

F.A. Vote Upset Called Desire for a New Image

By EMANUEL PEARLMUTTER

new president of the Police Officers' Association. Yesterday attributed the victory he and his fellow officers scored late yesterday to the "erosion" of professional and economic of New York's police of

by his victory. Joseph Feeley, 35-year-old precinct patrolman, re-election result meant the cop is saying, "I'm making it on the chin." Feeley defeated Robert McKiernan, who has led the member union for the 10 years, by a vote of 9,057.

McKiernan, who had a P.B.A. officer for 12 years, could not be reached by repeated attempts for an interview on his defeat. McKiernan, who had a P.B.A. officer for 12 years, could not be reached by repeated attempts for an interview on his defeat.

new P.B.A. president said in addition to seeking a public image for police, he would try to end wage with other municipal officers. He said the end of the city would be his first in current contract

negotiation with the city. Police officers now have a base pay of \$15,250 a year. Mr. McKiernan had also been seeking an end to the parity system, under which correction officers, housing patrolmen and firemen receive the same wages as police officers, and sanitationmen receive 90 per cent of a policeman's wage. Mr. McKiernan and his predecessor have contended that a police officer is entitled to higher pay because his work is more hazardous and entails greater responsibility.

The other uniformed unions, however, have already told the city they will not agree to any change in the parity system. Thus a P.B.A. insistence on change would force a sharp confrontation not only with the city but also with the other unions. Although he does not take office until July 1, Mr. McKiernan said he would seek to meet today with Police Commissioner Michael J. Codd and ask for an immediate severance of his duties at the 71st Precinct station house on Empire Boulevard in the Crown Heights section of Brooklyn so he could enter the contract talks without delay.

Discussing the insurgents' victory, Mr. McKiernan said, "The rank-and-file made it clear they wanted leaders who will fight to guarantee that no more will a policeman be called

Continued on Page 17, Column 1

ITALY SAID TO SEEK A \$1-BILLION LOAN

Reportedly Asking U.S. and West Germany for Help in Financial Crisis

Special to The New York Times

ROME, June 9—Italy is urgently seeking a big loan—possibly of more than \$1-billion—from the United States or West Germany to bail her out of a grave financial crisis, diplomats here said today.

The diplomatic sources noted, however, that Italy's international credit rating, which has steadily declined during two years of heavy borrowing, is being further eroded by continuing disagreement within the Government over what emergency measures should be taken.

A dispute over whether present credit restrictions in Italy should be maintained or even tightened has caused severe strains that are threatening the survival of Premier Mariano Rumor's 12-week-old coalition Government. For the third consecutive day, Mr. Rumor and his key ministers met today in an attempt to resolve their disagreements.

After a three-hour session, the ministers said that they would resume their talks tomorrow to try to reach agreement on credit policy.

Treasury Minister Emilio Colombo, who had planned to fly today to New York and Washington to attend a meeting of

Continued on Page 8, Column 4

Giscard Dismisses Servan-Schreiber In A-Test Dispute

By DENIS POWEL

Special to The New York Times

PARIS, June 9 — President Valéry Giscard d'Estaing dismissed Jean-Jacques Servan-Schreiber from the Cabinet tonight for public criticism of the Government's decision to hold nuclear tests soon.

Mr. Servan-Schreiber, Minister of Reform, and long an opponent of French nuclear testing, held a news conference this morning in his former provincial district of Nancy to reiterate his opposition to testing "in the atmosphere of Pacific skies."

He said that the plan to resume the tests, which was announced yesterday, was the result of a series of decisions of the previous Government under President Georges Pompidou. The present Government, he said, had "not been consulted" and had been handed "a fait accompli" by the military.

The dismissal was announced by Premier Jacques Chirac this

Continued on Page 5, Column 1

Attica Revolt Trials

The first of 61 defendants charged with crimes in the Attica prison revolt is scheduled to go to trial in Buffalo today. But a complexity of legal entanglements still surrounds the cases nearly three years after the revolt, and the series of trials may not actually get under way for some time. Page 61.

Nixon Said to Reject Public-TV Funding

By LES BROWN

A long-promised bill from the White House Office of Telecommunications Policy for the long-range financing of public television has been "flatly rejected" by President Nixon, without discussion or explanation, according to sources close to the Corporation for Public Broadcasting.

The sources, who learned of the decision late last week, said that the President had turned down the bill with a terse statement, which suggested instead that Federal support for public television be scaled down.

The proposed legislation was sent to the President late in April by Clay T. Whitehead, as his final act before giving up his post as director of the

Office of Telecommunications Policy.

Mr. Whitehead has been described as chagrined at the President's rejection of the bill. However, when questioned, Mr. Whitehead would not comment on the report of the President's action, but said that he was "still pushing" to get a bill out for long-range funding of public broadcasting.

Meanwhile, it has been learned from the same corporation sources that President Nixon has nominated Nancy Chotiner, widow of Murray M. Chotiner, his long-time close friend and political adviser, for a seat on the board of directors of the Corporation for Public Broadcasting.

The nomination has aroused the resentment of several board

members because Mrs. Chotiner has had limited experience in the business or professional world and has no apparent qualifications for the post, the sources said. Board members receive no salary, but receive a per diem of around \$100 about 12 times a year.

The funding bill, which was prepared under the supervision of Mr. Whitehead, had been presumed certain to receive Presidential approval since the public television industry has reorganized itself over the last three years along the lines recommended by the White House.

In a speech in Miami on October 20, 1971, to the National Association of Educational Broadcasters, Mr. Whitehead

Continued on Page 63, Column 3

channeling" of Federal funds for grants, contracts, loans and subsidies to groups or individuals who had supported or promised to support Mr. Nixon's re-election.

The offer to "certain individuals" of other Government benefits "in exchange for political support, or, at least, political neutrality."

The laying of plans for the solicitation, by Government officials and others, of contributions to the Nixon campaign from recipients of Federal funds and from employees of the executive branch.

The "shaping" of Government legal and administrative regulatory proceedings "to benefit the President's re-election campaign."

The active involvement of "numerous Federal employees," some of whom were not exempt from prohibitive legislation, in the Nixon re-election effort.

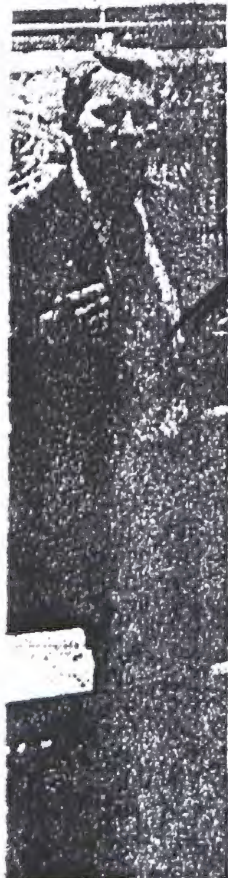
The Watergate committee investigators, headed by the assistant chief counsels, David Dorsen and James Hamilton, also gathered "evidence" of an apparently unlawful effort to place political supporters of the

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Katharine Cornell



Katharine Cornell in "Rose Bu.



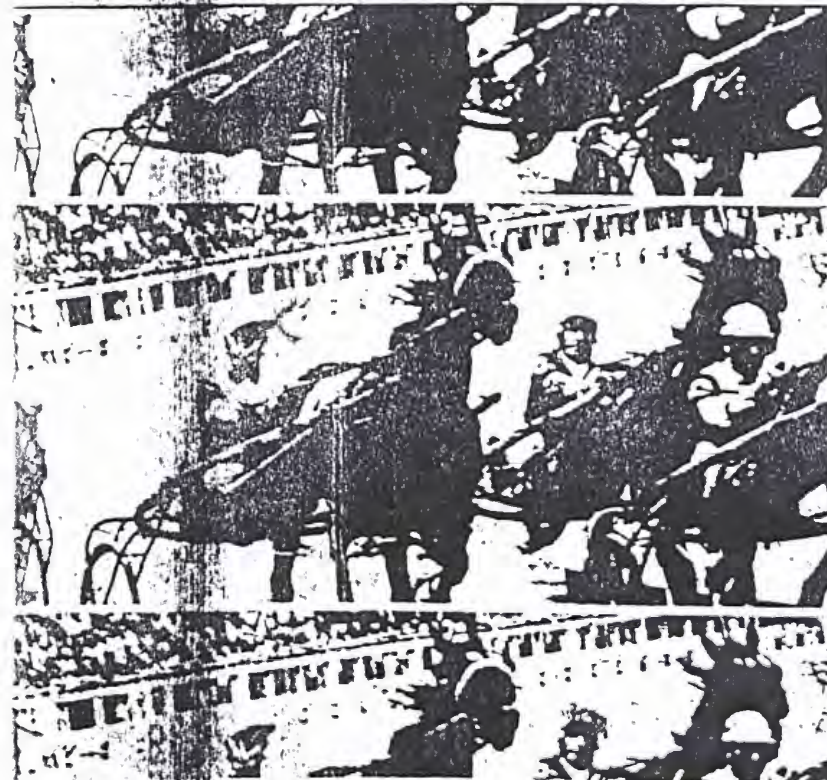
The New York Times
Joseph P. McKiernan, police officer, campaigning at 14th Precinct station house recently.

6-10-74

specialists and Senators debate the pros and cons with Barbara Walters

This Week at 9am on Not For Women Only
WNBC-TV4

PREMIERE
NATIONAL TV
World team tennis
FEATURING
HOUSTON VS. L.A. EZ RIDERS STRINGS
★ JOHN NEWCOMBE
★ KAREN KRANTZ
★ DICK STOCKTON
★ HELEN GOURLEY
★ BILL BOWREY
★ LESLEY TURNER BOWREY
★ JOHN ALEXANDER
★ MARITA REDONDO
★ JOHN FORT
★ KAREN SUSMAN
★ GEOFF MASTERS
★ KATHY HARTER
WOR-TV CHANNEL 9
TONIGHT 9-11 PM
June 10th: BILL COSBY, Host



the world's greatest Win, Place and late Show.

live harness racing at Roosevelt every night of the week Sunday. But if you can't make it out to the track, you can see two exciting Big Triple races - the 3rd and the 9th - on TV every Monday Saturday night. And if you've got an QTB telephone account, you have to do is dial your phone and turn on your TV.

Tonight at 11:00 pm, WOR-TV Channel 9

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Intertec
FACTURERS
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Have an idea for a new product? We have a way to make it happen.

Give your ears a workout.
TUNE IN
The Good

half its present size, more than 100 seats changed hands or stood vacant.

Nixon Is Said to Reject New Bill Funding Long-Range Public TV

Continued From Page 1, Col. 4

told the managers of public stations that there would be no long-range financing bill for an industry that conceived of itself as a "fourth network" emanating from a central source in New York or Washington. He said that the White House did not believe Federal funds should support the production of controversial news and public affairs programs.

Deal Was Understood

"Get your house in order if you want Federal financing," Mr. Whitehead said in 1971.

Practically everyone in public broadcasting had understood that Mr. Whitehead was proposing a deal: That if the industry decentralized and balanced its political spectrum, the White House would recommend legislation for the kind of funding that would enable the non-commercial television industry to plan beyond a year at a time. Following Mr. Whitehead's

speech, commentators identified with the liberal point of view - such as Sander Vanocur and Robert MacNeil - left public broadcasting. At least one representative of the conservative side, William F. Buckley Jr., became one of the mainstays of the system.

In the meantime, the Public Broadcasting Service yielded its network functions to the station program cooperative, which has attempted to decentralize the system by allowing the various stations across the country to determine, by ballot, what shall be the national programming.

Work of Mr. Whitehead

Mr. Whitehead's office began working on the bill to fulfill its ends of the bargain, after the public broadcasting industry demonstrated its compliance with the wishes of the White House.

The proposed bill, which won the corporation's approval before it was submitted to the White House, provided five years of funding, which began at \$70-million for 1976 and graduated to \$100-million by the end of 1980. All were to have been matching grants, with the public broadcasting industry having to raise \$2.50 for every \$1 it received from the Government.

A second feature of the bill, no less important than the sums involved, was that it specified the authorization of the funds as well as their appropriation.

Short of repealing the law, neither Congress nor the President could reduce the amount indicated for each year. This had been intended to insulate the funding from the Federal Government, that is, to free the broadcasting system from the fear that its future funds might be cut off in act of reprisal to its programming.

Sympathy in Congress

Lobbyists for public broadcasting in Washington had little doubt that a White House sponsored bill or the insulated five-year funding of noncommercial broadcasting could easily have been rushed through Congress this year, since the key figures in both houses appeared to be in sympathy with such a bill.

Unless the President reverses his stand, similar legislation will have to be introduced by members of Congress. In that event, the timing would make passage difficult this year although the present two-year appropriations bill runs out next June, the sources said.

One of the corporation sources said he believed the President had rejected the long-range funding bill because "he has never liked public television and probably never will."

very good indeed. British (13) Electric Company
10:30 (2) Gambit
(4) Jeopardy
(5) Mothers-In-Law
(13) Making Things Grow
11:00 (2) Now You See It
(4) Wizard of Odds
(5) Love Lucy
(7) Gomer Pyle
(9) Straight Talk
(13) Bit With Knit
11:30 (2) Love of Life
(4) Hollywood Squares
(5) Midday Live
(7) Brady Bunch
(11) Abbott and Costello
(13) Lilies, Yoga and You
11:55 (2) News

Afternoon

12:00 (2) The Young and the Restless
(4) Jackpot
(7) Password
(9) Lucy Show
(11) New Zoo Revue
(13) Mr. Rogers (R)
12:30 (2) Search for Tomorrow
(4) Celebrity Sweepstakes
(7) Split Second
(9) The Millionaire
(11) Magic Garden
(13) Hodgepodge Lodge
12:55 (4) News
1:00 (2) What's My Line?
(4) Concentration
(5) Movie "The Very Thought of You" (1944). Dennis Morgan, Eleanor Parker. Tiresome trash.
(7) All My Children
(9) MOVIE: "Bringing Up Baby" (1938). Katharine Hepburn, Cary Grant. Broad belly laughs and the kind they don't make any more. Anyway, not these two ultras.
(11) Galloping Gourmet
(13) Electric Company (R)
1:30 (2) As the World Turns
(4) Three on a Match
(7) Let's Make a Deal

Radio

6-10 A.M., WNCN: Harpsichord Concerto No. 5 in G minor, Arne. Three Motets, Lassus. Quintet in A flat, Reicha. Quartet from Rigoletto, Verdi. Nocturne, McPhee; Rondo for Piano and Orchestra, Mozart; Canon and Gigue in D, Pachelbel; Dance Rhapsody No. 2, Delius; Sirenes, Debussy.
9-10-10, WQXR: Piano Personalities. Raymond Lowenthal: Grande Sonata, Alkan; Reminiscences de Norma, Liszt.
10-11, WNCN: Three Movements from Petrushka, Stravinsky; Three Bagatelles, Haleff; Twelve Variations on La Belle Françoise, Mozart; Songs, Wolf.
10-11 Noon, WQXR: The Listening Room. Robert Sherman, host. Guest: Elaine Compton, harpsichordist.
11-11-11, WNCN: Fantasiestücke for piano; Fantasiestücke for clarinet and piano; Fantasia in C for piano, Schumann.
11-11-11, WNYC-FM: Concerto for Double Bass, Koussevitzky; Symphony No. 2 in E minor, Thompson.
1-1-11, WNYC-FM: William Lincoln Christie, harpsichordist.
1-1-11, WQXR: Flute Concerto in G minor, Vivaldi; Symphony No. 9, Beethoven.
2-4, WNYC-FM: Brandenburg Concerto No. 4, Bach; Cello Concerto in D, Haydn; Homage to a Handel, Moscheles; Quartet for Bassoon, Dvornik; Violin Sonata No. 2, Schubert; Horn Concerto No. 4, Mozart.
2-5, WNCN: Nobilissima Visione, Hindemith; Symphony No. 7, Bruckner; Cello Sonata No. 3, Brahms.
8-10, WRV: er's with Pearson, Walton Tr.
8-9-9, WJL: leske, Till Franks, St.
9-11, WNYC: No. 1, Br. Viola da yment Symgner; Piano; Mozart.
9-11-11, WJL: pphony Orchestra Thomas, c; Alex; Abraham; vinsky; Int from Sym; Musical; ments; Vo.
11, WNYC: Show; Hay concert.
11-11 A.M., A. Gabriel Beethoven, Saint-Saen.
11, Beethoven, Saint-Saen.
28, Beethoven, Saint-Saen.
F, Handel Brull; Pu Beethoven Hummel, Beethoven Harpsichord; nata No.
Midnight: Symphony set in F, Piano No ensade for Mozart.
12-11 A in D for zart; Nor

THE FRESH AIR FUND.

SEE

...and it is extremely difficult for any Watergate figure to get a fair trial in Washington, second, the volume of a leader of the President's grass-roots supporters, Rabbi Baruch M. Korff. The Rabbi Korff, president of the National Citizens Committee for Fairness to the Presidency, released last

GREEKS AND TURKS CAUTIONED BY U.S.

Washington Acts to Prevent 'Very Dangerous Situation' From Flaring Into War

By DAVID BINDER
Special to The New York Times

WASHINGTON, July 16—The United States, in intense diplomatic exchanges, is pressuring Greece and Turkey to keep "a very dangerous situation" on the island of Cyprus from getting out of hand, an American official said today.

He was expressing the view of leading specialists who believe that a clash over Cyprus could provoke war between Greece and Turkey, which are both members of the North Atlantic Treaty Organization.

The United States welcomed reports that President Makarios, whose Government was overthrown yesterday, had escaped the rebels.

"We have seen and welcome the reports that Archbishop Makarios is alive," Robert Anderson, the State Department spokesman, told newsmen at a briefing.

Off the record, American officials commented that the takeover of power by Greek-led National Guard units, backing Nikos Georgiades Sampson as President, was virtually "an accomplished fact," as one official expressed it.

But the Administration, he said, is concerned first of all with keeping "the fighting from

the Cypriot Embassy in London said the Archbishop planned to fly to New York almost immediately, the British Government would not comment on his ultimate destination.

Last night, informed British sources said the Archbishop was expected in Britain today. How long he would stay was not immediately known.

Meanwhile, there were reports of spreading rebel domination of Cyprus, which, with its ethnic Greek majority and Turkish minority, has long been a source of friction between Greece and Turkey and thus a threat to the stability of the North Atlantic Treaty Organization. Both countries are members.

Intense Activity

In a day of intensive diplomatic activity, there were these other developments:

1 Secretary General Waldheim called the Security Council into session to consider the coup and the threat of conflict between Greece and Turkey. The Council adjourned without taking any action.

2 The United States Government tried to induce Greece and Turkey to prevent "a very dangerous situation" from degenerating. The American Ambassador to Turkey, William B. Macomber, returned urgently from Washington to Ankara yesterday.

3 In Greece, where supporters of enosis—union of Cyprus with Greece—welcomed the coup, the Government in its first official statement called the rebellion an "internal affair of an independent state," and said it would not interfere.

4 The Soviet Union was said to have informed Turkey yesterday that it was ready to cooperate in defending the in-

Excerpts from the interview with Nixon are on Page 17.

met with Mr. Nixon this morning at the President's estate here. Rabbi Korff presented the President with a copy of his new book called, "The Personal Nixon: Staying on the Summit." The book contains a long interview with the President recorded by Rabbi Korff on May 13, as well as a series of written answers given by Mr. Nixon to Rabbi Korff's written questions.

Glimpse of Reactions

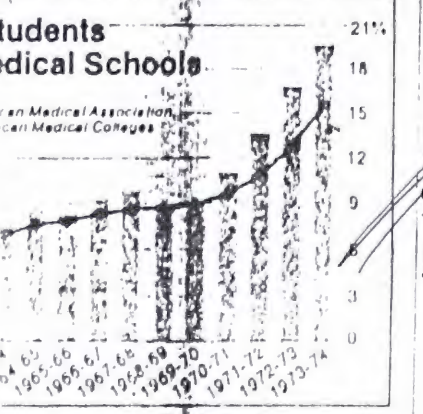
The interviews provide few new facts but do offer a rare glimpse of Mr. Nixon's personal reactions toward the Watergate affair and impeachment proceedings.

In his interview with Rabbi Korff on May 13, President Nixon said:

"I would have to argue very strongly that the individuals who have been hauled publicly before committees and who also, in addition, have been

the first of

ine Up Sharply



ars than Teachers. Finally, some observers predict much greater flexibility in medical education to permit students of both sexes to manage study and family responsibilities simultaneously.

Possible effects on practice, medical people say, include more emphasis on doctors working in groups rather than as individuals. Again, the point would be greater personal and professional flexibility prompted by pressures on women to devote more time to family.

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President Shifts on Public TV And Sanctions Long-Range Aid

By LES BROWN

President Nixon, reversing a position he took in June, yesterday approved a bill prepared by the White House Office of Telecommunications Policy for the long-range financing of public broadcasting by the Federal Government.

The bill was immediately forwarded to Capitol Hill by Clay T. Whitehead, director of the Office, who said he foresaw no obstacles to its passage.

Mr. Whitehead described the bill as one that provides "a workable scheme" for the future, in that it not only assures funds for the public broadcasting system on which to develop and grow but it also protects the system from any "extraneous

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den under some bushes at the top of a steep slope but had then slid down and lodged against the tree where it was found. They said it appeared that the body had been there for some time, perhaps as long as 48 hours, before being found.

The body was found near a footpath leading from Terrace Bridge to the skating rink area. The police believe that the victim could have been prompted increased police surveillance in these areas.

Only a week ago, 20 patrolmen were added to the police complement in Prospect Park, and an additional 20 men were assigned to Central Park in Manhattan in an effort to cope with increasing crime.

Bicycle thefts and muggings are the most frequently reported park crimes, according to Captain Barton.

Nixon Shifts on Public-TV Fund And Sanctions Long-Range Bill

Continued From Page 1, Col. 8

appropriated for each of five fiscal years.

The amounts would graduate by year from a maximum of \$70-million for fiscal 1976 to a maximum of \$100-million for the fiscal year ending June 30, 1980. The appropriations are stated in "maximums" because the funding would be accomplished under a matching formula under which the Government would provide \$1 for every \$2.50 raised by public broadcasting entities from non-Federal sources.

The proposed bill had been submitted to the President last April. In June, on the eve of Mr. Nixon's visit to the Middle East, a terse White House memorandum was drawn indicating that the President had rejected the bill and that he preferred instead to reduce Government support of noncommercial broadcasting.

After The New York Times reported, on June 10, that the bill had been "flatly rejected," the White House staff issued a denial that a final decision had been made.

Sources close to the Office of Telecommunications Policy said that some of Mr. Nixon's aides had persuaded him to reconsider by using the argument that a rejection would have the appearance of political vindictiveness.

Members of the Nixon Administration, including Mr. Whitehead, had frequently criticized public television for displaying a liberal bias, and it was public television that had made the Senate Watergate hearings available to most of the country during the prime viewing hours last summer.

On the other hand, Mr. Whitehead said he believed the President approved the bill from the conviction that it was "good and constructive legislation" that would further the general welfare.

Mr. Whitehead said that he had written a "strong letter of approval" after Mr. Nixon had rejected the bill in June, and he credited Gen. Alexander M. Haig Jr., White House chief of staff, with persuading Mr. Nixon to reconsider.

In a letter to the Houses of Congress accompanying the White House bill, Mr. Whitehead explained that the matching principle "assures that Fed-

eral assistance does not become a dominant force in the system." At the same time, he said, it provides an incentive for the system to increase non-Federal support through grants from institutions and contributions from the viewing public.

Under the matching formula, Federal financing would never exceed 40 per cent of the total funds for both television and radio.

The Corporation for Public Broadcasting, which would distribute the funds to the various stations and program sources, has noted that the non-Federal income for the entire public broadcasting system reached \$200-million in the current fiscal year. At that level, the system would be eligible for the maximum \$70-million designated by the bill for fiscal 1976.

Insulation of Funding

By providing for both the authorization and appropriation of funds—so that the indicated amounts could not be reduced for any year except by repeal of the law—the White House bill would serve to insulate the financing from the Government scrutiny of programing that might otherwise occur under an annual budgeting procedure.

In addition, Mr. Whitehead noted in his letter to Congress, the five-year appropriation provision would "enable the Corporation and local stations to undertake advance program planning with assurance as to the level of Federal funding available in the foreseeable future."

A key provision of the bill is that all licensees of public television stations would receive a basic annual grant, as would noncommercial radio stations that are eligible under public interest criteria established by the Corporation for Public Broadcasting.

The bill would require that 40 per cent of the Federal funds be distributed directly to the stations at the \$70-million authorization level, and 50 per cent at the \$100-million level.

This is consistent with the Nixon Administration's advocacy of "grassroots localism" in public television, as had been frequently expressed by Mr. Whitehead in the past, and its disapproval of attempts in public television to assume the role of a fourth network.

GIVE FRESH AIR FUND.

Weather Reports

Summary

Sunny and warmer weather is expected throughout the Northeast today. Thunder-showers are forecast for the upper lake region and upper Mississippi Valley, while scattered thundershowers will develop along the Gulf Coast. Widely scattered afternoon and evening thundershowers will prevail in the central and southern Rockies; some showers may occur in the northern Rockies, and along the coast of the Pacific Northwest. It will be warmer in the lake region and Ohio Valley, and cooler in the Dakotas and western Washington; temperatures will continue to be hot in the central and southern sections of the Plains States and Mississippi Valley. The weather will be fair elsewhere.

Partly sunny skies dominated Metropolitan New York yesterday, as some scattered showers and thundershowers developed across eastern New England. A few isolated showers and thundershowers also occurred in the South Atlantic and Gulf States, and from the Northern Plains States to the southern Rockies. Light rain prevailed in western Washington, as fair to partly cloudy skies covered the rest of the country. Temperatures were mild and less humid in the Northeast, but hot and very humid in the Southeast. Readings of at least 90 degrees were again recorded from North Dakota to Texas, and in portions of the lower Mississippi Valley. It was warm or mild in the West, and hot in the Southeast.

Forecast

National Weather Service (AS of 11 P.M.)

NEW YORK CITY—Sunny today. High in the mid to upper 80's. Northerly winds 10 miles an hour or less early today, becoming southerly 10 to 15 miles an hour during the afternoon, and variable less than 10 miles an hour tonight. Clear tonight, low in the upper 60's. Sunny and hot tomorrow. Precipitation probably near zero through tonight.

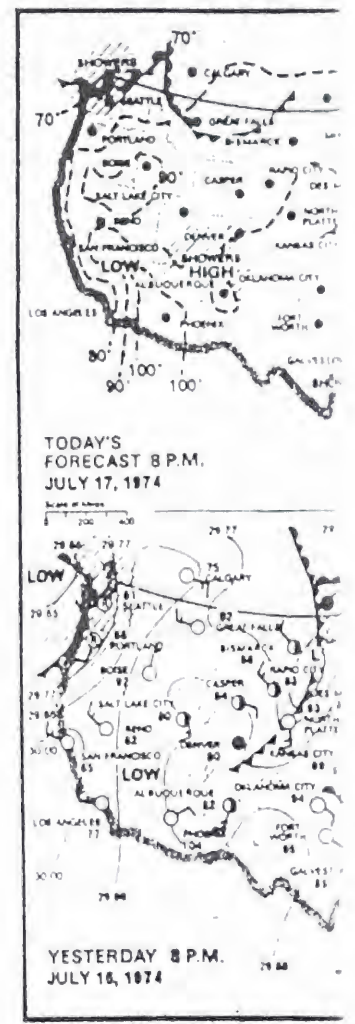
NORTHERN NEW JERSEY, CONNECTICUT AND ROCKLAND AND WESTCHESTER COUNTIES—Sunny today. High in the 80's; clear tonight, low in the 60's. Sunny and hot tomorrow.

LONG ISLAND AND LONG ISLAND SOUND—Sunny today. High from the upper 70's along the eastern end, and south shore to the mid 80's elsewhere. Northerly winds 10 miles an hour or less early today, becoming southerly 10 to 15 miles an hour during the afternoon, and variable less than 10 miles an hour tonight. Clear tonight, low in the mid to upper 60's. Sunny and hot tomorrow.

Ysloity in the Sound there to six miles or better through tonight.

EASTERN PENNSYLVANIA AND SOUTHERN NEW JERSEY—Sunny today. High from the upper 70's to mid 80's and just below the mid 90's elsewhere. Fair tonight, low in the 50's. Sunny and hot tomorrow.

WESTERN PENNSYLVANIA—Sunny today. High in the upper 70's to mid 80's. Fair tonight, low in the mid 50's to mid 60's.



60's. Partly cloudy, hot and humid tomorrow.

INTERIOR EASTERN NEW YORK AND VERMONT—Mostly sunny today, high in the mid to upper 70's; partly cloudy and warmer tonight and tomorrow, low tonight in the mid to upper 60's.

WESTERN NEW YORK—Mostly sunny today, high around 80; partly cloudy tonight, low in the mid 50's to around 60. Variably cloudy, warmer and more humid tomorrow.

MASSACHUSETTS AND RHODE ISLAND—Mostly sunny today, high around 80; fair and warmer tonight and tomorrow, low tonight in the 60's.

NEW HAMPSHIRE AND MAINE—Mostly sunny today, high in the 70's to low 80's; fair tonight low in the 50's. Fair, sunny or showerly, mainly with chance of showers, northern Maine thundershowers and warmer.

Extended Forecast

(Friday through Sunday)

METROPOLITAN NEW YORK, CONNECTICUT, NORTHERN NEW JERSEY AND LONG ISLAND—Partly cloudy with chance of showers Friday, and Saturday, fair Sunday. Drying winds will prevail in the mid to upper 80's, overnight hours will range from the mid 60's north to around 70 south.

Yesterday's Records

Time	Temp.	Humid.	Wind	Dir.
1 A.M.	76	64	77	W 17-29
2 A.M.	75	64	71	W 18-20
3 A.M.	74	67	79	W 18-27
4 A.M.	73	66	79	W 18-27
5 A.M.	71	74	89	N 18-29

Abroad

Local time	Temp.	Humid.	Wind	Dir.
Algeria	1 P.M.	61	41	SE
Amsterdam	1 P.M.	61	41	SE
Antwerp	1 P.M.	61	41	SE
Athens	1 P.M.	61	41	SE
Birmingham	1 P.M.	61	41	SE
Boston	1 P.M.	61	41	SE
Buenos Aires	1 P.M.	61	41	SE
Cairo	1 P.M.	61	41	SE
Cardiff	1 P.M.	61	41	SE
Chicago	1 P.M.	61	41	SE
Copenhagen	1 P.M.	61	41	SE
Dublin	1 P.M.	61	41	SE
Geneva	1 P.M.	61	41	SE
Hamburg	1 P.M.	61	41	SE
London	1 P.M.	61	41	SE
Madrid	1 P.M.	61	41	SE
Moscow	1 P.M.	61	41	SE
Paris	1 P.M.	61	41	SE
Rome	1 P.M.	61	41	SE
Stockholm	1 P.M.	61	41	SE
Warsaw	1 P.M.	61	41	SE
Washington	1 P.M.	61	41	SE
Zurich	1 P.M.	61	41	SE

Shipping/Mails

Shipping/Mails

8-2-74

LONG-RANGE FINANCING

Nixon and the PBS Bill

BY JAY SHARBUTT
AP Television Writer

NEW YORK — The White House denied in June reports President Nixon had rejected a proposed long-range financing bill for public broadcasting. But a key adviser who sent him the bill says Nixon did turn it down, if only temporarily.

He's Dr. Clay T. Whitehead, who was instrumental in persuading Nixon, through Gen. Alexander Haig Jr., the President's top aide, to send the measure intact to Congress last month.

But Whitehead, chief of the White House Office of Telecommunications Policy nearly four years, admits he was startled when he learned of Nixon's initial decision.

He said it consisted only of "a short notification that he had not approved the bill. And it didn't make

any sense in view of the previous involvement he's had in the public broadcasting matter." He referred to Administration efforts to decentralize public broadcasting and emphasize more of a "grass-roots" approach.

Matching Funds

The bill, aimed at insulating public broadcasters from undue government pressure and the vagaries of annual funding, would provide up to \$440 million over a five-year period, but on a matching basis of \$1 for every \$2.50 the broadcasters raised from nonfederal sources.

Whitehead said its initial rejection was puzzling because it previously had support from Nixon, who "knew what we were doing, why we were doing it and that public broadcasting had changed markedly."

The bill we were able to

work out with them (the public broadcasters) reflected a lot of his concerns and would have reduced the danger that this could turn into a government-funded television network."

He said it made certain that local stations had a strong role in national public broadcasting and that it generally "was very consistent with the 'New Federalism' approach Mr. Nixon has advocated for so many years."

Whitehead, who said Nixon's initial decision came without elaboration, said he argued the case for the bill with Haig, but not with the President personally.

He said he later received a White House memo that said, "The President has approved your proposal. He said it also was without elaboration, but that he hasn't tried to learn the

He said that now that White House debate on the bill has ended, he thinks the measure stands a good chance of passage, even though it has unique provisions Congress rarely sees in a financing bill. It combines both authorization for spending and appropriation of the funds in the same document, he said. The two steps usually are voted on separately by the Congress.

Opposition Seen

He predicted strong opposition from two quarters on the bill. "One will be the House Ways and Means Committee, which traditionally doesn't like multiyear appropriations," he said. "The other opposition will come from a substantial number of people in the Congress who enjoy the influence annual appropriations give them."

He said he and his office have "borne the brunt of an awful lot of congressional sniping over the past couple of years from people who say we don't want to come up with long-range financing, or

make the kind of financial commitment that the year-to-year uncertainties provided. "We always insisted that such was not the case. It'll be interesting to see the shoe on the other foot, because it's now up to the Congress."

'Why Me?' to Be Reshown

"Why Me?" a KNXT special on breast cancer, will be rebroadcast in prime time Aug. 17 (10-11 p.m., Channel 2). Lee Grant narrates the program which focuses on 10 women who relate their personal experiences with breast cancer, discovery, surgery, survival.

The initial broadcast on May 13 was seen in approximately 540,000 homes by 1,232,000 Southern Californians, according to the station's research department.

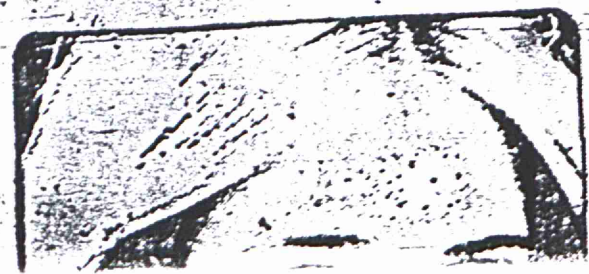
PM Highlights

- RELIGIOUS
KNOP, KJSC
- MUSIC—POPULAR
KJZZ, KJRS, KJTH, KJL, KJML, KJMR, KJMT, KJOM, KJPM, KJWZ, KJZM, KNST
- MUSIC—LIGHT POPULAR
KJBO, KJDO, KJOP, KJAJ, KJOL, KJSE, KJSF
- MUSIC—CLASSICAL
KJAC, KJPK, KJSC, KJUL, KJUM
- MUSIC—ALL JAZZ
KJCA
- MUSIC—R&B
KJTE, KJRW, KJPC
- CULTURAL-EDUCATIONAL
KJRW, KJCM, KJOM, KJPS, KJPK, KJSC, KJUL
- TODAY'S HIGHLIGHTS
7:00 KJCN—Valley View
7:00 KJCA—Sounds of the City
7:00 noon KJCA—Jazz Cafe
7:00 KJPK—Nose Concert
1:00 p.m. KJAC—Luncheon at the Music Center
5:00 KJCN, KJRW, KJOM—All Things Considered News Magazine
5:30 KJPM—Money, Money, Money
8:00 KJAC—Beatniks, "Egon" Strauss, Symphonies Domestic, Haydn, Four Flute Quartets
8:30 KJPK—Poetry Reading

ADULT MOVIES/ENTERTAINMENT

ADULT MOVIES/ENTERTAINMENT

ADULT



THE ONE AND ONLY
DEEP THROAT
PLUS
IN COLOR

Vol. 35

F.C.C. 72-531

BEFORE THE

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20534

In the Matter of

ESTABLISHMENT OF DOMESTIC COMMUNICATIONS-SATELLITE FACILITIES BY NON-GOVERNMENTAL ENTITIES

SECOND REPORT AND ORDER

(Adopted June 16, 1972; Released June 16, 1972)

By the Commission: (Chairman) BURCH DISSENTING AND ISSUING A STATEMENT IN WHICH COMMISSIONERS REID AND WHEAT JOIN; COMMISSIONER JOHNSON CONCURRING AND ISSUING A STATEMENT.

I. PROCEEDINGS BEFORE THE COMMISSION

1. This proceeding was instituted by the Commission on March 2, 1966 (Notice of Inquiry, 31 F.R. 3507; Supplemental Notice of Inquiry, October 20, 1966, 31 F.R. 13763) to explore various legal, technical and policy questions associated with the possible authorization of domestic communications satellite facilities to nongovernmental entities. On March 24, 1970, the Commission issued a first *Report and Order* (1970 Report) inviting the submission of applications to assist our determinations (22 F.C.C. 2d 86, 35 F.R. 3536), and consolidated a concurrently issued Notice of Proposed Rule Making (22 F.C.C. 2d 810). In response to the 1970 Report, system applications were filed by the following:

The Western Union Telegraph Company (Western Union)
Hughes Aircraft Company and various telephone operating companies of (ITT Service Corporation (Hughes/GTE))
Western Telecommunications, Inc. (WTGI)
RCA Global Communications Inc. and RCA Alaska Communications, Inc. (RCA Globalcom/RCA Alascom or "the RCA applicants")
(Communications Satellite Corporation and American Telephone and Telegraph Company ((Comsat/AT&T))
MCI Lockheed Satellite Corporation (MCI Lockheed)
Fairchild Industries, Inc. (Fairchild)
In addition, applications for earth stations only were filed by:

Hawaiian Telephone Company
Twin County Trans-Video, Inc.
TelePrompTer Corporation
LAVO Cable, Inc., and United Video, Inc.
Phoenix Satellite Corporation

35 F.C.C. 2d

2. Comments and reply comments on the applications and rule making issues were received from the applicants and other interested parties. By a Memorandum Opinion and Order issued on March 17, 1972 (34 F.C.C. 2d 1), the Commission afforded the parties an opportunity to file written comments and to be heard orally on a proposed Second Report and Order (31 F.C.C. 2d 9) recommended by the Chief of the Common Carrier Bureau (staff recommendation). Written comments were received and oral argument before the Commission was held on May 1-2, 1972.

3. Upon consideration of the entire record, we are of the view that the staff recommendation adequately describes the background of this proceeding, the general nature of the pending applications, and the previously filed comments and reply comments of the parties on the applications and rule making issues. Accordingly, we will adopt the descriptive portions of the staff recommendation without reiterating such material here. However, as stated in the Memorandum Opinion and Order of March 17, 1972, our action in designating the staff recommendation for written and oral comment was taken "before reaching any determinations in this matter" and "therefore does not reflect any predisposition by the Commission with respect to the resolution of the issues involved" (34 F.C.C. 2d at 2). The Commission's determinations, which are set forth below, incorporate the staff's reasoning and conclusions on the issues only as expressly indicated herein or to the extent that they are clearly consistent with our statements of policy and conclusions.

II. INTRODUCTORY POLICY STATEMENT

4. As the Commission recognized in the 1970 Report (22 F.C.C. 2d at 83, 93-96), and as confirmed by the applications and responses filed pursuant to that Report, the satellite technology has the potential of making significant contributions to the nation's domestic communications structure by providing a better means of serving certain of the existing markets and developing new markets not now being served. There are concrete proposals before us for the use of communications satellites to augment the long-haul terrestrial facilities of existing carriers for point-to-point switched transmissions services, and to connect off-shore distant domestic points (i.e., Alaska, Hawaii, Puerto Rico) to the contiguous states. There are also proposals for the use of satellites as a means of providing point-to-multipoint services, such as program transmission, although plans for such use are now most tentative and uncertain. Other proposals reflect the view that the most important value of domestic satellites at the present time lies in their potential for developing new markets and for expanding existing markets for specialized communications services.

5. Notwithstanding the specific proposals that have been submitted, the true extent and nature of the public benefit that satellites

Two entities who had not previously participated in this proceeding were granted leave to be heard orally: the Department of Defense and the Network Project (FCC 72-314). The Commission's decision of various parties to correct the transcript of oral argument are hereby granted. The Commission has submitted statements, without leave from the Commission, pursuant to further response to questions from individual Commissioners at the oral argument. While such statements have been placed in the record, we do not rely on them.

35 F.C.C. 2d

109-002-72-4

may produce in the domestic field remains to be demonstrated. The United States has a well-developed and rapidly expanding complex of terrestrial facilities, and advances in terrestrial technology and operations can be expected to continue the present trend toward reduced transmission costs and more efficient services. Although pointing to some increased operational flexibility in the routing of its traffic, the predominant terrestrial carrier, AT&T, disclaims that the satellite technology presently offers any cost savings or other marked advantages over terrestrial facilities in the provision of the switched services that constitute the bulk of its traffic, message toll telephone (MTT) and wide area telephone service (WATS). At the same time, there is an uncertainty, that can only be resolved by actual operating experience, as to whether the time delay inherent in voice communications via synchronous satellites will provide an acceptable quality of service to the general public when domestic telephone traffic is routed indiscriminately and on a large scale basis via satellite and terrestrial facilities.

6. Although the satellite technology appears to have great promise of immediate public benefit in the specialized communications market, here too there are uncertainties as to how effectively and readily satellite services can develop or penetrate that market. Thus, in the area of point-to-multipoint transmission, the commercial broadcast networks are as yet undecided as to whether to use this technology in whole or in part. We do have a concrete proposal for a CATV network from Hughes, expressions of interest by public broadcasting and other educational entities, and the possibility of interest by independent suppliers of program material to CATV and broadcast outlets. Moreover, several system applicants, in addition to seeking to attract program transmission business, have premised their proposals on the sale of other specialized services—in part as a complement to existing or proposed terrestrial offerings, but in the main with the expectation of expanding existing special service markets and developing new markets. To be sure, the applications generally do not identify specific services that are new or innovative. However, in our judgment, the uncertainties as to the nature and scope of the special markets and innovative services that might be stimulated will only be resolved by the experience with operational facilities.

7. Under the circumstances, we will be guided by the following objectives in formulating the policies to govern our licensing and regulation of the construction and use of satellite systems for domestic communications purposes, namely:

(a) to maximize the opportunities for the early acquisition of technical, operational, and marketing data and experience in the use of this technology as a new communications resource for all types of services;

(b) to afford a reasonable opportunity for multiple entities to demonstrate how any operational and economic characteristics peculiar to the satellite technology can be used to provide existing and new specialized services more economically and efficiently than can be done by terrestrial facilities;

(c) to facilitate the efficient development of this new resource by removing or neutralizing existing institutional restraints or inhibitions; and

(d) to retain leeway and flexibility in our policy making with respect to the use of satellite technology for domestic communications so as to make such adjustments therein as future experience and circumstances may dictate.

8. We are further of the view that multiple entry is most likely to produce a fruitful demonstration of the extent to which the satellite technology may be used to provide existing and new specialized services more economically and efficiently than can be done by terrestrial facilities. Though specialized services constitute a relatively small percentage of AT&T's total traffic, it is presently the predominant terrestrial supplier of specialized services. There is some existing and potential competition from Western Union and any new specialized carriers authorized pursuant to the Commission's decision in *Specialized Common Carrier Services* (29 FCC 2d 870). But the capacity of their terrestrial facilities is small compared to those of AT&T or the high capacity facilities proposed by the satellite system applicants.² The presence of competitive sources of supply of specialized services, both among satellite system licensees and between satellite and terrestrial systems, should encourage service and technical innovation and provide an impetus for efforts to minimize costs and charges to the public.

9. Of course, the incentive for competitive entry by financially responsible satellite system entrepreneurs to develop specialized markets must be meaningful and not just token. This requires that we take appropriate measures toward the end that a reasonable opportunity for effective entry is not defeated or weakened by AT&T, either directly or through its existing or future relationships with Comsat. In this regard, we cannot ignore the effects upon achievement of our objectives that might result from AT&T's existing economic strength and dominance stemming from its multi-billion dollar terrestrial investments and operations and its permeating presence and influence in all domestic communications markets. Nor can we ignore the ability of AT&T—an ability not possessed by other applicants—to load a high capacity satellite system with MTT and WATS traffic and thereby control the cost of specialized services furnished via that system. Other applicants, lacking a similar initial traffic nucleus, would be operating—at least initially—with lightly loaded, costly facilities until such time as they might succeed in reducing their unit costs by a substantial specialized traffic fill.

10. In addition, where AT&T combines its monopoly and competitive services on the same facilities, it is difficult to identify AT&T's relevant costs associated with specialized services to insure that revenues from the monopoly services are not being used to subsidize any part of its competitive services. Thus, if AT&T were permitted unrestricted use of satellites for both monopoly and specialized services, this might obscure any meaningful comparison of operating costs between satellite and terrestrial facilities for the provision of specialized services as

²The Commission has also authorized terrestrial facilities to various miscellaneous carriers providing program transmission service to CATV systems and broadcasters.

well as curtail any realistic opportunity for entry by others to serve the specialized markets via satellite.

11. We recognize that the problem of cross-subsidy now exists with respect to the establishment of rates and identification of relevant costs for specialized services furnished by AT&T terrestrially. However, this longstanding problem would be exacerbated by permitting the troublesome monopoly and competitive service combinations to be carried over into this new arena. Moreover, the cross-subsidy aspect is only part of the deterrent to a reasonable opportunity for competitive satellite entry in the specialized field and, even if resolved, would not overcome AT&T's unique advantage of being able to control satellite circuit costs by the extent to which it chooses to load the high capacity satellite facilities with telephone traffic while the specialized field is being developed.²⁴

12. All of the foregoing factors and concerns with respect to AT&T, in our judgment, might well result in discouraging or deterring others from attempting to penetrate the markets for specialized services. As a further consequence, AT&T's dominance in the communications field would be extended rather than lessened in the domestic area. This would derogate from our policy of seeking to promote an environment in which new suppliers of communications services would have a bona fide opportunity for competitive entry. This policy was the basis for our decision in the *Specialized Common Carrier Services* proceeding (29 FCC 2d 870). While this policy explicitly accommodates an opportunity for AT&T and other existing carriers to compete "fully and fairly" with new entrants, it does not preclude the Commission from taking reasonable measures to assure that competitive entry would be a meaningful reality in the high capacity satellite field. Paragraph 104 of the *Specialized Carrier* decision states: "We further stress that our policy determination as to new specialized carrier entry terrestrially, does not afford any measure of protection against domestic communications satellite entry or otherwise prejudice our determination in Docket No. 16495 as to what course would best serve the public interest in the domestic satellite field" (29 FCC 2d at 920).

13. The same considerations lead us to conclude that the achievement of our objectives would be prejudiced by authorizing the Comsat AT&T proposal based on their contractual arrangement. First, since AT&T is a principal source of the domestic service revenue that Comsat would seek to obtain, it is not realistic to expect Comsat to compete vigorously in the provision of specialized services on an end-to-end or "retail" basis and thereby challenge AT&T's terrestrial domination in this field. Secondly, if Comsat should proceed in the dual capacities proposed in its two pending system applications, the revenues that would be guaranteed to Comsat from the AT&T contractual arrangement would give it an extraordinary advantage and head start over all other potential domestic satellite entrants seeking to develop specialized services in competition with Comsat as well as with AT&T's

²⁴ We recognize that AT&T, in its offerings of specialized services, may not, for rate purposes, distinguish between specialized services provided via satellite on the one hand, and terrestrial facilities on the other hand, and thus somewhat alleviate the competitive problem. However, we believe that it will from a regulatory standpoint complicate a definitive comparison between the relative cost and other advantages of satellite and terrestrial facilities in serving the competitive market for specialized services.

terrestrial services. If Comsat were given the option of serving AT&T solely and accepted it, such a course would unnecessarily deprive others of the benefit of Comsat's expertise in the communications satellite field. If Comsat were to elect to serve only entities other than AT&T, its expertise and facilities would be available to the public and carriers other than AT&T. But if Comsat is to be authorized to provide satellite services to AT&T, it should operate exclusively as a carrier's carrier—not engaged in retailing communications services to the public—and provide such service under a tariff offering which would afford an opportunity for other carriers to have non-discriminatory access to the same system.

14. Finally, our consideration of the conditions under which AT&T and Comsat should be permitted to enter the domestic satellite field is necessarily affected by AT&T's ownership of 29 percent of Comsat's stock and its ability to elect three of the 15 Comsat directors. Such ownership was contemplated and encouraged by the Congress in enacting the Communications Satellite Act of 1962 (see Section 394(b)(2)). Thus, this is not a matter over which Comsat has any control. However, that Act, which was formulated to meet the nation's policies and objectives with respect to the earliest possible establishment of a global communications satellite system, does not preclude authorized carriers from voluntarily disposing of their shares of Comsat stock.²⁵ All of the major carriers who originally owned Comsat stock, except AT&T, have since divested their interests. While the participation of experienced carriers had a useful function when Comsat was newly organized and gaining communications experience, this relationship warrants reassessment in light of current conditions.

15. Aside from the foregoing basic considerations of fairness and equity we reaffirm the staff recommendation in favor of multiple entry. In this connection it is important also to take cognizance of the fact that the initial implementation of domestic satellites does not confront us with a normal or routine situation. Some departures from conventional standards may be required if the public is to realize the potential benefits of this high capacity technology and we are to pursue our objective of competitive entry. This is true not only in the case of AT&T, but also for other applicants because of different factors. For example, as the staff points out, the capacity proposed by most system applicants substantially exceeds the traffic under their control or firm customer commitments. They are relying primarily on speculative business which they hope will materialize after the facilities become operational. We must, of course, make the requisite statutory findings as to an applicant's financial qualification and ability to implement its proposal; and we can require a reasonable showing that there will be no adverse impact on rates or services to customers of carrier applicants now engaged in providing essential communications services to the public. But if we adhere too strictly to conventional standards in this unconventional situation, such as requiring a persuasive showing by new entrants that competition is reasonably feasible and that the anticipated market can economically support its proposed

²⁵ Indeed, in 1969 Congress amended the 1962 Act to provide for fewer common carrier elected directors in proportion to their decrease in stock ownership in Comsat (47 U.S.C. 733). This schedule contemplates that the percentage of common carrier stock ownership may fall below eight percent, in which event there would be no directors elected by common carriers.

facilities, most such new applicants may in effect be denied any opportunity to demonstrate the merits of their proposals at their own risk and without potential dangers to existing services—thereby depriving the public of the potential benefits to be derived from diverse approaches by multiple entrants. It is our judgment that the potential benefits to the public warrant the application of rules and policies which will afford a reasonable opportunity for domestic satellite facilities to be established initially on a competitive basis. It is also necessary to retain flexibility to alter our initial determinations in the light of evolving circumstances.

III. DETERMINATIONS ON THE ISSUES

A. Number of systems to be authorized initially

16. In light of the foregoing policy objectives, we have concluded that the public interest would be best served at this initial stage by affording a reasonable opportunity for entry by qualified applicants, both pending and new, subject to the showings and conditions described below which we believe to be necessary to implement our objectives and to protect the public. We have reached this decision after consideration of the various alternatives discussed in the staff recommendation (paragraphs 45-78) and the views expressed by the parties.

17. Like the staff and most parties, we think it unwise to attempt to select or prescribe one system (either a consortium of all the applicants or selection of one applicant) or to choose one or more systems through comparative hearings. In addition to the reasons given by the staff (staff recommendation, paragraphs 50-61), which we adopt, such a course would not promote our policy objectives discussed above. However, we are not accepting the alternative recommended by the staff (paragraphs 71-78) of requiring or encouraging consolidations of applicants along guidelines prescribed by the Commission. While we recognize that there may well be advantages to and need for voluntary consolidations or sharing arrangements (such as "launch risk pools") undertaken at the applicants' initiative as a matter of prudent business judgment, we do not deem it advisable to structure the architecture of any joint space segment operations. Rather, we will permit and encourage such arrangements so long as they are consistent with the policy conditions set forth herein. Accordingly, we will accord the system applicants a 30-day period within which to apprise the Commission as to whether they intend to pursue their pending applications, as modified to achieve compliance with this *Second Report and Order*, or whether they desire further time to reframe their proposals.

18. Our decision in favor of multiple entry does not mean that we have opted for a policy of "unlimited or unrestricted open entry." Our aim, as outlined above, is to afford qualified applicants a reasonable opportunity to demonstrate the public advantages in use of the satellite technology as a means of communications. But such entry cannot be "open" in the sense that it is without any restrictions or limitations. Pursuant to statute we must require showings of financial, technical and other qualification and make the requisite finding that a grant of the particular proposal will serve the public interest, con-

venience and necessity. Although, as discussed in paragraph 15 above, it is our intention to make such determinations with due regard for the unique circumstances involved here, each applicant must make a sufficient showing of potential public benefit to justify the assignment of orbital locations and frequencies. Moreover, we believe it necessary to impose certain conditions to protect the public from possible detriment and to further the implementation of our policy objectives. In addition to the conditions discussed below, we will require a reasonable showing by any common carrier applicant now engaged in providing essential communications services that revenue requirements related to the proposed domestic satellite venture will not be a burden or detriment to customers for such essential services.

B. Conditions on system applicants on policy grounds

19. Insofar as the staff recommends that none of the pending applicants should be disqualified on the basis of the information now before us, we are generally in agreement with the staff's position and much of its reasoning (staff recommendation, paragraphs 82-119).⁴ However, we will address the question of what policy conditions and/or further showings will be required in the case of particular applicants.

20. As indicated above, realization of our policy objectives herein requires that we take appropriate measures toward the end that those objectives are not frustrated by any applicant, particularly in the critical threshold stage when others are attempting to become established. Because of the complexities and uncertainties associated with this matter, the question of what kind of measures to adopt confronts us with some difficult decisions. We have examined a number of alternatives and permutations. While none appears completely satisfactory in all respects to the entire Commission and there are conflicting considerations, it is our best collective judgment that the following course of action constitutes the most reasonable and appropriate accommodation we can achieve in the present circumstances.

1. AT&T and Comsat

21. In essence, we have concluded that AT&T should be afforded access to the satellite technology to determine its feasibility as an efficient and economic means of providing AT&T's basic switched telephone services, as well as to explore potential use of the 18 and 30 GHz frequencies. Because of the concerns expressed in our policy statement (paragraphs 9-13 above), we will limit AT&T's initial use of domestic satellites to MTT, WATS, AUTOVON, emergency restoration in the event of terrestrial outage (pursuant to a restoral plan proposed to and approved by the Commission, and regardless of the services involved), and—if found necessary in light of the considerations discussed in paragraphs 35-41 below—any other services in the case of Alaska, Hawaii and Puerto Rico-Virgin Islands. However, the Commission will entertain a petition by AT&T for authority to provide additional services within the contiguous states at the earliest of

⁴ We will defer resolution of what domestic satellite services Western Union may provide in Hawaii under Section 222 of the Act pending a determination on the pending "Application for Review" of the staff's action in rejecting Western Union's application for authority to lease facilities to provide Mailgram service between Hawaii and the mainland. A Commission decision on that application for review will be forthcoming shortly.

the following occurrences: (a) when domestic satellite licensees authorized to offer specialized common carrier services have achieved substantial utilization of their satellite capacity; or (b) in any event, three years after the commencement of domestic satellite operations by AT&T. Upon such petition, we will re-examine this initial limitation to determine whether it is still warranted or should be modified or deleted in light of the circumstances then pertaining, including such relevant factors as the impact on the current competitive situation and any resolution of the cross-subsidy problem.

22. We have further concluded that it would be contrary to the public interest and the realization of our policy objectives to authorize the Comsat/AT&T proposals based on their contractual arrangement, in light of the considerations set forth in our policy statement (paragraphs 13-14 above). For those services it is authorized to provide via domestic satellite (see paragraph 21 above), AT&T will have the option of applying for authority to own and operate satellite facilities or of leasing transponders under tariff from Comsat or any other carrier who elects to proceed solely as a carrier's carrier under the same conditions specified below as to Comsat.⁵

23. If Comsat elects to serve AT&T, then it will be required: (a) to operate solely as a carrier's carrier; (b) to lease transponders to AT&T under the same tariff terms applicable to other carriers leasing transponders; (c) to permit AT&T and other carriers to have access to their leased transponders through their own earth stations, where desired and authorized by the Commission; and (d) to comply with a formula, to be prescribed by further order of the Commission, concerning the maximum percentage of system capacity that can be leased to any one carrier (see paragraph 25 below). Such operation as a carrier's carrier may include the provision of earth station facilities by Comsat where desired by carriers leasing transponders and warranted by the existing or potential volume of their traffic. If, on the other hand, Comsat elects to serve only entities other than AT&T, then Comsat may, pursuant tariffs, offer end-to-end service, lease transponders to carriers other than AT&T, and offer other services as proposed in its application for a multi-purpose system (staff recommendation, paragraph 22).

24. We see no compelling reason of public policy for precluding AT&T from leasing satellite transponders under tariff from a carrier's carrier for its authorized domestic satellite services so long as the wholesale carrier retains adequate capacity to meet the requirements of other carriers desiring to lease transponders. Since the wholesale carrier would not be engaged in retailing specialized communication services to the public, the lease of transponders to AT&T would not deter competitive entry by others to serve the specialized markets. Moreover, such an arrangement would afford an opportunity for access to the satellite technology by retail carriers who lack sufficient existing or potential traffic to warrant the investment required for ownership of space segment facilities. Further, a wholesale carrier commencing

⁵ Since we decline to authorize facilities to implement the Comsat/AT&T contractual arrangement, we will not require AT&T to show that the costs of leasing satellite capacity from Comsat under tariff are no greater than obtaining equivalent facilities by other available means, such as ownership or leasing under tariff from another satellite carrier (see staff recommendation, paragraph 79).

operations under the incentive of AT&T's available business would have an opportunity to develop business from other carriers, and to that extent would be less affected if AT&T should elect in the future to apply for authority to own and operate space segment facilities.

25. While we believe it necessary to limit the percentage of the space segment capacity of the wholesale carrier that could be pre-empted by AT&T under tariff in order to reserve adequate capacity for use by other carriers, we are not now in a position to devise a formula. On the one hand, there is the consideration that AT&T initially has the ability to occupy a large number of transponders and thereby could pre-empt much of the capacity of any system, whereas the capacity available for other carriers may be utilized in gradually increasing amounts. On the other hand, in view of the relatively short life of the satellites, the wholesale carrier should not be saddled with substantial idle capacity which AT&T might otherwise lease, particularly after other carriers have had a reasonable time to take advantage of the wholesale tariff offering. Accordingly, if AT&T elects to lease transponders under tariff from Comsat (or any other wholesale carrier) and the latter elects to proceed solely as a carrier's carrier by serving AT&T's requirements, we will require that such wholesale carrier submit, for Commission review, an appropriate formula by which it will allocate its space segment capacity for AT&T's use and the use of other carriers. Upon consideration of such allocation, the Commission will approve or prescribe a formula prior to the authorization of facilities.⁶

26. Comsat will be required to form a separate corporate subsidiary to engage in any domestic satellite venture, whether it elects to pursue as multi-purpose system proposal or to operate solely as a wholesale supplier of satellite facilities to AT&T and other carriers. While Comsat's comments filed on April 19, 1972 do not object to paragraph 116 of the staff recommendation, we will not impose any prior constraints as to how such domestic subsidiary is to be structured or financed. This is an appropriate area for the exercise of Comsat's own judgment in the first instance, subject to ultimate Commission approval of its proposal. In the event that Comsat elects to proceed other than as a carrier's carrier, it will be prohibited from owning or operating domestic satellite facilities at any overseas point served by INTELSAT facilities (staff recommendation, paragraph 114).

GTE

27. The staff has expressed various concerns about GTE's proposal to provide interstate MTT service via satellite facilities for which it seeks authorization (staff recommendation, paragraphs 97-99). In encouraging multiple entry and the development of competition in the supply of domestic communications, we have maintained a distinction between the so-called monopoly switched telephone services now being furnished by AT&T and all other classes of existing and potential specialized services. We have made this distinction not for the purpose of protecting any established position that AT&T occupies in the MTT

⁶ Of course, as AT&T from time to time proposes to take up additional capacity pursuant to that approved formula, AT&T will be required to obtain appropriate authorization therefor pursuant to Section 214 of the Communications Act.

field. Rather, it has been our purpose and concern to protect the public in the availability of efficient and economic switched MTT services—an interest that might well be adversely affected by unnecessarily fragmenting responsibility for the planning and provision of the facilities required for this integrated service. On the other hand, we should not reject any proposal that might prove feasible and beneficial to the public simply because it represents some departure from the established scheme. This is particularly true when the proposal comes from an entity, such as GTE, which already is a significant participant in the furnishing of MTT facilities and services, although essentially as a carrier which originates, terminates, and switches large volumes of MTT traffic rather than in the provision of long lines transmission facilities.

28. At least potentially, GTE's proposal offers several advantages. It would introduce more directly, although on a limited scale, the perspective and experience of another responsible entity into the planning and operation of the interstate MTT network, which heretofore has been the sole responsibility of AT&T. It could provide a basis for regulatory comparison of the relative efficiencies and cost advantages of somewhat different technologies represented by AT&T's proposal and GTE's proposal. It could also tend to lessen AT&T's dominance and economic influence in the domestic communications field.

29. Notwithstanding these potential public benefits, there are a number of uncertainties, not dispelled by the information contained in the record before us, that must be resolved before we can make the required statutory finding that GTE's proposal will serve the public interest. Accordingly, before determining whether this portion of the Hughes GTE applications should be authorized, we will require a showing of the nature described by the staff (paragraphs 98-99) concerning: what potential benefits might be achieved by affording GTE access to the satellite technology for this purpose; whether its proposal is economically justified from the standpoint of the public in terms of costs and prospective fill; the effect on GTE's present contracts for settlement with AT&T; GTE's plans for handling traffic in case of temporary outages or catastrophic failure of its satellite system facilities; how the costs of such facilities would be treated for rate-making and accounting purposes; and the kinds of data it will gather and report to the Commission to assist our evaluation of the efficiency and economy of any authorized operations compared to continued exclusive reliance on the interstate switched telephone facilities of AT&T.

30. In the event that we determine after consideration of such showings that the proposal, on balance, would serve the public interest, any authorization to GTE would be limited initially, as in the case of AT&T, to the provision of MTT service (plus other services, if found necessary, in the case of Hawaii only in the event that GTE is authorized to serve that State (see paragraph 39-40 below)). GTE would also be required to form a separate corporate subsidiary to engage in such operations.

3. Other system applicants

31. We will further require that any other terrestrial common carrier, who is authorized a domestic satellite system, shall offer its services in accordance with tariff schedules filed pursuant to Section 203

of the Communications Act and the Commission's applicable rules and regulations. Where the terrestrial carrier seeks to provide services and facilities to other carriers (i.e., as a carrier's carrier), the offering of such wholesale services—whether for transponder access alone or for satellite system service including earth station access—shall be pursuant to a tariff setting forth all terms and conditions relating to each class of offering.⁷ If, in addition, the carrier intends to provide end-to-end services, the retail offering shall be covered by appropriate tariffs. In order to assure the minimum intermingling of costs and revenues between the wholesale and retail operations, we will require the carrier to maintain its accounts in such a fashion as to identify clearly the costs and revenues related to each. The prescription of specific accounting rules by the Commission will be given consideration when we have a clearer picture of the structure of this industry and its operation. We consider these measures to be essential, as a minimum, to insure that other carriers leasing transponder or satellite system facilities are not burdened with any portion of the revenue requirements applicable to the supplying carrier's retail offerings.

32. Finally, we adopt the staff's proposal that any authorization to a satellite equipment supplier shall be conditioned upon a requirement for the existence or creation of a separate corporate entity to engage in the satellite communications operation (staff recommendation, paragraph 86). Any authorization to Hughes will be upon the further condition that it afford its CATV customers the option of owning receive-only earth stations to obtain the Hughes program offering and that of any other CATV program distributor offered by means of the Hughes system facilities. Hughes will also be required to submit, for Commission approval prior to the issuance of any authorization to it, a plan whereby other CATV program distributors will be afforded reasonable access to receive-only earth stations associated with its system on an equitable and non-discriminatory basis, including—if necessary therefor—by means of access to the Hughes transmit-receive earth stations and space segment facilities.

C. Earth station ownership, access, and interconnection

33. Our broad policy objective is to aim toward a flexible ground environment which would permit a variety of earth station ownership patterns and afford diversified access to space segments except where this is impractical. Thus, in general, we are in favor of according special purpose users (such as commercial and non-commercial local broadcasters, other educational users, cable systems, or local carriers) the option of owning receive-only earth stations. Moreover, we do not foreclose the possibility that transmit-receive earth stations could be owned by users or independent carriers in appropriate circumstances. However, we think it premature to attempt to specify definitive standards here as to the particular circumstances and terms and conditions under which such user or independent carrier ownership of earth stations might be authorized, except to the extent indicated in Section

⁷ As in the case of any domestic satellite carrier operating exclusively as a wholesale carrier, we will require any domestic satellite system licensee operating in part as a wholesale carrier to permit carrier customers to have access to transponders through their own earth stations, where desired and authorized by the Commission.

B above. We cannot now foresee all possible situations that might arise or all relevant public interest factors. We will be in a better position to make such determinations after we know what domestic satellite systems will actually be established and in the context of considering concrete applications for particular earth stations. Thus, while we agree with the over-all thrust of the staff discussion on earth station ownership (staff recommendation, paragraphs 120-132), we do not bind ourselves to the specific conditions proposed by the staff (particularly paragraphs 125 and 131).⁸

34. To the extent consistent with our policy determinations and conclusions herein, we are also in accord with the goals set forth in the staff discussion of access to earth stations and interconnection (staff recommendation, paragraphs 133-142). Here again, however, we think it advisable to retain greater flexibility. While we will require existing terrestrial carriers seeking domestic satellite authorizations to submit for Commission approval, prior to action on their applications, a description of the kinds of interconnection arrangements they will make available to other satellite systems and/or earth station licensees, we do not expect such descriptions to anticipate all conceivable situations. Moreover, we will not restrict AT&T to proposing the specific bases for interconnection charges set forth in paragraph 141 of the staff recommendation. If the standard there suggested poses difficulties, AT&T may propose some other standard with similar specificity, which would accomplish our objective of assuring that all carriers providing retail interstate satellite services (whether or not affiliated with Bell System companies) have access at non-discriminatory terms and conditions to local loop and interchange facilities as necessary for the purpose of originating and terminating such interstate services to their customers. The governing standards will be established, so far as practicable, prior to the authorization of domestic satellite facilities rather than left primarily to subsequent negotiations between the entities involved.

D. Alaska, Hawaii and Puerto Rico

35. We endorse fully the staff recommendation that the advent of service via domestic satellite facilities should be accompanied by an integration of services, and more particularly the charges for such services, between Alaska, Hawaii and Puerto Rico and the contiguous 48 states into the domestic rate pattern. Heretofore considerations of distance, cost and traffic volumes have all combined to indicate that foreign rather than domestic rate and service patterns should be applicable. The relatively high level of charges resulting from these physical factors and cost considerations has inhibited the free flow of communications between the contiguous states and these points to the disadvantage of all of our citizens. It is our considered view that the public interest requires that the distinctions, particularly with respect to level of charges and rate patterns, should be eliminated. As set forth below, the advent of domestic satellite communications with their dis-

⁸ As in the case of space segments, we decline to structure any arrangements for sharing ownership of earth stations, but will encourage and consider voluntary proposals of the applicants' own devising.

tance insensitive features provides a sound economic basis for such conclusion.

36. One of the principal virtues of the satellite technology applied to domestic communications is its characteristic of deemphasizing distance as a cost factor in rate-making. With the availability of domestic satellites for communications between the mainland and Alaska, Hawaii and Puerto Rico, distance should dramatically diminish as an excuse or justification for the historic high-rate treatment that has been accorded to these services. We are now able to look forward to minimizing any distinctions in communications to such points compared to communications among the contiguous states. Thus, with the inauguration of satellite systems to serve the domestic communications requirements of all of the United States, there will be justification for integrating Alaska, Hawaii, and Puerto Rico into the established rate scheme for communications services applicable to the mainland.

37. Accordingly, it will be our policy to condition any domestic satellite authorization to carriers serving these points upon a requirement that, no later than six months from the issuance of the authorization, such carriers shall submit a specific proposal for revised rates for review and approval of the Commission prior to authorization for the commencement of service. In case of message telephone service (MTT), any such proposal shall give maximum effect to the elimination of over-all distance as a major cost factor and should be designed, in specified time phases if necessary, to integrate these three United States points into the uniform mileage rate pattern that now obtains for the contiguous states, with all that such approach implies in terms of nationwide cost averaging and equalizations for interstate rate-making purposes.⁹ We recognize that there may be extraordinary technical or economic factors, e.g., earth station costs and traffic loadings, that may warrant some deviation from this approach or justify a phased implementation of the integrated pattern. However, the carriers involved will be expected to demonstrate and document fully the need for such deviation or phasing in terms of conditions that are singularly relevant to the points involved, compared to the contiguous states, and to present the full program with the timing of final implementation.

38. We recognize that in the case of record services, the problems are more complex in that different carriers provide "overseas" and "domestic services." We do not intend, at this point, to disturb this service pattern. However, we do require that the carriers now providing services submit within the timetable set forth above proposals for the integration of their charges for TELEX, private line and other specialized services into the domestic pattern within the same framework as set forth above, i.e., detailed explanations in economic and technical bases for any proposed deviation or phasing. Should the record carriers fail to do so, we will be required to reconsider our current policy regarding record services between the contiguous states and these three points so as to assure that the policies enunciated here will be implemented. To make implementation possible, we will expect

⁹ For example, among other things, such carriers might explore the possibility of expanding the last mileage step (presently 1911-3000 miles) to include these points, or of adding an additional mileage step with an appropriate increment in rates.

space segment and earth station licensees authorized to serve these overseas points to afford appropriate access to such facilities to the relevant international record carriers for the provision of domestic services.

39. In light of the foregoing policy determinations, we are further of the view that AT&T should provide MTT services via domestic satellite to these three points, in conjunction with the appropriate local carrier (e.g., Hawaiian Telephone Company, RCA Alascom). If GTE's domestic satellite proposal is authorized and it is shown that the cost of using its facilities would be less than or approximately equivalent to the cost of utilizing AT&T facilities to provide such service between Hawaii and the contiguous states, then we do not foreclose the possibility that GTE might be the designated entity in the case of Hawaii. However, the nationwide cost averaging structure and uniform mileage rate pattern should not be burdened with costs that are greater than necessary in order to integrate these three points, or required to absorb the costs of domestic satellite system facilities proposed by an applicant which lacks the ability to achieve a substantial initial loading.

40. Moreover, since our most important objective in this area is to minimize the distinctions that have heretofore existed in rates and services to these points as compared to communications among the contiguous states, we think that Alaska, Hawaii and Puerto Rico should have an opportunity to obtain other services via the same earth station antennas and satellites that are used for the provision of MTT services to these points. Thus, whether AT&T proceeds via its own domestic satellite facilities or through a wholesale carrier, we will require that the relevant licensees reserve adequate transponder and earth station capacity for lease to other carriers authorized to provide specialized services to these points in such manner as will not necessitate another earth station antenna in addition to those used for MTT service. The same requirement will pertain to GTE in the event that it is authorized to provide MTT service to Hawaii by means of domestic satellite facilities. If found necessary to achieve our objective of integrating these three points into domestic rate patterns for all services, we will permit AT&T and/or GTE to provide services other than MTT to one or more of these points. We do not preclude the offering of specialized services to such points by means of independent domestic satellite facilities authorized to other licensees, so long as the public in Alaska, Hawaii and Puerto Rico has the opportunity to take advantage of the potential cost savings in obtaining specialized services on the same satellite system facilities used for MTT.

41. Finally, we recognize that implementation of the foregoing policies, while of benefit to Alaska, would not satisfy that State's pressing need for improved intrastate communications. Though accommodation of that need is important and the satellite technology appears to offer special promise toward that end, it may prove impracticable for the Commission or the pending carrier applicants to do much to alleviate this problem, at least in the initial generation of satellites. We will require RCA Alascom and any other applicant proposing earth stations in Alaska to submit a detailed plan for intrastate service. We will also require AT&T, or any wholesale carrier serving AT&T,

to afford access to its transponder capacity for the purpose of intra-Alaska service, if desired. We will further direct our staff to consult with representatives of the State of Alaska concerning any additional measures we may consider, and reasonably require of the applicants or any domestic satellite licensee, to assist in meeting its intrastate requirements.

42. With respect to the State of Alaska's request for a 6° separation at 4/6 GHz in that limited and valuable portion of the orbital arc where satellites capable of serving the 50 states can be located, in order to facilitate the use of small, inexpensive earth stations, we note that advances in earth station technology may shortly make it possible to meet the performance specifications needed for 3° separations with earth station antennas of smaller diameter than 30 feet. Moreover, we note the availability of 2 GHz frequencies specifically allocated by the 1971 WARC for educational and instructional television and for demand assigned telephone services in remote areas of the State. Finally, orbital locations for wider spaced 4/6 GHz satellites are available farther west of those than can view the 50 states, where there is less demand for such satellite locations. Thus, it is unnecessary to decide this matter definitively at this time. We stress, however, that we do not rule out the possibility of permitting a 6° separation, if later found necessary for the use of small, inexpensive earth stations in Alaska and in the public interest, all circumstances considered. Paragraph 152a of the staff recommendation concerning orbital arc location assignments is otherwise adopted.

E. Terms of access by public broadcasting and other educational interests

43. On this issue, we adopt the staff analysis and conclusions (staff recommendation, paragraphs 153-162). In other words, we recognize that there is a well-established national policy, incorporated in legislation, which encourages and makes it lawful for common carriers to provide free or reduced rate interconnection services to public broadcasting and other educational interests. These statutes make it possible for the Commission to prescribe preferential rates for educational entities covered by such legislation, as well as for carriers to file tariffs offering free or reduced rates to such entities on their own initiative. While we will entertain specific proposals by carriers or users for the prescription of preferential rate classifications, we presently lack sufficient information to initiate any requirement as to common carriers or to enunciate any general statement of policy. However, we will expect non-carrier applicants, who have offered free access to public broadcasting, to implement the proposals made in their applications.

F. Procurement

44. Finally, we adopt the staff position on the question of procurement (staff recommendation, paragraphs 163-167). Thus, assuming our authority to prescribe procurement rules requiring competitive bidding for domestic satellite facilities, we nevertheless conclude that

it is not necessary or desirable to exercise such authority in the present circumstances under our multiple entry policy.¹⁰

IV. ORDER

44a. Authority for the policies and conditions adopted herein is contained in Sections 1, 2, 3, 4 (i) and (j), 201, 202, 203, 212, 213, 214, 218, 219, 220, 301, 303, 307-309, 310(b), 319, 396, 403 and 605 of the Communications Act of 1934 and Sections 102 and 201(c) (8) of the Communications Satellite Act of 1962.

45. Accordingly, IT IS ORDERED, That:

a. The policies and conditions set forth herein, and such portions of the staff recommendation (34 FCC 2d 9) as are expressly approved or clearly consistent with the policies and conditions herein, ARE ADOPTED, effective July 25, 1972.

b. Each of the applicants for domestic communications satellite systems named in paragraph 1 above SHALL APPRISE THE COMMISSION on or before July 25, 1972, as to whether it intends to pursue its pending system applications, in whole or in part, with such modifications as are required to achieve compliance with the policies and conditions specified in this Second Report and Order; or whether it desires additional time for the purpose of reframing its proposal consistently with such policies and conditions.¹¹

c. The Commission retains full jurisdiction over all aspects of this proceeding.

FEDERAL COMMUNICATIONS COMMISSION,
BEN F. WAPLE, *Secretary*.

DISSENTING STATEMENT BY CHAIRMAN BURCH

In this proceeding, the Commission is dealing with matters of extraordinary complexity and even subtlety. We are called on to establish ground rules for an industrial technology that does not yet exist, to serve some present markets and some that are at best speculative—and, most difficult of all, the interrelationships between the two. The policy decisions thus arrived at are not in the usual sense definitive: rather, they represent “signals” to the applicants that will cause them to reformulate their proposals, and these in turn will almost surely not be the same as those with which the Commission is here ostensibly dealing. Our objective is to engraft a new and untested technology onto an existing domestic communications complex, whose characteristic problems are essentially independent of satellite technology *per se*.

In approaching such a maze of unpredictables and potential pitfalls, the Commission would have been well advised to adopt a posture of “least is best” (thus making only those decisions necessary to elicit the applicants’ genuine intentions), to build from the base of irreducible marketplace realities (namely, AT&T traffic), to discipline itself

¹⁰ We further decline, at present, to make an exception in the case of AT&T in view of our decision not to authorize the Comsat/AT&T applications based on their contractual arrangement.

¹¹ Upon consideration of such responses, the Commission will issue a public notice concerning the procedures we will follow in processing applications.

against the temptation to piggyback on this already complex policy finding its favorite regulatory schemes and hangups (for example, the desire to “get a handle on AT&T”), and to offer all applicants a maximum of options (which might well lead to the evolution of a competitive marketplace in which the consumer will benefit). As a general proposition, I believe the Commission has violated every one of these counsels of caution.

And to whose real benefit? That is most difficult to say. For, although the thread runs through the majority document that its key findings have been made in the interest of “competition”, somewhere along the line the overriding purpose of the competitive marketplace seems to have gotten lost: namely, benefit to the consumer in the form of better and/or cheaper goods and services than would otherwise be available. Instead, the Commission has gone off in pursuit of a peculiar and novel form of competition—measured, so far as one can tell, by how many satellite systems go aloft in how many “space segments” (a benchmark that I strongly suspect would strike the typical consumer as irrelevant even if he could grasp its meaning). “Space segment” competition may, of course, translate into consumer benefit one day. Then again it may not. It all depends—and it is here that the majority document leaves pragmatic reality behind and takes off into the blue sky of academic abstraction. For example:

(a) There is repeated reference (see in particular par. 10 and fn. 2a) to “meaningful” and “definitive comparison” between the relative costs “and other advantages” of satellite technology as against terrestrial facilities in providing communications services to the public—most of which services are not unique to satellite technology anyway. This is used as a principal rationale for imposing inhibitions on AT&T, for example. I agree that such “basing point” comparisons are desirable. But this proceeding is no mere academic exercise. Tens of millions of investment dollars are involved, and so are services to the consuming public—present and near-term as well as future. In my judgment, there is an excessive trade-off of present and near-term benefits for mostly speculative longrange developments that, in any case, may be a wash from the consumers’ perspective.

(b) Other inhibitions and restrictions are rationalized (see in particular pars. 9 and 11) on the ground that AT&T’s “unique advantage” of being able to fill satellite capacity with existing and predictable future traffic will inevitably produce “unfair” competition and somehow disserve the public. I find this an ironic twist indeed—that “success” is to be penalized rather than rewarded and that economies of scale must be foresworn as inconsistent with a theoretical model of pure competition (for traffic that is mostly a gleam in some speculators’ eyes). The Commission would have been better advised, in my view, to take existing traffic as a “given” and then attempt to build from there—with safeguards, as specified in the earlier Specialized Common Carrier decision, against undue dominance of these specialized markets by existing carriers. This might have redounded to the immediate benefit of the consuming public, available alike to AT&T’s customers and to its competitors, in the form of lowest unit costs.

(c) The Commission majority, by contrast, stands the usual norms of

competition on their head. In its attempt to "structure" the marketplace rather than permit full and fair competition between new and existing carriers, the Commission in effect ignores its sound commitment in the Specialized Common Carrier decision not to create any "protective umbrella" for new entrants or "any artificial bolstering of operations that cannot succeed on their own merits". Thus, AT&T is precluded from providing point-to-point private-line services via satellite—even though, as the majority acknowledges, "other applicants, lacking a[n] . . . initial traffic nucleus, would be operating . . . with lightly loaded, costly facilities". All of which presumably means that the consumer will have to pay artificially inflated rates for specialized services during an initial three-year developmental period (unless by terrestrial facilities alone, wholly in line with the "full and fair" competitive entry formula of the earlier decision, AT&T is able to undersell its competitors anyway). And further, because the majority document is open-ended (see par. 21), this initial period could be extended *ad infinitum* at the Commission's sole discretion. Again, there is the question "who benefits"—except possibly the stockholders of a few specialized carriers operating in a protected marketplace, and all in the much abused name of "competition"!

My overriding concern is not so much that this decision will lead to irrational results as that it may lead to no results at all that will be of substantial public benefit. It is doubly ironic, in view of the majority's determination to inhibit AT&T and that company's own downward projections as to the cost/benefits of satellite technology, that AT&T may in the end simply apply for a satellite system of its own. And because its monopoly services—MTT, WATS, AUTOVON—constitute the vast preponderance of present traffic, an AT&T system is the only one that could conceivably achieve an immediate fill and thus conclusively demonstrate its economic viability.

The big loser seems to be the one applicant with genuine experience in space-segment management—namely, Comsat. By rejecting the AT&T/Comsat contractual arrangement out of hand, *rather than attaching conditions that might encourage the evolution of real competition*, the Commission majority has reduced Comsat's effective choice to one: that is, electing to become an end-to-end retail carrier. But even here, the option is more apparent than real. Because of a seemingly innocuous sentence at the end of par. 26 ("In the event that Comsat elects to proceed other than as a carrier's carrier, it will be prohibited from owning or operating domestic satellite facilities at an overseas point served by INTELSAT facilities (staff recommendation, paragraph 114)."), Comsat would be barred from serving any noncontiguous state or territory, would lose its present traffic to these points (almost all of which is traffic to the mainland), and would be left with virtually unutilized "white elephant" earth stations in Alaska, Hawaii, and Puerto Rico. Some option.

The other option—becoming a carrier's carrier and leasing transponders on tariff to all comers, including AT&T—is in the end AT&T's choice and not Comsat's at all. And my own strong conviction, in view of the decision as here formulated, is that AT&T will *not* so choose. Why should it, in effect, subsidize its own competition—and competition operating under a protective umbrella at that—by

filling idle satellite capacity with the only substantial traffic now available?

There is, in all candor, no ideal solution to this problem. Our job is to come up with the best alternative *available*—and I make no apologies for thus relying on marketplace realities in an effort to bring to the consuming public some immediate benefits of a new technology. In my view, the answer is to be found in an approach that affirms in essence the AT&T/Comsat contractual arrangement but then attaches to it one critical condition: namely, that Comsat, with its unique technical and managerial expertise, also provide satellite service to those entities who, lacking the initial nucleus of assured traffic, might be unwilling or unable to risk the huge investment necessary to launch satellite facilities of their own. As an alternative, Comsat should be free to elect the route of an end-to-end retailer.

The majority attempts to "structure" behavior largely by recourse to penalties and blue-sky "models" of pure competition. But the proposal before us, in my judgment, suffers from two fatal flaws: it may retard the evolution of satellite technology, not get it going, and it may thus withhold realistic benefits to the public. The Commission can and must do better than that.

(Commissioners Reid and Wiley join with Chairman Burch in this Dissenting Statement.)

CONCURRING OPINION OF COMMISSIONER NICHOLAS JOHNSON

The Commission now arrives at the denouncement of this seven-year old proceeding. An examination of the plot of this story, and its several acts, gives a revealing insight to the policymaking process at the FCC.

Domestic satellites became a policy question at the FCC, not because of Commission action, but with the filing of a proposal for domestic satellite television network interconnection by ABC in September 1965. To examine the important policy questions before taking definitive action, the Commission returned the ABC application and instituted an inquiry. 31 F.R. 3507 (March 2, 1966).

In response to the inquiry, the Ford Foundation filed a proposal in August 1966 linking the financing of public broadcasting to the institution of domestic satellite service. Under the Ford plan, the savings in interconnection costs would be used to finance public broadcasting as a "people's dividend" from the \$40 billion of public expenditures to develop the space technology that made the satellite system possible. This was a proposed alternative use of the savings—rather than flowing them through to networks' profits, or lower costs to users and their customers. J. Dirlan and A. Kahn, "The Merits of Reserving the Cost-Savings from Domestic Communications Satellites for Support of Educational Television," 77 Yale L.J. 494 (1968).

The FCC responded with a further notice of inquiry. 31 F.R. 13763 (October 20, 1966). In February 1967 President Lyndon Johnson proposed the legislation that later became the Public Broadcasting Act of 1967. And in April 1967 Comsat proposed a pilot domestic satellite system to demonstrate the potentialities and benefits of satellites, including their use for public broadcasting.

On August 14, 1967, President Johnson announced the formation of a Task Force to review a variety of telecommunications policy questions, including domestic satellites. This began what was to become a three year review by the Executive Branch of important policy questions before the FCC in this area. By late 1968 the Johnson Task Force had completed its work with a recommendation that a Comsat-directed pilot program be authorized. In early 1969 the FCC was prepared to authorize such a pilot program. A report and order had been drafted, and tentative expressions of the position of each Commissioner had been made.

Before issuing it, however, then-Chairman Hyde took the document to the White House to inform the White House staff of the action the Commission was to take. In the interim there had been a change in Administration, and the information-providing trip resulted in a request that the Commission hold any action while the White House once again examined the policy questions.

The White House recommendations, for an "open-entry" policy, came in a January 1970 memorandum from Peter Flanigan to Chairman Dean Burch. In March 1970 an FCC Report and Order, 22 F.C.C. 2d 86, concluded that no decision could be made on the appropriate policy for domestic satellite entry and specific proposals from potential entrants were requested. The next Commission order, and the staff's recommended decision came in March 1972.

Today's action seems to signal the end. Open entry is adopted with certain modifications. The benefits to be realized by public broadcasting are, at this point, speculative.

There are several interesting conclusions to be drawn about the Commission's role in policymaking at least for domestic satellites.

(1) The Commission has relied heavily on the parties appearing before it for the analyses and proposals it has considered. Although there is no readily available way to make an exact calculation, I suspect that most of the important parties appearing before the Commission have invested significantly more resources, each, on these policy questions than has the Commission in total. This seems particularly true for the Executive Branch. The Commission has been a "captive," responding to and arbitrating between the variety of forces which have attempted to move it.

(2) The relative congruence between Commission action and White House recommendation, occurring over periods of significant shifts in policy, is striking. The ability of the Commission to move in variance with White House positions on important policy questions (regardless of who is President) is very questionable.

(3) The effects, benefits and costs, of both regulation and delay would be worthy of a detailed analysis. Suppose any entrant, including ABC, had been able to launch a satellite system in 1965 by merely "purchasing" the needed resources, including spectrum. Suppose the Commission had gone ahead with a pilot program authorization in early 1969. What would have been the results of these—or other alternatives—on services, technology development, and so forth? Are we better off, or worse off today? Should the domestic satellite question have been handled differently, and if so, what can we learn about

handling other policy questions before this and other governmental agencies that engage in an economic planning function?

(4) Over and over again the Commission meets the question of melding competitive and monopoly portions of the telecommunications common carrier industry. The issues were joined in the Telpak and other bulk offering and private line proceedings, and are still unresolved. They are met again in the relationships between monopoly landline telephone companies and miscellaneous carriers who offer a variety of land mobile services in competition. They are met in the *Carterfone*-type issues of competition and monopoly in communications equipment and interconnection. They are met in the pricing questions surrounding the entry of specialized competitive carriers. And they are met here in the treatment, particularly of ATT and Comsat, of certain entrants for domestic satellite services. The issues remain unresolved.

Given these limitations, I believe the staff work and ultimate Commission position put forward today is much better than anyone had a right to expect. Accordingly, as a realist, I concur.

Because of the significance of the policy, however, perhaps a few more words regarding my own preferred approach to decision would be appropriate.

We are entering into a new area of communications. The next few years will be years of experimentation and gathering of experience. It's not that we don't know how to launch and operate a satellite. Comsat, NASA, the military, and numerous American companies have a great deal of expertise in this field.

But we have no experience with the non-technical aspects of this operation. Will the public tolerate the short delay, or echo effect, in voice communications by satellite? What new institutional (and possibly personal) uses of communications will evolve to use the peculiar qualities of satellite distribution systems (cheaper long-haul costs, possibility of multiple distribution points, and so forth)? What problems will arise in joint operations of satellites, or of earth stations? What new ratemaking or regulatory concepts and procedures will be needed?

(1) Accordingly, I still believe there is some merit to the idea of a pilot project at this stage. Rather than have it operated by a chosen company (Comsat, ATT, some other present company, or a new entity), however, I would have it operated by NASA or some other entity of government. This is not such a radical idea. It is the way every other nation in the world has dealt with the problem. And most have resolved the issue long before us. It is the way, in fact, that we run our space program. It is the way we evolve new technology in many areas of the economy. And, even as to space communications satellites, the military and NASA have already operated such systems.

All I would propose is that for the first generation of experience (3 to 7 years) a public entity undertake the operation of America's first domestic communications satellite system for the benefit of all potential users and operators. Every effort would be made to test, at cost, any reasonable proposal from any American company, institution, or individual. The results of all tests would be made fully open to any interested party. Training opportunities would be made avail-

able to as many interested persons as possible. This would save a tremendous amount of money for American business, as well as the public, and open up the possibility of a great deal more use (and competition—if that's what we're *really* interested in) when the system or systems are finally established on a commercial basis.

I have made this proposal throughout my six year term at the Commission. It has never received the support of the White House or a majority of the Commissioners. There is little doubt in my mind that we would be much further down the road today if it had been adopted in 1966.

(2) If there is not to be an experimental system, there is much to be said for a chosen instrument. A single system operator can insure economies of scale, fair and open access to all comers, the lowest possible rates, and the most geographically disbursed system (including, for example, the best service to Alaska, Hawaii and so forth).

My preference would be to create a new entity—a Domsat—for domestic satellite services only, that would have every incentive to compete fully with ATT. No carrier would be permitted to hold stock in the company or sit on the board (although, of course, individual shareholders could hold stock in ATT and Domsat).

Another alternative would be to give ATT a monopoly over domestic satellite service. ATT is now having some growing pains even keeping up with expanding service on earth. But ATT exclusive operation in space would have the advantage that all users—including the homeowner—would get *some* benefit from the new technology, which will now flow almost exclusively to large corporate users of satellites. If this were done, ATT should probably be required to provide such service through a separate corporate entity for purposes of bookkeeping (as its current corporate practices would indicate it would probably want to do anyway).

Comsat could also be the chosen instrument. It does have the expertise. But it would not have the advantage just described that ATT would have—virtually monopoly control of all U.S. communications on the ground for purposes of rate averaging. Moreover, Comsat has additional problems as an international operative. At one time I urged that Intelsat be encouraged to become a truly international communications carrier, supplying domestic communications services for the world as well as internationally. It seemed to me an appropriate, and symbolic, peaceful venture for nations in need of one. But that idea never caught on either. So now, it seems, we are doomed to a world in which every nation must have not only its own airline, merchant marine, and steel mill, but its own domestic satellite system as well. Given such a world, however, it seems to me inappropriate for Comsat—already carrying the burdens of Big Brotherism into its international meetings—to have to confront its world partners with the potential conflicts of interest (and division of managerial energies) involved in operating the world's most lucrative domestic satellite system.

(3) If we are not to have an experimental system or a chosen instrument, because of a deistic reverence for competition, then we ought to really have competition. I'm reminded of the children's riddle:

"Where does an 800-pound gorilla sleep?" And the answer: "Any place he chooses." True competition is one of the most highly regulated states of economic operation possible. That's what the antitrust laws are all about—when they're enforced. You either keep the 800-pound gorilla (in this case the \$18 billion Bell) out of the canary cage entirely, or you tell him where to sleep.

If we're really serious about experimenting with the radical notion of free private enterprise, I'm all for it. But then there have to be some very meaningful restraints on ATT and Comsat—at the very least in the initial stages. Otherwise, we're just kidding ourselves—though very likely nobody else.

If we want a competitive arena I would keep out ATT and Comsat entirely. (ATT has never been consistently enthusiastic about using space anyway.) Let anyone else in who wants in. Let them experiment with equipment and the search for services and markets. Try to maintain some conditions of fair competition. If after a few years the Commission wants to reassess this decision, and let ATT into the business in ways consistent with maintaining this newly burgeoning industry, fine. But not until then.

(4) Finally, I cannot but bemoan our failure to provide expressly for—at least—free interconnection for the Public Broadcasting Corporation and other educational users. I always felt that the Ford Foundation had made a fairly persuasive case that more was called for. The American people, having invested more than \$40 billion in the soaring growth stock called civilian space, are entitled, someday, to a little bit of a dividend. One has yet to be declared. Ford proposed that a proportion of the savings to the commercial networks from the use of space be passed on to the public in terms of a funding source for public broadcasting. It seemed to me a fair idea.

But all this is history. We're now in countdown. It's no time to dissent. I'm on board.