

COMSAT HISTORY PROJECT

Interview with Nicholas Katzenbach

Interview conducted by Nina Gilden Seavey

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Nina Gilden: What I'd like to do initially is to establish your connection with the Communications Satellite Act at its very inception.

Nicholas Katzenbach: Well, my connection with it was after the FCC had put in legislation that would have the carriers own COMSAT in proportion to something. I don't know what it was. Then, the question was whether the President should support that bill or not. There was also a bill, I believe, introduced at that time, or shortly thereafter, by Senator Kefauver, which wanted public ownership of the communications satellite. Either Attorney General Kennedy or the Deputy Attorney General, Byron White, asked me if I had any thoughts about the bill as to what the President ought to do.

NG: And you were in what capacity at this time?

NK: I was at that time Assistant Attorney General of the Office of Legal Counsel. I studied the situation with some of my staff, and I suggested that, two things: First, that the bill that Newton Minow and the FCC had put in, giving it to the

carriers was, I thought, was not a good idea. Because if there was great value to this, it was simply handing something of great value with a substantial government--both investment and interest--over to the carriers. And secondly, that I thought [the] Kefauver Bill had absolutely no chance of prevailing. I didn't think that President Kennedy ought to support something that was that clearly politically....

NG: Why did you feel that that was politically unfeasible?

NK: Well, I didn't think he even came close to having the votes for it. I thought that if those were the two alternatives, that even the President's endorsement of that would end up with the carrier's bill probably prevailing.

NG: So what you're saying here is that the carrier bill then, gave away too much?

NK: Yeah, well I thought it gave away too much, yes. If the satellite system was going to be successful.

NG: And when you're talking about giving things away, what specifically are you referring to?

NK: Well, I was referring to the fact that the whole thing was

made possible by the launch capacity that the federal government had. And a good deal of the technology which was going to be used was technology which was related to the government investment. So, I suggested that they enact an Act in which they simply allow people to subscribe to stock in a new corporation, which would have a monopoly of the satellite business. NG: Now when you say that you just suggested that this happen--now were you basing this suggestion on anything that you had been priorly...had some relationship with, or this was an idea that was brought to you, or what was the genesis of this idea?

NK: Well, I think the genesis of the idea was I couldn't think of any other alternative. And it seemed to me that if you didn't want to just give it away to the carriers, one way of doing it was simply to let people take it like any ordinary investment.

NG: Alright, well then, but this is a new idea, essentially.

NK: Yes, it was a new idea at that time. So that was the bill. Bobby Kennedy thought that was a good idea.

NG: Now, when you say there should have been a new corporation formed, did you have, at that time, an idea of what that

company would look like? How the stock would be subscribed to? What the mechanics of it were?

NK: Well, my notion was simply that they issue shares of stock and get what they could for them, just as any other company would float stock; just let the general public subscribe. I had no doubt that the stock would be subscribed, the only thing that worried me about was that a lot of people with no real knowledge of the risk which did exist would invest in it. I thought we ought to emphasize the risk nature of the investment.

NG: And how did you see fit to deal with that?

NK: That was just a question of testifying on it and making sure nobody did a salesman's job on the stock and so forth.

NG: What about the compromise, then, that the carriers would own half the stock? Was that in your mind at the time or not?

NK: No, it wasn't in my mind at all. What happened was some Administration witnesses testified and then I testified--and I testified all day--before Senator Kerr who was opposed to the bill. We went at each other fairly well in the testimony.

NG: Uh, hum, I read it.

NK: He was a bright fellow. He's was a very bright fellow. I get back to my office, after that testimony, and I had a phone call from the President. He said, "Nick can you have lunch with Bob Kerr tomorrow?" And I said, "I can have lunch with Bob Kerr, but I don't think he's going to be willing to have lunch with me." And the President said, "Oh, no. No, he wants to have lunch with you, and see if you can't work out something on the Satellite Communications Act." He [Kennedy] said, "He [Kerr] was very impressed with your testimony and thought you knew what you were talking about." And I said, "Sure, I'll have lunch with him tomorrow," and I did. I'm trying to remember. I had lunch with him and I think that....I know there was another Senator present and my recollection would be that it was Senator Ribicoff, but that doesn't make sense on the dates, so it had to be somebody else. And I'm trying to think that there was another Senator present.

NG: Was it another Senator who would have had something to do with the Act, or was it another Senator who would have been just powerful in the Senate in moving it along or Do you recall?

NK: And I don't. And I'm just trying to think. I know there was another....[Senator Symington of Missouri].

NG: Do you remember where you had lunch?

NK: We had lunch down in the Capitol.

NG: And....

NK: And Senator Kerr said--maybe I'll think of who the other Senator was--but I don't.... it just doesn't....it's probably in my notes somewhere. Senator Kerr said that he was anxious to support the President on a proposal--that he did not want to be opposed to the President. He had been opposed to the President on the tax legislation and he didn't want to do that again so soon thereafter. Therefore he wanted to see if there wasn't something that we could agree to that he could support. And he said that his concern was that if the carriers were left out, that the thing would flop, because they would be opposed to it and they wouldn't take any interest in it and they wouldn't buy any capacity and so forth. He thought it was essential that they have their money in it and their investment in it for it to succeed. So, we talked for while and he said, "Well, why don't we have a system where the carriers own half of it, and half of it goes to the general public." I don't know whether it was his idea or my idea, but I think probably his.

NG: Why do you think it was probably his idea?

NK: Because he was such a bright fellow. I'm sure that was why he called me down there, 'cause he already had the idea....

NG: Because he already knew what was for lunch. [Laughter.]

NK: And I thought that was a reasonable proposal, in fact, I was quite persuaded by his argument that the carriers had to have some stake in the success of it.

NG: Okay, now. Was there any concern on your part, at that time, about the idea of having the people who would still in essence be your competitors, be also your consumers and make policy in terms of Board decisions?NK: Well, much less. We worked that out to some extent with an idea that I don't....it just seemed like a good idea--I don't know whether it really was or not--by having Public Directors. And the three--I think it was three Public Directors--were really designed to cope with the problem that you raised. And that plus the fact that the carriers influence on it was a lot less. And when I say the carriers influence, I mean really what everybody had in mind was AT&T's influence. They were very nearly the carrier.

NG: Exactly. Was there any discussion on your behalf or any knowledge of any discussions that you would have had, about conversations that were occurring with AT&T at that time, before Kerr brought that proposal to you?

NK: I'm sure that he [Kerr] had some conversations with them, because thereafter, the General Counsel at AT&T, Horace Moulten....Kerr would call us both into the office and get us to work on this that or the other provision. And I'm sure that he had talked with Moulten before. I think he had a fairly good idea of what AT&T would accept. But, I think one has to remember, that Senator Kerr was almost as powerful as the rest of the Senate put together at that time. He was by far the single most powerful Senator; certainly on any financial, business, and so forth, matters. I think AT&T--I mean I don't think they liked it at all--but I think he jammed it down their throat.NG: What do you think they didn't like about it?

NK: Well, I think they preferred to have the whole thing. That was what they wanted and they didn't like this. They didn't like the Kefauver thing, but the Kefauver thing was never a concern. [It] never was going to go anywhere. So....and I think Kerr just jammed this down their throat. I'm sure he did, because many times when we had meetings that's what he would do. I remember on one occasion he said, "You

know, you fellows can agree on this. Here you are, the two smartest fellows I know. Gosh, if you were any smarter I don't know what you'd be. Maybe you'd be Senator from Oklahoma."

NG: [Laughter.] And more powerful than any man in the Senate.

NK: Yeah. Right. So, I'm sure that....

NG: Well, did you notice at any time, hesitancy--and if so, where--in working out the provisions of the Bill, on the part of AT&T?

NK: Well, there were things....it's just hard for me to remember back that far. There were provisions that there was disagreement about that we were able to work out language that was reasonable. Then I guess a couple of the provisions of the Bill that have remained ambiguous to this day, remained ambiguous largely because it was hard to get agreement on them, so the language just kind of was left. NG: Can you tell me what some of those things might have been?

NK: There was a lot on the international matters, I guess. And I'm trying to think what it was. I'd have to look at the Bill.

NG: Well, let me make some suggestions. [Could the disagreements have been] about the way they might have been negotiated, about the relationship between the company and the State Department?

NK: No, I don't think it was that. It was....

NG: Or the form that this thing might have taken, whether multilateral or bilateral?

NK: I'm just not sure.

NG: If it doesn't ring a bell, it just doesn't ring a bell.

NK: No, it just doesn't ring a bell with me.

NG: What about the domestic systems, as you were drafting the legislation? Can you tell me what was in your mind in terms of the potential for COMSAT's role in the domestic systems? Was that on your mind at all?

NK: I don't really think at that time, I had in mind really anything in terms of replacement on long lines, or competition on long lines. One of the things that one didn't have any idea about was how much this was going to cost. The Hughes

satellite, when it worked, surprised everybody. [It] was at much less cost than anybody had ever thought. So that was....

NG: Was there any attempt at any point by AT&T, in the drafting of legislation, to force a random or medium altitude system--a TELSTAR-type system--into operation before the Act was passed?

NK: I don't recall any, no. It may have the provision I may have been thinking of....[It] may have had something to do with domestic as against foreign operation. It may have been an effort to say, "No domestic operation of this."

NG: Because of all the things that....

NK: That was left rather vague.

NG:of all the things that's unclear is the domestic systems.

NK: Yeah, and I think that that was the provision that we couldn't agree on. The language remained as it was because it was extremely hard....Well, it remained as it was because when we got cloture--which is in itself another story in and of itself--when we got, we did not want to have to do it a second

time. And therefore, it was important to accept....to have the Bill in conference unamended, so you wouldn't have to go back to the Senate. So we took the Senate version--what the Senate already passed--and the House accepted that.

NG: Ok.

NK: And the provision we had not been able to agree on was left as it was in the Senate version.

NG: I really hate to bog you down with details....

NK: No.

NG:but you really were there and you were doing it, so you are a very key player in this thing....

NK: It was quite a while ago.

NG: It was quite a while ago, and I'm asking you for these insidious details. But, if you can explain to me, or give me some kind of idea, as to who you perceived the key players at that time [were]--other than Senator Kerr--the people who were at maybe other levels that your staff were working with, or you were working with. Give me some idea of the picture of the

thing at the time.

NK: Well, I think in the Department of Justice--my first assistant was Harold Reese. [He] did a fair amount of work on it. I think that a fellow, Nate Siegel, did quite a bit of work on it. We didn't work at all with the FCC, because we really were in opposition with them.

NG: Yes, that was my next question.

NK: And I think we did very little work with the White House. Indeed, I think that....I must have done some work with Mike Manatose and Larry O'Brien, but I don't really recall doing very much. I mean if you had Kerr on your side, you didn't need O'Brien and Manatose.

NG: Well, why would there be a lack of communication with the White House on this Bill?

NK: I don't think there was a lack of communication. I mean, I just don't think they were terribly excited about it.

NG: Is that right?

NK: I mean it was the....they weren't interested in what the

details of the legislation [were]. They were only interested in when Kerr was going to support [it]. The President was only interested in getting something he could identify as his bill through, and that it was something more politically acceptable--less of what was regarded as a giveaway--than the other, the one the FCC sponsored. I mean, I think intellectually, I would have thought the Kefauver Bill was a good proposal. It just politically didn't have any possibility at all.

NG: Just wouldn't wash. Well, let's talk about the FCC a little bit at the time. What was your opinion of what had happened over at the FCC that put them in this position of giving the monopoly away to AT&T?

NK: Well, I think they....since AT&T was very nearly a monopoly anyhow, I don't think they thought it changed anything. It was just another kind of a cable. Therefore, why not let them deal with it in the same way that they had been dealing with communications matters up til then?

NG: That doesn't put them in a very visionary role.

NK: Well, I don't think they probably were in a very visionary role at the time. But, they did it that way and that made

sense and that was easy. I think also if you look back at that time, the Chairman's interest--Newton Minow's interest--was not really on this aspect of communication. He was very interested in television and broadcasting and cable and all that sort of thing, not really interested in phones.

NG: Although, I guess this does give you some kind of, "Live via satellite television," but the use is so small for that reason. Let's move to the next step. Now you have a bill. The FCC has bought off....

NK: I really ought to say one thing about that, though....

NG: Uh, hum?

NK:because it's something a lot people don't really realize. The Communications Satellite Act was an absolute essential ingredient of getting the Civil Rights Act of 1964 [passed].

NG: Give me a reason for that.

NK: Because we got cloture, because people were mad at Kefauver. People voted for cloture who had never voted for cloture before. So, we wanted to get cloture on the Civil

Rights Act. We had a record of people who had voted for cloture and who couldn't say, "We would not vote for cloture on principle" and you'd say, "Well, don't you think that Civil Rights are as important to vote on as satellites?" And....

NG: It's hard to beat that argument.

NK: And it really was an absolute....without that we never would have gotten closure on the 1964 Civil Rights Act, which is just a little footnote to history, but it's an interesting one.

NG: Sure. Well, let's talk about it.

NK: A lot of conservatives, who very much....went with Kerr on the cloture vote here....

NG: Like who?

NK: Well, I've forgotten now, but a good many Republicans. I would think Huikenluper did, and so forth. There were a good many of them that were mad at Kefauver that did that.

NG: Well, let's talk about that move for cloture, then. What do you think brought about the move the cloture, ultimately?

What was it that....

NK: Well, it was the filibuster going. People got mad at Kefauver and there was a lot of irritation by the Senators at Kefauver. There were other things to be done, other bills to be enacted, and it was perfectly clear he didn't have very many votes for this. There was a huge majority for it if it got to a vote and they didn't think it was all that important.

NG: The idea that this group of people, these liberals, could get together and pull off a filibuster, was really a relatively new idea.

NK: Yes it was.

NG: Now that was honchoed by Russell Long, from my understanding, who had a good sense of the parliamentary rules in filibustering because he was a Southern Senator and they did filibuster on all the rest of the Civil Rights legislation. Can you tell me what his involvement was at the time? The kinds of things that he might have been doing, from your view of it?

NK: I don't really....I really can't remember.

NG: Okay. What kind of pressure was your office putting on

different Senators to move for cloture? What kind of backing and forthing in political....

NK: You know, we did an awful lot of that on the Civil Rights Act and we did very little on this Act. The Senate really did that all by itself.

NG: So you're saying they just basically ended the problem.

NK: Yeah, it was really Kerr and I guess Long. I don't know. It may have been Long that had lunch with me that day with Kerr. I can't think of what Republican it would have been, but it might have been Russell Long.

NG: That would make sense.

NK: Uh, huh.

NG: What about as things came to a close on the Bill? Do you think that there were any last minute hesitations? There was the issue of how much the stock should be sold for. Instead of \$1,000, it would go for....

NK: I don't think there was a lot in the Senate. I mean, there was a lot of details of that kind. We had some fairly

good answers to that. Lloyd Cutler did a lot of work on that and was a big help on that, in as that he and his firm knew a lot better than anybody in the Department of Justice.

NG: Yeah, I've spoken with him, he had quite a bit to say on that.

NK: Did he tell you he was the fellow who remembered to go down to reserve that name?

NG: No, he didn't.

NK:in the D. C. Corporation, yeah. We suddenly got the idea that since this had all been talked about as COMSAT, COMSAT, COMSAT, that somebody would go down and register as a tradename, COMSAT, and then charge a lot of money if you wanted to buy it. Lloyd went rushing down there and paid \$25 to get COMSAT registered, so that he would have it protected when the Bill passed.

NG: No, he didn't remember....

NK: Remind him of that, ask him on that, because he can give you more detail on it. I think he's got it framed actually, in his office somewhere.

NG: That's funny. I was in his office. I didn't see anything like that. Now, there was another player in this that we haven't talked about and that's Lee Loevinger. I was wondering if you could recall....you did, actually, a lot of testifying with him at that time. You would appear together and what not. Do you remember anything about the workings with your office and his office and the kinds of issues on the monopoly and antitrust--other than, obviously, just wanting to give this thing away to AT&T? In the final form of the Bill, whether there was any concern over antitrust considerations and what not?

NK: Well, the honest answer is that I just remember very little about working with Lee. Now that you mention it, I remember we did do some work together. The Antitrust Division, throughout history, has had concerns about antitrust from the moment they awake in the morning to the moment they go to sleep at night, seven days a week. So I'm sure they did. I don't know how serious they were and I doubt very much they were terribly serious, it was a regulated industry anyhow; although that never seemed to influence the Antitrust Division very much. But Lee is a very bright fellow, and he did do work on that. And he was....my recollection is that Lee, really, initially would have liked to have supported the Kefauver Bill.

NG: Uh, hum, probably.

NK: And when he was persuaded that he wasn't going to do that, this was the next best thing, and he kind of pitched into doing this.

NG: The Bill ultimately gets passed. What is your involvement with it after that point?

NK: Oh, I had some involvement with respect to the appointment of the Public Directors.

NG: Okay, and this is after Kennedy dies....

NK: Yeah.

NG:and Johnson comes in. He appoints the three Presidential Directors. What was his method of making that decision on who served? Do you remember?

NK: He came up with some names and he asked how they seemed and they....I've forgotten who they were. Phil Graham was one I remember and I don't remember too much [about] the others.

NG: Oh, I'm sorry. I'm jumping ahead of myself. You're

talking about the Board of Incorporators.

NK: Yeah, I'm talking about the Board of Incorporators.

NG: Alright. So the Board of Incorporators. Well, Phil Graham was the Chairman, and Sam Harris was the Vice Chairman. There was Ambassador Feldman, George Feldman, sat on that Board. Byrne Litschgi sat on the board. Oh, who else was on there? A guy from Goldman Sachs, Sidney Weinberg. Do any of these names say anything to you? Discussions that you might have had with them, about the future of the company?

NK: No, but what they say is....if you look at the people there, they were obviously trying to get people who had some familiarity with the corporate world, securities issuances and so forth and so on, as well as some politics, and clearly....

NG: Well, Leonard Marks sat on the Board and he obviously knew quite a bit about communications law.

NK: Plus, Sam Harris was a big corporate lawyer in terms of stock and bond issues. George Feldman was, I guess, a great buddy of the Speaker's, wasn't it?

NG: McCormick. He was his "bad boy" from Boston. What

about?...Phil Graham actually played a different kind of a role in this whole thing. Do you remember the kinds of issues that Graham was concerned about at the time? He's a little bit harder to document, obviously not being with us anymore. Did you ever have any discussions with him?

NK: I had a couple of discussions with him. I remember I met with the whole Board when it first met and talked with them for a few minutes, but we were anxious to get out of it. That is to say....

NG: You mean, we who?

NK: The Department of Justice and the government was anxious to get out of this, because they thought the whole thing was more successful if they did it themselves. We had been nursing that baby for a long time and now wanted to get him off the bottle.

NG: Wean him.

NK: Wean him, yeah. So we were trying to stay away, and that was one of the reasons that I kept pushing Cutler into it and trying to get it over into the private [sector], as if there is anything private in Washington.

NG: Maybe not. Least of all conversations, of course. Your conversations with Graham, though, at the time....did you represent any kind of a view about what this company should look like? What its priorities should be? What the President or the Justice Department, Bobby Kennedy, whoever, would have felt should be on the agenda of items to do?

NK: I'm sure I did to some extent. It's just hard for me to get into the details. I mean, I think I was trying to emphasize to him that it had to be consistent with what we had represented that it was going to be: That it had to be independent of the carriers, despite the half carrier interest, that they shouldn't....that meant there had to be strength on the part of the Public Directors, and that it was a new idea. Phil Graham was one of the brightest people I've ever met and I just sort of thought he would be imaginative about how you put it together. Sam Harris would, too.

NG: What about the issue of the international arrangements? Now, the bill calls for this idea of, well, for the "common good." What did you convey to Graham or [do you remember] anything that you might have conveyed to the Incorporators on what that meant functionally?

NK: I don't remember. You know, and I doubt very much....I don't think we knew very much what it meant.

NG: Because Graham had a specific view on it that didn't prevail, and I've been trying to locate why he ultimately didn't prevail?

NK: Well, I don't remember, at the moment. I'd have to refresh my recollection....

NG: Well you may not have had anything to do with that. I mean, there is no reason necessarily why you would have.

NK: We really did try to withdraw from it. And that may have been Loevinger, being rather anxious to have us withdraw from this, so that we wouldn't be waiving anything.

NG: Well, I'm meeting with him on Tuesday, so I can ask him about that then. Well, so then what you are saying is that you all basically bow out now.

NK: Bow out. Yes, we do. Well, you have other people, I mean Joe Charyk was in it from the outset, so he came over from, where was it? Navy or....

NG: Air Force, Undersecretary.

NK: Yeah. So that it was....[It] still had some government connection.

NG: Did you have any input into the selection of Leo Welch as Chairman of the Board? Do you remember?

NK: I remember that it was discussed, and there must have been some input. It certainly wasn't my choice, because I didn't really know him. But I don't remember very much about it. In fact, I don't even remember....I remember testifying that day before Bob Kerr, but I don't even remember any other testimony on that. I'm sure I must have testified in the House.

NG: Well you did, you testified before the House.

NK: I don't remember it.

NG: But the House really just didn't play the key role in this thing that the Senate obviously did.

NK: I can remember details of my testimony--which you say you've read--before Kerr. I remember that marvelous story that he told about driving his children down to Oklahoma in that big car. He said, "That car couldn't pass a gas station or a Coke

stand." [Laughter.] He said, "Everytime we stopped," this was after I had been repeating some of the things we had been talking about, he said, "Everytime I stopped that car and got gas and then I'd look out the highway and I'd say, 'now I've got to pass all those cars again'." He was referring to my testimony. He was a funny man.

NG: Alright. Is there anything that you feel is important that I may have overlooked in this or that . . . ? Issues that...?

NK: No. Well I don't really know. I don't think so--not in terms of my role in it. In lots of ways I was in that from the beginning and then got out.

NG: Because everybody has said--when I've been pushing them on details about the development of the Act--they say, "Well, you have to talk to Nick Katzenbach. He was there and he did it."

NK: Yeah, well, I may have done more than I can remember. I remember several meetings with Kerr and Horace Moulten on trying to straighten out provisions of that Bill, but I don't now recall all that they were. Harold Reis might recall some of them, I don't know. He's practicing law somewhere here in Washington. I haven't seen him in 10 years or so.

NG: Did you ever have any conversations with Jim Dingman as well.

NK: With who?

NG: Jim Dingman who was the Vice President of AT&T and actually was he was a real COMSAT proponent.

NK: Yeah, I met him and talked to him, I guess on a number of occasions, but I had much more contact with Moulten. He was a nice gentleman, very nice gentleman.

NG: Did you have any contact with either Eugene Black or Ted Westfall? They were ITT directors.

NK: I don't think so.

NG: Don't think so? And what about the people who ultimately came to sit on the Board. It was Len Marks....

NK: Yeah, that's where I first met him, I think.

NG: So you weren't that really far into the development of the company by the time we actually get to the Board of Directors.

NK: No. I really don't think I ever had anything to do with it, after talking to that initial meeting of the Board of Directors [sic, Board of Incorporators] which I did, trying to explain a little bit about what the background was and what we hoped would happen.

NG: I wish I had a tape recording of that conversation.

NK: I don't remember. It was a lot of blah.

NG: So you think that stuff is boring?