



*James H. Quello*

*Beginning his career as promotion manager of WJR Detroit, the Michigan native rose to vice president and general manager and vice president of Capital Cities Broadcasting. A Democrat, he served 22 years as a Detroit Housing and Urban Renewal commissioner. April 30, 1974 was his swearing-in date at the commission.*

**For broadcast  
deregulation,  
but would keep  
rules on cable**

**J**ames H. Quello is the only broadcaster on the Federal Communications Commission. He is, by consensus, particularly sensitive to broadcaster concerns. Of all the commissioners, he is the most deregulation-minded. He is the first and only Italo-American on the Commission and he is a strong supporter of minority ownership of broadcast stations. He has made a record in support of UHF comparability and he is a friend of public broadcasting.

These facts are particularly pertinent this year since Quello is seeking re-appointment to the Commission after serving six years in a term that ends this coming June 30. While he feels his chances are good, he faces opposition from those seeking a Hispanic replacement, which, in an election year, is dynamite. However, he has the support of a number of Spanish broadcasters who laud his record and stressed their concern about the possible replacement of the only FCC member with broadcast experience.

Quello came to the Commission after a particularly grueling period. He took his seat in 1974 more than a year after his name came up and more than half a year after he was nominated by President Nixon to replace the broadcasters' *bete noir*, Nicholas Johnson. His appearance before the Senate Communications Subcommittee lasted an unprecedented eight days and much of the questioning revolved around whether his broadcast background shouldn't disqualify him. The toughness of the grilling was not entirely of Quello's making. His name unfortunately came up not long after the Senate had turned down the appointment of an oil industry lawyer to the Federal Power Commission because of his industry ties.

If there are any pronounced after-effects of this inquisition due to Quello's role as a commissioner friendly to the industry, they are not apparent today. There are people for him and people against him, but there is no real sharpness to the differences. And Quello is fortunate that his re-appointment is being discussed at a time when deregulation is in the air.

Quello is not a feisty battler, like his predecessor on the Commission, but he has pronounced opinions, and he

showed a vein of determination when his original bid for an FCC seat was mired in Congressional politics. He is also a direct man, impatient of legalities, though this does not imply he hasn't a good grasp of the complex technical and regulatory matters that come before the Commission.

There is a sign on his desk that says: "Talks, speeches, articles and resolutions should all be concise and to the point. Meetings should not go on too long. Chairman Mao." Turn the sign around and the same statement is printed in Chinese—or so visitors are told.

Whether his predilection for simplicities is a reflection of his personality or whether it is primarily his philosophy doesn't really make much difference. Simplifying or eliminating regulations are the main thrust of his Commission career. As a matter of fact, he says that he's more anti-regulation now than he was when he came on the Commission.

"I've changed my opinions since I've been on the FCC. The need for deregulation has become more apparent and more urgent." A measure of his strong belief in deregulation is his conviction that the marketplace mechanism—which has become an endearing term around the Commission these days—will work just as well for TV as for radio. And Quello himself notes: "I'm the only one on the Commission who thinks so."

Some Washington observers say that Quello's anxiety to remove the mantle of regulation from the shoulders of broadcasters smacks of partiality since he favors retaining a number of regulations for cable. Not so, says Quello. "A true mar-

ketplace test would be for cable to bid on programs, not get them for free."

He was talking primarily about the syndicated program exclusivity rules that are still on the books and which he feels are still needed because of imported signals. "It's a matter of equity, of property rights. Even with a retransmission consent rule, stations would need exclusivity protection for syndicated programs." One of the problems, says Quello, is that it doesn't make economic sense for a "superstation" to permit its syndicated programs to be transmitted via satellite and pay more for them on the presumption that it can set a higher rate for time based on

**“A true marketplace test would be for cable to bid on programs, not get them for free. It’s a matter of equity, of property rights. Even with a retransmission consent rule, stations would need exclusivity protection for syndicated programs.”**

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a bigger audience. “The ad agencies won’t pay for scattered cable reception.” He adds, however, that with exclusivity rules *and* retransmission consent, unlimited importation of distant signals would make economic sense.

But Quello says he’s willing to listen to counter-arguments. “There’s a burden on cable to prove that there’s a need to end exclusivity rules. I’ll certainly study the arguments. I’m willing to be convinced.”

On the issue of siphoning of broadcast sports into cable, Quello approves of the protective approach both Congress and the FCC have adopted. He sees the question becoming more critical in the future and gives an illustration of what might happen: “Suppose a sports club also sets up an STV service. What then? What if there would be no anti-siphoning rules? People should be able to see major sports on TV without paying for them.”

Quello also notes that the issue of the fee percentage that cable systems are required to pay communities as a franchise tax is now up before the Commission. He calls the issue a “hot potato.” The fee is now limited to 5 per cent and Quello favors keeping the present formula, “in order to maintain an orderly process, to assure uniformity and stability in the cable business.”

“If the fee wasn’t limited,” says Quello, “you can be sure it would be raised. Cities are always in need of money. The end result would be different levels of fees all over the country. This would be disruptive. If you let the marketplace determine the rate, every City Council would raise its rates.”

Quello feels the outlook for radio deregulation is “very good.” The main reason, he feels, is that deregulation “is on the minds of the White House and the Van Deerlin committee. These are the two prime forces.”

But the FCC can do only part of the job, Quello points out. “Our efforts don’t cover license challenges, renewals and the First Amendment. Such matters as Section 315 and license renewal involve legislation. We can’t go to a five-year renewal without Congressional okay.”

Quello has been particularly vocal on the First Amendment rights of broadcasters. “I see no reason why broadcasters shouldn’t have the same First Amendment rights as print media. The scarcity argument was used at one time to justify regulation, but it’s more specious now. And the trustee concept—the idea that broadcasters are trustees of the airwaves owned by the public—that was developed by the courts. It’s not in the statute.”

The commissioner is obviously not impressed by the arguments of consumer groups fighting radio deregulation. Moreover, he feels they distort the picture of what would happen under deregulation, citing their charges that there

would be less news and more commercials. The public will turn away from an over-commercialized station, he says, so rules aren’t needed. He doubts very much that news would be reduced, but concedes that “Maybe you’ll lose some news coverage in the case of stations with special formats, where news is considered an intrusion.”

Besides, adds Quello, there’s a safety valve: “Let the marketplace determine what a station should do. If there’s a marketplace failure in news and public affairs—I don’t think it would happen, but it could—we can step in again. We could take corrective action.”

The fact that a conservative tenet like deregulation has been embraced by a Democratic FCC chairman does not strike Quello as being all that ironic. “The time for it has come,” he says simply. “There’s a changing mood in the country.” He adds that the Republicans on the commission felt they couldn’t put it over and so welcomed the Ferris initiative.

Another major area in which Quello takes issue with consumer groups is the perennial and highly-emotional question of the adequacy of children’s programming on TV. He won’t accept the evaluation—from the FCC or elsewhere—that kidvid is a flop and says that, overall, TV has done a better job than it’s given credit for. He really prefers not to argue around the point of program quality on the grounds that quality is in the beholder’s eye, but, if pressed on the matter, he puts it this way:

“To improve the overall quality of programming, you must improve people’s education and comprehension. And you must make sure that everybody’s perception of quality is the same as your own.”

But Quello also has reservations about the quantitative proposals emanating from the Children’s Task Force. Setting a minimum of seven and a half hours a week, one of five options, is going too far, in his opinion.

Quello has something less than admiration for many of the consumer groups and activists he has come across, though he leaves no doubt that he recognizes and supports the rights of such organizations and individuals to redress wrongs and to contribute their ideas in the formulation of regulatory policy.

What disturbs him is the opportunity for abuse. In referring to the petition by the NAB on the question of “standing” for petitions or license challenges, he says: “Now all you have to be as a party-in-interest is to be a viewer or a listener. Such an individual could start an unbelievable chain of events. I could get rich telling broadcasters how to be better. I file a petition. I say, ‘Let’s make a deal. I’ll be your consultant or whatever.’ Here you have a means for almost legitimizing extortion.”

However, Quello took the trouble to point out that he voted a one-year trial period on re-imbursing citizen groups for participation in rulemaking proceedings.

The commissioner has strong feelings about a number of issues, but he was particularly wroth about the RKO decision. In his dissenting statement he called the FCC’s finding “gross bureaucratic overkill,” described the penalty as “harsh, criminal-like punishment,” and said the FCC’s action in reversing an administrative law judge’s decision “represents the type of bureaucratic oppression that is

*(Continued on page 122)*



## **James H. Quello**

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### **On the record**

#### **The RKO decision**

“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 as 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. . . . 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.”

*From his dissenting statement to the FCC decision denying RKO General renewal of its license for WNAC-TV Boston, January 24, 1980.*

#### **Radio deregulation**

“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.

*From a statement on the FCC rulemaking re radio deregulation, September 6, 1979.*

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### Quello (from page 64)

causing a public outcry for reform."

As more or less spokesman for the minority in the RKO decision, Quello's reaction was picked up in a number of instances in the print media, which Quello proudly pointed out. *The Wall Street Journal* in an editorial critical of the FCC's action quoted Quello prominently. William I. Buckley also singled him out for mention in his column. A page one story in the *Washington Post* and a column in the *Washington Star* also referred to Quello's dissent in the matter.

Quello's differences with the present FCC majority—or, to be more precise, with chairman Charles Ferris and commissioners Joseph Fogarty and Tyrone Brown, commissioner Ann Jones being still an uncertain quantity—don't place him in the maverick category, despite his strong belief in comprehensive broadcast de-regulation. He himself makes the point that, "Actually, I agree with Ferris in 95 per cent of the cases." At another point, he put it a little differently: "Under Ferris, while we agree on most things, there have been major differences. But this is healthy."

As a broadcaster, Quello believes he has a lot to offer the FCC, but he doesn't feel that it's necessary for most commissioners to have the kind of broadcast experience he has had. He recalls, perhaps longingly, that while Richard Wiley was FCC chairman, his experience made more of a difference than it does at the present time.

Still, as he notes, "It's a legal ballgame. At least three, maybe four, commissioners on the FCC should be lawyers—but the rest should not be. I'm comfortable with lawyers even when I don't grasp all the intricacies of law." His "ideal" Commission would include four lawyers with one of the non-lawyers being someone with broadcast experience or "with operational experience in communications." He also feels that there should be an economist on every commissioner's staff.

Meanwhile, Quello is sweating out his reappointment. There has been some talk about the possibility that President Carter may not announce a decision before the election. Word from White House is that no decision has been made on that question one way or the other and one implication was that it has not been seriously discussed.

Quello showed in 1973 and 1974 he is no novice when it came to lining up political support. Last month he said that while he didn't have much support last year, he thought he had a 50-50 chance currently. He was adamant, however, about not revealing where his strongest support lay. □