

# If I were chairman (again)

*A commentary by former FCC Interim Chairman James Quello*

**A**fter 23 years as an FCC commissioner, including one as chairman, I stepped down in November 1997. Now, with freedom from the constraints and sensitivities of being a voting commissioner, I can "call them" as I really see them. I should resist the temptation, but I'm still possessed with the inner urge to "call them."

So here would be my agenda—from the perspective of a relaxed longtime communications policy observer, rather than a petition-besieged voting chairman or commissioner:

First, if I were chairman, I would remind myself and other commissioners that the FCC is an "arm of Congress," created by Congress to implement Congressional legislation and intent. It was not created to implement the non-legislated policies or directives of the executive branch whether Democratic or Republican. The commissioners may owe their nomination to the president, but they owe their confirmations and financial appropriations to Congress.

Inform new commissioners to add your oversight senator and representative to the Fourth Commandment. It is a good idea to honor them.

On other matters, I would:

- Promptly indicate approval of the Viacom-CBS merger with appropriate divestiture to comply with existing rule limitations. They are competing with three already established, huge, vertically integrated conglomerates—Time Warner, Disney and Fox. Permit them to keep the struggling UPN. Congratulate CBS-Viacom on their intention to give minority companies first option on buying stations and also for their commitment to maintain a strong news and public affairs presence. Emphasize the goodwill generated by these two commitments.

- Congratulate broadcast leaders Mel Karmazin and Lowry Mays for initiating an investment fund for minority purchase of stations. Acknowledge the funding in speeches and statements to encourage other broadcasters to also contribute to funding.

- Urge Congress to expedite establishment of the tax-certificate discount for communications sales to minorities. It should never have been disallowed. It is an effective, noncoercive way to promote minority ownership.

- Initiate rulemaking to authorize newspaper, TV and radio crossownership in the top 25 markets where there is an abundance of communications outlets. Use



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antitrust or some other measure to prevent market domination by any one communications entity. In addition to the current abundance, many more communications outlets are coming on stream as a result of digitization, phone, computerization and high-speed Internet access.

- Support congressional efforts to institute some measure of satellite TV must-carry for the great majority of local stations not covered by the limited Direct TV-NAB agreement. Carriage will be essential for public-educational and local stations to maintain their viability.

- Expedite FCC public interest decisions to approve mergers once they are approved by the Justice Department. Promptly express approval of the Qwest-U.S. West merger to set a precedent. It is a non-horizontal merger already approved by the Justice

Department. Approve other long-standing Bell mergers already approved by the Justice Department like the Southwest Bell-Ameritech merger. (This would neutralize congressional criticism and obviate proposed corrective legislation.)

- Express skepticism or disapproval of low-power FM radio at the proposed power level. Consider reduction in power. Power at 1,000 watts may be a desirable ideal but impractical to implement without causing undue interference and obstructing in-band digitalization of existing stations.

- Urge Congress to repeal the Government in Sunshine Act, which has obstructed initial inter-exchange of issues among commissioners and results in delaying final FCC actions. In the meantime, keep all commissioners promptly informed of oncoming actions. Also, give fellow commissioners an opportunity to present their priorities for commission action.

- Consider raising network caps to 40%, not 50% as proposed by the networks. Carefully review all arguments pro and con before making a decision. This is a controversial political issue and the independent agency must take the initiative in approving or disapproving. Keep the UHF discount for measuring ownership caps.

- Implement full First Amendment rights for TV, the most influential and pervasive news and information medium today. The scarcity argument formerly used to justify government regulation is no longer valid in today's abundant, converging multimedia communications world. ■

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