



14141 SSA
UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548



OFFICE OF GENERAL COUNSEL

IN REPLY REFER TO: B-199282

June 25, 1980

Dennis C. Brown, Esq.
Law Offices of Jeremiah Courtney
2120 L Street, N.W.
Washington, D.C. 20037

Dear Mr. Brown:

This responds to your letter of April 24, 1980, which raises certain legal questions concerning the notice on the cover of the Federal Communications Commission (FCC) working paper publications. 58
AGC 000 71

You refer to the following statement contained in the notice:

"* * * The analyses and conclusions presented in the [Office of Plans and Policy] OPP Working Paper Series are those of the authors and do not necessarily reflect the views of other members of the Office of Plans and Policy, other Commission staff or the Commission itself. Given the preliminary character of some titles in the series, permission should be obtained from the author before quoting or referencing working paper titles in publications. * * *"

With respect to the above statement, you raise two issues: First, whether the FCC's staff members could prepare and publish at the Government's expense working papers that do not necessarily reflect the Commission's views. Second, whether the authors could claim copyright privileges or rights in the Government publications. In addition, your letter questions the propriety of the authors submitting the working papers for commercial publication.

The introductory portion of the notice itself addresses the first issue:

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"The FCC Office of Plans and Policy Working Paper Series presents staff research at various stages of development. These papers are intended to stimulate discussion and critical comment both within the FCC as well as outside the agency on issues in contemporary telecommunications policy. Titles in the OPP Working Paper Series will include preliminary 'think pieces,' interim project progress reports, as well as completed research scheduled for publication on broadcasting, common carrier, cable, and other aspects of telecommunications regulations." (Emphasis supplied.)


Since the matters covered in the working papers are relevant to the operations and functions of the Commission and may result in official FCC action, their preparation appears to represent a proper use of appropriated funds. Although the particular views expressed are the personal views of the staff, the Office of Plans and Policy may expend agency funds to develop and publish the working papers as long as the content of the publication pertains to the agency's operations and functions.

The Office of Plans and Policy also has informed us that the authors do not claim copyright privileges or rights in the publications. As the notice implies, the authors have requested that their permission be obtained before quoting the articles to only assure that the author has not modified or changed the opinions expressed in the publication. In fact, 17 U.S.C. §105 prohibits copyright protection for any "work of the United States Government." Section 101 of title 17 defines "work of the United States Government" as a work prepared by an employee of the United States Government as part of the person's official duties. The working papers are prepared as part of the staff members official duties. To clarify the function of the notice, it might be desirable for the Office of Plans and Policy to add a statement to the notice specifically indicating that the authors do not claim any copyright privileges or rights in the publication.

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In addition, the working papers may be commercially reprinted without affecting their status as Government property not subject to copyright privileges or rights. Cf. 17 U.S.C. §403. The publication of the working paper on Social Objectives and Competition in Common Carrier Communications: Incompatible or Inseparable in the Michigan State University Public Utilities Institute volume, therefore, will not give the author or editor copyright privileges or rights in the document.

Sincerely yours,


Henry R. Wray
Assistant General Counsel

cc: Nina W. Cornell, Chief
Office of Plans and Policy
Federal Communications Commission