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Whitehead Asserts Nixon's Bill Does Not Seek

Clay T. Whitehead, the 34-year-old director of the White House Office of Telecommunications Policy, sent shock waves through some segments of the broadcasting industry last month when he condemned "ideological plugola" and "elitist gossip" in network news programs and warned that "station managers and network officials who fail to correct imbalance or consistent bias in the networks or who acquiesce by silence—can only be considered willing participants, to be held fully accountable . . . at license renewal time."

Mr. Whitehead's speech, given before a Sigma Delta Chi journalism luncheon in Indianapolis, also revealed the outline of a Nixon Administration bill that would amend the law now governing broadcasting—legislation that would alter some ground rules under which the Federal Communications Commission now regulates the industry, such as the amount of time that must be devoted to specific program categories.

Although the F.C.C. would continue to be the final arbiter of what constitutes "responsible" TV programming, the basis for its rulings would be "how well a licensee has gone about the business of finding out what his community wants and needs and how actively has he gone about meeting those needs." Under the proposed legislation, local station managers would apply to the F.C.C. for license renewal every five years instead of the more restrictive three years now in force and the procedures under which stations could be challenged would be changed.

The proposed bill and Mr. Whitehead's criticisms have been denounced by some critics as an attempt by the Nixon Administration to guide broadcasters away from dealing with controversial subjects, to drive a wedge between networks and their affiliated local stations and to interfere with the content of television programs critical of government policy.

Much confusion also has arisen over what Mr. Whitehead actually was calling for in his speech and what is specifically contained in the Administration bill.

To seek answers, Mr. Whitehead was invited to participate in a round table discussion of these issues with editors and reporters of The New York Times. Mr. Whitehead, trained as an engineer and management specialist at M.I.T., gave replies that were cool, careful and sometimes witty. His intention throughout was to reassure the industry and the public that the Administration sought more freedom for broadcasting, not less. He declined, however, to give specific examples of what he considered network failings on the ground that it would deflect the discussion away from essentials.

Excerpts from the discussion follow:

Q.: Your draft bill, coupled with your Indianapolis speech, has been interpreted in the broadcasting industry and elsewhere as a carrot and a stick. The carrot being the promise of a longer license period—five rather than three years. And the stick being that in exchange broadcasters would be expected to hold a

rein on network news, be accountable strictly for what comes on network news, commercials and entertainment programs. Is this a fair interpretation of your speech and bill?

WHITEHEAD: I've never been quite sure about what the carrot and stick analogy means. It's kind of gotten

lost since the days of the mule cart, where it was first used.

There is no doubt that we're making two overtures to the broadcasting industry. One is the very straight-forward statement that we believe they should have more insulation from government, they should have more stability in their licenses, broadcasting should be run as a business not as an arm of the government. On the other hand we recognize the many criticisms that have been brought to bear against broadcasting. It's not only news—the totality of broadcast programming.

And we are saying that the industry as a whole—networks and local station managers—has to stand up and say the responsibility that was enforced from Washington will now be enforced voluntarily throughout the system.

Q.: Could you be specific in some of the examples that underlie your apparent dissatisfaction with network news?

WHITEHEAD: Now I really don't want to cite specific examples either of violence in programming, misleading advertising or of irresponsible news. Because to do so would be to focus the public debate on specifics and that's not what we're trying to get here. What we're trying to get is a reasonable consideration of this very important and very sensitive policy area.

Q.: Does this then leave it up to each local station to decide just what you mean by "elitist gossip"?

WHITEHEAD: That's absolutely correct.

Q.: In your speech you said that "the broadcaster has to demonstrate that he is being substantially attuned to the needs and interests of the communities he serves." Does this mean that if it's a conservative community the broadcaster is supposed to have programs that match the prejudices of the community?

WHITEHEAD: The theory of our system as it is today is that we give licenses to people who are responsible leaders of their community. And I don't think that anyone would argue that someone who simply panders to the

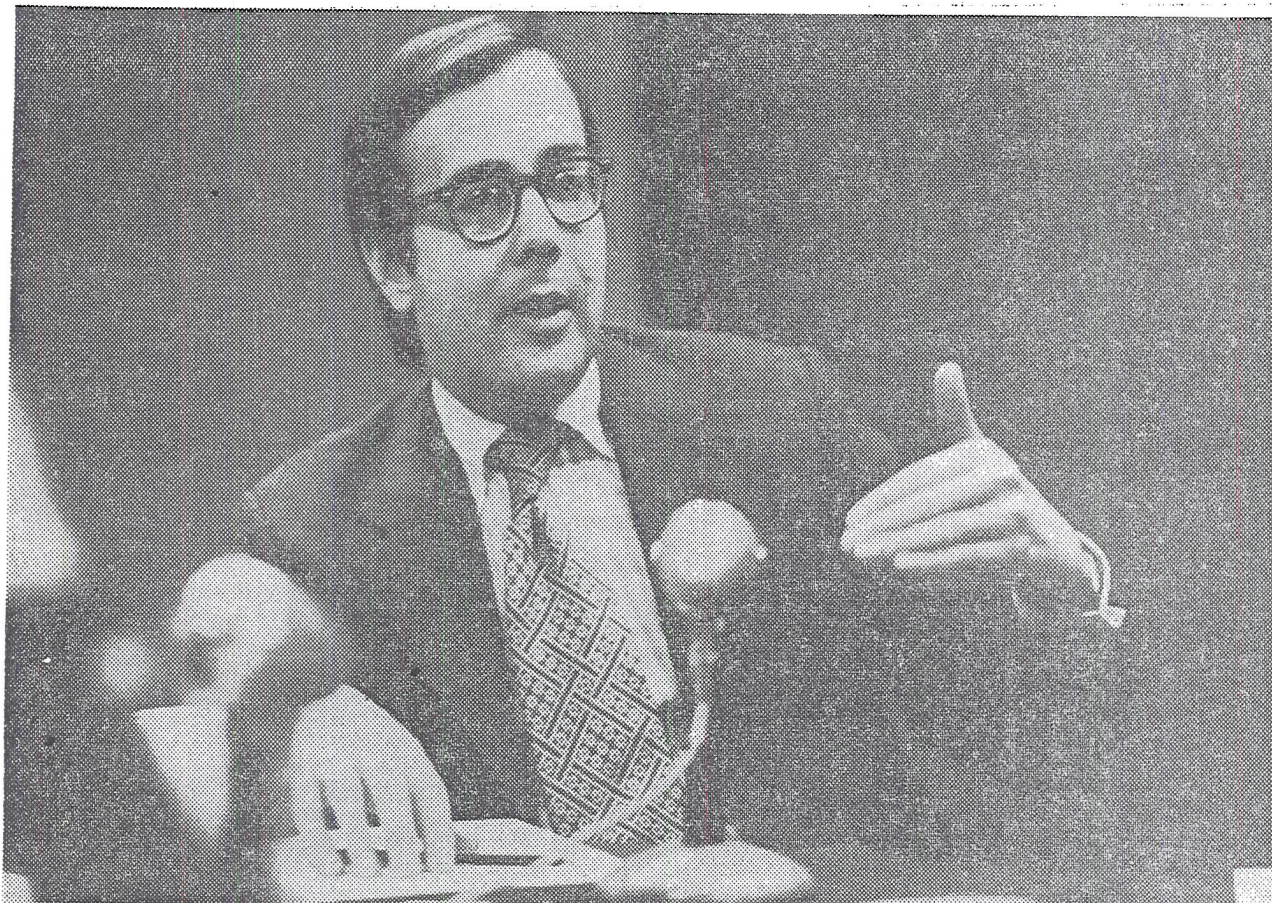
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Broadcasters



The New York Times/Robert Walker

Clay T. Whitehead, director of the President's Office of Telecommunications Policy, as he was interviewed here

prejudices of his community is a responsible community leader.

Q.: Well, what does "substantially attuned to the needs and interests" mean?

WHITEHEAD: That is the kind of thing that has to be worked out by the F.C.C. It's important to recognize—and I think this has been widely misinterpreted—that this bill does not add any new standards. It does not add any new responsibility. Much to the contrary, it takes away some of the things that the F.C.C. can now do; makes it more difficult for the government to act capriciously; makes it more difficult for people in Washington to apply their own standards to the broadcaster's performance.

Q.: Somebody is going to be setting standards. Somebody is going to have to decide whether the broadcaster has demonstrated that "he is substantially attuned to the needs and interests of the communities." Would you have local community boards decide that?

WHITEHEAD: I think that ought to be the responsibility of the local station manager or the station owner. He's the man whom we license and who has the responsibility for doing that.

Q. You spelled out some very broad areas in which the Federal Government can make decisions about whether a local station is living up to its license or not. In the absence of any specific criteria it seems as if what you're doing is giving the Federal Government almost carte

blanche to make decisions about a local station's license.

WHITEHEAD: It can appear that way only if you don't understand how the F.C.C. now goes about this business. This bill adds nothing new to the F.C.C.'s authorities. It takes away. It limits the F.C.C.'s opportunities for striking at a licensee or taking away his license. It does so in several ways: it gives [the commissioners] less frequent opportunities to review—every five years instead of every three—and they may consider only two specific criteria, not the whole range of criteria] that they now consider.

Currently it says they may not arbitrarily restructure the broadcast industry through the case-by-case application of license renewal. The F.C.C., for instance, under our bill, would be specifically precluded by law from establishing their own program categories. They now have some 14 categories of programs. The F.C.C. is now considering the application of minimum percentages, so that each television station in the country would be required to have, say, to 4 per cent religious programming, 5 per cent national news programming, 7 per cent local news programming, so much agricultural, so much sports; etc.

Now if that's the way you want to go, if you think that the programming of the television stations in this industry in this country ought to

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be determined from Washington, if you want the F.C.C. setting up their own criteria for what's good programming, I suppose you can defend that point of view with some logical persistency. We think it's bad; we think it just invites the Government to wreck the programming; it invites the Government to set increasingly arbitrary categories.

Q.: But the F.C.C. still will be the final arbiter in the renewal process. What criteria will they use?

WHITEHEAD: We're saying the F.C.C. should be turned from the course they're now on, which is trying to define what is good programming, and they ought to turn to perhaps an equally difficult, but certainly more healthy approach, which is to say "How well has this licensee gone about the business of finding out what his community wants and needs and how actively has he gone about actually meeting those needs?"

Now the question is how do we evaluate that. I would hope that it would be a fairly general test. We've made it very clear that the burden of proof is on the person who would challenge the license.

Q.: I was talking with a station manager only about an hour ago and he asked me to ask this question. "If a man is fearful that the network is supplying him with suspect news, what do you expect him to do, drop network news entirely?" Because in the case of live programs, you can't pre-review them.

WHITEHEAD: I expect him to behave like a responsible community leader.

Q.: That's pretty general.

WHITEHEAD: Well it is.

Q.: Would you expect them to edit individual shows? Cronkite comes over the air, let's say, and they don't like something in the Cronkite show. What do you see them doing?

WHITEHEAD: That's obviously a very extreme measure. Again you're inviting me—remember where I work—to make a public comment as to how the broadcasters should go about editing their news. That's inappropriate.

Q.: Can we put it another way? What do you expect to see happen if this legislation is approved? What difference would there be in relations between the local stations and the networks?

WHITEHEAD: What you would hope to see is the networks making some kind of visible effort to more actively involve their affiliates in their programming. To consult with them when they're putting together their various pilots, when they're selecting which pilots they're going to carry on for further development, when they're making their final decisions as to programming.

Q.: They do that now through affiliates' associations, through the board of

governors of the affiliates. It's already being done.

WHITEHEAD: Listen, I'm very aware that that kind of thing goes on. But are we saying here that the process is perfect, that there's no room for improvement?

Q.: There's been some fear that this in terms of news might further drive a wedge between the affiliates and networks and make the networks even more timid about reporting very controversial issues and about doing investigative reporting. Do you think it might have that effect?

WHITEHEAD: Much to the contrary. What we're trying to urge here is a more active involvement between the stations and the networks. They ought to be working more actively, they ought to be meeting more often than at just their affiliate meetings. What's wrong with the local stations evaluating the network news?

Q.: The question is whether that evaluation might inhibit network news. Television has been criticized quite a bit for not being aggressive enough in doing investigations, for example, that might embarrass government. And some of that's been attributed to the fear of affiliates . . .

WHITEHEAD: Is government inhibited by criticism? From time to time it is when it gets out of line. Unless you think that there's something about the three television network news operations, they're somehow insulated from the government; they're insulated from their own network management; they're insulated from local stations; there's something about them that gives them some magic ability to be erroneous or at least better than anyone else. If you don't agree with that concept then maybe they do need a little criticism and the only question is where does that criticism come from? And all we're saying is better that those checks and balances come from the broadcasting community itself than from the government.

Q.: Can you imagine under this proposal a station approaching renewal time getting a documentary in advance from the network and looking at it—let's say it's very controversial, "The Selling of the Pentagon" or a documentary on the Black Panthers—and deciding, "Let's not take any chances, let's just not put this on the air, we don't want to make waves and stimulate opposition to our licence application."?

WHITEHEAD: I can't deny that that kind of thing might not happen. But I don't see that it would get the broadcaster very far in the scheme that we now have or that we're talking about. The test as to making available a wide variety of points of view is not a negative test; it's positive. So no one is talking about getting points of view off the television screen; no responsible person is talking about getting the network news off television.

Q.: What points of view do you think are not sufficiently represented now in the area of news?

WHITEHEAD: I think every person has his own evaluation of that.

Q.: Can you continue giving us your definition of elitist gossip? Was that directed to one sector of the country?

WHITEHEAD: Elitist gossip has to be defined by the person perceiving it. Every housewife knows what an elitist is and every housewife knows what gossip is. Everyone's going to apply it differently. But most people, I think, recognize that they see that from time to time.

Q.: You used the phrase. Don't you think that you ought to define it in terms of what you had in mind when you used it?

WHITEHEAD: I think it would be counterproductive.

If you wish to make my speech — the newsworthy event in that — to be what Whitehead's views are of network news operation, that's one thing. If you want to say that the newsworthy value of the speech is how do we go about regulating a very important medium of mass communication in this country; how do we walk this very delicate line that we have between governmental regulation and licensing and the freedoms of the First Amendment, that's another thing.

As a result of this latest speech I do have at least temporarily a rather spirited attention being drawn to how the First Amendment applies to broadcasting. And I think that's very healthy. It's long overdue.

You see most of the confusion has come from people who don't realize how intrusive government regulation has become in broadcasting. I would recommend everyone who is seriously interested in this to get a copy of the F.C.C.'s current license renewal form for a television station and look at it. And just ask yourself what would be the reaction if the Nixon Administration proposed asking some of those questions—like what percentage local news do you do? Describe your news staff? How many people? Where do you get your news? Those are the kind of things that we're talking about taking off the application renewal, not putting on.

Q. Do you think government regulation under its present system has had an impact on news coverage?

WHITEHEAD: Unquestionably.

Q. In what way?

WHITEHEAD: Through to some extent politicizing the news process. Because when people can come to the F.C.C. and complain about how news is being handled you very clearly have had an impact.

Let me give one good example. The Vice President gave a speech in Des Moines

which cracked the press. I think the criticism of that would have been much less if it weren't for the implication that this Administration could or would use the power of the license over the television network. That criticism takes on a different air either actually or implably when there is a government license. There always is a suspicion that somehow this Administration wants to use the F.C.C.'s procedures as a club over the electronic media.

Q.: How would you assess the chances of getting your bill through Congress?

WHITEHEAD: I hope that we get it through the next session.

Q.: How involved is the President in the bill?

WHITEHEAD: I think it's a very important item on the Administration agenda. The President is very much aware of the quality of broadcasting and he thinks this is a constructive, responsible approach.

Q.: What was the Vice-Presidential input?

WHITEHEAD: Nothing.

Q.: Suppose the networks continue with their elitist gossip or whatever it is that you don't like, what would this law do or this proposal do to make them behave differently?

WHITEHEAD: Absolutely nothing. This law provides no vehicle for the White House to use, the Congress to use, or anyone else to use to force local stations to do anything. It takes away.

Q. Can a local station manager give a better picture of what's happening nationally than a network if a local station manager starts to back away from the elitist gossip?

WHITEHEAD: I'm not sure that they should back away from the elitist gossips. The elitists are entitled to their point of view.

Q. If a station had its license revoked after the F.C.C. decided that the local community challengers were correct that the station had not been attuned to the interests of the community, what would a new company have to prove before it could get that license?

WHITEHEAD: It would have to show that it could do a better job. It would be comparative. It would have to promise more in terms of what that community says it wants.

Q. That could become very political.

WHITEHEAD: But it could be very political today. If there's no way of involving the government in granting television station licenses we'd have the opportunity for being very political. The question is what procedures do you want to establish to minimize that input. You're walking this very delicate line between government regulation and the freedoms of the First Amendment.

Q. This would take away

a lot of power from the F.C.C., would it not?

WHITEHEAD: It would.

Q. And do you not see your role, the role of the Office of Telecommunications Policy, partially to drain off some of that power from the regulatory agency for the direct voice of the President?

WHITEHEAD: No Not at all. We would have no role in regulating television. Our only role would be the policy under which television is regulated by the F.C.C.

Q. It's a pretty big point, though, making policy?

WHITEHEAD: Of course it is. Remember, we have to ask the Congress to pass this law. We can't decree it.

Q. You said you'd amend the Communications Act of 1934 to fit the First Amendment. Would the chief amendment to that be removing the fairness doctrine from the Communications Act?

WHITEHEAD: That's obviously one of a long string of things that would probably have to be done. It would be nice to give a lay-out of the blueprint; say "All right country, here's how to do it." The area is too sensitive, too controversial, too important, too complex for that. I may have some ideas about how I think things ought to end up, come 1984, but I don't think this is the time to lay them out in some grand design.

Q. Is that the year you're shooting for?

WHITEHEAD: It's a good year to keep in mind.