

Classified Material, see also Freedom Of Information Act

Commission will send a representative to a top secret classified Dept. of Defense briefing. This relates to the issue of receiving classified national defense information into the record of the FCC proceeding in Docket 18875.

FCC 78-756

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION**

WASHINGTON, D.C. 20554

In the Matter of

Policy to be Followed in Future Licensing  
of Facilities for Overseas Communications

Docket No. 18875

**ORDER**

(Adopted: October 20, 1978; Released: October 24, 1978)

BY THE COMMISSION: COMMISSIONER QUELLO ABSENT.

1. On October 10, 1978, we requested the United States Department of Defense (DOD) to provide us with certain information for determining whether it was necessary and legally permissible for us to attend a classified TOP SECRET briefing it had offered us at the oral argument *en banc* in Docket No. 18875 on August 7, 1978. On October 13, 1978, the DOD provided its brief on the question of receiving classified national defense information into the record of an administrative proceeding and indicated that the balance of the information would be filed on October 20, 1978, and would itself be classified TOP SECRET. We have now received the DOD's response.

2. Pursuant to the procedures we set out in our letter to the DOD, and a letter of October 11, 1978, from the Acting Chief of the Common Carrier Bureau to the parties in this proceeding, the classified material was received by the Commission's security officer. The security officer and the General Counsel reviewed the material filed and concluded that it was apparently related to the subject matter of the discussion at the August 7, 1978, oral argument and that it should, therefore, be reviewed by the Commission itself.

3. By separate Order in this proceeding adopted October 20, 1978, we determined that the Commission is legally empowered to receive classified national defense information and to use that information as the basis for a decision. See Section 4(j) of the Communications Act of 1934, 47 U.S.C. §154(j) (1970). Accordingly, we denied an opposition to

the holding of the TOP SECRET briefing which had been filed by the Communications Satellite Corporation (Comsat). Once we had concluded that it was lawful for the Commission to receive the briefing, we concluded that the members of the Commission should review the material to decide whether it would be helpful in our proceedings in Docket No. 18875. We have now finished our review of the DOD filing and have concluded that, from the material provided, it appears that the information DOD proposes to present at the briefing is *prima facie* related to the question before us and that it would be helpful to us in the conduct of this proceeding. Accordingly, we have decided to attend the briefing which DOD has scheduled for 2:30 p.m., Monday, October 23, 1978, at the Defense Communications Agency.

FEDERAL COMMUNICATIONS COMMISSION,  
WILLIAM J. TRICARICO, *Secretary*.