

Remarks by Commissioner James H. Quello
Before the
Washington Research Group's Fourth Annual Telecom Workshop
Washington, DC - March 14, 1997

Thank you Scott.

One of the joys of public speaking is hearing yourself introduced. Short of your own personal resume, it's the closest you'll ever come to canonization -- you may not deserve it, but you like it and appreciate it.

At this time, I usually state something like "I'm delighted to be here among this distinguished group of executives, etc."

However, today my delight is somewhat mitigated by awe. Awe with an audience of professionals who know more about the important financial challenges facing the broadcast and cable industries than I do. And particular awe when I read, "The audience is comprised of top telecom stock analysts and portfolio managers from the nation's largest institutional investors -- a group of institutions which collectively manage two trillion dollars of investments and are some of the largest shareholders of communications companies!"

I don't have to feign modesty or being impressed. You see, investment perspicuity is not my bag.

You have as your speaker this noon someone who sold his optioned Capital Cities stock in 1974. It soon split twice and subsequently quintupled in price! I thus failed the sole lifetime opportunity of becoming a substantial multimillionaire.

I told empathetic CEO Tom Murphy, whom I consider the most effective negotiator in broadcast history, "The Lord did not want me to be a wealthy man. He wanted me to be a beleaguered, besieged SOB and that is what I am in this job!"

But I take some consolation that I have been a voting Commissioner for almost twenty-three years in a now 2500-person agency that is responsible for regulating the telephone, television, radio, satellite and wireless industries that account for almost 10 percent of the gross national product. Also, the FCC is one government agency that raised 24 billion dollars for the Treasury with 12 auctions -- and more are planned.

I also like to gloat that I haven't missed an official meeting or an award in over 22 years. In all that time, I and my fellow Commissioners had to deal with the challenges facing the broadcast and cable industries -- your aptly suggested title of the speech today.

Basically, I believe the principal challenge facing all multi-channel, multi-faceted, more computer-oriented, communications industries is consumer acceptance and consumer affordability.

I mentioned these consumer challenges at my fourth Senate confirmation hearing in 1991. The very first question posed by the distinguished war hero, Senator Daniel Inouye in June 1991 was, "What should be the Commission's highest priority for the next five years?"

My reply now seems prophetic. I can't resist the temptation to quote it because it aptly applies to the subject matter today.

My reply was, "I believe the Commission's highest priority in the next five years will be the orderly, compatible implementation of the advanced technological services of telecomputing, fiber optic, direct-broadcast satellite TV and radio, digital TV, cellular and personal communications services. Advanced technology often outstrips society's ability to integrate it into our already complex sometimes expensive communications systems. The rate and extent of technological development will be impacted by consumer acceptance and affordability, commercial practicalities, legislative and regulatory actions and by the service's beneficial contribution to total public interest."

The orderly, compatible implementation of telecommunication technology is now a major FCC undertaking and is requiring the best of our dedicated staff's expertise and the Commissioners' judgment.

I believe the government should encourage industries to achieve their goals by working with industry in a progressive spirit of mutual cooperation to encourage growth and innovation with minimal regulatory intrusion. In this regard, it is significant to note that President Clinton has cited "reduced regulation" as one of the mainstays of his presidency and of his re-election platform. And the Republican leadership in Congress is aggressively pursuing deregulation, preferring competition to regulation. These regulatory philosophies -- deregulation and competition -- are the twin touchstones that underlay the sweeping changes of the Commission's enabling act that are embodied in the Telecom Reform Act of 1996.

Twenty years ago, I regaled audiences by reciting the three biggest lies in the world, 'quote.' "The three biggest lies are: (1) The check is in the mail; (2) It is great to be poor, it builds character; and (3) We are from the FCC and we are here to help you. I am now considering replacing No. 3 with "The era of big government is over at the FCC."

There are verifiable examples of over-regulatory zeal that affect various communications services. What comes immediately to mind are proposed imposition of additional quantifiable public interest obligations on digital TV broadcasting, radio DARS (Digital Audio Radio Services) and LMDS (Local Multipoint Distribution Service) communication services that are not yet developed and whose public acceptance is unknown and untested.

One must remember that industry inventiveness and financing developed the advances in communications technology and program production -- not government financing nor government regulation. Regulation which is necessary in monopoly situations negatively impacts non-monopoly industries. I hope some day we will reach the millennium where competition replaces regulation -- an announced goal of the Administration and Congress.

The landmark Telecom Act of 1996 constituted the first major change of our communications law since 1934. The expected results have not yet been achieved but it is far too early -- only one year later -- to declare winners or losers.

Some have been heard to declare that the Telecom Reform has not yet fostered competition among cable, wired voice telephone, wireless services and broadcast television. But as a former broadcaster, I take a longer view. Remember, the first TV broadcasters lost their shirts for the first four or five years. New competitive services usually do not gain immediate acceptance or profitability. The sweeping rule changes must be given time to take effect.

In the future, the goal of more reasonable rates, more options, and better service for consumers will be achieved by additional competitive services outlined by the Act. Establishing the regulatory framework, while implementing a new licensing procedure -- auctions -- mandated by congress, for major new communications industries is a complex and time-consuming task.

There is no doubt that the main thrust of the Telecom Act of 1996 is to promote competition, minimize regulation to provide lower costs and better service to the consumers and to promulgate the prompt deployment of new advanced telecommunications technologies. Lower prices and better advanced service to consumers don't necessarily translate into continuing or higher profit margins for industries or investors without increased product efficiency or economy of scale afforded by mergers or convergence. This is true of all the varied segments of the communications industry. So mergers and convergence can serve a worthwhile purpose when accompanied by better service and lower costs to consumers. I'm heartened that regulatory philosophy at the FCC has come around to one of my basic tenets: "Big is not necessarily bad."

You have already heard from an impressive list of expert panelists and speakers on mergers and many communications subjects. My particular assignment today is broadcasting and cable. My opinions may or may not reflect the position of an FCC majority.

I'm sorry I am prohibited by law, ethics and self-preservation from giving you exactly what you want to hear -- like: How will FCC regulations effect the communications investments in cable and broadcasting? What specific stocks are most likely to benefit from FCC regulatory and deregulatory actions?

If I answered these questions, I would be mentally assassinated by my legal staff and the FCC General Counsel and disowned by my friends in Congress. Besides, this audience represents the specialists best qualified to make financial judgments.

One service of present cost to broadcasters, but with fascinating future potential is the conversion of TV from analog to digital. Consumer acceptance and affordability will definitely impact digital broadcast development. I believe full conversion to DTV will be an evolutionary process. There is only so much program production force feeding broadcasters can afford without established consumer affordability and acceptance. Conversion before consumers have converter boxes or digital TV sets could cause a major public upheaval with severe repercussions against regulators and legislators.

I firmly believe that the Chairman's announced preference for a mandated one year build-out for the networks in the ten largest markets is too short a time and impractical, but it does have the salutary effect of jump-starting negotiations. However, the one-year proposal illustrates the foible of "big government" with no practical business operating experience dictating the time and method of implementing an advance technological service that actually was invented and developed by broadcast industry entrepreneurs.

The broadcast industry itself necessarily is the entity most anxious to move expeditiously into DTV to remain competitive with satellite and cable transmissions. The industry responsible for preserving free over-the-air TV, that developed HDTV and digital broadcasting, has the biggest stake in prompt digital service development. It is also best qualified to gauge the growth and timing of a new technology that provides much improved video and audio for its customers.

Broadcasters have been allotted 6 MHz but the final method of utilization has not yet been determined.

There are many other unknowns and both government service rules and allotment rules must be practical and maintain enough flexibility to accommodate developments.

For example, digital transmission and reception equipment is not yet available. There are still a lot of technical unknowns and equipment in prototype form. Also, many stations will need new transmitter sites and will have to comply with local zoning laws. Tower siting is a time-consuming process that alone averages almost one year.

We are working on "replication" of TV station service areas. The UHF power issue and the ability of UHF broadcasters to reach indoor antennas is still being debated. Currently, most VHF stations have volunteered to operate at reduced power for a two year test period to provide parity to expedite initial developments.

There is also concern that broadcasters may need channels 2-6 and most of channels 60-69 to provide a viable free over-the-air service. That allotment issue is not yet resolved.

At this date, there are practically no digital TV receivers. Manufacturers need a business based timeframe to "gear up" for the production, marketing and sale of such widely deployed consumer equipment to replace current TVs.

Also, a special Commission proposed by President Clinton and being formed by Vice President Al Gore is studying the extent and nature of additional public interest obligations for digital broadcasting. We must remember all broadcasters already have an existing statutory public interest requirement for broadcast operations that is conscientiously implemented by a great majority. Any imposition of burdensome additional quantifiable public interest obligations for new undeveloped services is a contentious issue that smacks of "big government" and could easily run afoul of one of our most cherished Constitutional rights -- the First Amendment.

DTV will initially be an expensive challenging evolutionary process but if the government limits its intrusion, eventually will be a win-win situation for consumers, broadcasters and manufacturers.

It will provide consumers with the ultimate in advance video and audio services. It will provide broadcasters a new competitive service and also an opportunity for more efficient use of the spectrum. Manufacturers of TV sets, converter boxes and transmitters will enjoy supplying a huge new customer base. It will provide the program community with fascinating improved additional outlets for their productions.

DTV will differ from the introduction of prior broadcast services in that DTV will eventually lead to the termination of NTSC television. That did not happen in the transition from black and white to color -- or from monaural sound to TV stereo.

My longstanding platform stresses the vital need to preserve free over-the-air TV, the major, most utilized source of news, information and entertainment for all consumers. Broadcasting, TV and radio, are the only communication services that cost the same today as they did 40 years ago -- free. Actually, commercial and public television constitute an effective information superhighway in itself and remains a notably efficient means of delivering a broadband-type signal directly into the home . . . into 98 million homes at this writing.

Broadcasters may need flexible use of some digital channels to help finance the expensive transition to digital. Incidentally, I have always believed broadcasters, and more important, the public, must have one free channel for digital broadcasting to provide consumers the best in video and audio services. Channels used for non-broadcast services should be assessed a spectrum fee.

Digital TV has fascinating potential for the near future, but we must not forget another vital free service -- radio. Radio has been the primary beneficiary of the 1996 Telecom Act. No greater impact has the 1996 Telecom Act had than in the area of radio. And the time was right, if not long overdue. As a result of the Act, broadcasters can now own 8 commercial stations in radio markets of 45 or more commercial stations; 7 stations in markets with between 30 and 44 commercial stations; and, 6 stations in markets with between 15 and 29 commercial stations. In those markets with 14 or fewer commercial radio stations, a party may operate up to 5 radio stations, except that a party may not own more than 50% of the stations in such markets. There are also additional limitations on the number of same-service radio stations you can own in each of those markets. Congress also lifted the national radio ownership caps and we have seen broadcasters move from a limit of 20 AM and 20 FM to numbers in the hundreds.

The Commission, however, must still approve these mergers and assure they serve "the public interest." With respect to our review, we have received two letters, one from the Chairman of the Senate Subcommittee on Communications and one from the Chairman of the House Subcommittee on Telecommunications, Trade and Consumer Protection. Each of these letters was deregulatory in nature and stated unequivocally that our review should not address issues of diversity or competition with respect to radio-only mergers and that the antitrust division of the Department of Justice has this responsibility. However, the FCC must still find that the mergers are in the overall public interest. Thus, I would certainly counsel that any proposed merger should emphasize the public interest benefits that will be achieved through the proposed merger. We know that radio mergers and megapolies result in economy of scale, consolidation (polite for reduction) in personnel and increased cash flow. Combinations of 4 to 8 stations provide the essential critical mass to attract more advertising dollars to radio and away from competing media.

Also, multiple ownership will assure continuance of a viable terrestrial radio broadcast system when competing with 40 channel DARS systems. Radio is a local oriented medium and the first and most reliable source of local and national emergency bulletins, road and weather conditions and local news.

In today's ever consolidating marketplace, broadcasters must find ways to remain competitive while still providing quality local service that is unique to broadcasting.

Now, on to cable -- The biggest challenge facing cable operators is trying to figure out what they want to be in this converging marketplace. It is still difficult to determine precisely how the 1996 Telecommunications Act will change the competitive landscape and I recognize that competition is not occurring as quickly as many had hoped and expected. And not all cable operations are facing their competitive challenge in the same manner. Some cable operators are becoming providers of bundled services, including telephone, Internet and video services. Another has chosen to merge with an existing telephone provider. The possibilities are numerous and the choices not always easy. Thus, it is important that we not judge the competitive impact of the 1996 Act until we have given the industry time to adjust to the regulatory changes and make their investments accordingly.

Regarding some of the new services, such as high speed Internet and telephony, I believe that cable operators are uniquely situated to offer these new services. They already pass approximately 93 million homes and serve about 65 million subscribers nationwide. In addition, they have the broadband capacity to make it work. Many cable operators are well down this road, and advances in digital compression will permit even modest systems to get into the action. So, attractive competitors like DBS face a challenge.


I believe cable is an awakening broadband communications giant. It is well positioned to face and offer competitive services.

But as the pie grows, so do the number of competitors. As I have stated, I do not agree that the 1996 Act did not advance competition by LECs into the cable marketplace. But, long term competition takes substantial investment, and there are still some outstanding issues that need to be resolved before the market is ready. For example, the FCC has several ongoing rulemakings that impact this market, such as OVS (Open Video Systems) cost allocation, access reform, universal service. In addition, the 8th Circuit stayed our interconnection rules. All of these things delay action by these providers.

And there are other competitors as well. In 1996, private cable operators provided service to over 1.1 million subs in MDUs (Multiple Dwelling Units). LMDS auctions are right around the bend. And, of course, there is DBS. And some DBS providers are exploring the option of retransmitting local broadcast signals as part of their service, permitting them to offer services more like traditional cable TV.

Thus, for cable operators, the choice is theirs, and the opportunities are abundant. Our job at the FCC is to develop flexible, well-crafted rules that will permit different strategies, changes, in those strategies, and enable companies to meet their investment needs. But not to make the choices or force choices that are not based on sound business decision-making. By doing our job while letting businesses strategize in the marketplace, we ensure competitive companies will be able to offer new services and products at reasonable prices to American consumers.

There are many more contentious topics to discuss (liquor advertising, TV ratings, duopolies, cross-ownership, etc.), but we have already gone beyond our allotted speaking time.

So, I will now open up time for your questions and accusations! 

###