

Remarks of FCC Commissioner
James H. Quello

Panel: "Emerging New Competitors
NCTA Convention, Dallas, Texas

May 19, 1980

I MUST CONFESS THAT I HAVE BEEN CONCERNED
WITH THE EXTENT OF OUR DEREGULATION OF CABLE--
FOR THE SIMPLE REASON THAT IT REDUCES MY POTENTIAL
SPEECH MATERIAL SUBSTANTIALLY. HOWEVER, I FIND THAT
MY PRESENT PANEL ASSIGNMENT CALLS FOR A DEGREE OF
SPECULATION AND CONSIDERABLE OMNISCIENCE IN TREATING
NEW SERVICES IN TELECOMMUNICATIONS AND THEIR IMPACT
ON CABLE TELEVISION. SO KEEP IN MIND THAT THESE ARE
THE VIEWS OF ONE INDIVIDUAL AT THIS PARTICULAR TIME.

ALL OF YOU WHO KNOW ME RECOGNIZE THAT I AM
FREE ENTERPRISE AND MARKETPLACE ORIENTED, BUT YOU
ALSO HAVE LEARNED, IF YOU HAVE FOLLOWED MY VOTES
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AS BETWEEN AND AMONG VARIOUS FORMS OF TELECOMMUNICATIONS OFFERINGS. AT THE SAME TIME, I BELIEVE THAT THE FCC IS HERE TO STAY AND WILL ALWAYS ACT IN A WATCHDOG AND OVERSEER CAPACITY TO FULFILL ITS COMPLETE RESPONSIBILITIES UNDER THE COMMUNICATIONS ACT OF 1934. THAT IS THE MANDATE WHICH WE MUST FOLLOW AS COMMISSIONERS.

THE TELECOMMUNICATIONS COMPETITION THAT IS OCCURRING IN THE LARGER CITIES IS FRENETIC TO SAY THE LEAST. I WOULD BE HARD PUT TO CHOOSE BETWEEN THE ALTERNATIVES OF REGULAR CABLE TELEVISION, BROADCAST STV, OR MDS SERVICES. EACH OF THE ALTERNATIVES HAS ITS ECONOMIC AND TECHNICAL ADVANTAGES AND DISADVANTAGES. MDS OBVIOUSLY HAS THE ADVANTAGE OF SELECTIVE HIGH DENSITY SERVICE. STV MAY HAVE AN ADVANTAGE IN A CITY WHERE CABLE HAS NOT YET COMPLETELY DEVELOPED OR POSSIBLY IN DIRECT

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AS TO COMPETITION BETWEEN AND AMONG THE VARIOUS MEDIA TO WHICH I HAVE ALLUDED INCREASES, I THINK A LOT OF THE SOLUTIONS WILL BE FOUND IN THE TYPE OF PROGRAMMING OFFERED. SPECIALIZED PROGRAMMING, WHETHER BY CABLE, MDS, OR STV, WILL BE ONE OF THE KEY WEAPONS OF COMPETITION. THE PUBLIC CAN ONLY BENEFIT FROM A DIVERSITY OF

PROGRAMS OFFERING UNCUT AND UNINTERRUPTED MOVIES AND MUSIC SPECIALS, CHILDREN'S PROGRAMMING, SPORTS, RELIGIOUS PROGRAMMING, AND PROGRAMS TARGETED TO BLACKS, HISPANIC, ORIENTAL AND OTHER SPECIAL INTEREST GROUPS.

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STANDPOINT. OTHER MEANS OF SERVICE INCLUDE PROVISION OF CABLE SERVICE IN CONJUNCTION WITH TELEPHONE SERVICE, OR THE USE OF TELEVISION TRANSLATOR STATIONS. A PROPOSAL HAS BEEN MADE THAT WOULD COMBINE CABLE AND TRANSLATOR, AND POSSIBLY MDS. THE SCENARIO ENVISIONS A CABLE SYSTEM SERVING A NEIGHBORING HIGHER DENSITY AREA WITH REGULAR SERVICE INCLUDING TV SIGNAL RETRANSMISSION AND PAY CABLE. PROBABLY SOME OF THE SERVICES WOULD BE BROUGHT IN BY SATELLITE. THEN, USING THE SAME FACILITIES, THE CABLE OPERATOR WOULD PROVIDE A RETRANSMISSION SERVICE OF BOTH TELEVISION SIGNALS AND PAY PROGRAMMING TO OUTLYING AREAS BY A COMBINATION OF TECHNOLOGIES INCLUDING TRANSLATORS AND POSSIBLY MDS. HOWEVER, THIS IDEA IS PREMISED ON SCRAMBLED SIGNALS WITH A RURAL SUBSCRIBER PAYING FOR THESE JUST AS DOES THE REGULAR CABLE SUBSCRIBER. OBVIOUSLY THIS WOULD REQUIRE CHANGES IN FCC RULES TO

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UTILIZATION OF SATELLITE TRANSMISSION OF PROGRAMS FOR CABLE DISTRIBUTION. THE PROVISION OF PAY CABLE PROGRAMMING VIA SATELLITE HAS ADDED AN ATTRACTIVE AND MOST PROFITABLE INCENTIVE TO CABLE SERVICE ALL OVER THE COUNTRY. ONE ASPECT OF THE SATELLITE-TO-CABLE SYSTEM THAT HAS RECEIVED CONSIDERABLE ATTENTION IS IN THE AREA CALLED "SUPER-STATIONS". THERE HAS BEEN SUBSTANTIAL DEBATE AS TO WHETHER REBROADCAST CONSENT IS REQUIRED FOR THE RETRANSMISSION BY SATELLITE OF THE SIGNALS OF A TELEVISION STATION. FRANKLY, I AM NOT IMPRESSED AT THIS TIME WITH THE CONCEPT OF OBTAINING REBROADCAST CONSENT ON A PER-PROGRAM BASIS. I LIKEWISE HAVE SERIOUS RESERVATIONS AS TO THE PROPOSAL THAT EACH INDIVIDUAL CABLE SYSTEM OBTAIN REBROADCAST CONSENT. IN ANY CASE, IT IS MY OPINION THAT THE MATTER OF REBROADCAST CONSENT IS A DETERMINATION TO BE MADE BY CONGRESS. IF IT SHOULD

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THANK YOU.

Panel Questions

QUESTION: WILL VIDEO DISCS OR VIDEO CASSETTES IMPACT
SUBSTANTIALLY ON CABLE?

There are so many variables that it would be difficult to assess the degree of impact of video discs or video cassettes. Assuming there is impact in the future it will not only affect cable but over-the-air broadcasting as well. My guess is that impact should be minimal, comparatively, for the reason that precoded music, entertainment, or instructional material is new only the first time around--and then the user still will turn to either cable or over-the-air reception for additional sources of viewing. The incompatibility of video tape systems and video disc systems may delay major acceptance of this form of video communications--at least in the near future. It will be interesting to see whether a market can be developed for teenagers and young adults in the area of music--that is, whether this audience will buy the audio artist in living bouncing color. An informational programming, such as How To Do It, Hobbies and Specialized Interests, may find a healthy market. However, again I state that in my opinion these will be viewings in addition to the regular cable or broadcast video fare.

QUESTION: WHAT DO YOU SEE IN THE FUTURE AS TO DIRECT
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QUESTION: DO YOU HAVE A POSITION ON MULTIPLE OWNERSHIP OF
CABLE SYSTEMS?

There is no question but that it takes a tremendous pile of dollars to wire a major market--I'm told from between \$50 to \$80 million. That kind of money isn't easy and obviously requires the involvement and investment of substantial business entities to obtain such funding. This obviously argues in favor of MSOs to do the job. I think that concern over a few MSO's controlling large cable audiences is diluted substantially when it is realized that it takes the top 25 MSO's to generate 50% of the subscribers--that does divide up the pie substantially. And, I must confess, I am not convinced that "big is bad." However, to argue more from the Commission's point of view, cable system owners exercise control over who gains access to large cable audiences. To the degree that MSO's control access to even larger numbers of cable households, diversification of ownership might be the best regulatory approach for promoting variety in cable content. Now, having straddled the issue squarely, I will take note of our 1970 NPRM and Inquiry in Docket 18891 looking toward diversification

of control of cable TV and other media. This docket remains outstanding and we still stand on square one. After some ten years it seems to me that we should terminate the outstanding docket and should address the cable multiple ownership issues in a new proceeding, but only in the form of a Notice of Inquiry. If, as argued by cable interests, there are no facts or figures to warrant limitations on ownership, then the Inquiry should put the matter to rest. If, on the other hand, the rapid development of the cable industry and the many mergers that have resulted should dictate some form of ownership restrictions, then the Inquiry should establish such need. I emphasize that a Notice of Inquiry is sufficient--I do not believe in pre-determining that rulemaking is required and to then conduct an inquiry in order to gain justification for the rulemaking. Instead, let us have the Inquiry only to determine if there is a need for rulemaking.

QUESTION: THERE HAS BEEN CONSIDERABLE CONGRESSIONAL INTEREST FAVORING POSTPONEMENT OF THE RULEMAKING ON DISTANT SIGNAL AND SYNDICATED EXCLUSIVITY RULES UNTIL THE COPYRIGHT TRIBUNAL COMPLETES ITS FIRST FULL YEAR OF DUTIES AND REVIEWS THE APPROPRIATENESS OF RATES PAID BY CABLE COMPANIES. WHAT IS YOUR VIEW ON THE MATTER?

No decision has yet been made by the Commission with respect to whether to delay the consideration of the rulemaking proposals in favor of administrative expediency for the Copyright Royalty Tribunal. However, Chairman Ferris has responded to the request of Congressman Robert Kastenmeier, and presumably other Congressional requests, indicating that the proceeding which has already been in progress for more than three years and now nearing

completion, should not be indefinitely delayed. He noted that it would be extremely difficult for the Commission to justify the continuation of rules otherwise found to be contrary to the public interest because of potential administrative difficulties this might pose for the Copyright Royalty Tribunal. I disagree with the Chairman in this conclusion, and I would defer to the requests of Congressional members who have expressed concern. The Copyright Tribunal is charged by law to establish a distribution formula by Sept. 12, 1980, for the royalties already collected and then to review the appropriateness of the current rates paid by the cable companies. I believe the Tribunal should have the opportunity to see whether it can function successfully under its current mandate and to determine how the contributions might be increased. In my opinion, Congress should have the opportunity to revisit the matter with the benefit of the results of the Tribunal's recommendations before the Commission takes any further action via rulemaking. The broadcast industry survives and continues to increase its profits--the cable industry continues to expand and increase its profits. Therefore, I see no reason to force a conclusion to the rule-making proceeding contrary to the expressed wishes of Congress.

QUESTION: IN THE FACE OF EVER INCREASING COMPETITION, WHERE DO YOU SEE CABLE GOING IN THE FUTURE YEARS?

In a nutshell, cable is here to stay, in my opinion. Cable television has established its niche in thousands of smaller American communities, providing a rich diversity of television programs and improved reception. Cable television has led the way in making pay video a profitable venture. Cable television still has unlimited opportunity for expansion into specialized services.

The cable industry has weathered the regulatory assault of the past ten years and is still afloat. However, the industry can expect rough seas ahead in marketplace competition. I hope all of the communications forces continue to fight it out--the viewing public will be the ultimate beneficiary.

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Consolidated Copy

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THANK YOU.

FCC or referee of the game, not manager?
Referee may direct oversight } Impact of services? De-market
What it means in regulation?

How will government respond to changing technology?

→ Technology capabilities ^{have outstripped} ~~quality~~ ^{govt} ability to implement economically and socially :: orderly transition our responsibility

Same evolution for 3 years = "Is it time to be in cold" - now more than ever -

We need skilled reassessments on what lies ahead

Inquiry and study with best thinking needed - super think tank

Market structure = ; Wild bidding on franchise need for self regulate

Growing corporate consolidation: Need for limitation on ownership?

Canada: Foreign ownership in future? Less than 1980 - program origination
we will have to revisit - emerging

Before the Commission the week the Canadian received 8 American refugees = nothing to do with cable ownership - but the aura was very friendly

Cable: Security services, electronic games, immediate audience surveys,

ATT: appropriate structural safeguards

Protect against cross-substitution =

ATT monopoly but wants to compete ::

Support fair competition ::

Challenge of self-regulation a challenge of marketplace

foreign
membership
1970

Effect ^{future} cable relationship with ^{competition} new
and present competitors

franchise fee
estimated signal
coverage - synthesized
frequency
measured video in "beats"

Panel Questions

May 19, 1980

#219

QUESTION: WILL VIDEO DISCS OR VIDEO CASSETTES IMPACT

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5TV

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* Chairman, Judiciary Committee with Copyright authority

completion, should not be indefinitely delayed. He noted that it would be extremely difficult for the Commission to justify the continuation of rules otherwise found to be contrary to the public interest because of potential administrative difficulties this might pose for the Copyright Royalty Tribunal. I disagree with the Chairman in this conclusion, and I would defer to the requests of Congressional members who have expressed concern. The FCC is an arm of Congress. The Copyright Tribunal is charged by

law to establish a distribution formula by Sept. 12, 1980, for the royalties already collected and then to review the appropriateness of the current rates paid by the cable companies. I believe the Tribunal should have the opportunity to see whether it can function successfully under its current mandate and to determine how the contributions might be increased. In my opinion, Congress should have the opportunity to revisit the matter with the benefit of the results of the Tribunal's recommendations before the Commission takes any further action via rulemaking. The broadcast industry survives and continues to increase its profits--the cable industry continues to expand and increase its profits. Therefore, I see no reason to force a conclusion to the rule-making proceeding contrary to the expressed wishes of Congress.

QUESTION: IN THE FACE OF EVER INCREASING COMPETITION, WHERE DO YOU SEE CABLE GOING IN THE FUTURE YEARS?

In a nutshell, cable is here to stay, ~~in my opinion~~. Cable television has established its niche in thousands of smaller American communities, providing a rich diversity of television programs and improved reception. Cable television has led the way in making pay video a profitable venture. Cable television still has unlimited opportunity for expansion into specialized services.

has a distinct multiple-channel advantage in

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The cable industry has weathered the regulatory assault of the past ten years and is still afloat. ~~However~~ ^{Cable} The industry ~~can expect rough seas ahead in~~ ^{the challenging time} marketplace competition. I hope all of the communications forces continue ~~to fight it out~~ ^{programs and compete} -- the viewing public will be the ultimate beneficiary.

If you are concerned about the future of cable, just note that ~~smart~~ ^{sublimely smart} broadcasters, not in the business, are in ~~an~~ ^{almost} desperate rush (and paying unprecedented per subscriber prices) to get into cable.

~~Compared to other communications business,~~
~~cable has the word by the posterior.~~ ^{in the room}

The many cable pioneers at their convention through vision, hard work, lobbying and some luck have shaped a great industry ----- with desirable additional service to the public and a gratifying return for those who had the guts to take the initial risks.

You have my best wishes for continuing success and growth in the exciting, promising technological years ahead.

How many channels does Comcast?

~~I envision~~ cable not as a future common carrier but ^{as} ~~Cable~~ ^{an} orderly co-ordinator and marketer of ~~both~~ ^{the many} transmitted ~~and~~ ^{programs} original programs