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Date: Oct. 20, 2004

DOCUMENT NO. & TYPE	SUBJECT/TITLE	DATE	RESTRICTION
1. Talking Points	re: Meeting with CBC Leadership (1p.)	7/30/97	P2, P5

P1 National security classified information [(a)(1) of the PRA].

P2 Relating to appointment to Federal office [(a)(2) of the PRA].

P3 Release would violate a Federal statute [(a)(3) of the PRA].

P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA].

P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA].

P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA].

PRM Personal records misfile defined in accordance with 44 USC 2201 (3).

RESTRICTIONS

B1 National security classified information [(b)(1) of the FOIA].

B2 Release could disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA].

B3 Release would violate a Federal statute [(b)(3) of the FOIA].

B4 Release would disclose trade secrets or confidential commercial financial information [(b)(4) of the FOIA].

B6 Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA].

B7 Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA].

B8 Release would disclose information concerning the regulation of financial institutions [(b)(9) of the FOIA].

B9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA].



EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON, D.C. 20500

**Economic Benefits of the
Administration's Legislative Proposals
for Telecommunications**

June 14, 1994

To the extent enactment of the Administration's legislative proposals stimulates an acceleration of private investment, and if the economy remains below full employment through 1996, the economy as a whole could add a total of 500,000 new employment opportunities during the years 1994 to 1996.

To improve the nation's emerging National Information Infrastructure (NII) with technologies that enhance existing telephone and cable television services, the private sector may make capital investments over the next decade valued substantially in excess of \$75 billion (in 1994 dollars). These investments will occur earlier with the Administration's legislative proposals than without.

Innovation in the telecommunications and information sector is already occurring at a rapid rate. In the past decade, the facsimile machine has shifted from a curiosity to a commonplace, and the cellular telephone does not lag far behind. Television news is now transmitted instantaneously from the field to the studio by satellite. Internet use is moving beyond government and academic researchers to involve other government functions, private individuals and private sector firms as well. The number and variety of cable television channels has been growing. More and more, people work from home or the road by computer and modem, away from their physical office. The power and sophistication of personal computers in homes and offices, and what can be accomplished using them, has grown by leaps and bounds.

It is widely recognized that equally important advances in technology are on the horizon. Technical change will permit private industry to make new products and services available and affordable.² We can be confident that a telecommunications and information revolution is upon us, even though we do not yet know the details. Two way, interactive, broadband service will someday be the norm, although we cannot now know whether the emerging broadband network will be formed from wires, fiber optic lines, wireless technologies, or hybrids of these alternatives. And we can be confident that the computing power available to consumers of the multimedia services provided by the emerging information infrastructure will rise, even though we cannot predict whether that power will be lodged in a server outside the house or office, or in the home and office through a personal computer or a set top box connected to a television.

The Administration's legislative proposals will accelerate the rate at which the telecommunications and information revolution arrives in three ways: by reducing uncertainty about the course of regulation, by promoting competition throughout the telecommunications and information industries, and by providing a mechanism for removing existing regulatory restrictions as the development of competition makes them unnecessary. Private industry will be encouraged to invest more rapidly in the nation's emerging information infrastructure, and to develop new services more rapidly. The legislative proposals also reduce the likelihood that regulation will distort the choice of technology or other investment decisions. These effects on private investment, combined with the price reductions that will flow from new entry and greater competition, will accelerate the

²Separately from its legislative proposals for regulatory reform, the Administration is funding a wide range of research and development projects, many in collaboration with industry, to improve the information infrastructure and develop improved applications.

data processing services).⁴ In the baseline scenario, these sectors will experience significant growth in the next decade (Figure 1).

A similar baseline was created for investment in the telecommunications services component (the "conduit" category) (Figure 2). Some of this investment is needed to maintain the existing level of service when equipment breaks or becomes obsolete, or when population grows. The rest will make available the enhanced telecommunications services (e.g. switched broadband services, tele-medicine, and expanded electronic commerce) and the new information services (e.g. real-time multimedia services, electronic dissemination of government information, and "virtual" field trips for school children) that will be available on the information superhighway of the future. The bulk of the investments needed to do so will be put into place by 2003, in the baseline scenario.⁵

Only a portion of the investment depicted in Figure 2 will be dedicated to the development of enhanced services. This portion can be estimated by subtracting the current level of accounting depreciation recorded by the providers of telecommunications services--a measure of the real investment level required to maintain existing services--from the projected gross investment levels. Applying this methodology, the present value of these incremental capital investments over the next decade is approximately \$75 billion in 1994 dollars.⁶ This is

⁴These definitions exclude some activities that other definitions of the telecommunications and information sector have included. For example, the "content" component excludes commercial printing and greeting cards, and the "computers" component excludes consumer electronics other than communications equipment.

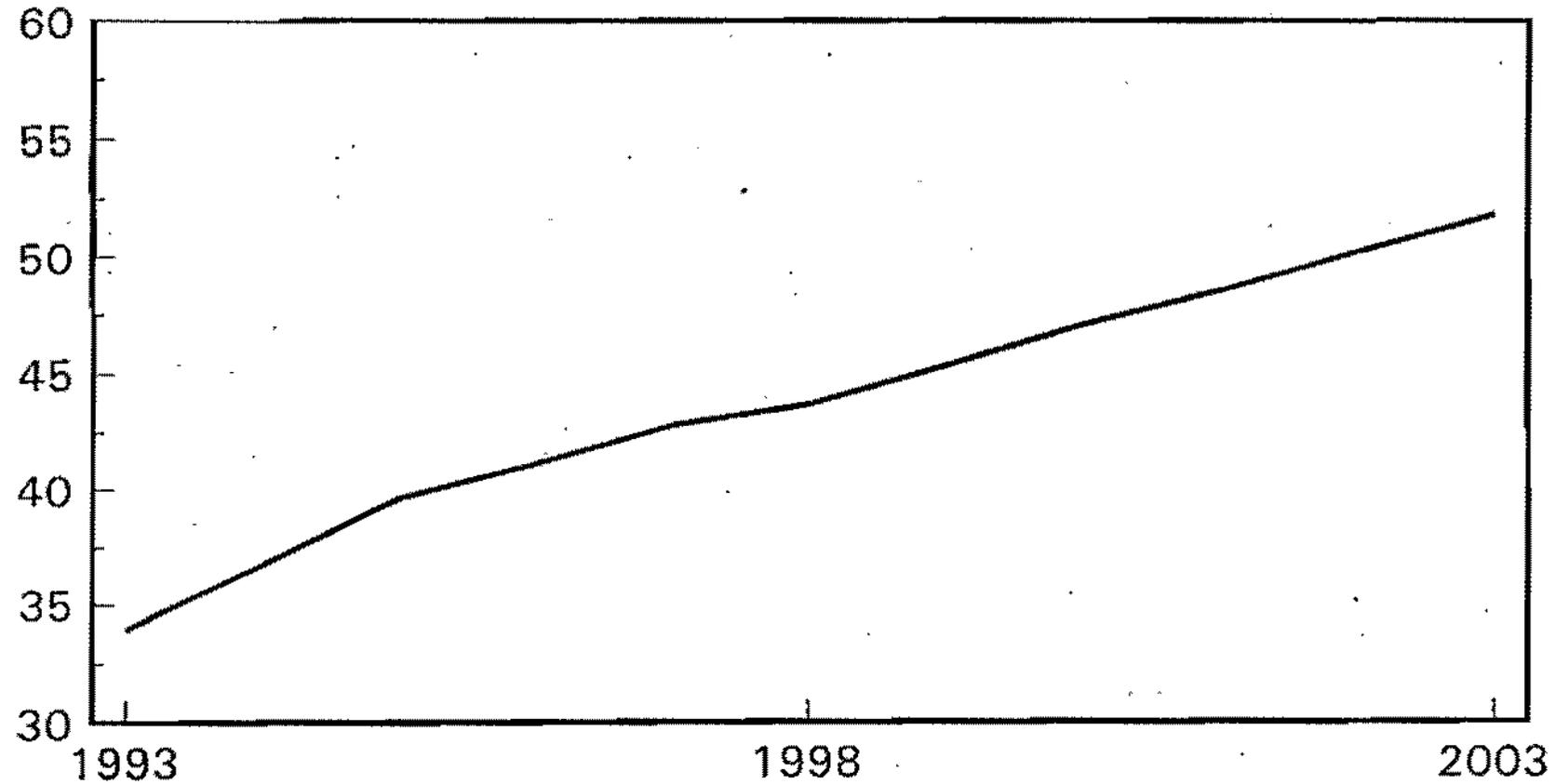
⁵The estimates illustrated in Figure 2 do not account for investments made by firms in the "content" or "computers" segment of the telecommunications and information sector, nor investments by firms elsewhere in the economy that will obtain access to new markets and new ways of providing their services from the creation of the NII. These figures also do not account for human capital investments in education and training, as workers learn to use the NII to become more productive.

⁶This figure assumes that the transmission infrastructure will be built as a hybrid combination of fiber optic lines, coaxial cable, copper telephone wire, and wireless transmission. If this portion of the new infrastructure were instead to be built entirely of fiber optics, replacing rather than upgrading the existing telecommunications network, the total cost could easily exceed \$100 billion, according to private sector

Figure 2

Telecommunications Services Sector Investment Baseline Scenario

billions of dollars



CEA Estimates

the rate of private sector investment in the narrowly-defined telecommunications industry. The estimates assume that 40 percent of the infrastructure investment made between 2001 and 2003 in the baseline case will instead be put into place between 1994 and 2000 with new legislation. The 40 percent figure recognizes the difficulty of accelerating investment that replaces depreciated capital stock and investment that cannot be put into place until other investments have been made. Under these assumptions, private investment will become \$9 billion greater each year than the baseline projects (except half that amount in 1994).⁹

C. Consequences for GDP Growth

By accelerating private investment in the information infrastructure and accelerating the availability and development of new services, GDP will increase. The three transmission mechanisms involved are discussed in turn.

1. Multiplier Effect of Increased Investment

Every dollar of increased domestic investment before the year the economy is projected to reach full employment is assumed to increase GDP by \$1.60 during the year it occurs. This multiplier is consistent with the predictions of most large-scale macroeconomic models for periods in which the economy is below full employment. In recognition of the leading position of U.S. manufacturers in producing the sophisticated capital equipment required to build an advanced telecommunications infrastructure, the analysis treats all such investment spending as domestic.

2. Shifting Inputs into a High Value-Added Sector

A new job in the telecommunications and information sector will produce greater output per labor input than the average new job in the economy. Thus, when the economy shifts inputs, especially workers, into this high value-added sector, national wealth increases even at full-employment. This cannot happen today because regulation restricts entry and otherwise creates distortions limiting sector output. Much of that regulation was necessary in the past in order to prevent the even worse distortions resulting from the exercise of market power by a natural monopolist. But as developments in technology shrink the scope of potential monopoly power in telecommunications, and as

⁹The projections assume that new legislation will not begin to affect private investment decisions before mid-1994. This assumption is conservative to the extent investment has already begun to accelerate in anticipation of the legislative enactment.

3. Greater Economy-Wide Productivity

The new information infrastructure will boost the economy's productivity.¹⁴ Productivity gains arise for at least two reasons: geographically distant firms will be able to behave in more ways as though they were neighbors, and changes in the innovation process arising from new ways of working will increase the likelihood of future innovations. If the investments that will develop the NII are accelerated, so services come on line more quickly than in the baseline case, these productivity gains will commence more quickly than under the baseline scenario.

The GDP estimates below assume that a productivity boost from the new infrastructure begins in 1998 under the Administration's legislation. The incremental productivity gain is assumed to be 0.03 percent per year, commencing in 1998. This figure is consistent with other estimates of the productivity gains from infrastructure investments, and excludes productivity gains already captured by virtue of the shift of workers to high value-added industries.

The productivity rate is assumed to revert to the baseline trend between 2000 and 2008. This treatment of the productivity increase is conservative because it ignores the possibility that the productivity rate increase will instead persist.

4. GDP Projections

Taking into account all three transmission mechanisms, the new legislation is projected to create a stream of annual GDP increases over the next decade with a present value of more than \$100 billion. More than \$30 billion of the increases will come from the multiplier effect of increased investment. Economy-wide productivity increases account for more than half of the remainder.

D. Consequences for Employment

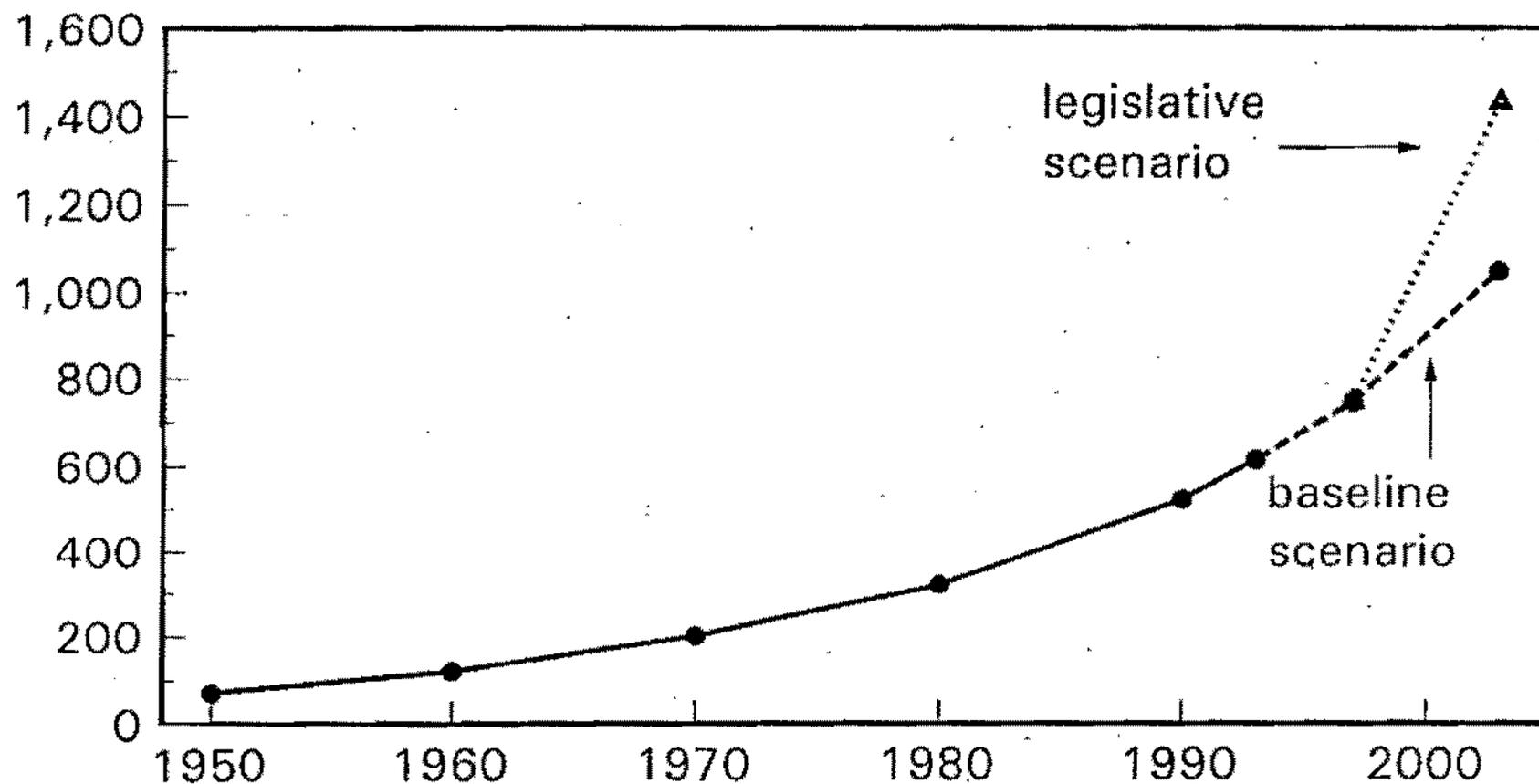
An increase in GDP that takes place when the economy is operating below full employment will create new jobs. (In contrast, no new jobs are available at full employment even if

¹⁴Productivity gains of this sort are plausible. For example, one study found a large social gain to computerization in the finance services industry not captured by the manufacturers of computers. The downstream benefits of technical progress in mainframe computers between 1958 and 1972 were estimated as at least 1.5 to 2 times the level of expenditures in this sector. Timothy F. Bresnahan, "Measuring the Spillovers from Technical Advance: Mainframe Computers in Financial Services," *American Econ. Review*, vol. 76, 1986, pp. 742-55.

Figure 3

Telecommunications and Information Sector Revenues 1950 to 2003

Revenues (billions of 1994 dollars)



CEA Estimates

Prepared Remarks by
Vice President Al Gore
to
Communications Workers of America
Detroit, Michigan
June 14, 1994

It is a great pleasure to be here -- especially with my friend and your president, Morty Bahr.

Morty, that's a great title: President.

I tried for it once. That's no secret -- though it seemed like one at the time.

A few months ago, we appointed a special Advisory Council to advise the Administration on the future of the National Information Infrastructure. Morty Bahr was the only union president on that panel.

President Bahr shares more than a title with Bill Clinton. They both believe we can make this economy work for people, for workers, for all of us gathered here today.

Last year, when President Clinton talked to the AFL-CIO he said, "We're replacing people who worked labor over with a government that works with labor."

That's true.

Remember what things were like in 1992?

I used to say, everything that should be down was up -- and everything that should be up was down. Housing starts, down. Job creation, down. Growth, down. Consumer confidence, down. Inflation, up. Deficit, up. Unemployment, up.

And I would say we were going to make things rightside up again.

We have.

Unemployment's down. The deficit is down. Housing starts are up. Growth is up. Jobs are up.

Despair is down. And hope is up.

Let's talk about one issue. Jobs.

In those days, we were losing 10,000 manufacturing jobs a week. Unemployment was at 7.4 -- and that didn't count those working part-time or those too discouraged to work.

Well, since Inauguration Day we've created close to 3.5 million jobs. That's 6500 a day -- almost enough to fill Tiger Stadium each week.

More new businesses started in 1993 than any year since we started counting.

And we did a lot more.

Remember how you used to fight for good legislation only to see it vetoed? Now the President signs those bills.

Motor voter. Signed. Family and Medical Leave. Signed.

We expanded EITC. Signed Hatch Act reform. Signed the Brady Bill. National Service. Goals 2000. Head Start expansion. And created an NLRB that believes in collective bargaining.

And we're pulling out all the stops to secure passage of striker replacement legislation. We'll work to get it through Congress. And as soon as it has been passed the President will sign it.

Let me make a point about one issue you have made your own.

There is too much secret electronic monitoring of employees in this country, whether by employers listening in on telephone conversations, counting the number of keystrokes or secretly taping workers on assembly lines. Why can't we protect honest workers from secret snooping by overzealous bosses?

So we've done a lot -- and we will do a lot. For there is a lot of unfinished business in America.

Although the information sector of our economy continues to grow, this union has faced a series of difficult and painful layoffs. Between AT&T and the local exchange carriers, over 200,000 jobs have been cut since 1984, but you continue to organize and move forward successfully.

The goals of this Administration are your goals. We're working closely with you on critical legislation: healthcare ... welfare reform ... worker retraining.

And we are working with you on something I'd like to talk about in the next few minutes. That's accelerating construction of the National Information Infrastructure -- that network of advanced communications networks that will change the lives of all Americans: bringing teachers and doctors closer to students and patients; creating new business opportunities; spanning distance and time to build national -- and then global -- communities.

The NII will be our network of information superhighways. But it will also be a vehicle for growth.

Recently, Laura Tyson and her Council of Economic Advisors have studied the economic benefits that would come from the legislative package this Administration has put together to accelerate the coming boom in telecommunications services. I'm happy to be the first to tell you the results of that study which has been released today.

It predicts that in the next decade this country will double the amount of dollars spent in this economy on telecommunications and information services.

That includes the conduits of communication like telephone service and cable television; the providers of content, including television, recorded music and book publishing; and computers, both hardware and software.

And what about the economic benefits that would come from our proposals -- ones you support?

They conclude it could add more than \$100 billion to the economy over the next decade.

What does all this mean for jobs? About 500,000 new jobs in the next two and a half years alone.

That is why we must enact legislation that encourages the construction of the NII in the United States. In January of this year, I set forth the Administration's legislative agenda. We need legislation that secures private investment, provides and protects competition, guarantees open access; ensures that governmental action itself is flexible, and provides universal service for all Americans. And we need to do this in a way that protects the good wages and job conditions you have worked so hard to earn and secure.

We envision a day when any company will be able to offer any service to any potential customer.

That's why we've endorsed specific measures to allow local telephone companies to offer cable television and video programming; to replace judicial administration of the Modified Final Judgment with legislative standards; and to permit, when competitive circumstances warrant, the Regional Bell Operating Companies to offer long-distance and certain other services, now.

I'm confident that when Congress adjourns next fall ... When members go back to their Districts ... they will be able to tell voters they've passed this package.

Partly that's because of your support.

CWA, after all, is a union that looks ahead. We saw that recently, when CWA and the IDU entered an agreement that gives priority consideration for re-employment to RBOC workers who lose their jobs after legislation passes, and which gives special consideration to AT&T workers when a RBOC offers long-distance telephone service. This agreement will position you to take full advantage of the economic growth that is going to come our way.

The economic opportunities do not, however, end at our national borders.

That's why we must also prepare for the future -- by building the Global Information Infrastructure.

Consider the needs that must be met around this planet.

The United States has about 55 telephone lines for every one hundred people -- and that yields telephone access for almost everyone. By contrast, China has less than one telephone line for every one hundred people. In our own hemisphere, the growing economy of Brazil has less than seven phone lines for every one hundred people.

That's going to change. By one estimate, four countries -- China, Russia, India and Brazil -- will invest more than \$1 billion dollars to build additional telephone lines and telephone service between 1993 and the end of the decade.

And we are poised to supply that need. Our products and services are recognized around the world as the most innovative of the highest quality. Our information-technology exports to the world have been growing and will continue to grow.

This Administration will be working to open markets around the world. We'll be working to promote private investment and competition where government monopolies exist; liberalization, where competition is not yet permitted; for international standards that permit open competition.

Recently, Saudi Arabia awarded a \$4 billion contract to AT&T to modernize its telephone system. That didn't happen by accident.

AT&T and its workers demonstrated the world-class quality of its equipment. President Clinton and Secretaries Christopher and Brown personally communicated the merits of the AT&T bid to the Saudi Arabian government. That's the kind of advocacy that will help us compete effectively for, literally, billions of dollars of contracts in the coming years.

If we are to prosper, as we must, we must be able to manufacture goods and provide services that are sold around the world.

We're already doing that.

Last year, when I was in Central Asia, the President of Kyrgyzstan told me his eight-year old son came to him and said, "Father, I have to learn English."

"But why?" President Akayev said.

"Because, father, the computer speaks English."

If we can continue to provide service to Kyrgyzstan and everywhere else ... your industries will prosper.

I'm confident that when the Digital Revolution hits villages in Namibia, or the bush in Australia, it will have the imprint of America.

But they will not eliminate the problems that come from change.

That's my third point -- That you and we must work together to ensure that economic transition does not harm American workers.

You know what I mean -- you know because your union is a national leader in sending the simple message that workers are assets to be developed, not simply costs to be cut.

That's why you worked out that agreement with NYNEX. That's why CWA has worked with AT&T to help create the "Workplace of the Future."

In California, the CWA is working to create the future of telecommunications. When GTE recently announced plans to build a new, interactive video network in Ventura County your local vice president said, "The business growth in these new broadband services provides new opportunities for our employees." And she was right.

That's great. It's not enough any more to be lean and mean. Companies preparing for the future must be lean and smart. And that means investing in employees. As one of your union officials said to NYNEX, "if you have the compassion, we have the creativity."

Your creativity will benefit all Americans. Because it's not enough just to pass legislation, or just to reach international agreements, or even just to ensure that high-quality workers are prepared for high-quality jobs. We must, as well, teach Americans about the benefits that will come from access to our National Information Infrastructure.

Today, our language similarly fails to communicate the full scope of the impact that will reach all Americans during the transition from an industrial to an information age. We think of a telephone for talking, a computer for typing and a television for watching.

We don't even yet have a word -- much less a fully articulated vision -- for the device that will do all three.

But we do have one advantage over our predecessors one hundred years ago. We have watched the sweep of change -- and so we can talk, even if with less than perfect accuracy, -- about the benefits that advanced communications will bring.

Some of those uses are as complicated as using supercomputers to model global climate change, or to create a non-polluting car.

Some may be as simple as the message posted on the electronic bulletin board of an elementary school in Minnesota by a sixth-grader: "I have one dad, one mom, one sister and one dog." Underneath his message, coming over the Internet, was a picture of -- no, not his dad, mom or sister -- the most important one: his dog.

Or consider the impact on manufacturing. In my home state, Saturn and the UAW have implemented local and wide area networks that decentralize decision-making and empower workers on the shop floor to make critical decisions. That's not philanthropy; that's wisdom.

As one executive of another company said, "All of the good ideas -- all of them -- come from hourly workers."

Government has an important role to play. We built roads for automobiles. Now we must help to set the ground rules for the information superhighways that the private sector and your workers will build. That means all the goals I've already outlined -- including universal service -- but it also means using our influence to get it right.

At the same time we are pushing forward on legislation, government needs to be pushing forward on regulatory initiatives.

Last week the Federal Communications Commission decided to allocate spectrum for the upcoming wideband PCS auction. It was a good decision that will lead to new products, new services -- and new, high-quality jobs.

The FCC will soon have to face a related issue -- the future of the so-called "pioneer's preference." We believe the careful use of a pioneer's preference will benefit not just the pioneer but society. This Administration will be submitting formal comments in the FCC rulemaking concerning the future use of the pioneer's preference. Our position is simple -- the pioneer's preference should be retained but should not be permitted to bestow disproportionate benefits to any private recipient.

Thus, we believe that the FCC should re-formulate the future use of the pioneer's preference. From now on, a pioneer should pay for the use of spectrum -- but should receive a discount totalling no more than 20% of the value the spectrum award could generate through an auction.

As you go forward, in your union work, at the job, when you see neighbors and friends, I hope that I can count on your help. We have investments to make, legislation to enact, progress to attain. But we need the support -- and the understanding of the American people.

I would like to see the CWA launch, with this Administration, a national public education campaign that focuses attention on the benefits to the nation of the new information infrastructure.

You know how to do it. Because you represent working Americans -- working Americans who will be better educated, have better health care, communicate more easily, with the future that your workers will build.

So far I've been talking about some far reaching changes in the way Americans -- and the world -- will communicate.

These are changes that will come from scientists working in labs ... from lawyers working out the intricacies of patent applications ... from entrepreneurs making decisions about where to put their capital ... from workers increasing productivity and quality ... from politicians passing laws.

And change will come one other way.

By voting.

We've got tough elections coming up in the Fall. 36 governors races. 34 Senate seats. Every seat in the U.S. House. Twenty-four states have both a Senate and a gubernatorial race.

There's a lot at stake.

Nobody knows that better than you.

Take health care.

I remember that recent Ameritech teleconference from Milwaukee with the President -- with both Presidents, actually: President Clinton and President Bahr. A CWA member from Detroit got up and pointed out that without employer based health insurance he would have been wiped out by his son's illness. And Morty didn't mince words, either. "The higher the cost of health care," he said, "the lower the wages."

We want to pass a health care plan. But no matter what the White House wants to do, we can't pass a health care plan alone.

And we can't pass a crime bill alone. Or striker replacement alone.

For that we need help.

There's an old union slogan I like when it comes time for elections: "The bread box is related to the ballot box."

It's never been more true than this year.

Are we going to have some fights between Democrats in the primaries?

Sure we will.

But that's natural. That's what happens in Primaries.

But something else happens in primaries. We test candidates. We build organizations.

So I ask you all: start working -- and start today. Make phone calls. Make yard signs. Go door to door. You'll win those votes one by one.

Each one will make America stronger.

We're now into our second century since Alexander Graham Bell invented the device that so revolutionized our lives. As a writer once put it: "Man instead of making himself heard a few hundred yards away with a shout, can make himself heard around the world with a whisper."

But the telephone is not just a technical accomplishment. For what would this invention be without the system we have developed to connect these phones -- the system run by you?

You have built this country by helping Americans perform one of the most vital human functions: communication.

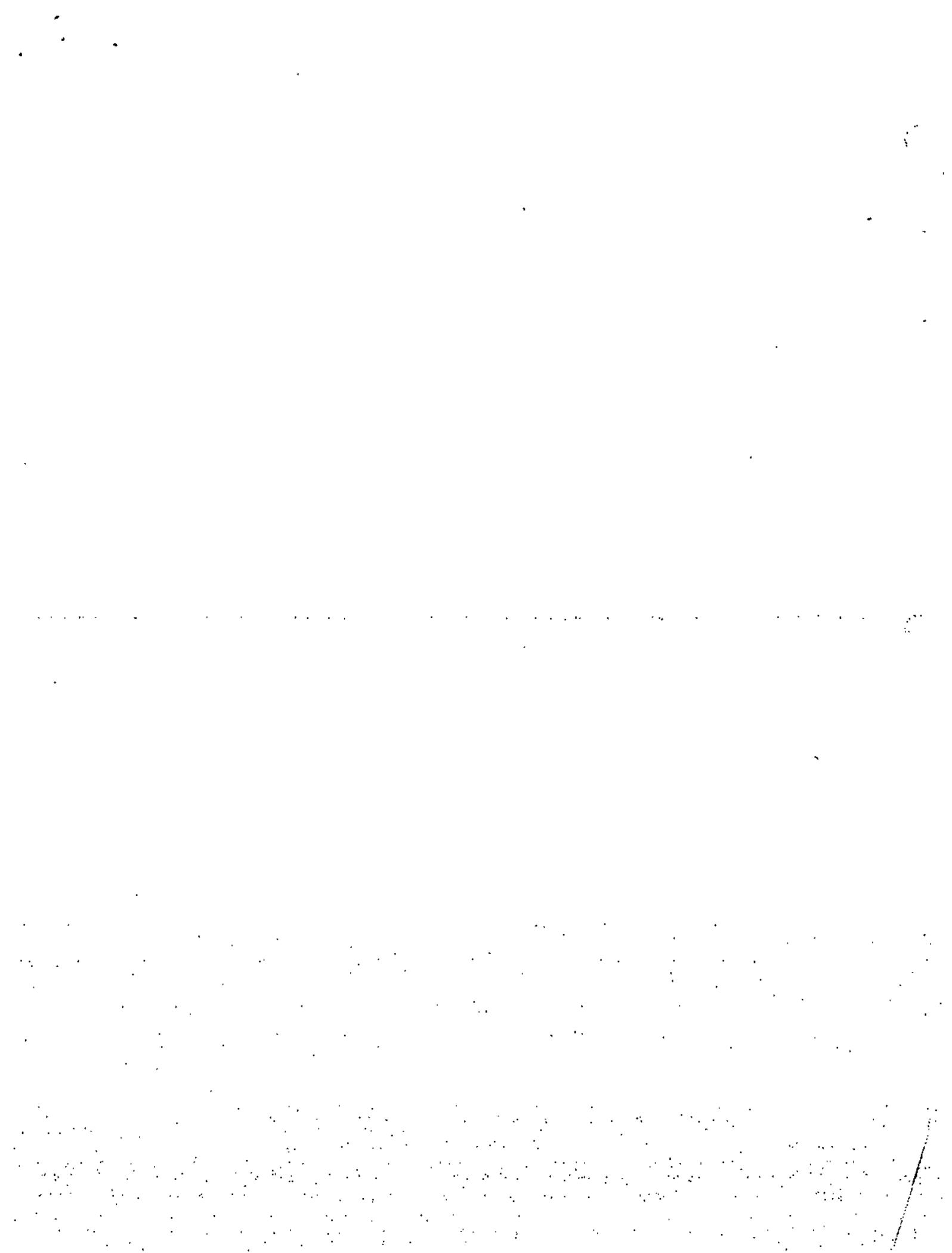
Thomas Jefferson once said, "He who receives an idea from me, receives instruction without lessening mine; as he who lights his taper at mine, receives light without darkening me."

When two people communicate, both can be enriched. The more we can share information, the more you share, the more you have.

The CWA has the power to light the future -- to make it easier for all of us to see the real advantages that will come from the National -- and the Global -- Information Infrastructure.

I hope that you will rise to meet that challenge. I look forward to working with you as you do.

Thank you.



Federal/State/Local Telecom Summit

Commerce Auditorium

Monday, January 9, 1995, 9:05 - 10:30

Requested by: Greg Simon

Briefing prepared by: Jim Kohlenberger

EVENT

You are kicking off and setting the tone for this historic summit between federal, state and local governments on telecommunications issues. This summit follows your announcement last October at the Center for Communications Studies in New York to engage states and localities in the development and deployment of advanced telecommunications services. Today, you are announcing a joint "Statement of Policy Objectives," negotiated by the Administration and a number of state and local umbrella organizations, that embraces your five principles on telecommunications and acknowledges the historical division of responsibility between levels of government on these issues (copy attached). Following your remarks, you will take several written questions from the audience in a Press Club type format read by the moderator, Newt Minnow, Director of the Annenberg Washington Program. The Summit will include about 500 participants and is cosponsored by Annenberg and the IITF.

LOGISTICS (As of this writing, subject to change)

- Upon arrival at the Commerce Department, Secretary Brown will meet you at curbside and proceed with you to a holding room where you will greet the others who are participating in the morning's program. They include: Secretary Brown, Governor Gaston Caperton, who you personally invited, Congressman Markey, Newt Minnow, Larry Irving, Reed Hundt, Anne Bingaman, Mayor Victor Ashe (will probably be arriving later), and Randy Johnson, a County Commissioner. They will proceed on stage before you.
- You will be announced from off-stage by Secretary Brown. Brown is also delivering a major speech at the lunch.
- After your remarks, Newt Minnow, Director of the Annenberg Washington Program, will ask you several written questions from the audience. Sample Q&A are attached.
- After your questions, you will sit at the table on your right while Gov. Caperton and Cong. Markey deliver their remarks.
- At the conclusion of Markey's remarks, Larry Irving will conclude this segment of the program by thanking you, the Secretary, the Governor, and the Congressman for coming. The four of you will leave the stage together.

YOUR ROLE/CONTRIBUTION

- With Pressler scheduled to have hearings this afternoon on telecommunications, this is an opportunity to demonstrate your leadership in bringing together leaders from all levels of government and from both parties to agree upon the basic objectives for federal telecommunications policy.

PROGRAM NOTES

- **Today's Summit Agenda** -- You are kicking off this summit following introductions by Newt Minnow, Director of the Annenberg Washington Program. The summit consists of four segments:
 - 1) Addresses by key elected officials starting with you and including Governor Caperton, Senator Pressler, Congressman Markey, Mayor Victor Ashe, and County Commissioner Randy Johnson.
 - 2) A panel of state and local policy experts that includes from the federal level Reed Hundt, Larry Irving, and Anne Bingaman.
 - 3) A luncheon featuring Ron Brown
 - 4) A set of afternoon breakout sessions focussing on key policy topics like local competition and universal service. (A more detailed agenda is attached.)
- **Statement of Policy Objectives** -- You are announcing a joint "Statement of Policy Objectives," negotiated between the Administration and a number of state and local umbrella organizations, that embraces your five principles on telecommunications and acknowledges the state and local responsibility in these issues. While the agreement on these policy objectives is substantial on its own, the afternoon breakout sessions will attempt to reach further agreement on more detailed policy objectives. A copy of the agreement and position papers that represent the administration's starting point for the afternoon breakout sessions are attached.
- **Differences in policy agendas** -- The major differences in policy agendas between our agenda and states and localities rests in two main areas -- state and local preemption and locality compensation for use of rights of way (this is the number one issue for Mayors).

Preemption -- As you know, federal legislation must preempt state and local authority to bring about local competition and many localities are willing to acknowledge that some amount of preemption is inevitable.

Rights of Way -- As for compensation for rights of way, this is largely a local issue, very important to the Mayors, and not something we have included in our objectives for federal policy. We carefully crafted language included in the agreed upon "Statement of Policy Objectives" that acknowledges that states and localities must manage public rights of way to ensure safe and efficient use. Q and A are attached on these and other issues. Also useful may be the more detailed papers attached that go into greater detail on issues written as Administration starting points for the afternoon breakout session.

State and Local Umbrella Organizations

NGA	National Governors Association
NAC	National Association of Counties
NARUC	National Association of Regulatory Utility Commissioners
NASUCA	National Association of Regulatory Utility Commissioners
NCSL	National Conference of State Legislatures
NLC	National League of Cities
NATOA	National Association of Telecommunications Officer and Advisors

ATTACHMENTS

- Possible Q&As
- Statement of Policy Objectives
- Breakout issue papers
- Summit agenda
- Remarks

Federal/State/Local Telecom Summit

Commerce Auditorium

Monday, January 9, 1995, 9:15 - 10:00

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Policy Objectives," negotiated by the Administration and a number of state and local umbrella organizations, that embraces your five principles on telecommunications and acknowledges the state and local responsibility in these issues. While the agreement on these policy objectives is substantial on its own, the afternoon breakout sessions will attempt to reach further agreement on more detailed policy objectives.

- **Differences in policy agendas** -- The major differences in policy agendas between our agenda and states and localities rests in two main areas -- state and local preemption and locality compensation for use of rights of way (this is the number one issue for Mayors).

Preemption -- As you know, federal legislation must preempt state and local authority to bring local competition and many localities are willing to acknowledge that some amount of preemption is inevitable.

Rights of Way -- As for compensation for rights of way, this is largely a local issue, very controversial and probably should not be addressed by federal policy. We carefully crafted language included in the agreed upon "Statement of Policy Objectives" that acknowledges that states and localities must manage public rights of way to ensure safe and efficient use. Q and A are attached on these and other issues.

State and Local Umbrella Organizations

NGA	National Governors Association
NAC	National Association of Counties
NARUC	National Association of Regulatory Utility Commissioners
NASUCA	National Association of Regulatory Utility Commissioners
NCSL	National Conference of State Legislatures
NLC	National League of Cities
NATOA	National Association of Telecommunications Officer and Advisors

ATTACHMENTS

QUESTIONS FOR VICE PRESIDENT GORE OR ASSISTANT SECRETARY IRVING
FOR THE FEDERAL/STATE/LOCAL TELECOMMUNICATIONS SUMMIT

1. Are there any changes in Administration policy on telecommunications resulting from the Republican takeover of the House and Senate?

Both parties are in basic agreement on the overall goal of achieving telecommunications reform, but we still have some work to do to iron out the details.

2. How does the Administration plan to deal with Senator Dole's demands for quicker deregulation of the RBOCs?

We will be looking at this issue again in the context of new bills introduced in this session of the Congress.

3. Will the Administration introduce its own legislation this year?

At this time we have no specific plans to do so. As we examine the new legislation introduced in this Congress, we will be in a better position to make a judgment on the nature of the Administration input that is needed.

4. What is the Administration's position regarding compensation by firms wanting right of way access through public property?

The Administration understands the great importance of the issue to local and state communities. We will be working closely with them to address their concerns.

5. What are the key differences between the Republicans and the Administration on telecommunication issues?

There is general agreement on the overriding goal of achieving telecommunications policy reform this year. Where differences arise in the implementation details, we look forward to resolution through a cooperative bipartisan effort.

6. Does the Administration have any comment to make about the new Dingell Bill?

We understand the bill is very similar to the House bill last session. We will be examining this and any other bills introduced as the telecommunications reform initiative moves forward.

7. Does the Administration plan to implement a different strategy to insure that telecommunications reform will pass this year?

We think the most important aspect of last year's strategy was the bipartisan nature of the effort. We plan to continue such a bipartisan dialogue with the members of the 104th Congress -- some returning and some new -- so we can achieve fundamental telecommunications reform.

8. Does the Administration believe that the NII will be accessible for individuals with disabilities?

This Administration will continue to work to ensure that the NII is accessible, affordable, and usable by all citizens, regardless of income, geography, or disability.

9. Will the Administration still aim to amend the 1934 Telecommunications Act to include Title 7?

As of this time, we are not moving in that direction. Nevertheless, with evolving technological and market forces, we recognize that the issue of regulatory parity for like services offered by different service providers will need to be addressed.

10. The Administration has done a lot of work on studying the issue of universal service. Has it reached a conclusion yet?

As you have mentioned, we have devoted considerable time to this critically important issue and have solicited input from many different organizations and individuals. NTIA, in partnership with state public service commissions, has held five field hearings in locations across the country, as well as a virtual (on-line) conference this past Fall. Building on the record of the hearings, we recently issued an in-depth notice of inquiry in September on universal service to provide further opportunity for comment on what the American people want and need in the information age. We are currently analyzing responses to the NOI as part of this ongoing process. We feel we have moved quite a distance from where we started.

Statement of Policy Objectives Federal-State-Local Telecom Summit

On January 9, 1995, at the invitation of Vice President Gore, elected officials and senior officials from federal, state, and local government will meet in Washington, D.C. to address issues of mutual interest concerning the future of advanced telecommunications and the role of each level of government. Discussions among the various participants have led to the following framework for discussion.

- Advanced telecommunications services can be a powerful tool through which both the public and private sectors can enhance the quality of life of all Americans, promote economic development in every region of the nation, and improve the delivery of public services.
- The current system of regulatory oversight with its division of responsibility between federal, state, and local government has been instrumental in the United States' leadership in the development and deployment of advanced telecommunications. The regulatory framework needed to manage the transition from a system of regulated monopolies to competition should utilize the expertise and experience that has been developed at each level of government.
- To the greatest extent possible, investment in and deployment of the NII should rest with the private sector, including development of technical standards for the NII that support interoperability and interconnection. When appropriate, government may act to address market deficiencies or to pursue specific development objectives.
- Public policies and practices that promote competition and open entry throughout the industry are the best way to stimulate technological innovation and efficiency in the telecommunications industry. With increased competition, regulators should ensure that consumers enjoy the full benefits of lower rates and better services which competition may offer. As competition develops, regulators should retain authority with respect to rates and consumer protection.

- The nature of the NII is not static, but changes continuously with the introduction of new technologies and applications. Accordingly, public policy makers must provide a regulatory environment that keeps pace with technological and market changes.
- Providers of information services should have open, nondiscriminatory access to the public switched telecommunications networks.
- As the NII evolves, government should continue to ensure that basic consumer protections are in place, including privacy protections.
- As telecommunications markets change, government must ensure that the public interest is protected, allowing states and local governments to manage public rights of way to ensure safe and efficient use and to require any appropriate compensation for use of such rights of way.
- Access to a basic level of telecommunications capacity should be available at affordable, just, and reasonable prices. Any changes in legislation or regulation should continue the universal service policy objective first established in the Communications Act of 1934.
- State and local governments must have adequate time and maximum flexibility should they revise their respective statutes and regulations to accomplish certain national telecommunications policy objectives.
- Federal and state universal service policies should ensure that telecommunications providers contribute to the maintenance of universal service on an equitable and competitively neutral basis.

NOTE: The closed bullets above the line have been agreed to by various participants at the Summit. The open bullets below the line provide a starting point for further discussion.

LOCAL COMPETITION

- Public policies and practices that promote competition and open entry throughout the industry are the best way to stimulate technological innovation and efficiency in the telecommunications industry. With increased competition, regulators should ensure that consumers enjoy the full benefits of lower rates and better services which competition may offer. As competition develops, regulators should retain authority with respect to rates and consumer protection.
- Providers of information services should have open, nondiscriminatory access to the public switched telecommunications networks.

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- National policy should provide for removal of statutory and legal barriers to competition in the local exchange market. States should maintain the authority to establish the terms and conditions under which the telecommunications services they regulate may be offered. These terms and conditions may include requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers.
 - Regulations should match the marketplace. As the marketplace changes, outmoded and unnecessary forms of regulation should be eliminated (e.g., current MFJ restrictions and common carrier regulations, as appropriate). Regulatory authorities should assess the means to promote effective competition among new entrants and incumbent providers of telecommunications services.
 - Efforts should be made to ensure interconnection of telecommunications and information services on a nondiscriminatory, collocated, and unbundled basis to telecommunications providers with market power. Policies promoting number portability should also be adopted as soon as such portability is technically feasible and economically reasonable.

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UNIVERSAL SERVICE

- Access to a basic level of telecommunications capacity should be available at affordable, just, and reasonable prices. Any changes in legislation or regulation should continue the universal service policy objective first established in the Communications Act of 1934.
 - Federal and state universal service policies should ensure that telecommunications providers contribute to the maintenance of universal service on an equitable and competitively neutral basis.
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- The preservation and advancement of universal service should be an explicit objective of the Communications Act.
 - Voice-grade telephone service -- commonly referred to as "plain old telephone service" (POTS) -- should be available at just and reasonable rates to all Americans who desire it.
 - The definition of universal service should evolve over time in response to technological and economic developments. As telecommunications, mass media, and computer technologies converge to create new capabilities, all Americans should have access, if they so desire, to high-quality advanced communications and information services regardless of income, disability, or location.
 - Public institutions such as libraries, schools, hospitals, and clinics should be connected to the National Information Infrastructure (NII) so they can provide access to individuals who may not otherwise have access to the NII.
 - The FCC and the states should work cooperatively to address universal service issues through formal and informal procedures including, where appropriate, a Federal-State Joint Board. The states should have the flexibility to institute universal service policies to meet state needs and that complement Federal laws and policies that are developed.

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APPLICATIONS AND NETWORK MODERNIZATION

- Advanced telecommunications services can be a powerful tool through which both the public and private sectors can enhance the quality of life of all Americans, promote economic development in every region of the nation, and improve the delivery of public services.
- To the greatest extent possible, investment in and deployment of the NII should rest with the private sector, including development of technical standards for the NII that support interoperability and interconnection. When appropriate, government may act to address market deficiencies or to pursue specific development objectives.

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- o Federal, state, and local governments should facilitate private sector development of the National Information Infrastructure (NII), and should seek to ensure that the NII reaches underserved areas in the United States.
 - o Federal, state, and local governments should promote the development of applications and services that maximize the value of the NII to users. Areas of useful applications include, for example: education (including connecting all classrooms); health care; libraries; manufacturing; electronic commerce; the provision of government services; expanding opportunities for people with disabilities; environmental and energy management; telecommuting; transportation; emergency management; arts, humanities and culture; and law enforcement and criminal justice.
 - o Federal, state, and local governments and the private sector should work cooperatively to provide training and educational opportunities for persons interested in accessing the NII.
 - o The Federal government should help ensure coordination among standards organizations, industry, and government so that the private, voluntary standards systems in the United States work to maximum efficiency.
 - o Federal, state, and local governments and the private sector should work cooperatively on issues relating to network modernization.

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REGULATORY FRAMEWORK/FLEXIBILITY

- The current system of regulatory oversight with its division of responsibility between federal, state, and local government has been instrumental in the United States' leadership in the development and deployment of advanced telecommunications. The regulatory framework needed to manage the transition from a system of regulated monopolies to competition should utilize the expertise and experience that has been developed at each level of government.
 - The nature of the NII is not static, but changes continuously with the introduction of new technologies and applications. Accordingly, public policy makers must provide a regulatory environment that keeps pace with technological and market changes.
 - State and local governments must have adequate time and maximum flexibility should they revise their respective statutes and regulations to accomplish certain national telecommunications policy objectives.
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- The Federal government should not mandate a particular regulatory structure for state regulation of intrastate services subject to state jurisdiction. However, price caps, or similar forms of incentive regulation, have been shown to be more effective in controlling prices and inducing efficient firm behavior than conventional rate base/rate-of-return regulation.
 - The FCC and state regulatory commissions should have the authority to forbear from regulating firms that, in the determination of the agency with jurisdiction, lack market power. State determinations of market power should be consistent with guidelines developed by the FCC, after a rulemaking proceeding that examines state views on the guidelines.
 - The FCC and state commissions should not regulate information services per se, although appropriate conditions under which regulated telecommunications providers offer such services may be established.

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CONSUMER PROTECTION

- As the NII evolves, government should continue to ensure that basic consumer protections are in place, including privacy protections.
- With increased competition, regulators should ensure that consumers enjoy the full benefits of lower rates and better services which competition may offer.

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- Regulators should have the authority to prohibit cross-subsidies that burden consumers and frustrate competition.
 - Consumers should be protected against "rate shock" through transitional mechanisms, as needed.
 - Consumers should have access to full information about their service options; adequate forums should be available for the resolution of consumer complaints.
 - All participants in the NII should guard against improper use of consumer information. Appropriate safeguards should be imposed to protect privacy and confidentiality of personal information.

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PUBLIC RIGHTS OF WAY

- As telecommunications markets change, government must ensure that the public interest is protected, allowing states and local governments to manage public rights of way to ensure safe and efficient use and to require any appropriate compensation for use of such rights of way.



- Government is entrusted with the responsibility of managing public resources, which may include radio frequencies, public streets and public easements, among others. Any national telecommunications legislation that is enacted should take into account state and local governments' concerns regarding the following:
 - Ensuring appropriate compensation by firms requiring access to public land.
 - Minimizing the disruption of vehicular traffic while telecommunications facilities are being built or modified.
 - Ensuring that the process of obtaining government licenses to build infrastructure is efficient for the licensee and provides opportunities for community-based input.

REMARKS OF
VICE PRESIDENT AL GORE
AS DELIVERED TO THE
FEDERAL-STATE-LOCAL TELECOMM SUMMIT
WASHINGTON, D.C.
JANUARY 9, 1995

All of us here today know we are in the midst of an Information Revolution. Last year, when I visited students at the Monta Vista High School in California, they showed me how to use their computer network to retrieve a speech I had made one day earlier about the Information Superhighway delivered at UCLA. Then they showed me how to retrieve a pamphlet written years earlier -- "Common Sense," written by Thomas Paine. Paine used the information infrastructure of his day in the service of a different kind of revolution -- the fruits of which we enjoy today.

Paine wasn't re-inventing government, of course. He and his contemporaries were inventing a representative democratic government for the first time in history.

But Paine's insistence on the test of common sense is as important in this information revolution as it was to our American revolution two centuries ago.

How can we best serve the cause of liberty and enterprise in cyberspace? By working to reach a revolutionary goal through common sense means.

A time comes in any revolution when expectations are very high but accomplishments are not yet concrete. It is at such a time that we must re-dedicate ourselves to the fundamental purpose of our efforts, measure how far we have come, and consider how best to accomplish the revolutionary enterprise.

That is the place we occupy today as we take stock of the efforts to develop the National Information Infrastructure and, more broadly, the Global Information Infrastructure.

Last October, I announced that we would hold this summit in order to ensure that we remain connected to you -- the people who daily represent the public in exploring the details, opportunities and impacts of the emerging information superhighway.

Of course, this is far from the first time this Administration has reached out to state and local officials. Indeed, ever since I began working to create a national information superhighway some 18 years ago, I have been working closely with many of you here today and your colleagues.

We share a common purpose, a purpose President Clinton and I outlined over two years ago when we described our essential vision of the coming American information marketplace. We seek open and free competition in which any company is free to offer any information good or service to any customer.

Why is that important? Very simply. Because competition lowers prices, increases choices, improves quality and creates jobs. Competition is the key. Competition in the information marketplace will provide Americans lower prices for their telephone, cable and information goods and services and give them more and better choices in the information and programming available to them. Greater competition will unleash consumer demand for the

new information services and products that will educate, entertain and empower our people. And that will lead to new, higher-paying jobs and an economy better prepared for the challenges of the 21st century.

How do we move toward that goal? By implementing five simple principles, principles that the Administration has promoted aggressively for the past two years. These principles were embraced by the International Telecommunications Union in Buenos Aires last March. They were the framework for discussions at both the Asian Pacific Economic Conference and Hemispheric Summits. Also they will be the focus of the upcoming G-7 Ministerial Conference on the Information Society in Brussels in late February.

You know what those principles are. I've recited this list so often I feel as if I'm reading the Miranda rights of the information superhighway. They are competition, universal service, private investment, open access, and flexible governmental action.

Today, I am very pleased to announce that our Administration and a number of groups representing state and local officials are jointly issuing a "Statement of Policy Objectives" that address issues of mutual interest concerning the future of advanced telecommunications and the role of each level of government in building that future. This statement of policy objectives is a major step toward consensus on how to build the information superhighway.

By issuing this statement all of you gathered here today make a clear statement of your -- and our -- vision of the path toward telecommunications reform and the development of the NII. By endorsing this statement we each:

- recognize the paramount importance of **private investment** to build the NII;
- show our support for public policies to promote **competition** as the best stimulus for innovation and efficiency;
- confirm the need for **open access** to public switched networks for program providers;
- re-affirm the importance of **universal service** in our telecommunications system;
- recognize the necessity of keeping **regulations** agile enough to match the pace of technological and market changes, and
- assert the importance of government action to **protect consumers** from raids on their pocketbooks and their privacy.

I fully agree with the statement's recognition of the fact that:

"[t]he regulatory framework needed to manage the transition from a system of regulated monopolies to competition should utilize the expertise and experience that has been developed at each level of government."

You have developed expertise and experience in promoting competition while protecting consumers, preventing discrimination among providers or users, ensuring universal service for all Americans. And we intend to draw upon that enormous expertise in the months ahead:

Again, competition is the key. In the long distance market, in the telephone equipment industry and elsewhere, in the computer industry we have seen the benefits of real competition often made possible by intelligent government policy.

When monopolies such as the original AT&T or the local cable company deprived the consumers of the benefits of competition, government has acted as a counterweight to protect consumers and give potential competitors a fair chance. Since the break-up of AT&T eleven

years ago, the use of long distance is up and prices are down more than 60% in real terms.

When competition came to the telephone equipment business, consumers discovered that they could buy a telephone of their choice for less than \$25 instead of renting one for \$60 a year.

We protected consumers in the Cable Act of 1992 by regulating prices and ensuring high-quality services only where no effective competition existed. According to the FCC, the 1992 cable law has potentially saved consumers \$3 billion.

The free and competitive market for computers has brought previously unimaginable technological capacity to our offices and our homes. Forty years ago it was predicted that the worldwide market for computers would be ten to fifteen machines. In 1980 there were, in essence, no personal computers in existence. But in less than a decade, PC prices have dropped sharply while computing power has accelerated dynamically -- virtually doubling every eighteen months. In the last quarter of 1994 Americans bought over 5.8 million personal computers.

At the federal, state, and local levels, we must continue to find new ways to promote competition and innovation.

We must spur private investment. The current auctions of PCS spectrum, proposed by President Clinton in 1993, are opening the door to new wireless technologies while raising billions of dollars for the U.S. Treasury. The result for consumers will be lower prices for wireless communication.

Also, it will mean new wireless services, new jobs and more efficient, more competitive workers; office workers who will be able to work from their computers anywhere and still be connected to their homes or offices; truck drivers who will be able to get instant information on delivery requirements; or police officers who will be able to get mug shots and police reports on a computer terminal located in their patrol car.

In addition, we can create the conditions for real competition by ensuring program providers nondiscriminatory access to information conduits and networks. We have heard much in recent months about the strong beginnings of Direct Broadcast Satellite services -- bringing up to 150 channels into every home anywhere in the country; allowing customers to watch every NFL game and hundreds of basketball games, and already serving 300,000 households across the nation.

I've been a supporter of satellite services for a long time. But today's competitive successes did not arise by happenstance or merely by the workings of an invisible hand.

The program access provisions of the Cable Act of 1992 guaranteed that direct satellite services would have programming to provide -- a sound example of common sense governmental action that helps to create the conditions for real competition. There was a problem because of distortions in the marketplace. The federal government fixed that problem by opening up the market to competition.

And where competition can come to the marketplace and put government out of business, it is critically important that it does so. President Clinton and I have worked hard to reinvent the federal government. Ninety-three per cent of the reinventing government proposals are in some stage of implementation. In December, the President announced the major restructuring of five federal agencies. And right now we have underway a comprehensive review in a second round of reinventing government.

We have initiated a regulatory reform effort that will match good intentions with good regulations by encouraging citizen participation, simplifying regulatory processes and using information technology everywhere we can to meet our national goals of better customer service, innovation, and measurable results.

I encourage you to do the same -- to look hard at the tasks you perform, to decide which are necessary and which have become superfluous -- to drive your own agencies to work faster, better and smarter.

The issuance of our Joint Statement today comes at a critical -- and critically appropriate -- time as Congress begins debate over new telecommunications legislation, as state and local governments are building increasing momentum to open markets, and as nations around the world look to the United States for leadership. The framework we issue today -- the fact that we at the federal and state levels can agree on the guideposts for the path to reform -- will send a clear signal that our resolve for revolutionary change is greater than ever before.

Last year, unfortunately, telecommunications reform legislation fell by the wayside in the waning days of the Congress as the many varied participants responded more to their fears than to their hopes.

That's not a surprise. Any revolutionary era means, by definition, that great change is underway -- change that mixes legitimate concern about the shifting nature of competitive advantage with unrealistic fears of the unknown.

Each industry is trying to enter new markets while keeping competitors out of its own old market. The motto seems to be, "What's mine is mine -- what's yours is negotiable." We have to break this impasse if we are going to create a vibrant, competitive information marketplace. Let me give you some examples.

The regional phone companies legitimately want to use their expertise to compete in other markets. But they fear that before they can do so, they will become "hollow monopolies" -- the purveyors of local telephone services, but only to customers that others do not wish to serve.

As a result of those fears, most local phone companies are trying to delay the inevitable -- genuine competition for local telephone services. They are viewed as delaying the game when they could be partners in negotiating the rules of the game.

Long distance companies -- large and small -- want to ensure that their businesses are primarily dependent on a local telephone monopolist to reach their customers and vice versa; and they especially do not want to be dependent on a monopolist who is permitted to compete with them in their markets at the same time that they and local customers have no real choices for local service.

So they are proposing a level of detail difficult to achieve in federal legislation before they are willing to support change. They, in effect, are demanding that the footnotes to the rulebook be written before the game can begin.

Cable companies, too, want to offer new services, like local telephony. But they, too, fear that other competitors will use past regulatory advantage -- or the capital gained from past monopoly status -- to overwhelm them.

Because of this fear, they are using the regulatory process and legal challenges to delay local telephone company entry into the cable market. Some of them would like to

bring the game to a halt before it even starts.

Information service providers are concerned that telephone companies and cable companies will abuse their control of both content and conduit. They will benefit from the buildout of high-speed networks, but fear being left out of the game altogether and being denied access to American households.

And consumers themselves have fears; as workers and citizens, they don't want to be left out. The Joint Statement that we issue today accurately describes advanced telecommunication services as a potential tool that can empower Americans, that can enhance economic opportunity and improve the delivery of public services. But a tool can be used only by those who hold it in their hands.

Consumers want to ensure that they are not disadvantaged by the change that does come to them -- that they do not find the cost of being in the game rising constantly with little benefit to justify it and no increase in the quality of play.

As you know, because you deal with these issues every day, there is some truth and some exaggeration in each of these fears -- particularly the fears expressed by private economic interests. We need to listen carefully to the voices of industry, but at the end of the day we must ensure that the marketplace favors real competition which is after all never without risk -- not only the desires or well-being of a particular competitor.

How do we reconcile all these fears? Not by making small changes to the present regulatory system. Nor by discounting the legitimate concerns of market players because of the validity of these concerns. Nor by continuing to protect monopolies and artificially subdividing the telecommunications marketplace.

We can deal with all the fears of all the different players only by having the courage to throw out the regulated monopoly model that we've used for more than 60 years and instead create a truly competitive marketplace where regulation is replaced by competition on a level playing field.

We propose that the Administration work with the Congress, the industry, the public interest community and all of you gathered here today to decide in a timely manner the rules necessary for a fair game and let the play begin. No team should be allowed to bring in ringers or begin with unfair advantages gained from previous monopolistic positions and practices and no team should be allowed to unduly slow or complicate play.

But the game should not begin on some arbitrary date without rules at all on the mistaken assumption that a calendar can replace a rulebook. Too many people and businesses have too much at stake to be subject to the vagaries of trying to play now and figure out the rules later.

In this new competitive world, interconnection rules will ensure that new network service providers -- including utilities and cable companies that wish to offer switched digital services -- can compete fairly with incumbent phone companies. The regional phone companies can compete on even terms with inter-exchange companies in both local and long-distance markets. Thousands of information service providers and programmers will be able to compete because we will work with the states to ensure they all have non-discriminatory access to regulated networks.

And new, more effective universal service provisions will ensure that all consumers will be able to enjoy the lower prices and greater choices competition will make possible.

We can create such a world -- indeed, we must -- in order to meet the needs and eliminate the fears of consumers.

But we will not have full and open competition if private interests use regulatory and legislative proceedings as tools for short-term competitive advantage rather than a mechanism for the long-term public good. Regulatory delay must never be permitted to become a tactic of private, competitive advantage.

So I hope that in your discussions today you will begin to cut through the stalemate by carefully unbundling the real from the imaginary.

I suggest a straightforward approach. Competition is always better than monopoly. But monopoly power must never be confused with competition. Two enemies of competition are monopoly power and unwise government regulation.

We must remember, after all, that the goal we seek is real competition. Not the illusion of competition; not the distant prospect of competition. Because only real competition can meet the test that consumers rightly demand -- that prices be lower; quality higher; and choice, greater. That's just common sense.

That is why, for example, we have already said that we cannot support a proposal to fully deregulate the local telephone exchanges upon the mere prospect that some theoretical competitor might be able to provide some services to some hypothetical customer. That is an illusion of competition. It's not competition. Competition must be real. But by the same token, we must not use the rationale of scarcity to limit competition in a time of technological abundance.

Where real competition is possible, we must ready the stage for its appearance.

And where it is real, we must be prepared to re-examine past regulatory mechanisms. For example, current cable legislation established rate regulation in monopoly markets. But some are suggesting that cable markets are changing faster than anticipated. If the arrival of direct broadcast satellite and video dialtone eliminates the need for rate regulation, so much the better. I have no interest in seeing regulatory mechanisms perpetuated one instant longer than necessary. I'm sure everyone feels that way.

We will listen with an open mind. We will ask what competition exists, for what markets and for what services. We will ask what can be done to speed up competition even more. We consider how best to reach our essential goal of protecting consumers -- and liberating consumer demand.

It is to learn from and listen to you that I called this summit today. And it is why I encourage you to join the issues today with a common vision and common goals.

We all look forward to working with the leaders of the 104th Congress. We are already building a bi-partisan coalition for reform. We are eager to work with Leader Dole and Speaker Gingrich, Senators Pressler and Hollings; and other Senators working in this field; and with Congressmen Bliley and Dingell, Fields and Markey. As last year's overwhelming vote in the House of Representatives demonstrated, the case for change transcends political boundaries.

That signal is amplified by your efforts that are already underway. Represented here are state and local governments that are introducing competition to markets that were previously the domain of monopoly providers; that are introducing new models of telemedicine to reduce costs and improve health care delivery; and that are linking their

schools, libraries and citizens to the Information superhighway -- a goal of particular importance to us.

You have been the innovators -- you have had to be, in order to keep pace with technology. While much attention has been focused on the federal government, many of you have completely rewritten your states' telecommunications rule books. You've introduced competition into the marketplace and found ways to promote new services, better quality, and lower prices all at the same time. There are many inspiring examples. I salute you on the work you've done and are doing.

Not just communities but whole nations will be helped by the coming of the information revolution. Because open markets are just as critical around the world as they are in the United States.

Free market access will provide critical support for the economic development of other nations, whose businesses and workers need access to advanced technologies if they are to remain -- or to become -- competitive in a global economy.

And open markets will allow people around the world to have access to and choose from the best in educational, entertainment and creative products such as films, sound recordings, computer software and books.

When nations close markets they close minds and opportunities as well. In Europe, quotas on television limit U.S. programming; in Canada, my home state's favorite cable channel has been forced off the air; in Australia, preferences are provided to domestic films, and in Columbia a new law just passed to set day-time quotas for television.

The United States must fight for open markets so that our products can be sold worldwide. We must fight for open markets because the principle of free expression of ideas is at stake. We must fight for open markets to protect the hundreds of thousands of jobs in the entertainment and content industry. And we will do so -- including at the upcoming G-7 ministerial conference in Brussels next month.

Still, there are challenges that remain in translating our purpose and our objectives into action.

The words of Alexis de Toqueville, written in 1835, demonstrates that the case for change transcends boundaries of time as well. A keen observer of American democracy, de Toqueville wrote:

I think that it is an arduous undertaking to excite the enthusiasm of a democratic nation for any theory that does not have a visible, direct, and immediate bearing on the occupations of their daily lives.... For it is enthusiasm which makes men's [and women's] minds leap off the beaten track and brings about great intellectual, as well as political, revolution.

We have seen -- and I have described today -- the evidence of the information revolution that is already upon us. Its historical genesis is inseparable from our quest for freedom -- from the printing press that Thomas Paine used to print "Common Sense" to the explosion of talk radio and the growth of the Internet. Its prospect is for the pursuit of happiness, from jobs and education and health care to the simpler pleasure of watching football on a Sunday afternoon. Its time has come.

Almost exactly a year ago today, I told industry leaders that we were meeting on common ground, not to predict the future, but to make firm the arrangements for its arrival.

Today, with you, we meet again on common ground, again to make firm the arrangements that will allow the information revolution to have an even more visible, direct and immediate impact on the lives of all Americans.

The President, Secretary Brown and I, and all the members of this Administration here today, look forward to working together with you.

Thank you.

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Statement of Policy Objectives
Federal-State-Local Telecom Summit

On January 9, 1995, at the invitation of Vice President Gore, elected officials and senior officials from federal, state, and local government will meet in Washington, D.C. to address issues of mutual interest concerning the future of advanced telecommunications and the role of each level of government. Discussions among the various participants have led to the following framework for discussion.

- Advanced telecommunications services can be a powerful tool through which both the public and private sectors can enhance the quality of life of all Americans, promote economic development in every region of the nation, and improve the delivery of public services.
- The current system of regulatory oversight with its division of responsibility between federal, state, and local government has been instrumental in the United States' leadership in the development and deployment of advanced telecommunications. The regulatory framework needed to manage the transition from a system of regulated monopolies to competition should utilize the expertise and experience that has been developed at each level of government.
- To the greatest extent possible, investment in and deployment of the NII should rest with the private sector, including development of technical standards for the NII that support interoperability and interconnection. When appropriate, government may act to address market deficiencies or to pursue specific development objectives.
- Public policies and practices that promote competition and open entry throughout the industry are the best way to stimulate technological innovation and efficiency in the telecommunications industry. With increased competition, regulators should ensure that consumers enjoy the full benefits of lower rates and better services which competition may offer. As competition develops, regulators should retain authority with respect to rates and consumer protection.

- The nature of the NII is not static, but changes continuously with the introduction of new technologies and applications. Accordingly, public policy makers must provide a regulatory environment that keeps pace with technological and market changes.
- Providers of information services should have open, nondiscriminatory access to the public switched telecommunications networks.
- As the NII evolves, government should continue to ensure that basic consumer protections are in place, including privacy protections.
- As telecommunications markets change, government must ensure that the public interest is protected, allowing states and local governments to manage public rights of way to ensure safe and efficient use and to require any appropriate compensation for use of such rights of way.
- Access to a basic level of telecommunications capacity should be available at affordable, just, and reasonable prices. Any changes in legislation or regulation should continue the universal service policy objective first established in the Communications Act of 1934.
- State and local governments must have adequate time and maximum flexibility should they revise their respective statutes and regulations to accomplish certain national telecommunications policy objectives.
- Federal and state universal service policies should ensure that telecommunications providers contribute to the maintenance of universal service on an equitable and competitively neutral basis.

Telecommunications Reform Talking points

We are on the verge of an information revolution that will change forever the way people live, work and interact with each other. It will create hundreds of thousands of new jobs and unleash economic growth in every state of the union. To help move this revolution forward, we need telecommunications reform to modify the 60-year old Communications Act designed before cable tv, satellite broadcasting, cellular phones or the Internet.

Federal-State-Local Telecom Summit

On telecommunications reform, Governors and the Administration have much in common. In fact at the recent Federal/State/Local summit convened by Vice President Gore, NGA worked closely with the Administration and other state and local organizations to develop an eleven point "Statement of Policy Objectives" addressing the most important issues for the future of telecommunications.

Telecommunications Reform

Telecommunications reform has been a focal issue for the Clinton/Gore Administration from its inception. The Administration's efforts to promote development of the an advanced telecommunications infrastructure -- commonly called the National Information Infrastructure or the NII -- are predicated on five fundamental principles:

- **Private Investment** -- the U.S. telecommunications system has been built largely by private entrepreneurs. That approach has served us well; there is good reason not to abandon it.
- **Compensation** -- The steady growth of competition in many telecommunications markets over the years has generated enormous benefits for consumers; government should focus on ways to increase competition where it now exists and facilitate competition in markets where it is largely absent.
- **Regulatory Flexibility** -- Government regulation must be supple enough to accommodate rapidly changing technological and market changes; it must give private firms adequate incentives to invest, to operate efficiently, and to introduce new services, while at the same time protecting consumers.
- **Open Access** -- Government regulation must ensure that consumers and businesses alike have access to the transmission facilities needed to support new information services.
- **Universal Service** -- All Americans must have full and fair access to advanced telecommunications and information services, thereby ensuring that everyone will have an opportunity to sample the fruits of the information age.

Legislation

Prospects for legislation are good as telecommunications is generally a bipartisan issue. Legislation passed overwhelmingly in the House last year. The Administration wants to work closely with the House and Senate to enact legislation that promotes competition and choice for consumers. Additionally, the administration wants to work with state and local legislators and regulators during consideration of the legislation.

The Global Information Infrastructure

Some of the real advantages of the information revolution can be achieved when we look at the important international implications and work on advancing a global information infrastructure. The Clinton Administration's goals are to reach agreement with other governments to adopt, advance, and apply the GII principles first introduced by Vice President Gore last March at the ITU World Telecom Development Conference in Buenos Aires.

Next month, the Administration will release its vision of the GII in a document entitled, The Global Information Infrastructure: Agenda for Cooperation as a platform to engage other governments in a constructive process to ensure the development of the GII to the mutual benefit of all countries. In February Both Ron Brown and Vice President Gore will attend the G-7 Ministerial Conference on the Information Society in Brussels to seize on some of these important opportunities.

JANUARY 19, 1995

MEMORANDUM FOR MARCIA HALE

FROM: GREG SIMON
JIM KOHLENBERGER

SUBJECT: TELECOMMUNICATIONS AND THE STATES

The Administration is supporting telecommunication reform which would remove some of the outdated regulations that are delaying creation of the "Information Superhighway" creating jobs and enhancing quality of life in the process.

The states are concerned about provisions that would preempt some of their authority to regulate phone companies, cable companies, and other providers in their states. In general, the Administration's approach is only to preempt state regulatory power when it inhibits competition between different sectors of the industry. We would remove barriers that currently prevent cable companies from offering customers phone service -- necessary to create the competition that will lead to lower prices and better service. State preemption is only a small part of telecommunications reform and not a power grab by the feds -- we are trying to minimize regulations at all levels. Overall, the Administration, Congress, states and local governments each have a key role to play in developing the National Information Infrastructure.

The Administration is working closely with NGA on telecommunication reform. On January 9th, the Vice President convened a Federal/State/Local telecommunications reform summit and announced agreement on an eleven part statement of objectives and principles. Further discussions will be held in the coming months in an effort to find additional areas of agreement that could be important input as the 104th Congress considers major telecommunications policy reform legislation.

Attached is a more detailed description of major telecommunications issues important to Governors and Mayors.

MAJOR TELECOMMUNICATIONS ISSUES for U.S. GOVERNORS and MAYORS

Based on a review of recent documents and positions by organizations representing their interests, the following issues related to telecommunications policy appear to be of major importance to the nation's Governors and Mayors and other non-Federal officials.

Advanced Telecommunications Infrastructure. A coalition of state and local elected officials (State-Local Coalition) have agreed on a "concept paper" that seems to support the Administration's National Information Infrastructure Initiative (NII). Further, Summit participants at the January 9, 1995, Federal-State-Local Telecom Summit, which included NGA, USCM, and the National League of Cities, agreed that:

Advanced telecommunications services can be a powerful tool through which both the public and private sectors can enhance the quality of life of all Americans, promote economic development in every region of the nation, and improve the delivery of public services.

Consistent with a basic tenet of the NII, the Summit participants concur that the private sector should "to the maximum extent possible" invest in and deploy the NII, including development of technical standards. Where the market is deficient or specific development objectives are adopted, they believe that government may "act to address... when appropriate."

Competition and Regulatory Reform. In a significant turnabout from historical positions, state and local organizations including the Governors and Mayors have endorsed competition rather than a system of regulated monopolies as a fundamentally desirable policy for telecommunications markets. For example, Summit participants agreed as a discussion framework that "[p]ublic policies and practices that promote competition and open entry throughout the industry are the best way to stimulate technological efficiency in the telecommunications industry." Participants also believe that the transition to (effective) competition should utilize the "expertise and experience" evinced at each level of government. Regulatory "symmetry," such that regulatory requirements should be based on the nature of a given company's services rather than its technology or name, represents another area on which Federal and state/local policymakers broadly agree.

Differences also exist between the Administration, on the one hand, and the Governors and Mayors on the other. For example, whereas the Administration has advocated that the FCC be the major decisionmaker in such areas as determining when competition exists in local markets, state and local interests argue that centralized regulation will impede, not facilitate, the achievement of competition.

Universal Service. The State-Local Coalition has agreed that all

citizens need to have comparable access to the NII. The Coalition further recommends that the definition of universal access be adjusted over time as technology changes. Summit participants representing each of the three levels of government concurred that the basic universal service policy objective set forth in the Communications Act of 1934 should be continued. In addition, these participants agreed that telecommunications providers should contribute to the maintenance of universal service "on an equitable and competitively neutral basis," which agrees with the thrust of the Administration's 1994 Legislative White Paper. An area that may be more contentious is the Coalition's assertion that "determining which applications or on-premise equipment should be available at affordable prices to all households is a decision that should remain with state and local government."

Public Rights-of-Way. This issue is the most important telecom-related matter for localities, while rating a much lower priority for Federal and arguably even state interests. Asserting that rights-of-way are the "most valuable real estate the public owns and its management is a powerful tool to enhance community welfare and assist economic development," the Coalition avers that local governments should, consistent with state law, be able to negotiate just compensation for access to rights of way. The Summit participants, which included representatives of each level of government, agreed only to the framework that would allow "states and local governments to manage public rights of way to ensure safe and efficient use and to require any appropriate compensation for use of such rights of way."

Q. Why is the public-rights-of-way issue so contentious?

A. As localities point out, revenues generated through cable franchise fees are a "significant source of income" for those localities. The cities are not only concerned about retaining the right to assess fees on cable entities, but also seek to charge all telecom providers who use these rights of way. The Administration has not yet developed a position on the matter beyond that it is clearly an important issue that should be addressed. Among the concerns, however, are that (1) local and state governments should not be given jurisdiction over areas that do not belong with them, such as management of Federal lands; and (2) these governments may seek to pursue revenue enhancement beyond that which is just. This issue promises to be one of the most debated before the 104th Congress as it considers major telecommunications policy legislation.

ADMINISTRATION CONCERNS REGARDING S. 652:
THE TELECOMMUNICATIONS COMPETITION
AND DEREGULATION ACT OF 1995

I. Introduction

The Administration takes this opportunity to comment upon S. 652, the Telecommunications Competition and Deregulation Act of 1995, as reported by the Senate Commerce Committee.

The Administration believes that the key test for any telecommunications reform measure is whether it helps the American people. Legislation should provide benefits to consumers, spur economic growth and innovation, promote private sector investment in an advanced telecommunications infrastructure, and create jobs. However, unleashing monopolies before real competition exists could cause higher prices for consumers and hinder competition. During the transition, safeguards are needed to bring real competition and all its benefits.

While significant portions of the bill are consistent with these principles, in critical respects the bill does too little to promote competition and too little to ensure that consumers are not hurt by monopolistic behavior. The Administration urges the Senate to amend the legislation to ensure a truly competitive telecommunications marketplace by addressing our major concerns with the bill as currently drafted before Senate passage.

II. Cable Rate Regulation

The Administration is particularly concerned about provisions in the Senate bill that could: (1) substantially reduce Federal Communications Commission (FCC) oversight of the rates for "cable programming services" charged by cable systems not subject to effective competition; and (2) significantly loosen the 1992 Cable Act's definition of "effective competition." While some relief may be appropriate for small and rural cable systems, the broader changes that the bill would make could potentially have serious adverse affects for cable subscribers.

Reduced Regulation of Cable Programming Services: Section 204 of the bill would preclude FCC scrutiny of a rate for cable programming services (commonly known as "expanded basic services") unless that rate "substantially exceeds the national average rate for comparable cable programming services." This provision could result in cable rates increases for a large number of consumers. In addition, consumers of basic service could see many services moved to the less regulated upper tiers. The provision could also permit cable systems to escape regulation through concerted increases in their expanded basic service rates. Every rate increase by an individual cable system would raise the nationwide average rate for expanded basic services and, therefore, pave the way for subsequent rate increases not only by that system but every other cable system.

Redefinition of "Effective Competition": Section 204 of the Senate bill also would amend the Cable Act to declare that a cable system faces "effective competition" if a local exchange carrier (LEC) "offers video programming services directly to subscribers" within the system's franchise area, whether over a common carrier video platform or as a conventional cable operator. This provision appears to deregulate upon the merest potential of competition from the LECs; without regard to whether or not such competition really exists on any significant scale. If there are legitimate concerns that the current multichannel competitor test for "effective competition" is too stringent, that provision should be changed in a way that still takes actual subscribership to competing services into account.

III. Telco/Cable Provisions

Although the Administration strongly supports the bill's repeal of the telco/cable crossownership restriction, we are nonetheless concerned about the associated provisions that would: (1) permit mergers and joint ventures between telephone companies (telcos) and cable systems in the telcos' local service areas; (2) give telcos the option of providing video programming either via a common carrier video platform or as a conventional cable system; and 3) not require a separate subsidiary for video programming services.

Absence of an Anti-Buyout Restriction: The Senate bill would allow telephone companies to buy out local cable companies in the telco's local service area. While telcos and cable systems are potential competitors in the video services market, technological change and aggressive plant modernization have positioned cable operators to become viable providers of local telephone service as well. Permitting widespread mergers between telcos and cable systems, therefore, could undermine this potential competition in both the video and telephony markets before it begins, potentially raising telephone and cable prices paid by consumers. This movement to a "one-wire world" potentially would leave antitrust litigation as the only barrier to anti-competitive behavior.

For this reason, the Administration has consistently advocated a strong ban on acquisitions and joint ventures between telcos and cable systems in the telcos' local service area, subject to a limited exception in rural areas and authority for the FCC to review the ban after a certain number of years.

Optional Provision of a Common Carrier Video Platform: The Senate bill would allow telcos to provide video programming services either on a common carrier video dialtone (VDT) basis or as a conventional cable operator. The Administration is concerned that, in the latter case, telcos would not be required to provide common carrier VDT facilities to unaffiliated programmers. A common carrier VDT platform cannot be merely an option for telcos; but rather should be a required aspect of their entry into the video programming market. As long as telcos continue to control the poles and conduits that cable companies need to provide service, and as long as telcos remain regulated and dominant providers of local telephone service, there is a substantial risk that telcos may be able to gain an unwarranted competitive advantage in the video services market through discrimination and

cross-subsidization: Requiring telcos to provide common carrier VDT facilities to unaffiliated programmers would ensure that programmers have ample opportunities to market services directly to subscribers, without having to go through a conduit-controlling gatekeeper. This would foster additional competition in the provision of video to the home, with the concomitant benefits of lower prices, more programming choices, and improved customer service.

Separate Subsidiaries for Video Programming: The bill as currently drafted does not require that the Bell Operating Companies (BOCs) establish a separate subsidiary for video programming provided on a common carrier basis, but instead relies on the BOCs not to cross subsidize between the provision of video programming and telecommunications services. Structural separation would be a better approach to ensure detection of such cross-subsidies.

IV. Local Competition/Interconnection Requirements

The Administration is concerned that the provisions for interconnection may not set the stage for effective local competition. With respect to both procedure and substance, the bill does not do enough to ensure that opportunities for local competition will be available to all in a rapid timeframe.

Application of Interconnection Requirements: With respect to interconnection, the bill defines the relevant market -- for identifying an entity with market power subject to the interconnection requirements -- to include all providers of local telephone service, regardless of the technology applied. As a result, wireless services would be included, even if the price disparity between the two technologies ensured that they did not compete for the same customers. It would also include every provider of service to discrete customer niches, even if that provider offers no competition whatsoever for the vast majority of customers. This is contrary to accepted principles of market definition, as embodied in the 1992 Horizontal Merger Guidelines of the Department of Justice and the Federal Trade Commission. The bill's market definition, therefore, could seriously understate the market share of an incumbent LEC, and result in a failure to apply interconnection duties to a carrier that does, in fact, possess market power.

Interconnection Agreement via Negotiation: In allowing carriers to fulfill their duty to interconnect by negotiating agreements with other carriers, the bill does not ensure timely interconnection for competitors. Since these negotiated agreements need not satisfy the list of minimum standards outlined in section 251(b), and since a State has very limited power to reject a negotiated agreement, a BOC monopolist may be able to make use of its vastly superior bargaining power, particularly since a sole negotiated agreement may serve as a BOC ticket into the long distance market in a given area. The strongest competitors, therefore, may be the last to obtain interconnection agreements.

Limits on Resale: The bill's provisions on resale would allow a State to limit the resale of subsidized universal service, allowing a company to sell services to other carriers based on actual cost, exclusive of universal service support. This would apparently be allowed even if the first carrier keeps the revenues that provide such universal service support, enabling a carrier to collect its cost twice -- once from the carrier that purchases service for

resale, and once from the source of universal service support. This provision should therefore be modified to prevent such "double" collection.

Waivers for Local Carriers: Under certain conditions, the FCC or a State may waive or modify the minimum interconnection standards laid out in Section 251. There is a problem, however, in how the bill defines carriers eligible for such a waiver -- those "with fewer than 2% of the Nation's subscriber lines installed in the aggregate nationwide." The Administration believes that the 2% figure is too large because, except for most of the BOCs and GTE, almost every other provider of local exchange service in the United States would potentially be eligible for an exemption from the interconnection requirements of Section 251.

Rural Issues: The bill mandates that for interexchange carriers which serve both rural and urban areas, rates must be no more expensive in rural areas than in urban areas. This may have several adverse effects on competition: 1) it may discourage urban providers from expanding into rural areas, limiting customer choice in those areas; and 2) providers that are already in rural and urban areas will be unable to lower urban rates to competitive levels because they are tied to the same rate changes in the rural areas. This provision may thus actually contribute to higher urban rates instead of lower rural rates.

Also, Section 309 of the Committee bill would permit States to restrict competitive entry in rural areas, unless new entrants agree to serve an area comparable to the incumbent's on similar terms and conditions. Such a provision could severely hamper the growth of competition and the resulting consumer benefits. The Administration shares the Committee's concern that competition be encouraged in a way that does not cause dislocations for consumers, wherever they reside. We believe, however, that the best way to address this concern is not by restricting competition, but by adopting universal service policies, on a competitively neutral basis, to protect those relatively few consumers that may not fully benefit from competition.

The Potential for Price Squeezes: The bill provides little protection against price squeezes by the BOCs, which could significantly damage both local and long distance competition. While a BOC subsidiary would be required to "pay" or impute the cost of inputs obtained from its parent company, the nominal amount it pays for these inputs is relatively unimportant, since it is really just a transfer payment from one part of the company to another. Thus the BOC parent could inflate its rates for local service inputs without causing any real harm to its long distance affiliate. For competitors, however, such inflation could be devastating. They would have to pay the BOC the inflated prices for local service inputs, but they would be unable to match the competitive retail rates offered by such a BOC, since its costs are recovered elsewhere in the company. In this way a BOC would have the capability to drive any competitors from the market.

V. MFJ/Long-Distance Relief

The Administration believes that the bill may allow the BOCs to enter the long distance market before there are real opportunities for local competition and under circumstances where entry might impede competition in adjacent and more competitive markets. This could endanger competition and could represent a lost opportunity to create appropriate incentives to open monopolized markets. As currently drafted, the bill relies on one principal safeguard -- the public interest test as administered by the FCC; the Department of Justice has no decision-making role to apply its unwavering focus and expertise to facilitate the vital transition from monopoly to competition.

Long-Distance Entry: The provisions in the Senate bill on long distance entry may allow BOC entry before real competitive opportunities exist in a given local market. To obtain relief, a BOC need not enter into interconnection arrangements with all, or even several, of its potential competitors, and it need not reach agreement with any significant competitor. It must show only that it has entered into an interconnection agreement that satisfies the "competitive checklist" in the bill. A BOC could negotiate an agreement with one weak competitor that satisfied the "competitive checklist," thereby obtaining long distance entry a year or more before it enters into an interconnection agreement with any serious competitor. It is not required to show that real competitive opportunities or actual competition exists.

While the bill moves toward requiring the BOCs to fulfill both the important minimum interconnection requirements set forth in section 251 and the partially overlapping requirements of the "competitive checklist" (section 255) in order to obtain long distance relief, BOC entry could occur without satisfying the minimum interconnection requirements of section 251. Section 251(c) allows negotiation of interconnection agreements which do not satisfy the minimum interconnection standards of section 251(b). Thus, the BOC could obtain long distance entry without agreeing to interconnect at any technically feasible point in the network, and without agreeing to provide nondiscriminatory access to facilities and information necessary for interoperability of the networks.

Department of Justice Role: Throughout this century, the Department of Justice (DOJ) has played a major role in promoting telecommunications competition. Particularly in the last 25 years, the Department has developed, through investigation, litigation and oversight of the AT&T divestiture, deep knowledge and expertise in the area. This has been reinforced by the Department's investigations with respect to telecommunications mergers and other matters. Given the Antitrust Division's expertise, the Department of Justice should be assigned a decision-making role in the process, rather than the consulting role that the bill currently dictates. The Department should be required to assess market facts and determine that entry could indeed promote competition without endangering the progress already achieved in enabling adjacent markets to become competitive. This entry test could be applied at the same time and by the same date as the FCC's more broadly focused entry test so as to ensure no delay.

Immediate Out-of-Region Entry: Out-of-region service is not defined in the bill; it is unclear whether long distance service that originates out-of-region but terminates in-region would be permitted. If service that terminates in-region is included in the definition, then there should be a separate subsidiary and other requirements to guard against discrimination, especially since the BOCs are permitted to provide out-of-region service before implementing unbundling and interconnection. Also, some services may technically originate out-of-region but are more appropriately considered as in-region services.

Extending the Competitive Checklist: The bill prevents the FCC from extending the terms of the competitive checklist. This could pose a serious problem if it means that the FCC must consider the checklist satisfied even if, for example, the prices at which unbundled network elements would be offered would not permit competition. A niche carrier could accede to high prices in order to reach a negotiated settlement and avoid protracted arbitration or intervention, yet the resulting competitive conditions might not be at all conducive to general competition throughout the area in which the BOC wished to provide interLATA service.

Equal Access for Wireless Carriers: The bill's elimination of equal-access requirements for wireless carriers would result in severe harm to competition. The bill would call into question the recent AT&T McCaw settlement with DOJ, which demanded equal access in the merger of AT&T and McCaw to avoid anticompetitive effects in the cellular and interexchange markets. These protections were intended to prevent AT&T, which has a very large market share for cellular interexchange service, from obtaining exclusive control over McCaw's cellular customers. The bill would also undo the DOJ's proposal regarding equal access requirements for the BOCs if they are permitted to enter the interexchange market from their cellular operations.

VI. Preemption

The Administration believes that the bill should not halt or roll back state efforts to open telecommunications markets to competition. As currently drafted, however, the bill does just that in important respects. In certain markets, the bill would extend or preserve the BOCs' local monopolies, delaying competition in these monopolized markets until the BOCs enter the long distance market -- a market which already provides consumers with some of the benefits of competition. The Administration also believes that the federal government should not dictate to the states which form of telephone rate regulation is best to protect state consumers under the different circumstances and levels of competition that will develop in each state.

Rate Regulation: The Administration believes that price caps, or similar forms of incentive regulation, may often be superior to conventional rate-of-return regulation. The FCC and the States should have the flexibility to explore which forms of regulation would best serve consumers in markets that are not yet fully competitive. States in particular have been innovative in introducing competition into the marketplace, while at the same time

protecting consumers, improving incentives for efficiency, and encouraging the most effective deployment of the information highway. Almost half of the States already use alternatives to rate-of-return regulation. The Administration therefore opposes the provision in the bill that would deprive the FCC and the States of this flexibility.

IntraLATA Dialing Parity: The Senate bill bars States from ordering intraLATA dialing parity until the resident BOC has obtained long distance relief. This provision could curtail competition in significant intraLATA toll markets now monopolized or dominated by BOCs because several progressive States (such as Minnesota, Michigan and New York) are enhancing or are about to enhance competition in these markets by requiring implementation of dialing parity. By preempting State prerogatives, the bill would: 1) extend monopoly control over these intraLATA toll call markets, which would hurt consumers; 2) diminish rather than increase the monopolists' incentives to open their markets to competition as rapidly as possible; and 3) put significant pressure on the FCC to approve BOC interLATA applications regardless of other market conditions.

Joint Marketing: The bill bars most BOC competitors from marketing long distance services together with resold local service until the BOCs are permitted to offer long distance service in-region. This may deter some competitors from engaging in resale competition at all, and those who choose to compete may charge higher prices to consumers as a result. Several companies have been providing such service for years to small and mid-size business customers; this will hurt those providers and their customers. The provision also could diminish the monopolists' incentives to interconnect their local monopolies as quickly as possible and may delay, until after long distance entry, resolution of the considerable problems which may be involved in reselling the BOCs' local service. The provision would impede the efforts of many States to encourage "one-stop shopping," and raises the probability that the FCC will be under pressure to find the public interest test satisfied regardless of market conditions. Finally, the bill imposes upon companies lacking monopoly power in any telephone market all of the costs and inefficiencies of separate marketing, with no corresponding benefit to consumers.

Bars Court Review of State PUC Interconnection Decisions: The bill bars State court review of PUC interconnection agreements. While this may speed the process, it vests tremendous power in State agencies that may be understaffed and may lack the resources necessary to make the many decisions required by the bill. Moreover, it is unclear whether the bill permits FCC review in place of court review, in what circumstances this might occur, and whether FCC decisions would, in turn, be reviewable.

VII. Foreign Ownership

The current legislation fails to specify the Executive Branch's role in determining whether Section 310(b) foreign ownership restrictions should be lifted for a particular country. The Administration feels strongly that the legislation should explicitly take into account the Executive Branch's broad statutory authority and expertise for matters relating to U.S. trade,

foreign relations, foreign investments, antitrust policy, and national security by ensuring that the FCC takes notice of and accords deference to the policy determinations of the Executive Branch when making its Section 310(b) determinations.

The legislation should also provide flexibility for the U.S. government to consider, consistent with international obligations, all competitive conditions in foreign markets. The current legislation is too restrictive and should be revised to allow the Executive Branch, in advising the FCC on Section 310(b) matters, to look at the ability of U.S.-owned carriers to supply telecommunications services in all market segments in the foreign country and should include a national interest exception. The Executive Branch also needs flexibility to continue its ongoing bilateral and multilateral consultations and negotiations to open overseas telecommunications services markets. Therefore, the legislation's "snapback" provision, which presents a unilateral threat to remove negotiated benefits, should be deleted. In addition, the bill should make clear that any authority provided by the legislation be exercised in a manner consistent with international obligations, including most favored nation commitments.

VIII. Broadcasting

The Administration is concerned that the Senate bill would allow greater concentration in the broadcast industry and less rigorous and timely oversight of broadcast licensees by the FCC. The provisions relaxing limits on local and national ownership concentration and limiting license review could impede competition and diversity of voices by enabling existing owners to concentrate control over expanding broadcast capacity.

Media Concentration: The Senate bill would allow for greater concentration in the broadcast industry, and in the media industry generally, by increasing from 25 to 35 percent the national audience one broadcast owner can reach, and by removing the broadcast-cable crossownership ban. The result could be greatly expanded media concentration at the national and local levels. Such changes should be considered by the FCC in the context of the coming expansion of broadcast capacity through digital television. The uncertain impact of the move to digital compression and other technological advances argue for delaying any changes in the multiple or local ownership rules pending further study.

License Terms Extension: The Administration is concerned that the Senate bill extends the term from five to ten years for television licenses and from seven to ten years for radio licenses. The bill also removes the opportunity for "comparative review" at the end of a license term. These provisions seriously weaken the FCC's ability to enforce a broadcaster's obligation to provide service in the public interest. In particular, the provisions deprive the FCC of its traditional authority to consider applications from competing entities who argue that they will do a better job of serving the public.

Broadcast Flexibility: The Administration generally agrees with the concept of providing broadcasters greater spectrum flexibility although there are a number of issues to be considered. For example, if the FCC awards a second channel to existing broadcasters for development of advanced television service, the Senate bill should require the broadcasters to surrender one of their two licenses at the end of an appropriate transition period.

IX. First Amendment and Law Enforcement Issues

The Administration shares the Committee's goal of preventing obscenity from being widely transmitted over networks. However, the legislation raises complex policy issues that merit close examination prior to Congressional action. These include the impact of additional regulation on the development of the National Information Infrastructure, the ability of industry to develop technological solutions to the problems the legislation is intended to address, the effect on First Amendment and privacy considerations, and the increasingly global nature of the infrastructure. The piecemeal approach taken in this legislation is inadvisable. Instead, a comprehensive review should be undertaken, including Congressional hearings.

By criminalizing the transmission of material outside the scope of the legal definition of "obscenity," the Amendment will be subject to First Amendment challenge. Moreover, the Amendment creates certain new defenses to prosecution that will hamper the ability of the Justice Department to prosecute computer obscenity under current statutes. For instance, it could expose to prosecution online service providers who make a good faith effort to keep their systems free from pornography, while providing immunity to providers who knowingly carry pornography, but make no effort to exercise editorial control.

Section 5 of the Amendment is unnecessary and could have unintended consequences. In particular, the addition of a new, undefined category of "digital" communications to the wiretap statute would only cause confusion. In fact, digital communications are already covered by the statute. In addition, the section could have an unintended effect on the standard of criminal liability, reaching into communications not now covered because they do not evince a reasonable expectation of privacy. This standard is in itself shifting in the face of a continual erosion of that expectation caused by emerging technologies. However, this statute is not the place to raise or deal with this complex issue, and the Section would only foster confusion and unnecessary litigation.

X. Universal Service Issues

One of the main principles of the Administration's National Information Infrastructure initiative is to preserve and advance universal service to avoid creating a society of information "haves" and "have nots." For this reason, the Administration supports the goal of universal service, including access for classrooms, libraries, hospitals, and clinics to the National Information Infrastructure, including in rural areas. Congress should also consider adding appropriate language to the bill that would prevent "redlining" in the provision of telecommunications and information services.

**THE WHITE HOUSE
OFFICE OF THE VICE PRESIDENT**

**FOR IMMEDIATE RELEASE,
THURSDAY, March 23, 1995**

CONTACT: 202-456-7035

**STATEMENT OF THE VICE PRESIDENT
ON SENATE COMMERCE COMMITTEE TELECOMMUNICATIONS BILL**

I am encouraged to see that the Senate Commerce Committee is moving forward with telecommunications reform legislation. The current bill is an improvement over earlier versions that allowed local telephone monopolies to enter the long distance phone market on a "date certain" regardless of whether they had opened their own markets to competition.

I am concerned that the bill does not provide consumers and ratepayers the benefits of competition in their telephone and cable service. Specifically, the provision repealing rate regulation for the cable services most people buy will lead to unjustified rate increases for cable subscribers. We look forward to working with the Congress and the cable industry to achieve flexibility in cable rate regulations while fully protecting cable subscribers.

The provisions allowing the local telephone monopolies to enter the long distance arena are still incomplete, unwisely pre-empt state law in many areas and do not allow full review by the Department of Justice to determine whether the conditions for local competition have been met.

The Administration will work with Congress and the telecommunications industry to improve this bill and to ensure that cable and telephone users get the benefits of competition.

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THE VICE PRESIDENT
WASHINGTON

April 4, 1995

The Honorable Larry Pressler
Chairman, Committee on Commerce, Science, and Transportation
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

I must respectfully take exception to your comments on the Senate floor today implying that I told you the White House would veto the telecommunications bill passed by the Senate Commerce Committee. You must have misunderstood my comments in response to your request that the Administration support your legislation. I said we cannot in its present form, but we recommend several changes that would make it acceptable to us.

In our conversation, I expressed my concern that several of the current provisions would have the effect of raising consumers' phone and cable bills and decreasing rather than increasing competition for telephone and cable services. I explained that I believed several changes to the bill were necessary before I could recommend the President sign the bill. I did not say that the President would veto the bill, since it is too early for such a decision, and no recommendation has even been made to the President. I would appreciate it if you would clarify your remarks accordingly.

Sincerely,

Al Gore

cc: Senator Robert Dole

AG/gcs

**THE WHITE HOUSE
OFFICE OF THE VICE PRESIDENT**

FOR IMMEDIATE RELEASE
WEDNESDAY, May 3, 1995

CONTACT: 202-456-7035

**STATEMENT OF GREG SIMON
Chief Domestic Policy Adviser to the Vice President**

The Administration notes with interest the introduction of a bill to change communications laws by Reps. Bliley and Fields and a second bill introduced by Rep. Hyde. The Administration will present its formal views at the appropriate time to the Congress, but several aspects of the Bliley-Fields legislation should be noted today.

The Bliley-Fields bill does not do enough to protect Americans from telephone and cable monopolies. As Rep. Markey and others have noted, the bill would lead to significant increases in cable rates for most Americans before there is real competition in most communities. The bill would allow unlimited rate increases for captive customers of monopoly providers with the effective date pegged not to the emergence of competition, but to the closing of the polls in next year's election.

We also are concerned that the bill allows regional phone monopolies to get into other markets before they have properly opened their local markets to competition. The conditions are insufficient to guarantee that local phone companies will not exploit their local monopoly to gain an unfair advantage in their existing new markets. The legislation as introduced is more supportive of monopolies' interests than those of American consumers.

We support a consensus process similar to the one followed last year in the House, and will work with both the Judiciary and Commerce Committees to produce legislation that will open markets, lower prices and provide the consumers with the benefits of real competition as soon as possible.

##

THE WHITE HOUSE

WASHINGTON

October 26, 1995

Dear Fritz:

I enjoyed our telephone conversation today regarding the upcoming conference on the telecommunications reform bill and would like to follow-up on your request regarding the specific issues of concern to me in the proposed legislation.

As I said in our discussion, I am committed to promoting competition in every aspect of the telecommunications and information industries. I believe that the legislation should protect and promote diversity of ownership and opinions in the mass media, should protect consumers from unjustified rate increases for cable and telephone services, and, in particular, should include a test specifically designed to ensure that the Bell companies entering into long distance markets will not impede competition.

Earlier this year, my Administration provided comments on S. 652 and H.R. 1555 as passed. I remain concerned that neither bill provides a meaningful role for the Department of Justice in safeguarding competition before local telephone companies enter new markets. I continue to be concerned that the bills allow too much concentration within the mass media and in individual markets, which could reduce the diversity of news and information available to the public. I also believe that the provisions allowing mergers of cable and telephone companies are overly broad. In addition, I oppose deregulating cable programming services and equipment rates before cable operators face real competition. I remain committed, as well, to the other concerns contained in those earlier statements on the two bills.

Sen. Hollings
Page Two

I applaud the Senate and the House for including provisions requiring all new televisions to contain technology that will allow parents to block out programs with violent or objectionable content. I strongly support retention in the final bill of the Snowe-Rockefeller provision that will ensure that schools, libraries and hospitals have access to advanced telecommunications services.

I look forward to working with you and your colleagues during the conference to produce legislation that effectively addresses these concerns.

Sincerely,

Bill Clinton

The Honorable Ernest F. Hollings
Ranking Member
Committee on Commerce, Science, and Transportation
United States Senate
Washington, D.C. 20510

CHILDREN'S TELEVISION

Issue

Children spend about 25 hours a week watching television. By the time a child finishes high school, he or she will have spent between 10,000 and 15,000 hours watching television -- more hours than spent in the classroom. In 1990, Congress passed the Children's Television Act, and the FCC has recently released a proposal for trying to increase the amount of children's programming which has not changed much despite passage of the Act.

The Federal Communications Commission (FCC) began regulating children's programming in 1960. In 1984, the FCC eliminated regulations governing children's programming that had been adopted over the years. Arguing that "marketplace forces can better determine appropriate commercial levels than our own rules," the FCC dropped long-standing commercial time guidelines, including guidelines for children's television.

In June, 1987, the U.S. Court of Appeals (D.C. Circuit) ruled that the FCC had not justified sufficiently its repeal of advertising guidelines for children's television and ordered the FCC to review its decision. (*Action for Children's Television v. FCC*, 821 F.2d 741, 744 (1987)). In response to the remand, the FCC issued a Further Notice of Proposed Rulemaking/Notice of Inquiry in 1987 seeking comments on the issue of commercialization guidelines for children's television. Although comments were filed by numerous parties, no FCC action was taken.

The Children's Television Act of 1990

In 1990 the Children's Television Act 1) reinstated commercial time limits during children's programming to not more than 10.5 minutes/hour on weekends and not more than 12 minutes/hour on weekdays, and 2) required that commercial television broadcast licensees, as part of their public interest obligations, meet the educational and informational needs of the child audience through their overall programming as well as through programming specifically designed to meet the educational and informational needs of children.

The Act required licensees to demonstrate at renewal how they have served the educational and informational needs of children, including serving their cognitive/intellectual or social/emotional needs. Congress suggested that examples of educational or informational shows might include programs like "Fat Albert and the Cosby Kids" which dealt in a meaningful way for children with issues such as drugs, divorce, friendship and child abuse.

The Act also required the FCC to complete its Rulemaking/Notice of Inquiry initiated in 1987 on program length commercials. The FCC was directed to consider the cognitive abilities of children in requiring sponsorship identification for children's broadcast material. The Act directed that commercials should be clearly separate from programs for children and that sponsorship identification must be presented in a manner reasonably designed to assist children in understanding it.

Center for Media Education Report

In September of 1992, the Center for Media Education (CME) released a study of stations' compliance with the Act. The study focused on what broadcasters submitted as programming specifically designed to meet the educational and informational needs of children. It contained three major findings: 1) entertainment shows such as the Jetsons or Yo Yogi were being submitted as specifically designed to be educational programming; 2) very few new programs for kids had been created since passage of the Act; and 3) the few new programs often were aired at times inaccessible to children.

Congressional Action

On March 10, and June 8, 1993, the House Subcommittee on Telecommunications and Finance held oversight hearings to explore FCC enforcement of, and broadcaster compliance with, the Act. Several members of the Subcommittee expressed the opinion that the FCC, through its outstanding Notice of Inquiry, needed to strength and clarify its rules on broadcasters' obligations under the Act given the broadcasters performance to date.

Broadcasters Response

Witnesses representing the broadcast industry stated their belief that the Act had successfully encouraged the development of new, innovative educational programs for children and had increased the marketplace demand for these programs. They cited examples of children's programs that had been created following passage of the Act. The NAB testified that they do not believe any further clarification of the Act is necessary, and that guidelines regarding standard length programming or time periods would be an infringement of broadcasters' independent decisionmaking.

In the past year, FOX has added the first daily children's educational programming to be on the air since Captain Kangaroo. FOX now airs about 4 hours per week of educational programming. ABC airs the least, with one half hour. The NAB estimates that broadcasters air about 4 hours a week on average of educational programming, but there have been no independent surveys to estimate the average amount of programming. The Association of Independent Television Stations filed comments with the FCC suggesting a minimum requirement of 2 hours per week of each licensee under the Act.

The FCC Notice of Inquiry

On March 2, 1993, the FCC released a Notice of Inquiry (Notice) to examine whether stations were complying with the Act and whether reporting requirements should be changed to increase compliance with the law.

In the Notice, the Commission reported that broadcasters are in substantial compliance with the commercial time limits required under the Act. Specifically, the Commission noted that a January, 1992 field audit reviewing broadcaster and cable advertising practices found

compliance rates exceeding 90 percent. Preliminary reports from a more recent field audit also suggest overall compliance rates that exceed 90 percent.

On the other hand, the Commission found that there had been virtually no response to the Act's requirements that stations provide educational programming, and that recent renewal applications show little change in available programming that addresses the needs of the child audience.

The FCC released another NPRM on the Children's Television Act on April 5, 1995. The NPRM proposed that each licensee be required to air one hour a week of educational programming on its station, and to be responsible for an additional two hours of programming that the licensee can pay another licensee in the market to air. The Commission proposed that these could be met by counting existing programming. The FCC proposed that the hours could be "traded" to other stations and requested comment on whether hours could be traded to the local public broadcasting station.

Several concerns have been raised by children's television advocates about the impact of this proposal. With a requirement that licensees only have to air one hour, it is possible that licensees will reduce their hours of educational programming to that amount, thus leading to a reduction in children's educational programming on commercial stations.

In addition, since the tradable hours do not have to be new hours, stations could simply pay PBS for one or two of the almost 40 hours a week of children's educational programming carried by PBS stations. Even if every station in the market paid the local noncommercial station to air two hours, this would add up to maybe 10 hours a week. PBS carries 10 hours a day of children's educational programming in Washington. It is unlikely that this would lead to an increase in children's programming on PBS stations. In addition, with such a surplus of hours of children's programming on noncommercial stations, it is unlikely that PBS would be able to extract any significant payment from commercial broadcasters.

One final concern children's television advocates raise is that if commercial stations can pay PBS to carry educational programming, the argument for federal funding will be weakened. Educational children's programming is one of the most important reasons to continue funding public television. If this programming is partially supported in another way it will be hard to argue for continued federal funding. Yet any payments from commercial stations to noncommercial stations will go to the local stations, not to PBS. It is not clear that this would result in the production of more quality educational children's programming.

THE WHITE HOUSE
OFFICE OF THE VICE PRESIDENT

FOR IMMEDIATE RELEASE
WEDNESDAY, December 20, 1995

CONTACT: 202-456-7035

STATEMENT OF THE VICE PRESIDENT

Today we had a victory for the American economy and the American consumer with the bipartisan agreement to create a telecommunications industry for the 21st Century in a way that will lower prices, increase and improve services in telecommunications and preserve the diversity of voices and viewpoints in television and radio that are essential to our democracy.

The agreement today will prevent the media concentration that was of concern to the President and will provide for fair competition between local and long-distance telephone companies. It also provides for greater flexibility in cable programming services while preventing de-regulation of companies that do not face competition for several years.

We are very gratified that the bill contains the provisions for the V-chip that will enable families to control the content of television programming that comes into their homes and that it contains a provision to make advanced telecommunications services available at low cost to schools, libraries and hospitals.

###

Clinton's latest crime weapon: Cell phones

By Jessica Lee
USA TODAY

President Clinton plans to introduce cellular phones today as the newest weapon in his community policing initiative.

He and Vice President Gore have scheduled a Rose Garden ceremony to inaugurate a program aimed at equipping every one of the nation's 20,000 neighborhood watch programs with a cell phone.

The program, called Communities on Phone Patrol, starts out with 50,000 phones paid for by the Cellular Telecommunications Industry Association, a trade group of wireless carriers.

Distributing phones is the latest move in the White House's community policing initiative. That collection of programs seeks to put 100,000 more officers on patrol, trace guns used in crimes and notify communities if their neighbors are convicted sex offenders.

Politically, it represents another effort to showcase the Clinton administration as tough on crime. It challenges the Republicans' traditional election-year claim that theirs is the

crime-fighting party.

Under the program, the industry provides phones and air time to the community groups at no cost. The phones will be preprogrammed to dial local police, fire, hospitals or 911.

"There'll be one phone per patrol. People don't even have to dial, just press one button," CTLA spokesman Tim Ayers explained Tuesday.

He estimated the cost of the donation at \$10 million to \$20 million. And he explained that the new program is "a vast expansion" of a program the wireless industry already runs in 35 communities.

Sacramento Police Sgt. Joe Valenzuela said neighborhood watch programs in his community have been using cell phones for a year with much success.

He attributes the use of cell phones in the arrest of 300 individuals in 25 neighborhoods.

Citing one example, he said: "In the midtown area of Sacramento we had one apartment complex that was ravenous with drugs. The neighborhood joined together with police and used phones. We basically shut down that drug dealing."



OFFICE OF THE VICE PRESIDENT
WASHINGTON

April 9, 1997

MEMORANDUM FOR THE VICE PRESIDENT

FROM: DON GIPS
KATHY WALLMAN
JIM KOHLENBERGER

SUBJECT: ACCESS REFORM

Following your meeting with Justice and Commerce on access reform, we have prepared some points you can raise with the President to give him some assurance on local phone rates. Meanwhile both agencies are moving forward on harmonized comments to the FCC.

POINTS REGARDING LOCAL TELEPHONE RATES

- As you have read recently, the transition to competition does indeed raise the potential for rate increases and several of the industry plans do include rate increases.
- I met yesterday (April 9) with Joel Klein of Justice and Larry Irving of Commerce to discuss how we can protect most consumers. These are the agencies that speak for the Administration in FCC proceedings.
- The FCC has some important proceedings before it right now to implement the Telecom Act. I had a good discussion with the Justice and Commerce people about the importance of the Administration taking a strong stand on the side of consumers and competition. The last thing we want is for rates to go up on primary residential lines.
- Justice and Commerce are going to work together to make sure that both agencies deliver the same message so that the Administration presents a unified position.
- Our FCC Chairman, Reed Hundt, has a hard job ahead of him bringing this proceeding home. He has said publicly that his number one goal is not to have local dial tone prices increase. [There may however be some rate increases on business and secondary residential lines that may be necessary.] Through Justice and Commerce, we hope to give him the support he needs from the other commissioners to achieve his goal and the consensus he needs among the industry stakeholders.

Meeting with Commerce and Justice Officials Concerning Access Reform

West Wing Office

2:30 p.m. to 3:15 p.m., Wednesday, April 9, 1997

Meeting requested by you.

Briefing prepared by Kathy Wallman and Jim Kohlenberger

EVENT

The FCC is considering what changes to order the Bell Companies to make with respect to "access charges". These are the amounts that the Bells charge the long distance companies to use the local networks to originate and terminate long distance calls.

It is widely believed that the Bells charge amounts much higher than their economic costs. It is also widely acknowledged that the current system requires the Bells to recover certain charges on a per-minute basis when it would be more accurate and more efficient to recover these costs as a flat charge. It makes little sense, for example, to recover part of the cost of the local loop as a per-minute charge from long distance customers when the cost of that part of the network is, in fact, fixed. But this way of doing things has been in place for nearly 70 years.

Commerce and Justice are poised to file comments in the FCC proceeding. If they are to file, they must do so imminently because the FCC is scheduled to vote on the matter on May 6th, and the Administration's view needs to be stated well in advance of if it is to be weighed in the proceeding.

While the two agencies offer different approaches, it has developed that the approaches can be harmonized. It is not essential to choose only one agency to file comments, as explained in the attached memorandum. There is also the option of not filing at all.

Before this prospect of harmonizing the positions emerged, when you learned that the two agencies had different views to offer in this important proceeding, you asked for this meeting to hear their views about how to proceed. Even though a stark choice between the two approaches now is not necessary, you can use the meeting to hear about the policy decisions that are at stake in the proceeding and where the agencies believe the Administration should come down.

LOGISTICS

In addition to Gips, Kohlenberger and Wallman --

Attendees: Joel Klein, Acting Assistant Attorney General for Antitrust, DOJ
Philip Weiser, Counselor to the Assistant Attorney General for Antitrust, DOJ
Larry Irving, Assistant Secretary, NTIA
Kathy Brown, Associate Administrator, NTIA
Jeffrey Frankel, Member, CEA
Timothy Brennan, Senior Economist, CEA

YOUR ROLE/ CONTRIBUTIONS

Some possible questions for you to ask Commerce and Justice:

1. **Consumer impact:** What will be the impact of your plan on the average total phone bill?
2. **New charges:**
What new or increased charges will appear on the phone bill?
Who bears these new charges? Businesses? Residential customers? Single-line customers? Multi-line customers?
Why is it necessary or desirable to restructure charges in this way?
Is there any way to reform access charges so that we can get competition going without putting new or increased flat charges on the bill?
3. **Offsetting decreases:**
Will any parts of the bill go down to compensate for increases?
What needs to be done to ensure that this will happen?
What is the timing of these price changes up and down?
Over the next year, what is the average consumer likely to experience?
4. **Postponing increases until decreases occur:**
Wouldn't it be a good idea to postpone the effective date of these new or increased flat charges until the FCC can take steps to bring down access charges so that the long distance companies can lower their rates?
5. **Classrooms and libraries:**
How do the various options on reforming access charges affect the Commission's decision on e-rates?
What steps do we need to take now to make sure that we meet the President's goal and my goal of connecting the classrooms by the year 2000?
How do we make it clear that any increases in the bill are not fairly attributed to the e-rate?

THE WHITE HOUSE
WASHINGTON

April 8, 1997

MEMORANDUM FOR THE VICE PRESIDENT

FROM: KATHLEEN WALLMAN

**SUBJECT: ADMINISTRATION'S POSITION ON FCC ACCESS REFORM
PROCEEDING AND ITS IMPACT ON TELEPHONE BILLS**

BACKGROUND

On May 6th, the FCC will vote on new rules to reform access charges. Access charges are the amounts that the Bells and other local telephone companies charge long distance companies for "access" to the local networks so that the long distance companies can originate and terminate long distance calls.

The Executive Branch's experts in this field, NTIA at Commerce and the Antitrust Division at Justice, each have drafted comments to submit in the FCC's docket. They have different approaches, as described below.

An early option considered was whether to have both agencies file comments, even though their approaches differed, on the theory that a multiplicity of ideas in the docket could be useful to the FCC. You indicated a desire to learn more about the two agencies' thinking on this matter before deciding how to proceed.

As explained below, it has developed that it is possible to harmonize the two filings so that a choice between them is not necessary. Another option is not to file at all. If the harmonization option makes sense to you, you could encourage this approach with the two agencies officials' when you meet with them on Wednesday.

SUMMARY OF THE TWO APPROACHES

Both approaches seek to "restructure" access charges. Restructuring means looking at the way in which the Bells recover the costs of providing access and making sure that fixed costs are recovered as fixed, flat fees and that variable costs are recovered as per minute charges. This is the economically rational and efficient way to recover costs, and straightening out any deviations from this paradigm is essential to making sure that potential new entrants can clearly see the costs of entry and price their services correctly.

There are a number of places in the network where charges are assessed on a per minute basis when they really should be charged as flat fees. An example of this is the "local loop" that

connects the subscriber to the telephone company's end office: it is dedicated to that subscriber's use and costs the same to the telephone company regardless of how much the subscriber uses it. Nevertheless, under the current system, part of that cost is still charged on a per minute basis and shows up mixed in, not broken out, on the customer's long distance bill. (The rest is currently charged as a flat fee, which shows up on the bill as the Federal Subscriber Line Charge. It is currently capped; it cannot exceed \$3.50 per residential line, nor \$6.00 per business line.)

The question on the table is whether now is the time not only to restructure access charges, but also to reduce the amounts that are charged. This is a main point of divergence between Commerce and Justice. Justice says that the FCC should wait. Commerce says that the FCC should do it now.

The difference is crucial because both plans would impose new fixed monthly charges on consumers' bills, either directly or indirectly through the consumers' long distance carriers. Both NTIA and DOJ agree that some such charges are economically inevitable to straighten out the economic mistakes of the past and lay the groundwork for competition. In the long run, competition will help reduce the impact that these charges have on the bottom line of the bill. But competition will take some time to arrive.

In the short run, the only way to counterbalance those new charges is to reduce access charges at about the same time as the new charges are imposed so that these savings can be passed on to consumers in the form of lower long distance rates. The harmonized approach would encourage the FCC to move forward with its decisions about what to do to restructure rates, but to delay the imposition of any new or increased charges necessitated by restructuring until the FCC can finish its work in a separate, ongoing proceeding called the "price caps" proceeding to bring down access rates. This would enable the long distance companies to lower their rates to help counterbalance the effect of the new charges.

Department of Justice

The key elements are:

- The restructuring should be revenue neutral -- that is, every dollar that we decide should no longer be collected on a per minute basis should be recovered somewhere as a flat charge. This revenue neutrality is key to getting through this proceeding and on with the rest of what we need to do to implement the 1996 Act without getting sued again by the Bells.
- No reduction of access charges at this time; we do not know enough yet to say by how much they should be cut, and there are too many other transitional problems that need to be figured out before we will know.

- Increase the Subscriber Line Charge for second lines and second homes so that it would cover more of the actual cost of the local loop.
- Restructure the per minute charges that currently help cover the cost of the local loop (the "Carrier Common Line Charge" or "CCL") into a fixed monthly charge of about \$1.74 on each telephone line.
- The DOJ restructuring will lead to an average decrease in long distance rates of 2.5 cents per minute, which would mean that about half of long distance customers would enjoy a decrease in their overall bill. (The rest would see no change or an increase.)

Department of Commerce

The key elements are:

- Even though we do not know the exact amount by which access charges could be cut, we should cut them by a safe "downpayment" amount of \$2 billion right away. This is important to counterbalance the increased other charges that will appear on consumers' bills. We should not adopt a revenue neutral approach; we should litigate if necessary to minimize the impact on consumers' bills.
- The Commerce plan would produce a decrease in long distance rates of 1.5 cents per minute, without an offsetting per line charge like DOJ's \$1.74 monthly charge.
- Increase the Subscriber Line Charge (SLC) for second lines and for second homes so that it would cover more of the actual cost of the local loop.
- Alternatively, instead of raising the SLC on second lines now, initiate a study of how raising the SLC on second lines would affect demand for second line service and Internet usage and decide later what to do.
- No brand new per line charge, in contrast to the estimated \$1.74 per line monthly charge proposed by DOJ.

OPTIONS

I have identified four options, each of which is discussed below:

- Option 1:** File nothing; have the Administration take no position.
- Option 2:** File the Commerce paper.
- Option 3:** File the Justice paper.

Option 4: File both Justice and Commerce papers, but harmonize their bottom lines.

I would be happy to discuss my recommendation with you.

Discussion of Options

Option 1: File nothing; have the Administration take no position.

Pro:

- This is a complex proceeding that requires detailed decision making. It is just the sort of proceeding in which the Executive Branch should pay great deference to the expert judgment of an independent agency.
- This proceeding likely ultimately will be resolved by the FCC's brokering an outcome among the stakeholders. If the Administration refrains from filing, this would give the FCC the maximum flexibility to do this work. If the Administration articulates a view, the stakeholders might try to use it in the bargaining, and it might constrain the FCC from moving in directions not yet under consideration. After the fact, the Administration's view could be used, fairly or not, as a yardstick against which the FCC's success would be measured.

Con:

- The Administration will be identified with the outcome of the proceeding no matter what the outcome is. If we think we can add value by stating a position, we should do so.
- Reports of the Chairman's plan on this issue indicate that he would need to impose at least some new and increased charges on customers' bills, mainly on business customers. Our expert agencies, Commerce and Justice, concur that some such charges are inevitable. The key question is whether there will be countervailing reductions in long distance charges that will at least partly offset the new charges. If the Administration is concerned that customers' bills not increase, it would be useful to say so on the record and suggest ways in which consumers' interests could be safeguarded.

Option 2: File the Commerce paper

Pro:

- The Commerce plan would reduce access charges by \$2 billion immediately.

This would help offset the impact of the inevitable increased charges on the bill. Any litigation risk attached to the plan could be mitigated by using the record in the ongoing "price caps" proceeding to support the \$2 billion reduction.

- The Bells are going to argue that they should be allowed to impose new charges on the local bill to pay for connecting the classrooms and libraries. We will argue forcefully against this, but the best insurance against an adverse outcome is to lay the groundwork for a dramatic cut in long distance rates that would counterbalance any new "Connect America" charges.

Con:

- Justice warns that this plan is so aggressive that it may not hold up in court. Court challenges slow down the implementation of the 1996 Act and introduce uncertainty.
- Dramatic cuts in access charges now may steel the Bells' resolve to impose a new line item on the local bill to recoup the costs of connecting classrooms and libraries.

Option 3: File the Justice paper.

Pro:

- The Justice paper outlines the ways in which the current access system should be changed to make sure that the costs of providing telephone service are recovered efficiently from an economic perspective. It is a solid guide to what needs to be done and would be useful to the FCC, provided that it is carefully vetted.
- Justice believes that its plan presents the minimum possible litigation risk. Justice does not claim that no one will sue, only that the Justice plan, which is "revenue neutral" to the Bells -- *i.e.*, they lose no revenue in this plan -- presents the least risk of suit.

Con:

- The Justice paper would not only increase the Subscriber Line Charge, as would the Commerce plan, but it would also invent a new \$1.74 charge that the long distance companies would have to pay each month for each presubscribed customer. This may be passed on to the consumer in the form of a new line item on the bill. Although its plan would reduce long distance telephone rates by about 2.5 cents per minute, according to Justice's forecast, that reduction would benefit only about half of long distance customers. The rest would see no change or an

increase.

Option 4: File both Justice and Commerce papers, but harmonize their bottom lines.

Explanation: Justice is concerned that Commerce's proposal to cut access charges now is too aggressive based on the state of the record, and favors the FCC's taking more time to develop additional support before cutting access rates. Commerce is concerned that Justice's plan is not aggressive enough, and that the net result for many consumers will be higher fixed charges without countervailing long distance reductions.

A way out of the conundrum is to have Commerce file a paper saying that the FCC should move as soon as possible to reduce access charges, and to urge that there may be enough in the record right now in another proceeding, the "price caps" proceeding, to permit an immediate reduction. In addition, we could have Justice file a paper saying that the FCC should go forward with the proposals offered by DOJ, but should postpone the effective dates of the new charges to coincide with the expeditious completion of the "price caps" proceeding, which will bring access charges down, and permit long distance companies to offer lower, counterbalancing rates.

Pro:

- This puts both of the Administration's expert agencies on the record at the FCC with a way to serve the dual goals of (1) restructuring access charges to prepare the way for competition and (2) ensuring that the flat charges that need to be added to the bill to serve goal (1) are counterbalanced with decreases that will permit the lowering of long distance rates.
- It might seem unattractive to put the Administration on record in favor of or acquiescing in any new charges on the bill. But some of these new charges are a likely result of the proceeding in all events, and the Administration can do a great deal of good for consumers by taking a stance that long distance rates should come down quickly at the same time to counterbalance the new charges. It is not clear that that would happen if the proceeding is left to take its own course.
- Inviting the FCC to examine its existing record in the ongoing price caps proceeding and develop it further so that it can cut access charges before imposing new flat charges on the bill should mitigate the litigation risk that Justice perceives in the original Commerce plan. ⁴

Con:

- Both expert agencies' filings recommend new charges on the bill and treat them as economically inevitable. Thus, the Administration would be on record as favoring these charges, and the fact that we favor counterbalancing long distance reductions could be lost unless forcefully articulated.
- A filing that makes a specific recommendation like this might be viewed by the Chairman as leaving him less room to maneuver as he tries to achieve a stable outcome among the stakeholders and the other commissioners.

Meeting with CBC Leadership

West Wing Office

4:45 - 5:15 pm, Wednesday July 30, 1997

Meeting requested by Don Gips & others

Briefing prepared by Jim Kohlenberger

EVENT

You are meeting with Maxine Waters, Louis Stokes, Edolphus Towns, Bobby Rush and Albert Wynn representing the leadership of the Congressional Black Caucus to follow up on their concerns about our FCC nominations and move forward with constructive recommendations for improving communications. Talking points are attached.

BACKGROUND

In addition to the FCC nominees, other topics of conversation could include:

- **Budget Agreement.** Maxine Waters said yesterday that the Black Caucus should vote against the budget agreement. *A key component of the President's tax cutting agenda has been to spur economic activity in distressed areas of our nation's cities. This budget reflects the President's agenda:*

- ✓ **A New Tax Cut Plan Helps to Clean Up and Redevelop Brownfields.** The 3-year Brownfields tax incentive will reduce the cost of cleaning up thousands of contaminated, abandoned sites in economically distressed areas by permitting clean-up costs to be deducted immediately for tax purposes. This will, in turn, encourage redevelopment of these areas. *The Treasury Department estimates that this \$1.5 billion tax incentive would leverage more than \$6 billion for private sector cleanups nationwide, allowing redevelopment of 14,000 brownfields.*

- ✓ **New Empowerment Zones (EZs).** The budget includes a second-round of EZs -- 15 urban and 5 rural EZs. The new EZs will benefit from a different blend of tax credits from the first-round communities. For example, the EZs will be eligible for the Brownfields tax incentive, special expensing of business assets, and qualification for private-activity bonds.

HELPING MOVE PEOPLE FROM WELFARE TO WORK

- ✓ **A Welfare to Work Tax Credit.** This provision will give employers an added incentive to hire long-term welfare recipients by providing a credit equal to 35% of the first \$10,000 in wages in the first year of employment, and 50% of the first \$10,000 in the second year, paid to new hires who have received welfare for an extended period. The credit is for two years per worker to encourage not only hiring but retention.

- ✓ **\$3 Billion to Help Move 1 Million People from Welfare to Work.** Includes President's proposal to create \$3 billion Welfare to Work Jobs Challenge to move long-term welfare recipients into lasting, unsubsidized jobs. These funds can be used for job creation, job placement and job retention efforts, including wage subsidies to private employers, and other critical post-employment support services. The Labor Department will provide oversight but the dollars will be placed in the hands of the localities who are on the front lines of the welfare reform effort.
- ✓ **\$12 billion to restore both disability and health benefits for 350,000 legal immigrants in 2002** who are currently receiving assistance or become disabled, ensuring that they will not be turned out of their apartments or nursing homes or otherwise helpless.
- ✓ **Preserves the minimum wage and other labor protections for welfare recipients moving from welfare to work.**
- ✓ **Fair Labor Standards Act and other employment laws.** Protects workers from displacement by those leaving the welfare rolls, and establishes a strong process for workers to raise grievances with an independent agency.

Cocaine. Last week the CBC was also upset when the Attorney General and the Drug Czar recommended narrowing the huge differences between sentences for selling crack and powdered cocaine. Maxine Waters complained that the sentencing guidelines we endorsed last week would only lower the difference in sentencing for the two different forms of cocaine to a 10-1 ratio having asked the administration to recommend a 1-1 ratio. Despite discussing this with the President in May, Waters said she was "annoyed they have not discussed with me or the caucus where they were going on this issue." Under the proposal, which is subject to congressional approval, the mandatory five-year sentence for selling 25 grams of crack also would apply to dealing 250 grams of powder cocaine. Current law sets a five-year sentence for selling 5 grams of crack or 500 grams of cocaine, a 100-1 ratio. Critics of the disparate sentences say they are unfair to minorities, who are more likely to possess the cheaper crack. Others contend crack is far more addictive than powder cocaine because of its concentrated form and also more likely to be connected to crimes of violence. Caucus members met Wednesday with Attorney General Janet Reno; Barry McCaffrey; Deputy Attorney General Eric Holder; and Rahm Emanuel.

Associate General Counsel for Civil Rights at USDA. Recently, Maxine Waters wanted to know the status of hiring an Associate General Counsel for Civil Rights at USDA, the vacancy announcement has just closed, which means that the applications are in and the screening process is just beginning. A selection panel will narrow the qualified applicants to about ten and the final selection will be made in late September or thereabouts.

- **Computer Training initiative.** The CBC has proposed legislation for a new \$20 million grant program to create computer training centers in low-income areas. They are looking for an administration endorsement of their initiative. Bridging the digital divide between the information haves and have nots is something we are very committed to. In fact, their effort is largely duplicative of many existing efforts we have ongoing making it difficult to say why a new program is needed on the hill. However, they are looking for something they can put their name on.
 - You can tell them that you will support their legislative proposal within the White House process so that the administration can endorse their legislative initiative realizing that an Appropriation is an up hill battle given our struggle every year for money for the THAP program. Before the administration endorses a bill, it must go through an OMB inter-agency review process.
 - You can also tell them that you will work with them to help find real dollars in real programs to support their effort while they fight for their own legislation. This could be something we announce together and include a combination of existing efforts. Together these efforts dwarf the \$20 million a year CBC proposal.
 - **THAP grants** -- Larry Irving runs the THAP grant program which is very similar to what they propose which can help create computer training centers like those they want.
 - **HUD neighborhood network programs** -- a HUD effort which is in the process of hooking up 200 housing projects with computers and connections across the country
 - **The E-rate** -- which provides 90% discounts for libraries and schools in poor neighborhoods for telecommunications services out of a \$2.25 billion annual fund.
 - **The Gates Library foundation** -- To complement the E-rate which provides almost free connections to libraries in poor areas, the Gates library foundation will provide \$400 million in hardware and software for libraries in poor areas.

ATTACHMENTS

- Talking Points
- Crack Cocaine Sentencing Q&A
- Kennard's contributions to the African American Community

THIS FORM MARKS THE FILE LOCATION OF ITEM NUMBER 1
LISTED IN THE WITHDRAWAL SHEET AT THE FRONT OF THIS FOLDER.

Crack Cocaine Sentencing

Press Guidance

July 21, 1997

- * The President believes that the current disparity in sentencing between crack cocaine offenses and powder cocaine does not make sense (Current ratio is 100-1 -- crack cocaine offenses being the 100)
- * The President also believes that a 1:1 ratio does not make criminal justice sense.
- * The President asked the Attorney General Reno and General McCaffery to come up with a recommendation that is both fair and makes criminal justice sense.
- * The President has received a recommendation from Reno and McCaffery and we are currently consulting with Congress.

Lockhart per Rahm

Crack Cocaine Sentencing -- Updated Question/Answer
July 22, 1997

Q: Mr. President, today's New York Times reports that you have received a recommendation from the Attorney General and Drug Director to reduce the disparity between sentences for crack and powder cocaine. What is their recommendation, and have you accepted or acted on it?

A: As you know, on April 29th the U.S. Sentencing Commission issued a report recommending that the disparity between sentences for crack and powder be narrowed. I asked the Attorney General and Drug Director to review the Commission's report and make a recommendation to me. They did, and their recommendation was that the trigger for 5-year mandatory drug penalties should be increased from 5 to 25 grams for crack -- and dropped from 500 to 250 grams for powder cocaine. That would drop the ratio from 100 to 1, to 10 to 1. I think this is a sensible recommendation. It makes good law enforcement sense, and it's fairer. It will ensure that federal prosecutors focus on mid- and high-level drug traffickers, rather than low-level users. I have asked the Attorney General and Drug Director to work with Members of Congress on this matter, and I hope we can make real progress.

CRACK/COCAINE

Q: Mr. President, your Administration has supported a sentencing policy that punishes blacks users of crack cocaine a hundred times more harshly than white users of powder cocaine. How can you defend this policy, and how can you say that your Administration is promoting racial reconciliation and dialogue when you support a policies like this, which seem blatantly unfair and discriminatory to most African Americans?

A: I understand the concern that many African Americans have when they are told that black users of crack are punished much more severely than white users of powder cocaine. The current disparity in our sentencing laws for cocaine – or the so-called 100 to 1 ratio – is unfair and should be adjusted. But the issue is not as simple and straightforward as equalizing penalties, and I would like to explain why.

Since the mid 1980s, crack cocaine – and the armed gangs that deal in it – have fueled an unprecedented level of violence in our cities and among our youth. And while this violence now seems to have stabilized, it remains at intolerable levels – and crack cocaine defendants continue to be associated with much more violence than powder cocaine and other drug users. In principle then, I continue to believe that crack cocaine should be punished more severely than powder cocaine – and that is why I rejected the Sentencing Commission's proposal last year to equalize penalties for crack and powder cocaine.

In practice, however, my Administration has realized that the current 100 to 1 ratio, which triggers 5-year mandatory drug penalties for crack users at 5 grams and for powder users at 500 grams, is flawed. Generally speaking, federal law enforcement resources should target serious drug traffickers – or at least mid-level dealers that can provide information to help prosecute these more serious traffickers. Both the 5 and 500 gram triggers in current law seem to miss this mark: the crack trigger is too low, and the powder trigger is too high.

To some extent, however, we already compensate for this flaw in two ways: First, federal prosecutors generally use their discretion to target the more serious offenders. Thus, the typical crack defendant convicted in the federal system is not a kid, not a first-time offender and likely to have carried a gun and trafficked in at least 80 grams of crack – or, frankly, a serious criminal. Second, the "safety valve" provision that I signed into law

as part of the 1994 Crime Bill exempts certain first-time, non-violent crack offenders from the 5-year mandatory drug penalty. As a result, hundreds of drug offenders -- including the small percentage of lower level crack dealers that make their way into the federal system -- will be eligible to have their sentences reduced an average of 25%.

In the final analysis, however, our own flexible policies in enforcing the law do not change the fact that the extreme disparity between crack and powder penalties is unjustified and should be reduced. That's why I intend to support a reduction in the 100 to 1 ratio, and to work with Members of Congress to make such a change to current law. The Sentencing Commission recently recommended a range of sensible options for doing this. I believe they suggested that penalties for powder and crack cocaine should be "pinched" -- that is to say, that the trigger for powder should be dropped from 500 grams to somewhere between 125 and 375 grams, and that the trigger for crack should be increased from 5 grams to somewhere between 25 and 75 grams. And I will ask the Attorney General and Drug Director to work with Members of Congress to adopt make an adjustment within these ranges.

KENNARD'S CONTRIBUTIONS TO THE AFRICAN AMERICAN COMMUNITY

Throughout his professional career, Bill Kennard has been a consistent and forceful advocate for creating and expanding opportunities for minorities to participate in the communications marketplace, as owners, employees and users of services. Organizations active in expanding opportunities for minorities to participate in the communications marketplace have publicly urged President Clinton to designate Kennard as the next Chairman of the FCC, including the Rainbow Coalition, the Minority Business Enterprise Legal Defense and Education Fund, Inc., the National Bar Association, the Minority Media and Telecommunications Council and the Office of Communication of the United Church of Christ.

- Before joining the FCC as its first African American general counsel, Bill Kennard devoted his law practice to assisting minority companies enter the communications marketplace. He devoted his career to advocating their interests in the courts, before the FCC, the Congress and the Administration.
- Kennard is widely regarded as one of the Nation's leading experts on the legal and policy issues involving minority participation in the communications marketplace. At a time when minorities are experiencing a dramatic loss of ownership opportunities in FCC-regulated industries, it is especially appropriate for a distinguished advocate for minority economic development to chair the FCC.
- While in private practice, Kennard assisted the FCC's Advisory Committee on Minority Ownership in Broadcasting and was the principal author of proposals to expand the FCC's minority tax certificate which were adopted by the FCC in 1982. In 1995, when some members of Congress targeted the tax certificate program for repeal, Kennard was the only senior FCC official to publicly defend the tax certificate program. He testified in both the House and Senate urging Congress to retain the tax certificate program.
- As general counsel, Kennard has been instrumental in recruiting African American's to serve in high-level policy making positions. He personally helped to recruit the first African Americans to head four of the Commission's 16 operating bureaus and offices. These are the most senior-level and highly visible staff positions at the agency. These include the chiefs of Cable Services Bureau, the Office of Public Affairs, the Office of Workplace Diversity and the Office of Communications Business Opportunities. Kennard has recruited numerous other African Americans to management and staff jobs throughout the agency. The number of minority lawyers throughout the Commission increased significantly, in large measure, as a result of Kennard's efforts. He has taken a "hands on" approach to recruiting minority lawyers, creating opportunities for them within the Commission, and mentoring them. He created the first Commission-wide mentoring program for incoming lawyers.

- Kennard personally advocated for and was as a key player in establishing the first Office of Workplace Diversity at the Commission. He also recruited its current Director, a former NAACP state director and special assistant to Benjamin Hooks. This office has fostered diversity through widespread recruitment and training initiatives.
- Kennard personally advocated for a was the key player in establishing the first Office of Communications Business Opportunities at the Commission. This office has served as an important advocate within the FCC for the interests of small and minority-owned businesses in communications. He worked to ensure that its director would report directly to the Chairman of the FCC, then recruited the first director of the Office, a highly-regarded African American from the minority venture capital community.
- Kennard has recruited the most talented and diverse group of lawyers in the history of the Office of General Counsel. Prior to his arrival, only a handful of minority attorneys had ever served in the Office of General Counsel in the entire 60-year history of the office, and there were no African American attorneys in the office immediately preceding his arrival. From his first day as General Counsel, Kennard made aggressive outreach and recruitment a top priority for the Office. Because of his efforts and personal involvement in recruitment, during his tenure the Office of General Counsel, which has has hired over 15 minority attorneys, including 12 African Americans.
- The lawyers recruited by Kennard are widely acknowledged to be the most talented group of lawyers in the agency's history. During his tenure, the FCC's win/loss record in the federal appellate courts has increased by approximately 30%. When President Clinton nominated Kennard to become a member of the FCC, outgoing Chairman Reed Hundt announced that "Bill Kennard has been the best General Counsel in FCC history and has successfully run the most difficult cases this Commission has ever encountered . . . Under his leadership, we have dramatically improved our win record in the Court of Appeals. We have also greatly expanded the depth and breadth of our recruiting and instilled in all our audiences an awareness of fairness and impartiality of our rulemaking."

Meeting with Jesse Jackson

West Wing Office

3:45 pm, Friday May 29th, 1998

Meeting requested by Jesse Jackson

Briefing prepared by Jim Kohlenberger

EVENT

You are meeting with Jesse Jackson at his request to discuss his concerns about fair access, inclusion and diversity in the media and telecommunications industries. You spoke to him by phone on May 11th on this same subject. At that time you told him that you would create a new informal inter-agency working group to address these issues. The group is now meeting -- see below.

BACKGROUND

- ✓ **Digital Television Licenses.** Jackson is concerned that the FCC is giving away billions of dollars in digital television licenses, without accommodating new entrants. But the FCC has no choice. They are required by the 1996 Telecommunications Act to give the licenses to incumbents.

The Administration, however, has been actively involved in pending proceeding with the FCC to limit the concentration of media ownership in an effort to preserve and enhance opportunities for minorities for women.

You have also convened a commission, known to some as the "Gore Commission" to study the public interest obligations for these new digital licensees. Jackson notes the work of your commission in his letter (attached), but also says its not enough.

- ✓ **Lutheran Church EEO case.** He is also concerned about a recent D.C. Circuit opinion which attacked the FCC's EEO rules that apply to broadcast licenses. Jackson has encouraged the Attorney General to seek rehearing en banc. At least some in the civil rights community do not want the FCC to challenge the EEO decision out of fear that the Supreme Court might uphold it.
- ✓ **Digital Divide on the Internet** He is also concerned about a digital divide in cable services and unequal access to the Internet in schools. In his letter he notes that you are right to stand up for universal access in schools to the Internet. But he would take it one step farther to ensure universal access to all Americans.
- ✓ **New Inter-Agency Working Group.** Since your last conversation with Jackson, the new informal inter-agency working group that you told him you would

convene is now meeting. Now representatives of the FCC, the Commerce Department, the Justice Department, the Treasury Department, the Small Business Administration, the Equal Employment Opportunity Commission, and the White House are meeting to find new creative ways we can increase diversity in ownership and employment in media.

ATTACHMENTS

- Jesse Jackson's letter to you
- Talking Points
- Background on his issues.
- Memo on EEO Decision

Talking Points

- I understand how important these issues are to you. I also want you to know that these issues are important to me and the administration.
- When the President and I helped forge the Telecommunications Act, we fought tirelessly to ensure that we maintained a diversity of voices in America. When you asked us to appoint Bill Kennard as Chairman of the FCC, we agreed and appointed the first African American in history to that body at the same time we appointed Michael Powell.
- But as you point out, we are now facing strong challenges in the courts and in Congress. We've witnessed the decline of minority ownership, the loss of minority tax certificate and now the EEO requirement in broadcasting. Some in the civil rights community have said that if the EEO provision is challenged and upheld by the Supreme Court, it could have a devastating impact not just on cable, but on other industries as well.
- In the wake of the EEO decision, the FCC Commissioner that you and I helped to put in place called on industry to do the right thing to develop solutions to help improve representation of minorities in broadcasting and to stem the tide of declining ownership.
- When we spoke recently by phone, I told you that I would create a new informal inter-agency working group to address these issues. I want you to know that representatives of the FCC, the Commerce Department, the Justice Department, the Treasury Department, the Small Business Administration, the Equal Employment Opportunity Commission, and the White House are meeting to find new creative ways we can increase diversity in ownership and employment in media.