

11

IN THIS CALM DURING THE HOLIDAYS, WE IN WASHINGTON ARE THINKING AHEAD TO 1975; AMONG OTHER THINGS, PLANNING OUR TESTIMONY BEFORE CONGRESSIONAL COMMITTEES. FOR MY PART, I AM PARTICULARLY CONCERNED ABOUT TESTIMONY ON BROADCAST LICENSE RENEWAL LEGISLATION. BROADCASTERS ARE MAKING A DETERMINED PUSH FOR SOME REASONABLE MEASURE OF LICENSE RENEWAL SECURITY. RIGHT NOW THEY ARE LIVING OVER A TRAP DOOR THE FCC CAN SPRING AT THE DROP OF A COMPETING APPLICATION OR OTHER RENEWAL CHALLENGE. THAT IS A TOUGH POSITION TO BE IN, AND, CONSIDERING ALL THE FUSS ABOUT SO-CALLED "INTIMIDATION," YOU WOULD THINK THAT THERE WOULDN'T BE MUCH OPPOSITION TO GIVING BROADCASTERS A LITTLE MORE INSULATION FROM GOVERNMENT'S HAND ON THAT TRAP DOOR.

BUT THERE IS OPPOSITION. SOME TOUGH QUESTIONS WILL BE ASKED--EVEN BY THOSE WHO ARE SYMPATHETIC TO BROADCASTERS. QUESTIONS ABOUT MINORITY GROUPS' NEEDS AND INTERESTS. QUESTIONS ABOUT VIOLENCE. QUESTIONS ABOUT CHILDREN'S PROGRAMMING; ABOUT RERUNS; ABOUT COMMERCIALS; ABOUT OBJECTIVITY IN NEWS AND PUBLIC AFFAIRS PROGRAMMING-- IN SHORT, ALL QUESTIONS ABOUT BROADCASTERS' PERFORMANCE IN FULFILLING THEIR PUBLIC TRUST. THESE ARE QUESTIONS THE PUBLIC IS ASKING. CONGRESS IS ASKING THE QUESTIONS, TOO; SENATORE PASTORE ON VIOLENCE; SENATOR MOSS ON DRUG ADS; REPRESENTATIVE STAGGERS ON NEWS MISREPRESENTATIONS.

DESPITE THIS BARRAGE OF QUESTIONING, THE CONGRESS IS BEING URGED TO GRANT LONGER LICENSE TERMS AND RENEWAL PROTECTION TO BROADCASTERS. BEFORE VOTING IT UP, DOWN, OR AROUND, THE CONGRESS WILL HAVE TO JUDGE THE BROADCASTERS' RECORD OF PERFORMANCE.

AND WHERE DO WE SEE THAT PERFORMANCE? IT LEAPS OUT AT YOU EVERY TIME YOU TURN ON A TV SET, AND IT'S DEFINITELY NOT ALL THAT IT COULD BE. HOW MANY TIMES DO YOU SEE THE RICH VARIETY, DIVERSITY, AND CREATIVITY OF AMERICA REPRESENTED ON THE TV SCREEN? WHERE IS THE EVIDENCE OF BROADCASTERS DOING THEIR BEST TO SERVE THEIR AUDIENCES, RATHER THAN SERVING THOSE AUDIENCES UP TO SELL TO ADVERTISERS? AND, MOST DISTURBING OF ALL, HOW DO BROADCASTERS DEMONSTRATE THAT THEY ARE LIVING UP TO THE OBLIGATION--AS THE FCC PUTS IT-- TO "ASSUME AND DISCHARGE RESPONSIBILITY FOR PLANNING, SELECTING, AND SUPERVISING ALL MATTER BROADCAST BY THE STATIONS, WHETHER SUCH MATTER IS PRODUCED BY THEM OR PROVIDED BY NETWORKS OR OTHERS."

IT'S BEEN EASY FOR BROADCASTERS TO GIVE LIP SERVICE TO THE UNIQUELY AMERICAN PRINCIPLE OF PLACING BROADCASTING POWER AND RESPONSIBILITY AT THE LOCAL LEVEL. BUT IT HAS ALSO BEEN EASY--TOO EASY--FOR BROADCASTERS TO TURN AROUND AND SELL THEIR RESPONSIBILITY ALONG WITH



THEIR AUDIENCES TO A NETWORK AT THE GOING RATE FOR AFFILIATE COMPENSATION.

THE EASE OF PASSING THE BUCK TO MAKE A BUCK IS REFLECTED IN THE STEADY INCREASE IN THE AMOUNT OF NETWORK PROGRAMS CARRIED BY AFFILIATES BETWEEN 1960 AND 1970. IT TOOK THE FCC'S PRIME TIME RULE TO REVERSE THIS TREND, BUT EVEN SO, THE AVERAGE AFFILIATE STILL DEVOTES OVER 61% OF HIS SCHEDULE TO NETWORK PROGRAMS. THIS WOULDN'T BE SO BAD IF THE STATIONS REALLY EXERCISED SOME RESPONSIBILITY FOR THE PROGRAMS AND COMMERCIALS THAT COME DOWN THE NETWORK PIPE. BUT ALL THAT MANY AFFILIATES DO IS FLIP THE SWITCH IN THE CONTROL ROOM TO "NETWORK," THROW THE "SWITCH" IN THE MAILROOM TO FORWARD VIEWER COMPLAINTS TO THE NETWORK, SIT BACK, AND ENJOY THE FRUITS OF A VERY PROFITABLE BUSINESS.

PLEASE DON'T MISUNDERSTAND ME WHEN I STRESS THE NEED FOR MORE LOCAL RESPONSIBILITY. I'M NOT TALKING ABOUT LOCALLY-PRODUCED PROGRAMS, IMPORTANT THOUGH THEY ARE. I'M TALKING NOW ABOUT LICENSEE RESPONSIBILITY FOR ALL PROGRAMMING, INCLUDING THE PROGRAMS THAT COME FROM THE NETWORK.

THIS KIND OF LOCAL RESPONSIBILITY IS THE KEYSTONE OF OUR PRIVATE ENTERPRISE BROADCAST SYSTEM OPERATING UNDER THE FIRST AMENDMENT PROTECTIONS. BUT EXCESSIVE CONCENTRATION OF CONTROL OVER BROADCASTING IS AS BAD

WHEN EXERCISED FROM NEW YORK AS WHEN EXERCISED FROM WASHINGTON. WHEN AFFILIATES CONSISTENTLY PASS THE BUCK, TO THE NETWORKS, THEY'RE FRUSTRATING THE FUNDAMENTAL PURPOSES OF THE FIRST AMENDMENT'S FREE PRESS PROVISION.

THE PRESS ISN'T GUARANTEED PROTECTION BECAUSE IT'S GUARANTEED TO BE BALANCED AND OBJECTIVE--TO THE CONTRARY, THE CONSTITUTION RECOGNIZES THAT BALANCE AND OBJECTIVITY EXIST ONLY IN THE EYE OF THE BEHOLDER. THE PRESS IS PROTECTED BECAUSE A FREE FLOW OF INFORMATION AND GIVING EACH "BEHOLDER" THE OPPORTUNITY TO INFORM HIMSELF IS CENTRAL TO OUR SYSTEM OF GOVERNMENT. IN ESSENCE, IT'S THE RIGHT TO LEARN INSTEAD OF THE RIGHT TO BE TAUGHT. THE BROADCAST PRESS HAS AN OBLIGATION TO SERVE THIS FREE FLOW OF INFORMATION GOAL BY GIVING THE AUDIENCE THE CHANCE TO PICK AND CHOOSE AMONG A WIDE RANGE OF DIVERSE AND COMPETING VIEWS ON PUBLIC ISSUES.

THIS MAY ALL SEEM RATHER PHILOSOPHICAL. CYNICS MAY ARGUE THAT ALL TELEVISION, EVEN THE NEWS, IS ENTERTAINMENT PROGRAMMING. BUT IN THIS AGE WHEN TELEVISION IS THE MOST RELIED UPON AND, SURPRISINGLY, THE MOST CREDIBLE OF OUR MEDIA, WE MUST ACCEPT THIS HARSH TRUTH: THE FIRST AMENDMENT IS MEANINGLESS IF IT DOES NOT APPLY FULLY TO BROADCASTING. FOR TOO LONG WE HAVE BEEN INTERPRETING THE FIRST AMENDMENT TO FIT



THE 1934 COMMUNICATIONS ACT. AS MANY OF YOU KNOW, A LITTLE OVER A YEAR AGO I SUGGESTED WAYS TO CORRECT THIS INVERSION OF VALUES. ONE WAY IS TO ELIMINATE THE FCC'S FAIRNESS DOCTRINE AS A MEANS OF ENFORCING THE BROADCASTERS' FAIRNESS OBLIGATION TO PROVIDE REASONABLE OPPORTUNITY FOR DISCUSSION OF CONTRASTING VIEWS ON PUBLIC ISSUES.

VIRTUALLY EVERYONE AGREES THAT THE FAIRNESS DOCTRINE ENFORCEMENT IS A MESS. DETAILED AND FREQUENT COURT DECISIONS AND FCC SUPERVISION OF BROADCASTERS' JOURNALISTIC JUDGMENT ARE UNSATISFACTORY MEANS OF ACHIEVING THE FIRST AMENDMENT GOAL FOR A FREE PRESS. THE FCC HAS SHOWN SIGNS OF MAKING IMPROVEMENTS IN WHAT HAS BECOME A CHAOTIC SCHEME OF FAIRNESS DOCTRINE ENFORCEMENT. THESE IMPROVEMENTS ARE NEEDED. BUT THE BASIC FAIRNESS DOCTRINE APPROACH FOR ALL ITS PROBLEMS, WAS, IS AND FOR THE TIME BEING WILL REMAIN A NECESSITY; ALBEIT AN UNFORTUNATE NECESSITY. SO, WHILE OUR LONG RANGE GOAL SHOULD BE A BROADCAST MEDIA STRUCTURE JUST AS FREE OF GOVERNMENT INTRUSION, JUST AS COMPETITIVE JUST AS DIVERSE AS THE PRINT MEDIA, THERE ARE THREE HARSH REALITIES THAT MAKE IT IMPOSSIBLE TO DO AWAY WITH THE FAIRNESS DOCTRINE IN THE SHORT RUN.

FIRST, THERE IS A SCARCITY OF BROADCASTING OUTLETS. SECOND, THERE IS A SUBSTANTIAL CONCENTRATION OF ECONOMIC AND SOCIAL POWER IN THE NETWORKS AND THEIR AFFILIATED TV STATIONS. THIRD, THERE IS A TENDENCY FOR BROADCASTERS AND THE NETWORKS TO BE SELF-INDULGENT AND MYOPIC IN VIEWING THE FIRST AMENDMENT AS PROTECTING ONLY THEIR RIGHTS AS SPEAKERS. THEY FORGET THAT ITS PRIMARY PURPOSE IS TO ASSURE A FREE FLOW AND WIDE RANGE OF INFORMATION TO THE PUBLIC. SO WE HAVE LICENSE RENEWAL REQUIREMENTS AND THE FAIRNESS DOCTRINE AS ADDED REQUIREMENTS--TO MAKE SURE THAT THE NETWORKS AND STATIONS DON'T IGNORE THE NEEDS OF THOSE 200 MILLION PEOPLE SITTING OUT THERE DEPENDANT ON TV.

BUT THIS DOESN'T MEAN THAT WE CAN FORGET ABOUT THE BROADER MANDATES OF THE FIRST AMENDMENT, AS IT APPLIES TO BROADCASTING. WE OUGHT TO BEGIN WHERE WE CAN TO CHANGE THE COMMUNICATIONS ACT TO FIT THE FIRST AMENDMENT. THAT HAS ALWAYS BEEN AND CONTINUES TO BE THE AIM AND INTENT OF THIS ADMINISTRATION. WE'VE GOT TO MAKE A START AND WE'VE GOT TO DO IT NOW.

THIS BRINGS ME TO AN IMPORTANT FIRST STEP THE ADMINISTRATION IS TAKING TO INCREASE FREEDOM AND RESPONSIBILITY IN BROADCASTING.



OTP HAS SUBMITTED A LICENSE RENEWAL BILL FOR CLEARANCE THROUGH THE EXECUTIVE BRANCH, SO THE BILL CAN BE INTRODUCED IN THE CONGRESS EARLY NEXT YEAR. OUR BILL DOESN'T SIMPLY ADD A COUPLE OF YEARS TO THE LICENSE TERM AND GUARANTEE PROFITS AS LONG AS BROADCASTERS FOLLOW THE FCC'S RULES TO THE LETTER. FOLLOWING RULES ISN'T AN EXERCISE OF RESPONSIBILITY; IT'S AN ABDICATION OF RESPONSIBILITY. THE ADMINISTRATION BILL REQUIRES BROADCASTERS TO EXERCISE THEIR RESPONSIBILITY WITHOUT THE CONVENIENT CRUTCH OF FCC PROGRAM CATEGORIES OR PERCENTAGES.

THE WAY WE'VE DONE THIS IS TO ESTABLISH TWO CRITERIA THE STATION MUST MEET BEFORE THE FCC WILL GRANT RENEWAL. FIRST, THE BROADCASTER MUST DEMONSTRATE HE HAS BEEN SUBSTANTIALLY ATTUNED TO THE NEEDS AND INTERESTS OF THE COMMUNITIES HE SERVES. HE MUST ALSO MAKE A GOOD FAITH EFFORT TO RESPOND TO THOSE NEEDS AND INTERESTS IN ALL HIS PROGRAMS, IRRESPECTIVE OF WHETHER THOSE PROGRAMS ARE CREATED BY THE STATION, PURCHASED FROM PROGRAM SUPPLIERS, OR OBTAINED FROM A NETWORK. THE IDEA IS TO HAVE THE BROADCASTER'S PERFORMANCE EVALUATED FROM THE PERSPECTIVE OF THE PEOPLE IN HIS COMMUNITY AND NOT THE BUREAUCRAT IN WASHINGTON.

SECOND, THE BROADCASTER MUST SHOW THAT HE HAS AFFORDED REASONABLE, REALISTIC, AND PRACTICAL OPPORTUNITIES FOR THE PRESENTATION AND DISCUSSION OF CONFLICTING VIEWS ON CONTROVERSIAL ISSUES.

I SHOULD ADD THAT THESE REQUIREMENTS HAVE TEETH. IF A STATION CAN'T DEMONSTRATE MEANINGFUL SERVICE TO ALL ELEMENTS OF HIS COMMUNITY, THE LICENSE SHOULD BE TAKEN AWAY BY THE FCC. THE STANDARD SHOULD BE APPLIED WITH PARTICULAR FORCE TO THE LARGE TV STATIONS IN OUR MAJOR CITIES, INCLUDING THE 15 STATIONS OWNED BY THE TV NETWORKS AND THE STATIONS THAT ARE OWNED BY OTHER LARGE BROADCAST GROUPS. THESE BROADCASTERS, ESPECIALLY, HAVE THE RESOURCES TO DEVOTE TO COMMUNITY DEVELOPMENT, COMMUNITY SERVICE, AND PROGRAMS THAT REFLECT A COMMITMENT TO EXCELLENCE.

THE COMMUNITY ACCOUNTABILITY STANDARD WILL HAVE SPECIAL MEANING FOR ALL NETWORK AFFILIATES. THEY SHOULD BE HELD ACCOUNTABLE TO THEIR LOCAL AUDIENCES FOR THE 61% OF THEIR SCHEDULES THAT ARE NETWORK PROGRAMS, AS WELL AS FOR THE PROGRAMS THEY PURCHASE OR CREATE FOR LOCAL ORIGINATION.

FOR FOUR YEARS, BROADCASTERS HAVE BEEN TELLING THIS ADMINISTRATION THAT, IF THEY HAD MORE FREEDOM AND STABILITY, THEY WOULD USE IT TO CARRY OUT THEIR RESPONSIBILITIES. WE HAVE TO BELIEVE THIS, FOR IF BROADCASTERS WERE SIMPLY MASKING THEIR GREED AND ACTUALLY SEEKING A SO-CALLED "LICENSE TO STEAL," THE COUNTRY WOULD HAVE TO GIVE UP ON THE IDEA OF PRIVATE ENTERPRISE BROADCASTING. SOME ARE URGING JUST THAT; BUT THIS



ADMINISTRATION REMAINS UNSHAKEN IN ITS SUPPORT OF THE PRINCIPLES OF FREEDOM AND RESPONSIBILITY IN A PRIVATE ENTERPRISE BROADCASTING SYSTEM.

BUT WE ARE EQUALLY UNSHAKEN IN OUR BELIEF THAT BROADCASTERS MUST DO MORE TO EXERCISE THE RESPONSIBILITY OF PRIVATE ENTERPRISE THAT IS THE PREREQUISITE OF FREEDOM. SINCE BROADCASTERS' SUCCESS IN MEETING THEIR RESPONSIBILITY WILL BE MEASURED AT LICENSE RENEWAL TIME, THEY MUST DEMONSTRATE IT ACROSS THE BOARD. THEY CAN NO LONGER ACCEPT NETWORK STANDARDS OF TASTE, VIOLENCE, AND DECENCY IN PROGRAMMING. IF THE PROGRAMS OR COMMERCIALS GLORIFY THE USE OF DRUGS; IF THE PROGRAMS ARE VIOLENT OR SADISTIC; IF THE COMMERCIALS ARE FALSE OR MISLEADING, OR SIMPLY INTRUSIVE AND OBNOXIOUS; THE STATIONS MUST JUMP ON THE NETWORKS RATHER THAN WINCE AS THE CONGRESS AND THE FCC ARE FORCED TO DO SO.

THERE IS NO AREA WHERE MANAGEMENT RESPONSIBILITY IS MORE IMPORTANT THAN NEWS. THE STATION OWNERS AND MANAGERS CANNOT ABDICATE RESPONSIBILITY FOR NEWS JUDGMENTS. WHEN A REPORTER OR DISC JOCKEY SLIPS IN OR PASSES OVER INFORMATION IN ORDER TO LINE HIS POCKET, THAT'S PLUGOLA, AND MANAGEMENT WOULD TAKE QUICK CORRECTIVE ACTION. BUT MEN ALSO STRESS OR SUPPRESS INFORMATION IN ACCORDANCE WITH THEIR BELIEFS. WILL STATION LICENSEES OR NETWORK EXECUTIVES ALSO TAKE ACTION AGAINST THIS IDEOLOGICAL PLUGOLA?

JUST AS A NEWSPAPER PUBLISHER HAS RESPONSIBILITY FOR THE WIRE SERVICE COPY THAT APPEARS IN HIS NEWSPAPER--SO TELEVISION STATION OWNERS AND MANAGERS MUST HAVE FULL RESPONSIBILITY FOR WHAT GOES OUT OVER THE PUBLIC'S AIRWAVES--NO MATTER WHAT THE ORIGIN OF THE PROGRAM. THERE SHOULD BE NO PLACE IN BROADCASTING FOR THE "RIP AND READ" ETHIC OF JOURNALISM.

JUST AS PUBLISHERS AND EDITORS HAVE PROFESSIONAL RESPONSIBILITY FOR THE NEWS THEY PRINT, STATION LICENSEES HAVE FINAL RESPONSIBILITY FOR NEWS BALANCE--WHETHER THE INFORMATION COMES FROM THEIR OWN NEWSROOM OR FROM A DISTANT NETWORK. THE OLD REFRAIN THAT, QUOTE, "WE HAD NOTHING TO DO WITH THAT REPORT, AND COULD DO NOTHING ABOUT IT," IS AN EVASION OF RESPONSIBILITY AND UNACCEPTABLE AS A DEFENSE.

BROADCASTERS AND NETWORKS TOOK DECISIVE ACTION TO INSULATE THEIR NEWS DEPARTMENTS FROM THE SALES DEPARTMENTS, WHEN CHARGES WERE MADE THAT NEWS COVERAGE WAS BIASED BY COMMERCIAL CONSIDERATIONS. BUT INSULATING STATION AND NETWORK NEWS DEPARTMENTS FROM MANAGEMENT OVERSIGHT AND SUPERVISION HAS NEVER BEEN RESPONSIBLE AND NEVER WILL BE. THE FIRST AMENDMENT'S GUARANTEE OF A FREE PRESS WAS NOT SUPPOSED TO CREATE A PRIVILEGED CLASS OF MEN CALLED JOURNALISTS, WHO ARE IMMUNE FROM CRITICISM BY GOVERNMENT OR RESTRAINT BY PUBLISHERS AND



EDITORS. TO THE CONTRARY, THE WORKING JOURNALIST, IF HE FOLLOWS A PROFESSIONAL CODE OF ETHICS, GIVES UP THE RIGHT TO PRESENT HIS PERSONAL POINT OF VIEW WHEN HE IS ON THE JOB. HE TAKES ON A HIGHER RESPONSIBILITY TO THE INSTITUTION OF A FREE PRESS, AND HE CANNOT BE INSULATED FROM THE MANAGEMENT OF THAT INSTITUTION.

THE TRULY PROFESSIONAL JOURNALIST RECOGNIZES HIS RESPONSIBILITY TO THE INSTITUTION OF A FREE PRESS. HE REALIZES THAT HE HAS NO MONOPOLY ON THE TRUTH; THAT A PET VIEW OF REALITY CAN'T BE INSINUATED INTO THE NEWS. WHO ELSE BUT MANAGEMENT, HOWEVER, CAN ASSURE THAT THE AUDIENCE IS BEING SERVED BY JOURNALISTS DEDICATED TO THE HIGHEST PROFESSIONAL STANDARDS? WHO ELSE BUT MANAGEMENT CAN OR SHOULD CORRECT SO-CALLED PROFESSIONALS WHO CONFUSE SENSATIONALISM WITH SENSE AND WHO DISPENSE ELITIST GOSSIP IN THE GUISE OF NEWS ANALYSIS?

WHERE THERE ARE ONLY A FEW SOURCES OF NATIONAL NEWS ON TELEVISION, AS WE NOW HAVE, EDITORIAL RESPONSIBILITY MUST BE EXERCISED MORE EFFECTIVELY BY LOCAL BROADCASTERS AND BY NETWORK MANAGEMENT. IF THEY DO NOT PROVIDE THE CHECKS AND BALANCES IN THE SYSTEM, WHO WILL?

STATION MANAGERS AND NETWORK OFFICIALS WHO FAIL TO ACT TO CORRECT IMBALANCE OR CONSISTENT BIAS FROM THE NETWORKS--OR WHO ACQUIESCE BY SILENCE--CAN ONLY BE CONSIDERED WILLING PARTICIPANTS, TO BE HELD FULLY ACCOUNTABLE BY THE BROADCASTER'S COMMUNITY AT LICENSE RENEWAL TIME.

OVER A YEAR AGO, I CONCLUDED A SPEECH TO AN AUDIENCE OF BROADCASTERS AND NETWORK OFFICIALS BY STATING THAT:

"THERE IS A WORLD OF DIFFERENCE BETWEEN THE PROFESSIONAL RESPONSIBILITY OF A FREE PRESS AND THE LEGAL RESPONSIBILITY OF A REGULATED PRESS. . . . WHICH WILL YOU BE--PRIVATE BUSINESS OR GOVERNMENT AGENT?-- A RESPONSIBLE FREE PRESS OR A REGULATED PRESS? YOU CANNOT HAVE IT BOTH WAYS-- NEITHER CAN GOVERNMENT NOR YOUR CRITICS."

I THINK THAT MY REMARKS TODAY LEAVE NO DOUBT THAT THIS ADMINISTRATION COMES OUT ON THE SIDE OF A RESPONSIBLE FREE PRESS.



(Mind)

This placing of responsibility upon the local broadcaster, achieved by the 1934 law, is by no means accidental. It is a most important manifestation of a distinctive view of freedom of the press, and of a distinctive view of government, that is part of our American tradition. Someone commented earlier that government should be feared. I think that is absolutely correct. But the reason it should be feared is because it represents one category -- and doubtlessly the broadest category -- of what is really the evil most to be feared, namely, power over the lives and thoughts of men. It is ultimately power that is fearful, whether it exists in the government (as is usually the case) or in some other organ. As a matter of fact, if a given amount of power must reside in some organ, the government is, at least in a democratic society, the least fearful repository. But it is better, wherever possible, that there be no repository at all.

The Federal Communications Act of 1934, which established our present broadcasting structure, was the product of a society that believed in these principles. The system it established stands alone among the broadcasting systems of all the major nations of the world in placing responsibility and power not in a centralized government-owned or privately owned network, but in hundreds of individual station licensees throughout the country. To be sure, the government is to establish the wide outer limits of what is permissible, but within the broad area embraced by those limits, it is to be the individual broadcaster who can and must determine what is good, what is fair, and what is desirable programming for his community.

By treating Whitehead's description of the status quo as a radical new proposal, the networks (and some station owners who would as soon not be troubled with the heavy responsibility) display an apparent belief that the system was designed to operate otherwise -- that in fact the "small handful of men" whom Mr. Lynch acknowledges produce network news are entitled to have their judgments as to balance and fairness prevail for all their 40 million viewers. If that were in fact what the system permits, I would be against it, and I would indeed prefer government control; I at least have a chance of voting the government out. It is only when the responsibility for these judgments is diffused -- among many people throughout the country, with different views, different backgrounds, different constituencies -- that I am willing to say it is no business of the government's (or very little of its business) what the content of programming is.

Perhaps in many cases local licensees will in fact agree with the balance that the networks strike. If this decision is made after real consideration of the question, and not out of sheer laziness or unwillingness to spend the money necessary to provide further commentary on one or another side, well and good. But what Mr. Whitehead was expressing was skepticism that this is now the case; and that the law is now in fact being observed. It is



probably true that Mr. Whitehead, being a supporter of the present Administration, believes that local broadcasters' compliance with their legal responsibilities will in fact produce a licensee-selected "balance" more conservative than that now struck by the networks. But I think he would willingly, if not joyfully, accept the opposite result -- so long as the balance is still somewhere within the wide range permissible under the fairness doctrine. And in any case, your evaluation of his position should be made on the basis of its inherent merit, and should surely not be distorted by the unsurprising fact that the cry for reform comes from the political sector that feels itself aggrieved. The question is simply whether you prefer a small group, or many, to establish the balance of the public affairs programming that our citizens watch. If you prefer the former, it is you, not Whitehead, who must amend the Federal Communications Act.

Perhaps you think that Mr. Whitehead's comments about "elitist gossip" and "ideological plugola" were false -- or, if true, unduly provocative. Indeed, perhaps you take the extreme view that no high government official -- even one who, like Vice President Agnew or Mr. Whitehead, has no control over broadcast licensing -- should ever engage in criticism of the press. But those are entirely separate issues, which should not becloud the relevance and the correctness of the Whitehead statements on station responsibility. In sum, the OTP proposals for amendment of the Federal Communications Act are unquestionably a move in the direction of greater broadcast freedom. And the accompanying statements about licensee responsibility are a reiteration of existing law that is unavoidably pertinent to the desirability of the proposals; for they speak to the crucial question of where the power goes when the government relinquishes it.

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*Judy*

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Monday, December 18, 1972

Remarks of

Clay T. Whitehead, Director

Office of Telecommunications Policy  
Executive Office of the President

at the

Sigma Delta Chi Luncheon  
Indianapolis Chapter

Indiana State Teachers Association Building  
Indianapolis, Indiana

December 18, 1972



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

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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

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



DECEMBER 18, 1972  
INDIANAPOLIS SPEECH

Washington has deceptive calm these days. The Congress is out. Some people are packing. Attention is focused on the holidays, the Super Bowl, the Inauguration, and other American traditions. But the lights are burning late in many government offices, including the Office of Telecommunications Policy (OTP). We're making plans for next year. We hope to take action on many of the policies that we've been thinking about and planning during our two-year life. We have some promises to keep--promises to bring broadcast regulation more into line with the First Amendment, and promises to establish a rational regulatory framework for cable TV.

This means that OTP will be making regular appearances before various congressional committees. I'm already starting to plan--indeed worry about--for a particular appearance on broadcast license renewal legislation. Broadcasters are making a determined push for some reasonable measure of license renewal security, instead of living over a trap door the government can spring at the drop of a competing application or other renewal challenge. The Administration supports the objective of renewal security legislation and will help to persuade the Congress to enact such a bill.

*when*  
*Threat Admin will spring - we can't & will take away*

But there will be some tough questions asked by the opponents; questions about minority groups' broadcast needs and interests; questions about violence; questions about children's programming; questions about reruns; drug ads; objectivity in news and public affairs programs; in short, all questions about broadcaster performance in fulfilling their public trust. These are tough questions to answer when you are urging longer license terms and renewal stability in order to get the government's hands off that trap door.

In seeking answers, ~~OTB~~ can draw upon its experience with broadcasting and broadcast regulation. This experience has been analyzed along with our view of the media's rights and obligations under the First Amendment, and along with ~~our~~ political philosophy that says competition in an open marketplace is a better way to serve the public than centralized bureaucratic regulation in Washington. Given this background of experience and principle, we stated some tentative conclusions to the delight--even amazement--of broadcasters. What we have concluded is that government has to treat broadcasters as important outlets for the free flow of information, and that government should not direct this information flow.



We said these things because they're right and we believe in them, but not all of our experience is consistent with these conclusions. Turn on a TV set and tell me how many times you see the rich variety and diversity of American culture, history, and life represented on that screen; where is the incontrovertible evidence of broadcasters doing their best to serve their audiences' interests and needs rather than serving them up to advertisers; and most disturbing of all, how do broadcasters demonstrate that they are living up to the obligation--as the FCC puts it--to "assume and discharge responsibility for planning, selecting, and supervising all matter broadcast by the stations, whether such matter is produced by them or provided by networks or others." ~~exception FCC~~

I am not saying these are the personal failures of broadcasters and network executives. We're all trying to make the system work for the public's benefit. But there's hardly anyone who could or would deny that something is not altogether right in the way our broadcasting system works. It's easy to trumpet the benefits of a broadcast system that places power and responsibility at the local level. But it's also easy--too easy--to turn around and sell that power and responsibility to a national network at the going rate for affiliate



compensation. It's too easy to flip a switch in "master control" and ignore what goes out over the transmitter, and then forward viewer complaints directly to the networks. And yet we in the Administration remain unshaken in our support of freedom and responsibility in broadcasting.

We will keep our fingers crossed and continue to support the fundamental goals and objectives of our private enterprise broadcast system. We are like the Congressmen who swallowed hard at network irresponsibility and station indifference and then voted against Harley Staggers on the "Selling of the Pentagon" issue last year. Broadcasters make it difficult for their friends in government, and Representative Staggers is a friend. He, and the other congressmen who conducted that investigation of CBS on that program, were performing a legitimate and, unfortunately, necessary oversight function. The thing that rightly gives qualms to broadcasters and journalists is that the government that investigates the system's excesses and abuses is also the government that holds life and death power over the broadcaster's enterprise. This implies that the Congress could perform its oversight functions more effectively if government didn't have its hand ready to spring that trap door.



But many congressmen are wary of lessening this power, which enables government to exercise program controls on broadcasters.

Even though we realize this fact of life, the Administration will continue to support license renewal reforms. OTP is even prepared to continue to press for substantial modification of case-by-case enforcement of the Fairness Doctrine, as we proposed over a year ago. Many of you--especially the professional journalists--believe with me that the fine-sounding Fairness Doctrine is antithetical to the First Amendment's free press and free speech rights and obligations. Yet I'm afraid that the Congress would laugh at us if OTP introduced a bill to abandon the Fairness Doctrine or even ameliorate its worst features. Why? The answer requires some soul-searching on the part of broadcasters and journalists.

The soul-searching must start with understanding the essence of the First Amendment's prohibition upon abridgements of the rights of free speech and a free press. Freedom of the press is not an end in itself, serving solely the interests of the press. It is a means of serving the paramount interest of a free society to give each citizen the opportunity to inform himself by picking and choosing among different attitudes and



1976  
34  
viewpoints on public issues. One might even characterize it as the right to learn instead of the right to be taught. The essence of the First Amendment--this openness to diversity--is not intended to give the widest possible circulation to all attitudes and opinions, because it allows for--even demands--the exercise of editorial judgment and responsibility by the private enterprise press. Government regulation or restriction of that editorial responsibility--whether in the name of "fairness", "balance", "democracy in the newsroom" or any other chic term--cannot require the proper exercise of that responsibility, *Became the minute you . . .* ~~without at the same time~~ relieving the free press institutions of that responsibility.

I should put added stress on that phrase--free press institutions. The Amendment was not intended to create a privileged class of men called journalists who are immune from criticism by government or restraint by publishers and editors. The First Amendment needs and depends upon free press institutions to effectuate its purposes; and it needs and depends upon the men who are responsible for those institutions to exercise editorial judgment and control. This should not be a concept alien to the working journalist. His interest does not lie exclusively in advancing his own right of free speech. It also lies in sharing his rights with the men he works for to



support and advance their exercise of responsibility to make the institution of the free press work in this country.

Our broadcast system also created an institution of the free press. Although it has taken a while to realize how important the journalistic role of broadcasting has become, there can be no doubt about it now that broadcasting is the principal, if not the dominant, means by which the public obtains its information. Right now the First Amendment guaranty of a free press doesn't mean a thing if it doesn't apply to broadcasting. But there is a practical problem of major significance in the Amendment's application to broadcasting. I said before that the government cannot require the exercise of editorial responsibility without relieving the free press institution of the responsibility. And yet, right now in broadcasting, the government does have the right and in view of the power of broadcasting some might say the obligation to enforce the proper exercise of editorial responsibility, journalistic balance and objectivity as well as the overall judgment of "fairness."

*As much as I govt say - its done to right a wrong, but...*

As with any practical problem, no one can have it both ways in finding a realistic way to apply the First Amendment to broadcasting. There's a big difference between the professional responsibility of a free press



and the legal responsibility of a regulated press. Broadcasters and journalists can't have it both ways. Newspapers can't--for very long anyway-- separate themselves from the broadcast press and have government legal responsibilities apply to their broadcast brothers, while they retain the professional responsibility of a free press institution for themselves. Government can't have it both ways in broadcasting either. I have some thoughts on how we can begin the ~~process~~ of making the First Amendment flourish in our broadcast system.

In that system the key institution for exercise of the free press editorial responsibility is not the networks--of which the Communications Act is barely cognizant-- but the local stations. The Act places the responsibility at the licensee's front office, and not in the studio, whether that studio is down the hall from the front office or a network studio in New York City, Los Angeles or Washington.

~~threat~~  
The First Amendment will not be given much of a chance to work in broadcasting if the station licensees abdicate their responsibility to make independent news and program judgments. They do this when they serve merely as the conduit for network programs, and abdicate news judgments to so-called network professionals, who



confuse sensationalism with sense, who present <sup>elitist</sup> gossip  
in the guise of <sup>analysis</sup> news, and who think their cocktail  
party circuit represents reality. Licensees would  
take immediate corrective action if they suspected an  
employee of plugola--providing information advancing  
his financial interests and suppressing information  
harmful to those interests. But men also stress or  
suppress information in accordance with their beliefs,  
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take action against this form of political plugola?  
It is just as much a wasted use of scarce TV channels  
to feed the self-interest of a handful of people in  
the news department as it is to use the channel to fill  
the pockets of the sales staff, or the licensee himself.

history  
of  
news dept  
& comms.

Please don't misunderstand me when I stress local  
responsibility. I'm not talking about locally-produced  
programming, important though it is. I'm talking about <sup>local</sup>  
licensee responsibility for the national programs that  
come over network lines. <sup>tests, demographics</sup> I'm talking about licensees  
paying close attention to the news and information  
coming down these lines, and making affirmative efforts  
to see that it is balanced and objective, that it serves  
local needs, that it's balanced by station-originated  
programs, if necessary, and that stations don't duck



their responsibility to make an independent judgment when a fairness complaint is directed against the network and the network refuses to grant response time.

*Broadcasting has become buckpassing*

The public interest in free speech and in the institution of a free, broadcast press requires that licensees exercise these kinds of editorial and judgmental responsibilities. The licensees--as the locus of responsibility under the Communications Act--have got to make this system work. The failure of the system is now the principal obstacle standing in the path of any effort to give freedom a chance in broadcasting.

The Administration can't have it both ways either.

We can't urge broadcasters to exercise their professional responsibilities and ignore the realities and effects of the legal and regulatory ~~responsibilities~~ *constraints*.

*This Admin will*  
~~We are proceeding with our plans to expand First Amendment principles in broadcasting and in the new forms of electronic communications. We have taken the following actions:~~

1. *Admin* OTP has submitted a license renewal bill into the ~~Office of Management and Budget's~~ clearance process in advance of submitting the bill to the Congress early in the First Session. *It is not a bill that simply*

*to dare provide stability  
But!*



adds a couple of years to the license term and allows all but the most heinous broadcaster to keep his license in perpetuity. The Administration's bill support will require broadcasters to exercise their First Amendment rights and obligations and not sit back and abdicate program judgments to the FCC by doing the government-approved percentage of public service programs.

2. We have completed work on and sent to the President a report of the Cabinet Committee on cable TV policy. It is a policy that assures that competition between broadcasting and cable is fair. Cable development will start on the assumption that the First Amendment applies <sup>completely</sup> to this medium, <sup>not at the FCC's discretion</sup> and the government has no role in enforcing editorial judgments.

Other actions may follow these important steps. We still hope to <sup>bring about</sup> ~~press for~~ substantial modification of case-by-case enforcement of the Fairness Doctrine, as we proposed over a year ago. But, I doubt that the Congress would seriously entertain this type of proposal, until there was more assurance that broadcasters can be entrusted with full freedom from government enforcement of program responsibilities.

We also hope to make further progress on our proposals for radio deregulation, which would be a giant step forward for freedom in a medium where the problems

aren't quite so weighty as they are in television.

The Administration wants to help bring freedom and responsibility to broadcasting. Our principles and philosophy of government demand that we help. We will not be able to accomplish all the things that should be done to allow the First Amendment to flourish in its application to broadcasting. How much we can accomplish depends in large measure on the active assertion of licensee responsibility as the most appropriate--and really the only--safeguard of free broadcast journalism.



DECEMBER 18, 1972  
INDIANAPOLIS SPEECH

*On the line*

*8/11*  
~~Washington has~~ deceptive calm these days. The Congress is out. Some people are packing. Attention is focused on the holidays, the Super Bowl, the Inauguration, and other American traditions. But the lights are burning late in many government offices, including the Office of Telecommunications Policy (OTP). We're making plans for next year. We hope to take action on many of the policies that we've been thinking about and planning during our two-year life. We have some promises to keep--promises to bring broadcast regulation more into line with the First Amendment, and promises to establish a rational regulatory framework for cable TV.

*8/11*  
① This means that OTP will be making regular appearances before various congressional committees. I'm already starting to plan--indeed worry about--for a particular appearance on broadcast license renewal legislation.

② Broadcasters are making a determined push for some reasonable measure of license renewal security, instead of living over a trap door the government can spring at the drop of a competing application or other renewal challenge. The Administration supports the objective of renewal security legislation and will help to persuade the Congress to enact such a bill.

③



But there will be some tough questions asked by the opponents; questions about minority groups' broadcast needs and interests; questions about violence; questions about children's programming; questions about reruns; drug ads; objectivity in news and public affairs programs; in short, all questions about broadcaster performance in fulfilling their public trust. These are tough questions to answer when you are urging longer license terms and renewal stability in order to get the government's hands off that trap door.

In seeking answers, OTP can draw upon its experience with broadcasting and broadcast regulation. This experience has been analyzed <sup>in</sup> ~~along with~~ our view of the media's rights and obligations under the First Amendment, and <sup>in view of</sup> ~~along with~~ our political philosophy that says competition in an open marketplace is a better way to serve the public than centralized bureaucratic regulation in Washington. Given this background of experience and principle, we stated some tentative conclusions to the delight--even amazement--of broadcasters. What we have concluded is that government has to treat broadcasters as important outlets for the free flow of information, and that government should not direct this information flow.



① We said these things because they're right and we believe in them, but not all of our experience is consistent with these conclusions. Turn on a TV set and tell me how many times you see the rich variety and diversity of American culture, history, and life represented on that screen; where is the incontrovertible evidence of broadcasters doing their best to serve their audiences' interests and needs rather than serving them up to advertisers; and most disturbing of all, how do broadcasters demonstrate that they are living up to the obligation--as the FCC puts it--to "assume and discharge responsibility for planning, selecting, and supervising all matter broadcast by the stations, whether such matter is produced by them or provided by networks or others."

② I am not saying these are the personal failures of broadcasters and network executives. We're all trying to make the system work for the public's benefit. But there's hardly anyone who could or would deny that something is not altogether right in the way our broadcasting system works. It's easy to trumpet the benefits of a broadcast system that places power and responsibility at the local level. But it's also easy--too easy--to turn around and sell that power and responsibility to a national network at the going rate for affiliate



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*delete*  
We will keep our fingers crossed and continue to support the fundamental goals and objectives of our private enterprise broadcast system. We are like the Congressmen who swallowed hard at network irresponsibility and station indifference and then voted against Harley Staggers on the "Selling of the Pentagon" issue last year. Broadcasters make it difficult for their friends in government, and Representative Staggers is a friend. He, and the other congressmen who conducted that investigation of CBS on that program, were performing a legitimate and, unfortunately, necessary oversight function. The thing that rightly gives qualms to broadcasters and journalists is that the government that investigates the system's excesses and abuses is also the government that holds life and death power over the broadcaster's enterprise. This implies that the Congress could perform its oversight functions more effectively if government didn't have its hand ready to spring that trap door.



But many congressmen are wary of lessening this power, which enables government to exercise program controls on broadcasters.

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The soul-searching must start with understanding the essence of the First Amendment's prohibition upon abridgements of the rights of free speech and a free press. Freedom of the press is not an end in itself, serving solely the interests of the press. It is a means of serving the paramount interest of a free society to give each citizen the opportunity to inform himself by picking and choosing among different attitudes and



viewpoints on public issues. [ One might even characterize it as the right to learn instead of the right to be taught. ]

① ~~The essence of the First Amendment--this openness to diversity--is not intended to give the widest possible circulation to all attitudes and opinions, because it allows for--even demands--the exercise of editorial judgment and responsibility by the private enterprise press. ] Government regulation or restriction of that editorial responsibility--whether in the name of "fairness", "balance", "democracy in the newsroom" or any other chic term--cannot require the proper exercise of that responsibility, without at the same time relieving the free press institutions of that responsibility. ]~~

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[ The First Amendment needs and depends upon free press institutions to effectuate its purposes; and it needs and depends upon the men who are responsible for those institutions to exercise editorial judgment and control. This should not be a concept alien to the working journalist. His interest does not lie exclusively in advancing his own right of free speech. It also lies in sharing his rights with the men he works for to ]



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As with any practical problem, no one can have it both ways in finding a realistic way to apply the First Amendment to broadcasting. There's a big difference between the professional responsibility of a free press



out / and the legal responsibility of a regulated press. Broadcasters and journalists can't have it both ways. Newspapers can't--for very long anyway-- separate themselves from the broadcast press and have government legal responsibilities apply to their broadcast brothers, while they retain the professional responsibility of a free press institution for themselves. Government can't have it both ways in broadcasting either. I have some thoughts on how we can begin the process of making the First Amendment flourish in our broadcast system.

In that system the key institution for exercise of the free press editorial responsibility is not the networks--of which the Communications Act is barely cognizant-- but the local stations. The Act places the responsibility at the licensee's front office, and not in the studio, whether that studio is down the hall from the front office or a network studio in New York City, Los Angeles or Washington.

The First Amendment will not be given much of a chance to work in broadcasting if the station licensees abdicate their responsibility to make independent news and program judgments. They do this when they serve merely as the conduit for network programs, and abdicate news judgments to so-called network professionals, who



confuse sensationalism with sense, who present gossip in the guise of news, and who think their cocktail party circuit represents reality. Licensees would take immediate corrective action if they suspected an employee of plugola--providing information advancing his financial interests and suppressing information harmful to those interests. But men also stress or suppress information in accordance with their beliefs, ~~and which~~ station licensee or network executive will take action against this form of political plugola?

AA [It is just as much a wasted use of scarce TV channels to feed the self-interest of a handful of people in the news department as it is to use the channel to fill the pockets of the sales staff, or the licensee himself.]

B Please don't misunderstand me when I stress local responsibility. I'm not talking about locally-produced programming, important though it is. I'm talking about licensee responsibility for the national programs that come over network lines. I'm talking about licensees paying close attention to the news and information coming down these lines, and making affirmative efforts to see that it is balanced and objective, that it serves local needs, that it's balanced by station-originated programs, if necessary, and that stations don't duck

their responsibility to make an independent judgment when a fairness complaint is directed against the network and the network refuses to grant response time.

The public interest in free speech and in the institution of a free, broadcast press requires that licensees exercise these kinds of editorial and judgmental responsibilities. The licensees--as the locus of responsibility under the Communications Act--have got to make this system work. The failure of the system is ~~now the principal obstacle standing in the path of any effort to give freedom a chance in broadcasting.~~

The Administration can't have it both ways either. We can't urge broadcasters to exercise their professional responsibilities and ignore the realities and effects of the legal and regulatory responsibilities. Therefore, we are proceeding with our plans to expand First Amendment principles in broadcasting and in the new forms of electronic communications. We have taken the following actions:

1. OTP has submitted a license renewal bill into the Office of Management and Budget's clearance process in advance of ~~submitting~~ <sup>sending</sup> the bill to the Congress early in the First Session. It is not a bill that simply



adds a couple of years to the license term and allows all but the most heinous broadcaster to keep his license in perpetuity. The Administration's bill ~~will~~ will require broadcasters to exercise their First Amendment rights and obligations and not sit back and abdicate program judgments ~~to the FCC~~ by doing the government-approved percentage of public service programs.

2. We have completed work on and sent to the President a report of the Cabinet Committee on cable *television*, ~~TV policy~~. It is a policy that assures that competition between broadcasting and cable is fair. Cable development will start on the assumption that the First Amendment applies to this medium, and the government has no role in enforcing editorial judgments.

Other actions may follow these important steps. We still hope to press for substantial modification of case-by-case enforcement of the Fairness Doctrine, as we proposed over a year ago. But, I doubt that the Congress would seriously entertain this type of proposal, until there was more assurance that broadcasters can be entrusted with full freedom from government enforcement of program responsibilities.

We also hope to make further progress on our proposals for radio deregulation, which would be a giant step forward for freedom in a medium where the problems

aren't quite so weighty as they are in television.

The Administration wants to help bring freedom and responsibility to broadcasting. Our principles and philosophy of government demand that we help.

*B2\**  
We will not be able to accomplish all the things that should be done to allow the First Amendment to flourish in its application to broadcasting. How much we can accomplish depends in large measure on the active assertion of licensee responsibility as the most appropriate--and really the only--safeguard of free broadcast journalism.



DRAFT 12/5/72  
Whitehead/Goldberg/Lamb

DECEMBER 18, 1972  
INDIANAPOLIS SPEECH

In this calm before the holidays, we in Washington are thinking ahead to 1973, and those of us who may be staying have to be planning our testimonies before the various Congressional committees that will be holding hearings next year. In my plan, I am particularly concerned about testimony on broadcast license renewal legislation. Broadcasters are making a determined push for some reasonable measure of license renewal security, instead of living over a trap door the Government can spring at the drop of a competing application or other renewal challenge. That is a tough position to be in, and you would think that there would not be much opposition to giving them a little more security.

But there will be some tough questions asked by the opponents; questions about minority groups' broadcast needs and interests; questions about violence; questions about children's programming; questions about reruns; drug ads; objectivity in news and public affairs programming; in short, all questions about broadcaster performance in fulfilling their public trust. These are tough questions to answer when you are urging longer license terms and renewal stability in order to get the Government's hands off that trap door.



It is not that the Government relishes having its hands on the trap door but rather that the performance of the television industry today doesn't give any good alternatives. If you wonder why, just turn on a TV set and tell me how many times you see the rich variety and diversity of American culture, history, and life represented on that screen; where is the incontrovertible evidence of broadcasters doing their best to serve their audiences' interests and needs rather than serving them up to advertisers; and most disturbing of all, how do broadcasters demonstrate that they are living up to the obligation--as the FCC puts it--to "assume and discharge responsibility for planning, selecting, and supervising all matter broadcast by the stations, whether such matter is produced by them or provided by networks or others."

You've gotten so used to trumpeting the benefits of a broadcast system that places power and responsibility at the local level that that's still your chant even when it doesn't meet the facts. It's just been too easy to trumpet the benefits of a broadcast system that places power and responsibility at the local level. But it's also easy--too easy--to turn around and sell that power and responsibility to a national network at the going rate for affiliate compensation. It's too easy to flip



a switch in "master control" and ignore what goes out over the transmitter, and then forward viewer complaints directly to the networks.

The soul-searching must start with understanding the essence of the First Admendment's prohibition upon abridgements of the rights of free speech and a free press. When broadcasters abdicate their local responsibility to the networks, they're doing something much more fundamental than simply frustrating the purposes of the Communications Act. They are also frustrating the more fundamental purposes of the First Amendment and all the purposes of a free press. Freedom of the press is not an end in itself, serving solely the interests of the press. It is a means of serving the paramount interest of a free society to give each citizen the opportunity to inform himself by picking and choosing among different attitudes and viewpoints on public issues. One might even characterize it as the right to learn instead of the right to be taught. This doesn't mean that all attitudes and opinions are entitled to the widest possible circulation. Freedom of the press allows for and, indeed, requires the exercise of editorial judgment and responsibility on the part of the press. But that is not to say that



the First Amendment was intended 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 because he takes on a higher responsibility to the institution of a free press. We cannot forget that the press, like all other sectors of our society, works through institutions. The people who head the institutions of our free press must be held responsible for the repository of the responsibilities of the free press; they are the custodians of that responsibility for the public; defenders of the responsibility to the Government; and wielders of the responsibility within and on institutions. The cynic may argue that all broadcasting, even the news, is entertainment programming. But in this age when the broadcast media are the most pervasive, the most watched, incredibly, the most believed in of our media, we must accept this harsh truth: The First Amendment is meaningless if it does not apply to broadcasting. In all the other media, the First Amendment freedom is the rule, and there are certain limited exceptions. In broadcasting,



however, the presumption seems to be the other way around-- that the Government must be involved and the broadcaster has to prove his case before the Government bar. Only in broadcasting does the Government presume on a day-by-day basis to be the arbiter of whether or not editorial responsibility is being exercised by the licensee and the networks who should be the custodians of the free press. This ignores the fact that the Government cannot control the exercise of Government responsibility because the minute the Government does so, the press ceases to be free.

For too long we have been interpreting the First Amendment to fit the 1934 Communications Act. It is about time we began to change the Act to fit the Amendment--that has always been the aim and is the intent of this Administration.

\*\* (Insert portion re cable television)

As the first step in the Administration's plan to bring freedom and responsibility into broadcasting, we have taken formal action to introduce a license renewal bill into the Congress. As soon as this bill passes through the formal clearance procedures of the Office of Management and Budget, the Administration will submit it to the Congress early in the first session.



We agree that some broadcasters should have more license renewal stability if they are doing a good job. They should know the rules of the game, but our bill will not be a bill that simply adds a couple of years to the license term and guarantees profits as long as you follow the FCC's rules. Our bill will require broadcasters to exercise their responsibility without the convenient correction of FCC program categories or percentages, and the broadcaster will be held accountable for his performance at license renewal time.

We still hope to bring about substantial modification of the case-by-case enforcement of the Fairness Doctrine as I proposed a year ago. But we will have problems getting serious Congressional consideration for greater license stability and licensee responsibility. In short, in spite of all the problems, inspite of all the questions, we are going to cross our fingers and ask the Congress to give the broadcasters more responsibility. If this first step of license renewal goes well and you demonstrate your ability to handle that responsibility, maybe then the country will be willing to take further steps.



For four years, broadcasters have been telling this Administration that if they had more freedom and stability restored to them, they would use that freedom and stability to better carry out the responsibility that they agree they have. It seems as though we are in a cycle. Lapses of broadcaster responsibility bring about corrective Government regulation, and the broadcaster convinces himself that the regulation defines his responsibility. The cycle goes on and on toward more regulation and less voluntary exercise of responsibility. I said in my opening remarks that this was a time in Washington for planning new directions, and we have concluded that it is time for a new direction in broadcast regulation to bring out this cycle, to take one step backward away from Government regulation, and to ask broadcasters to take one step forward in exercising their responsibility. That requires a great leap of faith on the part of everyone in Washington, particularly an Administration in power, and perhaps even for broadcasters, not to mention journalists. The leap you have to make is to quit blaming the Government for your problems, quit asking for responsibility, and begin exercising it. Since your meeting of the responsibility will be measured at license renewal time, you must demonstrate it across



the board. You can no longer serve merely as the conduit for news programs and abdicate news judgments to your newsroom or the so-called network professionals. You can no longer accept network standards of taste, violence, and obscenity.

There is no area where this new responsibility can be more important than news. Licensees would take immediate corrective action if they suspect plugola. That is, when someone provides information advancing his financial interests, and suppresses information harmful to those interests. But men also stress or suppress information in accordance with their beliefs. But will station licensees or network executives take action against this form of political plugola?

We all recall the decisive action that broadcasters and networks took in dealing with charges that their news coverage was biased by commercial considerations.

Insulation of news departments from the sales department was responsible for this problem ten years ago and remains a responsible policy. But insulating news department management oversight and supervision has never been responsible and never will be. The



Communications Act places editorial responsibility in the licensee's front office not in the studios, whether that studio is down the hall or in a network headquarters in New York City.

The professional journalist needs the insulation that only his management can provide and should assist the management in exercising the responsibility of the free press. But the journalist cannot be insulated from management. Who else can or should correct so-called professionals who confuse sensationalism with sense, who dispense elitest gossip in the guise of news analysis?

Please don't misunderstand me when I stress local responsibility. I'm not talking about locally-produced programming, important though it is. I'm talking about licensee responsibility for the national programs that come over network lines. I'm talking about licensees' paying close attention to the news and information coming down those lines, and making affirmative efforts to see that it is balanced and objective, that it serves local needs, that it's balanced by station-originated programs, if necessary, and that stations don't duck their



responsibility to make an independent judgment when a fairness complaint is directed against the network and the network refuses to grant response time.

The public interest in free speech and in the institution of a free broadcast press requires that licensees exercise these kinds of editorial and judgmental responsibilities. The licensees--as the locus of responsibility under the Communications Act--have got to make this system work. The failure of the system is the principal obstacle.



### Cable Insert

We have help in looking at these issues for broadcasting because we have been forced simultaneously to look at them in a context of an even newer communications technology--cable TV. Over a year ago, the President directed that we develop a long-range policy for cable that would avoid the pitfalls of broadcasting regulation. The only preconception we started with was that the best guarantee of freedom of speech in a communications system is the First Amendment and not Government regulation. With this as a fundamental purpose, cable should be given an opportunity to grow and develop. Broadcasters may have problems with this, but we're not in the business of keeping cable services away from the public in order to protect broadcaster profits.

Draft  
12/14

DECEMBER 18, 1972  
INDIANAPOLIS SPEECH

In this calm during the holidays, those of us who are staying on in Washington are thinking ahead to 1973. We're planning our testimony before various Congressional committees. I am particularly concerned about my testimony on broadcast license renewal legislation. Broadcasters are making a determined push for some reasonable measure of license renewal security. Right now they are living over a trap door the FCC can spring at the drop of a competing application or other renewal challenge. That is a tough position to be in, and you would think that there wouldn't be much opposition to giving broadcasters a little more insulation from government.

But there is opposition and some tough questions will be asked. Questions about minority groups' needs and interests. Questions about violence. Questions about children's programming; about reruns; drug ads; objectivity in news and public affairs programming; in short, all the questions about broadcaster performance in fulfilling their public trust. These are questions the public is asking. Congress is asking the questions, too; Senator Pastore on violence; Senator Moss on drug ads; Representative Staggers on news slanting. And



against this backdrop of questioning the Congress is being urged to grant longer license terms and renewal protection to broadcasters. In the end, the Congress will have to weigh the concerns of the broadcast audience against the broadcasters' record of performance.

The performance leaps out at you every time you turn on a TV set, and not all of it is worthy of congressional reward in the form of license renewal legislation. Tell me how many times you see the rich variety and diversity of American culture, history, and life represented on the TV screen. Where is the evidence of broadcasters doing their best to serve their audiences' interests and needs rather than serving them up to the advertisers? And, most disturbing of all, how do broadcasters demonstrate that they are living up to the obligation--as the FCC puts it-- to "assume and discharge responsibility for planning, selecting, and supervising all matter broadcast by the stations, whether such matter is produced by them or provided by networks or others."

It's been easy for broadcasters to give lip service to the ideal of placing power and responsibility at the local level. But it's also easy--too easy--to turn around and sell that responsibility 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 total 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 stations do is flip the network switch in "master control" for what goes out over the transmitter. Then they throw the "switch" in the mailroom to forward viewer complaints directly to the network. Then they can 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, although they are important. I'm talking about licensee responsibility for all programming, including the programs that come from the network.

This kind of local responsibility is the keystone of a private enterprise broadcast system operating under the First Amendment protections. When affiliates



pass the buck to the networks, they're frustrating the fundamental purposes of the First Amendment's guaranty of a free press.

The purpose was not 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.

The free press institution isn't given protected status because its always balanced and objective-- although a professional press strives for this goal. The Constitution recognizes that balance and objectivity exist only in the eye of the beholder.

The press is protected because it is the means of setting up a free flow of information and giving each "beholder" the opportunity to inform himself. In essence, it's the right to learn instead of the right to be taught. The public's right to learn doesn't mean that broadcasters should frantically seek out and cover all views. And--when there are so few sources of national news on TV--it certainly does not mean that the networks have a license to

teach or preach. What the public's First Amendment right to a free press does mean is that the broadcast press has an obligation to exercise judgment and to give the audience the chance to pick and choose among competing views on public issues.

This may sound vaguely like the Fairness Doctrine; it should because as the Supreme Court in the Red Lion case stated, the Doctrine's goal is the same as the First Amendment's goal. But the Fairness Doctrine's method of achieving that goal convinces us that the First Amendment is a better approach to a truly free broadcast press than the detailed court and FCC regulation required by the Fairness Doctrine.

The cynic may argue that all broadcasting, even the news, is entertainment programming. But in this age when the broadcast media are the most pervasive, the most watched, and surprisingly, the most credible of our media, we must accept this harsh truth: The First Amendment is meaningless if it does not apply fully to broadcasting.

The question then becomes, why is something like the Fairness Doctrine needed in broadcasting, when the unencumbered First Amendment is good enough for our other media? First, there is a scarcity of broadcasting



outlets, especially national outlets, with only three TV networks. Second, there is a unique concentration of economic and social power in the networks and the TV stations in the major cities. Third, broadcasters, particularly the networks, have been self-indulgent and myopic in viewing the First Amendment as protecting only their rights as speakers, when its primary purpose is to assure a free flow and full range of information to the public. So we have a Fairness Doctrine as an equalizer; to make sure that the networks and stations don't ignore the needs of those 200 million people sitting out there depending on TV.

The Fairness Doctrine is not a perfect way of achieving the First Amendment goal of an unfettered flow of information to the audience. Its enforcement is a mess. There's got to be a better way of enforcing the obligations of balance and fairness of the Communications Act and the First Amendment. We've got to get away from the detailed FCC regulation and court review that has become the rule rather than the "when needed" exception. For too long we have been interpreting the First Amendment to fit the 1934 Communications Act. It is about time we began to change the Act to fit the Amendment--that has always been the aim and is the intent of this Administration.

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

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

The way we've done this is to establish two criteria the station must meet before the FCC will grant renewal. First, the licensee must demonstrate he has been substantially attuned to the needs and interests of his service area and has made a good faith effort to respond to those needs and interests in all his programs, irrespective of whether those programs are created by the station, purchased from program suppliers or obtained from a network.

The goal is to have the broadcaster's performance evaluated from the perspective of the people in his



community and not the bureaucrat in Washington. Second, the broadcaster must show that he has afforded reasonable, realistic, and practical opportunities for the presentation and discussion of conflicting views on controversial issues.

I should add that these requirements have teeth. If a station can't demonstrate meaningful service to all elements of his community, the license should be taken away by the FCC. The standard should be applied with particular force to the large TV stations in our major cities, including the 15 stations owned by the TV networks and the stations that are owned by other large broadcast groups. Particularly, the bigger, wealthier and more powerful stations should plow back more of their profits into community development, community service, and programs that reflect a commitment to excellence or they shouldn't have those licenses.

This has special meaning for all network affiliates. They should be held accountable for the 61% of their schedules that are network programs, as well as for the programs they purchase or create for local origination.

For four years, broadcasters have been telling this Administration that if they had more freedom and stability, they would use it to carry out their

responsibilities. We have to believe this, for if we believed that broadcasters were simply masking their greed and actually seeking a so-called license to steal, the country would have to give up on private enterprise broadcasting. The Administration remains unshaken in its support of the principles of freedom and responsibility in broadcasting. Broadcasters will not find us standing in that long line of critics taking cheap shots at them. We're not going to tear down a broadcast system that is best for America and uniquely able to reflect our private enterprise, free press goals and traditions. The country needs this kind of a broadcast system. We can't afford to give up on it, but we must do our best to make it better.

We're simply going to ask broadcasters to justify the nation's support and quit blaming so many of their problems on government. Broadcasters must do more to exercise the responsibility 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, the stations must jump on the networks rather than



wincing as the Congress and the FCC are forced to do so. If the programs are violent or sadistic, the stations must take action. If the commercials are false or misleading, or simply intrusive and obnoxious, the stations must work with the networks and advertisers to enforce stricter standards.

There is no area where this responsibility is more important than news. The stations can no longer serve merely as the conduit for news programs and abdicate news judgments to your newsroom or the network professionals. When a reporter or disc jockey slips in or passes over information in order to line his pocket, that's plugola and station management would stop it quickly. But men also stress or suppress information in accordance with their beliefs. Will station licensees or network executives take action against ideological plugola?

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

Just as publishers and editors have professional responsibility for the news they print, station executives

have final responsibility for news balance--whether or not 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 journalist cannot be insulated from management. Who else can or should correct so-called professionals who confuse sensationalism with sense, who dispense elitest gossip in the guise of news analysis? Who else can make clear to the journalist that he has no monopoly on the truth; that his view of reality can't be force fed to the audience in an attempt to substitute a right to be taught for the public's right to learn?

When there are only a few outlets of national news on television, editorial responsibility must be exercised effectively by local broadcasters; for if they do not provide the checks and balances in the system, who will?



Station managers and executives who fail to act to correct imbalance or consistent bias from the networks--or who acquiesce by silence--communities/people served can only be considered as willing participants, and will be held fully accountable by forces within the broadcaster's community at license renewal time. The stations are the broadcasters' responsibility. They have a public trust to operate the stations for the benefit of the public. Broadcasters are fully responsible for the way they fulfill that obligation and if they fail they must answer to the public for that failure.

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

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



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

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

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

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

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

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

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



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

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

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

the 1934 Communications Act. As many of you know, a little over a year ago I suggested ways to correct this inversion of values, <sup>including</sup> ~~I proposed~~ the elimination of 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.

Indeed, our long-run goal should be a structure for the broadcast media just as free of government intrusion; just as competitive, just as diverse as the print media. But the Fairness Doctrine, for all its problems, <sup>was, and</sup> ~~is~~ for the time being, <sup>remains,</sup> a necessity; albeit an unfortunate necessity. Virtually everyone agrees that the Fairness Doctrine enforcement is a mess. Detailed and frequent court decisions and FCC supervision of broadcasters' journalistic judgment is an unsatisfactory means of achieving the First Amendment goal for a free press. <sup>That has to be improved as soon as possible.</sup> As a practical matter, however, there are some 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, broadcasters and the networks have been self-indulgent and myopic in viewing the First



Amendment as protecting only their rights as speakers. They forget that the 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 depending on TV.

But this doesn't mean that we can forget about the broader mandates of the First Amendment, as it applies to broadcasting. We ought to begin where we can to ~~change the Communications Act to fit the First Amendment.~~ *strengthen rather than strain* <sup>Q</sup> That has always been the aim and is the intent of this Administration. We've got to make a start and we've got to do it now.

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

OTP has submitted a license renewal bill for clearance through the Executive Branch, so the bill can be introduced in the Congress early next year. Our bill doesn't simply add a couple of years to the license term and guarantee profits as long as broadcasters follow the FCC's rules to the letter. Following rules isn't an exercise of responsibility; it's an

abdication of responsibility. The Administration bill requires broadcasters to exercise their responsibility without the convenient crutch of FCC program categories or percentages.

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

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

I should add that these requirements have teeth. If a station can't demonstrate meaningful service to all elements of his community, the license should be taken away by the FCC. The standard should be applied with particular force to the large TV stations in our



major cities, including the 15 stations owned by the TV networks and the stations that are owned by other large broadcast groups. These broadcasters, especially, have the resources to devote to community development, community service, and programs that reflect a commitment to excellence.

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

For four years, broadcasters have been telling this Administration that, if they had more freedom and stability, they would use it to carry out their responsibilities. We have to believe this, for if broadcasters were simply masking their greed and actually seeking a so-called "license to steal," the country would have to give up on the idea of private enterprise broadcasting. Some are urging just that <sup>;</sup> 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, the stations must jump on the networks rather than wincing as the Congress and the FCC are forced to do so.

If the programs are violent or sadistic, the stations must take action. If the commercials are false or misleading, or simply intrusive and obnoxious, the stations must work with the networks and advertisers to enforce stricter standards.

There is no area where management responsibility is more important than news. The station owners and managers can not 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?



Ref  
Just as a newspaper publisher is held accountable for the wire service copy that appears in his newspaper--so television station owners and managers must be held accountable for what goes out over the public's airwaves--no matter what the origin of the program.

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.

Who else but management <sup>(P)</sup> can or should correct so-called professionals who confuse sensationalism with sense and who dispense elitist gossip in the guise of news analysis? Truly the professional journalist recognizes 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 can assure that the audience is being served by journalists dedicated to the highest professional standards?

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



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

"There is a world of difference between the professional responsibility of a free press and the legal responsibility of a regulated press... ~~This is the same difference between the theme of my proposals today and the current drift of broadcasting regulation.~~ Which will you be--private business or government agent?--a responsible free press or a regulated press? You cannot have it both ways--neither can government nor your critics."

It seems to me that those points are even more relevant to close my remarks today.

THE WHITE HOUSE  
WASHINGTON

January 12, 1973

PERSONAL

Dear Tom:

Just a word to express my admiration for your  
skillful handling of the aftermath of the Speech.

Best,

A handwritten signature in dark ink, consisting of a large, stylized 'L' followed by a horizontal line that ends in a small loop.

Leonard Garment

Mr. Clay T. Whitehead  
Director  
Office of Telecommunications Policy  
1800 G Street NW.  
Washington, D. C. 20504



Itinerary for  
Clay T. Whitehead  
Indianapolis, Indiana  
December 17 and 18, 1972

Sunday, December 17

4:50 PM Lv. National Airport via TWA #531  
7:41 PM Ar. Indianapolis, Indiana

Will stay at the Indianapolis Hilton (317)635-2000  
Ohio and Meridian Streets  
Monument Circle

Monday, December 18

8:00 AM Picked up by WTTV car and driven to  
Columbia Club for private breakfast.

8:30 AM Private breakfast hosted by Elmer Snow, (317)926-6426  
General Manager, WTTV, Indianapolis,  
and President of the Indiana Broadcasters  
Association.

Other participants:

William Wuerch, General Manager  
WLWI TV, Avco Broadcasting Corp.,  
Indianapolis

Eldon Campbell, General Manager  
WRTV, McGraw Hill, Inc.,  
Indianapolis

Frank Meek, General Manager,  
WFYI TV, Indianapolis (Public  
television)

James Hilliard, General Manager  
WIBC AM and WNAP FM, Indianapolis

Don Nelson, General Manager,  
WIRE AM and WXTZ FM, Indianapolis

9:45 AM WTTV car to Indianapolis City-County  
Building

10:00 AM Meet with Richard G. Lugar, Mayor of (317)633-6141  
Indianapolis



10:30 AM      Transportation to Indianapolis  
Museum of Art

10:45 AM      Private tour of IMA

11:30 AM      Transportation to Indiana State Teachers Association Building      (Mike Ungersma)  
634-1515

12:00 Noon      Luncheon, <sup>Speech</sup> Sigma Delta Chi, Indiana Professional Chapter

1:45 PM      News Conference, Terrace Room,  
9th Floor, ISTA Building

2:15 PM      Transportation to Center for Educational Radio and Television, Indianapolis Public Schools. Host: Art Van Allen

3:00 PM      Transportation to WFYI TV, Indianapolis public television.      (317)639-5591  
Host: Frank Meek

3:45 PM      Transportation to Indiana Convention Exhibition Center. Private room reserved for rest and relaxation. (Stan Evans--Editor, Indianapolis News)

5:30 PM      Indiana 500 Reception Room, Convention Center. Reception and cocktail party hosted by Indiana Broadcasters Association.      (317)632-4321

8:00 PM      Transportation to Weir Cook Airport

8:45 PM      Lv. Indianapolis via TWA #184

10:00 PM      Ar. National Airport



# DOCUMENT CONTROL

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DATE OF DOC.	DATE REC'D	DATE OUT	SUSPENSE DATE	CROSS REFERENCE OR POINT OF FILING	
1/12	12-27	12-27	1 3 79	Speech 12/18	
TO	DIRECTOR				
FROM	HENRY LAWRENCE				
SUBJ.	CPB				
Congrats on his speech.					
COURIER NO.		ANSWERED		NO REPLY <i>Jim</i>	
				4	

# CORPORATION FOR PUBLIC BROADCASTING

888 SIXTEENTH STREET, N.W., WASHINGTON, D. C. 20006

HENRY LOOMIS  
*President*

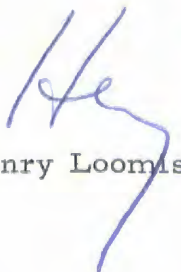
December 21, 1972

Mr. Clay T. Whitehead  
Director  
Office of Telecommunications Policy  
1800 G Street, N. W.  
Washington, D. C.

Dear Tom:

I have been reading the account of your speech in the press and seeing the clips on TV. I think you are "right on." We are trying to do the same thing in public television -- put the responsibility where it belongs, with the licensee. I think our two activities will mutually reinforce each other. Congratulations.

Sincerely,

A handwritten signature in blue ink, appearing to be 'H. Loomis', with a long, sweeping underline that extends below the printed name.

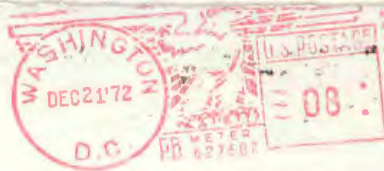
Henry Loomis



CORPORATION FOR  
PUBLIC BROADCASTING

888 SIXTEENTH STREET, N.W., WASHINGTON, D. C. 20006

Henry Loomis



760

Mr. Clay T. Whitehead  
Director  
Office of Telecommunications Policy  
1800 G Street, N. W. 20006



Spunk  
12/18/72

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

January 26, 1973

DIRECTOR

Mr. Mark Evans  
Vice President for Public Affairs  
Metromedia, Incorporated  
5151 Wisconsin Avenue, N. W.  
Washington, D. C. 20016

Dear Mark:

I appreciate the concern that you--and the entire broadcasting community--have regarding the relationship between my December 18, 1972, speech on the responsibility of broadcast licensees and our proposed license renewal legislation. On January 11, 1973, I discussed in detail the philosophy and the facts of our proposed bill. Those remarks were not covered as extensively as the initial speech, so I have enclosed a copy for your information. The speech and the bill are related--but not in the way portrayed in the press coverage of my speech.

As you will see, the proposed bill would add nothing to broadcasters' present obligations to be responsible for all the programming presented or carried by the station, regardless of source. Neither OTP nor the White House has any power to affect the grant or denial of any broadcast license. And we have no intent or desire to influence in any way the grants or denials of licenses by the FCC. Moreover, the FCC has consistently refused to involve itself in questions of news bias, slanting or accuracy, unless there is extrinsic evidence of intentional wrongdoing on the part of the licensee. Neither the proposed bill nor the import of my speech would lead any objective observer to think that we desire to change this commendable practice of regulatory restraint.

In short, the bill would add no new burden, impose no new obligation, or require new affirmative showings on the part of any licensee.

As for the 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 relationship between the proposed bill and my speech is no more than the relationship between freedom and responsibility we find everywhere in our society. As you know, this Office has steadily promoted the cause of less rather than more regulation in broadcasting. But the public and the Congress would not think of increasing the freedom in broadcasting by easing government controls without also expecting some indication that voluntary exercise of responsibility by broadcasters can operate as an effective substitute for such controls.

The core issue is: Who should be responsible for assuring that the people's right to know is served, and where should the initiative come from--the government or the broadcasters. The speech focused on the three TV networks as the most powerful elements in the broadcast industry and asked how this concentration of power was to be effectively balanced. Some, who now profess to fight for broadcasters' freedom, would rely on regulatory remedies such as 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.

Sincerely,

A handwritten signature in dark ink, appearing to read "Tom", with a long horizontal stroke extending to the right.

Clay T. Whitehead

THE WHITE HOUSE  
WASHINGTON

*Tom Whitehead*

*Speech  
12/18*

January 18, 1973

MEMORANDUM FOR: THE PRESIDENT  
FROM: CHARLES COLSON ✓  
SUBJECT: Attached Drummond Column

There has been a great deal of press attention on the so-called Whitehead Bill and the Whitehead speech. Most of it generated by the networks has been quite negative. The most perceptive supporting analysis was written by Roscoe Drummond. It is really a brilliantly simple explanation of the problem and points out the complete failure of the logic of the network position. In view of the controversy that the Whitehead speech has generated, you might be interested in reading our side of the case as Drummond has presented it.



# THE DRUMMOND COLUMN

*Los Angeles Times Syndicate / Los Angeles, California*

RELEASE DATE: Friday, January 19, 1973

YON TV PROTESTETH TOO MUCH

by Roscoe Drummond

WASHINGTON--It is hard to understand why the network TV news people fly into such a tizzy when anybody in government criticizes their product.

Why should TV broadcasting executives, whose networks dispense so much dissenting opinion, yelp as if the sky was falling whenever somebody in government counters with a dissenting opinion?

And when the TV spokesmen reply, they usually do so not with reasoned argument but by accusing critics of being creeping repressionists who want to wipe out freedom of the press.

They protesteth too much. Such extreme sensitivity suggests a degree of guilt which makes them worried that the TV public might think too much about balance and fairness in TV news broadcasting.

Isn't it a pretty healthy thing for the public to think about these things? They are the consumers. In the end they can do much to compel more balance in network news.

Perhaps they need their own Ralph Nader--outside of government critics such as Vice President Spiro Agnew and Clay Whitehead.

-more-



\* \* \*

The latest development, which threw the network spokesmen into a rage of protest, concerns amendments to the Communications Act proposed by the White House.

They like two of them and are furiously against the third. One extends station licenses from three to five years. They like that.

Another stipulates that no applicant for an existing station license will be heard by the FCC unless the license has already been removed. They like that.

The third proposal states that any station which uses network news must be responsible for what it uses. The networks don't like it.

The OTP

For the life of me I can't see why such a provision is not entirely reasonable. It parallels print media law.

Network news is like the Associated Press and the UPI. Newspapers which print AP or UPI news are responsible for what they print. They can be sued for libel and it's no defense to say that the papers are only printing what the press associations send them.

\* \* \*

Furthermore, the proposed legislation on station responsibility duplicates existing FCC powers. If the White House aide who drafted the amendment had consulted with the commission, he would have saved himself the trouble of proposing it.



Page Three...THE DRUMMOND COLUMN...January 19...proposing it.

But the fact that the Administration proposal neither adds nor subtracts from the FCC's authority does not keep the TV media from calling it a "threat" and an attempt to make station licensing a "political football."

\* \* \*

The evidence is quite the contrary. The law which makes individual stations responsible for the network broadcasting they use has been operative since 1934 when the present Communications Act was passed by Congress.

Question: How many times has the FCC revoked or refused to renew a station license because it wanted to censor the news?

Answer: Zero; never in the history of the commission. The same applies to the years when Nixon appointees comprised the majority of the commission.

Should government officials criticize network news, calling some of it "ideological plugola"? Why not? There's plenty of criticism of government officials by network newscasters. Can't the broadcasters take it as well as dish it out? It's healthy and good for both.

If there was any attempt to censor broadcast news I would fight it as vigorously as I would fight censorship of the press. But the public has a right to balance and fairness in comment and reporting.



JAMES J. KILPATRICK

## Whitehead Off Base in Attack on TV Industry

Clay T. Whitehead charged onto the playing fields last week with all the sis-boom-bah of a linebacker kept too long on the bench. He had come to replace Vice President Agnew, who has turned demure in recent months, in the administration's great body contact game of badgering the TV networks.

Whitehead is director of the administration's Office of Telecommunication Policy, an agency that two years ago sprang full blown from the Nixonian brow. His background is in electrical engineering, by way of the Massachusetts Institute of Technology, and ordinarily his concerns go to the technical aspects of telephones, radio frequencies, cable television and satellite communications. On Dec. 18, in Indianapolis, he turned to a topic less abstruse but more ephemeral: The general qual-

ity, and especially the fairness, of network television.

The administration, he said, has drafted a bill that would provide for five-year (instead of three-year) license renewals. The bill would free TV stations from some of the tedious form-filling required under present regulations of the Federal Communications Commission. That was the good news.

The bad news, from the industry's point of view, is that the administration's bill would set up statutory criteria for license renewal. A broadcaster would have to demonstrate that his operations are "substantially attuned to the needs and interests of the community he serves." He must respond to those needs and interests in "all" his programs, whether locally created or obtained from a network. He also must show that he has afforded "reasonable, realistic and practical opportunities for the presentation and discussion of conflicting views on controversial issues."

"I should add," said Whitehead, "that these requirements have teeth. If a station can't demonstrate meaningful service to all elements of its community, the license should be taken away by the FCC."

The President's man bore down repeatedly on local station responsibility. It no longer will suffice, he warned, for local managers to pass the buck for program content and news judgment to networks in New York. He hurled a couple of Agnewian shafts at TV reporters engaged in "ideological plugola." He denounced professionals "who confuse sensationalism with sense and who dispense elitist gossip in the guise of news analysis." It was quite a speech.

Yet Whitehead, whose training is in practical matters, laid down a set of impractical demands; and coming from a man so inspired by "responsibility," his broad-brush charges (he refused to name names) were themselves irresponsible.

As a practical matter, network TV programs, fed through local stations, cannot be equated with Associated Press wire copy, printed in local papers. Well before deadline, a newspaper editor has his hands on the available wire copy. He has read it. He can weigh it against other available copy. He can exercise his own professional judgment in terms of the needs and interests of his community.

Obviously, no such flexibility attaches to the national output of network TV. Local managers can—and do—raise Cain with network executives, just as local managing editors jump on the AP; but it is not the same.

Whitehead also failed to acknowledge improvements in the one area of greatest antagonism—TV news and commentary. Much liberal bias remains (it would be interesting to count the conservative books favorably reviewed on NBC). Too many network panels are tilted to the left.

But CBS, at least, has created a stable of nine "Spectrum" commentators—three on the left, three in the middle, three on the right—and an impression is growing that all the networks are trying conscientiously for better balance.

This troublesome problem of bias doesn't reside in "ideological plugola." It is a human problem: Human beings make human judgments. They err and none of Dr. Whitehead's remedies will cure the ill.

The problem is also a technical problem: Channels of telecommunication are limited in number; they have to be allocated, and some federal authority has to exercise that difficult function. If the Nixon administration will yak a little less, perhaps the station managers and the viewers, having won some improvement, will strive for a little more.



## Mr. Whitehead's Speech

As Wayne E. Green observes elsewhere on this page today, the Nixon administration's proposed television broadcasting license renewal bill is likely to have some heavy going in Congress.

A great deal of the discussion will be over Mr. Nixon's motives, rather than the theme and substance of his proposals. For this, Mr. Nixon and his Telecommunications Policy director, Clay T. Whitehead, will be largely to blame because of the inflammatory rhetoric that was used in introducing the proposals.

Mr. Whitehead outlined the administration's proposals last week in a speech to Sigma Delta Chi, a professional journalistic organization. He chose some unfortunate language if he intended to suggest that the administration was adopting a balanced, reasonable approach. Remarking that broadcast station managers would be quick to take action against shady operations by a disc jockey, he then added:

"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?"

Well, of course, what is one man's plugola might seem to another man reasonable and objective, which is, of course, the fundamental problem of any attempt to regulate program content on TV. As Mr. Green notes, it would be extremely difficult for station managers, or anyone else, to ride herd on "ideological plugola" and there

even are some questions about their legal right to take certain actions which might be construed as censorship.

And, of course, this entire discussion cannot escape the fact that Mr. Nixon (and some of the rest of us, for that matter) has not always been happy with the way television handles news and public affairs. So his approach, and anyone else's in this area, is subject to the charge that an attempt is being made to merely substitute one brand of plugola for another.

But with all these reservations it should be noted that the Whitehead proposals, if examined closely, are by no means totally lacking in sense. For example, he stresses that station management must be held responsible for what the station broadcasts. There can hardly be any quarrel about that. Mr. Whitehead would have them defend their records at license renewal time not on the basis of fulfilling certain FCC formulas for local programming and fairness but according to more general standards of "meaningful service to all elements" of the community.

The problem here, as always, lies with how the FCC is to decide what is "meaningful" and what is not. We would have difficulty devising any language to guide the FCC. Until someone can do that and until someone can demonstrate that the general sense of responsibility in broadcasting really is deteriorating badly, the best fate for the Nixon proposals would be a long period of study and debate.



*Judy*

December 21, 1972

To: Sig Mickelson

From: Tom Whitehead

Thought you might like to see  
what I really said.

Attachment:

Speech - December 18, 1972



**Memo**

Jefferson Pilot  
Broadcasting Company  
One Julian Price Place  
Charlotte, NC 28208  
Telephone 704 374 3500

**Jefferson  
Pilot  
Broadcasting**

December 20, 1972

Dear Tom:

Here's a rough copy of the first editorial we're doing on your speech. We intend to follow up with others.

These editorials, incidentally, are mailed each day to several thousand people.

The copies of your speech (to broadcasters and The Hill), plus opinion-leaders throughout the country are being mailed tomorrow.

For your information.

*C.H.C.*  
C.H.C.

Enclosure

Charles H Crutchfield  
President

*Speed*  
*Judy* 12/18/72



Who do you think should have responsibility for programs on your local broadcast stations -- the stations themselves, or the networks?

WBTV (WBT-AM) (WBT-FM) believes the stations should have this responsibility. After all, the Federal Communications Commission holds the stations, not the networks, accountable for what is programmed. But, more importantly, we believe the public interest is best served at the local level, where broadcasters are in close touch with viewers and listeners, rather than being concentrated at some far-off network level.

It was this point, among others, that Tom Whitehead, the President's Director of Telecommunications Policy, made in a speech Monday. But what created the biggest rumble was his statement that the same principle of local accountability applies to news; that local station management must assume responsibility for insuring objectivity and balance, whether the material comes from their own newsrooms or from the networks.

Rather astoundingly, some broadcasters see in Whitehead's remarks a government threat to news freedom. WBTV (WBT-AM) (WBT-FM) considers it no such thing. It is merely a strong reminder of a local responsibility that has existed all along, though frequently ignored. The FCC says plainly that broadcasters must "assume and discharge responsibility for planning, selecting, and supervising all matter broadcast by their stations, whether such matter is produced by them or provided by networks or others."

This applies to all programming, including news.



The management of our stations has never hesitated to complain against network imbalance or to reject programs considered contrary to the local public interest. We see no valid reason why any other station should feel endangered by being called upon to do likewise. In our view, any station that is unwilling to assume -- and exert -- full responsibility over every second of its broadcast time is not fulfilling its trust to the public it's supposed to serve.

Response:

Suggested:



RADIO TV REPORTS, INC.

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

FOR MR. BRIAN LAMB

PROGRAM CBS Morning News

STATION WTOP TV  
CBS Network

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

AN INTERVIEW WITH CLAY WHITEHEAD

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

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

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

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

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



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

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

BENTON: By that you mean a longer license period?

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

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

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

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



out what's available from my network."

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

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

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

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

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

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



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

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

WHITEHEAD: That is the change.

HART: And it's not doing that now?

WHITEHEAD: Only to some extent.

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

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

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

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

BENTON: Why not?

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



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

Do you remember...

BENTON: But doesn't this...

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

[Both men speak at once]

BENTON: ...more federal regulation?

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

HART: Mr. Whitehead...

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

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

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

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



December 7, 1972

TO: Chuck Colson  
FROM: Tom Whitehead

Attached is a rough draft of the December 18 speech we discussed. The main point, you will recall, is to focus attention on the responsibility of local stations and network managements for the balance and objectivity of network news. Crutchfield will use this to get some action from the CBS affiliates to put heat on the network board management.

I have "packaged" this main point with some general criticism of the local station for serving merely as a conduit for the networks and with some philosophical "free press" rationale.

To avoid the appearance of a purely repressive attack directed at the networks, I have included a commitment to broadcasters to introduce a license renewal bill as described in my memorandum yesterday. The main point regarding news responsibility begins on page 7.

Attachment

cc: Do Records  
DO Chron  
Mr. Whitehead  
Eva  
Mr. Lamb  
GC Subject  
GC Chron  
Goldberg Chron

HGoldberg:pb:12-6-72

Monday 12/11/72

SPEECH  
12/18/72

11:30 Brian has given us the following info re their trip to Indianapolis on December 17, 18:

Sunday, Dec. 17

4:50 p.m. Lv. National airport via TWA Flt. 531  
7:41 p.m. Arr. Indianapolis

Will stay at the Indianapolis Hilton (317) 635-2000  
Ohio and Meridian Streets  
Monument Circle

Monday, Dec. 18

8:00 a.m. Meeting with Elmer Snow (317) 926-6426  
President  
Indiana Broadcasters Association  
560 Knollton Road

10:00 a.m. Meeting with Mayor Richard Lugar (317) 633-6141

12:00 noon Speech before the Indiana Broadcasters (Mike Ungersma)  
Association (634-1515)  
Indiana State Teachers Association Bldg.

2:00 p.m. News Conference  
ISTA Building

3:00 p.m. Tour WFYI-TV (317) 639-5591

4:30 p.m. Reception (317) 632-4321  
500 Festival Room  
Indiana Convention Center  
100 South Capitol Avenue

8:45 ~~7:05~~ p.m. Lv. Indianapolis via ~~American~~ TWA 184 Flt. 286  
~~8:24~~ p.m. Arr. National Airport

10:00  
We have made the plane reservations; Brian has arranged for the hotel rooms.



ITINERARY

DR. CLAY WHITEHEAD

17-18 Dec. 1972

*Judy*

17 Dec. PM Arrival Weir Cook Airport, transportation to private home

-----

18 Dec.

8:00 -- Picked up by WTTV car and driven to Columbia Club for private breakfast.

8:30 -- Private breakfast hosted by Elmer Snow, general manager WTTV, Indianapolis, and president of the Indiana Broadcasters Association.

Other participants:

William Wuerch, general manager WLWI TV, Avco Broadcasting Corporation, Indianapolis

Eldon Campbell, general manager WRTV, McGraw Hill, Inc., Indianapolis

Frank Meek, general manager, WFYI TV, Indianapolis (Public television)

James Hilliard, general manager, WIBC AM and WNAP FM, Indianapolis

Don Nelson, general manager, WIRE AM and WXTZ FM, Indianapolis

9:45 -- WTTV car to Indianapolis City-County Building

10:00 -- Meet with Richard G. Lugar, Mayor of Indianapolis

10:30 -- Transportation to Indianapolis Museum of Art

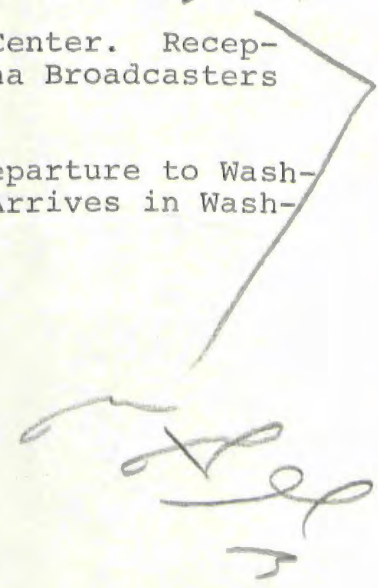
10:45 -- Private tour of IMA

11:30 -- Transportation to Indiana State Teachers Association Building

12:00 -- Luncheon, Sigma Delta Chi, Indiana Professional Chapter

1:45 -- News Conference, Terrace Room, 9th Floor, ISTA Bldg.

DR. CLAY WHITEHEAD ITINERARY, continued:

- 2:15 -- Transportation to Center for Educational Radio and Television, Indianapolis Public Schools. Host: Art Van Allen
  - 3:00 -- Transportation to WFYI TV, Indianapolis public television. Host: Frank Meek
  - 3:45 -- Transportation to Indiana Convention Exhibition Center. Private room reserved for rest and relaxation. (2-2)
  - 5:30 -- Indiana 500 Reception Room, Convention Center. Reception and cocktail party hosted by Indiana Broadcasters Association.
  - 8:00 -- Transportation to Weir Cook Airport. Departure to Washington via TWA flight 184 at 8:45 PM. Arrives in Washington at 10:00PM.
- 



Itinerary for  
Clay T. Whitehead  
Indianapolis, Indiana  
December 17 and 18, 1972

December 14, 1972

MEMORANDUM FOR

John Ehrlichman  
Charles Colson  
Pat Buchanan  
Herb Klein

Attached is a final draft of the speech I will be giving Monday, December 18, on broadcast station responsibility, particularly as it relates to network news.

This is a revised draft of the first version Colson cleared with the President and includes suggestions on that earlier draft made by Colson and Buchanan. We will begin Friday the groundwork necessary to get the right press treatment as agreed. Also on Monday, I will put into the OMB clearance process the draft license renewal bill mentioned in the speech.

This is bound to get a lot of attention, so I thought you should see the final version.

Clay T. Whitehead

Attachment

CC:  
DO Records  
DO Chron  
Mr. Whitehead  
Mr. Goldberg  
Mr. Lamb  
Eva

CTWhitehead:jm 12/14/72



1. Too obtuse for the general audience.
2. First Amendment argument sounds like the network viewpoint.
3. The reason for the Fairness Doctrine is the limited number of outlets and the monopoly position of the networks -- at least that is the reason it has become so important.
4. Broadcasters are constantly complaining about the First Amendment. They have to realize that it cuts two ways. It protects their First Amendment rights, but the Government has to make sure that the First Amendment rights are recognized as those whose views are not expressed. Broadcasters have been myopic in not recognizing it and in pushing their own rights over the public rights.

December 13, 1972

To: Ken Cole

From: Tom Whitehead

Colson is clearing this with the President. The strategy we have worked out requires that the Administration introduce its own license renewal bill rather than supporting someone else's.

The primary purpose of the speech is to focus on the responsibility of local broadcasters for providing checks and balances to network programming power, including news. Another purpose is to begin the groundwork for Broadcasting Initiative C in my memorandum to John Ehrlichman of December 6.

This is a rough draft and is undergoing considerable change, but I think you can get the idea.

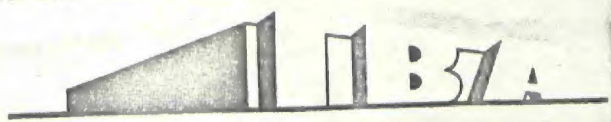
Attachment (draft of speech in Indianapolis 12/18/72)

cc: DO Records  
DO Chron  
Mr. Whitehead  
Mr. Goldberg  
Mr. Lamb  
Eva

CTWhitehead:jm



# INDIANA BROADCASTERS ASSOCIATION, INC.



November 28, 1972

560 Knollton Road • Indianapolis, Indiana 46208 • 317-926-6426

Dr. Clay Whitehead  
Director of Office of Telecommunications Policy  
Executive Office of the President  
Washington, D.C. 20504

Dear Dr. Whitehead:

I am delighted to hear that you have consented to attend a reception in your honor hosted by the Indiana Broadcasters Association on December 18, 1972.

We have reserved the "500" Reception room at our new Indiana Convention Center for this event. In addition, many of our members will be present to hear your address before the Indiana professional chapter of Sigma Delta Chi at noon.

I look forward to meeting you personally.

Very truly yours,

Elmer C. Snow  
President

**President**  
Elmer C. Snow  
WTTV  
3490 Bluff Road  
Indianapolis 46217

**President-Elect**  
William Quigg  
WBIW Bedford

**Vice-President — AM**  
Don N. Nelson  
WIRE Indianapolis

**Vice-President — FM**  
Leonard Ellis  
WAKE Valparaiso

**Vice-President — TV**  
Kelly Atherton  
WFIE TV Evansville

**Secretary-Treasurer**  
Roy Whitton  
WSMJ Greenfield

**Assistant Secretary-Treasurer**  
James Hilliard  
WIBC Indianapolis

**Directors:**  
Bazil O'Hagan  
WNDU South Bend

Paul L. King  
WAWK Kendallville

John Atkinson  
WHBU Anderson

Robert B. McConnell  
WISH TV Indianapolis

James Kauper  
WCSI Columbus

Earl Metzger  
WITZ Jasper

**Executive Secretary**  
Helen B. Huber  
4560 Knollton Rd.  
P.O. Box 88456  
Indianapolis 46208  
(317) 926-6426

Tuesday 10/24/72

POSS. SPEECH  
12/18/72

7:00 Brian advises Mr. Whitehead may be giving a speech in Indianapolis  
on Monday, Dec. 18.



Wednesday

11/22/72

SPEECH

12/18/72

4:00

HELEN

Jeannie Raymann, secretary to Mike Ungersma, WTTV, 3490 Bluff Road, Indianapolis, Indiana 46217, called to request Mr. Whitehead's bio, a few of his recent speeches (maybe a testimony to a Congressional committee), and a couple of pictures of him (different poses, if possible).

Attached is the mailing label.

Thanks much.

Judy



December 7, 1972

TO: Chuck Colson  
FROM: Tom Whitehead

Attached is a rough draft of the December 18 speech we discussed. The main point, you will recall, is to focus attention on the responsibility of local stations and network managements for the balance and objectivity of network news. Crutchfield will use this to get some action from the CBS affiliates to put heat on the network board management.

I have "packaged" this main point with some general criticism of the local station for serving merely as a conduit for the networks and with some philosophical "free press" rationale.

To avoid the appearance of a purely repressive attack directed at the networks, I have included a commitment to broadcasters to introduce a license renewal bill as described in my memorandum yesterday. The main point regarding news responsibility begins on page 7.

Attachment

cc: Do Records  
DO Chron  
Mr. Whitehead  
Eva  
Mr. Lamb  
GC Subject  
GC Chron  
Goldberg Chron

HGoldberg:pb:12-6-72



Thursday 12/7/72

10:45 JUDY:

Brian said if Tom should call in to ask ----  
the speech was delivered to the White House  
last night about 6 o'clock and he hasn't heard  
anything.

Thursday 12/7/72

10:45 JUDY:

Brian said if Tom should call in to ask ----  
the speech was delivered to the White House  
last night about 6 o'clock and he hasn't heard  
anything.











Tuesday 12/18/72

INTERVIEW  
12/19/72  
4:00 p.m.

12:00 Brian has arranged an interview with Gordon Peterson, WTOP News, this afternoon at 4:00. Will probably be telecast on the 6:00 news this evening.

Friday 12/22/72

MEETING

12/22/72

8:30 a.m.

9:00      Brian arranged a meeting this morning at 8:30 with Mal Oettinger.



*Tom Whitehead*

THE WHITE HOUSE  
WASHINGTON

January 18, 1973

MEMORANDUM FOR: THE PRESIDENT  
FROM: CHARLES COLSON ✓  
SUBJECT: Attached Drummond Column

There has been a great deal of press attention on the so-called Whitehead Bill and the Whitehead speech. Most of it generated by the networks has been quite negative. The most perceptive supporting analysis was written by Roscoe Drummond. It is really a brilliantly simple explanation of the problem and points out the complete failure of the logic of the network position. In view of the controversy that the Whitehead speech has generated, you might be interested in reading our side of the case as Drummond has presented it.

*Los Angeles Times Syndicate / Los Angeles, California*  
RELEASE DATE: Friday, January 19, 1973

YON TV PROTESTETH TOO MUCH

by Roscoe Drummond

WASHINGTON--It is hard to understand why the network TV news people fly into such a tizzy when anybody in government criticizes their product.

Why should TV broadcasting executives, whose networks dispense so much dissenting opinion, yelp as if the sky was falling whenever somebody in government counters with a dissenting opinion?

And when the TV spokesmen reply, they usually do so not with reasoned argument but by accusing critics of being creeping repressionists who want to wipe out freedom of the press.

They protesteth too much. Such extreme sensitivity suggests a degree of guilt which makes them worried that the TV public might think too much about balance and fairness in TV news broadcasting.

Isn't it a pretty healthy thing for the public to think about these things? They are the consumers. In the end they can do much to compel more balance in network news.

Perhaps they need their own Ralph Nader--outside of government critics such as Vice President Spiro Agnew and Clay Whitehead.

-more-



The latest development, which threw the network spokesmen into a rage of protest, concerns amendments to the Communications Act proposed by the White House.

They like two of them and are furiously against the third. One extends station licenses from three to five years. They like that.

Another stipulates that no applicant for an existing station license will be heard by the FCC unless the license has already been removed. They like that.

The third proposal states that any station which uses network news must be responsible for what it uses. The networks don't like it.

For the life of me I can't see why such a provision is not entirely reasonable. It parallels print media law.

Network news is like the Associated Press and the UPI. Newspapers which print AP or UPI news are responsible for what they print. They can be sued for libel and it's no defense to say that the papers are only printing what the press associations send them.

Furthermore, the proposed legislation on station responsibility duplicates existing FCC powers. If the White House aide who drafted the amendment had consulted with the commission, he would have saved himself the trouble of proposing it.



Page Three...THE DRUMMOND COLUMN...January 19...proposing it.

But the fact that the Administration proposal neither adds nor subtracts from the FCC's authority does not keep the TV media from calling it a "threat" and an attempt to make station licensing a "political football."

\* \* \*

The evidence is quite the contrary. The law which makes individual stations responsible for the network broadcasting they use has been operative since 1934 when the present Communications Act was passed by Congress.

Question: How many times has the FCC revoked or refused to renew a station license because it wanted to censor the news?

Answer: Zero; never in the history of the commission. The same applies to the years when Nixon appointees comprised the majority of the commission.

Should government officials criticize network news, calling some of it "ideological plugola"? Why not? There's plenty of criticism of government officials by network newscasters. Can't the broadcasters take it as well as dish it out? It's healthy and good for both.

If there was any attempt to censor broadcast news I would fight it as vigorously as I would fight censorship of the press. But the public has a right to balance and fairness in comment and reporting.



JAN 26 1973

Speech  
12/18

Mr. Mark Evans  
Vice President for Public Affairs  
Metromedia, Incorporated  
5151 Wisconsin Avenue, N. W.  
Washington, D. C. 20016

Dear Mark:

I appreciate the concern that you--and the entire broadcasting community--have regarding the relationship between my December 18, 1972, speech on the responsibility of broadcast licensees and our proposed license renewal legislation. On January 11, 1973, I discussed in detail the philosophy and the facts of our proposed bill. Those remarks were not covered as extensively as the initial speech, so I have enclosed a copy for your information. The speech and the bill are related--but not in the way portrayed in the press coverage of my speech.

As you will see, the proposed bill would add nothing to broadcasters' present obligations to be responsible for all the programming presented or carried by the station, regardless of source. Neither OTP nor the White House has any power to affect the grant or denial of any broadcast license. And we have no intent or desire to influence in any way the grants or denials of licenses by the FCC. Moreover, the FCC has consistently refused to involve itself in questions of news bias, slanting or accuracy, unless there is extrinsic evidence of intentional wrongdoing on the part of the licensee. Neither the proposed bill nor the import of my speech would lead any objective observer to think that we desire to change this commendable practice of regulatory restraint.

In short, the bill would add no new burden, impose no new obligation, or require new affirmative showings on the part of any licensee.

As for the 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 relationship between the proposed bill and my speech is no more than the relationship between freedom and responsibility we find everywhere in our society. As you know, this Office has steadily promoted the cause of less rather than more regulation in broadcasting. But the public and the Congress would not think of increasing the freedom in broadcasting by easing government controls without also expecting some indication that voluntary exercise of responsibility by broadcasters can operate as an effective substitute for such controls.

The core issue is: Who should be responsible for assuring that the people's right to know is served, and where should the initiative come from--the government or the broadcasters. The speech focused on the three TV networks as the most powerful elements in the broadcast industry and asked how this concentration of power was to be effectively balanced. Some, who now profess to fight for broadcasters' freedom, would rely on regulatory remedies such as 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.

Sincerely,



Clay T. Whitehead

cc: DO Records  
DO Chron  
Mr. Whitehead  
Eva  
GC Subject  
GC Chron  
Goldberg Chron

HGoldberg:pb:1-26-73



<b>EXECUTIVE OFFICE OF THE PRESIDENT</b> <b>OFFICE OF EMERGENCY PREPAREDNESS</b> <b>AUTHORIZATION OF OFFICIAL TRAVEL</b>		1. Date of request December 14, 1972									
		2. Name and address of traveler Clay T. Whitehead, SSN 509-34-3700 OEP/OTP EOBA WA DC 20504									
Submit original and 2 copies to Fiscal Section at least 3 working days in advance of proposed travel		3. Title Director									
This document becomes an authorization of official travel only when the certificate of authorization has been signed by the designated authorizing official. This travel is ordered on official business for the convenience of the Government.		4. Type of appointment Presidential									
		5. Orgn. unit (Division) Office of Telecommunications Policy									
		6. Official station Washington, D.C.									
		8. Period of travel December 17-18, 1972	9. Est. No. of days of travel status 2 (two)								
7. Purpose of travel  To attend a meeting of the Indiana Broadcasters Association	10. Per diem rate \$25.00	11. Office number of traveler 770,1800 G St., NW									
	12. Mileage rate	13. Phone number of traveler 6161									
	14. Itinerary  Washington, D.C.; Indianapolis, Indiana; and return to Wash., D.C.										
15. Travel to be performed as indicated a. <input checked="" type="checkbox"/> Common carrier Including commercial airline b. <input type="checkbox"/> Government-owned vehicle c. <input type="checkbox"/> Other (Specify) d. By privately-owned automobile: (1) <input type="checkbox"/> Reimbursable cost not to exceed common carrier cost <u>or</u> (2) <input type="checkbox"/> Administratively determined to be more advantageous to the Government—common carrier use impracticable (if checked, explain under item 20, 'Remarks'.)											
16. Allotment number  83/OTP/210		17. Appropriation symbol  1130601									
18. Travel authorization No.  186		19. Estimated cost of travel									
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20%;">Transportation</td> <td style="width: 80%;">\$120.00</td> </tr> <tr> <td>Per Diem</td> <td>50.00</td> </tr> <tr> <td>Other</td> <td>20.00</td> </tr> <tr> <td>Total</td> <td>\$190.00</td> </tr> </table>		Transportation	\$120.00	Per Diem	50.00	Other	20.00	Total	\$190.00	20. Remarks  First class travel authorized. Use of taxi authorized between place of abode and places of official business.	
Transportation	\$120.00										
Per Diem	50.00										
Other	20.00										
Total	\$190.00										
21. Requested by  Director Signature Office of Telecommunications Policy Title											
22. Funds Obligated  FUND OBLIGATED DEC 18 1972		FINANCIAL MANAGEMENT BRANCH USE ONLY									
		Signature Title									
23. <b>CERTIFICATE OF AUTHORIZATION</b>  You are hereby authorized to travel at government expense, to be paid from available appropriations in accordance with the regulations of the Office of Emergency Preparedness and the Standardized Government Travel Regulations as amended, under conditions noted on this authorization.											
Signature Bryan M. Eagle		Executive Assistant Title									
IMPORTANT- Every voucher or message concerning this travel must refer to the travel authorization number.											

Tuesday 12/19/72

TRIP  
12/17,18/72

6:00 Do you have any extra expenses from your trip to Indianapolis?

No



Clay T. Whitehead

Tickets to be picked up at 16th & K Sts., N.W.,  
Trans World Airlines, Friday, December 15, 1972

Sunday, December 17, 1972:

4:50 p.m.	Lv Washington National via TW 531.
7:14 p.m.	Ar Indianapolis, Indiana

Monday, December 18, 1972:

8:45 p.m.	Lv Indianapolis, Indiana via TW 184
10:00 p.m.	Ar Washington National

August 1970

Title: GAO Manual  
1012-113

## TRAVEL VOUCHER

DEPARTMENT, BUREAU, OR ESTABLISHMENT <b>Executive Office of the President</b> <b>Office of Telecommunications Policy</b>		VOUCHER NO.
PAYEE'S NAME <b>Clay T. Whitehead, SSN 509-34-3700</b>		SCHEDULE NO.
MAILING ADDRESS (Including ZIP Code) <b>OEP/OTP</b> <b>EOBA</b> <b>WA DC 20504</b>		PAID BY
OFFICIAL DUTY STATION <b>Washington, D.C.</b>	RESIDENCE <b>Washington, D.C.</b>	
FOR TRAVEL AND OTHER EXPENSES FROM (DATE) <b>12/17/72</b> TO (DATE) <b>12/18/72</b>		CHECK NO.
APPLICABLE TRAVEL AUTHORIZATION(S) NO. <b>186</b> DATE <b>12/14/72</b>		CASH PAYMENT OF \$ RECEIVED (DATE)
TRAVEL ADVANCE Outstanding <b>NONE</b> \$		(Signature of Payee)
Amount to be applied		
Balance to remain outstanding \$		

## TRANSPORTATION REQUESTS ISSUED

TRANSPORTATION REQUEST NUMBER	AGENT'S VALUATION OF TICKET	INITIALS OF CARRIER ISSUING TICKET	MODE, CLASS OF SERVICE, AND ACCOM- MODATIONS *	DATE ISSUED	POINTS OF TRAVEL	
					FROM-	TO-
<b>B-2,470,904</b> <b>TA 186</b>	<b>120.00</b>	<b>TW</b>	<b>First/Air</b>	<b>12/14</b>	<b>Washington, D.C.</b>	<b>Indianapolis, Indiana, and return</b>

\*\* Certified correct. Payment or credit has not been received.

<b>January 5, 1973</b> (Date)		(Signature of Payee)	AMOUNT CLAIMED →	Dollars	Cts
				<b>3750</b>	
Approved. Long distance telephone calls are certified as necessary in the interest of the Government.			DIFFERENCES:		
(Date) *** (Approving Officer)					
NEXT PREVIOUS VOUCHER PAID UNDER SAME TRAVEL AUTHORITY VOUCHER NO. D.O. SYMBOL DATE (MONTH-YEAR)			Total verified correct for charge to appropriation (\$) (initials)		
Certified correct and proper for payment:			Applied to travel advance (appropriation symbol)		
(Date) (Authorized Certifying Officer)			NET TO TRAVELER →		

ACCOUNTING CLASSIFICATION

\* Abbreviations for Pullman accommodations: MR, master room; DR, drawing room; CP, compartment; BR, bedroom; DSR, duplex single room; RM, roomette; DRM, duplex roomette; SOS, single occupancy section; LB, lower berth; UB, upper berth; LB-UB, lower and upper berth; S, seat.

\*\* FRAUDULENT CLAIM—Falsification of an item in an expense account works a forfeiture of the claim (28 U.S.C. 2514) and may result in a fine of not more than \$10,000 or imprisonment for not more than 5 years or both (18 U.S.C. 287; *id.* 1001).

\*\*\* If long distance telephone calls are included, the approving officer must have been authorized in writing by the head of the department or agency to so certify (31 U.S.C. 680a).



PREVIOUS TEMPORARY DUTY (Complete these blocks only if in travel status immediately prior to period covered by this voucher and if administratively required)

[illegible]

\*If per diem allowances for members of employee's immediate family are included, give members' names, their relationship to employee, and ages and marital status of children (unless this information is shown on the travel authorization).



Bill office  
Dec 31 72

BILL TO

Office of Emergency Preparedness  
Washington, D. C. 20504

3-2,470,904

The Trans World Airlines

Company is requested

to furnish First class Air transportation at lowest rate from Washington, D.C.  
to Indianapolis, Indiana, and return  
(IF ROUND TRIP SERVICE REQUIRED WRITE "AND RETURN")

SUCH BETWEEN THE RESPECTIVE POINTS)  
for use of Clay T. Whitehead

and No others with

(LOWER BERTH, P.C. SEAT, ETC.) accommodations  
with authorization

to transport not over lbs. of excess baggage from  
I CERTIFY THAT I HAVE RECEIVED THE TRANSPORTATION SERVICE OR TICKETS REQUESTED  
EXCEPT AS STATED ON REVERSE SIDE.

TRAVELER'S  
SIGNATURE

Director

TRAVELER MUST ASCERTAIN COST OF TRANSPORTATION AND/OR  
ACCOMMODATIONS AND RECORD IN SPACES BELOW

\$120.00		
TRANSPORTATION AMT.	ACCOMMODATION AMT.	TOTAL

TICKET AGENT WILL NOT ACCEPT THIS

PLACE OF  
ISSUE Wash., D.C. Dec 14, 1972

I CERTIFY THAT THE TRANSPORTATION REQUESTED IS FOR OFFICIAL BUSINESS.

ISSUING OFFICER'S  
SIGNATURE

TITLE Administrative Officer

FISCAL DATA (APPROPRIATION, AUTHORIZATION, ETC.)

83/OTP/210  
1130601

TA 186

DO NOT -)LD, SPINDLE OR MUTILATE

MEMORANDUM CARD COF

The United States of America  
Transportation Request

Red By SOLD SUBJECT TO CONDITIONS OF CONTRACT ON PASSENGER'S COUPON

PASSENGERS ON LIMITATION OF LIABILITY

TRANS WORLD AIRLINES INTW  
If the passenger's journey involves an ultimate destination or stop in a country other than the country of departure, the Warsaw Convention governs and in most cases death or personal injury and in respect of  
NAME OF PASSENGER

PASSENGER TICKET  
AND BAGGAGE CHECK  
PASSENGER'S COUPON

FROM TO CARRIER FARE CALCULATION

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CARRIER	FLIGHT / CLASS	DATE	TIME	STATUS
TW	121	12/15/72	7:45 AM	OK

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FORM AND SERIAL NUMBER

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5851346631 4 □



PAID WORLD AIRLINES INC TW

NAME OF PASSENGER

DATE OF ISSUE

012

DATE AND PLACE OF ISSUE

GOOD YOUNG MAN

CLAY WHITEHEAD

DATE	ORIGINALY ISSUED AGAINST	BY AGENTS	NUMERIC CODE	AT	ON
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