A BRIEF REPORT ON THE STEWARDSHIP OF

COMMISSIONER JAMES H. QUELLO

MEMBER OF

THE FEDERAL COMMUNICATIONS COMMISSION

December 3, 1979

Addendum to Statement by
FCC Commissioner James H. Quello
September 6, 1979

Re: Modification or elimination of Commission rules and policies pertaining to commercial AM and FM radio in the areas of non-entertainment programming, ascertainment, commercialization and related fields.

James H. Quello brings to FCC regulatory deliberations a unique perspective of over 25 years in broadcasting and five-and-a-half years on the FCC. He is the only Commissioner who has personal working experience with communications. He understands the practical impact of regulation. He is a civic activist and businessman whose 25 years of outstanding public service as a broadcast executive eminently qualify him as a FCC Commissioner. His record of extensive activity on Detroit government commissions and in civic affairs emphasizes his concern for the public interest. For example, he served 21 years on the Detroit Public Housing and Urban Renewal Commission under four different mayors. He was an early advocate of open occupancy and low cost housing for minorities.

With nearly six years of experience as a member of the Federal Communications Commission, his views are those of a seasoned veteran; his record exemplifies a practical, common sense approach to regulation.

He believes more can be accomplished in a constructive spirit of mutual cooperation with regulated entities as opposed to an antagonistic approach.

On the other hand he cautions broadcasters in speeches: "Remember, I'm with you when you are right and I'm dangerously knowledgeable if you are wrong." Also, in two different major conventions he rebuked broadcasters' fear and greed and forcefully exclaimed: "It's time to get off your seats (he used the more explicit term) and sell something much more important than broadcast time. Sell with all your energy and resources the concept of complete freedom of the press and freedom of speech for your media and yourselves. If you had paid more attention to Constitutional principles and a little less to cash flow, you would have won your full Constitutional rights years ago!"

Commissioner Quello's credentials as a public-spirited citizen are set forth in the biographical sketch in the attached appendix. His activities as a respected first generation Italian-American and member of the National Italian-American Foundation appear in an editorial in the appendix. His credentials as a competent federal regulator are summarized in the following paragraphs.

MINORITY INTERESTS

Since joining the Commission in the spring of 1974, Commissioner Quello has consistently supported increased participation in broadcasting by minority individuals. He recognized that equal employment opportunity

for minorities in broadcasting was a necessary part of any effort to prepare them for a greater role in the industry. Moreover, he was among the first within the Commission to articulate a greater need for minority participation in ownership.

In a Minority Ownership Conference sponsored by the FCC in 1977, Commissioner Quello stated that the overriding need in promoting greater minority involvement in broadcasting was financial. He said the banks and other sources of funding should be brought into the process. And, he was the very first to specifically urge the Small Business Administration to adopt affirmative action financing and drop its policy of not guaranteeing loans for the purchase of broadcasting stations. Quello's initial suggestion for new SBA policy was enthusiastically encouraged by then-Chairman Richard E. Wiley and then-Commissioner Benjamin Hooks. Within a very short time, the SBA dropped its restrictive policy and money became available for the first time to aid minority broadcasters.

Commissioner Quello has also enthusiastically supported moves by Storer Broadcasting and the National Association of Broadcasters to set up funding and counseling services to aid minority individuals in obtaining broadcast properties. He continues to advocate minority ownership as the single most important and most viable means of bringing minorities into the mainstream of the broadcasting industry. He is a good friend and staunch supporter in his hometown of Detroit of Dr. William V. Banks, President of WGPR-TV, the first black-owned and operated TV station in the nation. He and Commissioner Ben Hooks were the two Commissioners who participated in the dedication ceremonies for that station.

Consistent with his views on minority ownership, the Commissioner supported the issuance of the Statement of Policy on Minority Ownership of Broadcasting Facilities in May of 1978. In essence, that Policy provided:

> "Tax certificates will be granted...to the assignors or transferors where the Commission finds it appropriate to advance the minority ownership policy. Licensees whose licenses have been designated for revocation hearing or whose renewal applications have been designated for hearing on basic qualification issues, but before the hearing is initiated, will be permitted to transfer or assign their license at a 'distress sale' price to applicants with a significant minority ownership interest."

As a result of the "distress sale" policy, two stations have already been transferred to minority ownership and several applications are pending and are expected to be acted upon soon. Because of the Commission's

policy of issuing tax certificates to licensees who sell their facilities to minorities, thirteen stations have been transferred and several more such transfers are pending. Thus, it's clear that the policies put in motion less than a year-and-a-half ago are showing results. It's expected that the rate of growth of minority ownership will continue to accelerate in the near future. Commissioner Quello is continuing to monitor the effectiveness of these policies and is committed to the furtherance of the principle that ownership is the best and fastest means of providing minorities with the opportunity of participating fully in broadcasting.

Commissioner Quello has supported efforts by Spanish International Network to deal directly with Comsat for satellite services, bypassing the present system of requiring a middleman, which is more expensive and more cumbersome than a direct relationship. He has also recognized that greater service is necessary to adequately meet the needs of the large Cuban communities in the states of Florida and New York. He is encouraging recent Navajo efforts to establish broadcasting facilities utilizing various Native American dialects in the southwestern United States. Because of his many years of experience as a broadcaster, he is particularly sensitive to not only the special needs of minorities but also to the many practical problems which must be overcome in establishing new facilities and sustaining them financially. He continues to offer the practical benefits of the expertise gained in nearly thirty years in broadcasting to assist minority applicants. He is gratified by recent gains in minority ownership and is looking forward to supporting further minority acquisitions.

In December, 1974, Commissioner Quello took a positive stand in voting to deny license renewal applications for eight educational television stations in Alabama because of racially discriminatory programming and employment practices and policies by the licensee of these stations. The proceeding arose out of informal complaints about racial discrimination directed against the Alabama Educational Television Commission, licensee of eight educational stations in Alabama and applicant for a ninth such station. The history of disservice during the license term was such that Commissioner Quello, then a newly appointed Commissioner, broke the initial 2 to 2 deadlock with the swing vote to deny renewal of license applications for the eight existing stations, as well as denial of a construction permit for a new station in Alabama. While the sanction was severe, particularly in light of subsequent upgrading of performance, Commissioner Quello was convinced that such serious discriminatory programming and hiring practices and the accompanying failure to serve the needs of Alabama's black residents justified the denial of licenses to operate the Alabama educational stations.

UHF/VHF COMPARABILITY

Because of the laws of physics, there are certain technical differences which tend to make VHF television (Channels 2 through 13) cover larger geographic areas with less power than required by UHF television (Channels 14 through 69). The Congress has long been on record as encouraging the Commission to do what it could to minimize these technical differences by requiring manufacturers of both transmitting and receiving equipment to further improve UHF performance. When it passed the All Channel Receiver Act in 1962, Congress required that all television sets manufactured for sale in this country have the capability of receiving all (then 82) channels. At the same time, the Congress expressed its will that the Commission bend every effort to ensure that UHF and VHF television would be made "comparable." While the Commission encouraged some experimentation with tuners and ultimately required that they operate essentially in the same manner as VHF tuners, little else was done to provide comparability. Commissioner Quello saw the continuing disparity despite a decade-old mandate from the Congress and determined to do something about it. While recognizing that there were many causes of the problem, he found that improvement of receivers provided an immediate means of improving UHF service at little cost. He learned that UHF tuners were inherently "noisier" than VHF tuners and, thus, the UHF signal had to overcome this higher noise level before it could provide a good quality picture for the viewer. He also learned that solid-state electronic technology had advanced to the point where the noise performance of UHF receivers could be significantly improved at reasonable cost. A modest improvement was proposed by the FCC's Chief Engineer but Commissioner Quello believed more could be done in this area. Largely as a result of his efforts--publicly recognized by the Public Broadcasting Service and the National Association of Educational Broadcasters--a majority of the Commission was persuaded to require substantial improvement in noise figure performance. It will be several years before the American people will realize the full benefits of his efforts because of manufacturing lead-times and distribution of new receivers in the marketplace, but there will be a significant improvement in UHF reception. Commissioner Quello has no intention of stopping with that one accomplishment. He intends to continue to pursue many other avenues aimed at significantly improving UHF services to the United States. There are hundreds of UHF television assignments for which no one has applied, largely because of what has become known as the "UHF handicap." Commissioner Quello believes that handicap can be narrowed still further with the promise that hundreds more stations will be made viable and provide more opportunity for minority entrepreneurship and more diverse service to the public.

His leadership in UHF comparability was recognized by a commendation and letter by the NAEB, October 3, 1979. The laudatory letter from the NAEB president and the resolution are included in the appendix.

DEREGULATION

After gaining experience on the Commission, Quello began to perceive that many of the rules and regulations had outlived their usefulness. Layer upon layer of rules had been developed and very few had been removed over the years. Therefore, he enthusiastically supported Chairman Wiley's "reregulation" initiatives during the period between 1974 and 1977. But, he felt that more needed to be done to lift unnecessarily burdensome regulation. In 1978, Quello enthusiastically endorsed the deregulatory efforts of Congressman Lionel Van Deerlin, Chairman of the House Subcommittee on Communications, in attempting to rewrite the Communications Act of 1934. Quello agreed with Representative Van Deerlin that the time had come to take another look at the nation's communications policies in the light of many changes which had taken place since 1934. New technologies had brought forth television, cable television, satellite transmission, data communications and all sorts of manifestations of the explosion in solid-state electronics. Competition had been introduced into the common carrier arena. Communications satellites were shrinking the globe. Fiber optics was advancing at an ever increasing rate toward providing tremendous capacity at more and more reasonable cost.

Commissioner Quello, mindful of and in concert with President Carter's wish to ease the regulatory burden on the American people, called for complete deregulation of radio broadcasting except for certain minimum engineering requirements necessary to prevent technical interference. He supported efforts to permit full and fair competition among telephone companies and specialized common carriers. He favored the concept of full competition in the data processing industry although the data processing and data communications industries were often very difficult to separate.

During his term as Commissioner, Quello has been a leading proponent for deregulation of the cable television industry. When the Commission adopted cable rules in 1972, it did so under fire from the broadcast industry and the resulting rules were probably more restrictive on cable than necessary. However, the rules resulted in at least a partial accord with the broadcast industry and, at the same time, sought to control potential impact on the broadcast system. Commissioner Quello has voted consistently to reduce the extent of regulation of cable television.

However, he continues to believe that a broadcaster who has contracted and paid for exclusive rights to syndicated programming is entitled to present the series in his market area without competition from local cable systems carrying the same program series via distant signals. He continues to advocate protection of program exclusivity for a reasonable time, and hopes to establish a middle ground for peaceful co-existence between broadcasters and cablecasters. He advocates unlimited signal carriage for cable systems as long as local broadcasters receive syndicated exclusivity and network non-duplication. Commissioner Quello has been most receptive to the development of new and innovative means of communications. He has striven to accommodate new technology with a minimum of adverse impact to vital existing services. An example of this approach is the development of satellite technology as a means of relaying broadcast programming. The Commissioner has enthusiastically supported satellite technology development and was a staunch advocate for the authorization of small earth stations designed to receive satellite signals for purposes of cable television distribution. This has encouraged diversity of programming, particularly to smaller communities. However, Commissioner Quello remains concerned as to the distribution of a television station's signals beyond its normal service area without the express consent of the station originating and providing the programming. The Commissioner recognizes a threat of gross basic inequities in program property rights as well as to an orderly system of TV allocation if programs are transmitted via satellite to thousands of cable systems without retransmission consent of the originating station. The Commissioner is continuing to advocate a simplified consent procedure for satellite transmission only which recognizes the broadcaster's and program producer's proprietary interests while at the same time avoiding multiple rebroadcast consent requests.

Quello is the most deregulatory of all Commissioners. It was natural that he supported Congressman Van Deerlin's bill to rewrite the Communications Act of 1934. He believed massive deregulation, reduced litigation, reduced bureaucracy with a resulting reduced cost to taxpayers would all be in keeping with the will and mood of the overall American public today. The bill was sidetracked by opposition of the industry and some public groups for different reasons. Congressman Van Deerlin focused attention on the importance of deregulation and plans to re-introduce the subject at some later date. It seems clear that there will be further efforts to substantially amend, if not completely rewrite, the Communications Act in the years just ahead. Senator Ernest Hollings, who heads the Senate Subcommittee on Communications, is continuing to pursue a series of substantial changes in the present Act, as does Senator Barry Goldwater, the ranking Republican on the Subcommittee. Commissioner Quello continues to support those efforts because he believes that unnecessary regulation is costly to those who must directly bear the brunt of the requirements but, more importantly, it is costly and burdensome

to the American people who must ultimately pay the costs. The Commissioner's views and arguments for deregulation (which was the most important legislative and regulatory issue of 1978 and 1979) are included in the attached appendix.

Commissioner Quello believes there is another cost of regulation which has not yet been fully appreciated by the American people. Broadcasting has never been accorded the First Amendment protection which most Americans consider to be their birthright. Certain requirements are placed by the government upon the broadcasting industry which involve the government in programming decisions which, Quello believes, should be left to each broadcaster.

He testified before the House Subcommittee on Communications: "There is little doubt that if TV and radio had existed in 1776, our founding fathers would have included them as prime recipients of the Constitutional guarantees of freedom of the press and freedom of speech. After all, they were guaranteeing citizens these freedoms so that a well informed public and electorate could vote on issues and candidates free of any semblance of government interference or control. The Constitutional freedoms were instituted for the benefit of the citizenry--the total public--not the media. It is the public that stands to gain from an all media freedom of the press." Senator Eugene McCarthy, former presidential candidate, also testified that day and fully agreed. Three days later he devoted a column to the subject in the Washington Star stating: "Commissioner Quello had a point in his testimony before the House Subcommittee..." and the column concluded, "True liberalism will always err on the side of freedom."

He doesn't believe broadcasters require oversight any more than their major competitors and close cousins--newspapers. Newspapers perform very well without a regulatory Commission. He believes much of the criticism directed at broadcasting is unwarranted. Commissioner Quello recently told a national public affairs conference: "Frankly, my 28 years in broadcast management were associated with stations and organizations with strong orientation in objective news, public affairs, public service and civic involvement. It is difficult for me to understand the distorted generalizations against broadcasting--mostly by individuals who have very little, or no, marketplace experience in broadcast journalism, production, writing or operations."

Quello has incurred some opposition by expressing concern that some public interest groups are primarily advocates for their own private narrow version of public interest--also that some self-appointed consumer activists depend for their existence on generating, then exploiting, misconduct in broadcasting. He believes all views merit consideration in FCC deliberations. However, the communications views of consumer activists, regardless

of how aggressively proclaimed, should not be the sole or dominant factor in determining public interest. He believes there are many consumer viewpoints and public groups, many in disagreement with professional consumer activists, that must also be considered in determining overall public interest. There is considerable disagreement among many intelligent individuals and organizations of sincere intentions and worthy purposes as to what really constitutes public interest in any given issue. However, Quello believes there is a continuing need for consumer activist participation, but questions attempts to gain special consideration or government-mandated access to a major news and information medium--in a government conceived in and dedicated to the principles of free speech and a free press. He believes there is a continuing need for consumer activism against organizations, products and services that bilk or mislead the consumer. Broadcasting should benefit from such interest but on the very same basis as any other news media. He believes broadcasting needs full, unfettered press freedom to report, clarify, editorialize and advocate on all events and controversies subject to the same marketplace constraints and criticism as newspapers or magazines--this includes expanding its already active role in exposing consumer frauds and unsavory corporate, government or public practices.

In appearances before Congressional committees and in speeches, Commissioner Quello definitely established that he advocates government involvement in appropriate areas. He stated that government involvement and direct action were required to attain such desirable goals as social security, minimum wages, FDIC protection for savings, civil rights, medicare, public health, anti-trust rules and environmental protection. He believes government must continue a vital role in solving problems in energy, national security, urban decay, equal rights and a problem economy.

Commissioner Quello has participated in hundreds of issues important to the American people over the past five-and-a-half years as as member of the Federal Communications Commission. He has an open door policy. His office is available to all groups and viewpoints on important FCC issues. He believes he has served the public well and has fully supported the mandate of the Communications Act of 1934 by "... regulating interstate and foreign commerce in communication by wire and radio so as to make available, so far as possible, to all people of the United States a rapid, efficient, nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges, for the purpose of the national defense, for the purpose of promoting safety of life and property through the use of wire and radio communication..."

In public speeches he has informally characterized his concept of communication's public interest as "providing the best service to the most people at the most reasonable cost."

APPENDIX

1. Biographical Sketch

2. Statement re Complaint of Carter-Mondale Presidential Committee - November 20, 1979

3. Editorial in La Tribuna Del Popolo - October 19, 1979

4. National Association of Educational Broadcasters Commendation and letter - October 3, 1979

5. Statement on modification or elimination of Commission radio rules and policies - September 6, 1979

6. Comments on broadcast deregulation (S.611 and S.622) to the Senate Subcommittee on Communications - June 26, 1979

7. Minority Ownership Conference Statement - April 25, 1977

8. Address before Birmingham, Alabama, Urban League (including "Roots" addendum) - March 4, 1977

9. Statement re: Nondiscrimination in the employment policies and practices of broadcast licensees - June 22, 1976

10. Concurring statement re: Nondiscrimination policy - July 18, 1975

11. Dissenting statement re: Fee Relief for WGPR-TV, first Black-owned and operated TV station in the nation - June 3, 1975

BIOGRAPHICAL SKETCH

COMMISSIONER JAMES H. QUELLO

James H. Quello, a veteran Detroit broadcast executive, was sworn in April 30, 1974 as a member of the Federal Communications Commission. He was nominated by the President on September 20, 1973 and was confirmed by the Senate on April 23. His term of office expires on June 30, 1980.

Quello, a Democrat, joined the staff of WJR, Detroit in 1947 as promotion manager and subsequently served as program and public affairs manager, operations manager, and in 1960 was appointed Vice President and General Manager.

In late 1964, when the station was acquired by Capital Cities Broadcasting Corporation, Quello became station manager of the corporation's WJR Division. From 1969 until he retired in 1972, he was also a Capital Cities vice president.

Quello was born in Laurium, Mich., in 1914 and holds a BA degree from Michigan State University from which he graduated in 1935.

During World War II, he rose from the rank of Lieutenant to Lieutenant Colonel and saw combat with the Ninth and 45th Infantry Divisions in the European Theater. He was decorated with seven campaign stars, the Bronze Star with cluster and the Croix de Guerre.

Long active in Detroit civic affairs, Quello was a member of the city's Housing and Urban Renewal Commission from 1951 to 1972 and served as its president for four different terms. From 1951 to 1974, he served on the Board of Trustees of the Michigan Veterans Trust Fund, having been appointed by four different Governors.

Quello was also a member of the Governor's Special Commission on Urban Problems, Governor's Special Study Committee on Legislative Compensation, Mayor's Committee on Human Relations and Assistant National Public Relations Chairman for the VFW. He has served as TV-Radio Chairman of the United Foundation, executive board member of the Boy Scouts of America and a member of the Board of the American Negro Emancipation Centennial, among other organizations.

Quello is a member of the Detroit Adcraft Club and the Detroit and National Press Clubs. He was a member of the Greater Detroit Board of Commerce and the Michigan Chamber of Commerce and is a former president and director of the Michigan Association of Broadcasters. He was a member of the Broadcast Pioneers from 1959 to 1972.

Quello was a member of the National Association of Broadcasters and from 1963 to 1972 served on the NAB Congressional Liaison Committee and from 1966 to 1971 on its National Radio Code Board.

Among his other civic activities, Quello has served as Director of the Detroit Safety Council, Michigan Director for the March of Dimes, and advisory committee member of the Detroit Hospital Council.

From 1970 to 1972 he taught courses in "broadcast management" and "practicalities of government regulations" at the University of Detroit.

In 1974, Commissioner Quello received the Distinguished Alumni Award from Michigan State University and in December, 1975, he received an Honorary Degree of Doctor of Public Service from Northern Michigan University.

In 1977, he received an Honorary Doctorate of Humanities from his alma mater, Michigan State University.

Statement of FCC Commissioner James H. Quello

In Re: Complaint of Carter-Mondale Presidential Committee
November 20, 1979

This complaint raises some very fundamental issues which I find particularly difficult to resolve. These issues are difficult because they require the FCC to make some very subjective judgments in the emotionally-charged atmosphere of a political campaign.

First, there is a technical question which arises out of the fact that Mr. Carter is not yet an announced candidate. It could be argued that the entire matter isn't properly before us since the request for time was not made "...by a legally qualified candidate for federal elective office on behalf of his candidacy."*/ Mr. Carter has made it clear that he intends to make a formal announcement prior to the proposed broadcast. Thus, I do not regard the lack of a formal announcement as decisionally significant under the circumstances.

On the substantive issue--whether the time requested constitutes "reasonable" access--Section 312(a)(7) provides no guidance to what is "reasonable." This matter is particularly difficult for me because I have urged--and I continue to urge--that the Congress strike Section 312(a)(7) from the statute. While I oppose it on First Amendment grounds, the matter before us also demonstrates some very practical reasons why we shouldn't be deciding matters of tactical significance to candidates. Whatever my personal philosophy might tell me about the wisdom of the statute, however, I am charged with the responsibility of enforcing it.

I can understand why the Congress elected to use the "reasonable access" language instead of something more precise. It's clear that presidential election campaigns have a dynamism all their own which does not encourage precise timetables or definitions.

My own background in broadcasting provides me with some insight into the motivations of the networks in refusing the request for time at this early stage of the campaign. First, the networks are in a very competitive struggle for ratings and politicians cannot compete with entertainment programming in drawing the largest audiences. Second, by providing access to one candidate, the networks expose themselves to the provision of Section 315 of the Communications Act which requires equal access to all opposing candidates.

*/ Section 312(a)(7), Communications Act of 1934 as amended.

Thus, the networks prefer to maintain greater control over their programming options by delaying the television campaign as long as possible.

Candidates, on the other hand, are anxious to get their messages across to the electorate early and often. Presidential campaigns tend to begin earlier than in the past. I suspect that the reason for this tends to be linked to the increasing number of primaries. A decade ago, there were 17 primary elections. In the year ahead, there will be 36. That fact, alone, changes the campaign timetable. The candidate's natural response is to seek more--and earlier--access to the electorate.

Since the Congress fashioned Section 312(a)(7) with a view toward ensuring that the public would be informed about candidates for federal office, I can only assume that it mandates greater, as opposed to lesser, access than would otherwise be available if the choice were left to broadcasters. As to when such access should become effective, I am particularly concerned that the networks have arrogated unto themselves the determination as to when a presidential campaign should commence. Obviously, neither the networks nor this Commission has any authority, expressed or implied, to determine unilaterally the appropriate time for commencement of a presidential campaign. For this reason, I find that NBC and ABC have failed to demonstrate the reasonableness of their respective conclusions that it is "too early" to commence a presidential campaign.

The CBS Television Network has made the judgment "...that the public interest does not require the preemption of extensive segments of its national program service for political broadcasts of half-hour duration." This judgment is predicated on the "unusually large number of candidates" seeking presidential nominations and the likelihood that many hours of programming will be disrupted if equal time provisions apply. While CBS asserts that the claim that there will be relatively limited demand for network half hours for presidential candidates is a claim of speculation, I find the same speculation in the assumption by CBS that half-hour time periods would be sought by many presidential candidates. CBS Television Network has not demonstrated a factual basis for its presumptions.

Under the circumstances, the three television networks have been unreasonable in their refusals to honor the requests of the Carter-Mondale Presidential Committee.

Quello Faces Opposition For FCC Reappointment

By Edward M. Baker

Federal Communications Commissioner James H. Quello, a respected, capable, first generation Italian, is facing possible competition for his reappointment to the Commission. He is the first and only Italo-American ever to serve as an FCCcommissioner. His current term will expire next June 30th.

An editorial in the news bulletin of the newly formed National Association of Spanish Broadcasters urges the appointment of a qualified Hispanic to the next available FCC vacancy.

Quello who brings practical experience, competence and integrity to the Commission is being urged to seek reappointment by professional communications executives, several colleagues and several key Congressmen. At this stage it is highly likely he will.

We join Broadcasting Magazine, the "bible" of the broadcast industry, in deploring selection of a Commissioner on an ethnic basis. Broadcasting Magazine, both a supporter and critic of the industry, ran three editorials strongly supporting Commissioner Quello and criticizing ethnic politics.

One editorial in Broadcasting said "The last objective, it must be assumed, is also sought by at least some of the Hispanic interests that have been clamoring for representation on the FCC ("Closed Circuit," Aug. 6). If a Quello vacancy does occur and Carter defers to the political call of Spanish-speaking voters, he will have to choose carefully unless he wishes to assume responsibility for breaking up the American broadcasting system and to endure the outburst of public outrage that would ensue.

"Broadcasters and other important people--voters all-hope that Quello will decide to stay and make a fight for reappointment. His continued presence would lend stability to an agency that could easily fall under the Ferris clique's unchallenged control with a more pliable occupant in the Quello office. Maybe that is too much to hope, considering the current instability in the White House itself. But if there is to be any hope at all, the White House must be educated to the gravity of its next choice of FCC Commissioner long before that choice is made."

Another editorial stated "As recently as last week, inquiries were being made about qualified Latino Democrat, but quest now is for male since FCC has woman. Notion, however, is that Commissioner Quello will receive strong backing from Italo-Americans and many members of Congress as well as professional communicators, if he decides to seek reappointment."

He was strongly supported last time by such leaders in the Michigan Italo-American Community as Federal Judge Robert DiMascio, Frank Stella, Tom Angott, former

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Quello Faces Opposition For FCC Reappointment

cont. from p. 6

Mayor Louis Miriani, Maria Lalli, Marion Macioce and others. He is a good friend of Judge John Sirica, has lunched with him several times and recently attended the birthday party/testimonial for him. Mary Quello was a popular columnist for this newspaper and was an active member the Amit Club before moving to Washington six years ago.

Senators Phil Hart, Bob Griffin and John Pastore all played a key roil in his confirmation. Pro-Italian Congressman John Dingell, Lucien Nedzi, Bill Ford, Martha Griffith and former Mayor Jerry Cavanagh were all witnesses for him at the original confirmation hearing. Someone with Commissioner Quello's excellent record should not have to resort to ethnic or any other kind of politics for reappointment.

The very fact that the Michigan Legislature passed a unanimous, bi-partisan Resolution of Commendation after his last confirmation, is a significant and unusual gesture of respect.

He received timely support from Black leaders and organizations such as Francis Kornegay, head of the Urban League; Larry Doss of New Detroit; Nick Hood of the Detroit Common Council and from his longtime close friend Federal Judge Daman Keith who swore him into office in Washington.

We urge President Carter to reappoint him on merit along. It shouldn't be necessary for Quello to again invoke his considerable ethnic and political support to gain a well deserved reappointment.

A third editorial said "There will be strong resistance to a politically-inspired appointment to replace an experienced and plucky veteran who has challenged the thrusts of a politically-motivated chairman and his two usually automatic colleagues."

We agree that Quello should be reappointed on his experience and excellent track record along. He has been the most deregulatory of all Commissioners, a staunch effective supporter of UHF comparability and of educational broadcasting and the public broadcast system--who incidentally are strongly urging his reappointment. He has been not only a supporter but a leader in minority ownership proposals. Professional communicators, industry leaders and, more important, the overall public all benefit from a well qualified member of the Commission with practical knowledge and expertise about the real world of broadcasting who can relate that to everyday regulatory processes. And Jim Quello is not a patsy for any group, industry or individual. In numerous speeches to broadcasters he has said "Remember, I'm with you when you are right and dangerously knowledgeable when you are wrong." However, Quello is a proponent of accomplishing regulation in a constructive spirit of mutual cooperation with regilated industries rather than use of confrontation tactics.

Also, Quello, a moderate Democrat, has provided balance and practically to a Democratic Commission and reflects credit on Democratic participation in the regulatory and deregulatory process. Actually, he seems completely in tune with President Carter's moderate, practical attitude toward government-industry relations and he is a strong supporter of the Administration's de-regulatory policies. It even strikes us that not reappointing the popular, respected Commissioner Quello could even be a political liability. He has widespread respect of the highly regulated communications industry, newspaper publishers, key members of Congress and a wide range of civic and Italo-American groups.

National Association of Educational Broadcasters
Office of the President
NAEB
1346 Connecticut Avenue, N.W., Washington, D.C. 20036 202/785-1100

October 3, 1979

The Honorable James H. Quello
Commissioner
Federal Communications Commission
1919 M Street, N. W.
Washington, D. C. 20554

Dear Commissioner Quello:

At its regular meeting held on September 24, 1979, the Board of Directors of the National Association of Educational Broadcasters passed a resolution commending you for your active and continuing efforts as Educational Commissioner to foster and develop public broadcasting and all aspects of public and educational telecommunications. The NAEB Board of Directors desires to recognize and honor your steady determination and record of accomplishments in pursuit of public telecommunication and public broadcasting goals.

From your unique perspective as Educational Commissioner, and as an individual with nearly thirty years' experience in broadcasting, you have been instrumental in guiding the Commission toward a long-needed and long-range review of the Commission's proper role in the preservation and development of public broadcasting in this country.

Your dedication to the elimination of regulatory restrictions for which there is no demonstrable need have led you to forthright espousal of realistic de-regulation efforts and the removal of regulatory restraints in essential First Amendment areas which are of special interest and concern to public broadcasters and public telecommunicators.

You have been a wise and strong advocate for legitimate public involvement in the Commission's regulatory processes, and your voice has also been heard in steadfast support for increased minority ownership and presence in public as well as commercial broadcasting.

Your firm commitment to the further development of UHF television, as reflected in your active support for removal of disparities between UHF and VHF television services, and for improvements in receiver performance standards, UHF transmitter and antenna

design, and consumer education in UHF opportunities, has been particularly beneficial to the growth of public broadcasting and public telecommunications.

As Education Commissioner, you have regularly provided sound advice and counsel to all who are interested in achieving the full potentialities of public broadcasting and public telecommunications, and you have likewise encouraged innovative approaches to public telecommunications problems, ranging from public broadcast "superstation" proposals to public telecommunications advisory committees to the Commission.

The NAEB Board of Directors expresses its appreciation and gratitude for these many distinguished efforts by you on behalf of public broadcasting and public telecommunications, and looks forward with anticipation to your forthcoming appearance at the NAEB's Annual Convention in November, where you will inaugurate the first of a series of unique "Educational Commissioner's Forums" which are to be held at national and regional meetings of professional associations.

Sincerely yours,

James A. Fellows

JAF:jek

National Association of Educational Broadcasters
NAEB
1346 Connecticut Avenue, N.W., Washington, D.C. 20036 202/785-1100

Resolution of the

Board of Directors

The NAEB Board of Directors commends Commissioner James H. Quello of the Federal Communications Commission for his active and continuing efforts as Educational Commissioner to foster and develop public broadcasting and all aspects of public and educational telecommunications. The NAEB Board desires to recognize and honor his many distinguished achievements in pursuit of public broadcasting and public telecommunications goals, including his forthcoming appearance in the first of a series of "Educational Commissioner's Forums" at the NAEB Annual Convention.

Adopted September 24, 1979

Dr. Mary Bitterman	Virginia Fox	John Montgomery
Sharon Blair	Frankie M. Freeman	Warren Park
Warren Cannon	John Gregory	Donald Quayle
Betty W. Carter	George L. Hall	Dr. Mary Umolu
Patricia Conner	George Markatos	George Wilson
James A. Fellows		

Statement by FCC Commissioner James H. Quello
September 6, 1979

Re: Modification or elimination of Commission rules and policies pertaining to commercial AM and FM radio in the areas of non-entertainment programming, ascertainment, commercialization and related fields.

In going forward with this important rulemaking at this time, the Commission has taken an important first step toward deregulation of radio broadcasting. I believe we should continue our efforts to remove wasteful, unnecessary and obstructive government oversight from a highly competitive industry which is fully responsive to the marketplace.

The deregulatory thrust of this notice is timely and sensible. If the first of the options for each of the proposed rules are finally adopted they would provide substantial deregulation, reduced bureaucracy and a concomitant reduced cost of government in keeping with the mood and will of the American taxpayers today. It should also contribute to a less litigious, freer and better broadcast service.

While some of my colleagues have expressed misgivings regarding the self-regulating effects of the marketplace, I have no such concerns. Experience has taught me that the marketplace is a very good regulator indeed. Moreover, the Commission's own data, compiled in support of today's action, shows very clearly that the marketplace and public acceptance, not regulation, is responsible for advancing the radio broadcasting industry in this country to its present pre-eminence in the world.

The time has long since passed when local radio broadcasters and their audiences require extensive oversight from Washington. Virtually all radio markets are replete with diversity, competition and ample incentive to provide good service. It's heartening to note that our data bear out what my own broadcast experience taught me long ago; a broadcaster competing in his own self-interest will go to great lengths to identify the diverse interests which make up his market and then do his best to provide those interests with the best service possible. There are many more radio stations today than TV or newspapers in every sizable market. In many markets there is almost a surplus of radio stations--there is an automatic and constant search for unserved or new program needs.

Today's Commission action seeks comment upon a wide range of options and I applaud the breadth of this approach. It should be understood, however, that primary focus should be placed upon the <u>first</u> of the various options which

constitute the recommendations of the Commission staff. Considering the natural tendency of regulators to regulate, I believe that the staff should be supported in its conclusion that there are some facets of radio regulation which should be left to marketplace forces and not controlled from Washington. If I were required to take final action today, I would support the staff recommendations. Before taking final action, however, I expect to take full advantage of a wide range of comments which I am confident will help to sharpen and clarify all of the issues and which will provide a full and complete record upon which to base a reasoned and thoughtful judgment.

Arbitrary levels of non-entertainment programming serve no useful public purpose. It is clear from our data and from even a minimal exposure to the broadcasting services that non-entertainment programming is demanded by the public. It is equally clear that news and public affairs programming are not demanded by all of the public all of the time. The marketplace--the public taste, and not regulation--should determine how much, what kind and at what times during the broadcast day such programming is broadcast. I believe greater responsiveness to legitimate public needs comes about through public acceptance or rejection in the area served by radio broadcasters.

Arbitrary commercial limitations likewise serve no useful purpose. Stations which persist in exceeding reasonable bounds of commercialization risk and suffer public disaffection. They invariably find that the benefits are short-lived and the marketplace quickly establishes a point of diminishing returns.

The onerous process of ascertainment of community needs and interests, as defined in great detail by this Commission, is a mechanistic exercise which has only served to elevate form over substance. A broadcaster, if he is to survive and prosper, must in his own way know and ascertain his community.

It should be remembered that regulation--all regulation--places a burden upon not only those who must directly submit to regulation but upon everyone. Regulation is not free. Tax dollars must support the work of this Commission. To the extent that work is meaningless or counterproductive, those tax dollars are squandered. I believe those rules and policies considered in today's action clearly fall into those categories.

The public has much to gain by taking a very serious interest in today's action. Broadcasters and non-broadcasters alike should take the time and put forth the effort to examine the issues and provide the Commission with their best thinking. The Commission, in turn, bears the responsibility to put aside narrower interests and to make its decision on the basis of providing the best service to the most people at the lowest costs.

I believe the FCC should continue its deregulatory thrust in the future, but I realize our efforts are limited in scope by the Communications Act. Only legislation can provide major deregulation dealing with license terms, political broadcasting, government involvement in program format and alternatives to the comparative hearing process. I hope some time in the near future the FCC will take appropriate action to deliberate and make recommendations for deregulatory legislation.

My views advocating complete deregulation have been presented before the House and Senate Subcommittees on Communication. The broad deregulatory viewpoints expressed are so relevant to the essence of this rulemaking process that I am including pertinent excerpts as an addendum to this statement.

Statement of FCC Commissioner James H. Quello
at Minority Ownership Conference
April 25, 1977

I appreciate the contributions of the panelists from SBA and HEW in informing us of government regulations and restrictions regarding sources of finances for prospective minority owners. However, there is a need for clarification in understandable, specific language.

For example, what if I am a responsible, experienced Black or minority member who has an opportunity to purchase an AM radio station in a small or medium size market or an FM station in a larger market. Let's say the property is a reasonably good buy or considered viable. Let's further suppose the property will cost $400,000 and the minority seeking ownership or part-ownership and management opportunities has only $5,000 cash and $45,000 additional financing from friends for a total of $50,000. Where can that minority person go for the additional required financial resources? Can SBA or HEW give specific help?

Is there an affirmative financing policy for minorities like there is for affirmative hiring? Practically, this is specifically what many of the minorities here today want to know. I'm afraid the panelists may be too legalistic or technical for most of us to get a good practical working knowledge of what is or what is not available in the way of financial help for minorities. Also, I'm afraid the realities may not meet the expectations of many attending the conference today. Is there some way SBA, for example, could provide help for minority ownership? If not, it seems that all the government can do is provide advice and counsel.

It seems to me some appropriate government agency should set reasonably high standards for qualifying for minority ownership viz: experience, character, motivation and financial viability of the broadcast property. Upon meeting these standards, special financial inducements could be made available to qualified minorities say for a five year period. This may be too simplistic an approach but it is at least a start of an affirmative action idea or program that is needed to translate rhetoric into constructive action.

COMMENTS BY COMMISSIONER JAMES H. QUELLO
BEFORE THE BIRMINGHAM URBAN LEAGUE
MARCH 4, 1977

Nehru, the great Indian democrat, once said:

> "Democracy does not mean shouting loudly and persistently, though that might occasionally have some value. Freedom and democracy require responsibility and certain standards of behavior and self-discipline."

I am opening my speech with this quote from a great name in history because it seems particularly applicable to our social problems today and because, in my opinion, it characterizes the responsible, affirmative approach of the Urban League I knew best--the Detroit Urban League under the very able direction of Doctor Francis Kornegay.

The Urban League I knew didn't lead the civil rights fight in shouting and agitating, but achieved notable success with affirmative persistence "up front" where it really counted - with jobs and job opportunities for deserving blacks.

The militant and sometimes disruptive agitation for civil and women's rights in the 60's and early 70's resulted in increased awareness of the rights, influence and power of minority groups. It also resulted in needed civil rights legislation and affirmative action programs. In my opinion, there is a need for continued vigilance to safeguard equal rights for everyone. However, I sincerely believe the shouting phase of the 60's is now being productively replaced with a more disciplined, sophisticated implementation phase--loud shouting today is less and less effective or appreciated and can even be counter-productive in this current era of actual court suits against so-called "reverse discrimination."

I'm suggesting that with the current level of civil rights and social consciousness much can be accomplished with a positive, constructive approach.

This positive type of approach characterized the Urban League relationship with me when I was a broadcast executive in Detroit. It achieved good results for them and a gratifying relationship for both of us.

I was going to resist the temptation of relating my former station's early hiring and programming cooperation with the Urban League, but the

opportunity is too appropriate. Besides, I think you might find it interesting and useful. In fact, I was especially pleased to be here because I happen to be one FCC Commissioner, who as a former broadcast executive, had a direct, longtime and satisfying experience with the Urban League.

WJR instituted minority hiring and programming in the late 40's and 50's--as the Executive Director of the Detroit Urban League stated, "before it was fashionable or deemed mandatory by the EEOC."

In 1949, working in conjunction with the Urban League, WJR hired the first Black disc jockey on a major Detroit station. In the 50's and 60's, WJR also had an integrated chorus of 55 young singers on a program called "Make Way For Youth" which originated at the station and was broadcast for one hour each week on the CBS network. The chorus trained and developed outstanding high school talent. Among the notable Black graduates of the chorus are songstress Freda Payne and Ursula Walker and several members of national singing groups. WJR also hired the Dorothy Ashby trio, a group of talented Black musicians for a five day a week program--this too upon the suggestion of the Urban League. WJR also originated and broadcast 45 minutes of an all black adult acapella chorus once a week in the 60's.

Over a period of twenty-five years, our relations with the Detroit Urban League were cordial. WJR was consistently on record as requesting Black engineers as well as talent personalities. Many stations in the 50's and early 60's found that qualifiable Blacks were not often available for announcing and production vacancies. This was before affirmative action programs and before Blacks were encouraged to train for media jobs requiring specialized skill or talent. However, Black education and opportunities increased during the 60's and also interest and consciousness in Black employment. In the 60's WJR, generally and I, personally, instituted an affirmative policy of additional Black hiring and black oriented programming. This resulted in the hiring of two Black announcers and a Black student as a production apprentice. We also hired three Black newscasters in the late 60's and added another talented Black newsman later. The Urban League again expressed their approval of this representation on such a highly-regarded, professional news staff. We hired a Black sports assistant, a good broadcast prospect, who decided he preferred the opportunities in the automobile business. We also hired, in the late 60's, a talented Black songstress featured on the daily "Open House" show. In addition, we hired several Black women in the production and traffic departments. WJR also participated in Columbia University's program for training minority newscasters in the late 60's.

In the 70's we hired a well-known Black personality as afternoon disc jockey. A Black salesman and a Black business manager were hired in 1971. Upon my personal recommendation, a Black student apprentice from University of Detroit was hired and trained in 1971. It was also at my recommendation that WJR in 1970 started regular financial contributions to help defray publication costs of the NAACP reporter.

In the mid and late 60's we also instituted additional regularly scheduled and special programs that were minority oriented. The regularly scheduled programs included: "Action, Urban League," "Color of Achievement," "Urban Scene," "In Contact," "The Minority Report," "Religion in Action," "Ask the Professor," "Junior Town Meeting," "Sunday Supplement" and "Topic for Today." The more notable documentaries or special minority programs broadcast During the late 60's and 1970 included "Open Housing--Fact or Fiction?"; "Tell It Like It Is," "Free At Last" (story of Martin Luther King); Some Lessons in Pride" (story series of ten 45-minute programs on outstanding Black contributors to culture and history of Negro "firsts"; "Of Greatness in Savery" (story of Booker T. Washington); "Hereos Come In Many Colors," "Is There a Better Way?", "I Am Not Alone," "Psychology Of A Rebellion," "Rebuilding Detroit" and broadcasts of principal speeches of the NAACP conventions. At my suggestion, we also instututed a daily program of significance to women's interests called "Women are Great."

Established WJR daily programs like "Kaleidoscope," "Focus" and "Adventures in Good Music" in 1968, 1969 and the early 70's along with the regularly scheduled black-oriented programs and special documentaries combined to make a significant contribution to racial understanding and to Black history and achievements. In this area WJR, with its large news and program staff, surpassed Black or ethnic stations in Detroit.

It is significant, too, that my good friend, Federal Judge Damon Keith, former Detroit NAACP Vice President, then Michigan Civil Rights Chairman, called me at 7 a. m. one Sunday morning requesting I call all TV and radio stations and urge them not to broadcast inflammatory reports. Judge Keith and Congressman John Conyers were frantically using all their resources to prevent a serious Saturday night disturbance from erupting into a full scale riot. I called the stations and most cooperated until the story broke on the noon network news carried by local stations. I called Judge Keith at emergency headquarters to inform him the story had broken. Tragically, by Sunday evening Detroit was embroiled in perhaps the largest riot in the nation's history. During the riots, I remained at the station all night directing operations--I remained in constant communication with the official emergency command post and with city and state officials.

It is interesting that after the tragic 1967 Detroit race riot, WJR news dominated the radio awards for responsible reporting and interpreting. WJR also became the communication center during the riot for BBC, CBC, Radio Copenhagen, and CBS. Most of the National UPI audio reports the first two days of the riot originated with WJR reporters. Detroit staged a remarkable comeback in one year--in 1968 when the Tigers won the World Series, hundreds of thousands joined together in an enthusiastic bi-racial celebration in downtown Detroit.

It must now be almost too apparent that I really appreciate this opportunity to tell about a good working relationship with the Urban League and other Black leaders in Detroit. If it provides any encouragement or ideas for constructive action with the Birmingham audience, (broadcasters and League members alike) I'll consider the time well spent.

In my recent appearances I have urged various citizens' groups (most are much smaller and less representative than the Urban League or NAACP) to take a constructive approach to dialogue and citizen participation in broadcasting. If implemented in the proper spirit, this dialogue serves both the citizens' group and licensee. It is, after all, public acceptance that determines the success or failure of a station or a program

On some occasions, citizens' groups give the impression they are more interested in stirring a controversy and exploiting discontent than in correcting deficiencies or encouraging quality programming. I am concerned with some abuse of the license challenge process through unfounded petitions to deny. The time and money spent in litigation could be used in more constructive ways, i.e., for innovative programming and added public affairs. I'm concerned that some citizens' groups representing only a small segment of the total public, seek to impose their individual program philosophies and preferences on local stations. I believe in community ascertainment by broadcasters, in broadcaster-citizen dialogue, but am suspicious of motives behind some forced written agreements. A negotiated agreement reached between a licensee and any citizens' group who represent only a small portion of the total community simply does not square with the requirement that a licensee follow the Commission's comprehensive ascertainment procedures to determine for himself the needs and interests of his total community.

If the licensee has ascertained those needs and interests, what possible contribution to the public interest can be made by a small segment of that public seeking special consideration for its own viewpoint by negotiating an agreement which is to be enforced by the Commission? As I have said before, activist groups, regardless how laudable the objectives, have not been elected or appointed as bargaining agents for the public at large. The FCC itself wouldn't dare even suggest the program demands made by some citizens' groups. We would be charged, and rightly so, with program dictatorship or infringing on First Amendment rights. (Cite Family Viewing decision example.)

Many of our regulatory actions over the past decade have been aimed at greater public input and citizen participation. They have been aimed at qualitative, rather than quantitative, improvements in the broadcasting service. In addition to encouraging dialogue with citizens through the ascertainment process, we have required that broadcasters maintain a public file containing documents pertinent

to the operation of their stations in the public interest. We also require that stations actively solicit public comment on the extent to which viewers or listeners believe stations have satisfied their public interest responsibilities. And, we have adopted a document entitled, "The Public and Broadcasting-A Procedure Manual" aimed at encouraging and assisting members of the public to take an active interest in promoting a quality broadcasting service. Each station is required to keep a copy of that Manual in its public file where it is available for inspection during normal business hours.

We are scheduling each month en banc Commission meetings to the public to provide an opportunity for interested citizens to present their views to the full Commission. And, we recently opened a Consumer Assistance Office at Commission headquarters in Washington to help citizens get the information they need to effectively participate in the activities of the Commission.

Those are some of the positive actions we have taken in an effort to improve broadcasting service and there will be more in the future. There is an effective limit, however, to what the FCC can do to improve the quality of what you watch on television and hear on the radio. Ultimately, of course, all the American people will demand and receive the kind of service from broadcasters they want. The positive efforts of interested citizens can and do reflect themselves in improvements.

I would be among the first to recognize that a few broadcasters, whether through ignorance, carelessness, or even defiance, do not fulfill their obligations on affirmative action or programming. I have expressed my personal attitude to broadcasters many times: "I'm with you when you are right and I'm dangerously knowledgeable when you are wrong." I realize that complaints filed with this Commission concerning such shortcomings are unduly delayed. In my opinion, this Commission should expend even more effort toward expediting the review and resolution of complaints without having to go through the expensive and time-consuming ritual of a formal petition to deny and its subsequent proceedings. I have always believed that we should act more directly and specifically with respect to minority employment problems, but must admit some doubt as to the extent to which we could rule on programming matters other than to determine whether the licensee has made good faith judgments in its programming decisions.

The dilemma faced by the Commission is how to encourage true dialogue while at the same time preserving the licensee's necessary freedom and responsibility, and how to avoid unnecessary government intrusion into the process. I do not believe that it is government "intrusion" to advise citizens' groups that they may not deprive licensees of flexibility in certain areas. Further, I think this Commission could properly propose that citizens' groups present their credentials or proof of constituency to the licensee before demanding negotiation, and this would not be government "intrusion."

I have been candid with you in presenting my personal opinions and attitudes with respect to citizen-broadcaster agreements, ascertainment and petitions to deny. Certainly, there will be differing viewpoints about "What's best?" No individual or group will possess all of the truth. I do believe that the Commission has truth on its side in demanding that the licensee respect and retain his responsibility for program judgments. Without that clear allocation of responsibility we could find ourselves in the situation described in an article written last year for the Federal Communications Bar Journal: "The licensee may be transformed... into a frequency broker, auctioning off access to the bidder with the most strident demands."

I must add, however, that we at the Commission must still do a better job of making our practice equal our preaching. We insist on licensee responsibility; at the same time, we encourage the filing of legitimate complaints--at the local level or, if necessary, at the Commission level. Yet, we sometimes fail to devise complaint procedures that are specific and productive. In so doing, we may simply demonstrate to concerned citizens that the complaint process is unproductive, leaving the costly and time-consuming legal petition to deny as an alternative.

And speaking of legalities--myriad complex legal filings, petitions, rulemaking hearings and arguments are today a regulatory fact of life. The FCC alone has 340 lawyers at last count! I'm not a lawyer so my approach to communications problems is more journalistic than legalistic. I ask myself where do reason and justice predominate?--which viewpoint or action scores the most points morally, ethically and legally? And I find great solace and guidance in a quote from one of our greatest Presidents, Franklin Delano Roosevelt. Back in 1940, President Roosevelt expressed his view of the role which should be played by administrative agencies in government--He said: "A common sense resort to usual and practical sources of information takes the place of archaic and technical application of rules of evidence, and an informed and expert tribunal renders its decisions with an eye that looks forward to results rather than backwards to precedent and to the leading case. Substantial justice remains a higher aim for our civilization than technical legalism."

I believe that all of us share the goal of "substantial justice" and I sincerely hope we can all pursue that goal together in a progressive spirit of reason and mutual cooperation.

See Addendum - "Roots".

"ROOTS" ADDENDUM TO SPEECH

Birmingham Urban League, March 4, 1977

A number of people have asked for my personal opinion of the recent TV dramatization of "Roots".

First, I believe ABC is to be congratulated for programming vision and showmanship in presenting "Roots". It was a phenomenal ratings and TV programming success with profound social impact.

I found it fascinating, educational, over-melodramatic, historically distorted, inspirational, sometimes inflammatory, but overall thought-provoking, and thoroughly worthwhile.

It provided blacks with a strong, proud, though humble, heritage. It inspired many other Americans to carefully reflect and to trace their ancestry and heritage.

In my neighborhood it had white viewers visibly cheering the Black as the "good guys" in this drama.

However, I must agree with many critics that the book, "Roots", lost considerable historical authenticity in its sensationalized TV version---replete with all the melodramatic trimmings of violence, sex, vice and racial strife.

Stanley Williford, a Black editor of the Los Angeles Times, wrote and I quote: "ABC's TV version vulgarized a tale that the passage of time will surely confirm as a masterwork."

Whites generally were relentlessly depicted as lustful, evil villians. Abe Lincolns, or decent whites advocating the cause of racial justice, were too conspicuously absent. It defied the reasoning that there is a "good and bad" of all nationalities and races---or that no one race or nationality has a monopoly on all the virtue.

It might be propitious to recall that man's inhumanity to man knew no racial boundaries--particularly in the harsh, brutal era of the 18th and 19th centuries. During that period, free born Englishmen were being hanged for stealing a few shillings, Irish children died by the thousands of malnutrition and exposure, and Russians and Poles suffered their own form of slavery living under Czars or feudal monarchs. Then, too, history shows that Black Africans in the 18th and 19th centuries were mostly captured and sold by other Blacks.

Even in our current 20th century, white man's inhumanity to white man was brutally documented in Hitler's Germany where an estimated six million Jews were methodically murdered in the "final solution" without even the opportunity of survival as slaves!

As a first generation Italian-American, I rankle at the injustice of any discrimination due to nationality, race or religion. However, like many other first or second generation Americans, I don't feel any personal guilt for the slavery depicted in "Roots" although I was appalled by the injustice of the times. I have only traced my "roots" to my Italian peasant grandparents--sturdy, poor mountain folks who were undergoing their own version of hell on earth--Italian style. My parents, too, were born in Italy. They and their parents like millions of other emigrants suffered their own kind of feudal sub-servitude and discrimination. Oppression and lack of food and opportunity drove them to leave their native lands for refuge in America. They came to "the land of the free" in steerage as third class citizens. They were escaping their own form of feudal discrimination and tyranny like millions of other immigrants from Ireland, Germany, Poland, Russia, Armenia, and other foreign lands.

It should be said that their anticipation of arriving in a country "conceived in liberty and dedicated to the proposition that all men are created equal" did not have the same ironic hollow ring as it did for the black slaves who preceded them under much worse conditions.

Although I personally don't have any guilt feelings for the slavery of the past, I do believe that years of discrimination and deprivation in the post-slavery years required our society to provide special "catch up" for Blacks in education and employment opportunity.

The civil rights legislation of the early 60's (spearheaded by a predominately white Congress and white Presidents) and the resulting affirmative action programs, are providing opportunities. There is still more to be done--a continuing need for a little extra inducement. But we will know we have finally arrived as a completely free nation when all racial and nationality roadblocks have been removed and everyone can compete and progress according to his or her own ability and dedication without further need to seek special consideration. We are not there yet--but we have made progress and I believe and hope the millennium will arrive before the turn of the century.

Because here and today, as proud and fascinated as we may be in our heritage and old roots--the roots that really count are the mutual ones we have today deep in America.

We are all now firmly rooted in America. Let's work together in unity and decency to have our roots nourish a great and better tree of life for our children and grandchildren.

Concurring Statement of
FCC Commissioner James H. Quello

In Re: Nondiscrimination in the employment policies and practices of broadcast licensees.

June 22, 1976

This document outlines a policy which I accept with some reluctance. The substance of the policy is, I believe, both reasonable and just. My concerns lie with its implementation as I outlined when we issued the Notice of Inquiry and Notice of Proposed Rule Making in Docket 20550, FCC 75-849, 54 FCC 2d 354 (1975). In concurring with the Notice, I questioned whether the Commission's apprbach produced the clarity and certainty that would facilitate compliance and maximize implementation. I suggested that the Commission consider a simple, clear-cut procedure for receiving and processing complaints, the establishment of a threshold standard for evaluation of complaints and the prescription of a simple, straightforward response procedure for licensees. I also suggested that we develop a recognizable "zone of reasonableness" standard to spell out as clearly and straightforwardly as possible exactly what we expect of licensees in this area.

While I recognize the budgetary constraints upon our investigative efforts, I also recognize the general public expectation that we will enforce our own rules and policies. Without an increased capacity for investigation and direct action, it seems to me, the necessary swift response to legitimate complaints of discrimination cannot be accomplished.

I also continue to be dismayed by our inability to provide some clarity with regard to our "zone of reasonableness" standard of compliance with our rules and policies. Our continued reliance upon the "I'll know it when I see it" standard is, in my view, unnecessarily ambiguous. If our goal is parity we should say so. If it is more or less than parity we should say so. The dynamism in the ratio of minority employment relied upon by the majority surely must operate under some constraints of reason and justice. If this range shifts over time, as suggested, perhaps it is not unthinkable that the Commission could perceive the change and share that perception with the public. Granted, the ratio is only one of the factors considered in assessing a licensee's performance, but I fail to understand why that fact enhances the virtue of ambiguity. The Report and Order promises a new processing standard for assessing minority and female employment. I hope and trust that this new standard will be clearly stated and widely understood.

Therefore, I concur.

September 13, 1978
Comments of FCC Commissioner James H. Quello
on Title IV, H. R. 13015 Before the
House Subcommittee on Communications

I propose clean, decisive, legislative surgery to remove the major pervasive defects and massive economic wastes of broadcast regulation. Unequivocally remove all First Amendment and regulatory constraints! Subject broadcasting to exactly the same regulations and First Amendment constraints as its major competitor and closest cousin--newspapers. This also means eliminating the nebulous, troublesome and out-dated "public interest" standard.

In return, assess broadcasters a practical spectrum usage fee and provide for open marketplace addition of stations that meet reasonable standards of engineering feasibility.

The time has never been more propitious.

This action would most effectively and forcefully implement the visionary main thrust of H. R. 13015--that regulation should be necessary only "to the extent marketplace forces are deficient." In other words, wherever the market is open and competitive, regulations should be abolished. This certainly applies to broadcasting markets in this country where intense competition exists and is growing apace. Broadcasters not only compete aggressively against each other, but also with all other media including newspapers, magazines, outdoor advertising, transportation advertising, direct mail, etc. It's time to remove regulations and allow competitive market forces to operate. This would provide massive deregulation, reduced bureaucracy and a resulting reduction in government costs--all in keeping with the current trend and mood of the American public. Then, too, the public would benefit from a freer, more robust, more venturesome broadcast journalism emancipated from unnecessary restrictive government oversight.

The views expressed here and the supporting arguments to be presented are my own and do not represent an official FCC view. I fully realize that court interpretations and a continuing variety of adversary viewpoints are formidable considerations for legislative action or reform. I am also fully cognizant that present FCC decisions and deliberations must be based on the current Communications Act and existing case law and not on proposed legislative action or re-write. However, I am proposing substantial revision from the unique perspective of over four years FCC service and over twenty-five years in broadcasting. Also, I note that Henry Geller, respected communications lawyer and new head of the National Telecommunications and Information Administration, is a staunch advocate of First Amendment rights. He was quoted by Les Brown of the New York Times: 'The more we let radio and television be the way print is, the better off we are. Let the marketplace answer whether there should be more networks,

not the FCC." I also agree with Mr. Geller's statement in the August 1978 issue of the RTNDA publication where he was quoted: "I think the Fairness Doctrine does impose First Amendment restraints. I think, as I testified recently before the Congress, that if you scrap the public trustee scheme entirely in order to accomplish goals through other means--means of spectrum usage tax or others--that that's very worthy of exploration and that's what re-write is about." I repeat the quote here as a reminder there are knowledgeable people of worthy purposes questioning the propriety of the public trustee concept as applied to current broadcast regulations.

I believe government or court-mandated First Amendment restrictions and also the government-mandated public trustee concept are outdated and no longer justifiable in today's competitive technological, economic and journalistic climate in communications.

In fact, broadcasting was not initially formulated as a public trusteeship. It was actually conceived as an advertising supported, risk capital, commercial enterprise. No government funds were appropriated to finance pioneer broadcast service or to initiate commercial service. Much has been said of the people's airways or the public trustee concept--perhaps, too, because by sheer continued repetition over the years it has become accepted as a fact. However, Eric Sevareid, who said so many things so well over the years, once commented:

> "I have never understood the basic legally governing concept of 'the people's airways.' So far as I know there is only the atmosphere and space. There can be no airway, in any practical sense, until somebody accumulates the capital, know-how, and enterprise to put a signal into the atmosphere and space."

As a former newsman, I have always hoped that some day broadcasting would be treated the same as other journalistic and advertising media. With continuing debate and various court interpretations, it seems this can best be achieved by bold, innovative legislative action. In my opinion, the time has finally come to grant full Constitutional rights of freedom of the press and freedom of speech to broadcasters. This would end years of discriminatory treatment which is no longer justifiable with today's massive competition in all communications media.

There are many more TV and radio stations today than newspapers in every sizable market. The growth of cable, translators, UHF, FM and the development of satellites has provided more media availability than ever before. Future potential is practically unlimited. Then, too, broadcast

journalism today is mature, professional and objective as any media. Regulatory restraints are no longer justified in today's era of competitiveness, numerous outlets and professional journalism.

The scarcity argument justifying governmental intervention in broadcasting seems more specious today than when it first crept into court decisions years ago that limited First Amendment guarantees for broadcasters.

There are limitations upon the numbers of businesses of any kind in a given community. Limited spectrum "scarcity" arguments once embraced by the courts should hardly apply in today's abundance of radio-TV media compared with newspapers. Economic reality is a far more pervasive form of scarcity in all forms of business whether in broadcasting, newspapers, auto agencies or selling pizza. It is a fact that not everyone who wants to own a broadcasting station in a given community can do so. It is also an economic fact that not everybody who wants to own a newspaper, an auto agency or a pizza parlor in a given community can do so.

I believe the public would be served by abolishing Section 315 including the Fairness Doctrine and Section 312(a)(7). The Fairness Doctrine is a codification of good journalistic practice. Its goals are laudatory. However, I no longer believe government is the proper source for mandating good journalistic or program practice. I believe the practice of journalism is better governed by professional journalists, editors and news directors. Programming is best done by professional program directors, producers and talent. Even with some programming deficiencies, a government cure with censorship overtones is worse than the industry disease.

There is little doubt that if TV and radio had existed in 1776, our founding fathers would have included them as prime recipients of the Constitutional guarantees of freedom of the press and freedom of speech. After all, they were guaranteeing citizens these freedoms so that a well-informed public and electorate could vote on issues and candidates--free of any semblance of government interference or control. The Constitutional freedoms were instituted for the benefit of the citizenry--the total public--rather than the media. It is the public that stands to gain from an all media freedom of the press.

Section 315 and Section 312(a)(7) guarantee access to broadcasting in order to seek political office. This is not required of newspapers and magazines because of the Constitutional guarantees accorded only to print journalism. Clearly print journalism, with its guaranteed "freedom of the press" has risen to the task of informing the electorate and uncovering

illegal or unethical practices without government interference or regulation--I see no reason to assume broadcast journalists or executives are any less responsible or diligent. Broadcast journalists have earned and rightfully deserve all Constitutional freedoms.

I believe that removing the government restraints of Section 315, including the Fairness Doctrine and Section 312(a)(7), would free broadcast journalism, foster more comprehensive and independent reporting and better serve the American people.

I'd like to emphasize that my plea is not for freedom from program regulation for broadcasters. I am appealing for freedom from program regulation for the public at large. My experience in broadcasting and with the FCC leads to the firm belief that far too much programming provides no useful function except to satisfy some rule or regulation of the FCC. I have an equally firm belief that much controversial programming which could be of great service to the public is avoided by licensees wary of government requirements.

It is ironic that the regulated--while vociferously complaining about their over-regulated status--are often the last who wish to see this yoke lifted. It is well recognized that regulation carries with it a measure of protection from competition and without regulation there is no such protection. I believe that there are areas of telecommunications which do not readily lend themselves to a totally competitive environment (like telephones), but I don't believe that broadcasting is one of them. It is obvious to anyone familiar with the industry that competiton is already very strong in many markets and it could be an even stronger force without the regulatory constraints which have developed over the years. The public stands to benefit from this potential but not until it is given full opportunity to develop.

I would guess that most large broadcasters may view my proposals with at least mild alarm since they are best able to cope with the maze of regulations and restrictions which we impose. They are able to maintain counsel, hire expert personnel and buy or produce programming to satisfy the public and the government. Presumably, they would prefer "business as usual" to any wide-ranging deregulatory scheme which might contain the seeds of greater competition. My proposals, then, are not calculated to garner wide support among existing licensees. Rather, they are meant to establish a climate whereby the American public can receive more, freer and better broadcasting service. I believe it is a proper goal of the Communications Act of 1934 and of the First Amendment to the Constitution and I believe it is a proper goal for the new Communications Act.

Broadcast licensees should be assessed an appropriate annual spectrum fee and then assigned licenses without expiration dates. At present, broadcast licensees must prepare lengthy applications for license renewal every three years. These applications are then reviewed by the Commission, which must find that renewal is or is not in the public interest. The applications are further subject to challenge from members of the licensee's audience under the very loose application of the principles of standing as a party in interest.

For most licensees, the triennial shipment of pounds of paper to Washington, D. C. is ritualistic, time-consuming, expensive and non-productive. In the vast majority of instances, the Commission makes the public interest finding that permits renewal and the three-year cycle begins anew. In a few cases, renewal is delayed by objections from members of the public. In very few cases, the licensee is forced into a hearing to determine whether he is fit to remain a licensee. And, there are many instances where other parties file "on top" of the licensee in an effort to gain the license for themselves.

The process of license renewal appears to be a very expensive, time-consuming method of ferreting out those few licensees who have failed to meet a subjective "public interest" standard of performance. With adoption of a free marketplace concept similar to newspapers, license renewal would no longer be required. The enormous savings in time and money could be used for more constructive purposes in programming and news.

Some would contend that license renewal time offers the Commission the only real opportunity it has to review the overall performance of its licensees. However, I believe greater responsiveness to legitimate public needs comes about through public acceptance or rejection in the area served by the broadcaster.

What rules would then govern broadcasters? The same law and rules as newspapers or other businesses or professions--criminal codes, libel, slander laws, anti-trust laws, EEOC requirements, SEC requirements, etc. There is no need for discriminatory singling-out of broadcasting for special restrictive regulations--broadcasters generally are as responsible, dedicated and every bit as socially-conscious as other Americans--in media, industry, professional or government groups. Most feel a self-imposed public trusteeship. The few incompetents and miscreants fail and lose their business or jobs or run afoul of the law as in any other profession or business.

Also I believe news objectivity and overall fairness and efficiency are better assured through professional broadcast and print journalists and through professional program executives. Many government-appointed officials, regardless of how well meaning, are handicapped by lack of experience and little understanding of media operations or the practicalities and economics of running a communications business.

Past considerations of the renewal issue have included the argument that a license "in perpetuity" would greatly weaken the competitve spur in the Communications Act. It must be remembered that broadcasting stations, although licensed, are also private business enterprises backed by private capital, subject to the risks and opportunities of entrepreneurship. Broadcasters have no incentive to offend or alienate potential audiences; on the contrary, it just makes good business sense to attempt to serve as much of the potential audience as possible and as well as possible. All media and particularly broadcasting require public acceptance to succeed and even survive. Regulation is supposed to be a rather imperfect substitute for competition where competition either doesn't exist or is restrained by certain market forces. In practically all of the broadcasting markets in this country, competition not only exists but is intense and growing. As stated before, broadcasters not only compete among themselves but with all other media including newspapers, magazines, outdoor advertising, direct mail, etc. Therefore, it would seem reasonable to remove as much regulation as possible in order to permit competitive market forces to operate.

One immediate beneficial effect of open market competition would be elimination of government involvement in news and programming--where it never belonged in a free society.

There are many areas requiring continued government direction and surveillance but not a major news and information medium in a government conceived in and dedicated to the principles of free speech and a free press. I want the record to indicate that I advocate government involvement in appropriate areas--government involvement and direct action was required to attain such desirable goals as social security, minimum wages, FDIC protection for savings, civil rights, medicare and public health, anti-trust rules and environmental protection. Government must continue a vital role in solving problems in energy, national security, urban decay, equal rights and lagging economy.

Also there is a continuing need for consumer activist participation against products, organizations and services that mislead or bilk the consumer. Broadcasting should benefit from such interest but on the very same basis as any other news media. Broadcasting needs full, unfettered press freedom to report, clarify, editorialize and advocate on all events and controversies subject to the same marketplace constraints and criticism as newspapers or magazines. This includes expanding its already active role in exposing consumer frauds and unsavory corporate, public and governmental practices.

The argument that removing the public interest standard would permit broadcasters to eliminate news, public affairs or meaningful programs is indeed specious. It would be contrary to all industry trends and to broadcasting self-interest to eliminate or minimize news and information programming. Broadcast journalism and public affairs are increasing in importance. I believe the major impact of TV and radio on the American way of life today is in news and news analysis--not in entertainment programs. I think most people agree that broadcasting today is most remembered and respected for its hours of exceptional journalism--and that the greatest benefit most Americans derive and expect from broadcasting is information. Recent research indicates more Americans are getting initial news from TV and radio than from newspapers. This potential for molding public opinion poses an enormous responsibility and opportunity. No practical broadcaster will ignore the audience mandate for comprehensive objective coverage of news and public affairs. I firmly believe that full First Amendment rights will generate more top level management emphasis on news and public affairs. Owners, executives and broadcast managers of the future will more and more assume roles of publishers and editors-in-chief. With full press freedom, stations and networks will have added incentive for editorializing and for larger news staff capable of more investigative and detailed "on the spot" reporting.

Once more, I believe in freedom of speech and freedom of the press for all media. This freedom best serves the overall public unfettered by government pressure or by citizen activists groups demanding special broadcast consideration for their own private social and political philosophies through government-mandated access. I further believe newsmen have the right to be wrong and that news executives have the responsibility of seeing that they are not wrong too often. I believe newsmen have the right and obligation to seek the truth--the facts. I also believe freedom of speech applies to government officials--they should be able to criticize the press, including the broadcast press, without raising the ominous spectre of censorship because of possible regulatory oversight.

In conclusion, I repeat that with today's intensely competitive broadcast news and advertising media, there is no logical reason for the special discriminatory regulation of broadcasting.

The laudable deregulatory thrust of HR 13015 should be specifically implemented by granting broadcasting full First Amendment rights and removing all regulatory restraints. The overall public would be the important beneficiaries through massive deregulation, reduced litigation, reduced bureaucracy and a resulting reduced cost to taxpayers. With elimination of renewals, petitions and unnecessary rulemakings, the FCC staff (which included 332 attorneys at last count) could be systematically reduced by probably as much as 40%. The principal remaining broadcast function would be engineering spectrum allocation and enforcement. The bureau reduction could be gradually accomplished through attrition, via transfer, resignation and retirement.

The reduction in bureau staff and government expenses would be in keeping with the mood and will of the American public today. I believe this total proposal would pass convincingly today in any objective public referendum.

Moreover, removing the government restraints of Section 315 and 312 would free broadcast journalism, foster more comprehensive and independent reporting and better serve the American people.

Comments for the Record by
FCC COMMISSIONER JAMES H. QUELLO
to the Senate Subcommittee on Communications
Relative to Broadcasting and Cable Sections of S. 611 and S. 622

June 26, 1979

Mr. Chairman, I am pleased to have this opportunity to submit for the record my individual views concerning the commercial broadcasting and cable provisions of S. 611 and S. 622.

As you undoubtedly are aware, there are diversified viewpoints among my fellow Commissioners with respect to the method and the extent of updating the Communications Act of 1934. In my opinion the record should reflect such diversity of views among the members of the Federal Communications Commission.

I would emphasize that my own viewpoints stem from a unique perspective of over five years on the Commission and 28 years experience in broadcasting. Consequently, the views expressed herein are not based solely on limited experience in the administration of federal regulations and policy in communications. My previous background tends to give me a special sensitivity to the practical impact of broadcast regulation.

Turning to the area of spectrum fees, S. 611 proposes a spectrum fee based on the value of the spectrum, as contrasted to the provision of S. 622 which bases the fee on the Commission's regulatory costs. In my opinion, a spectrum fee based on an approximated value of the spectrum amounts to a tax levied on the broadcaster for the

privilege of doing business. I believe that a spectrum fee is much more justifiably assessed on the costs of regulation. I must confess that I had earlier taken a position that a specific percentage fee on gross revenues for television and radio stations would be an equitable basis for a spectrum fee assessment. However, further reflection has convinced me that any fee which exceeds the cost of regulation amounts to a tax, and accordingly is not justifiable. A formula based upon costs involved in processing applications and rendering other services to licensees seems fair, equitable, and more likely to withstand legal challenge. Further, I am concerned that assessment of a fee based upon revenues could result in the disclosure of confidential financial information about individual stations, something the Commission has carefully avoided in the past. In short, the spectrum fee should be one which can be easily administered by the Commission and it should be designed to avoid involving the Commission and others in protracted litigation.

There seems to be a consensus in both Houses of Congress to make radio license terms indefinite. I am in full agreement with this viewpoint. S. 611 provides for a Commission "audit" of five percent of all radio licenses annually. In my opinion periodic Commission review is unnecessary because of the self generating pressure of marketplace acceptance and widespread industry competition.

Both Senate bills would lengthen TV license terms to some degree. As between the provisions of S. 611 and S. 622, I prefer the specific provision of S. 611 to lengthen TV licenses to five years in all cases, rather than the more complicated approach of licensing on the basis of television market sizes. However, I believe removing all

regulatory constraints in licensing would remove the previous inequities and defects of license renewal and eliminate massive economic waste. The time has come to grant broadcasters the same freedom and rights as newspapers.

Of the two bills I favor the provision in S. 622 with respect to TV de-regulation, to the extent that it requires the Commission to continually seek ways to cut back on television regulations and to make annual progress reports to Congress. The requirement of annual progress reports to Congress would guarantee continuing efforts in this direction.

I note that both S. 611 and S. 622 would maintain the current regulatory standard of "public interest, convenience and necessity." It is at this point that I depart from the philosophy of both bills. In my opinion, Congress should unequivocally remove all First Amendment and regulatory constraints. Broadcasting should be subjected to exactly the same regulations and First Amendment constraints as its major competitor and closest cousin — newspapers. This would mean eliminating the nebulous "public interest" standard. It would automatically eliminate government oversight or intervention in program formats, news and in all programming matters. In my view regulation should be necessary only to the extent that marketplace forces are deficient. In other words, wherever the market is open and competitive, regulations should be abolished. This certainly applies to broadcasting markets in this country where intense competition exists and is growing apace. Some government officials don't seem to realize that broadcasters not only compete aggressively against each other, but also with all other media including newspapers, magazines, outdoor advertising, transportation advertising, direct mail, etc. It is time to remove regulations and allow competitive

market forces to operate. Certainly the public would benefit from a freer, more robust, more venturesome broadcast journalism emancipated from unnecessary restrictive government oversight.

I believe government or court-mandated First Amendment restrictions and also the government-mandated public trustee concept are outdated and no longer justifiable in today's competitive technological, economic and journalistic climate in communications.

In fact, broadcasting was not initially formulated as a public trusteeship. It was actually conceived as an advertising-supported, risk-capital, commercial enterprise. No government funds were appropriated to finance pioneer broadcast service or to initiate commercial service. Much has been said of the "people's airways" or the "public trustee concept" — perhaps too much, because by sheer continued repetition over the years it has become accepted as fact. However, Eric Sevareid, who said so many things so well over the years, once commented:

> "I have never understood the basic legally governing concept of 'the people's airways.' So far as I know there is only the atmosphere and space. There can be no airway, in any practical sense until somebody accumulates the capital, know-how, and enterprise to put a signal into the atmosphere and space."

As a former newsman, I have always hoped that someday broadcasting would be treated the same as other journalistic and advertising media. With the continuing debate and various court interpretations, it seems this can only be achieved by bold, innovative legislative action.

As to renewal procedures proposed in S. 611 and S. 622, I prefer the provisions of S. 622 which would do away with the comparative proceeding for new facilities, substituting a lottery system. While the lottery system may not be the ideal solution, it does avoid the tremendously expensive,

drawn-out hearing proceedings involved in our present comparative renewal procedures. I believe the comparative renewal process should be eliminated. However, if this process is continued I prefer the provision of S. 622 which provides for discretionary renewal of the incumbent applicant upon a finding of its substantially meeting the problems, needs and interests of its service area listeners. Assuming such to be the case and absent serious deficiencies in operation, the Commission may terminate a comparative proceeding at such point and grant renewal in its discretion. With only this modification, a tremendous procedural impediment would be removed from the present process.

I believe the public would be served by abolishing Section 315 including the fairness doctrine and Section 312(a)(7). These Sections guarantee access to broadcasting in order to seek political office. This is not required of newspapers and magazines because of the Constitutional guarantees accorded only to print journalism. Clearly, print journalism, with its guaranteed "freedom of the press" has risen to the task of informing the electorate and uncovering illegal or unethical corporate or government practices without government interference or regulation — I see no reason to assume broadcast journalists or executives are any less responsible or diligent. Broadcast journalists have earned and rightfully deserve all Constitutional freedoms.

I believe that removing the government restraints of Section 315, including the fairness doctrine, and Section 312(a)(7) would free broadcast journalism, foster more comprehensive and independent reporting and would better serve the American people.

There's little doubt that if TV and radio had existed in 1776, our Founding Fathers would have included them as prime recipients of the Constitutional guarantees of freedom of the press and freedom of speech. After all, they were guaranteeing citizens these freedoms so that a well-informed public and electorate could vote on issues and candidates -- free of any semblance of government interference or control. The constitutional freedoms were instituted for the benefit of the citizenry -- the total public -- rather than the media. It is the public that stands to gain from an all-media freedom of the press.

There are many areas requiring continued government direction and surveillance, but not a major news and information medium in a government conceived in and dedicated to the principles of free speech and a free press. I advocate government involvement in appropriate areas -- government involvement obviously has been required to attain such desirable goals as social security, minimum wages, FDIC protection for savings, civil rights, medicare and public health, anti-trust rules and environmental protection. Government must continue a vital role in solving problems in energy, national security, urban decay, equal rights and lagging economy. But government oversight should not be required to initiate, maintain or perpetuate a free broadcast press. Pressure generated from industry competition and public marketplace acceptance will accomplish this end -- the same as in other media or industry.

However, there is a continuing need for consumer activist participation against products, organizations and services that mislead or bilk the consumer. Broadcasting should benefit from such interest but on the very same basis as any other news media. Broadcasting needs full,

unfettered, press freedom to report, clarify, editorialize and advocate on all events and controversies subject to the same marketplace constraints and criticism as newspapers or magazines — this includes expanding its already active role in exposing consumer frauds and unsavory corporate, public and governmental practices.

The argument that removing the public interest standard would permit broadcasters to eliminate news, public affairs or meaningful programs is indeed specious. It would be contrary to all industry trends and to broadcasting self-interest to eliminate or minimize news and information programming. Broadcast journalism and public affairs are increasing in importance. I believe the major impact of TV and radio on the American way of life today is in news and news analysis — not in entertainment programs. I think most people agree that broadcasting today is most remembered and respected for its hours of exceptional journalism — and that the greatest benefit most Americans derive and expect from broadcasting is information. Recent research indicates more Americans are getting initial news from TV and radio than from newspapers. This potential for molding public opinion poses an enormous responsibility and opportunity. No practical broadcaster will ignore the audience mandate for comprehensive objective coverage of news and public affairs. For example, all-music radio formats develop and thrive only in markets already fully served by news and public affairs. I firmly believe that full First Amendment rights will generate more top level management emphasis on news and public affairs. Owners, executives and broadcast managers of the future will more and more assume roles of publishers and editors-in-chief. With full press freedom, stations and networks will

have added incentive for editorializing and for larger news staffs capable of more investigative and detailed "on the spot" reporting.

Once more, I believe in freedom of speech and freedom of the press for all media. This freedom best serves the overall public unfettered by government pressure or by activist groups demanding special broadcast consideration for their own private social and political philosophies through government-mandated access. I further believe newsmen have the right to be wrong and that news executives have the responsibility of seeing that they are not wrong too often. I believe newsmen have the right and obligation to seek the truth -- the facts. I also believe freedom of speech applies to government officials -- they should be able to criticize the press, especially the broadcast press, without raising the ominous spectre of censorship because of possible regulatory oversight.

I repeat that with today's intensely competitive broadcast news and advertising media, there is no logical reason for the special discriminatory regulation of broadcasting.

CABLE TELEVISION:

Turning now to the cable television aspects of S. 611 and S. 622 I would state for the record that I am in general concurrence with the thrust of both bills. Overall, I prefer the provisions of S. 622.

The advent of satellite distribution of TV signals has added an unforeseen dimension to cable carriage of television signals. There is a threat of gross basic inequities in program property rights and also to an orderly system of TV allocation if satellite carriers continue to transmit broadcast signals to thousands of cable systems without retransmission consent. This most complex, controversial communications problem has been the subject of lively debate before this Subcommittee in recent weeks and I realize that there is substantial opposition to the retransmission consent concept within this Subcommittee. I would like to advance my own view on the matter since it differs substantially from the general tenor of the debate.

I suggest first that there should be a statutory requirement for retransmission consent, but applicable only with respect to television signals which are distributed by satellite to cable systems for distribution. Retransmission consent would not apply to carriage of distant signals via terrestrial microwave since distance-sensitive costs involved would provide a self-limiting factor.

The focus of retransmission consent has been primarily on cable systems and their relationships with broadcasters and program producers. It can be logically argued that a new element has entered the arena; satellite distribution to cable -- an element not adequately addressed by Congress in its previous consideration of copyright. My proposal does not involve

the copyright concept. Instead I propose that the "carrier-distributor" should be required to obtain retransmission consent from each TV station before transmitting its signals to a satellite for distribution and sale to cable systems. This mechanism would permit the marketplace to operate freely and fairly without further government intervention. The broadcaster would either grant or withhold retransmission consent, based upon where he intented to compete. If he decided to grant retransmission consent in the expectation that he could attract larger revenues on the strength of his cable audience, he would be free to do so. The program producer, aware that consent had been granted, could then negotiate with the broadcaster and price his product with the knowledge that it would be distributed in more than the local market. On the other hand, should the broadcaster feel that producers would by-pass his station in order to retain control over their products, he would be free to refuse retransmission consent in order to have access to the programming he desired. We have already seen instances where producers are by-passing markets where super-stations are located in order to retain control over their product. To the extent this does occur, the public is penalized by being denied distribution of that programming in the primary television market. It is unreasonable to require each cable system to request retransmission consent from a super-station or from each program producer -- such a burden would be intolerable. Under my proposal the would-be super-station would need to give its consent only once, to the "carrier-distributor", which would then retransmit its television signal to a satellite and thence to a receiving station for furthet distribution, upon purchase, by cable systems. In such event, the program producer would charge the super-station more for the coverage,

the station would assess more from the carrier-distributor for its retransmission consent, and the carrier-distributor in turn would "up his ante" proportionately to his cable customers. Thus, the marketplace balance is restored with a feasible working plan.

Both S. 611 and S. 622 would permit continued federal regulation of cable. Chairman Ferris, in his statement before this Subcommittee on June 5th, noted the acceptability of the provision of S. 611 prohibiting the Commission from regulating distant signal carriage except upon an evidentiary finding that local broadcast program orignation would be harmed. While I can agree with his statement in this respect, I must disagree with his further statement that he would "... even strike the balance more strongly on the side of diversity of overall program service, since local programming may be as likely to emerge from cable in the future as from broadcasting today." Over the past 20 years cable has done comparatively little in the area of local programming, even under the earlier mandatory access rules of the Commission. It has proven extremely expensive to attempt local programming over an extended period of time. There is a shortage of programming material and a shortage of audiences, as well as a shortage of monetary return. However, aside from this aspect, local programming by cable amounts to no more than programming only for cable subscribers in a franchized area — this is minuscule compared to the universal market area served by a television station with programs available to all who own television sets.

I personally believe that this Commission must continue regulation of cable television to some extent. Depending on the final legislative outcome, the Commission may well be involved with cable regulation in the areas of distant signal carriage, impact on local service, waiver requests, cross-ownership restrictions, possible

anti-siphoning rules protecting broadcast sports events, EEO matters, access channels, political and equal time access, possible broadcast ownership and operation of cable systems, and possibly the provision of cable facilities by telephone companies. Any number of the aforementioned areas will continue to demand a substantial portion of the Commission's administrative time.

With respect to cable cross-ownership, S. 611 makes no provision for this aspect of cable. S. 622 would permit broadcasters to own and operate cable systems, including those co-located, and I agree with this provision.

I am in full agreement with Chairman Ferris that we should not yet mandate permanent separation between cable transmission and cable programming by either cable or telephone companies. As he stated, the Commission should be given flexibility to design and alter the regulatory structure governing the competitive relationship between cable and telephone companies that will best serve present and future needs.

In conclusion, I wish to again express my appreciation to this Subcommittee for the privilege of submitting my views on the cable and broadcasting aspects of S. 611 and S. 622. My philosophies and viewpoints differ somewhat from those expressed by Chairman Ferris; there may be other differing viewpoints expressed by other fellow Commissioners who comment for the record in this proceeding. Whatever the legislative outcome, it will hopefully incorporate revisions of the past and the proposals for the future into one comprehensive, viable and understandable legislative instrument.

Concurring Statement of
FCC Commissioner James H. Quello

In Re: Nondiscrimination in the employment policies and practices of broadcast licensees.

July 18, 1975

A statement of Commission policy regarding equal employment opportunities in broadcasting is, I believe, appropriate and desirable. However, I question whether the Commission's approach produces the clarity and certainty that would facilitate compliance and maximize implementation.

First, the Commission's procedures for dealing with specific complaints from the public are--and remain--woefully inadequate. We simply defer to other jurisdictions whenever possible and avoid any direct Commission response which could be characterized as timely or expeditious. The result, of course, is that complaining parties tend to lose faith in our ability to address their problems through the simple complaint process with the predictable result that other, indirect, costly and time-consuming approaches are employed; i.e,, petitions to deny license renewals. I believe the Commission should consider the following:

1) Establishment of simple, clear-cut procedures for receiving and expeditiously processing discrimination complaints

2) Establishment and enunciation of a threshold standard for evaluation of complaints

3) Prescription of a simple, straightforward response procedure for licensees

4) Establishment of liaison with EEOC for the purpose of expediting the resolution of complaints where EEOC involvement is necessary or desirable.

Secondly, I would hope that this Commission will, at the earliest possible moment, develop and enunciate a recognizable "zone of reasonableness" standard which will spell out as clearly and straighforwardly as possible exactly what we expect of licensees in this area. Any internal standard developed within this Commission for processing equal employment opportunity matters should also be widely known and understood by the public at large and by the industry concerned. I fail to understand where any constructive purpose is served by continuing to apply some sort of amorphous rule of thumb to these matters.

I am heartened that the Commission is finally coming to grips with what it conceives to be its obligations regarding equal employment opportunities in broadcasting. However, I am concerned that so much time has passed between concept and substance and that more thorough consideration was not given to the two issues I have mentioned.

Therefore, I concur.