

**STATEMENT OF JAMES H. QUELLO
CHAIRMAN, FEDERAL COMMUNICATIONS COMMISSION**

**Before the
SENATE COMMERCE COMMITTEE**

October 20, 1993

Thank you for allowing me the opportunity to express my views to the Committee on this very important problem and on pending legislation to address it.

The American public has become increasingly outraged by the excessively graphic violence in television programming, and has begun to seriously question whether the public interest is really being served by making this type of programming so readily available to children and young teenagers.

The distinguished Senator Paul Simon took a leadership position in responding to this public outcry by legislating an antitrust exemption to allow networks and cable to discuss joint efforts to voluntarily reduce excess violence on television. Senator Simon quoted a very frightening article in "The Journal of the American Medical Association" by a distinguished psychiatrist whose 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 into the nation's culture. Dr. Brandon S. Centerwall of the Department of Psychiatry and Behavioral Sciences at the University of Washington, concluded a study by stating "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, 70,00 fewer rapes and 700,000 fewer injurious assaults."

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

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 requested 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 the FCC with enforcement authority to protect children from graphic violence, similar to indecency. Mrs. Rakolta quotes a recent study by the Annenberg School of Communications that finds that violence during children's viewing hours has reached a historic 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 300,000 murders and 200,000 acts of violence on network TV. They will have watched 18,000 hours of television, compared to 11,000 hours of classroom work!" The Hollings bill, S.1383, provides the safeguards for children that Mrs. Rakolta is requesting.

David S. Barry, TV and screen writer, in the January 1993 issue of The Journal stated "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 the first. The U.S. Center for Disease Control considers violence a leading public health issue to be

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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 all concluded that study after study shows a direct causal link between screen violence and violent criminal behavior."

A 39-page research report released this year by APA, NIMH and the CDC, conducted by distinguished professors from Harvard University, University of Chicago and University of California, states that, contrary to the arguments of people in the television and motion picture industries, the major medical organizations are all 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.

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."

Today I am very worried and disturbed by the apparently proven effect that TV violence is having on our youth, and also on the way it desensitizes all members of 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 Viet Nam War, over 50,000 American military men lost their lives. But during the same period, 84,000 civilians were killed in the U.S. by firearms. What is the figure today, with more homicides than ever? Certainly this is not all caused by television, but TV, as the most influential and pervasive medium, is a contributing factor.

America's epidemic of violence in 1992 and 1993 must be brought under control. If reponsible TV and cable executives and program producers do not take the lead, then Congress must. It is time to place the public good ahead of appealing to the lowest common denominator of society for profits. Government intervention in program content 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. Congress must decide what steps are appropriate. For example, there may well be merit in legislating time constraints to protect children from brutality, sadistic murder and rape, similar to time constraints on indecent programming that have been upheld by court decisions.

I believe that S.1383, introduced by Chairman Hollings, constitutes the most practical legislative step toward accomplishing this goal, and should be enacted if self-regulation is ineffective. S.1383 would require the FCC to promulgate regulations to prohibit any person from distributing -- defined as "to send, transmit, retransmit, telecast, broadcast, or cablecast, including by wire, microwave or satellite" -- to the public "any violent video programming during hours when children are reasonably likely to comprise a substantial portion of the audience, or to knowingly produce or provide material for such distribution." S. 1383 would, however, exempt premium and pay-per-view cable programming, and properly allows the FCC to exempt news, documentaries, educational and sports programming. With S.1383, the FCC is charged with the responsibility of defining appropriate hours and "violent video programming." In this regard, I would respectfully ask that Congress provide some direction to the FCC, either in amended legislative language or in the Conference Report, on the appropriate means for, and the factors that should be relied upon, when defining "violent video programming." Whatever the FCC does in this respect will undoubtedly be challenged in court, and legislative guidance would provide significant assistance in defending the agency's actions in implementing whatever Congress ultimately adopts. In addition, Congress may wish to consider additional enforcement mechanisms for program producers. While the proposed

statutory language would also extend the prohibition to producers of programming, unless those producers are licensees the FCC would have no means of enforcing the statute against such entities.

S.943, introduced by the distinguished Senator Durenberger, provides another possible legislative solution that could be defended against a First Amendment challenge. This bill would require the FCC to prescribe standards requiring video and audible warnings in connection with any programming which may contain violence or unsafe gun practices. This warning requirement would apply to television broadcast licensees and cable operators providing service under a franchise agreement, but it would not apply to programming broadcast between 11:00 pm and 6:00 am local time. While I believe that this proposal would certainly provide positive steps for addressing this public interest concern, I fear that it may be underinclusive with respect to the distribution entities covered. In the ever-changing world of video distribution, with new technologies and alliances developing every day, a limitation to broadcasters and franchised cable operators could leave significant regulatory gaps. And, for the same reasons I stated previously, legislative guidance on the appropriate means and factors for defining "violent programming" would be of enormous benefit to the FCC in implementing regulations and in defending them against the inevitable court challenge.

Finally, while I applaud the efforts of the distinguished Senator Dorgan in his proposal, S. 973, that would require the FCC to establish a program to evaluate and rate broadcast and major cable network programming with respect to the extent of violence contained in such programming, I have two significant concerns about this proposal. There is no question that publication of the type of information suggested by Senator Dorgan would be most helpful to parents who are concerned with the content of programming watched by their children. I am extremely concerned, however, about the First Amendment ramifications of having programming evaluated in this manner by a government agency. Moreover, I am also quite concerned about the administrative burden that quarterly reports of this nature would place on the already overburdened and understaffed Commission. All programs carried on all TV stations and cable channels throughout the entire country for one week every quarter represents an astounding amount of programming to be reviewed. And as we move to a 500-cable channel environment, the regulatory burden would be astronomical. For these reasons, regretfully I cannot endorse Senator Dorgan's well-meaning proposed legislation, inasmuch as it would require intrusive and extensive review and evaluation by the FCC.

I might respectfully suggest, however, as an alternative, the establishment of an independent organization, not controlled by the government, to provide such a report on the content of programming that parents could use. This might furnish a very appealing means of assisting parents in this troubling area. Such an approach would minimize government intrusion into content, but still provide parents with guidance on program content, particularly when so much programming is becoming increasingly available.

In summary, I believe that the public interest must be paramount, and the disturbing statistics and growing public complaints suggest that legislative action may well be required so long as voluntary action is not forthcoming. Thus, I support the efforts of this distinguished Committee to address what I believe to be a very serious and substantial social issue, and I assure you that the Commission will vigorously enforce whatever legislation is ultimately adopted.

Thank you.