

Statement of Commissioner James H. Quello

In the Matter of Competition, Rate Deregulation and the Commission's Policies Relating to the Provision of Cable Television Service

This item today is proof that, regardless of individual viewpoints and prerogatives, the collegial process is alive and well at the FCC.

This comprehensive report represents intensive individual input from Commission bureaus, offices and Commissioners' staff members.

I wish to commend all my fellow Commissioners for their efforts in achieving a reasonable consensus to this complex subject. I commend Commissioner Marshall's contribution of thought-provoking diverse viewpoints for consideration and inclusion in the final report. During the initial, and inevitable, churn I nominate Comr. Duggan for an FCC equivalent of the Nobel peace prize for his key role in achieving agreement among the various individual Commissioners. And, we all know that the Chairman ultimately assumes the principal credit or all the blame for FCC actions -- so a salute to his statesmanship and leadership in this process. And this leaves you and me, Andy, with strong individual opinions that are reflected in portions of this report -- I'm going to steal or paraphrase Commissioner Barrett's statement from our last FCC meeting: "I don't think it matters much what we think, this item will be principally decided in Congress and the Courts."

However, I do want to take this opportunity to briefly bottom line some of my opinions. The final cable rate formula, if not legislated by Congress, could be influenced by an FCC revised definition of effective competition. This is being addressed in a separate docket -- yet it is a major issue for our recommendations to Congress. I feel compelled to express my views on the critical subject as I'm the only Commissioner here who voted for a three station TV standard as establishing effective competition. At that time I expressed grave doubts and facetiously characterized our efforts as "defective" competition. However, there didn't seem any place else to go at that time and I reluctantly voted for it. Also, must carry and channel positioning were securely in place; cable was not aggressively selling TV advertising in competition with local stations, there were many fewer cable channels six years ago, and cable penetration was considerably less than the 60% reported last month.

Under these circumstances, I believe it appropriate for Congress and the FCC to revisit the 1984 Cable Act and update its provisions to serve a drastically changed multi-channel cable TV marketplace of the 1990s.

I'm merely going to repeat what I have been saying in public speeches the past three years: In my view the 3 station standard for effective competition is outdated and totally inadequate in the varied multi-channel TV cable marketplace of today-- particularly when you consider that cable isn't even legally required to carry the three stations!

In my mind the most effective competition to existing cable is another multi-channel provider. In this item today we encourage development of multi-channel marketplace competition by emphasizing program access for potential competitors. As of today MDS, MMDS and DBS are more potential than actual competitors. They require much more time and development to evolve as cable competitors in the marketplace of today.

So today and for the immediate future there is very little viable effective competition for cable with its 60% market penetration. The action word here is "effective."

I understand there is a comprehensive cable-TV agreement for must carry and channel positioning that will probably be incorporated into legislation.

At this time I believe it appropriate to have must carry and channel positioning as first priority items.

However, I believe to establish a truly equitable TV marketplace in the future, Congress will have to eventually revoke the compulsory license and require retransmission consent to transmit the broadcaster's program product.

The compulsory license served an essential purpose in the early days of cable when cable provided a basic TV service to thousands of unserved or underserved small towns. My home town of Laurium is an example. Only one poor TV signal was available from Marquette, Michigan. Cable brought basic TV service to the grateful populations of Laurium and hundreds of other Upper Peninsula towns. In my home town most people would have preferred cable TV service over phones or bathtubs. (Fortunately, they weren't required to make the choice.)

However, I can't possibly conceive that it was ever intended by government officials that local broadcasters in hundreds of larger cities would be required to provide a free program subsidy that delivers 60-70% of the cable audience for a cable system aggressively selling TV advertising in competition with them. This must be corrected at some future date.

Now for the rest of the story -- Cable has provided a desirable, popular service. It has been a dynamic growth industry. It has invested heavily in new plant, new technologies and many additional channels. I have often said, and I repeat, I personally like cable. I won't stay home without it. I particularly like CNN, ESPN, TNT, C Span, A and E, American Movie Classics and the Discovery channel.

I think it is essential that any rate regulation eventually established by Congress or proposed by the FCC represent a free enterprise solution with the least intrusive government intervention so that cable can continue to explore advanced technology and to expand its popular service. I support our report today that recommends a general preference for competition over regulation. I understand we will propose specific rate formulas in our effective competition report this fall.

Briefly a word about vertical and horizontal limitations: I believe any limitations should be enacted only to correct abuses.

The occasional abuses today must be considered in the context of the public benefits of economies of scale for a dynamic growth industry.

There are many other detailed facets of this comprehensive item but I reserved my bottom line comments for items that were uppermost in my mind. My comments are formed from a perspective of 16 years on the FCC witnessing the dynamic development of cable, the essential free over-the-air service of TV, and trying to be an objective practical regulatory referee in the long standing cable-TV conflict. Also, I have a longtime working knowledge of the highly respected executives in both industries.

In the future I foresee more areas of agreement and fewer areas of bitter competitiveness between these two industries that play such a prime role in informing and entertaining America. In fact, there is emerging now more joint annual conventions by state broadcasting and state cable conventions. I hope our actions today will help foster future cooperation.

Cable and broadcasting have presented the American public with the most comprehensive and best telecommunications service in the world. I don't think public interest is served by making either of them any less than they are. Congress in its wisdom is taking progressive steps to preserve their service by assuring a reasonable rate structure and an equitable broadcasting marketplace that best serves all American consumers.

Thanks for indulging me this opportunity, Mr. Chairman and colleagues -- I rarely have lengthy comments but I have lived with this issue a long time.