

# Inside the FCC

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FCC commissioner, in recent speech before a joint meeting of the Detroit Adcraft Club and the Detroit Better Business Bureau.

## Technological explosion, deregulation provide new challenges, responsibilities

During the past five years, we have been involved in a veritable explosion in technological developments, deregulation and unregulation which provides new challenges and responsibilities for industry and the FCC. There have been significant changes and far-reaching, oftentimes controversial, developments in practically all fields of communications.

During the past four years many outmoded or unduly intrusive regulations and unnecessary paperwork requirements were eliminated, particularly in the broadcast area. The FCC also simplified license renewal procedures and technical requirements. In general, communications regulations were, and are, being replaced by marketplace competition. Meanwhile, the FCC has introduced many additional communications facilities to the marketplace, thus providing expanded service to the public. The commission promulgated new or expanded service in: LPTV (low power television), DBS (direct broadcast satellite), MDS (multipoint distribution service), cellular radio, teletext, AM and TV stereo, cable, SMATV, STV and continued expansion in the authorized subcarrier service for radio and TV. In a very timely and significant action, the FCC also expanded the ways public broadcasters could raise additional funds, thus enhancing self-sufficiency.

With a few exceptions, I strongly supported the deregulatory thrust. My vote on key policy issues is a matter of public record. In the more significant policy cases, my position has been emphasized by supporting, concurring or dissenting statements that have been available for public scrutiny.

My general approach to communications policy is pro-competitive. I believe marketplace solutions for radio, TV and advertising are in most cases better than regulatory ones. I supported the current efforts to discard excess regulatory baggage. It is frequently too easy for regulation to acquire a life of its own and to continue when the need has passed. However, I will question any deregulatory action that might ulti-

396

mately reduce the quality of telecommunications services available to the public. In particular, our agency must guard against elevating administrative convenience to a point that jeopardizes our ability to ensure proper technical standards and operations. Also, I believe that with deregulation comes added responsibility to strongly monitor the telecommunications environment to ensure quality of service in the public interest.

## Spirit of mutual cooperation

I do believe government regulation is best conducted in a spirit of mutual cooperation with regulated industries. I believe progress can best be achieved with a constructive government attitude that provides incentives for innovation, growth and improvement in service and products for the public. We should reserve adversary proceedings for major unresolved disagreements or egregious violations. In return, we should expect that telecommunications companies, because of their great impact on the American way of life, maintain a strong sense of social consciousness.

Broadcast licensees, and for that matter, all businesses and corporations, have inherent responsibilities as public trustees. In America, all corporations exist by the will of the people. It behooves all corporations, acting in their own self-interests, to conduct themselves with a keen sense of social purpose, not only economic purpose. In a democracy, any economic or social system can be legally altered by the people at the polls. So, the people have a right to expect reasonable benefits, fair treatment and equitable distribution of wealth for the public good. The great majority of American telecommunications and broadcasting corporations have reasonably fulfilled most expectations by providing the American people with the best communications services in the world and its employees with a high standard of living. One of our highest government priorities must be to preserve America's markets and our prominent position in world communications to assure healthy, progressive industries with gainfully employed Americans.

## Current crisis issues

The formal part of my address, above, is the official speech of record. It delineates FCC accomplishments and my regulatory philosophy.

In this addendum, I'll list the foremost current crisis issues and give a bottom line opinion or a status update depending on the legal sensitivity of the issues. I'll also answer any questions regarding the subjects listed below that your time permits.

The most contentious recent issues are: the media mania; mergers and hostile takeovers; repeal of the Fairness Doctrine and Section 315; the problems of the adversarial press; public broadcasting v for U swaps; advertising authorization for public broadcasting; beer-wine counter commercials; multiple ownership rules; financial interest and syndication; telephone rates and restructuring; cable must-carry and copyright requirements; spectrum allocation and sharing; INTELSAT competition; the Westmoreland

and CIA Fairness Doctrine complaints.

Each of the above subjects could merit a full speech in itself.

I'll anticipate a question on the subject that affects many people in the advertising-media business. . . . takeovers and mergers that have dominated recent headlines.

The question could well be: Why the explosive surge in the urge to merge in broadcast stocks? What part does the FCC play in takeovers?

It seems that today "Let's Make a Deal" is more than a popular TV game show. It has become the maxim of the TV industry.

## Takeover headlines

Look at a few recent headlines and you can see that as the song goes, the joint is jumping, it is really jumping with a flurry of media takeovers and merger proposals.

"No Money Down—Will Ted Turner Buy CBS on the Cuff?"

"Terrible Ted Turner's Bid for CBS Viewed as Outlandish"

"Ted Turner is Crazy Like a Fox"

"ABC-Cap Cities Merge, Little David Takes Over Goliath"

"Storer Girds for a Fight, Unusual FCC Ruling Opens Door to Hostile Break-Up Bid"

"Knight-Ridder Group Makes Bid for Storer"

"4th Network: Murdoch TV 2 Billion Dollar Deal Faces FCC Hurdles"

"Metromedia Agrees to Sell Seven Stations"

"Multimedia Rejects Jack Kent Cooke Offer"

"Gannett Co. Reaffirms Anti-takeover Plans"

"Take-Over Tremors Top Network Agendas"

"Taft Acquires Gulf Stations"

There has never been a successful hostile takeover of a broadcast company. And until recently, few were attempted. Suddenly, there is a realization that it is possible and that most broadcast-cable properties are undervalued and are attractive cash flow vehicles.

My general attitude on takeovers by professional raiders was expressed in my article in the *Los Angeles Times* on March 22, 1985. The key excerpt is: "The financial community should realize that broadcast properties should not be considered just another takeover game. Potential buyers have to meet the requirements of not only the Securities and Exchange Commission and the Justice Department but also the

FCC, which is required to make a public-interest finding before a transfer of control or ownership. The requirement for FCC approval is something that potential raiders should keep in mind.

Our broadcasting system requires a degree of stability that is not enhanced by excessive financial manipulation and speculation."

## Ted Turner's CBS quest

I'll discuss takeover items chronologically. The first rumor and action was Ted Turner's famous paper chase of CBS. Bottom line: If he meets all FCC requirements, as he seems to be doing, Turner will be entitled to full FCC *consideration*; this does not imply a vote for or against at this time. It also depends on whether he can acquire sufficient stock interest.

ABC/Capital Cities: This is a friendly merger between two reputable broadcasters. There should be no major problems. However, like all other takeovers requiring a long form, there will be 30 days for comment, 15 days for reply comments and five days for rebuttal comments. FCC must analyze comments and vote approval before transfer of control.

The Storer possible takeover by dissident stockholders: This posed problems for me, and I believe the FCC action and attitude in the Storer case added further stimulus to the current takeover mania. I dissented to the FCC decision that found that attempts to place eight new members on the Storer board to cash in all assets did not constitute a substantial change of control. The key word was "substantial"—a substantial finding would have required filing a long form subject to 30 days comment and 20 days reply comment. My dissenting public statement made during the FCC meeting was widely quoted in the trade press.

Murdoch purchase of American stations: There should be no bar to acquisition if he solves alien ownership and cross-ownership problems—also depends on petitions to deny that may be filed. I asked Mr. Murdoch, "How do you plan to serve the public interest in America?" He mentioned his vast communications experience including two television stations in Australia and said he could bring \$400 to \$500 million to American programming and programming development.

## Fairness Doctrine repeal

Repeal of Fairness Doctrine and Section 315 is a longstanding, highly debated issue in Congress and the FCC. In a recent controversial speech, I charged that the over-zealous adversarial approach of the press was hampering efforts to gain full constitutional freedoms for the electronic press. Bottom line: Despite all our efforts, it is unlikely Congress will repeal Section 315 and the Fairness Doctrine.

My controversial "Press Under Fire" speech: Bottom line: fortunate timing, well-received and will be updated and revisited this fall.

Beer-wine ad ban and counter-commercials: Bottom line: unconstitutional, discriminatory and ineffective. This requires at least a half-hour treatise.