

REMARKS BY
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BEFORE THE
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Greetings. I'm happy to be with you today and to have this opportunity to share this panel with these broadcast policy experts who happen to be friends.

Recently, I received the Outstanding Citizen of the Year award from the Michigan Association of Broadcasters and the Sol Taishoff award. On both occasions, I had the opportunity to provide a few comments. I indicated to them, as I'm indicating to you today, that it has been a good year for me. I've been here at the beginning and it's nice to be around to see it pass.

Speaking of beginnings and endings, soon the Commission will have three new Commissioners: Al Sikes as Chairman, and Andrew Barrett, and Sherrie Marshall as Commissioners. Hopefully, the new era at the Commission will be one of kinder, gentler regulation and, hopefully, better congressional relations. Speaking of congressional relations, Wisconsin Broadcasters are fortunate to have Senator Bob Kasten serving on the Senate Telecommunications Subcommittee. I know Bob, he's a friend of mine, and you are represented well by his membership on the Subcommittee.

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I expect the Bush Administration's FCC to continue marketplace deregulatory policies, but with a more moderate, less ideological approach. I hope, and expect, improved working relationship with Congress. I believe that we should accelerate Commission processes and effect more prompt action on applications and issuances of Commission notices.

Before I talk about the new Commission and issues that will be before it, I would just like to review some of the areas where I have disagreed with the majority of the past Commission. I parted company with my colleagues on must-carry and repeal of the three-year holding (anti-trafficking) rule. I opposed the repeal of the UHF impact policy, UHF land mobile sharing without a demonstrated need for more spectrum, limited spectrum allotments for HDTV, broadcast spectrum auction, flexible use, initial financial interest in syndication proposals, and the list goes on. I have also expressed concern and shifted the burden of proof on the significant Telco/Cable NPRM and expressed reservations about replacing our current comparative process with random lotteries. These are just the highlights.

You, as broadcasters, recognize that there are many issues that remain to be resolved at the FCC, Congress and the courts. I would like to spend a few minutes reviewing just few of them. Recently, it was announced that NCTA and NAB had reached an agreement on must-carry. INTV voiced opposition to the agreement, and as such no agreement exists at this time.

INTV's strong opposition focused on channel repositioning. I'm not going to comment on the merits of the agreement at this point. All that I will say is that I encourage the negotiations to continue and hope that all parties will be involved in the negotiation process. I do hope that an agreement can be reached among the various interests on this very important, bottom line, issue.

While I'm on must-carry, I must say that I feel the Commission made a fundamental mistake in not arguing the government's interest in retaining a must-carry policy when the Commission failed to stress the point of localism by arguing, specifically, Section 307(b) of the Act. The FCC lost the must-carry battle in Court, and now we can hope an industry agreement can be reached through negotiations. I agree with Chairman Dingell and encourage all parties to continue to negotiate and resolve the must-carry issue.

Another significant issue before the Commission is telco/cable cross-ownership. The Commission currently has a Notice of Inquiry outstanding examining the possibilities of telco ownership of cable systems. The issue of telco/cable is very complex and, as such, we should not rush to judgement! I believe it would be helpful to both the Commission and the Congress for the Commission to hold a hearing on this issue.

Apart from the traditional interested parties, I would like to hear from the leading think tanks, such as the Heritage Foundation and the Brookings Institution, as well from the Department of Justice, Department of Commerce, state regulators, antitrust experts and others. Perhaps it would be appropriate to hold these hearings later this year or early next year after the new Commission has had an opportunity to "settle-in." In any event, we should endeavor to develop a full record on this issue so as to provide Congress with a well-reasoned recommendation. Obviously, an important factor in the telco/cable proceeding is the role broadcasters will have in the telco/cable environment.

While I'm on the subject of cable television, in 1990, the Commission must submit a report to Congress reviewing the 1984 Cable Act. At issue in this review will be numerous policy questions concerning the Cable Act and effective competition. Depending on the scope of the Commission's inquiry, a status report on competition could include issues such as competition with broadcasters, vertical integration, discriminatory program pricing for media such as MMDS and satellite delivered programming.

Continuing with cable/broadcast issues, the Commission has a pending rulemaking on network cable cross-ownership. Comments on this proceeding have been received. As you are well aware,

affiliates and independent broadcasters are opposed to relaxing the rules. On the other side, the cable industry supports elimination of the rules. One of the key issues in this proceeding is vertical integration resulting from the possibility of network cable combinations. Affiliates fear that networks will bypass local stations. Additionally, network owned cable systems may favor their network programming to the exclusion of others. According to the comments, affiliates and independents want some assurance of channel position and carriage.

Another issue facing broadcasters is FM short-spacing. The Commission adopted a Report and Order allowing stations to short-space their facilities up to 10 kilometers, providing interference reducing techniques such as directional antennas were employed. This decision could lead to an overall 14% reduction in spacing in the FM band. Stations using short-spacing techniques would be protected to their contours. Opponents of this decision have filed a stay with the Bureau; however, the Bureau recently denied the stay. Those critical of this decision view it as the beginning of the end for the table of allotments for FM. I see this as the development of a contour protection method of allocating FM stations, similar to the method that is used for AM radio. My dissenting statement articulates more clearly my objections to this decision.

While on the issue of FM radio, there is always concern regarding FM translators -- low power FM. It is no secret, broadcasters are concerned about existing translator rules being abused. FM broadcasters fear that the establishment of a low power FM service will fragment audiences, thereby, damaging the economic viability of full service local broadcasters. The Commission has pending a Notice of Inquiry examining the translator rules and the comments have been submitted. Most broadcasters are fearful of the development of a low power FM service and would prefer to have the Commission tighten both the technical and economic regulations governing the use of translators.

I am confident that the new Commission will continue evaluating technical issues facing AM broadcasters. Currently, the Commission has pending before it several proceedings involving technical changes to the AM band. We are examining groundwave and skywave propagation characteristics and are looking at whether new curves should be adopted. We have proposed to allow AM stations to negotiate with other stations whereby one station would turn in its license to the Commission and to allow other stations to increase their power. I encourage the new Commission to continue to move forward with its technical evaluation of the AM band.

Just last week, the Commission adopted an item addressing Class A FM upgrades. The Commission increased the maximum effective radiated power for Class A FM broadcast stations from 3000 to 6000 watts. To reduce any adverse effect the power increase might have on the service of existing FM stations, the Commission ruled to implement the increase on a selective basis rather than as an across-the-board or "blanket" increase. Also, it revised the distances by which Class A stations must be separated from other FM stations in order to maintain the current level of protection for the service of all classes of FM stations. Existing stations at locations that do not meet one or more of the revised distance separation requirements will be "grandfathered." Modifications and relocations of these stations will be permitted under the previous power limit and separation requirements, or under technical conditions that present no greater potential for interference than the previous limit.

To facilitate many Class A FM station increases in power without unnecessary delay, in November, the Commission will publish a list of existing Class A stations at locations that meet the new separation requirements. (The Commission estimated that approximately 500 stations fall into this category.) Licensees of those listed stations that can increase power through certain simple technical means will be allowed to do so on or after December 1, 1989. Licensees of other Class A FM

stations desiring to take advantage of the new power limit will be required to file FCC Form 301 and obtain FCC approval before increasing power.

The Commission has before it a Notice of Inquiry concerning assignment policies for the expanded AM band. Part of this Inquiry examines the idea of national licensing. Under this approach, 10 entities would be licensed to frequencies for the entire country. These frequencies would then be sublicensed in each community. There is concern that the proposal would create private frequency coordinators in the expanded AM band. Broadcasters prefer that we give preferences to AM daytimers and allow them to "homestead" in the expanded AM band. As I indicated in my statement accompanying this item, I have some real problems with the national licensing concept. We may be granting inappropriately the right to allocate broadcast licenses to those who hold national licenses.

Without completely exhausting my list of issues facing the new Commission, I would like to speak for a moment on lotteries. The FCC has a pending rulemaking seeking to use lottery procedures, similar to those used for low power television for the awarding of broadcast full service television stations. To my understanding, this proposal has no support in the industry or anyone outside the FCC. Congress, the National Association of Broadcasters, and the Federal Communications Bar Association all oppose the use of lotteries. I do believe that our current

comparative process needs to be reexamined and improved. I know that it takes too much time and too much money to process comparative hearings. I do believe that many of the problems associated with the current process can be corrected and that to resort to lotteries would, in my opinion, be a means of last resort.

Finally, there is a pending rulemaking addressing network/stations rep rule. The networks are currently prohibited from representing their affiliated stations in the sale of national or local spot advertising. The FCC Network Inquiry recommended eliminating this rule. Local stations and station representatives are opposed to changing this rule for the obvious reasons, primarily network control over stations.

By highlighting a few of these issues, you realize that the new Commission will have a full plate before it. I look forward to working with my new colleagues in building a kinder and gentler FCC. Thank you.