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Executive Order 12046--Relating to the transfer of telecommunications functions

Source: The provisions of Executive Order 12046 of Mar. 27, 1978, appear at 43 FR 13349, 3 CFR, 1978 Comp., p. 158, unless otherwise noted.

By virtue of the authority vested in me by the Constitution and laws of the United States of America, including Section 7 of Reorganization Plan No. 1 of 1977 (42 FR 56101 (October 21, 1977)), the authority and control vested in the President by Section 2 of Executive Order No. 11556, as amended, Section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c), and Section 301 of Title 3 of the United States Code, and as President of the United States of America, in order to provide for the transfer of certain telecommunications functions, it is hereby ordered as follows:

Section 1

Reorganization Plan

1-1. *Implementation of Reorganization Plan.*

1-101. The transfer of all the functions of the Office of Telecommunications Policy and of its Director, as provided by Section 5B of Reorganization Plan No. 1 of 1977 (42 FR 56101), is hereby effective.

1-102. The abolition of the Office of Telecommunications Policy, as provided by Section 3C of Reorganization Plan No. 1 of 1977, is hereby effective.

1-103. The establishment of an Assistant Secretary for Communications and Information, Department of Commerce, as provided by Section 4 of Reorganization Plan No. 1 of 1977, is hereby effective.

1-2. *Telecommunications Function.*

1-201. Prior to the effective date of Reorganization Plan No. 1 of 1977, the Office of Telecommunications Policy and its Director had the functions set forth or referenced by: (1) Section 1 of Reorganization Plan No. 1 of 1970 (5 U.S.C. App. II), (2) Executive Order No. 11556 of September 4, 1970, as amended (47 U.S.C. 305 note), (3) Executive Order No. 11191 of January 4, 1965, as amended (47 U.S.C. 721 note), (4) Executive Order No. 10705 of April 17, 1957, as amended (47 U.S.C. 606 note), and (5) Presidential Memorandum of August 21, 1963, as amended by Executive Order No. 11556 and entitled "Establishment of the National Communications System."

1-202. So much of those functions which relate to the preparation of Presidential telecommunications policy options or to the disposition of appeals from assignments of radio frequencies to stations of the United States Government were transferred to the President. These functions may be delegated within the Executive Office of the President and the delegations are set forth in this Order at Sections 3-1 through 4-3.

1-203. Those telecommunications functions which were not transferred to the President were transferred to the Secretary of Commerce. Functions transferred to the Secretary are set forth in this Order at Sections 2-1 through 2-5.

Section 2

Functions Transferred to Commerce

2-1. Radio Frequencies.

2-101. The authority of the President to assign frequencies to radio stations or to classes of radio stations belonging to and operated by the United States, including the authority to amend, modify, or revoke such assignments, was transferred to the Secretary of Commerce.

2-102. This authority, which was originally vested in the President by Section 305(a) of the Communications Act of 1934, as amended (47 U.S.C. 305(a)), was transferred and assigned to the Director of the Office of Telecommunications Policy by Section 1 of Reorganization Plan No. 1 of 1970 and Section 3 of Executive Order No. 11556.

2-103. The authority to assign frequencies to radio stations is subject to the authority to dispose of appeals from frequency assignments as set forth in Section 3-2 of this Order.

2-2. Construction of Radio Stations.

2-201. The authority to authorize a foreign government to construct and operate a radio station at the seat of government of the United States was transferred to the Secretary of Commerce. Authorization for the construction and operation of a radio station pursuant to this authority and the assignment of a frequency for its use can be made only upon recommendation of the Secretary of State and after consultation with the Attorney General and the Chairman of the Federal Communications Commission.

2-202. This authority, which was originally vested in the President by Section 305(d) of the Communications Act of 1934, as amended (47 U.S.C. 305), was delegated to the Director of the Office of Telecommunications Policy by Section 5 of Executive Order No. 11556.

2-3. Communications Satellite System.

2-301. Certain functions relating to the communications satellite system were transferred to the Secretary of Commerce. Those functions were delegated or assigned to the Director of the Office of Telecommunications Policy by Executive Order No. 11191, as amended by Executive Order No. 11556. The functions include authority vested in the President by Section 201(a) of the Communications Satellite Act of 1962 (76 Stat. 421, 47 U.S.C. 721(a)). These functions are specifically set forth in the following provisions of this Section.

- (a) Aid in the planning and development of the commercial communications satellite system and aid in the execution of a national program for the operation of such a system.
- (b) Conduct a continuous review of all phases of the development and operation of such system, including the activities of the Corporation.

- (c) Coordinate, in consultation with the Secretary of State, the activities of governmental agencies with responsibilities in the field of telecommunications, so as to insure that there is full and effective compliance at all times with the policies set forth in the Act.
- (d) Make recommendations to the President and others as appropriate, with respect to all steps necessary to insure the availability and appropriate utilization of the communications satellite system for general government purposes in consonance with Section 201(a)(6) of the Act.
- (e) Help attain coordinated and efficient use of the electromagnetic spectrum and the technical compatibility of the communications satellite system with existing communications facilities both in the United States and abroad.
- (f) Assist in the preparation of Presidential action documents for consideration by the President as may be appropriate under Section 201(a) of the Act, make necessary recommendations to the President in connection therewith, and keep the President currently informed with respect to the carrying out of the Act.
- (g) Serve as the chief point of liaison between the President and the Corporation.
- (h) The Secretary of Commerce shall timely submit to the President each year the report (including evaluations and recommendations) provided for in Section 404(a) of the Act (47 U.S.C. 744(a)).
- (i) The Secretary of Commerce shall coordinate the performance of these functions with the Secretary of State. The Corporation and other concerned Executive agencies shall provide the Secretary of Commerce with such assistance, documents, and other cooperation as will enable the Secretary to carry out these functions.

2-4. *Other Telecommunications Functions.*

Certain functions assigned, subject to the authority and control of the President to the Director of the Office of Telecommunications Policy by Section 2 of Executive Order No. 11556 were transferred to the Secretary of Commerce. These functions, subject to the authority and control of the President, are set forth in the following subsections.

2-401. The Secretary of Commerce shall serve as the President's principal adviser on telecommunications policies pertaining to the Nation's economic and technological advancement and to the regulation of the telecommunications industry.

2-402. The Secretary of Commerce shall advise the Director of the Office of Management and Budget on the development of policies relating to the procurement and management of Federal telecommunications systems.

2-403. The Secretary of Commerce shall conduct studies and evaluations concerning telecommunications research and development, and concerning the initiation, improvement, expansion, testing, operation, and use of Federal telecommunications systems. The Secretary shall advise appropriate agencies, including the Office of Management and Budget, of the recommendations which result from such studies and evaluations.

2-404. The Secretary of Commerce shall develop and set forth, in coordination with the Secretary of State and other interested agencies, plans, policies, and programs which relate to international telecommunications issues, conferences, and negotiations. The Secretary of Commerce shall coordinate economic, technical, operational and related preparations for United States participation in international telecommunications conferences and negotiations. The Secretary shall provide advice and assistance to the Secretary of State on international telecommunications policies to strengthen the position and serve the best interests of the United States, in support of the Secretary of State's responsibility for the conduct

of foreign affairs.

2-405. The Secretary of Commerce shall provide for the coordination of the telecommunications activities of the Executive Branch, and shall assist in the formulation of policies and standards for those activities, including but not limited to considerations of interoperability, privacy, security, spectrum use and emergency readiness.

2-406. The Secretary of Commerce shall develop and set forth telecommunications policies pertaining to the Nation's economic and technological advancement and to the regulation of the telecommunications industry.

2-407. The Secretary of Commerce shall ensure that the Executive Branch views on telecommunications matters are effectively presented to the Federal Communications Commission and, in coordination with the Director of the Office of Management and Budget, to the Congress.

2-408. The Secretary of Commerce shall establish policies concerning spectrum assignments and use by radio stations belonging to and operated by the United States. Agencies shall consult with the Secretary of Commerce to ensure that their conduct of telecommunications activities is consistent with those policies.

2-409. The Secretary of Commerce shall develop, in cooperation with the Federal Communications Commission, a comprehensive long-range plan for improved management of all electromagnetic spectrum resources.

2-410. The Secretary of Commerce shall conduct studies and make recommendations concerning the impact of the convergence of computer and communications technology.

2-411. The Secretary of Commerce shall coordinate Federal telecommunications assistance to State and local governments, except as otherwise provided by Executive Order No. 12472.

[Sec. 2-411 amended by Executive Order 12472 of Apr. 3, 1984, 49 FR 13471, 3 CFR, 1984 Comp., p. 193]

2-412. The Secretary of Commerce shall conduct and coordinate economic and technical analyses of telecommunications policies, activities, and opportunities in support of assigned responsibilities.

2-413. The Secretary of Commerce shall contract for studies and reports related to any aspect of assigned responsibilities.

2-414. [Revoked]

[Sec. 2-414 revoked by Executive Order 12472 of Apr. 3, 1984, 49 FR 13471, 3 CFR, 1984 Comp., p. 193]

2-5. *Consultation Responsibilities.*

2-501. The authority to establish coordinating committees, as assigned to the Director of the Office of Telecommunications Policy by Section 10 of Executive Order No. 11556, was transferred to the Secretary

of Commerce.

2-502. As permitted by law, the Secretary of Commerce shall establish such interagency committees and working groups composed of representatives of interested agencies, and shall consult with such departments and agencies as may be necessary for the most effective performance of his functions. To the extent he deems it necessary to continue the Interdepartment Radio Advisory Committee, that Committee shall serve in an advisory capacity to the Secretary. As permitted by law, the Secretary also shall establish one or more telecommunications advisory committees composed of experts in the telecommunications area outside the Government.

Section 3

Functions Assigned to the Office of Management and Budget

3-1. Telecommunications Procurement and Management.

3-101. The responsibility for serving as the President's principal adviser on procurement and management of Federal telecommunications systems and the responsibility for developing and establishing policies for procurement and management of such systems, which responsibilities were assigned to the Director of the Office of Telecommunications Policy subject to the authority and control of the President by Section 2(b) of Executive Order No. 11556, were transferred to the President.

3-102. These functions are delegated to the Director of the Office of Management and Budget.

3-2. Radio Frequency Appeals.

3-201. The authority to make final disposition of appeals from frequency assignments by the Secretary of Commerce for radio stations belonging to and operated by the United States, which authority was vested in the President by Section 305(a) of the Communications Act of 1934 (47 U.S.C. 305(a)) and transferred to the Director of the Office of Telecommunications Policy by Reorganization Plan No. 1 of 1970 (5 U.S.C. App. II), was transferred to the President.

3-202. This function is delegated to the Director of the Office of Management and Budget.

Section 4

Functions Assigned to the National Security Council and the Office of Science and Technology Policy

4-1. Emergency Functions.

4-101. The war power functions of the President under Section 606 of the Communications Act of 1934, as amended (47 U.S.C. 606), which were delegated to the Director of the Office of Telecommunications Policy by the Provisions of Section 4 of Executive Order No. 10705, were transferred to the President.

4-102. [Revoked]

[Sec. 4-102 revoked by Executive Order 12472 of Apr. 3, 1984, 49 FR 13471, 3 CFR, 1984 Comp., p. 193]

4-103. [Revoked]

[Sec. 4-103 revoked by Executive Order 12472 of Apr. 3, 1984, 49 FR 13471, 3 CFR, 1984 Comp., p. 193]

4-2. *National Communications System.*

4-201. The responsibility for policy direction of the development and operation of a National Communications System, which was assigned to the Director of the Office of Telecommunications Policy by the Presidential Memorandum of August 21, 1963, as amended by Executive Order No. 11556, was transferred to the President.

4-202. [Revoked]

[Sec. 4-202 revoked by Executive Order 12472 of Apr. 3, 1984, 49 FR 13471, 3 CFR, 1984 Comp., p. 193]

4-3. *Planning Functions.*

4-301. The function of coordinating the development of policy, plans, programs, and standards for the mobilization and use of the Nation's telecommunications resources in any emergency, which function was assigned to the Director of the Office of Telecommunications Policy subject to the authority and control of the President by Section 2(h) of the Executive Order No. 11556, was transferred to the President.

4-302. [Revoked]

[Sec. 4-302 revoked by Executive Order 12472 of Apr. 3, 1984, 49 FR 13471, 3 CFR, 1984 Comp., p. 193]

Section 5

Related Telecommunications Functions

5-1. *The Department of Commerce.*

5-101. The Secretary of Commerce shall continue to perform the following functions previously assigned by Section 13 of Executive Order No. 11556:

(a) Perform analysis, engineering, and administrative functions, including the maintenance of necessary files and data bases, as necessary in the performance of assigned responsibilities for the management of electromagnetic spectrum.

(b) Conduct research and analysis of electromagnetic propagation, radio systems characteristics, and operating techniques affecting the utilization of the electromagnetic spectrum in coordination with specialized, related research and analysis performed by other Federal agencies in their areas of responsibility.

(c) Conduct research and analysis in the general field of telecommunications sciences in support of assigned functions and in support of other Government agencies.

5-102. The Secretary of Commerce shall participate, as appropriate, in evaluating the capability of telecommunications resources, in recommending remedial actions, and in developing policy options.

5-2. *Department of State.*

5-201. With respect to telecommunications, the Secretary of State shall exercise primary authority for the conduct of foreign policy, including the determination of United States positions and the conduct of United States participation in negotiations with foreign governments and international bodies. In exercising this responsibility the Secretary of State shall coordinate with other agencies as appropriate, and, in particular, shall give full consideration to the Federal Communications Commission's regulatory and policy responsibility in this area.

5-202. The Secretary of State shall continue to perform the following functions previously assigned by Executive Order No. 11191, as amended:

(a) Exercise the supervision provided for in Section 201(a)(4) of the Communications Satellite Act of 1962, as amended (47 U.S.C. 721(a)(4)); be responsible, although the Secretary of Commerce is the chief point of liaison, for instructing the Communications Satellite Corporation in its role as the designated United States representative to the International Telecommunications Satellite Organizations; and direct the foreign relations of the United States with respect to actions under the Communications Satellite Act of 1962, as amended.

(b) Coordinate, in accordance with the applicable interagency agreements, the performance of these functions with the Secretary of Commerce, the Federal Communications Commission, other concerned Executive agencies, and the Communications Satellite Corporation (see 47 U.S.C. 731-735). The Corporation and other concerned Executive agencies shall provide the Secretary of State with such assistance, documents, and other cooperation as will enable the Secretary to carry out these functions.

5-3. *Federal Emergency Management Agency.* [Revoked]

[Sec. 5-3 revoked by Executive Order 12472 of Apr. 3, 1984, 49 FR 13471, 3 CFR, 1984 Comp., p. 193]

Section 6

General Provisions

6-1. *Transfer Provisions.*

6-101. [Deleted]

[Sec. 6-101 amended Presidential Memorandum of Aug. 21, 1963, which was superseded by Executive Order 12472 of Apr. 3, 1984.]

6-102. The primary responsibility for performing all administrative support and service functions that are related to functions transferred from the Office of Telecommunications Policy and its Director to the President, including those functions delegated or assigned within the Executive Office of the President, are transferred to the Office of Administration. The Domestic Policy Staff¹ shall perform such functions related

to the preparation of Presidential telecommunications policy options as the President may from time to time direct.

6-103. The records, property, personnel, and unexpended balances of appropriations, available or to be made available, which relate to the functions transferred, assigned, or delegated as provided in this Order are hereby transferred as appropriate.

6-104. The Director of the Office of Management and Budget shall make such determinations, issue such orders, and take all actions necessary or appropriate to effectuate the transfers or reassignments provided in this Order, including the transfer to funds, records, property, and personnel.

6-2. *Amendments.* In order to reflect the transfers provided by this Order, the following conforming amendments and revocations are ordered:

6-201. [Deleted]

[Sec. 6-201 amended Executive Order 11051 of Sept. 27, 1962, which was revoked by Executive Order 12148 of July 20, 1979.]

6-202. [Deleted]

[Sec. 6-202 amended Executive Order 11490 of Oct. 28, 1969, which was revoked by Executive Order 12656 of Nov. 18, 1988.]

6-203. [Deleted]

[Sec. 6-203 amended Executive Order 11725 of June 27, 1973, which was revoked by Executive Order 12148 of July 20, 1979.]

6-204. Executive Orders No. 10705, as amended, No. 11191, as amended, and No. 11556, as amended, are revoked.

6-3. *General.*

6-301. All Executive agencies to which functions are assigned pursuant to this Order shall issue such rules and regulations as may be necessary to carry them out.

6-302. All Executive agencies are authorized and directed to cooperate with the departments and agencies to which functions are assigned pursuant to this Order and to furnish them such information, support and assistance, not inconsistent with law, as they may require in the performance of those functions.

6-303. (a) Nothing in this Order reassigns any functions assigned any agency under the Federal Property and Administrative Services Act of 1949, as amended, nor does anything in this Order impair the existing authority of the Administrator of General Services to provide and operate telecommunications services and to prescribe policies and methods of procurement, or impair the policy and oversight roles of the Office of Management and Budget.

(b) In carrying out the functions in this Order, the Secretary of Commerce shall coordinate activities as appropriate with the Federal Communications Commission and make appropriate recommendations to it as the regulator of the private sector. Nothing in this Order reassigns any function vested by law in the Federal Communications Commission.

6-304. This Order shall be effective March 26, 1978.

¹ **Editorial note:** Redesignated as the Office of Policy Development in 1981.

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