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Informal Remarks by Commissioner James H. Quello Before
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(Sardi's Restaurant)

Regulatory agencies, in the current political climate, are fond of describing their roles as "deregulatory" in nature. There is much talk at all agencies, including the Federal Communications Commission, of easing the burden upon licensees and providing more and better service to the public. The trouble is, too much of it is just talk. As a matter of fact, if you take the trouble to focus on action instead of rhetoric, you'll discover that some of those who speak loudest about deregulation are ^{often} least receptive to meaningful action in that direction.

Judging from the reaction to my testimony before the House Subcommittee on Communications last September, meaningful deregulation of the broadcasting industry is an idea which, if not unthinkable, is certainly unprintable. While some other Commissioners have received wide press attention upon proposing some modest loosening of regulatory constraints, my proposal to almost totally deregulate radio broadcasting was greeted with virtually no enthusiasm. I can't say that was the public reaction because the public had virtually no opportunity to review my position since it was hardly reported. The broadcasting industry was wary of total deregulation since there was attached a price tag in the form of a spectrum use fee.

Today, I'd like to briefly summarize my position on deregulation of broadcasting and expand somewhat upon my reasons for believing that the time is right for such action. The Commission can play a key role in total deregulation by moving in that direction in day-to-day actions. Ultimately, of course, the

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Congress is responsible for taking the major deregulatory steps since only the Congress can remove the statutory constraints which prevent total deregulation. It was with this fact in mind that I presented my testimony before the Van Deerlin subcommittee in September.

The main thrust of what I had to say at that time was that there are no longer any valid reasons to regulate broadcasting -- certainly radio broadcasting -- given the number of broadcasting stations currently operating around the nation and the prospect of adding significantly to their number in the near future. (WARC proposal to expand AM broadcast band and Clear Channel proceeding.) The alleged "scarcity" argument no longer obtains, if it ever did.

As a result of unnecessary, pervasive regulation over the years, broadcasters have come to be driven by two basic motivations - greed and fear. Greed in the sense that they have come to rely upon their regulators for protection from competition. Fear in the sense that the renewal of their license was subject to being held hostage to various private interest groups or individuals and, in some cases, to administrative whim. Given that set of circumstances, it is hardly surprising that virtually no one concerned is enthusiastic about total deregulation. And, the principle law firms which serve as influential advisers on all regulatory matters, are not interested in killing the goose which continues to lay golden eggs every three years.

Who, then, stands to gain from total deregulation of broadcasting? The public stands to benefit from a free and open electronic press uninhibited by real or imagined regulatory constraints. The public stands to benefit from an industry dependent only upon public acceptance for its continued existence. The public

stands to benefit from increased competition among broadcasters and other media absent the protective umbrella of regulation.

Why hasn't the public raised a hue and cry for the lifting of regulation from broadcasting? For one thing, the public hasn't really had an opportunity to focus on the situation. A cursory glance at the news coverage given the House Subcommittee hearings on the re-write of the Communications Act of 1934 indicates that the public has been given very little information about the re-write or its implications. I can't believe that the public doesn't care about future statutes and policies governing the use of vital communications services. Ultimately, those statutes and policies will play very important roles in all our lives. The public isn't responding because, by and large, the public is unaware of what is being considered by the Congress and how it might affect them. And, that unawareness must be laid at the doorstep of the press, both print and electronic.

The FCC itself disagrees as to the proper goals of the re-write. Deregulation is appealing as long as you don't carry it too far. Deregulation is appealing so long as it doesn't interfere with a favorite project such as "ascertainment", EEO goals and timetables, equal time requirements, the fairness doctrine, and a host of other government intrusions. I've often drawn an analogy between broadcasting and newspapers in an effort to show that, without regulation, it's quite unlikely that the sky will fall. Newspapers have managed to serve their communities -- often better than broadcasters -- without a government requirement that they "ascertain" through meetings with

community leaders and a representative sampling of the public local "needs and interests". Newspapers have actively engaged in affirmative minority hiring and training programs without "goals and timetables" established on top of the requirements imposed upon all businesses by the Equal Employment Opportunity Commission. Newspapers have managed to keep us pretty well informed about political candidates and issues without "equal time" requirements. Newspapers have provided generally adequate coverage of controversial issues of public importance without imposition of a "fairness doctrine."

One might well ask, "Why was regulation of broadcasting established in the first place?" The obvious answer is, of course, that the most efficient use of the electromagnetic spectrum requires that only one broadcaster use a given frequency at one time in a given locality. Thus, the government correctly perceived a need to act as a regulatory "traffic cop" to prevent a chaotic electromagnetic interference situation from developing. And, as long as the traffic cop was there on the corner, some kind of government administration was necessary to give him his marching orders, pay his salary and so on. And, as long as the administrative entity was in place, why not add a vice and morals squad, a detective bureau and the rest of it? Nevermind about the need or lack of need for all of these things, bureaucratic tradition demands that we damn the torpedoes and go full speed ahead -- even though the torpedoes are largely imaginary and nobody really has set the course.

I don't want my remarks to be interpreted as totally anti-regulation, per se. Regulation continues to be necessary to perform that traffic cop function

with regard to spectrum usage. It also continues to be necessary to prevent monopoly industries from using their status to extract unreasonable tribute from the public. But, regulation should not be used as a plaything for self-styled social engineers be they inside or outside the government. Regulation is, after all, a rather imperfect substitute for competition. To the degree that competition -- or the potential for competition -- exists, regulation should be eliminated. Then, the marketplace -- that is, the public -- can and will decide how it will be best served. If the public wants consumer-oriented information from broadcasting, it will demand it. If the public wants less sex and violence on television, it will demand it. If the public wants some kind of moronic game show, it will demand it.

Aha, you may say. But, does the public really know what it wants? Does the public really use broadcasting in the most beneficial and uplifting way? Is the public competent to choose from the many offerings on radio and television dials? Can the public be trusted to separate the worthy from the unworthy?

A respected member of Congress recently asked me what the government could do to ensure higher quality television programming. I had two suggestions. First, I told him that significant improvements in our general level of education could be expected to result in a public demand for programs of greater substance. My second prescription was far more fundamental and far more significant --- make everyone's perception of quality programming the same as his own.