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## AT&T's bold bid to stifle competitors

Within a month virtually all the major telephone companies, led by American Telephone & Telegraph Co., will loose an all out political effort on Capitol Hill to reverse recent regulatory and judicial decisions that have opened parts of their \$40 billion industry to competition. "We have decided the time has come to call the public's attention to its stake in the matter," says AT&T's outspoken chairman, John D. deButts.

In the past few years AT&T's tough

Bell headquarters in New York City. AT&T has suffered a long series of reversals at the hands of Washington regulators, and generally the FCC decisions that AT&T considers adverse have been upheld in federal courts. Beyond that, a massive antitrust suit by the Justice Dept. seeks to separate AT&T's operating companies from its manufacturing subsidiary, Western Electric Co., and its Long Lines Dept.

Caught in a tightening vise, AT&T's

phone & Electronics, United Telecommunications, and Continental Telephone, which do not always see eye to eye with Ma Bell, have been preparing suggested legislation. According to a group of key industry executives that met with BUSINESS WEEK reporters on Feb. 20, that job is finished. All that remains is to polish the text into the form of a bill and to line up congressional sponsors. The industry hopes to get "at least 50" cosponsors to push its legislation through. According to Edward B. Crosland, AT&T's smooth, Virginia-bred senior vice-president, who is quarterbacking the legislative effort, the telephone companies would like hearings in May and hope that the bill will be brought to a vote this summer. Whatever the timetable, the industry's strategy amounts to its most daring political power play since the passage of the Communications Act of 1934.

Washington regulators are in a state of dismayed anticipation. AT&T is widely respected for its political muscle, although it seldom flexes it on a national level. Says FCC Chairman Richard E. Wiley: "I'm truly sorry to see this coming. I don't think new legislation is really necessary, because all the issues involved could easily be settled in cases now before the commission or awaiting court decisions." FCC Common Carrier Bureau chief Walter R. Hinchman points out that several key issues are scheduled for decision in the next 18 months.

No telephone industry representa-



The FCC's Wiley and Hinchman: They are opposed to AT&T's new legislation scheme.

boss has taken a progressively harder public line against decisions handed down by the Federal Communications Commission, specifically against policies that led to the introduction of limited competition in telephone products and in specialized private-line services. Now he is convinced that he has to throw down the gauntlet.

DeButts' gauntlet is a startling request to Congress to pass a law that would stop competition in long-distance services, permit AT&T or other traditional carriers to acquire the companies that would be put out of business, and revoke the FCC's jurisdiction over technical and operating standards that affect terminal and accessory equipment attached to local telephone company facilities. Such legislation would, in effect, stop a burgeoning industry, with a multibillion dollar potential, dead in its tracks.

Pressure for such legislation has built up slowly in the past few years in the telephone industry, particularly at

chairman decided to turn to legislation as a final resort. He hopes his industry will be able to persuade Congress to change the rules in its favor and disarm both the Justice Dept. and the FCC. Furthermore, new laws would help the company to head off the FCC before it can consider a blockbusting series of recommendations served up by its AT&T trial staff on Feb. 2.

The FCC's trial staff, backed by a special 50-man task force that has been working since 1971 on a review of Bell's rates, market behavior, and financial structure, is calling for a massive reduction in AT&T's rate base, asking for a major revision of the company's accounting practices, and—in agreement with the Justice Dept.—recommending divestiture of Western Electric. It also concludes that competition has been beneficial for AT&T, and has led to improved performance.

**The buildup.** For some months AT&T and the independent telephone companies, including such majors as General Tele-



DeButts: He must take his case to Congress if he is to keep AT&T intact.





Eger: He believes the issues cannot be adequately debated under pressure.

tives have yet officially consulted the FCC about the proposed bill, nor made the industry's intentions clear to the Office of Telecommunications Policy, the arm of the White House that has generally applauded the FCC's decisions to encourage competition and limit extension of Bell's monopoly into new products and new services. The OTP, like the FCC, would like to avoid an election year confrontation, and neither the FCC's Wiley nor the OTP's acting director John M. Eger believe the complex issues at stake can be adequately debated under high political pressures.

**The issues.** Because they have not been consulted officially and do not have a final copy of the industry's bill in hand, many regulatory officials hesitate to comment for the record on what they know of the industry's legislative plan. Most are aware of the gist of it, however.

For several months now, AT&T, the U.S. Independent Telephone Assn., and key members of the National Assn. of Regulatory Utility Commissioners, who oppose federal regulatory jurisdiction over any utilities have been circulating a white paper entitled *The Crises in Telecommunications*. It summarizes the gut issues that the telephone companies will highlight and spells out the basic legislative revisions of the Communications Act that the industry wants. AT&T's Crosland and independent telephone company executives say the white paper provides an accurate description of their proposed legislation.

The two major elements would affect competition in different ways:

**PRIVATE LINE SERVICES.** The industry proposes to declare long distance services a utility function, to be served by a single, integrated system. That would reverse the FCC's controversial decisions to allow limited competition

in specialized private line toll services by both terrestrial and satellite carriers. Communications attorneys point out that such an action would make AT&T's Long Lines Dept. a de jure monopoly rather than one that has evolved over the years as a practical extension of the traditional monopoly granted local telephone companies by laws now on the books.

The effect of such action would be to force such companies as Microwave Communications, Datan, and Southern Pacific Communications out of the business. So the planned legislation would immunize AT&T from antitrust sanctions, enabling it to acquire its



Crosland: He is spearheading the drive to get new telephone industry legislation.

erstwhile competitors. A job protection clause would guarantee employment to workers affected by acquisitions.

The legislation would also bar competitive services by satellite carriers now in operation or planned by such companies as RCA Global Communications, American Satellite, and Satellite Business Systems (the consortium of IBM, Comsat General, and Aetna Life & Casualty that plans a digital data and voice system for business).

The legislation would permit newcomers to provide services that did not in any way compete with regulated carriers. But telephone industry spokesmen cannot give any examples of unique and viable services that their own systems could not provide with advanced technology.

**COMMUNICATIONS EQUIPMENT.** The telephone industry's legislative strategy in this area seems intended to confuse rather than actually bar competition in communications hardware. The operating companies are fearful of too rapid disruptions from competition in ancillary telephone equipment such as

extension telephones, large and small automatic switchboards, facsimile machines, and data processing equipment attached to telephone lines. So the industry proposes to give state utility commissions, instead of the FCC, regulatory control over customer-owned equipment. That could mean that telephone answering machines or data terminals might be legally connected to phone lines in some states, but not in others. This would load a complex set of new responsibilities on state utility commissions, which are notoriously understaffed and are responsible not only for telephone regulation, but for rates and standards for electric power companies, gas companies, water supply, and a potpourri of other activities. The telephone companies and regulators are well aware of the difficulties any national distributor of competing products would have in an environment involving 50 regulatory dominions.

While Federal regulators are keeping a low profile until the legislation surfaces in Congress, some competitors in the industry already are howling. Says William G. McGowan, president of MCI Telecommunications Corp., one of the companies that would be wiped out: "The proposition that this legislation would benefit the consumer is no more than the traditional big lie of the monopolist who is afraid of competition because he knows it will make his life tougher." Even some state regulators familiar with the issues see the legislation as regressive. "DeButts would love to turn the clock back to 1967" says James McCraney, chief communication engineer of the California Public Utilities Commission, referring to the era before the FCC's pro-competition moves. "But it's not going to put us back. I think competition is here to stay as far as hardware is concerned."

**Waiting.** Large corporations that would be hit by the proposed legislation are also waiting quietly before they get snarled in the fight. Spokesmen for IBM, ITT, and RCA all say their companies are concerned about the telephone industry's intentions, but prefer to withhold comment until the legislation is introduced in Congress. Says an RCA official: "So far this affects only a small part of our business directly. We are hardly into it yet. AT&T is a big company, and we'd rather not provoke a fight."

In the lull before the storm, there seems little doubt that AT&T's big competitors will be willing to defend their new turf, if necessary. The Computer & Business Equipment Manufacturers Assn. and IBM are fighting AT&T before the FCC over Bell's bid to supply, under telephone tariffs, an electronic data terminal with computer-like memory and logic called the Teletype Model 40. The crux of their argument is that tele-





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phone companies can extend the services of their basic monopoly simply by tariffing new devices or services. Once such tariffs are approved and have the force of law, the telephone companies can then justifiably claim they are common carrier services that can be provided only by regulated communication utilities. Thus the computer industry fears that many of its competitive products and services are endangered by the slowly spreading territory of the telephone monopolies.

Telephone industry spokesmen deny they are extending their monopoly through new tariffs. They point out that Teletype, with its printers and keyboards, is a service of long standing. But they are also quick to deny competitors new access to their own businesses. The basic issue, they claim, is that their revenues should be protected from erosion by competition in order to support basic telephone service, which under law they are required to supply to all subscribers.

The telephone industry has united be-

### **McCraney: 'Competition is here to stay as far as hardware is concerned'**

hind the warning that AT&T's deButts spelled out in a recent speech at Fordham University: "Were the telephone companies deprived entirely of the contribution to common costs that revenues from their more discretionary services provide, they would face the necessity of increasing the average residence customer's bill for basic service as much as 75%."

The independent telephone industry backs AT&T's estimates with a private study by a California consultant in San Rafael called Systems Applications Inc. The group issued a press release last month covering the study, and headlined it, "Federal regulatory policies on telephones will hurt consumers." The text of the release warns: "So-called competition will cause rate increases of 60% to residential users and 56% for business users of basic service within the next 10 years."

Yet AT&T's deButts concedes in his same Fordham talk that the 75% rate increase he warns of is "highly unlikely." The independents' study also cautions that "there are many other avenues of analysis that should be explored."

Telephone industry spokesmen admit that deButts' 75% figure and the group's 60% figure are extreme examples that assume phone companies will lose nearly all of their toll and equipment revenues. But the frightening numbers have been effective, so far, in lining up both Congressional and labor union support for the coming Capitol Hill test. The Communications Work-



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ers of America, which usually backs AT&T in regulatory disputes, as well as the International Brotherhood of Electrical Workers, want to support the legislation.

**Data is needed.** Regulators believe that the claims of the telephone companies are exaggerated and resent being blamed for conditions they do not believe will come about. They fear the threats of rate increases may cause a consumer outcry that might have a devastating effect on Congress, where there is little knowledge of the complexity of the issues. While regulators believe that their decisions will lead to lower telephone bills, they are as hard put as the phone companies to come up with data to prove it. Historically, cross-subsidies between different services and equipment have grown with the telephone industry into an impenetrable maze that neither the phone companies nor the regulators can sort out.

The heart of the telephone industry's argument is that the revenues from long distance calling and from accessory equipment such as extensions and switchboards, help to pay for basic telephone service—particularly residential customers. Endangering such high-profit revenues, they claim, would result in higher phone bills. But the industry has not been able to prove its case with data that satisfies its regulators. For example, a current study by the New York State Public Service Commission contradicts the phone companies. It finds that basic telephone service subsidizes accessory equipment. As a result, the commission is requiring New York Telephone Co. to apply most of its rate increases to such equipment to rectify the inequity.

Sums up John Eger, of the Office of Telecommunications Policy: "There is simply no reliable evidence of any adverse impact from competition on local exchange rates, either now or in the future." Both Eger and the FCC's special AT&T trial staff insist that the telephone companies must alter their accounting procedures so that such things as cross subsidies and inter-company transfers of toll revenues are subject to reasonable audit.

Shared revenues between AT&T and the independents are vital to cover local phone system service costs. Some independent telephone companies depend for as much as half of their total revenues on the cut of long distance toll revenues they receive from AT&T Long Lines. But such "toll settlements" are reached by arbitrary formulas or individually negotiated contracts. In 1973, according to the FCC's trial staff, fewer than 10% of the more than 200 toll settlement agreements then in effect were audited.

In a kind of Catch-22 argument, the

telephone companies say their toll agreements are always approved by the regulators and claim their accounting is unique because the regulators demand that they use the Uniform System of Accounts, a system that has not changed significantly since the turn of the century. Yet both regulators and phone companies agree that the uniform system is not equipped either to handle the systemic and technological changes that have occurred or to adapt to modern computerized auditing and accounting practices. "It is a dilemma," admits the OTP's Eger.

## Few in Washington believe Congress is prepared to debate the monopoly issue

Eger, who has watched the regulatory scene heat up since 1968, when the FCC began to approve competitive participation in the telecommunications industry, is convinced a new era is beginning that will be very different from the first 100 years of the industry, when it was essentially building a universal basic service. He quotes from a 1974 speech by deButts: "The second century of the industry is going to have to be devoted not to further extension of basic service—that job has essentially been done—but to the searching for and satisfaction of a wide diversity of new service demands." Says Eger: "That's a job for which market competition is better suited than monopoly."

**Battle joined.** In Washington, few think Congress is prepared to debate the issue of monopoly or competition in the new communications environment. Congress has seldom shown any more interest than a cursory look at the FCC, and those looks have generally been more concerned with regulation of broadcasting than the quiet and complex workaday problems of telephone regulation. But soon the battle will be joined. Says AT&T's deButts: "However these matters are eventually resolved, the Bell System will accommodate itself with good grace to the public's decision."

At this point, no one can predict how Congress will react. But when it comes to the hard choice between monopoly and competition some strange bedfellows can pair up. FCC watchers remember that Chairman Dean Burch, a conservative Republican, and Nicholas Johnson, perhaps the most liberal Democrat ever to occupy a commissioner's office, never agreed about anything political, but they voted alike when it came to favoring competition over regulated monopoly. If the same liberal-conservative pairing happens in Congress as it did in the FCC, the coming debate could turn into deButts' last stand.



### No change in course

The economic recovery is now more robust than almost anyone had expected, and the Federal Reserve Board, which often sees itself as a lonely battler against inflation, must be tempted to swing toward monetary restraint. Already the money markets are taking the Fed's willingness to let the federal funds rate—the interest rate on interbank loans—penetrate the 5% level as a sign that it has begun to shift toward a tighter money policy.

The experts may be wrong about the Fed's intentions, and it will be a good thing if they are. The economies of the U. S., Europe, and Japan are not ready to withstand a bout of tight money. As of the end of January, industrial production in this country stood some 5% below the peaks reached in October, 1974, just before the winds of recession began to blow worldwide. Abroad, the level of output is well below earlier peaks.

This widespread economic slack is an effective insurance policy against the resurgence of inflation that the Fed fears. It is true that signs exist that adverse weather conditions may cause a rise in agricultural prices. But monetary policy is not an appropriate tool for fighting higher farm prices.

The hallmark of Fed policy for the past year has been moderate monetary growth. The results to date show that policy to be a smashing success. Federal Reserve Chairman Arthur Burns ignored predictions that extreme monetary ease would be required to end the slump and stuck to his guns even during the recession's worst period last winter. And the recovery came on as promised.

Just as moderation proved effective in combating recession last year, it will prove equally effective in restraining inflation this year. Tight money now would derail the growth in output that business needs to bring its unit costs down. A policy that continues to provide sufficient fuel for expansion would be far less likely to fire up more inflation than the alternative of tight money.

### A checkup for Blue Shield

The Federal Trade Commission is getting ready to launch an investigation of Blue Shield and its influence on the price and delivery of health care in the U. S. The agency is limited to looking for violations of law, but whether or not it finds any at Blue Shield, its scrutiny should focus public attention on needed reforms, particularly a curbing of the possible influence that Blue Shield's fee-setting policies have on competition in the medical field.

Blue Shield has been a growing presence in health care for more than 30 years. An astonishing 40% of the public now pays its doctor bills with the help of Blue Shield insurance. Last year alone, the organization paid out more than \$3 billion in medical claims to its members.

Blue Shield can assure its members paid-in-full ben-

efits for a broad range of covered services, and it has saved millions of people from the financial ruin of serious illness. But when the organization, which is under the control of physicians, sets its own payments for services, these tend to become the standard minimum fees that are charged by the entire medical profession.

Critics of Blue Shield claim that the organization's policies and practices have strongly contributed to steeply rising medical fees in recent years. And some even maintain that this is because the doctors who run the group have deliberately manipulated fee levels in their own interests.

Such charges should be part of the FTC probe. Blue Shield is not responsible for all the shortcomings of the U. S. medical profession nor, as the FTC itself says, does the current investigation imply that it has violated any laws.

But Blue Shield is tightly linked to a broader public interest, and a close look at its effect on medical competition and prices is clearly in order. The FTC investigation, in fact, should be a first step in a thoroughgoing examination of what has become an acute drain on the pocketbooks of many Americans: wildly escalating doctors' fees.

### Ma Bell on the line

American Telephone & Telegraph Co. is about to unleash a powerful political campaign aimed at strengthening its dominance of the U. S. telecommunications industry. The world's largest regulated monopoly, backed by other phone companies, wants Congress to pass legislation that would stop new competition for products and services in its tracks (page 82).

AT&T's chairman, John deButts, and other telephone company executives make a strong case for limiting competition, based on the efficient job they have done in extending basic telephone service to virtually every business and household in the country. But the problem is that the basic job of providing universal telephone service is virtually complete. What is emerging now—and proving its worth—is an expanding communications industry, rife with new technology, products, and services.

Should the existing phone systems swallow up this new competition? In the case of Ma Bell's strong monopoly in most areas, the competition hardly looks like a major worry. It should be given every chance to prove its value. If AT&T's monopoly makes sense—as it does in some areas—it should nevertheless be limited to those places where its benefits can be demonstrated beyond question.

The issues raised by AT&T and others deserve a thorough airing. And Congress should have enough time to reflect carefully on the complex problems of a changing communications industry. This is not a matter to be decided under the guns of an election-year lobbying effort or under AT&T's so far unjustified threat of a 60% to 70% increase in residential phone bills.



94TH CONGRESS  
2D SESSION

H. R. 12323

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IN THE HOUSE OF REPRESENTATIVES

MARCH 4, 1976

Mr. RONCALIO introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce

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A BILL

To reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to grant additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 *That this Act may be cited as the "Consumer Communica-*
- 4 *tions Reform Act of 1976".*



## 1 CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE

2 Sec. 2. The Congress finds and declares that--

3 (a) The revenues from integrated interstate and foreign  
4 common carrier telecommunications services, based on  
5 charges reflecting both costs and value of service, have con-  
6 tributed toward meeting the costs of facilities used in com-  
7 mon for providing such interstate and foreign services and  
8 local telephone exchange service throughout the United  
9 States, and thereby helped maintain a level of charges for  
10 telephone exchange service which is lower than otherwise  
11 would be required.

12 (b) The technical integrity of the nationwide telecom-  
13 munications system, its coordinated planning, design, instal-  
14 lation, improvement, management, operation and mainte-  
15 nance are indispensable elements in the interstate telecom-  
16 munications network, necessary both to the reasonableness of  
17 charges and to the high quality and universality of common  
18 carrier telecommunications service, and accordingly Con-  
19 gress hereby reaffirms its policy that the integrated inter-  
20 state telecommunications network shall be structured so as  
21 to assure widely available, high quality telecommunications  
22 services to all of the Nation's telecommunications users.

23 (c) The authorization of lines, facilities, or services of  
24 specialized carriers which duplicate the lines, facilities, or  
25 services of other telecommunications common carriers--



1       (1) involves higher charges for users of telephone  
2       exchange service by decreasing the interstate revenues  
3       that otherwise would be available for contribution to the  
4       common costs of providing telephone services through  
5       out the United States;

6       (2) fosters inefficiencies in the utilization of na-  
7       tional telecommunications resources through the creation  
8       of unnecessary and wasteful duplication of telecommuni-  
9       cations lines and facilities and wasteful use of the radio  
10      spectrum;

11      (3) significantly impairs the technical integrity, the  
12      coordinated planning, design, installation, improvement,  
13      management, operation and maintenance of the inte-  
14      grated nationwide telecommunications network; and

15      (4) has an adverse impact on the national objec-  
16      tives of maintaining stability of consumer price levels,  
17      conserving national economic resources, improving pro-  
18      ductivity, and fostering an economy that will maintain  
19      adequate sources and reasonable costs of capital;

20      and is, therefore, contrary to the public interest.

21      (d) The Congress reaffirms its intent that the com-  
22      plete authority to regulate terminal and station equip-  
23      ment used for telephone exchange service shall rest with  
24      the States even though such terminal and station equipment  
25      also may be used in connection with interstate services.



1 . (e) The congressional findings and declarations of  
2 policy set forth herein are necessary to achieve the purposes  
3 of the Communications Act of 1934 as specified in section 1  
4 of that Act; and the Federal Communications Commission  
5 shall take no action inconsistent with the findings and  
6 declarations in this Act.

7 CHARGES FOR SERVICE

8 SEC. 3. Section 201 (b) of the Communications Act of  
9 1934, as amended (47 U.S.C. 201) is amended by adding  
10 the following at the end of the first sentence: "No compen-  
11 satory charges for or in connection with such communica-  
12 tion service may be found to be unjust or unreasonable on  
13 the ground that it is too low. The Commission may not  
14 hold the charge of a carrier up to a particular level to protect  
15 the traffic or revenues from a communication service offered  
16 or provided by another carrier if such charge proposed by  
17 the carrier is compensatory. As used in this subsection, a  
18 charge is compensatory so long as it equals or exceeds the  
19 incremental cost of providing the communications service.  
20 Such incremental cost is the additional cost caused by the  
21 provision of the service, including, where appropriate, the  
22 capital costs of whatever additional facilities are required to  
23 provide the service."



## 1 ACQUISITIONS BY AND OF CERTAIN COMMON CARRIERS

2 SEC. 4. The Communications Act of 1934, as amended,  
3 is further amended by adding the following new section 224:

4 "SEC. 224. Upon application of any common carrier or  
5 other person involved in the transaction, the Commission  
6 shall have jurisdiction (i) to approve the acquisition of  
7 control by a domestic common carrier of any other domestic  
8 common carrier or the acquisition of the whole or any part  
9 of the property of a domestic common carrier by any other  
10 domestic common carrier, or (ii) to approve the acquisition  
11 by a person which is not a common carrier of control of any  
12 domestic common carrier or the acquisition of the whole or  
13 any part of the property of a domestic common carrier,  
14 whenever the Commission determines, after full opportunity  
15 for hearing on an evidentiary record, that such approval is  
16 in the public interest. The Commission shall give reasonable  
17 notice in writing concerning any such proposed action to  
18 the Governor of each of the States in which the physical  
19 property affected, or any part thereof, is situated, and to  
20 each State commission that may also have jurisdiction over  
21 any of the common carriers involved, and to such other per-  
22 sons as it may deem advisable, and shall afford such parties  
23 a reasonable opportunity to participate in any hearings re-



*anti-trust?*

lated to such action. If the Commission approves the proposed acquisition, it shall certify to that effect; and thereupon any Act or Acts of Congress making the proposed acquisition unlawful shall not apply. As used in this section 224, 'domestic common carrier' shall mean a common carrier, the major portion of whose traffic and revenues is derived from communications services other than foreign communications. This section 224 shall not apply where either section 221 (a) or 222 of this Act is applicable or to the acquisition by any person of a telephone common carrier as defined in section 225 (a) (1)."

SEC. 5. Section 2 (b) of the Communications Act of 1934, as amended, (47 U.S.C. 152 (b) ) is further amended by striking the clause beginning with the words "except that" following the semicolon and inserting the following "except that sections 201 through 205 of this Act, both inclusive, and section 224 of this Act shall, except as otherwise provided therein, apply to carriers described in clauses (2), (3), and (4)."

#### REAFFIRMATION OF STATE JURISDICTION OVER LOCAL TERMINAL AND STATION EQUIPMENT

SEC. 6. Section 2 (b) of the Communications Act of 1934, as amended (47 U.S.C. 152 (b) ) is further amended by striking "or" at the end of the phrase following "(1)" and substituting therefor the following: "including but not limited to, the charges, classifications, practices, services,



1 facilities, or regulations for or in connection with the use or  
 2 connection of any station equipment, terminating facilities,  
 3 exchange plant, and other like instrumentalities and appara-  
 4 tus used in common for both intrastate communication service  
 5 and interstate or foreign communication service, whether  
 6 provided by a common carrier or any other person, or".

7 SEC. 7. Section 3 of the Communications Act of 1934,  
 8 as amended (47 U.S.C. 153), is further amended by adding  
 9 the following new subsection:

10 "(gg) 'Intrastate communication' means communica-  
 11 tion or transmission between points in the same State, ter-  
 12 ritory, or possession of the United States, or in the District  
 13 of Columbia, including among other things, all station equip-  
 14 ment, terminating facilities, exchange plant, and other like  
 15 instrumentalities and apparatus used for or in connection  
 16 with telephone exchange service or interexchange service,  
 17 even though such equipment, facilities, plant, instrumentali-  
 18 ties or apparatus are or may be used in connection with  
 19 interstate or foreign communications service. 'Intrastate com-  
 20 munication service' means any service which provides  
 21 intrastate communication."

22 FINDINGS TO BE INCLUDED IN COMMISSION

23 AUTHORIZATIONS OF SPECIALIZED CARRIERS

24 SEC. 8. The following new section is added in title II  
 25 of the Communications Act of 1934, as amended:



1     "SEC. 225. (a) As used in this section—

2     "(1) The term 'telephone common carrier' means any  
3 common carrier, the major portion of whose traffic and  
4 revenues, in interstate and foreign communication and in  
5 intrastate communication, is derived from message telephone  
6 services, telephone exchange services, radio-telephone ex-  
7 change services, or a combination thereof.

8     "(2) The term 'telegraph common carrier' means any  
9 common carrier which provides a public message telegram  
10 service in interstate communications.

11     "(3) The term 'specialized carrier' means any com-  
12 mon carrier other than a telephone or telegraph common  
13 carrier.

14     "(4) The term 'message telephone service' means tele-  
15 phone service between stations in different exchange areas  
16 on a message-by-message basis, contemplating a separate  
17 connection for each occasion of use.

18     "(5) The term 'public message telegram service' means  
19 a substantially nationwide telegraph service for the trans-  
20 mission and reception of record matter where the transmis-  
21 sion is not directly controlled by the sender and for which  
22 a charge is collected on the basis of number of words trans-  
23 mitted and which is available to the public.



1     “(b) The Commission shall not grant or authorize any  
2     construction permit, station license, or certificate, for the  
3     construction, acquisition, or operation of any communica-  
4     tion or transmission line or facility, or extension thereof, or  
5     any modification or renewal thereof, that otherwise might  
6     be granted or authorized pursuant to any provision of this  
7     Act, to any specialized carrier that furnishes or proposes  
8     to furnish interstate communication service unless the Com-  
9     mission shall find, after full opportunity for evidentiary hear-  
10    ing on the record, that such permit, license, or certificate,  
11    will not result in increased charges for telephone exchange  
12    service or in wasteful or unnecessary duplication of com-  
13    munication lines, facilities, equipment and instrumentalities  
14    of any telephone or telegraph common carrier, and will not  
15    significantly impair the technical integrity and capacity for  
16    unified and coordinated planning, management, design, and  
17    operation of the nationwide telephone network. In finding  
18    that such grant or authorization will not result in wasteful  
19    or unnecessary duplication, the Commission shall deter-  
20    mine, among other things, that the proposed service or serv-  
21    ices of the specialized carrier, which are the subject of the  
22    requested grant or authorization, (i) are not like or similar  
23    to any service or services provided by a telephone or tele-



1 graph common carrier and (ii) cannot be provided by avail-  
2 able communications lines, facilities, equipment, or instru-  
3 mentalities of a telephone or telegraph common carrier. At  
4 any hearing involving a matter under this subsection, the  
5 burden of proof to support the requisite findings by the  
6 Commission shall be on the applicant for such permit, license,  
7 or certificate."



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## A BILL

To reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to grant additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes.

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By Mr. RONCAUSO

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MARCH 4, 1976

Referred to the Committee on Interstate and Foreign  
Commerce



TO

DATE

CLAY T. WHITEHEAD

March 29, 1976

from ROBERT D. SWEZEY, JR.

	PLEASE HANDLE		FOR YOUR INFORMATION
	FOLLOW UP		FILE
	YOUR COMMENTS/ ADVISE AND RETURN		PLEASE NOTE AND RETURN
	PLEASE SEE ME ON THIS		PLEASE NOTE AND FORWARD
	YOUR APPROVAL		DO NOT RETURN

COMMENTS:

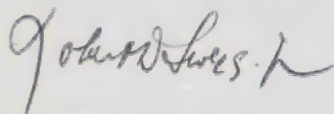
Dear Dr. Whitehead:

Ken Cox told me of your interest in Bell's legislative proposal and material related to it.

Please find enclosed herewith a selection of articles and statements originating from both sides of the competition issue that I hope will be of interest and use to you.

Do not hesitate to contact either Ken or me should you require further information.

Very truly yours,



Assistant Treasurer  
MCI Telecommunications Corp.



NOT PUBLISHED

8/75

Congressional Record insertion of Aug MCI "tracking" article

Mr. Speaker: The editions of The Washington Star-News for July 22, 1975 carried a front page article by Stephen M. Aug to which I would like to invite your attention. According to this news report, based on material in the files of the Federal Communications Commission, American Telephone & Telegraph Co. has used the confidential toll records of selected telephone subscribers in an attempt to thwart its federally authorized competitors in the intercity business telecommunications market.

There are several disturbing aspects of this undertaking, which was called the "MCI Tracking Project," and prepared by the Market Research Projects Group of AT&T. That it existed, there is no dispute. In "tracking" its customers and competitors, AT&T acted against the advice of one of its own attorneys. AT&T violated the obligation of common carriers to respect and protect the secrecy of communications. AT&T acted in diametric opposition to federal policy favoring competition in intercity business communications as enunciated by the FCC and affirmed by the Courts. AT&T abused its ownership or control of the Bell telephone operating companies by compelling them to produce confidential data about their customers because the information was of value to AT&T. And then AT&T misused the material over which it alone has gained sole possession and control.

At best it is clear that the world's largest corporation, whose earnings last year exceeded three billion dollars, overreacted to the mere existence of one or two competing carriers, none of whom has yet broken even on its specialized communications operations and whose revenues, in the aggregate, amounted last year to less than \$5 million. In a larger sense, this undertaking by AT&T raises a host of questions as to the ethics, propriety, legality, fairness and public interest



August 14, 1975  
Page Two

implications of its initiating such a thing as the "MCI Tracking Project," using confidential information about its customers to promote its own economic advantage and to stunt the growth of the competition to which the public and the FCC look for innovation, flexibility of service, lower rates, specialized attention to the needs of business, etc.

At a time when big business has come under increasing suspicion across the land, for the biggest of the big businesses to be expending its resources in such a questionable way does not only AT&T itself but, I submit, American commerce and industry as a whole a profound disservice.

I have reproduced Mr. Aug's article for your review.



# AT&T Peeked at Logs To Battle Competition

By Stephen M. Aug  
Washington Star Staff Writer

The American Telephone & Telegraph Co. has been quietly examining for three years the long-distance telephone records of embassies and corporations to try to identify those likely to sign up as customers of new competing communications firms.

Documents on file at the Federal Communications Commission show that AT&T's legal department expressed concern when the studies began in 1972 that "gathering detailed information on customer calling behavior could violate the principles of secrecy of communication," according to one memorandum.

Two AT&T spokesmen, advised of the documents in FCC public files, said that all of the information is kept private, and it is even kept away from Bell System salesmen.

**SOURCES SAID** as well there was some concern elsewhere that using such records might put AT&T in the position of using information that only it would have available as an unfair means of battling competitors.

Among the documents was a 3½-page list of Washington area firms. Sources indicated the list showed those whose toll records were "flagged" for individual attention by AT&T's marketing department.

Included were the embassies of Israel and Germany; the French consulate; British Broadcasting Corp.; United Press International; The New York Times; Woodward & Lothrop; Columbia Broadcasting System; Southern Railway System; Reynolds Securities; Merrill Lynch, Pierce, Fenner & Smith; International Brotherhood of Teamsters; ITT World Communications Inc.; Pacifica Foundation; Chilton Publications and others.

Several law firms' names also appeared on the list, including Colson & Shapiro; Paul, Weis, Rifkin & Garrison and Mudge, Rose, Guthrie & Alexander (the firm of former President Richard M. Nixon and Atty. Gen. John N. Mitchell) among them.

**THE IDEA** for the program — which telephone company spokesman say is continuing — apparently originated with AT&T's Marketing Research Section, which wanted to develop a profile of business firms and other organizations potentially vulnerable to competition from new "specialized common carriers."

See PHONES, A-5

## Continued From A-1

Such firms offer discount-priced communications to business firms and government agencies which have large amounts of communications — such as transmission of computerized data, or simply a large number of conversations — between fixed locations (such as branch offices of a large corporation).

AT&T has been deeply concerned about such competition in an area in which it once had a total monopoly. Bell System officials have expressed fears that such competition could result in billions of dollars of lost revenue that would have to be made up by other telephone users (such as small businesses or individual homeowners who have no choice but to use the local phone company).

**THE FIRST** so-called "tracking" study was made in Chicago and St. Louis, the route of the first specialized communications firm, the Washington-based MCI Communications Inc. But documents say that the study spread virtually nationwide.

According to instructions for the project, coordinators at each Bell System company — such as Chesapeake & Potomac Telephone Co. — were to compile listings of all customers having AT&T-supplied private long-distance lines.

From these lists the coordinators were to select the most likely targets for competitors. Their "master billing numbers" were to be sent to regional accounting offices which would then forward their monthly long distance toll records to a special office at Piscataway, N.J., for processing.

Normally, data on toll calls — such as the number called and calling number, time of day, length of call — are recorded on magnetic tape and then transmitted

by computer directly to a customer's account. Thus, no phone company employee, or any other individual, examines the toll records. Under the tracking project, however, certain accounts are "flagged" for individual attention.

**DOCUMENTS** dealing with what apparently was a highly secret study were obtained by the FCC's task force that has been investigating the economic structure of the Bell System. The materials were considered for use at hearings just before they were concluded about a week ago, but were never used.

R. Webster Chamberlin, news service manager at C&P, said after looking into the matter, that the company's legal department would confirm there was such a study begun in March 1972, "and we did pull together some information patterns by industries, like embassies. It is a confidential study, and we don't see it's in violation of any confidentiality we have with our customers."

James M. Mundis, a Washington representative of AT&T, quoted Harry A. Davenport, the lawyer who expressed concern over the legality of the study in 1972, as saying that there was no violation of laws governing secrecy of communications "as long as the information on the toll billing . . . didn't get to the marketing or sales people, but was used in general overall calculations so they couldn't be identified."

**INTERESTINGLY**, Davenport's concerns about the study, quoted in another Bell System official's memorandum of a March 24, 1972 meeting, also spread to whether AT&T would be under any obligation to provide to the FCC the information derived from the study if the commission requested it.

"Some of the information being collected could be of value to our competition," the memorandum said, and "because of this, there is the concern that information released to the commission might end up in the hands of our competitors."

An objective of the study,

it appears, was to develop individual customer profiles, and monthly toll records were only part of the program. The documents indicated that all customers who eventually switch to competing firms would be contacted by a market research firm for their views on Bell System service and on that provided by the competing company.

Although there are few secrets in the increasingly competitive telecommunications industry, this study was apparently one of them. Robert D. Swezey, an official at MCI, said his firm was aware only that AT&T had retained a marketing firm to survey its former customer long-distance private line customers, but company officials had not heard of the detailed tracking study.

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BELL MATERIAL CIRCULATED  
ON CAPITOL HILL

NOVEMBER 4, 1975

11-12/75

The Crisis in Telecommunications:

Discussion and Proposed Resolution

Introduction

Telecommunications service in the United States -- in terms of its availability, quality, reliability and economy -- represents the standard by which other nations measure performance in the delivery of communications services. There is considerable justification for this:

The availability of telephone service is virtually universal in the United States today. Ninety-four per cent of American homes and practically all American businesses now have telephone service. In 1973, the number of telephones per 100 persons averaged 65.6 in the United States, compared with 34.8 in Japan, 34.1 in the United Kingdom and 21.7 in France.\*

Telephone prices in real dollars have declined significantly in relation to the overall level of prices. Since 1960, per capita disposable income has increased 138.6 percent, and the Consumer Price Index 66.5 percent. During the same period, however, the price of residential telephone service has increased only 19.3 percent, and interstate long distance rates have remained essentially at 1960 levels. Also, a Department of Commerce survey has shown that the average manufacturing worker in the United States works about 26 hours annually to pay for telephone service -- the lowest of 15 industrial nations surveyed.\*\*

This remarkable record of achievement is the telephone industry's response to the public policy goal explicitly defined by Congress in the Communications Act of 1934 -- " . . . to make available, so far as possible, to all the people of the United States a rapid, efficient, Nation-wide and world-wide wire and radio communication service with adequate facilities at reasonable charges . . . "

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\* AT&T Long Lines, "The World's Telephones," January, 1974.

\*\* Office of Telecommunications, U. S. Department of Commerce, OT Report 73-17, The Real Cost Of Basic Telephone Service To The Average Worker In Fifteen Developed Countries, August, 1973.



### Historical Perspective

It was recognized early in the history of the telephone industry that universal service could be achieved only through rates for basic local telephone service that subscribers could afford. Accordingly, with the participation and direction of legislators and regulators, a rate structure evolved in which the revenues from customers for basic local telephone service cover substantially less than the costs telephone companies would have to incur to provide such a service by itself. The revenues from other service categories -- such as intercity services and optional services and equipment -- make substantial contributions to covering common costs and overheads, thereby permitting rates for basic local telephone service to be lower than they could otherwise be.

Underlying this pricing system has been the philosophy that the traditional telephone companies collectively were to be the single supplier of telephone services to the public. Only with the telephone industry operating as a regulated monopoly within their franchised territories has it been possible to make such great strides toward the social objective of universal service.

The performance of the telephone industry as an integrated system has been determined for the most part by managerial decisions and technical characteristics built into the system from its inception:

One of the first of these decisions was to operate the service primarily as a network of interconnected lines, rather than as a series of point-to-point connections. The value of each subscriber's service thus increased as more subscribers were connected to the network, and the basis of the mass market, universal service, was laid.

Closely related decisions were to provide complete end-to-end service rather than to sell terminal equipment to subscribers, and to assume full system-wide responsibility for the maintenance of service and the introduction of technological change in service according to quality standards of the time.

\* A.T.&T. Long Term  
These decisions have enabled the attainment of social objectives, efficiencies and economies in telecommunications unmatched by any other nation.



historical. It is something of a paradox that while these decisions were facilitated by the monopoly form of the system, they also enabled the system to achieve economic characteristics that are -- in essential respects -- indistinguishable from those attainable in a classic, dynamic, competitive industry. To test the proposition that the regulated monopoly telephone system conforms in essential respects to the model of a competitive industry, it is necessary only to examine its record over time.\* In essence, the telephone industry has outperformed competitive industry in those very attributes multi-supplier markets are supposed to enhance -- in pricing performance, in innovation, in reliability and quality of service, and in assuring ample supply to meet demand.

#### Recent Regulatory Actions

As the nation approaches the 100th anniversary of the invention of the telephone, the social objectives, efficiencies and economies achieved are now being threatened by recent regulatory actions that have opened selected telecommunications markets to multiple suppliers on the assumption that such an arrangement would be a spur to innovations in the pricing and provision of new communications services.

These regulatory actions, as they have evolved, clearly depart from basic standards of the Communications Act, and further depart from the very objectives the FCC established in its initial decisions. These actions now

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\* See for instance, the testimony of Robert R. Nathan in the Hearings on the Industrial Reorganization Act, S.1167, before the Subcommittee on Antitrust and Monopoly of the Senate Committee on the Judiciary, 93rd Congress, 2d Session. (1974)



threaten the technical and economic viability of the telecommunications network as an efficient, integrated vehicle for providing universal service at reasonable cost.

Terminal Equipment Decisions

The FCC's Carterfone\* decision in 1968 permitted the interconnection with the network of customer-provided terminal and station equipment, to the extent that it could be accomplished without jeopardy to the technical integrity of the network. Unfortunately, the FCC left for future consideration the question of whether any economic harms would occur which should be weighed against the asserted benefits of interconnection.

To facilitate the interconnection authorized by Carterfone, and to insure the technical integrity of the network, the telephone companies filed new tariffs requiring that customer-provided equipment be connected to the network only through protective arrangements provided by the telephone companies. More recently, such connections have been permitted or have been recommended by the telephone companies under other programs where equivalent protection can be assured.\*\*

Such an approach seemed to be consistent with previous developments in the area of data processing and the coincident requirement for communications to and from data equipment. In that area, telephone company tariffs long have allowed the interconnection of data processing equipment and terminals with the nationwide network in order to accommodate the unique needs of data users.

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\* Carterfone, 13 FCC 2d 420 (1968).

\*\* See letter from James R. Billingsley to Richard E. Wiley dated July 21, 1975, transmitting the Comments of the Bell System in FCC Docket 19528, and the Comments.



Experience With The Terminal Equipment Decisions

The FCC has been considering even more liberalized rules for the connection of customer-provided equipment to the telephone network. The FCC recently adopted a plan with respect to ancillary types of equipment which eliminates the requirement for network protective arrangements.\* This plan will seriously compromise the capacity of the Bell System and the independent telephone companies to preserve and manage the technical integrity and efficiency of the network. Furthermore, this plan is contrary to the very standards of effective protection recommended by the National Academy of Sciences in a study conducted at the Commission's request.\*\*

In the currently contested Telerent\*\*\* case, the Commission is maintaining that the states are without power to adopt rules controlling the use of customer-provided terminal equipment for intrastate and local exchange communications which are more restrictive than FCC rules even if state commissions conclude that such interconnection poses either a physical or an economic threat to the provision of local service. In that regard, the FCC is claiming primary jurisdiction over station equipment. Such an assumption of authority is inconsistent with the Communications Act, the language of which is clear in reserving to the states jurisdiction over terminal apparatus.

The interconnection of customer-provided equipment already has demonstrated potential for revenue erosion, particularly among the independent telephone companies.\*\*\*\* These companies -- as well as the Bell System -- are

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\* FCC Public Notice, October 31, 1975.

\*\* Report of a Technical Analysis of Common Carrier/User Interconnections, National Academy of Sciences, 1970.

\*\* See letter

\*\*\* Telerent Leasing Corp. et al, 43 FCC 2d 487 (1973).

\*\*\*\* A. T. & T., 53 FCC 2d 473 (1975). (In particular, see testimony of Mr. C. Ray Ballard, Assistant Administrator - Telephone, Rural Electrification Administration, on behalf of Mebane Home Telephone Company)



### Experience

faced with the very real prospect that in order to recoup revenues lost to nonregulated equipment suppliers, they will be compelled to increase rates for basic local telephone service.

### The Intercity Decisions

The FCC's MCI\* decision in 1969 and its Specialized Common Carrier\*\* decision in 1971 authorized specialized common carriers to provide private line services, i.e., communications over dedicated, point-to-point circuits. Such an approach was thought to be consistent with earlier FCC decisions to approve the construction of private telecommunications systems that met the unique needs of railway, pipeline, and other right-of-way companies requiring their own, largely separate communications networks.

The FCC premised its MCI and Specialized Common Carrier rulings on the assertion that the specialized common carriers would offer "new and different" services, filling a "serious deficiency in the communications services to the public" by providing business communications "with unique and specialized characteristics." The FCC further took the position that it would authorize new specialized common carriers only if it were satisfied that the new companies would provide their own intercity facilities to offer genuinely novel services, and explore areas of demand not tapped by the telephone companies.

The FCC concluded that the specialized common carriers would not divert business from the telephone companies or "pose a serious threat to the established carriers' price averaging policies." On the contrary, the FCC said that the development of such specialized common carriers actually would increase the revenues of the existing carriers by expanding the size of the communications market.

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\* Microwave Communications, Inc., 18 FCC 2d 953 (1969).

\*\* Specialized Common Carrier Services, 29 FCC 2d 870 (1971).



### Experience With The Integrity Decisions

In practice the FCC's experiments in intercity services have not worked out as envisioned. The specialized common carriers, in general, have simply duplicated the intercity private line routes and the services already supplied by the telephone companies. By electing to serve only the most profitable routes, the specialized common carriers have been able to undercut the telephone companies' averaged rates.

Moreover, the telephone companies' efforts to respond competitively to these challenges have been hampered by delay and indecision:

The telephone companies were forced to appeal to the Second Circuit Court of Appeals in order to introduce competitive rates for television transmission and to set aside a requirement for special FCC approval to file new rates.

Telephone Company tariffs designed to make private line rates more competitive with the specialized common carriers were delayed for about fifteen months, far beyond the statutory limit, although the specialized common carriers' rate responses were allowed to go into effect on one day's notice.

The limited introduction of DATAPHONE<sup>®</sup> Digital Service, where no competition existed, was delayed even though there was great demand for the service among business customers. In expanding the service to other geographical areas where there was competition, the telephone companies were required to file rates no lower than prevailing private line rates even though those rates were higher than necessary to recover the costs of the innovative and economical transmission system used.

### The Consequences of FCC Decisions

The potential consequences of these decisions involving interconnected equipment and specialized common carriers can best be seen in the effects they have on basic local telephone service rates, averaged long distance rates, end-to-end service responsibility, and the integrity and manageability of the network.



### Basic Service Rates

Clearly, the existence of multiple suppliers of communications services will continue to have an increasingly adverse impact on the great majority of telephone customers. Bell System studies\* indicate that if contributions from intercity services and optional services and equipment to cover joint and common costs and overheads were lost, rates for basic local telephone service, on the average, would have to increase to levels more than 70 percent higher than prevailing rates. It is not suggested that the full extent of the potential effect, represented by the 70 percent figure, would be realized in the immediate future or at any particular point in time. However, that is what would be necessary if basic local telephone service revenues, by themselves, had to cover all the costs of the facilities it would require if it were the company's only service and all of today's corporate common costs remained.

A study conducted by Systems Applications, Inc.,\*\* on behalf of the United States Independent Telephone Association, USITA, revealed that the economic impact of competition by specialized common carriers and interconnection companies on the independent telephone industry will be severe. The study further indicated that the ". . . ultimate victims will be the users of basic telephone services."

A committee of the National Association of Regulatory Utility Commissioners -- state officials responsible for regulating local rates -- has concurred in the conclusion that competition will have "a substantial adverse economic impact on local exchange telephone subscribers" by forcing increases in local residential rates.\*\*\*

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\* See for example, Bell Exhibit 1, Embedded Direct Cost (EDC) Study, FCC Docket No. 20003, April, 1975.

\*\* Systems Applications, Inc., Regulatory Policy Changes And The Future Of The Independent Telephone Industry, October, 1975. See also, Appendix I, The Economic Impact of Competition On Telephone Operations In The Continental Telephone System, Comments of Continental Telephone, Docket No. 20003, April, 1975.

\*\*\* National Association of Regulatory Utility Commissioners, Committee on Communications, Report After Investigation, May, 1974.



### Rate And Cost Averaging

Unburdened by the legal obligation of the telephone companies to conserve all intercity routes, the specialized suppliers of intercity private line services -- by largely duplicating telephone company services over lower-cost routes -- have been able to price their services on those routes below the telephone companies' averaged rates. Thus, the telephone companies are deprived of revenues, from those routes, which help to support facilities provided for customers on lower-volume, higher-cost routes. They also are deprived of the contributions from that business toward common costs and overheads.

In order to compete with the private line service offerings of specialized common carriers, the telephone companies have been forced to abandon the traditional practice of averaging private line rates on a nationwide basis. Although the changes incorporating these "de-averaged" rates are still being contested before the FCC, the consequent shifting of regular long distance traffic to telephone company private line services inevitably will cause losses in contributions from regular long distance service toward common costs and overheads.

Moreover, to the degree that competition and cross-elasticities between services in a multi-supplier market force the telephone companies to relate rates for regular long distance service more directly to the costs involved, customers along lightly trafficked, higher-cost routes -- generally those customers in rural areas and small towns -- will pay more for their calls than is paid for similar calls of equal distance placed by customers served by high-density, lower-cost routes. This will erode the substantial existing revenue contributions from regular long distance service above and beyond average cost levels toward common costs and overheads.

In sum, competition results in more and more long distance traffic being shifted to private line services of all suppliers, telephone companies as well as specialized common carriers. Also, telephone companies' private

April, 1973



Rate And

line traffic will be shifted to the specialized common carriers because they price their services on low cost routes lower than the telephone companies' averages. Such shifting ultimately results in losses in the contributions to basic local telephone service, and thus in the long run is not in the best interest of the nations' users of basic telephone service.

Furthermore, there are significant economies of scale in a single supplier situation which are lost as duplicative circuits are established. Duplication of facilities inevitably will lead to higher overall costs which must be paid by the consumers.

Competition also will retard the introduction by the telephone companies of higher-capacity, more efficient, and therefore lower-cost switching and transmission systems. The siphoning off of business on a selective basis on busy routes by the specialized common carriers postpones the time when the newer high-volume developments can be introduced economically. This also represents an uneconomic use of resources to the detriment of all users.

#### End-to-End Service, Network Integrity

High-quality service has been assured by vesting total, end-to-end responsibility with the telephone companies, and by making them strictly accountable for the quality, cost and availability of service to all customers.

The undivided end-to-end responsibility for service availability and quality that rests with the telephone companies is the public's best assurance of high-quality at low cost. The existence of multiple suppliers, on the other hand, can divide that responsibility and compromise the carrying out of that responsibility, and thus lead to deteriorating performance at higher costs to everyone.

The telephone companies believe that the highly integrated, precisely engineered network is too valuable a resource to risk the perhaps irreversible threat to its performance posed by the direct electrical connection of facilities and devices over which the telephone companies have no control. The FCC



has adopted rules for such direct connection of ancillary equipment. With such direct connections end-to-end responsibility will be fragmented and service quality necessarily will be more difficult to maintain.

It is for this reason that the telephone companies, while seeking to open their facilities to as wide a variety of applications as practicable, have consistently maintained that only if they are permitted -- under regulation -- to exercise responsibility for the terms and conditions under which customer-provided terminals and systems may be attached to the network, can they be expected to fulfill their responsibility for the quality of the services they provide to the public.

Finally, an essential principle of the Communications Act is that the nationwide telecommunications network is and should remain a unified system planned, managed and operated cooperatively by the telephone companies. In a fragmented, multi-supplier environment, however, managing the expansion and improvement of the integrated nationwide network -- as well as overseeing its operation and reconfiguration on a day-to-day basis -- will become an intensely difficult and costly task.

### The Solution

The provision of communications services by multiple suppliers involves serious consequences that, unless avoided, will violate the intent of Congress as expressed in the Communications Act.

While experiments with alternative communications suppliers may have seemed a logical extension of existing policy when originally proposed by the FCC, their potential effects in terms of higher costs for poorer service were not anticipated, nor are they socially or economically desirable.

Nonetheless, these experiments continue and new specialized common carriers are being permitted to enter the business, and new routes are being granted to existing specialized common carriers. The FCC also is considering



virtually uncontrolled interconnection of customer-provided equipment under a plan of certification and direct electrical connection to the network.

As a result, these efforts are no longer merely experiments in alternative ways to provide communications services. Rather, they have become vital public interest issues which the Congress must resolve. Congress must decide whether it wants the FCC to continue policies that will lead to:

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Sharp increases in basic local telephone service rates, higher overall rates for long distance callers, and differing rates over different routes.

provid  
A weakening and fragmentation of control and management of the technical quality of the telephone network.

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The wasteful use of capital and telecommunications resources, as well as the retardation of network innovation and the consequent impracticality of achieving the fullest possible economies of scale.

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The continuing preemption of state authority over matters affecting the quality and cost of basic local telephone service, a policy not intended by Congress when the Communications Act of 1934 was enacted.

The A number of entrepreneurs already have entered, or are planning to enter, the most lucrative parts of the telephone business, in reliance on the FCC decisions discussed here. Unless this trend is checked promptly, it will become increasingly difficult to reverse, and the unavoidable consequence will be to raise the real costs of telephone service for the American people.

have  
Congress should act without delay to reaffirm the policy of network unity that is at the heart of the Communications Act and to reaffirm the goal implicit in the Communications Act; namely, the widest availability of high quality communications at the lowest overall cost to the entire public.

carried

granted

November 4, 1975



Outline of a Suggested Statutory Solution

An amendment to the Communications Act is an appropriate way to deal with the policy consequences of recent FCC decisions. The essential point of such a Bill would be to reaffirm the original intent of Congress expressed in the 1934 legislation and to apply that policy goal to the problems which have emerged in recent years. The amendment would thus give indispensable guidance to the FCC and the courts in directing the future of the nation's telecommunications system.

In the proposed Bill, the Congress would state that the integrated system of common carrier telecommunications services is an essential element in achieving reasonableness of charges and universality of service. Accordingly, the Congress would reaffirm its policy that the integrated telecommunications network should be structured so as to assure widely available, high quality telecommunications services to all of the nation's telecommunications users at the lowest possible cost. Conversely, the Congress would find that authorizations designed to foster a multi-supplier environment for interstate services are contrary to the public interest.

The proposed Bill also should prevent the situation from degenerating into a division of markets, in essence a cartel, which protects inefficient producers by requiring others to price above relevant costs. Accordingly, the Congress would declare that no charge which is compensatory may be found unjust or unreasonable on the ground it is too low. A charge would be deemed compensatory so long as it equals or exceeds the incremental cost of providing the service i.e., all the added direct costs that are incurred in providing the service in question.

The provisions of the Bill already outlined clearly require a means of achieving industry restructuring. Accordingly, the FCC would have authority, upon application, to approve any necessary acquisitions.



Approval by the FCC would make the acquisition exempt from the terms of any other Act or Acts of Congress under which the acquisition might be deemed unlawful.

In order to remove any question about the intent of Congress concerning the jurisdiction of the state regulatory agencies over the interconnection of customer-provided station equipment and terminal facilities used for local exchange service, the Bill would reaffirm the authority of the states to regulate such matters, even though the equipment in question may also be used for interstate service.

Finally, the measure would establish binding standards to be met prior to the FCC's authorization of specialized common carriers. The Bill would require a showing by a specialized carrier that its authorization will not result in increased charges for basic local telephone service; that its facilities will not wastefully duplicate the facilities of an established telephone or telegraph carrier; and that its authorization will not impair the technical integrity of the nationwide telephone network.

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U. S. Senate FCC Overview Hearings -- 1974

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Sen. Howard Baker (R, Tenn)

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used for The Baker theory of ratemaking is that the fundamental  
the sta concept ought to be that every person in the United  
States is entitled to basic telephone service at a  
reasonable tariff, and that long line, specialized  
may also service, business charges, and others ought to be  
viewed in that context. And to the extent that it  
is necessary to provide that service in rural areas  
and urban areas, on high density and low density  
prior to routes, specialized service for data link, for video  
link or whatever, ought to be taken into account  
would re in order to generate revenues to provide local ser-  
vice for the individual citizen at a reasonable  
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U. S. Senate Appropriations Committee Hearings -- 1974

the tech.

Senator John McClellan (D, Ark)

I do not know of the merits of it, but it does  
appear to be, if it is going to have a serious  
impact on the rural telephone user I do believe  
that it would be incumbent upon your Commission  
to examine this most thoroughly and ascertain  
what that impact in higher cost to the rural  
telephone user is going to be before this is  
carried too far, maybe.

In other words, let us approach it in a studious  
way to make certain we know what the consequences  
are going to be.

House of Representatives FCC Overview Hearings -- 1975

Representative Lou Frey (R, Fla)

I do have a basic question about competition in  
some of these areas. Lets take, for instance,  
the area generally of AT&T and the problems of  
the skimming off of some of the businesses that



have been claimed. We get a lot of people in my state mad about the phone bills and power bills, and everything like that. I would like your thoughts generally on this subject.

\* \* \*

U. S. If the phone bill of people in my state doubles, should I tell them it is in their best interest?

Representative Edward Madigan (R, Ill)

I would like to draw an analogy for you between railroads and telephone companies. Railroads, for the most part, in the U. S. are bankrupt, are in a bankrupt situation, except for some of the Western and Southwestern routes. Through the years, railroads have been regulated. They do not have the flexibility to charge their customers on the basis of what the service should actually cost. They were regulated and told what they could transport, where, and what they could charge for it. There has always been a weighting in the railroad industry for providing cheap transportation for agricultural products, and making up the money by charging more for industrial goods. The truck companies and other carriers have come in and taken away from the railroads the industrial transportation business and left them only with the things they were doing cheaply. It seems inconsistent to me the Interstate Commerce Commission could cause that kind of problem in the American Transportation Industry, and then your Commission would come along and move in the direction you are moving, which ultimately could create the same kind of problem for the telephone company.

\* \* \*

We allow people to come in and compete . . . charging a lesser amount of money, but those new people coming in are not under any obligation to provide residential or rural or long-line service, any of the more costly things. I wonder how you justify that?

Representative William Brodhead (D, Mich)

I am deeply concerned about the effect of this policy on the average telephone subscriber. If the Bell System is losing business, if their rates are being undercut, the extent to which they are going to have to compensate for this



by raising the cost of the telephone service for the average residential subscriber, residential telephone service today is a necessity, and we are in a very tight inflationary period, and seeing the costs people have to pay for basic utilities rising very fast and I am concerned this policy is going to have an impact, that kind of impact, and I therefore question whether or not it is in the public interest.

\* \* \*

When the FCC made the original decision to allow these Specialized Common Carriers to compete with the Bell System, wasn't that done on the basis they were going to be providing new and different services? Up to this point, then, what you are saying is, up to this point there hasn't been any significantly new or different services these people have provided, these companies have provided?

U. S. Senate FCC Oversight Hearings -- 1975

Senator J. Glenn Beall (R, Md)

I can hear you talking about specialized services: the docket where you're studying the economic impact. Now as I understand it, in specialized services, the presumption was that the user of the service would get something new and different as a result of the adoption of the Commission's rule. Has that worked out that way or are they getting something the same but cheaper?

\* \* \*

It occurs to me that the new competition might be beneficial to the large user, but for us small users, those of us who own a telephone in our house, I'm wondering if there isn't a potential to skim off the cream and cause the cost to the small user to go up while the cost to the large user goes down.

House of Representatives FCC Appropriations Hearings -- 1975

Representative Mark Andrews (R, ND)

I represent probably the most rural area in the Congress. Whether you are talking about the telephone service out in the rural areas or the basic black telephone service



in the inner city areas, you are talking about the families that have a low income. I have some counties in North Dakota where the average family income is under \$5,000. As you know, one of the areas where companies make profits is the pushbutton telephones, frills, and whatnot. That enables them to subsidize the service they give in areas where farm homes are 3 or 4 miles apart. By cutting out the income from that, aren't you increasing the cost to the rural family with a far below normal income and to the ghetto family with income far below normal? Who are you satisfying or who are you giving benefits to?

\* \* \*

This administration is spending a whale of a lot of money on rural renewal in trying to keep those farm families on the land because it is cheaper to maintain the retired family in the rural community than to try to take care of them after they have been forced off because of high telephone costs, high electric costs, and all the rest. I hope that you understand that.

\* \* \*

I want to make darn sure you and the Commission are taking a look at this and don't do your study after the damage has already been done.

\* \* \*

The point is being made they are getting much greater return on investment for service. That is what it is. I don't see anybody coming to Wounded Knee, S. Dak., and saying they want to compete with the telephone service out there. I don't see anybody coming in the ghetto area of Philadelphia and saying they want to put a telephone service there.

Representative Elford Cederberg (R, Mich)

There is not any question about it; in Michigan we have the same kind of a problem. There is not any way that it is economically viable just to serve the people in rural areas. There also has to be some subsidy by the people in the major population areas. The only thing that is important is service to the people at a price that they can afford.



Representative John Slack (D, W. Va) .

We are all interested in competition, those sitting on both sides of this table. In my judgement, the basic objective of your policy would be a telecommunications system which will bring the best service at the lowest possible cost to the largest number of consumers. Is that your feeling? Do you think that will be the result with the procedure that you followed?

Representative Neal Smith (D, Iowa)

I am amazed at the number of times the word 'competition' is used. I think it entirely the wrong word to be used here. It is not competition when you isolate a portion of the service that a monopoly is required to furnish and say we will have competition in a particular geographic area, but with the new company they are not required to furnish all the services. That is not competition at all. What you are saying is we are going to take a profitable part here and permit others to perform the same service without the obligation to perform all the services. That is not really competition. Yet the word 'competition' is used all the time. What you referred to is not really competition as we know competition.

\* \* \*

Where the public feels they should grant a monopoly, there shouldn't be competition in the area that the monopoly is required to serve? In an area that they are not required to serve, you could have competition. You cannot require one company to serve a certain area and then have competition in part of the area that they are required to serve.

\* \* \*

I am reminded that we heard these same arguments with regard to United Parcel. You know what happened. They took the profitable parts of the parcel shipping business and that just added to the problems of the Post Office. You cannot today send a package anywhere you want to send it, like



we used to via parcel post. They took the part of the business they wanted, the profitable part, and still are not performing the services.

Representative Joseph Early (D, Mass)

Mr. Wiley, do you have any idea of the dollar impact on the average residential telephone user's bill since adoption of the FCC policy on competition in the telecommunications field?

\* \* \*

You say that you have made no evaluation to date concerning whether this supposedly responsible competition has increased or decreased residential telephone bills?

House of Representatives FCC Overview Hearings (H.R. 7047) --1975

Representative Torbert H. Macdonald (D, Mass)

I want to set to rest any view you might have that, perfectly frankly, I don't view the elimination of competition as a means to unburden the small user.

\* \* \*

I frankly think that you [AT&T] can withstand very easily any competition. You always have, and at the same time, I would point out that, when you have competition, it seems the service gets somewhat better and the user also benefits.

\* \* \*

You would think that no court cases had ever backed up the FCC according to the statement, but you [AT&T] neglected to say, on several occasions, the courts have indicated that there should be a monopoly, and the Supreme Court in upholding those District Courts indicated the FCC was right by not granting certiorari ...

\* \* \*

It seems to me, after many, many attempts, you have not convinced the FCC, you have not convinced OTP ... of economic harm to users. And obviously, you have not convinced me, and I would hope that you would permit, without further court delays and stuff, the kind of competition that we think you should be subjected to.

\* \* \*

... let me say, the Commission has placed restraints on your ability to compete, and I have publicly committed myself to remove those particular restraints.

\* \* \*



I want to congratulate you about your statements about competition, . . . when in doubt you should permit competition, because the ultimate benefit, or the one who benefits, in any event, is the user . . .

Representative William M. Brodhead (D, Mich)

Are we devoting enough time and attention to what the impact is on the average consumer?

\* \* \*

. . . it would be my position it would be in the public interest to have basic telephone service provided at the lowest possible cost . . .

\* \* \*

It would seem to me that where you are only regulating a piece of the business and there is another agency totally independent of you that is regulating another piece of the business it is pretty difficult to have a coherent approach to the whole problem.

\* \* \*

It is a little bit difficult to understand sometimes how construction of three or four facilities to produce basically the same kind of service, when . . . there is a facility already in existence capable of handling all of the traffic, it is difficult to understand how that kind of competition will lower costs.

It would seem inevitably it would raise costs because of being a duplication of capacity.

\* \* \*

I would just make one observation here. I would just urge you, in doing what you are doing, to make sure that what you are doing is lowering costs and not merely shifting the costs.

If you are just shifting it into a different segment of the economy or shifting it on to the average residential telephone consumer then you are not providing any service to the country and not really earning your keep?



Representative Lou Frey, Jr. (R, Fla)

If the effect of whatever we are going to do, as Bell alleges, is that the residential home will go up, what were the figures, \$7.13, or whatever that figure was, that is an issue and you can't avoid it.

Representative John M. Murphy (D, N.Y.)

The New York Telephone Company had a series of very serious fires earlier in the year in my district and the Bell System of course managed to restore that service and it was probably in a miraculous period of time, something that I don't think other industry or the government could even approximate.

That is probably one of the reasons I concur with the importance of preserving A.T.&T.'s national telecommunications network.

Representative Timothy E. Wirth (D, Col)

The question that we face is: what kinds of legislative and institutional arrangements should we be developing to help this industry reach its potential? And how does competition play a role in that?

\* \* \*

I am . . . intrigued with your use of the railroad analogy, . . . and I wonder why that is an appropriate and necessary one unless what we are trying to do is build a case which says, "If we are not careful, the whole telecommunications common carrier industry will go the way of the railroad industry in terms of collapsing and falling apart?"

Perhaps that is part of the fear and trembling approach that may be taken by Ma-Bell in the face of budding competition?



USITA

# Memberletter

UNITED STATES INDEPENDENT TELEPHONE ASSOCIATION  
1801 K STREET, N.W. SUITE 1201 WASHINGTON, D.C. 20006  
(202) 872-1200

See  
over

ROUTE TO—	

Letter No. 1336

February 9, 1976

## USITA FILES ECONOMIC IMPACT REPORT WITH FCC; COPIES GOING TO MEMBERS

USITA was scheduled to officially file with the Federal Communications Commission on Friday, Feb. 6, the final report of the Systems Applications, Inc., study on the economic impact of competition.

The comprehensive, objective study sponsored by USITA will become a part of the FCC's official records in Docket 20003, the inquiry into the economic impact of the federal regulatory agency's policies fostering competition in customer-provided equipment and intercity private line service.

The USITA filing consists of a 182-page Final Report and a volume of 238-pages of Appendices.

The full and comprehensive report details the results of the study released in summary form at the Association's national convention at Dallas in October — and reported nationwide in the daily and trade press at the time. The study reports that federal competition policies will cause rate increases of 60 and 56 per cent within 10 years, exclusive of inflation, on residential and small business users (respectively) of basic telephone service. In other words, the average customer will be hurt by competition. The summary report was covered in Memberletter 1329.

Copies of the SAI report and appendices will be provided by USITA to the FCC, other parties to Docket 20003, the USITA Interconnection Committee, the Board of Directors, state regulatory commissions and the state telephone associations.

In addition, one copy of the final report will be mailed to each operating telephone company member.

Member companies may obtain additional copies of the report or the appendices at a cost of \$30 a volume. Non-members may purchase volumes at the same price. All requests should be made in writing to USITA Competition Report, at the Association's Washington office.



February 9, 1976

INDEPENDENTS, BELL SEEKING LEGISLATION  
TO PROTECT CONSUMERS FROM FCC POLICIES

USITA leaders are working with representatives of the entire telephone industry, including the American Tel. and Tel. Co. and labor, to seek legislation to protect consumers from the economic impact of the contrived competition being fostered by the Federal Communications Commission.

Although the bill being drafted for introduction into Congress is not in final form, there has been general agreement in the industry on provisions needed to meet consumer interests through preserving the traditional system of telephone service established by Congress in the Communications Act of 1934.

"Basically, the industry intends to petition the Congress to determine the true public interest in the current questions involving the telecommunications industry," USITA Executive Vice President William C. Mott said. "We believe the policies of the FCC will mean increased rates for the average telephone user and quite possibly a lowering of service quality. Thus we consider it appropriate to ask Congress to make the official determination of the public interest, and to reaffirm or reject the national social policy it adopted in the Communications Act of 1934, which sets forth the purpose of the act 'to make available, so far as possible, to all the people of the United States a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges....'"

"We have kept the telecommunications labor unions informed of our efforts, and I believe they will join us in urging a Congressional restatement of the intent of the Communications Act in relation to current issues in the telecommunications field, since this involves consumers and the price they will pay for basic telephone service," Admiral Mott said.

"This bill will be a consumer bill, and if we can get our story understood by the public, we should win widespread consumer support."

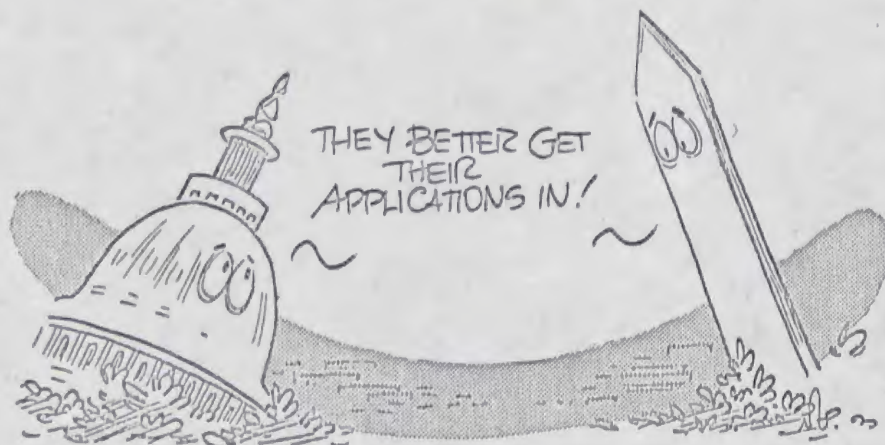
Specifically the bill would: (1) Reaffirm the states' authority to regulate terminal and station equipment. (2) Reaffirm that providing intercity communications services is best done by a single telephone company in a geographical area and to prescribe standards governing FCC licensing of specialized common carriers, to assure against wasteful duplication of services. (3) Preclude denial of rates on the basis they are too low if they are compensatory in that they meet or exceed incremental costs. This would prevent establishment of FCC-protected "cartels" under rate umbrellas. (4) Permit any desirable industry restructuring. The FCC would have authority, upon application, to approve any required corporate acquisitions, as it now does in the current act with respect to telephone companies.



February 9, 1976

The Memberletter will keep USITA members informed on developments, and the help of members will be asked to lay the facts before Congress and ask for a national policy determination.

In the meantime, the daily press has begun to report the industry's concern with legislation. For example, the Wall Street Journal on Feb. 3 and 4 treated the subject, although not in a manner we considered fair and objective. Preservation of AT&T's monopoly was emphasized in the article, rather than the obvious and vital effort we are making to protect American consumers.



THE EYES HAVE IT, AS CAPITOL HILL  
AWAITS USITA LEGISLATIVE SEMINAR

11 The last several Memberletters have featured a drawing of the Capitol building and the Washington Monument animatedly eyeing a message strung between the two. The message announced one of the most important seminars ever sponsored by the National Association — the Government Relations Seminar, scheduled for March 2-4. The meeting will be held in Washington, D.C., at the Crystal City Stouffer's National Center Hotel. 11

With the prospect of legislation on telephone industry competition, the seminar demands your attention. Top governmental figures will be on the program chaired by Jack E. Herington, Director of Government Relations, and John E. Tracey, Director of Congressional Relations.

A block of rooms has been set aside at the Stouffer's Hotel, located near National Airport. Because of limited space and the pressures of the Bicentennial year, rooms cannot be held beyond Feb. 14. It is imperative, therefore, that you mail your reservation form to USITA at once in order to assure your reservation.

There will be no charge for the seminar, which will begin with an informal reception for attendees on the evening of March 1. The program will include intensive training sessions dealing with public and government relations strategy, a review of current legislative proposals, two luncheons and a congressional reception. The final session on March 4 will be held on Capitol Hill and will include meetings with legislators and staffers.



US 17A

FEDERAL REGULATORY POLICIES ON TELEPHONES  
WILL HURT CONSUMERS

Federal Communications Commission Experiment  
to Bring Higher Rates

You -- the average American -- will pay substantially more for basic telephone service in your home or business in the years ahead if policies of the Federal Communications Commission are allowed to continue.

This judgment of the nation's publicly regulated telephone companies, Independent and Bell System alike, is supported by objective economic studies.

The certainty of higher rates for basic telephone services, results from two actions of the FCC:

1. Permitting a customer to provide his own telephone, switchboard or special equipment to be attached to the telephone company's network. This "interconnect" equipment could be purchased or leased from a non-regulated company with no responsibility for overall communications performance.
2. Authorizing non-telephone companies to provide inter-city private line services -- in competition with telephone company services.

These two types of so-called competition will cause rate increases of 60 per cent to residential users and 56 per cent to business users of basic service within 10 years -- exclusive of inflation. In dollar terms this means a \$3.28 increase per month per residence main phone and a \$7.25 increase per business phone. This was the conclusion of the prestigious telecommunications research firm, Systems Applications, Inc., of San Rafael, California, after an 18-month study sponsored by the U. S. Independent Telephone Association. The complete SAI report is being filed with the Federal Communications Commission as part of its tardily-called inquiry into the economic impact of its experiment with competition.

So important are these basic changes which the Federal regulators are imposing on the public that every American should take the time to study the facts at issue.

It is universally agreed that the United States has the world's best telephone service at the world's lowest prices. This excellent system did not develop by accident. It is a tribute to the concept which made it possible -- regulated utilities operating exclusively



in designated areas, a system which combines the creativity of private enterprise with the safeguards of public control over what experience proved to be a natural monopoly. This concept was set forth by the Congress in the Communications Act of 1934 and is reflected in the long-standing policies of the state regulatory commissions. Regulators and companies have learned to work together for the public good -- and the results speak for themselves.

Bargain rates for the average consumer have made possible telephone service to 95 per cent of American homes. Recent studies show that on the average, an American works less than two hours to pay for a month's local telephone service -- compared with three hours work in London and Tokyo, five in Oslo and Amsterdam, seven in Hamburg and eleven in Paris.

In spite of the success of our proved system of telecommunications, the Federal Communications Commission decided in 1968 to begin bureaucratic tinkering. In our country "competition" always has been a good word because we associate it with our system of free enterprise. However, mixing a contrived form of competition with our system of regulated telephone operations is an obvious experiment -- and one we believe is not at all in the public interest. The changes have been made without any comprehensive research on their economic impact.

The publicly regulated telephone companies believe the Federal bureaucratic experiment is being conducted in disregard for the will of Congress, as expressed in the Communications Act.

The time is here for the Congress to re-examine the whole question of the nation's telecommunications system and revise the Communications Act to restate what it intends the public policy to be.

#### Let Public Interest Rule

The issues of communications service should be decided solely on the basis of public interest. The cost of basic telephone service to the average user is a primary issue. As interconnection of customer-owned equipment grows, the average residential and business user will have to pay more for his basic service. That's because interconnection will bring to an end two key principles of pricing. Under the existing "value of service" concept, business firms have paid more for their service because it was "worth more" to them, in effect giving some subsidy to residential users. Long distance service also has subsidized local service.

The subsidy has been particularly marked for customers in rural areas, where sparse settlement makes cost of service much higher. This reflects the second basic principle of pricing -- "averaging" of rates on a national or regional basis as a means of achieving the goal of universal service as set forth in the Federal Communications Act.



n designated  
rly The telephone company can compete effectively with non-regulated suppliers of telephones and other equipment. But to do so, it must depart from "value of service" and "average" pricing and adopt new rates reflecting costs of specific services. This likely will mean lower rates for sophisticated special business services. To maintain a reasonable rate of investment return authorized by their regulatory commissions, the telephone companies then must look to other sources of revenues. All that remains is basic telephone service, residential and business.

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Private Line Competition

The FCC's second experiment in competition began in 1969, when it first authorized a new type of company, the "specialized common carrier," to offer point-to-point private line communications service between cities in competition with the telephone companies.

see The authorization contemplated new and unique services so that the effects on established carriers would be minimal. The FCC's theory was that these new firms would open up a promising new market. However, the FCC emphasized that the telephone companies would be permitted to compete fully with the new firms -- there would be no "protective umbrella" over the newcomers.

ures Things aren't working out that way at all. The newcomers are offering the same services as the telephone companies to the same customers -- there is no new market. Since the private line market is limited, the specialized carriers must seek to invade other markets such as ordinary long distance service. What's more, the efforts of the telephone industry to compete in these initial intercity offerings by adjusting rates to a more competitive level have been frustrated by FCC delays and red tape which serve to protect the specialized carriers.

All telephone users have a stake in the intercity services competition. That's because rates for the toll services have followed regulatory-approved schedules designed to relieve basic home telephone service rates of a significant cost burden. This, in turn, results in rates for such basic services being lower than they would otherwise be. Competition results in reduced revenues for the telephone companies as business is lost and as rates are adjusted to more competitive levels. As revenue from business services drops, cost burdens are "shifted" to the home telephone rates, and they must increase so the telephone company can continue to provide service. Thus, the public loses the benefit of the ratemaking principle which has made possible almost universal telephone service in our nation.

Long distance rates have been structured on an average basis. Comparable services are provided at comparable rates regardless of the costs to serve individual routes. Under this system the telephone companies have been able to fulfill their responsibility to



serve all customers at reasonable rates. The specialized common carriers, on the other hand, have no such "serve all" responsibilities and can seek out the profitable routes and leave the others for the telephone companies. This, of course, is "cream skimming." Unless the telephone company rates are adjusted to competitive levels, the business is lost, and the home telephone user is the loser. It is significant that the telephone companies find no competition to serve the local distribution and switching markets, where the absence of long distance services rate support makes for an uneconomical condition.

The net result: A few large business firms benefit from reductions in some intercity communications costs, while most other customers end up paying more.

#### What's at Stake?

At stake in this two-pronged effort to impose competition on the nation's regulated telephone utilities is the basic system itself, with its service and price benefits to the average consumer.

Your operating telephone companies plan to bring this problem to the attention of Congress. We hope Congress will act in your interest to preserve the concept which has brought you the world's finest telephone service at the lowest rates. This goal can best be achieved by a Congressional re-statement of the purposes of our national telecommunications system as set forth in the Communications Act of 1934.

x x x x

Statement by:

U.S. Independent Telephone Association  
1801 K Street, N. W., Suite 1201  
Washington, D. C. 20006

Telephone: (202) 872-1200



# telephony

THE JOURNAL OF THE TELEPHONE INDUSTRY SINCE 1901

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## Getting to Congress—in person

DEMOCRACY is not dead. It just needs to be used effectively. And Jack Tharp, executive vice president of the Illinois Telephone Assn., intends to do just that March 22-25 when he takes at least 50 telephone people to Washington to rap with legislators on bills having to do with interco and specialized common carrier competition (TELEPHONY, Jan. 5, p. 11).

Advance planning has been superb. On March 19 Tharp will hold a press conference on the trip in the state capital. He says, "We've got to be informative on what the problem is on as broad a scale as possible."

At 8 a.m. March 23 the group will gather in Washington's Statler Hilton Hotel to receive kits containing an interview guide, maps with Illinois legislators' D.C. addresses, and an Illinois map showing telco territories with an overlay indicating congressional districts. Then the telephone people will spend the day visiting the legislators to tell them their telephone constituents need the legislation on competition within the industry. The telephone people will work in teams of two or three because most of them haven't made such calls before. At 5 p.m. the same day the Illinois group will host a reception in the Rayburn Building for as many senators and representatives as can make it. During this party, a slide film, "Is a Monopoly Always Bad?" will be shown. Prepared by the Illinois association's Public Relations Committee, the film already has been used successfully to explain interconnect and specialized common carrier problems. (Prints are available at \$47 each.)

Another early morning progress session on March 24 will be followed by further visits to the state's lawmakers. Same format next day until noon, when a press conference and luncheon will wind things up. Members of the Illinois press corps, the wire services and other members of the press will be invited to hear results of the trip.

The scope and organization of the Illinois effort are much to be admired. Other telcos and associations in other states ought to take note and follow suit. Stand up now for what you believe, or pass up the opportunity perhaps forever. □





**AT&T**

195 Broadway  
New York, N.Y. 10007

**News Release**

For further information contact: Dave Sullivan 212 393-3377

FOR RELEASE: Tuesday, March 2, 1976

As the telephone industry begins its second century of service, continued telecommunications progress depends more on the resolution of pressing national policy questions than it does on technology, American Telephone and Telegraph Company Chairman John D. deButts said in the company's annual report to share owners issued today.

Noting that 1976 is the one hundredth birthday of the telephone, deButts said he views the centennial "not as an end but a beginning, the beginning of an era of communications progress matching all we have experienced before."

He pointed out, however, that "whether that promise will in fact be fulfilled depends -- more than it does on technology -- on policy. And today -- to put the matter bluntly -- national policy with respect to telecommunications is in a state of contention and uncertainty."

One contributing factor, deButts said, is the "trend toward market allocation in the guise of competition." The Bell System has opposed this trend and continues to oppose it, he said "for one reason only: it will hurt the public."

In order to help resolve the uncertainty, deButts said "we have undertaken to call the public's attention to its stake in the matter -- the quality of its service and the price it pays for it."



"And it is for this reason that the telephone industry has undertaken to alert the public's representatives that they have a decision to make," he said. "A great industry awaits a determination as to what is expected of it."

Looking to the future, deButts said that not in a long time has the Bell System been more effectively positioned "to take advantage of the opportunities immediately ahead."

Three aspects of the Bell System's performance in 1975, deButts said, "reflect long-term trends that confirm the intrinsic strength of our business and provide a firm basis for confidence in its future.

"They are the stability of our construction outlays; the increasing significance of internally generated funds to the fulfillment of our capital requirements; and the steadily improving productivity of Bell System people and plant."

Despite "what clearly were the most difficult economic circumstances since the 1930s," deButts said the Bell System continued to grow in 1975. "We grew, however, at a rate little more than half that we experienced as recently as two years ago," he continued. As previously reported, earnings per share were \$5.13 compared to \$5.28 in 1974.

Share owners also were told that at the end of 1975 there were 118.5 million Bell System telephones in service, 4.1 million of them added during the year.

As the number of customers served increased, so did the number of calls. The volume of long distance messages rose 5.2 percent, while overseas calls were up 19 percent. Overall the Bell telephone companies handled about 470 million messages on an average business day, 13 million more than the year before.



LETTER MAILED TO EVERY MEMBER OF  
CONGRESS

**MCI** COMMUNICATIONS CORPORATION  
1150 17th ST., N.W., WASHINGTON, D.C. 20036 • 202-872-1600 • TELEX: 89553

2-3/76

Dear

From the enclosed Wall Street Journal article, as well as from other sources, I understand that AT&T and its allies are seeking your support for legislation to amend the Communications Act so as to eliminate competition in the U.S. telecommunications industry. They are doing this although such competition has been authorized by the Federal Communications Commission, has been repeatedly upheld by the Courts, and is limited to those sectors of the industry where alternative suppliers can advance the public interest.

May I respectfully caution you that this proposal, while presented in the guise of consumer-benefit legislation, has an entirely different objective. You are actually being asked to enlarge and sanctify monopoly power beyond any boundaries envisioned by your predecessors in framing the Communications Act, and clearly beyond the limits set by your expert arm, the FCC, which has licensed carriers such as MCI to compete with AT&T in the public interest.

I am enclosing a fact sheet for your review and would appreciate it if you would call the points discussed therein to the attention of any persons who may call upon you to advance this pro-monopoly legislation. Your willingness to consider both sides of this dispute will help to ensure that Congress does not act unwittingly to destroy the vigor and vitality of U.S. telecommunications.

Very truly yours,

William G. McGowan  
Chairman of the Board



## AT&T Lobbies Against New Rival Firms, Asking Legislation to Affirm Monopoly

By SANFORD L. JACOBS  
Staff Reporter of THE WALL STREET JOURNAL

NEW YORK—Congress is being asked to pass legislation that would affirm American Telephone & Telegraph Co.'s monopoly hold on the telephone industry, exempt the Bell System from some antitrust prosecution and, in effect, legislate out of business the competitors the Federal Communications Commission has let into some of AT&T's markets.

That's the outline of legislation suggested to some members of Congress by presidents of Bell System phone companies who have been visiting lawmakers in the past few weeks, according to sources familiar with the lobbying effort. It's been a quiet effort at bringing about with legislation what AT&T so far has failed to accomplish before the FCC and the courts — stay the inroads, though so far quite small, of competition. Legislative aides confirmed the lobbying effort, but most were unwilling for the record to describe in detail what AT&T executives had discussed.

"How do you know about this?" one congressional staffer asked. "There hasn't been any announcement, has there?" There hasn't, but when asked AT&T did provide some of the material Bell System people have given lawmakers.

Titled "Outline of a Suggested Statutory Solution," the 1½-page statement says amending the Communications Act "is an appropriate way to deal with the policy consequences of recent FCC decisions."

### "A Consumer Bill"

The non-Bell phone companies are lobbying for the legislation, too. William Mott, executive vice president of the non-Bell phone companies trade association, the U.S. Independent Telephone Association, said, "It's a consumer bill because it will safeguard the monthly rates the little customer, the little old lady in tennis shoes, has to pay."

Unions representing more than a million employees in the phone industry are expected

to get behind the legislative effort. A phone industry executive said the Communications Workers of America union, which represents the largest number of phone employees, had agreed to support the legislation. However, a CWA spokesman in Washington said that isn't exactly the case. "If it's designed to protect the consumer, the CWA may very well go along with it," the spokesman said.

Lobbying efforts will try to convince federal lawmakers that competition in the telephone industry will mean higher monthly phone bills for most customers. "We know it's an election year, and nobody said it will be easy," Mr. Mott said. Another industry executive said, "It looks like we're asking Congress, in the Bicentennial year to boot, to support total monopoly."

### Upsetting Decisions

FCC decisions, which have upset both AT&T and the non-Bell phone companies, have permitted new companies to provide private-line communications services in rivalry with Bell. AT&T derived about \$1.16 billion of its total 1974 revenue of \$26.17 billion from interstate private-line services. Despite the competition, AT&T still serves the lion's share of this market; its rivals' annual revenues aren't above 1% of AT&T's yearly private-line revenue.

There are about 1,600 non-Bell phone companies, servicing approximately 20% of the nation's phones. Like Bell, they are licensed as sole providers of dialed phone service in their operating areas. The new non-Bell companies aren't licensed to offer dialed phone service.

The FCC also has ruled in favor of connecting non-Bell equipment to the phone lines. And the commission recently decided that some auxiliary apparatus, such as automatic answering devices, can be connected without an AT&T-provided protective device.

Also, the commission recently rejected the way AT&T proposed to compute the

costs of providing services. The so-called incremental cost approach AT&T wanted to employ would have permitted it to charge lower rates for services facing competition. However, the FCC rejected this method of determining costs for basing rates. (Basically, phone services are supposed to carry charges sufficient to cover the cost of providing the service. Any price below the cost amounts to underpricing, regulators contend, and results in customers for other services subsidizing the ones that are priced too low. However, different approaches can be taken to figuring costs.)

AT&T material is trying to convince lawmakers that "... the Congress would find that authorizations designed to foster a multisupplier environment for interstate services are contrary to the public interest."

### Legislation's Provisions

Paul Henson, chairman of United Telecommunications Inc., a non-Bell phone-holding concern, has been lobbying on behalf of the legislation. The non-Bell companies share in AT&T's long-distance revenue to the extent toll calls pass through those company's communications equipment. When rival private-line services take away long-distance phone revenue, it affects the non-Bell companies. Mr. Henson clarified some of the provisions being sought in the legislation.

Only Bell rivals providing "unique" private-line services could continue in business under the proposed legislation, Mr. Henson explained. That would mean such companies as MCI Communications Inc. and Western Union Corp. could be legislated out of the private-line communications business. Mainly, such private-line concerns sell services that duplicate those available from AT&T, though at lower prices.

The proposed legislation also would give state regulators jurisdiction over connecting non-Bell phone equipment to the telephone network. Currently, the FCC has jurisdiction, and has made decisions that ease the way for non-Bell equipment to be hooked up. The state regulators, with some exceptions, are generally sympathetic to the phone companies' position on alien equipment, and most states would make use of non-Bell equipment more difficult than the FCC does.



## FACT SHEET

### Competition in U.S. Telecommunications

Under AT&T's leadership, various telephone company organizations, purportedly independent of AT&T\*, have launched a massively funded campaign to eliminate Federally authorized competition in the terminal equipment and intercity transmission sectors of the U.S. telecommunications market. In furtherance of this undertaking, AT&T and its allies have presented a series of contentions which they claim demonstrate the need for the legislation they are proposing. However, each of these claims is false.

1. Claim: There is a "crisis in telecommunications."

Fact: This is completely untrue. AT&T's investment grows at the rate of some \$10 billion per year and its revenues have increased by an average of some 11% per annum over the last five years. AT&T has just increased its dividend by 11.7%. The non-Bell telephone companies are enjoying similar prosperity. Their revenues for the last five years have grown at a 12.7% yearly rate. The public enjoys good service, which has been stimulated, according to AT&T's own marketing management, by the entry of new competitive suppliers of equipment and service.

2. Claim: The Communications Act contemplates a continuing monopoly in American telecommunications.

Fact: The Communications Act itself says nothing about competition or monopoly in common carrier communications, but it clearly contemplates that new carrier facilities may be constructed if the FCC finds that the public convenience and necessity require them. In fact, at the time the Act was adopted, there was competition in intercity communications. The nature and scope of this competition have been expanded over the years by the FCC - with the approval of the courts and the acquiescence of Congress - in the areas of mobile radio telephone service, video transmission, private microwave, terminal

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\*The so-called independent (or non-Bell) telephone companies receive a large portion of their revenues from AT&T, in the form of settlements for their part in providing long distance telephone service. Their dependence upon AT&T in this very significant respect leads them uniformly to echo its contentions before the FCC and other governmental bodies.



equipment, specialized communications, and domestic satellites. It is far too late for AT&T to claim that it was granted a monopoly of intercity communications in 1934.

3. Claim: Competition will result in higher rates and poorer service for the residential user.

Fact: Though the FCC has repeatedly asked for proof of this claim, neither the Commission nor the Office of Telecommunications Policy has been able to find any basis for it. Significantly, none of the many recent increases in local rates has been based on such a claim of impact from competition.

4. Claim: Competition will adversely affect the technical operations of the telephone network.

Fact: Again, neither the FCC nor OTP has been able to find any proof of this oft-repeated claim. The intercity network has long interconnected with thousands of carriers and private corporations using a wide array of equipment, old and new. The modern terminal devices and communications systems offered by the new competitors are specifically designed to function compatibly with the network. Indeed, they must do so if the new carriers and equipment suppliers are to succeed.

5. Claim: State regulators should be given exclusive jurisdiction over terminal devices.

Fact: AT&T is seeking to reverse the FCC's assertion of Federal primacy in this field in order to eliminate competition. It knows that the State commissions - understaffed and burdened with responsibility for many industries other than communications - will be less able than the FCC to cope with AT&T's massive resources. AT&T's claim also raises the question whether a truly nationwide communications system -and the benefits which can be derived from competition - will be better achieved under one unified national policy or under as many as fifty different policies.



6. Claim: Only the affluent and a few entrepreneurs benefit from competition, while the public at large suffers.

Fact: Your business and industrial constituents will deny this. They have gotten improved communications at lower cost - and have passed the benefits along to the general consuming public. AT&T readily admits that it overcharges some classes of customers and undercharges others, claiming that this subsidization is necessary to achieve universal service. If such subsidies are necessary, the FCC, as the Congressionally created guardian of the public interest, should recognize and implement them. A monopolist's concept of the public interest tends to be obscured by its own self interest. Competition relates rates to costs, but AT&T has used some of its cross-subsidies to offset predatorily low rates for the services in which it faces competition.

7. Claim: This bill to eliminate competition is really consumer legislation.

Fact: This flies in the face of this country's basic reliance on competition. Having multiple sources of supply has benefited the public in other areas and does so in communications, too. If this claim were not so dangerous it would be almost laughable.

AT&T and its allies want no part of the change necessitated by even the very limited competition the FCC has authorized. The case against competition has been lost before the FCC and the courts, so AT&T is now making a bold effort to reverse the trends of the last two decades - and to immunize itself from the many pending antitrust suits brought against it - by unsupported, false claims in an effort to get legislation which would subvert the Communications Act and the carefully designed policies of the FCC. The Congress must not be deceived by this campaign!



CONGRESSMAN TIMOTHY E. WIRTH  
REMARKS TO BELL EXECUTIVE SEMINAR, PRINCETON, NEW JERSEY 3/8/76  
"THE CONSUMER COMMUNICATIONS REFORM ACT: A VIEW FROM THE HILL."

I'D LIKE TO TALK BRIEFLY TONIGHT ABOUT YOUR PROPOSAL TO GET CONGRESS TO REAFFIRM ITS "INTENT" WITH RESPECT TO THE COMPETITION IN THE COMMON CARRIER INDUSTRY. I MUST ADMIT, HOWEVER THAT I AM SOMEWHAT CAUTIOUS ABOUT WHAT I SAY. WHEN BOB TIMOTHY, LLOYD LEGER, AND DICK ROTHMEIER VISITED LAST MONTH, MY HOME PHONE WAS SHUT OFF JUST A FEW HOURS BEFORE.

I KNEW THAT AT&T WAS PERSUASIVE WITH MEMBERS OF CONGRESS BUT THOUGHT TO MYSELF, THEY REALLY DO MEAN BUSINESS.

SERIOUSLY, MR. TIMOTHY, MR. LEGER, AND MY GOOD FRIEND DICK ROTHMEIER, WERE VERY EMBARRASSED TO LEARN THAT OUR PHONE HAD BEEN DISCONNECTED. I ASSURED THEM HOWEVER, THAT, THE INCIDENT WAS DUE TO MY FAILURE TO PAY THE BILL ON TIME AND THAT WREN WAS JUST AS HAPPY TO HAVE THE PHONE TURNED OFF. IT WAS PROBABLY THE FIRST QUIET DAY SHE'S HAD SINCE WE MOVED TO WASHINGTON.

YOU HAVE BEEN VERY FORTHCOMING WITH ME ABOUT YOUR REASONS FOR FEELING THAT THIS LEGISLATION IS NECESSARY; I WANT TO BE EQUALLY FRANK WITH YOU IN SUGGESTING SOME AREAS OF YOUR PROPOSAL THAT I BELIEVE REQUIRE FURTHER EXAMINATION.

I DO NOT FAVOR FEDERAL TINKERING WITH AN INDUSTRY'S FUNDAMENTAL STRUCTURE. I GATHER THAT THIS IS WHAT YOU BELIEVE THE FCC HAS DONE WITH YOUR INDUSTRY, IMPOSING SOME ADJUSTMENTS WHICH YOU BELIEVE MAKE THE ENTIRE MECHANISM MORE COSTLY AND LESS RELIABLE. THE AMENDMENTS YOU PROPOSE TO THE COMMUNICATIONS ACT FLOW FROM THIS CONCERN. BUT THE DECISIONS OF THE FCC WHICH HAVE EFFECTED THESE CHANGES HAVE BEEN SUPPORTED BY THE DEPARTMENT OF JUSTICE AND THE OFFICE OF TELECOMMUNICATIONS POLICY, AND HAVE BEEN AFFIRMED BY THE COURTS.

SO I AM EQUALLY HESITANT ABOUT RESTRUCTURING YOUR INDUSTRY BY CONGRESSIONAL FIAT, EVEN IF THAT ACTION IS CHARACTERIZED AS A MERE "REAFFIRMATION" OF EARLIER POLICY. IT SEEMS CLEARLY



THE BEST POLICY TO ME TO LET AN INDUSTRY WORK OUT MATTERS ON ITS OWN, DETERMINING THROUGH THE INTERPLAY BETWEEN ITS VARIOUS COMPONENTS THE STRUCTURE MOST NATURALLY SUITED TO THE ACCOMPLISHMENT OF ITS OBJECTIVES.

I AM CERTAIN THAT NONE OF YOU IS AFRAID OF THE COMPETITION YOU HAVE EXPERIENCED TO DATE, OR ARE LIKELY TO FACE IN THE FORESEEABLE FUTURE. MY BASIC PHILOSOPHICAL PROBLEM WITH YOUR PROPOSAL SPRINGS FROM WHAT I PERCEIVE AS A DISPROPORTION BETWEEN A NEGLIGIBLE THREAT AND MASSIVE RETALIATION. I KNOW FULL WELL THE SKILLS -- RICH, DIVERSE, UNIQUE -- WHICH EXIST WITHIN THE TELEPHONE INDUSTRY. I'VE SEEN FURTHER DEMONSTRATION OF THEM HERE TODAY.

ON THE OTHER HAND, I WAS EXPOSED DURING THE SUBCOMMITTEE'S HEARINGS TO THE NATURE AND SCOPE OF YOUR COMPETITION. AS I RECALL IT, NONE OF THE SPECIALIZED CARRIERS HAD YET BROKEN EVEN ON ITS TELECOMMUNICATIONS OPERATIONS. AND NONE OF THE TERMINAL MANUFACTURERS DESCRIBED ITS BUSINESS AS BEING MUCH ADVANCED FROM A TOE-HOLD.

GIVEN THIS STATE OF AFFAIRS -- AND I BELIEVE YOU WILL AGREE I'VE STATED IT ACCURATELY -- IT IS DIFFICULT TO UNDERSTAND THE DIMENSIONS OF YOUR ALARM. THAT IS NOT TO SAY THAT I DON'T APPRECIATE THE UNDERLYING REASON FOR IT: YOU DON'T WANT THE HOME TELEPHONE USER FORCED TO PAY MORE THAN HIS FAIR SHARE FOR HIS SERVICE. NEITHER DO I. BUT CAN'T HE BE PROTECTED FROM THIS POSSIBILITY WITHOUT CONGRESSIONAL INTERVENTION?

I THINK THE ANSWER TO THAT IS NOT ONLY "YES," BUT THAT HE MAY EXPECT BETTER PROTECTION FROM THE INDUSTRY THAT SERVES HIM THAN ANY THAT CONGRESS COULD FASHION. LET ME TELL YOU WHY.



RESOURCES WHICH WE HAVE ALWAYS TAKEN FOR GRANTED ARE NOW BECOMING LIKE ENDANGERED SPECIES. WE ARE A NATION OF CONSUMERS, BUT WE HAVE BEEN BROUGHT FACE-TO-FACE WITH THE FACT THAT THERE ARE LIMITS TO WHAT WE CAN CONSUME. FOOD, ENERGY SOURCES, AND OUR ENVIRONMENT DAILY BECOME MORE CLEARLY FINITE. AND SO THE DISCIPLINE OF CONSERVATION HAS HAD TO DISPLACE THE PERMISSIVENESS OF CONSUMPTION.

IN YOUR OWN INDUSTRY, FOR INSTANCE, I UNDERSTAND THERE IS GROWING SUPPORT FOR ALIGNING CONSUMPTION MORE CLOSELY WITH COSTS AND FOR DISCRIMINATING MORE PRECISELY BETWEEN PEAK-HOUR USAGE THAT DEMANDS CAPACITY ENLARGEMENT AND OFF-HOUR USE THAT FILLS FACILITIES THAT OTHERWISE WOULD BE EMPTY. INSTALLATION AND RELOCATION CHARGES ARE GOING UP, TO OFFSET THE REAL COSTS YOU EXPERIENCE IN ACCOMPLISHING THESE ACTIVITIES, AND MANY COMPANIES ARE INITIATING CHARGES FOR DIRECTORY ASSISTANCE. YOUR INDUSTRY IS INCREASINGLY REALIZING -- AND IN MANY JURISDICTIONS, INNOVATIVELY ADOPTING -- THE UTILITY'S PRINCIPLE FOR SURVIVAL: THE CUSTOMER WHO COSTS MORE TO SERVE MUST PAY THAT MUCH MORE FOR HIS SERVICE.

THERE IS, OF COURSE, IN YOUR BUSINESS AN IRREDUCIBLE MINIMUM OF SERVICE WHICH SHOULD BE MADE AVAILABLE AT THE LOWEST POSSIBLE CHARGE CONSISTENT WITH COSTS. THAT MINIMUM IS, BASICALLY, A BLACK TELEPHONE, A DIRECTORY LISTING, A FIXED NUMBER OF OUTGOING CALLS (PERHAPS WITH RATES GOVERNED BY TIME AND DISTANCE), AND UNLIMITED INCOMING CALLS.

THIS IS WHAT YOUR CUSTOMERS, AND MY CONSTITUENTS, MUST HAVE. IN ANY CASE WHERE THIS ESSENTIAL LEVEL OF SERVICE IS TOO COSTLY FOR YOU TO PROVIDE AT RATES SUBSCRIBERS CAN REASONABLY AFFORD, THEN I AM CONVINCED THAT APPLICATION MUST BE MADE TO THE LEGISLATIVE BRANCH TO PROVIDE THE SUMS REQUIRED TO FURNISH IT.



THROUGH THE RURAL TELEPHONE ASSISTANCE PROGRAM, CONGRESS HAS BEEN AWARE OF, AND ACTIVE IN, MEETING ITS OBLIGATION TO ASSIST THE TELEPHONE INDUSTRY IN FULFILLING BASIC SERVICE RESPONSIBILITIES IN SPARSELY POPULATED AREAS. IF NECESSARY, CONGRESS OR THE STATE LEGISLATURES SHOULD SIMILARLY LEND A HELPING HAND TO THOSE WHO NEED RESIDENTIAL TELEPHONE SERVICE BUT ARE TOO POOR TO PAY FOR IT.

BEYOND THAT MINIMUM SERVICE, THOUGH, YOUR CUSTOMERS SHOULD PAY YOU PRECISELY WHAT IT COSTS TO FURNISH THEM EACH SPECIFIC ADD-ON. COLOR PHONES, TOUCH-TONE, EXTENSIONS, LONG CORDS, PEAK-HOUR CALLING, FREQUENT AND LENGTHY LOCAL CALLING -- EACH OF THESE SHOULD INVOLVE AN ECONOMIC CONSEQUENCE TO YOUR SUBSCRIBER (OF WHICH HE IS AWARE) DIRECTLY RELATED TO YOUR COSTS IN AFFORDING IT TO HIM.

IT IS IN THIS AREA OF THE ADD-ON -- ASSUMING THAT YOUR BASIC SERVICE COVERS ITS COSTS AND A FAIR RETURN -- THAT I CAN SEE ROOM FOR MORE THAN ONE SUPPLIER. YOUR SERVICE IS FUNDAMENTAL. THERE ARE NO LOGICAL ALTERNATIVES TO THE LOCAL MONOPOLY FRANCHISES YOU AND THE INDEPENDENTS ENJOY. NO ONE, TO MY KNOWLEDGE, IS ADVOCATING ONE. BUT SUPPOSE THAT, FOR REASONS OF YOUR OWN, YOU ELECT NOT TO FURNISH FRILLS OVER THE FULL RANGE OF STYLES OR PRICE OPTIONS THAT CERTAIN CUSTOMERS MAY DESIRE IN ORDER TO ENHANCE THEIR OWN BASIC SERVICE. SHOULDN'T THOSE CUSTOMERS, IN THAT SITUATION, BE ABLE TO GO TO ANOTHER SUPPLIER WHO IS WILLING AND ABLE TO SATISFY THEIR INDIVIDUAL TASTES OR REQUIREMENTS?

THE SAME WOULD APPEAR TO BE TRUE IN THE SPECIALIZED CARRIER AREA. YOUR LONG DISTANCE AND WATS SERVICE COMPRISE THE BASIC INTERSTATE OFFERINGS. IF MY REQUIREMENTS FIT WITHIN THEIR DIMENSIONS, THEN I AM SATISFIED WITH YOUR WARES AND NEED GO NO FURTHER. AND IF THEY DON'T, THEN YOU'VE DEVELOPED ALTERNATIVES TO THEM -- THE CONVENTIONAL PRIVATE LINE,



FOREIGN EXCHANGE, AND COMMON CONTROL SWITCHING. BUT, AGAIN, THESE ARE ADD-ONS TO YOUR BASIC SERVICE. HERE, TOO, MAY NOT THE RANGE AND PRICE OPTIONS OF YOUR OFFERINGS, FASHIONED TO SUIT THE GENERAL PUBLIC, BE INADEQUATE FOR THOSE WITH SPECIAL, INDIVIDUAL REQUIREMENTS MORE SUITED TO THE SPECIALIST?

PUT ANOTHER WAY, WHAT I AM SAYING IS THAT ANYONE WHO WANTS TO OFFER ANY COMPETING DEVICE OR SERVICE IN U. S. TELECOMMUNICATIONS HAS TO COME BACK, FINALLY, TO YOU -- AND HAS TO PAY YOU FOR THE PRIVILEGE. YOUR CONCERNS WOULD BE MORE PERSUASIVE TO ME IF THE DUPLICATION YOU SEE RESULTING FROM COMPETITION SUPPLANTED -- INSTEAD OF SUPPLEMENTED -- WHAT YOU HAVE BUILT. BUT BOTH TERMINAL MANUFACTURERS AND SPECIALIZED CARRIERS BRING THEIR CUSTOMERS TO YOU, RELYING ON YOU FOR THE GENERAL, OVERALL NETWORK WHICH IS NECESSARY IF THEIR SPECIALIZATIONS ARE TO BE OF VALUE TO THEIR CUSTOMERS.

I DON'T SEE THAT AS NECESSARILY BAD. THE MARKET FOR ADD-ON FRILLS CAN BE AS LARGE A UNIVERSE AS THERE ARE INDIVIDUAL TASTES AND REQUIREMENTS. BUT BY CONCENTRATING ON THE BASICS, AND ON SATISFYING THE GENERAL REQUIREMENT, IT SEEMS TO ME THAT YOU CAN LARGELY ESCAPE THE CAPRICE OF THOSE WITH PARTICULARIZED NEEDS -- THE MORE SO WHEN THERE ARE OTHERS WILLING TO DEVOTE THEMSELVES EXCLUSIVELY TO THESE SUBMARKETS.

THIS IS WHAT I MEAN WHEN I SAY THAT YOU ARE MUCH BETTER EQUIPPED TO PROTECT YOUR CUSTOMERS THAN IS THE CONGRESS, SINCE ONLY YOU KNOW THE TRUE COSTS ASSOCIATED WITH THE PROVISION OF YOUR VARIOUS SERVICES, AND ONLY YOU CAN MAINTAIN THE COST-RATE EQUILIBRIUM IN THE FACE OF SHIFTING SUPPLY-DEMAND RELATIONSHIPS. IF CONGRESS WERE TO CAST TODAY'S REALITY IN CONCRETE, THEN YOU MIGHT HAVE TO COME BACK TO US IN A FEW YEARS' TIME AND ASK US TO BREAK THE MOLD AND RE-CAST THINGS SO AS TO FIT ENTIRELY CHANGED CIRCUMSTANCES.



IT IS UPON YOUR ABILITY TO SERVE IN THE PUBLIC INTEREST THAT I PLACE MY OWN RELIANCE. AMENDING THE COMMUNICATIONS ACT -- WHETHER IN THE WAY YOU SUGGEST, OR AS YOUR COMPETITORS MIGHT PREFER -- OFFERS ME NO ASSURANCE WHATEVER THAT MY TELEPHONE SERVICE WILL REMAIN AS GOOD A VALUE AS IT HAS BEEN TO DATE. ONLY YOU -- THROUGH CREATIVE, COST-SENSITIVE, DILIGENT, MANAGEMENT -- CAN PRESERVE, IMPROVE, AND PASS ON THE TRULY MAGNIFICENT INDUSTRY YOU HAVE INHERITED.



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March 15, 1976

# Business Week

14115

**Whittaker: Bringing sanity to  
a 140-company conglomerate**

Page 66

**AT&T's bold bid  
to stifle competitors**

Page 82

**COMMODITY  
TRADING**  
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MORE...  
MORE...

Page 50

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### No change in course

The economic recovery is now more robust than almost anyone had expected, and the Federal Reserve Board, which often sees itself as a lonely battler against inflation, must be tempted to swing toward monetary restraint. Already the money markets are taking the Fed's willingness to let the federal funds rate—the interest rate on interbank loans—penetrate the 5% level as a sign that it has begun to shift toward a tighter money policy.

The experts may be wrong about the Fed's intentions, and it will be a good thing if they are. The economies of the U. S., Europe, and Japan are not ready to withstand a bout of tight money. As of the end of January, industrial production in this country stood some 5% below the peaks reached in October, 1974, just before the winds of recession began to blow worldwide. Abroad, the level of output is well below earlier peaks.

This widespread economic slack is an effective insurance policy against the resurgence of inflation that the Fed fears. It is true that signs exist that adverse weather conditions may cause a rise in agricultural prices. But monetary policy is not an appropriate tool for fighting higher farm prices.

The hallmark of Fed policy for the past year has been moderate monetary growth. The results to date show that policy to be a smashing success. Federal Reserve Chairman Arthur Burns ignored predictions that extreme monetary ease would be required to end the slump and stuck to his guns even during the recession's worst period last winter. And the recovery came on as promised.

Just as moderation proved effective in combating recession last year, it will prove equally effective in restraining inflation this year. Tight money now would derail the growth in output that business needs to bring its unit costs down. A policy that continues to provide sufficient fuel for expansion would be far less likely to fire up more inflation than the alternative of tight money.

### A checkup for Blue Shield

The Federal Trade Commission is getting ready to launch an investigation of Blue Shield and its influence on the price and delivery of health care in the U. S. The agency is limited to looking for violations of law, but whether or not it finds any at Blue Shield, its scrutiny should focus public attention on needed reforms, particularly a curbing of the possible influence that Blue Shield's fee-setting policies have on competition in the medical field.

Blue Shield has been a growing presence in health care for more than 30 years. An astonishing 40% of the public now pays its doctor bills with the help of Blue Shield insurance. Last year alone, the organization paid out more than \$3 billion in medical claims to its members.

Blue Shield can assure its members paid-in-full ben-

efits for a broad range of covered services, and it has saved millions of people from the financial ruin of serious illness. But when the organization, which is under the control of physicians, sets its own payments for services, these tend to become the standard minimum fees that are charged by the entire medical profession.

Critics of Blue Shield claim that the organization's policies and practices have strongly contributed to steeply rising medical fees in recent years. And some even maintain that this is because the doctors who run the group have deliberately manipulated fee levels in their own interests.

Such charges should be part of the FTC probe. Blue Shield is not responsible for all the shortcomings of the U. S. medical profession nor, as the FTC itself says, does the current investigation imply that it has violated any laws.

But Blue Shield is tightly linked to a broader public interest, and a close look at its effect on medical competition and prices is clearly in order. The FTC investigation, in fact, should be a first step in a thoroughgoing examination of what has become an acute drain on the pocketbooks of many Americans: wildly escalating doctors' fees.

### Ma Bell on the line

American Telephone & Telegraph Co. is about to unleash a powerful political campaign aimed at strengthening its dominance of the U. S. telecommunications industry. The world's largest regulated monopoly, backed by other phone companies, wants Congress to pass legislation that would stop new competition for products and services in its tracks (page 82).

AT&T's chairman, John deButts, and other telephone company executives make a strong case for limiting competition, based on the efficient job they have done in extending basic telephone service to virtually every business and household in the country. But the problem is that the basic job of providing universal telephone service is virtually complete. What is emerging now—and proving its worth—is an expanding communications industry, rife with new technology, products, and services.

Should the existing phone systems swallow up this new competition? In the case of Ma Bell's strong monopoly in most areas, the competition hardly looks like a major worry. It should be given every chance to prove its value. If AT&T's monopoly makes sense—as it does in some areas—it should nevertheless be limited to those places where its benefits can be demonstrated beyond question.

The issues raised by AT&T and others deserve a thorough airing. And Congress should have enough time to reflect carefully on the complex problems of a changing communications industry. This is not a matter to be decided under the guns of an election-year lobbying effort or under AT&T's so far unjustified threat of a 60% to 70% increase in residential phone bills.



# AT&T's bold bid to stifle competitors

Within a month virtually all the major telephone companies, led by American Telephone & Telegraph Co., will loose an all out political effort on Capitol Hill to reverse recent regulatory and judicial decisions that have opened parts of their \$40 billion industry to competition. "We have decided the time has come to call the public's attention to its stake in the matter," says AT&T's outspoken chairman, John D. deButts.

In the past few years AT&T's tough

Bell headquarters in New York City. AT&T has suffered a long series of reversals at the hands of Washington regulators, and generally the FCC decisions that AT&T considers adverse have been upheld in federal courts. Beyond that, a massive antitrust suit by the Justice Dept. seeks to separate AT&T's operating companies from its manufacturing subsidiary, Western Electric Co., and its Long Lines Dept.

Caught in a tightening vise, AT&T's

phone & Electronics, United Telecommunications, and Continental Telephone, which do not always see eye to eye with Ma Bell, have been preparing suggested legislation. According to a group of key industry executives that met with BUSINESS WEEK reporters on Feb. 20, that job is finished. All that remains is to polish the text into the form of a bill and to line up congressional sponsors. The industry hopes to get "at least 50" cosponsors to push its legislation through. According to Edward B. Crosland, AT&T's smooth, Virginia-bred senior vice-president, who is quarterbacking the legislative effort, the telephone companies would like hearings in May and hope that the bill will be brought to a vote this summer. Whatever the timetable, the industry's strategy amounts to its most daring political power play since the passage of the Communications Act of 1934.

Washington regulators are in a state of dismayed anticipation. AT&T is widely respected for its political muscle, although it seldom flexes it on a national level. Says FCC Chairman Richard E. Wiley: "I'm truly sorry to see this coming. I don't think new legislation is really necessary, because all the issues involved could easily be settled in cases now before the commission or awaiting court decisions." FCC Common Carrier Bureau chief Walter R. Hinchman points out that several key issues are scheduled for decision in the next 18 months.

No telephone industry representa-



The FCC's Wiley and Hinchman: They are opposed to AT&T's new legislation scheme.

boss has taken a progressively harder public line against decisions handed down by the Federal Communications Commission, specifically against policies that led to the introduction of limited competition in telephone products and in specialized private-line services. Now he is convinced that he has to throw down the gauntlet.

DeButts' gauntlet is a startling request to Congress to pass a law that would stop competition in long-distance services, permit AT&T or other traditional carriers to acquire the companies that would be put out of business, and revoke the FCC's jurisdiction over technical and operating standards that affect terminal and accessory equipment attached to local telephone company facilities. Such legislation would, in effect, stop a burgeoning industry, with a multibillion dollar potential, dead in its tracks.

Pressure for such legislation has built up slowly in the past few years in the telephone industry, particularly at

chairman decided to turn to legislation as a final resort. He hopes his industry will be able to persuade Congress to change the rules in its favor and disarm both the Justice Dept. and the FCC. Furthermore, new laws would help the company to head off the FCC before it can consider a blockbusting series of recommendations served up by its AT&T trial staff on Feb. 2.

The FCC's trial staff, backed by a special 50-man task force that has been working since 1971 on a review of Bell's rates, market behavior, and financial structure, is calling for a massive reduction in AT&T's rate base, asking for a major revision of the company's accounting practices, and—in agreement with the Justice Dept.—recommending divestiture of Western Electric. It also concludes that competition has been beneficial for AT&T, and has led to improved performance.

**The buildup.** For some months AT&T and the independent telephone companies, including such majors as General Tele-



DeButts: He must take his case to Congress if he is to keep AT&T intact.





Eger: He believes the issues cannot be adequately debated under pressure.

tives have yet officially consulted the FCC about the proposed bill, nor made the industry's intentions clear to the Office of Telecommunications Policy, the arm of the White House that has generally applauded the FCC's decisions to encourage competition and limit extension of Bell's monopoly into new products and new services. The OTP, like the FCC, would like to avoid an election year confrontation, and neither the FCC's Wiley nor the OTP's acting director John M. Eger believe the complex issues at stake can be adequately debated under high political pressures.

**The Issues.** Because they have not been consulted officially and do not have a final copy of the industry's bill in hand, many regulatory officials hesitate to comment for the record on what they know of the industry's legislative plan. Most are aware of the gist of it, however.

For several months now, AT&T, the U.S. Independent Telephone Assn., and key members of the National Assn. of Regulatory Utility Commissioners, who oppose federal regulatory jurisdiction over any utilities have been circulating a white paper entitled *The Crises in Telecommunications*. It summarizes the gut issues that the telephone companies will highlight and spells out the basic legislative revisions of the Communications Act that the industry wants. AT&T's Crosland and independent telephone company executives say the white paper provides an accurate description of their proposed legislation.

The two major elements would affect competition in different ways:

**PRIVATE LINE SERVICES.** The industry proposes to declare long distance services a utility function, to be served by a single, integrated system. That would reverse the FCC's controversial decisions to allow limited competition

in specialized private line toll services by both terrestrial and satellite carriers. Communications attorneys point out that such an action would make AT&T's Long Lines Dept. a de jure monopoly rather than one that has evolved over the years as a practical extension of the traditional monopoly granted local telephone companies by laws now on the books.

The effect of such action would be to force such companies as Microwave Communications, Datran, and Southern Pacific Communications out of the business. So the planned legislation would immunize AT&T from antitrust sanctions, enabling it to acquire its



Crosland: He is spearheading the drive to get new telephone industry legislation.

erstwhile competitors. A job protection clause would guarantee employment to workers affected by acquisitions.

The legislation would also bar competitive services by satellite carriers now in operation or planned by such companies as RCA Global Communications, American Satellite, and Satellite Business Systems (the consortium of IBM, Comsat General, and Aetha Life & Casualty that plans a digital data and voice system for business).

The legislation would permit newcomers to provide services that did not in any way compete with regulated carriers. But telephone industry spokesmen cannot give any examples of unique and viable services that their own systems could not provide with advanced technology.

**COMMUNICATIONS EQUIPMENT.** The telephone industry's legislative strategy in this area seems intended to confuse rather than actually bar competition in communications hardware. The operating companies are fearful of too rapid disruptions from competition in ancillary telephone equipment such as

extension telephones, large and small automatic switchboards, facsimile machines, and data processing equipment attached to telephone lines. So the industry proposes to give state utility commissions, instead of the FCC, regulatory control over customer-owned equipment. That could mean that telephone answering machines or data terminals might be legally connected to phone lines in some states, but not in others. This would load a complex set of new responsibilities on state utility commissions, which are notoriously understaffed and are responsible not only for telephone regulation, but for rates and standards for electric power companies, gas companies, water supply, and a potpourri of other activities. The telephone companies and regulators are well aware of the difficulties any national distributor of competing products would have in an environment involving 50 regulatory dominions.

While Federal regulators are keeping a low profile until the legislation surfaces in Congress, some competitors in the industry already are howling. Says William G. McGowan, president of MCI Telecommunications Corp., one of the companies that would be wiped out: "The proposition that this legislation would benefit the consumer is no more than the traditional big lie of the monopolist who is afraid of competition because he knows it will make his life tougher." Even some state regulators familiar with the issues see the legislation as regressive. "DeButts would love to turn the clock back to 1967" says James McCraney, chief communication engineer of the California Public Utilities Commission, referring to the era before the FCC's pro-competition moves. "But it's not going to put us back. I think competition is here to stay as far as hardware is concerned."

**Waiting.** Large corporations that would be hit by the proposed legislation are also waiting quietly before they get snarled in the fight. Spokesmen for IBM, ITT, and RCA all say their companies are concerned about the telephone industry's intentions, but prefer to withhold comment until the legislation is introduced in Congress. Says an RCA official: "So far this affects only a small part of our business directly. We are hardly into it yet. AT&T is a big company, and we'd rather not provoke a fight."

In the lull before the storm, there seems little doubt that AT&T's big competitors will be willing to defend their new turf, if necessary. The Computer & Business Equipment Manufacturers Assn. and IBM are fighting AT&T before the FCC over Bell's bid to supply, under telephone tariffs, an electronic data terminal with computer-like memory and logic called the Teletype Model 40. The crux of their argument is that tele-





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phone companies can extend the services of their basic monopoly simply by tariffing new devices or services. Once such tariffs are approved and have the force of law, the telephone companies can then justifiably claim they are common carrier services that can be provided only by regulated communication utilities. Thus the computer industry fears that many of its competitive products and services are endangered by the slowly spreading territory of the telephone monopolies.

Telephone industry spokesmen deny they are extending their monopoly through new tariffs. They point out that Teletype, with its printers and keyboards, is a service of long standing. But they are also quick to deny competitors new access to their own businesses. The basic issue, they claim, is that their revenues should be protected from erosion by competition in order to support basic telephone service, which under law they are required to supply to all subscribers.

The telephone industry has united be-

### **McCraney: 'Competition is here to stay as far as hardware is concerned'**

hind the warning that AT&T's deButts spelled out in a recent speech at Fordham University: "Were the telephone companies deprived entirely of the contribution to common costs that revenues from their more discretionary services provide, they would face the necessity of increasing the average residence customer's bill for basic service as much as 75%."

The independent telephone industry backs AT&T's estimates with a private study by a California consultant in San Rafael called Systems Applications Inc. The group issued a press release last month covering the study, and headlined it, "Federal regulatory policies on telephones will hurt consumers." The text of the release warns: "So-called competition will cause rate increases of 60% to residential users and 56% for business users of basic service within the next 10 years."

Yet AT&T's deButts concedes in his same Fordham talk that the 75% rate increase he warns of is "highly unlikely." The independents' study also cautions that "there are many other avenues of analysis that should be explored."

Telephone industry spokesmen admit that deButts' 75% figure and the group's 60% figure are extreme examples that assume phone companies will lose nearly all of their toll and equipment revenues. But the frightening numbers have been effective, so far, in lining up both Congressional and labor union support for the coming Capitol Hill test. The Communications Work-



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ers of America, which usually backs AT&T in regulatory disputes, as well as the International Brotherhood of Electrical Workers, want to support the legislation.

**Data is needed.** Regulators believe that the claims of the telephone companies are exaggerated and resent being blamed for conditions they do not believe will come about. They fear the threats of rate increases may cause a consumer outcry that might have a devastating effect on Congress, where there is little knowledge of the complexity of the issues. While regulators believe that their decisions will lead to lower telephone bills, they are as hard put as the phone companies to come up with data to prove it. Historically, cross-subsidies between different services and equipment have grown with the telephone industry into an impenetrable maze that neither the phone companies nor the regulators can sort out.

The heart of the telephone industry's argument is that the revenues from long distance calling and from accessory equipment such as extensions and switchboards, help to pay for basic telephone service—particularly residential customers. Endangering such high-profit revenues, they claim, would result in higher phone bills. But the industry has not been able to prove its case with data that satisfies its regulators. For example, a current study by the New York State Public Service Commission contradicts the phone companies. It finds that basic telephone service subsidizes accessory equipment. As a result, the commission is requiring New York Telephone Co. to apply most of its rate increases to such equipment to rectify the inequity.

Sums up John Eger, of the Office of Telecommunications Policy: "There is simply no reliable evidence of any adverse impact from competition on local exchange rates, either now or in the future." Both Eger and the FCC's special AT&T trial staff insist that the telephone companies must alter their accounting procedures so that such things as cross subsidies and inter-company transfers of toll revenues are subject to reasonable audit.

Shared revenues between AT&T and the independents are vital to cover local phone system service costs. Some independent telephone companies depend for as much as half of their total revenues on the cut of long distance toll revenues they receive from AT&T Long Lines. But such "toll settlements" are reached by arbitrary formulas or individually negotiated contracts. In 1973, according to the FCC's trial staff, fewer than 10% of the more than 200 toll settlement agreements then in effect were audited.

In a kind of Catch-22 argument, the

telephone companies say their toll agreements are always approved by the regulators and claim their accounting is unique because the regulators demand that they use the Uniform System of Accounts, a system that has not changed significantly since the turn of the century. Yet both regulators and phone companies agree that **the uniform system** is not equipped either to handle the systemic and technological changes that have occurred or to adapt to modern computerized auditing and accounting practices. "It is a dilemma," admits the OTP's Eger.

## Few in Washington believe Congress is prepared to debate the monopoly issue

Eger, who has watched the regulatory scene heat up since 1968, when the FCC began to approve competitive participation in the telecommunications industry, is convinced a new era is beginning that will be very different from the first 100 years of the industry, when it was essentially building a universal basic service. He quotes from a 1974 speech by deButts: "The second century of the industry is going to have to be devoted not to further extension of basic service—that job has essentially been done—but to the searching for and satisfaction of a wide diversity of new service demands." Says Eger: "That's a job for which market competition is better suited than monopoly."

**Battle joined.** In Washington, few think Congress is prepared to debate the issue of monopoly or competition in the new communications environment. Congress has seldom shown any more interest than a cursory look at the FCC, and those looks have generally been more concerned with regulation of broadcasting than the quiet and complex workaday problems of telephone regulation. But soon the battle will be joined. Says AT&T's deButts: "However these matters are eventually resolved, the Bell System will accommodate itself with good grace to the public's decision."

At this point, no one can predict how Congress will react. But when it comes to the hard choice between monopoly and competition some strange bedfellows can pair up. FCC watchers remember that Chairman Dean Burch, a conservative Republican, and Nicholas Johnson, perhaps the most liberal Democrat ever to occupy a commissioner's office, never agreed about anything political, but they voted alike when it came to favoring competition over regulated monopoly. If the same liberal-conservative pairing happens in Congress as it did in the FCC, the coming debate could turn into deButts' last stand.





# THE PHILADELPHIA SOCIETY

NORTH ADAMS • MICHIGAN 49262

517/287-5814

April 1976

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THE PHILADELPHIA SOCIETY was founded at regional meetings held in Philadelphia, Indianapolis and San Francisco, in April 1964. The first national meeting of the Society was held in Chicago, February 26-27, 1965.

The purposes of the Society, as stated in the By-laws are:

To sponsor the interchange of ideas through discussion and writing, in the interest of deepening the intellectual foundations of a free and ordered society, and of broadening the understanding of its basic principles and traditions. In pursuit of this end, we shall examine a wide range of issues: economic, political, social, cultural, religious, and philosophic. We shall seek understanding, not conformity.

The Society holds an annual meeting in Chicago in the Spring, and one or two regional meetings a year. Between meetings it sponsors studies and maintains lines of communications between members and with other interested parties.

Among those who have addressed Society meetings are James L. Buckley, Ralph Harris, F.A. Hayek, Herman Kahn, Edward Teller, and Eric Voegelin. Papers presented at meetings are not published by the Society, but have appeared in such scholarly journals as Encounter, Modern Age, The Intercollegiate Review, and The New Individualist Review.

Membership in the Philadelphia Society and attendance at its meetings are by invitation only. The membership includes scholars, authors, teachers, clergy, business leaders, and others dedicated to its purposes. Prior attendance at a Society meeting as a guest or speaker is a requirement for invitation to membership.

The Philadelphia Society is classified by the Internal Revenue Service as a "Publicly Supported" non-profit organization under Section 501(c)(3). Contributions are tax deductible and welcomed from those who share an interest in the Society's program and purposes.

Serving as presidents of the Society have been: Dr. Glenn Campbell (1966-68), Dr. Arthur Kemp (1968-69), Dr. James W. Wiggins (1969-70), Dr. Stephen J. Tonsor (1970-71), Mr. Henry Regnery (1971-73), Dr. David I. Meiselman (1973-74), and Mr. Henry Regnery (1975-76).

Further information about the Society may be obtained by writing to the secretary, Don Lipsett, at the above address, or to the Society's president, Henry Regnery, 180 North Michigan Avenue, Chicago, Illinois, 60601.



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### Meetings and Topics

1964 "The Crisis of Western Civilization"  
 (Indianapolis, Philadelphia, San Francisco)  
 1965 "The Future of Freedom: The Problems and  
 the Prospects" (Chicago)  
 "Religion and the Crisis of the 20th  
 Century" (Philadelphia)  
 1966 "Civil Rights and Individual Responsibilities"  
 (Chicago)  
 "Which Way United States Foreign Policy"  
 (Philadelphia)  
 "The New Left in the United States"  
 (San Francisco)  
 1967 "The American Tradition and the Great  
 Society" (Chicago)  
 "Religion and the Free Society"  
 (New York)  
 "Law and Order: Crisis in the American  
 Political Tradition" (Los Angeles)  
 1968 "A Free Society in Ferment"  
 (Chicago)  
 "The Road Back: Paths to Freedom"  
 (New York and San Francisco)  
 1969 "The Dearth of Higher Education"  
 (Chicago)  
 "The Outlook for Freedom in the Seventies"  
 (Philadelphia)  
 1970 "Enduring Values in a World of Change"  
 (Chicago)  
 "Discrimination: Legitimate and Illegitimate;  
 Public and Private; Direct and Indirect"  
 (Atlanta)  
 1971 "A Post-Liberal America" (Chicago)  
 "Conservatives and the Media"  
 (New York)  
 "The Future of Conservatism: Principles,  
 Strategies, Perspectives" (Los Angeles)  
 1972 "Social Order and Institutional Crisis"  
 (Chicago)  
 1973 "Equality" (Chicago)  
 1974 "New Directions in Social Thought"  
 (Chicago)  
 "The Best of Time, the Worst of Times"  
 (San Francisco)  
 "The Future of Representative Government"  
 (New York)  
 1975 "Freedom and Order" (Chicago)  
 "The State of the Union" (New York)  
 1976 "The State of the Union" (Los Angeles)  
 "American Institutions: The Performance and  
 the Prospects" (Chicago)





# THE PHILADELPHIA SOCIETY

NORTH ADAMS • MICHIGAN 49262

517/287-5814

"AMERICAN INSTITUTIONS: THE PERFORMANCE AND THE PROSPECTS"

APRIL 9-10, 1976 - SHERATON-PLAZA HOTEL - CHICAGO

<u>Friday</u>		
4:00 - 6:00	Registration/Reception	YORKSHIRE ROOM - 13th Floor
6:00 - 7:30	Dinner	YORKSHIRE ROOM
8:00 - 9:30	THE PRESIDENCY - RICHARD J. WHALEN Gerhart Niemeyer, Chairman Russell Kirk, Alvin Rabushka, Stephen J. Tonsor	SALON C - Mezzanine
10:00 - 11:00	ISI Alumni Association Hospitality Hour	HAMPSHIRE ROOM - Mezzanine
<u>Saturday</u>		
8:45 - 9:45	Annual Breakfast Meeting of the Membership	SALON C
10:00 - 11:30	THE LEGISLATURE - JAMES McCLELLAN John L. Ryan, Chairman M.E. Bradford, Karl O'Lessker, Robert L. Schuettinger	SALON A & B - Mezzanine
12:00 - 1:15	Luncheon Report on The Philadelphia Society - Henry Regnery Remarks - Stefan T. Possony	YORKSHIRE ROOM
1:15 - 2:00	Film: "Adam Smith and the Wealth of Nations" Produced for the Liberty Fund by Charles Barker Films, London Introduction by Ronald H. Coase	YORKSHIRE ROOM
2:30 - 4:00	THE JUDICIARY - PHILIP B. KURLAND William J. Casey, Chairman Fred E. Inbau, Shirley Robin Letwin, Ernest van den Haag	SALON A & B
4:30 - 6:00	THE MEDIA - KEVIN P. PHILLIPS M. Stanton Evans, Chairman William F. Gavin, R. Emmett Tyrrell, Jr., Clay T. Whitehead	SALON A & B
6:00 - 7:00	Wilhelm-Röpke-Stiftung - Reception	YORKSHIRE ROOM NORTH
7:00 - 10:00	Dinner - Russell Kirk, Chairman Patrick M. Boarman, Albert Hunold, Thomas Molnar	





# THE PHILADELPHIA SOCIETY

NORTH ADAMS • MICHIGAN 49262

517/287-5814

National Meeting - April 9-10, 1976

Expected Attendance List

Members and Speakers

Douglas K. Adie, 91 South May Avenue, Athens, Ohio 45701  
Frederic N. Andre', Apartment 507, 222 East Pearson Street, Chicago, Illinois 60611

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M. E. Bradford, 1106 South Edwards Court, Irving, Texas 75062  
Robert L. Bunting, Professor of Economics, Macalester College, St. Paul, Minnesota 55105

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Frank H. Crane, The Indianapolis Star, Indianapolis, Indiana 46205

Mr. and Mrs. Louis H.T. Dehmlow, 1750 North Kingsbury, Chicago, Illinois 60614  
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John Howard, Rockford College, Rockford, Illinois 61101  
Albert Hunold, CH-9056, Gais/Zwislen, Switzerland  
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John T. McCarty, Pepperdine University, Malibu, California 90265

James McClellan, Office of Senator Jesse Helms, Senate Office Building, Washington, D.C.

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Robert L. Schuettinger, 627 A Street, N.E., Washington, D.C. 20002

Howard Segermark, Suite B-1, 314 East Capitol Street, Washington, D.C. 20002



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W. Bruce Weinrod, 1220 Blair Mill Road, Wilver Spring, Maryland 20910  
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Clay T. Whitehead, 1250 28th Street, N.W., Washington, D.C. 20007  
David A. Williams, Texas Steel Company, Box 28938, Fort Worth, Texas 76128  
Jack G. Wilson, Adolph Coors Company, Golden, Colorado 80401

Mr. and Mrs. Karl Ziebarth, 3219 Beverly Drive, Dallas, Texas 75025





# THE PHILADELPHIA SOCIETY

NORTH ADAMS • MICHIGAN 49262

March 30, 1976

To: Speakers and Discussants

From: Don Lipsett

We will plan on approximately 40 minutes for each speaker and about 10 minutes for each discussant.

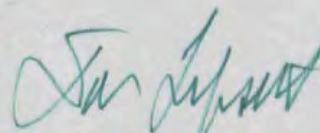
Discussants are listed in alphabetical order on the program. Each chairman is to meet with his discussants and decide on the best order for their participation.

→ Please send me a copy of your vita as soon as possible.

The Society will cover your travel and related expenses. Please make your hotel reservation directly with the Sheraton-Plaza.

The response to date has been excellent and we anticipate a very productive meeting. I look forward to seeing you Friday, April 9.

Best regards.

  
Don Lipsett

P.S. I am advised that all the papers have been completed and you should receive your copy by this weekend.





# THE PHILADELPHIA SOCIETY

NORTH ADAMS • MICHIGAN 49262

517/287-5814

You are cordially invited to attend the Society's Twelfth National Meeting

FRIDAY AND SATURDAY, APRIL 9-10, 1976

SHERATON PLAZA HOTEL, 160 East Huron Street off North Michigan Avenue, Chicago

"AMERICAN INSTITUTIONS: THE PERFORMANCE AND THE PROSPECTS"

## Friday, April 9

- 4:00 - 6:00 Registration/Reception
- 6:00 - 7:30 Dinner
- 8:00 - 9:30 THE PRESIDENCY -- Richard J. Whalen, Author  
Gerhart Niemeyer, Chairman  
Discussants: Russell Kirk, Alvin Rabushka, Stephen J. Tonsor
- 10:00 - 11:00 ISI Alumni Association Hospitality Hour

## Saturday, April 10

- 8:45 - 9:45 Annual Breakfast Meeting of the Membership
- 10:00 - 11:30 THE LEGISLATURE -- James McClellan, Assistant to Senator Jesse Helms  
John L. Ryan, Chairman  
Discussants: M. E. Bradford, Karl O'Lessker, Robert L. Schuettinger
- 12:00 - 1:15 Luncheon  
Report on The Philadelphia Society, Henry Regnery, President
- 1:15 - 2:00 Film: "Adam Smith and the Wealth of Nations"  
Produced for the Liberty Fund by Charles Barker Films, London  
R.H. Coase — Comments
- 2:30 - 4:00 THE JUDICIARY -- Philip B. Kurland, University of Chicago Law School  
William J. Casey, Chairman  
Discussants: Fred E. Inbau, Shirley Robin Letwin, Ernest van den Haag
- 4:30 - 6:00 THE MEDIA -- Kevin B. Phillips, Author and Syndicated Columnist  
M. Stanton Evans, Chairman  
Discussants: William F. Gavin, R. Emmett Tyrrell, Jr., Clay T. Whitehead

(Over, please)



- Registration fee for the meeting, including dinner Friday and Saturday luncheon is \$50, and must be received before April 3.
- Registration fee for persons whose registration fee is received after April 3 or who register at the door will be \$60.
- Mail registration form with your check to: The Philadelphia Society, North Adams, Michigan 49262.
- Room reservations should be made directly with the Sheraton-Plaza Hotel, 160 East Huron off North Michigan Avenue, Chicago, Illinois 60611. (312/787-2900 and 800/325-3535) Special room rates for members and guests attending this meeting are \$30 single and \$34 double.

NOTE: Attendance at meetings of The Philadelphia Society is by invitation only. If you know of others who can contribute to this meeting and to the purposes of the Society, please send their names, addresses and other pertinent information to the Secretary as soon as possible so that a formal invitation may be sent.

#### OFFICERS AND TRUSTEES

Henry Regnery, President; Henry G. Manne, First Vice President; John L. Ryan, Second Vice President; Don Lipsett, Secretary; Edwin J. Feulner, Jr., Treasurer; Ronald H. Coase, William C. Dennis, M. Stanton Evans, Charles L. Heatherly, W.H. Hutt, E. Victor Milione, Gary North, Stefan T. Possony, William Schneider, Jr., Eliseo Vivas, and Karl Ziebarth. Trustees who join the Board at this meeting: Milton Friedman, Daniel B. Hales, Anthony Harrigan, Russell Kirk, Wayne H. Valis, and Ernest van den Haag.

#### THE PHILADELPHIA SOCIETY: STATEMENT OF PURPOSE

The purposes of this Society shall be . . . To sponsor the interchange of ideas through discussion and writing, in the interest of deepening the intellectual foundations of a free and ordered society and of broadening the understanding of its basic principles and traditions. In pursuit of this end, we shall examine a wide range of issues: economic, political, social, cultural, religious and philosophic. We shall seek understanding, not conformity.





# THE PHILADELPHIA SOCIETY

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*Secretary*

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March 3, 1976

Dr. Clay T. Whitehead  
1250 28th Street, N.W.  
Washington, D.C. 20007

Dear Dr. Whitehead,

It was good to talk with you a few days ago, and I'm pleased that you will be able to participate in the National meeting. The Society will pay your transportation and related expenses. I think our meetings are usually quite productive, and we usually have some fun also.

I enclose a copy of the draft program. Please send me a copy of your vita.

With thanks and best wishes.

Yours sincerely,

Don Lipsett

DL/dj :Enclosure





# THE PHILADELPHIA SOCIETY

517/287-5814

NORTH ADAMS • MICHIGAN 49262

March 1, 1976

- draft program -

NATIONAL MEETING - April 9-19, 1976 - Sheraton Plaza Hotel, Chicago

"AMERICAN INSTITUTIONS: THE PERFORMANCE AND THE PROSPECTS"

	<u>Speaker</u>	<u>Chairman</u>
Friday night: "The Presidency"	Richard J. Whalen	
Discussants: Russell Kirk		
Saturday AM: "The Legislature"	James McClellan	
Discussants:		
Saturday PM: "The Judiciary"	Philip B. Kurland	William J. Casey
Discussants: Shirley Robin Letwin, Ernest van den Haag		
Saturday PM: "The Media"	Kevin P. Phillips	M. Stanton Evans
Discussants: R. Emmitt Tyrrell, Jr., Clay T. Whitehead		



THE THUNDER banged dreadfully, and the rain drenched all Chicago, as the Philadelphia Society convened on April 18 for its eleventh national meeting. But as acquaintances were made and renewed, and cocktails served, it was soon warm and sunny within the Water Tower Hyatt House, which played host not only to the Society but also to the California Angels, in town for a series with the White Sox. I saw Friedrich A. Hayek and Dick Williams in the same weekend.

Hayek, who was to be honored the following Monday at a special meeting of the Mont Pelerin Society, spoke at Saturday's luncheon. Though it was really his mere presence that made the occasion notable, he spoke with his habitual trenchancy, as if it had not occurred to him that Nobel Laureates are excused for emitting ceremonial bumble. He said that interventionism is by now built into government, so that even if most citizens were persuaded by the libertarian case it would be difficult to make the state resist pressures and temptations to meddle: it has gotten to the point, he added, where we speak not of preserving but of *returning* to the free society. Despite his reputation among liberals as a bogeyman of popular government, he professed himself disturbed by the current despair with democracy. The problem is not democracy, nor is it remediable by democracy, he said; and in trying to find a way out of our difficulties we must beware of perversions of political terms. "The will of the majority" now commonly refers to a conglomerate formed by political bribery rather than to any genuine agreement among the majority; and the term "law" has lost its old meaning of a general rule equally applicable to all citizens, and now means instead any measure, however arbitrary, that flows from an omnipotent legislature. The task of libertarians now is to define and promulgate alternative constitutions: constitutions of liberty.

The meeting would have been a notable one even had Hayek not attended it. Other speakers included Eric Voegelin, Gerhart Niemeyer, Peregrine Worsthorne, Ernest van den Haag, Richard Posner, and Henry Manne. Voegelin spoke briefly about those systems of thought he terms "gnostic," and his own

PHILADELPHIA SOCIETY

## Hayek and the Angels

M. J. SOBRAN JR.

discovery—an accidental one, he says—of their similarity to pre-modern heresies that promised instant salvation by means of contact with a magic source (the counterpart of modern ideology), but which in fact cut men off from openness to the divine ground, an openness the classical philosophers defined as the state of reason. Niemeyer paid tribute to Voegelin's "new science of politics," and gave a compact account of how Voegelin, in the new volume of his *Order and History*, surmounts what had appeared to be an impasse in his science.

IT IS HARD, in this space, to give anything but misleading hints of all that was said at the meeting. But in view of the controversy over the death penalty, to which the Supreme Court is now giving its attention, I may mention the Saturday morning session, at which Isaac Ehrlich, of the University of Chicago School of Business, argued that there is strong evidence that the death penalty does in fact deter, as other penalties do not. Though he opposes its restoration, he holds that earlier studies denying its deterrent effect have been seriously inadequate: Sellins, for instance, took account only of the legal status rather than the actual enforcement of capital punishment—yet it seems obvious that criminals who calculate do so by rule of thumb rather than by studying the statute books. Van den Haag termed Ehrlich's work "revolutionary," and proceeded to add a few considerations of his own. He laid to rest several familiar bromides concerning the death penalty, dispatching them with the flamboyant incisiveness of Sherlock Holmes reviewing the deductions of Inspector Lestrade. And he added a provocative statistic in support of Ehrlich: since the abolition of the death penalty in New York, not only have murders increased, but the proportion of murders by strangers, as opposed to murders by acquaintances (mostly so-called "crimes of passion" less susceptible of deterrence),

has increased from about a fifth to about half the total number. Put roughly, there seem to be far more *rational* murders nowadays. Moreover, van den Haag argued, it is not only the fear of death, but of death in irrevocable disgrace, that deters. Are the poor executed more than the rich? Perhaps so; but the relevant question is whether the *guilty* poor are executed more often than the *guilty* rich. It may be that ugly, insecure men are convicted of rape more often than handsome, debonaire men (or for that matter, one may add, that men are convicted of rape more than women); but that does not mean that rape should never be punished.

One of the final sessions took up the theme of the debasement of language, "the destruction of nuance," as Stephen Tonsor called it, as a political weapon. Totalitarianism notoriously perverts speech—yet, paradoxically, the dissidents within totalist countries use language more responsibly than those in democracies. Worsthorne had remarked, in his keynote speech Friday night, that intellectuals tend nowadays to subvert everyone's freedoms but their own. I wonder if the monitory lesson for free nations might be put in an aphorism: that where speech is free, talk is cheap. How much more weight Solzhenitsyn's words carried when they were spoken at risk! But in the West, where anybody may say anything, his voice is barely heard in the hubbub.

THERE WAS of course much more going on, all in a spirit of intellectual conviviality, not to be confused with unanimity. I thought of Arthur Koestler's observation that radical women are usually homely, by which he meant that their social discontent is often due to obvious personal shortcomings; and the beauty and grace of the ladies at the Water Tower made me wonder if one might affirm a flattering corresponding proposition about conservative women. They were not only a delight, but a kind of reassurance. □

Mr. Sobran is a contributing editor of NR.



OFFICE OF TELECOMMUNICATIONS POLICY

EXECUTIVE OFFICE OF THE PRESIDENT

WASHINGTON, D.C. 20504

April 23, 1973

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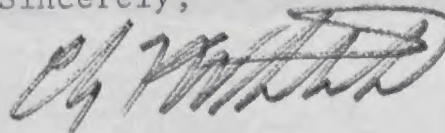
Dear Mr. Lipsett:

Thank you for your kind invitation to attend a meeting of the Philadelphia Society in Chicago on April 13 and 14 and my sincere apologies for this belated reply.

I was delighted to learn about the Philadelphia Society from Irving Kristol and very pleased to have your invitation. The Philadelphia Society seems to have outstanding purposes and goals, and I am doubly sorry that preparation for upcoming Congressional hearing prevented me from being there. I hope there will be another opportunity for me to attend a future meeting when my schedule permits.

Best regards and thank you again.

Sincerely,



Clay T. Whitehead

*from the Lipsett archives*