

D R A F T # 1
Speech by Commissioner James H. Quello
INTV (Independent Television Stations Association)
Atlanta, Georgia, Jan. 13, 1975

Thank you.

I hope you all had an opportunity to enjoy the holidays with you families and friends. I spent some time back in Detroit renewing acquaintances and generally enjoying a respite away from the pressure-packed atmosphere of official Washington. After eight months on the job, I find my position with the FCC challenging and rewarding...and, at the same time, frustrating.

And, the task hasn't become easier as I have tried to learn more and more of the details of regulation and the procedures involved. I can tell you that the "public interest" seemed a lot clearer to me before I came to Washington than it often does now. After weighing often conflicting interests of various parties in any given proceeding and attempting to arrive at a decision that is both lawful and equitable and truly in the public interest, I envy Solomon his wisdom.

I don't mean to dwell on my problems because I know that you who own and operate independent television stations also have your frustrations, particularly in this current economic situation. These are times which call for hard decisions by virtually everyone, whether those decisions relate to the purchase of groceries or the sale of broadcast advertising. Having had some experience in broadcasting myself, I believe I can appreciate some of your concerns.

Insofar as these concerns are related to action or inaction by the FCC, I don't know that I can eliminate your problems but I can let you know my current thinking on some matters that might be of interest to

you in the months and years just ahead of us.

There are a number of such matters pending before the Commission right now. Very soon after I return to Washington, I expect to join with my colleagues to discuss pay cable rules with a view toward bringing that issue to a conclusion. We are also moving toward completion of rulemaking in the difficult cross-ownership question. The future of the Prime Time Access Rule is still under active consideration. The CATV rules are undergoing change which can have an effect upon your endeavors. The Commission is considering a policy statement regarding negotiations with citizens groups by local broadcast licensees. We're also concerned with the amount of sex and violence on television, particularly during hours when children normally are in the viewing audience. And, there are other issues which are before the Commission which are potentially of great significance to the broadcaster and the public at large.

On Wednesday of this week, the matter of pay cable rules changes is scheduled for discussion by the Commission. We spent a great deal of time studying this matter and have heard oral arguments outlining the issues involved. There certainly is no easy answer to the question: "How much film and sports programming is enough to encourage development of pay cable without diminishing broadcast television's capacity to serve the public?" There is likely to be some easing of the restrictions on access by pay cable entrepreneurs to feature films. Unquestionably, there will be fewer restrictions than many broadcasters would like and greater restriction than most pay cable entrepreneurs want. Of course, the source of this material, the producers of feature films, are not subject to regulation by the FCC and they will have an important ~~xxx~~ role in making whatever system we devise work to benefit the public. I think I can assure you that a large number of feature films will continue to
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independent television. It is likely, however, that the degree of exclusivity ~~is~~ retained by television will, in large measure, be subject to negotiation between the producer and the television operator. And, films over ten years old which have not been shown in a given market for at least four years are likely to be removed from any FCC restrictions. This is not the "last word" on the subject, however, since our deliberations are continuing in an effort to assure an equitable result. Sports carriage by pay cable is somewhat farther from resolution.

The difficult cross-ownership question has been the subject of intense study and serious deliberation for some time now and I believe we are nearing a decision on that one. You might have read some reports in the trade press on the tentative outline of that rulemaking. As matters now stand, it appears that the Commission will require some divestiture in those relatively few situations where the co-ownership of newspaper and broadcast properties brings about monopoly conditions. The Commission has long considered "diversity" of voices in a given community to be of great importance in carrying out its responsibilities under the Communications Act. After careful deliberation...and recognizing the fine service often performed by ^{SO-CALLED} "monopoly" owners...we have concluded that diversity of viewpoints is not likely to exist in those cases where virtually all communications outlets in a community are controlled by a single party. We recognize that, in some cases, divestiture can pose some significant public interest problems and we have included a waiver provision so that relief can be granted when adequate showing can be made. It was my hope that our rules could have been made only prospective, barring future cross-ownership situations, but it has become apparent that, in order to sustain a policy of "diversity," it is necessary to require divestiture in those few cases where a single entity controls all local information outlets. I'm particularly distressed

that the impact of this policy falls on smaller communities. The fact is, however, that larger communities have the diversity contemplated by Commission policy because more broadcast facilities are licensed to serve those communities. While some inequities may result, in considering the overall public interest, we have determined that the greater good will be served by the breakup of those few monopoly situations.

The Prime Time Access Rule, as you know, has always been fraught with uncertainty and controversy. I note that the position of this organization has been modified, somewhat, since the rule was first proposed. There are uncertainties inherent in such a rule and there is some evidence that it hasn't fully accomplished what the Commission intended when it was first promulgated. However, I believe that the rule has produced some benefits in the form of local programming and that it can broaden the base of productions available to all television by relaxing network control of production facilities to some extent. I don't believe the rule has had a "full and fair" test because of the uncertainties which have plagued it since the adoption of the first rule in 1970. Perhaps it would have been better had there been no rule in the first place, but there is a rule and I believe we should give it a fair chance to accomplish its intended results. It is apparent to me that there are opportunities for improvement during the so-called "access" period and it's my feeling that those opportunities will be grasped by imaginative and innovative producers and new programming will ultimately result. I would hope that all local stations, both independents and affiliates, will be encouraged to produce more community-oriented programs themselves and that efforts will be made to steadily improve the quality, as well as the quantity, of such programming.

The question of sex and violence on television appears to be primarily a matter for network ~~concern~~ ^{ATTENTION}. It is a matter of great concern, however, ^{OF} by the Congress and the Commission...and, as you might imagine, this great ~~concern~~ ^{INTEREST} reflects the concern of many citizens. The FCC has no censorship powers nor do I believe such powers would be consistent with the basic precepts upon which this nation was founded. Our concern is not motivated by some ~~prudent~~ prudish desire to impose our own values upon the nation. However, it must be recognized that ~~the~~ television is an important part of ~~the~~ virtually every household in the country and, because it is, children are ^{REGULARLY} exposed to its viewing fare. The curiosity of children, as all of you parents are well aware, can sometimes lead them to partial discoveries which can be potentially harmful to them. A recent report seems to indicate that persons under age thirty, the first generation to grow up with television, suffer greater apprehension relating to fear of violent crime than their elders. The conception of social reality of this group tends to be more negative than that of the older group, according to the study. The report I'm referring to is the sixth annual "Violence Profile" prepared by the University of Pennsylvania's Annenberg School of Communications for the National Institutes of Mental Health. I'm not prepared to endorse the report...since I haven't yet had a chance to study it...but I'm certainly going to study it...and I would recommend that you do, too. This "Violence Profile" attempts to measure television violence in prime time and in children's television programming and to analyze the impact of that violence upon audiences. In its sixth report, the "Profile" notes that the victims in television programs tend to be female, foreign, non-white, old and lower class. Women are shown ~~as~~ as victims more often than anybody else. One conclusion drawn from this fact is

that "This pattern of victimization demonstrates a structure of social power and, as the research findings indicate, may cultivate an invidious sense of risk and fear." Insofar as that tentative conclusion is correct, I think it becomes obvious that something must be done to change the situation.

I think it's important to keep in mind the power of television. I ran across a television column in the New York Times last month which brought home to me the reason why we should all be concerned with television violence. John J. O'Connor, the Times TV Critic, pointed out that "While the industry proudly points to its ability to sell products, it cannot ignore the possibility or even likelihood that it is equally capable of selling anti-social behavior." I urge you to give ~~that~~ that some serious thought.

As I indicated earlier, I am particularly concerned about children's television fare. I was ~~particularly~~ dismayed, therefore, to read that the "Profile" discovered that Saturday cartoon programming for children "increased in the rate of violence per program and maintained its prevalence at the second highest level in seven years...." I have to ask: "What are we doing to our own children?" In our efforts to cultivate young audiences and sell products are we ^{sowing} ~~sowing~~ the seeds of fear and unreasonable apprehension? Obviously, we don't have a definitive answer...but I believe we have enough clues to cause us to seriously question what we're doing and to actively seek alternatives.

Former Wall Street Journal editor Vermont Royster, speaking to the annual conference of the Association of National Advertisers at Hot Springs, Virginia, recently expressed his apprehensions about press liberty and whether it is becoming press license. He reminded his audience that "the rights we enjoy were not handed down to Moses on Mt. Sinai, and are not thereby immutable." And, he went on to note that "These rights were granted to us by the people in a civil document, the First Amendment. What the people grant, the people can take away." And, Royster warned, "...if we in the press show so little responsibility that we let our liberty turn into license, then the people may get so disgusted that they will take that liberty away."

The public, of course, continues to have an active interest in what it sees, or does not see, on television. The Commission encourages licensees to become aware of the needs and interests of the communities they serve through the ascertainment process prescribed for license renewal. This process is sometimes regarded as ~~burdensome~~ burdensome by broadcasters because it can involve a significant use of time and resources. I urge you to make the most of that expenditure of time and resources, however, and I believe you will find it worthwhile. First, the better you understand the audience your trying to serve, the better you can program your stations to appeal to that audience. Second, because our scheme of broadcasting in this country requires that you be public trustees of a valuable resource, a comprehensive knowledge of your community is prerequisite to your effective management of that resource in the public interest. And, third, when you are challenged by those in you community who feel that you are not adequately service the public interst, convenience ~~and~~ / or necessity, your thorough ascertainment

of your community's needs and interests and your response to those
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 needs and interests can provide the best possible response to your
 challengers.

I have been dismayed, since I joined the Commission, to have seen a few instances where broadcasters have been willing to sign agreements with local activist groups which would give those groups control over certain kinds of programming. As you know, the Commission has long held the licensee solely responsible for programming in the public interest. The Commission has also outlined procedures to be used in ascertaining what the needs and interests are in each community served by broadcast stations. Insofar as local activist groups represent significant portions of a community--and it is far from clear that this is always, or even usually, the case--their needs and interests should certainly be considered by the licensee. But, insofar as coercion is used to force programming decisions not indicated by the overall ascertainment process, then, in my view, the public is not being well served. Granted, unreasonable demands by local activists can and do place the licensee in the middle, sometimes forcing tough decisions relating to his own needs and interests versus those of the public he is licensed to serve. The law and the Commission's policies are clear, however, and those hard decisions must be faced.

Having just come through the holiday season, it might be useful to recall the words of Charles Dickens in A Tale of Two Cities:

"It was the best of times, it was the worst of times, it was the age of wisdom, it was the age of foolishness, it was the epoch of belief, it was the epoch of incredulity, it was the season of Light, it was the season of Darkness, it was the spring of hope, it was the winter of ^{had} despair, we ~~xxx~~ everything before us, we had nothing before us."

During this past year, our nation has certainly had enough of foolishness, incredulity, Darkness and despair. I prefer to think that this new year will be the beginning of the journey back to wisdom, belief, Light and hope.

There is no question that this is a time of adjustment, of new directions, for all of us. My goals as a relatively new member of the FCC are to encourage and promote advances in communications which will help return the nation to better times. I know I can count on your help.

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