

U. S. DEPARTMENT OF LABOR  
Wage and Hour Division  
Washington, D. C.

STATEMENT ON INDEPENDENT TELEPHONE EXCHANGES

The Economics Section\* of the Wage and Hour Division, U. S. Department of Labor, is making a study of the possible effects of various amendments to the Fair Labor Standards Act now before Congress relative to independent telephone exchanges, according to a statement made public today by Administrator Elmer F. Andrews.

The Division, said Mr. Andrews, has already asked heads of State regulatory commissions for suggestions as to what basis, if any, there is for excluding certain telephone exchanges in rural areas from the coverage of the Act. Mr. Andrews' statement on the status of small, independent telephone exchanges, a problem which has led to many inquiries and to the introduction in Congress of several suggested amendments, follows:

"During the past two weeks many Members of Congress have forwarded for our information letters which they have received from constituents urging the enactment of a legislative amendment to the Fair Labor Standards Act of 1938, exempting employees of small independent telephone companies from the benefits of the wage and hour provisions of the statute. The letters assert that the Act, if applicable, will make it financially impossible for many small exchanges to continue operations. Needless to say, I am greatly concerned about the problems of telephone exchanges under the Act, and should regret any discontinuance or curtailment of their operations. Accordingly, I should like to discuss

at this time the status of small, independent telephone exchanges under the Act.

"The wage and hour provisions of the Fair Labor Standards Act of 1938 apply only with respect to employees engaged in interstate commerce or in the production of goods for interstate commerce. Whether an employee is so engaged depends, of course, upon the facts in the particular case. This Division has not expressed any opinion as to whether any or all of the employees of small telephone exchanges, which transmit interstate long distance calls very infrequently, are engaged in interstate commerce.

"From the numerous letters we have received it appears that a common practice among small telephone exchanges is to contract the operating services for a definite amount per month. The contracting agent is often furnished with living quarters, heat and light, and is required to give the switchboard whatever attention is needed. With respect to such employees, Section 3(m) of the Act would seem to apply. This section defines the term 'wage' to include the reasonable cost of furnishing an employee with board, lodging or other facilities if such board, lodging or other facilities are customarily furnished by the employer to his employees. In other words, if this Section applies, the reasonable cost of the facilities furnished by the telephone company to its employees may be added to the cash wage paid in order to satisfy the minimum wage required to be paid by the statute.

"Many independent telephone exchanges raise difficult problems regarding the computation of hours worked by operators.

In many of the small exchanges, I am informed, the telephone requirements are largely confined to an hour or two in the morning, a similar period about noon and two or three hours in the evening. At other times during the day calls are very infrequent. During the night no one is in direct attendance at the board but an alarm bell calls the operator in the event of emergency calls. Frequently in these small exchanges the switchboard is located in a home in the community or in a local store where the operation of the board is incidental to other work. It is possible that in many such instances a proper computation of hours worked would reveal that compliance with the wage and hour provisions of the statute imposes slight financial burden. The Office of the General Counsel of this Division is presently studying the general question of what constitutes 'hours worked' under various circumstances. In connection with this study the problems raised in the case of small telephone exchanges will, of course, be carefully considered.

"Section 13(a)(2) of the Act provides that the wage and hour provisions shall not apply with respect to any employee engaged in a retail or service establishment, the greater part of whose selling or servicing is in intrastate commerce. In our Interpretative Bulletin No. 6, which deals with the scope of this exemption, we stated that in our opinion telephone companies are not considered to be service establishments within the meaning of this section. This opinion was adopted only



after long and careful consideration was given to the arguments of the telephone companies in favor of a contrary interpretation. Several conferences were held with representatives of United States Independent Telephone Association and many letters and briefs were submitted for our consideration.

"After the publication of Interpretative Bulletin No. 6 an informal conference was held between members of this Division and the representatives of the United States Independent Telephone Association at which all the foregoing problems were discussed fully. The representatives of the association indicated that they would be pleased to furnish for our consideration their suggested solution to the questions not yet decided. The representatives also raised the question of a legislative amendment, exempting independent telephone exchanges from the operation of the Act. We refrained from expressing any opinion in the absence of more complete information on this matter.

"After this conference it appears that the Association requested all its members and other interested parties to write to their senators and congressmen, urging the enactment of a special exemption for employees of the telephone exchanges. Several legislative amendments have been introduced in Congress during the present session and these proposals vary considerably as to the basis of exemption, e.g., (1) 500 telephones in the system, (2) 1000 subscribers or less per exchange, (3) all employees of telephone exchanges, etc. We are not sufficiently

informed at present to express a well-founded opinion as to the merits of these various proposals. Until information is available, it is impossible to determine the number of exchanges which would be eliminated from the coverage of the Act by any particular exemption, the population of the towns in which such exchanges are located, the operating revenue of such exchanges, the number of employees employed, the wage scale of such employees, etc. The Economics Section of this Division is now engaged in making a study of the effects which might be anticipated from the application of the various suggested amendments, and we may be in a position later to make a recommendation to the committees of Congress should they request us to do so.

"One further matter should be touched upon. On the other side of the picture, we have received many letters from employees of telephone companies complaining of the existence of extremely low wages and long hours of work in certain parts of the industry."

#####