

REMARKS OF

Mr. Clay T. Whitehead

at the

GREATER MONTANA FOUNDATION

UNIVERSITY OF MONTANA AWARDS BANQUET

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Thank you very much, Senator Dill, Mr. Craney, guests, ladies and gentlemen. I am very pleased to be here today. Although I normally enjoy answering questions, I am in the process of recovering from my first experience of answering Congressional questions about the budget of my Office; after that I think I would like to give up answering questions for awhile.

This talk may be a little rough; in some ways, I think it's the modern equivalent of the Gettysburg Address. It was written on the back of a Government memo flying out here on the airplane.

I was asked to talk tonight about the future of communications and, in particular, the theme that was suggested was man's communications in 1990. I am not sure what is so special about the year 1990, but I thought a bit about it and I decided that this might make a good theme for a talk, after all.

Talking about communications in 1990 is a big order. even though 1990 is only 14 years away. I've been in my job as Director of the Office of Telecommunications Policy for about 8 months now and, as Senator Dill said, I was still learning - learning very rapidly. Quite frankly, one of the first things I had to learn, and one of the most difficult, was how do you spell telecommunications.

Nonetheless, it is clear to me that man's communications for 1990 are already taking shape. Communications technology and the regulatory framework are already in their formative stages. In addition, we're beginning to see the shape of the new services that might be available by 1990; mobile communications in a sense we have never known it may be available - that is, a telephone in every car, perhaps in every pocket. We may have world-wide international communications at very low cost. There is also cable television, which may make feasible direct transmission from satellite to your local community; such transmissions could be distributed by cable, which would replace a world of channel scarcity with a world of channel



plenty. Computers will come into their own in conjunction with communications systems in the next 19 years. In particular, data communications will make possible an information economy; total information communications may become a reality.

From this, it is clear that communications of all types will have quite a different shape in 1990, but it's very difficult to see what that shape will be. What will be its effect on our lives? How will it affect our economy? Some possibilities come to mind: It may bring about less geographical concentration of information and education. It may create more plentiful opportunities for person-to-person contact and for mass communications. It may bring more services into the home and the office. It is the prime responsibility of the Office of Telecommunications Policy to assess all of these possibilities and to develop policies for Government regulation or deregulation. Such long-range evaluation will help this communications potential turn into an actuality.

Why is it important that we have an office such as the Office of Telecommunications Policy? What's going on in communications that makes this necessary? First of all, I think communications are having a major impact on us as a people that we're only beginning to understand. Communications are growing, growing in use; growing in kinds of service; growing in scope and growing in importance to us. Communications affect intimately how we deal with one another; how we see ourselves as people, as a country; and how we see our world; it affects how we exchange ideas; how we conduct our political processes.

I've mentioned the technology that will be available to us by 1990. What man's communications is in 1990 depends as much on what Government policy is, as on what technology can produce, because communications is a very highly regulated industry. For example, the FCC table of television station allocations was made in 1952. That happens to be 19 years ago, and yet the table remains virtually unchanged today. This allocation drives the structure of our television



industry, and is responsible for much of what we will do and have available nineteen years from now in the year 1990.

I think - well, I know, there are a great many issues that will shape what man is in the 1990s. There are two issues that I think are particularly important, and I would like to focus on these tonight. One way or another, sooner or later, we will resolve these issues through the political process; but by 1990 however we resolve them, they will have a great impact on our communications. Those two issues are cable television and the FCC's Fairness Doctrine.

Let me talk about cable television first. This is a seemingly innocent technology that started out some time ago as community antenna television. The concept was very simple - help people in remote areas get improved picture quality. But then people became aware of the potential of cable television, not just as an adjunct to over-the-air television broadcasting, but as a totally different medium. Why, many people said, do we have to pick up the signal off the air? Why not run it directly from the studio to the home? As people began to think about having this wide-band cable coming into every home in the country, or at least into a large number of homes, they began to think of the possibilities this would create. Among them were: large numbers of channels providing a diversity of programming, satisfying specialized tastes, providing local programming, perhaps even at the level of a neighborhood channel; also programming on demand - current movies when you'd like to see them; accounting and banking services because the computer would be tied to a home through the cable; shopping services; library and computer services; access to data files for inventory control; library research; facimile reproduction of newspapers; specialized news services; stock market reports; instant agricultural market reports; mail distribution. The list goes on and on.

Many people began to get very excited by the potential of cable as a new medium; many people still are. People also began to see problems. There was the question of economic competition with our existing system of over-the-air broadcasting. There was the risk of eroding the economics of the over-the-air industry without replacing it with anything new or anything better. There was a possibility that less service would be provided to remote areas of the country that could not economically be wired. There was the problem of copyright protections. And, finally, people began to realize that someone has to pay for all of the new developments and that isn't



likely to be the advertisers.

What would be the pluses and minuses if we were to attempt by 1990 to wire this nation with cable television? I think the results are very hard to foresee but, again, we can see some possibilities. A wired nation could result in changes in the urban/rural pattern of living, but in what direction? Would the changes be good or bad? Would wiring the country produce more local channels? Would it help pull us together again as a country or would it fragment us into a group of local communities talking only to ourselves? Would it make possible offices in the home so that we would no longer have to commute to work? Ending commuting might be a solution to auto pollution and auto congestion, but, on the other hand, it might produce a kind of human isolation that we'd rather not have. If information all came together in the home, could it be a force to pull the family together again? Would this be good or bad for the home?

Do we really want to risk an erosion of the economics of over-the-air television before we are sure we have something to replace it with? Do we really want to run the risk of a reduction of service to our rural areas? What about the effect on our political process? Cable would probably bring about a great reduction in campaign costs; but, on the other hand, it would be very hard for a politician to draw a large cable audience, because the audience might be fragmented among many channels. Could a President command a truly national audience for his major addresses? For the majority of people, would there be a common basic news service, which would provide as much service as the one we have today? On the whole, would those kinds of developments be good or bad?

How would the large number of channels made possible by cable be filled? Twenty, fifty, a hundred channels is an entirely different undertaking than the kind of television programming and distribution that we have today. Who will decide what goes on those channels, or how they're used? Who will pay for all those channels? Who will decide who gets on and who does not?

Answering these questions will be difficult because cable does not fit the FCC regulatory molds either for a



common carrier or for over-the-air broadcasting. This makes short-run regulatory decisions difficult, and it is productive of great conflict and great emotion. We need to think through this kind of problem. We need to understand it, and we need to understand what we want to become as a nation and how man's communications affects us as a nation. We need to think in terms of a long-term policy for communications and related broad policy questions. We have never been able to do that before. We need a policy that is firm in its recognition of the public interest. We need a policy that is very flexible to deal with America's diversity, and to deal with the very rapid change in the technology that is making all this possible.

I think that it's fair to say that cable television may affect man's communications more broadly by 1990 than any other area of communications.

Let me talk now for a moment about the second major issue that we will have to resolve and the second issue that will heavily shape what man's communications looks like in 1990; the Fairness Doctrine. The Fairness Doctrine is much in the news these days. There seems to be a case every week: Who gets to answer whom. I think of it as a politician's who, what and where game. Now I can't here get into specific Fairness cases because that's not the nature of my Office. But I would like to explore the basis for the Fairness Doctrine, the kinds of considerations that gave rise to it and some of the problems that flow from it. Whoever thought up that name for the Doctrine was a genius - it's even harder to be against fairness than it is to be against motherhood.

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



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

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

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

In the rationale for the Fairness Doctrine that I sketched out for you a moment ago, I see at least two problems, and these discrepancies may, upon further examination, reveal some ways to get out of the fairness dilemma. First of all, I don't think it's axiomatic that technical regulation of frequencies necessarily leads to federal regulation of content. When you stop to think about it, that concept really seems like the technocracy run rampant. Secondly, I think there's an inevitable conflict in the way we have structured the broadcast industry. The broadcaster is a business man. His private rights inevitably conflict with his theoretical duty to defend a great public trust and responsibility. The problem is not directly one of channel scarcity; we have more radio and television stations in most markets than we have newspapers. The problem



is not directly connected to the control of frequencies. There is no necessary reason, as I said, why the frequency chaos cannot be cured without content regulation.

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

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

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



networks is not enough, just remember that down the road that I was talking about there is only one FCC.

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

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

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

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



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

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

If the radio and TV press of this country is to carry on the traditions of a fourth estate, they must recognize the legitimacy of criticism from other estates. A strong, robust and free press should recognize this dialogue as a very healthy alternative to a much expanded Fairness Doctrine, and I think that a strong, robust and free press really would settle for nothing less.

In conclusion, I've tried to suggest by my remarks about communications in 1990 that we have the potential before us of a really bright, new world. But that bright, new world creates many complex questions and raises many complex political issues. We want to be very careful that our world does not become Huxley's "Brave New World". Sorting out all its complexities, making some sense out of it, requires us to devote more of our public discussions to these communications issues. For the long run, we will have to develop some sensible, hopefully some



wise and forward-looking policies.

But, in the short-run, it's going to require much more. I don't need to tell this audience that the public is concerned about the media. They're concerned about press objectivity, they're concerned about programming quality, programming choices; they're concerned about its impact on our children and many other things. A great deal of self-regulation by all parts of the radio and television industry is going to be required in the next few years. The alternative, I'm afraid, is backlash, piecemeal legislation and regulatory action that will serve no one, but could very seriously warp the potential that communications has for man even in the year 1990.

I regret that I don't have a crystal ball to tell you precisely how we're going to resolve all these questions by then, whether for better or for worse; and I think probably for better. That is not given to us to see. But radio and television have served us very well in the past in this country, very well, indeed. The men in it have every right to be proud of their service to this country. The awards we are going to see given tonight I think are testimony to that service. This industry has built a great base for the expansion of man's communications and I am confident that the future will be even brighter.

Communications of all types in 1990 will play a far larger role in shaping lives, in shaping careers, and even in shaping the very nature of our society. The outlines of man's communications for 1990 are being shaped right now. These future conditions deserve our attention; they deserve our very best thinking, because communications, in the deepest sense of the word, is what man is really all about.

Thank you very much.



Not to Be 22  
Released

Rough Notes for the Speech of  
Clay T. Whitehead  
before the  
National Association of Television Program Executives, Inc.  
February 17, 1971  
Houston, Texas

1. Jack Gould last Sunday -- if TV so bad, why do so many watch?
  - Fashionable to criticize TV and those who program for it, but bum rap by and large.
  - Anyone can tell TV not pinnacle of human creative endeavor.
  - Doing what our system has set it up to do -- mass and private and information -- by and large, done it well.
  - Become whipping boy for those who would rather see (or have us see) something else.
2. But that you have done well does not imply all is well.
  - Growing dissatisfaction, and we should ask why -- public, you, Government.
3. If to capture in two words why . . . "impact" and "access"
  - Impact has grown to unprecedented level -- broadcasting media are: most pervasive and powerful media.
  - Access is, therefore, a problem because most don't have (blacks, etc., anyone).
  - ("How to Talk Back to Your Television"; agree that frustration exists)



- Won't patronize by lecturing on impact, but just remind.
  - You profoundly affect mores, child's view of role; attitudes; blur the distinction between reality and illusion; even affect reality.
  - Educate in the broadest sense and deepest sense -- schools are child's play in comparison.
4. What to do -- What as a society? in government to do?
- Deplore increasing government involvement in content -- unhealthy if not dangerous.
  - Columbia thesis.
  - What is a medium? Technique vs. content: opportunities to program (access).
  - OTP for maximum freedom in programming possible.
  - But in our society, freedom implies responsibility.
5. Every keynote should have an exhortation:
- Mine is to a more profound sense of professionalism by you as program directors.
  - Not just skill and expertise; I mean sense of professional responsibility and opportunity.
  - It goes beyond hours devoted to public affairs, culture; implies quality, diversity.



- Given your impact, your hopefully growing freedom, what are your obligations? What can you accomplish?
- TV not analogy to yellow journalism as some suggest, but maybe paperback books.
- Sense of status (ref. newspaper editors, book publishers).
- Contribution to Government -- let us hear from you as professionals (prime time; children's programs and advertisements; etc.).  
What do you think?

6. Government keynotes are supposed to talk about the future (whither omniscience?)

- TV has reached a turning point -- where to, we don't know. On our way to new system; not only because of social change. Also TV has changed society. Reached new plateau, must mature.
- Tube will survive, but will TV as we know it? (limited channels, limited audience, and limited talent)
- OTP is supposed to be helping find out and decide; can succeed only by dialogue.
- Whatever it is, it will have more diversity, impact, and dollars.
- If cable really takes off (or UHF!) -- channels galore, how to fill?
- If OTA, basically VHF, stays (perhaps with a few more channels) -- more highly politicized TV climate.



7. What does this mean for programming?

- If channels expand -- new specialized sources, computers, syndication and editorial and magazine format services.
- If channels highly limited or cable access is limited -- more responsibility for diversity, access, taste; unfortunately, more Government.
- Either way -- (1) program direction as a profession will grow; (2) new challenges, new responsibilities, increasing importance; (3) concern by you with content in deepest sense -- for what purposes will the electronic media be used?

8. Human needs and wants fantastically complex and diverse. You aim to please; big job.

- Lowest common denominator centrist programming "good" in that it gives "most" audience; but not necessarily the "best."
- You can do "better."

9. Don't feel outcast or prostituted or crucified or paranoid.

- Recognize: communications uniquely important in American society.
- Recognize: role you perform; could perform; and that its importance will increase.
- Think about it: Develop a sense of professionalism in broadest sense.



-- Help us in Government -- come talk to us.

-- Have a constructive conference.



Remarks of Clay T. Whitehead, Director  
Office of Telecommunications Policy  
at the  
Workshop on Cable Television for Minority Municipal Officials  
Washington, D. C.  
February 13, 1971

"Oh what a tangled web we weave/when first we practice to receive."

It sometimes requires a little modification, but Mr. Shakespeare can usually be found to have a line appropriate to any subject.

I wish I had some wise words for you in this tangled web of CATV. But in many ways, I would much rather empathize; we in the Federal Government are struggling to come to grips with it just as you are.

It is a difficult problem. First of all, we don't even know what CATV is: Is it Community Antenna Television or cable television? Does it receive signals, or does it send them? Is it a technological frill or a bright new broadcasting medium? Is it a force for certain kinds of social change? a precursor of "Big Brother"? or a neutral forum for the open exchange of ideas and entertainment?

The answers to these questions depend somewhat on technology and economics, somewhat on the services the public wants. But mostly, they depend on what we in government -- local, state, and national -- do about it.



Making sense of cable TV will require technical and economic analysis, social awareness, a bit of philosophy and foresight, and a lot of common sense. The public discussion on this subject so far has been short, or shallow, on almost all these ingredients. In such a situation, common sense takes on especial importance. It alone is not enough, of course, but then neither is economics, or philosophy, or social awareness. Yet we have many who would prematurely decide the future of this potentially great medium on the basis of one or two considerations alone.

It was only 50 years ago that broadcasting began. We have come a long way in that short time, and our private enterprise system of over-the-air broadcasting served us well. The broadcasting media already have become the major means of distributing information and entertainment to mass audiences. First radio, then television, now cable; and the rate of technological change is continuing to accelerate. We are at the dawn of an age where the electronic media will have an increasingly pervasive, direct, and influential affect on the lives of our citizenry. It is significant that a social commentator can say, with some credibility, that the medium is becoming the message.

Several weeks ago, I spoke at the Columbia University School of Journalism on the subject of public policy and the regulation of broadcasting. The basic theme was that many -- if not most -- of the dissatisfactions expressed about current over-the-air broadcasting result from the way



that industry has been structured by governmental policies rather than from failings inherent within the industry itself.

In the area of public affairs programming, I suggested that much of our current difficulty stems, in particular, from the way we have limited and controlled access to the radio and TV channels. The concerns and regulations dealing with station ownership, fairness, prime time programming, and community needs in reality are roundabout expressions of concern regarding the limited number of TV stations allowed in any community and the limited access granted anyone but the station owners. Many of the dissatisfactions with entertainment programming can be traced, although not so visibly, to the same causes.

Many critics of broadcasting -- and many broadcasters themselves -- assume that this is the basic nature of things, that cable TV is the same kind of cat, to be given the same kinds of incentives and put into the same kind of restraints. But before we automatically strike out on the same confused course for cable broadcasting, shouldn't we ask what our end objectives are? and whether there aren't better ways of reaching them?

What is it your community really wants from cable? You no doubt want all elements of the public and community interest to be served in some objective way without a lot of hassle. You probably want:

- a diversity of views and ideas available to your viewers



- a reasonable access to channel time for those with something to say
- a diversity of good entertainment programming in good taste
- availability for education, for civic use, for community involvement
- reasonable cost
- modern systems and the latest services

I hasten to point out that OTP has not itself fully explored all the complexities of cable, nor how these objectives can best be achieved. However, our studies so far convince us that many practical alternatives do exist, and that cable need not necessarily go the confused policy route of over-the-air regulation.

What are some of these alternatives? They have not been adequately explored, but perhaps some analogies would be helpful.

Telephone is the first analogy that comes to mind. Both cable and telephone involve communications lines coming into the home providing an important service. But that's about as far as the analogy goes. In telephone service, all the cost is in the hardware; for cable it is mostly in the programming. There are strong elements of natural monopoly in telephone switching that are not present in one-way cable distribution. Competition in telephone service can lead to the need for several telephones in order to be able to be connected to all other users; competition in cable systems simply gives the consumer a choice of which services he will subscribe to.



If telephone is not an appropriate analogy, what about movie theaters? No major qualitative differences really. Cable TV comes directly into the home, and thereby affords more convenient choice of programming. Movie theaters could, in principle, offer public affairs programs and live news. But then movie theaters don't need access to public conduits and don't need to connect physically to every home they serve. Movies are perhaps a better analogy than telephone, but still not completely accurate.

Perhaps trash collection is somewhat in between telephone and movies as a policy analogy for cable. Both are quasi-public services; each can be provided by municipal government or by private operators. Both have to serve all areas of the community; each can be regulated in as much or as little detail as government sees fit. Of course, we do not have a national trash distribution system that is Federally regulated -- but with the current concern over pollution, we may be moving toward a more complete analogy than I intended. In any event, maybe the best off-hand analogy is the trash collector or milk delivery man who takes up TV recorded cassette delivery on the side.

These analogies shouldn't be carried too far; and I don't intend them seriously as models for your deliberations, but thinking about them a bit may help you put cable in some perspective compared with other municipal services you have more experience with.



While the best overall concept for cable policy and regulation is not yet clear, some specific facts do stand out from our studies. I pass them on to you in the hope that they will be helpful in deciding how your community will proceed:

(1) Exclusive operating rights are unnecessary and unwise. Few cable companies need the protection of exclusivity in order to wire your community -- although they obviously would like it if you care to give it away. To be sure, in many towns once a single operator is in, there may continue to be only one. If that turns out to be the case, and if the operator gives good service, there is no need for exclusivity. If this turns out not to be the case, the city and its citizens will be the worse for having granted exclusivity.

(2) Franchise fees should be nominal. The value of cable to your community is not the few added revenues you can get for municipal government; its value is the profoundly important communications service it can bring to your citizens. Excessive fees can discourage innovative and modern system operators, encourage graft, and retard the growth of cable services in your community. Let it grow; and tax it like any other business.



(3) Municipal ownership is not best for your citizens or your municipal government. It is the exclusive franchise carried to the absurd. Cable systems require large amounts of capital and the revenues are far in the future; a municipally owned system would almost inevitably be an obsolete, limited system. Municipal ownership of various service industries was a fact at one point in our history, but it is contrary to all the best current thinking on the subject, liberal and conservative alike.

(4) Be wary of "free" channels reserved for special purposes. Reserved channels for educational stations made sense in over-the-air broadcasting because of the severely limited number of channels and the law that private broadcast station owners were not common carriers. With cable, the total number of channels is limited only by demand -- or government policy. Transmission costs are trivial compared to programming costs. Reserved "free" channels for cable will pass the costs on to the consumer in a regressive way. We do not reserve movie houses for blacks or for educational films; we do not require so many hours of free film for poor people or provide free trash collection to public interest groups. Does it make sense to do so in cable? Access and subsidy can be achieved in more direct ways that raise far fewer political headaches and better serve the public.



(5) Don't automatically treat cable as a public utility. There are strong reasons why we treat some public services as utilities and not others -- and those reasons revolve around getting maximum benefit for the individual user. Most of those elements of a public utility, such as large economies of scale or wasteful duplication arising from competition are not readily apparent in cable. It is true that we tend to automatically associate communications with tight regulation, but then we don't treat newspapers or movies that way. Let's get our analogies right before we lock ourselves in. Many vital public services are best achieved with minimal, but purposeful, municipal involvement. To go back to trash collection for a moment, the vital public interest is sanitation, convenience, and low cost. In spite of the overwhelming importance to our national health of public sanitation, we find that the best approach is a mix of private competition with governmental prescription as to standards of cleanliness, frequency of collection, and such. Even though all the information is not yet in, the same also may be the case with cable. Simple requirements on the cable operator of nondiscriminatory access, equal service to all households, and the like might well achieve your end objectives far better than extremely detailed municipal or Federal regulation ever could.



My general message, then, can be summed up in two thoughts:

Go slow and don't lock yourselves in. The great hay-day of cable is not 1971 -- or 72 or 73. It will take time to develop; its potential and its nature will evolve. It is easy to add restrictions as the need arises; it is almost impossible to remove privileges once they are granted.

It is up to you in the cities and to us in Washington to see that cable develops wisely. The potential of broadcasting, whether by cable or over-the-air, for dealing constructively with the problems of minority groups in American society is tremendous. Neither our rapid progress in civil rights nor our increased sensitivity to the problems of the cities or rural areas would have been possible without the impact of television.

But your main concern should be a vital, flexible, low-cost, many-channel, easy access broadcasting system that ties us together as a people. The hardware of communications should not be physically structured or divided up in time to enforce separate-but-equal service to minorities of any sort. Rather, we should seek the widest possible opportunities for access and let the man with the message and the would-be listener or viewer find each other out.



REMARKS OF

Clay T. Whitehead, Director

Office of Telecommunications Policy  
Executive Office of the President

before the

San Francisco Chapter  
National Academy of Television Arts and Sciences

Mark Hopkins  
San Francisco, California

September 14, 1972



Last year around this time I made a speech in New York City that got some attention because of my proposals for restructuring the framework in which the government regulates broadcasting. I attempted to deal with fundamental problems, such as license renewals, the Fairness Doctrine, public access, and the whole scheme of radio regulation. We've done more work on these proposals and have had many constructive discussions about them with people in the broadcast industry and others. Soon we may be able to take concrete action in some of these areas--license renewals may be the first.

But these proposals constituted the second half of my speech last year. The first half--which got much less notice--dealt with the new television season of 1971-72, some harsh realities of the television business and how the viewers perceive and react to the programs provided to them. Now there's a new fall season. I'm going to kick it off by stressing some of the same realities.

I'll start with my annual predictions about the new television season that began this week. I predict that CBS will have success with its ethnic lineup, especially "Bridget Loves Bernie," in which a rich Irish girl marries a poor Jewish boy, who is disowned by his



family after showing up at Friday night services in a McGovern sweatshirt. NBC will find a large audience for its "Ghost Story" series, which tells the haunting tale of Lyndon Johnson's role at the Democratic convention. The biggest surprise of the season will be ABC's "The Rookies," starring Sargent Shriver--it should get a rating of at least 1000 percent.

The opening of a new TV season is an exciting time. Television has the viewer's attention. It's a novelty again. While the professionals anxiously scan the overnights, the viewers have a grand time. For them, the television industry is what they see on their sets. What the advertisers are buying, or what the prime time access rule is all about hardly enters their picture. They see the best movies, the best of the series, the greatest specials, the biggest name guest stars--it's enough to make them want to stay glued to their sets for the life of a 13-week contract. But the bloom wears off quickly. The audience has learned by now that the new season isn't a rebirth of television's golden age; it's just another new season. Soon we will hear the familiar complaints about the blandness, the sameness, the lack of quality, the commercials, the violence and all the rest. The people want it the way it was back in the fall, but this level of programming isn't sustained, and the viewers urge the government to do something about television. So



as we go into a new season we should look beyond the excitement of the new programs and deal with some difficult, continuing realities of the TV business. But look at the complexities involved.

It is an unpleasant fact that broadcasting is the only medium of expression under direct regulation. In the regulatory process the government tries to avoid content regulation and keep its attention focused on the technical and operational aspects. But something must be done about the realities of television. To regulate TV within the public interest context of the Communications Act, the FCC has to devote some attention, at least indirectly, to the programming seen by the viewers. This Administration has strongly and consistently urged that regulatory involvement in broadcast content be kept to a bare minimum, and that the Communication Act's public interest constraints not be permitted to overshadow the Constitution's principles of free expression. We shall continue to urge this approach most strongly, for it's the only approach consistent with the First Amendment and with the maintenance of a private enterprise broadcast system in this country.

The FCC has worked well in the very difficult and anomalous position of regulating a medium of expression in a country that values the First Amendment as its most precious right. But it's not the only arm of government



that has an interest in or a responsibility for this crucial balancing of interests. OTP was created two years ago, with the support of the FCC and the approval of the Congress, to advise the President on these sensitive questions. Some have suggested that once created, OTP should stay silent; but it is wholly appropriate and necessary for the Executive Branch to grapple with the important communications issues of our time. Given the pervasiveness of broadcasting, the importance of television in our society, and the fast changing technologies, it's essential that the President have available to him a source of expert, independent judgment. That's why there is an OTP.

I believe OTP has played its role responsibly and with restraint. We have attempted to stay above the smoke of the battle and take a long view. There are, however, immediate problems that also come to the attention of the Executive Branch. One of these problems is the question of network reruns. Once the glow of the new season fades, the viewers will be up in arms when they realize the extent to which the networks are programming reruns. A study made by the Hollywood unions, which have been hit hard because of this practice, claims that the general nationwide average of reruns in network prime time is close to 60 percent. This has happened



slowly, but it's now getting to critical proportions. I've read that the networks are working with a 44-week schedule, which contemplates 20 or 22 weeks of reruns, and this doesn't even take the summer weeks into account.

The problem was recently brought to the President's attention by the program production industry and its talent and craft unions. The President has written to John Gavin, the head of the Screen Actors Guild, expressing general agreement that the increasing number of reruns constitutes an economic threat to the program production industry. And the President has asked OTP to look into this matter and recommend appropriate action.

From what I've seen already, this will be a good profit year in the TV industry. I've also heard that the Hollywood studios are on the ropes--that at any one time there are many craft unions with 50% to 75% of their members out of work. It is not clear whether there is a relationship between either of these facts and the spreading blight of reruns, but this is a matter that requires some close scrutiny. The skilled and creative people in the film industry constitute a great national resource--one that sustains the TV industry and provides enjoyment for millions of Americans. This resource is now drastically under-used--and it is the TV viewing public that suffers.



It may be cheaper to buy programming overseas, where production costs may be recovered before the program is put on the international market, but it's certainly not in the public interest nor in the networks' long-range interests, to have our domestic program production industry sapped of its vitality. After all, this resource of creative talent and skills is capable of generating audience interest in television during September and October every year and, if given the chance, it could sustain that interest right through to June.

The rerun problem is complicated. It's irresponsible to criticize the entertainment programs the viewer sees on his screen and blame evil-intentioned network executives for not doing better. We have to understand the economic complexities of why the program industry resource is under-used, and why the system produces the kind of programs it does. We are going to look at the rerun problem carefully, and make our recommendations to the FCC, if necessary, or urge the networks to take whatever action is deemed appropriate.

The mix of public interest, film industry employment, and broadcast schedule factors, which is present in the rerun problem, is also present in the prime time access problem. Some argue forcefully for abolition of the prime time rule as the salvation of Hollywood--after all it seems



to be costing the studios some \$50 million annually. And it is questionable whether the public has gotten much out of the game shows and quiz shows that so often fill the 7:30 p.m. time slot. I don't think all the facts are in yet on the prime time rules. But I do think it's time for the FCC to take a close look at the effect of the rules, as Dean Burch has indicated they will. Chairman Burch is an outstanding regulator who has always taken an open-minded approach; when the requirements don't serve their intended purpose, he moves to change them. I'm confident all concerned will get a fair hearing on the prime time rules.

The prime time access rule and the rerun problem are a part of the need for more program diversity and more program choices for the viewers. In many ways, these needs result from the fact that we have only three national television channels of programming in prime time. As long as we are working within a three-network system, we have to deal with problems such as reruns and prime time access as best we can. But, from a longer-run policy perspective, creation of new networks may well be the only way to meet the needs of program diversity and audience choice.

Some have charged that OTP has opposed development of public broadcasting into a fourth national network



because we wanted to stifle dissent or protect the commercial networks' profits. Nothing could be further from the point; we simply believe that the government has no business creating and subsidizing a national television network. But it is perfectly consistent with our legal and economic traditions to help expand program diversity and viewer choice by creating conditions favorable to the development of additional commercial networks or other new program suppliers.

This, you may say, sounds like "pie in the sky." After all, the practical problems of starting up additional networks have been insurmountable. True enough; the high costs of interconnection and the need to achieve a critical mass of major market affiliates have blocked the chances for successful operations of new networks. But the times are changing:

First, the "open skies" policy for domestic satellites could substantially lower the costs of national and regional network interconnection. When combined with an open entry policy for ownership and use of ground receiving stations by broadcasters and cable operators, satellites could facilitate affiliations with new national, regional and specialized programming networks.

Second, the critical mass problem of collecting enough major market affiliates could be eased by cable TV



development. The new networks do not have to look like the present networks or operate in the same way. There does not appear to be any reason why new networks can't be combinations of broadcast stations and cable systems, or why they can't simply be real-time program syndicators.

All of us owe the viewers our best effort in dealing with the important issues raised by the communications revolution that is upon us. They will get the Administration's best effort, whether we are dealing with longer range policy for the technologies that could offer new services and expand the range of programs available to the viewers or whether we are grappling with a problem such as the one posed by reruns. The consumer movement has made those of us in government sensitive to the fact that our policies have to be formulated in terms of their impact on the consumers. That is also the proper perspective for broadcasting's leaders. I hope that we can work together to expand television's role as a vital factor in our national life.



REMARKS OF

Mr. Clay T. Whitehead

Director, The Office of Telecommunications Policy

at the

National Cable Television Association

Twentieth Annual Convention

Washington, D.C.

July 8, 1971



First of all, I want to tell you how pleased I am to be here. For several weeks, I've been looking at a very large pile of forget-me-not seed packages and now I am getting the chance to meet those responsible for this "greening" of OTP.

I visited a number of the convention exhibits yesterday, and I was both intrigued and impressed. I found that they demonstrate once again, and in a very tangible way, the vitality and potential of the cable industry.

Like all electronic communications industries, cable TV's future depends only in part on vitality and potential. It also depends on how the government chooses to let it grow. Tonight, I would like to talk a little about the development of cable television, and about the government's role in that development.

I think it is safe to say that we all view the development of cable as the most important single policy issue on the communication front -- perhaps one of the most significant domestic issues of this decade. Naturally, the Administration wants to take its own careful and constructive look at the problem before any definitive policy is formulated.



We are hoping that we will be able to develop a policy on cable within the next few months. Our purpose in doing so is not to cause the FCC to delay its proceedings, but rather to provide a different perspective on cable regulation -- a perspective we feel is badly needed.

The policy issues which OTP is studying are different from the issues with which the FCC is presently concerned. The President wants an imaginative, forward-looking policy - one which is sufficiently comprehensive to be a valid framework for the next decade. We are not going to achieve that kind of policy framework by worrying about whether there should be three distant signals or four or none; or by trying to resolve the Byzantine enigma of "footnote 69." The FCC -- and those of you here at this conference -- are rightly concerned with these immediate issues, because they are your bread and butter issues. But those issues are not the real policy issues government must ultimately address -- we must also take the longer and broader view.

Indeed, it was precisely for that purpose that the Office of Telecommunications Policy was established. Our role is



quite simply to formulate executive branch policy on communication matters. We are not a regulatory agency. Our interest is in policy, not the details of rules and regulations. Thus, we would hope to formulate the policy framework within which the FCC, the states, or the courts might regulate -- or not regulate -- cable. A sound cable policy framework must specify such matters as industry structure; common carrier or limited carrier status; the degree and type of regulation; jurisdictions; copyright in the broadest sense; access; ownership; public service uses; and the effect on broadcasters and on special classes of viewers.

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

First, it seems plain that cable is an important example of a new technology which simply does not fit any of our existing institutions. We want to avoid the danger of trying to force cable into unnatural regulatory molds -- molds developed for different purposes in different times. We need a comprehensive new policy to deal with the special problems



and unique capabilities of cable. And we certainly do not want to repeat the mistakes all too apparent in our present framework of broadcast regulation.

Second, the basic criterion by which the Administration will assess the policy options is by their effect on the viewing public. Our principal concern is for people, and the effect of our policies on people. The cable industry has rightfully emphasized the benefits of cable to consumers, and you must expect this to be the criterion by which you will be judged. I think there is a tendency for the regulatory process to get caught up in the short-run dynamics of competing industry viewpoints, without sufficient attention to the longer run impact on the public interest. This typically results in a series of short-run, ad hoc decisions -- compromises, really -- which never add up to a meaningful policy. The potential impact and importance of cable make it exceedingly hazardous to make cable policy by accumulating a series of short-run compromises. Of course, I would be less than candid if I did not admit that political pressures present serious problems. Whatever policy we come up with will have to be not only a good policy, but a timely and politically realistic policy.



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

We hope that we can develop a policy which will allow



and encourage cable to offer the public a wide variety of new services, including but not limited to, entertainment, while at the same time preserving or even augmenting the quality and value of existing television service. Only in this way can the full benefits of cable in terms of education, public access, and other special uses be realized. While these special community services offer the potential of great benefit to the public sector, they can be achieved only if cable is a viable business proposition in the private sector.

Combining these three principles in a comprehensive national policy is not going to be easy. Nevertheless, the time for decision has arrived. I think that what we would like to do is to formulate a policy which creates an industry structure conducive to our policy goals. This offers a clearer, more manageable regulatory approach than does the highly detailed, meddlesome, and unpredictable Federal regulation of the traditional sort.

As you know, the President asked that we have a special cabinet-level committee to look into all aspects of cable policy. The purpose of this committee is to provide a forum

within the Administration to discuss the important ideas, explore the alternatives, and provide for the President the views of the concerned Cabinet departments and Administration officials. The purpose of establishing the committee is not, as some have suggested, to delay the growth of cable, but rather to accelerate the development of cable policy.

The second generation of cable can be very exciting, but we must be very certain that we create an environment in which you can plan and grow into the far more important third generation. Your potential and your claim to high level government consideration lies in the diversity and service you can bring to the public, not in the quick profits you can make tomorrow.

You must recognize that you are laying the groundwork for exciting future developments that will profoundly affect this country's future. Although I have been talking tonight mainly about the government's role in that development, we in government - and particularly this Administration - realize that the energy and thrust -- the initiative and vitality -- must come from the private sector. I encourage you in your enthusiasm and your vitality.



I have an economist on my staff who tells me I should make policies which make everyone better off -- or at least no one worse off. Unfortunately, policy making is seldom so easy. But the potential of cable is so great, and its implications for our way of life so far-reaching, that we really may be able to achieve this kind of "blue sky" goal in the cable field. I hope we can all - government, broadcaster, cable owner - work together to that end. I am optimistic that the future is bright and I wish you well. Thank you.

REMARKS OF

Mr. Clay T. Whitehead

Director, Office of Telecommunications Policy

at the

Office of Communication, United Church of Christ  
Broadcast and Film Commission of the National Council of Churches  
Cable Television Seminar  
New York, New York

September 13, 1971



I can think of two reasons why this group is interested in cable television. The first is that cable is a new mass communications medium with uncertain -- but potentially profound -- effects on society. As such, you are doubtless interested in public policy which will determine the social effects of cable, and you probably want to try to affect that policy. Most of my remarks will be directed to that sort of interest. The other reason you might have for interest in cable is the possibility of religious and other "public interest" programming on the new medium. I will say a few words about that at the end.

The opportunities of cable television and the political conflict that surrounds it cannot be understood or appreciated outside of the context of the present television industry and its regulation. Present day commercial television does some things very well indeed, and other things badly -- or not at all. One of the things it obviously does well is to provide very inexpensive entertainment for a large majority of our population. Television also provides daily coverage of the most significant news events so successfully that it has become the number one source of news for the average American. And in spite of the fashionable criticism of television commercials, television does perform an important role as America's number one advertising medium.

These are all things that in a democratic, free-enterprise society ought to be done, and it should be clear that in these ways television already serves the public interest. But these are not the only things worth doing, and it is to the undone or unserved areas that most people refer when speaking of public interest programming. Commercial television, for example, does not provide very much good religious, educational, or children's programming. It does not offer the viewing public a very wide range of choice in terms of political discussion or social commentary. Nor does it offer entertainment programming that appeals to smaller audiences, even though a "smaller" audience may still number millions of people. It does not provide a significant opportunity for the expression of ideas, free from implicit private and governmental censorship. It does not, in short, provide a significant measure of choice to the individual viewer, to the would-be programmer, or for that matter, even to the advertiser.

There is wide agreement in America today that television should be doing many things it is not now doing. But there is not wide agreement how this can be brought about. It is common for the younger generation to talk of the "system" or the "establishment," usually to berate it. It seems to me they are close to the point, although they don't quite hit it. The problem we have with commercial television today is simply that our "system" for governmental regulation has created an industry structure



which makes it almost inevitable that commercial television will offer the kinds of programming it does -- and will not offer the kinds of programming it doesn't. The preferable approach, it seems to me, is not to berate corporations or stations for what they do or do not do; but rather to ask why our current regulatory system does not provide appropriate incentives and structures for meeting those aspects of the public interest which it clearly does not.

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

At this point, we are perilously in danger of jumping out of the frying pan into the fire: We have created and actively preserved a structure which makes it unfailingly uneconomic for television to serve many public service needs, however strongly felt, in an industry that is by public policy uneconomically competitive. But we indignantly berate the broadcaster for following the incentives of economic survival that public policy has sent out for him in the first place, and in the process we raise the very dangerous specter of Federal content control.

Cable television can offer some exciting and innovative new services and can do so quite cheaply. You have heard about these new services or will hear about them here. But I submit that the real importance of cable television lies not in the innovative new services, but rather in the rare opportunity to structure a basic reform in our public policy approach to mass communication. It is always easier to make such reforms in conjunction with a new technology than it is to disturb the status quo of an existing industry.

Being new, it requires a government policy covering industry structure, regulation, and many other dimensions. We should take advantage of this opportunity to avoid the mistakes which are all too apparent in current television regulation.

One of the things we can avoid is the creation of either private or public power to control content in the new medium. We can remove the stultifying trend of implicit censorship and bureaucratic fairness, and we can reduce significantly the cost of access to the people.

Another thing to avoid is the creation of an industry which is economically dependent on commercial sponsors. We can do this by allowing both advertisers and viewers to make effective demands in the marketplace for programming -- by allowing in addition to advertiser-supported programming, pay-by-channel and pay-by-program subscription both at the programming end and the viewing end. The public interest program has to be economically self-sufficient.



The present procedures for ensuring reasonable public access to the airwaves are awkward, expensive, uncertain, and lengthy license challenges or fairness doctrine cases -- which by their very nature make adversaries of the licensee and the challenger. We should minimize this problem in the new medium, and thus reduce its importance in the old.

One thing is very clear, and that is the need for a very wide and vigorous public debate on the nature of our national objectives for mass communications. Good policy is never made in a vacuum. Yet this issue has not received one-tenth of the public attention that it deserves. The issue should be decided in the context of active public debate and the widest possible forum.

Cable policy must look ahead of the probable environment of the 70's. The institutions of our society and our economy will continue to be subjected to unprecedented stress in the seventies. The word "television" now represents a fairly rigid institution; it is a box with 12 channels, on which you can view three networks, and perhaps two or three other kinds of channels. The TV institutions of today will have to change over the 70's and cable will be a major part of that change.

I refer to changes which will make TV less a vehicle for the presentation of entertainment, and more a medium for mass communications

and interaction in all fields of human endeavor. People may rely upon TV for purposes which today would not occur to them -- to keep informed on local politics and school affairs; to shop or vote; to advance their education, including education in some fairly specialized skills; and, it could be, to receive a new type of religious support.

But just as TV will have to change institutionally, so our other institutions will have to change in response. For although the medium may not be the message, the medium has an enormous impact upon the nature of the messages that can be conveyed and on how they are perceived.

It is this interaction between the medium and the message that makes the structure of television so very important in a free society. How we structure TV -- the kinds of mass communication we allow and disallow, encourage and discourage -- determine in a very fundamental way how our other institutions communicate and relate to one another and to the general public. Mass communications have a way of changing us as a people at the same time that they are changing how we communicate. The generation which came of age during the 60's, the so-called first "TV generation" responds quite differently than those of us who grew up before television. They are more aware and more perceptive; less reflective and less patient. My point is not to pass judgment, but to observe that under the influence of new mass communications media, the people as well as their media are quite simply different than they used to be.



I suspect that much of the problem faced by organized religion, structured education, and government in reaching young people can be traced to this cause. Religion and education, as well as many other of our social institutions, will have to shape their message to the new media. The commercial advertisers have mastered that skill in the medium of the old TV. Public interest groups by and large have not.

As you work for changes in our broadcast institutions, therefore, I think it is essential not merely to clamor for more "free" time for "good" causes; not merely to challenge licensees for the failure to provide a small percentage more time for religious and social matters -- but to analyze what the most effective roles and messages of religion, education, and other social institutions should be in a mass communications society and how they can most effectively use existing and new electronic media.

In summary, I see the challenge which presently confronts you as twofold. First, to take an active role in developing the structure -- the syntax, if you will, which will govern the language of mass communications in the coming decades -- that is, to help develop the organizational framework for the media in such a way that they will be able to convey the message which you wish to impart. And second, to use that syntax in the manner which will most effectively reach the citizenry of the TV age -- for access does not assure that people will watch.

We in Government earnestly seek to work with you in the first challenge -- for we share it with you -- and we encourage you in the second.

It is my hope that we can create a mass communications structure for our future society that is compatible with our society, religious and economic heritage. License challenges and fairness doctrine disputes are not the answer to the need for a constructive approach.

I hope that government, broadcaster, cable owner, and public groups can all work together to find that constructive approach we so badly need in this field.



## REMARKS OF

Mr. Clay T. Whitehead, Director

Office of Telecommunications Policy  
Executive Office of the President

at the

Ohio Association of Broadcasters  
Fall Convention  
Columbus, Ohio

September 29, 1971

When I started to prepare my remarks here today, I thought I would focus on those issues that are of critical, current concern to broadcasters. Unfortunately, the schedule does not permit me to devote six or seven hours to this subject. But I don't mean to make light of it--the sheer volume of problems facing you and those in government is almost a problem in itself. Someone must have opened Pandora's Box when we weren't looking.

If it's of any comfort to you, many of your economic problems at least are not too different from those faced by other businessmen. Although there may be some questions to be cleared up, I understand that the price guidelines for broadcasting are working smoothly. If there are any problems, however, we want to hear about them. You should be assured of equity and clarity in the administration of this set of regulations. I've heard this hasn't been your experience in your other brushes with government regulation.

We're working to change this. We should approach your broadcast regulatory problems in the same vein that the President has faced our economic problems. The President's new economic policy is coming to grips with fundamental problems in our economy--



problems which not long before seemed intractable. I want to take the same general approach to our communications policy problems by doing a thorough job of analysis and then proposing a solution that goes to the heart of the matter. I want to apply the Administration's style of policy-making to such problems as CATV, license renewals, the Fairness Doctrine and radio/TV regulation generally. Let me give you some idea of how OTP views these problems.

#### CATV

First CATV--the President's Cabinet committee on cable television has almost completed its study and will soon issue recommendations on a policy to guide the careful integration of cable technology into our public communications system. While this long-range study was going on, we sought an accommodation to the short-range problems of CATV growth. We tried to see if the parties could resolve the tough regulatory problems of distant signals, Footnote 69 and leapfrogging in a rational framework of CATV copyright liability and broadcast program exclusivity. The attempt failed--some say it was doomed to fail. The doom sayers were proved right--they regularly are in Washington.

But we haven't given up. Shortly, we will respond to Senator Pastore's invitation to comment on the FCC's CATV proposals, in light of the Cabinet committee's work and our own views on the FCC's regulatory approach. Naturally, it would be premature to go into these matters now, but at the appropriate time we will make our proposals to Congress. You probably will not like all that you will hear.



Does this mean that OTP is pro-cable? Of course we are. Does it follow that we're anti-broadcasting? Definitely not; although sometimes you make it harder for us to support you. Take what's happening in Akron, for example. The cable system there will be carrying home games of the Cavaliers and the Barons live from Cleveland. Cable is giving Akron residents what they want and it doesn't involve taking your signals. We can't oppose CATV for providing this type of service and, if you put up a fight, you can't expect our support.

On a broader basis, we think cable has a lot of appeal. It's the appeal of a technology that offers an opportunity to recast the mold set for our public communications system back in 1934. As cable is integrated into our communications structure, we should try to modify that structure. A system of regulation that requires government intervention in program content can't be our model for the future.

#### License Renewals

One of the most drastic means of government intervention is the license renewal process. I don't have to tell you of the difficulties that can result at renewal time when your judgments conflict with the government's notions of the type and amounts of programming that will best serve the public in your community. How will you juggle your schedules to get 3% of public affairs programs in prime time? Is it safe to put that U.S.D.A. film at 5 a.m. on Mondays? Is there anyway to count "The Chicago Teddybears" as a children's instructional show? What about radio--will there be a Commission inquiry when you switch from the all-Guy Lombardo format



Don't bother to do any ascertainment to see what format will serve the public; remember, it's not supposed to deal with program preferences, only problems and issues.

It's really not a joking matter, you risk your future on the way you answer some pretty ridiculous questions. The risk is measurably increased when you have no assurance that your good faith performance over the years will count for much when a rival group decides that you are ripe for picking. Even when a competing group is not involved, renewal time is an appropriate time for negotiations and challenges involving the responsiveness of your programs to local needs, your employment practices and your commercial practices. You can't be insulated from this aspect of the renewal process, but the Commission tried to avoid the worst features of a comparative renewal hearing with its 1970 Policy Statement. OTP generally supported it as a sensible way of giving the conscientious licensee the consideration he deserves, while protecting the interest of the public.

The Court of Appeals held that the policy violated the hearing requirements of the Communications Act. I have no doubt that this interpretation was sound from a strictly legal standpoint. But I question the appropriateness of the court second-guessing the Commission on its so-called "substantial performance" standard. A long established principle governing judicial review of agency action is that the court should defer to the expertise of the agency and not substitute its judgment on the substantive merits of the case. In the broadcast area, this principle seems to be avoided whenever there is a conflict between the public and the



broadcasters. Here the issue seems to be resolved on the basis of whether the court agrees with the result reached by the FCC. This compounds the absurdity of a regulatory round-robin that began with a broad grant of power from Congress to the FCC. The vagueness of the public interest standard under which that power was granted simply invites this type of court review. Besides the courts are just as expert as the FCC in determining the public interest.

You may argue that one for a while, but what's the most appropriate response to the license renewal problem in the aftermath of the court's decision? I'm not certain it is to have the FCC merely change the standard from "substantial" to "superior" and then go on as usual until the next court challenge. The problem is caused by the 1934 Act and it should be solved in the Act. We should have a direct approach which will go to the heart of that problem.

#### Fairness Doctrine

The direct approach may also be necessary to bring some order and clarity to the Fairness Doctrine area. There must be public access to the air waves. For the public's benefit and your benefit, the access mechanism should be uncomplicated and inexpensive. But it should not be administered in a manner that intrudes unduly on your operations. You have an obligation to the public to provide access for contrasting viewpoints on public issues, but the government has a duty to you to make clear the limits of your obligations, especially as we find ourselves in contentious times when a consumption-oriented life style is just as much a controversial issue as a referendum item or some other specific short-run dispute.



When the application of Section 315 began to get out of hand, the congressional intent was made known and the boundaries of the equal time requirements were clearly defined. Can you discern the boundaries of your Fairness Doctrine obligations? Where is the line drawn in the area of product advertisements? When is an auto company selling a way of life and not a car? Do you balance Chrysler spots with Volkswagen spots? I shudder to think of the controversial issues lurking in certain deodorant ads. What about public service announcements? Army recruiting PSA's don't raise controversial issues; can the same be said for all the anti-drug spots? When do appearances of the President or Governor Gilligan prior to election campaigns call for Fairness time? What ruling applies: the Zapple ruling; the one in the latest Democratic National Committee cases; or all of the above? When do you give free time for contrasting views? What are the relationships between the new right of paid access to the air and the Fairness Doctrine requirements?

Right now I'm not saying how these questions should be answered. I'm not sure I know the answers to some of them. All I'm saying at this point is that we in government have let you down by not doing our job of setting the metes and bounds of what is now an amorphous set of far-reaching requirements which you interpret at your peril: if the renewal policy of the 1934 Act is its Sword of Damocles, then the Fairness Doctrine is its revolver in a game of Russian roulette. We intend to take a careful look at the Doctrine--if the bullet can't be removed you can at least be given some idea of where it is.



Broadcast Regulation

The problems created by CATV, by renewal policies and the Fairness Doctrine are all related in the struggle for public access to broadcast channels.

The trustee role of the licensee under the Communications Act is workable as long as the public is willing or at least content to trust you. But when hard questions are being asked of all institutions that have traditionally enjoyed the benefits of public trust, you can expect that you will be challenged--that ways will be sought to make you more responsive to the public through the renewal process and the Fairness Doctrine and even to phase you out in favor of a technology that need not be dependent on any individual public trustee.

Despite all the bitterness engendered by specific access disputes, as evidence by the the license challenges right here in Columbus, and other Ohio cities you should recognize that your critics are doing nothing more than seeking more effective and more practical means of achieving the intended results of the Communications Act. It's fruitless to argue at this late stage that the intent of the Act has been perverted. Times change--this is the way it is now. If you don't like it, either change the Act or find a line of business where there's no Communications Act and a public committed enough to tell you what its interest is. It's a fundamental issue--one that won't be solved by patchwork approaches to superficially unrelated regulatory problems.



No matter how the renewal challenges are resolved in Columbus and elsewhere, the process of redefining the broadcasters' relationship with the various publics to be served is just beginning. This painful and difficult process can proceed as it has begun. It can go on city-by-city in an atmosphere of mutual distrust, emotional blood-letting and even fear, or it can be recognized for the critical policy problem it is and approached in a manner that does not pit broadcasters and citizens in a battle that both view as essential to their survival. No progress can be made when local broadcasters and local citizens groups see themselves as adversaries--this is the ultimate perversion of the intent of the Communications Act -- from public trustee to public enemy. We've got to go back and work out a new relationship between the licensee and the public before this goes much further.

We must address ourselves to these basic flaws that are all too apparent in our broadcast regulation, especially the structural flaws that developed in our public access mechanisms. At the same time, we need a separate policy for cable television. The growth of cable technology will force us to consider access problems in the overall context of a public communications system of the future. We can't simply engraft broadcast regulation to cable technology. The Communications Act is the only source of policy guidance for the FCC, but cable television does not fit the Act. We must have a clear conception of what we want from cable and how we want to regulate it. The cable



policy must be consistent with a modified broadcast policy and must reflect the ultimate goal of that policy. We should, in short, end up with two TV communications policies--each tailored to the different technologies of distribution but each directed to the same access goals.

Most discussions of new policy directions sound pretty abstract, this one is no exception. But what's the bottom line? How does it all affect the daytimer in Dayton? Let me give you one example. So far I've focussed on the implications of your relationship to the public, but changes in this relationship also call for a modification in the way the government deals with you. We have to move to a more flexible style of regulation--to regulate by legislative policy rather than by detailed agency oversight. Let's be realistic--we simply can't continue to proliferate renewal applications that are weighed rather than read--don't worry about what your programs say, just be sure the percentages look ok and the application weighs a lot--10 lbs. will be superior service-- 3 lbs. will lead to a short-term renewal.

Where has this type of regulation led us in the radio area, for example? We started out regulating TV as if it were radio with pictures--now we regulate radio as if it were TV without pictures. This is not much progress in 40 years of regulation. Our regulators are so bogged down in detail that they haven't been able to notice that radio is different, or, if they've noticed, they've been too busy to do anything about it. When we deal with access and other problems in radio, our thinking



must take account of radio's greater numbers, its different competitive situation, its different impact on the public mind and the public debate. It is a different medium with a different message. Does the difference justify, for example, a different set of fairness obligations, different treatment for cigarette commercials, political spots and other forms of radio advertising; different license renewal policies; different ascertainment requirements?

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

We've covered a lot of ground here today, but, as I said at the outset, we're besieged with problems -- problems that call for a more searching analysis than they've received up to now. The Administration will undertake this responsibility and will deal directly with the crux of each problem. The President is committed to this type of approach, but if it's to succeed you must participate in the process by letting us know your views and helping us work with you to a responsible and responsive solution.

REMARKS OF

Clay T. Whitehead, Director

Office of Telecommunications Policy  
Executive Office of the President

at the

47th Annual Convention  
National Association of Educational Broadcasters

Miami, Florida  
October 20, 1971



It would be refreshing for you, I'm sure, to hear a convention speaker dwell on all the good things that public broadcasting has accomplished--after all the accomplishments are real. But government policy making doesn't usually concern itself with good news, it deals with problems and policy is my topic today.

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

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

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

For example, CPB calls PBS our fourth national TV network--and the largest one at that, with over 210 affiliates. Don Quayle's National Public Radio may be the only real national radio network we have--I half expect Arthur Godfrey--or maybe David Susskind--to be hired to do a "morning magazine" show for NPR. I see NAEB's ETS Program Service transferred to PBS and NPR. Because of CPB's method of funding program production, it's less than candid to say the production system is a decentralized group of seven or eight regional centers. Who has real control over your program schedules?

On a national basis, PBS says that some 40% of its programming is devoted to public affairs. You're centralizing your public affairs programs in the National Public Affairs Center in Washington, because someone thinks autonomy in regional centers leads to wasteful overlap and duplication. Instead of aiming for "overprogramming" so local stations can select among the programs produced and presented in an atmosphere of diversity, the system chooses central control for "efficient" long-range planning and so-called "coordination" of news and public affairs--coordinated by people with essentially similar outlooks. How different will your networked news programs be from the programs that Fred Friendly and Sander Vanocur wanted to do at CBS and NBC? Even the commercial networks don't rely on one sponsor for their news



and public affairs, but the Ford Foundation is able to buy over \$8 million worth of this kind of programming on your stations.

In other kinds of programming, is it you or PBS who has been taking the networks' approach and measuring your success in rating points and audience? You check the Harris poll and ARB survey and point to increases in viewership. Once you're in the rating game, you want to win. You become a supplement to the commercial networks and do their things a bit better in order to attract the audience that wants more quality in program content.

The temptation to make your mark this way has proven irresistible. The press is good. You've deserved the limelight much sooner, but it's coming now with truly outstanding efforts in the up-coming "Electric Company" and "Sesame Street" and "Forsyte Saga" and the BBC's other fine dramatic and cultural shows. You do this job brilliantly. You can pick up where the commercial networks leave off. You can do their children's shows, their drama, their serious music, their in-depth informational programs--you can even be their "farm system" and bring up young, minority-group talent to work in the "majors" in New York and Los Angeles.

You can program for the Cambridge audience that WGBH used to go after--for the upper-middle class whites who

contribute to your stations when you offer Julia Child's cookbook and Kenneth Clark's "Civilisation." It also has the advantage of keeping you out of the renewal and access conflicts now faced by commercial broadcasters. With a few notable exceptions, maybe the community activists don't think you're meaningful enough in your own communities to warrant involving you in these disputes.

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

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



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

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

Do you remember that the Carnegie group put its principal stress on a strong, financially independent group of stations as the foundation of a system that was to be the clearest expression of American diversity and excellence; that the emphasis was on pluralism and local format control instead of a fixed-schedule, real-time network, and that this view was reflected in the House, Senate and Conference reports on the '67 Act; that CPB was supposed to increase options and program choices for the stations; and that the Carnegie Commission wanted general operating funds to come from HEW because of the concern that the corporation not grow too big or become too central. As Dr. Killian put it, if stations had to look to the corporation for all their requirements, it would lead "naturally, inevitably,

to unwise, unwarranted and unnecessary centralization of educational broadcasting." The concept of dispersing responsibility was essential to the policy chosen in 1967 for public broadcasting. Senator Pastore said on the floor of the Senate that, "since the fundamental purpose of the bill is to strengthen local noncommercial stations, the powers of the Corporation itself must not impinge on the autonomy of local stations."

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

In 1967, the public broadcasting professionals let the Carnegie dreamers have their say--let them run on about localism and "bedrocks" and the rest of it--let them sell the Congress on pluralism and local diversity--and when they've gone back to the boardrooms and classrooms and union halls and rehearsal halls, the professionals will stay in the control room and call the shots. The professionals viewed the Carnegie concept of localism as being as naive and unattainable as the Carnegie excise tax financing plan. They said that no broadcasting system can succeed unless it appeals to a mass audience in one way or another;



that networking in the mold of the commercial networks is the only way to get that audience; that a mass audience brings a massive reputation and massive impact; that it's cheaper, more effective, more easily promoted, simpler to manage, and less demanding on local leadership than the system adopted by the Congress; and they are right. But is that kind of public broadcast system worth it? Is it what you want? What your community needs? What's best for the country?

You've been asking yourself these questions. For you, the past few months have been a time for self-analysis and hard questions--from Singer's Boyne speech, to the Aspen meetings; the Jack Gould-Fred Friendly debate on the pages of the Sunday New York Times; the discussion that's been going on between my Office and CPB; and the emotional debate within public television over the FBI sequence on "Dream Machine." Your public debate has focussed on the fundamental issues and you're to be admired and respected for it.

You are grappling with the policy imposed on a going enterprise in 1967. That policy was not only intended to change the structure of ETV, it was also supposed to avoid the structure of commercial TV and to steer clear of a government-run broadcast system. There are trade-offs in this policy. For example, if you imitate the commercial structure, all we have is a network paid for by the government and it just

invites political scrutiny of the content of that network's programs. We're asking a lot of you when we expect that you implement the policy chosen for public broadcasting. But some of you haven't succumbed to despair yet. Some of you don't want to be a fourth network. Some of you are trying to make the policy work.

For example, PBS will be trying to use its interconnection for program distribution as well as networking; it's trying to broaden the base of small station representation on its Board; CPB is trying to devote more funds to general operating grants; as long as there is a centralized network, Hartford Gunn is trying to make it work in a responsible manner despite the brickbats and knives that come his way; some local stations are really trying to do the job that must be done at the community level. I recognize this. I appreciate the problems you face.

CPB seems to have decided to make permanent financing the principal goal and to aim for programming with a national impact on the public and the Congress to achieve it. But look at the box that puts you in. The local station is asked--and sometimes willingly accedes--to sacrifice its autonomy to facilitate funding for the national system.

When this happens, it also jeopardizes your ability to serve the educational and instructional needs of your communities. All the glamor is packed into your nighttime schedules and the tendency is to get more public attention



by focusing on the news, public affairs and cultural programs that are aimed for the general audience. But there must be more balance in your service to your communities. In quantitative terms, your schedules are already split equally between instructional and general programming. But in qualitative terms, are you devoting enough of your resources to the learning needs of your in-school and in-home audiences?

Do any of you honestly know whether public broadcasting--structured as it is today and moving in the direction it seems to be headed--can ever fulfill the promise envisioned for it or conform to the policy set for it? If it can't, then permanent financing will always be somewhere off in the distant future.

The legislative goals for public broadcasting--which I hope are our common goals--are:

- (1) to keep it from becoming a government-run system;
- (2) to preserve the autonomy of the local stations; and
- (3) to achieve these objectives while assuring a diversity of program sources for the stations to draw on in addition to their own programs.

When you centralize actual responsibility at a single point, it makes you visible politically and those who are

prone to see ghosts can raise the spectre of government pressure. When you, as local stations, are compelled by the system's formal structure, its method of program distribution, the mere lack of a programming alternative or simple inertia to delegate formulation of your program schedules to a central authority, how can you realistically achieve the objective of local autonomy. All we are left with is the central organization and its national programs and that was never intended to be an end in itself. When the struggle is simply between the Washington center and the New York center, it doesn't much matter who wins. It probably isn't even worth the effort.

You've been told at this convention all that you should do--that you should be--as cablecasters, minority group employers, public telecommunications centers and the lot. But is enough expected of you when you are branch offices of a national, public telecommunications system? It would be a shame for you to go into the new world of electronic education centers offering a dazzling array of services without engaging in the most exciting experiment of all--to see if you as broadcasters can meet your wide responsibilities to your communities in instructional and public programming. It's never been tried and yet, as a policy, it's America's unique contribution to broadcasting--it's our concept of mass communications federalism.



Your task then is one of striking the most appropriate balance in determining the local station's role in the public broadcast system--a balance between advancing the quality of electronic instruction and the quality of programs for the general public and, ultimately, the balance between the system's center and its parts. You have to care about these balances and you have to work for them. We in government want to help, but the initiative must come from you.

REMARKS OF

Clay T. Whitehead, Director

Office of Telecommunications Policy  
Executive Office of the President

to the

Undergraduate Communications Class 301:  
"Introduction to Mass Communications"  
School of Communications  
University of Texas

Austin, Texas  
November 18, 1971



Schools of communication used to be called schools of journalism. The change represents a recognition of two important trends. The first trend is the belatedly growing awareness that the character of the mass communication media has become technology dependent. The second trend is the increasing acceptance of communication as a legitimate academic discipline, largely through the work of a few distinguished social psychologists and sociologists.

Now it is true that some schools of journalism became schools of "communication" simply by adding a course or two in film-making to their curricula and perhaps buying a video-tape machine. But I think it is generally recognized today that communication means much more than that. People who want to understand the creative process and effects of mass communication in modern society must know something about psychology, law, economics, engineering, political science, and education. Whatever one may think of Marshall McLuhan, he has certainly underscored the breadth of erudition required to understand and use mass communication.

McLuhan's famous dictum, "the medium is the message," is a popularization of some very profound, but not very readable, insights of the Canadian economist, Harold Innes. The point, of course, is that the means of communication in society -- the technology -- is an important determinant of what interpretation is finally conveyed -- and therefore

has great impact on broad economic and political patterns. So long as information could be easily controlled by the church in medieval Europe, the social organization of the Middle Ages could be maintained. The invention of cheap printing processes inevitably changed all that, and helped determine the course of economic and social development for several centuries.

The pace of technological change is accelerating -- particularly communication technology. And it is having profound impacts beyond the school of engineering. The student of communication today must understand not merely newspaper and periodical journalism, but films, radio, television, videocassettes, cable television, and (I suppose) "guerilla theater." Each is a distinct medium, although they more and more interact; and each has its own special opportunities, its own constraints on creativity, and its own peculiar effectiveness in the marketplace of ideas.

Let me take just one example of the effects on creativity of a new technology of communication. It is fairly well established that the long-term trend toward one-newspaper cities is the result of economies of scale in printing and distributing newspapers. Imagine the implications, for both journalists and the public, of a city with a dozen or more newspapers. Of course, these would likely be different from newspapers as we know them today. They might use electronic distribution, with the newspaper being "printed" by facsimile in the home. Or they might



involve video displays of printed and pictorial still frames, other cathode ray tube displays, and other new electronic techniques. People could select their favorite sections of the paper -- sections from each of many papers -- and also select their favorite editorial source for news selection and summaries. These are real possibilities, not science fiction, for the world of journalism you will be working in; they will create a new and exciting challenge for the next generation of journalists and editors, and they will make those professions much more flexible and creative.

This is only a sample of the opportunities new technology will make possible in the next decade. The real question is whether we will be able to make intelligent use of the new media, and whether there will be a coherent government policy on its use. Many people are questioning the ability of man to really master the fruits of scientific research, or to understand the full implications of their use. I hope the question is not whether we can do so, but how.

The trouble is that new technology strains our institutions. Most industries are economically based on a particular technology of production. But when governmental institutions base policy on particular production technologies, they sanctify existing economic relationships, and are unable to cope with technological innovation. Not only are they unable to cope, they make it still harder for industry and the public to cope. The result is often that government, industry, and public combine in

implicit cooperation to resist -- or ignore -- technological progress. But technology will out, and this means that new technologies often progress in a policy vacuum -- mere stepchildren of existing institutions. No one takes the trouble to think through the full implications of new inventions -- until things finally get out of hand and we can no longer ignore or stifle the new.

Where does this leave government communication policy? It certainly suggests that public and press ought to be very much aware of and participate in the policy process. Recent trends in communication policy are not all encouraging.

We have a basic Communications Act which was written in 1934 -- long before television, much less the newer media. Communication policy in the United States has historically been made by the Congress and the FCC. The FCC is a "quasi-judicial" regulatory agency, responsible to the Congress, not to the President. Because of its collegial structure and because of its judicial nature, the Commission is simply not well structured for policy development. It tends to make policy the way the courts make policy -- by retrospective case history, rather than conscious future planning. It was for this reason that the President asked the Congress to establish the Office of Telecommunications Policy. The Office of Telecommunications Policy serves as the central focus of Executive Branch communication policy development, and as



the President's principal advisor on such matters. We are specifically designed to avoid the pitfalls of case-by-case regulatory intervention. Indeed, we have no regulatory powers at all. Our role is thus necessarily confined to the promotion of policy approaches which are sufficiently useful and persuasive in themselves to convince the FCC and the Congress of their merits.

The Federal courts and the Federal Communications Commission have steadily increased the role of government in communications. For some perverse reason, the First Amendment keeps getting bent into the awkward framework of the 1934 Communications Act, instead of the other way around. We continue to acquire new "rights." The courts have granted us a rather dubious "right to hear" which appears to hold that the electronic media, as "instruments of the government," are required to "inform" us on public issues of controversy and importance. And who is the arbiter of this function? Why, the government itself. There is an important difference between a "right to be informed" and a right to a media structure which is conducive to freedom of press and speech. Freedom here must mean freedom both from private monopoly and from government censorship, implicit or explicit. The right of free speech and press is quite a different animal from a "limited" right of access, selectively defined and enforced on a case-by-case basis by some Federal agency. Yet, it is in the latter direction that we seem to be moving. There is also an important

distinction between a policy approach to these issues and a regulatory approach. This distinction is best understood by imagining the FCC existing only once a year, for a month, instead of continuously. Such a contrivance would force the Commission to make conscious policy decisions, instead of continuous small interventions in particular cases. It would force the Commission to find structural remedies for structural deficiencies in the industries it regulates.

There is an important distinction to be made between dictation by the government of the outcome of private business decisions (the regulatory approach) and the formation of industry structures which take advantage of natural economic incentives, and which lead industry to produce results consistent with government goals. This is the policy approach, and it is much more consistent with economic and First Amendment freedoms than the regulatory approach.

The President is much concerned that government has lost the confidence of the people. It's a question not of the size of government, not of what it does, but of quality. It matters very much how policies are decided, and what mechanisms are employed in carrying them out. It's a question of style. Government must begin to share more responsibility with the people, and to structure institutions which are responsive to the needs of the country.

One of the things we will need most is an informed public and a media establishment which recognizes these distinctions. That is why



your training is so important. You will do well to try to master the complex relationships among media content, technology, economics, and government policy. Only then can you help the public and the government achieve the full promise of the new media, while avoiding the dangers to freedom which lie along that path. Only then will you really have mastered your art, and be prepared to help create a world in which men master technology and ideology, not the reverse.

We are entering the most exciting era in the history of communication. It will be your responsibility as journalists, film makers, editors, and media specialists to take full advantage of the opportunities which will be available to you. It will be the people's and the government's responsibility to ensure that our institutions are flexible and responsive to the new opportunities. I hope that we can move ahead together to make the next generation one in which freedom and progress move hand in hand. Those are, after all, the principles on which our nation was founded. The challenge and the opportunity are no less today than they were then.

REMARKS OF

Clay T. Whitehead, Director

Office of Telecommunications Policy  
Executive Office of the President

to the

Arizona Broadcasters Association

Mountain Shadows Resort Hotel  
Phoenix, Arizona

December 3, 1971



Nearly two months ago I made three proposals for halting the present drift of broadcast regulation by lessening the regulatory controls on commercial radio, abandoning the present method of enforcing fairness, and making various reforms in the renewal process. I said I had no legislation tucked in my back pocket, but would work for legislation if there is broad support for the proposals. Since then, people have been discussing the proposals and checking my pockets.

My back pocket is still empty but the proposals have had the intended effect of moving along the discussion of some of the real issues that confront broadcasting today. We have talked to broadcasters, government officials, public interest advocates and others, and have explained many of the details of the proposals, which were necessarily compressed in my New York City speech. In light of this process, today I'd like to "fine-tune" the Fairness Doctrine and license renewal proposals.

I won't get into the details of radio deregulation because everyone seems enthusiastic to give it a try. An experiment in deregulation will do a lot of its own "fine-tuning." It makes a world of sense to streamline the regulatory controls on radio and rely more upon the self-regulation of a marketplace in which there is a multiplicity of outlets and wide latitude for consumer choice. Hopefully the FCC will select a representative group of radio markets--including some small markets--where assignments and transfers would be granted on a pro forma basis



and licenses would be renewed without a review of program and commercial practices. I predict that such an experiment would prove that broadcasters are responsible and can serve their communities without detailed supervision from Washington.

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

When the fairness obligation is enforced by Washington in this detail at the local level, the focus shifts--from the



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

My proposal would create a self-limiting right of direct personal access not dependent on the Government's discretion. This right would be enforced in a manner that would not intrude on the broadcaster's obligation to inform the public on important issues in a fair and balanced manner. It would be a statutory right of paid access to the 10 to 16 minutes in each television hour which the broadcaster sets aside for sale to advertisers. The right would be enforced through the courts and not by the FCC. Views stated in ads would not have to be balanced in



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

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



Let's turn now to license renewals. Ever since the days of the "Blue Book," the FCC has told its licensees what type of programming is in the public interest. In the 1960 Programming Statement, it was refined into 14 program categories, featuring public affairs, news, religious, educational and stationproduced programming of virtually any sort. Informally, the signals go out through the jungle-drum network of regulators, lawyers, and licensees, and you get the message as to what kind of programs the FCC wants from you. With the Cox-Johnson 5:1:5 standard, the Commission has also flirted with minimum percentages for the most favored program types. The flirtation has almost become outright seduction, as the FCC now seems ready to adopt percentage standards for determining "superior" performance when an incumbent's renewal application is challenged.

These are disturbing developments--for the public and the broadcaster. If value judgments on program content are unavoidable in the present context of broadcast regulation--and they may be--they should be made as much as possible by the public served by the station and as little as possible by government bureaucrats. As things stand now, hypocrisy prevails, and lip service is paid to local needs and interests while the Broadcast Bureau's concerns and forms really call the tune.

It is largely our regulatory policy, not the broadcaster, that is hypocritical. The theory is that licensees should be local voices, that they should investigate the needs and interests of the public they serve and reflect them in their programming. Government has created a set of incentives for



you, but when the results aren't what the regulators think are in the public interest, they try to fight the system they have created and tell you and your audiences how much of what kinds of programs are best.

If the public, through the government, doesn't like the programming the broadcasting system produces, they ought to change the incentives rather than encourage the government to make the programming decisions. To provide you with the right incentives, I suggested that we eliminate all government-conceived program categories, percentages, formats and other value judgments on specific program content. Then let the Commission strictly enforce a meaningful ascertainment requirement-- hopefully not in the incredible detail of the Primer--let them judge you by your audience's criteria rather than their own. If this means that New York City stations will have no agricultural programs, and Phoenix stations will have Spanish-language public affairs programs, so be it. And if it means one channel in a large market carries little news while others provide a lot, who are we in Washington to impose our judgment and say no?

Although the FCC will still be second-guessing the licensee in order to give content to this "good faith" standard, we will have shifted the focus and purpose of government supervision to enforcement of the local needs and interests requirement in programming. This alone is an effort worth making.

As part of my renewal proposal, I also suggested that the license period should be lengthened and that the FCC should consider new applicants only when the incumbent's license is not



renewed or is revoked. This was seized upon as evidence of my support for broadcasters' present legislative efforts on renewal policy. But that represents a highly selective view of what I said. I share your concern about the stability of the licensing process, for I think that is a key part of the public interest in broadcasting, but I specifically emphasized that the proposals are closely related and should be evaluated as a package. Let me tell you why.

In evaluating any plan to change renewal procedures, you should be highly skeptical of a change that enhances government review of program content, measured against national standards and percentages. In your current mood you may not be inclined to inspect gift horses very carefully, but you must if you care about your longer range future. I sense that your attitude is one of compliance: "Just tell me what I have to do by way of fairness, access, and programming and I'll do it--I'll even be superior to anyone the FCC wants me to be superior to, just tell me who it is. Let's not rock the boat with Whitehead's unrealistic proposals."

I don't think my proposals are unrealistic. Things have been getting worse for broadcasters and they will continue to do so. The battle lines are being drawn tighter every year between you and dissatisfied elements of your public. If I were a true revolutionary, I would watch this trend and say the worse it gets, the more sense my proposals make. But I do not have this revolutionary vision; I want to start now to stop the trend to make the licensee an agent of the government for programming



purposes. The social and economic forces that are causing this unhealthy trend are not going to go away. You are not seeing a temporary madness in the body politic, you are seeing the times change. There is no easy way out. It's more difficult to be private licensees with public responsibilities than it is to be "gate-keepers" For a government-controlled broadcasting forum of communications. It's harder to be free and to exercise that freedom responsibly. I know you want the latter approach. So do I and I'm convinced the public does too.

These are difficult, but exciting times for broadcasting-- indeed for the whole country and the world. The President is working hard to bring about the kinds of change that will let us build our potential into reality in the years ahead. In foreign policy, the New Economic Policy, government reorganization, we are building for the future. In broadcasting too, we want to work with you to make it the exciting and responsive part of our Nation that it can be.



REMARKS OF

Clay T. Whitehead, Director

Office of Telecommunications Policy  
Executive Office of the President

at the

Hollywood Radio and Television Society  
Newsmaker Luncheon

Beverly Wilshire Hotel  
Los Angeles, California

December 6, 1971

I was reluctant to come here today. I heard that the program business was so bad that Hollywood had become a ghost town in the vast wasteland. It's not really a ghost town, of course, but it's not what it used to be. It's no longer just a film town -- it's a communications town now and is heavily dependent on the television market for its viability. This point was pressed on me by the film companies and other program producers during the recent discussions which led to the cable-broadcast settlement a few weeks ago. It became clear that royalty payments from cable operators and the ability to sell adequate exclusivity protection to broadcasters are needed to keep the industry alive. If the industry keeps alive for just a little bit longer they expect to find new markets as broadband cable systems develop.

This immediate objective was achieved. The compromise assures the financial viability of the production industry and encourages new entries since copyright liability and program exclusivity were central to the settlement. The longer run significance of the settlement is that, with cable growth beginning in earnest, we can turn our full attention to the fundamental issue of how broadband cable will be integrated into our communications media. The Cabinet-level special committee on broadband cable is working actively on the complex issues involved in the future of broadband communications, and, as I advised Senator Pastore and other congressional leaders, we hope to work with the Congress and the FCC to resolve these issues.

In recent months, OTP has tried to tackle some of these and other policy problems that will shape the future of electronic



mass communications for years to come. For instance, I proposed changes in the regulatory framework in which government, broadcasters and the public interact. Those proposals deal mainly with ways to give broadcasters the right incentives for covering the problems and issues in their communities in a fair and balanced manner, and to provide a meaningful right of personal access to groups and individuals to discuss these matters on the air. They also are an attempt to bring stability to the license renewal process and preserve the private enterprise nature of the broadcast media.

These are important matters, yet they don't weigh heavily in the public mind. For the public, television is what they see when they turn on their sets; but what do they see and why is it there? What they see is largely entertainment programs, principally network programs, prepared at great expense for a national audience. In the year July 1970 to July 1971, 57 per cent of network programs were music-variety shows, situation comedies and feature films alone, without even counting sports, "soaps" and game shows. Right now the networks supply 3,300 hours of this type of programming in prime time each year. These and other program hours produce some \$4 billion in advertising revenues. The 4 million channel hours of broadcast programs presented each year break down fairly evenly among network, syndicated and locally-originated programs, but the breakdown of program expenditures is strikingly different. More is spent on network programs alone than on all syndicated and local programs combined -- it works out to about three times as much per channel hour. Talent



costs are a big part of the expense and, even when the networks are willing to pay, there's a real scarcity of the kind of talent that's needed -- entertainment talent that can deliver a mass audience -- even when competing against other talent of the same high drawing power. This talent has been and always will be scarce.

The entertainment programs appear on the screen only if the ratings justify it, and the numbers control the programs. Advertising dollars flow to programs attracting the largest audience, since the economic value placed on each viewer is so small. But the margins are small too, and the numbers are hard to get. The competition creates a business that makes ulcers a communicable disease. And the business is getting tougher every day. There are indications that the public is becoming increasingly dissatisfied with what they see on TV. Even the least offensive programming doesn't keep significant segments of the audience tuned in. It's part of a problem that the media have helped create. An aware public is not going to sit still and be sold to advertisers in rating point lots.

Broadcasters can and must do better, but their efforts can have little significant effect because they can't change the system. They are locked into a mold of programming for what is, in effect, three national channels on which competition is fierce for the maximum share of the mass audience, and 20 million people means only viability, not great success. The



system is forced to consider programs only as a means of attracting audience and not the end product of creative labors.

You know these facts and we didn't need an OTP to discover them. What you may not recognize so well is that government regulatory policy has had a big part in shaping the economic structure that broadcasters are locked into; and in recent years, the government has been getting more deeply involved in this process. Government started to set public policy for communications on the assumption that all it was doing was regulating transmission facilities. Then it began to encourage certain favored kinds of informational programming. But we kid ourselves when we think that the FCC has an impact only on this type of program. The impact on entertainment programs is enormous. We are starting to recognize that, although the means of transmission is of secondary importance to the programming, the manner in which government regulates the mode of transmission shapes the economic incentives for the programs themselves. When we recognize this, we realize that we have to treat broadcasters, cable operators and program production companies as parts of one industry -- an industry that provides program services to the public.

It's hard to treat broadcasters this way because, up until now, they never had to satisfy the viewers -- just deliver them to advertisers. The missing element in TV has always been the opportunity for meaningful viewer choice as to what programs they will see. The frustration that this creates often leads the public to urge the government to force



broadcasters to provide the kind and quality of programming that they want or think they want. The FCC has often succumbed to this pressure. But regulatory agencies rarely deal with economic incentives. They more often try to order certain types of results -- in this case programs. Then the broadcaster's program customer becomes the FCC as well as the advertiser. This is a relatively new and disturbing development. For example, we can fight the system all we want and order networks to free prime time for their affiliates. But if the prime time rule fails, it will not be because broadcasters don't want to provide high-quality programs or the programming industry doesn't want to produce them. It's just that the economics of the medium make it difficult or impossible for them to do so. We cannot change these facts by dictating the kinds of programs that are in the public interest. This type of program regulation is unfortunate but perhaps inevitable, when there is no opportunity for consumer choice in programming and when government attempts to force the outcome it desires while ignoring the economic structure of TV and the incentives built into that structure.

But what impact will new technologies, such as broadband cable and video cassettes, have on the present economic structure of TV? The cassette technology is growing fast and attracting the kind of capital that could make it a major force in the media. It's a technology that does not depend on electronic transmission, but already the FCC is contemplating its regulation. There's been a lot of talk about direct satellite-to-



home as a means of program transmission, but it doesn't look very practical or economical. The most promising new transmission technology will be coming down the street and not from outer space. There is no doubt that broadband cable technology will have a profound impact on the economics of your industry. Cable penetration is expected to increase rapidly in medium-sized metropolitan areas and eventually will be proliferating an ever-growing number of channels throughout the country. The mere quantity of channels and program outlets galore will force you to rethink your present assumptions about programming for a national audience -- assumptions which are based now on only three national channels.

The way TV cassettes and related technologies are developing, people will be able to buy programs at the store and carry them home. I doubt they can be stopped from buying them at home and having them carried by cable. Opponents of cable won't be able to force people to leave their homes and go to a motel for the immoral purpose of paying for a movie on closed circuit TV. As broadband cable and video cassettes grow in the streets and homes and minds of America, you must now begin to consider what lies ahead for your industry beyond next season.

The point is that it isn't bad or immoral to think in the old terms about these newer technologies -- it's simply not economic, or even realistic, to do so. You can't program the new media of outlets a-plenty with the same mass audience syndrome that is at the heart of current broadcast programming.



The networks' 3,300 hours of prime time programs would be a drop in the ocean. With just twenty channels there are 29,000 prime time channel hours in a year. The entire stock of movies produced since 1948 would barely supply enough programming to fill such a system for two years in prime time. Even if we reran all original network programming, that would only add about 18 months. It's clear that the present economics of television simply won't provide twenty channels of quality entertainment programming. And a twenty channel system is already obsolete. Channel capacity is just not a problem. Looking ahead, some cable operators are already sinking two or three cables into the ground. It won't be all that long before 50 to 100 channel systems are operational and, even then, channels could still keep growing at a visible rate.

We are going to need a public policy for the new technologies and, in creating that policy, we must be cognizant of the economic incentives our policy creates. If we don't grapple with this central economic issue, the present programming problems will be magnified when there are 20 or more channels, and the public will still not have the opportunity to make meaningful program choices.

Mass audience programming on a few channels is certain to continue, but the new economics cannot be dependent solely on mass appeal programming. With lots of channels and the relatively low transmission costs they entail, there will be exciting new opportunities to reach specialized audiences:



not just minority audiences of special ethnic or cultural interests, but those slivers of the mass entertainment audience that don't rate anywhere near a 30 share. There is room for programs for those kinds of audiences as well as mass appeal programs. That's what diversity is all about. There are opportunities not only for diversity of programs and program sources, but also, for the first time, for meaningful consumer choice. Not every channel then has to seek out only that exceptional talent that can win in the mass audience competition and this could reduce the costs and increase the volume of program production.

I don't think this is blue sky, but there are many practical problems that must be solved before it actually comes about. Where is the money going to come from to support this new programming? How will public policy for the communications media affect the supply and the demand?

It's clear that revenues from advertisers aren't infinitely expandable. It doesn't seem likely that advertisers will pay much more than the \$4 billion or so they now do. But what if we weren't totally dependent on advertising revenues? Suppose we allowed a mixed system for the electronic media, as we do for the print media? In a mixed system, funds would be provided by subscribers only if a different kind of programming is offered. Specialized interest programs could generate the subscriber revenues they need to be viable but they won't replace mass appeal programs on either cable or broadcast channels. There will always be mass appeal programs and



advertisers willing to spend billions on them. The important thing is that a mixed system would provide more diversity in both mass appeal and special appeal programs. Imagine the kind of program diversity and choice that could be created by doubling the dollars presently available for television programming.

The rapid pace of change in communications makes it imperative that we anticipate these developments. For all of us actively involved in shaping public policy for our electronic communications media, the future is now -- our lead time expired yesterday. We're not just on the threshold of a communications revolution -- we're in the middle of one. It's a revolution involving many different technologies -- broadcast, cable, and cassette. The key to this is the public policy we choose for the transmission technologies, for they are the intermediaries between the programmers and the viewers. We should seek to provide the appropriate economic incentives so that the would-be viewer and the would-be programmer can get together as easily and constructively as possible.

But naturally, you can't plan for the revolution that is upon us, if programmers are worried about where they are going to find the money to keep going today and broadcasters and cable owners continue to see each other as enemies. The cable settlement was good news to Hollywood, and the Administration recently sent more good news on such matters as amortization of film production costs, investment credits, tax incentives and financing for exporting Hollywood's products.



In these ways, and more broadly through the President's new economic policies, we hope to see a turnaround out here during the next year. And the Administration's views on the long run aspects of cable are still very much in the works.

All this will certainly help you face the communications revolution I have spoken of, but many questions remain. We'll have to keep asking the questions until we find the answers and the questions are likely to change about as fast as the technology and the role of the new media. We need your help in formulating the questions as well as in answering them. Private enterprise and government must have a common goal of expanding business opportunities to serve the public interest.

2

REMARKS OF

Clay T. Whitehead, Director

Office of Telecommunications Policy  
Executive Office of the President

to the

Georgia Radio and Television Institute  
Center for Continuing Education

University of Georgia  
Athens, Georgia

January 26, 1972



I have looked forward for several months to my visit to the University of Georgia campus here in Athens and to participating in the 27th Annual Georgia Radio and Television Institute. It has been my feeling since taking the job as Director of the Office of Telecommunications Policy that, whenever possible, it is important to get out of Washington and discuss firsthand the problems facing the communications industry.

I would like to spend the greater majority of this hour exchanging views with you and discussing the problems as you see them. But first I've been asked to talk briefly about the future of communications and broadcasting as seen from the Office of Telecommunications Policy.

It is clear to me that man's communications for the rest of this century are already taking shape. Communications technology and the regulatory framework are already in their formative stages. In addition, we're beginning to see the shape of the new services that might be available before this century is over. Mobile communications, in a sense we have never known it, may be available--that is, a telephone in every car, perhaps



in every pocket. We may have world-wide international communications at very low cost. There is also cable television, which may make feasible direct transmission from satellite to your local community; such transmissions could be distributed by cable, which would replace a world of channel scarcity with a world of channel plenty. Computers will come into their own in conjunction with communications systems before the year 2000. In particular, data communications will make possible an information economy; total information communications may become a reality.

By the end of this century, it will be clear that communications of all types will have quite a different shape, but it's very difficult to see what that shape will be. What will be its effect on our lives? How will it affect our economy? Some possibilities come to mind: It may bring about less geographical concentration of information and education. It may create more plentiful opportunities for person-to-person contact and for mass communications. It may bring more services into the home and the office. It is the prime responsibility of the Office of Telecommunications Policy to assess all of these possibilities and to develop policies for Government regulation or deregulation. Such long-range evaluation will help this communications potential turn into an actuality.



Why is it important that we have an office such as the Office of Telecommunications Policy? What's going on in communications that makes this necessary? First of all, I think communications are having a major impact on us as a people that we're only beginning to understand. Communications are growing, growing in use; growing in kinds of service; growing in scope and growing in importance to us. Communications affect intimately how we deal with one another; how we see ourselves as people, as a country; and how we see our world; it affects how we exchange ideas; how we conduct our political processes.

I've mentioned the technology that will be available to us by the year 2000. What man's communications is at the end of this century depends as much on what Government policy is, as on what technology can produce, because communications is a very highly regulated industry. For example, the FCC table of television station allocations was made in 1952. That happens to be 20 years ago, and yet the table remains virtually unchanged today. This allocation drives the structure of our television industry, and is responsible for much of what we will do and have available in the future.



The 38-year-old Communications Act has tended to freeze the relationship between government, private industry, and the public. We have reached a stage in the rapid growth of communications when the relationship must be allowed to be a far more dynamic one. For instance, in the broadcasting industry, the criteria used for license renewal are no longer practical nor do they make sense in many instances. The Fairness Doctrine and other access mechanisms have become a quagmire of government program control. The courts are on the way to making the broadcaster a government agent. They are taking away the licensees' First Amendment rights, and they are giving the public an abridgeable right of access. In effect, the First Amendment is whatever the FCC decides it is.

The point is: We need a fundamental revision of the framework of relationships in which you, the government, and the public, interact. The underpinnings of broadcast regulation are being changed--the old status quo is gone and none of us can restore it. We can continue the chaos and see where we end up. But there has to be a better way.

Last October I offered three proposals--a package that could result in a major revision of the Communications Act. The proposals are: One, eliminate the Fairness



Doctrine and replace it with a statutory right of access; two, change the license renewal process to get the government out of programming; and three, recognize commercial radio as a medium that is completely different from TV and begin to deregulate it.

These proposals have had the intended effect of moving along the discussion of some of the real issues that confront broadcasting today. Since that time, we have talked to broadcasters, government officials, public interest advocates and others, and have explained many of the details of the proposals.

I would like today to expand on these proposals further. I won't get into the details of radio deregulation because everyone seems enthusiastic to give it a try. An experiment in deregulation will do a lot of its own "fine-tuning." It makes a world of sense to streamline the regulatory controls on radio and rely more upon the self-regulation of a marketplace in which there is a multiplicity of outlets and wide latitude for consumer choice. Hopefully the FCC will select a representative group of radio markets--including some small markets--where assignments and transfers would be granted on a pro forma basis and licenses would be renewed without a review of program and commercial practices. I predict that such an experiment would



prove that broadcasters are responsible and can serve their communities without detailed supervision from Washington.

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



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

My proposal would create a self-limiting right of direct personal access not dependent on the Government's



discretion. This right would be enforced in a manner that would not intrude on the broadcaster's obligation to inform the public on important issues in a fair and balanced manner. It would be a statutory right of paid access to the 10 to 16 minutes in each television hour which the broadcaster sets aside for sale to advertisers. The right would be enforced through the courts and not by the FCC. Views stated in ads would not have to be balanced in program time. Advertising time and program time would be two separate forums, and the willingness and ability to pay would determine access to the advertising forum. That's not a shocking concept. No one gets free access to the advertising space even on publicly-owned bus lines, let alone newspapers, magazines, or billboards. And we pay more for a full page color ad in Life magazine than for a small ad in the local paper. There is no reason to treat broadcasting differently. No individual has a direct right to have for free the large audience you have built with your programming.

In the program-time forum, an issue-oriented access mechanism would control. The public's right to be informed on important issues and points of view must be recognized and served in program time. Here the licensee's obligation would be enforced as originally contemplated in the FCC's Editorializing Report of 1949.



The totality of the programming that is under the licensee's control (including PSA's) would be reviewed by the Commission at renewal time to determine whether the licensee has met his fairness obligation--that is, to provide balanced presentations and an opportunity for partisan voices to be heard on the issues. And during the license period, if the licensee badly fails--or doesn't try--to be balanced and fair, a petition for revocation of the license would be entertained by the FCC.

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I don't think my proposals are unrealistic. Things have been getting worse for broadcasters and they will continue to do so. The battle lines are being drawn tighter every year between you and dissatisfied elements of your public. If I were a true revolutionary, I would watch



this trend and say the worse it gets, the more sense my proposals make. But I do not have this revolutionary vision; I want to start now to stop the trend to make the licensee an agent of the government for programming purposes. The social and economic forces that are causing this unhealthy trend are not going to go away. You are not seeing a temporary madness in the body politic, you are seeing the times change. There is no easy way out. It's more difficult to be private licensees with public responsibilities than it is to be "gate-keepers" for a government-controlled broadcasting forum of communications. It's harder to be free and to exercise that freedom responsibly. I know you want the latter approach. So do I and I'm convinced the public does too.

In conclusion, I've tried to suggest in my remarks about communications in the year 2000 that we have the potential before us of a really bright, new world. But that bright, new world creates many complex questions and raises many complex political issues. We want to be very careful that our world does not become Huxley's "Brave New World". Sorting out all its complexities, making some sense out of it, requires us to devote more of our public discussions to these communications issues. For the long run, we will have to develop some sensible, hopefully some wise and forward-looking policies.



But, in the short run, it's going to require much more. I don't need to tell this audience that the public is concerned about the media. They're concerned about press objectivity, they're concerned about programming quality, programming choices; they're concerned about its impact on our children and many other things. A great deal of self-regulation by all parts of the radio and television industry is going to be required in the next few years. The alternative, I'm afraid, is backlash, piecemeal legislation and regulatory action that will serve no one, but could very seriously warp the potential that communications has for man even in the year 2000.

I regret that I don't have a crystal ball to tell you precisely how we're going to resolve all these questions by then, whether for better or for worse; and I think probably for better. That is not given to us to see. But radio and television have served us very well in the past in this country, very well, indeed. The men in it have every right to be proud of their service to this country. This industry has built a great base for the expansion of man's communications and I am confident that the future will be even brighter.



Communications of all types in the year 2000 will play a far larger role in shaping lives, in shaping careers, and even in shaping the very nature of our society. The outlines of man's communications for the year 2000 are being shaped right now. These future conditions deserve our attention; they deserve our very best thinking, because communications, in the deepest sense of the word, is what man is really all about.

Thank you very much.

4

REMARKS OF

Clay T. Whitehead, Director

Office of Telecommunications Policy  
Executive Office of the President

before

The Conference Board

New York, New York

February 15, 1972



I am pleased to have an opportunity to meet with such a distinguished group of leaders from such a broad range of industries. I feel very strongly, as I know you do, that only through this kind of mutual cooperation and exchange between Government and the private sector can we meet the challenges and solve the problems facing us in channeling new technologies. We will be studying very carefully the "propositions" and "initiatives" that result from this Conference with just that in mind.

One of those propositions is that those with leadership and decision-making responsibilities must consider information as a major industry, a national resource and a source of economic and political power. I think the point of that proposition is well taken. You are taking a broad perspective and a broad definition of the information industry. The technologies -- computers, communications, film, etc. -- are diverse, as are the applications -- education, finance, government, transportation, and, of course, many others.

The direct impact of the information business is already sizeable and growing at a very rapid rate. Of course, the various parts of the information business will grow and develop somewhat independently, even though there are common technologies and common principles involved. But the indirect impact of the information business is even more pervasive, and it is there that the concept of an information industry is most important to understanding what is going on.



Almost without our realizing it, the American economy has become heavily organized around information and the utilization of information. The inputs to a productive enterprise are no longer the traditional capital and labor only, but rather capital, labor, and information. And, within the general field of information, communication plays a vital role.

Communication is to the information business what transportation is to the industries dealing in goods and materials. Without good transportation, production would be scattered, decentralized and inefficient. Transportation creates large markets and permits efficient production. But it does more -- it has determined where and how we live. One only need consider the influence of rivers and harbors on population distribution to see this influence.

More and more of our national resources are engaged in the information business. Communications will be a major shaping force in this business. More and more it will determine where and how we live, how our businesses are organized, how large they become, and whom they serve. The impact goes beyond our economy. In our society, too, information technology in the forms of telephone and television have done much to change our social, political, and broad informational characteristics.

We have learned from our experience in other fields that regulation of communications has a tremendous impact on the underlying information that is communicated. In broadcasting, for instance, regulatory



policies regarding the number of television channels, programming requirements, and advertising support, have heavily directed television toward programming for mass audiences and mass tastes. As a result, regulatory policy has increasingly gone to questions of content and quality of programs broadcast over the facilities. Why? Because regulation of transmission has shaped the economic incentives and disincentives involved in providing for the programs themselves, and because once regulation is established it tends to expand its purview.

The same is true in the common carrier field of communications where highly detailed regulation oriented around public telephone service inhibits the growth of specialized communications services. Consider, for example, computer/communications services. At the present time, computers are available in a wide variety of configurations and prices. Raw computing power and associated equipment and software for these services are provided in a competitive environment that is quite responsive to social and individual consumer needs. However, when information services draw on communications as well as computers, they must operate within an economic and technological framework that is oriented towards the more conventional forms of communications, and makes carriage of data more expensive and inflexible. Where we draw the regulatory boundary between computer services and



communications will have a big influence on the services offered, the vitality and innovation in the business, and whether the incentives are to suit the technology, the Government, or the user.

So it is clear that government policies and regulatory concepts in the area of communications can have a profound effect on the evolution of the information business. Fortunately, much of the information industry is still young. If we are to guide this industry in a way that serves human ends, we must be prepared to back away from immediate problems and issues and to view things from their largest perspectives. We must trace our decisions back to fundamentals.

Some of these fundamental considerations derive from cultural values, including such issues as access, privacy and humanization. You'll notice that I phrased the last word in the positive: humanization, not dehumanization. While I do not believe that information technology will achieve the utopian ideal, neither do I think that machines necessarily destroy basic human values. Information technology is a tool that we have placed in our own hands. We can use it to enhance our own abilities and potentials, rather than degrade them. Our stress should be on developing the kind of institutions for the technology that serve this positive function, and not on creating defenses to meet a conjured-up parade of horrors.

While it is difficult to predict with any certainty the rate of growth or the detailed composition of the information business of the future, the



basic direction is clear: More information, more highly organized, more heavily dependent on technology, and more rapidly moved around. Who will have access to this emerging system of information -- access as a provider as well as access as a receiver? Will these forms of access be widely diffused or highly centralized? How will information access affect our social and political institutions? What will be its impact on the free enterprise system?

In seeking answers to these questions, we will have to recall the basic principles of variety and diversity that our society and our economy are founded upon. When we structure the information business, we structure the framework for the expression of ideas, for the exchange of information, and for the use of information in business. We will have to think of access that encourages diversity and quality in the sources of information, as well as in the way information is utilized; access that benefits individual human beings and small business, as well as large organizations and institutions; access that minimizes social polarization. Finally, we will have to think of structuring access so as to avoid the development a new class division -- the information-poor and the information-rich -- before that situation can arise.

It is obvious that there are many uncertainties in evaluating what is the best way of providing for access. The answer is neither easy nor readily available. Government cannot force people to be informed; it cannot ignore the realities and the freedoms of the marketplace; nor



can it command the evolution of technology. Government can, however, search for the public policies that will foster an industry and market structure that will encourage the applications and the technology to grow naturally in the most desirable directions.

Another important issue is privacy -- in its widest sense -- including related issues such as the integrity and autonomy of the individual. As our society grows more complex, and we become more independent, we are learning that privacy -- or the capability of controlling who knows what about you, and why, -- is fundamental to all human relations. There is a basic interest in privacy which society must not overlook. However, it is also true that the individual's interest in privacy is frequently offset by his own interest in disclosure, since disclosure is often an indispensable means to achieving another desired good. Millions of consumers, for example, disclose personal information about themselves in order to obtain commercial credit. There is also a broader social interest in disclosure. There may be times when society must obtain some private information in order to act knowledgeably for the solution of social problems. If we absolutely prohibited all data acquisition, more would be lost in terms of foregone social capability than would be gained in terms of greater individual privacy.

I do not think there can be monolithic principles to guide decision on privacy. There are certain kinds of information, or perhaps "zones"



of privacy, which should be protected from all intrusion. Beyond that, individual choice should prevail. There is no single best resolution of the competing interests of privacy and disclosure that applies for each individual or situation. But, Government can assist in shaping utilization of information technology so that once an individual or societal decision is made, there is an effective mechanism for carrying it out.

The new technologies and the new problems that come about will not necessarily require new institutions. Indeed, I think the basic objectives of diversity, choice, access, and privacy are likely to be more fully achieved in our system of private rights and legal procedures for enforcing them than through any new or expanded Federal bureaucracy.

In addition to considerations of access, privacy and humanization, the information business must be structured to achieve a degree of economic efficiency consistent with other goals. The question is how to do this. Much of our trouble in the present communications industry stems from two assumptions made years ago when we enacted the Communications Act of 1934: First, that a good part of the communications industry is characterized by natural monopoly; and secondly, that extensive regulation is necessary to prevent resulting monopolistic abuses. In many ways, the wheel is coming full circle. Instead of natural monopoly, we find that more and more communications enterprises can be competitive in nature. And, in such an environment, we find that regulation affords not just consumer protection, but also uncertainty, delay and expense. What is the proper balance? Is the substitution of regulation for the



marketplace really best -- really justified -- or is it only due to the force of habit? Can the marketplace really be made to work effectively in such a complex and rapidly changing area?

There are no ready answers for these kinds of questions. We cannot afford to abandon the marketplace; we cannot afford to give up the choice, the diversity, and the freedom that it offers, nor can Government pretend that laissez-faire is an acceptable public policy. Rather, we will have to create new mechanisms and units of exchange which enable market incentives to operate. To illustrate this point, consider the mechanism of copyright. Presently we rely on copyright laws both to give authors the incentive to produce and to establish a unit of exchange in the market system. Once an author copyrights a book, he obtains the exclusive right to sell, publish or copy it. From the proceeds of the sale or licensing of this right, the author is compensated for his labor.

But what will happen if library services come to be provided by a computer based network which feeds information right into the home? The computer permits easy change in the form of information, including the selection of parts of several original works to produce a wholly new product. Copyright laws pertaining only to the form in which an idea is expressed do not cover the situation I've described, where only the underlying information of the idea is used, and not the expression of the idea. Without a broadening of the copyright concept, our author would starve in his garret and the flow of new ideas would dry up. Those



of you who have had experience with copyright can add to this list or problems -- for example, the difficulties of adhering to the procedural requirements of our 63-year old copyright law, like affixing copyright notice to information inserted in a data base. You can ponder over whether an evanescent display of information on a CRT is a "copy" or not.

My point is this: We could strain present copyright laws to accommodate new information technology. But there is a limit to how effective present copyright concepts can be in an environment that is so foreign to it. For the most successful operation of the market, I believe we must find a new kind of property right in information. It should serve the same underlying purposes that present copyright does, but be suited to the use, value and form of information in the newer systems of communication. This is only one example of the kind of changes we must be prepared to make to effectively utilize the marketplace to achieve our purposes.

Let me not keep talking, for I will inevitably get into more and more of the things you have been discussing already. What I have tried to do today is to pull out of the complex issues you have been considering some that seem more important for public policy. Government will have to deal with these problems and your choices as leaders in your institutions will be shaped heavily by what Government does. Similarly, what Government has to do will be shaped by what you do. It is perhaps trite to observe that Government and industry must learn to work

together more closely, but I can think of no area where it is more important, for information is now a major factor in the growth of our economy -- in the growth of your industry -- and policies for the exchange of information always have been a major concern of Government. The importance of all this is matched only by its excitement. We look forward to having the results of this Conference and to continuing to work with you in this exciting field.



REMARKS OF

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Office of Telecommunications Policy  
Executive Office of the President

before the

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From all the reports I've seen, last year was not a great financial success for broadcasting, but it was not as bad as some expected when a future without cigarette billings seemed to be a very bleak future indeed. That's the business side; nothing very exciting in 1971, but the economic prospects look good for the coming year. On the government, or regulatory side, broadcasters were beset by threatening developments at the FCC and in the courts: license renewals, fairness and access, cable television, spectrum reallocations, and children's programming among other issues. But serious as these developments are, they are being over-shadowed by a new problem.

The problem I refer to is the regulation of broadcast advertising and the conditions the advertiser finds when he chooses the broadcast media for his messages. Try this list of issues: advertising and the Fairness Doctrine; mandatory access for editorial ads; advertising in children's programs; licensee responsibility as to false and misleading advertising; campaign spending limits on broadcast ads and political advertising in general; ads for certain types of products; and counter advertising. The nature of commercial broadcasting depends heavily on how these and other similar issues are resolved. What is commonly called "free" broadcasting is actually advertiser-supported broadcasting, and the regulatory



framework for broadcast advertising deals with the economic core of our private enterprise broadcast system. Similarly, advertising is now so dependent on broadcasting that the issues faced by the advertising industry have been transformed into broadcast-advertising issues.

Of course, there were ads before there was broadcasting and, of course, many of the ads in the pre-broadcasting days were crude deceptions. Deceptive and misleading advertising is still an important issue, but now the overall issue is much broader than the traditional concerns about questionable advertising. If it were only a case of advertising taste or excessive "puffery," I think most people would take advertising with the proverbial grain of salt that one relied upon in listening to the "medicine men" at country fairs or reading the back pages of comic books and other popular literature. But now broadcasting, especially TV, has raised the advertisement to a popular art form. TV advertising is not only pervasive, it is unavoidable. That special impact that characterizes the television medium provides a natural attraction for the techniques usually associated with advertising. It seems that the TV advertising spot is the most innovative and almost inevitably appealing use of the television medium.

In these circumstances, it seems that advertising itself has become an issue. Some people tend to view it as the means by which an insidious business-advertising complex manipulates the consumer and leads public opinion to goals that are broader than



simply purchasing the products being advertised. Some feel that what is being sold the American people is a consumption-oriented way of life. This becomes a political issue that is a fit subject for government redress--a remedy in addition to the traditional controls on false and misleading advertising.

I think that some of these broader concerns about TV advertising are now motivating the Federal Trade Commission. The FTC filed comments in the FCC's Fairness Doctrine inquiry, proposing that there be compulsory counter advertising for almost all broadcast ads. The FTC's counter advertising proposal would provide an opportunity for any person or group to present views contrary to those raised explicitly and implicitly by product ads. In the Trade Commission's own words, counter advertising "would be an appropriate means of overcoming some of the shortcomings of the FTC's regulatory tools, and a suitable approach to some of the present failings of advertising which are now beyond the FTC's capacity." The Trade Commission wants to shape the Fairness Doctrine into a new tool of advertising regulation and thereby expand the Doctrine's already chaotic enforcement mechanism far beyond what was originally intended and what is now appropriate.

The Trade Commission would have the FCC require responses for four types of ads:

- (1) Those that explicitly raise controversial issues, such as an ad claiming that the Alaska pipeline would be good for caribou;



- (2) Those stressing broad, recurring themes that implicitly raise controversial issues, for example, food ads that could be taken as encouraging poor eating habits;
- (3) Those ads that are supported by scientific premises that are disputed within the scientific community, such as an ad saying that a household cleanser is capable of handling different kinds of cleaning problems; and
- (4) Those ads that are silent about the negative aspects of the products, so that an ad claiming that orange juice is a good source of vitamin C may be countered by a message stating that some people think rose hips are a superior source of that vitamin.

The Trade Commission also suggested that broadcasters should have an affirmative obligation to provide a substantial amount of free air time for anyone wishing to respond to product ads. This goes beyond the requirement in the BEM case that broadcasters must allow persons or groups to purchase time. In a business sense, that is not too intrusive on the broadcasters' operations, and some right to purchase time for the expression of views on issues would serve an important purpose. But a requirement to provide "free" time



in response to paid advertising time would have all the undesirable features of any market in which some people pay and some do not. It is, in any event, misleading to call this free time. There would be a hidden subsidy and the public would end up paying for both advertising and counter advertising messages.

Even if there were no problems with a broad free time requirement, we would be critical of the FTC for suggesting that "Fairness" responses be required for ads involving disputes within the scientific community and ads that are silent as to the negative aspects of products.

We all know that, if an advertiser falsely implied that a scientific claim was well established or failed to disclose a material negative aspect of his product, the FTC could use its own procedures to deal with this type of deceptive advertising. The Trade Commission could even use its new corrective advertising weapon, and require the advertiser to clear up misleading claims in past advertising. This is now being done in the Profile Bread ads.

The FTC, however, doesn't think that these regulatory tools are effective enough or thinks that they are too troublesome to apply. It is disturbing, however, that the agency charged with overseeing the content of advertising in all media has stated that the FCC is better able to achieve the Trade Commission's regulatory goals for the broadcast media. Of course, the Trade Commission would like to bring the FCC into the process and by-pass the difficult job



of making factual determinations concerning advertising deception. The FTC is constrained by all sorts of procedures which safeguard the rights of advertisers accused of deception. It is much easier to subject the suspect advertiser to a verbal stoning in the public square, but is it responsible for a government agency to urge this type of approach? This Administration thinks not.

Perhaps private, self-styled spokesmen for the public interest cannot be faulted for advocating compulsory counter advertising without coming to grips with all the complexities and consequences involved. But a regulatory agency cannot afford the private litigant's luxury of dismissing the enormous practical difficulties of its proposal by simply asserting without support that it would be workable. Nor can an agency ignore or dismiss difficult and sensitive First Amendment problems, the underlying economic structure of the industries it is dealing with, or the detailed balancing of competing public interest considerations.

If you have any doubts as to the workability of the FTC's proposals, listen to some typical examples of the type of "negative aspect" counter ads the FTC had in mind.

"In response to advertising for small automobiles, emphasizing the factor of low cost and economy, the public could be informed of the views of some people that such cars are considerably less safe than larger cars. On the other hand, ads for big cars, emphasizing the factors of safety and comfort, could be answered by counter-ads concerning the greater pollution arguably generated by such cars. In response to advertising for some foods, emphasizing various nutritional values and benefits, the public might be informed of the views



of some people that consumption of some other food may be a superior source of the same nutritional values and benefits. In response to advertising for whole life insurance, emphasizing the factor of being a sound 'investment,' the public could be informed of the views of some people that whole life insurance is an unwise expenditure. In response to advertising for some drug products, emphasizing efficacy in curing various ailments, the public could be informed of the views of some people that competing drug products with equivalent efficacy are available in the market at substantially lower prices."

The FTC capped this list of examples--which related to products that alone account for 40 per cent of all TV advertising--by asserting that "the list could go on indefinitely"! Can the FTC be oblivious to the fact that this is precisely the problem with compulsory counter advertising? Without doubt our overriding goal in this area should be to provide consumers with information that will enable them to make intelligent choices among products. But any broadcast advertisement could start an endless round of debate and disputation based on opinions regarding the products being advertised. This isn't the kind of information that is most helpful to consumers. Although it may seem that the Trade Commission's counter advertising proposal serves consumers' interests, the public would be done a disservice if all that counter advertising achieves is a bewildering clutter of personal opinions thrust before consumers every time they turn on their radios and TVs. And who is supposed to protect the public from false and misleading material in the counter-ads?



The advertisers will still have the content of their presentations regulated by the Trade Commission to weed out deception, but who is to guard against the excesses of counter advertising by irresponsible or uninformed groups? When this question was raised, the FTC's Director of Consumer Protection indicated that the agency might have to "monitor" counter-ads, but this may become "ticklish" since a First Amendment problem may be involved. Ticklish indeed! One would have hoped that a Federal agency would have been more sensitive to this problem before proposing a requirement of counter advertising.

It is also disturbing to see that the counter advertising position is not unique to the FTC. Others in government seem to be advocating an end to the broadcast ban on cigarette ads just to bring back anti-smoking spots!

The figures show that per capita cigarette consumption in the U. S. decreased when anti-smoking spots were aired in large numbers and increased in 1971, when there were no cigarette ads and a lower level of anti-smoking spots. Bigger increases are predicted for 1972. The Department of Agriculture has attributed the increased consumption to a decrease in anti-smoking spots. This may indicate that advertisers are better off not using the broadcast media when there is a counter advertising requirement. If the cigarette advertising ban were lifted, the advertisers might well choose not to buy time and, thereby, underwrite the anti-smoking campaign.



Naturally, there would be some who would respond to this public interest crisis by requiring cigarette companies to advertise on radio and TV. Broadcasters wouldn't mind this at all, but if the FTC had its way you would have to require all advertisers to use TV and even the NAB couldn't pull that one off.

This wouldn't be a very constructive approach to advertising's problems, but one is sorely needed. The public expects to see actual and substantial progress made by the advertising industry's belated efforts at self-regulation. Advertising has made significant contributions to our economic well-being and our material worth. But if advertising is to continue to make these contributions it must reassess its role in our society.

We do not want to see advertisers respond to these problems by fleeing the broadcast media either voluntarily or involuntarily. Advertisers might be able to survive without broadcasting, but broadcasting could not survive without advertising. Advertising revenues make possible all of the public service, news, information, and entertainment programs. I do not agree with those who believe that commercial broadcasting is impervious to the adverse economic affects of regulation. You really can kill the goose that lays the golden egg; and it doesn't matter that it's killed by well-intentioned people.



This does not mean that the abuses and excesses of broadcast advertising should not and cannot be prevented. Broadcasters themselves are moving to correct problems in children's advertising and problems with deceptive and offensive ads. The advertising industry itself is following the broadcasters in the essential route of self-regulation. The record of self-regulation has not always been free of problems; and it never will be. Public vigilance is needed too, and the FCC and the Trade Commission have proper roles in seeing to it that that vigilance is maintained effectively.

The FCC has taken an approach that I strongly support. The FCC believes that advertising should be regulated as a business practice by the Trade Commission and this is not the FCC's job. Product ads should not be regulated, TV or not, as expressions of ideological, philosophical or political viewpoints. On the whole the FCC has recognized this and has implemented its regulatory power over broadcast advertising in a reasonable and responsible manner.

In its area of responsibility, the Trade Commission must use its regulatory tools to preclude false and deceptive advertising. The public is entitled to protection from the unethical business practices and from the occasionally misleading hyperbole of advertising agencies. But the FTC's responsibilities should not be expanded to include the responsibility for finding a solution to the philosophical problem that

advertising in general poses for some consumer advocates.

I think the FTC realizes that this would be beyond the scope of its regulatory authority; and it should be kept that way. Government agencies must realize that they cannot solve all of society's problems, that the Fairness Doctrine is not a panacea for fairness, much less all of our ills, and that when they go too far with social engineering they do more damage than good.

This Administration does not believe that advertising is inherently evil. We do not believe that advertiser support of commercial broadcasting is polluting the minds of America. This Administration believes in a strong and free private enterprise system of broadcasting for our country and in effective but responsible government. We intend to work to keep it that way.