

THE PUBLIC INTEREST AND PUBLIC BROADCASTING: LOOKING AT COMMUNICATIONS AS A WHOLE

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Early Monday morning, August 14, 1967, President Johnson signed and sent to Congress a document headed simply, "Message on Communications Policy."¹ None of us should mistake its significance, for it gives to these deliberations at Airlie House a focus and a promise of historical relevance which no gathering of scholars and officials concerned with communications has ever enjoyed.

Plainly, the path-breaking importance of the President's communications message was not lost on others. The 88th, 89th, and 90th Congresses have received and responded to Presidential messages in greater number and of more substantial social impact than those serving any other President, with the possible exception of the seven Congresses that served during the terms of President Roosevelt. Few messages have received a warmer response than this one.

The President of the United States had, for the first time in the history of the country to my knowledge, personally endorsed and put the full power of his Office behind the proposition that, "*The United States must review its past activities in this field and formulate a national communications policy.*"² He spoke not alone of the telephone and telegraph and local broadcasting stations—or even satellites—but of "a revolution in the communications system of our nation."³

To give this unprecedented commitment concrete expression, the President simultaneously appointed a Task Force made up of able high-level officials from across the broad range of the executive branch of the government—13 agencies plus his own Budget Director, Chairman of the Council of Economic Advisers, and Scientific Adviser. To chair the Task Force the President selected Eugene V. Rostow, formerly Dean of the Yale Law School and currently serving with distinction as Under Secretary of State for Political Affairs. Secretary Rostow has boldly characterized the creation of the Task Force as an opportunity to "rear back and look at communica-

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1. Message from President Lyndon B. Johnson to Congress, *Communications Policy*, 3 WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, No. 33, 1135, 1146 (Aug. 14, 1967).

2. *Id.* at 1147 (italics in original).

3. *Id.* at 1153.

tions as a whole.”⁴ With this perspective in mind, I would like to turn to the subject of this paper.

I. THE PUBLIC INTEREST IN BROADCASTING

Few of us would question the proposition that television broadcasting is our most significant use of the valuable national resource we call spectrum space. Economically, it represents one-half billion dollars in tangible assets on the part of the broadcasting industry that produces approximately a 100% return in annual gross profits. And this return is made possible by the consumers who pay \$2.2 billion more for products each year to sustain the “free television” which comes to them on the approximately \$15 billion worth of equipment they have bought to receive it. Clearly the largest proportion of the radio spectrum allocated to civilian use is used for commercial broadcasting. And broadcasting represents that facet of frequency usage which interests most of the public, the press, the Congress, and even the FCC. Acquaintances are far more likely to ask me what I can do about those “lousy, blaring commercials” than they are to ask what I am doing to increase the multi-billion dollar return in gross national product from our use of mobile radio.

Most important, broadcasting happens to be one of the most powerful social forces man has ever unleashed upon himself. It shapes our minds and our morals, elects our candidates, and motivates our selection of the commodities with which we surround ourselves. It tells us most of what we know about the world we live in (and decides what we are not going to know). The average American child, before he enters the first grade, has already received twice as many hours of “instruction” from his home television set as he will receive in class during the entire four years of his college education.

It is unlikely that the value of what those children are receiving from their endless hours before the TV screen matches the enormous investment of national resources that brought the programs to their homes. Few of us would dare assert that we are exploiting our investment in broadcasting to its full potential to serve the public interest.

But change is in the air. Dissatisfaction seems about to make its first significant imprint on public policy since TV aerials began to dominate the American skyline two decades ago. Soon, it appears, Congress will give life to the exciting concept of public broadcasting. We must plan, as we have not to date, for public broadcasting in the public interest. What is needed is a survey of the broadcasting landscape of the present, and

4. BROADCASTING, Aug. 28, 1967, at 46.

especially, of the next technological generation. To paraphrase Secretary Rostow, we must take a look at public broadcasting in the context of communications as a whole. (I would like to consider this paper as some notes toward such a comprehensive inquiry.)

II. PUBLIC BROADCASTING AND THE AMERICAN TRADITION

The importance and power of broadcasting is clear. Is it not, then, altogether puzzling that the nation is just now readying itself to commit public funds to ensure that the power of broadcasting is used to enrich as well as to entertain? The only reason we have not provided more support for public broadcasting up to now is that it always takes us a decade or more to be very reflective about what is going on all around us—and what has been going on all around us since 1950 has been television.

Certainly the precedents for a Public Broadcasting Act were as easy to find in 1947 as in 1967. This nation was founded on a commitment to an educated and informed people. In 1787 our forefathers gave us the command, "The means of education shall forever be encouraged."⁵ Since that time our government has supported with public funds a variety of programs to fulfill this national commitment. The Land Grant College Act of 1862 provided over eleven million acres of public lands in support of higher education in the states. Special postal rates for books, magazines and newspapers have been in effect since 1792. Students are deferred from military service while they complete their college education. Recently the Congress established the National Foundation on the Arts and Humanities to foster the creative and performing arts and encourage research in the humanities. Last year alone \$52.2 billion in public monies from all levels of government was spent on formal public education. Nor is this commitment solely governmental. We in the United States take peculiar delight in deprecating our popular culture. And yet the fact is that far more Americans attend concerts every year than all major and minor league baseball games, World Series included. In short, there is nothing more American than mass popular support of education, information and culture. We have held fast and found new ways to meet this commitment since the beginnings of our nation. We have never hesitated to use public monies, in substantial quantities, to help us reach these national goals.

For me, then, there is no real question about the inherent validity of the use of public money in support of a Public Broadcasting Corporation. When our grandchildren look back upon President Johnson and the Congresses of the 1960's, they will remember the Public Broadcasting Act of

5. Ordinance of 1787, § 14, Art. III (1 Stat. 51).

1967 as one of the proudest achievements of the decade. Thomas Jefferson could well have been speaking of the Public Broadcasting Act when he said in 1786, "The most important bill . . . is that for the diffusion of knowledge among the people. No other sure foundation can be devised for the preservation of freedom and happiness."⁶ This should be a proposal beyond controversy, not only for the social dreamer but for the social accountant as well. The Public Broadcasting Corporation could wisely spend far more money than it is apt to have available.

III. PUBLIC BROADCASTING IN CONTEXT: PLANNING FOR THE SEVENTIES

To embrace the legislation now pending before the House is not to rule out careful scrutiny of the "public interest in public broadcasting." Public broadcasting is not, after all, an end in itself. It is a means and not an exclusive one, to ends which can, and should, be frankly and clearly identified.

For perhaps the single most significant focus is to realize that we must be planning for the 1970's and 80's—not for the 1950's and 60's. Public broadcasting is, historically speaking, a response to the defects of our present mass communications system. But that system is not immutable. Indeed, technical advance is now poised to shake and reshape the social institution we know as television right down to its end-product.⁷

Let us look at the realities of public broadcasting. Let us measure its utility as a servant of the public interest.

A. *Noncommercial Programming and the Goals of Public Broadcasting*

What is public broadcasting? It is bricks and mortar, cameras and receiving sets, and people. It is writers and producers and camera crews. It is management and money. It is many things. But mostly, and above all else, it is programs. And the best operational definition I could provide would be to wheel in a television set and show some illustrative video tapes.

What would a review of the programming product of the present pioneers in noncommercial broadcasting reveal? What goals would it reflect, and what degree of success in serving those goals? What promise does it hold for the product of a more adequate public broadcasting endeavor?

Educational television is often used for education, in the strict sense of the word. Contrary to popular suspicion, the "E" in "ETV" is not

6. Letter from Thomas Jefferson to George Wythe, Aug. 13, 1786, in 10 *THE PAPERS OF THOMAS JEFFERSON* 243, 244 (J. Boyd ed. 1954).

7. See Johnson, *New Technology: Its Effect on Use and Management of the Radio Spectrum*, 1967 WASH. U.L.Q. 521.

there merely for the benefit of the Internal Revenue Service. For example, during the daytime, WETA, Washington, D. C.'s NET affiliate, programs for schools and universities in its viewing area instructional or supplementary courses on art, music, literature and science.

In the evening hours, the predecessors of public broadcasting aim to reach broader audiences, striving toward what might be characterized as the following goals: (1) to make television a medium for cultural enrichment through the provision of refined and sophisticated entertainment; (2) to exploit the potential of electronic journalism with probing and illuminating documentaries and commentaries on public affairs; (3) to realize the objectives set for the mass media by the 1947 Commission on the Freedom of the Press, making the airwaves common carriers of opinion, and ensuring that all sectors of community opinion have a chance to speak.

In pursuit of these demanding objectives, the pioneers of noncommercial broadcasting have been dogged at every step by what has been termed desperate poverty throughout educational television. The use of the term "poverty" is no hyperbole here. Witness, for example, the chilling statistic that a sponsor who purchases four one-minute spots on "Batman" has paid almost enough for a full year of *programming* on the typical noncommercial station.

But despite their shoe-string budgets, noncommercial broadcasters have brought into viewers' homes such brilliant productions of quality entertainment as NET Playhouse's weekly showings of drama by Tennessee Williams, Arthur Miller, and other contemporary playwrights; "The Age of Kings"—a distinctive series of eight of Shakespeare's plays; "The Master Classes" of Casals, Heifetz, and Segovia; "A Roomful of Music" with Pete Seeger and Joan Baez.

If the record of ETV is any indication, PTV will enrich while it entertains. It will also inform. The network that has already produced such substantial documentaries as "The History of the Negro People," "Foreign Assessments of U.S. Foreign Policy," "The Death Penalty," and "Head Start in Mississippi," will this year explore the precarious position of privacy in contemporary society, justice and the poor, the revolt in welfare, and the Negro middle class. Those of us who were inspired by the remarkable live special "Our World," the first globe-girdling live telecast in history, originated from locations in 14 countries on five continents, look forward eagerly to the experiments of the Public Broadcasting Laboratory in creating a visual magazine of the air.

It is not, of course, enough that public broadcasting be a "good thing." It, like any other human endeavor, must withstand the rigors of articula-

tion of goals and quantifiable standards for evaluation of performance against those goals. At the very least, some such evaluation is essential to a meaningful budgeting process.

To say that a mission of "cultural enrichment" is imprecise is not to say that it is unworthy; it is only to say that it is not very useful as a statement of goals. Where is this land of "cultural enrichment," and how are we going to know when we get there? And if we don't know where the road is, or what actions propel us forward, or how to recognize our destination when we arrive, the odds are very high that confusion, violent disagreement, and considerable demoralization are going to reign if we care very much about whether we have been "successful," which presumably we do.

To what extent are audiences relevant? Although not in the rating game, and not appealing for large mass audiences, one measure of public broadcasting's impact is clearly the number of people who watch and listen. If a program is designed to appeal to 10% of the American people (20 million), it is unfortunate if it only reaches 0.01%. This raises questions of interconnection, simultaneous programming, and promotion expenses. To spend \$100,000 on a show and get an audience of 500,000 may be extravagant compared with \$100,000 for the show, \$100,000 for promotion and an audience of 5,000,000.

Such cost-effectiveness analysis may be useful for someone in the broadcasting business, but the goals of public broadcasting seem to have been more generally defined. The Carnegie Commission has talked in terms of greater opportunity for individual expression, the availability of a greater diversity of views to the individual, a fuller range of information and opinion, and more educational experiences.⁸ And it is in regard to these goals that I must return once again to my earlier characterization of "the single most significant focus": that we must think in terms of the 1970's and 80's.

B. *Future Alternatives in Information-Entertainment*

There are a number of trends in the home information-entertainment business that promise impact upon all of broadcasting, including public broadcasting. The established commercial side of the business will struggle for continued economic viability and adaptability, using political and economic pressure to resist some forms of competition, and joining with the others. Public broadcasting, on the other hand, is just being established, or is at least about to be significantly expanded. It need not be cast solely from the mold of broadcasting in the 1950's.

8. Carnegie Commission on Educational Television, *PUBLIC TELEVISION: A PROGRAM FOR ACTION* (1967).

Broadcasting, in simplest terms, is a means of bringing into the home information and entertainment in aural and visual form, to be amplified through loudspeakers and displayed visually. The recipient's choice is limited to the programming offered by the individual stations he is capable of receiving at the time he is able to listen or watch. It happens to involve program creators, commercial sponsors, network distributors, telephone system interconnection of stations, and the "broadcasting" through the air of electromagnetic energy.

But this elaborate and technologically marvelous system known as broadcasting is really totally irrelevant from the standpoint of the desires of the recipient of the programming, and its effect upon him, if alternatives are available. The programs could as well come to him through cable as over the air so far as he is concerned. Indeed, although there are differences which we will address a little later on, there is little difference between a motion picture seen at home over television, and the same film seen from a home movie projector. There is little difference between hearing a pre-recorded musical selection from a loudspeaker connected to a radio and one connected to a phonograph or tape cartridge player. There is even reason for considering television news in the context of total home information, including newspapers and magazines. Reading is still considered by some people a trade-off for television entertainment. Colored slides or picture books may be thought of as similar to a television travelogue. Most conversation over the radio is comparable to material that could be read.

It is in the context of the total home information-entertainment environment of the 1970's that public broadcasting must find its niche. What are the major trends and potential developments that will affect its role?

First, UHF, which has fought a trying uphill struggle for the past fifteen years, appears, like the little engine that could, to be climbing steadily toward the top of the mountain. The all-channel law, proposed by a far-sighted FCC and passed by Congress in 1962,⁹ is beginning to produce its intended effect. Large metropolitan areas are benefiting from a doubling of the options available to viewers. Since 1961, three UHF stations have offered diverse sectors of the public in Washington, D.C., program offerings unavailable from the network-linked VHF's. WETA beams to Washington area residents the products of its NET affiliation as well as many cultural and informational programs of local origin. WDCA offers movies and drama. WOOK devotes much of its prime time to public affairs programs of special interest to the city's Negro population. In two years,

9. 47 U.S.C. § 303(s) (1964). The all-channel law itself is Pub. L. No. 87-529, § 1, 76 Stat. 150 (July 10, 1962).

two more UHF channels, one educational and one commercial, will be serving the nation's capital, bringing the total number of viewer choices to nine.

The second development now eroding the foundations of "broadcasting" is the explosive growth of cable technology. Cable television (CATV) systems are now carrying up to twelve (soon to be twenty) channels to more than two million homes in towns and suburban communities on the fringe of metropolitan areas all over the nation, and even in the heart of cities where tall buildings make broadcast reception difficult. Presently, the cablemen forswear any intention to originate programs on their own. They limit themselves to picking broadcasters' signals out of the air and transporting them through cables to their customers. But of course there is no inherent reason why CATV cannot in the future enter the programming market. After Congress resolves the question of the cablemen's copyright obligations to the broadcasters, and after the FCC replaces its temporary quasi-ban on the growth of CATV in major market areas with a permanent policy, the cable operators might even make good on Teleprompter president Irving Kahn's promise to wire up 85% of the nation's homes.

The third big change in television is the development of the synchronous communications satellite. Now that a single satellite can be "parked" 22,000 miles over the equator, and from that vantage point "see" one-third of the globe, it is clear that satellites will soon be, if they are not already, efficient instruments of domestic broadcast transmission. Leland Johnson of RAND,¹⁰ a participant in this conference, has observed that the combination of cable and satellite technology (broadcasting direct from satellites to cable systems for distribution; technologically easier than direct satellite-to-home broadcasting) may alter "the fundamental structure of incentives that determine program variety and content, and indeed the whole way that the industry operates."¹¹ The possibility of significantly lower costs for nationwide distribution of programs, plus the appearance of a greater number of points of program origination (with mobile ground stations) may make it profitable to appeal to smaller audiences than present industry structure will permit. Johnson even predicts that repeat programming will come into vogue, and make television programming more like the cinema. This prospect, which may spell a radical increase in program variety for home viewers, perhaps without significant public financial support, may also have a substantial impact on local broadcast stations, both VHF and

10. [Ed. note: Leland Johnson is now the Research Director for the President's Task Force on Communications.]

11. L. JOHNSON, *THE IMPACT OF COMMUNICATIONS SATELLITES ON THE TELEVISION INDUSTRY* 7 (RAND paper P-3572, 1967).

UHF, since it will be technically possible, and economically profitable, to bypass any local origination point and broadcast from satellite directly to the viewer by means of cable systems.

Fourth, CBS laboratories have discovered how to convert television sets into visual phonographs—at “popular prices.” Home video tape recorders, and video cameras, are already becoming cheap enough to open to amateurs and semi-pros an art practiced until now in network studios alone. Indeed, the first “Underground TV” system is already operating in Greenwich Village. Such cameras, recorders and players promise eventually to multiply almost infinitely the variety of items and kinds of information, visual, aural, and print, which will be available on the home console a few decades hence.

The fifth innovation, though technologically possible, is not yet upon us: a cable-video tape library-computer retrieval-closed circuit television combination. Such a system would make it possible for a television viewer to select his own programming, when he wanted to see it, from a tape library perhaps hundreds of miles distant. He would make connection with the “library” by “telephone,” using the proper number code on his “touch-tone” computer connector-telephone. He would identify himself, by number, to the library’s computer. He would either select the number of the video tape he wished to see from a printed catalogue or, more likely, ask for a visual display on his home screen of a sampling of titles. The automatic library would then select the designated tape, and send it to his home screen by cable instantaneously, or at some viewer-designated future time. Perhaps the viewer would simply record it on his home video tape recorder while watching, and keep his own copy of the tape. He could indicate a preference for a tape with or without advertising. If he selected the tape without advertising the library’s computer would notify the computers at the “banks” of the viewer and the library owner, adjusting their accounts appropriately. Each of the components to which I referred is now marketed widely and used. “Touch tone” telephones are today “talking” to computers; computers are connected to remote terminal equipment by communications lines; they are capable of displaying information visually; “automatic radio stations” are simply computer programmed tape retrieval libraries; home video tape recorders are being marketed; automatic electronic customer billing (such as for long distance calls) is common; and, of course, television programming is today being supplied to homes by cable. All that is new is the suggested combination of present technologies. I am not suggesting that such a scheme will come into existence, or that it ought to; I simply pose it as one rather conservative illustration of the range of possibilities.

C. *The Implications of Changes for Public Broadcasting*

What are the implications of these five seemingly isolated developments for public broadcasting? Simply that the needs of the environment in which it will be functioning will be different from those in which it was formulated.

Let us review briefly the premises of public broadcasting. Home information and entertainment is provided in greatest part by three commercial, advertiser-supported television networks, the programming of which is designed to reach the largest possible audience. Minority views are not adequately presented to the mass audience. Minority tastes are not adequately served by three networks competing for mass audience. There is limited opportunity for new talent, controversial programming, and experimentation on commercial television. Educational opportunities from network programming are few. More networks will produce proportionately greater opportunity for serving minority tastes, diversity of programming, and for new talent and minority views. A noncommercial, public broadcasting corporation, would have the added advantage of the lack of advertiser, mass market constraints. The public would be more benefited by having the corporation's programming available to it by way of a competing network of local stations, broadcasting over the air, without viewer selection, the local station's product and that of a national network (brought in by microwave relay tower, or perhaps satellite microwave relay). There is no economically viable way to support these needs without the support of foundations or the government.

Obviously, many of these needs and assumptions change with the technological innovations described in the previous section. In particular, impending technological advances appear likely to individualize the present market for home information and entertainment.

The longplaying record is one of the most democratizing elements in our culture. Any group of musicians with money to rent a recording studio can sell their records at the supermarkets. There are few, if any, worthy groups unable to cut a record. Home tape recorders abound. The modestly-priced video camera and tape playback (or CBS' video "record") hold the same potential for television. The performer is no longer shut out. He can record. He can sell. He has a market. New talent, controversial programming, and experimentation in television are limited only by the imagination and taste of those who would like to be in television.

Moreover, the diversity of programming substantially eliminates the problem of lack of viewer choice. He can buy video records to satisfy his off-beat tastes. He can watch his favorite educational station, along with

the imported signals of its competitors, on his 20-channel cable television system. Or he can select his favorite programming from libraries of the best ever produced. To the extent additional education is desired, it may be better provided by computer-cable-fed home teaching machines.

In no event is the viewer bound to watch whatever the commercial networks want to present when they want to run it. He can always video tape from his home television screen for later viewing.

And of greatest significance, the market has now provided an alternative to public and philanthropic funding. Video tapes and records can be sold. Cable television is now sold (about \$5 a month), though never under the name of "pay television." Pay television in the more conventional sense would permit payment by viewers, as would the library retrieval and billing system I described.

CONCLUSION

There is no doubt in my mind about the worth of public broadcasting; we should have had it sooner, hopefully we will have it this year. However much it is funded it will not be enough; but we will be rewarded for our investment many times over. That does not mean we should not think about its goals (with precision) and measure its achievements (mathematically). It is too great a responsibility, too grand a public undertaking, not to receive the ablest of our analytical capabilities. As we think about its goals in general terms we realize that developments in UHF, cable television, satellites, video recording equipment, and library retrieval affect many of them: potential audiences for the budding artist and minority view, vastly expanded choice for the viewer, and means of funding.

Why public broadcasting? Because I am convinced that broadcasting is here to stay, retaining the most important characteristics we associate with it today: nationally acquired and distributed information and entertainment programming purveyed by local outlets to homeowners without viewer choice, funded by advertising. The only difference will be that it will be available as one of many more options to the homeowner than he has now, a matter of choice rather than compulsion.

Moreover, although a splintered market will assure minorities that their interest and problems will be aired, it will not assure that anyone outside of their group will hear. Let me emphasize that point: a communications system which caters very well to minority views may be to that extent *less* capable of getting those views across to the public. Take, for example, America's system for communication by printed matter. Dozens and dozens of journals fill the newsstands of a small number of urban and educational centers. Yet most people in America have, in fact, meaningful access to

no more than one or two newspapers and perhaps two or three mass circulation magazines. One set of readers comes to speak a language foreign to the other set. Much of television's greatness has been its capacity to speak to all of us at once. That greatness is to be encouraged, and public broadcasting's voice must be heard.

Television, like the telephone or a tugging child, says, "Pay attention to me now or you'll be sorry." Maybe that's its distinguishing feature. Each of us is standing in hip boots, casting into a river of words: memoranda, newspapers and magazines, books, television channels, radio stations, live theater and assorted entertainment, billboards, and mail. Print can be put aside without deciding never to read it. Television cannot. That's a competitive advantage very hard to beat. Maybe we need disappearing ink on books—or a closed circuit television camera looking over the author's shoulder: either you read it when he writes it or you forever forego the opportunity.

I am not so sure we want choice. How often do you, or your neighbors, borrow records from your neighborhood library (most now have them)? Have you ever just turned on the radio rather than put a stack of records on the record player? How often have you obtained and shown movies in your home? How long has it been since you looked at your home movies, or slides? No, the fact is that very large numbers of Americans prefer not to have to make choices.

That being the case, commercial broadcasting is probably going to stay with us, however plentiful and cheap the alternative supplies of programming become. And if it does it is highly likely that the commercials will stay, too, and that the programs will have to be selected by the networks to attract the largest possible audience to watch the commercials. That being the case we have come full circle, back once again to the arguments of President Johnson, Congress, the Ford Foundation, Carnegie Commission and others, arguments that have convinced me of the substantial "public interest in public broadcasting."

It may very well be that the most significant conclusion for us to draw is the President's and Secretary Rostow's: the need to look at communications as a whole. Certainly we have seen that in the case of public broadcasting. One simply cannot plan wisely for public broadcasting without seeing its goals in the broadest terms and plotting alternative paths to their attainment. And the same point could be made in the context of domestic satellites, cable communications, frequency management or communications common carrier regulation.

My thesis is simple. It is a necessity, an imperative—not merely an intellectual luxury—that any issue of communications policy be considered in its broadest interdisciplinary context, with the full sense of its interrelationship and impact on all other communications policy issues. You simply cannot consider separately “hardware problems” and “software problems,” or technological problems and social problems, or economic issues alone, or carve out the problems of mass communications and treat them separately from the problems of a private communications system. To do so is not even a very respectable, taxing, or enjoyable intellectual exercise. In no event is it more than that.

APPENDIX

THE PUBLIC BROADCASTING ACT 47 U. S. C. A. § 396 (1968)

§ 396. Corporation for Public Broadcasting—Congressional declaration of policy

(a) The Congress hereby finds and declares—

(1) that it is in the public interest to encourage the growth and development of noncommercial educational radio and television broadcasting, including the use of such media for instructional purposes;

(2) that expansion and development of noncommercial educational radio and television broadcasting and of diversity of its programing depend on freedom, imagination, and initiative on both the local and national levels;

(3) that the encouragement and support of noncommercial educational radio and television broadcasting, while matters of importance for private and local development, are also of appropriate and important concern to the Federal Government;

(4) that it furthers the general welfare to encourage noncommercial educational radio and television broadcast programing which will be responsive to the interests of people both in particular localities and throughout the United States, and which will constitute an expression of diversity and excellence;

(5) that it is necessary and appropriate for the Federal Government to complement, assist, and support a national policy that will most effectively make noncommercial educational radio and television service available to all the citizens of the United States;

(6) that a private corporation should be created to facilitate the development of educational radio and television broadcasting and to afford maximum protection to such broadcasting from extraneous interference and control.

Establishment of Corporation; application of District of Columbia Nonprofit Corporation Act

(b) There is authorized to be established a nonprofit corporation, to be known as the "Corporation for Public Broadcasting", which will not be an agency or establishment of the United States Government. The Corporation shall be subject to the provisions of this section, and, to the extent consistent with this section, to the District of Columbia Nonprofit Corporation Act.

Board of Directors; number of members; appointment; political party affiliation; qualifications; representation of interests; term of office; vacancies

(c) (1) The Corporation shall have a Board of Directors (hereinafter in this section referred to as the "Board"), consisting of fifteen members

appointed by the President, by and with the advice and consent of the Senate. Not more than eight members of the Board may be members of the same political party.

(2) The members of the Board (A) shall be selected from among citizens of the United States (not regular fulltime employees of the United States) who are eminent in such fields as education, cultural and civic affairs, or the arts, including radio and television; (B) shall be selected so as to provide as nearly as practicable a broad representation of various regions of the country, various professions and occupations, and various kinds of talent and experience appropriate to the functions and responsibilities of the Corporation.

(3) The members of the initial Board of Directors shall serve as incorporators and shall take whatever actions are necessary to establish the Corporation under the District of Columbia Nonprofit Corporation Act.

(4) The term of office of each member of the Board shall be six years; except that (A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and (B) the terms of office of members first taking office shall begin on the date of incorporation and shall expire, as designated at the time of their appointment, five at the end of two years, five at the end of four years, and five at the end of six years. No member shall be eligible to serve in excess of two consecutive terms of six years each. Notwithstanding the preceding provisions of this paragraph, a member whose term has expired may serve until his successor has qualified.

(5) Any vacancy in the Board shall not affect its power, but shall be filled in the manner in which the original appointments were made.

Election of Chairman and Vice Chairman or Vice Chairmen; nonfederal employment status of members; compensation and travel expenses

(d) (1) The President shall designate one of the members first appointed to the Board as Chairman; thereafter the members of the Board shall annually elect one of their number as Chairman. The members of the Board shall also elect one or more of them as a Vice Chairman or Vice Chairmen.

(2) The members of the Board shall not, by reason of such membership, be deemed to be employees of the United States. They shall, while attending meetings of the Board or while engaged in duties related to such meetings or in other activities of the Board pursuant to this subpart be entitled to receive compensation at the rate of \$100 per day including travel time, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, equal to that authorized by law (section 5703 of Title 5) for persons in the Government service employed intermittently.

Officers and employees; term of office, compensation, qualifications, and removal; political party affiliation, political test or qualification when taking personnel actions

(e) (1) The Corporation shall have a President, and such other officers as may be named and appointed by the Board for terms and at rates of compensation fixed by the Board. No individual other than a citizen of the United States may be an officer of the Corporation. No officer of the Corporation, other than the Chairman and any Vice Chairman, may receive any salary or other compensation from any source other than the Corporation during the period of his employment by the Corporation. All officers shall serve at the pleasure of the Board.

(2) Except as provided in the second sentence of subsection (c) (1) of this section, no political test or qualification shall be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, and employees of the Corporation.

Nonprofit and nonpolitical nature of the Corporation

(f) (1) The Corporation shall have no power to issue any shares of stock, or to declare or pay any dividends.

(2) No part of the income or assets of the Corporation shall inure to the benefit of any director, officer, employee, or any other individual except as salary or reasonable compensation for services.

(3) The Corporation may not contribute to or otherwise support any political party or candidate for elective public office.

Purposes and activities of the Corporation; powers under the District of Columbia Nonprofit Corporation Act

(g) (1) In order to achieve the objectives and to carry out the purposes of this subpart, as set out in subsection (a) of this section, the Corporation is authorized to—

(A) facilitate the full development of educational broadcasting in which programs of high quality, obtained from diverse sources, will be made available to noncommercial educational television or radio broadcast stations, with strict adherence to objectivity and balance in all programs or series of programs of a controversial nature;

(B) assist in the establishment and development of one or more systems of interconnection to be used for the distribution of educational television or radio programs so that all noncommercial educational television or radio broadcast stations that wish to may broadcast the programs at times chosen by the stations;

(C) assist in the establishment and development of one or more systems of noncommercial educational television or radio broadcast stations throughout the United States;

(D) carry out its purposes and functions and engage in its activities in ways that will most effectively assure the maximum freedom

of the noncommercial educational television or radio broadcast systems and local stations from interference with or control of program content or other activities.

(2) Included in the activities of the Corporation authorized for accomplishment of the purposes set forth in subsection (a) of this section, are, among others not specifically named—

(A) to obtain grants from and to make contracts with individuals and with private, State, and Federal agencies, organizations, and institutions;

(B) to contract with or make grants to program production entities, individuals, and selected noncommercial educational broadcast stations for the production of, and otherwise to procure, educational television or radio programs for national or regional distribution to noncommercial educational broadcast stations;

(C) to make payments to existing and new noncommercial educational broadcast stations to aid in financing local educational television or radio programming costs of such stations, particularly innovative approaches thereto, and other costs of operation of such stations;

(D) to establish and maintain a library and archives of noncommercial educational television or radio programs and related materials and develop public awareness of and disseminate information about noncommercial educational television or radio broadcasting by various means, including the publication of a journal;

(E) to arrange, by grant or contract with appropriate public or private agencies, organizations, or institutions, for interconnection facilities suitable for distribution and transmission of educational television or radio programs to noncommercial educational broadcast stations;

(F) to hire or accept the voluntary services of consultants, experts, advisory boards, and panels to aid the Corporation in carrying out the purposes of this section;

(G) to encourage the creation of new noncommercial educational broadcast stations in order to enhance such service on a local, State, regional, and national basis;

(H) conduct (directly or through grants or contracts) research, demonstrations, or training in matters related to noncommercial educational television or radio broadcasting.

(3) To carry out the foregoing purposes and engage in the foregoing activities, the Corporation shall have the usual powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act, except that the Corporation may not own or operate any television or radio broadcast station, system, or network, community antenna television system, or interconnection or program production facility.

Authorization for free or reduced rate interconnection service

(h) Nothing in this chapter or in any other provision of law shall be construed to prevent United States communications common carriers from rendering free or reduced rate communications interconnection services for noncommercial educational television or radio services, subject to such rules and regulations as the Federal Communications Commission may prescribe.

Report to Congress

(i) The Corporation shall submit an annual report for the preceding fiscal year ending June 30 to the President for transmittal to the Congress on or before the 31st day of December of each year. The report shall include a comprehensive and detailed report of the Corporation's operations, activities, financial condition, and accomplishments under this section and may include such recommendations as the Corporation deems appropriate.

Repeal, alteration, or amendment

(j) The right to repeal, alter, or amend this section at any time is expressly reserved.

Financing

(k) (1) There are authorized to be appropriated for expenses of the Corporation for the fiscal year ending June 30, 1968, the sum of \$9,000,000, to remain available until expended.

(2) Notwithstanding the preceding provisions of this section, no grant or contract pursuant to this section may provide for payment from the appropriation for the fiscal year ending June 30, 1968, for any one project or to any one station of more than \$250,000.

Records and audit of the Corporation and the recipients of assistance

(l) (1) (A) The accounts of the Corporation shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The audits shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audits shall be made available to the person or persons conducting the audits; and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents and custodians shall be afforded to such person or persons.

(B) The report of each such independent audit shall be included in the annual report required by subsection (i) of this section. The audit report shall set forth the scope of the audit and include such statements as are necessary to present fairly the Corporation's assets and liabilities,

surplus or deficit, with an analysis of the changes therein during the year, supplemented in reasonable detail by a statement of the Corporation's income and expenses during the year, and a statement of the sources and application of funds, together with the independent auditor's opinion of those statements.

(2) (A) The financial transactions of the Corporation for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General of the United States. Any such audit shall be conducted at the place or places where accounts of the Corporation are normally kept. The representative of the General Accounting Office shall have access to all books, accounts, records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation pertaining to its financial transactions and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers and property of the Corporation shall remain in possession and custody of the Corporation.

(B) A report of each such audit shall be made by the Comptroller General to the Congress. The report to the Congress shall contain such comments and information as the Comptroller General may deem necessary to inform Congress of the financial operations and condition of the Corporation, together with such recommendations with respect thereto as he may deem advisable. The report shall also show specifically any program, expenditure, or other financial transaction or undertaking observed in the course of the audit, which, in the opinion of the Comptroller General, has been carried on or made without authority of law. A copy of each report shall be furnished to the President, to the Secretary, and to the Corporation at the time submitted to the Congress.

(3) (A) Each recipient of assistance by grant or contract, other than a fixed price contract awarded pursuant to competitive bidding procedures, under this section shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(B) The Corporation or any of its duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this section. The Comptroller General of the United States or any of his duly authorized representatives shall also have access thereto for such purpose during any fiscal year for which Federal funds are available to the Corporation.