

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

OFFICE OF COMMISSIONER  
JAMES H. QUELLO

March 4, 1980

Mr. W. O. Taylor  
Publisher and President of Globe News  
Globe News Corporation  
135 Morrissey Boulevard  
Boston, Massachusetts 02107

Dear Mr. Taylor:

As a staunch supporter of First Amendment rights, I believe reporters, and particularly columnists, have a right to be wrong. I also believe publishers and editors have the responsibility of making sure they are not wrong too often or don't reflect unfavorably on themselves or their publication.

In this context, and in the interest of more enlightened and accurate reporting, I'm submitting the attached facts on glaring inaccuracies and malicious comments contained in a TV column February 21 by William A. Henry, 3d.

I fully realize that people in public life are subject to biased hatchet jobs, but there should be some reasonable limitation to scurrilous statements and ignorance of fact so that some semblance of journalistic decency and truth can be maintained.

This is the very first complaint letter I have ever written to a publisher. (Incidentally, I was editor of my college paper and started my broadcast career as a newscaster).

Sincerely,

  
James H. Quello

Enclosures:

General Tire-RKO Dissent  
Statement before House Subcommittee Sept.13, 1978

cc: Thomas Winship, Editor  
William A. Henry, 3d.

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RESPONSE TO COLUMN BY WILLIAM A. HENRY 3d WHICH APPEARED IN THE BOSTON GLOBE ON FEBRUARY 21, 1980.

CHARGE: "James H. Quello issued a press release a few years ago announcing he wanted to be appointed by President Nixon to the Federal Communications Commission (FCC)."

FACT: The only response which can be made to this allegation is that it is utterly false. I simply never issued such a release.

CHARGE: "The industry has always wanted a mouthpiece at the FCC, a sure vote against any inconvenient regulation in the public interest."

FACT: This is a preposterous generalization. A review of my voting record would reveal that I have voted to deny license renewals (24 stations) and to impose sanctions on broadcast licensees for violation of FCC rules. I have also supported deregulation of the cable industry the past five years in opposition to broadcast interests. I have encouraged development of alternative means of providing TV service. I have also been a strong supporter of minority ownership and affirmative action policies. I do believe rule making regulation can be more constructively accomplished in a spirit of mutual cooperation---adversary action should be reserved for major areas of disagreement. I am also a longtime advocate of broadcast deregulation. The fact that others may differ from my viewpoints doesn't necessarily make them an enemy or a disgrace (and vice versa). (A copy of my initial deregulatory proposal before the House Subcommittee on Communications is enclosed.) The public today as well as the industry is increasingly concerned with burdensome government regulation. I have defended the broadcast industry against vindictive and frivolous petitions to deny licenses and against abuse of our processes. In most cases, I have found broadcasters to be more responsible, accountable and socially-conscious than their antagonists.

CHARGE: "...Quello has been noteworthy for fierce opposition to any government oversight of the industry he is appointed to oversee."

FACT: Even if that statement is understood to be hyperbole, it is such a gross misrepresentation of my position that it raises serious questions of malicious intent. It is difficult to respond directly to such a sweeping allegation since Mr. Henry makes no effort to support it with facts. (See copy of deregulatory proposal enclosed.)

CHARGE: "Other Commissioners say Quello's record is disgraceful, his ignorance an embarrassment, his understanding of law so minimal that 'he doesn't know a rule making from an adjudication.' "

FACT: Since I cannot assume that any of my colleagues is so bereft of courage and decency that he would make such a statement and encourage its publication, I must conclude that the phantom attribution was a device to lend credence to the author's own views. My record speaks for itself and it's clear that Mr. Henry made no effort to investigate my record. I have made no secret of the fact that I'm not a lawyer. I do have an effective working knowledge of the legal processes of both the FCC and the courts. I have often stated "my approach to regulation is more journalistic than legalistic and I do have a unique understanding of the practical impact of regulation." As for the distinction between a rule making and adjudication, again Mr. Henry stretches hyperbole beyond any reasonable bounds.

CHARGE: "He proved his unfitness again last month. When the FCC voted to strip RKO General of WNAC Channel 7 and two other TV stations for long and diverse abuses, all of them acknowledged in federal court, Quello raged in irrelevant dissent."

FACT: My initial dissent summarizing the facts in this complicated decision was very relevant and widely quoted (Wall Street Journal, Washington Post, New York Times, Washington Star, Broadcasting Magazine and TV Digest). A copy is enclosed. Mr. Henry, who presumes to sit in judgment of my legal expertise, relies very heavily upon his own ignorance of the legal process. General Tire--not the RKO subsidiary--entered into a consent decree with the Securities and Exchange Commission and a settlement with the Department of Justice which resolved all allegations of impropriety which had been raised. Neither a settlement nor a consent decree involves any acknowledgement of guilt, a point which may be too subtle for Mr. Henry to grasp. The salient fact is that neither agency chose to prosecute and neither made any findings as to the gravity of the alleged misdeeds. The only such finding was made by the narrowest majority of four members of the seven-member FCC overturning an Administrative Law Judge's decision for renewal. Broadcast service to the public was not affected by the mistakes of the parent, General Tire.



CHARGE: "He vehemently opposed the House Communications Subcommittee plan to charge a 'spectrum fee', even though he knows broadcasting is more profitable than the oil industry with far less capital outlay, far less risk, far less fluctuation in income, under the protection of a government monopoly.

FACT: I was the very first to propose a spectrum fee. I have repeatedly testified before both the House and the Senate in support of a spectrum fee, a fact which generated widespread criticism from many broadcast interests. Again, Mr. Henry simply refuses to look at the facts. On another point, the Random House College Dictionary defines monopoly as follows: "exclusive control of a commodity or service in a particular market, or a control that makes possible the manipulation of prices." Certainly, in the Boston market there is no monopoly in broadcasting. There are many more stations than newspapers and they compete aggressively against themselves and all forms of media. Again, see statement enclosed.

CHARGE: "He has tried to stall the FCC inquiry into the adequacy of children's television, he has laughed off the findings of near-monopoly in an FCC study of network power, and he has 'philosophically opposed' the plan to reimburse public interest participants in FCC rule making, though he voted for a year's financing."

FACT: I did not stall the inquiry into children's television. I attempted to open that inquiry to all interested persons instead of totally relying upon a staff study which was widely criticized as too narrow and not adequately supported by facts. The network study is still underway and I voted for it throughout as a quick look at the record will show. In an extremely rare burst of candor, Mr. Henry noted correctly that I voted to propose rules providing for funding of citizen participation in FCC proceedings for a one-year experimental period.

The above constitutes only a partial correction of errors which appear throughout Mr. Henry's diatribe. It is obvious that a factual accounting of my record would have made Mr. Henry's scurrilous attack seem illogical. It is further obvious that he deliberately and maliciously misled readers in an attempt to discredit my public career.

*James H. Quello*  
James H. Quello

Dissenting Statement of  
FCC Commissioner James H. Quello

In re: RKO General, Inc. (WNAC-TV), Boston, Massachusetts,  
Comparative Renewal Proceeding (Docket Nos. 18759-61)

I believe the Commission is indulging in gross bureaucratic overkill in denying the license renewal for WNAC-TV. This type of charge and record couldn't possibly warrant even an indictment let alone conviction in a criminal proceeding. Yet the potential fine could be over \$600,000,000.

The record does not warrant such harsh, criminal-like punishment.

The sole judicial decision rendered in the eleven year proceeding was by the FCC Administrative Law Judge who found the licensee qualified. The Administrative Law Judge wisely rejected adding issues to already embarrassingly long and damaging litigation. There was no judicial finding of guilt or violation in either the Justice Dept. or SEC proceedings.

The Justice Dept. allegations were settled by a consent decree; the SEC action by a settlement.

None of the allegations against the parent company, General Tire, impacted the broadcast subsidiary or affected broadcast service. RKO stations have a long history of renewal in the public interest. They are broadcast pioneers with over 25 years of meritorious broadcast service to the public.

I believe the license renewal of WNAC-TV was legally correct and morally mandated. The reversal of the Administrative Law Judge's decision by this Commission based on unproven charges and unsupported staff conclusions represents the type of bureaucratic oppression that is causing a public outcry for reform.