

"THE FCC AND ADVERTISING ISSUES"

SPEECH BY COMMISSIONER JAMES H. QUELLO
before the

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LAST SPRING I SPOKE AT A DETROIT
REGIONAL MEETING OF THE 4 A's -- I TITLED MY
SPEECH "THE FCC: ITS IMPACT ON ADVERTISING AND
OTHER NON-ESSENTIALS".

FIRST, LET ME ASSURE YOU THAT THE
CONTROVERSIAL TITLE WAS SELECTED WITH TONGUE-
IN-CHEEK. IT WAS CALCULATED TO GET AD MEN'S
ATTENTION JUST LIKE THE OLD ADS THAT SCREAMED
"SEX" IN BIG, BOLD TYPE (SOMEHOW SEX SEEMED TOO
INAPPROPRIATE AND COMMONPLACE TODAY FOR ME
TO STEAL AS A TITLE). HOWEVER, THE PRINCIPAL
DIFFERENCE BETWEEN THE TWO HEADLINES WAS
THAT MY SPEECH HAD AT LEAST SOME RELATIONSHIP

TO THE TITLE. SO, TOO, MY TALK TODAY WILL HOPEFULLY HAVE SOME RELATIONSHIP TO THE ADVERTISING ISSUES EFFECTED BY THE FCC.

ONE OF THE BIG QUESTIONS OR ISSUES BE BEFORE THIS AD AUDIENCE TODAY WOULD BE "WHAT IS THE IMPACT OF FCC IN ADVERTISING?" WELL, DIRECTLY, -- RATHER MODERATE; INDIRECTLY - CONSIDERABLE. AS YOU ARE WELL AWARE, THE FTC IS THE GOVERNMENT AGENCY THAT DEALS MORE DIRECTLY WITH ADVERTISING AND MARKETING.

THE FCC IS A REGULATORY AGENCY CHARGED BY CONGRESS TO REGULATE BROADCASTING IN THE PUBLIC INTEREST. SINCE A SUBSTANTIAL SHARE OF THE ADVERTISERS' DOLLARS GO INTO

BROADCASTING--FCC REGULATION HAS A BROAD
IMPACT ON ADVERTISING. LET ME STATE RIGHT
AT THE BEGINNING--THE FCC DOES NOT
REGULATE THE CONTENT OF BROADCAST PRO -
GRAMS, OR FOR THAT MATTER BROADCAST
ADVERTISING, EXCEPT INSOFAR AS THE PROGRAMS
OR ADVERTISING ARE DEEMED TO BE NOT IN THE
PUBLIC INTEREST. AS A MATTER OF FACT, THE
FIRST AMENDMENT AND SECTION 326 OF THE
COMMUNICATIONS ACT EXPRESSLY FORBID US FROM
PROGRAM CONTENT CENSORSHIP. THIS, TOO, IN -
CLUDES THE CENSORSHIP OF ADVERTISING CONTENT.

IN SPIITE OF THESE PROHIBITIONS, OUR REGULATIONS, IN THE PUBLIC INTEREST, HAVE SUBSTANTIAL INFLUENCE ON BROADCAST PROGRAM CONTENT. AT LICENSE RENEWAL TIME, WE ASK THE BROADCASTER TO DOCUMENT HIS STEWARDSHIP IN THE USE OF THE FREQUENCY WE HAVE ASSIGNED TO HIM---THIS FREQUENCY IS A SCARCE NATIONAL RESOURCE. WE ALSO ASK HIM HOW HE INTENDS TO USE THE FREQUENCY DURING THE NEXT THREE-YEAR PERIOD. WE WANT TO KNOW WHAT HE INTENDS TO BROADCAST IN THE AREAS OF NEWS, PUBLIC AFFAIRS,

OTHER LOCAL PROGRAMS, AND PUBLIC SERVICE ANNOUNCEMENTS. WE ALSO WANT TO KNOW WHAT COMMERCIAL TIME LIMITATIONS HE INTENDS TO OBSERVE. FURTHER, WE ASK HIM TO ASCERTAIN FROM COMMUNITY LEADERS AND THE GENERAL PUBLIC THE MOST PRESSING PROBLEMS AND NEEDS IN THE STATION'S SERVICE AREA, AND WE WANT TO KNOW HOW HE INTENDS TO PROGRAM TO MEET THOSE NEEDS.

THERE ARE OTHER WAYS, TOO, WE INFLUENCE PROGRAM CONTENT---WITH ENFORCED POLITICAL ADVERTISING RULES INITIATED BY THE CONGRESS. ALSO WE/ INTRODUCED THE CONCEPT OF PRIME ACCESS PROGRAMMING, AND SOMETIMES NOW I WONDER WHY BECAUSE I PERSONALLY HOPED AT LEAST A HALF HOUR WOULD BE LOCAL PUBLIC AFFAIRS PROGRAMMING. WE HAVE BACKED THE FAMILY VIEWING

CONCEPT INITIATED BY OTHERS; WE HAVE ISSUED GUIDELINES ON CHILDREN'S PROGRAMMING; AND WE HAVE A FAIRNESS DOCTRINE FOR THE AIRING OF CONTROVERSIAL ISSUES. THE APPLICATION OF THIS DOCTRINE TO ADVERTISING HAS BEEN A MAJOR CONTROVERSIAL ISSUE THE 4 A'S HAVE FREQUENTLY ADDRESSED.

SO YOU CAN SEE, I'M HERE TODAY AS A "REGULATOR," BUT FOR MANY YEARS I WAS ONE OF THE REGULATED. SO I HAVE FIRST-HAND AWARENESS OF THE DIFFICULTIES ON ALL SIDES OF THE COMPLEX RELATIONSHIP BETWEEN GOVERNMENT, INDUSTRY, AND THE PUBLIC.

I KNOW THE FRUSTRATIONS OF THE RESPONSIBLE BUSINESSMAN WHO FEELS SMOTHERED BY WHAT HE REGARDS AS UNWARRANTED CONTROL,

UNCONSCIONABLE RED TAPE, AND JUST PLAIN
NIT-PICKING FROM WASHINGTON. AND I CAN APPRECIATE
SOME OF THE TRUTH CONTAINED IN THE OLD
ANSWER TO AN OLD QUESTION.-----

THE QUESTION IS: "WHAT ARE THE THREE
GREATEST FABRICATIONS IN THE WORLD?" AND THE
ANSWER IS:

1. THE OLD ONE OF "YOUR CHECK IS IN THE MAIL."
2. "IT'S GREAT TO BE POOR--IT BUILDS
CHARACTER."
3. "WE'RE FROM THE FCC AND WE'RE HERE TO
HELP YOU."

YET I ALSO KNOW THAT THE REGULATOR HAS A LEGITIMATE
AND NECESSARY ROLE. THAT ROLE IS, IN EFFECT, TO
PRESERVE THE FREE-ENTERPRISE SYSTEM (AND TODAY
THAT MEANS A SOCIALLY CONSCIOUS FREE ENTERPRISE
SYSTEM) BY CURBING ITS EXCESSES, CORRECTING ITS

IMBALANCES, AND PRESERVING THE RIGHTS OF ALL WHO PARTICIPATE IN IT. WHEN THAT RESPONSIBILITY IS EXERCISED WITH RESTRAINT, GOOD JUDGMENT, AND CLEAR UNDERSTANDING OF THE PRACTICAL WORLD, EVERYONE BENEFITS.

IT MAY NOT ALWAYS BE EASY TO RECOGNIZE THAT YOU BENEFIT, BUT YOU DO. WE ARE ALL AWARE THAT THE IMAGE OF BUSINESS IN GENERAL, AND ADVERTISING IN PARTICULAR, HAS DECLINED-- PERHAPS "PLUMMETED" WOULD BE A BETTER WORD-- DURING THE PAST DECADE. ALTHOUGH THERE ARE SIGNS THAT THIS TREND MAY HAVE BEEN ARRESTED, IT HAS NOT BEEN REVERSED. SO IT IS TO YOUR PRACTICAL BENEFIT TO KEEP YOUR HOUSE IN ORDER.

YOUR FEDERATION LIKE THE 4 A's IS COMPOSED OF THE MOST SUCCESSFUL AND ETHICAL ADVERTISING AGENCIES,

YOU HAVE A CONTINUING CHALLENGE:
TO MAINTAIN HIGH STANDARDS IN ADVERTISING, TO
CONVINCE OTHERS OF THE GOOD FAITH AND PUBLIC
BENEFIT OF ADVERTISING, AND TO DEAL FIRMLY WITH
THOSE IN YOUR INDUSTRY WHO FAIL TO MEET YOUR
OWN HIGH STANDARDS. TO THE EXTENT THAT RE-
GULATION CAN HELP YOU MEET THOSE CHALLENGES--
AND IT CAN--IT DESERVES YOUR SUPPORT. TO THAT
EXTENT, AND NO MORE.

THOSE OF US WHO HAVE BEEN ON BOTH
SIDES OF THE REGULATORY FENCE ARE IN A UNIQUE
POSITION. WE UNDERSTAND THE STRENGTHS AND THE
IMPORTANCE OF BUSINESS; WE SYMPATHIZE WITH ITS
PROBLEMS; BUT WE ALSO KNOW FROM EXPERIENCE
ITS FAILINGS AND WEAKNESSES. TO PUT IT ANOTHER

WAY AS I TOLD BROADCASTERS---"I'M WITH YOU
WHEN YOU'RE RIGHT, AND I'M DANGEROUSLY
KNOWLEDGEABLE WHEN YOU'RE WRONG."

OF COURSE, WHETHER YOU'RE "RIGHT"
OR "WRONG" IS NOT ALWAYS THAT EASY TO DETERMINE.
NO SET OF ABSTRACT PRINCIPLES CAN GOVERN IN
ALL CASES THE PROPER RELATIONSHIP BETWEEN
BUSINESS AND GOVERNMENT. IN SAYING; "WE MUST
SERVE THE PUBLIC INTEREST," THE REGULATOR
CANNOT REGARD THOSE WORDS AS AN EXCUSE FOR
MEDDLING IN ANY QUESTION THAT SUITS HIS/^{OWN} INTEREST
OR HIS PERSONAL ZEAL FOR REFORM. I MAY NOT
LIKE A TELEVISION PROGRAM; BUT I HAVE NO POWER
TO ABOLISH OR ALTER THAT PROGRAM, NOR SHOULD I.
THE PRINCIPLE IS THE SAME ON YOUR SIDE OF THE
FENCE. THE BUSINESSMAN CANNOT SAY:

"FREE ENTERPRISE IS THE AMERICAN WAY, AND IT MUST PREVAIL," AND THEN USE THOSE WORDS AS AN EXCUSE TO OPPOSE ANY FORM OF GOVERNMENT ACTION, OR TO DEFEND PRACTICES THAT ARE CLEARLY INDEFENSIBLE LEGALLY OR MORALLY. BUSINESS, GOVERNMENT AND THE PUBLIC ARE THREE PARTICIPANTS IN A DELICATE BALANCING ACT. EACH OF US HAS A PROPER ROLE, AND EACH OF US MUST BE CAREFUL NOT TO STEP BEYOND IT.

WHAT, SPECIFICALLY, DOES THE FEDERAL COMMUNICATIONS COMMISSION DO TO AFFECT YOUR ADVERTISING LIFE?

SOME PEOPLE HAVE THE INITIAL REACTION THAT IT DOES VERY LITTLE. YOUR ATTENTION IS FOCUSED MORE OFTEN ON ANOTHER AGENCY, THE FEDERAL TRADE COMMISSION. THE FCC MAY SEEM TO BE AN AGENCY WHOSE INFLUENCE ON YOU IS

TOTALLY INDIRECT.

IF YOU FEEL THAT WAY, YOU PROBABLY OUGHT TO TAKE A CLOSER LOOK. IT IS TRUE THAT THE FCC HAS NOTHING TO SAY ABOUT THE CONTENT OF YOUR ADVERTISING MESSAGE, BUT IT DOES HAVE A GREAT DEAL TO SAY ABOUT THE CONDITIONS UNDER WHICH THAT MESSAGE IS DELIVERED.

LET ME LIST SEVERAL EXAMPLES. MY COMMENTS ON THESE ISSUES ARE NOT SIMPLY PERSONAL OBSERVATIONS, EXCEPT WHERE CLEARLY IDENTIFIED AS SUCH. WHAT I HAVE TO SAY IS PRIMARILY A REPORTING OF COMMISSION POLICIES, AS ESTABLISHED OVER THE YEARS.

1. FALSE OR MISLEADING ADVERTISING. WE REQUIRE BROADCASTERS TO REVIEW ALL COMMERCIAL MATTER TO SIFT OUT FRAUDULENT OR MISLEADING

ADVERTISING, AND TO CHECK THE RELIABILITY OR REPUTATIONS OF PROSPECTIVE ADVERTISERS. WHEN AN ADVERTISEMENT BECOMES THE SUBJECT OF AN FTC COMPLAINT, WE BELIEVE THAT THE LICENSEE SHOULD EXERCISE PARTICULAR CARE IN DECIDING WHETHER TO ACCEPT IT FOR BROADCAST. WE ADVISE PARTICULAR CARE IN HANDLING MAIL-ORDER ADVERTISEMENTS. IN NO CASE DO WE PASS ADVANCE JUDGMENT ON ANY ADVERTISER OR ADVERTISEMENT. BUT NEITHER DO WE ALLOW THE LICENSEE TO CLAIM THAT "TRUTH IN ADVERTISING" IS SOLELY THE ADVERTISER'S PROBLEM. TO DO THAT WOULD BE TO VIOLATE A FIRST PRINCIPLE OF BROADCAST REGULATION: THE LICENSEE IS ULTIMATELY RESPONSIBLE FOR WHAT HE ALLOWS TO BE BROADCAST.

2. PROGRAM-LENGTH COMMERCIALS. THE COMMISSION TAKES A DIM VIEW OF PROGRAMS THAT INTERWEAVE "ENTERTAINMENT" OR "INFORMATIONAL" CONTENT WITH SUBTLE PROMOTIONS OF THE PRODUCTS OR SERVICES OF AN ADVERTISER. OUR BASIC CONCERN HERE IS WHETHER A LICENSEE HAS SUBORDINATED PROGRAMMING IN THE PUBLIC INTEREST TO PROGRAMMING IN THE INTEREST OF SALEABILITY. IF THE LICENSEE MAKES A GOOD-FAITH JUDGMENT THAT THE PROGRAM VALUES ARE NOT INCIDENTAL TO THE SALES PURPOSES, THEN WE DON'T CALL IT A PROGRAM-LENGTH COMMERCIAL. THE CLEAREST DEFENSE AGAINST THIS CHARGE, HOWEVER, IS TO SEPARATE AS COMPLETELY AS POSSIBLE THE PROGRAM CONTENT AND THE SPONSOR'S MESSAGE.

3. SPONSORSHIP IDENTIFICATION. EVERY BROADCAST EMPLOYEE IS PROHIBITED FROM ACCEPTING MONEY OR OTHER CONSIDERATION FROM ANYONE OTHER THAN THE LICENSEE FOR BROADCASTING ANY MATERIAL OVER THE STATION. AND, AS YOU KNOW, ANY CONSIDERATION USED IN PROMOTION, MUST BE LISTED AND IDENTIFIED AS SUCH.

4. CHILDREN'S TELEVISION. WE PROHIBIT THE BROADCASTING OF MORE THAN 9 1/2 MINUTES OF COMMERCIAL MATTER PER HOUR FOR CHILDREN ON SATURDAY AND SUNDAY BETWEEN THE HOURS OF 7 A.M. AND 2 P.M., AND MORE THAN 12 MINUTES AT OTHER TIMES DURING PROGRAMS FOR CHILDREN 12 AND UNDER. PROGRAM AND COMMERCIAL CONTENT MUST BE SEPARATED CAREFULLY. THE HOST IS

FORBIDDEN TO SELL A PRODUCT. AND THE PROGRAM ITSELF CANNOT BE USED TO PROMOTE A PRODUCT--FOR EXAMPLE, BY WEAVING BRAND NAMES INTO THE PROGRAM.

5. FRAUDULENT BILLING. WHEN I SAID THAT WE AFFECT THE "CONDITIONS UNDER WHICH YOU DELIVER YOUR MESSAGE," I DID NOT MEAN THAT ALL WE HAVE TO OFFER YOU ARE RESTRICTIONS. WE ALSO TRY TO PREVENT UNETHICAL COMMERCIAL PRACTICES ON THE BROADCASTER'S PART. THERE ARE TWO PARTIES TO A MEDIA TRANSACTION: WE REGULATE THE BROADCAST MEDIA SELLER; AND IT IS UP TO US TO INSURE THAT THE SELLER OBEYS THE LAW. TO NAME JUST ONE EXAMPLE, WE WATCH CAREFULLY FOR EVIDENCE OF "DOUBLE BILLING,"

IN WHICH THE BROADCASTER FALSIFIES BILLS
SENT TO CO-OP ADVERTISERS. SANCTIONS FOR
THIS OFFENSE ARE SEVERE -- (EXAMPLES - LOSS OF LICENSE)
FORTUNATELY, THE NUMBER OF BROADCASTERS
KNOWINGLY INVOLVED IN THIS TYPE OF DECEPTION
IS A VERY SMALL PERCENTAGE.

6. HYPOING. IN BROADCASTING, RATINGS
MEAN MONEY -- AND DECEPTIVE RATINGS MEAN
MONEY ACQUIRED UNDER FALSE PRETENSES. FCC
ISSUED A NOTICE OF PROPOSED RULEMAKING WHICH
MAY RESULT IN CORRECTIVE REGULATION.

7. LOUD COMMERCIALS. JUST LAST YEAR,
THE FCC REMINDED LICENSEES - AGAIN - THAT THEY

MUST TAKE APPROPRIATE MEASURES TO LIMIT
OBJECTIONABLY LOUD COMMERCIALS. WE HAVE
PROVIDED EXAMPLES OF WAYS TO LIMIT LOUDNESS.
PERHAPS WE OUGHT TO CONDUCT TESTS TO
DETERMINE MORE CLEARLY WHETHER OR NOT
CORRECTIVE ACTION IS NEEDED.

THE COMMISSION ALSO ISSUES RULINGS
THAT DO NOT DIRECTLY CONCERN ADVERTISING
PRACTICES, BUT WHICH DO AFFECT THE
ADVERTISER'S LIFE. AS WE MENTIONED BEFORE,
THESE INCLUDE THE PRIME-TIME ACCESS
REGULATIONS, POLITICAL ADVERTISING RULES,
THE FAIRNESS DOCTRINE, CHILDREN'S PROGRAMMING
RULES, PROGRAMMING REQUIREMENTS FOR LICENSE
RENEWALS AND NUMEROUS POLICY STATEMENTS.

BOTH THE FCC AND THE FTC ARE
PROHIBITED FROM MORE DIRECT REGULATION.
(IN THE FCC'S CASE AS PREVIOUSLY STATED,
THE PROHIBITION IS CONTAINED BOTH IN THE
FIRST AMENDMENT AND IN SECTION 326 OF THE
COMMUNICATIONS ACT, WHICH FORBIDS CENSORSHIP
IN ANY FORM.)

AS YOU KNOW, HOWEVER, THE INFLUENCE
OF A REGULATORY AGENCY DOES NOT BEGIN AND
END WITH RULES AND LAWS. THE REGULATED MUST ALSO
CONTEND WITH THE ATMOSPHERE OF REGULATION
-- WHICH MAY INVOLVE FORMAL COMPLAINTS,
WARNING SPEECHES FROM REGULATORS, OR INFORMAL
PRESSURE THAT MAY ELICIT COMPLIANCE WITHOUT
ADOPTING NEW RULES. THE ESTABLISHMENT OF

"FAMILY VIEWING TIME" IS AN EXAMPLE OF
A VOLUNTARY SELF-REGULATION.

WE ARE ALSO CURRENTLY
INVOLVED IN THE ISSUE OF FCC INVOLVEMENT IN
RADIO FORMATS GENERATED BY RECENT COURT
DECISIONS.

IN THE CASE OF BROADCASTING, THE REGULATORY
ATMOSPHERE IS ONE OF CONSTANT TURMOIL.
BROADCASTING IS THE SUBJECT OF COUNTLESS
ATTACKS FROM ANTAGONISTS OF EVERY
DESCRIPTICN AND EVERY POLITICAL PERSUASION.
BECAUSE OF THE MEDIUM'S UNIVERSAL IMPACT,
IT IS THE FIRST -- AND SOMETIMES THE ONLY --
MEDIUM TO UNDERGO THIS PRESSURE. AND BECAUSE
BROADCASTING IS LICENSED AND REGULATED, IT
IS FAIR GAME FOR PROHIBITIONS THAT DO NOT

APPLY TO OTHER MEDIA, SUCH AS THE BAN ON
CIGARETTE ADVERTISING. EVEN MORE DRASTIC
PROPOSALS HAVE BEEN ADVANCED AND SERIOUSLY
CONSIDERED, OF WHICH THE MOST CONSPICIOUS
AND, I THINK, THREATENING, EXAMPLE WAS
COUNTERADVERTISING. THE THREAT WAS
PARTICULARLY OMINOUS IN 1972 WHEN THE FTC
FILED A STATEMENT IN THE FCC FAIRNESS
DOCTRINE INQUIRY ADVOCATING THAT THE FCC
REQUIRE ALL BROADCASTERS TO PROVIDE
SUBSTANTIAL AMOUNTS OF TIME BOTH FREE AND
PAID, FOR REGULARLY SCHEDULED "COUNTER-
ADVERTISING" ON A BROAD SCALE. THEN, TOO,
THE D. C. COURT OF APPEALS THREE YEARS,
AFTER THE CIGARETTE RULING OF THE FCC, HELD

THAT THE COMMISSION COULD NOT AVOID
APPLYING THE FAIRNESS DOCTRINE TO
OTHER COMMERCIAL MESSAGES. THE GENERAL
ADOPTION OF COUNTERADVERTISING WOULD
HAVE MADE A SHAMBLES OF BROADCAST
ADVERTISING AND WOULD HAVE BEEN
DISCRIMINATORY AGAINST THE BROADCAST
INDUSTRY. AFTER THOROUGH STUDY,
COMMENTS AND DELIBERATION, THE FCC
MAJORITY VOTED AGAINST INCLUDING
COUNTERADVERTISING UNDER THE
FAIRNESS DOCTRINE.

THERE ARE INFLUENTIAL GROUPS IN WASHINGTON THAT SIMPLY BELIEVE ADVERTISING, AND PARTICULARLY TV-RADIO ADVERTISING, IS SOCIALLY AND ECONOMICALLY HARMFUL.

OPPONENTS OF ADVERTISING CLAIM COMMERCIAL BROADCASTING IS NOT AN INFORMATIVE, ENTERTAINING, FREE SERVICE TO THE PUBLIC, BUT IS

RATHER AN OVER-COMMERCIALIZED, PROFIT

DOMINATED ADVERTISING BUSINESS THAT COSTS

THE PUBLIC DEARLY IN INCREASED COSTS OF

PRODUCTS AND SERVICES. THEY SAY THAT TV,

THE MOST POWERFUL VEHICLE FOR INFORMATION,

ENLIGHTENMENT AND IDEAS IS DEDICATED IN

THE UNITED STATES TO SELLING GOODS AT THE

THE LOWEST POSSIBLE ADVERTISING COST --- AT

THE LOWEST COST PER THOUSAND. MASS
AUDIENCE IS THE NAME OF THE GAME DELIVERED,
IF NECESSARY, BY VIOLENCE, SEX, ESCAPE DRAMA,
AND VAPID COMEDY WITH TOO FEW PROGRAMS
CALLING FOR SERIOUS REFLECTION. THE ARGUMENT
CONTINUES (WITH SOME VALIDITY) THAT BROADCASTING
IS USING UP THE HIGHEST PAID CREATIVE SKILLS
OF OUR NATION, NOT TO ENLARGE THE HUMAN
SPIRIT, BUT TO SELL SOAP, CARS, UNDERARM
DEODORANTS AND VAGINAL ANTISEPTICS AT
ADDITIONAL COSTS AND HIGH PROFITS.

THE "BOTTOM-LINE" MESSAGE OF THE
CRITICS IS: TV AND RADIO ARE THE MOST
POWERFUL COMMUNICATIONS INSTRUMENTS IN
THE HISTORY OF CIVILIZATION. THEY SHOULD BE

DEVELOPED NOT FOR THE NARROW GOALS OF SALES AND PROFITS BUT TO ENLIGHTEN THE PUBLIC AND SUPPORT THE BELEAGUED SPIRIT IN OUR SOCIETY.

COMMERCIAL RADIO IN THE UNITED STATES IS ONLY ABOUT 55 YEARS OLD; TELEVISION HAS BEEN OF SIGNIFICANCE ABOUT HALF THAT LONG. THE FRAMEWORK OF GOVERNMENT REGULATION OF BOTH THE RADIO AND TELEVISION INDUSTRY GO BACK, OF COURSE, TO 1927 -- AT A TIME WHEN THOSE VERY FEW BROADCASTERS THEN IN THE BUSINESS -- WERE BEGGING THE GOVERNMENT TO BRING ORDER OUT OF CHAOS IN THE USE OF FREQUENCIES. THESE EARLY BROADCASTERS WERE PRIMARILY INTERESTED IN

TECHNICAL MATTERS -- EQUIPMENT AND FREQUENCY ALLOCATIONS. (THEY GOT MORE THAN THEY BARGAINED FOR; ---THEY GOT A GENERAL OVERALL GUIDE - THE "PUBLIC INTEREST" -- A TERM WHICH HAS BEEN AND WILL CONTINUE TO BE REASONABLY SUBJECT TO CHANGE -- AND THE SOURCE OF A LOT OF UNCERTAINTY.) SO ACTUALLY THE FCC WAS INITIALLY ESTABLISHED AS AN ENGINEERING TRAFFIC COP -- AS YOU KNOW IT HAS SINCE ADDED A VICE AND MORALS SQUAD.

AS CONGRESS DEBATED ON WHAT FORM THE COMMERCIAL BROADCASTING INDUSTRY SHOULD TAKE, THERE WERE SOME CHOICES TO BE MADE. ONE OF THESE CHOICES WAS WHETHER BROADCASTING IN THE UNITED STATES WOULD BE A "COMMON

CARRIER" PUBLIC UTILITY TYPE OF INDUSTRY
WITH ITS TIME BEING AVAILABLE AND BEING SOLD
ON A FIRST COME, FIRST SERVED, BASIS AT RATES
FIXED BY A GOVERNMENT AGENCY.

CONGRESS EMPHATICALLY REJECTED
THIS CHOICE AND OPTED FOR A PRIVATE ENTER-
PRISE, PRIVATELY FINANCED, RISK CAPITAL,
AND ADVERTISER SUPPORTED INDUSTRY: LET ME
REPEAT. THE LAW OF COMMUNICATIONS APPROVED
BY CONGRESS OPTED FOR AN ADVERTISER SUPPORTED
INDUSTRY.

THUS, COMMERCIAL BROADCASTING AS WE
KNOW IT GREW TO WHERE THERE ARE TODAY
OVER 8057 RADIO STATIONS AND 963 TELEVISION STATIONS
PROVIDING BROADCAST SERVICES TO THE PEOPLE OF

THIS COUNTRY -- AND ADVERTISING IS AN IMPOR-
TANT -- INDEED VITAL -- PART OF THAT SYSTEM.
FOR WITHOUT ADVERTISING, THE AMERICAN
SYSTEM OF BROADCASTING AS WE KNOW IT WOULD
MOST ASSUREDLY AND COMPLETELY COLLAPSE --
AND SOMETIMES AS I PHILOSOPHIZE ABOUT THE
INDUSTRY, THE THOUGHT CROSSES MY MIND THAT
IN THE UNITED STATES, ADVERTISING MAY WELL
BE THE NATION'S PRINCIPAL GUARANTEE AGAINST
A GOVERNMENT SUPPORTED AND CONTROLLED
BROADCAST INDUSTRY--AND THAT ADVERTISING
UNDERWRITES THE PROGRAMMING, NEWS AND
OTHER SERVICES PROVIDED BY THE MOST VARIED,
SOPHISTICATED, BROADCASTING SERVICES IN THE
WORLD.

WITH MY BACKGROUND, I BELIEVE
ADVERTISING AND MARKETING ARE VITAL FORCES
IN THE AMERICAN WAY OF LIFE. BUT WHAT I
BELIEVE, AND YOU BELIEVE, AND THE CRITICS
BELIEVE ABOUT WHETHER OR NOT THERE SHOULD
BE BROADCAST ADVERTISING IS NOT THE ISSUE
HERE. LONG AGO, AS I HAVE ALREADY POINTED
OUT, WHEN THE FRAMEWORK OF THE AMERICAN
SYSTEM OF BROADCASTING WAS ESTABLISHED,
IT WAS DECIDED THAT BROADCASTING SHOULD BE
ADVERTISER SUPPORTED AND FREE TO THE GENERAL
PUBLIC WHO HAD RECEIVING EQUIPMENT. THE
AMERICAN PEOPLE THROUGH CONGRESS, REJECTED
THE SUPPORT OF BROADCASTING THROUGH THE
CONCEPT OF LICENSE FEES AND BROAD GOVERNMENTAL

SUBSIDIES AND CONTROLS, WHICH ARE CHARACTER-
ISTIC OF BROADCASTING SYSTEMS IN OTHER
COUNTRIES.

EARLIER I ALLUDED TO THE INDIRECT
CONTROL OF BROADCAST PROGRAMS AND BROAD-
CAST ADVERTISING BY THE FCC. THE MORE
POSITIVE CONTROL IS EXERTED THROUGH VOLUNTARY
CODES. I COMMEND THE 4A's FOR THE VOLUNTARY
CODES OF GOOD PRACTICE AND URGE POSITIVE
ADHERENCE TO THEM. I ALSO COMMEND TO YOU
THE VOLUNTARY CODES SET UP BY THE BROAD-
CASTING INDUSTRY, FOR IF PROPERLY OBSERVED
THEY WOULD DO MUCH TO SILENCE THE CRITICS
OF BOTH ADVERTISING AND BROADCASTING.

TOO OFTEN, REGRETABLELY, THE
BROADCASTER'S CODES ARE ON A COLLISION

COURSE WITH THE INTERESTS OF YOUR CLIENTS
AND YOUR CREATIVE DEPARTMENTS. I AM
CONSTANTLY AMAZED AT THE NUMBER OF
COMMERCIALS CREATED BY AGENCIES THAT ARE
REJECTED BY BROADCASTERS' CODE AUTHORITY AND
BY THE NETWORKS STANDARDS OF PRACTICE
DEPARTMENTS. RECENTLY, I HAD AN OPPORTUNITY
TO SEE SOME OF THE COMMERCIALS THAT HAVE
BEEN REJECTED. ALTHOUGH THE SHOWING WAS
HUMOROUS AT THE TIME, THE FACT THAT THESE
COMMERCIALS WERE SERIOUSLY PROPOSED WOULDN'T
EXACTLY HELP THE CAUSE OF BROADCASTING OR ADVERTISING
DE-REGULATION.

OF COURSE, FOIBLES AND MISDIRECTIVES
ARE NOT THE EXCLUSIVE PROVINCE OF ADVERTISERS
OR EVEN BROADCASTERS...THE REGULATORY AGENCIES
ALSO CONTRIBUTE.

WHILE AT WJR, I TAUGHT A COURSE
AT THE UNIVERSITY OF DETROIT ON "BROADCAST
MANAGEMENT" AND ANOTHER IN THE "PRACTICALI-
TIES OF GOVERNMENT REGULATION." WHEN I
LEAVE THE FCC AFTER 6- $\frac{1}{2}$ YEARS SERVICE, I
EXPECT TO BE FULLY QUALIFIED TO ADD A
CHAPTER OR TWO ON "THE IRRATIONALITIES OF
GOVERNMENT REGULATION." (LIST EXAMPLES OF
IRRATIONALITIES - LIST 3 OR 4 LEADING PARADOXES
-- SUGGEST A CORRECTIVE COURSE OF ACTION.)

SOMEONE SUGGESTED THAT I ASSUME THE
ROLE OF AN AGENCY MEDIA OR TIME BUYER AND
DESCRIBE HOW I WOULD EVALUATE COMPETITIVE
STATIONS, NETWORKS, PROGRAMS, ETC. IN MY

EXPERIENCE BOTH AS A STATION MANAGER AND AS AN FCC COMMISSIONER, I WAS IN THE UNIQUE POSITION OF HAVING MADE QUALITATIVE AND VALUE JUDGMENTS ABOUT PROGRAM PERFORMANCE AND STATION QUALITY.

IF I WERE TO BE A MEDIA BUYER, I'D PROBABLY BE INCLINED TO WORK MORE FROM MY SUBJECTIVE PREFERENCES THAN FROM EXPERTISE. I CAN IMAGINE TIMEBUYER QUELLO... HE'D PROBABLY BUY ALL STATIONS AND NETWORKS THAT BANNED "THE GODFATHER", "THE UNTOUCHABLES", AND "LATINS ARE LOUSY LOVERS." HE WOULD SPECIALIZE IN STATIONS WHOSE MANAGERS HAD LAST NAMES ENDING IN VOWELS. AND HE'D

AGGRESSIVELY SOLICIT ACCOUNTS CONTROLLED
BY SUCH CLIENTS AS RICARDO, CAFIERO, IACOCCA,
MARABITO, CASERIO AND DE LORENZO.

I IMAGINE CHAIRMAN WILEY WOULD
CREATE A "NEW ETHIC" QUOTIENT FOR EVALUATING
STATIONS AND NETWORKS WITH ETHICAL PERFORMANCE
DATA AND PUBLIC SERVICE BROWNIE POINTS.
COMPUTER MIGHT BE LOADED WITH ADVERTISING
NON-ESSENTIALS, BUT BUY WOULD COME OUT VERY
CLEAN.

NOW BACK TO SERIOUS REALITY ---

NATURALLY, I PERSONALLY WOULD BE ATTRACTED
MORE TO A QUALITATIVE RATHER THAN QUANTITATIVE
LEADERSHIP. AFTER ALL, AS SOME OF YOU RECALL,
old THE OLD WJR, UNDER GOODWILL STATION'S OWNERSHIP,

PROHIBITED USE OF RATINGS IN SELLING, NEVER DOUBLE-SPOTTED, AND RELIED SOLELY ON QUALITATIVE RESEARCH AND PROGRAM AND PUBLIC SERVICE LEADERSHIP.

I REALIZE IN THIS AGE OF COMPUTER BUYS AND DATA PROCESSING SYSTEMS QUALITATIVE ANALYSIS OF THE MEDIA-BUY IS DIFFICULT, BUT I WONDER IF IN THE QUEST FOR GROSS RATING POINTS, DEMOGRAPHICS TARGETING, ETC., WE ARE NOT OVERLOOKING ONE OF THE MOST IMPORTANT FACTORS IN COMMERCIAL EFFECTIVENESS, THE QUALITY OF THE ENVIRONMENT IN WHICH THE COMMERCIAL IS PRESENTED. I GUESS IT IS AN UTOPIAN DREAM TO EXPECT THE HIGHEST QUALITY STATIONS -- QUALITY AND BELIEVABILITY IN PROGRAMMING, QUALITY IN ADVERTISING STANDARDS,

QUALITY IN PRODUCTION--TO QUARANTEE THE LARGEST AUDIENCE: BUTTHE PUBLIC ACCEPTANCE OF ANY ASSOCIATION WITH THIS TYPE OF STATION OR PROGRAM PROVIDES A QUALITATIVE ADVERTISING IMPACT NOT REFLECTED IN RATINGS.

SO QUALITY ADVERTISING IS IMPORTANT- VITALLY IMPORTANT - TO THE HEALTH OF BROADCASTING. AND AS A COMMISSIONER AT THE FCC, I ASSURE YOU THAT AM MOST INTERESTED IN SEEING TO IT THAT THE BROADCASTING INDUSTRY IN THIS COUNTRY CONTINUES TO BE IN GOOD HEALTH--PHYSICALLY, MORALLY AND FINANCIALLY, SO THAT IT CAN BETTER SERVE PUBLIC INTEREST.

AND ADVERTISING THROUGH CREATING AND SUPPORTING QUALITY PROGRAMS AND MAINTAINING HIGH PROFESSIONAL STANDARDS CAN PLAY A VITAL ROLE IN ASSURING AMERICAN PEOPLE THE BEST BROADCASTING SERVICE IN THE WORLD.