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Text of White House I.T.T. Paper

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WASHINGTON, July 19—Following is the text of a white paper submitted to the House Judiciary Committee by the White House in which the International Telephone and Telegraph anti-trust decision is discussed.

THE WHITE HOUSE The ITT Anti-Trust Decision

In the thousands of pages of testimony and analysis regarding the ITT case since 1971, the only major charge that has been publicly made against President Nixon is that in return for a promise of a political contribution from a subsidiary of ITT, the President directed the Justice Department to settle antitrust suits against the corporation.

That charge is totally without foundation:

—The President originally acted in the case because he wanted to avoid a Supreme Court ruling that would permit antitrust suits to be brought against large American companies simply on the basis of their size. He did not direct the settlement or participate in the settlement negotiations directly or indirectly. The only action taken by the President was a telephoned instruction on April 19, 1971 to drop a pending appeal in one of the ITT cases. He rescinded that instruction two days later.

—The actual settlement of the ITT case, while avoiding a Supreme Court ruling, caused the corporation to undertake the largest single divestiture in corporate history. The company was forced to divest itself of subsidiaries with some \$1 billion in annual sales, and its acquisitions were restricted for a period of 10 years.

—The President was unaware of any commitment by ITT to make a contribution toward expenses of the Republican National Convention at the time he took action on the antitrust case. In fact, the President's antitrust actions took place entirely in April of 1971—several weeks before the ITT pledge was even made.

I. President's Interest in Anti-Trust Policy

Mr. Nixon made it clear during his 1968 campaign for the Presidency that he stood for an antitrust policy which would balance the goals of free competition in the marketplace against the avoidance of unnecessary government interference with free enterprise. One of Mr. Nixon's major antitrust concerns in that campaign was the Government's treatment of conglomerate mergers. Conglomerates had become an important factor in the American economy during the 1960's, and despite public fears that they were threatening free competition in the marketplace, the administrations of those years—in Mr. Nixon's opinion—had not been clear in

their attitude toward them. In one of his 1968 campaign books, "Nixon on the Issues," in which he put forward in summary form his conclusions about national and international issues, Mr. Nixon expressed his dissatisfaction with existing conglomerate policies:

"The Department of Justice has recently proposed guidelines for 'conglomerates' but the guidelines have not provided any substantial criteria on which businessmen can safely depend. Moreover, there is the problem of unsettled case law on the question. My administration will make a real effort, and a successful one, I believe, to clarify this entire 'conglomerate' situation . . .

To help resolve the issues involved, Mr. Nixon during his campaign appointed a Task Force on Productivity and Competition, headed by Professor George Stigler of the University of Chicago and including several eminent academicians. The task force presented its report to the newly inaugurated President on February 18, 1969. The group recognized public fears that conglomerates posed a "threat of sheer bigness" but said these fears were "nebulous" and should not be converted into an aggressive antitrust policy on the basis of knowledge then available. "We strongly recommend," stated the report, "that the Department (of Justice) decline to undertake a program of action against conglomerate enterprises . . ."

A similar view was set forth by many outside the Government. In an article in Fortune in September of 1969, Robert Bork, then a professor of antitrust law at the Yale Law School, attacked the policy of antitrust enforcement against conglomerates that he thought was emerging at the Justice Department. He noted that unless conglomerate mergers were involved in horizontal price-fixing within an industry, there was no economic foundation for believing that they were anti-competitive. He also noted that "The campaign against conglomerate mergers is launched in the teeth of the conclusion reached by the task force that President Nixon himself appointed to study and report on antitrust policy."

A second major concern of the President and his advisors was their fear that the ability of U. S. companies to compete in the world market might be threatened by antitrust actions against conglomerates. The United States faced a shrinking balance of trade surplus and the President and many of his advisors felt that the U. S. multi-national companies could play an important role in improving the balance.

The President feared that antitrust action against those companies which was based upon something other than a clear restraint of trade would render them less able to compete with the government-sheltered and sponsored industrial giants.