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National Economic Council
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RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the 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]

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RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

TO: The Vice President

FROM: The Legislative Drafting Task Force

DATE: December 18, 1993

RE: List of Resolved and Unresolved Issues

The attached memorandum is a list of resolved and unresolved issues from the Legislative Drafting Task Force. This list reflects the group's efforts to define the issues that need to be addressed in the Administration's telecommunications bill, and to summarize the progress made thus far on each discrete issue. We anticipate resolution of the "unresolved" issues in the very near future.

The tabbed section immediately following this memorandum provides more information on each issue, including a summary of the approaches taken by the three pending House and Senate bills.

The Legislative Drafting Task Force, chaired by Larry Irving of NTIA, includes representatives from your office, OSTP, NEC, CEA, OMB, DOJ, DOC, and NTIA. The FCC has also been sending representatives as "observers." The group has been meeting at least twice a week since mid-November.

MAJOR TELECOMMUNICATIONS ISSUES FOR PROPOSED LEGISLATION

1. **Telco/Cable Crossownership:**

a. Telco Entry into Cable: Permit telcos to provide video services in their local exchange areas, subject to certain conditions and safeguards, including some form of nondiscriminatory access (e.g., FCC "video dialtone" rules).

b. In-Region Acquisitions: Prohibit telco acquisition of cable systems operating in telco service areas, but give the FCC authority to permit telco/cable mergers within telco service areas after some period of time.

Remaining Issue:

How much time should elapse before the FCC may begin to grant waivers to the anti-buyout policy, or to change the policy by rule?

c. Regulatory Symmetry: Authorize the FCC to impose common carrier obligations on cable systems (and, simultaneously, remove certain Cable Act requirements for those systems) at some future point.

Remaining Issues:

Should there be a specified time period after which the FCC would be authorized to examine whether to impose common carrier obligations on cable (e.g., 2 years after enactment of legislation)?

Should FCC action be triggered by a specified set of market conditions? If so, what should those market conditions be?

What sorts of common carrier obligations should be imposed on cable?

What Cable Act provisions should be removed when common carrier-type obligations are imposed on cable?

2. **Local Competition**: Promote the development of local telephone competition, by:

a. **Interconnection**: Requiring telcos to unbundle their networks and services and interconnect with competing providers.

b. **Preemption**: Preempting state entry and rate regulation of new entrants into the local telephone service market.

3. **Universal Service**: Maintain and expand universal service goals for consumers.

Remaining issues:

What services/capabilities should be included in a new conception of universal service?

Who should be eligible for subsidies?

What level of subsidies will be needed?

What funding mechanisms should be adopted?

What should be the respective roles of Federal, states, and local regulators in preserving and advancing universal service?

To what extent should legislation attempt to resolve these issues?

4. **Forbearance:** Allow the FCC to reduce regulation of nondominant carriers.

5. **MFJ Issues (generally):** There is general agreement to transfer jurisdiction over the decree and its restrictions to the DOJ and FCC. When BOC provision of local telephone service can no longer be used to impair competition in other markets, remove the restrictions.

6. **Information Services:** There is general agreement to permit the BOCs to offer information services, but that separate subsidiary requirements should apply at least to BOC provision of electronic publishing.:

Remaining Issues:

Should a separate subsidiary requirement apply to other BOC information service offerings; if so, which ones?

What degree of separation should be required?

Should these issues be left to the FCC?

7. **Manufacturing:** There is general agreement that BOCs should be allowed to enter manufacturing under certain conditions. There is also consensus that the Administration should generally adopt the approach of the Hollings bill on the manufacturing issue, without its domestic content restrictions (with the expectation that Senator Hollings will likely insist on their inclusion).

Remaining Issue:

What is the future of Bellcore (given that BOCs will likely be competitors in many areas)?

8. **Long Distance:** There is general agreement that there should be an immediate and limited exception for long distance services incidental to BOC provision of cellular, cable, and at least some information services (e.g., videotext, database services). There is also consensus that opening up the local exchange to competition should be a prerequisite to BOC entry into long distance. Furthermore, there is agreement that if a BOC implements an unbundling/separate affiliate plan (à la the Ameritech and Rochester proposals) a less stringent entry test should be applied.

Remaining Issues:

Are there information services to which an immediate exemption from the long distance restriction should not apply?

What specific requirements should be imposed on the BOCs as a condition of entry into long distance generally?

Which of those requirements should be established by legislation and which left to FCC and DOJ implementation?

What procedures and standards should apply to BOC requests to enter long distance?

9. **Open Access:** There is general agreement that a cable operator serving more than 20% of all cable subscribers nationwide should be barred from owning in a video programming service. However, in calculating a cable operator's share of subscribers, regulators would not count subscribers served by systems operated on a common carrier basis. There is also consensus that this restriction should sunset after [7-10 years] upon a determination by the FCC that alternative video distribution outlets are so widely available that such a provision is no longer needed to assure broad diversity in programming.

Remaining Issue:

Should anything beyond the provisions discussed here and above (e.g., in Issue 1) be included on this issue?

PROVISIONS OF PENDING LEGISLATION AND DRAFT ADMINISTRATION BILL RELATING TO CABLE-TELEPHONE CROSSOWNERSHIP

Generally: The pending congressional bills (Danforth-Inouye (S. 1086) and Markey-Fields (H.R. 3636)) and the draft Administration bill would all eliminate the cable-telco crossownership restriction subject to certain conditions and safeguards. All three bills would also allow telcos to provide video programming in "rural areas" without restriction. The bills vary, however, on the conditions and safeguards prescribed.

Structural Separation:

- All three bills require telcos to provide video programming through a separate affiliate.
- Both the House and Senate bills specify many of the details of the separation requirements. The Administration bill would leave most of the details on this matter to the FCC.

Common Carrier Obligations:

- All three bills would require telcos providing video programming to make distribution facilities available to unaffiliated programmers; S.1086 is not clear as to precisely what the telcos' access obligations are.
- Both H.R. 3636 and the Administration bill would require telcos to establish a "video platform" and make it available to unaffiliated programmers on nondiscriminatory terms.
- H.R. 3636 would limit the number of channels on a telco's video platform that can be occupied by its video programming affiliate. The Administration bill would authorize the FCC to impose such a limit. S. 1086 has no comparable provision.
- The Administration bill would authorize the FCC to impose common carrier obligations on cable systems (a) at some future date and/or (b) upon the occurrence of certain market conditions. H.R. 3636 would require the FCC to study whether to impose such obligations and report to Congress within 2 years after enactment of legislation. S. 1086 has no comparable provision. [Note: The Administration bill would also authorize the FCC to remove certain Cable Act obligations for those cable systems that it required to operate on a common carrier basis.]

Anti-Buyout Provisions:

- All three bills would limit telco's ability to enter the video services market via acquisition of cable systems operating in the telco's local service area.
- The anti-buyout provisions of S. 1086 permit no exceptions (except for acquisitions in rural areas).

H.R. 3636 contains several exceptions, including one that would allow an acquisition if the number of households served by the cable systems acquired constituted less than 10% of all households in the telephone service areas of the acquiring telco and its affiliates. This exception would apparently allow, for example, Bell Atlantic to buy TCI without having to spin-off many of the TCI cable systems operating in the Bell Atlantic region. H.R. 3636 would also authorize the FCC to waive the anti-buyout policy under certain conditions.

The Administration bill permits modest exceptions, although there is consensus that the FCC should be authorized to grant waivers from the anti-buyout policy, or to change it by rule, after a yet unspecified period of time.

Franchising Obligations:

- S. 1086 would treat a telco offering video programming as a "cable operator" subject to all provisions of the Cable Act.
- H.R. 3636 and the Administration bill would eliminate some requirements of the Cable Act for the telco's video affiliate and any other user of the telco's video platform. H.R. 3636 is not clear as to precisely what obligations will be removed.
- The Administration bill would authorize the FCC to remove certain Cable Act requirements for cable systems that voluntarily accepted, or were required to adopt (pursuant to FCC order), common carrier obligations.

PROVISIONS OF PENDING LEGISLATION AND DRAFT ADMINISTRATION BILL RELATING TO LOCAL COMPETITION AND PREEMPTION

Generally: S. 1086, H.R. 3636, and the Administration bill all seek to increase competition in the provision of local telecommunications services by (1) requiring certain carriers to interconnect their networks with competing service providers and (2) limiting state regulation of certain local telecommunications services and providers.

Interconnection:

- All three bills are substantially similar in the obligations that they impose on carriers (i.e., obligation to interconnect; obligation to afford nondiscriminatory access to network facilities, services, functions, and information; no restrictions on resale or sharing of network facilities and services).
- S. 1086 would require that interconnection occur at any "technically feasible point." Both H.R. 3636 and the Administration bill would require interconnection at any "technically feasible and economically reasonable point."
- H.R. 3636 would exempt carriers serving rural areas from the foregoing obligations and authorize the FCC to modify those requirements for carriers with fewer than 500,000 access lines nationwide. The Administration bill would authorize the FCC to modify the foregoing obligations for carriers serving rural areas.
- H.R. 3636 and the Administration bill would require the FCC to specify the price, terms, and conditions under which carriers may provide interconnections, access, facilities, and services. S. 1086 contains no similar provisions.
- All three bills would require carriers to provide facilities, services, and network functions on an unbundled basis (e.g., carriers would have to break their services into their constituent parts and allow customers to pick and choose the parts to be taken. Thus, for example, instead of offering only switched local telephone service, a carrier would have to offer separately the switching and transport components of that service).

Network Standards and Planning:

- All three bills contain explicit provisions designed to ensure that carrier's networks will be readily interconnectable and interoperable. Generally speaking, the provisions of H.R. 3636 are more detailed than those of S. 1086 or the Administration bill.

State Preemption:

- S. 1086 would preclude non-Federal regulators from prohibiting or limiting in a manner inconsistent with Federal law or regulations any firm from offering telecommunications services. This provision would apparently bar state entry regulation of such firms, but would not necessarily preclude rate regulation.
- H.R. 3636 would prohibit state entry regulation or state action restricting a firm from exercising the interconnection rights granted by the bill. It does not address rate regulation.
- The Administration bill would bar all state entry regulation and any state rate regulation of entities that the FCC has found to lack market power.

PROVISIONS OF PENDING LEGISLATION AND DRAFT ADMINISTRATION BILL RELATING TO UNIVERSAL SERVICE

Generally: All three bills would make the preservation and advancement of "universal service" an explicit objective of the Communications Act (as opposed to an implicit obligation emanating from Section 1 of the Act).

Division of Responsibility among Levels of Government:

- S. 1086 would charge the states, in consultation with the FCC, with preserving and advancing universal service. H.R. 3636 would give that responsibility to a Federal/State Joint Board. The Administration would give the task to the FCC, in consultation with the states and the Secretary of Commerce.

Defining and Funding Universal Service:

- H.R. 3636 would give a Federal/State Joint Board 270 days to make recommendations to the FCC concerning the fundamental elements of universal service (e.g., the services/features included in the universal service "package," funding mechanisms, the contribution obligations of various telecommunications service providers).
- Both S. 1086 and the Administration bill would merely state the commitment to universal service, then give the responsible authorities time and flexibility to determine how best to achieve. Both bills would also oblige all carriers to contribute to the preservation and advancement of universal service.

PROVISIONS OF PENDING LEGISLATION AND DRAFT ADMINISTRATION BILL
RELATING TO REGULATORY FORBEARANCE/REDUCED REGULATION

Forbearance:

- S. 1086 would authorize the FCC to eliminate tariff filing requirements for interstate services provided by carriers that lack market power.
- The Administration bill would authorize the FCC (1) to exempt carriers lacking market power from any provision of Title II of the Communications Act (except provisions relating: to the duty to serve; the duty to charge just, reasonable and nondiscriminatory rates; and customer complaints) and (2) to tailor the regulations it does impose to reflect a carrier's market power.
- H.R. 3636 has no comparable provision.

Pricing Flexibility:

- All three bills would allow the FCC and the states to afford carriers pricing flexibility for their competitive services. H.R. 3636 would require the FCC to develop detail standards and criteria to guide regulators in exercising that authority.

6. Information Services

A. Pending bills

S. 1086

Permits RBOCs to provide electronic publishing only through a fully separate subsidiary.

When RBOC provides information gateway service, it must provide to subscribers and information services on nondiscriminatory basis in terms of rates, conditions, etc.

Brooks-Dingell

RBOCs can't provide electronic publishing using their own basic services, but can provide anywhere through separate affiliates or joint ventures (generally limited to 50% interest) and subject to additional safeguards. One year transition to bring existing electronic publishing services into compliance an entire provision sunsets in year 2000.

RBOCs cannot provide alarm monitoring services, but 66 months after enactment may petition the AG (who will apply an antitrust standard) and the FCC (applies "public interest" standard) for permission to provide such services.

B. The legislative working group would generally allow RBOCs to provide information services. In considering whether to require separate affiliates and the extent of separation, the group is looking closely at carve-outs of various kinds for services integrally related to the network functions and for services lawfully provided on a non-separated basis.

7. Manufacturing

A. Brooks-Dingell is mostly similar to the prior Hollings bill. Points of interest include

- RBOCs must notify DOJ of their intent to manufacture. Can so notify 1 year after enactment. Can commence manufacture 1 year after giving notice unless AG commences action seeking injunction. AG applies MFJ VIII(C) standard (no substantial possibility of impeding competition).

- Separate affiliates must be used for permitted manufacturing.

- Numerous other safeguards imposed, e.g., nondiscrimination, disclosure of technical network information and filing such information with FCC.

- Domestic content restrictions.

B. The legislative drafting group is comfortable with including most of Brooks-Dingell regarding manufacturing except for the domestic content provision which it is understood would be added by Congress.

8. Long Distance: Lifting the Prohibition on RBOC
 Provision of Interexchange Service

A. Brooks-Dingell addresses this issue by providing for separate entry tests to be administered concurrently by FCC and DOJ.

1. An RBOC must show that it satisfies by clear and convincing evidence both the FCC's "public interest" test (supplemented to require consideration of various consumer and competition factors) and the DOJ's relatively stringent standard based on the current MFJ VIII(C) test (no substantial possibility of impeding competition) by clear and convincing evidence. It can apply to resell service 18 months after enactment and to provide facilities-based service 5 years after enactment.

2. There are 2 exceptions permitting entry into large segments of the interexchange market without these tests and time constraints. First, only state--not federal--approval is required to provide intrastate long-distance service. Second, if RBOC provides dial 1 presubscription service for intra-lata toll calls, then State can allow RBOC to handle all long-distance service originating in the state.

B. We are considering a two-track approach that builds upon Brooks-Dingell.

1. The first track is largely the same as Brooks-Dingell EXCEPT

--no exceptions allowing long-distance entry without DOJ and FCC review, and;
--elimination of waiting periods before which RBOCs cannot apply to enter.

2. The second track differs from the first by allowing the RBOC's to enter upon meeting a less stringent standard at the DOJ where FCC certifies that applicant complies with unbundling and separate affiliate (Rochester-- last mile first switch) regulations to be promulgated by FCC.

-- E.g., DOJ must grant application unless it finds by a preponderance of the evidence that there is a substantial possibility that entry could permit the applicant or its affiliates to impede competition in any market or would tend to create a monopoly in

any line of commerce or in any activity affecting commerce anywhere.

C. Like S.1086, we would allow certain narrowly crafted exceptions for RBOC provision of interexchange service incidental to the provision of certain cellular, satellite, cable and information services. (Much of what S. 1086 covers is addressed in waivers approved by the court.)

9. Open Access

A. None of the major pending bills address this issue.

B. Proposal.

On and after the effective date of the Act, it shall be unlawful for a dominant cable operator to own an equity share in a video programming service. A dominant cable operator is a cable operator that, directly or through affiliates, has more than 20% of the cable and satellite subscribers nationwide. In calculating that share of subscribers, subscribers to such of that cable operator's systems as are offered on a common-carrier basis shall not be counted. This non-ownership requirement will sunset after [7-10 year] upon a determination by the FCC that alternative video distribution outlets are so widely available that such a provision is no longer needed to assure broad diversity in programming. A cable operator not in compliance with this requirement on the effective date of the Act shall have ___ days to bring itself into compliance with this requirement.

Justification.

- It is well established that Congress may enact reasonable, viewpoint neutral measures to advance the First Amendment interest in ensuring a diversity of programming and information. *E.g., Red Lion Broadcasting Co. v. FCC*, 395 U.S. 367, 390 (1969); *Metro Broadcasting, Inc. v. FCC*, 497 U.S. 547, 567 (1990). This First Amendment interest is distinct from and broader than the interest in economic competition that underlies the antitrust laws.

- Such measures to encourage diversity have in fact long been part of national policy. In the early 1940's, the FCC limited ownership or control of broadcast stations to no more than one station in the same broadcast service (AM, FM, or TV) in the same community. In 1953, the FCC limited the total number of stations nationwide an entity could control in each service, and current FCC rules restrict a party from owning, operating, or controlling more than twelve stations in each service or, in the case of television, reaching more than 25% of the national audience (fourteen stations and 30% of the audience in the case of minority-controlled parties). In 1975, the FCC issued regulations limiting common ownership of a radio or television station and a daily newspaper in the same community, and providing for divestiture in certain circumstances. These regulations were upheld against First Amendment challenge. Nevertheless, opponents of the legislative approach we are contemplating are expected to claim that this approach is unconstitutional under the First Amendment.

- It is essential that the National Information Infrastructure continue this policy of encouraging diverse programming. Availability of the channels of

dissemination of information are critical not only with respect to the provision of entertainment, but also with respect to educational material, health information, information necessary to an informed citizenry, and other programming matter.

- In passing the 1992 Cable Act, Congress found that
 - because of the cable industry's natural monopoly characteristics, most cable television subscribers have no opportunity to select between competing cable systems, § 2(a)(2), 106 Stat. 1460, and that
 - because of vertical integration in the industry, cable operators have an incentive to favor affiliated programmers, making it "more difficult for noncable-affiliated programmers to secure carriage on cable systems," § 2(a)(5), 106 Stat. 1460-61.
- The impact of this difficulty in securing carriage is exacerbated by the need for a national programming service to reach a sufficiently large group of subscribers to attract the advertising and/or subscriber revenues needed to support the service.

MAJOR ISSUES CONCERNING UNIVERSAL SERVICE

1. Definition -- What is Universal Service?

A. **Objective**

- Widescale, or universal, **use** by the public of a minimum package of services/features (this is a common understanding of universal service in the telephone context).
- or**
- Widescale, or universal, **availability** to the public of a minimum package of services/features (this is a common understanding of universal service in the cable television context).

B. **Composition of the Minimum Package** (i.e., what services/features should be included)

2. Possible Recipients of Universal Service Support

- Currently subsidies go both to providers (generally to telephone companies serving "high cost" areas) and to end users (typically low income customers). [**NOTE:** Even the latter subsidies are paid to telephone companies, in compensation for services provided to eligible end users at reduced rates.]
- Major issues
 - Should subsidies go to providers, or solely to end users?
 - If subsidies go to providers:
 - Should they be limited to local telephone companies (as is the case currently), or directed to competing providers as well; if the latter, how should eligibility for subsidies be determined?
 - How should perverse incentives be avoided or minimized (e.g., eligibility for subsidies based on "high costs" provides few incentives for telephone companies to operate efficiently)?
 - If subsidies go to end users, should factors other than income (e.g., residence in "high cost," or rural areas) be considered?

3. Level of Support

- The level of subsidies needed are, to a large extent, determined by choices made regarding the package of services to be subsidized and the persons or groups who will be eligible for subsidies.
- For any given level of subsidies, carefully and narrowly defining eligible recipients will increase the amount of support that can be given to each.

4. Strategies for Funding Universal Service [**NOTE:** Any subsidy mechanism must be carefully chosen to ensure that it does not distort efficient provision of services (e.g., cause too little competition for subsidized services and too much competition for services providing the subsidies).

- Currently, universal service is supported in two principal ways.
 - The FCC and some states generate funds through access charges paid by long distance service providers; those funds are then used to boost subscribership through targeted support programs (e.g., Lifeline, Link-Up America, "high cost" fund).
 - Many states keep general residential telephone rates low by embedding implicit subsidies in rates for intrastate toll, business services, services in urban areas, and "optional" services (e.g., touchtone, call waiting).
- Possible alternatives [**NOTE:** Alternatives are B through E are taken from a paper prepared by DOJ.]
 - A. Extend the existing support structure to address increased competition in local services (e.g., generate subsidy funds by requiring all providers to pay an equitable contribution to universal service upon interconnection to the public switched network; apply pro-rata formula based on some measure of market presence, such as lines served or traffic carried).
 - B. Uniform tax on output (this approach would probably require legislation)
 - Tax on services sold (like existing telephone excise tax).
 - Tax on number of bits transmitted. [**NOTE:** This approach might hamper growth of high bandwidth services that NII initiative is intended to foster.]
 - Tax on terminal equipment.
 - C. In-kind set-asides -- Providers would be required to reserve a designated percentage of their services (or transmitted "bits") for low-certain (e.g., low income) users.
 - D. Lifeline service -- Some or all providers would be required to make available a low-priced, or limited package of services to some or all customers.
 - E. Universal Obligation To Serve -- Require all telecommunications providers to serve ubiquitously throughout a given area (e.g., Cable Act allows localities to require all cable franchisees to "build out" the entire franchise area).
 - F. REA-type loans -- reform eligibility requirements to focus more on areas of need.

4. Federal, State, and Local Government Roles in Protecting Universal Service.

- Currently, FCC and state regulatory commissions are jointly responsible for telephone service. "Universal service" for cable television is typically implemented through local franchise requirements.
- Should one level of government be given principal authority over universal service issues?

5. Other Social Safety Nets That Could Fulfill Universal Service Goals.

- Public Information/Computer resource centers in schools or libraries [**NOTE,** however, that these facilities may not always be readily accessible in areas that need them most; for example, libraries in many cities are reducing hours.]

DRAFT: 12/13/93 AM

**OUTLINE OF NON-MFJ PROVISIONS OF THE
DRAFT ADMINISTRATION TELECOMMUNICATIONS BILL**

Sec. 101 -- Short Title

Sec. 102 -- Findings

- Taken (with some modifications) from Danforth-Inouye bill, S. 1086.

Sec. 103 -- Purposes

- Taken from Markey-Fields bill, H.R. 3636, and Administration's "Agenda for Action." (Would incorporate the stated purposes into the Communications Act by amending Section 1.)

Sec. 104 -- Definitions

- Will need to add a number of new defined terms to the Communications Act, including:
 - Telecommunications
 - Telecommunications service
 - Telecommunications carrier
 - Local exchange carrier
 - Telecommunications number portability
- To the extent possible, definitions of these terms will be taken, in whole or in part, from S. 1086 and H.R. 3636.

Sec. 105 -- Telecommunications Competition

- Provision is an amalgam of S. 1086 and H.R. 3636, with modifications.
- Within 1 year after enactment, FCC must adopt regulations requiring local exchange carriers (and, perhaps, other providers) to:
 - Interconnect with other telecommunications and information providers at any "technically feasible and economically reasonable point."
 - Provide nondiscriminatory access to facilities and information (including databases, signalling systems, customer number, rights-of-way, etc.) necessary for transmission, routing, or provision of telecommunications or information services.
 - Provide nondiscriminatory access to network functions on an unbundled basis.
 - Provide services and network functions without restrictions on resale and sharing.

- Within 1 year after enactment, FCC must adopt regulations establishing the general terms and conditions under local exchange carriers must provide the foregoing services. Those regulations must, at a minimum:
 - Require that carriers provide services on just, reasonable, and nondiscriminatory terms and that such services are at least equal in type and quality to the services that the carrier provides to itself.
 - Ensure that the rates for those services recover actual costs, and not the costs of other services.
 - Ensure that carriers do not bundle together readily separable elements, features, or functions.

[NOTE: States are also allowed to adopt similar regulations with respect to intrastate services, if those rules are consistent with FCC regulations.]

- FCC must adopt rules ensuring that number portability is available as soon as technically feasible, and that the numbering plan is administered by an impartial entity.
- FCC may modify the foregoing provisions for local exchange carriers operating in rural areas.

Sec. 106 -- Regulatory Provisions

- Provision on preemption of state entry regulation is taken largely from S. 1086; provision on preemption of rate regulation is new.
- Preempts state entry regulation of all providers of telecommunications services.
- Preempts state rate regulation of telecommunications carriers that FCC finds to lack market power. [NOTE: FCC has already found that the BOCs and other telcos are dominant in their local exchange areas.]
- Authorizes FCC to exempt an carrier without market power from provisions of Title II of the Communications Act (except for sections 201, 202, and 208, dealing with, respectively, duty to serve on reasonable request, reasonable and nondiscriminatory rates, and complaints. [NOTE: This is derived from S. 1086 and section 332(c)(1)(A) of the Communications Act.]

Sec. 107 -- Universal Service

- Taken largely from S. 1086
- Charges the FCC, in consultation with the States and the Secretary of Commerce, to preserve and advance universal service.
- Obliges all telecommunications carriers to contribute, on an equitable and competitively neutral basis, to the support of universal service.

Sec. 108 -- Provision of Video Programming by Local Exchange Carriers

- Taken largely from H.R. 3636, with modifications.
- Permits all local exchange carriers to provide video programming in their "telephone service areas," (as defined in H.R. 3636).
- Such carriers must provide video programming through a separate affiliate; degree of separation will be established by FCC regulations, except that:
 - Affiliate must have separate books.
 - All transactions between carrier and its video affiliate must be on a fully compensatory and auditable basis.
- Carriers providing video programming must establish a "video platform," which is defined as the "basic platform" adopted by the FCC in its July 1992 "video dialtone" order. [NOTE: Provision gives FCC authority to redefine that platform over time.]
 - Platform must be provided, and regulated by the FCC, pursuant to the terms of Title II of the Communications Act.
 - Within 1 year after enactment, FCC must determine whether to establish limits on the percentage of video platform's capacity that may be occupied by a carrier's video affiliate.
 - [Beginning __ years after enactment,] FCC may consider whether to impose similar obligations on cable systems.
- Carriers generally may not acquire unaffiliated cable systems operating in the carrier's telephone services area. There are exceptions for rural areas and for joint use of an existing cable "drop wire," as well as a provision that the FCC may grant waivers, or change the policy by rule, beginning [__ years] after enactment.
- Declares that carriers offering a video platform are exempt from provisions of the Cable Act (except: public, educational, and governmental access, must carry, retransmission consent, franchise fees, protection of subscriber privacy, consumer protection, and rate regulation to the extent there is not "effective competition" in the cable franchise area. [NOTE: The effective competition standard would be satisfied in almost all communities that have cable service today.]
- Creates a procedure under which cable systems can avoid the same provisions of the Cable Act by offering distribution facilities to unaffiliated parties on a nondiscriminatory basis.

Q&A

The following questions and answers cover the universe of questions we think you will get at the Press Club. They are organized as follows.

- Components of the Admin's bill
- As compared to other bills
- Privacy issues not included
- FBI and privacy
- Administration behind the curve
- Deregulation a Republican hallmark
- Federal role in building the NII
- When will the bill be introduced
- Who will introduce it
- What about RBOC's in long distance
- Deregulated industries are a mess
- Mergers - good or bad
- Administration has a packed legislative agenda
- How important is this
- State preemption and Gov Clinton
- How long will it take to build
- This is like the Reagan Admin
- Mergers - are they our vision
- Cable owners and programmers
- Why not leave MFJ with the courts
- How much competition is enough
- Unbundling and interconnection

QUESTIONS AND ANSWERS ON TELECOMMUNICATIONS POLICY

Q: What will be the different components of the Administration's package?

The main elements of the Administration's package will be:

1. Promoting competition in the local loop (between cable and phone companies)
2. Unbundling the local loop and interoperability
3. Permitting the RBOCs into long-distance
4. Ensuring open access and a multiplicity of information providers
5. Providing for universal service
6. A new regulatory framework that will eliminate most of the present regulatory asymmetry between different sectors of the telecommunications industry.

Q: How will the Administration package differ from the bills that have been introduced on the Hill?

The Administration's package will build on the legislation that has already been introduced by Senators Danforth and Inouye and Congressmen Brooks, Dingell, Markey, Fields, and others. Because of jurisdictional reasons, those bills are not comprehensive. The Administration's package will tie together the various pieces. That is essential because telecommunications policy is like a Rubik's Cube. Changing one part, leads to changes elsewhere. You really need the kind of holistic approach that we plan to offer.

Q: You skipped over privacy issues. What is the Administration doing in that area?

Clearly, privacy is a critical issue. As more and more personal information is stored electronically, it is going to be even more important that electronic data is protected. We'll have to have in place laws that protect privacy in the networked world or no one will use the NII. The White House has established the Information Infrastructure Task Force to coordinate telecommunications and information policy and there is an Information Policy Committee of the task force, which is chaired by Sally Katzen, head of OMB's Office of Information and Regulatory Affairs, which is developing proposals for legislation and regulations that will ensure that our privacy will be protected in the Digital Age.

Q: Last week, FBI Director Freeh indicated publicly that he plans to push for "digital telephony" legislation that would require the phone companies to spend millions of dollars to make it easier for the FBI and state and local police departments to do wiretaps? What do you think of that idea?

The Administration is in the midst of a comprehensive review of how digital telecommunications technology and encryption technology will affect law enforcement's ability to do wiretaps. Wiretaps have proven to be a very effective tool for fighting organized crime, drug dealing, and terrorism. Director Freeh is very concerned that advances in telecommunications technology will deprive law enforcement agencies of this tool. The Administration's review is still on-going and no decisions have been made on legislation. (The review should be done by mid-January). We are committed to balancing the needs of the law enforcement, the need to protect privacy, and the concerns of the telecommunications industry.

Q: Isn't the Administration behind the curve? The telephone companies and cable companies are not waiting for the government.

Not at all. Part of the reason you are seeing the surge in investment in telecommunications is because the Administration has made clear that we will work with industry to make the NII a reality. The fact that we have announced our intention to sweep away outdated regulations that are standing in the way of progress is spurring innovation and investment.

Q: With all this talk about competition and how it will drive down prices and improve service, you sound a lot like Reagan. Have you adopted the Republicans' idea that deregulation is the answer?

For most of this century, Federal and state regulations have influenced the structure of the telecommunication industry, the types of services offered, and the prices charged for those services. These regulations have helped ensure that radio and TV stations don't interfere with each other and consumers are protected from exorbitant prices and other unfair business practices. Government regulations have helped ensure that almost all Americans can enjoy the benefits of telephone service and broadcast television.

However, we have to realize that today technology is racing ahead of the regulations. That doesn't mean you throw out all the regulations. Government will still have an important role to play in fostering competition, ensuring universal service and open access, and protecting the consumer.

Q: What is the Federal role in developing the NII?

The National Information Infrastructure will be build, run, and maintained by the private sector. The Federal government should not be in the business of running telecommunications networks or providing information services if the private sector can do the job better. That said, the Federal government has several critical roles to play in the development of the National Information Infrastructure.

Research and Development. First, the Federal government has a role to play in helping industry develop the technologies that will underlie the National Information Infrastructure. For more than 30 years, the Federal government has invested heavily in research and development on information technology and U.S. pre-eminence in this field is partly due to that investment. Many of the key breakthrough in computing and telecommunications have their roots in research funded by the Federal government. The Internet, the entire workstation industry, the UNIX operating system, and massively-parallel supercomputers all grew out of government-sponsored research.

While the telecommunications and computer industry will continue to invest more in R&D than government, it is essential that the Federal government continue to provide funding for the long-term, high-risk research needed to make and use the information infrastructure in the 21st century.

Pilot projects. The Federal government also has an important role in working with industry to demonstrate how a national network of information highways will help all sectors of society. For instance, we have created an "information highway on-ramp" program to provide matching grants to schools, libraries, hospitals, museums, and other non-profit institutions so that they can buy the equipment needed to connect up to the Internet and other telecommunications networks. The idea is to be a catalyst, to provide school a few thousand dollars so they can buy the modems and computers needed to get on-line.

This program is presently funded at \$28 million and is planned to grow in coming years to over \$100 million. Our goal is to ensure that every school in the country is networked; so that every child has an opportunity to send an electronic mail message to an electronic pen pal halfway around the world; so that every school librarian has access to the thousands of "digital libraries" available on the Internet. This program will help ensure that schools and libraries are not left behind by the Digital Revolution.

Reinventing government. A third role for government is as a user of the information infrastructure. Government is in the information business. One of its main functions is to collect, process, and disseminate information. Unfortunately, we have been slow to adopt new information technologies and even slower at finding innovative uses for those technologies.

Many of the key recommendations in the National Performance Review describe how information technology--computers, databases, networks--can be used to "reinvent government." Using these technologies, it should be possible to improve the productivity of

Federal employees dramatically, while cutting costs. These technologies can empower Federal employees, giving them the tools they need to do their job better and more effectively. More importantly, we will be able to provide better service to our customers--the American people--by enabling them to communicate more effectively with government and get the information they need. Rather than having to make fifteen phone calls and then wait a week for someone to mail them a report or a form, citizens will be able to log onto a high-speed network, connect to a Federal database, sort through an electronic index, locate what they want, and have it sent to them electronically--all in a matter of minutes.

The White House is already using this technology to make government documents available. Presidential speeches, White House reports, press conferences--all are available on a number of different computer networks. We have managed to save thousands of dollars in printing, postage, and handling. Doing this government-wide could save millions, even billions of dollars.

Privacy. The fourth role of the Federal government is to protect the information that flows over the information highways. We must make sure that the privacy of users is protected. In the future, doctors may be able to do electronic house calls using video-conferencing technology. But that will only happen if the patient is ensured of the privacy of that video conversation. Likewise, people are not going to be willing to talk to their lawyer or their minister. Home-shopping is a big potential use of the information infrastructure--but not if information on what you and I buy in the privacy of our own home is available to anyone who wants it.

Telecommunications Policy. Perhaps the biggest role of government is in the area of telecommunications policy and regulation. To take full advantage of the opportunities that high-speed, digital networks will make possible, we must have forward-looking telecommunications policies. We must have a stable regulatory system that encourages the private sector to make the massive investment needed to build the National Information Infrastructure.

Draft Questions/Answers

Q: When will the Administration's legislative package be introduced?

Our goal is to have the Administration's legislation signed by the President in 1994. That means introduction in the early weeks of the next session. Of course, no firm date will be established until we finish our consultations with congressional leaders.

Background: To have the bill enacted, it will obviously have to be introduced early. We are now shooting for introduction at the end of January. But there is no advantage to putting down a specific marker now. Moreover, our final decision on the date of introduction will inevitably turn on our final legislative strategy for introduction, which has yet to be established.

Q: Who will introduce the bill? What do Hollings, Dingell, and Brooks think of it?

Answer: As I said in my prepared remarks, we intend to work closely with congressional leaders and to build upon the work that is evident in legislation that has already been introduced. I have already begun personal conversations with congressional leaders and they will continue. It would be premature to forecast, at this time, the outcome of those future discussions.

It's obviously impossible to predict what some members of Congress will think of a bill that has yet to be presented. Senator Hollings and Chairman Dingell and Chairman Brooks are all men who have thought deeply about telecommunications issues and whose advice and counsel we value.

BACKGROUND: The purpose of your speech is to establish broad principles, not to foreshadow tactical judgments. Obviously, Hollings, Brooks and Dingell are critically important players, along with others, such as Senators Inouye and Danforth and Congressman Markey. You should, therefore, reiterate their inclusion in the process without being pinned down on details of legislative strategy.

The NII Working Group has yet to reach consensus on the answer to this question.

Q: Who will be the Administration's point person on telecommunications issues?

Answer: I intend to be personally involved in every step of this process. But I won't be by myself. Secretary Ron Brown is

leading the Administration's task force on the Information Infrastructure, which includes telecommunications and all other NII issues. Assistant Attorney General Anne Bingaman will be looking closely at issues of competition. Assistant Secretary Larry Irving both serves as our principal advisor on telecommunications and will administer the new NII grants program. The four of us, with many others, will be the team that tackles telecommunications issues.

Background: Your unquestioned leadership in telecommunications, and your long experience with these issues, will make obvious your critical role in the process. The inclusion of other members of the Administration in your answer reflects the intensive and large effort that will have to be mustered by the Administration as a whole in support of this effort.

Q: Could you elaborate on the Administration's position regarding RBOC's entry into long distance?

Answer: As my prepared remarks make clear, we envision a day when all information providers are free to offer all information services. That requires, obviously, that the RBOCs be able to offer long-distance services.

The critical issue is how we handle the transition; how we move from the present to the ultimate future in a manner that encourage investment, stimulates competition and protects consumers.

With regard to long-distance services, my view is that entry by the RBOCs must be coupled with "unbundling" of the local loop. That unbundling will encourage other companies to offer new products and, inevitably, will eliminate artificial monopoly positions. In addition to the unbundling requirement, we will want to ensure that market power is not used by the RBOCs to the disadvantage of competition or consumers.

BACKGROUND: You have yet to review the final recommendation of the NII working group on this issue.

The NII working group believes that two principles are well-established. First, the RBOCs must be permitted eventual entry into long distance. Second, that entry must be accompanied by the unbundling of the local loop. Both principles are necessary to fulfill the ultimate vision of an information marketplace where all information providers are able to provide all information services.

A third potential principle requires more discussion and is very sensitive politically. The RBOCs argue that they should be free to enter long distance as soon as they are subject to competition in their local exchanges, that is, as soon as there is potential

competition. Long distance carriers argue that, in a manner similar to the Cable Act of 1992, there must be actual competition in the local loop before the RBOCs receive this additional power.

It is very important that you do **not** get trapped on one side or the other of this debate before the Administration finalizes its position and consultation with the Hill is completed. That is why the answer emphasizes the goals of governmental action, including greater competition and protection of consumers, but does not take a position in the debate between potential competition and real competition.

Q: How will Federal policies ensure that regulating the telecommunications industry does not lead to the kind of mess we've seen in the airline industry or the kind of price hikes and unfair business practices in the cable industry since those industries were deregulated?

In two ways. First, we'll pay close attention to transition from current systems of regulation to the seamless information marketplace that we expect to exist in ten to fifteen years. The phase change from regulation and monopoly to open competition will not be instantaneous -- and it will be during that transition, when elements of both systems exist, that the government will have to engage in particular actions to protect competition and consumers.

Second, we'll formally address problems of universal service. The airline analogy draws upon fears that de-regulation will lead to some communities being left without service, particularly rural or poor areas. But that's not the way that telephone regulation has worked. Early on, we decided that telephone service has to be universal and, in the main, we've achieved that goal. Our universal service proposal will follow in the same tradition.

Background: Your answer reflects "New Democrat" values.

As to competition, you reject both Reagan-Bush reliance on markets in all circumstances and the view that regulation is always a good thing. We believe in governmental intervention only when it is required and only for as long as it is required. That is why we're concentrating on the "transition" period -- before open competition is established -- as the period in which government must take special action to avoid unfair price hikes and the like. Of course, antitrust enforcement, consumer protection and other usual measures will always be in force.

As to the scope of service, we recognize that private markets, even when operating efficiently and freely, will not always satisfy all social needs. Just as we've decided that telephone

service has to be available to all Americans at reasonable prices, our universal service proposal will have to ensure broad coverage at reasonable rates for a basic set of services.

The NII working group has yet to provide you with a specific universal service proposal.

Q: Mergers? Good or bad?

Answer: That question presents a false dichotomy. We want investment and competition in the information marketplace. That means that we will take a close look at mergers that might result in unfair competition or in unfairness to consumers. Once legal considerations are resolved, it's up to business people to decide whether mergers do -- or do not -- serve their competitive aims.

Background: Such a question would obviously refer to the Bell-Atlantic-TCI merger and to your earlier statement on it. But, unless you are specifically asked, there is no advantage to commenting on it specifically.

No one, not even Senator Metzenbaum, would argue that mergers are necessarily bad. Mergers are a tool, albeit a tool with significant potential for anti-competitive practices. So our emphasis should be on vigilant review of possible anti-competitive practices, not on mergers per se.

Q. Do you really think Congress will be able to tackle this incredibly complicated issue AND handle health care reform, the crime bill, cutting the deficit, and reinventing government?

A. Yes. The members of Congress who are most actively involved in this issue have indicated that they want to start moving telecommunications legislation as soon as possible.

Q. How important is this? Is it a top Administration priority? How does it compare to health care?

The NII is our single most important initiative in the technology area.

The Administration's NII program will also enable us to make progress on other critical initiatives. For example, through electronic patient records and telemedicine, we hope to reduce the administrative costs associated with our health care system and improve the quality of health care for people living in remote areas.

More effective use of information technology is also central to our efforts to reinvent government. For example, the President has directed all of the agencies to embrace "electronic commerce." On-line procurement will cut costs for both the government and its suppliers.

Q. It sounds like the Administration plans to pre-empt state regulations that prevent cable companies and other competitors from entering the local telephone business. Does former Governor Clinton think that's a good idea?

There are a few policy decisions that we think need to be set at the national level. After all, we are talking about a National Information Infrastructure. However, because market conditions will vary significantly across the country, states will still have a great deal of authority and responsibility in telecommunications policy. The kind of pre-emption we support is quite narrow, and is designed solely to eliminate barriers to competition, not to micro-manage policy from Washington.

Q. How long will it take to build the NII?

In a sense we already have one. Over time, however, it will become more and more powerful. Telecommunications networks will be able to handle video, voice and data. Americans will have access to a wider variety of exciting information services. New applications for the NII will be developed in health care, life long learning, and electronic commerce. So we should view the NII as a gradually evolving set of capabilities, as opposed to a project that will be finished by a date certain.

Q. **It seems that the Administration is putting an awful lot of faith in competition to bring down profits and improve service. It almost sounds like the sort of thing we used to hear during the Reagan Administration. What's different?**

We do believe that market forces and competition can be a powerful to lower prices, improve quality, and spur innovation and deployment of new technologies.

However, we do not believe that unrestrained exercise of monopoly is good for the free market or for consumers. So there is a difference between a "laissez faire" policy and a policy which vigorously promotes competition.

Q. Do the proposed mergers in the telecommunications industry bring us closer to or further from your vision?

A. We are looking forward to new combinations of technology, increasing innovation and investment to hasten the arrival of the future I have sketched. Mergers can be one of several ways to help get there. But the antitrust authorities must ensure that any mergers are consistent with antitrust law.

Q. In what cases have cable company owners excluded competing programmers.

A. Congress noted in passing the 1992 Cable Act that because of vertical integration, cable operators have an incentive to favor affiliated programmers. There have been reports of this and litigations initiated as well. (Many are reluctant to come forward.)

Q. Why not leave the MFJ issues with the courts? Have they done a bad job?

A. We do not propose legislation because the courts have done a bad job. To the contrary, one can argue that the break-up of AT&T, supervised by a court, has helped spur the competition and innovation that has put America ahead in this industry. But we now need a wide-reaching telecommunications policy blueprint for the future. A decree remedying specific antitrust violations is not that.

Q. How much competition is necessary in the local loop to permit RBOC entry into long distance? Who will decide?

A. We will be working out the details on this over the next few weeks in consultation with others. The Brooks-Dingell bill looks at this in a helpful way and we are examining it closely. We need a process that ensures that appropriate factors including, importantly, the competitive situation, weigh heavily when considering entry.

QUESTION AND ANSWER
CONCERNING UNBUNDLING

Question:

You say you are in favor of unbundling and interconnection requirements to promote local exchange competition. Can you be more specific? Is the Administration bill going to require telephone companies to implement something like the Ameritech or Rochester plans in this area?

Answer:

The exact specifics of the unbundling and interconnection requirements the Administration will be including in its bill are still under consideration. We are also considering what level of detail should be included in our bill and what should be left to the expert regulatory agencies to define. We do believe, however, that merely lifting the entry restrictions on competition in local telephone service, as important as that is, will not be enough to promote the rapid development of a competitive local exchange market. Some degree of affirmative intervention, either legislative or regulatory, by way of interconnection and unbundling requirements will be necessary to achieve our goals in this area.

As for the Ameritech and Rochester plans, I am not personally familiar with the details of those proposals and do not think it appropriate to comment on them in any depth at this time. However, they do appear to be fairly innovative approaches and, I am told, go the farthest of any proposals generated by the telephone industry to date to create a competitive environment for local exchange services. They certainly have moved the debate along as to what is possible to permit competition in local services, and for that alone, they are a welcome addition to this policy arena.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503
JUN 24 1994

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MEMORANDUM FOR INFORMATION INFRASTRUCTURE TASK FORCE MEMBERS

From: Leon E. Panetta 
Director, Office of Management and Budget

Ronald H. Brown 
Secretary of Commerce and Chairman
of the Information Infrastructure Task Force

Subject: Guidance for FY 1996 IITF Budget Cross-Cut Process

As you know, the Information Infrastructure Task Force (IITF) is intended to channel your expertise and influence as key policy officials from agencies involved in Federal programs related to the National Information Infrastructure (NII). It is designed to coordinate Administration initiatives in the development and use of the NII among the various agencies across government.

Given the reality of tight budgets, it is essential that we support the programs that have the most potential for advancing the Administration's agenda in this area. We believe that the IITF can help guide the Administration in identifying key initiatives and provide useful input to the FY 1996 budget decision-making process. We are not proposing that the IITF conduct budget reviews. Rather, we envision they will provide policy guidance on key initiatives necessary to support the Administration's goals.

We request that all IITF members submit to the IITF Secretariat no later than July 15, 1994, what you believe to be the key policy and programmatic initiatives that support the Administration's goals in advancing the development of the NII. The initiatives described in the NPR IT report can serve as examples. Submission should include a discussion of your agency's current programs and interagency programs. The submission should incorporate initiatives proposed for FY 1995, and new initiatives contemplated for FY 1996. The suggested format for these submissions is attached. The initial submission should not include budget figures, but rather should focus on programmatic content.

During the summer, the IITF members will review these submissions and develop a position on the kinds of policies and programs essential to fulfilling the Administration's goals for

the NII in FY 1996. This document should also include recommendations of performance measures to assist in evaluating the effectiveness of different initiatives. The report will be reviewed by the IITF principals. We are asking the IITF's Committee on Applications and Technology, chaired by Arati Prabhakar, to lead this process.

We request that by September 16, IITF members submit to the IITF Secretariat an update of their July submission that reflects the agency's FY 1996 budget request to OMB and any new program priorities. This submission should be consistent with the agency budget submission to OMB and should include the requested funding levels. The IITF will then evaluate and prioritize these new initiatives from a cross-cutting perspective based on its previously developed consensus priorities. In addition, the IITF will identify any essential programs and initiatives absent from Departmental submissions.

The outcome of this process will be guidance from the IITF principals for consideration by OMB in its development of the President's FY 1996 budget. This final product should encompass the entire Federal NII Program and will include at least two "packages" of funding options, one at the total FY 1995 enacted levels (i.e., level funding), and another at the total FY 1996 agency request levels. In addition to these two funding packages, the IITF may suggest a number of other funding alternatives that vary from the level of funding compared with the FY 1995 enacted and the FY 1996 agency request levels. This guidance from the IITF principals will be provided to OMB no later than October 24, 1994.

This effort will be complemented by the efforts of OMB and OSTP with the National Science and Technology Council (NSTC) to provide strategic guidance for R&D priorities for Federal programs pursuant to the 6 May 1994 guidance to agencies from Mr. Panetta and Dr. Gibbons. As part of that process, agencies have been asked to submit budget information on the High-Performance Computing and Communications Program and other R&D programs that are helping develop the technologies for the NII. The IITF review process will not duplicate the NSTC review, but will incorporate the results of relevant NSTC analysis into the NII cross-cut. The R&D portion of the NII cross-cut will be provided by the relevant NSTC committees.

We believe that the Administration has an excellent opportunity to use the expertise and experience embodied in the IITF to fulfill the Administration's objectives for the NII. Clearly, this is an evolutionary process, building on the frameworks developed this past year. Thank you for your assistance.

Attachments

FY 1996 IITF/TPCC CROSS-CUT PROCESS

**BUDGET
REVIEW
PROCESS**

**BUDGET
REVIEW
PROCESS
WITH
CROSS-
CUTS**

MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER
	Agencies formulate their budgets <----->			Agencies submit budgets to OMB Sep. 9, 1994 Agencies discuss requests with OMB <----->	OMB/NEC review <----->		Presidential Decisions mid-Dec.
Panetta/Brown guidance letter on process		Agency Submissions by July 15, 1994 IITF/TPCC define priorities & key Initiatives. IITF/TPCC convenes working groups. <----->			Agencies revised submissions due to OMB & IITF/TPCC Sep. 16, 1994 IITF/TPCC reviews Agency Submissions <----->	IITF/TPCC makes consensus recommendations to OMB/NEC Oct. 16, 1994 OMB/NEC review <----->	Presidential Decisions mid-Dec.

U.S. DEPARTMENT OF GOVERNMENT
FY 1996 INFORMATION INFRASTRUCTURE PROGRAMS

<u>Programs</u>	<u>Description</u>	<u>Agency Priority</u>	<u>Contact Person</u>	<u>FY 1995 Enacted</u>	<u>FY 1996 Request*</u>
1. Base	(1 paragraph)		(Name/phone/fax E-Mail)		
2. Interagency					
3. New Initiatives					

*Note: The July 15 submission will not include FY 1996 budget numbers. The September revision should be updated to reflect Agency budget FY 1996 submission to OMB and include funding levels. The final October product will follow this same format, but will encompass the entire Federal government instead of individual agencies.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. form	re: Classification and Performance Management Record [Personally Identifiable Information] [partial] (1 page)	06/16/1994	b(6)

COLLECTION:

Clinton Presidential Records
National Economic Council
Thomas Kalil
OA/Box Number: 24530

FOLDER TITLE:

National Information Infrastructure [Folder 1] [3]

2019-0203-F
jm2845

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the 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]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

CLASSIFICATION AND
PERFORMANCE MANAGEMENT RECORD☐ NEW☐ I/A: _____

MR #: _____

IP #: _____

• Performance Plan • Performance Appraisal • Performance Recognition • Progress Review • Position Description

Employee's Name: Ronald Isler Social Security No.: (b)(6)Position Title: Regional DirectorPay Plan, Series, Grade/Step: GM-0301-15 [001]Organization: 1. Minority Business Development Agency 4. _____2. Office of Operations and Regional Management3. New York Regional Office 6. _____

Rating Period: _____

Covered By: ☐ Senior Executive Service ☐ Performance Management and Recognition System☒ General Workforce ☐ Other _____

PART A—POSITION DESCRIPTION

POSITION CERTIFICATION—I certify that this is an accurate statement of the major duties and responsibilities of the position and its organization relationships and that the position is necessary to carry out Government functions for which I am responsible. This certification is made with the knowledge that this information is to be used for statutory purposes relating to appointment and payment of public funds and that false or misleading statements may constitute violation of such statute or their implementing regulations.

SUPERVISOR'S SIGNATURE <u>Gilbert Colón</u> Gilbert Colón	DATE <u>6/16/94</u>	SECOND LEVEL SUPERVISOR _____	DATE _____
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CLASSIFICATION CERTIFICATION	OFFICIAL TITLE: <u>Regional Director</u>			
	PP: <u>GM</u>	SERIES: <u>0301</u>	FUNC: <u>—</u>	GRADE: <u>15</u>

I certify that this position has been classified as required by Title 5, US Code, in conformance with standards published by the OPM or, if no published standard applies directly, consistently with the most applicable published standards.

NAME AND TITLE OF CLASSIFIER <u>Sonji Y.T. Scriber</u> <u>Human Resources Specialist</u>	SIGNATURE <u>Sonji Y.T. Scriber</u>	DATE <u>6/16/94</u>
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PART B—PERFORMANCE PLAN

This plan is an accurate statement of the work that will be the basis of the employee's performance appraisal.

NAME AND TITLE OF FIRST LINE SUPERVISOR/RATING OFFICIAL <u>Gilbert Colón</u> <u>Acting Director</u>	SIGNATURE <u>Gilbert Colón</u>	DATE <u>6/16/94</u>
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APPROVAL—I agree with the certification of the position description and approve the performance plan.

NAME AND TITLE OF APPROVING OFFICIAL OR SES APPOINTING AUTHORITY	SIGNATURE	DATE

EMPLOYEE ACKNOWLEDGEMENT—My signature acknowledges discussion of the position description and receipt of the plan, and does not necessarily signify agreement.	SIGNATURE	DATE

PRIVACY ACT STATEMENT—Disclosure of your social security number on this form is voluntary. The number is linked with your name in the official personnel records system to ensure unique identification of your records. The social security number will be used solely to ensure accurate entry of your performance rating into the automated record system.

THE WHITE HOUSE
WASHINGTON
MEMORANDUM

To: Bo Cutter
From: Tom Kalil *TAK*
Re: Administration's NII agenda for 1994 and beyond
Date: August 22, 1994

Introduction:

Arguably, the promotion of the National Information Infrastructure is the Administration's single most important technology initiative. Exponential improvements in our ability to store, transmit, and process information will impact virtually every aspect of America's economic and social life.

Because of the pervasiveness of information and communications technology, the NII is a complicated policy domain. Almost all agencies are involved, albeit at varying levels of intensity. A large number of public and private groups have mobilized to ensure that their interests are not ignored. "Stakeholders" include long-distance carriers, RBOCs, cable companies, broadcasters, the utilities, major telecommunications users, state and local regulators, universities, the computer and software industry, consumer advocates, copyright industries, librarians, Americans with disabilities, educators, public interest groups, and communities that are interested in a particular NII application. The NII is a perfect example of the "3 blind men and the elephant problem." People from different industries, backgrounds and disciplines are each in a position to describe a portion of the challenges and opportunities associated with the NII.

Perhaps the most important thing the Administration has done to date to promote the NII is to talk about it. In the same way that President Kennedy did serious damage to the hat industry by not wearing a hat, the President and Vice President have spurred the development of the NII by having e-mail addresses and talking about its importance.

The other major elements of the NII initiative are:

1. Developing a telecommunications policy that will promote competition and private sector investment while maintaining universal service;
2. Promoting applications of the NII;

3. Investing in R&D;
4. Addressing information policy issues such as privacy, security, and intellectual property rights issues; and
5. Promoting the Global Information Infrastructure.

1. Telecommunications policy:

a. Telecommunications legislation

Our most important goal is to pass telecommunications reform legislation. It has passed the House 423-4 and the Senate Commerce Committee 18-2. Senate floor action is expected in mid-September.

Overall, the legislation will represent a large improvement over the ~~status~~ quo. It will prevent the states from maintaining barriers to local competition, require the RBOCs to unbundle, eliminate the cable-telco cross-ownership restriction, preserve the notion of "universal service", give the FCC the authority to "forbear" regulation with respect to companies without market power, and gradually allow the RBOCs into long-distance and manufacturing.

The bills are by no means perfect. For example, the Senate bill contains a number of provisions to protect rural telephone companies and deny rural customers the benefits of competition. It requires that telecommunications companies provide a "public right-of-way" for non-profits by setting aside 5 percent of their capacity -- a concept that is meaningless in a digital, switched environment. We intend to work with the House and Senate to try to improve the bill during conference.

The bill faces two barriers. First of all, negotiations between the House and Senate will have to be conducted in a very short period of time. This will be difficult, given the complexity of the issues, and the intense industry lobbying. Second, Senator Dole has realized that in addition to crime and health, the three potential "second tier" legislative accomplishments are Super Fund, GATT, and telecommunications reform. The Republicans may have an interest in preventing any Rose Garden ceremonies this year. Dole's ability to play partisan politics may be limited by the reasonably strong Republican support for the bill.

NEC Role: Push for improvements in the bill. Ensure that White House pushes hard for House and Senate floor time. This could (conceivably) require personal involvement by you and Bob.

b. Spectrum policy:

Freeing up additional spectrum will accelerate the deployment of new technologies, such as Personal Communications Services, LEOS (low earth orbiting satellites), wireless data networks, next-generation personal digital assistants, wireless cable, etc.

The Emerging Telecommunications Technology Act requires NTIA to identify 200 MHz of government spectrum over the next ten years and turn it over to the FCC. (This is in addition to the spectrum in the 2 GHz band that the FCC is auctioning off for PCS.) 200 MHz is four times the amount of spectrum that created the cellular industry!

NEC role: Ensure that NTIA is not "slow-rolled" by the agencies who will have to turn over spectrum. Help identify next generation of wireless issues, e.g. incentives for spectral efficiency, market-oriented mechanisms for moving incumbent users. Consider whether auction revenue over \$10 billion should be used for NII projects [e.g. connecting schools and libraries.]

c. Satellite policy:

There is strong support in industry and government that the satellite market needs to be restructured, and that the status quo (INTELSAT and IMMARSAT as treaty-based organizations) no longer makes any sense. However, the U.S. Government has yet to develop a clear policy in this area. An inter-agency working group, chaired by State, has been charged with developing options for privatization and restructuring of INTELSAT and IMMARSAT.

NEC role: Ensure that the State-led review includes options for an aggressive approach to privatization. Convene the inter-agency process (with OSTP) that will ultimately make the decision.

2. Applications:

The NII is not an end in itself. The Administration is interested in the NII because it is a powerful tool with a wide variety of applications in electronic commerce, manufacturing, life-long learning, health care, science, delivery of government services, sustainable development in the Third World, demand-side management, digital libraries, environmental monitoring, telecommuting, intelligent transportation systems, promoting informed participation, etc.

a. Applications strategies:

For each of the major applications, the Administration has attempted to initiate a national discussion on what will be required to make each of these applications happen. The first round of "white papers" was released in May 1994; the second round will be released later this fall.

NEC Role: Identify action items that flow from the applications strategies that are unlikely to get done in the absence of White House interest and support.

b. FY 1996 budget cross-cut

Panetta and Secretary Brown sent a memo to each of the agencies directing them to identify what they are doing to promote the NII. Some agencies have taken this responsibility seriously -- others have not.

In each of the major application areas, the IITF has tasked someone ~~with~~ analyzing what the government is doing across the board to see if it makes sense.

NEC Role: Work with OMB to ensure that the agencies make the NII a priority for their FY96 budget.

c. Life-long learning:

The ETR (Education, Training and Re-employment) group is interested in using the NII to promote the productivity of life-long learning. This group is interested in exploring how (a) the government can help stimulate the market for engaging, informative content; (b) we can make good on the President's goal of connecting all classrooms to the NII by the year 2000; and (c) how existing programs, such as federal grants for teacher professional development, could be used to promote use of technology in the classroom.

NEC Role: NEC co-chairs the ETR.

3. **Research and development:**

a. High Performance Computing and Communications

This \$1 billion R&D initiative is generating much of the technology for the NII. Although it originally focused on solving "Grand Challenges" (predicting the weather, computational fluid dynamics, rational drug design) it has broadened its scope to cover applications with a much broader impact (e.g. manufacturing, education, health care, digital libraries).

b. Technology Reinvestment Project, Advanced Technology Program

Many of the ATP and TRP projects are funding industry-led consortia in technologies related to the NII, such as CommerceNet, technologies for computer-based patient records, interoperability testbeds, CIM for the electronics industry, and component-based software.

NEC Role: Support funding, both in the Administration's internal deliberations and during Congressional process. Participate in NSTC Committee on Information and Communications R&D. Push for funding in strategic areas, such as "middleware" [authentication, security, electronic payments, resource reservation, date interchange formats, information discovery and retrieval, routing and addressing, etc.]

4. **Information policy**

The Information Policy Committee is addressing issues related to intellectual property rights, privacy, security, and dissemination of government information:

- PTO Commissioner Bruce Lehman has proposed some modest amendments to the Copyright Act.
- OMB has released a set of "fair information practices" for public comment.
- Government agencies are making some progress in making more information available to the public.
- Although encryption policy is being handled by the NSC, the issue will continue to resurface in the context of the NII.

NEC Role: NEC's Working Group on Intellectual Property reviewed the Lehman report, and will be involved in other major changes of U.S. intellectual property law.

5. **Global Information Infrastructure:**

a. Upcoming events:

There are four major international fora in which GII issues will be raised: Summit of the Americas, APEC, the ITU, and the G-7 summit.

NEC Role: Ensure that GII issues are raised in a way that is consistent with the broader themes of the conference or summit. Help shape the agenda.

Example: For the G-7 summit, I am actively exploring the notion of an international test-bed. If connectivity between the U.S. EU, and Japan could be increased from its

current T-1 links to T-3 or even OC-3, this could provide a platform for collaboration in areas such as interoperability, telemedicine, global electronic markets [dealing with currency and IPR issues], digital libraries, a World's Fair for the Information Age, etc. I have gotten very enthusiastic responses for this general concept from a number of U.S. companies, including Sprint, MCI, AT&T, PacTel, IBM, DEC, HP, Dun and Bradstreet, and SynOptics.

b. **Agenda for Cooperation**

Commerce has been tasked with developing a document that would outline the Administration's global agenda.

c. **Third World economic and social development**

The NEC has encouraged development agencies to think about how information and communications technology could change the process of economic and social development.

NEC Role: I have met with the Executive Directors from both the IDB and the World Bank, and helped prepare a proposal to provide African countries with a 64K duplex connection to the global Internet.

Cross-cutting issues:

1. Increasing the technical expertise of non-technical agencies, and improving coordination between technology and policy community.

Most NII issues have both policy and technology issues. For example:

- Dealing with intellectual property rights in a networked environment requires changes in copyright laws and electronic copyright management systems, new standards for header/descriptors, software envelopes, metering, digital watermarks;
- Promoting telemedicine may require changing the way HCFA reimburses providers for the use of information, or changing state licensure practices;
- Enabling new forms of electronic payments may require changes in financial regulations;
- Promoting NII applications in education and training will require more technical expertise on the part of Education and Labor.

2. Rapid national learning from state and local experiments.
3. Overall NII architecture. How do we get an NII that is characterized by:
 - Low barriers to publishing (individuals as producers as well as consumers);
 - Layered architecture, with open interfaces at each layer;
 - Interoperability; and
 - Openness to rapid technological innovation.

Appendix:

Some specific initiatives I am promoting because I think they are worthwhile:

1. Effort by industry, academia, and library and information science community to define human resource requirement for designing, building, and using the NII.
2. Examination of the policy and technical issues associated with cable TV's role in the NII. Specifically, how can the coax networks deployed by cable companies become a platform for a wide range of interactive services, as opposed to just one-way video delivery. Sample issues:
 - Fiber-to-the-neighborhood architecture only allows reverse channel of 5-30 MHz to be split between (roughly) 200-500 households. Some of this reverse path could be pre-empted by "must carry" obligations.
 - Reverse channel is very noisy. Spectrum technology developed for military may help improve capacity.
3. International testbed to be announced at G-7 summit.
4. Virtual library on NII-related subjects to promote diffusion of good ideas at state and local level.
5. African connectivity to the Internet.
6. Experimentation with wide-area hypermedia as a way of getting input from the public on Administration policies.

CURRENT AND POTENTIAL AGENCY ROLES (10/27/93)

Below is a first draft of existing and potential agency roles in promoting the NII and its applications. This list is not intended to be exhaustive -- merely intended to demonstrate the broad impact of the NII on agency missions. Many agencies play a role in the High Performance Computing and Communications Initiative, which is helping to develop the technology for the NII.

1. Agriculture

- Explore link between telecommunications infrastructure and rural development
- Promote access to information through Extension Service and grass-roots activities of Americans Communicating Electronically

2. Commerce

- Chair of IITF
- Lead agency on telecommunications policy, spectrum management (NTIA)
- NTIA grants program
- Promoting interoperability and applications in manufacturing (NIST)
- Dissemination of information (e.g. global change, economic statistics)

3. Defense

- Technology Reinvestment Project funding many NII-related pilot projects and consortia
- ARPA programs in scalable computing, gigabit networks, simulation, Advanced Internet, agile manufacturing, digital libraries, health care, conceptualization of NII architecture
- Proposed program in "information appliances"
- Responsible for National Security/Emergency Preparedness dimensions of NII, including reliability and security

- Use of purchasing power to stimulate innovation
 - "Global Grid"
 - Dissemination of open source information
4. Education
- Develop links between NII and our six national education goals
 - Star Schools Program
 - Explore role of libraries in NII (Library Services Construction Act, Higher Education Act)
 - Professional development for teachers
 - National strategy for K-12 networking
 - Evaluation and assessment of educational technology
 - Involve Chapter 1 schools in networking activities
5. Energy
- Role of National Labs: CRADAs in NII-related topics, computational test-beds
 - Energy demand and supply management (e.g. role of utilities in NII)
 - NII applications for Environmental Restoration and Waste Minimization
 - On-line information to accelerate technology transfer process
6. Health and Human Services
- Health applications of NII: such as computer-based patient records, unified electronic claims, personal health information systems, digital libraries.
 - Electronic benefits transfer
 - Applications of NII for Americans with disabilities

7. Housing and Urban Development
 - Role of telecommunications in empowerment zones
8. Interior
 - National Biological Survey
 - Environmental monitoring
 - Geographic Information Systems
9. Justice
 - Competition policy
 - Telecommunications for law enforcement
10. Labor
 - Contribution of NII to life-long learning and labor markets
11. State
 - Electronic embassies
 - Support for networking in developing countries
12. Transportation
 - Telecommuting
13. Treasury
 - Development of regulatory regime that will permit electronic commerce
 - Depreciation policy
 - Export financing for telecommunications equipment
14. Veterans Affairs
 - Health care applications

Independent Agencies:

1. Environmental Protection Agency
 - Environmental monitoring
2. General Services Administration
 - Support for "electronic government" -- e.g. electronic commerce, inter-agency e-mail, procurement reform, etc.
3. National Aeronautics and Space Administration
 - ACTS satellite
 - Remote sensing
 - Digital libraries
4. National Science Foundation
 - Major participant in HPCC program, NREN
 - "Collaboratories" as tool for scientific research
 - Networking for universities, K-12
5. Small Business Administration
 - SBIR as a tool for encouraging small business participation in NII research
 - Small business applications of NII (e.g. electronic commerce)

WHITE PAPER ON THE ADMINISTRATION'S
DRAFT TELECOMMUNICATIONS BILL

I. Regulation of Two-Way, Broadband Transmission Services (Title VII)

Generally

- The Administration bill will add a new Title VII to the Communications Act to apply, on an elective basis, to providers of two-way, broadband, digital transmission services, offered on a switched basis to end users. None of the pending bills has a comparable approach.
- These services are emphasized because, well into the 21st century, they will connect and empower the American public by providing them with a variety of voice, data, video services, and other information that will enhance our nation's economic competitiveness and the quality of life of our citizens.
- The regulatory structure of Title VII will provide a unified, symmetric treatment of providers of two-way broadband services, in contrast to the present disparate treatment of common carriers and cable operators under Titles II and VI of the Act. It also provides important incentives to promote private sector development of this part of the National Information Infrastructure and spur availability of advanced services on a widespread basis.
- The Administration recognizes that these services are developing in a rapidly changing technical and marketplace environment. Through Title VII, it seeks a regulatory regime that will stand the test of time by regulating similarly situated entities similarly.

Eligibility and Certification

- Firms that, under current law, would be regulated under Titles II or VI of the Act could elect instead to be regulated under Title VII, if they offer two-way broadband, interactive, switched, digital transmission services ("Title VII broadband services") to at least twenty percent of their subscribers in a state. To be deemed "interactive," the service must permit end users to both transmit and receive broadband communications. The FCC would be authorized to define Title VII broadband services in greater detail and to modify the subscriber threshold.
- If a firm certifies to the FCC that it meets the threshold in one or more states and the FCC does not disallow the election, the FCC will apply streamlined Title VII regulation to the firm's Title VII broadband services and the other services that share broadband facilities in those states.

Regulatory Framework for Title VII

- Title VII would impose the following broad requirements (to be implemented by the FCC) to apply to Title VII broadband services and the services that share broadband facilities with them:
 - Open access obligations (including access for the disabled) to enable all persons to send information over the firms' broadband facilities;
 - Universal service requirements consistent with those under other parts of the Communications Act; and
 - Interconnection and interoperability requirements
- Title VII would promote regulatory flexibility by requiring the FCC to:
 - Forbear from regulating rates for Title VII broadband services provided by Title VII firms that lack market power; and
 - Establish procedures to resolve any complaints expeditiously.
- Title VII would also authorize the FCC to:
 - Adopt rules, as needed, to address public interest concerns, such as those currently addressed in Sections 223 through 228 of the Communications Act; and
 - Ensure that delivery of video programming directly to subscribers over broadband facilities is consistent with certain principles now applicable to cable services (e.g., Sections 325(b), 611, 614, 615, and 632 of the Act).
- If a Title VII firm also provides communications services that do not share broadband facilities with Title VII broadband services, those other services would remain subject to regulation under Title II or Title VI, as appropriate.

State Preemption

- Title VII would preempt the States from regulating Title VII services if the FCC determines that the providing firm lacks market power.

- States would continue to regulate rates for the intrastate components of Title VII services provided by firms with market power:
 - for Title VII broadband services, in accordance with models and guidelines adopted by the FCC in consultation with the States;
 - for other services delivered over the facilities used to furnish Title VII broadband services, in the discretion of the States, subject only to a reserved right of Federal preemption that could be exercised to the extent necessary to avoid State conflicts with the policies of Title VII.

In addition to the innovations of Title VII, the Administration bill, like H.R. 3636, would reform the existing Titles I, II and VI of the Communications Act.

II. Local Competition and Interconnection (Title II)

- Both the Administration bill and H.R. 3636 would impose a general requirement that all carriers must interconnect with other providers of telecommunications and information services.
- Both bills would also impose (in substantially similar terms) more detailed requirements on local exchange carriers (LECs):
 - an obligation to interconnect at any "technically feasible and economically reasonable point";
 - an obligation to afford nondiscriminatory access to network facilities, services, functions, and information, where technically feasible and economically reasonable;
 - no restrictions on resale or sharing of network facilities and services).
- The Administration bill and H.R. 3636 would require the FCC to adopt regulations governing the price, terms, and conditions under which carriers may provide interconnections, access, facilities, and services. H.R. 3636 specifically requires LECs to file tariffs; the Administration bill would not. The Administration bill specifies that, in carrying out this requirement, the FCC and the States must prevent undue rate increases for any class or group of ratepayers.
- Both bills would require carriers to provide facilities, services, and network functions on an unbundled basis (e.g., carriers would have allow customers to pick and choose the constituent parts of the services to be taken. Thus, for example, instead of offering only switched local telephone service, a

carrier would also have to offer separately the switching and transport components of that service).

- The Administration bill would authorize the FCC to modify all of the foregoing obligations for small LECs and LECs serving rural areas. H.R. 3636 would exempt carriers serving rural areas from the foregoing interconnection and unbundling obligations and authorize the FCC to modify those requirements for carriers with fewer than 500,000 access lines nationwide.

III. State Preemption (Title II)

- The Administration bill would preempt state entry regulation for provision of telecommunications and information services. H.R. 3636 would prohibit state entry regulation for telecommunications services or state action restricting a firm from exercising the interconnection rights granted by the bill.
- The Administration bill would also preempt state and local regulation of the rates for any service charged by a telecommunications carrier that the FCC finds, or has found, after notice and comment, to lack market power. However, the Administration bill would permit States to petition the FCC to retain or regain authority to regulate such rates under certain conditions. H.R. 3636 has no comparable provisions.
- The Administration bill has specific provisions concerning FCC regulation of foreign carriers and foreign ownership of U.S. carriers. H.R. 3636 has no comparable provisions.

IV. Regulatory Flexibility (Title II)

- The Administration bill would authorize the FCC (1) to exempt carriers lacking market power from any provision of Title II of the Communications Act (except provisions relating: to the duty to serve; the duty to charge just, reasonable and nondiscriminatory rates; damages; and customer complaints) and (2) to tailor the regulations it does impose to reflect a carrier's market power. H.R. 3636 has no comparable provisions.
- Both bills would authorize the FCC and the States to permit carriers pricing flexibility for their competitive services. H.R. 3636 is very detailed in requiring the FCC to develop standards and criteria to guide regulators in exercising that authority.

V. Universal Service (Titles I and II)

- Both bills would make the preservation and advancement of "universal service" an explicit objective of the Communications Act (as opposed to an implicit goal emanating from Section 1 of the Act). In general, the Administration bill is more flexible than H.R. 3636 in specifying how that objective should be achieved.
- Both bills would require the FCC and the States to address universal service issues through a Federal/State Joint Board. The Administration bill would give the Joint Board more time than H.R. 3636 to develop its recommendations to the FCC, and the FCC more time to act on them.
- The Administration bill would authorize the FCC to require all providers of telecommunications services to make a "fair and equitable" contribution to the preservation of universal service. H.R. 3636 would require all providers of telecommunications service to make "an equitable and nondiscriminatory" contribution to the preservation of universal service.
- The Administration bill would also authorize the FCC, in consultation with the States, to permit "sliding scale" contributions (e.g., to avoid burdening small providers and new entrants), as well as "in-kind" contributions in lieu of cash payments (e.g., to reduce the monetary payments owed by providers that offer to wire schools, hospitals, etc.). H.R. 3636 has no comparable provisions.

VI. Cable-Telephone Crossownership (Title VI)

Generally: Both the Administration bill and H.R. 3636 would allow LECs to provide video programming in their telephone service areas, subject to certain conditions and safeguards. The bills vary, however, on the conditions and safeguards prescribed.

Definitions:

- Critical definitions, such as "local exchange carrier," "telephone service area," "rural area," and "video platform," are the same in both bills. However, the Administration bill would allow the FCC to modify the latter two definitions beginning 1 year after enactment.
- Both bills would allow LECs to offer video programming directly or through an "affiliate." The Administration bill would define the term "affiliate" more broadly than H.R. 3636, to include minority ownership or financial interests.

Structural Separation:

- Both bills would require LECs to provide video programming through a separate affiliate.
- H.R. 3636 specifies many of the details of the separation requirements. The Administration bill would charge the FCC with specifying the required degree of separation, subject to two basic requirements from H.R. 3636:
 - A LEC's video programming affiliate must have separate books, records, and accounts; and
 - Any contract or agreement between a LEC and its affiliate (1) must be pursuant to regulations adopted by the FCC, (2) must be on a fully compensatory and auditable basis, (3) must be without cost to the LEC's telephone service ratepayers, (4) must be filed with the FCC, and (5) must adhere with rules that will enable the FCC to assess the compliance of any transaction with its rules.
- Both bills would permit the FCC to modify separation requirements for small and rural LECs at any time. H.R. 3636 would allow the FCC to modify separation requirements for other LECs beginning 5 years after enactment. The Administration bill would reduce that waiting period to 2 years.

Common Carrier Obligations:

- Both H.R. 3636 and the Administration bill would require LECs to establish a "video platform" and make it available to unaffiliated programmers on nondiscriminatory terms.
- The Administration bill specifies that LEC provision of the video platform will be subject to all requirements of Title II of the Communications Act. H.R. 3636, by its terms, would require only that the rates for the platform be nondiscriminatory.
- The Administration bill would require a LEC to afford unaffiliated programmers nondiscriminatory access to its video platform whenever the LEC carries video programming. H.R. 3636 appears to require a LEC to afford nondiscriminatory access to its video platforms only when it carries "affiliated" video programming (*i.e.*, programming in which the LEC has an ownership interest).
- H.R. 3636 would require the FCC to limit the number of channels on a LEC's video platform that can be occupied by its video programming affiliate (that limit can be no lower than 25% of the platform's capacity). The Administration bill would authorize the FCC to impose such a limit and give the FCC discretion in selecting what the limit should be.

- The Administration bill would permit the FCC to modify any of the foregoing requirements for small and rural LECs. H.R. 3636 has no comparable provision.
- The Administration bill would direct the FCC to adopt regulations requiring cable operators to offer nondiscriminatory access to channel capacity on their systems for unaffiliated programmers, except when technology, costs, and market conditions would make such offering inappropriate. H.R. 3636 requires only that the FCC study whether to impose such obligations and report to Congress within 2 years after enactment.

Prevention of Cross-Subsidization: The Administration bill is similar to H.R. 3636 concerning prevention of cross-subsidization, but the Administration bill clarifies that the FCC need not adopt new regulations in this area if it determines that existing regulations are sufficient.

Anti-Buyout Provisions:

- Both bills would limit an LEC's ability to enter the video services market via acquisition of cable systems operating in its telephone service area. The Administration bill would also limit cable companies' ability to acquire LECs providing local telephone service in the cable companies' franchise areas.
- Both bills would permit exceptions for acquisitions occurring in rural areas and for joint LEC/cable operator use of the cable "drop wire." H.R. 3636 would also not preclude a LEC/cable acquisition if the number of households served by the cable systems acquired constituted less than 10% of all households in the telephone service areas of the acquiring LEC and its affiliates. The Administration bill has no comparable provision.
- H.R. 3636 would also authorize the FCC to waive the anti-buyout policy at any time under certain conditions. The Administration bill would authorize the FCC to change the policy by rule, or to grant waivers on a case-by-case basis, beginning 5 years after enactment, if it determines (based on FCC-specified criteria) that such action would be in the public interest.

Franchise Obligations:

- Both bills would eliminate some requirements of the Cable Act for the LEC's video programming affiliate and any other user of the LEC's video platform. The Administration bill specifies what Cable Act requirements will apply to the affiliate and to other users of the video platform.

- The Administration bill would authorize the FCC to remove some Cable Act requirements for cable systems that offer nondiscriminatory access comparable to that required of LECs by the bill. H.R. 3636 has no comparable provision.

Rural Exemption:

- H.R. 3636 states that provisions concerning the video programming affiliate, the video platform, provision of affiliated programming, and the ban on acquisitions do not apply to LECs offering video programming in rural areas. The Administration bill would authorize the FCC to modify those provisions for such LECs.

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The case for putting Internet applications on the policy agenda

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I. If it bleeds, it leads

Arguably, there is more time and energy being devoted in Washington to exploring the problems that the Internet creates than to promoting the benefits of the Internet and of information technology (IT) more broadly. There are plenty of hearings, bills and press accounts related to Internet smut, erosion of personal privacy, cyber-terrorism, spamming, Internet gambling, Internet fraud, cyber-stalking, Internet sales of guns and liquor, Internet addiction, etc. There is relatively less attention devoted to community networks, the potential of the Internet to provide "anytime, anywhere" instruction for adult learners, digital government, tele-health, digital libraries, the use of geospatial information systems, and other benefits and applications of IT.

Obviously, it's important for policy makers and the IT industry to confront the problems associated with the Internet. But it is also critical for the United States (and other nations) to pursue policies that will maximize the benefits of the Internet -- to "put people first" in the Information Age. In several areas, the Clinton-Gore Administration has been successful in getting a particular application of IT on the national agenda. For example, the "four pillars" of the Administration's educational technology initiative (Internet connectivity by 2000, technology teacher training, multimedia computers, and educational content) have widespread support, and funding for educational technology has increased at the federal level from \$23 million in FY93 to \$2 billion in FY2000. Administration leadership and federal funds have leveraged significant additional resources from states, volunteer organizations, local communities, and companies. However, the United States has just begun to scratch the surface when it comes to harnessing the power of the Internet. More can and should be done.

II. The case for a greater emphasis on Internet benefits and applications

There are a number of compelling reasons to increase the prominence of Internet applications on the national agenda.

1. **More Americans have access to it:** 79 million Americans now have Internet access, and 50 percent of households now have a personal computer. With the emergence of the sub-\$500 PC and other low-cost information appliances, price is becoming less of a barrier.

2. **The kinds of applications that can be supported is becoming increasingly sophisticated:** Not too long ago, Internet users were limited to ftp, telnet, e-mail, and Usenet. Today, Internet application developers can use streaming audio and video, digital signatures, secure transactions, shared virtual environments for collaboration, intelligent agents, tools for discovering and retrieving information, and speech recognition. Web browsers have become a universal client for deploying virtually any distributed application.
3. **The Internet may allow us to scale “services to the citizen” in a way that was impossible before:** To give one example, the government is not likely to be able to have resources to provide classroom-based adult literacy courses for the tens of millions of Americans that could use it. The Internet may allow the government to take advantage of the same economies of scale that allow a company to sell software with millions of lines of code for under \$100.
4. **Changes in public policy may be required to realize the benefits of IT:** Current laws and regulations may be a barrier to the application in question. For example, the requirement for state-by-state licensure of doctors may be slowing down the use of telemedicine. In some applications, the government may be the only or the most important user and funder of the application (e.g. public health information systems, crisis management, delivery of government services).
5. **The public’s image of the Internet will be influenced by the public discourse:** If the public debate is dominated by Internet smut and cyber-stalkers -- this will clearly impact the overall impression that members of Congress and the public have of the Internet in a negative way.
6. **New applications of IT will grow the market:** Although e-commerce will, to a large extent, drive the IT market, there is more to life than buying and selling. The Internet is about citizenship as well as commerce. New applications will help grow the market for IT products and services, and enrich our lives in the process.
7. **In the future -- we will be limited more by our imagination and creativity than technology:** As the price of transmitting, storing and processing information continues to plummet, the relevant question will shift from what **can** we design to what **should** we design.

III. Examples of applications

Below are some examples of important IT applications:

1. **Health care:** Consumer health information, computer-based patient records, shared patient-doctor decision-making, clinical decision support systems, computer-aided

medicine, unified electronic claims, VR for medical education, public health information systems.

2. **Digital Government:** 24x7 self-service, much more open and transparent government, information and services organized around constituencies as opposed to agencies, greater opportunities for informed participation.
3. **Life-long learning:** Participation in “communities of learners,” access to multimedia digital libraries, modeling and simulation that allows students to “do” science as opposed to read about it, intelligent tutoring systems that adapt to different learning styles.
4. **Crisis management:** “Judgment support” tools that assist crisis managers in making decisions based on incomplete information from sources with varying levels of quality and reliability; modeling and simulation of manmade and natural disasters; virtual “anchor desks” that allow crisis officials to call on resources of computational power, information, and both human and machine expertise.
5. **Environmental monitoring:** Networks of low-cost wireless sensors for real-time monitoring of air and water quality.
6. **Law enforcement and public safety:** Secure interoperable wireless networks to enable seamless cooperation between federal, state and local law enforcement officials.
7. **Arts, culture, and the humanities:** Archives, museums and performances online.
8. **Intelligent transportation systems:** Reduced congestion, accidents and fatalities, and increased energy efficiency.
9. **Improving the quality of life for persons with disabilities:** Multi-modal human computer interaction, including speech and gesture recognition, text-to-speech, automatic captioning, and the electronic equivalent of a guide dog.
10. **Distributed work:** Telecommuting, collaboration by geographically distributed teams).
11. **Geospatial information systems:** Crime mapping, improved decision-making for sustainable development at community level.
12. **Third World economic development:** tele-centers in developing countries, micro-enterprises online, “global knowledge networks” of development practitioners.
13. **Science and engineering:** Computational science, “collaboratories” that connect researchers, scientific instruments, supercomputers, and very large databases.

14. **Applications of IT that are focused on the needs of a particular constituency:** such as small business, older Americans, low-income/disadvantaged communities, rural communities, and non-profits.

IV. Promoting applications

In the area of electronic commerce, the Administration has emphasized industry leadership and industry self-regulation. For the most part, the role of government is to create a predictable legal and regulatory environment that will enable e-commerce to flourish. In other application domains, other policy instruments may be appropriate, including:

1. **Eliminating legal and regulatory barriers:** e.g. the lack of national medical records privacy legislation.
2. **Making the government a better user of the technology:** e.g. government use of Web-based training for training of federal employees.
3. **Establishing national goals:** e.g. connecting every classroom to the Internet by the year 2000.
4. **Supporting pilot projects to encourage experimentation,** e.g. the Telecommunications and Information Infrastructure Assistance Program.
5. **Providing education and training for users and professionals:** e.g. NIH graduate training grants for medical informatics.
6. **Investing in applications-oriented R&D:** e.g. NSF-sponsored research in digital libraries.
7. **Government support for industry-led open standards:** e.g. government support for testbeds of Open GIS Consortium and Instructional Management System.
8. **Government support for deployment:** e.g. Technology Literacy Challenge Fund for educational technology.
9. **Creating fora for discussion of issues between government, industry, academia, and non-profit organizations.**
10. **Sponsoring evaluation research to examine the costs and benefits of using IT for particular applications, and to identify best practices.**

V. Illustrative Administration initiatives

1. **Educational Technology:** Roughly \$2 billion/year (including “e-rate) to achieve four pillars: Internet access, multimedia computers, teacher training, and educational content.
2. **Information Technology for the 21st Century:** \$366 million increase in long-term IT research, consistent with the recommendations of President’s Information Technology Advisory Committee. Developing applications such as earlier prediction of tornadoes, more rapid development of drugs, and more accurate modeling of climate change.
3. **Next Generation Internet:** \$110 million to conduct networking research, connect (with Internet2) more than 150 universities and national labs to high-speed networks 1,000 times faster than today’s Internet, and develop new applications such as tele-echocardiography, image spreadsheets, tele-immersion.
4. **Community Technology Centers:** \$65 million to establish CTCs in low-income urban and rural neighborhoods.
5. **Digital Library for Education:** \$33 million to digitize archives, cultural artifacts in Smithsonian and National Park Service, and create digital library for math and science.
6. **Curbcuts on the Information Highway:** \$35 to make the federal government a better user of assistive technology, and to encourage industry to incorporate “universal design” concepts into IT products and services.
7. **Technology for adult education:** \$23 million to sponsor pilots of use of technology for adult literacy, adult basic education, and English as a Second Language.

VI. Could more to be done?

Clearly, more can and should be done. Although promoting benefits and applications of IT has been an Administration priority, industry can do more to define and advance the applications agenda, including:

1. **Developing white papers** that describe the potential of IT to make a difference in particular application domains, and concrete suggestions for policy-makers for moving the application forward.
2. **Fostering interaction of executives responsible for vertical markets with policy-makers:** Currently, policy-makers in the Executive Branch and the Congress interact with government relations and (occasionally) CEOs. Policy-makers rarely hear from company executives responsible for developing a vertical market (e.g. health care solutions).
3. **Creating policy networks that cut across industry lines:** Computing and communications industry associations are organized along (increasingly overlapping) industry lines - e.g. SIA, CSPP, BSA, SIHA, ITAA, EIA, TIA, AEA, SEMI, EMA, USTA, CIX, ALTS, etc. These structures are not designed to address issues related to applications, which will obviously cut across market segments and will involve other stakeholders in addition to companies.

The National Information Infrastructure and the Public Interest
November 12, 1993
2:00 p.m. to 4:00 p.m.
Room 476, OEOB

Agenda:

1. Introductions
2. The Administration's Perspective:
 - Administration's vision of the NII
 - Telecommunications policy and the NTIA grant program
 - Information policy
 - Opportunities for collaboration
3. The Foundation's Perspective
 - The role foundations can play
 - Reactions to Administration's view of collaboration
4. Next Steps
 - Improving communication between foundations and Administration
 - Discussion of specific collaborative efforts

The NII and the Public Interest

Discussion Paper for November 12 meeting

1. The Information Technology Revolution

The Clinton-Gore Administration believes that the emerging "National Information Infrastructure" will have an impact on virtually every impact on America's economic and social life. The NII will enable Americans to access information and communicate with each other using voice, video, data, or images at any time, anywhere. The rate of technological change and the rapid diffusion of that technology is astounding:

- Productivity in the information technology sector is increasing at a rate of at least 25 to 30 percent per year, as opposed to the 1-2 percent rate of the U.S. economy as a whole.
- By the year 2000, U.S. companies will be able to manufacture semiconductors with hundreds of millions of transistors on a finger-nail-sized piece of silicon, leading to the advent of a "supercomputer on a chip."
- U.S. companies are developing fiber optic technology capable of transmitting terabits (trillions of bits) of information per second.
- The Internet now connects 10-20 million users and is growing at a rate of 7 percent per month.

The development of the NII is a top Administration priority. On September 15, 1993, Vice President Gore and Secretary of Commerce Ron Brown issued an Agenda for Action, providing nine core principles to guide the development of the National Information Infrastructure. The Administration recognizes the potential of the NII for increasing economic growth, empowering citizens, improving democratic participation, and, generally, enhancing the quality of life. In the broadest sense, these nine principles are intended to promote greater commerce as well as citizenship.

2. Civic Applications of the NII

Although the media has focused on entertainment and home-shopping as the major applications of the "information superhighway", the Administration believes that the NII can also be used as a tool for tackling some of our toughest economic and social challenges, including:

- Improving our education and training system;

- Reducing the administrative costs associated with our health care system while improving access and quality;
- Increasing public access to government information;
- Fostering economic development in distressed rural and urban areas;
- Monitoring the environment;
- Expanding opportunities for Americans with disabilities through assistive technologies;
- Energy efficiency (telecommuting, demand-side management);
- Promoting participatory democracy at all levels of government; and
- "Reinventing" government and improving the delivery of government services.

3. Potential areas for collaboration

The Administration firmly believes that the success of the NII hinges on developing meaningful collaboration with different sectors, including business, philanthropy, nonprofits, and others. The Administration is eager to develop a partnership with the philanthropic community, and believes that such a partnership has advantages for both parties.

For purposes of discussion, we have suggested some possible areas for collaboration, including:

1. **Support for NII pilot projects** in areas such as education, health care, libraries, civic networking, sustainable development, community involvement in government decision-making (e.g., electronic rulemaking, town hall meetings on substantive issue areas, etc.) and delivery of government services and information, possibly in partnership with the federal government and other stakeholders.
2. **Research** (broadly defined) on the NII and its applications:
 - Policy development on issues such as universal service and privacy;
 - Evaluation and assessment of pilot projects; and

- Strategies for "scaling up" pilot projects to the national level.
- 3. Sponsorship of **clearinghouses** for state and local NII initiatives so that practioners and policy-makers can learn from one another.
- 4. **Training** to enable end-user communities to use these technologies.
- 5. Formation of an **NII Foundation** to enable the foundation community to pool their resources.
- 6. **Distribution** of donated hardware.
- 7. Support for **NII Fellows** to increase the ability of nonprofit organizations to participate in the development of the NII.

The Administration is not interested in attempting to control the types of activities that foundations fund, nor the types of grantees that foundations support. Rather, we are more interested in developing an ongoing communications channel that may lead to improved planning for complimentary initiatives. This could result in more strategic use of resources.

Potential next steps:

We hope that our November 12 meeting serves as a first step in developing a long-term collaboration in fulfilling the ultimate goals of the NII. We would suggest the following next steps:

1. The foundations could establish a mechanism for the foundation community to communicate with one another and with the Administration around NII issues. The Administration would be prepared to identify a liaison to work with a foundation-led liaison in order to pursue more defined agendas. Such a liaison could serve as a clearinghouse vehicle for sharing activities being pursued by each partner.
2. Further meetings between the Administration and the foundations on more specific topics (e.g. education, sustainable development).
3. Selection of topics for pilot projects.



THE VICE PRESIDENT
WASHINGTON

March 30, 1994

Dear Internauts:

On behalf of the Administration, I want to thank the members of the Internet Engineering Task Force for all of the hard work you have put in to the operation and evolution of the Internet.

As you know, the development of a ubiquitous information infrastructure is one of the top priorities of this Administration. I believe that today's Internet is a "working prototype" for tomorrow's Global Information Infrastructure. The progress to date has been amazing, not only because of the Internet's rapid growth, but because of the way in which it is changing the way we work, live, learn, and communicate with one another. The opportunities to harness this technology for life-long learning, health care, manufacturing, the delivery of government services, and many other applications are limited only by our imagination:

- Imagine our children browsing through vast digital libraries, conducting scientific experiments on powerful supercomputers, and learning about foreign languages and cultures by communicating with other children around the world.
- Imagine a health care system that offers higher quality, lower cost care and empowers people to make intelligent decisions about their health care needs.
- Imagine a world-class U.S. industrial base that uses information technology to form virtual corporations and to respond nimbly to changes in customer demands.
- Imagine a federal government that works better and costs less, or a local Department of Motor Vehicles that allows you to renew your license with a click of a button instead of a four hour wait in line.

The work of the IETF and the broader Internet community is critical to making this vision a reality. Few people are aware of the IETF's work in areas such as information discovery and retrieval, security, transport of audio and video, the "next generation" of the Internet Protocol, and mechanisms for supporting electronic commerce -- but many people will be affected by it.

The nature of the government's support for the Internet is changing with the emergence of commercial network service providers -- as it should. Direct government support now accounts for a tiny fraction of the revenues required to fuel the growth of the Internet. However, we will continue to look for ways to be a good "net citizen." We can do this by, for example, supporting long-term research, and making government information available to the public over the Internet. To the extent that the IETF and the Internet Society have suggestions for making the federal government a better net citizen, I would be delighted to have them.

Keep up the good work!

Sincerely,

A handwritten signature in dark ink, appearing to be 'Al Gore', written in a cursive style.

Al Gore

AG/tak