

*not released to press*

SPEECH GIVEN BY FCC COMMISSIONER JAMES H. QUELLO  
BEFORE THE TENTH ANNIVERSARY CONVENTION OF THE  
NATIONAL ASSOCIATION OF MEDIA WOMEN

September 19, 1975

Thanks for inviting me to appear before your Tenth Anniversary Convention of the National Association of Media Women. It is most timely--the FCC recently issued a Notice of Inquiry and Proposed Rulemaking regarding nondiscrimination in employment practices of broadcast licensees. We emphasized that equal employment opportunity is an important aspect of the regulatory function. Comments have been filed and replies are due in October.

EEOC, of course, is doubly interesting to the ladies gathered here today because you qualify on two counts--today more than ever before, female and black are both beautiful in employment opportunities, particularly in industries regulated by the FCC. However, with this opportunity comes responsibility and challenge. The affirmative action program opens opportunities for women and minorities--but once on the job you have the challenge of making the grade on merit and proving you deserved the chance--that you can perform as well as, or better than, your co-workers.

The FCC is the only regulatory agency that has promulgated its own rules for an affirmative EEO action beyond and above requirements of federal law.

Although we are the leaders among regulatory agencies, I still don't believe we are doing enough to eliminate a principal source of frustration--that of complaints to the Commission.

My recent statement that accompanied the FCC Notice addressed the problem of complaints. It might be interesting to this group--it reads:

"A statement of Commission policy regarding equal employment opportunities in broadcasting is, I believe, appropriate and desirable. However, I question whether the Commission's approach produces the clarity and certainty that would facilitate compliance and maximize implementation.

"First, the Commission's procedures for dealing with specific complaints from the public are--and remain--woefully inadequate. We simply defer to other jurisdictions whenever possible and avoid any direct Commission response which could be characterized as timely or expeditious. The result, of course, is that complaining parties tend to lose faith in our ability to address their problems through the simple complaint process with the predictable result that other, indirect, costly and time-consuming approaches are employed, i. e., petitions to deny license renewals. I believe the Commission should consider the following:

- 1) Establishment of simple, clear-cut procedures for receiving and expeditiously processing discrimination complaints;
- 2) Establishment and enunciation of a threshold standard for evaluation of complaints;
- 3) Prescription of a simple, straightforward response procedure for licensees;
- 4) Establishment of liaison with EEOC for the purpose of expediting the resolution of complaints where EEOC involvement is necessary or desirable.

"Secondly, I would hope that this Commission will, at the earliest possible moment, develop and enunciate a recognizable 'zone of reasonableness' standard which will spell out as clearly and straightforwardly as possible exactly what we expect of licensees in this area. Any internal standard developed within this Commission for processing equal employment opportunity matters should also be widely known and understood by the public at large and by the industry concerned. I fail to understand where any constructive purpose is served by continuing to apply some sort of amorphous rule of thumb to these matters.

"I am heartened that the Commission is finally coming to grips with what it conceives to be its obligations regarding equal employment opportunities in broadcasting. However, I am concerned that so much time has passed between concept and substance and that more thorough consideration was not given to the two issues I have mentioned."

Our Chairman in a recent speech released significant data compiled from annual employment reports which we require of all licensees with more than five fulltime employees. It shows that female employment in broadcasting stands at 25.3 percent and minorities at 11.6 percent--those statistics indicate that many broadcasters are making a commitment to affirmative equal employment in line with Commission rules and the law of the land.

I agree with Chairman Wiley's remarks that this is precisely as it should be. There simply is no room in an industry as "public" as broadcasting for hiring and promotion practices which discriminate against minorities and women. Moreover, a broadcaster's personnel policy must be more than simply nondiscriminatory. The FCC has made it clear that it expects broadcasters--in their personnel policies and practices--to affirmatively seek out racial and sexual minorities.

Perhaps the most important part of the licensee's overall plan to assure equal employment and advancement opportunities is the obligation to conduct a continuing review

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of employment practices and to analyze whether minorities and women are fully participating in all station units, occupations, and levels of responsibility. In the Commission's clarification, we propose that broadcasters accomplish this review by determining whether qualified minorities and women are employed in its workforce in some reasonable relationship to their availability in the recruitable labor market.

Thus, we propose that the broadcaster set forth data on the percentages of minorities and women in the local population or the local labor force as well as data relative to the broadcaster's own employment profile. If there is a substantial incongruence in the proportion of minorities and women in the station's workforce and their availability in the local labor pool area, then the broadcaster should explain the circumstances and, where appropriate, describe the measures or steps it will follow to correct such underutilization.

Now this is not to say that we require fully proportionate minority or femal employment by broadcast licensees. To be candid, I oppose the concept of quotas (which sometimes turn out to be a ceiling as well as a floor). Moreover, I do not believe that the government should ever be able to select an employee for one of our licensees. Under our system of free enterprise, these personnel determinations should and must be left to the individual employer. But where a pattern of discrimination is apparent, the government is compelled--as a matter of both law and basic morality--to step into the picture.

The courts have recognized that nonproportionate employment--standing alone--does not necessarily evidence discrimination requiring administrative action. However, where we find a substantial disparity in minority or female employment, a question may be raised whether the broadcast franchise is being exercised in the public interest. And when that disparity is accompanied by an inadequate EEO program, further regulatory action by the Commission clearly may be warranted. Where it appears that the broadcaster has followed discriminatory employment practices, I can assure you that the Commission will not hesitate to order a hearing to resolve any substantial and material questions of fact.

In those cases where the evidence is less clear, where it appears that a broadcaster's equal employment program is not achieving its intended results or that certain elements of its employment system are questionable, we may--as a remedial measure--impose the kind of reporting requirements that I referred to earlier: essentially, specific data by race and sex on applicant flow, hiring, promotions and terminations. In an appropriate case, we may even require a station to file hiring and promotion goals and timetables.

I hope this recitation of the Commission's most recent activity in the realm of equal employment opportunity gives you some idea of our commitment and progress toward increasing minority and female participation in broadcasting. I can assure you that this commitment exists on the part not only of the Chairman or my good friend, Judge Ben Hooks, but with every other FCC Commissioner as well.

So speaking as one Commissioner from the one regulatory agency that is striving to assume a leadership role in affirmative action, I can say the opportunities are better than

ever before--but, remember, the responsibilities and expectations, too, are greater than ever before. Booker T. Washington aptly said "an ounce of application is worth a ton of abstraction."

Remember--and fortunately it's being done everyday--match equality in opportunity with equality in efficiency and performance. In that way we not only vindicate affirmative action programs, but provide a solid foundation for well deserved further implementation and expansion.