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STATEMENT OF ROSEL H. HYDE, CHAIRMAN, FEDERAL COMMUNICATIONS COMMISSION, BEFORE THE SUBCOMMITTEE ON COMMUNICATIONS OF THE SENATE COMMITTEE ON COMMERCE ON S. 1160, 90TH CONGRESS, 1ST SESSION, THE "PUBLIC TELEVISION ACT OF 1967."

APRIL 11, 1967

My name is Rosel H. Hyde. I am Chairman of the Federal Communications Commission. It is a pleasure to appear here today to present the Commission's views on S. 1160, the "Public Television Act of 1967."

Mr. Chairman, this bill you are considering today is the most significant legislation in this area to come before the Congress in many years. It holds great promise of a real breakthrough in making noncommercial broadcasting a truly vital force benefitting millions of Americans. The Federal Communications Commission wholeheartedly endorses S. 1160. And it gives me much satisfaction to tell you this on behalf of the Commission. For our agency, along with this Committee and the Congress, has played an important role in nurturing educational broadcasting to the point where this significant legislation becomes the next great step forward.

If I may, Mr. Chairman, I should like just briefly to review where we are today in this field, and to mention the basic background of our present situation.

For many years, the Commission has promoted the development of educational broadcasting. Fifteen years ago, when the Commission adopted the present nationwide television allocation plan, it looked

to the future and reserved a substantial number of channels in various communities solely for educational use. There are now on the air 20 educational AM radio stations, 326 educational FM radio stations,[1/] and 130 educational television (ETV) stations.[2/] Six hundred and thirty-three television channels have now been reserved for educational purposes (516 UHF and 117 VHF), and further reservations are still being requested.

The Educational Television Facilities Act of 1962[3/] has further had an important impact on educational television. As of June 1, 1963, the date on which HEW was prepared to accept applications for matching grants, there were only 79 ETV stations in operation. This number has increased to 130, a great majority of the new stations being the beneficiaries of HEW grants. That Act also had a dramatic impact upon the expansion of existing ETV facilities. In the 33 months prior to June 1, 1963, the Commission granted only four construction permits for major modifications, whereas in the 33 months immediately following the availability of funds under the Act there were 32 grants of

1/ Includes 15 on frequencies not reserved for educational use.

2/ Includes 8 on unreserved channels.

3/ P.L. 87-447, sections 390-397 of the Communications Act, 47 U.S.C. 390-397.

construction permits for increased facilities, 31 of the recipients taking advantage of HEW grants of funds.

Despite the great strides already made, we have, as the President said, only begun to grasp the great promise of this medium. I do not wish to dwell on past achievements. The future will make even greater demands upon us. Additional hundreds of operating stations will be needed for educational television to reach its full potential. Many States are planning state-wide educational television networks which will need increased funds. It is these problems with which we must now deal, and the provisions of S. 1160 should be of great value in bringing to fruition the plans and hopes of educational broadcasting.

The Corporation

Let me discuss first the important provisions of Title II of the bill which embodies the bold and imaginative concept of an independent, nonprofit corporation to assist in developing and distributing educational programs. The bill follows President Johnson's message to Congress on this subject of February 28, 1967. Its provisions for a private corporation are also similar in many respects to the recommendations of the Report of the Carnegie Commission on Educational Television of January 1967, entitled "Public Television: A Program for Action." Such a corporation should be of significant assistance in developing the full potential of noncommercial educational broadcasting.

While there are some differences in approach, there is, I believe, substantial agreement on three basic principles:

First, noncommercial broadcasting must be assured of adequate financial support. This, of course, is cardinal. There is a proposed appropriation of $9,000,000 for the first year's operation. The President next year will make recommendations for the Corporation's long-term financing. The matter is thus one for resolution by the Congress after consideration of the President's recommendations and other appropriate views.

Second, the composition and status of the Corporation must be such as to assure that its policy judgments -- particularly in the area of programming -- be completely independent.

Finally, while a program of Federal support for noncommercial broadcasting must provide for effective networking in this area, it must also contain safeguards to assure local autonomy in the choice and selection of programming. This is basic to the American concept of broadcasting.

These fundamentals then -- adequate financing, corporate independence and local autonomy along with effective networking -- are the keys to success.

I should like just briefly to invite the Committee's attention to a few respects in which we believe Title II could be clarified.

The bill does not make clear whether the Corporation is expected to charge for its programs or distribute them free. If, as I understand was the intention, the Corporation is to have full discretion in this respect, it may be well to clarify this point. Also, S. 1160 does not mention the question of distribution of programs to commercial stations, thus raising a question of whether such distribution is intended to be permitted. Distribution of programs to commercial stations on a secondary basis would make the programs available to a wider audience. Distributions for foreign use should also be considered. We believe Congress should consider permitting such uses, with appropriate safeguards, for example, that the programs not be initially distributed to a commercial station in any area where there is an educational station.

Also, we assume that programs could be made available to stations in the important Instructional Television Fixed Service, a non-broadcast service for in-school television which I will discuss more fully later. Stations in this service should be eligible to receive programs which have been produced for educational broadcast use, and, therefore, any doubt in this respect should be eliminated.

Operating costs other than programming

Section 396(g)(2)(C) also provides for payments to stations to finance local programming costs "... and other costs of operation".

General operating costs in ETV are quite high, and presently are a deterrent to the development of stations and a limitation on the quantity and quality of their service. We would hope that the Corporation would give serious consideration to providing substantial support for station operation, although we recognize that its major concern will be for the development of quality programs.

TITLE I

Title I of S. 1160 would amend the Communications Act by extending and improving its provisions for grants for the construction of educational broadcasting facilities.

The extension of the matching funds provisions

Section 101 authorizes an appropriation of $10,500,000 for the fiscal year ending June 30, 1968 and "such sums as may be necessary for the next four fiscal years." This is an important extension of the five year period provided in P.L. 87-447. If the hoped for, and expected, development of educational broadcasting is to be achieved in the reasonable future, consideration will have to be given to even larger sums for future appropriations.

Limitation on per-state share

Section 392(b) of the Communications Act now limits to $1,000,000 the amount any State may receive under the "matching fund" provisions. Section 102 of S. 1160 would amend this to specify a limit of 12 1/2% of the appropriation for each year. Raising the present limit is

highly desirable, since a number of States have used up their quotas or are about to. Moreover, some States, such as those with large areas or populations to be served, have greater needs than others and therefore should probably be entitled to a larger share of the money than would be available under the present system. The present arrangement, limiting each State to $1 million out of $32 million, or about 3%, permits relatively little deviation from a strict mathematical-equality basis which would give each of 50 States 2%. However, we think the proposed formula presents some problems: (1) with a 12 1/2% limitation, 8 States could use up any year's appropriation; (2) the limit would not be cumulative, and theoretically some or all of the same States could use up each year's appropriation; (3) the proposed limit does not take into account the amounts already received under the 1962 Act.

The problems suggested above would probably be dealt with by HEW in the administration of the statute so that an inequitable allocation of funds would not occur, and HEW could probably also maintain some reserve for States which do not have immediate needs. I understand in this regard that HEW, under the 1962 Act, has made grants to all 47 States which have applied for them.

In any event, it might be desirable to provide some guides in the legislative history to indicate to recipients that HEW is expected

to take account of the overall situation in providing funds for any particular State up to the 12 1/2% maximum, i.e., that HEW shall give due consideration to amounts already received by any State, to the requirements of all States, and to reservations for States whose needs have not matured.

The inclusion of educational radio in the matching funds program

The Commission favors the provisions of section 103 of S. 1160 which include noncommercial educational radio stations in the provisions of the law for matching grants, as well as in the new provisions for the private Corporation. Educational radio has an important role to play and we are happy S. 1160 provides for it.

Increasing the Federal share and removal of the interconnection limitation

Section 104 of the bill would amend section 392(e) of the Communications Act to increase the Federal share of construction funds to 75%. We support the increase in the maximum Federal share to 75%. This will stimulate the development of educational broadcasting in places not now able to afford it. We also support the removal of the present provision in section 392(e) limiting to 15% the portion of any grant which may be spent for interconnection facilities -- microwave, etc. -- since interconnection is highly important in ETV and educational radio operation. We assume that with this change it will

be possible to obtain a grant for interconnection facilities alone in places where the basic stations to be connected are already in existence.

Instructional Television Fixed Service

The FCC in 1963 instituted a new educational service known as the Instructional Television Fixed Service (ITFS) which I mentioned earlier.

This service is used to provide multiple channel instructional television service to schools. Thus it does not fit the Communications Act's definition of "broadcasting" which is a radio transmission intended to be received by the general public. The reference in S. 1160 to "broadcasting", therefore, would apparently not include the Instructional Television Fixed Service.

While we recognize that the authorization set forth in S. 1160 does not include amounts for Instructional Television Fixed Service, I do want to explain to the Committee just how ITFS works and to strongly recommend it to you for your future consideration.

Technically, ITFS is a point-to-point service operating on higher frequencies (2500-2690 Mc/s) than regular television broadcasting and cannot be received by the general public. Typically, these in-school instructional programs are transmitted from a single point, such as a school district headquarters, and are received by a special antenna at the schools. There the signals are translated so that they can be viewed on convention television sets in the classrooms.

Because the service operates point-to-point and has a shorter range than broadcast ETV, a great many more systems can be accommodated in the allocated spectrum space. In addition, a single ITFS system can offer service to a school on up to four channels simultaneously. ITFS therefore performs a very valuable service for in-school instruction, relieves some of the programming pressures on ETV broadcast stations and helps ease the problem of television broadcast channel shortages. It also, of course, can make instructional programming available to school systems in communities which do not have ETV broadcast service.

There has been a great deal of interest in ITFS and the Commission has received 110 applications for 289 channels in the 3 to 4 years since the service began -- and many other communities have such plans under development.

We recognize that construction of ITFS facilities is one of the numerous educational activities eligible for assistance under the Elementary and Secondary Education Act of 1965 and the Higher Education Act of 1965, and that a few grants have been made for this purpose. But, under these Acts, it is only one of the numerous educational needs to be considered. At some future time, adequate funds will need to be made available either through specific provisions under these acts or through supplementary assistance under the matching funds provisions of Title I of The Public Television Act to provide for aid to this valuable service.

TITLE III

Title III of the bill proposes a comprehensive study of instructional television to be conducted, or contracted for, by the Secretary of Health, Education, and Welfare. We favor this study. Section 301 should,however, be clarified to reflect the various forms of instructional television and radio and their relationship to other instructional tools.

Moreover, section 301 states that one of the purposes of the study is to assist in determining whether Federal aid should be provided. Since Federal aid is now being provided to instructional television under the ETV Act of 1962, Titles I and III of the Elementary and Secondary Education Act of 1965, and Title VI of the Higher Education Act of 1965, among others, the pertinent question would appear to be what Federal aid should be provided and what form that aid should take.

Consideration might be given to rewording section 301 along the following lines:

> The Secretary of Health, Education, and Welfare is authorized to conduct, directly or by contract, and in consultation with other interested Federal agencies, a comprehensive study of instructional television and radio (including broadcast, closed circuit and instructional television fixed services) and their relationship to each other and to instructional materials such as videotapes, films, discs, computers and other educational materials or devices, and such other aspects thereof as may be of assistance in determining what Federal aid should be provided for instructional radio and television and the form that aid should take, and which may aid communities, institutions, or agencies in determining whether and to what extent such activities should be used.

We believe that with the suggested amendment of section 301 it would be preferable to delete section 302 entirely since the language in 301 would appear to adequately cover the scope of the proposed study. Inclusion of section 302 would appear to needlessly restrict HEW and limit its flexibility in directing the study. However, if section 302 is retained, we believe it is important to clarify some of the terms (i.e., Instructional Television Fixed Service and closed-circuit television are not identical or equivalent, but the former is not mentioned), and to add radio, both broadcast and closed-circuit.

Domestic Satellites and Interconnection

S. 1160, among other things, contemplates the possible use of satellites for educational broadcasting, and charges the Corporation to make a study of such use. In his message of February 28, 1967, the President mentioned this as one of the first tasks of the Corporation, and said that he was directing the National Aeronautics and Space Administration and the Department of Health, Education and Welfare to conduct experiments in this connection. Moreover, the Chairman of this Subcommittee, at hearings on space communications held last August, indicated his great interest in the subject, and emphasized that he expected the Commission and the Office of Telecommunications Management to be prepared to submit general views on the policies to be adopted in this area.

As you know, the Commission is conducting a broad inquiry (Docket No. 16495) which is designed to resolve a number of legal, technical, and policy questions regarding domestic uses of communications satellites, including educational broadcasting. It was in this proceeding that the Ford Foundation proposal was filed, and all told some 28 parties have filed comments. The final comments in this inquiry have just been received. Although we have not yet had an opportunity to consider fully all comments filed, I believe it would be useful for purposes of this hearing to review briefly the nature of some of the questions that are involved in this matter. This can give you an appreciation of the nature and complexity of the problems which must be resolved before communications satellite technology may be applied to meeting the needs of public communication in general, and educational broadcasting in particular.

First, we have a threshold legal question as to what entities -- carriers and non-carriers -- may be properly authorized to establish a domestic satellite system. Although pleadings before us show considerable disagreement on this point, we nevertheless believe that this is a question which we can resolve in a minimum amount of time.

The more difficult problems, we think, relate to the choice of the course we should follow in discharging our statutory responsibility with respect to domestic satellites. This involves the determination of difficult and complex policy, technical, economic and other questions.

One aspect of this matter involves the relationship between any domestic satellite facilities we may authorize and the international global system of satellites being established pursuant to the 1964 International Interim Agreements. In recognition of the problems involved, we included an issue in our inquiry on the relationship of any authorizations for domestic facilities to the policies and goals of the Communications Satellite Act and the International Interim Agreements for a global system. We must, of course, give due weight to the extent to which any domestic satellite facilities may or should be authorized to operate independently of the international consortium. There will of course be appropriate coordination with other interested agencies on these matters. We also recognize that no matter what decision is reached with respect to domestic uses of satellites, provision must be made for coordination between the domestic system and the international system on such matters as the use of frequencies, prevention of interference, allocation of parking space in orbit, possible back-up support and joint research efforts. There is also a need for close coordination with our neighbors in this region of the hemisphere.

In the technical area, we must consider and resolve difficult and time consuming questions. One of these concerns the adequacy of available frequencies to support one or more domestic systems in addition

to a global system for international use. Another relates to the technical standards required to protect against mutual harmful interference between terrestrial common carrier microwave systems and the numerous new earth stations which are needed for domestic service; thirdly, a determination must be made regarding the number and location of satellites that can be placed in synchronous orbit over the equator. Finally there are a group of questions on such matters as launch vehicle availability and capacity; desired system capacity; and the urgent need for spectrum conservation.

The third major area of significance concerns economic considerations. These include such matters as the demand for communications facilities; the relative investments and operating costs required to provide particular services via satellite rather than terrestrial facilities; the potential effects on rates, quality and availability of services of the choice of one entity rather than another to operate domestic satellite service and, insofar as satellites are concerned, the economic implications of using a single satellite for numerous services and users rather than separate satellites for each particular group or purpose.

Comsat has just put forward a proposal in this field. It suggests that it be authorized to initiate a pilot or demonstration program for domestic use of satellites. Comsat would build two large earth stations, one each in New York and California, and some thirty smaller receiving earth stations in the Pacific and Rocky Mountain time zones. In

addition, it would provide high capacity satellite facilities to relay voice and data traffic between the New York and California stations and broadcast television programs from either the New York or California station to the thirty receiving stations which are to be located at points close to television stations.

A feature of the Comsat project is the proposal that it furnish free of charge one television channel in each time zone to educational television broadcasters. Comsat says that adoption of its proposal would not prejudice our final decision in the domestic satellite inquiry, as it would hold such authorizations as we may grant as trustee for the entity or entities who are finally licensed to provide the services under consideration.

Last week the Ford Foundation filed its further comments in which it also endorsed the suggestion for a pilot program. However, it urged that in its opinion it would be preferable to have the test conducted by NASA, since that agency is not one of those seeking to operate the ultimate domestic system.

Aside from the question of use of satellite facilities, the bill deals generally with charges for interconnection facilities required by educational broadcasting.

In this connection, we understand the proposed section 396(h) as not affecting the power of the Commission to prescribe or review

preferential rate treatment for educational broadcasting under existing provisions of law, which permit the Commission or a carrier to initiate the establishment of just and reasonable classes of service, with different charges for the different classes. To avoid any question on this score, we suggest that it should be made clear, either in the proposed section 396(h) or in the legislative history, that the Commission's existing authority in this area is not altered and that the Commission is, of course, to follow the congressional policy contained in the bill of preferential rates for educational broadcasters.

In closing, Mr. Chairman, I would just add that the value of education in both the instructional and the broader cultural sense is a truism in our society. S. 1160 gives us the opportunity to dedicate much more fully our economic and technological strength to this most important task. The proposed legislation would thus be a vital step toward meeting high purpose with sound achievement.

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