

Luncheon Remarks by Chairman James H. Quello
Federal Communications Commission
Before the
Wertheim Schroder/Variety Seminar
The Business of Entertainment: The Big Picture
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Among the things that happen when you are appointed Chairman of the FCC -- even interim Chairman is: (1) You get much more mail and press, more of it than ever before questioning the legitimacy of your family lineage; (2) More self-generating crises on a wide range of your entertainment-related issues; and (3) more generous introductions, particularly at regulated industry functions. So thank you, I needed some relief from Nos. (1) And (2).

As you know, generous introductions are often the most impressive part of my speaking appearances. I need one today because I'm in awe speaking on the business of entertainment given the collective expertise, wisdom and business success represented in this audience.

However, I don't feel compelled to deliver an academy award performance . . . You see once more, neither my amateur standing as a speaker nor your treasury is being impaired by my appearance on your podium.

It is also nice to see that age still commands some respect in this calloused world, especially now that I have reached a final stage of life. As I see it, the three great stages of life are (1) youth, (2) age, and (3) "You look Great!" I even feel great, play tennis twice a week and retain 75% of my marbles (still a good local norm in Washington) but I don't make a practice of buying too many green bananas.

Speaking of senior citizenship, I hope the Grey Panthers and the AARP will remember that President Clinton appointed a citizen in his golden years . . . make that platinum years, to a prestigious active post. With the support of the communications leadership in Congress, I will do my best to assure that our actions represent the best interests of the public. Our immediate goal will be to maintain a strong stable course deciding the regular FCC stream of issues. Foremost in the stream of FCC issues affecting your business will be issuing reports and orders on the complex, contentious issues of cable regulations; a report and order on financial interest and syndication, and implementing the Clinton administration goal of an "electronic multichannel super highway." The first two are the subjects of our monthly FCC meeting scheduled for April 1st - I hope the date doesn't prove prophetic.

I am looking forward to future appointments and to a permanent chairman so we will have a full complement of commissioners to help determine the challenging, complex multichannel, multi-faceted fascinating future of telecommunications and also to make carefully considered, productive future spectrum allocations.

Entertainment is a fascinating growth industry with many aspects too broad to be covered in one speech or even one chapter of a book. I shall necessarily and appropriately narrow my focus to the government regulation of entertainment-related issues before the FCC viz: the implementation of the 1992 Cable Act; the upcoming (April 1) Fin/Syn Report and Order; the ever-growing public outcry against excessive graphic sex and violence on TV and cable, particularly the growing public outcry against glamorized violence and brutality.

First a statement of principle that will have a profound effect on future legislation and regulation of broadcast, cable, telephone and satellite industries -- I believe the preservation and enhancement of the all-important free universal local broadcast service for all Americans as advocated by Congress will remain the underlying bedrock of American mass communications permeating legislation and regulations for at least the next five years.

Television, the most influential and pervasive of all media, is essential to a well informed citizenry and electorate in a democracy. I believe stations licensed by the government must have guaranteed access to the public they are licensed to serve. No monopoly or semi-monopoly transmission pipeline should have the power to prevent or obstruct that service, particularly when it becomes a competitor in advertising sales that supports free TV.

This all encompassing principle of free TV was one of the driving forces behind the Must Carry, Retransmission Consent provisions of the 1992 Cable Act.

My personal advocacy of retransmission consent was first activated by what I considered a longtime threat to universal free TV when cable started to aggressively sell advertising, over \$3 billion dollars in 1992, against local television. With cable's three sources of income -- subscriber fees, advertising and pay per view, they could easily outbid free TV for all major sports and entertainment programs at huge profits unless barred by Congress and FCC intervening on behalf of the public. It strikes me as an inequitable marketplace when a monopoly or semi-monopoly transmission pipeline transmits the station's signal and network programming free of charge; then this free programming delivers over 65% of the total cable audience, then cable adds channels and aggressively sells advertising in competition. This marketplace disparity had to be corrected.

Having said that, I believe cable has served a useful purpose and is a very desirable additional or supplementary medium. It has extended broadcast signals in many cases and provided diverse program channels that appeal to the specific tastes of subscribers. I am a cable subscriber and a reasonably happy camper, but on a little higher than average government salary, I can afford the additional channels. I like CNN, ESPN, A and E, Discovery, TNT, USA and AMC.

Incidentally, I believe broadcasters should not be able to unreasonably withheld retransmission consent where cable is serving otherwise unserved areas with TV signals. Actually, it was service to unserved areas when Congress in its wisdom instituted the compulsory license. I don't believe it was ever envisioned by Congress or the FCC that cable would transmit local TV station signals free in the top hundred markets and then aggressively sell advertising in competition with the stations. I have no objection to advertising support for cable programs. Fine! -- But not on the back of overall audiences primarily built by competitors' programs transmitted free without consent.

I believe adhering to the same principle of assuring universal free TV is applicable to freeing the networks from restrictions promulgated in 1970 during the long past era of network dominance. The Commission voted 3-1 back in 1983 to free networks from the outdated restrictions. I was the lone dissenter at that time because I thought the networks still had dominant market power. As you know, I have since changed my vote and my earnest convictions with the advent of so many diverse programming alternatives of 56-75 cable channels, more MMDS channels on the way, pay per view channels, a fourth network,

major phone companies entering cable outside the phone company service areas, video dialtone, VCRs and an oncoming formidable nationwide DBS competitor. Through all this massive competition of today and more tomorrow, I see networks as the principal means of preserving for the public free TV distribution for major news and civic events, emergency bulletins, major sports and major movies and entertainment programs.

Multichannel competition, pay for view, VCRs, etc. are impacting network audiences and revenues and much more is on the way. I was impressed when I read that The Bill Cosby show in the first year of syndication made much more money than all networks combined. The networks, cast in the role of prime saviors for costly major programs for free TV, need support.

I have a claim to being prophetic in my appearance before the Wertheim Schroder/Variety conference two years ago. Remember, I substituted as a luncheon speaker for Democratic leader, Congressman Richard Gephardt, at the behest of my Michigan Congressional leader, Chairman John Dingell. I closed my speech then with "In closing I want to express my faith in the judicial system of this great country of ours by predicting justice and reason for the networks will eventually prevail."

Last October before the Media Institute in Washington, I ad libbed a stronger opinion stating "I'll lose all faith in the American judicial system if the Court doesn't unanimously overrule the FCC decision in Fin/Syn. Naturally, I was pleased when the 7th Circuit by a 3-0 vote, and then by a second 3-0 vote denying rehearing, fulfilled most of my prophecy. However, the final chapter is not quite completed. As you know, a final report and order is due April 1st.

I hope the time will soon come when the networks can rightfully shout "Free at last! Praise the Lord, we are free at last!" I believe the overall public interest would be well served -- but at the risk of being considered a cow who gives rich milk then kicks over the bucket, I'm reserving for later some criticism about network and cable programming. I'm particularly concerned about the combined Hollywood producers-network-cable excesses in depicting violence, brutality and sex that is causing a growing public outrage.

Now for one of the more contentious statements . . . I believe pay per view carried to its ultimate capability is inherently a natural enemy of free tv. There could be peaceful co-existence in the future as long as pay per view doesn't encroach upon basic free TV and force consumers to pay for major sports and information program they now get free. I believe

there is a growing place for pay per view in providing a diversity of programming for those that can afford to pay. But I don't believe Congress or its arm, the FCC, will tolerate pay per view syphoning from free TV major sports or civic events that are imbedded in the fabric of American life. The profit potential would be tremendous for sports and major entertainment entrepreneurs or civic event producers, but it would develop into an audience of economic "haves" and lock out the "have nots"--this is not the overall public interest at work in a democracy. Industry is necessarily profit motivated. The most important criteria for industry success is increased profits, increased returns or dividends for shareholders. The long term profit potential for pay per view may be too overwhelming to resist and probably requires continual government scrutiny.

I have often been asked about the future prospects for broadcasters, cable, program producers, phone companies, DBS in the coming multichannel world of advance technology.

The prime beneficiaries in the multichannel world will be program producers, where an insatiable demand will exceed the program supply for an unprecedented number of program outlets--4 networks competing with each other, TV stations; multichannel cable, pay per view, DBS, MMDS and VCRs. Programmers are in the cat bird seat -- writers, directors and producers have expanded markets that need their product.

Cable TV: despite government re-regulation, cable remains a most attractive growth industry with potential for phone interconnection and with multichannel capability including telecomputer, data processing, pay per view, interactive and the myriad of other advance services of the future. The Southwest Bell purchase of Hauser Cable uplifted cable stocks and is a harbinger of more to come. Phone companies will eventually evolve as a prime competitor to cable and DBS. As frequently mentioned, phone will compete with cable as a multichannel multi-faceted provider of advance services and cable will compete with phone companies on the same basis with cable having the initial advantage of operational experience and programming know how.

For TV stations -- there will always be a need for local stations providing local news, bulletins, educational programs and scheduling sports and entertainment programs that meet the tastes of their community. The era of 40% profit margins may be over, but there always will be reasonably profitable local TV stations providing essential free, local TV.

In some ways, television has taken the place of the old village square. It is the place where all of us get together to share experiences -- where we get news, where we learn, where we get information, sports and entertainment. Television in many ways is the glue that helps hold America together.

In the final analysis, programs will still pass through television screens and the major, most popular screens will still be the local network affiliated and strong independent TV stations.

I disagree with those who claim TV station broadcasting has a questionable future, particularly with a multichannel future. It is important to remember that people watch TV programs and stations, not delivery systems. And broadcasters have the most experience and an entrenched position in developing and procuring attractive TV programming to serve local tastes and needs.

But broadcasting is increasingly under siege by activist and citizens groups outraged by excessive graphic violence and sex and who increasingly question if public interest is really being served by this type of programming available to children and young teenagers.

The distinguished Senator Paul Simon took a leadership position in responding to the public outcry by legislating an antitrust exemption to allow networks and cable to discuss joint efforts to reduce excess violence on TV. Senator Simon quotes a frightening article in "The Journal of American Medical Association" by a distinguished psychiatrist. His study of murder rates among whites in several countries including the United States shows that the murder rate doubled 10 to 15 years after the introduction of television in the nation's culture. Senator Simon quotes Dr. Brandon S. Centerwall of the Department of Psychiatry and Behavioral Sciences at the University of Washington, who concluded his study with "Long-term childhood exposure to television is a causal factor behind approximately one-half of the homicides committed in the United States, or approximately 10,000 homicides annually. If, hypothetically, television technology had never been developed, there would today be 10,000 fewer homicides each year in the United States, 70,000 fewer rapes and 700,000 fewer injurious assaults."

Senator Simon warns broadcasters "If they use the balance of this three-year period just to spin their wheels and do nothing, it is unlikely the public will sit back and do nothing. An aroused public may ask for government censorship."

In response to Senator Simon's initiative, the NAB adopted a voluntary programming principle stating "The use of violence for its own sake and the detailed dwelling upon brutality or physical agony by sight or sound should be avoided." But there is no enforcement action.

Senator Robert Byrd of West Virginia was quoted over a year ago saying he hoped the media would ". . . heed my outrage before the medium of TV itself is beyond self-reform and self correction. The sex trash, vileness and violence flooding TV and radio today could in egregious cases be considered a violation of public trust."

President Clinton in the Washington Post took a shot at Hollywood and TV stating he was mortified by what is shown on television and that Hollywood should take the lead in de-glamorizing mindless sex and violence. He stated "There's no question the cumulative impact of this banalization of sex and violence in the popular culture is a net negative for Americans.

Vice President Gore has been a longtime critic of excessive TV violence and sex. Mrs. "Tipper" Gore is a strong advocate of family values and protecting children from objectionable song lyrics.

Newton Minow, famous former FCC Chairman, who first described television as a "vast wasteland" commenting on the mindless violence, brutality, and sex last year before the National Press Club said "In 1961, I worried children would not benefit much from television but now I worry that my grandchildren will actually be harmed by it."

Terry Rakolta, President of Americans for Responsible TV and a presidential appointee to the National Endowment for Children's Television at the Commerce Department, quotes startling figures on TV violence and is requesting Senator Simon and Congressman Dingell to sponsor legislation to reduce violence during children's viewing hours similar to statutes prohibiting indecency and obscenity. This would provide FCC with enforcement authority to protect children from graphic violence similar to indecency. Mrs. Rakolta quotes a recent study by the Annenberg School of Communication that finds that violence during children's viewing hours has reached an historical high of 32 acts of violence per hour. She quotes the study as finding "By the time a child is 16, he or she will have seen 33,000 murders and 200,00 acts of violence on network TV. They will have watched 18,000 hours of television compared to 11,000 hours of classroom work!"

Mrs. Rakolta continues "The American Medical Association, the National Institute of Mental Health, the U.S. Center for Disease Control and The American Psychological Association have all concluded that research data confirms that childhood watching of TV violence is directly related to criminally violent behavior later on." Mrs. Rakolta represents a timely warning and a threat. It appears she has given up on voluntary broadcast action.

David S. Barry, TV and screen writer, in the January 1993 issue of the Journal states "America is in the grip of an epidemic of violence so severe that homicide has become the second leading cause of death of all persons 15 to 24 years old. Auto crashes are first. The U.S. Center for Disease Control considers violence a leading public health issue to be treated as an epidemic.

"The American Medical Association, the National Institute of Mental Health, the U.S. Surgeon General's office, the U.S. Center for Disease Control and the American Psychological Association have also concluded that study after study shows a direct causal link between screen violence and violent criminal behavior."

A 39-page research report to be released soon -- by APA, NIMH and the Center for Disease Control conducted by distinguished professors from Harvard University, University of Chicago and University of California, definitely states that contrary to arguments of people in the TV and motion picture industry, the major medical organizations are in agreement on the effects of media violence. The data confirm that childhood watching of tv violence is directly related to criminally violent behavior later on."

From a Detroit News article (October 1992): Both President George Bush and democratic rival, Arkansas Governor Bill Clinton have made a major issue of so-called family values. At a time when family values are a major theme in the presidential campaign, the FBI reports that violent crimes have soared to an "unprecedented level" throughout the nation.

All in all 24,703 Americans were murdered in 1991, a 5.4% rise from the earlier record set in the previous year.

On average the chance of being slain in the United States was about one in 10,000.

Washington continued to reign as the murder capital of the nation in 1991, the latest figures, with a homicide rate of 9.8 persons per 10,000, according to the FBI! (And, it's getting worse each year.)

It is the fresh data on the surge of arrests of youths age 10-17 as violent offenders that is most likely to enter the political fray. And there is a continual proven nexus of offenses to TV violence by authoritative expert sources.

David Levy, President of Wilshire Productions, Inc. and Executive Secretary of the Writers, Directors and Producers Caucus in Los Angeles, writes "Sex and violence properly used and motivated are acceptable elements of drama. Exploitative violence and sex are unacceptable elements. Excessive sex and violence in any form are not in the public interest!"

Howard Rosenberg, Pulitzer Prize winning TV critic of the Los Angeles Times wrote over a year ago:

"It's appalling."

"Innocent people are being victimized. They're constantly being kidnapped, threatened, extorted, swindled, mugged, robbed, savagely beaten, raped, sexually abused, maimed, knifed, shot and randomly murdered. There's no longer any doubt about our greatest problem."

"Crime on the streets? No. Crime on television."

There are many more examples and studies of violence -- the frightful influence on our youth is beyond dispute.

It is time for networks and Hollywood producers to do something about it. Writers and producers must be encouraged or directed to use their creative juices for more constructive purposes -- to fashion meaningful drama that inspires, excites and entertains. My friend David Levy of the Writers, Directors and Producers Caucus, offers a positive suggestion. Some time ago, he said "How about a return to real story telling in which murder and mayhem aren't the major ingredients. How about the kinds of stories written by television's best remembered writers: Rod Serling, Paddy Chayefsky, Reginald Rose, Budd Schulberg and dozens of others?"

Today I'm worried and disturbed on the proven effect TV violence is having on our youth and also in de-sensitizing all our society to brutality, rape and murder.

I remember reading an astounding figure from the National Council of the Churches of Christ that during the period of the Vietnam War, over 50,000 American military men lost their lives. During the same period 84,000 civilians were killed in the United States by firearms. What is the figure today with more than ever homicides?

America's epidemic of violence in 1992-93 must be brought under control. And responsible TV and cable executives and program producers must take the lead or Congress might. It is time to place public good ahead of appealing to the lowest common denominator for profits.

An AP article quoted me as supporting activist Terry Rakolta's request for enforcement action to protect children from graphic violence and brutality. It has bothersome First Amendment implications for me. But if the First Amendment conflicts with outrageous programs that can be justifiably charged with violating the public interest, then the public interest must prevail. There may be some merit in legislating time constraints to protect children from brutality, murder and rape similar to time constraints for indecency that has been upheld by court decisions. That is for Congress to decide.

It is past time for network executives and Hollywood producers to institute corrective action and display increased programming responsibility and sensibilities.

I once heard that a word to the wise is superfluous.

There seems to be developing a three prong government requirement for the benefit of children and young teenagers who represent the future of America. First, and very important, programs that meet the educational and information needs of children. Second, time constraints for excessive graphic sex. Third, and not yet legislated, time constraints for excessive brutality, murder and rape.

The first two could have been averted by more responsible voluntary action by broadcasters. Now more and more citizens are demanding government restrictions on violence -- and the third might still be averted by responsible broadcast and production executives.

Now back to the Cable Act. In summary, we must implement the Act to provide lower rates and better service for consumers, equity for broadcasters, program access for cable competitors and reasonable cash flow profits for cable systems. At the same time, institute anti-trafficking rules so that cable systems can't be traded as commodities, install practical anti-syphoning rules, etc.

I'm impressed that a dedicated undermanned staff accomplished about half of that task at our March 11th meeting. The other, even more complex half relating to rates and program access, will be completed April 1st, complying with a Congressional deadline. Earlier, I even suggested looking to heaven for divine guidance to lead us out of this hectic regulatory wilderness. But I reminded everyone that the FCC must answer to an even higher authority -- the Oversight Committees of the House and Senate.

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