State	City	Facility
New York	New York	Air Route Traffic Control Center
	Rome	USAF R&D Facility
		* Transatlantic Cable Landing (TAT 3 & 4) + ATT long lines Hq.
Pennsylvania	?	Tobyhanna Army Depot (Electronics)
	Philadelphia	Procurement Office for Army Electronics Command
Rhode Island	Newport	Naval Communications Station
		* Transatlantic Cable Landing (TAT 5)
South Carolina	- - -	- - -
Tennessee	Oak Ridge	AEC
	Memphis	Air Route Traffic Control Center
		TVA Communications Facilities
Utah	Salt Lake City	Air Route Traffic Control Center
		Interior**
Vermont	- - -	- - -
Virginia	Leesburg	Air Route Traffic Control Center
	Wallops Island	NASA launching facility
	Norfolk	Naval Communications Station
Washington	Jim Creek	Naval Communications Station
	Richland	AEC (formerly Hanford)
	Seattle	Air Route Traffic Control Center
		Interior**
	Brewster Flat	* INTELSAT Earth Station

* Closing known to be an issue.

** Department of Interior has a large number of radio frequency assignments in these states, for such things as land and wildlife management, irrigation, and power projects.

State	City	Facility
Hawaii	Honolulu	Air Route Traffic Control Center (FAA)
	Honolulu	Naval Communications Station
	Paumalu	*INTELSAT Earth Station
		Defense Satellite Earth Station
		NCS/DCS/AF radio hub
		Trans-Pacific cable landings
Indiana	Indianapolis	Air Route Traffic Control Center
Kansas	Kansas City	Air Route Traffic Control Center
	Ft. Leavenworth	Army Midwest Telecommunications Center*
Kentucky	Lexington	Bluegrass Army Depot (Electronic Equipment Storage and Maintenance)
		TVA has extensive communications.
Louisiana	- - -	- - -
Maryland	Greenbelt	* Goddard Space Flight Center (worldwide switching hub for data; communications satellite development)
	Annapolis	Naval Communications Station;
		* DOD Electromagnetic Compatibility Analysis Center
	Ft. Meade	National Security Agency
	Ft. Detrick	Army Communications hub
	Andrews AFB	Air Force Communications hub
	Fort Ritchie	Command and Control Hub*
Michigan	- - -	- - -
Nevada	Miscellaneous locations	AEC test installations; Interior**
New Hampshire	- - -	- - - Model Cities mixed city experiment in Portsmouth.

THE WHITE HOUSE
WASHINGTON

May 5, 1976

To: Tom

From: Eva

Here is the material on PFIAB. If you need anything else, please let me know.

I'll check on the boxes tomorrow -- there was no answer to my phone calls today to Jim Oliver, who handled them.

Love to all!!!

FOR IMMEDIATE RELEASE MARCH 11, 1976

Office of the White House Press Secretary

THE WHITE HOUSE

The President today announced the appointment of seventeen persons as members of the President's Foreign Intelligence Advisory Board. They are:

Stephen Ailes, of Maryland, President and Chief Executive Officer, Association of American Railroads, Washington, D.C.

Admiral George W. Anderson, USN (Ret.), Washington, D.C. This is a reappointment.

Leslie C. Arends, of Melvin, Illinois, Retired Member of Congress, Melvin, Illinois.

William O. Baker, of Morristown, New Jersey, President, Bell Telephone Laboratories, Inc., Murray Hill, New Jersey. This is a reappointment.

William J. Casey, of Washington, D.C., Counsel to the law firm of Rogers and Wells, Washington, D.C.

Leo Cherne, of New York, New York, Executive Director, Research Institute of America, Inc., New York, New York.

John B. Connally, of Houston, Texas, Partner, law firm of Vinson, Elkins, Searls, Connally and Smith, Houston, Texas.

John S. Foster, Jr., of Palos Verdes Estates, California, Vice President, TRW Inc. and General Manager, Energy Systems Group, Palos Verdes Estates, California. This is a reappointment.

Robert W. Galvin, of Barrington, Illinois, Chairman of the Board and Chief Executive Officer, Motorola, Inc., Chicago, Illinois. This is a reappointment.

Gordon Gray, of the District of Columbia, Broadcast Executive and former Government Official, Washington, D.C.

Melvin R. Laird, of Maryland, Senior Counsellor, National and International Affairs, Reader's Digest Association, Inc., Washington, D.C.

(MORE) (OVER)

Edwin H. Land, of Cambridge, Massachusetts, Chairman of the Board, Polaroid Corporation, Cambridge, Massachusetts. This is a reappointment.

General Lyman L. Lemnitzer, USA (Ret.) of Washington, D. C.

Clare Booth Luce, of Honolulu, Hawaii, Novelist; Playwright; Writer; and Lecturer, Honolulu, Hawaii. This is a reappointment.

Robert D. Murphy, of the District of Columbia, Honorary Chairman, Corning International Corporation, New York, New York.

Edward Teller, of Berkeley, California, Director at Large, Lawrence Livermore Laboratory, University of California, Livermore, California. This is a reappointment.

Edward Bennett Williams, of Potomac, Maryland, Senior Partner, Williams, Connolly and Califano, Washington, D. C.

The President today also announced his designation of Leo Cherne as Chairman of the Board.

The Board advises the President concerning the various activities making up the overall national intelligence effort. It also conducts a continuing review and assessment of foreign intelligence and related activities in which the Central Intelligence Agency and other Government departments and agencies are engaged. The Board reports to the President on its findings and makes appropriate recommendations.

# # #

FOR IMMEDIATE RELEASE MARCH 11, 1976

Office of the White House Press Secretary

THE WHITE HOUSE

STATEMENT BY THE PRESIDENT

Two weeks ago I announced to the Nation a comprehensive program to strengthen the foreign intelligence agencies of the United States Government. My actions were designed to achieve two basic objectives;

--First to ensure that we have the best possible information on which to base our policies toward other nations;

--And second, to ensure that our foreign intelligence agencies do not infringe on the rights of American citizens.

Today, as an additional part of this effort, I am announcing the expansion of my Foreign Intelligence Advisory Board. This Board was set up in 1956 in order to provide independent, nonpartisan advice on the effectiveness of the intelligence community in meeting the intelligence needs of the President. Since 1974, the Board has been composed of ten members, all of whom are private citizens.

I am announcing today that I am expanding the Board to 17 members, and I am appointing the following members to the Board:

Stephen Ailes
Leslie C. Arends
Admiral George W. Anderson
William O. Baker
William J. Casey
Leo Cherne
John B. Connally
John S. Foster, Jr.
Robert W. Galvin
Gordon Gray
Melvin Laird
Edwin H. Land
General Lyman L. Lemnitzer
Clare Booth Luce
Robert Murphy
Edward Teller
Edward Bennett Williams

I am announcing my decision to have Leo Cherne serve as the new Chairman of the Board.

(MORE)

(OVER)

The intelligence needs of the '70's and beyond require the use of highly sophisticated technology. Furthermore, there are new areas of concern which demand our attention. No longer does this country face only military threats. New threats are presented in such areas as economic reprisal and international terrorism. The combined experience and expertise of the members of this Board will be an invaluable resource as we seek solutions to the foreign intelligence problems of today and the future.

In developing the Nation's offensive and defensive strategy to conduct foreign policy and provide for the national security, we must be able to deal with problems covering the broadest spectrum of activities.

By strengthening the Board as I have done today, and by giving the Board my full personal support, I fully anticipate that the Foreign Intelligence Advisory Board will continue its indispensable role in advising me on the effectiveness of our foreign intelligence efforts.

# # #

FOR IMMEDIATE RELEASE APRIL 1, 1976

OFFICE OF THE WHITE HOUSE PRESS SECRETARY

THE WHITE HOUSE

EXCHANGE OF REMARKS
BETWEEN THE PRESIDENT
AND
LEO CHERNE
AT THE SWEARING-IN CEREMONY
FOR THE MEMBERS OF THE
PRESIDENT'S FOREIGN INTELLIGENCE ADVISORY BOARD

THE ROSE GARDEN

11:07 A.M. EST

THE PRESIDENT: Let me first welcome the new members of my Foreign Intelligence Advisory Board and all of the other guests who are here, including Justice Powell.

The new members, of course, are joining a very distinguished institution established by President Eisenhower some 20 years ago. It has served every President since that time in providing advice essential to our national security.

I recently announced, as all of you know, the first major change in our foreign intelligence community since the end of World War II. My actions were designed specifically to strengthen our foreign intelligence agencies to be certain that American has the information it requires both in peace time as well as in war.

I also announced very specific reforms that insure individual rights of American citizens to make certain that they are fully protected. My decision to enlarge this Advisory Board demonstrates our full intention and determination to achieve the best possible foreign intelligence.

This panel of very distinguished American citizens acts as a bridge between a basic strength of America, the genius and innovation found in our private sector in the Government's responsibility to maintain effective foreign intelligence. Such capacities are absolutely vital to our national security and to our foreign policy.

The strength of America has never been found in Government alone, it is the support of American citizens who contribute to the Government as a whole. I look to all of you, and it is a very distinguished group under the leadership of Leo Cherne, to provide me with very candid, very frank and very wise advice as to the quality of our foreign intelligence effort. Your diverse backgrounds and individual records over a long period of time will make this Board an exceptional asset in efforts to strengthen our foreign intelligence.

MORE

(OVER)

I am confident that you,individually as well as collectively, will serve America with great distinction,and I will meet with the Board immediately after the swearing in by Justice Powell.

I ask you if you would please, Mr. Justice, to swear in this distinguished group.

(Swearing-in)

THE PRESIDENT: Thank you very, very much, Mr. Justice. I appreciate it.

JUSTICE POWELL: It is my privilege. I am very interested in the work of this Board. I think it is a very distinguished Board, quite obviously.

THE PRESIDENT: Thank you very much.

Leo, do you want to say anything or do you just want to come in and --

MR. CHERNE: Let me just add very briefly what an extraordinary privilege it is for me to serve as Chairman of this Board, but the particular privilege includes not only the opportunity to serve the President, but to have a group associated with this effort as distinguished, as varied in its extraordinary capabilities as are represented on this Board.

Mr. President, we will, with every resource available to our minds, give you the very best of judgment we are capable of.

Thank you.

END (AT 11:10 A.M. EST)

President's Commission on Personnel Interchange

Room 1316, 1900 E Street NW., Washington, D.C. 20415. Phone, 202–632–6834.

Executive Director.—Allen E. Parmenter.

The Commission was established to develop an executive interchange program under which promising executives from the Federal departments and agencies and the private sector will be selected and placed in positions offering challenge and responsibility in the other sector (EO 11451 of Jan. 19, 1969).

President's Commission on White House Fellowships

1900 E Street NW., Washington, D.C. 20415. Phone, 202–382–4661.

Director.—Bruce H. Hasenkamp.

The Commission was established to conduct an annual national competition for White House Fellows, who serve for 1 year as special assistants to senior members of the White House staff and members of the Cabinet. It also organizes an education program for the Fellows during their tenure in Washington (EO 11183 of Oct. 3, 1964).

President's Committee on Employment of the Handicapped

1111 Twentieth Street NW., Washington, D.C. 20210. Phone, 202–961–3401.

Chairman.—Harold Russell.

The Committee facilitates the development of maximum employment opportunities for the handicapped (63 Stat. 409; EO 11480 of Sept. 9, 1969).

President's Committee on Mental Retardation

ROB #3, Seventh and D Streets SW., Washington, D.C. 20201. Phone, 202–245–7634.

Executive Director.—Fred J. Krause.

The Committee was established to advise the President on what is being done for the mentally retarded; to recommend Federal action where needed; to promote coordination and cooperation among public and private agencies; to stimulate individual and group action; and to promote public understanding of the mentally retarded (EO 11280 of May 11, 1966, as amended by EO 11776 of Mar. 28, 1974).

President's Council on Physical Fitness and Sports

400 Sixth Street SW., Washington, D.C. 20201. Phone, 202–755–7947.

Executive Director.—C. Carson Conrad.

The Council was established to develop and coordinate a national program for physical fitness and sports (EO 11562 of Sept. 25, 1970).

President's Economic Policy Board

The White House, Washington, D.C. 20500. Phone, 202–456–2335.

Executive Director.—L. William Seidman.

The Board was established to advise the President concerning all aspects of national and international economic policy, to oversee the formulation, coordination, and implementation of all economic policy, and to serve as the focal point for economic policy decisionmaking (EO 11808 of September 30, 1974).

President's Foreign Intelligence Advisory Board

340 Executive Office Building, Washington, D.C. 20500. Phone, 202–456–2270.

Executive Secretary.—Wheaton B. Byers.

The Board advises the President concerning the various activities making up the overall national intelligence effort; conducts a continuing review and assessment of foreign intelligence and related activities in which the Central Intelligence Agency and other Government departments and agencies are engaged; and reports to the President

concerning the Board's findings and appraisals, and makes appropriate recommendations for actions to achieve increased effectiveness of the Government's foreign intelligence effort in meeting national intelligence needs (EO 11460 of Mar. 20, 1969).

Regional Action Planning Commissions

Commerce Building, Washington, D.C. 20230. Phone, 202–967–5174.

Office of the Special Assistant to the Secretary of Commerce for Regional Economic Coordination.

Regional Action Planning Commissions are established, pursuant to provisions of 42 U.S.C. 3181 et seq., to develop long-range, comprehensive economic development programs, to coordinate Federal and State economic development activities, and to promote increased private investment in economic development regions designated by the Secretary of Commerce.

The Commissions engage in planning, investigations, studies, demonstration projects, and training programs which provide economic development assistance. They can provide supplemental funding for projects financed under Federal grant-in-aid programs and, if the land agency is unable to fund an important program, the Commissions may provide for the entire Federal contribution. The Federal Cochairmen of the Commissions are authorized to acquire and dispose of excess Federal property through loan or transfer of title to specific State and local beneficiaries.

COASTAL PLAINS REGION

Federal Cochairman, Russell J. Hawke, Jr., 2000 L Street NW., Washington, D.C. 20036. Phone, 202–967–3753. The Region consists of 159 counties in North Carolina, South Carolina, and Georgia.

FOUR CORNERS REGION

Federal Cochairman, Stanley Womer, Commerce Building, Washington, D.C. 20230. Phone, 202–967–5534. The Region consists of 92 counties in Arizona, Colorado, New Mexico, and Utah. The Commission office is located at 3535 E. 30th Street, Farmington, N. Mex. 87401. Phone, 505–327–9626. The Federal Cochairman maintains a field office at 517 Gold Avenue SW., Albuquerque, N. Mex. 87101. Phone, 505–766–3344.

NEW ENGLAND REGION

Federal Cochairman, Russell F. Merriman, Commerce Building, Washington, D.C. 20230. Phone, 202–967–4343. The Region consists of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont. The Headquarters office is located at 53 State Street, Boston, Mass. 02109. Phone, 617–223–6045.

OLD WEST REGION

Federal Cochairman, Warren C. Wood, 1730 K Street NW., Washington, D.C. 20006. Phone, 202–967–3491. The Region consists of Montana, Nebraska, North Dakota, South Dakota, and Wyoming.

OZARKS REGION

Federal Cochairman, Bill H. Fribley, Commerce Building, Washington, D.C. 20230. Phone, 202–967–2572. The Region consists of Arkansas, Louisiana, Missouri, Oklahoma, and Kansas. The Commission office is located at 1100 N. University Avenue, Little Rock, Ark. 72207. Phone, 501–378–5905. The Federal Cochairman maintains a field office at 1601 W. Okmulgee, Muskogee, Okla. 74401. Phone, 918–683–3111.

PACIFIC NORTHWEST REGION

Federal Cochairman, Jack O. Padrick, 2435 Virginia Avenue NW., Washington, D.C. 20037. Phone, 202–254–7030. The Region consists of Washington, Oregon, and Idaho.

UPPER GREAT LAKES REGION

Federal Cochairman, Raymond C. Anderson, Commerce Building, Wash-

monthly by the Bureau of Labor Statistics. The term 'base month' shall mean the month of October 1966 for the first increase under section 291(a) (2) and thereafter the month for which the price index showed a per centum rise forming the basis for a cost-of-living annuity increase.

"(e) No increase in annuity provided by this section shall be computed on any additional annuity purchased at retirement by voluntary contributions.

"(f) The monthly installment of annuity after adjustment under this section shall be fixed at the nearest dollar, except that such installment shall, after adjustment, reflect an increase of at least $1."

[Amended Pub.L. 90-539, Sept. 30, 1968, 82 Stat. 902; Pub.L. 91-185, § 5, Dec. 30, 1969, 83 Stat. 849; Pub.L. 93-210, § 1(a), Dec. 28, 1973, 87 Stat. 908. For effective dates of amendment, see Effective Date of 1969 and 1973 Amendments to Pub.L. 88-643 set out hereunder.]

Effective Date of 1973 Amendment. To Pub.L. 88-643, Pub.L. 93-210, § 1(b), Dec. 28, 1973, 87 Stat. 908, provided that: "The amendments made by subsection (a) [amending section 291(b) of Pub.L. 88-643] shall apply only with respect to annuities which commence on or after July 2, 1973."

Effective Date of 1969 Amendments to Pub.L. 88-643. Pub.L. 91-185, § 6, Dec. 30, 1969, 83 Stat. 849, provided that:

"(a) The amendments made by section 1 [amending section 211(a) of Pub. L. 88-643] shall become effective at the beginning of the first applicable pay period beginning after December 31, 1969.

"(b) The amendments made by sections 3, 4, [respectively amending sections 231(a) and 232(h) of Pub.L. 88-643] and 2, [amending section 221 of Pub.L. 88-643, and adding new pars. (g) and (h) at the end thereof] with the exception of 2(c) [amending subsec. (c) thereof] shall become effective October 20, 1969.

"(c) The amendments made by sections 2(c) and 5 [amending sections 221(c) and 291 of Pub.L. 88-643] shall become effective November 1, 1969.

"(d) The amendments made by sections 2(a), 2(e), 3, and 4(a) (1)-(2) [amending section 221(a), adding section 221(h), and amending sections 231(a) and 232(b) of Pub.L. 88-643] shall not apply in the cases of persons retired or otherwise separated prior to October 20, 1969, and the rights of such persons and their survivors shall continue in the same manner and to the same extent as if such sections had not been enacted."

Communication of Restricted Data. Authorization for the communication of Restricted Data by the Central Intelligence Agency, see Ex.Ord.No.10899, Dec. 12, 1960, 25 F.R. 12729, set out as a note under section 2162 of Title 42, The Public Health and Welfare.

Legislative History: For legislative history and purpose of Act Apr. 4, 1953, see 1953 U.S.Code Cong., and Adm.News, p. 1339.

EXECUTIVE ORDER NO. 10656

Ex.Ord.No.10656, Feb. 6, 1956, 21 F.R. 859, formerly set out as a note under this section, which established the President's Board of Consultants on Foreign Intelligence Activities, was revoked by Ex.Ord. No.10938, May 4, 1961, 26 F.R. 3951, set out as a note under this section.

EXECUTIVE ORDER NO. 10938

Ex.Ord.No.10938, May 4, 1961, 26 F.R. 3951, formerly set out as a note under this section, which established the President's Foreign Intelligence Advisory Board, was revoked by Ex.Ord.No.11460, Mar. 20, 1969, 34 F.R. 5535, set out as a note under this section.

EXECUTIVE ORDER NO. 11460

Mar. 20, 1969, 34 F.R. 5535

PRESIDENT'S FOREIGN INTELLIGENCE ADVISORY BOARD

By virtue of the authority vested in me as President of the United States, it is ordered as follows:

Section 1. There is hereby established the President's Foreign Intelligence Advisory Board, hereinafter referred to as "the Board". The Board shall:

(1) advise the President concerning the objectives, conduct, management and coordination of the various activities making up the overall national intelligence effort;

(2) conduct a continuing review and assessment of foreign intelligence and related activities in which the Central Intelligence Agency and other Government departments and agencies are engaged;

(3) receive, consider and take appropriate action with respect to matters identified to the Board, by the Central Intelligence Agency and other Government departments and agencies of the intelligence community, in which the support of the Board will further the effectiveness of the national intelligence effort; and

(4) report to the President concerning the Board's findings and appraisals, and make appropriate recommendations for actions to achieve increased effectiveness of the Government's foreign intelligence effort in meeting national intelligence needs.

Sec. 2. In order to facilitate performance of the Board's functions, the Director of Central Intelligence and the heads of all other departments and agencies shall make available to the Board all information with respect to foreign intelligence and related matters which the Board may require for the purpose of carrying out its responsibilities to the President in accordance with the terms of this Order. Such information made available to the Board shall be given all necessary security protection in accordance with the terms and provisions of applicable laws and regulations.

Sec. 3. Members of the Board shall be appointed by the President from among persons outside the Government, qualified on the basis of knowledge and experience in matters relating to the national defense and security, or possessing other knowledge and abilities which may be expected to contribute to the effective performance of the Board's duties. The members of the Board shall receive such compensation and allowances, consonant with law, as may be prescribed hereafter.

Sec. 4. The Board shall have a staff headed by an Executive Secretary, who shall be appointed by the President and shall receive such compensation and allowances, consonant with law, as may be

prescribed by the Board. The Executive Secretary shall be authorized, subject to the approval of the Board and consonant with law, to appoint and fix the compensation of such personnel as may be necessary for performance of the Board's duties.

Sec. 3. Compensation and allowances of the Board, the Executive Secretary, and members of the staff, together with other expenses arising in connection with the work of the Board, shall be paid from the appropriation appearing under the heading "Special Projects" in the Executive Office Appropriation Act, 1969, Public Law 90-350, 82 Stat. 195, and, to the extent permitted by law, from any corresponding appropriation which may be made for subsequent years. Such payments shall be made without regard to the provisions of section 3681 of the Revised Statutes and section 9 of the Act of March 4, 1909, 35 Stat. 1027 (31 U.S.C. 672 and 673) [sections 672 and 673 of Title 31, Money and Finance].

Sec. 6. Executive Order No. 10938 of May 4, 1961, is hereby revoked.

RICHARD NIXON

Notes of Decisions

Privilege 2
Summary judgment 3
Termination of employment 1

Library references:
United States ⇐29 et seq.
War and National Defense ⇐40.
C.J.S. United States §§ 34, 82.
C.J.S. War and National Defense § 48.

1. Termination of employment

Director of Central Intelligence Agency acted within authority conferred upon him by Congress and in accordance with his own regulations when he terminated one's employment with Agency for lack of suitability for positions and grades available after Director reviewed case, consulted with senior officials, and concluded that the individual was unsuitable for continued employment and deemed it necessary in interests of United States to terminate the employment. Torpats v. McCone, 1962, 300 F.2d 914, 112 U.S.App. D.C. 159, certiorari denied 83 S.Ct. 182, 371 U.S. 886, 9 L.Ed.2d 121.

Under this section, the Director of the Central Intelligence Agency has authority to terminate the employment of any person whose continued retention is not compatible with the best interests of the United States, and this is so notwithstanding the provisions of other statutes protecting the rights of Government employees in cases of dismissals. Rhodes v. U. S., 1962, 156 Ct.Cl. 31, certiorari denied 83 S.Ct. 39, 371 U.S. 821, 9 L.Ed.2d 61.

The fact that the Director of the Central Intelligence Agency commenced plaintiff's separation under the selection-out procedure, did not preclude the employee's later separation under this section, and applicable departmental Regulation 20-740. Id.

2. Privilege

As governmental claim of privilege of secrecy was, in slander suit brought against employee of Central Intelligence Agency, properly invoked generally by Director of the agency, and as district court made sufficient inquiry to assure that the privilege had not been lightly invoked, without pressing so far as to reveal the very state secrets the privilege is intended to protect, district court properly balanced conflicting interests and properly allowed invocation of the privilege against taking employee's deposition. Heine v. Raus, C.A.Md.1968, 399 F.2d 785, 33 A.L.R.3d 1318, on remand 305 F.Supp. 816.

Absolute executive privilege was available to defendant, a Central Intelligence Agency employee against whom slander action was brought, if the instruction given defendant to warn members of Estonian emigre groups that plaintiff was a Soviet Intelligence Agent was issued with approval of Central Intelligence Agency Director or of a subordinate authorized by the Director, or if the giving of the instruction was subsequently ratified and proved by such an official. Id.

Record established that instructions given defendant Central Intelligence Agency employee to warn members of Estonian emigre group that plaintiff was Soviet intelligence agent were given with approval of CIA director or of subordinate authorized by director to issue such instructions, and that giving of instructions was ratified and approved by deputy director, entitling defendant to assert defense relating to disclosure of state secrets in slander action. Heine v. Raus, D.C. Md.1969, 305 F.Supp. 816, affirmed 432 F. 2d 1007, certiorari denied 91 S.Ct. 1368, 402 U.S. 914, 28 L.Ed.2d 658.

3. Summary judgment

Summary judgment entered in favor of defendant Central Intelligence Agency employee, against whom slander action was brought, on ground of executive privilege would be vacated and case remanded for determination of whether defendant's instruction to warn members of Estonian emigre groups that plaintiff was a dispatched Soviet Intelligence Agent was issued with approval of the Central Intelligence Agency Director or of a subordinate authorized by the Director, or whether the giving of said instruction was subsequently ratified and approved by such an official. Heine v. Raus, C.A.Md.1968, 399 F.2d 785, 33 A.L.R.3d 1318, on remand 305 F.Supp. 816.

§ 403a. Same; definitions

When used in sections 403b–403j of this title, the term—

(a) "Agency" means the Central Intelligence Agency;

(b) "Director" means the Director of Central Intelligence;

(c) "Government agency" means any executive department, commission, council, independent establishment, corporation wholly or partly owned by the United States which is an instrumentality of the United States, board, bureau, division, service, office, officer, authority, administration, or other establishment, in the executive branch of the Government.

President's Foreign Intelligence Advisory Board (PFIAB)

Present Membership and Date of Appointment

Adm. George W. Anderson, Jr., USN (Ret.) (20 Mar 69)
Appointed Chairman: 1 May 70
Dr. William O. Baker (24 Dec 59)
Mr. Leo Cherne (28 Jun 73)
Dr. John S. Foster, Jr. (28 Jun 73)
Mr. Robert W. Galvin (28 Jun 73)
Mr. Gordon Gray (16 May 61)
Dr. Edwin H. Land (4 May 61)
Mrs. Clare Boothe Luce (28 Jun 73)
Dr. George P. Shultz (5 Jun 74)
Dr. Edward Teller (22 Jul 71)

Mr. Wheaton B. Byers, Executive Secretary (28 Jun 73)

Former Members and Dates of Service

Amb. David K. E. Bruce (8/56-3/57)
Mr. Clark M. Clifford (5/61-2/68)
Gov. John B. Connally (12/70-1/71)
(8/72-1/75)
Adm. Richard L. Conolly, USN (Ret.)
(1/56-1/61)
Gov. Colgate W. Darden, Jr. (7/57-1/61)
Lt. Gen. James H. Doolittle, USAF (Ret.)
(1/56-8/64)
Mr. Benjamin F. Fairless (1/56-1/60)
Gen. John E. Hull, USA (Ret.) (1/56-1/61)
Amb. Joseph P. Kennedy (1/56-7/56)
Dr. James R. Killian, Jr. (1/56-1/60)
(5/61-4/63)
Dr. William L. Langer (5/61-3/69)
Mr. Franklin B. Lincoln, Jr. (3/69-6/73)
Mr. Robert A. Lovett (1/56-1/61)
Dr. Franklin D. Murphy (3/69-6/73)
Amb. Robert D. Murphy (5/61-6/73)
Mr. Frank Pace, Jr. (7/61-6/73)
Gov. Nelson A. Rockefeller (3/69-12/74)
Mr. Edward L. Ryerson (1/56-1/61)
Adm. John H. Sides, USN (Ret.)
(8/65-3/69)
Gen. Maxwell D. Taylor, USA (Ret.)
(5/61-6/61) (8/65-4/70)

Former Chairmen

Dr. James R. Killian, Jr. (1/56-2/58) (5/61-4/63)
General John E. Hull, USA (Ret.) (2/58-1/61)
Mr. Clark M. Clifford (4/63-2/68)
General Maxwell D. Taylor, USA (Ret.) (3/68-4/70)

Former Executive Secretaries

Brig. Gen. John F. Cassidy, USA (Ret.) (1/56-4/59)
Mr. J. Patrick Coyne (4/59-9/70)
Mr. Gerard P. Burke (9/70-6/73)

N. B. PFIAB originally established in 1956 as the President's Board of Consultants on Foreign Intelligence Activities; name changed in 1961.

THE WHITE HOUSE

WASHINGTON May 1975

PRESIDENT'S FOREIGN INTELLIGENCE ADVISORY BOARD

ANDERSON, GEORGE W., JR. -- Appointed by President Nixon on May 1, 1970 to replace General Maxwell Taylor as PFIAB Chairman; former Chief of Naval Operations; former U. S. Ambassador to Portugal; presently director of several large corporations.

BAKER, WILLIAM O. -- Originally appointed to the Board by President Eisenhower and reappointed by each succeeding President; currently President, Bell Telephone Laboratories, Incorporated; member of the National Academy of Sciences and numerous other governmental and quasi-governmental boards and commissions.

CHERNE, LEO -- Noted Economist; presently Executive Director of the Research Institute of America, Incorporated; member of the United States Advisory Commission on International Educational and Cultural Affairs; member of the Board of Advisors of the Industrial College of the Armed Forces, and numerous other boards and commissions.

FOSTER, JOHN S., JR. - Physicist; presently Vice President for Energy Research and Development, TRW, Incorporated; former Director of Defense Research and Engineering, Department of Defense; and former Director of Lawrence Livermore Laboratory and Associate Director of Berkeley Laboratory.

GALVIN, ROBERT W. -- Chairman and Chief Executive Officer of Motorola, Incorporated; Director of Harris Trust and Savings Bank; Director and past President of the Electronic Industries Association; and former member of the President's Commission on International Trade and Investment.

GRAY, GORDON -- Publisher; Director of R. J. Reynolds Tobacco Company and several other large corporations; former Secretary of the Army, Special Assistant to the President (Eisenhower) for National Security Affairs, Assistant Secretary of Defense (International Security Affairs), Director of the Office of Defense Mobilization; former Chancellor and President of the University of North Carolina.

LAND, EDWIN H. -- Inventor of the Land Polaroid camera; presently Board Chairman of Polaroid Corporation; member of the National Academy of Sciences, and numerous other similar groups.

LUCE, CLARE BOOTHE -- Novelist and Playwright; former U. S. Ambassador to Italy, and Congresswoman from Connecticut; presently member of the White House Preservation Committee, the Academy of Political Science, the American Institute for Foreign Trade, and numerous other boards and commissions.

SHULTZ, GEORGE P. -- Former Secretary of the Treasury and Assistant to the President (1972-74), Director of the Office of Management and Budget (1970-72), and Secretary of Labor (1969-70); economist; educator; member American Economic Association, National Academy of Arbitrators, Industrial Relations Research Association; presently President of Bechtel Corporation.

TELLER, EDWARD -- Physicist who played a major role in the development of the first atomic bomb, and has made important contributions in the fields of chemical physics, molecular physics, nuclear physics and quantum theory. He has been associated with the University of California since 1952, where he currently holds the position of University Professor of Physics and Associate Director of Lawrence Livermore Laboratory.

BYERS, WHEATON B. -- Executive Secretary of the Board

Office of the White House Press Secretary

THE WHITE HOUSE

EXECUTIVE ORDER

11460

ESTABLISHING THE PRESIDENT'S FOREIGN INTELLIGENCE ADVISORY BOARD

By virtue of the authority vested in me as President of the United States, it is ordered as follows:

SECTION 1. There is hereby established the President's Foreign Intelligence Advisory Board, hereinafter referred to as "the Board". The Board shall:

(1) advise the President concerning the objectives, conduct, management and coordination of the various activities making up the overall national intelligence effort;

(2) conduct a continuing review and assessment of foreign intelligence and related activities in which the Central Intelligence Agency and other Government departments and agencies are engaged;

(3) receive, consider and take appropriate action with respect to matters identified to the Board, by the Central Intelligence Agency and other Government departments and agencies of the intelligence community, in which the support of the Board will further the effectiveness of the national intelligence effort; and

(4) report to the President concerning the Board's findings and appraisals, and make appropriate recommendations for actions to achieve increased effectiveness of the Government's foreign intelligence effort in meeting national intelligence needs.

SEC. 2. In order to facilitate performance of the Board's functions, the Director of Central Intelligence and the heads of all other departments and agencies shall make available to the Board all information with respect to foreign intelligence and related matters which the Board may require for the purpose of carrying out its responsibilities to the President in accordance with the terms of this Order. Such information made available to the Board shall be given all necessary security protection in accordance with the terms and provisions of applicable laws and regulations.

SEC. 3. Members of the Board shall be appointed by the President from among persons outside the Government, qualified on the basis of knowledge and experience in matters relating to the national defense and security, or possessing other knowledge and abilities which may be expected to contribute to the effective performance of the Board's duties. The members of the Board shall receive such compensation and allowances, consonant with law, as may be prescribed hereafter.

SEC. 4. The Board shall have a staff headed by an Executive Secretary, who shall be appointed by the President and shall receive such compensation and allowances, consonant with law, as may be prescribed by the Board. The Executive Secretary shall be authorized, subject to the approval of the Board and consonant with law, to appoint and fix the compensation of such personnel as may be necessary for performance of the Board's duties.

SEC. 5. Compensation and allowances of the Board, the Executive Secretary, and members of the staff, together with other expenses arising in connection with the work of the Board, shall be paid from the appropriation appearing under the heading "Special Projects" in the Executive Office Appropriation Act, 1969, Public Law 90-350, 82 Stat. 195, and, to the extent permitted by law, from any corresponding appropriation which may be made for subsequent years. Such payments shall be made without regard to the provisions of section 3681 of the Revised Statutes and section 9 of the Act of March 4, 1909, 35 Stat. 1027 (31 U.S.C. 672 and 673).

SEC. 6. Executive Order No. 10938 of May 4, 1961, is hereby revoked.

RICHARD NIXON

THE WHITE HOUSE,

March 20, 1969

ESTABLISHING THE PRESIDENT'S BOARD OF CONSULTANTS ON
FOREIGN INTELLIGENCE ACTIVITIES

By virtue of the authority vested in me as President of the United States, and in order to enhance the security of the United States and the conduct of its foreign affairs by furthering the availability of intelligence of the highest order, it is ordered as follows:

Section 1. There is hereby established the President's Board of Consultants on Foreign Intelligence Activities, hereinafter referred to as the President's Board. The members of the President's Board shall be appointed by the President, from among persons outside the Government and on the basis of ability, experience, and knowledge of matters relating to the national defense and security, and shall serve without compensation, but may receive transportation and per-diem allowances as authorized by law for persons serving without compensation.

Section 2. The President's Board shall conduct an objective review of the foreign intelligence activities of the Government and of the performance of the functions of the Central Intelligence Agency and shall report its findings to the President semi-annually or at more frequent intervals as the President's Board may deem appropriate. Such reports shall embrace the quality of the foreign intelligence provided to the Executive Branch of the Government, the performance by the Central Intelligence Agency of its functions, the performance of their respective foreign intelligence functions by the principal intelligence elements of executive departments and other agencies, and any other related foreign intelligence matter which the President's Board deems appropriate.

Section 3. The members of the President's Board, individually and sitting as the President's Board, shall consult from time to time with the Director of Central Intelligence concerning the activities of the Central Intelligence Agency and with intelligence elements of other departments and agencies. The Director of Central Intelligence and the intelligence elements concerned are authorized to make available to the President's Board or to its individual members any information concerning foreign intelligence activities relating to the national interest which the President's Board or its members may require to fulfill their responsibilities to the President under this order.

Section 4. Each member of the President's Board shall execute an undertaking not to reveal any classified information obtained by virtue of his service on the President's Board except to the President or to such persons as the President may designate.

more

Section 5. The transportation and per-diem allowances referred to in section 1 of this order, and any other expenditures arising in connection with the activities of the President's Board, shall be paid from the appropriation appearing under the heading "Special Projects" in Title I of the General Government Matters Appropriation Act, 1956 (Public Law 110, approved June 29, 1955), without regard to the provisions of section 3681 of the Revised Statutes and section 9 of the Act of March 4, 1909, 35 Stat, 1027 (31 U.S.C. 672 and 673).

Section 6. This order shall be effective as of January 13, 1956.

DWIGHT D. EISENHOWER

THE WHITE HOUSE

February 6, 1956

EXECUTIVE ORDER
10938

ESTABLISHING THE PRESIDENT'S FOREIGN INTELLIGENCE ADVISORY BOARD

By virtue of the authority vested in me as President of the United States, it is ordered as follows:

Section 1. There is hereby established the President's Foreign Intelligence Advisory Board. The function of the Board shall be to advise the President with respect to the objectives and conduct of the foreign intelligence and related activities of the United States which are required in the interests of foreign policy and national defense and security.

Section 2. In the performance of its advisory duties, the Board shall conduct a continuing review and assessment of all functions of the Central Intelligence Agency, and of other executive departments and agencies having such or similar responsibilities in the foreign intelligence and related fields, and shall report thereon to the President each six months or more frequently as deemed appropriate. The Director of Central Intelligence and the heads of other departments and agencies concerned shall make available to the Board any information with respect to foreign intelligence matters which the Board may require for the purpose of carrying out its responsibilities to the President. The information so supplied to the Board shall be afforded requisite security protection as prescribed by the provisions of applicable laws and regulations.

Section 3. Members of the Board shall be appointed from among qualified persons outside the Government and shall receive such compensation and allowances, consonant with law, as may be prescribed hereafter. Such compensation and allowances and any other expenses arising in connection with the work of the Board shall be paid from the appropriation appearing under the heading "Special Projects" in title I of the General Government Matters Appropriation Act, 1961, 74 Stat. 473, and, to the extent permitted by law, from any corresponding appropriation which may be made for subsequent years. Such payments shall be made without regard to the provisions of section 3681 of the Revised Statutes and section 9 of the act of March 4, 1909, 35 Stat. 1027 (31 U.S.C. 672 and 673).

Section 4. Executive Order No. 10656 of February 6, 1956, is hereby revoked.

JOHN F. KENNEDY

THE WHITE HOUSE

May 4, 1961

Confirmation -- Questions & Answers

Major Subject Areas

1. C. T. Whitehead - Personal

2. The Office of Telecommunications Policy
   A. Structure
   B. Policy

3. Relations with other parts of Government
   A. DOD
   B. FCC
      (i) Regulatory matters generally
      (ii) Current issues
         -- Computers and computer privacy -- CATV
         -- Wiretapping
         -- Political broadcasting
         -- USITA -- separation issue
         -- NAS on interconnection
         -- TAT 6
   C. Commerce
   D. Other White House Offices (NSC/OMB)
   E. Congress
   F. State

4. Industrial relations

5. National Communications System
   (including FTS, Autovon, Advanced Record System of GSA, and Autodin)

6. Satellite Communications
   A. Domestic - General
   B. Alaska
   C. INTELSAT Negotiations
   D. Direct Broadcasting by Satellite
   E. What is Panel I
   F. Aeronautical Satellite Service

7. Spectrum Management
   (including NECAF)

8. ITU and the Space WARC

9. Noncommercial Broadcasting - PBC

10. Rostow Report

SEC. 2. General functions. Subject to the authority and control of the President, the Director of the Office of Telecommunications Policy (hereinafter referred to as the Director) shall:

(a) Serve as the President's principal adviser on telecommunications.

(b) Establish and set forth plans, policies, and programs with respect to telecommunications that will promote the public interest, support national security, sustain and contribute to the full development of the economy and world trade, strengthen the position and serve the best interests of the United States in negotiations with foreign nations, and promote effective and innovative use of telecommunications technology, resources and services. Agencies shall consult with the Director to insure that their conduct of telecommunications activities is consistent with the Director's policies and standards.

(c) The Director shall coordinate those interdepartmental and national activities which are conducted in preparation for U.S. participation in international telecommunications activities, and shall provide to the Secretary of State advice and assistance with respect to telecommunications in support of the Secretary's responsibilities for the conduct of foreign affairs.

(d) Coordinate the telecommunications activities of the executive branch and formulate policies and standards therefor, including but not limited to considerations of interoperability, privacy, security, spectrum use and emergency readiness.

(e) Evaluate by appropriate means, including testing of the overall communicatinns system, the capability of existing and planned telecommunications systems to meet national security and emergency preparedness requirements, and report the results and any recommended remedial actions to the President and the National Security Council.

(f) Review telecommunications research and development, system improvement and expansion programs, and programs for the testing, operation, and use of telecommunications systems by Federal agencies to identify competing, overlapping, duplicating or inefficient programs, and make recommendations to appropriate agency officials and to the Director of the Office of Management and Budget concerning the scope and funding of these programs.

(g) Coordinate the development of policy, plans, programs, and standards for the mobilization and use of the Nation's telecommunications resources in any emergency, and be prepared to administer such resources if directed to do so in any emergency, under the overall policy direction and planning assumptions of the Director of the Office of Emergency Preparedness.

(h) Coordinate Federal assistance to State and local governments in the telecommunications area.

(i) Conduct and coordinate economic, technical, and systems analyses of telecommunications policies, activities, and opportunities in support of national policy formulation and United States participation in international telecommunications activities.

(j) Conduct studies and analyses to evaluate the impact of the convergence of computer and communications technologies, and recommended needed actions to the President and to the departments and agencies.

(l) Contract for studies and reports related to any aspect of his responsibilities.

CTW
Personal

Confirmation Questions

very diff comb of talents
unusual man
package Dir / Dep Dir

General

Q. Why has it taken so long to name a Director?

Q. Does that mean you are second choice? many considered,

Q. The qualifications for Director cited in the President's message on reorganization called for someone with a broad telecommunications background. We had expected to see a prominent telecommunications official from industry or government nominated. How do your own qualifications match those cited by the President?

1. Industry is exceptionally diverse; our expertise not all
2. Dir to interface between technical, economic, legal; & broader pol process
3.

Q. Your predecessor, General O'Connell, received strong endorsement and support from this committee, yet he was never able to reach the President for his support on important policy issues. Don't you feel more direct access is essential, and what makes you think you will have better luck? Have you ever talked to the President about these problems during the past year? How many people will you have to go through to reach him?

DRAFT/June 22, 1970
C. C. Joyce

Director

Question: Why has there been such a delay in nominating a director?

Answer: We spent a lot of time trying to find a man with competance in all of the fields relevant to communications policy formulations, both technical and non-technical, plus experience in government and industry, who would have the respect of all of the interests concerned with communications, and who was willing to take the job. Try as we might, we were unable to combine all these in any one man. It was finally decided that I would bring to the job experience in policy matters coupled with ~~a respectable~~ acceptable technical background, and that I would seek a deputy with strong experience in industry.

Question: I have heard it said that you feel that technical competance is not important in the formulation of communications policy. Is that your view?

Answer: Of course not. I have been trying to make the point in some of my statements that policy must be determined with equal consideration given to technical communications matters and to the overall context of the needs of society and the structure of our economy. There is a tendency among ~~some~~ a few purely technical people to equate this position with the idea that the technical facts don't matter. I have never suggested such an idea at all.

CCJ 6-22-70

Q. Wasn't someone else rumored for this job? Why didn't he get it? Does that mean that you're the second choice?

I have handled telecommunications policy for the White House for over a year.

A. I understand that there were strong rumors circulating for several weeks during the time that candidates were being considered. ~~I recall that Bill Niskanen's name was among prominent~~. I also understand that during this period strong opposition developed to the nomination of anyone who did not have an extensive background in telecommunications. ~~There really is no choice until the President nominates someone, so~~ I don't consider myself to be a "second choice" at all. Rather, it was decided I had the best available combination of technical, economic, & policy abilities.

Q. Do you think the budget cut will be restored?

Hopeful

Q. Do you expect any trouble with confirmation?

Heartening wide support, can't prejudge

Q. What is your opinion of Saturday morning TV shows for kids? How about Sesame Street?

A. One of the excruciatingly difficult problems in dealing with government policy in telecommunications is to recognize and deal with the impact of communications on our society without playing the role of censor. One way of coping with this problem may be to look at the relationship between industry structure, market structure, regulatory policies, channel assignments and the like and see what ~~XXXXXX~~ variation in these factors might exert some influence on the diversity of programming and the responsiveness of programming to public needs and wants. I would not want to get into the position of debating the merits of individual shows.

CCJ 6-22-70

Q Where will your office be? Probably in EOB, certainly near White House.

(You will probably want to duck this for now but I suggest you make some moves to get your immediate office in the old EOB and the rest of your staff no further away than the new EOB)

Q Define telecommunications.

A. ~~Rigid definitions are quite useless in a policy environment. They frequently get in the way and serve no useful purpose.~~ Broadly speaking, ~~and in layman's terms, I would say that currently the field of~~ telecommunications includes all of the means of transmitting information, pictures, signals or what have you from one place to another ~~at speeds approaching the speed of light~~ anywhere in the EM spectrum Included in this are the facilities to convert information to a form suitable for transmission, and to select, switch or otherwise channel the information to and from the desired parties.

Q. What is the spectrum? Who does it belong to?

A. One of the ways of transmotting information from one place to another at the speed of light is to produce electromagnetic waves capable of travelling through space to the distant ~~xpintx~~ point. Different transmitter-receiver pairs can use the same physical space by producing waves of different wavelengths. The spectrum consists of all of the wavelengths which are useful for such transmissions. These wavelengths must be divided up among all of the people who want to use them, and these assignments must be rigidly enforced to keep ~~xxxxxx~~ users from interfering with one anothers transmissions.

~~XXXXXXXXXXXX~~ Under present laws, there is no private ownership of the spectrum. The FCC allocates the spectrum to users other than the federal government, and the Director , OTP, by delegation from the President, allocates spectrum to government users.

Q. Does that mean that you are going to solve the fight between the broadcasters and the CATV operatiors?

A. This is really a fight over other issues, not over spectrum needs.

Q. Are you going to get into the fight? How do you stand on the copyright bill now in the Senate.

A. It will take a little time to determine which issues are the most pressing and to develop the full staff capability needed to analyze these issues. ~~I am not going to shoot from the hip on individual issues before doing my homework.~~ OTP will not feel obliged to comment on all minor issues; We will do our homework + then decide if we have something useful to say. This is certainly one we will look at for OTP. Whether we take a stand + what it will would be, I can't now say.

My experience on the WH staff for the last year assures me that this will not be a problem.

QUESTIONS AND ANSWERS FOR CONFIRMATION HEARING

Q: During the five years of General O'Connell's tenure as Director of Telecommunications Policy, he did not see the President once. Now you are by definition the President's principal advisor on telecommunications matters. Do you foresee that you will have access to the President?

A: In his covering letter to Congress which accompanied Reorganization Plan No. 1 of 1970, the President indicated his feeling concerning the great importance of telecommunications technology -- its growing influence upon the people of this Nation as well as people throughout the world. I am convinced that the President has very deep concerns with the complex issues and problems which face us as a consequence of the rapid growth of this technology. I am of the opinion that the President will not hesitate to call upon ~~his principal advisor~~ me on telecommunications whenever he wishes to discuss a matter of national importance which is within the competence, the responsibility and the authority vested in my office.

3-4-70 OTP Structure & Polic

Question: Why do we need the OTP? What will it do? How will it function?

Answer: The OTP is needed to perform three principal functions:

1. To serve the President and the nation by analyzing issues and developing policy options across the entire spectrum of telecommunications activity.
2. To coordinate the telecommunications activities of the Federal Government to the degree necessary to meet priority national needs effectively and to achieve an efficient and economical system.
3. To allocate the Federal Government portion of the radio frequency spectrum, and to work cooperatively with the FCC to develop an overall plan for effective use of the total radio spectrum.
4. The Dir serves as π principal advisor

Because so many government departments and agencies have vital interests in telecommunications, no single department could perform these functions without excessive friction with other departments. Hence, the need for an office at the level of the Executive Office of the President.

However, while final responsibility for these functions will rest with the OTP, we will make use to the greatest extent possible of the capabilities of other elements of

CCJ 7-9-70

the Executive Branch to assist us with these functions. In particular, we will be looking to the Department of Commerce for research and analysis in support of frequency management, and we expect to draw heavily on the technical expertise available in the Defense Department, NASA, and elsewhere. Our own staff will be kept small, and we hope to attract people with wide experience & unusual competence who will bring their background to bear on problems of national importance ~~for a limited period of time~~. We will be the top of a very ~~low~~ high pyramid in each agency branch ~~+ staff~~, the equiv almost of a Cab sec's office, but working through & coord work in existing depts.

Question: How big will the staff be?

Answer: For the present, we plan to build up to a staff of 30 professionals, plus the necessary secretarial and administrative support.

Question: How many supergrades?

Answer: To get the kinds of people we need, about half of the positions will have to be at supergrade levels. We need technically competent people with broad experience and a policy orientation. We need lawyers, economists as well as engineers who can work w/ professionals in other disciplines. These are very hard to find..

CCT 7-29-70

Question: How will the staff be organized?

Answer: The structure of the organization will evolve as we find the people we want and sort out the principal areas of activity. I expect to keep the structure relatively ~~loose and informal,~~ flexible at least initially.

Question: Will you use the existing DTM staff?

Answer: More than half of the staff of the DTM was involved in frequency management support functions which we plan to transfer to the Department of Commerce. Some of the remaining staff will remain with the OTP, but I expect that others will find jobs elsewhere.

Q. What will OTP really do?

A. It will do the fact finding and analysis necessary to identify the policy choices open to the givernment with respect to the telecommunications sector of our economy, and with respect to the government's own use of telecommunications services and equipment. It will assure that these choices are widely discussed, that all points of view are heard, and that decisions are reached in a timely manner. [illegible] The office will have unique contributions in the areas of management of the government portions of the frequency spectrum, and policy development for government use of telecommunications. It will cooperate with the FCC in some other areas, ~~and forms~~ dealing after matters [illegible] undoubtedly [illegible] will continue to be addressed solely by the FCC, e.g., licensing, rate determinations

Policies

Question: How can your office protect the interests of the government a a user of communications and at the same time objectively consider the interests of the private sector and the public at large?

Answer: I do not see why this should be a particular problem. The government is a major user of the output of many industries: aviation, petroleum, construction, to give a few examples - and yet policies affecting these industries in various ways must be formulated. However, to try to address your concern specifically in this case, I would say that the various Departments and Agencies which procure telecommunications services, together with the Office of Management and Budget, should be the principal advocates and protectors of the government's interest in the procurement of telecommunications services and equipment, and in defining the government's needs for spectrum allocation. The Office of Telecommunications Policy should be in a position to weigh these needs and interests against the interests of other sectors, and to make objective recommendations to the President.

As long as the
proposal of the Post is accepted
the Post Hall Auditorium is a most
convenient place — the
rooms should be heated & lighted
& kept in order & the
Auditor to be responsible for
any damage done to
the Post. The next floor is hardly
suitable in size.

Q: How shall the U. S. develop policies and plans to foster the soundness and vigor of its telecommunications industry in the face of new technical developments, changing needs and economic developments?

A: I mentioned earlier, Mr. Chairman, that I am sympathetic to the idea of establishing and maintaining effective lines of communication between this office and the national telecommunications industry. I believe that this is a first step toward assuring ourselves that the soundness and vigor of the industry continues at a high level. I am persuaded that this industry has for a number of years been unable to develop the mid-range and long-range plans which would give some assurance of orderly technical and economic growth. I am of the opinion that this lack of capability has stemmed from the lack of a body of enlightened national telecommunications policy -- one upon which industry could depend in making its own long-term evaluations concerning, for example, their rate and direction of growth. I believe that a close relationship with the telecommunications industry will assist us in identifying current or potential problems, in analyzing alternatives, in developing policies and procedures for overcoming the problems, and in obtaining full cooperation of industry in implementing the policies.

The revolution in telecommunications technology is forcing us to re-think through many of the conventional approaches to applying new technologies and technological innovations to society's needs. I believe that we can no longer treat developments in telecommunications merely or even primarily from the question of technical

feasibility. We have learned, sometimes to our disappointment, that many things which are technically feasible and placed at the disposal of our people trigger a number of social, political and economic problems which were neither foreseen nor the potentials adequately studied. I feel that we need to go beyond the engineering phase and look at these things from a greatly broadened perspective, an interdisciplinary one if I may. This is, incidentally, one of the basic ideas behind the NECAP concept.

Q: Do you mean to suggest that the basic national guidelines for telecommunications -- as, for example, the Communications Act of 1934 and the Communications Satellite Act of 1962 -- are obsolete? Inadequate for today's needs?

A: Mr. Chairman, I would not describe either of these Acts as obsolete or inadequate. They certainly bear constant and analytical reviews -- as do other legislation and executive orders. If, in the course of our reviews it appears that changes need to be made in our framework for national telecommunications policy, I will certainly make such recommendations.

Question: Should the Communications Act of 1934 be rewritten? the Communications Satellite Act of 1962?

Answer: As we progress with our work we will, of course, have an eye to the need for additional legislation in the communications area. I think it ~~much~~ more likely that the 1962 Act would need updating than the 1934 Act. The Communications Satellite Act was excellent legislation ~~at the time,~~ and it started the U.S. very successfully on the road of leadership in space communications. However, at that time all of the thinking was attuned to the capabilities and limitations of low orbiting satellites, and the success of geostationary satellites has really changed the picture quite a bit. So we will be looking at the need for updating particularly in that area. I have ~~cannot say no policy~~ now what such a review might conclude, but any event, it would clearly have to be discussed with the Congress

Question: Do you favor the introduction of the maximum possible degree of competition in the communications industry?

Answer: Competition is, of course, the underlying principle in our economy, and we provide a public franchise for monopoly only when there are overriding reasons to do so. There are, obviously, overriding reasons for a monopoly in the public telephone message service. We have to carefully evaluate the other types of services which are evolving in a very dynamic industry -- including those in which computers and communications are being used together -- and make judgments as to the existence of these overriding reasons.

Frankly, I see no reason now to extend regulation to the data processing industry. Looking at the area of specialized carriers, I think that competiton may be desirable as long as there is some basis for it other than "cream skimming," as it is called. I do not think it is economically justifiable for independent carriers to survive economically solely because the competing common carrier is forced to charge nationwide average rates. This can lead to inefficient investments which raise the total cost to the nation of providing telephone service.

CCT 2-9-70
OTP Agencies & Relations

Question: What will be the relationship between the OTP and other White House offices such as the NSC, Domestic Council, OST, and the Office of Management and Budget?

Answer: We will coordinate with other elements of the Executive Office in areas of mutual interest. We would expect, for example, to work with the NSC staff on national security communications requirements,' with the domestic council staff on the role of communications in coping with urban problems and other social needs,' with OST on issues of research and technology,' and with the OMB on questions of the organization, management, and efficiency of Federal Government telecommunications systems.

Q. What about the Department of Defense? It is said to have dominated the OTM both through the detail of many military officers to the DTM staff and through the sheer magnitude of its own telecommunications operations and organization. Also, it is reported to have simply ignored many efforts of the DTM to provide guidance in frequency assignments, lease of telecommunication services, and standardization of equipment. How do you expect to cope with this situation?

Question: What will be the role of the OTP with respect to Presidential Communications?

Answer: The Office will not be involved in the day to day operation of any communications systems, including those which serve the President. However, I will be aware of the communications needs of the President, and will assure that these needs are adequately reflected in the design of the government communications systems.

Q. The Acting Director of the OTP informed this Committee during its appropriation hearings that he has been unable to hire a GS-14 or assign a government frequency since April 20 when the OTP reorganization became effective, despite a heavy workload. Why was this situation allowed to exist, and just how important does the White House consider these telecommunications problems to be?

Question: What will be the relationship of the OTP with other elements of the Executive Branch?

Answer: The office will develop policies which will affect the development and operation of government communications systems, and will work with the Office of Management and Budget to see that these policies are reflected in plans, programs and management arrangements. However, the office will not assume any responsibilities for operating telecommunications systems.

Contingent question. CCT 7-9-70

Question: What kind of policies do you have in mind? Can you give me an example?

Answer: We need a clearer policy, or guidance if you will, about the extent to which different government communications systems will be forced together or integrated into a single system. It is possible to go too far here, to try to build a sophisticated single system capable of being all things to all men, while discarding existing hardware which is perfectly serviceable for the particular needs it is serving. On the other hand, system compatibility and the ability of different systems to interconnect easily is definitely advantageous, and new facilities which are added to the stock of government communications assets should be constrained in most instances by considerations of compatibility.

I think we need to re-think and re-state the objectives, guidelines, and standards for overall government systems planning to achieve the right balance between the advantages of compatibility and standardization and the costs of eliminating existing diversity.

- Dormant
- # deem to launch Canadian Telecast

Question: What will be the relationship of the OTP with the FCC?

Answer: The two offices will cooperate in those areas where there are mutual interests and concerns. No existing authority or function of the FCC has been affected by the reorganization. There has been some concern voiced that my office would use the prestige of the Presidency to somehow overwhelm the FCC. Neither Chairman Burch nor I think that this will happen.

Q. We understand this new Office is supposed to expand the scope of Executive Branch activities in this field to include nongovernment communications and spectrum management in addition to dealing with government communications problems. This leads to several questions:

1) Won't this tend to duplicate and infringe upon the regulation of nongovernment communications by the FCC? With the vast resources of the Federal Government at your disposal (e.g., Commerce, DOD and NASA R&D activities in this field), won't your office simply be able to overpower the Commission with analysis and arguments on any issue it chooses?

2) How can you separate your involvement in Federal communication developments from these broader policy studies and recommendations you suggest? Aren't we just likely to see you pushing recommendations on the FCC and Congress which are motivated by government communication interests?

Q: How do you visualize your relationship with the FCC?

A: I see no area of contention between our respective offices. The President has defined very clearly the purpose of this office vis-a-vis that of the FCC and in a recent letter to Chairman Holifield, I and the FCC were in no sense competitors in the areas of national and public policy. I consider that, in certain major areas -- for example, in our respective roles in managing the electromagnetic spectrum -- we need to consult with one another, assist one another if and when such assistance was indicated, and advise each other of actual or potential problems which might affect our national telecommunications posture. It is my understanding that the relationship between General O'Connell and Chairman Hyde -- as well as between their respective staffs -- was a very close and productive one in the sense that they cooperated closely and continuously on problems of mutual concern. I would hope that this relationship between our respective offices would not only continue but be progressively strengthened.

Q: Will more Presidential recommendations on FCC policy matters such as the recent domestic satellite policy be sent to the FCC?

A: Yes.

Dealing with the FCC and Congress

Q: What will you do to keep the Congress fully apprised of your activities with respect to the FCC in the regulatory area?

A: Let me say, Senator, I fully recognized the ultimate responsibility of the Congress for telecommunications policy ~~the operation of the FCC.~~ Therefore, I intend that the Congress should be kept fully informed of our views ~~on matters pending before the FCC.~~ & that all communications to the FCC be open & on the record.

I do not believe that this should present a problem. It is my intention that my Office will contribute to FCC policy formulation by submitting formal documents embodying careful analysis of issues which we think are important. The Executive memorandum filed with the FCC in the Domestic Satellite proceeding illustrates the kind of thing I have in mind. Our briefs and other filings will, of course, be public documents and will be available for scrutiny not only by the Commission, but members of this committee and other interested parties.

I expect to be available to the Congress at any time to discuss or answer questions

I would hope that our filings with the FCC would be of assistance to the Congress to the extent that you have to deal with similar issues.

Standard Answer for Matters in Litigation

Q: What is your view on the FCC's handling of telephone company ownership of CATVs (or network control of programming)?

A: ~~This matter is difficult and compler.~~ It is presently the subject of active litigation. In the circumstances, I think it would be better for me not to venture any offhand judgment which might somehow prejudice the course of this litigation.

This subject is of such ovious importance that my Office will be concerned with it and will study it. If we have additional views relating to the matter, based on careful study, we will make them known at the appropriate time and in the appropriate manner, ~~which might be to the Commission or to the court or to the Congress.~~

Q: Much has been written and spoken about the increasing dangers to our society of computerization. The question of individual privacy is becoming more urgent as we move into the area of teleprocessing. Do you have any views on this subject?

A: I am aware of the fears which have been voiced. ~~The issues involved here are complex.~~ It is a problem whose ultimate dimensions are not yet clear. In the sense that teleprocessing is a new technology, we are faced with the initial problem of getting the facts. We don't know yet how this technology is going to develop, what kind of markets will be created, what sort of hazards to personal privacy ~~--in fact, will--~~ might emerge. This is one of those problems which, again, ~~deserve the benefit~~ require of inter-disciplinary research and analysis. There is no question in respect to technical feasibility. The real questions are what effects the large-scale introduction of teleprocessing techniques and equipments will have upon our society. Hopefully, I will have the resources to apply to this kind of problem solving.

Question: What interest will your office take in the issues concerned with the relationships of computers and communications, and in the related issue of the privacy of computer data.

Answer: One of the principal features of current computer developments is that computers are increasingly performing the function of selecting and transmitting information from one location to another in response to requests. This raises several issues; for example:

1. Do services of this type require regulation? At the present time I think the answer to this one is no.
2. Will data be communicated and used for purposes other than those for which it was collected? This is the privacy question, and it is a very important one.

I think it is extremely important that these issues be thoroughly studied and understood and that policy options be debated and publicly discussed. I expect my office to be an active participant in these discussions, and to be a prime mover if necessary to see that suitable public policies and any necessary legislation are developed in these areas.

Justice Filing w/ FCC on computers & privacy

VI. PROTECTING THE INTERESTS OF PRIVACY IS CONSISTENT WITH THE FOREGOING RECOMMENDATIONS

The Department of Justice recognizes the importance of protecting the privacy of data shared in computers and transmitted over communications links. We believe that the Commission should give careful attention to the privacy question and that it can be resolved satisfactorily within the context of the competitive-type market structure advocated in the foregoing sections.

A. The Problem

The problem of privacy in remote access data processing systems is but one aspect of a larger concern for system security. This over-all subject has several dimensions. First, use of the system must be restricted to those authorized to use it. Secondly, the individual user's information files (programs and/or data) must be protected from both intentional and unintentional access by other users or by the operators of the system. Thirdly, precautions must be taken to prevent the loss or destruction of information due to system failure, human error, etc.48/

48/ These problems suggest the necessity for providing at least the following safeguards:

(Footnote continued on next page.)

The problems of privacy per se are most acute in conversational time-sharing systems, which have a multiplicity of users, most of whom maintain private information files within the system, and some of whom may wish to share their files on a limited basis with certain other users.

(Footnote continued from preceding page.)

-- Safety from someone masquerading as someone else;

-- Safety from accidents or maliciousness by someone specifically permitted controlled access;

-- Safety from accidents or maliciousness by someone specifically denied access;

-- Safety from accidents self-inflicted;

-- Total privacy, if needed, with access only by one user or a set of users;

-- Safety from hardware or system software failures;

-- Security of system safeguards themselves from tampering by nonauthorized users;

-- Safeguard against overzealous application of other safeguards.

(From R. C. Daley and P. G. Neumann, "A General-Purpose File System for Secondary Storage," Proceedings -- Fall Joint Computer Conference (Las Vegas, Nevada, November 30, 1965), p. 214.)

B. Techniques for Solution

Briefly stated, there are a number of safeguards which may be built into the design of a remote access data processing system to avoid compromise of security in general and the invasion of privacy in particular. First, access to the system may be controlled by the issuance of a secret password to each authorized user; each user would be required to enter this password from his terminal whenever he "logs in" to use the time-sharing system. Likewise, in an inquiry system the user could be required to enter an access code number before he would be permitted to query the system's files.

Additional means of guarding against unauthorized use of the remote access system include physical limitations on access to the terminals (e.g., in a commercial environment, only authorized system users will have terminals in their offices) and verification by the system when a user logs in that he is using a terminal approved for his use.

Privacy of information in the system can be assured in a number of ways. Cryptographic devices located at the

terminals and at the central computer may be used to ensure the privacy of information transmitted over the communications links. Data stored at the central computer[49] may also be encrypted if desired.

In many time-sharing systems, users may wish to share their data and/or program files[50] with certain other users, or they may wish to make "public" certain files. This may be accomplished simply by letting each user specify who (if anyone) may have access to each of his files, and what level of access shall be permitted (e.g., permission to read the file but not to modify or erase it, permission to execute a program but not to print the program, or

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[49] This includes both storage in the computer's on-line memory (internal core memory and direct-access storage devices such as magnetic disks, drums, and data cells) and storage on off-line media (such as punched card files and magnetic tapes). The data is encrypted by the computer before being placed into storage.

[50] The term "files" refers to a block of related information stored by a user in the computer's on-line or off-line memory. A particular user may have many separate files.

permission for unrestricted access).[51]/ Each request for memory access (including reading from memory, writing into memory, or executing instructions stored in memory) by a user of the system is checked to determine if the memory address specified is within the user's own file storage area or not. If it is, the access request is granted. Otherwise, the access request is granted by the system only if, for the file in question, access permission of the required type (read, write, or execute) has been established for that user. When permission is granted to access another's files, procedures may be triggered to record the "borrower's" identity, the file name, the time of day, the nature of the access, etc. Subsequently, "audit trails" may be prepared listing which non-owned files were accessed and by whom.

Implementation of these access control procedures may be accomplished by use of both hardware and system

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[51]/ Similar precautions may be taken for the portion of memory in which resides the system supervisory control program itself: authorized "system programmers" are permitted access -- perhaps in varying degrees based upon their assignments -- while others are excluded.

software techniques -- the combination of which results in much greater data security than is usually found with manual storage of information. 52/ For example, there exist computer memory devices which are physically of a "read-only" or "execute-only" nature -- once information is placed there it cannot be modified or (with the latter type) even be examined under program control; likewise hardware "trapping" techniques facilitate the foolproof keeping of an "audit trail" record of accesses.

There are many approaches to the problem of safeguarding from loss or destruction the information in a remote access data processing system. Many systems, especially of the real-time variety, employ backup equipment (e.g., reserve central processing units and mass storage devices) and auxiliary sources of electric power. This permits uninterrupted operation and avoids the possible loss of

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52/ The combination of both hardware and software security techniques may be made immune to virtually all forms of tampering -- this is evidenced by the fact that the MULTICS time-sharing system at Project MAC (Massachusetts Institute of Technology) is being seriously considered for clearance to store classified military information (from a conversation with Professor Malcolm M. Jones, Assistant Director of Project MAC, Massachusetts Institute of Technology).

information due to system failure -- especially important in real-time applications such as military command and control systems, and airline reservations systems.

It is standard procedure to periodically "dump" the contents of the computer's mass storage memory onto magnetic tape for off-line storage -- both to satisfy requirements for permanent records and to permit recovery from system catastrophes which might cause the destruction of information in the on-line files. In addition to these periodic memory "dumps," all transactions between "dumps" which modify the memory files may be recorded on tape as they occur; this transaction history plus the last "dump" may be used to recreate memory files immediately prior to any catastrophic failure. Also, the backup tapes may exist in duplicate; vault storage may be provided for them, etc. -- depending upon the nature of the application and the importance of absolute information security.

C. Legal Controls

The privacy question will grow in importance as the use of remote access data processing systems becomes more

widespread. That technical methods exist for safeguarding the privacy of the computer users' data is no guarantee that they will be employed or, if employed, employed competently, consistently and uniformly. It may be that the marketplace will respond to these needs on a purely competitive basis -- since at least the larger, more sophisticated customers are capable at bargaining to protect an interest which they are clearly able to recognize; on the other hand, the spread of computer-based services to large segments of the public may involve problems which require additional legal controls to insure that those offering the services in fact install adequate safeguards.

The discussion of safeguards necessarily has two dimensions. First, what means may be necessary to insure that technical safeguards are incorporated into remote access data processing systems? Second, what means may be necessary to insure that those offering such services and operating the systems meet minimum standards of competence and integrity?

Existing law already provides some safeguards relating to privacy. Section 605 of the Communications Act (47 U.S.C. 605) prohibits unauthorized disclosure or use of the contents of "any interstate or foreign communication by wire" -- i.e., except to the addressee or his agent. This provision might enable the Commission to require adoption of certain safeguards when common carrier lines are used as part of remote access data processing systems.

Furthermore, Section 5 of the Federal Trade Commission Act (15 U.S.C. 45) grants the Federal Trade Commission broad authority to obtain relief against unfair and deceptive methods of doing business in interstate commerce. This power -- which has been construed very broadly by the courts in recent years 53/-- might enable the Federal Trade Commission to obtain orders against data processors which failed to disclose that they had not installed generally accepted safeguards; this would be particularly appropriate if use of safeguards had become widespread and the only problem was to deal with a few operators seeking to take advantage of smaller consumers for such

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53/ See e.g., Federal Trade Commission v. Brown Shoe Co., 384 U.S. 316, 320-322 (1966).

services.

If the foregoing legal controls were proved inadequate to meet the needs of the public, a variety of others might be considered. We outline here some of the possibilities; any one of them might be applied generally, or in connection with particular services (presumably those intended for smaller customers) where problems of protecting privacy arose.

(1) System Licensing and Inspection. System licensing requirements could be devised under which no person would be permitted to offer the services of a remote access system until the system included hardware and programming safeguards of the kind outlined above. Licensing requirements could be combined with periodic inspection aimed at insuring that these safeguards were in fact being consistently employed.

(2) System Certification. Government might establish a voluntary program under which a data processing firm could obtain official certification upon compliance with certain standards enforced by inspection.

(3) Licensing of Personnel. It would also be possible to impose licensing requirements, in the manner of other professional licensing, upon the personnel who are to operate remote access data processing systems. Persons who wished to enter this phase of the computer industry as systems operators, programmers, etc., could be required to meet standards of both technical competence and reliability of character.

(4) Compulsory Insurance and/or Bonding. Data processors, offering multi-access computer services, could be required to obtain insurance or bonds which would compensate any computer user who suffered damage as a result of the destruction of or unauthorized disclosure or use of his data.

(5) Criminal Sanctions could be imposed for (i) the unauthorized disclosure or use of information contained in a multi-access computer system, and (ii) the failure of any company or person to comply with rules requiring implementation of specified safeguards.

We are not suggesting that it will, in fact, be necessary for any of the foregoing systems to be employed.

We simply are submitting these possibilities to the Commission for its consideration. It is our general belief that, while they might somewhat limit competition, they would not eliminate it to the extent that full regulation would.

Wire Tapping

Q: What is your view with respect to government policy on wire tapping?

A: Let me say, that there are two quite separate questions involved here: First, the legal rules governing wire tapping; and secondly, the questions of protecting or enhancing the security of communications networks.

On the first question, my Office has, and will have, no views. This is entirely a matter of law and law enforcement. Wire tapping is unlawful under Section 605 of the Communications Act of 1934. This rule is subject to some ecveptions and there have been proposals to increase those exceptions. */ This involves issues which are before both the Congress and the courts. On these questions, I expect the Attorney General to represent Administration policy and I shall defer to the views of his Department.

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*/ See also Katz v. United States, 389 U.S. 347 (¶67) (FBI's unauthorized wiretapping of phone booth violated defendant's 4th amendment rights).

My Office will be concerned about the second question - of protecting the security of communications systems. This involves both technical and economic issues: what can be done? how much will it cost? We shall be especially concerned with this issue, in view of our responsibilities for communications in times of emergency. Therefore, we shall have under continuing review, appropriate methods to make communications systems more secure and of reducing costs maintaining network security. To the extent that we are able to develop additional proposals, we shall, of course, submit these to the appropriate agencies.

WNL - 7/14/70

BROADCASTING

1) Should a "loyal opposition" be given free television time to reply to the President?

2) The Senate has passed and the House is considering limitations on campaign spending - most of it for television. Would you support this?

* 3) Should not the FCC approached the matter of increased fees somewhat more gradually? pretty gradual already

4) Now that the FCC has failed to renew the license of WXUR, do you favor forcing all religiously oriented radio and TV stations to cater to religious views they deem erroneous?

* 5) What public interest will be served by Pay-TV?

* 6) How would you prevent the Corporation of Public Broadcasting from becoming the "Voice of Government" or the "Voice of the Administration?"

* 7) Shouldn't the FCC, or possibly OTP, prepare a "code book" on the Fairness Doctrine?

8) Would you support FCC Commissioner Johnson in calling for a greater public protest on broadcast issues?

9) Shouldn't politicians, like manufacturers of deoderants and dog food, be allowed to purchase broadcast time whenever they want it and can afford it?

* 10) Do you think limiting network dominance to three hours of prime time will improve broadcasting? litigation FCC

* 11) What will you do about keeping the military from faking combat films for broadcast?

* 12) How vigorously do you intend to pursue the elimination of smut and obscenity in broadcasting?

* 13) In the matter of license renewal, do you favor giving the current licensee an advantage over other applicants? Baker memo. Burch: constitutional attempt to deal with

* 14) What can be done about the deluge of advertising on radio and television? Congress

* 15) Can we expect some proposals from you on how the Corporation of Public Broadcasting is to be financed?

16) What are your views on the Supreme Court's "Red Lion" decision?

17) Can't we carry this question of a Fairness Doctrine too far?

18) Are you familiar with HR 16418 on Pay-TV now before the House? Do you agree with it? agin

19) The First Amendment guarantees freedom of speech and of the press. Are not broadcasters correct in being concerned that their rights are being violated?

20) Do you think we are faced with a real crisis in the matter of conglomerate ownership of broadcast and newspaper media, or are some just being overly eager for regulation?

CATV

Q: Do you have any views on the development of CATV? And do you anticipate that your office will be a factor in formulation of policy in this area?

A: CATV presents some important new opportunities and challanges to those responsible for communications policy. We are likely to take some interest in developments in this field. To date, the main thrust of FCC policy has been to restrict CATV development - particularly in larger centers - in order to protect marginal broadcasters from competitive impact. This kind of protection is open to question on policy grounds. Indeed, the whole thing is rather ironic. We regulate broadcasting because spectrum space available is limited. Then a new business is developed which is capable of rendering those limitations obsolete. However, the regulator imposes limitations on the new business in order to protect the divested interest of those in the original technology. Obviously, there is some room for re-thinking. There may be some need to preserve some minimum over-the-air television service - but one can question the desirability of holding back new, liberating technology on a much broader scale.

BROADCASTING AND CATV

My judgment is that neither the broad area of "broadcasting," with its multifarious "booby-traps," nor CATV should be part of your opening statement. Most assuredly, as "sleeping dogs," issues herein will not remain dormant, but the nominee for Director of OTP shouldn't "whistle them up."

In this field, I suggest that all observations and/or views solicited be grounded on these premises:

In the words of the Communications Act of 1934, broadcasting should operate in accordance with the "public convenience, interest or necessity." To assure this, the Congress by the '34 Act created the FCC.

On the other hand, the industry is gigantic, its influence all pervading. It is estimated the average American will spend eleven years of his life watching television. This administration, or any administration, would be derelict in its mandate from the American people were it not to undertake to comprehend the potentials for good and ill herein, and to use its best resources in submitting recommendations to the Congress.

Somewhere, under questioning, you may want to underscore the conviction that the American way of private, free, competitive broadcasting may have its problems, but nothing so serious as to warrant government ownership and operation, as in most other countries.

There is no point in repeating the general problems in this area - prime time, license renewal, pay-TV, Fairness Doctrine, etc. Recently we have been through this, and, I trust, the weekly summaries have kept you up-to-date. This week's review will be in your hands tomorrow.

The "burning issue" this week is the Fairness Doctrine as related to the President. Senators Goodell and Hart of the Communications Subcommittee have joined 12 other "doves" in demanding mandatory equal time for their

Viet Nam views. This, along with the political brouhaha, the GOP now wanting to rebut the rebuttal, surely will come up. Fortunately, for our purposes at this time, the hard decisions rest with the FCC. You may wish to keep any response as bland as possible, offering a ringing endorsement of an open society, but, if pushed, take refuge in the fact that anything you might say might only complicate the difficult task of the FCC.

It may well be that some broadcasters have already embued committee members with the belief that there is such a thing as White House Harassment. Over and above assuring all that such is not the case, you may want to point out that the new license fee schedule of the FCC is regarded by some also as harassment. Pastore will be with you on this.

Somebody, undoubtedly, will want comments on the Vice President.

Have you some response if Mr. McGuinnis' book is raised? No-get one

As to CATV, recently estimated to be, by 1980, a $4.4 billion business with 28 million subscribers, without specifically committing yourself to any of the recently announced FCC decisions, you may wish to hail the effort to get moving.

Study, research, analysis even trial and error are of the most urgent importance. Questions, economic, legal and corporate, all await resolution in the immediate future.

A warning may not be amiss - this new, even exciting technology, is still a technology, not a social Messiah.

What about quality? If one is inclined to be disenchanted with the "menu" of three, four or five channels, what might be expected on 40 channels: Diversity

Form DJ-150
(Ed. 4-26-65)

UNITED STATES GOVERNMENT

Memorandum

DEPARTMENT OF JUSTICE

DIBaker:mtb

TO : Clay T. Whitehead
White House Staff

DATE: July 10, 1970

File: 60-211-0

FROM : Donald I. Baker, Deputy
Director of Policy Planning
Antitrust Division

SUBJECT: Increases in FCC License Fees

The question is what position you should take on the recent increase in FCC license fees.

Basically, I believe regulatory agencies should "pay their own way" - i.e., that the costs of regulation should fall on the regulated enterprise and/or the user of regulated services rather than on taxpayers generally.

The following is a quick comparison, from published sources, of what is done by a variety of regulatory agencies with respect to fees. Some (such as the Comptroller of the Currency) fully pay their way with fees, most others do not. However, there appears to be a trend toward increased self-sufficiency (as illustrated by the SEC).

APPENDIX

For Policies of Various Federal Regulatory Agencies

Atomic Energy Commission

It has some form of fee charged when they license a company to use their matericals. In fiscal 1969, the Commissioner returned $12 million from fees as compared with a budget of $2.6 billion. [1969 Annual Report p.87]

Civil Aeronautics Board

In fiscal 1969 the CAB collected $1 million in excess of their $9.9 million budget operating costs; in addition, the agency collected $79,000 in civil penalties assessed against carriers. [1969 Annual Report p. 52]

Comptroller of the Currency

His office had expense of $21.5 million and revenues of $23.8 million derived from "semi-annual assessments" ($20.65 million), examinations and investigations fees ($1.7 million), reports sold to the public ($807,647) and "revenue from investments" ($155,749). [1967 Annual Report p.23]

Federal Home Loan Bank Board

not disclosed

Federal Maritime Commission

As opposed to a budget of $3.7 million, they recovered $107,401 in fees derived from: freight forwarder license fees ($8,700), fines ($87,810), and "refunds" ($1,200). [1969 Annual Report, appendix]

Federal Power Commission

In fiscal 1969 the Commission collected fees and fines, etc. that totalled $8.2 million or 52 per cent of their annual budget of $15.9 million. They returned to the Treasury $78,000. Their collections came from (1) licensee "collections" of $6.1 million and (2) natural gas certificates application fees of $2.2 million. They claim that these collections "reimbursed the Commission." [1969 Annual Report p. 5]

Federal Reserve Board

not disclosed

Federal Trade Commission

not disclosed

Interstate Commerce Commission

In fiscal 1969 the Commission collected $1.3 million in fees; they then instituted a rule-making procedure to raise the fee level so that they would collect an estimated $5.5 million. They estimated that this fee schedule would raise an amount equal to "one-half the average direct costs incurred by the Commission." [1969 Annual Report, p. 105]

Securities Exchange Commission

The SEC collects fees for (1) registration of securities issued; (2) qualification of trust indentures; (3) registration of exchanges; (4) brokers and dealers who are registered with the SEC but who are not members of a registered securities association (i.e., NASD) and (5) certification of documents filed with the SEC.

The SEC covered its expenses through recent increases in fees.

Year	Appropriation	Fees Collected	Per Cent of Appropriation	Net Cost of SEC to Taxpayer
1967	17.55m	9.767m	56	7.782m
1968	17.73m	14.622m	82	3.107m
1969	18.62m	21.996m	118	(3.372m) (profit)

Independent Telephone Companies - Separations Issue

Q: What is your view on the present separations procedure for allocating revenue between interstate traffic and intrastate traffic?

A: I recognize the importance of this question, for there are about the 2700 independent telephone companies which are, after all, almost entirely intrastate in operations. This is a very difficult issue from a practical standpoint. It is also a matter of detailed day-to-day regulation. I do not see any compelling basis which clearly dictates one method of handling separations over all others. The line between interstate and intrastate traffic just is not clear beyond all difference and doubt.

My Office will, of course, wish to review this question and seek to determine whether there is any way in which the continuing separations problem can be simplified or reduced. In doing so, we would, of course, give careful consideration to the needs and views of state regulators.

I difficult question of cross-subsidies & Fed vs. state juried. I have no particular comment at this time.

Question: What do you think of the NAS study of interconnection?

Answer: I have not really had time to analyze and digest the report fully. As I understand it, they have concluded that the uncontrolled interconnection of user-owned equipment can cause harm to common carrier personnel and to system performance. They conclude that an independent equipment certification program is an acceptable alternative to carrier-provided connecting arrangements as a means of protection. These technical conclusions represent a significant contribution to the discussion of the interconnection problem. The study group itself recognized that there are several aspects of this problem which they did not consider, including legal and economic questions, and the effect on service reliability of the division of operating and maintenance responsibility for different portions of an overall communications system. Some of these matters can be settled in the marketplace, but I think it is important that we continue to assess the overall impact of interconnection policies on costs, on the responsiveness and reliability of service, on the introduction of new services, and on the response of the overall communications system in emergencies.

Question: What will be the role of the Commerce Department? How big will the Commerce activity be?

Answer: Commerce will be a primary source of technical and analytic support for the OTP. The principal focus for Commerce support, at least initially, will be in the spectrum management area. The Secretary of Commerce will not be the final authority for spectrum assignments - that authority will be exercised by the Director of the OTP. However, Commerce will provide technical support, including the development of an improved data base and new analytical techniques for analysis of spectrum allocation and use. Existing research activities of the Department will be focused to contribute to this role.

We have not yet clearly identified just what ongoing activities within the Commerce Department will be identified as part of the Department's mission under this reorganization, so I can't say right now what the magnitude of this effort will be. However, we do know that the Department will need to hire 20 to 40 additional personnel within the next year with specialized analytical skills in spectrum management and engineering.

Q. What will be your relationship with the Department of State?

A. In general, the State Department is responsible for the conduct of foreign relations. Operationally, this means that the Department is responsible to conduct our foreign relations with foreign countries and with international organizations. While the Department is responsible for advice to the President and formulation of foreign policy, it has traditionally worked with the White House and the FCC and other agencies, as appropriate, to obtain policy guidance in the telecommunications field. That Department has not made telecommunications policy in the ultimate sense. I, therefore, would expect to be working continually in close cooperation with all the interested agencies of government in the process of developing national telecommunications policy which then would become the basis for negotiations conducted by or under the direction of the Department of State.

For Policy re UN

CONTINGENCY QUESTIONS AND ANSWERS
Prepared for DePalma in April 1970

1. You may be asked about how U.S. foreign policy positions on space communications have been formulated and coordinated within the Government during the past year. If so, you might respond along the following lines:

The position for the second session of the UN Working Group was formulated within the Department of State, in consultation with interested agencies within the Executive Branch (Office of Telecommunications Management, Federal Communications Commission, NASA, USIA, and Department of Defense). The position for the UNESCO meeting on space communication was similarly formulated by the Department of State, and included consultation with other interested agencies as well as with representatives from the broadcasting industry. The U.S. broadcasting industry was represented at the UNESCO meeting, as it will be on the U.S. Delegation to the May 1970 meeting of the UN Working Group.

2. You may be asked if there is any interagency "task force" to review U.S. policy on satellite space communications.

You might respond that last Fall, subsequent to the second session of the UN Working Group, an Ad Hoc Intra-Governmental Communications Satellite Policy Coordination Committee -- known as "Panel One" -- was formed under the chairmanship of the then Office of Telecommunications Management. It includes participation by agencies such as State; Defense; Health, Education and Welfare; the Office of Science and Technology (White House); NASA, USIA, AID, FCC and FAA. Its aim has been to provide coordinated, expert advice to assist the Department of State in the formulation of policy for international meetings on this subject. It is now working on a staff study which would serve that purpose.

3. If you are asked if there is any interagency "task force" chaired by the Department of State on this subject, you may wish to use the following response:

There is in being now an ad hoc Interagency Committee chaired by the Department of State which has the entire question of future space cooperation under study, including the implications of satellite broadcasting services. The findings and recommendations of this Committee will be submitted to the White House. Represented on the

Committee are the Departments of State and Defense, the Office of Science and Technology, the National Aeronautics and Space Council, the NSC and NASA.

4. You may be asked for your views on Japanese plans to develop a communications satellite as indicated in the U.S./Japanese space cooperation agreement that was concluded last July.

The agreement relates in part to Japanese plans to develop and launch an experimental communications satellite. Consistent with U.S. policy, the Japanese provided in the agreement the assurance that such a satellite, developed with U.S. assistance, would not be used in a manner incompatible with our mutual Intelsat commitment. The agreement covers the transfer of technology only and does not involve joint development by the U.S. and Japan.

5. You may be asked to comment on U.S. involvement with Brazil and possibly other Latin American countries in cooperative projects with the U.S. for an experimental educational television project, via satellite. You might respond as follows:

This project is currently in the preliminary discussion state between Brazilian and U.S. agencies. We understand

that Brazil is preparing a proposal in this regard. I suggest that the representatives of NASA and AID could describe the developments thus far.

[You should be aware, in case reference is made to it in this connection, of the recent Report of the Special Study Mission on Developmental Television (Latin America), by three Members of the Subcommittee, Messrs. Zablocki, Fulton and Findley. The Study Mission visited Brazil, Peru, Colombia and Panama to learn about the potential for use of developmental TV and what role the U.S. may be playing in assisting such uses. They were particularly impressed with enthusiasm in the Brazilian space agency about the potentials for use of satellites for educational television.]

For Mr. DePalma

QUESTION: What is the International Radio Consultative Committee (CCIR)?

The CCIR is one of the permanent organs of the International Telecommunication Union (ITU). Its functions as set forth in the ITU Convention are: "to study technical and operating questions relating specifically to radiocommunications and issue recommendations on them", and "to pay due attention to the study of questions directly connected with the establishment, development, and improvement of telecommunications in new and developing countries, in both the regional and international fields".

The CCIR performs its work through the continuing work of its 13 international Study Groups and at Plenary Assemblies which meet normally every three years to approve the recommendations prepared by the Study Groups. At ITU headquarters in Geneva there is a Director and a specialized secretariat for the CCIR. The Director is an elected official and Mr. Jack Rabstreit, formerly of the Department of Commerce, currently heads this organization.

The recommendations adopted at the Plenary Assemblies are "preferred characteristics" and serve to a large degree to constitute the technical bases for the International Radio Regulations and thus become in effect international standards for radiocommunications.

We have a national organization structured in parallel with the international set-up. It was established pursuant to Executive Order 11007 as a Government/Industry advisory committee. It is chaired by an official of the Department of State. The National CCIR Committee supervises and approves the work of the national Study Groups whose output is then contributed to the international CCIR for consideration and further action.

For Mr. DePalma

QUESTION: What is the International Frequency Registration Board (IFRB)?

The IFRB is one of the permanent organs of the International Telecommunication Union (ITU). Its basic function as set forth in the ITU Convention is to effect technical examination and registration of radio frequency notifications made by different countries to insure interference-free radio operations throughout the world. In addition, it has certain other functions such as to furnish advice to member countries on the operation of the maximum number of radio channels in those portions of the radio spectrum where harmful interference may occur, to assist in the preparation for administrative radio conferences and to maintain such essential records as necessary for the performance of its duties.

The IFRB consists of 5 independent members elected at radio conferences. These Board members function not as representatives of their respective countries but as custodians of an international public trust.

The IFRB is an essential operation. Due to the nature of radio waves effective international coordination and cooperation is required so that each country in the world can use the radio frequency spectrum without interfering with operations of other countries of the world.

4/28/79

You may be asked if the ~~Department of State~~ United States has responded, or is prepared to respond, to the request by the Secretary-General for US support for free UN use of INTELSAT facilities.

We have told the Secretary-General that "the United States sympathizes with the need of the United Nations for improved communications, including the use of INTELSAT," and that the US position on the question of free use is "under consideration." You might add that you ~~have~~ are aware of some preliminary ~~required~~ study of the legal and technical complexities of the question, and that you understand it is the view of the Federal Communications Commission that there are some domestic legal problems.

You may be asked if the ~~Department of State~~ Government has a position which favors granting the UN free use of INTELSAT facilities if the legal problems can be resolved; or if ~~the Department~~ OTP would propose that the Congress consider legislation that would overcome the legal problems.

~~You might say that you believe it is not timely for the Department to try to reach a final position on the question, for several reasons, of which the legal problem is only one. A prerequisite~~ is that we successfully complete the negotiations which will establish Definitive

Arrangements for a global commercial satellite system to meet a variety of needs. Our present inclination on this question is to see to it that the door is left open to the possibility of an appropriate accommodation for the UN. The problems involved include consideration of, the extent to which the UN might be able to meet its requirements for improved communications from its own budget, particularly at a time when we are seeking a policy of budgetary restraints; the question of making distinctions among the various types of services desired by the UN; the possibility that other international organizations may also have a claim to special arrangements with INTELSAT; and the question of equity if INTELSAT, a commercial consortium of 76 members, were to provide free services to an organization such as the United Nations, with 126 members.

Some people tend to consider this as a question of money from the United States contributed one way or another to support the UN. It is worth noting, I think, that there is no US Government money in INTELSAT whatsoever. Comsat is a private corporation which puts up money for INTELSAT operations. If INTELSAT gives free service that's Comsat's money supporting the operation.

4. Industry Relations -- How handled - by whom - with whom

With the reorientation of the function formerly performed by ODTM - that of coordinating executive branch telecommunication policy - to a broader function of coordinating and developing national telecommunications policy, OTP will have to have constantly updated information on the structure, programs, operations, technical capability, and technological prospects of the communications industry. That industry is made up of manufacturers, researchers, operators in broadcasting, common carrier services, safety and special radio services.

OTP will provide, for the first time, a national focal point for the collection, evaluation and dissemination of systems, data, and information created by and for the communications industry. Developing and recommending policies presumes continual contact with the industry. A continual liaison with the highest levels and at working levels will be essential. I will personally seek and encourage such industry contact to facilitate the flow of information.

Q: To what extent do you expect to draw upon the private sectors for assistance in the development of national telecommunications policy?

A: Again I refer, Mr. Chairman, to the President's Letter of Transmittal, in which he stated that "the speed of economic and technological advance in our time means that new questions concerning communications are constantly arising" and "the Government must be well informed and well advised." The President then went on to say that this "Office will enable the President and all Government officials to share more fully in the experience, the insights, and the forecasts of Government and non-government experts."

I would hope that I can draw upon the wealth of expertise and counsel within industry and our educational institutions as well as within many departments and agencies of the Government. I consider the Joint Technical Advisory Council as one good example of the high quality of professionalism which has in the past been available to this office and which I hope will be equally available to me. There are many other such organizations, to say nothing of the major telecommunications industries whose officials have many times in the past made themselves available to the Government as and when their assistance was desirable. I see no conflict of interest involved in this kind of liaison. I do see it as a means of accelerating our progress toward national goals in telecommunication.

Q: Back in 1963, President Kennedy established the National Communications System. It was to be developed by linking together major government systems and eventually we were going to get a fully-survivable, integrated, economical and dependable system for any kind of national emergency. Seven years later, there is a serious question in my mind as to whether any of these four objectives have been attained. Can you comment on this?

A: As you know, Mr. Chairman, the Director of the Office of Telecommunications Policy has a key policy role in guiding the development of the NCS. In exercising this authority, the Director must work very closely with the Executive Agent and the Manager of the NCS who are respectively the Secretary of Defense and the Commanding General of the Defense Communications Agency. I am confident that the recent reorganization in DoD which has resulted in the establishment of the position of Assistant to the Secretary of Defense for Telecommunications -- will enhance the capability of both this office and of DoD to move ahead in the development of this communication system, which I consider to be indispensable to the national interest and security. I can assure this Committee that I consider this matter an urgent one.

CCS 3-9-70 NCS

Question: The General Accounting Office has been critical of the progress made in unification of the National Communications System. What will you do about that?

Answer: I think the first important step here is to define the objectives more clearly.

The forced unification of existing systems can be expensive and unnecessarily disruptive. Centralization of operating management and programming responsibilities reduces the incentives for users to weigh communications in relation to other goods and services required to accomplish their mission.

On the other hand, there are definite advantages in having the ability to interconnect the various government systems, and in having some means of allocating overall system capacity to the highest priority needs in emergencies. Progress has been made toward these goals under the NCS concept, and we want to be sure that progress continues to be made along these lines.

In short, we must determine, and express clearly, the degree of unification which is needed to meet Presidential and national requirements, and to achieve overall

economy and efficiency. Then we can assess more meaningfully where we are and where we have to go with the NCS. This will be one of the problems we will start to work on immediately.

Question: Why does the U.S. Government have two separate telephone networks -- FTS and AUTOVON? Shouldn't these be combined? What will you do about this?

Answer: Apparently these two networks evolved separately for a variety of reasons. At least one factor is that the FTS facilities tend to be concentrated in large cities where there are major concentrations of government agencies, while the military needed to put their switches away from such target areas because AUTOVON provided communications for the SAGE air defense system. In recent years there have been a number of studies of combining these networks, and I understand several ways of doing this have been identified and evaluated. The savings which are estimated seem to depend on the growth rate which is projected for each network, on how termination costs are treated, and on the number of special requirements which might have to be met outside of a combined network. I intend to give this immediate attention, and, if combining these networks is really advantageous, I will see that it is done.

Question: What about the separate record networks -- AUTODIN and the Advanced Record Network of GSA?

Answer: I am not familiar enough with the various record networks to comment on the desirability of combining them, but I think the question deserves serious study. We would not want to combine them just for the sake of combining them -- there would have to be an economic or operational advantage.

Question: How much is the Federal government spending on communications?

Answer: That is not easy to determine because the various departments' accounting systems don't treat communications consistently. It has been estimated that the National Communications system costs a billion dollars annually. In addition to this are all of the tactical and mobile radio equipments used by the military and other departments. I have no good figures for this, though I have heard figures ranging from three to seven billion annually for military communications and electronics spending alone.

I think it is vary unfortunate that we don't have a better system for analyzing the cost of government communications and I am going to try to remedy this situation.

DOMSATS

Domestic Satellite

Q: What do you think of the FCC's recent action on domestic satellites?

A: The FCC's recent report and order reflects a considerable amount of the thinking and analysis which we made in the Executive memorandum filed with the Commission in January. It does seem to make possible more open entry into the satellites by those relatively few companies with the interest, capability and capital to do so.

On the other hand, I am concerned about what I see as the continuing delays in the regulatory process. The Commission has still not finally indicated how it is going to handle applications and does not propose to do so until applications have been filed and comments received thereon, and no cut-off dates have been set for applications, let alone, for comments on applications. This is a matter which cannot be passed by lightly. Various companies have already indicated that they would be discouraged from entry into this field - quite apart from its commercial potential - by the sheer

uncertainty and delay of the full-fledged regulatory process, as we know it. General Electric is a case in point. The situation is not hard to understand. After all, who is going to risk capital and resources for innovation in a new technology if there is serious risk that after all the work is done, the innovation will go for nought because the regulator rejects it on non-technical grounds or delays its introduction so long as to render it obsolete?

Q. You have been cited as the principal author of the Administration's recent recommendation to the FCC on domestic satellite policy -- in which unlimited entry by common carriers, broadcasters, and others is proposed. Don't you feel such a policy, if adopted, would be likely to:

a) Create a chaotic jumble of incompatible satellite systems incapable of being interconnected in time of national emergency and of realizing the economies of scale of a single integrated system?

b) Permit AT&T to extend its virtual monopoly of terrestrial communication services to the satellite area as well, with the loss of great public benefits from the enlightened use of a technology made possible by vast expenditures of public funds?

c) Jeopardize both the economic viability of, and our avowed support for, a single integrated global satellite system under Intelsat?

d) Create serious problems for us in the international community, for example, charges that we will monopolize the international orbital space and spectrum resource and resultant efforts to establish tight international controls over these resources?

A. (a&b)

First, let me clarify one point regarding our policy recommendation to the FCC. We propose that entry into the domestic satellite field not be restricted by undue regulatory constraints

based on ~~assumed~~ hypothetical economies of scale or ~~limited availability~~ narrow interpretation of of spectrum resources. That is quite different from the notion of "unlimited entry"; entry into this field will be inherently limited by the high costs involved, by the existence of competitive terrestrial alternatives, and by other valid regulatory controls on common-carrier investments, broadcast practices, and the like. Even without added regulatory constraints, these forces will tend to restrict entry to a relatively small number of telecommunication suppliers or users. We felt it most desirable, in the interest of maximum innovation and use of this technology, that entry not be further restricted beyond these natural and legitimate constraints.

(b) Now, as to possible domination by AT&T, we feel the policy recommended would adequately prevent such domination if AT&T did not indeed provide the most economical and reliable service for each of a wide variety of users. But if they were able to do so, without burdening other users of their satellite or terrestrial facilities, we could find no valid public-interest objection to such a result. We do not foresee such a development, given the wide variety of communication services satellites can provide, the wide range of user interests involved, and the apparent lack of overwhelming economies of scale

encompassing such a wide range of possible services. But we feel that, for at least an interim period, these questions can be sorted out by the private sector with far greater certainty and at less risk to the public interest than could be achieved by public policy decree, given the many uncertainties involved in projecting technological developments, relative costs, demand for as yet non-existent or poorly developed services, and the like.

Q. What do you plan to do about providing communications to Alaska, and particularly about providing communications satellite service to Alaska?

A. Within the past month the State of Alaska, through its Bartlett Earth Station and the Intelsat Pacific Satellites, has inaugurated communications satellite service which connects that State with the contiguous 48 states, Hawaii, the Philippines, Japan, Thailand, Indonesia, and Australia. From many of these points, communications can be forwarded to and from Alaska to practically any point in the world. For its long-distance and international traffic, therefore, Alaska is now part of an operational global communications system.

With regard to the possible use of communications satellites in Alaska for local, educational, or other purposes, it is my understanding that Comsat, NASA, and possibly others are now exploring ways of establishing experimental programs to determine just what satellites can do for Alaska. I believe the possibility of using ATS satellites is now under active consideration and my office will certainly provide whatever assistance it can to the Government of the State of Alaska to ensure that that State will obtain the full benefit of this new technology at the earliest possible time.

INTELSAT

Q: I am upset by what I see happening in these INTELSAT negotiations. As far as I can see, we are trying to give the store away. It's not right to do this when you consider that these satellites are up only because the U. S. spent the taxpayers' funds on the R&D to get them up. What is going on down there anyway?

A: Mr. Chairman, as the Committee knows, this office has a key role to play in national policy formulation with respect to satellite communications in general and to the global commercial satellite system in particular. I share your view that we should not dissipate at the conference table all of the hard-won and expensive progress which we have made in satellite communication. However, I am confident that you and the members of the committee are sympathetic to the concept of international cooperation in world-wide communication and that you are in accord with the principle that no one country or group of countries should be permitted to dominate completely an activity in which, by definition, the concept of international cooperation is prerequisite to progress. I can assure you, however, that while I firmly hold to the principle of international cooperation, I do not in any sense subscribe to the principle of international domination.

Intelsat is a comml joint venture
US will have a say in accord w/ to investment share
system effic will not be sacrificed for polit purposes

CCJ 6-25-

Question: The U. S. seems to be losing ground in its international position in the communications satellite field. We have agreed to internationalize the management of INTELSAT, and are now pressed with proposals which would allow small nations to hamstring what is essentially a commercial venture. What will you do about this?

Answer: Well, some nations wish to see international communications as an undertaking between soverign governments, and some see it as commercial venture. The U. S. cannot dictate the terms of a settlement on this point. Ambassador Washburn's staff has been doing its homework pretty well on this problem. I am not prepared at this moment to suggest any departure from the approach they have taken to try to achieve an effective and workable agreement.

But I do want to explore with the U.S. [illegible]

ITU Sec.

Q. I understand the U.S. delegation to the Intelsat Conference has given away Comsat's role as manager. What exactly is this situation?

A. Since Intelsat began in 1964, Comsat, under the terms of the 1964 agreements, has been the manager of the Global Systems on behalf of all member countries. During the current negotiations, many countries have complained that Comsat wields too much power. It is simultaneously the largest single investor with more than 50%; alone it votes 52% of the total vote in the governing body; it is by far the largest single user of the system; and it manages the system to the extent of letting all contracts, maintaining all books and records, and controling the launch and orbital location of all the Global System satellites.

Originally, Intelsat had 19 signatories. Today it has 76 member countries. As membership grows and service expands (there are now 50 earth stations operating in 28 countries), more and more members become sensitive about the dominant role of Comsat. We do not apologize for the U.S., and consequently Comsat's, role in Intelsat. Pursuant to policies in the 1962 Communications Satellite Act, we instigated creation of Intelsat. We made available the advanced technological capability to establish the system; we provided the bulk of the initial investment for the system; and we have been the primary producer of revenues through our use of the system.

We recognize, however, that it takes two people to have communication. When we want to talk or when we want to listen, there has to be a correspondent at the other end. We have demonstrated the technical and economic feasibility of Global satellites. Others are impressed, but they have contributed and cooperated and now they feel our role can be less dominating and still be effective. I think this is true.

Now what have we agreed to in the negotiations?

In a ~~complex~~ compromise porposal submitted by Australia and Japan in March 1970, it was suggested that for the foreseeable future (i.e., 5 years) there is no real alternative to Comsat as manager of the Global System. Therefore, Comsat should continue to manage all of the technical and operational aspects of the system. It was suggested further that an international secretariat be established immediately upon entry into force of the agreements and that this secretariat provide all administrative, financial, meeting support, legal, and public information functions necessary on behalf of the organization. After five years, the international secretariat and the technical operational management by Comsat could be fused into an international directorate under a Director General. Beyond that time, Comsat's ~~role~~ would be determined by the organization. ~~It~~ INTELSAT would be encouraged, by terms of the agreement, to consider obtaining the maximum practicable amount of contracting out of specialized functions so that Comsat might well have a significant continuing role in the future.

This proposal has received broad support within the Conference and the ~~cooperations~~ Corporation's management has indicated its willingness to accept this compromise. I think this is a realistic and workable arrangement, but I do not consider it in any sense a "give away."

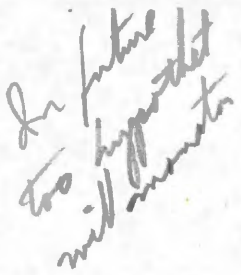
Q. I understand many of the smaller users in Intelsat are clamoring for a strong assembly which would run the organization on a one nation-one vote basis. Can you comment on this?

A. The assembly question is currently the principal unresolved question in the negotiations. Specifically, the debate concerns the role of the assembly in policy making for the organization. It is our position that Intelsat should not become an international political forum for debate. Its purpose is essentially a commercially oriented function of providing a public service as a public utility. Any organization with 76 member governments inevitably involvespolitics. Recognizing that, we have suggested that there be an assembly to deal with general matters of governmental interest. However, the basic function of Intelsat is communications service. Therefore, with regard to the technical operational matters which are totally separable from political questions, we believe the Board of Governors should be the controlling body with voting therein on the basis of a voice commensurate with investment in and use of the system. We are seeking mutually accepted compromise language to reflect these relative but balanced functions of the assembly on the one hand and the Board of Governors on the other.

Q. We seem to be moving toward the establishment of a domestic communications satellite system in the U.S. Is this consistent with or in conflict with our participation in and support of Intelsat?

A. As I view the nature of Intelsat, its functions and purposes, I can find nothing incompatible with a national domestic satellite system to handle the bulk of our domestic satellite traffic which would not likely be handled by Intelsat in any event. The Government of Canada, which is also among the earliest and largest users of Intelsat is presently organizing a domestic communications satellite system. That system has been discussed with and coordinated with the governing body of Intelsat to avoid any technical incompatibility. We would expect to similarly consult with Intelsat on any potential domestic U.S. system. Beyond that, Intelsat has no say in what Canada or the U.S. or any other country may wish to do in the process of providing for its domestic communications needs.

Q. There has been a lot of talk about direct broadcasting by satellite. A number of hearings have been held on the subject in Congressional subcommittees and we understand that the U.N. has a working group on this subject. Can you tell us what the U.S.'s policy is on direct broadcasting satellites and, in general, describe where this entire matter stands at the present time?



Freq. Management & Spectrum

Confirmation Q & A

Q. Various government agencies and industry groups have urged greatly increased expenditures for Federal telecommunication management activities, including the establishment of a National Electromagnetic Compatibility Analysis Facility and the adoption of a new spectrum engineering approach. What is your view of these suggestions?

A. In general, I feel there are great opportunities for increasing the capacity and utilization of the radio spectrum resource through improved technical analyses, standards, and procedures. At the same time, however, there is an urgent need to develop new spectrum management approaches which more accurately reflect the relative social and economic benefits of alternative spectrum uses; there is also a need to guard against over-involvement by any single spectrum czar in the day-to-day decision-making processes of those sectors of our society and economy which rely upon this resource -- among many others -- in the conduct of their affairs. I, therefore, feel that some further review of our overall approach to spectrum management is needed prior to establishing any single entity for regular electromagnetic compatibility analyses. At the same time, I feel that we should proceed immediately with the development of a capability for such analyses, for example, the development

of data collection and processing techniques, files on radio equipment and radio transmission characteristics, and the like. I would, accordingly, ask the Department of Commerce, which is to provide the technical and analytic support for the OTP, to undertake a significant program along these lines.

Q. There has been a lot of talk about "selling" the spectrum on the open market. The Rostow Task Force reportedly favored such an approach. Given the vital importance of spectrum use to such public services as broadcasting, public safety and emergency communications, aeronautical navigation and control, and national security communications, can you see how such a "spectrum market" would be in the best interests of the country?

A. There have admittedly been some far-out views on this issue, on both sides, I might add. Some economists have urged a completely free market with no public controls as a means of avoiding undue political or bureaucratic control of this resource. Some engineers and communicators, on the other hand, have urged enormous expenditure of public funds to "engineer" a complete solution to the problem of accommodating an increasing number of prospective radio services with a finite quality of spectrum resource. In my view, neither approach alone is either desirable or capable of being implemented. Much greater consideration of the relative social and economic benefits of alternative spectrum uses is certainly needed in the

management process; this may require some reliance on market forces and economic incentives for spectrum economizing, such as the recent FCC decision to raise the fees for radio licenses. At the same time, much can be done through improved engineering of spectrum assignments to accommodate greater numbers of radio services, often with significant costs to either the government or the users. One of my priority efforts will be to weigh the relative merits and applications of these two approaches, with the objective of recommending to the FCC and to Congress some potential blending of the economic and engineering approaches designed to achieve a more effective overall spectrum management process. I might add that one aspect of such a process which I feel would be most important is that it be equally capable of application to government and non-government spectrum uses, so that we can avoid any feeling of mistreatment by those on either side of this dichotomy.

of the frequency spectrum. There are many who feel that the Federal Government is hogging frequencies -- that once it gets them, they never let go irrespective of whether they need them or not.

A: I have, of course, been briefed on many of the most pressing problems which faced General O'Connell and which will face me in OTP. I am not as familiar as I would like to be on the entire frequency spectrum problem and as I expect to be within a very short time. I will say this, however: On the basis of my briefings and the short discussions I have had with knowledgeable members of the staff, I am of the opinion that very much progress has been made toward assuring that no such hogging of frequencies by the Federal Government can take place -- or, if it ever did take place -- could continue for an indefinite period of time. With the advent of a computerized operation for frequency management, the office now has the capability for reviewing with far greater accuracy and speed the entire assignment and control function. Moreover, the system for an automatic review of frequency use at least once every five years is now in effect. I can assure this Committee that we will be making every possible effort to assure all uses by the Federal Government of frequencies are valid, justified and of a continuing requirement.

Q: I understand that you intend to give the Commerce Department the responsibility for the frequency management activity. Do you feel that Commerce can run it better than your people can?

A: Mr. Chairman, there have been discussions in respect to transferring certain elements of the frequency management activity to the Department of Commerce. In general, the thrust of these conversations has been to determine just what portions of the frequency management which are routine in nature can be transferred. The responsibility for overall national planning and policy formulation and coordination in the frequency management area will remain with the Office of Telecommunications Policy. I cannot tell this Committee at this time how many and what kinds of people will be involved in this split.

Q: There has been much speculation from time to time regarding the advisability of placing the entire frequency management business -- both Government and non-government -- into your office. Do you have any views on this?

A: No, Mr. Chairman. Not at this time. I don't feel that I have sufficient background nor adequately analyzed the advantages and disadvantages of such an arrangement.

Question: Where will the NECAF be established?

Answer: We plan to look to Commerce for the research and analysis support of the kind which would be provided by a NECAF.

When the NECAF was considered to be part of the DTM, it made some sense to consider it as a separate facility performing a specialized function within the overall DTM role. Within Commerce, there may not be a separate facility identifiable as a NECAF, because the

function will be part of a broader Commerce support role. However, there is clearly a need for additional resources for the functions which the NECAF was to perform, because these are not being done anywhere now for problems other than military ones.

We plan to transfer most, if not all, of the funds and spaces originally budgeted for the NECAF to Commerce, to permit the buildup of the necessary support capabilities in the area of electromagnetic compatibility analysis.

Question: Why do you say "some, if not all"? Shouldn't all of the funds go?

Answer: The FY 71 budget was constructed to support the old DTM office, as a part of OEP, plus a separate NECAF. That budget must now support a separate OTP, plus electromagnetic compatibility analysis and other frequency management support functions within an existing department. We will need time to re-evaluate the relative requirements and priorities of these new organizations before we can say just how the budget can be divided up.

Question: Will a National Electromagnetic Compatibility Analysis Facility (NECAF) be established? Will it duplicate or replace other facilities? What will it cost?

Answer: Improved analytical capabilities and support facilities, including a better data base, are needed to support the management of the frequency spectrum. There is no question of this. In the past, this improvement has been visualized as sort of a carbon copy of the Defense Department's ECAC. This is not a bad way to start thinking about the problem, because ECAC has made some real contributions. I think we definitely need more people with modern analytic skills working on this problem, and I hope to see such a capability built up within the Commerce Department.

However, I want to review the alternatives for providing the data base and data processing support for this function within the government. It seems to me that the idea of a computer communications network may be applicable here. Such a network could link my office, Commerce, the FCC, the DOD ECAC, and possibly other users and sources of information on spectrum use and management. Such an approach would provide a focus for cooperative effort and would eliminate duplication of costly support facilities.

Until I have thoroughly examined the possibilities here, I am going to visualize our needs in terms of people, but not necessarily as a facility

WH 7/10/70

Spectrum Management Philosophy

Q. Each time one of these telecommunications agencies is up here, whether it be the FCC, OTM, or the Department of Commerce, 90% of their concern seems to be over radio spectrum management. We also get many expressions of concern from the various industries on this score. I wonder if you could explain just what the problem is -- I gather there is a serious shortage of radio frequencies -- and what you intend to do about it?

A. First, I would like to disassociate myself from the view that there is a spectrum ~~shortage or~~ crisis. While the capacity of the radio spectrum may indeed be limited, I feel we are nowhere near reaching that limit in the foreseeable future provided we can formulate some improved management policies and practices. I suspect the notion of "shortage" is somewhat of a scare tactic employed by frequency managers and some users to call attention to what is indeed a very important area of public and private concern. I prefer, however, to view it more as a challenge to effective management resulting from the interaction of a very dynamic technology and a highly flexible resource ~~of virtually limitless capacity~~ with a management system geared to a more orderly and ponderous type of decision-making.

Perhaps I can give you an example of what I mean. You see, the radio frequency spectrum is somewhat like the tones of a musical

scale. If you and I try to sing the same notes at the same time and in the same place, a listener will be unable to hear either of us clearly because of interference from the other. Similarly, if two radio systems try to operate in the same area at the same time and using the same frequency or "tone", they will produce "radio intereference" for one another. If they use different tones, they won't interfere. So frequency management really began as a process of assigning different tones to different radio systems to avoid interference; and many of today's rules, regulations, and management procedures are largely an outgrowth of this concept of frequency allocation and assignment.

Now if I can return to the analogy between radio and sound transmission, I think you will agree that speakers and listeners in different rooms could readily use the same tones or frequencies without interfering with one another -- and the same is true with radio. Thus, the concept of spectrum resource management -- as contrasted with frequency management -- must take into account the possibility of simultaneous, non-interfering use of the same frequency by suitably separated radio systems. So we have added a new dimension to the capacity of this resource, and of course you realize this is just what we do when we allow radio or television

broadcast stations in widely separated cities to use the same channel or frequency band.

In addition to the use of different frequencies, or operation in different areas, there are several other characteristics of radio wave transmission which may be varied to permit one wave to be distinguished from another and hence to permit a proliferation of non-interfering systems. In the case of point-to-point systems, that is systems which interconnect but two points along the earth's surface rather than "broadcasting" to many points, we can take advantage of our ability to focus those waves into very narrow beams -- like searchlights -- which allows us to pack many more point-to-point links using the same tones into a given area without interference than would be possible using very broad-beam radiation. So again we have increased the reusability of the frequency spectrum and the net radio communications capacity by exploiting yet another dimension of this radio spectrum resource, i.e., the direction of transmission. We can even use this to permit simultaneous use of the same tones (frequencies) by satellite and terrestrial radio systems, since the former use transmission paths extending from earth to space and back while the latter employ paths paralleling the earth's surface.

What I am trying to emphasize, Senator, is that the radio spectrum resource has many other dimensions than just frequency -- and there are several others I haven't mentioned -- and that simply by juggling the combinations of these that particular systems use we can accommodate a greater or lesser number of radio systems. Now it obviously costs something for this juggling -- both for figuring out what is possible and for designing the equipment to work in appropriate ways. Furthermore, these costs vary both with the particular resource parameter one is juggling and with time as technology and our understanding of radio transmission processes advances. Thus, to finally reach the heart of your question, the primary task for spectrum management is to ensure that all dimensions of this resource are fully and effectively utilized to accommodate expanding needs for radio services, and that rational decision may be made as to the relative costs and benefits of choosing alternative combinations of these resource parameters. It is not basically a problem of rationing a fixed amount of resource capability among conflicting claimants. My principal concern is that we not be inhibited in our use of this resource by outmoded concepts and vested interests in the "frequency allocations" established under these concepts -- whether those allocations be labelled

government or nongovernment -- but rather that we seek full exploitation of all the capacity and capability this resource has to offer. Various ways of achieving this objective have been suggested, such as the Spectrum Engineering concept advanced by the IEEE/EIA Joint Technical Advisory Committee, the electromagnetic compatibility analysis capability contemplated by the predecessor office of the OTP, and the leasing or marketing of spectrum rights suggested by the Rostow Task Force and several economists associated with this field. I would not want to take a position as to the optimum approach at this time, and have no preconceived notions other than that a melding of all these approaches will most likely be required if we are truly to reap the benefits of this resource and of the continuing technological advances which are foreseen in radio services.

World Administrative Radio Conference

Q. I understand there is a World Radio Conference scheduled for next year to allocate frequencies for space communications, and that there may be some difficulty in protecting our interests. Can you give me some background on this -- are we well-prepared for the conference, what is its purpose, what are the principal issues, what do you intend to do about it?

A. There is a World Administrative Radio Conference scheduled for 1971 to allocate radio frequencies for space communications -- including radio astronomy, space research, satellite communications, satellite broadcasting, and aeronautical and navigation services -- and to amend and modify the Radio Regulations which are the principal international standards for radio communications. This Conference was called by the International Telecommunications Union which is a special agency of the U.N. set up to oversee radio spectrum usage and ensure compatibility among radio systems and interconnectability of international communication systems of all types.

While I am not familiar with the detailed preparations and agenda for the Conference, or the specific issues, I do understand there are some unresolved differences between the U.S. and other participants, particularly France, the USSR, and some developing nations. These differences fall into two main categories: First, there is some concern

that the U.S. and other developed nations may usurp all the orbital "parking space" for communications satellites and thereby deny nations which are late-comers to this field the benefits of this technology. This has led some nations to propose an international allocation scheme for orbital slots or parking spaces, in which the ITU or some other U.N. agency would decide which and how many such slots each nation could use, reserving slots for the future use of the developing nations. Based on our analysis of both the potential capacity of the geostationary orbit and the many possibilities for spectrum re-use and technological advances, we are convinced this approach is not only unnecessary but would actually be detrimental to the most effective use of spectrum/orbit resources, not merely for the U.S. but for all nations. We are, therefore, opposed to this approach, but we need to do a thorough educational job prior to the conference to ensure that our analyses and recommendations are understood.

The second area of contention centers on the potential use -- and abuse -- of satellite broadcasting. Again, many developing nations, plus some Eastern bloc nations, are fearful of either intentional or unintentional subversion of their culture by developed nations such as the U.S. through this medium. As a result, there are pressures to either deny spectrum allocations for satellite broadcasting or to impose some

form of international controls over the content of programs broadcast via satellite -- including those which may inadvertently spill over one nation's borders even though intended only for reception by its own people.

Here, too, there is a need for some education and explanation of the automatic limitations and safeguards which will serve to protect nations against undesirable infringement of their sovereignty in this area. Direct satellite broadcasting is still several years away in terms of technological capability, and may never be attractive either economically or socially for most nations, including the U.S. Also, as an intentional propaganda tool, it has many shortcomings including the relative ease of detecting and jamming such infringements. Furthermore, if any controls were needed, there are vious technical alternatives -- such as simple limitations on the satellite power which can impinge on any nation without its consent -- which seem far preferable to international regulation of program content. Also, we want to be very careful not to throw out the baby with the bath water; while broadcast directly to home TV receivers is technologically distant and economically questionable, broadcast to community receivers is much nearer and may be very attractive to these very developing nations which are concerned for rapid educational and cultural advancement. In this case, the threat of "cultural imperialism" is very small, since national

control of such large community-type receiving systems is relatively easy. So as I mentioned, we have an educational job ahead if we wish to avoid unwise constraints on this technology.

As to the state of our preparatory work, I believe we have the basic information developed to alleviate much of this concern, but we may be a little behind the power curve in getting this presented effectively. This is one area in which I feel the Office of Telecommunications Policy must become actively involved in the immediate future. I intend to undertake a thorough review of our preparations and representations, in consultation with the Secretary of State who has the final responsibility for representing the U.S. in these matters, in order to identify just where we are lacking and how to rectify this if necessary.

STATEMENT BY

CLAY T. WHITEHEAD, DIRECTOR
OFFICE OF TELECOMMUNICATIONS POLICY

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

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

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

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

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

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

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

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

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

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

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

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

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

I would like now to turn to our findings.

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

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

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

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

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

STATEMENT BY

CLAY T. WHITEHEAD, DIRECTOR

OFFICE OF TELECOMMUNICATIONS POLICY

before the

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

February 20, 1973

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

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

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

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

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

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

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

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

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