

Washington University Law Review

Volume 1967

Issue 4 *Communications & the Future—Part I*

January 1967

Communications and the Future—Part I: Introduction

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Recommended Citation

Communications and the Future—Part I: Introduction, 1967 WASH. U. L. Q. 477 (1967).

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WASHINGTON UNIVERSITY LAW QUARTERLY

Volume 1967

Fall, 1967

Number 4

COMMUNICATIONS AND THE FUTURE—PART I

INTRODUCTION

Communications is one of the few remaining frontiers where exploration and development of new technology can materially improve our way of life and accelerate our progress in other fields. In considering this topic, we are frequently interested less in the content of the communication, the voice or message transmitted over wire, "good" television programming versus "bad" programming, than we are in the type of communication device. The type of device is important in determining the extent and direction of our future progress because "the personal and social consequences of any medium—that is, of any extension of ourselves—result from the new scale that is introduced into our affairs by each extension of ourselves, or by any new technology. . . . In terms of the ways in which the machine altered our relations to one another and to ourselves, it mattered not in the least whether it turned out cornflakes or Cadillacs."¹ Similarly, when one turns on his television, it ultimately matters less whether a talking horse or a professor appears on the screen than it does whether the program is transmitted from a ground station or a satellite. The possibilities inherent in the development of new methods of transmission force us to face not only the problems of regulating what programs to transmit, so as to improve quality and diversity, but also the problem of creating and using entire new channels and networks.

Communications' increasing importance in our daily lives requires that the law assume an increased duty in the supervision and regulation of media operation. For this reason, the *Washington University Law Quarterly* presents this two part symposium on communications in general, and television in particular. As satellites are placed in orbit and begin trans-

1. M. McLuhan, *UNDERSTANDING MEDIA* 7-8 (1964). McLuhan stresses that it is the "TV image," and not TV programming, that creates psychic and social disturbance, even so far as to alter our relations to the law and courts. *Id.* at 312.

mitting, as cable television reaches more and more homes, and as new tax and other economic incentives are sought to encourage creative programming, lawyers will have to focus on the various problems and possibilities so that the legal response to these developments will be a proper and adequate one. These articles seek to prepare the profession by presenting "non-legal" materials on the structure and economics of the television industry, the technology of communications, new proposals for FCC regulation, and the future evolution of the industry, including proposals for cable television, pay television, and the use of satellites, waveguides, laser pipes, and computer link-ups for transmission and programming.

In the first article, Federal Communications Commissioner Nicholas Johnson indicates the public's interest in broadcasting and the importance of the President's "Message on Communications Policy." He argues that it is critical at this stage of development to look at communications as a whole, not isolated segments. In the appendix, we reproduce the recently passed Public Broadcasting Act which creates a publicly financed corporation to produce television programs.

Following the Commissioner's article, Professor John McGowan provides a detailed description of the television industry's structure and the effects of competition on programming policy. In this article, McGowan offers ways in which FCC regulation of industry structure may promote diversity of programming without controlling the content of individual programs or broadcasters' programming policies.

In the last article in this issue (Part I), Mr. Leland Johnson describes some of the problems in using radio spectrum and ways in which new technologies may be utilized to relieve today's scarcity of usable spectrum. He discusses the enormous potentialities of non-spectrum transmission devices, particularly cable transmission.

The next issue (Part II) will contain three more articles. Professors Harold Barnett and Edward Greenberg propose a system for wired city television. Dean William Meckling discusses alternative criteria for the FCC's management of the frequency spectrum. Professor Sidney Alexander, using public television as a case in point, analyzes how we can rationally decide what *should* be done.

These six articles are derived from the major papers and discussions at the Conference on the Use and Regulation of the Radio Spectrum, held September 11 and 12, 1967, at Airlie House, Warrenton, Virginia. The Conference was generated by President Johnson's "Message on Communications Policy," sent to Congress on August 14, and was sponsored by The Brookings Institution and Resources for the Future, Inc., both of Washing-

ton, D.C. Of the five major papers, four (J. McGowan, L. Johnson, W. Meckling, S. Alexander) are reprinted here. The fifth paper, "The Radio Spectrum Resources," delivered by Professor Harvey Levin of Hofstra University, will appear in the October 1968 issue of the *Journal of Law and Economics*. Nicholas Johnson's article was part of the discussion following Sidney Alexander's presentation; Barnett and Greenberg's piece was part of the discussion following Leland Johnson's paper.

We wish to thank Mr. Hans Landsberg of Resources for the Future, Inc., and Mr. William Capron of The Brookings Institution, for their help and guidance in publishing these articles; Professor Warren Lehman for aiding in procuring the material; and Terence Russell, *Law Quarterly* Articles Editor, for the editorial work necessary to prepare the papers for publication. We are equally indebted to all the authors for their enthusiasm and cooperation in aiding and allowing us to prepare the articles as a unit soon after the Conference at Airlie House.