

Incidental Paper:

**International Communications
and Information:
The Need to take it
Seriously**

Oswald H. Ganley

Program on Information Resources Policy

Harvard University

Center for Information
Policy Research

Cambridge, Massachusetts

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International Communications and Information: The Need to take it Seriously.
Oswald H. Ganley
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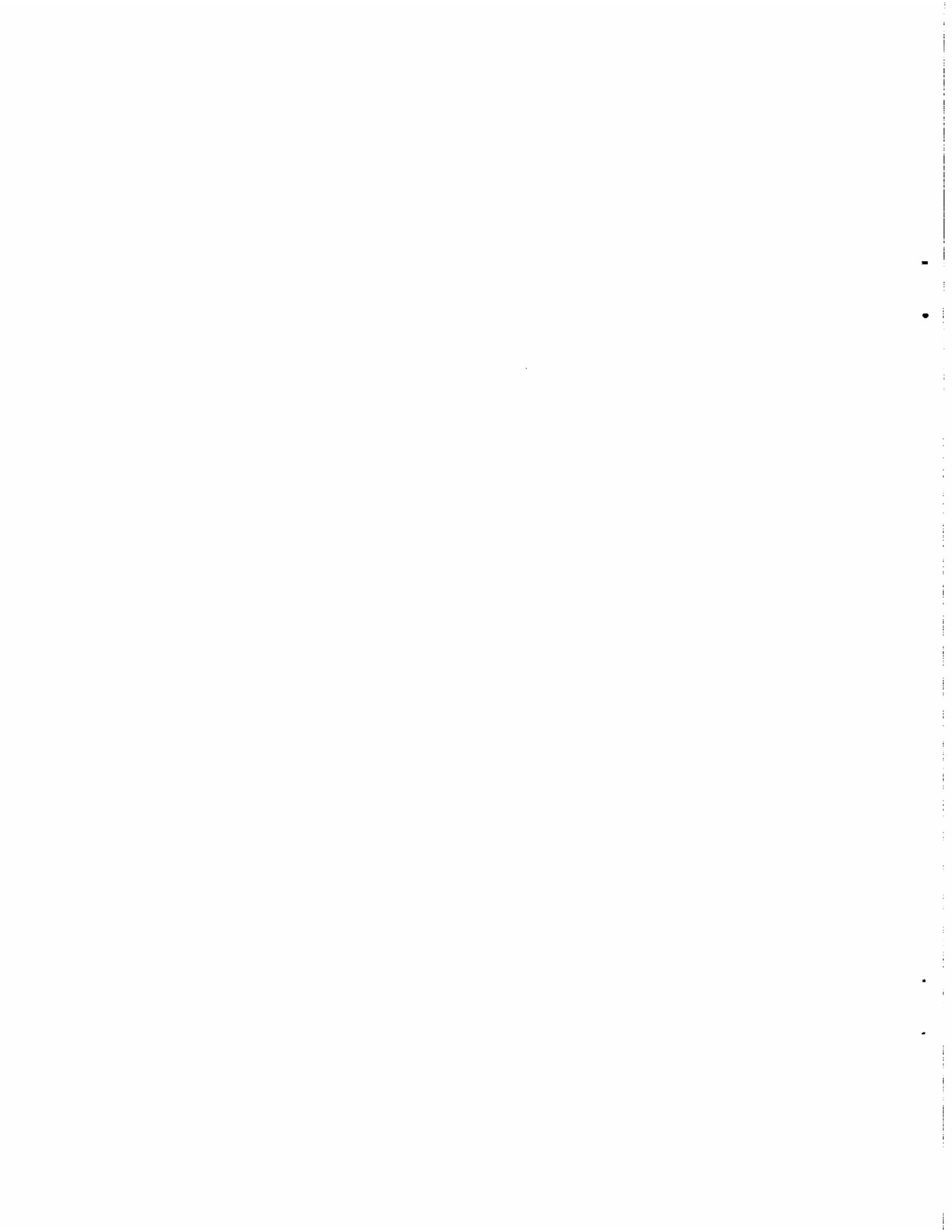
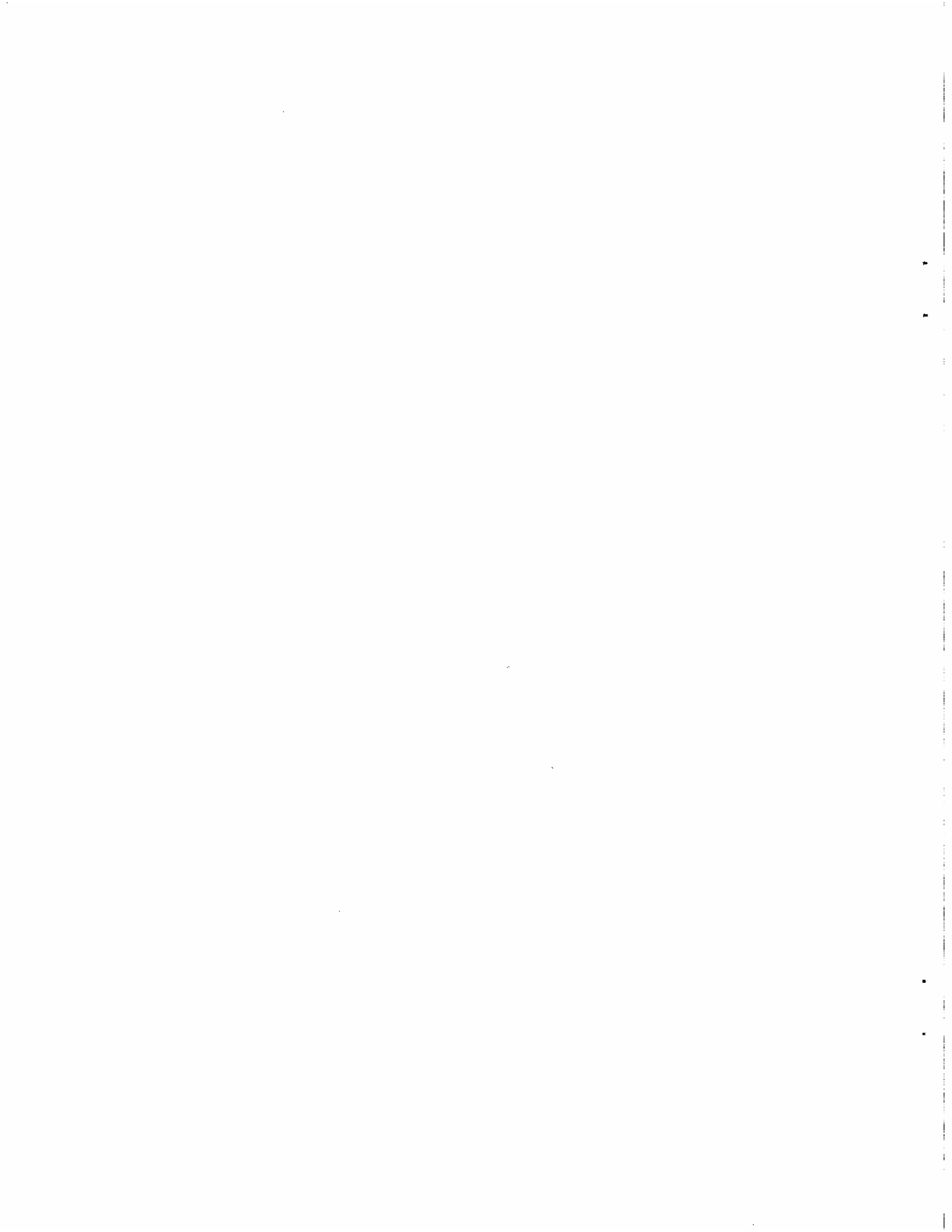


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Part I

Testimony on HR 1957

**INTERNATIONAL COMMUNICATIONS
REORGANIZATION ACT OF 1981**

HEARINGS
BEFORE A
SUBCOMMITTEE OF THE
COMMITTEE ON
GOVERNMENT OPERATIONS
HOUSE OF REPRESENTATIVES
NINETY-SEVENTH CONGRESS
FIRST SESSION
ON
H.R. 1957
A BILL TO REORGANIZE THE INTERNATIONAL COMMUNICA-
TIONS ACTIVITIES OF THE FEDERAL GOVERNMENT

MARCH 31 AND APRIL 2, 1981

Printed for the use of the Committee on Government Operations



Mr. ENGLISH. Dr. Ganley?

STATEMENT OF DR. OSWALD H. GANLEY, EXECUTIVE DIRECTOR, INTERNATIONAL AND ALLIED ARENAS PROGRAM ON INFORMATION RESOURCES POLICY, HARVARD UNIVERSITY, CAMBRIDGE, MASS.

Dr. GANLEY. Mr. Chairman, I am pleased to appear before this committee today.

My name is Oswald H. Ganley. I am executive director of international and allied arenas, at Harvard's program on information resources policy. I am a former Deputy Assistant Secretary of State for Science and Technology.

My wife and I have recently completed a book, which is very much on the subject of the concerns expressed in this bill. I am testifying in my personal capacity.

H.R. 1957 calls attention in a timely fashion to the need to look at international communications as a whole rather than as individual fragments; to the necessity for coordination of the individual parts; to the need for formulation of U.S. policy in this field; and, above all, to the urgency for action in this dynamic area in which the United States has large and rapidly growing political, economic, and national security stakes.

The first question to which I would like to address myself is, how wide, indeed, is the mandate of H.R. 1957?

Communications and information in these days of potentially great importance and very deeply may affect the way the world lives, works, and organizes its societies. But nowhere in the bill is communications and information actually defined. The bill contemplates passing responsibility for certain sections of previous Executive orders to the Council, but most of these contemplated functions are essentially in the telecommunications area as fairly classically defined. The bill contemplates passing certain activities of the International Communications Agency to the Council. But H.R. 1957 would appear to allow those communications and information

matters related to national defense to continue to rest in the Defense Department and related agencies and to remain outside this coordination effort. I draw this conclusion because neither the Secretary of Defense nor the Director of Central Intelligence is a member of the contemplated Council.

But rather than asking quasi-bureaucratic questions I would like to raise some specific policy questions for the consideration of the committee and to ask whether, in your view, matters of that nature would be included under the mandate of the Council.

They are questions such as: trade issues, like the Japanese challenge to the U.S. semiconductor industry; trade in information, including taxation; foreign privacy legislation; freedom of the press overseas; communications and information aspects of international currency markets; restrictions and discriminations endured by U.S. periodicals, the film industry, and television program producers; remote sensing and the establishment of an operational remote sensing system with all of the resulting international implications; the health and future development of U.S. space launch systems and communications satellites; AID programs related to communications and information; broadcasts by the Voice of America and U.S. Government involvement in other international broadcasting endeavors; national technical means of verification; the debate on the use of encryption in the civilian sector and basic research in that area; vulnerability of satellite and other international communication systems; domestic interception by foreign powers in the United States of governmental and civilian telephone conversations—Presidential Decision Document 24.

And finally, the health of the R. & D. establishment that makes it all possible.

On the other hand, is it the intent of the committee, when it contemplates transferring educational matters and cultural activities, including exchange programs from ICA, that the Council would have jurisdiction over the 13-odd United States Soviet exchange and technical agreements, or over the many other exchange agreements for which the Government is responsible?

The foregoing is only a partial list of current problems.

If all of these matters are included, then a very much broader consensus for legislative action would seem to be called for than the subcommittee so far appears to be contemplating.

When it comes to the placement of the projected coordination function, the envisioned Council would appear to have powers beyond those of existing councils and groups within the Executive Office of the President and the White House. But it is the stated goal of this administration to streamline the White House organization rather than to create additional superstructures in the Executive Office.

While it is high time to single out the communications and information resources sector from others and to understand and deal with its changing dynamics, this sector cannot and must not be treated in isolation. Communications and information activities are an integral part of, and both conform to and influence U.S. domestic and international affairs.

Organizing controversial topics of a broad range within the White House structure has not always in the past proved to be a solution, unless the President himself is wholeheartedly behind it.

As a previous witness, Dr. Morgan, indicated, the Prime Minister of England is personally directly involved in policy formulation in this field.

Outside of the Executive Office of the President, the State Department has the widest range of authority to accommodate this type of topic. The big question here is: Would the State Department rise to the challenge? Unfortunately, the way the State Department and the Foreign Service have chosen to deal with the increasing numbers of crucial functional areas of great complexity is not promising. Numerous forces and stakeholders have found the Department wanting, so that, over the years since World War II, foreign assistance, arms control, information activities, cultural and educational matters, and, most recently, trade and commerce, have been transferred elsewhere.

But, nonetheless, with appropriate motivation, which possibly the Congress might be able to provide, and a sufficiently firm mandate, the Department could, with relatively little restructuring, take the lead in developing and executing U.S. policy in this area and in acting as principal coordinator of a multidepartmental and multiagency communications and information effort.

This concludes my summary, Mr. Chairman.

Mr. ENGLISH. Thank you, Dr. Ganley.

[Dr. Ganley's prepared statement follows:]

Hearings before the
Subcommittee on Government Information and Individual Rights
House Committee on Government Operations

March 31, 1981

Statement of Oswald H. Ganley
Executive Director, International and Allied Arenas
Program on Information Resources Policy
Harvard University

My name is Oswald H. Ganley. I am Executive Director of International and Allied Arenas at Harvard's Program on Information Resources Policy, and I teach at the John F. Kennedy School of Government. Our policy research program is supported by some one hundred organizations which have diverse and conflicting stakes in communications and information policy. (A list of these Program Affiliates is attached.) I am a former career Foreign Service Officer, and most recently served as Deputy Assistant Secretary of State for Science and Technology. My wife, Gladys D. Ganley, who is a professional writer, and I have just completed a book entitled, International Implications of United States Communications and Information Resources, which deals with much of the area this Bill covers. I am testifying today in my personal capacity, and not as a representative of Harvard, our Program, or any of its supporters.

H.R. 1957 calls attention in timely fashion to the need to look at international communications as a whole rather than as individual fragments; to the necessity for coordination of the individual parts; to the need for formulation of U.S. policy in this field; and above all, to the urgency for action in this dynamic area in which the United States has large and rapidly growing political, economic, and national security stakes. Appended to this

testimony are eighteen points, extracted from the summary of our book, which support the necessity for developing a comprehensive international communications and information policy.

Breadth of the Mandate

The changes that new communications and information resources have brought about are of such potential importance and may affect so deeply the way the world lives, works, and organizes its societies that it would seem essential for the U.S. to consider such a sweeping reorganization of government functions in these areas as H.R. 1957 seems to call for.

But how sweeping, in effect, is this Bill? H.R. 1957 seeks to establish in the Executive Office of the President, a Council on International Communications and Information. It states, under Section 2(3)C, page 3, lines 18-23, that:

"The Council shall, through performance of the functions transferred to it by subsection (b), develop and implement a uniform, consistent, and comprehensive United States policy on international communications and information and shall advise the President with respect to international communications and information..."

But nowhere does the Bill define "international communications and information." The functions transferred under 2(b), page 3, lines 4-17, are essentially international telecommunications functions, narrowly defined. Section 3 of Executive Order 12048, dealing with the International Communication Agency (ICA) covers:

"... international informational, educational, and cultural activities, including exchange programs..."

These words could be given broad meaning, but both ICA and NTIA have had problems since their 1978 inception in giving meaning to the "information" portion of their respective mandates.

H.R. 1957 would appear to allow communications and information matters related to national defense to continue to rest in the Defense Department and related agencies and to remain outside this coordination effort. The Department of Defense is a major user of the electromagnetic spectrum, and many key U.S. foreign policy objectives in the communications and information field are defense related. It is noteworthy, therefore, that H.R. 1957 includes neither the Secretary of Defense nor the Director of Central Intelligence on the Council.

Would the Council, for instance, have jurisdiction over:

- ... Trade issues, such as the Japanese challenge to the United States semiconductor industry?
- ... Trade in information, including taxation?
- ... Foreign privacy legislation?
- ... Freedom of the press overseas, and the variety of issues debated in UNESCO and elsewhere affecting the U.S. press and electronic media?
- ... Communications and information aspects of international currency markets?
- ... Restrictions and discriminations endured by U.S. periodicals, the film industry, and television program producers?
- ... Remote sensing, and the establishment of an operational remote sensing system, with all of the resulting international implications?
- ... The health and future development of U.S. space launch systems and communications satellites?
- ... AID programs related to communications and information?
- ... Broadcasts by the Voice of America, and U.S. government involvement in other international broadcasting endeavors?
- ... National technical means of verification?
- ... The debate on the use of encryption in the civilian sector and basic research in that area?

... Vulnerability of satellite and other international communication systems?

... Domestic interception by foreign powers in the United States of governmental and civilian telephone conversations (PO 24)?

... The health of the R&D establishment that makes it all possible?

On the other hand, is it the intent to burden the Council with

"...educational matters, and cultural activities, including exchange programs..." (part of Section 3 of Executive Order 12048 targeted for transfer to the Council)? Does the Subcommittee, for instance, envision the Council having jurisdiction over the 13-odd U.S./Soviet exchange and technical agreements?

The foregoing is only a partial list of current problem areas. Recent communications and information developments now actively affect almost every activity of both the public and the private sector in the United States as well as other advanced countries.

If all of these matters are included, however, then a much broader consensus for legislative action would seem to be called for than the Subcommittee so far appears to be contemplating. But without this broad range of jurisdiction, the effort needed to effect a major reorganization might not be justified, nor the Bill's aims fulfilled.

Placement of the Projected Coordination Function

H.R. 1957 contemplates placing the Council on International Communications and Information in the Executive Office of the President. But is there a political consensus for such a move? The Council's authority appears to surpass that of the National Security Council, the Council on Environmental Quality, the Office of Science and Technology Policy, or the

Council of Economic Advisors. But the stated goal of this Administration is said to be to streamline the White House organization rather than to create additional superstructures in the Executive Office.

By transferring activities in Section 5-201 of Executive order 12046 to the Council, H.R. 1957 would also appear to strip the Secretary of State of his "primary authority for the conduct of foreign policy" in this field. This could give rise to severe opposition from that quarter.

While it is high time to single out the communications and information resources sector from others, and to understand and deal with its changing dynamics, this sector cannot and must not be treated in isolation. Communications and information activities are an integral part of and both conform to and influence U.S. domestic and international affairs. Organizing controversial topics of a broad range within the White House structure has not in the past proven to be a solution unless the President is wholeheartedly behind it.

Outside the Executive Office of the President, the State Department has the widest range of authority to accommodate this type of topic, since it is responsible for the conduct of foreign policy, is experienced in trade matters, guides agencies such as ICA and AID, deals with national security matters, and above all, has the mechanism to interact with foreign governments and multilateral organizations.

The big question, however, is: Would the State Department rise to the challenge?

Unfortunately, the way the State Department and the Foreign Service have chosen to deal with the increasing numbers of crucial functional areas of great complexity is not promising. Numerous forces and stakeholders

have found the Department wanting, so that, over the years, foreign assistance, arms control, information activities, cultural and educational matters, and, most recently, trade and commerce, have been transferred elsewhere. Even when certain activities are nominally retained, such as international technology affairs and international monetary affairs, decisions tend to be made where the expertise lies.

The State Department is essentially a crisis-oriented organization. Today it is El Salvador. Before, it was something else, and tomorrow it will be something else again, since crisis follows crisis in this unstable world. In addition, the generalist-oriented Foreign Service has difficulty in dealing substantively with complex economic, legal, social, and technical problems having both domestic and international implications. And overall, longer range questions create handling problems for the Department of State.

Nonetheless, with appropriate motivation and a sufficiently firm mandate, the Department could, with relatively little restructuring, take the lead in developing and executing U.S. policy in this area, and in acting as the principal coordinator of a multi-departmental and multi-agency communications and information efforts.

Membership of the Interagency Committee

Some of the most sensitive political/economic foreign policy questions involve the developing countries. The non-oil producing developing countries absorb 33 percent of all U.S. exports and are the fastest growing of all American markets. The U.S. therefore has a vested interest in helping them with their communications and information needs and problems. Yet, the Director of the Agency for International Development is not being

considered for membership on the Interagency Committee. Since the intelligence community has a major stake in international communications and information, the Director of Central Intelligence might also be considered for inclusion in the Interagency Committee, if not on the Council itself. The Director of the Office of Science and Technology Policy also has major responsibilities for technology, innovation, productivity, and national security, and could make a major input into the decision-making process.

* * *

Today, the United States still enjoys a major comparative advantage in the communications and information area, and still has the opportunity, if quickly seized, to correct its weaknesses. But we are entering an era where many countries understand the stakes involved and are aggressively jockeying for position. The United States now has the option to interest itself in communications and information resources across the board. If it chooses, the U.S. can provide the leadership so necessary for the orderly progression of this new economic sector. If the U.S. declines this leadership, the world will not wait. The option will merely pass to other, possibly less benign global forces.

APPENDIX*"Why Communications and Information Resources Deserve Policy Attention"

The following are eighteen reasons why communications and information resources issues deserve the careful and continuing attention of U.S. private and government leaders and policy makers:

1. The combined communications and information sector market in the United States was roughly estimated to be about \$150 billion in 1979. Various astronomical figures are given for its worldwide value by the end of the 1980's. We can rest assured that it will be a lot. The communications and information sector is accounting for larger and larger chunks of the U.S. economy, and it can be safely assumed that this trend will spread worldwide.

Within the United States, fifty percent of the labor force already worked in communications and information-related activities in 1970, and the percent of GNP from this sector at that time was about 30 percent. This, too, is the trend throughout the industrialized world. The communications and information sector is active, dynamic, and growth-oriented, in the presence of general industrial malaise. The top three U.S. industries in total productivity are said to be telecommunications, electric and electronic equipment, and semiconductors. And this group ranks fourth best in U.S. foreign trade, exceeded only by agriculture, arms, and civilian aircraft. Computers and computer related equipment alone accounted for a positive Balance of Trade of more than \$4 billion in 1979.

2. Governments of other countries resent their inundation by American information in the form of television programming, magazines, books, newspapers, films, records, and advertising, even as they buy U.S. media products because they like them and because they are cheap. At the same time, they fear being dependent on the United States in what they consider to be a vital new area, communications and information resources. This is especially true of the electronics-based technologies. This combination is leading them to consider various kinds of restrictions on information and its products which cross their borders.

3. Potent ideas such as national sovereignty and cultural identity expressed by some advanced and most developing nations may seem vague and nonspecific. But they express in political terms the fears of the effects of new developments in the communications and information area, and especially of the relentless

* From Chapter XX, International Implications of United States Communications and Information Resources, Oswald H. Ganley and Gladys D. Ganley, Harvard University Program on Information Resources Policy, 1981.

exposure to alien values these developments bring with them, which could distort the social and cultural fabric of individual societies.

4. U.S. government and U.S. commercial enterprises must have international communications, whether in the form of voice, data, or facsimile. So must the governments and commercial enterprises of the rest of the world. Perhaps the most obvious examples are international airlines and banks, which cannot exist without international communications and information systems of great complexity.

5. Today's money markets operate 24 hours a day, and this has profound effects on market dynamics. It reduces national decision-making control over national currencies, and perhaps undermines a fundamental tenet of national sovereignty.

6. The intelligence services of the super powers depend on satellites for reconnaissance, for national means of verification of each other's strategic capabilities, and for other functions. This practice has now been recognized and written into international treaties. It has also been recognized that telemetry and other electronic listening posts (bases) on foreign soil, and undersea electronic surveillance devices on the high seas are essential to modern security needs.

7. The U.S. defense establishment and U.S. diplomatic missions depend on reliable, secure, and rapid international communications for command and control, vital decision-making, and for the execution of orders of the most critical nature for national survival.

8. The availability of microelectronic components makes possible the production of critical defense hardware, and the scarcity of these same components as surely prevents it. Provision or denial, and security of access are therefore international issues.

9. The U.S. is being challenged in a number of communications and information areas by other nations, who are catching up in the electronics and computer areas, and are thus threatening U.S. post-World War II technological leadership. The capability of France and Japan of launching their own satellites has changed the status quo, and has added new dimensions to the functioning of INTELSAT and other outer space activities.

10. Communications and information technologies are among the most sensitive of all technologies to be singled out by the U.S. government for strategic and foreign policy export control reasons.

11. International, as well as domestic communications/computer networks are increasingly vulnerable to interference by unfriendly

nations and by terroristic groups. They are also susceptible to simple breakdown. With growing dependence on these systems, vulnerability is increasing proportionately.

12. The news media, and especially television, rely more and more heavily on real time broadcasts from points of interest and trouble spots globally. Satellite transmission, video tape, and portable electronic cameras permit news coverage from almost any part of the globe. While this makes for greater worldwide awareness, it also contributes to international tension.

13. The principle of free flow of information, the cornerstone of U.S. information policy since World War II, is being challenged by developing nations. Newsmen have increasing difficulty in gaining access to news, and must take more personal risks to achieve success. Developing countries are demanding a New International Information Order, viewing knowhow as information, and insisting upon access to technological knowhow on concessionary terms. Information is in all ways fast becoming more valuable as a commodity on world markets.

14. With rapid and extensive data flow across international boundaries, and the use of readily accessible and retrievable computer data files, threats to privacy of personal data have become an international issue.

15. The right to broadcast, via shortwave or TV, without prior consent of the recipient nation -- or conversely, the right to protect national integrity by jamming, for instance -- is a subject of debate between the U.S. and communist countries, the U.S. and the less developed countries, and the U.S. and Canada.

16. The electromagnetic spectrum needed for broadcasting, data transmission, scientific uses, remote sensing, and a variety of other purposes is limited. Its allocation is therefore the subject of increasing competition and dissention among nations.

17. Almost by definition, communications and information is not confined within national borders, and almost by definition, the information society will be built by a series of events affecting many nations simultaneously. The question then is, do and can multinational organizations, as now set up to handle specific categories of problems, meet the needs for the multilateral resolution of communications and information disputes.

18. Nearly twenty major policy level international conferences on matters related to communications and information questions are already scheduled to be held within the next five years. The outcome of each has potentially important ramifications for U.S. business, the U.S. economy and security, and for U.S. news gathering and distribution activities."

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PROGRAM ON INFORMATION RESOURCES POLICY

Harvard University

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Mr. ENGLISH. Let me try to respond just a little bit to what you said. I think you have put your finger on it.

The State Department claims the authority to deal with the problems we are discussing. The reason for this legislation is the fact that they haven't done it. We haven't seen any indication that they want to do it, or that they are going to do it.

What we come down to, as I stated in my opening statement—and certainly this legislation is not perfect and can use improvement—is quite frankly, that this is a reasonable approach that we have come up with.

It is the only course of action that is left open to us at this point to do anything effective about this problem. That is where it leaves us.

If anybody wants to come up and make a suggestion on how we can do better, we are delighted to hear it. That is the reason we are having these hearings. We are wide open to it.

I would like nothing better than to have Secretary Haig give us a letter stating that beginning tomorrow the State Department is going to reorganize, commit needed resources, establish a policy for the United States in this area, and move forward with it. That would just tickle me to death. I imagine it would just tickle everybody in this room.

But I don't think any of us expect it to happen. It is like Santa Claus coming in June.

That is where we are, and those are the problems that we are faced with.

I think you have made some very valid points, regarding the dangerous waters we are moving into.

Quite frankly, the only thing we are after right now is trying to establish a coherent policy. If we get that done, I think we are going to have one heck of a major accomplishment, whether it is this legislation or any other method. That is all we are shooting at.

As far as getting the President personally involved in this, I hope that if this legislation succeeds that the President will get involved and will take an interest. I think it is important.

As has been pointed out before, I believe that communications and information goods and services are the No. 2 export of this country. Certainly the balance of payments is important to this country.

I come from an agricultural district. We have the No. 1 export. I would like to see No. 1 and No. 2 doing well and making a lot of money, both for the people in this country and to help our balance of payment situation.

But I am not willing to sit by and cross my fingers and hope somebody over at the State Department—some Secretary, whether this one or sometime in the future—decides that this is an area that is important to the United States and decides to pursue a coherent policy.

If he isn't going to do it, we will. One way or the other. Either direct or indirect.

That is where we come down to, and the way I see it. I am not totally satisfied with the approach we are forced to take, and I am not pleased by it. But I don't see any other option.

We have one heck of a vacuum, and somebody is going to have to fill it. That's the only thing I can see.

Mr. Kindness, did you want to ask a question?

Mr. KINDNESS. Thank you, Mr. Chairman. I am pondering what you just said.

It appears to me that there are variations that might be developed in the approach but that basically some more attention has to be directed toward the development of a policy center in this area.

I think the testimony we have received here this morning has been very helpful in developing the record on this. I welcome any further followup statements.

I don't have any specific questions at this point, but I would urge, Mr. Chairman, that we continue to pursue this to the point of bringing a focus, at least, how the approach shall be made.

I think that is your purpose and I concur in it.

I might add an apology for having been delayed this morning. This sort of thing is sometimes uncontrollable, but I do apologize.

Mr. ENGLISH. Now that the members of the committee have made their statements, we will give the witnesses an opportunity to respond in any way that they would like—either agreeing or disagreeing with the comments that were made.

We are really going to have to put a finger on the problem and say that this country must have a policy. That's it; that's the No. 1 issue. And we need it soon.

As I said, if anybody has any ideas about how to do it better, that is why we are here.

We can thrash around here and get involved in the technical problems of this bill. Certainly those are going to have to be addressed. If we get to the point of actually marking up the bill, which I think we will, we want that input. But I think that we are going to have to start focusing our attention on the problem of a policy for this Nation in dealing with these kinds of problems.

Mr. BRUCE. Mr. Chairman, I think you have put your finger precisely on the problem.

Dr. Morgan suggested this morning there were alternative approaches, beginning first with the machinery and searching for a policy or—beginning with the policy and then moving toward the appropriate governmental machinery.

I think, that I would prefer the latter approach, which is to begin first by evolving a policy point of view on these myriad and different issues.

You are dealing, in the international area, with a set of problems that are very different in character. Some of the problems are more trade-related; some are more telecommunications related; some relate to the traditional telecommunications planning activities. It seems to me that what needs to happen is that at a very high level—at a Cabinet level—those officials need to begin spending more time on these issues.

I can testify on personal experience that even an FCC Chairman and FCC Commissioners have very full agendas and deal with a myriad of issues. I think they are spending increasing amounts of time on these issues, but probably not nearly enough.

I think that this is probably true in the case of preparations for some of the international conferences which are highly technical.

The key is to begin with a focal point—with some official someone who sets out an agenda of issues to be addressed and begins to get officials from various agencies to contribute to the construction of a policy document. There is no better way to get coordination than to get governmental officials working together on a problem. My own experience is that if you get them together and try to divide up responsibilities and turf over Executive orders, the exercise is very counterproductive. I went through an experience with that when the last Executive order was developed. We didn't develop policy; we developed fences among agencies.

Mr. ENGLISH. So you would see the most important thing we could do would be to force the various officials who have responsibility in this area to sit down together in a room and come up with a policy.

Mr. BRUCE. I think that's right. I think that probably these hearings are having some impact.

Mr. ENGLISH. I hope so. We haven't seen any indication of it. I hope you're right.

Mr. BRUCE. Maybe later this morning.

Mr. ENGLISH. Ms. Nelson?

Ms. NELSON. Mr. Chairman, I heard the frustration in your voice when you were talking about the State Department.

Perhaps I can relate to you the reaction to the first report I gave to the State Department in January 1980, when they asked for my view on the conference, and I provided it to them. The response was deafening silence and then a curt statement indicating that the problems I had described really hadn't existed at all.

I think you have a major problem when you have the Congress of the United States saying there are problems and you have the responsible executive branch agencies saying that they will go away or we will muddle through.

You also have substantial agreement in the private sector. I have participated in other conferences where I found myself in agreement, which doesn't happen very often, with an ITT vice president and general counsel and with various other private sector spokesmen as well as with Senator Schmitt.

So I think you are right. You have to try to get people's attention. It is like banging a mule on the head. One way to get an agency's attention is to threaten to take away their jurisdiction. I share Mr. Bruce's hope that these hearings will do just that. I don't think Congress can do more than try to establish a structure. You can't, obviously, work out the technical details up here. That is uniquely the executive branch function. But this bill seems to be a good first step.

Mr. ENGLISH. What you are saying is, hopefully, the two before worked so we don't have to drag out the sledgehammer.

Dr. GANLEY. Sometimes sledgehammers hit their mark and sometimes they don't. Sometimes you hit things and kill off things that you don't want to kill off. So it just depends on how the sledgehammer is applied.

One way of applying the sledgehammer is perhaps by creating, as in many other political environments, a constituency. It is not just the executive branch, including the State Department and the White House, that does not understand the full impact of what is

going on in this broad sector of communications and information; that this is affecting everything that we are doing; that the nervous system of just about everything domestically and internationally important to the United States is involved in this. I am very much afraid that the private sector, except for relatively few companies—that even the executives of some of the largest corporations with very vital stakes—do not fully comprehend the importance of what is going on in this area.

If you would have such an appreciation in the private sector, and if enough companies and enough private interest groups would speak out and say that something needs to be done, then I think the Secretary of State and the Secretary of Defense and appropriate people in the White House would start to react.

So this is perhaps another approach to setting a little fire under the executive branch.

Mr. KINDNESS. Dr. Ganley, do you know of any existing efforts in the private sector to coordinate information or views as to the problem and the policy considerations involved here?

I recognize the fact there could be antitrust implications for companies that may be in competitive positions and, therefore, there is great impediment to their exchange of information.

Are you aware of anything on an association basis that is going on in the private sector?

This is addressed to any of the panel.

Dr. GANLEY. The U.S. Council of the International Chamber of Commerce is concerned and has a group on transborder data flow and telecommunications. Again, this is a narrow focus on telecommunications. Other groups that come to mind are CBEMA, ADAPSO, BIAC, and the World Press Freedom Committee, for instance.

Then there are some university groups such as ours that attempt to provide a kind of neutral forum where some of these things can be discussed free from antitrust implications. But all of this is, to the best of my knowledge, quite limited.

Mr. KINDNESS. Thank you. Is there any other response?

Mr. BRUCE. I think that the U.S. Council is probably the major one. There is also a telecommunications conference that I think is beginning a dialog between Mexican, United States, and Canadian interests with the Japanese, so there are some other private fora that are developing.

I think those are very important, in addition to whatever the Government does to participate in more formal dialog.

Mr. KINDNESS. I was thinking of Dr. Ganley's expression that there is a need to develop a constituency for the evolution of some policy center and wondering what elements are there already with which to work and on which to expand.

Mr. BRUCE. There may be other witnesses who will elaborate on that.

Mr. KINDNESS. Thank you.

Thank you, Mr. Chairman.

Mr. ENGLISH. I have a couple of questions that I would like to get answered very briefly.

Do you believe that international communications and information questions facing us need the full-time attention of a senior policy official?

If not the full-time attention, at least a considerable and continuing part of such an official's time? This would be either a Cabinet or sub-Cabinet level official.

Mr. BRUCE. Yes, I think so, unquestionably. I think we are just entering an era in which, as I tried to indicate in my prepared statement, information policy issues are going to become as important as energy policy issues. I think those are trends that are occurring. They will increase in magnitude in the future. I think we ought to be ahead of the trends instead of behind them.

Ms. NELSON. Most definitely.

As I tried to spell out in the longer written statement, the ITU for the next decade will be raising substantial policy questions that we cannot afford to rely only on technical experts for answers.

I don't know if we are going to be ready for the plenipotentiary, which happens next year, without the attention having been focused on the broad policy issues that are to be dealt with there.

We must focus on those policy questions. It seems to me that only Cabinet-level officials have the breadth and depth of experience to concentrate on some of them.

Dr. GANLEY. Again, I must agree. Decidedly so.

The questions are essentially political and worthy of consideration at the highest policy levels in the economic, trade, and national security areas. Most of these questions have so far been relegated, with a few exceptions, essentially to lower staff levels, with occasional attention at the Deputy Assistant Secretary or Assistant Secretary levels.

It is dangerous to have this situation continue into the future.

It is essential that people at high levels within the Cabinet and in the Congress pay attention to this very rapidly evolving situation. We are not dealing here with theoretical questions; these are very real questions on which much of our economy and very much of our national security is dependent.

Mr. ENGLISH. Can the trade and nontrade aspects of international communications and information problems be separated in policy development or are the different aspects of the problem so intertwined that the policy must be developed from a broad base before it can be applied in a particular area?

Mr. BRUCE. I think that you can't deal with individual trade-related controversies or individual restrictions on data flows unless there is a broad policy framework.

One of the difficulties of a trade representative getting into these controversies after they have gone a long way down the road is that there is a tendency to deal with them in isolation.

I think clearly there is a role for the trade representative in these areas, at least until policies are better sorted out.

Whatever activities the STR engages in should be in a broad policy context. The State Department and other agencies have a great deal to contribute to the dialog.

Ms. NELSON. The specialized approach is useful. However, I think here the specialized approach is what has us bogged down. We need that cross-fertilization of ideas between various affected agencies.

For example, ITU issues are often not trade related at all. Some questions pertain to development economics. Some are strategic questions; for example, what kinds of radars will be allowed in Western Europe and what are our long-term interests in the Indian Ocean or off the coast of Africa?

They have to be considered simultaneously with the purely engineering technical kinds of questions, as well as economic or trade questions.

Dr. GANLEY. We first need to have a group of people who can look at the overall picture and who can see the different parts come together.

I am not sufficiently optimistic, Mr. Chairman, of the possibility of ever having such a thing as a coherent, comprehensive communications and information policy, just as little as we will have a coherent, comprehensive foreign or economic or other policies in our society. The way we do things just does not lend itself in that direction.

But we can always strive. That does not excuse us from handling issues in individual little fragments representing individual little interests. We can have a broad view. Under this broader view, we can handle individual questions, such as the management of the spectrum, or transborder data flow, or defense, or intelligence, or trade questions.

But first we need some kind of mechanism at a high level to look at the total picture as it evolves over time.

Mr. ENGLISH. Can the coordinating function be lodged in any existing agency, and what limitations beyond those in the bill may be needed to be placed on the authority of the coordinator?

Mr. BRUCE. Mr. Chairman, as I mentioned, I think that this set of problems we are talking about is very diverse. The problems cover a wide spectrum. Particular agencies are going to have more of an involvement on some of those issues than others. In dealing with all of the issues, each of the agencies has to carry out its own coordinative activities.

What the dialog on this bill indicates is that there may be a need for a central focus—at least someone who is looking at the whole spectrum of issues, from telecommunications to trade to purely information policy and is making sure that when policies are implemented on particular issues, they are being addressed by the individual agencies in a broader policy context.

I don't think it is an all or nothing situation. All of the individual agencies have to do a much better job of bringing to bear in their individual deliberations a broader perspective. You may still need some one person at a fairly high level who is looking across the range of issues.

Ms. NELSON. Your question had two parts.

I think we have already answered it in some respects.

I agree with Dr. Ganley. It would be awfully nice if the State Department would take on its responsibilities, but we recognize the past there.

Second, with respect to limitations on the coordinator, I had some particular questions which I discussed with staff about the transference of whole functions from various agencies.

As I understand the bill, the Council is to provide a coordinating function. I am concerned about what residual authority will be left in each of the departments and how many of the personnel and the functions should be transferred to the Council.

For example, should personnel be transferred wholesale from the Department of Commerce to the Executive Office of the President? I am not sure all of them should be. There should be some residual authority left in Commerce.

It seems to me that the intent of the bill is for the coordinator to broaden the analytical function in the Executive Office of the President. I don't have any specific recommendations for changing that language. I would like to study it further.

Dr. GANLEY. I continue to be concerned about adding, even if it is temporary, an additional agency—council, or what have you, in the Executive Office. Past performance has been disappointing. There is no question about that. And I am not quite sure that the time has arrived when we ought to go to the next step of creating additional groups with their own problems. Perhaps relatively minor restructuring, for instance, of the State Department might at least give an additional opportunity to the Secretary of State to come to grips with this kind of thing. The Department in the past has from time to time responded to congressional prodding. There have been problems with refugee affairs, with narcotics, with human rights questions. Whether the present setup in those areas is satisfactory to the Congress and the American people I don't know. But at least some movement did occur and some attention has been paid to these subjects as time progressed.

Perhaps we might be able to draw some lessons from those experiences.

Mr. ENGLISH. I want to thank the panel, once again, for appearing before us today. It has been very helpful and beneficial. Thank you very much for your cooperation.

Next we will hear from Mr. Geza Feketekuty, who is Assistant U.S. Trade Representative for Policy Development, Office of the U.S. Trade Representative.

Welcome, and thank you very much for appearing before us.

Feel free to summarize your written statement. The written portion will be included for the record.

STATEMENT OF GEZA FEKETEKUTY, ASSISTANT U.S. TRADE REPRESENTATIVE FOR POLICY DEVELOPMENT, OFFICE OF U.S. TRADE REPRESENTATIVE, WASHINGTON, D.C.

Mr. FEKETEKUTY. Thank you, Mr. Chairman.

I am Geza Feketekuty, Assistant Trade Representative for Policy Development.

It is my pleasure to appear before this committee again this year, representing Ambassador Brock, the U.S. Trade Representative.

The issues before this committee are of critical importance to the international trade position of the United States and to the economy as a whole.

Technological advances in communications and data processing make these related industries one of the most dynamic and growing sectors of our economy and the source of the most significant

increases in productivity over the next couple of years in our economy as a whole.

Our competitive strength in these industries has made exports of telecommunications and data processing goods and services an increasingly important source of export earnings.

In fact, it is quite remarkable when you look at the data what a large and increasing proportion of our exports are accounted for in this area.

Ambassador Brock assigns a very high priority to our work on trade issues in telecommunications, data processing and data base services.

I should say that early on, when he came on board, he and I spent some time talking about this issue. He certainly agreed that we should give this a high priority. He gave us the green light to go ahead with everything we have been doing.

I have given this issue considerable attention over the past year in connection with my efforts to support the commercial interests of U.S. service industries.

In our view, this committee made a very considerable contribution last year in drawing our attention and the Government's attention and in drawing national attention to the importance of these issues.

Just recalling Mr. Ganley's comments—the business about prodding Government—that does have results.

In this particular case, I certainly saw the results over the past year.

We are pleased that the committee is continuing its efforts to be sure that these issues are given the high priority they deserve.

While I think that things considerably improved last year after last year's hearings, there is always further improvement that is desirable and helpful. I am sure the committee's hearings this year, again, will serve the same function.

We share the committee's interest in making sure that the Government is in a position to carry out a well-thought-out and well-coordinated policy in support of U.S. commercial interests in telecommunications, data processing, and data base services.

Part of the problem here is one of language, Mr. Chairman. One never knows exactly how to describe this beast.

Before addressing the organizational proposals contained in H.R. 1957, I would like to bring the committee up to date on our activities over the past year.

An assessment of the progress we have made could prove useful to a discussion of the bill.

Over the past year, we have made a determined effort to address pressing trade issues brought to our attention by firms offering telecommunications, data processing, and data base services.

We have also carried out extensive consultations with the private sector as a whole to identify the whole range of trade problems experienced by U.S. firms offering these services.

An inventory of the measures we have compiled is attached as appendix B to the statement.

On the basis of the information we have collected, we have carried out a detailed analysis of the major trade issues we will need to address over the coming years and the relationship of such

Part II

HR 1957 is sequentially referred to the Committee on Foreign Affairs from the Government Operations Committee



HARVARD UNIVERSITY
PROGRAM ON INFORMATION RESOURCES POLICY

ANTHONY G. OETTINGER
Chairman

JOHN C. LEGATES
Director
(617) 495-4114

July 22, 1981

The Honorable Dante B. Fascell
Chairman, Subcommittee on International
Operations
Committee on Foreign Affairs
House of Representatives
Washington, D.C. 20515

Dear Mr. Fascell:

Thank you for your letter of July 7, 1981 inviting me to comment further on H.R. 1957, as well as to testify on the Committee on Foreign Affairs alternative to H.R. 1957.

I am making these comments in my personal capacity, and not as a representative of Harvard University, the Program on Information Resources Policy, or any of its approximately one hundred sponsors.

On March 31, 1981, I had the privilege of testifying before the Subcommittee on Government Information and Individual Rights, the House Committee on Government Operations, regarding H.R. 1957. In that testimony, I made the following principal points:

1. I stated that H.R. 1957 called attention in timely fashion to the need to look at international communications and information as a whole rather than as individual fragments; that there is a necessity for coordination of the individual fragments; that there is a need for formulation of U.S. policy in this field; and, above all, that there is an urgency for action in this dynamic area where the U.S. has large and rapidly growing political, economic, and national security stakes. I submitted a long list of reasons in support of the necessity for developing a comprehensive international communications and information policy.
2. I questioned whether the mandate of H.R. 1957 was broad enough to deal with the great variety of political, economic, social, defense and intelligence matters that must be handled in the international communications and information field.
3. I questioned the desirability of setting up another bureaucracy in the Executive Office of the President, as the Bill then proposed, and suggested that organizing to address controversial topics of a broad range within the White House structure has not

The Honorable Dante B. Fascell
July 22, 1981
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in the past proven to be a solution unless the President personally was wholeheartedly behind the effort.

4. I suggested that, outside the Executive Office of the President, the State Department has the widest range of authority to accommodate this type of problem but that the big question was whether the State Department would rise to the challenge. Unfortunately, I stated, the way the State Department and the Foreign Service have chosen to deal with the increasing numbers of crucial functional areas of great complexity has, in the years since World War II, caused a variety of functions -- including foreign assistance, arms control, information activities, cultural and educational matters, and most recently, trade and commerce--to be transferred elsewhere.

H.R. 1957 as reported by the Government Operations Committee appears to me in some ways to be less satisfactory than the Bill formulated at the time when I testified before. H.R. 1957 provides valuable means for prodding the Administration and especially the Department of State to take action and forcefully points to the urgency of dealing with these matters. I would hope that the desired goals could be achieved using less complex measures. The Foreign Affairs Committee draft substitute is a simpler approach, calling for only minor reorganization and would seem to have a reasonable chance for success. However, should this be unsuccessful, Congress may wish to return to more drastic forms of reorganization.

I turn now, specifically to the Foreign Affairs Committee draft substitute for H.R. 1957. The following comments are based on my fifteen years experience as a former Foreign Service officer and a former Deputy Assistant Secretary of State, dealing primarily with functional topics and working mostly within the Washington labyrinth.

The concept of a coordinator for international communications and information affairs in the Department of State proposed in the draft substitute is very close to a recommendation I made to former Deputy Secretary of State, Warren Christopher in the fall of 1979 when I was still with the Department. At that time I suggested that, at the completion of WARC, a small Office within the office of the Deputy Secretary be established to coordinate the totality of international communications and information affairs. I made a similar recommendation to then Counselor, Matthew Nemitz.

There are many precedents for this. Since the Nineteen Fifties, similar Offices have been established on a number of occasions as a part of the Office of the Secretary (S) or the Deputy Secretary (D). They

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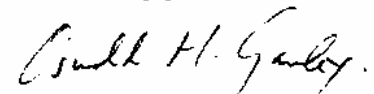
have served well to give high level attention to new functions which are complex, have far reaching consequences, involve multiple agencies, and do not fit neatly into the existing Departmental structures. This device has been used, for instance, for nuclear energy, science and technology (including space), human rights, narcotics matters, labor, fisheries, Law of the Sea, refugee affairs, and terrorism. Labor, Refugee Affairs, Terrorism, and Law of the Sea are still coordinating Offices attached to the Office of the Secretary or the Deputy Secretary.

The job of the coordinator for international communications and information as envisioned in the draft substitute will entail not only Department-wide coordination but also coordination of these types of affairs with multiple other departments or agencies. Among these are some of the most powerful groups in town. The coordinator therefore needs sufficient stature to be able to deal on his own with high level policy officials outside the Department, with high level business executives and with senior members of foreign governments. Consideration might therefore be given to establishing not only a coordinator, but an Office of the Coordinator, however small, attached to the Office of a Seventh Floor principal as in the above-cited examples. To lend further status, consideration might also be given to creating the rank of Ambassador for the coordinator, or to making the incumbent a Presidential appointee, subject to Senate confirmation, for which precedents also exist.

While the creation of a coordinator or an Office of the Coordinator would be good first steps, it should be kept in mind that the resources presently available to support communications and information activities in the operating bureaus of State are quite inadequate. To ensure overall success, the Committee may also want to consider that aspect of the problem.

I appreciate the opportunity to present my views.

Sincerely,



Oswald H. Garley
Executive Director
International & Allied
Arenas

OHG:Ts

Part III

Text of Bills and draft substitute proposed by the Committee on Foreign Affairs

97TH CONGRESS
1ST SESSION

H. R. 1957

[Report No. 97-100, Part I]

To reorganize the international communications activities of the Federal Government.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 19, 1981

Mr. ENGLISH (for himself, Mr. BROOKS, Mr. WEISS, Mr. WAXMAN, Mr. JOHN L. BURTON, Mr. MOFFETT, Mr. BUTLER, and Mr. GOLDWATER) introduced the following bill; which was referred to the Committee on Government Operations

MAY 19, 1981

Reported with an amendment, referred to the Committee on Foreign Affairs for a period ending not later than June 19, 1981, for consideration of such provisions of the bill and amendment as fall within that committee's jurisdiction under clause 1(i), rule X, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To reorganize the international communications activities of the Federal Government.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

SHORT TITLE

1
2 SECTION 1. This Act may be cited as the "International
3 Communications Reorganization Act of 1981".

4 ESTABLISHMENT OF COUNCIL ON INTERNATIONAL COM-
5 MUNICATIONS AND INFORMATION; TRANSFER OF
6 FUNCTIONS

7 SEC. 2. (a)(1) There is established in the Executive
8 Office of the President, for a period of five years beginning
9 one month after the date of enactment of this Act, a Council
10 on International Communications and Information (herein-
11 after in this Act referred to as the "Council"). The Council
12 shall be composed of—

13 (A) an Executive Secretary, who shall be
14 appointed by the President, by and with the advice and
15 consent of the Senate;

16 (B) the Secretary of State;

17 (C) the Secretary of Commerce;

18 (D) the Chairman of the Federal Communications
19 Commission;

20 (E) the United States Trade Representative;

21 (F) the Director of the Office of Management and
22 Budget; and

23 (G) the Assistant to the President for National
24 Security Affairs.

1 (2) The Executive Secretary shall preside at meetings of
2 the Council.

3 (3) The Council shall have a staff to be headed by the
4 Executive Secretary. The Executive Secretary is authorized
5 to exercise the powers of the Council.

6 (b)(1) All functions vested in the Secretary of State by
7 section 5-201 of Executive Order 12046 of March 27, 1978,
8 are transferred to the Council.

9 (2) All functions vested in the Secretary of Commerce
10 by sections 2-301 (e), (d), (f), (g) and 2-404 and, to the
11 extent their provisions relate to international telecommunica-
12 tions and information, by sections 2-401, 2-406, 2-407,
13 2-409, 2-501, and 2-502 of Executive Order 12046 of
14 March 27, 1978, are transferred to the Council.

15 (3) All functions vested in the Director of the Interna-
16 tional Communications Agency by section 3 and, to the
17 extent that its provisions relate to responsibility for advising
18 the President, section 6 of Executive Order 12048 of March
19 27, 1978, are transferred to the Council.

20 (e) The Council shall, through performance of the func-
21 tions transferred to it by subsection (b), develop and imple-
22 ment a uniform, consistent, and comprehensive United States
23 policy on international communications and information and
24 shall advise the President with respect to international com-
25 munications and information. In order to implement such

1 policy, to avoid duplicative activities and conflicting policies
2 among Federal agencies, and to assure the greatest possible
3 cooperation among such agencies, the Council shall—

4 (1) coordinate the policies and activities of all
5 Federal agencies involving international communica-
6 tions and information; and

7 (2) review all policy determinations of Federal
8 agencies, and all proposed statements of United States
9 policy by such agencies, relating to international com-
10 munications and information, and approve, disapprove,
11 or modify any such policy determination or proposed
12 statement.

13 (d) The Council shall serve as the office of the Federal
14 Government to which United States citizens and United
15 States organizations and enterprises may bring problems and
16 concerns regarding international communications and infor-
17 mation. The Council shall delegate to appropriate Govern-
18 ment authorities responsibility to respond to such concerns
19 and problems.

20 (e) The provisions of subsection (c)(2) shall not apply to
21 any action or determination of an independent regulatory
22 agency made pursuant to the rulemaking or adjudicatory pro-
23 cedures set forth in section 553, 554, 556, or 557 of title 5,
24 United States Code, or pursuant to comparable statutory
25 rulemaking or adjudicatory procedures.

1 (f) The Council shall, from time to time, make such rec-
2 ommendations and such reports to the President as it deems
3 appropriate or as the President directs.

4 POWERS

5 SEC. 3. (a) For the purpose of carrying out its functions
6 under this Act, the Council may—

7 (1) subject to the civil service and classification
8 laws, appoint and fix the compensation of such officers
9 and employees as the Council considers necessary;

10 (2) employ experts and consultants in accordance
11 with section 3109 of title 5, United States Code, and
12 compensate individuals so employed for each day (in-
13 cluding travel time) at rates not in excess of the maxi-
14 mum rate of basic pay payable for grade GS-18 of the
15 General Schedule provided in section 5332 of title 5,
16 United States Code, and while such experts and
17 consultants are so serving away from their homes or
18 regular place of business, pay such employees travel
19 expenses and per diem in lieu of subsistence at rates
20 authorized by section 5703 of title 5, United States
21 Code, for persons in Government service employed
22 intermittently;

23 (3) promulgate such regulations concerning its
24 procedures and operations as may be necessary;

1 (4) utilize those services, personnel, and facilities
2 of the Department of State, the Department of Com-
3 merce, the International Communications Agency, and
4 the United States Trade Representative, that are used
5 for international communications and information
6 activities;

7 (5) utilize, with their consent, the services, per-
8 sonnel, and facilities of any other Federal agency;

9 (6) enter into and perform such contracts, leases,
10 cooperative agreements, or other transactions as may
11 be necessary in the conduct of the work of the Council
12 and on such terms as the Council considers appropri-
13 ate, with any agency or instrumentality of the United
14 States, or with any public or private person, firm, as-
15 sociation, corporation, or institution;

16 (7) accept voluntary and uncompensated services,
17 notwithstanding the provisions of section 3679(b) of the
18 Revised Statutes (31 U.S.C. 665(b)); and

19 (8) adopt an official seal, which shall be judicially
20 noticed.

21 (b)(1) The Council may appoint, without regard to the
22 provisions of title 5, United States Code, governing appoint-
23 ment in the competitive service, up to five scientific, techni-
24 cal, or professional employees and may compensate employ-
25 ees so appointed without regard to the provisions of chapter

1 51 and subchapter 3 of chapter 53 of such title relating to
2 classification and General Schedule pay rates. The rate of
3 basic compensation for such employees shall not be in excess
4 of the minimum rate of pay currently paid for GS-16 of the
5 General Schedule under section 5332 of such title.

6 (2) Notwithstanding any other provision of law, the Di-
7 rector of the Office of Personnel Management shall establish
8 positions within the Senior Executive Service for three
9 limited-term appointees. The Council shall appoint individ-
10 uals to such positions as provided by section 3304 of title 5,
11 United States Code. Such positions shall expire five years
12 after the effective date of this Act. Positions in effect under
13 this subsection shall be taken into account in applying the
14 limitations on positions prescribed under section 3134(e) and
15 section 5108 of such title.

16 (e) In carrying out any function transferred by this Act,
17 the Council, or any officer or employee of the Council, may
18 exercise any authority available by law (including appropri-
19 ation Acts) with respect to such function to the official or
20 agency from which such function is transferred, and the ac-
21 tions of the Council in exercising such authority shall have
22 the same force and effect as when exercised by such official
23 or agency.

24 (d) Except as otherwise provided in this Act, the Coun-
25 cil may delegate any function to such officers and employees

1 of the Council as the Council may designate, and may au-
2 thorize such successive redelegations of such functions as
3 may be necessary or appropriate. No delegation of functions
4 by the Council under this section or under any other provi-
5 sion of this Act shall relieve the Council of responsibility for
6 the administration of such functions.

7 COOPERATION OF OTHER AGENCIES

8 SEC. 4: (a) All Federal agencies shall provide the Coun-
9 cil with any information which the Council determines is nec-
10 essary to carry out its functions, except to the extent that a
11 Federal agency is prohibited by statute from disclosing infor-
12 mation to another Federal agency.

13 (b) No Federal agency may issue any policy statement,
14 engage in any consultation, establish any policy, or imple-
15 ment any change in policy, relating to international commu-
16 nications or information, unless such agency first submits to
17 the Council such statement, policy, or policy change or noti-
18 fies the Council of the nature, terms and conditions of such
19 proposed consultation and—

20 (1) the Council approves such statement, policy,
21 policy change, or consultation;

22 (2) the Council modifies such statement, policy, or
23 policy change, or modifies the nature, terms or condi-
24 tions of the consultation, in which case the statement,

1 policy, or policy change may be issued or consultation
2 made only as so modified; or

3 (3) sixty days elapse after such submission or no-
4 tification and the Council does not approve, modify, or
5 disapprove the submission or consultation.

6 (c) The provisions of subsection (b) shall not apply with
7 respect to any action or determination of an independent reg-
8 ulatory agency made pursuant to the rulemaking or adjudica-
9 tory procedures set forth in section 553, 554, 556, or 557 of
10 title 5, United States Code, or to comparable statutory rule-
11 making or adjudicatory procedures.

12 ADVISORY COMMITTEE

13 SEC. 5. (a) The Council shall establish an Advisory
14 Committee on International Communications and Informa-
15 tion (hereinafter in this Act referred to as the "Committee")
16 to provide overall policy guidance to the Council with respect
17 to the functions of the Council. The Committee shall be com-
18 posed of not more than thirty individuals and shall include
19 representatives of labor, manufacturers of telecommunica-
20 tions and data processing goods, other manufacturers, provid-
21 ers of telecommunications and data processing services, fi-
22 nancial institutions, other service industries, small business,
23 consumer interests, the legal profession, and the general
24 public.

1 (b) The Committee shall meet at the call of the Execu-
2 tive Secretary to provide policy advice, technical advice and
3 information, and advice on other factors relevant to the activ-
4 ities of the Council. A meeting of the Committee shall be
5 called and held at least once each calendar quarter.

6 (c) The Council shall, before approving under this Act
7 any statement of new United States policy relating to inter-
8 national communications and information, consult with the
9 Committee for the purpose of obtaining the views of the
10 Committee on the effect of the proposed submission on the
11 social and economic interests of the United States.

12 (d) The Council shall make available to the Committee
13 such staff, information, personnel, and administrative services
14 and assistance as may reasonably be required to carry out the
15 activities of the Committee.

16 (e) The Council shall adopt procedures for consulting
17 with and obtaining information and advice from the Commit-
18 tee on a continuing and timely basis. Such consultation shall
19 include the provision of information to the Committee as to
20 (1) significant issues and developments, and (2) overall objec-
21 tives and positions of the United States with respect to the
22 activities of the Council. The Council shall not be bound by
23 the advice or recommendations of the Committee but the
24 Council shall inform the Committee of failures to accept such
25 advice or recommendations. The Council shall submit an

1 annual report to the Committee on Government Operations
 2 of the House of Representatives and the Committee on Gov-
 3 ernmental Affairs of the Senate on consultations with the
 4 Committee, issues involved in such consultations, and the
 5 reasons for not accepting any advice or recommendations of
 6 the Committee.

7 **INTERAGENCY COMMITTEE**

8 **SEC. 6.** (a) There is established an interagency commit-
 9 tee which shall be composed of the Chairman of the Federal
 10 Trade Commission, the Secretary of Defense, the Secretary
 11 of Labor, the Secretary of the Treasury, the Postmaster Gen-
 12 eral, the Chairman of the Federal Reserve Board, the Ad-
 13 ministrator of the National Aeronautics and Space Adminis-
 14 tration, and the Director of the International Communica-
 15 tions Agency.

16 (b) The interagency committee shall consider and advise
 17 the Council with respect to problems which Federal agencies
 18 encounter in the performance of their responsibilities with re-
 19 spect to international communications and information.

20 **CONFIDENTIAL INFORMATION**

21 **SEC. 7.** Any information submitted by a person to the
 22 Council, the Committee, or the interagency committee estab-
 23 lished in section 6 of this Act, which is exempt from diselo-
 24 sure pursuant to 5 U.S.C. 552(b)(4) (relating to trade secrets
 25 and confidential commercial information)—

1 (1) shall not, except as provided in paragraph (2),
2 be disclosed without the consent of the person who
3 submitted the information; and

4 (2) may be disclosed—

5 (A) to officers and employees of the United
6 States designated by the Council or Committee;

7 (B) to any appropriate committee in Con-
8 gress, upon the request of such committee;

9 (C) to the Committee, or

10 (D) pursuant to court order,

11 where the Council has taken appropriate steps to
12 inform the recipient of the confidential nature of the
13 information.

14 REPORT OF COUNCIL

15 SEC. 8. The Council shall submit simultaneously to the
16 President and to the Committee on Government Operations
17 of the House of Representatives and the Committee on Gov-
18 ernmental Affairs of the Senate—

19 (1) not later than three months after the date of
20 the enactment of this Act, and periodically thereafter,
21 a report setting forth the Council's plans for fulfilling
22 its responsibilities under this Act, including its prior-
23 ities for responding to problems and developing policies
24 with respect to international communications and infor-
25 mation; and

1 (3) "Federal agency" means an agency as that
2 term is defined in section 551(4) of title 5, United
3 States Code.

4 *SHORT TITLE*

5 *SECTION 1. This Act may be cited as the "Internation-*
6 *al Communications Reorganization Act of 1981".*

7 *ESTABLISHMENT OF COMMITTEE ON INTERNATIONAL*
8 *COMMUNICATIONS AND INFORMATION; TRANSFER OF*
9 *FUNCTIONS*

10 *SEC. 2. (a)(1) There is established in the executive*
11 *branch of the Government, for a period of five years begin-*
12 *ning one month after the date of enactment of this Act, a*
13 *Committee on International Communications and Informa-*
14 *tion (hereinafter in this Act referred to as the "Committee").*
15 *The Committee shall be composed of—*

16 *(A) the Secretary of Commerce;*

17 *(B) the Secretary of State;*

18 *(C) the Secretary of Defense;*

19 *(D) the Secretary of Labor;*

20 *(E) the Chairman of the Federal Communica-*
21 *tions Commission;*

22 *(F) the United States Trade Representative; and*

23 *(G) the Director of the Office of Management and*
24 *Budget.*

1 (2) *The United States Trade Representative shall serve*
2 *as chairman of the Committee. The members of the Commit-*
3 *tee may each designate an individual to attend meetings of*
4 *the Committee in their absence, except that—*

5 (A) *an individual may not be so designated*
6 *unless the individual holds a position within the re-*
7 *spective member's agency to which he was appointed*
8 *by the President, by and with the advice and consent*
9 *of the Senate; and*

10 (B) *in the case of the Director of the Office of*
11 *Management and Budget, the designee shall be the Ad-*
12 *ministrator of the Office of Information and Regula-*
13 *tory Affairs.*

14 (3) *The Committee shall have a staff headed by an Ex-*
15 *ecutive Director, who shall be appointed by the President.*

16 (b)(1) *All functions vested in the Secretary of State by*
17 *section 5-201 of Executive Order 12046 of March 27, 1978,*
18 *to the extent that such functions relate to the determination of*
19 *United States policies and positions, are transferred to the*
20 *Committee.*

21 (2) *All functions vested in the Secretary of Com-*
22 *merce—*

23 (A) *by sections 2-301(c), 2-301(d), 2-301(f),*
24 *and 2-404 of Executive Order 12046 of March 27,*

1 1978, to the extent such functions relate to the determi-
2 nation and coordination of plans and policies, and

3 (B) by sections 2-401, 2-501, and 2-502 of such
4 Executive Order to the extent such functions relate to
5 international telecommunications and information,
6 are transferred to the Committee.

7 (3) All functions vested in the Director of the Interna-
8 tional Communications Agency by section 6 of Executive
9 Order 12048 of March 27, 1978, to the extent that such
10 functions relate to responsibility for advising the President,
11 are transferred to the Committee.

12 (c) The Committee shall, through performance of the
13 functions transferred to it by subsection (b), develop and im-
14 plement a uniform, consistent, and comprehensive United
15 States policy on international communications and informa-
16 tion and shall advise the President with respect to interna-
17 tional communications and information. In order to imple-
18 ment such policy, to avoid duplicative activities and conflict-
19 ing policies among Federal agencies, and to assure the great-
20 est possible cooperation among such agencies, the Committee
21 shall—

22 (1) coordinate the policies and activities of all
23 Federal agencies involving international communica-
24 tions and information; and

1 (2) review all significant policy determinations of
2 Federal agencies, and all proposed statements of
3 United States policy by such agencies, relating to in-
4 ternational communications and information, and rec-
5 ommend to the President, whenever appropriate, disap-
6 proval or modification of any such policy determina-
7 tion or proposed statement.

8 (d) The provisions of subsection (c)(2) shall not apply to
9 any action or determination of an independent regulatory
10 agency made pursuant to the rulemaking or adjudicatory
11 procedures set forth in section 553, 554, 556, or 557 of title
12 5, United States Code, or pursuant to comparable statutory
13 rulemaking or adjudicatory procedures. The provisions of
14 subsection (c) shall not apply to any action of the Federal
15 Communications Commission made pursuant to and in ac-
16 cordance with the procedural requirements of the Communi-
17 cations Act of 1934.

18 (e) The provisions of subsection (c) shall not apply to
19 consultation or negotiation with foreign authorities or multi-
20 lateral international organizations for the exclusive purpose
21 of the acquisition, operation, or disposition of international
22 telecommunications facilities or services for use by an agency
23 or instrumentality of the United States Government.

24 (f) The Committee shall receive comments from United
25 States citizens and United States organizations and enter-

1 *prises about problems, concerns, and complaints regarding*
2 *international communications and information. The Com-*
3 *mittee shall refer to appropriate Government authorities re-*
4 *sponsibility to respond to such problems, concerns, and com-*
5 *plaints.*

6 (g) *The Committee shall, from time to time, make such*
7 *recommendations and such reports to the President as it*
8 *deems appropriate or as the President directs.*

9 POWERS

10 SEC. 3. (a) *For the purpose of carrying out its func-*
11 *tions under this Act, the Committee may—*

12 (1) *subject to the civil service and classification*
13 *laws, appoint and fix the compensation of necessary*
14 *personnel;*

15 (2) *employ experts and consultants in accordance*
16 *with section 3109 of title 5, United States Code, and*
17 *compensate individuals so employed for each day (in-*
18 *cluding travel time) at rates not in excess of the maxi-*
19 *mum rate of basic pay payable for grade GS-18 of the*
20 *General Schedule provided in section 5332 of title 5,*
21 *United States Code, and while such experts and*
22 *consultants are so serving away from their homes or*
23 *regular place of business, pay such employees travel*
24 *expenses and per diem in lieu of subsistence at rates*
25 *authorized by section 5703 of title 5, United States*

1 *Code, for persons in Government service employed in-*
2 *termittently;*

3 (3) *promulgate such regulations concerning its*
4 *procedures and operations as may be necessary;*

5 (4) *utilize those services, personnel, and facilities*
6 *of the Department of State, the Department of Com-*
7 *merce, the International Communications Agency, and*
8 *the United States Trade Representative, that are used*
9 *for international communications and information ac-*
10 *tivities;*

11 (5) *utilize, with their consent, the services, person-*
12 *nel, and facilities of any other Federal agency;*

13 (6) *enter into and perform such contracts, leases,*
14 *cooperative agreements, or other transactions as may be*
15 *necessary in the conduct of the work of the Committee*
16 *and on such terms as the Committee considers appro-*
17 *priate, with any agency or instrumentality of the*
18 *United States, or with any public or private person,*
19 *firm, association, corporation, or institution; and*

20 (7) *accept voluntary and uncompensated services,*
21 *notwithstanding the provisions of section 3679(b) of the*
22 *Revised Statutes (31 U.S.C. 665(b)).*

23 (b) *In carrying out any function transferred by this*
24 *Act, the Committee may exercise any authority available by*
25 *law (including appropriation Acts) with respect to such func-*

1 *tion to the official or agency from which such function is*
2 *transferred, and the actions of the Committee in exercising*
3 *such authority shall have the same force and effect as when*
4 *exercised by such official or agency.*

5 (c) *Except as otherwise provided in this Act, the Com-*
6 *mittee may delegate any function to such officers and em-*
7 *ployees of the Committee as the Committee may designate,*
8 *and may authorize such successive redelegations of such*
9 *functions as may be necessary or appropriate. No delegation*
10 *of functions by the Committee under this section or under*
11 *any other provision of this Act shall relieve the Committee of*
12 *responsibility for the administration of such functions.*

13 COOPERATION OF OTHER AGENCIES

14 SEC. 4. (a) *All Federal agencies shall provide the Com-*
15 *mittee with any information which the Committee determines*
16 *is necessary to carry out its functions, except to the extent*
17 *that a Federal agency is prohibited by statute from disclosing*
18 *information to another Federal agency.*

19 (b) *No Federal agency may issue any policy statement,*
20 *engage in any consultation, establish any policy, or imple-*
21 *ment any change in policy, relating to international commu-*
22 *nications or information, unless such agency first submits to*
23 *the Committee such statement, policy, or policy change or*
24 *notifies the Committee of the nature, terms, and conditions of*
25 *such proposed consultation and—*

1 (1) *the Committee approves such statement,*
2 *policy, policy change, or consultation;*

3 (2) *the President, after receiving the recommenda-*
4 *tions of the Committee, modifies such statement,*
5 *policy, or policy change, or modifies the nature, terms*
6 *or conditions of the consultation, in which case the*
7 *statement, policy, or policy change may be issued or*
8 *consultation made only as so modified; or*

9 (3) *sixty days elapse after such submission or no-*
10 *tification and the Committee does not approve and does*
11 *not recommend to the President modification or disap-*
12 *proval of the submission or consultation.*

13 (c) *The provisions of subsection (b) shall not apply with*
14 *respect to any action or determination of an independent reg-*
15 *ulatory agency made pursuant to the rulemaking or adjudi-*
16 *catory procedures set forth in section 553, 554, 556, or 557*
17 *of title 5, United States Code, or to comparable statutory*
18 *rulemaking or adjudicatory procedures. The provisions of*
19 *subsection (b) shall not apply to any action of the Federal*
20 *Communications Commission made pursuant to and in ac-*
21 *cordance with the procedural requirements of the Communi-*
22 *cations Act of 1934.*

23 (d) *The provisions of subsection (b) shall not apply to*
24 *consultation or negotiation with foreign authorities or multi-*
25 *lateral international organizations for the exclusive purpose*

1 *of the acquisition, operation, or disposition of international*
2 *telecommunications facilities or services for use by an agency*
3 *or instrumentality of the United States Government.*

4 **ADVISORY COMMITTEE**

5 *SEC. 5. (a) The President shall establish an Advisory*
6 *Committee on International Communications and Informa-*
7 *tion (hereinafter in this Act referred to as the "Advisory*
8 *Committee") to provide overall policy guidance to the Com-*
9 *mittee with respect to the functions of the Committee. The*
10 *Advisory Committee shall be composed of not more than*
11 *thirty individuals appointed by the President and shall in-*
12 *clude representatives of labor, manufacturers of telecommuni-*
13 *cations and data processing goods, other manufacturers, pro-*
14 *viders of telecommunications and data processing services,*
15 *financial institutions, other service industries, small busi-*
16 *ness, consumer interests, the legal profession, educational in-*
17 *stitutions, journalistic enterprises, scientific and engineering*
18 *organizations, television and radio broadcasting, and the gen-*
19 *eral public.*

20 *(b) The Administrator of the Office of Information and*
21 *Regulatory Affairs of the Office of Management and Budget*
22 *shall serve as Chairman of the Advisory Committee.*

23 *(c) The Advisory Committee shall meet at the call of the*
24 *Committee to provide policy advice, technical advice and in-*
25 *formation, and advice on other factors relevant to the activi-*

1 *ties of the Committee. A meeting of the Advisory Committee*
2 *shall be called and held at least once each calendar quarter.*

3 (d) *The Committee shall, before approving under this*
4 *Act any statement of new United States policy relating to*
5 *international communications and information, consult with*
6 *the Advisory Committee for the purpose of obtaining the*
7 *views of the Advisory Committee on the effect of the proposed*
8 *statement on the social and economic interests of the United*
9 *States.*

10 (e) *The Committee shall make available to the Advisory*
11 *Committee such staff, information, personnel, and adminis-*
12 *trative services and assistance as may reasonably be required*
13 *to carry out the activities of the Advisory Committee.*

14 (f) *The Committee shall adopt procedures for consulting*
15 *with and obtaining information and advice from the Adviso-*
16 *ry Committee on a continuing and timely basis. Such con-*
17 *sultation shall include the provision of information to the Ad-*
18 *visory Committee as to significant issues and developments.*
19 *The Committee shall not be bound by the advice or recom-*
20 *mendations of the Advisory Committee, but the Committee*
21 *shall inform the Advisory Committee of failures to accept*
22 *such advice or recommendations. The Committee shall*
23 *submit an annual report to the Committee on Government*
24 *Operations of the House of Representatives and the Commit-*
25 *tee on Governmental Affairs of the Senate on consultations*

1 *with the Advisory Committee, issues involved in such consul-*
 2 *tations, and the reasons for not accepting any advice or rec-*
 3 *ommendations of the Advisory Committee.*

4 **CONFIDENTIAL INFORMATION**

5 *SEC. 6. (a) Any information submitted by a person to*
 6 *the Committee or the Advisory Committee which is exempt*
 7 *from disclosure pursuant to section 552(b)(4) of title 5,*
 8 *United States Code (relating to trade secrets and confidential*
 9 *commercial information) may be disclosed—*

10 *(1) to officers and employees of the United States*
 11 *designated by the Committee or Advisory Committee;*

12 *(2) to any Committee of the Congress, upon the*
 13 *request of such committee;*

14 *(3) to the Advisory Committee;*

15 *(4) pursuant to court order; or*

16 *(5) with the consent of the person who submitted*
 17 *the information.*

18 *(b) The Committee shall take appropriate steps to*
 19 *inform the recipient of the confidential nature of the informa-*
 20 *tion disclosed under subsection (a).*

21 **REPORT OF COMMITTEE**

22 *SEC. 7. The Committee shall submit simultaneously to*
 23 *the President and to the Committee on Government Oper-*
 24 *ations of the House of Representatives and the Committee on*
 25 *Governmental Affairs of the Senate—*

1 (1) not later than three months after the date of
 2 the enactment of this Act, and periodically thereafter, a
 3 report setting forth the Committee's plans for fulfilling
 4 its responsibilities under this Act, including its prior-
 5 ities for responding to problems and developing policies
 6 with respect to international communications and in-
 7 formation; and

8 (2) not later than sixteen months after the date of
 9 the enactment of this Act, and periodically thereafter, a
 10 report setting forth any legislative or administrative
 11 recommendations necessary to further coordinate and
 12 establish a uniform, consistent, and comprehensive
 13 United States policy with respect to international com-
 14 munications and information.

15 SAVINGS PROVISION

16 SEC. 8. *The provisions of this Act shall not in any way*
 17 *affect or interfere with the authorities and responsibilities as-*
 18 *signed to the Director of the Office of Management and*
 19 *Budget or to that Office under chapter 35 of title 44, United*
 20 *States Code.*

21 DEFINITIONS

22 SEC. 9. *For purposes of this Act—*

23 (1) *"independent regulatory agency" means the*
 24 *Board of Governors of the Federal Reserve System,*
 25 *the Civil Aeronautics Board, the Commodity Futures*

1 *Trading Commission, the Consumer Product Safety*
2 *Commission, the Federal Communications Commis-*
3 *sion, the Federal Deposit Insurance Corporation, the*
4 *Federal Energy Regulatory Commission, the Federal*
5 *Home Loan Bank Board, the Federal Maritime Com-*
6 *mission, the Federal Trade Commission, the Interstate*
7 *Commerce Commission, the Mine Enforcement Safety*
8 *and Health Review Commission, the National Labor*
9 *Relations Board, the Nuclear Regulatory Commission,*
10 *the Occupational Safety and Health Review Commis-*
11 *sion, the Postal Rate Commission, the Securities Ex-*
12 *change Commission, and any other similar agency des-*
13 *ignated by statute as a Federal independent regulatory*
14 *agency or commission; and*

15 (2) "Federal agency" means an agency as that
16 term is defined in section 551(1) of title 5, United
17 States Code.

○

Committee on Foreign Affairs

MEMORANDUM

July 1, 1981

SUBJECT: July 8 and 13 Hearings Regarding H.R. 1957, International Communications Reorganization Act, and Alternative Proposals for International Communications Policy Organization in the U.S. Government, by the subcommittees on International Operations and International Economic Policy and Trade.

The subcommittees plan joint hearings July 8 (2:00 p.m. Room 2172) and 13 (2:00 p.m., Room 2200) to hear testimony regarding H.R. 1957, which has been sequentially referred to the Committee from the Government Operations Committee until July 15. Attached for your information is H.R. 1957 as reported by Government Operations, together with their committee report.

In addition, we will hear testimony on a proposal which is being drafted in consultation with the Department of State as a substitute to H.R. 1957. This proposal has been under discussion for some time by Mr. Fascell and was first surfaced in an exchange of correspondence between Mr. Fascell and Mr. Nimetz, former Under Secretary of State for Security Assistance, Science and Technology. For your information, that correspondence is attached.

The proposal responds to two fundamental concerns in the international communications and information policy area: (1) the area is very broad and has many aspects, which at times are related and at other times unrelated to one another, depending on the issue and the circumstances; (2) because a myriad of government agencies and private sector businesses and entities are necessarily involved, one coordinating entity should be developed to permit synthesis of the problems, coordination among the disparate groups, and to provide the private sector with a place to go to discover who the players are on a given issue (e.g., transborder data flows; communications assistance to country X; free flow of information issues in the international organization system; satellite broadcasting and its effects on trade and free flow of information issues; telecommunications and data processing issues; communications research and development, etc., etc.), as well as to bring these players together to solve problems and develop policy alternatives.

The draft substitute proposes the following:

1. Defines the responsibilities of the Under Secretary for Security Assistance, Science and Technology relating to International Communications and Information Policy:

-- to direct the formulation and coordination of the Department of State's policies on international communications and information issues; and to oversee and coordinate the functions of all bureaus and offices in the Department which need to be involved in this area.

-- To exercise, on behalf of the Secretary of State, the telecommunications authority assigned to the Secretary by Executive Order 12046.

-- To determine U.S. positions and the conduct of U.S. negotiations with foreign governments and international bodies, and to coordinate with other U.S. Government agencies as appropriate, including the Federal Communications Commission.

-- To chair a senior inter-agency group on international communications and information policy which will ensure the coordinated development of policy by the interested departments and agencies of the Executive branch, including the Federal Communications Commission.

-- To serve as principal advisor to the Secretary of State on the conduct of foreign policy in the area of international communications and information and to coordinate with other Under Secretaries as appropriate.

2. Sets up a Coordinator for International Communications and Information Policy responsible to the Under Secretary for Security Assistance, Science and Technology, with appropriate office support, to carry out the responsibilities of the Under Secretary. Broadly defined, the Coordinator's duties include the following:

-- to maintain continuing liaison with the bureaus and offices of the Department concerned with international communications and information policy to make certain that policies are developed and problems solved in a timely manner;

-- to chair a steering group within the Department of State composed of representatives of bureaus and offices involved in these issues, and to chair inter-agency meetings as necessary to ensure policy coordination.

-- to maintain effective liaison with the principals and staffs of other interested or relevant departments and agencies. (NOTE: These agencies include such diverse but related interests as those represented by Commerce, Defense, ICA, Special Trade Representative, the intelligence community, IDCA and AID, Treasury, FCC, FTC, Agriculture, OMB, National Security Council, NASA, Transportation, etc.)

-- to maintain liaison with representatives of the private sector to keep informed of their interests, problems and needs, to meet regularly with them and provide necessary assistance to ensure that matters of concern are promptly considered by the appropriate bureaus and offices of the Department of State or of other agencies.

-- To assist in arranging meetings of such public sector advisory groups as may be established to advise the Under Secretary and to ensure effective and timely preparation for the Under Secretary's participation in meetings with representatives of other governments, international organizations, and the U.S. private sector.