

## Compendium of Public Statements

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

July 12, 1973

MEMORANDUM FOR MR. WHITEHEAD

FROM: Mike McCarthy

SUBJECT: Compendium of your public statements

Attached is a revised version of the compendium of public statements.

Material for the compendium was drawn from all your speeches, committee testimony, radio and TV interviews and, in one case, a letter (Mark Evans.)

The statements were edited only to the extent necessary to smooth out transitions or beginning paragraphs. When in doubt as to a possibly repetitive statement in such crucial subjects as TV regulation, the Fairness Doctrine, Public Broadcasting, and the First Amendment and the Media, I opted for inclusion. You made some very important points on these subjects, reemphasized them, and restated them in a number of forms -- all of which are readable, "zingy," and perhaps worth repeating, especially if the compendium is ultimately for general consumption.

Also, in terms of developing a publishable product, it may be worthwhile to concentrate on the more widely known subjects rather than attempting to cover the entire communications area. The statements on land-mobile, Federal Government communications, common carriers, computer/communications, and international facilities are, for the most part, technical and not as attractive subjects for general readership as TV regulation or public broadcasting.

The compendium statements on the areas in which you spoke the most -- TV, Fairness Doctrine, public broadcasting, First Amendment -- could be supplemented and highlighted by pertinent quotes from the FCC, Congress, the courts, and others. Nicholas Johnson's Test Pattern for Living is one example of this general type of format (see attachment).



Each subject could also be introduced by a general background report; for example, a short history of Fairness Doctrine, or public broadcasting.

Attachment





For fifty years or more, the problems of telecommunication services have been principally technical problems and service problems; for example, how to improve technology to provide the existing services in more reliable ways and in more economical ways and keeping up with the increasing demand. The types of services have not changed very much. The service to the public has not changed very much in its essential form. In short, the problems in telecommunications in the past have largely been internal to the telecommunications field.

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

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

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

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

-- Lecture before Ministry of Posts  
and Telecommunications, Japan  
July 27, 1972



By virtue of the 1934 Communications Act almost no type of communications service can be offered to the public without the prior consent of the Federal Government. Communications will always be a regulated industry because of its unique role in a free society and because of its heavy reliance on the radio spectrum which is allocated by the Federal Government. But there is regulation -- and there is regulation.

The question is not whether, but how, the Government should exercise authority over communications. Are the regulatory concepts of the 30's still appropriate or even adequate to the challenge of communications in the 70's? The answer to that question is a clear "no" for two reasons:

First, the rate at which new services are being developed is now so great compared to the delays of the regulatory process that both the would-be user of communications and the would-be supplier are frustrated in their efforts.

Second, our current concepts of communication regulation were drawn up in a day when communications meant one of two simple services: radio broadcasting or public telephone service; those concepts are far too rigid and far too constraining for the new directions communications is now taking.

These problems of regulation are not unique to communications; all tightly regulated sectors of our economy are today facing similar problems which give rise to the same dilemmas of public policy. There has been concern for some time that the regulatory process has become obsolete. There is much evidence that the delays and rigidities are very costly -- not only economically, but also in terms of the public interest....

Cable, specialized services, satellites -- each has presented the regulatory process with new challenges -- and the regulatory process has not met those challenges. And I am referring to the regulatory process in the broad sense -- not just what the FCC does -- but what the FCC, the executive branch, the Congress, and the courts do when taken as a whole.

Can we meet those challenges with the old concepts. Can we continue to indulge in the comfortable notion that all electronic communications must be treated as a public utility? Is it really in the public interest to require every significant



new service offering to prove its potential to prove that it will not harm any other regulated service offering, to prove that it satisfies some vaguely defined optimum use of the Nation's resources?

Must we continue to require that all of these things be determined before new services are permitted? Is it really in the public interest to weigh precedent over common sense. Is it really in the public interest to force new services to conform to old molds as the price of their survival? Can we afford to rehash the arguments which apply to telephone regulation for every new communications service just because that service happens to use electrons rather than ink?

Or is there a better way? Can we not have regulation to a considerable extent by policy? Policy within which the private sector -- supplier and user alike -- seeks out and provides new services? I think we can. I think we must if we are to do the job the public expects of us.

I do not mean policy in the sense of artificial precedents accumulated over the years; nor do I mean policy in the sense of window dressing in which the Government speaks of noble purposes and ignores what actually happens in the real world. I mean policy in the sense that the Government -- strongly, but in the least meddlesome way possible -- lays out what is expected of industry, establishes the limitations beyond which industry may not go, and then leaves it to the industry and the public to find their own equilibrium.

This is not a call for laissez-faire, nor for unbridled competition in lieu of regulation; it is a call for recognition of the limits of your Government's ability to reflect the public interest intelligently when meddling in decisions so detailed and so anticipatory that no one can possibly have all the answers. We should as much as possible let the consumer seek out those services which are to his best advantage and encourage business to find ways of providing those services, rather than having the Government decide in detail what the consumer ought to have. Government is better at correcting situations contrary to the public interest as they appear than it is at foreseeing all possible abuses. In regulation, as elsewhere, an ounce of prevention is worth a pound of cure; but a pound of prevention can be fatal.

-- Remarks before Industrial Electronics  
Division, Electronic Industries  
Association, Washington, D.C.  
March 9, 1971



Regulation by policy cannot give the industry utter certainty. Nothing can do that in a rapidly changing field except hasty commitment to a particular technology which may well turn out to be wrong when all the facts are in. But regulation by policy, with explicitly stated criteria, can at least avoid adding to the normal risks present in any innovative field, the blind gamble of governmental whimsy. Industry can then be less dependent on the task of alternately divining and cajoling governmental reaction, and may direct more of its energies to sound planning and efficient operation. The industry and the public are the gainers.

-- Remarks before Joint Meeting of  
the American Bar Association,  
International and Comparative Law  
London, England, July 14, 1971





There is wide agreement in America today that television should be doing many things it is not now doing. But there is not wide agreement how this can be brought about. It is common for the younger generation to talk of the "system" or the "establishment," usually to berate it. It seems to me they are close to the point, although they don't quite hit it. The problem we have with commercial television today is simply that our "system" for governmental regulation has created an industry structure which makes it almost inevitable that commercial television will offer the kinds of programming it does -- and will not offer the kinds of programming it doesn't. The preferable approach, it seems to me, is not to berate corporations or stations for what they do or do not do; but rather to ask why our current regulatory system does not provide appropriate incentives and structures for meeting those aspects of the public interest which it clearly does not.

We have forced television into an institutional structure designed some 40 years ago for radio broadcasting which requires the individual private licensee to exercise direct control over content. Recognizing the great power implicit in such an arrangement, together with the limited number of channels, there have been growing pressures in recent years to substitute for this private content control a countervailing power of Federal content control.

-- Remarks before Broadcast and Film  
Commission of the National Council  
of Churches - Cable Television  
Seminar, New York, New York  
September 13, 1971

My basic theme will be that many of the dissatisfactions with broadcasting grow out of the way we have structured that industry rather than from failings within the industry itself. That this industry structure is largely the product of government policy -- or lack thereof. That such policies as we do have are an accumulation of ad hoc solutions to piecemeal problems -- that have now come to be considered nearly immutable rules. That these rules, together with our rapid technical, economic, and social change are creating a dynamism of their own; rules lead to problems which justify more rules. That we the public -- including for a change those of us in government -- are in danger of losing control of this process. That the rules and the process are conspiring with our emotions to take us down a road we might well prefer to avoid.

-- Remarks before Presentation of  
Alfred I. DuPont-Columbia  
University Awards in Broadcast  
Journalism, New York, New York  
December 16, 1970



British television is essentially noncommercial. They can produce a program schedule to satisfy the special interests and, hopefully, to raise the public taste. We, on the other hand, are the only country with a predominantly private enterprise broadcast system. Other than in broadcasting, our private enterprise system has been able to support the arts and, indeed, a growth of the arts along with some intelligently directed Government assistance. Why aren't we able to do that in television? Is it because there is a conspiracy by the TV networks and advertisers against artists? Are there more skilled TV managers in England? Does England have more money to spend on television?

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

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

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

Two ways come to mind for the Government to achieve this goal. The first is the "Government push." Government could foster economic monopoly in television in order to saddle the TV industry with even more programming responsibilities. The



Government could push into the system programming that is of higher quality, more diverse, more artistic, and the like. We could then require the commercial broadcasting system to provide so many hours of classical music, literature discussions, video art, and the like. And set up a Government-funded network to do what is totally uneconomical, since even monopolies can be saddled with only so much public service responsibilities.

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

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

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

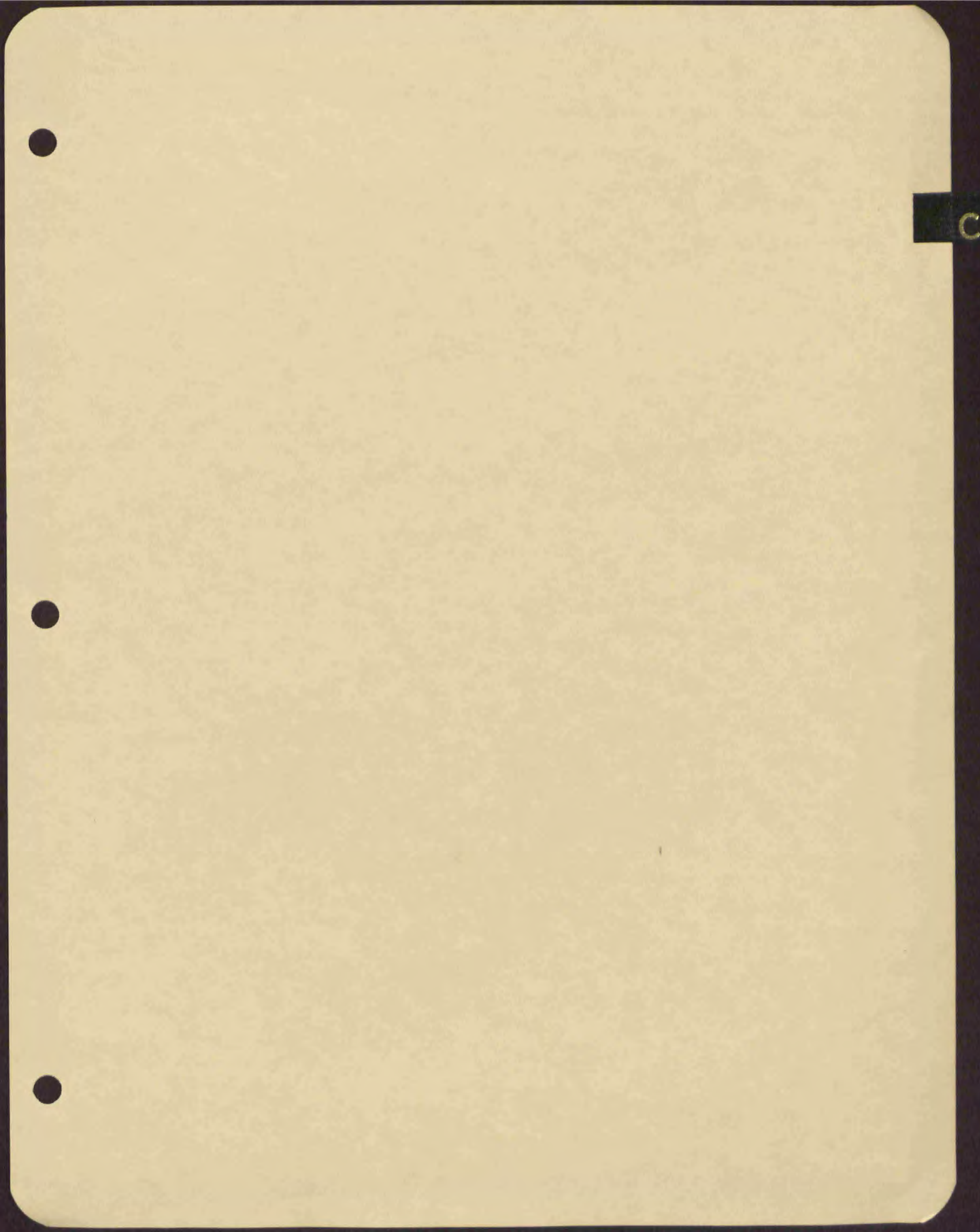
The "Demand Pull" system would also achieve two further important goals. First it would minimize the need for Governmental decisionmaking as to what the people should see. There would be minimal interference with the "medium" in the artistic sense of the word. The people would decide what they wanted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

Secondly, and more importantly for this conference today, this route would enlarge the base of economic support for the arts. Public subsidies, no doubt, will continue to be needed for the traditional arts as well as for the arts intended for the television screen. But the emphasis of public subsidy would be properly placed on creative people, as Nancy Hanks has done so well, rather than on edifices.



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

-- Remarks before Arts/Media  
Conference; National Council on the  
Arts, National Endowment for the Arts;  
Washington, D.C.  
December 1, 1972





We started out regulating TV as if it were radio with pictures -- now we regulate radio as if it were TV without pictures. This is not much progress in 40 years of regulation. Our regulators are so bogged down in detail that they haven't been able to notice that radio is different, or, if they've noticed, they've been too busy to do anything about it. When we deal with access and other problems in radio, our thinking must take account of radio's greater numbers, its different competitive situation, its different impact on the public mind and the public debate. It is a different medium with a different message. Does the difference justify, for example, a different set of fairness obligations, different treatment for cigarette commercials, political spots and other forms of radio advertising; different license renewal policies; different ascertainment requirements?

The whole rationale of radio regulation started changing in the early 1950's. It is going to change more as CATV systems start offering more and more audio services. Let's recognize this. We don't have to change human nature -- even I'm not expecting this -- all we have to do is to give our regulators fewer details to get into. Let's start with radio. Maybe we should think about the deregulation of radio, instead of pulling it along as television regulation is expanded in a policy vacuum.

-- Remarks before Ohio Association of  
Broadcasters, Columbus, Ohio  
September 29, 1971

I have three proposals. They are closely related and I want you to evaluate them as a package that could result in a major revision of the Communications Act....

My third proposal is for Radio De-Regulation: Most of what I've suggested for TV also should apply to radio. But we can go further with radio. This week I sent a letter to Dean Burch proposing that OTP and the FCC jointly develop an experiment to de-regulate commercial radio operations.

We proposed that one or more large cities be selected as de-regulatory test markets, in which radio assignments and transfers would be pro-forma. Renewals would not be reviewed for programming or commercial practices. And the Fairness Doctrine would be suspended. The experiment should be only a first step. For most purposes, we should ultimately treat radio as we now treat magazines.

-- Remarks before the International  
Radio and Television Society  
New York, New York  
October 6, 1971



The success or failure of a government policy has to be judged in terms of the results it produces. In this regard, FM's success in serving the public is due in no small measure to the fact that government policy has allowed FM broadcasters freedom from detailed regulation. Don't underestimate the importance of this factor. The absence of onerous regulation has left FM broadcasters free to compete by using specialized programming and technical innovations. And effective competition in the FM band has served the public. In our view, this regulatory freedom resulted in part from a coincidence and in part from deliberate FCC policy.

First the coincidence. It is a fact of life that new communications technologies are regulated in direct proportion to their social impact and their technical or economic impact on existing technologies. So FM was fortunate to arrive on the scene at a time when the government's attention was diverted by television. TV was and is a medium of such great social and economic impact that FM benefitted from some inattention on the part of a regulation-minded government.

In addition to the coincidence, the FCC decided to encourage FM by easing up on regulatory strictures regarding common ownership, joint station operations, and specialized program formats. Generally speaking, the FCC's FM regulation has been flexible and intelligent. The Commission nudges you from time to time with prohibitions on excessive AM-FM duplication and by increasing requirement for minimum hours of operation. But there's no denying that it's been easier to own, transfer, renew, program, ascertain, and otherwise comply with regulations in the FM radio service. The FCC deserves credit for regulating you in this manner. And FM broadcasters deserve credit for using this freedom to compete in the radio marketplace and to offer real alternatives to the public.

There is a lesson for us in FM's history. If allowing more leeway for competition has worked to strengthen FM's performance it may be wise to use this approach more widely in broadcast regulation. We could even move beyond a simple extension of this approach and develop a new style of regulation by clear policy guidelines rather than detailed supervision. This brings me to the suggestions for radio that OTP made last fall.



We made two suggestions. First, radio must be viewed as a different medium from TV and it must be regulated differently. We pointed out that government regulatory policy must take account of radio's greater numbers, its different competitive situation, and its different impact on the public mind and on public debate. Radio is a different medium with a different message. It more closely approaches the competitive free enterprise system than many other segments of the broadcast industry. In urban areas, there are many radio services and competition is vigorous. Indeed, FM's growing success confirms our hypothesis that, in radio, competition is a regulatory device that can produce substantial benefits to the public -- many of which simply can't be regulated into existence. Therefore, with respect to regulation of radio, where there is little scarcity of outlets, competition is vigorous, and access costs for speakers and listeners are low, we should harness natural competitive incentives and use them to serve performance goals such as program quality, diversity, and innovation.

That's the first of our suggestions for radio regulation. The second is that we need a comprehensive experiment to test the hypothesis that more regulation by competitive incentive will produce more benefits for the listener. An experiment would help us determine how best to combine competitive forces and government requirements to produce the desired public service objectives.

This led us to suggest that OTP and the FCC develop a pilot program to test the feasibility of this more flexible type of regulation. The details of the project could be worked out within the limits of the FCC's power to conduct experimental programs. The essential concept is to select a few representative radio markets and remove some regulatory requirements not mandated by the Communications Act -- requirements which seem to be counterproductive or unnecessary. The results of the experiment, which would extend over three or more years, would be closely monitored while it is in progress, station performance would be reviewed, and public satisfaction would be gauged. For example, in the test areas, all radio assignments and transfers could be pro forma, the programming section of applications would not require information on programs and commercial practices, and case-by-case enforcement of the broadcaster's fairness obligation would be relaxed.

There is evidence that a more flexible and selective style of regulation will produce better service to the public. However, there just isn't enough known about alternatives to the present mode of regulation to warrant immediate changes, but we'll never know enough until we try. Therefore, rather than get



involved in an extensive rulemaking proceeding or in a congressional debate, an experiment would simply allow us to proceed at once to test the hypothesis. We would know what types of regulation are counter-productive; and what types do not make a difference either way.

-- Remarks before the National Association  
of FM Broadcasters, Chicago, Illinois  
April 8, 1972





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." 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.

-- Remarks before the Indiana  
Broadcasters Association,  
Indianapolis, Indiana  
June 8, 1973



When the basic structure for the American system of broadcasting was created in the 1920's and 1930's, it was decided that this system should reflect the institutional values and traditions of this country. The structure, therefore, was built on the twin concepts of individual responsibility and localism -- concepts essential to all social and economic institutions, including the media for mass communications.

Built into this broadcast system structure, however, was another important element, which clearly distinguishes broadcasting from the other outlets for expression in this country. Unlike these other media, the broadcast media are federally licensed to preclude property rights in the radio frequency spectrum and to prevent interference among broadcast signals. This fundamental decision was made by the Congress in the Radio Act of 1927 and again in the Communications Act of 1934.

This licensing system presents the Government with a unique dilemma. On the one hand, the Act requires the Federal Communications Commission to grant applications for broadcast licenses if the public interest, convenience, and necessity are served thereby. This necessarily means that the Commission will have to pass judgment in some way on the totality of the broadcaster's service, an important component of which is the broadcaster's programming. On the other hand, however, the broadcast media should have the full protection of the First Amendment.

This dilemma requires a delicate balancing act on the part of the Government which must be performed within the license renewal process. The FCC and the courts have wrestled with this dilemma in licensing continually since 1934. And as broadcasting has become increasingly powerful and important as a medium of expression and information in our society, the pressures on the licensing system have intensified.

The manner in which renewals are treated goes to the heart of the Government's relationship to broadcasting. The procedures and criteria governing the license renewal process have a profound effect on the daily operations of licensees and the way in which they determine their public interest responsibilities. Considering the power of broadcasting in our society today, these procedures and criteria potentially could have a stifling effect on the free flow of information and ideas to the public.



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 mail. 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.

#### 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 obligation, 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.

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Let me talk now for a moment about the Fairness Doctrine. The Fairness Doctrine is much in the news these days. There seems to be a case every week: Who gets to answer whom. I think of it as a politician's who, what, and where game. Now I can't here get into specific Fairness cases because that's not the nature of my Office. But I would like to explore the basis for the Fairness Doctrine, the kinds of considerations that gave rise to it and some of the problems that flow from it. Whoever thought up that name of the Doctrine was a genius - it's even harder to be against fairness than it is to be against motherhood.

But the Fairness Doctrine has its problems. On the surface it's very simple: if a broadcaster presents one side of a controversial issue, he has to present the other side fairly. Now these days it seems like everything is getting controversial, and I ascribe that in large part to television. Television has created in this country an extremely educated, aware populace. People know what's going on - they care about it - they have opinions. That contributes to the controversy.

Why do we have the Fairness Doctrine in radio and television? We don't have a Fairness Doctrine in the newspapers. We don't have it in the magazines; we don't have it in any of the print media. Why then do we have it for the electronic media? The argument goes something like this. If everyone were allowed to use the people's airwaves - the radio frequency spectrum - without regulation, there would be chaos. Everyone would interfere with everyone else. Therefore, we need regulation. Regulation, of course, must be in the public interest. Fairness is clearly in the public interest. Therefore, the Government should insure fairness.

Now that seems kind of simple on the surface, but let me go a little bit deeper. Let's consider the radio and television press. We want a free and a fair press in this country, but the electronic media require regulation, so we regulate these media in an attempt to obtain the benefits of a free press. But, as I'm sure all the journalism students here tonight know, a regulated press can never really be a free press. We find ourselves in an absolute dilemma, and this dilemma extends to documentaries, to talk shows, and the next thing we know, it may extend to soap operas.



Again, here is a very fundamental issue - fairness in how we as people exchange ideas. We as a people need to think through how we want this doctrine to develop, because its development is going to profoundly affect what man's communications are like in 1990.

In the rationale for the Fairness Doctrine that I sketched out for you a moment ago, I see at least two problems, and these discrepancies may, upon further examination, reveal some ways to get out of the fairness dilemma. First of all, I don't think it's axiomatic that technical regulation of frequencies necessarily leads to federal regulation of content. When you stop to think about it, that concept really seems like the technocracy run rampant. Secondly, I think there's an inevitable conflict in the way we have structured the broadcast industry. The broadcaster is a business man. His private rights inevitably conflict with his theoretical duty to defend a great public trust and responsibility. The problem is not directly one of channel scarcity; we have more radio and television stations in most markets than we have newspapers. The problem is not directly connected to the control of frequencies. There is no necessary reason, as I said, why the frequency chaos cannot be cured without content regulation.

The problem, it seems to me, is one of access and economic control, both of which are determined by government policy. Because the man who owns the transmitter, by public policy, determines what is transmitted, there is no public right of access to television in this country unless you want, and can afford, to buy a television station. You don't have to own a newspaper to use a printing press. The broadcaster as a businessman decides who, when and what appears on his television station. By and large, station owners do a tremendous job of meeting the public's interest. Most broadcasters are not greedy businessmen; they are truly dedicated to the welfare of their country.

But as controversy grows in the country, the problem arises of who determines when the broadcaster's private rights and his private decisions conflict with his public duty. Under our current system, it's the FCC. Who determines when the broadcaster's concept of the public interest differs from the Government's concept of the public interest? Again, it's the FCC. Now that means Government control of content. No matter how you say it, it's Government control of content and I think that's a very bad precedent in a country such as ours.



In fact, the FCC has moved toward a standard of fairness in the presentation of ideas rather than fairness in the condition of their exchange. This is a very important distinction. The approach should be exactly the opposite in this country. Fairness in the conditions of exchange of ideas is rooted deep in the American tradition. Government-enforced fairness in the presentation of ideas leads, I'm afraid, to a very dim if not a very dark road of bureaucratic brokering of ideas. Regulation tends to beget regulation in Washington. And here I think that means more Government control of content. Now, I'm not too worried because the people at the FCC are fine, dedicated people. I'm not so worried about tyranny in this country. I'm worried about just plain, old bureaucratic mediocrity. If you think the range of choices that's available to this country with only three television networks is not enough, just remember that down the road that I was talking about there is only one FCC.

And the FCC's Fairness Doctrine has become an increasingly confusing, arbitrary and in many ways conflicting, set of rules. I'm not sure anyone understands them all. These rules are augmented by randomly raised eyebrows at the Commission. This can only confuse the broadcaster and, in the end, it can only intimidate him. It's far, far safer to do nothing than to risk the displeasure of the Commission. Inaction and contradictory action can only confuse and irritate the public, because they wonder why they don't get the discussion on radio and television that they have the right to hear.

Because of all this, my Office, the Congress, and many other people have been calling for a review of the Fairness Doctrine. The FCC has just recently indicated that they may conduct such a review. I think it's important that such a review consider thoroughly the premises on which the Fairness Doctrine is based - and a review should consider what we're ultimately trying to achieve, rather than just looking at the detailed rules. I can think of nothing more important for man's communication in 1990 than how we exchange ideas in this country. The Fairness Doctrine and the principles it relates to, more than anything else, will affect man's communications in 1990.

-- Remarks before the Greater Montana  
Foundation, University of Montana  
Awards Banquet, Missoula, Montana  
May 21, 1971



However nice they sound in the abstract, the Fairness Doctrine and the new judicially contrived access rights are simply more government control masquerading as an expansion of the public's right of free expression. Only the literary imagination can reflect such developments adequately -- Kafka sits on the Court of Appeals and Orwell works in the FCC's Office of Opinions and Review. Has anyone pointed out that the Fiftieth Anniversary of the Communications Act is 1984? "Big Brother" himself could not have conceived a more disarming "newspeak" name for a system of government program control than the Fairness Doctrine.

I'm not seriously suggesting that the FCC or the courts want to be "Big Brother" or that 1984 is here, or that we can't choose a different path from the one we now seem to be on. You are at the crossroads -- now you're probably clutching your "Chicago Teddy Bears" and wondering when Whitehead is going to get to the point. The point is: We need a fundamental revision of the framework of relationships in which you, the government, and the public, interact. The underpinnings of broadcast regulation are being changed -- the old status quo is gone and none of us can restore it. We can continue the chaos and see where we end up. But there has to be a better way.

I have three proposals. They are closely related and I want you to evaluate them as a package that could result in a major revision of the Communications Act. Here are my proposals for television.

First, I propose that the Fairness Doctrine be abandoned. It should be replaced by an act of Congress that provides for both the rights of individuals to speak, and the need of the public at large to receive adequate coverage of public issues. These are two distinct claims, and they cannot both be served by the same mechanism.

To provide for the individual's right to speak, TV time set aside for sale should be made available on a first-come, first-served basis, at nondiscriminatory rates but there must be no rate regulation. The individual would have a right to speak on any matter, whether it's to sell razor blades or urge an end to the war.



This private right of access should be enforced -- as most private rights are enforced -- through the courts, and not through the FCC. The licensee should not be held responsible for the content of ads, beyond the need to guard against illegal material and deceptive product ads should be controlled at the source, by the Federal Trade Commission.

-- Remarks before the International  
Radio and Television Society  
New York, New York  
October 6, 1971

Let's get into the details of the fairness proposal first. I said the Fairness Doctrine should be abandoned. This prompted a few snide remarks comparing my sensitivity to the public interest with that of Attila the Hun. Most of the comments, however, were quite favorable. Most people understood that I suggested abandoning only the confusing, highly detailed procedures for enforcing the broadcaster's fairness obligation. As long as we have a licensing system, we're going to require that broadcasters adequately cover public issues and do so in a fair and balanced manner. But it's virtually impossible to enforce this obligation on a case-by-case, issue-by-issue basis. It means that the FCC and not the licensee decides what issues exist in a community and how they should be covered. For example, in Dayton, Ohio, the FCC defined the precise terms of a local controversy involving the United Givers Fund so that presenting public service announcements for the UGF now requires the broadcaster to give response time to a group that objects to the way donations to the UGF are allocated to local charities.

When the fairness obligation is enforced by Washington in this detail at the local level, the focus shifts -- from the public's interest is being informed on important issues in an objective manner to the interest of various individuals or groups in gaining access to the airwaves to state their particular points of views. Both interests must be served. To you, broadcasting is a livelihood and a public responsibility, but to the public it's our most important communications medium -- you've made it such by your own success. It's no longer a question of whether you must let individuals get on the air to state their views but how they will be provided this access. If individuals must gain this access through the Fairness Doctrine, which is issue-oriented and not intended to give personal access, it would be an illusory right indeed. Exercise of this right would be dependent on the FCC's ideas about who shall speak and who shall not. The individual would have no rights as such, but you would still be forced to put on, sometimes free, sometimes for pay, those assorted groups and spokesmen that the FCC decides you should.

My proposal would create a self-limiting right of direct personal access not dependent on the Government's discretion. This right would be enforced in a manner that would not intrude on the broadcaster's obligation to inform the public on important issues in a fair and balanced manner. It would be a statutory right of paid access to the 10 to 16 minutes



in each television hour which the broadcaster sets aside for sale to advertisers. The right would be enforced through the courts and not by the FCC. Views stated in ads would not have to be balanced in program time. Advertising time and program time would be two separate forums, and the willingness and ability to pay would determine access to the advertising forum. That's not a shocking concept. No one gets free access to the advertising space even on publicly-owned bus lines, let alone newspapers, magazines, or billboards. And we pay more for a full page color ad in Life magazine than for a small ad in the local paper. There is no reason to treat broadcasting differently. No individual has a direct right to have for free the large audience you have built with your programming.

In the program-time forum, an issue-oriented access mechanism would control. The public's right to be informed on important issues and points of view must be recognized and served in program time. Here the licensee's obligation would be enforced as originally contemplated in the FCC's Editorializing Report of 1949. The totality of the programming that is under the licensee's control (including PSA's) would be reviewed by the Commission at renewal time to determine whether the licensee has met his fairness obligation -- that is to provide balanced presentations and an opportunity for partisan voices to be heard on the issues. And during the license period, if the licensee badly fails -- or doesn't try -- to be balanced and fair, a petition for revocation of the license would be entertained by the FCC.

-- Remarks before Arizona Broadcasters  
Association, Phoenix, Arizona  
December 3, 1971

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

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

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

-- Remarks before Indianapolis Chapter  
of Sigma Delta Chi  
Indianapolis, Indiana  
December 18, 1972



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Now that broadcasting journalism has become so important, our "press" institutions no longer are confined to the printed media. "The press" has come to mean the classical function of investigating, reporting, and commenting on the news. It is a profession and an institution of its own that transcends any particular medium. "The media" now include both electronic and printed vehicles carrying an increasingly wide range of entertainment, education, and information generally.

It is important to distinguish three separate but related concepts: the freedom of the press, the free speech rights of the media owners, and the obligations of the media owners to the public. My discussion here is concerned primarily with the obligations and free speech rights of the broadcasting media, rather than with the press as such. But, of course, government policies toward the media have a direct and often important impact on the press institutions.

There is some thinking that the First Amendment rights of the press to be protected from government control imply also an affirmative obligation of the press to be comprehensive, impartial, and objective. It is noteworthy that in the past year we have had both the Vice President and officials of a strongly liberal persuasion arguing precisely the same point. The Vice President was referring to the professional responsibility of the press, while others have been suggesting a legal responsibility of the joint press-media owning entity.

I also favor objectivity, comprehensiveness, and impartiality in the reporting of the news. But we must be very, very careful in trying to translate those noble objectives into enforceable government policy. For the most part, those are moral and professional obligations of the press rather than legal obligations. It assuredly is fair game for elected officials to comment on the way in which those obligations are being met, but it is another thing entirely to suggest that the government should somehow enforce standards of press performance.

-- Remarks before Presentation of  
Alfred I. DuPont-Columbia  
University Awards in Broadcast  
Journalism  
New York, N. Y.  
December 16, 1970



Some people suggest that this Administration is trying to erode the credibility and vitality of the press, to use the great power of Government licensing and regulation to intimidate the press. Some even claim to fear a malicious conspiracy designed to achieve that end. This is simply not true. I think it's clear that it's not true. If it were true, my comments here tonight would be directed at an expansion of the Fairness Doctrine -- not at questioning it.

The press, of course, should be free of Government intimidation. But when the Government seeks to create the conditions that make possible a strong and independent press (a press that is free to criticize the Government), the press should not then expect to be insulated from strong, open and above-board replies to criticism by elected Government officials.

There are many ways an Administration can use its power to influence the press, even underhanded and thoroughly improper ways. This Administration has not sought to use them. Any criticism this Administration has had of the press has been totally open and above-board. Those who charge conspiracy must ascribe a great deal of maliciousness and, in addition, a great deal of stupidity to the Administration in the attempt to reconcile their theory to the facts. They should not, I think, be quite so sensitive. If the Government should not require balance and objectivity on the part of the press, then elected officials should not be precluded from pointing out publicly where they feel that balance and objectivity do not exist.

There is a world of difference between the professional responsibility of a free press and the legal responsibility of a regulated press. Let me point out that it is not this Administration that is pushing legal and regulatory controls on radio and television in order to gain a more active role in determining content. It is not this Administration that is suggesting an extension of the Fairness Doctrine, as some have suggested for even the print media.

If the radio and TV press of this country is to carry on the traditions of a fourth estate, they must recognize the legitimacy of criticism from other estates. A strong, robust and free press should recognize this dialogue as a very

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healthy alternative to a much expanded Fairness Doctrine,  
and I think that a strong, robust and free press really  
would settle for nothing less.

-- Remarks before University of  
Montana Awards Banquet  
Missoula, Montana  
May 21, 1971



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

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

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

This kind of local responsibility is the keystone of our private enterprise broadcast system operating under the First Amendment protections. But excessive concentration of control over broadcasting is as bad when exercised from New York as when exercised from Washington. When affiliates consistently pass the buck, to the networks, they're frustrating the fundamental purposes of the First Amendment's free press provision.

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



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

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

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

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

Just as publishers and editors have professional responsibility for the news they print, station licensees have final responsibility for news balance -- whether the information comes from their own newsroom or from a distant network. The old refrain that, quote, "We had nothing to do with that report, and could do nothing about it," is an evasion of responsibility and unacceptable as a defense.



Broadcasters and networks took decisive action to insulate their news departments from the sales departments, when charges were made that news coverage was biased by commercial considerations. But insulating station and network news departments from management oversight and supervision has never been responsible and never will be. The First Amendment's guarantee of a free press was not supposed to create a privileged class of men called journalists, who are immune from criticism by government or restraint by publishers and editors. To the contrary, the working journalist, if he follows a professional code of ethics, gives up the right to present his personal point of view when he is on the job. He takes on a higher responsibility to the institution of a free press, and he cannot be insulated from the management of that institution.

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

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

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

-- Remarks before the Sigma  
Delta Chi Luncheon  
Indianapolis, Indiana  
December 18, 1972



As for my Indianapolis speech, it was intended to remind licensees of their responsibilities to correct faults in the broadcasting system that are not (and should not) be reachable by the regulatory processes of government. For network affiliates, exercise of these responsibilities does not mean that the station manager has to monitor each network feed and "blip" out "ideological plugola" or "elitist gossip." The station management must simply be aware of all the program content on the station. Management should consciously reach its own conclusions as to what mixtures of conflicting views on public issues the station should maintain to inform the public in an adequate manner. Over the license term, the broadcaster should make a conscientious effort to provide reasonable opportunity for discussion of conflicting views on issues and see that he has the opportunity to bring his concerns to the attention of his network . . .

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 licensing the networks, 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's 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. It does not mean allowing three companies to control the flow of national TV news to the public; accountable to no one but themselves. 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.



These issues are worthy of widespread debate. But the public discussion taking place outside of the broadcasting community is far below the level of reasoned debate. I grant you that the language I used in the December 18 speech was strong. But those who have twisted an appeal for the voluntary exercise of private responsibility into a call for government censorship -- that they can then denounce -- have abandoned reasoned debate in favor of polemics.

In the next few months, broadcasters will have a rare opportunity to assist the Congress in choosing the future direction for broadcast regulation.

I hope you can realistically come to grips with the problems and issues involved in broadcast regulation, and help reverse the recent trend toward more extensive, more detailed regulation. Indeed, if OTP's bill is a successful first step in the reversal of this trend, the Congress can be urged to move further in this direction.

But this attempt to increase freedom in broadcasting will be opposed by those who are now complaining most loudly about my speech. One might think that the people who are attempting to portray our efforts as an Administration attempt to stifle criticism would support our proposed legislation, if they actually wanted to diminish government control of broadcasting.

But it seems that they 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, not in the political philosophy of the particular Administration in power. We are proposing actions to begin to take those tools from the hands of government. We hope that broadcasters will support us in this endeavor, despite the rhetoric of their present unlikely allies.

In the final analysis, however, no progress can be made in reducing government power over broadcasting unless broadcasters can demonstrate that they can make licensee

responsibility work in practice. It is only then that the Congress can be convinced that reliance on the good faith judgment and discretion of licensees is a better way to preserve freedom in broadcasting.

-- Excerpts from letter of  
Clay T. Whitehead to Mark Evans  
from Metromedia, Incorporated  
January 26, 1973





Public broadcasting occupies a very special role in my Office and in the Executive Branch generally. It is one of the few elements in our communications system that has had a policy blueprint. The policy for public broadcasting -- even its very name -- was the result of deliberate study, public discussion, and legislation in the form of the 1962 ETV Facilities Act and the 1967 Public Broadcasting Act. Much of the policy has been developed and administered by the Executive Branch.

The process of developing policy is a continuing one. After four years of experience with the system created by the Act, you and OTP are asking whether the policies that guide public broadcasting work -- where they have taken us and where they are taking us. The process has taken much longer than we all wanted it to take. But now I'd like to talk to you about the factors that have shaped our thinking about public broadcasting and how we view the policy questions.

I honestly don't know what group I'm addressing. I don't know if it's really the 47th Annual Convention of NAEB or the first annual meeting of PBS affiliates. What's your status? To us there is evidence that you are becoming affiliates of a centralized, national network.

As the fourth national network, things are looking pretty rosy for you. Between 1968 and 1970, national broadcast hours went up 43%. This year alone PBS is sending an average of two hours a night down the interconnection lines. But local production of instructional and "public" programs continue a decreasing trend -- down 13% from 1968 to 1970. The financial picture at the local stations looks bleak, even though CPB can now raise the range of its general support grants to between \$20,000 and \$52,000 per TV station. But it's still not enough. The average TV station's yearly operating costs are over \$650,000 and the stations are suffering -- Delaware may be without a state-wide system, local programs are out on WHYY in Philadelphia, things look bad elsewhere -- even at the production centers.

Money alone -- great bales of it -- would solve a lot of the problems. CPB would be able to fund programs on America's civilization and programs on the Adams family instead of the Churchill and Forsyte families. The production centers could be more independent and the other local stations



could devote more energy to programming, ascertainment and community service instead of auctions, fund-raising gimmicks and underwriting grants. More money could even lessen the internal squabbling that seems to occupy so much of your attention.

But money alone won't solve the basic problems that relate to the structure of public broadcasting -- a structure that was to be built on a bedrock of localism. I've read Arthur Singer's speech last June at Boyne Highlands and I've read the Carnegie Commission Report and the legislative history of the '67 Act. Singer wins -- the reality of 1971 doesn't match the dream of 1967.

Do you remember that the Carnegie group put its principal stress on a strong, financially independent group of stations as the foundation of a system that was to be the clearest expression of American diversity and excellence; that the emphasis was on pluralism and local format control instead of a fixed-schedule, real-time network, and that this view was reflected in the House, Senate and Conference reports on the '67 Act; that CPB was supposed to increase options and program choices for the stations; and that the Carnegie Commission wanted general operating funds to come from HEW because of the concern that the corporation not grow too big or become too central. As Dr. Killian put it, if stations had to look to the corporation for all their requirements, it would lead "naturally, inevitably, to unwise, unwarranted and unnecessary centralization of educational broadcasting." The concept of dispersing responsibility was essential to the policy chosen in 1967 for public broadcasting. Senator Pastore said on the floor of the Senate that, "since the fundamental purpose of the bill is to strengthen local noncommercial stations, the powers of the Corporation itself must not impinge on the autonomy of local stations."

The centralization that was planned for the system -- in the form of CPB -- was intended to serve the stations -- to help them extend the range of their services to their communities. The idea was to break the NET monopoly of program production combined with networking and to build an effective counter-force to give appropriate weight to local and regional views.

In 1967, the public broadcasting professionals let the Carnegie dreamers have their say -- let them run on about localism and

"bedrocks" and the rest of it -- let them sell the Congress on pluralism and local diversity -- and when they've gone back to the boardrooms and classrooms and union halls and rehearsal halls, the professionals will stay in the control room and call the shots. The professionals viewed the Carnegie concept of localism as being as naive and unattainable as the Carnegie excise tax financing plan. They said that no broadcasting system can succeed unless it appeals to a mass audience in one way or another; that networking in the mold of the commercial networks is the only way to get that audience; that a mass audience brings a massive reputation and massive impact; that it's cheaper, more effective, more easily promoted, simpler to manage, and less demanding on local leadership than the system adopted by the Congress; and they are right. But is that kind of public broadcast system worth it? Is it what you want? What your community needs? What's best for the country?

-- Remarks before the National  
Association of Educational  
Broadcasters  
Miami, Florida  
October 20, 1971



The ideals sought by the Corporation for Public Broadcasting are best expressed in the following excerpt from the Report of the Carnegie Commission on Educational Television:

"If we were to sum up our proposal with all the brevity at our command, we would say that what we recommend is freedom. We seek freedom from the constraints, however necessary in their context, of commercial television. We seek for educational television freedom from the pressures of inadequate funds. We seek for the artist, the technician, the journalist, the scholar, and the public servant freedom to create, freedom to innovate, freedom to be heard in this most far-reaching medium. We seek for the citizen freedom to view, to see programs that the present system, by its incompleteness, denies him."

In addition to this promise, public television also holds some dangers, as was well recognized when it was established. I think most Americans would agree that it would be dangerous for the Government itself to get into the business of running a broadcasting network. One might almost say that the free-speech clause of the First Amendment has an implicit "non-establishment" provision similar to the express "nonestablishment" restriction in the free-exercise-of-religion clause. Just as free exercise of religion is rendered more difficult when there is a state church, so also the full fruits of free speech cannot be harvested when the Government establishes its own mass communications network. Obvious considerations such as these caused Federal support of public broadcasting to be fashioned in such a way as to insulate the system as far as possible from Government interference.

The concern went, however, even further than this. Not only was there an intent to prevent the establishment of a Federal broadcasting system, but there was also a desire to avoid the creation of a large, centralized broadcasting system financed by Federal funds -- that is, the Federal "establishment" of a particular network. The Public Broadcasting Act of 1967, like the Carnegie Commission Report which gave it birth, envisioned a system founded upon the "bedrock of localism," the purpose of the national organization being to serve the needs of the individual local units. Thus it was that the national instrumentality created by the Act -- the Corporation for Public Broadcasting -- was specifically excluded from producing any programs or owning any interconnection (or network) facilities.



Noncommercial radio has been with us for over 50 years and noncommercial television for 20. They have made an important contribution to the broader use of communications technology for the benefit of all. The new Corporation for Public Broadcasting has, for the most part, made a good start in expanding the quantity and quality of programming available to local noncommercial broadcasting stations. There remain important questions about the most desirable allocation of the Corporation's funds among educational, instructional, artistic, entertainment, and public affairs programming. But most importantly, from the First Amendment standpoint, there remains a question as to how successful the Corporation has been in avoiding the pitfalls of centralization and thereby of Government "establishment." Now that we have a few years' experience under this new system, we see a strong tendency -- understandable but nonetheless regrettable -- towards a centralization of practical power and authority over all the programming developed and distributed with Federal funds. Although the Corporation for Public Broadcasting owns no interconnection facilities, which the Act forbids, it funds entirely another organization which does so. Although it produces no programs itself, which the Act forbids, the vast majority of the funds it receives are disbursed in grants to a relatively few "production centers" for such programs as the Corporation itself deems desirable -- which are then distributed over the Corporation's wholly funded network. We have in fact witnessed the development of precisely that which the Congress sought to avoid -- a "Fourth Network" patterned after the BBC.

There is, moreover, an increasing tendency on the part of the Corporation to concentrate on precisely those areas of programming in which the objection to "establishment" is strongest, and in which the danger of provoking control through the political process is most clear. No citizen who feels strongly about one or another side of a matter of current public controversy enjoys watching the other side presented; but he enjoys it a good deal less when it is presented at his expense. His outrage -- quite properly -- is expressed to, and then through, his elected representatives who have voted his money for that purpose. And the result is an unfortunate, but nonetheless inevitable, politicization and distortion of an enterprise which should be above faction and controversy.



Many argue that centralization is necessary to achieve efficiency, but I think it is demonstrable that it does not make for efficiency in the attainment of the objectives for which public broadcasting was established. For those objectives are variety and diversity -- almost inherently antithetical to unified control. To choose for public broadcasting the goal of becoming the "Fourth Network" is to choose for it the means which have brought success to the first three -- notably, showmanship and appeal to mass tastes. This is not to say that there should be no nationally produced programming for public television. Some types of programming not offered on commercial television require special talent, unique facilities, or extensive funds that can only be provided at the national level; it is the proper role of the Corporation to coordinate and help fund such programming. But both for reasons of efficiency and for the policy reasons I have discussed above, the focus of the system must remain upon the local stations, and its object must be to meet their needs and desires.

The First Amendment is not an isolated phenomenon within our social framework, but rather one facet of a more general concern which runs throughout. For want of a more descriptive term we might describe it as an openness to diversity. Another manifestation of the same fundamental principle within the Constitution itself is the very structure of the Nation which it established -- not a monolithic whole, but a federation of separate states, each with the ability to adopt divergent laws governing the vast majority of its citizens' daily activities. This same ideal of variety and diversity has been apparent in some of the most enduring legislation enacted under the Federal Constitution. Among the most notable was the Communications Act of 1934. Unlike the centralized broadcasting systems of other nations, such as France and England, the heart of the American system was to be the local station, serving the needs and interests of its local community -- and managed, not according to the uniform dictates of a central bureaucracy, but according to the diverse judgments of separate individuals and companies.

In 1967, when Congress enacted the Public Broadcasting Act, it did not abandon the ideal and discard the noble experiment of a broadcasting system based upon the local stations and ordained towards diversity. That would indeed have been a

contradictory course, for the whole purpose of public broadcasting was to increase, rather than diminish, variety. It is the hope and objective of this Administration to recall us to the original purposes of the Act. I think it no exaggeration to say that in doing so we are following the spirit of the Constitution itself.

-- Excerpts from Testimony before  
the Subcommittee on Constitutional  
Rights, Senate Committee on  
the Judiciary  
Washington, D. C.  
February 2, 1972



MIKE WALLACE: A little over a year ago, Whitehead said in a speech that public affairs programs had no place on public television, because, after all, they are done effectively by the commercial networks.

DR. CLAY T. WHITEHEAD: I was simply expressing my view of the relative priorities. I would think that public television should be focusing its priorities on other things. Now that's the judgment that people in public television have to make, and I shouldn't be making the programming decisions. But if I were to list them on a priority scale, I think that has to come pretty low, because there're so many other worthwhile things that need to be done.

WALLACE: If news and public affairs on public television were favorable to the Nixon administration, there wouldn't be that holler against it that you hear now?

DR. WHITEHEAD: I don't think that's the point at all . . .

WALLACE: Isn't?

DR. WHITEHEAD: I don't think it is at all.

The sensitivity about public television being involved in public affairs, I think, comes when you start using the tax dollar. And I don't care whether it's used in a pro-Nixon way or an anti-Nixon way, or whatever. When you start using tax dollars to fund television programming about controversial issues of public importance, the current issues of the day . . .

WALLACE: Yes.

DR. WHITEHEAD: . . . you're straying awfully close to having a propaganda network.

WALLACE: Let me read to you from the act, the Public Broadcasting Act of 1967. "The Corporation for Public Broadcasting shall carry out its purposes and functions and engage in its activities in ways that will most effectively assure the maximum freedom of the noncommercial educational television and radio broadcast systems and local stations, freedom from interference with or control of program content or other activities."

And here is CPB saying: Buckley, out; Moyers, out; Washington Week, out; Liz Drew, out.

DR. WHITEHEAD: I don't see how it's inconsistent with what you've read.

WALLACE: Well, it does seem a little strange to an outsider, Mr. Whitehead, that those four broadcasts should suddenly be guillotined. Advocates stays. Black Journal stays. How come? Why did they make these decisions?

DR. WHITEHEAD: They have to weigh all of the priorities. They have to look at the money they have available, all of the options for the kinds of programming that they could do. And they have to spend their money where they think it's going to have the most impact, or it can have the most value to the American viewing public.

WALLACE: Has public television, news and public affairs, indulged itself in "ideological plugola," elitist bias, and so forth?

DR. WHITEHEAD: Gee, I don't know.

WALLACE: You don't know?

DR. WHITEHEAD: There are a lot of people who feel it has; there're other people who feel that it hasn't.

WALLACE: Okay.

DR. WHITEHEAD: What we're concerned with is the precedent. I think it is crucial in this country that we have a strong precedent that we do not use tax dollars to fund these kind of programs. They are controversial to some people. They deal with controversial issues. Under a different administration, a different CPB Board, it could become something that we don't want to see in this country. It could become a government oriented programming television network. It's a bad precedent to have the government deeply involved in this kind of thing.





I wish that I could predict for you now the results of our policy-making efforts for cable. Of course, I cannot. There are, however, a few things that seem to us to be obvious and fundamental. Let me briefly outline three points.

First, it seems plain that cable is an important example of a new technology which simply does not fit any of our existing institutions. We want to avoid the danger of trying to force cable into unnatural regulatory molds -- molds developed for different purposes in different times. We need a comprehensive new policy to deal with the special problems and unique capabilities of cable. And we certainly do not want to repeat the mistake all too apparent in our present framework of broadcast regulation.

Second, the basic criterion by which the Administration will assess the policy options is by their effect on the viewing public. Our principal concern is for people, and the effect of our policies on people. The cable industry has rightfully emphasized the benefits of cable to consumers, and you must expect this to be the criterion by which you will be judged....

Third, and in the same context, it is perfectly clear that television service as we now know it is valued very highly by the public. People spend a lot of time and money on television. No policy will be good, or acceptable to the American people, if it threatens to reduce this basic level of television service. On the other hand, consumers also value additional options very highly -- that is why people subscribe to cable service. The promise of cable lies in its potential for expanding consumer choice, and in reducing the cost of access to transmission facilities. But cable will not reduce the cost of program creation. If we want new and better programming and new services of other kinds, more money must be brought into programming than advertiser-supported TV now seems able to produce. Cable must make its way by offering the public new options that consumers or advertisers are willing to pay for. It is very hard to find a rationale for keeping people from paying for something they would like to buy, particularly if the existing level of advertiser-supported television service is not reduced.

-- Remarks Before the National  
Cable Television Association  
Washington, D. C.  
July 8, 1971



I do not have to belabor the point that the provision of 20 to 40 television channels where once there were only four or five drastically alters the character of the medium. It converts a medium of scarcity into a medium of abundance. As this Subcommittee is aware from earlier testimony, one of the most severe problems which must be faced by broadcasters today is the allocation of limited broadcasting time -- allocation among various types of programming, and allocation among the many groups and individuals who demand time for their point of view. Cable, if it becomes widespread, may well change that by making the capacity of television, like that of the print media, indefinitely expandable, subject only to the economics of supply and demand.

Of course the new medium also brings its own problems, several of which are immediately related to First Amendment concerns. Economic realities make it very unlikely that any particular community will have more than a single cable system. Unless some structural safeguard or regulatory prohibition is established, we may find a single individual or corporation sitting astride the major means of mass communication in many areas.

The second aspect of this new technology which bears on the First Amendment is, to my mind, the more profound and fundamental, because it forces us to question not only where we are going in the future, but also where we have been in the past. That aspect consists of this: the basic premises which we have used to reconcile broadcasting regulation with the First Amendment do not apply to cable.

In earlier sessions of these hearings, this Subcommittee has heard three principal justifications for Government intrusion into the programming of broadcast communications: The first is the fact of Government licensing, justified by the need to prevent interference between broadcast signals. But with cable, there is nothing broadcast over the air, no possibility of interference, and hence no unavoidable need for Federal licensing. The second is "the public's ownership of the air waves" which the broadcaster uses. But cable does not use the air waves. The third is the physical limitation upon the number of channels which can be broadcast in any area -- meaning that there is oligopoly control over the electronic mass media, in effect conferred by the Federal license. But the number of feasible cable



channels far exceeds the anticipated demand for use, and there are various ways of dispersing any monopoly control over what is programmed on cable channels.

In other words, cable television is now confronting our society with the embarrassing question: Are the reasons we have given in the past forty-odd years for denying to the broadcast media the same First Amendment freedom enjoyed by the print media really reasons -- or only rationalizations. Why is it that we now require (as we in effect do) that each radio and television station present certain types of programming -- news, religion, minority interest, agriculture, public affairs? Why is it that our courts repeatedly intervene to decide, or require the FCC to decide, what issues are controversial, how many sides of those controversies exist, and what "balance" should be required in their presentation? Is it really because the detailed governmental imposition of such requirements is made unavoidable by oligopoly control of media content or by the need to decide who is a responsible licensee? Or is it rather that we have, as a society, made the determination that such requirements are good and therefore should be imposed by the Government whenever it has a pretext to do so? And if it is the latter, is this remotely in accord with the principle of the First Amendment, which (within the limitation of laws against obscenity, libel, deception, and criminal incitement) forbids the Government from determining what it is "good" and "not good" to say?

This stark question is inescapably posed by cable technology. The manner in which we choose to regulate cable systems and the content of cable programming will place us squarely on one or the other side of this issue. Perhaps the First Amendment was ill conceived. Or perhaps it was designed for a simpler society in which the power of mass media was not as immense as it is today. Or perhaps the First Amendment remains sound and means the same thing now as it did then. The answer to how we as a nation feel on these points will be framed as we establish the structure within which cable television will grow.

Because the President realizes that such fundamental issues are involved, he has determined that the desirable regulatory structure for the new technology deserves the closest and most conscientious consideration of the



public and the executive and legislative branches of Government. For this reason, he established last June a Cabinet-level committee to examine the entire question and to develop various options for his consideration. Not surprisingly, in view of the magnitude and importance of the subject, the work of the committee is not yet completed. I assure you, however, that First Amendment concerns such as those I have been discussing are prominent in our deliberations -- as I hope they will be prominent in yours when the Congress ultimately considers this issue.

-- Excerpts from transcript of  
testimony before Subcommittee  
on Constitutional Rights,  
Senate Committee on the  
Judiciary, Washington, D. C.  
February 2, 1972

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

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

These policy issues cannot be postponed. And it is important that resolution come in the form of legislation from Congress.... In enacting this legislation, Congress should bear in mind two important principles that have been distilled from past experience with legislation in the regulatory areas.

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

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

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



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

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

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

The access issue must be resolved. Everyone agrees that no private entity should be allowed to control all the cable channels in a given community. The problem is in developing a flexible means for preventing such potential concentrations of power.

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

A second option would be simply to leave the industry as it presently exists under FCC regulation. But this approach also raises problems. It may only postpone the inevitable transition to public utility regulation. Cable television systems are natural monopolies in



specific geographic areas and as their penetrations into the markets increased under this policy so would their monopoly power. The Government would have to gradually tighten its regulatory control. And to protect the public from the monopoly power it sanctioned, the Government would have to bind the cable system owner so tightly in Government red tape that he would be unable to use his monopoly power. The end result -- public utility regulation -- would be the same as the first policy option.

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

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

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

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

It is clear that advertisers are not likely to be allocating much more than present amounts for television



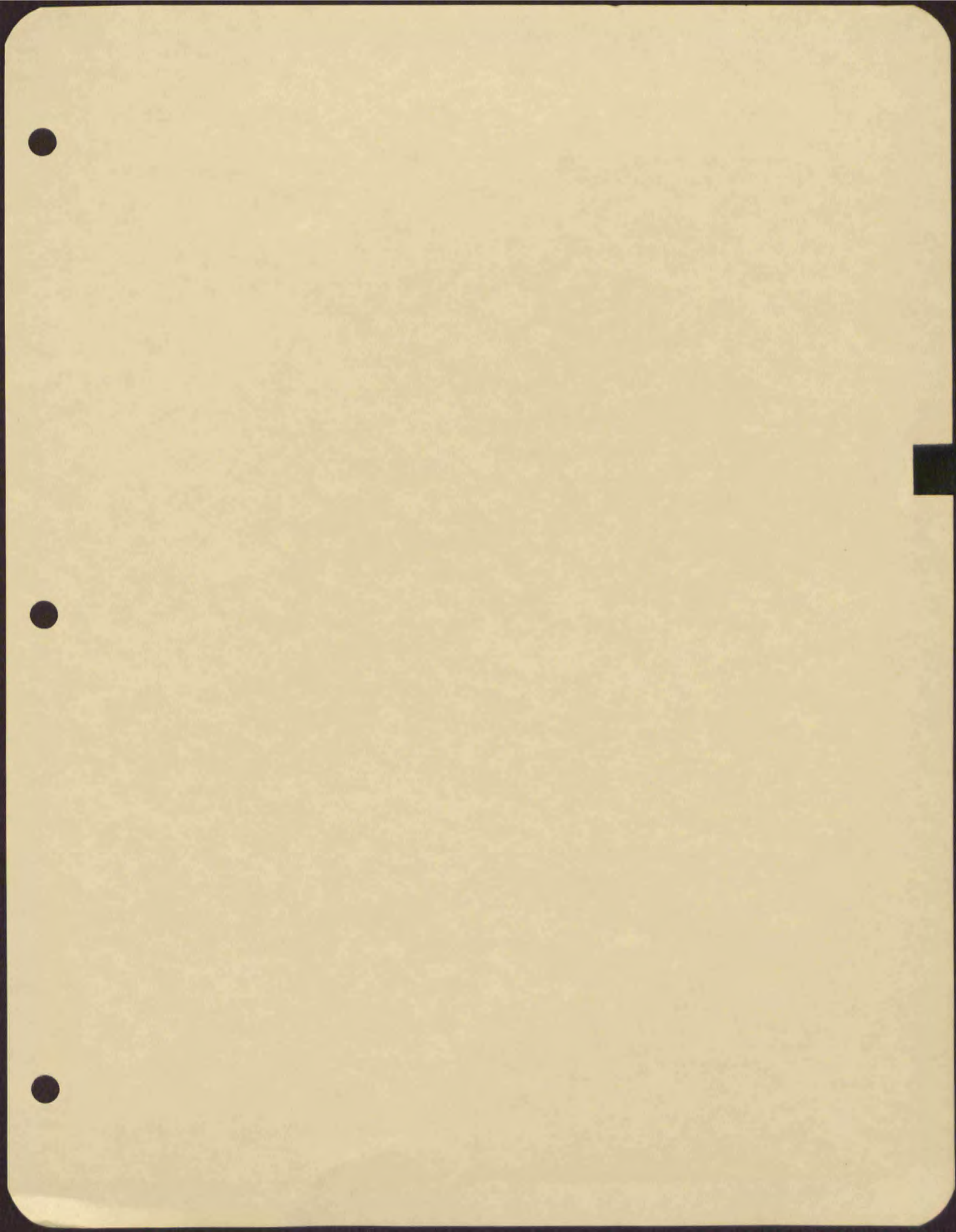
coverage. The search for new revenues, therefore, must go elsewhere and what could be a better source than the television viewer?

Why not allow a mixed system of funding program costs? Such a system -- tapping advertisers and subscribers -- would provide the sort of incentive needed for expansion of consumer program choice. Since mass appeal program revenues are limited, television would have to turn to the more specialized viewing audience. And these specialized audiences would be willing to pay only if the programming presented something above and beyond the current mass appeal offerings. This type of programming -- dependent as it would be on its attractiveness to a specialized audience -- would thus represent a net addition to, rather than a replacement of, our mass appeal programming. Moreover, advertising revenues would still continue for these mass appeal programs. The mixed system would simply provide a whole new source of funding. And the benefits from this funding would be evident in an increased diversity in programming.

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

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

-- Remarks Before the California  
Community Television Association  
Anaheim, California





At the present time, computers are available in a wide variety of configurations and prices. Raw computing power and associated equipment and software for these services are provided in a competitive environment that is quite responsive to social and individual consumer needs. However, when information services draw on communications as well as computers, they must operate within an economic and technological framework that is oriented towards the more conventional forms of communications, and makes carriage of data more expensive and inflexible. Where we draw the regulatory boundary between computer services and communications will have a big influence on the services offered, the vitality and innovation in the business, and whether the incentives are to suit the technology, the Government, or the user.

-- Remarks before the  
Conference Board  
February 15, 1972

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

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

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

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

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

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



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

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

-- Remarks before the International  
Conference on Computer  
Communications  
Washington, D. C.  
October 24, 1972

J



A while back, Senator Pastore described the problems of the land mobile industry as follows:

"The task facing the land mobile industry is not an easy one . . . . Here you are impressed, almost suffocated, in five percent of the spectrum."

"Suffocation" is precisely the exact word. In 1949, 40 Megahertz were provided for 11,600 nongovernment licensees operating 155,000 transmitters. It was recently shows that 293,000 licensees operating 4 million transmitters now operate in the same 40 Megahertz.

Britain's late wartime prime minister, Sir Winston Churchill, had many talents, among them his capacity for absorption of alcoholic beverages. One abstemious lady, reprimanding him, held her hand halfway to the ceiling on the wall, and observed: "You have drunk enough liquor to fill this room up to here." The old man, gazing upward, replied: "So little time, so much to do."

First glance at the land mobile problem leaves one with much the same conclusion, that is, while much has been done, the great excitement is how much more needs to be done. And how much more can be done -- for, unlike Sir Winston, your room has no ceiling -- unless we in government place an artificial ceiling on your potential.

Among the many policy problems under active consideration in my emerging Office, mobile communications is one of the most important. Spectrum allocation for nongovernment use is by statute a function of the FCC. If the government realistically looks at the problem, vigorously investigates alternative options, and encourages land mobile, the results will be fantastic. If the potential of land mobile is imprisoned by spectrum considerations, that potential becomes much like the "Holy Grail" -- always dreamed of, never attained.

But such frustration is hardly helpful, particularly as new services -- radio networks for hospitals, emergency medical services, expanded law enforcement, fire protection, industrial requirements, freight and passenger transportation, traffic control -- all are clamoring for accommodation in mobile communications.

Last August I wrote:

"Much needs to be done to alleviate the scarcity of frequencies for land mobile purposes. I consider this to be one of our most important problems, and I expect to devote considerable attention to the matter . . . . More flexible and responsive spectrum management -- by both OTP and the FCC -- can do much to alleviate these pressures . . ."

Many of the problems at the policy level involved the acceleration and diversification pressures on land mobile demand. The equitable allocation of that portion of the spectrum recently made available by FCC Docket 18262 is of current concern.

The quantity of demands on the spectrum is nothing that needs to be predicted. Those demands are already here.

But what will be the type of future demands? Anticipating the diversified paths of future growth for mobile communications is extremely important.

The use of data transmission and storage could bring heretofore unanticipated dimensions to public safety and law enforcement. Pilot programs of this nature are currently under way in at least one city.

In isolated areas there will be mobile applications for remote signaling, information gathering, and control. In industry, the location and status of equipment and people are becoming more and more essential. The use of computers and communications for vehicle location, identification and routing will grow.

Radio communications in the logistics of transportation and supply may need to face changes in techniques, if future requirements are to be met.

Quantity demands, demands for improved quality of service, and these projections of new types of future demands all make it inescapably clear that new techniques and new solutions for mobile communications and control are needed in hardware in system designs, and in the utilization of the spectrum -- and are needed urgently.



Some options to alleviate congestion are emerging.

Already the nationwide "block allocation" system is being brought under review. It was simple, easy to administer, and relatively inexpensive to operate in the past, and in some parts of the country it still is an adequate method of spectrum assignment. But in the megopolis toward which our urban society is moving, a system designed to meet isolated, simple requirements will break down.

Together the Joint Technical Advisory Council and Stanford Research Institute have studied the city of Chicago to determine whether or not decentralized frequency management is feasible. The FCC "Chicago experiment" in improved localized spectrum management processes is being directed initially toward the land mobile problem.

A taxi firm, today, wishing to improve its services, obtains "on its own" a frequency allocation. Can we not develop more common user systems for congested land mobile needs? Certainly, strong consideration must be given this, in that it is estimated that land mobile requirements will more than double by 1980.

Can we develop practical and economic mobile trucking techniques? In a congested metropolitan area, is it not possible to route land mobile communications through a centralized borough or area exchange, rather than point to point? A dispersed array mobile radio system with lower power requirements might "honeycomb" a large city. It is believed that 100 to 150 zones in such an arrangement could increase ten times the number of vehicles that could be accommodated on a given channel with a better grade of service. Investigation at higher frequencies in the 3 to 6 Gigahertz band suggests that a fantastic number of units could be served in a given metropolitan area.

More sophisticated equipment, improved spectrum sharing concepts, and geographical diversity will, of course, make possible a more effective and efficient use of the radio spectrum and make possible new services without extravagant demands on the spectrum. From a technical standpoint, the future appears bright. The economics need to be developed and government policies to foster innovative land mobile services need to be set forth.

Land mobile communications has a big role to play in the future of this Nation. It is logical that every automobile, every truck, and perhaps every human being, should have instantaneous communications, when the technology now available becomes economic.

-- Remarks before IEEE Vehicular  
Technology Group  
Washington, D. C.  
December 2, 1970





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

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

--- Remarks before Ministry of Posts &  
Telecommunications, Japan  
July 27, 1972



[C]onsider the diversity of new, specialized communication services proposed in recent applications to the FCC. For the most part, these are nonstandard services not now offered by existing common carriers or not readily combined with their service to the general public. In other words, unsatisfied demands are creating pressures for competition in the provision of specialized communications services.

There are many valid arguments against competition in the provision of public telephone service. But competition in the public telephone service is not at issue here. Rather, we have the unsettling situation of businessmen with technology and capital wishing to offer specialized services to customers who want and need those services -- but the customer and supplier have thus far been forbidden from dealing with one another.

The problem is that the Government has not been able to decide whether or how to let these people do business with one another.

It has been eight years since Microwave Communications, Inc., filed its first application. That application was finally approved after numerous hearings and counterfilings. This seems to me a good example of the impact traditional regulatory procedures and concepts can have on a potentially dynamic field. Can new enterprises maintain creative engineering staffs for eight years and also afford the large sum of money needed for lawyers to deal with a regulatory agency? Can existing common carriers fulfill their obligations to the public in the face of such uncertainty? Can we really expect industry to do its part in translating possibilities into realities in such an environment?

--- Remarks before Industrial  
Electronics Division, Electronic  
Industries Association  
Washington, D. C.  
March 9, 1971



Although progress has been and is being made in some of these areas, you as users of these services have suffered from the regulatory delay inherent in the process by which new services or service arrangements are approved. You are acutely aware that, as the per-unit cost of computation falls, the communication cost and capability becomes the principal economic limitation on the extension and broader application of computer and information processing services. Thus, you are interested in telecommunication services not only for their own sake, but also for the advantages to be gained in separate, although related aspects of your business.

In regard to the market for communications products and services, I think your options in terms of goods and services in the telecommunications industry are more limited than they are in the computer and data processing area. To a large extent, I believe this is a direct result of the stifling effect of government regulation. This limitation prevents you from thinking as broadly as you might as to how the carriers, regulated though they may be, can help you in your business by supplying the products and services of technological innovation. There is also evident a great deal of hesitancy on the part of both consumers and the suppliers which is the result of the large degree of uncertainty which government regulation introduces. The United States common carriers, to a very large extent, want to provide good service. They are caught, however, between the desire to meet consumer demand and the need to produce real evidence of the demand for the services which they are asked to supply. Unfortunately, the carriers are often able to argue with some evidence that this "demand and need" for new and unique services and applications doesn't really exist, or is in fact many years down the road. The regulatory process creates as many difficulties for the carrier as for the customer, for the carrier must conduct his operation under the scrutiny of a public which can be extremely critical. He must make major capital investments in order to supply his service requirements, and either his stockholders or his customers will suffer if the demand estimate is in error. This means that customers must press even harder to convince suppliers that their needs are real and that they exist here and now. . .

[T]he government as a regulator should do no more than make policy decisions which set the guidelines for market operation. The government has a very difficult time when it attempts to interpret market conditions and make detailed decisions about what services you, the consumer, may purchase, under what conditions, and for what prices. But it is not only



the government's difficulty in doing this that is bothersome. The fact is that when government either purposefully or inadvertently makes decisions of choice for the consuming public, we dangerously weaken the market system of decisions upon which the private enterprise system is based.

For the heart of the private enterprise system is that the customer decides what it is that he needs and wants. It is the private sector, the "private" individual or corporate consumer, which is best qualified to make the buying decision, not the public sector -- which is really the government, not the public. Too often, the term private enterprise is thought of solely in terms of private sector corporations making their own decisions about how and what to produce so as to make a profit. I think private enterprise can be understood and defended only as the best way for the consumer to get what is to his best advantage as he judges it. Government should encourage competition or regulation not so much to control the behavior of corporations as suppliers of services, but to guarantee the consumer the opportunity to exercise his own decision as to what he needs and wants. The consumer's choices provide a strong incentive for corporations to conduct themselves as suppliers in the manner most appropriate to the needs of their customers. In providing this incentive, we must allow the existing carriers to compete on an equitable basis in the market. It would not be competition if we rule out the existing carrier which may be able to provide the best service at the least cost. The government should not consider protective competition any more than it considers protective monopoly.

We urge competition where it provides the consuming public and you, as the consuming corporation, with the best opportunity to satisfy your needs as you define them. But, if such competition is to work, you must exercise the responsibility which is commensurate with the opportunity. If you are content to let government make your purchasing decisions for you, do not be too surprised if all manner of noble -- but peripheral -- considerations begin to dictate what services you may and may not purchase and at what price.

We all realize the rapid pace with which the telecommunications industry is changing. There is no doubt that it does provide dynamic innovation in business. But the potential benefit to you as industrial consumers and to our society as a whole is far from being realized. We in government must do much

more, and should be held responsible for setting new guidelines and groundrules for the market system in order that you can effectively exercise your consuming decisions. But when we have set the new rules, and have provided the new market conditions, we and all society will look to you and your corporations to assume your full responsibility as intelligent consumers -- to exercise the private enterprise freedom to demand the goods, services, and pricing arrangements which are appropriate to the dynamic innovation which the telecommunications industry is capable of supplying.

--- Remarks before the International  
Communications Association  
Atlanta, Georgia  
June 2, 1971



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The Administration's recommendations to the FCC on domestic communications satellite policies are the only major pronouncement we have made in the area of telecommunications. This was interpreted by some as an "open-skies," total competition approach. But that is not the way I see it at all. I see it as a comprehensive policy providing for competition where that seemed to be most likely to produce results in the public interest, and providing for specific, carefully drawn regulations where necessary to assure that the competition would work in that direction, or where competition did not appear feasible. It also provided great flexibility in view of the rapidly changing state of the art and the many uncertainties about the details of future satellite technology and economics.

I don't want to hold that statement up as a model for any other areas of telecommunications policy, because it was directed to a very specific policy area and was issued only after much analysis of the issues involved. However, I think two things about that statement provide some clues about how we think public policy in telecommunications should be approached.

From time to time it is necessary to back off a bit from the public policy debate and try to go back to first principles -- what is it that we are trying to achieve? We felt last year that the time had come for such a look at the domestic satellite issue.

Another clue from our domestic satellite study is that we put considerable reliance on defining reasonable and internally consistent ground rules that would produce behavior in the private sector that would turn work toward the public interest. We attacked the need for public regulation at the cause rather than attacking the symptoms. It is often easier to spot the symptoms than the causes, but it is a dangerous road to ignore causes for too long in public policy. In particular, it often leads to increasingly detailed regulation, increasingly contradictory policies, and increasingly greater dissatisfaction by the public. It would be dangerous indeed to try in 1970 to fix the dimensions and scope of an industry that may be entirely different in 1980 -- or even 1975. Past history shows how fickle technological and economic developments are. Even the greatest and wisest men in the world simply do not have the ability to see into the future, the ability to ferret out and consider in great detail what the many parts of the American Public now want, and will soon want, at what price, and in what quantity.



In short, competition is an integral part of our public regulatory policies, not only historically and by virtue of several Supreme Court decisions, but of necessity. But it must be competition that will further, rather than obstruct, the public interest.

-- Remarks before National Cable  
Television Association  
April 30, 1970





Current concepts of communication regulation were drawn up in a day when communications meant one of three simple services: radio broadcasting, public telephone or telegraph service. Those concepts are far too rigid and far too constraining for the new directions communications is now taking. Now it is possible for the customer to use communications for purposes not even dreamed of ten years ago. And by the year 2000, we will have almost a continuum of services rather than a few discrete categories.

The basic problem goes beyond the organization of our international agencies -- and even the procedures which they employ. Our fundamental international regulatory theory is at the center of the problem. The time has come to reconsider that theory.

For two-thirds of a century, we have become accustomed to thinking of all communications as natural monopoly services, delivered by tightly regulated public utilities or by government entities. Is the appropriate model for the future? As the technology becomes more complex, can governments continue to be involved in so much technical detail, with any confidence that they are making their decisions wisely? As the general public around the world becomes aware of the possibilities, can we afford politically to have the decisions made by technical experts?

These are complex and difficult problems. But they can be dealt with in a positive and constructive way.

Problems facing us as a result of technology in the next two or three decades are not hardware or scientific problems so much as they are social, cultural, political problems of learning to use our technological ability in the common interest of man as we live in the global village of earth. As such, these problems should be soluble. But we must retain international flexibility. Our organizational responses should not be based on narrow technological definitions, for we are learning that neither the technology of communications nor man's use of it will stand still. Our national and international institutions must be geared to cope with change.

Today we have in the communications field the oldest and the newest of major international organizations -- The International Telecommunications Union, established in 1865, and the International Telecommunications Satellite Consortium, to be placed under permanent arrangements in the coming months.

We have just completed a major overhaul of INTELSAT to internationalize its management and expand the role of governments in the broad policy areas. In 1973, we will look again at the ITU in its entirety to consider necessary changes or modifications.

Other agencies are becoming more aware of and active in space communications -- UNESCO, the UN Committee on Peaceful Uses of Outer Space, international unions for protection of intellectual properties and so forth.

But will any or all of these organizations meet our needs for international cooperation between now and the year 2000? Will these forums develop the ability to resolve the increasingly pressing problems of program content, propaganda, political, racial, cultural sensitivities?

I do not pretend to be able to answer definitively these questions. It seems, however, clear to me that we are at the outset of a truly revolutionary era in electronic mass media services. I can only suggest from my personal conviction that existing agencies and methods for dealing with emerging problems will simply not be sufficient.

We will have to learn to develop as radically and as dynamically in our social and international political relations as we are developing in the field of technology. The framework established must be global in participating and global in application, yet it will have to recognize the regional, national, and ethnic prerogative of peoples.

-- Remarks before the Society of Civil  
Engineers of France, Paris, France  
June 9, 1971



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

Communications internationally is becoming increasingly widespread, and more and more it is ignoring national boundaries just as the multinational corporation has grown. Of course, governments must find ways to deal with this, and the increasing dependence of the world economy and world politics on communications makes it very important to deal with it in a responsive way and in a constructive way.

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

This will not always be possible to the extent we would like it, for government, of course, always must reflect political objectives; and we find many of those in the growing field

of telecommunications. Sometimes these are constructive objectives, such as assuring that all parts of the country are tied together into the international telecommunications network. Sometimes they are constructive objectives in that small countries are worried about the bringing in of foreign television programs that they feel might result in cultural domination of their own society. These are important political objectives that must be taken into account. However, some nations will try to use telecommunications for their own rather narrow political purposes. Some countries want to exclude and impede the flow of information because of reasons drawn from their own internal politics. Some countries want to use their own geographical location for their own temporary technological advantage to increase their own political power. These are the things that we have to be aware of.

-- Remarks before Ministry of Posts  
and Telecommunications, Japan  
July 27, 1972





The single most important aspect of the projected satellite technology in the communications field is not the capability to send messages of all kinds rapidly to all points of the earth. This capability is already here. The question is cost. And the really dramatic advances in satellite technology over the coming decades will probably not appear in spectacular headlines in Le Monde or the New York Times. Rather these developments may well, to a layman, appear monumentally dull since they will involve the step-by-step reduction of costs in the transmission of voice, television, and data messages. But the implications for mankind of this cost reduction will be profound.

Launch costs will decline significantly, but not dramatically in the coming decades. Higher frequency bands will become usable for satellite communications. Space power systems producing hundreds of kilowatts will be developed and will be of great importance. But probably the most significant technological development of the near future will be the use of stabilized, highly directive spacecraft antennas. The tremendous capability of these techniques is yet to be fully realized. This technique for domestic or regional services involving limited geographic areas might reduce the cost of satellite circuits by a ratio of 10 to 1.

In addition, the cost per circuit of satellite communications will be driven downward dramatically through reduction in earth station size and sensitivity, as well as from the derivation of more channels per satellite. As the coverage area per satellite beam is reduced, satellite systems will become more competitive with terrestrial alternatives in many applications.

The next most significant development in satellite communications probably involves the ability to allocate satellite channel capacity flexibility and so demand among the multiple routes served. Because terrestrial multi-channel transmission facilities are inherently limited to single-route operation, channel capacity cannot be reallocated among routes. However, since traffic demand between any two points varies widely, efficient operation of transmission facilities requires



some means of shifting idle capacity to productive use. The basic technology for providing this demand-assigned channel usage is available, and several prototype systems have already been built.

This capability is likely to be in widespread use in the next decade. This will mean that satellites may provide for some applications of both the transmission and the switching-routing facilities required in terrestrial networks. You can imagine, I think, how greatly this will drive down the costs of the overall system.

One of the problems of planning satellite communication systems has been the limited capacity and visibility of individual satellites. While the deployment of additional satellites could alleviate most, if not all, of these problems with present technology, the use of additional satellites would necessitate a multiplication of expensive earth stations, and would create vast and complex problems of scheduling and organizing the routes to be served through this multiplicity of facilities. But technology will soon make it feasible to install radio repeaters and directive antennas on satellites to provide inter-satellite relay links eliminating the need for the expensive solutions to the problem.

-- Remarks before Society of  
Civil Engineers of France  
Paris, France  
June 9, 1971



We have recently seen the first efforts of the international community to deal with this new satellite 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.

-- Remarks before American Institute  
of Aeronautics and Astronautics  
Washington, D. C.  
January 9, 1973





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

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

Much of the telecommunication technology that we are developing in most sophisticated countries can be applied, if appropriately modified, to serve some of the very important needs of less developed countries. This is something I think we should pay very important attention to. Educational television, particularly, can offer a way, at reasonable price, for many of the countries to educate their citizens much faster than

they ever would be able to do through written words.  
So, I think we in advanced countries have an important  
obligation to telecommunications in this field.

-- Remarks before the Ministry of  
Posts and Telecommunications  
Japan  
July 27, 1972



There seems to be no such thing, however, as an unmixed blessing. One of the curses of accelerating an increasingly predictable technology -- a curse which happens to lie heavy on me -- is that the job of governmental regulation becomes enormously more difficult. Indeed, at times it seems that of all the factors which contribute to a healthy, growing, responsive communications environment, it is only the factor of governmental regulation which has become less satisfactory in the past few decades. The government has always had to assure that the applicants for construction of new international facilities were economically solvent and responsible, and that the new facilities would not create such excess capacity as to render the entire system uneconomical. But in recent years, the accelerating pace of technology has added the necessity of making much more fundamental decisions with some regularity -- basic choices between different modes of communications (for example, cable versus satellite), or between different technologies for achieving improved reliability or other performance specifications. And the increased predictability of technological development -- as well as the enormous "lead time" necessary for the planning, development, and construction of modern communications facilities -- causes these fundamental decisions to be presented as much as 5 years ahead of the time when they are to be implemented.

In order to put these thoughts in concrete context, let me discuss for a moment the matter of licensing new international facilities. Recently the American Telephone and Telegraph Company applied to the FCC for permission to construct a new transatlantic telephone cable. I will not go into the details of that proceeding -- they are unimportant to my point. What is important is that at the time the application was made, the company had no assurance as to what it needed to establish, in order to obtain the permission -- other than the vague statutory criterion that the installation had to be "in the public interest, convenience, and necessity."

Recently, in connection with the FCC inquiry into policy and guidelines for the licensing of overseas facilities, the Office of Telecommunications Policy submitted Policy Recommendations which would reduce this uncertainty. They provide an example, in the international field, of the kind of new regulatory approach I have in mind. I will, if I may, briefly summarize a few of those Recommendations for you.



1. New facilities will be authorized when necessary to meet valid growth requirements, and when it can be shown that they will result in the lowest additional cost for comparable capacity, reliability, and quality.
2. Excess capacity or redundant facilities will be authorized only to make prudent allowances for failure of facilities and to enable automatic restoration of service.
3. The government will not be committed to any particular ratio between satellite and cable facilities, as investment in new facilities should be governed principally by operational needs and economic advantages.
4. Specialized government requirements do not justify the approval of inefficient facilities, but will be met instead by government lease or construction of its own facilities.

Such guidelines are obviously very basic -- but they have infinitely more content than that empty bottle, "the public interest, convenience, and necessity." They are, I think, necessary, unless the industry is to be left completely incapable of that long-range planning which modern technology both permits and requires; or unless the actual authorization of a particular facility is to be made years before we can be confident it is desirable.

[T]he "framework of policy" for international facilities which the FCC ultimately adopted in its inquiry was consistent with our recommendations -- although providing somewhat less specific guidance to the industry than I would have desired. In its future proceedings, the Commission will presumably flesh out its rather brief general statements.

I have been speaking up until now as though we were concerned with exclusively national regulation. We are not. There must be someone at the other end of that international line -- which means that other governments' actions must also be



considered in our policies -- and vice versa. One of the major difficulties in the field I am discussing -- and one, I think, which has not been given adequate analysis and attention -- is that the long range predictability, essential to intelligent technological advancement, cannot be achieved without close international cooperation.

The usual problems of international cooperation are complicated here by the fact that communications is a commercial activity in the United States, but a governmental function in most other countries. It is, by and large, inappropriate for the FCC, as an independent regulatory agency, to speak for the United States in dealing with foreign governments; and the problem cannot be left to private industry alone. The United States must find a way to combine government and industry to speak to our foreign partners -- so that we can deal effectively with them, and so that they can have some confidence in the direction and predictability of US action. The problems are many and complex, but we must begin to talk -- informally at first and perhaps later with more formal cooperation. No adequate framework now exists for such cooperation, and to my knowledge not even very much systematic thought is being given to the creation of such a framework.

To be sure, the International Telecommunications Union -- the oldest and perhaps the most successful of international organizations -- is performing excellent and indispensable service. Its focus, however, is the formulation of technical standards -- such as the achieving of essential agreements concerning frequency allocations. The major issues and problems, however, are no longer technical. Consider, for example, the problem of establishing generally accepted criteria for approval of new international facilities. Even a criterion as basic as "use of lowest cost facilities" may not receive, in practice, international allegiance. In some cases, the lowest cost facility may happen to be beyond the present technological capacity of one or more nations, so that all would not share equally in procurement. These are inevitable conflicts of national economic interest. If the international communications industry is to enjoy the predictability of government regulation which I seek, some means must be developed for isolating such basic conflicts,

assessing their gravity, and coming to some understanding as to their resolution, well in advance of the time when specific new facilities are to be installed. The developing technology and the lengthy "lead time" for new installations require this.

I frankly do not know the precise form which such a framework for early international agreement on such matters should take. I tend to think that the ITU is not likely the proper forum, since it is desirable to separate as much as possible the rationally soluble technical problems from the less analytical -- not to say irrational -- political and economic issues. Other organizations, such as UNESCO, have concerns too broad to serve for the efficient and timely resolution of the complex and rapidly changing problems involved. It may well be that a new organization is needed, in which US industry, as well as the US Government, can participate with other nations. I have no quick solutions -- but I do voice a call for an immediate and active investigation of such an organization.

-- Remarks before Joint Meeting of  
American Bar Association Inter-  
national and Comparative Law  
London, England  
July 14, 1971





In the area of Federal communications, our job is to assure the President and the Congress that the communications systems of the Federal Government are as efficient and effective as possible, and that they will meet the vital needs of the nation under emergency conditions.

The words efficient and effective, of course, cover a multitude of sins. They are open to many interpretations. To the economist, efficiency means the optimum use of economic resources. We might translate it to say -- the most bits per buck.

It's hard to measure economic efficiency in a complicated area like communications. So we sometimes take it on faith that achieving certain specific objectives will increase efficiency automatically. Over the last ten years the main objectives which have been pursued that way have been:

- centralized management
- standardization of equipment
- consolidation of facilities, and
- integration of systems.

Movement in these directions has been very slow, and organizational parochialism is frequently cited as the reason why. I think there may be a more fundamental reason -- that the real economic payoff of these measures has not been demonstrated.

Consider a specific example. When I first took over this job, one of the major issues needing attention was the question of whether the AUTOVON and FTS telephone networks should be integrated. These are two of the largest and most expensive networks in the National Communications System. The requirements though not identical are quite similar. The government has been studying ways to integrate these networks for over five years, and these studies have cost several million dollars.

We looked at this question, working together with the Department of Defense, the General Services Administration, and the National Communications System staff. We concluded that a simple integration of the two into a single network would compromise performance for military or civil users, or both. As the payoff for that compromise, we could achieve a small increase in the operating efficiency of the networks. We have no assurance that any increase in



efficiency would be translated into tariff reductions and budget savings. In short, there is precious little evidence that the pain is worth the gain, and substantial (if qualitative) evidence the other way.

There are qualitative arguments in favor of integrated systems, such as increased flexibility, compatibility, more coordinated planning for the future, and so on. But on the other side, large integrated systems may be less efficient:

- because they are complex to manage
- because management gets further and further from the user, and
- because users with different needs may be forced to accept some standard device or service.

We have to strike a balance between being efficient and being responsive to a wide array of diverse needs. The next ten years will find an increase in the diversity of communications services and suppliers in the nation as a whole. We must also expect to have a degree of diversity within the Federal Government.

Now don't get me wrong. I am not promoting chaos. There has to be some degree of centralized planning and management of communications in the Federal Government. We can't have every field installation doing their own thing. Communications systems must be designed and run by organizations large enough to have the specialized skills and the technical depth to do a good job. We must centralize enough to produce competent and aggressive technical and management leadership. Beyond that, coordination must be accomplished without unduly watering down the responsibility of the basic operating elements.

There must be continuing review of areas where many communications systems are emerging to perform identical or similar functions. In such areas, we have to see if there should be only a few systems, or perhaps one. In doing this, it is best to focus on future systems instead of existing, stabilized systems. By the time any system becomes operational, a goodly chunk of its life cycle cost -- all of the research, development, and investment -- has already been spent. There is no way to recoup that cost if the system is turned off in favor of another system. So it's hard to save much money by consolidating systems that are already operational. For this



reason, we intend to focus our attention mainly on systems that are not yet in the field, or on systems that have a considerable period of growth still ahead of them.

A good example is the area of radio navigation aids. There are several long-range, general purpose navigation systems, and a great variety of medium and short-range, special purpose ones in various stages of development and use. The Federal Government may spend between one and three billion dollars annually over the next ten years in this area, mostly for new hardware. We plan to work with the departments involved in this field to assure that a sound national program is developed -- to avoid controversies like FTS/AUTOVON in the future.

One of the things we are frequently asked is how do we make policy? Sometimes, the way the question is asked, I get the feeling people think that we are a policy factory, and they want to see the assembly line. I try to explain to them that it isn't like that at all.

Particularly in the government communications area, there is a thin line between policy making and planning. What is needed in the government is a sound planning process -- one which constantly recognizes new technology and new needs, and which identifies basic long-range and short-range choices that have to be made. Some of these choices are of broad interest within the government, even beyond the government. These are the policy questions.

So to make policy effectively, there has to be a sound planning process. It must tap into the best reservoirs of knowledge inside and outside the government. It must be a mutual process involving the people responsible for policy, management, operations, development, production and procurement. One of my major goals is to bring the planning process for government communications closer to this ideal.

As a first step, I have invited key policy officials from the Federal departments and agencies with major communications operating missions to become members of a Council for Government Communications Policy and Planning. This



Council will advise me in the development of policies affecting Federal Government communications. It will provide a means for coordinating, at a broad level, the communications activities of the Federal Government. I plan to consult with the Council before making recommendations to the President on policies, programs or budgets.

I also hope the Council will be a means for getting experts throughout the Federal Government together to tackle problems of broad importance -- before they become crises or beyond repair. Sometimes the people who know the most about a current problem aren't assigned to a place where they can help solve it. I hope through the Council we can identify the most critical problems and find the right people to work on them.

-- Remarks Before the Washington  
Chapter of the Armed Forces  
Communications and Electronics  
Association, Washington, D.C.  
February 3, 1972