restriction of competition. It therefore recommended to the FCC that any technically and financially qualified applicant be allowed to establish and operate satellite systems on a competitive basis, and participated in the FCC hearings on this subject. Subsequently, the FCC adopted what is essentially an open entry policy with respect to the provision of communications services via domestic satellites.

2. Specialized Communications Carriers

The entry of new communications carriers offering "specialized" services (generally any services other than public telephone, e.g. data, private line, video interconnection) in competition with the existing telephone carriers was approved in principle by the FCC,

but a number of issues which could determine the practical feasibility of competitive entry were left unresolved--such as the allowable monopoly pricing response and interconnection constraints.

To assess the implications of these issues for long-range public policy, OTP initiated three major programs. First, OTP undertook a major study to identify and quantify scale economies in the provision of all significant voice, data, and video common carrier servies by individual functional areas (i.e., long-haul transmission, toll switching, local distribution, terminal supply, and general provision of service). This is necessary in order to decide where monopoly should be protected from competition or is inevitable, from where it is not. OTP also explored various pricing policies with a view toward determining which of these policies would promote the greatest efficiency in the monopoly area, as well as prevent hidden subsidies from arising, and best promote competition.

Second, OTP began to investigate the technical and economic implications of alternative interconnection policies which, among other factors, will be a major determinant as to whether competition in the supply of terminal equipment (e.g., telephone and data sets) to be used with the existing telephone network is viable. This investigation will serve as the basis for recommendations for new legislation or regulatory policy.

Finally, OTP began an examination of the benefits and feasibility of a brokerage market--i.e., a market in the resale of communications services by non-common carriers--and an evaluation of possible impact of removing current restrictions on such activities on common carrier operations, revenues, revenue requirements and service arrangements under various policy alternatives.

Taken together, these three programs will provide guidelines for public policy regarding the major structural characteristics desirable in this industry group.

3. Common Carrier Regulation

Even if it is feasible to allow new communications services to develop on a competitive, rather than monopoly basis, and to introduce competition into selected existent aspects of common carrier operations, this will affect only about 10-20% of current total common carrier operations.

Most common carrier operations, notably the public telephone service, will continue to be monopolistic for some time.

Effective regulation of monopolies is necessary to prevent investments in inefficient facilities, excessive rates and profits, technological obsolescence, service degradation, and other problems, but it is difficult for government to second-guess a large public utility on detailed investment and operating decisions. For this reason, in the coming year OTP will continue to explore the desirability of encouraging better public performance of regulated utilities through improved policies rather than increasingly detailed regulation.

a. Depreciation Programs: The common carrier industry is heavily capital intensive, requiring sums for the expansion and replacement of facilities of close to $10 billion per year. OTP is very much concerned with the cost of obtaining such large amounts of capital, as well as the impact of the demand for such capital. Consequently, it is carrying out a study of common carrier depreciation policy with the aim of determining how capital can be generated internally under various depreciation alternatives, at what costs, and to whom; and also how depreciation policies generally can affect the rate at which new technologies capable of reducing both capital and operating costs are implemented. Common carrier equipment is typically depreciated over very long periods corresponding to the expected physical life of the equipment, although the useful life is often much shorter due to rapid technological advances. This is only one aspect of depreciation policies that affect common carrier financial decisions and customer rates; other aspects are disposition of fixed asset salvage, separation of depreciable and nondepreciable investments, and purchasing policies of common carriers along with the pricing policies of their suppliers. In 1972, OTP made an overall investigation of the depreciation practices, objectives, effects, and alternatives in the common carrier industry.

b. Accounting Programs: OTP is also conducting an in-depth study of the FCC's Uniform System of Accounts for common carriers, the objective of which is to identify the full range of operating incentives implied for the carriers by this regulatory reporting system and the effect these in turn have on the quality and cost of

service. One of the study's major findings to date is that the classification for capital facilities costs and for operating costs bears no relationship to the classification for service revenues, and thus the Uniform System currently can provide little or no guidance in assessing the reasonableness of the rate of return for particular services. Other issues which will be considered within the study this coming year are the types of incentives and controls under the existing system of accounts that govern the classification of expenditures as either capital or operating costs, the treatment of asset salvage, and the method of tax accounting. Additionally, the possibility of making certain changes with respect to station connection accounting and installation procedures--changes which could add substantially to common carrier cash flow as well as to customer options in instrument selection, payment and rearrangements--will be explored.

B. Cable Television and Broadband Communications

Broadband cable systems represent a new communications medium which can increase consumer choice in television programming and provide many new communication services hitherto unavailable. The immediate effect of cable expansion, however, is to disrupt some of the distribution practices of the existing television industry and to threaten the economic position of some broadcast stations and copyright owners. There is urgent need for policies to guide the development and regulation of cable in such a fashion that its enormous benefits can be rapidly achieved without depriving the society of its healthy programming industry and its essential broadcasting services.

In 1972, OTP undertook a series of studies and investigations to identify and illuminate particular aspects of broadband cable development that require policy consideration, and to develop policy recommendations.

Two of these studies have been completed:

(a) A study of the present and projected costs of broadband cable systems, to serve as a basis for estimating future growth patterns and rates of development of cable distribution systems;

(b) A study directed to the development of an industry simulation model to be used in conjunction with the results of (a) and (c), below, to predict future industry development.

A third study has yielded significant information and is close to completion:

(c) A study on projected consumer demand for cable television as a function of population and market characteristics, to enable the formulation of alternative regulatory policies appropriate for different economic environments.

In addition, the following study was initiated in January of 1973:

(d) A study to determine the most economical ways of conserving and enhancing broadband communications services in low density rural areas, where cable technology may not be economically feasible.

In addition to these studies, OTP has provided supporting analysis and developed alternative policy options for the President's Cabinet committee on cable television. In this work it has examined, among other matters, the economic and social effects of vertical integration in the production and distribution of cable television programming; the probable impact of expected cable growth on the broadcast and copyright industries; the problems of access to the cable media by all segments of the public and industry; and considerations pertaining to joint ownership of broadcast, cable, and telephone facilities. Policy alternatives pertaining to these various matters were developed for consideration by the Cabinet committee. The results of this activity have been presented to the committee, which is expected to complete its report in the near future.

A significant achievement in the cable television field was resolution of the long-standing controversy concerning distant signal importation, that is, cable use of signals broadcast by out-of-market television stations. The distant signal question involved complex, interrelated issues such as CATV's need to offer this service in order to attract capital and begin its growth, the effect of distant signal competition upon the economic stability of local radio and TV stations, program suppliers' need for copyright protection, and the public need for a wide diversity of quality program services. Since OTP believed that delay and uncertainty would be

harmful to the public interest, it agreed to act as mediator in the dispute. The principal private parties ultimately agreed upon a compromise plan, the main feature of which was to supplement the then existent FCC rules with regulatory and legislative copyright and exclusivity provisions. Main elements of this plan were ultimately reflected in rules which the FCC adopted in March of 1972. Congress is still considering the copyright provision of the plan, the main element of which is to establish a schedule of fees governing the use of copyrighted programs, or if such a schedule cannot be agreed on, compulsory arbitration. OTP will retain its interest in this area and follow developments closely.

In addition to the above activities, OTP is coordinating, with HUD and HEW as major participants, the design of a demonstration program that would show effective and economical uses of broadband communications for the delivery of public services and would allow industry to test earlier than otherwise possible the potential of broadband communications for innovative non-public services. The program would be a joint government and industry undertaking that would ultimately benefit both the private and public sectors. During 1973, OTP will continue its coordination of interagency effort, and will guide the demonstration program through its various stages, including the planning of specific experiments, the selection of demonstration sites, and the enlisting of state and local government participation. Finally, also during 1973, OTP will initiate a study to evaluate the economics of allowing consumers to purchase television programs directly over cable. This study will enable an assessment of the desirability and feasibility of such systems and their potential role within the broadcasting and cable industries.

C. Broadcasting

1. Public Broadcasting

The Public Broadcasting Act of 1967 created a framework for educational and instructional broadcasting, largely as envisioned by the Carnegie Commission on Educational Television. However, the means of

establishing a stable source of federal support funds which would avoid detailed government oversight of program content, was left unresolved and has remained so. In addition, the years since 1967 have witnessed the development of important new technologies for which no provision is made in the Public Broadcasting Act.

During the past two years, OTP sought to achieve amendments to the Act which would eliminate both these deficiencies. It consulted with interested organizations in public broadcasting and with the relevant agencies of government, and reviewed a range of approaches to new legislation.

Last year, OTP worked with the Congress and submitted a bill providing for an additional year of funding for CPB and assuring federal funding of individual public broadcast stations. Congress, however, adopted a different bill which would have increased the federal funding of public broadcasting by more than $115 million over a period of two years. As a practical matter, the bill would have undercut any hope of resolving the various problems that have developed in public broadcasting regarding its structure and the various relationships between the local stations and the national organizations. Consequently, the President vetoed the bill.

OTP has submitted proposed legislation that would increase the federal authorization to CPB by $10 million to a level of $45 million. This represents a 30 percent increase over the level in FY 1973.

2. License Renewal Policy

One of the major braodcasting controversies of recent years has involved the triennial license renewal process. Although all can agree that a broadcaster who has performed well in the public interest should have his license renewed, the Congress, FCC, and the courts have struggled with the questions of what is good performance and what standard should be used to judge the incumbent licensee's performance in the face of a challenge to his renewal application.

Because the search for standards comes at a time when community interest in license performance is strong and when competition for licenses is increasing, a certain

amount of undesirable instability has been injected into the broadcasting industry. The regulatory process has become fraught with delay and uncertainty, and the industry's ability to serve the public has suffered.

Last in 1971, OTP developed and proposed for public discussion a wide-ranging series of suggestions for modifying the Communications Act of 1934, one of which dealt with license renewal policy. OTP pointed out the dangers of adopting renewal standards that lead to government supervision of program content. It proposed for discussion a more "neutral" renewal standard that would place the primary emphasis on the licensee's being attuned to the programming needs and interests of his local audience. Using this standard, a premium would be placed on the obligation to be directly responsive to community problems and issues; licensees who had met this obligation would be assured license renewal. This would lead to needed stability in an industry that must make relatively long-term commitments to public service.

In December of 1972, following further study of the license renewal process, OTP proposed that the legislative provisions governing license renewals be revised. It proposed an amendment to the Communications Act of 1934 which would make four revisions in the present renewal process: the extension of the term of license from three to five years; the requirement that policies concerning qualifications to hold a license be made solely through rulemaking; the establishment of specific procedures to be used in the event that a renewal application is challenged by a competing application; and finally, the prohibition on use by the FCC of predetermined performance criteria to be used in evaluating renewal applications.

Legislation was introduced in the Senate and House of Representatives this year. This seeks to establish a regulatory environment which allows for competition for the grant of a license, and, at the same time, reduces the uncertainty and instability that has beset the industry.

3. Fairness Doctrine and Access to the Broadcast Media

Another critical issue--one that is central to the role of the mass media in an open society--is that of public access to the broadcast media for discussion of and information about controversial public issues. The FCC's Fairness Doctrine requires the broadcaster to make time available for the presentation of contrasting

viewpoints once a particular side of a controversial issue of public importance has been expressed. Although not originally contemplated, this "fairness" obligation is now being enforced on an issue-by-issue, case-by-case basis, instead of through an overall evaluation of whether the broadcaster has kept the public well informed, with reasonable time for contrasting views. When enforced in this manner, the broadcaster's journalistic determinations are repeatedly second-guessed by the FCC and the courts, and since these are agencies of government, the decision as to who shall speak on what issues becomes part of the governmental process. This diminishes the "free press" discretion of the licensee and tends to convert broadcasting from a private enterprise activity to a government supervised service.

A major incentive for case-by-case application of the Fairness Doctrine is the fact that individuals' access to the media for discussion of controversial issues can only effectively be achieved through that device. Broadcasters do not ordinarily sell their advertising time for such purposes--partly because they may be compelled to "balance" such presentations in their program time.

In 1971 OTP studied the history of Fairness Doctrine enforcement and the closely related problem of access to the media. As part of the series of suggestions for modifications in broadcast regulation made in October 1971, OTP proposed that there be considered a right of nondiscriminatory access to TV advertising time, accompanied by the elimination of any requirement that paid views be "balanced" by views expressed in program time. In program time, OTP suggested that the fairness obligation ultimately should be enforced by an overall inquiry into the licensee's journalistic responsibility at license renewal time, rather than in the case-by-case fashion now employed.

Under the present structure of broadcasting--the technical scarcity of channels available as broadcast outlets, and the reliance on persons entrusted with these outlets to serve as a vehicle for informing the public--the Fairness Doctrine itself is necessary for the time being as a means of preserving the public's right to be informed. However, the means and mechanisms of enforcing the Doctrine must be improved, and governmental intrusion into program content must be minimized.

Enforcement of the Fairness Doctrine through a review of the broadcaster's overall performance and programming at license renewal time, rather than through case-by-case adjudication, would be a step in this direction.

OTP has highlighted the fairness obligation as one of the renewal standards of the proposed license renewal legislation. This would also serve as a Congressional expression of intent as to the preferred method for fairness obligation enforcement.

OTP will continue during the present year to explore various alternatives for solving the fairness and access dilemmas. It will seek to assist the Congress and the FCC in devising mechanisms to enhance free expression and to minimize government intervention in the marketplace of ideas.

4. Radio Regulation

For many years, radio broadcasting has been regulated as an afterthought to television. Some of the rationales and assumptions, such as scarcity of outlets and restricted entry, which shaped early radio regulation and still justify regulation of television stations, have been rendered meaningless by the phenomenal growth in the number of AM and FM radio stations, offering widely diversified special program services to the public.

In 1971 OTP proposed to the FCC that it undertake an experiment in radio deregulation, with a view toward experiment in radio deregulation, with a view toward lessening the regulatory controls on commercial radio programming, commercial practices and other nontechnical operations. The proposal was support by an OTP Staff Paper setting forth the reasons such an experiment seemed appropriate and promising. In response, the FCC instituted a program to reassess its regulations governing radio, and is in the process of acting on its fundings. In addition, OTP endorsed a Congressional resolution, H.J. Res. 60, to provide further study and support for the deregulation of radio. OTP will continue working with the Congress, FCC, broadcasters, and public to provide recommendations as to how radio regulation can be improved.

5. Reruns of Networks Programs

In recent years, the portion of network prime time devoted to reruns of original programs has increased dramatically. The increase in reruns has resulted in a deminution in the variety and creativity of programming available to the public and, by contracting the market for new programs, has threatened the economic underpinnings of the program production industry.

However, it has been unclear what the casue of this change is, and what are the available techniques for dealing with it. On the one hand, the shift to more

reruns may be attributable to unfair use by the networks of their monopoly position in buying and distributing programs. Or, on the other hand, the trend may be due to inexorable market forces, such as increased in program production costs not covered by commensurate rises in advertising revenues. Better knowledge of this is required as a basis for determining whether Federal action is necessary.

In view of the importance of this matter to the viewing public and to the health of the program production industry, the President requested that OTP inquire into the causes of increases in network reruns, and, if appropriate, recommend remedial action. OTP has completed its study and has sent it to the President. It found, for example, that original program episodes during prime time declined from an average of 32 in 1962 to 24 in 1972. The principal reason for increased reruns has been the increased cost of prime-time television program production. Our study concludes that the increasing percentage of prime-time reruns in each broadcast year contributed significantly to the decline of employment in the television program production industry, and has diminished the amount of diverse programming available to the public. OTP has asked the Federal Communications Commission to conduct a full inquiry into this matter and consider whatever regulatory remedies may be appropriate in protecting the public interest.

Also, our study found that the prime-time access rule, the effect of which restricts network programming to 8:00-11:00 p.m. EST has not fulfilled its objectives, and has limited diverse, original, and high quality programming available to the public. OTP, therefore, has recommended to the Commission that the rule be changed to allow the networks to program in the 7:30-8:00 p.m. time period.

D. Federal-State Communications

Issues affecting state and local governments arise in every area of communication policy and in varying contexts. For example, the planning of a national emergency communication system requires state and local participation; regulation of the communications common carrier industry has traditionally been divided between the Federal Government and the states. Regulation of CATV systems has involved both federal and local authorities; public broadcasting and educational communications involve state and local governments to a signficiant degree; the operation of public safety communications systems (police, fire, ambulance, etc.) is usually under the direct operational control of local officials; and in many cases, local governmental communication facilities and services are funded in whole or in part through federal grant-in-aid programs.

To provide guidance and assistance to state and local governments, OTP undertook and completed the following tasks: (a) a review of the various federal telecommunication

assistance programs; (b) the issuance of OTP Circular Number 2 requesting all executive agencies to provide information on their current and planned telecommunications research programs which might affect state and local programs; (c) studies for the states of Hawaii and Alaska to identify their unique communications requirements; (d) the preparation of a Cable Communications Handbook for local government officials to provide a basis for community planning and decision; (e) a conference between communications officials of Hawaii, Alaska and the U.S. Trust Territories to strengthen their communication planning procedures.

To provide national policy guidance to state and local governments on the implementation of the nationwide emergency telephone number "911," OTP has issued a coordinated national policy, contracted for a community planning handbook on "911" implementation, and provided for the establishment of a federal informational clearinghouse on "911."

To provide support for public safety telecommunications, OTP is seeking the improvement of the national law enforcement teletype system (NLETS), which services state and local law enforcement agencies in 48 states. OTP is also pursuing an effort to identity the issues that arise from the potential delivery of public services via modern communication methods (CATV, satellites, etc.) with particular emphasis and priority on the communication aspects of the delivery of emergency medical services.

Finally, OTP maintains a continuing program of consultation with state public utility commissions and with the FCC concerning the impact of specialized communication carriers, cable systems, spectrum usage, data communications and other developments in communications which involve regulatory policies and practices. OTP engages in an active dialogue with state and local officials in order to respond to communications problems and issues as they arise.

E. Mobile Communications

The frequency spectrum available for mobile radio services has been tripled by the FCC in a series of actions taken in 1970 and 1971. The mobile communications industry should no longer be limited by a frequency shortage but will face more clearly classical supply and demand limitations. This will raise a number of issues as to appropriate types of new systems, new services and the institutional structure to support them and the manner in which the larger bloc of spectrum will be sub-allocated among the competing mobile services. The transition from spectrum scarcity to spectrum abundance must be regulated to create an industry structure that is sensitive to

future demands for communications services of all types, including improved mobile telephone services for all areas, integrated dispatch services, and public telephone services for domestic aircraft. It is equally important, as the spectrum available for mobile communications expands, to provide for the maximum amount of competition, both in the manufacture and sale of equipment and in the actual provision of service to the public.

In early 1972, OTP commenced a program, using staff, contract, and Policy Support Division resources, to assess the technical, economic, and institutional effects of proposed new mobile systems and services and to formulate policy guidelines for the development of the expanded industry including guidelines for the introduction of competition. It is expected that the results of this program, along with recommendations to the FCC concerning policy guidelines for mobile communications will be forthcoming soon. Additionally, in cooperation with the FCC, DOT, LEAA, HEW, and HUD, OTP will continue to assess the feasibility of a pilot program to demonstrate innovative uses of mobile communications services in support of public safety, emergency health services, highway safety, and transportation in general.

F. New Technology

During the past decade, there have been radical improvements in communications technology resulting from independent research and development of U.S. industry, research in the academic community, the U.S. space program, and other government-sponsored R&D. These technologies provide opportunities for vastly improved and expanded communications services, which could have significant social and economic effects if exploited properly.

OTP maintains in conjunction with the National Science Foundation and the Department of Commerce, an ongoing study effort designed primarily to identify areas in which new technological advances are occurring and to evaluate the effect of these technologies upon the existing structure of the domestic communications industries. In 1973, OTP plans to identify the current state-of-the-art in the major fields of communications technology, to determine the existence of any gaps in research, and to anticipate any potential future policy problems. If necessary, OTP will recommend policy guidelines regarding the applications of new technology.

G. Computers and Communications

In recent years, the two separate industries of computers and communications have come to intersect in several important areas. The use of computers in communications has enabled, or made considerably less costly, new modes of transmission, switching, network design, and system administration. Conversely, the use of communications in conjunction with computers has permitted the sharing of data-processing resources and the pooling of information banks, and has provided an access to computers that has opened up new opportunities across the entire spectrum of endeavor, including business, education, and social services, to name only a few.

The concerns in this area are in part common with those of other areas of domestic communications: Determining the division between competition and regulation, and for the latter, defining a governmental role which avoids inhibiting or restricting the flow of ideas and information. At the same time, however, computers and communications pose some issues which are unique, such as the threat to privacy, equal opportunities to information, and the protection of intellectual property rights.

OTP has commenced one program in this area which will be vital to the task of providing policy guidance. It initiated a review of the basic economies which underlie computers and communications, and therefore, to a great extent, control both its own development and the requirements for policy. From this program, it is expected that a basic understanding of this new combination of industries, as well as the analytic tools and concepts needed to guide it, will be developed.

II. GOVERNMENT COMMUNICATIONS

A. Federal Communications Policy and Planning

The Federal Government's own communications consume from 5 to 10 billion dollars per year. The major concerns in this field are avoidance of duplication, effective management of the acquisition of new systems, achievement of compatibility among systems, and satisfactory operating performance.

The major objectives of the OTP program in the area of Federal communications are: first, identifying all the communications activities and resources of the Federal Government; second, determining the needs for effective information exchange among the various departments and agencies; third, promoting economy in the government's use of communications, through sharing of facilities, elimination of duplication, and effective use of commercial services; and finally, encouraging the use of communications to improve productivity and enhance coordination of Federal Government activities. During 1973, arrangements for the interagency coordination required to achieve these objectives will be strengthened and aligned as appropriate with the Administration plan for the coordination of departmental activities. The areas of government communications to be involved are: communications networks, aids for radio navigation, satellite programs, communications of the Executive Office, audio-visual activities, equipment and facilities standards, and procurement practices.

In the previous year, OTP completed a review of all existing studies and analyses pertaining to the integration of the two largest communications networks in the Federal Government, the AUTOVON network and the Federal Telecommunication System. Based on this review, it was decided that the systems should not be merged. However, this review revealed conflicting considerations concerning the degree of interconnection and inter-usage that should be sought. To resolve these conflicts, OTP directed a field test of service to selected military installations to obtain first-hand data relative to economic and service benefits which might accrue as a result of mutuality of service. The test has been completed and the results are being analyzed. Completion of the analysis will provide adequate information upon which to base decisions concerning further integration or interoperability of military and civilian communications activities.

OTP has completed a review of existing and planned radio navigation aids operated or used by various elements of the Federal Government. It has begun work with the affected Federal departments and OMB to (1) coordinate the navigation satellite programs of the various departments; (2) determine the minimum mix of navigation aids and systems to meet government and civilian requirements; and (3) structure a coordinated national navigation program.

It has formulated a plan to designate a single system for long-range general purpose navigation and will issue this plan to the affected department for planning and budgeting guidance and to the civil community for its information.

The major portion of review of the government's present communications satellite program initiated last year will be concluded in 1973. The collection of information with regard to such programs is nearly complete. Several programs have already been identified for a more detailed analysis which will be aimed at identifying satellite systems which can be (1) reduced or eliminated, (2) consolidated with others, or (3) expanded to serve additional users.

A major consideration in the design of government communications systems is selecting the best means of meeting unique needs, particularly those of the national security community. Special requirements for survivability and security, for example, can be met by highly specialized systems, or by designing general purpose government networks to include these features.

Meeting such requirements creates a dilemma for policy makers. Specialized systems with limited capacity are relatively inefficient for day-to-day use, and seem costly if relegated solely for emergency or backup use. On the other hand, incorporating special features in general purpose systems raises the cost of such systems for all users and can result in an unwarranted expansion of the demand for such features. This dilemma must be taken into account in developing policies and plans affecting Federal communications and a more explicit strategy must be developed for resolving it, including the development of good working relations with the Department of Defense and other national security agencies.

A study has been completed of the applicability of new communications technology to the unique needs of the Executive Office of the President. Particular emphasis was

given to the possible utility of wideband and high speed data services. This study provides guidelines for the introduction of new equipment when and as needed, while ensuring that all equipment fit into an integrated system capable of evolution as technological potential and government needs change. During 1973, key technical and economic questions will be resolved, and a demonstration of selected new capabilities will be begun. This will also provide a basis for recommendations on other inter-agency communications systems.

OTP is conducting an interagency study to improve the management of all audio-visual activities within the Federal Government. This study will review in-house versus contract decisions for the production of audio-visual materials, the volume of and need for government-owned facilities and equipment, and the potential for interagency coordination and cooperation for effective utilization of such facilities and equipment.

An improved process for the development of Federal communications standards has been established with initial emphasis on standards for data communications and standards to promote the interoperability of government communications networks. In 1973, emphasis will on one of the key elements of such networks, modulator-demodulators, or modems.

A review of government policies and practices for the procurement of telecommunications equipment and services has been started. Its goal is to develop updated and improved government policies and practices in the light of recent changes in regulatory practices and in the structure of the industry, particularly the introduction of competitive suppliers of specialized services and interconnecting equipment. One important factor in the study is the clarification and application of the government's policy of maximum reliance on the private sector for the provision of services and facilities. Another is the problem of reconciling conflicting approaches to computer and communications procurement when systems composed of both elements are involved. A third factor of importance which will be considered is the unique and difficult problem relating to the procurement of satellite communication systems and services.

Finally, OTP has established the Government Communications Policy and Planning Council. The Council, consisting of representatives of key Federal agencies, will provide a focal point for bringing the potential benefits of communications technology to all Federal agencies as a means of

increasing productivity, coordinating operations, and improving the delivery of services to the public. The Council will enable these benefits to be obtained without costly duplication or bureaucratic delay, and through effective cooperation among all of those responsible for Federal communications policy and planning.

B. Emergency Preparedness

The purpose of the emergency preparedness program is to insure that national and Federal communications resources will be available and applied, in emergencies, to meet the most critical national needs. This is a demanding task, because of the numerous contingencies that must be provided for--both with respect to the nature and location of the disruption and with respect to the nature and location of the services which, in one or another circumstance, it must be considered vital to restore. Emergency communications plans and capabilities must comply with three basic principles: first, maximum dual use of facilities for both emergency and routine operations; second, balanced survivability among communications and the facilities which are supported by communications; and third, focusing of responsibility to assure accomplishment. These principles are implemented within the framework of the Federal Government's overall emergency preparedness program, only part of which deals with telecommunications.

Policies and plans for managing the nation's telecommunications resources during war emergencies or natural disasters have been completed. These plans delineate the responsibilities of various Federal agencies regarding telecommunication, and indicate the coordinating arrangements to be used.

In 1972, OTP engaged in a review of the policies and procedures under which critical private line services would be restored by the United States communication common carriers. This review resulted in issuance by OTP of revised policies and procedures for the restoration of such services under a system of defined priorities. Work is now proceeding in conjunction with other Federal agencies to evaluate the currently assigned and requested priorities and to determine whether, and how, the number of priority circuits should be reduced.

With regard to its responsibility of determining policy for warning citizens of attack or of emergencies, OTP in 1971 issued a policy that any use by the public

of home radio receivers in a nationwide radio warning system would be strictly voluntary. At that time a number of studies were undertaken to determine the most effective and economical alternative approaches to providing warning. Several of these studies will be completed during 1973, and further actions for improving the provision of warning to citizens will be made.

During 1972, a new manner of activating the Emergency Broadcast System (EBS) was implemented under OTP's direction. Further changes to improve the effectiveness and efficiency of the EBS will be studied and implemented during 1973.

To provide increased understanding of communications problems which arise when natural disasters occur, several actual disaster situations were studied and the lessons learned were incorporated into pertinent plans and procedures. This practice will be continued in order to provide a larger base of experience for evaluating warning and emergency communications systems and procedures.

C. Computers and Communications

Recent technological advances in the field of computers and communications have produced the potential for several alternative industry structures, for the provision of data processing as well as data communications services. Which of these alternatives will eventually become dominant will be determined both by the regulatory policies adopted by government, and the inherent economic characterisitcs of computers and communications. This process--the emergence of an industry structure--has already commenced; however, many important questions remain unanswered, and many pertinent areas have not even been explored.

The development of hybrid computer-communications systems has significant implications for the Federal Government in two important fields. First, it will affect procurement of the government's own data processing and communications services. In particular, new hybrid systems may allow economies to be obtained through the sharing of network services by departments and agencies now obtaining such services independently. Secondly, the development of hybrid computer-communications systems may lessen the need for the government to design and operate its own hybrid systems, by making these available in the private sector.

To assure that government use of computer and communications systems is effective and economic, OTP, during the past year, developed a model of hybrid networks that enables a thorough investigation of the economic implications of alternative system structures, sharing policies, and telecommunications tariff arrangements. During 1973, initial use of the model will be made to study high priority issues, including the economics of system sharing within the Federal Government. Also during 1973, an initial survey will be made of the security issues relevant to shared computer-communications systems, such as the maintenance of personal privacy and the preservation of confidentiality of personal information.

III. INTERNATIONAL COMMUNICATIONS

A. International Systems and Facilities

1. General Policy and Industry Structure

Since its inception, OTP has conducted a continuing review of the operating and institutional arrangements of the international communications industry.

The structure and performance of this industry have been a concern to Congress and others for many years, and this concern increased with the advent of the new technology of communication satellites and the creation of a chosen instrument (Comsat) to represent United States interests in the international use of this technology. As a result of highly complex and artificial industry structure (largely the creation of Government regulation), the traditional problems of rate and investment regulation are particularly acute in the international field; and, because of divergent incentives, there are widely divergent views in the industry with respect to the best "mix" of international transmission facilities (i.e., cables and satellites). It thus becomes necessary for the FCC to rule on competing or alternative proposals for new facility construction, and to allocate the traffic among various facilities and carriers, causing strains in foreign relations and in the relations of U.S. industry to foreign carriers.

OTP has submitted its policy to the Congress which seeks to enhance industry performance through improved incentives within the existing industry structure.

OTP now has in the final stages of development proposals and recommendations based upon this policy which seek to enhance industry performance through improved incentives within the existing industry structure. These will soon be forwarded to the concerned Congressional committees in response to requests for Administration views on this matter.

2. International Communications Satellites for Mobile Communications

(a) Aeronautical Satellites

OTP has concentrated on developing a U.S. Government position with regard to arrangements with the European nations to evaluate the use of satellite communications in improving air traffic control over the

high seas. Negotiations with the European Space Research Organization (ESRO) on a coordinated evaluation program commenced in 1971 and were continued during 1972. It is expected that the satellite channels required for the evaluation will be provided by a new entity to be owned jointly by ESRO and a private U.S. company. The State Department, FCC, and DOT/FAA have closely coordinated their interests in this area with OTP throughout this year.

(b) Maritime Satellites

OTP has actively participated in intra-governmental policy discussions aimed at providing satellite communications to civilian ships on the high seas. Current international discussion of this subject is taking place in the International Maritime Consultative Organization (IMCO). The U.S. Government is participating in the necessary preparatory work of defining the maritime requirements for satellite services without prejudging operational or organizational aspects of how these services will be provided. Coordination with all agencies interested in this field is continuing.

The Department of Transportation (Coast Guard), the American Institute of Merchant Shipping, and the Department of Commerce (Maritime Administration) have adhered to the view that maritime satellite services will be required well before the end of this decade. OTP has worked with these organizations throughout 1972 to develop policy in the maritime satellite area and to consider the possible relation of such satellites with aeronautical satellites and the INTELSAT system. Study of these matters was continuing as the year ended.

While IMCO deals with many subjects in the maritime area, it has been particularly active in two areas of radio communications, namely, maritime distress communications and maritime satellites. Throughout 1972, OTP has followed the communications work being done in IMCO and continuously provided guidance to the U.S. Delegations attending the various IMCO meetings. Particular note should be taken that IMCO established a Panel of Experts on Maritime Satellites during 1972 that held two meetings during that year, and promises to be more active in 1973.

3. Pacific Basin Facilities Planning

In September 1971, AT&T and The Hawaiian Telephone Companies filed with the FCC a request for authority to lay a new submarine cable between the U.S. mainland and Hawaii. This application was subsequently supplemented by a request for authority to lay a new basin-spanning cable system, including links between the continental United States, Hawaii, Guam, Okinawa, and Japan. In addition to discussing this proposal with foreign officials and with the Governor of Hawaii, OTP officers have been engaged in an economic analysis and system study of the Pacific Basin requirements in the decade of the 70's. This study will produce policy guidelines and recommendations concerning the Pacific Basin and new facilities planning to meet projected requirements. OTP expects to complete this work early in 1973 and to coordinate a U.S. position that can be agreed to with other nations, thus avoiding the misunderstanding and bitterness in the international community that has characterized past negotiations.

4. International Teleprocessing Systems

Substantial international interest and activity are emerging concerning development of international systems for data transmission and for teleprocessing. During 1972, OTP has engaged in extensive interagency coordination on U.S. interests, activities and policies in this area. In addition, OTP has engaged in international bilateral discussions with Canada, England and Japan, and has coordinated U.S. participation in multilateral meetings on this subject, especially the meetings of the Organization of Economic Cooperation and Development (OECD).

B. International Organization Activities

1. United Nations

In recent years, international communications activities in the U.N. have largely centered on the use of communication satellites to broadcast television programs into the home, directly from one country to another. In 1969 and 1970, the Committee on the Peaceful Uses of Outer Space of the United Nations convened a Working Group

on Direct Broadcast Satellites which rendered reports to the parent committee noting the need for more work to be done in other agencies before the U.N. could meaningfully consider the future of direct broadcast satellites. Subsequent to 1970 a number of important events bearing on this matter occurred. The International Telecommunication Union (ITU) held a World Administrative Radio Conference on Space Telecommunications; the World Intellectual Properties Organization was established; the United Nations Educational, Social and Cultural Organization (UNESCO) adopted a Declaration of Principles relating to the use of direct broadcast satellites; and most recently, the Soviet Union recommended U.N. endorsement of an international convention to control use of broadcast satellites. During 1973, the Legal Subcommittee of the U.N. Committee on the Peaceful Uses of Outer Space and the Working Group on Direct Broadcast Satellites will work on the proposed convention as well as other cultural, social, legal and political aspects of broadcast satellites.

Throughout 1972, in coordination with the State Department, USIA, FCC, and other cognizant agencies, OTP has coordinated and participated in the formulation and presentation in international forums of U.S. Government positions on direct satellite broadcasting. The inter-agency studies and activities necessary in this area will intensify during 1973, and OTP will continue to discharge its policy coordination function to assure timely and responsive policy formulation.

2. UNESCO

UNESCO is an independent agency of the U.N. charged with promoting international cooperation in the areas of education, social affairs and culture. During 1972, UNESCO convened several meetings to develop guidelines for use of communication satellites in the international distribution, and possible international broadcasting, of radio and television programming. OTP has worked closely with the United States Patent Office, the Department of State, USIA, and the FCC, as well as various interested groups in the broadcasting industry, to establish and maintain a sound and consistent U.S. position on standards, codes of conduct, and protection of intellectual property rights.

In May 1972, a meeting of non-governmental experts in Paris under UNESCO auspices endorsed a draft Declaration of Principles relating to the use of satellites

for direct broadcasting. The recommended draft Delcaration was circulated by UNESCO in July and was considered and adopted by the UNESCO General Conference in October 1972. The United States strongly opposed the consideration of this Declaration on the procedural grounds that there was insufficient time to study the issues raised by the Declaration, and inadequate coordination with other international organizations. When these concerns were ignored by other countries, the U.S. strenuously voiced its strong opposition to the substance of the Declaration,but was substantially out-voted. Continued effort, growing out of the UNESCO experience in 1972, will shift to U.N. organs which will be active in this area in 1973. OTP will continue extensive work in integrating policy coordination and position formulation.

3. International Telecommunication Union

The International Telecommunication Union (ITU), a specialized agency of the United Nations with 143 member administrations, maintains and extends international cooperation for the improvement and rational use of telecommunications of all kinds. The Union uses world conferences of its members to review and update the international regulations needed to assure the smooth flow of global radio and telegraph communications. A principal function is the allocation of radio frequencies among the respective radio services (amateur, broadcasting, fixed, aeronautical mobile, communications satellites, etc.). During the past year, OTP provided guidance and, in some cases, representatives, for U.S. participation in ITU activities. Additionally, matters came up during the year that required OTP personnel to work directly with the ITU headquarters representative in Geneva, Switzerland, and there were two visits during the year of the ITU Secretary-General to Washington.

During 1971, the World Administrative Radio Conference on Space Telecommunications produced agreements that will influence space and satellite matters for the next decade. Throughout 1972, OTP developed the necessary policies and directives to implement these agreements, all of which became effective on January 1, 1973.

In September 1973, the ITU will convene a Plenipotentiary Conference to review the entire content of the ITU Montreux Convention of 1965 and to discuss the structure and roles of the ITU. More than 100 nations are expected to attend and participate in this conference. Preparatory work has been in progress for more than a year within the United States. During 1972, OTP has provided policy guidance and assured coordination of U.S. positions on a wide range of issues both within government and within industry. In addition, OTP provided the chairman for an intra-agency group to review and recommend changes in the Convention. Preparatory work for the Plenipotentiary Conference will continue during 1973, and OTP will continue to coordinate and play an active role in this effort.

The ITU maintains two major international coordinating bodies known as the International Consultative Committee on Telegraph and Telephone (CCITT) and the International Consultative Committee on Radio (CCIR). These organizations have numerous technical study groups which examine problems regarding international standards, practices, system planning, and rates applicable to the international communications services. OTP is responsible for coordinating the preparation of U.S. positions for such activities, particularly those dealing with technical and operational aspects of radio frequency spectrum planning, allocation, and use. During 1972, OTP participated in negotiations leading to the revision of the work of the ITU World Plan Committee; and also participated in the CCITT Plenary Assembly which met in Geneva during December of 1972.

A World Administrative Telegraph and Telephone Conference will be held in Geneva in April 1973. OTP is now actively engaged in the preparatory work which is underway for this Conference. It is expected that the existing agreements concerning telephone regulations will be substantially revised so as to permit the United States to become a signatory to these agreements for the first time.

A World Administrative Radio Conference on Maritime Telecommunications is being convened by the ITU in Geneva in April of 1974. The agenda for the conference was published by the ITU in June 1972. However,

U.S. preparatory work in anticipation of both the 1974 Conference and its agenda was commenced during the fall of 1971 and continued throughout 1972 and into 1973. Preliminary views of the United States for this conference were published and distributed through the Department of State to the 143 administrations of the ITU for their comments.

4. INTELSAT

The International Telecommunications Satellite Consortium (INTELSAT) is an organization of 83 nations that provides satellite communications on a global basis. New Definitive Arrangements for INTELSAT were concluded in international negotiations in 1972 and enter into force February 12, 1973. Under these arrangements, COMSAT, the U.S. representative, will no longer hold the controlling vote in the global satellite system's governing body, and COMSAT's role as Manager will be limited to technical and operational management of the system's satellites. During the transition to the permanent structure of the Definitive Arrangements, the obligation of OTP to advise COMSAT in its role as U.S. Representative--in conjunction with the obligations of the Department of State and the Federal Communications Commission--will take on special importance. This is especially so in the preparation for and participation in the crucial initial meetings of the new principal organs of INTELSAT established under the Definitive Arrangements: (1) the Board of Governors, which meets at six to eight week intervals; (2) the Meeting of Signatories, which is convened annually; and (3) the Assembly of Parties, which meets bienially. The Board of Governors and the Meeting of Signatories will convene for the first time during 1973 and the Assembly of Parties will convene for the first time no later than February 1974.

The FCC is beginning to authorize applications for domestic satellite systems, many of which propose to provide services between the mainland and Hawaii, Alaska and Puerto Rico that have heretofore been provided by INTELSAT. The possible transfer of these services from INTELSAT to the new domestic systems could have significant impacts upon the U.S. role in INTELSAT, general foreign policy relationships between the U.S. and other INTELSAT members, and planning for

Pacific Basin communications. OTP's role in this area is of considerable importance because OTP is the only governmental entity having responsibility under the Communications Satellite Act of 1962 and pertinent Executive Orders to coordinate domestic and international communication policies. Similarly, OTP has worked in a coordinating role on policies concerning U.S. carrier use of the Canadian domestic satellite system for communication within the U.S. In addition, OTP will continue to work in conjunction with the Department of State and NASA concerning the impact on INTELSAT of proposed regional satellite systems, such as the French-German "Symphonie" system.

5. CITEL

In 1971, the Inter-American Telecommunications Conference (CITEL) became a specialized agency within the Organization of American States and was granted a significantly broader charter signifying its rising importance and influence. In general, CITEL promotes the continuing development of telecommunications in the Americas and conducts studies for the planning, financing, construction and operation of the Inter-American Telecommunications Network. It also deals with questions of regional telecommunications standards and technical assistance. During 1972, OTP participated actively in preparation for and representation at CITEL meetings in Mexico.

It is important that we strengthen U.S.-Latin American relations in the communications area. This can be helped by more active participation by U.S. entities in CITEL affairs. For example, U.S. views concerning the forthcoming ITU Plenipotentiary Conference and the World Administrative Radio Conference will be presented at the CITEL meeting scheduled for June 1973. As part of an overall program to improve U.S relations with Latin America in the communications field, OTP commissioned a study which was completed in 1972, and, in conjunction with the Department of State, is now seeking to implement certain recommendations resulting from it.

C. Anticipation of Future Problems

The development of communications policy on an ad hoc basis has become a chronic problem, and totally unsuited to the needs of the increasingly complex problems in international communications. Moreover, much policy

has been formulated in response to situations after they have reached a critical stage. To correct this problem, policy support studies and activities are being undertaken which will provide a basis for the determination of policy in a more stable environment. A program is under way to gather information needed to formulate policy on existing as well as potential future problems. The information resulting from this program will include data on existing and planned international communication facilities; on all existing and planned specialized, regional and foreign domestic satellite communication systems; on new technological developments and applications; and on development of service and traffic demand forecast models.

IV. SPECTRUM PLANS AND POLICIES

There is intense national and international competition for the use of the radio spectrum for all forms of radio transmissions (radio communications, navigation, broadcasting, radar, air traffic control, etc.). In the United States the Federal Government is the largest single user of the spectrum. The Director, OTP, assigns frequencies for these uses, and to this end, OTP coordinates all Federal Government activities related to spectrum management and planning. This includes cooperating with the FCC to develop plans for the more effective overall use of the entire spectrum, for both Federal Government and non-Federal Government purposes.

Specific tasks involved fall basically within the categories of allocation and assignment for particular uses, planning to meet Federal Government and non-Federal Government needs, and evaluation of possible biomedical and other side effects of electromagnetic radiations.

In the allocation and assignment area, much progress was made in the past year. An improved data processing system, 90% completed by the end of the year, and an expanded engineering capability made it possible to improve the management of radio frequencies assigned to Federal Government radio stations, and to permit over 48,000 specific frequency actions taken by OTP during 1972.

Communications-electronics systems of the Federal Government continued to increase in complexity. In order to cope with the technical problems inherent in providing the spectrum support necessary to operate them, improved access to the advice and assistance of skilled experts from within the departments and agencies of the Federal Government was necessary. This was accomplished by the establishment of study groups related to such issues as standards, radio noise abatement, improved telecommunications systems, and frequency sharing. Expanded engineering capabilities were used during 1972 to investigate and conduct analyses to assure radio frequency compatibility (reduction of interference) among systems competing for the same spectrum resources. Specific areas included: Collision Avoidance, Aeronautical and Maritime Satellites, and Altimeters in the 1535-1660 MHz band; Air Traffic Control and Military Radars in the 2700-2900 MHz band; Aeronautical Satellites and Terrestrial Microwave Landing Systems in the 5000-5250 MHz band; Earth Exploration Satellites, Fixed Satellites and Terrestrial Microwave Systems in the 7250-8400 MHz band; and Fixed Satellites, Radionavigation Radars, Fixed

and Mobile Communications, and Space Research all in the 13.4-15.35 GHz band.

OTP plans to continue the development of this engineering and electromagnetic compatibility analysis capability. This is particularly important in light of the OTP directive recently issued in coordination with the Office of Management and Budget which requires Government agencies to ensure spectrum availability prior to budgetary requests for development of communications-electronics systems.

In its continuing efforts to ensure that the limited radio frequency resource is used in the best national interest, OTP has completed an analysis of Government projected needs between 100 and 1215 MHz to the 1985 time frame. As a result, it is forseen that Government increasing communications-electronics requirements in such areas as national defense, law enforcement, resource management, marine and air safety will require that approximately an additional 100 MHz be made available for Government use. OTP has informed the FCC of its recommendations and joint discussions are underway on this matter.

During the previous year (1971), some 8,000 MHz of spectrum, formerly reserved for exclusive Federal Government use, was made available to the FCC for shared use by non-Federal Government interests. This precedent was continued into 1972, and an additional 1763 MHz of spectrum was similarly made available to the FCC. This effort will be continued in the coming year.

In the category of spectrum planning, the study initiated during the previous year was continued to develop alternative methods for allocation of spectrum resources giving more weight to all relevant technical, economic, and social criteria. Plans for implementing the results of the 1971 World Administrative Radio Conference (WARC) for Space Telecommunications were completed and put into effect as regards the Federal Government on January 1, 1973. Joint efforts with the FCC looking toward allocation planning were continued. With new technologies developing for operation of communications-electronics systems on higher frequencies than before, and with the introduction of lasers, more specific planning will be required for the portion of the spectrum above 10 GHz. The Office will also continue to maintain in a state of readiness the national emergency

readiness plan for use of the spectrum, and will monitor Federal Government agency compliance with allocations resulting from past ITU Conference agreements (1967 Maritime WARC and 1971 Space WARC).

In response to some evidence and much apprehension about the hazards of electromagnetic radiations to humans and to the environment in general, the OTP announced a co-ordinated inter-agency "Program for Assessment of Biological Hazards of Nonionizing Electromagnetic Radiation," in the latter part of 1971. This program, which is inter-departmental in nature, will extend over a five-year period commencing in fiscal year 1974, at a proposed funding level of $63 million, a portion of which is already included in departmental budget planning. During 1972, OTP guided and coordinated the implementation of the program, i.e., by seeking to increase the level of activity in this area in departments where it would be the most productive, eliminating duplication of effort, and finding ways to avoid gaps in research activities. These efforts will be continued into 1973.