Speech copy

COMMENTS BY
FCC COMMISSIONER JAMES H. QUELLO

BEFORE THE
NEW ENGLAND BROADCASTING ASSOCIATION

IT IS USUAL PRACTICE FOR SPEAKERS TO OPEN WITH SOMETHING LIKE "I'M DELIGHTED TO APPEAR BEFORE THIS DISTINGUISHED GROUP TODAY TO ADDRESS A SIGNIFICANT SUBJECT OF MUTUAL CONCERN. ETC. CONSIDERING THAT I COULD POSSIBLY BE A LAME DUCK AFTER JUNE 30TH, IT IS ESPECIALLY GRATIFYING THAT THE NEW ENGLAND BROADCASTING ASSOCIATION AND, supresing that FRANKLY, MANY OTHER COMMUNICATIONS AND EDUCA-TIONAL GROUPS, HAVE EXTENDED INVITATIONS TO ME FOR JUNE, JULY AND AUGUST I DON'T KNOW WHETHER IT'S AN ACT OF FAITH, HOPE OR CHARITY ON THEIR PART. ANYWAY. I AM PLEASED TO BE IN BOSTON. "SIT

THREE OF MY COLLEAGUES ON THE COMMISSION ARE

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EITHER BOSTON BRED OR BOSTON EDUCATED, OR BOTH,

I'M CURICUS ABOUT WHAT ENVIRONMENTAL INFLUENCES

CAUSE THIS YEARNING FOR GOVERNMENT SERVICE, PAR
TICULARLY IN THE COMMUNICATIONS FIELD.

I'M ESPECIALLY PLEASED TO BE HERE BECAUSE, FULL IT PROVIDES AN OPPORTUNITY TO ANSWER QUESTIONS

UPPERMOST IN YOUR MINDS REGARDING REGULATIONS

THAT SIGNIFICANTLY AFFECT YOUR FUTURE. AND

THERE IS ONE MORE REASON--I HAVE A LOCAL FORUM

TO CORRECT A FEW OF THE MORE SIGNIFICANT OF

MANY DISTORTIONS THAT APPEARED IN A MALICIOUS,

INNACCURATE NEWSPAPER COLUMN IN THE BOSTON

GLOBE LAST FEBRUARY.

I REALIZE I AM DEFYING CONVENTIONAL WISDOM
THAT SILENCE IS THE BEST COURSE WHEN ATTACKED
IN THE PRESS. BUT, I'M ALSO AWARE, BASED ON MY

EXPERIENCE THE FIRST TIME I SOUGHT APPOINTMENT,

THAT SILENCE IS DEFINITELY NOT ALWAYS GOLDEN. I

AM IN VERY GOOD COMPANY WHEN I COMPLAIN ABOUT

SOME OF THE PRESS EXCESSES. THOMAS JEFFERSON

WROTE, IN 1787:

THE BASIS OF OUR GOVERNMENT
BEING THE OPINION OF THE PEOPLE, THE
VERY FIRST OBJECT SHOULD BE TO KEEP
THAT RIGHT; AND WERE IT LEFT TO ME
TO DECIDE WHETHER WE SHOULD HAVE
A GOVERNMENT WITHOUT NEWSPAPERS,
OR NEWSPAPERS WITHOUT GOVERNMENT,
I SHOULD NOT HESITATE A MOMENT TO
PREFER THE LATTER.

TWENTY YEARS LATER, JEFFERSON WROTE:

NOTHING CAN NOW BE BELIEVED

WHICH IS SEEN IN A NEWSPAPER. TRUTH

ITSELF BECOMES SUSPICIOUS BY BEING

PUT INTO THAT POLLUTED VEHICLE.

APPARENTLY JEFFERSON, TOO, OCCASIONALLY READ A BOSTON PAPER. BUT MORE ABOUT THAT LATER. LET'S

GET TO THE PRINCIPAL SUBJECTS BROADCASTERS ARE MOST INTERESTED IN.

LAST WEEK THE COMMISSION GAVE FINAL APPROVAL TO THE TEXT OF ITS 4-3 DECISION THAT FOUND RKO GENERAL NOT QUALIFIED TO REMAIN A LICENSEE. EXAMPLE OF GROSS BUREAUCRATIC OVERKILL REPRE-SENTS THE MOST HARSH AND UNWARRANTED PUNISHMENT IN THE HISTORY OF COMMUNICATIONS, IT SENT SHOCK WAVES, AS WELL IT SHOULD, THROUGHOUT THE INDUSTR MY STRONG OPPOSITION TO THE DECISION IS DETAILED IN A SEVEN PAGE DISSENT THAT IS AVAILABLE THROUGH YOUR LAWYERS OR AT THE FCC. THE DECISION AND DISSENT SHOULD BE RECOMMENDED READING FOR BROADCASTERS AND, PARTICULARLY, GROUP BROAD-CASTERS.

MANY OF YOU HAVE INQUIRED ABOUT THE STATUS OF OUR PROPOSED RADIO DEREGULATION. THERE IS

SOME CONFUSION AND MISCCNCEPTION AS TO WHAT THE FCC IS OR IS NOT PROPOSING TO DEREGULATE. TO SAVE TIME, I HAVE FACT SHEETS FOR YOUR INFORMATION THAT LIST# ALL THE OPTIONS, I'LL BE GLAD TO ANSWER ANY QUESTIONS./I BELIEVE THE RADIO PROPOSALS RE-PRESENT A GOOD OPPORTUNITY TO GET A DEREGULATORY FOOT IN THE DOOR. BUT REMEMBER, FCC EFFORTS ARE LIMITED BY THE COMMUNICATIONS ACT. ONLY LEGISLA-TION CAN PROVIDE MAJOR DEREGULATION DEALING WITH LICENSE TERMS. POLITICAL BROADCASTING. GOVERNMENT INVOLVEMENT IN PROGRAM FORMAT AND ALTERNATIVES OR REFORM IN THE COMPARATIVE HEARING PROCESS. HOPE THAT SOME TIME IN THE NEAR FUTURE. THE FCC WILL CAREFULLY DELIBERATE AND THEN MAKE CON-STRUCTIVE RECOMMENDATIONS FOR DEREGULATORY LEGISLATION. MY PERSONAL VIEW ADVOCATING COMPLETE DEREGULATION HAVE BEEN PRESENTED BEFORE THE

HOUSE AND SENATE SUBCOMMITTEES ON COMMUNICATIONS

AND ARE A MATTER OF OFFICIAL RECORD. IF YOU ARE

INTERESTED IN COMPREHENSIVE ARGUMENTS FOR TOTAL

DEREGULATION WRITTEN IN LAYMAN'S LANGUAGE, YOU

CAN WRITE MY OFFICE FOR A COPY.

INCIDENTALLY, BROADCASTERS WHO MANAGE THE

GREATEST COMMUNICATIONS MEDIA DON'T MANAGE TO

DO A VERY EFFECTIVE JOB IN COMMUNICATING THEIR

ACTIONS OR POLICY TO THE OVERALL PUBLIC. THERE IS

A NEED TO DISPEL EXAGGERATED CRITICISM OF DEREGULATION. THE FCC WOULD NOT PROPOSE AN ACTION THAT

WOULD ELIMINATE PSA'S, REDUCE OR ELIMINATE RADIO

NEWS, OR CAUSE WIDESPREAD UNEMPLOYMENT OR

ENCOURAGE OVERCOMMERCIALIZATION.

YOU HAVE A COMMUNITY SELLING JOB TO DO -- IF

OR WHEN DEREGULATION IS ADOPTED, YOU HAVE THE RESPONSIBILITY OF IMPLEMENTING MARKETPLACE COM-PETITION IN THE PUBLIC INTEREST.

IN ADDITION TO DEREGULATION. OTHER IMPORTANT ISSUES THAT HAVE BEEN SUGGESTED ARE:

- --- THE 10 TO 9 KHZ PROPOSALS policy position, Region 2 conference
 --- AM STEREO Rypital roly subject to reconcilization

- --- SHORT FORM RENEWALS AND RANDOM AUDIT- * PR
- --- CHILDRENS TV PROGRAMMING fram regary to NPR --- 5 splane
- --- DIRECT SATELLITE TO HOME TV TRANSMISSION---
- --- THE FUTURE OF TV AND CABLE
- --- STATUS OF SYNDICATED EXCLUSIVITY, NETWORK-NPR, Carle franchise feel

NON-DUPE AND COPYRIGHT REVISION Discuse or summary all the about CAREFUL OF EX PARTE INCLUDING Status not ments NOW ABOUT THAT SCURRILOUS COLUMN./I DON'T FEEL

A NEED TO DEFEND MYSELF BEFORE THIS GROUP OR ANY OBJECTIVE GROUP OF LAWMAKERS OR JOURNALISTS. JUST WANT TO GET MY COMMENTS ON RECORD FOR ANY-ONE WHO MAY HAVE SEEN THE COLUMN.

AS A STAUNCH SUPPORTER OF FIRST AMENDMENT

RIGHTS, I BELIEVE REPORTERS, AND PARTICULARLY

COLUMNISTS, HAVE A RIGHT TO BE WRONG. I ALSO BE
LIEVE PUBLISHERS AND EDITORS HAVE THE RESPONSIBI
LITY OF MAKING SURE THEY ARE NOT WRONG TOO OFTEN

OR DON'T REFLECT UNFAVORABLY ON THEMSELVES OR

THEIR PUBLICATION.

I FULLY REALIZE THAT PEOPLE IN PUBLIC LIFE

ARE SUBJECT TO BIASED HATCHET JOBS, BUT THERE

SHOULD BE SOME REASONABLE LIMITATION TO SCURRI
LOUS STATEMENTS AND IGNORANCE OF FACT SO THAT

SOME SEMBLANCE OF JOURNALISTIC DECENCY AND

TRUTH CAN BE MAINTAINED.

IN THIS CONTEXT, AND IN THE INTEREST OF MORE
ENLIGHTENED AND ACCURATE REPORTING, I'M CORRECTING
A FEW OF THE MORE GLARING INACCURACIES AND MALICIOUS COMMENTS CONTAINED IN A TV COLUMN.

IN HIS FEBRUARY COLUMN, THE WRITER BEGAN BY STATING: "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)." PRESUMABLY, HE HAD DISCOVERED A PRESS REPORT WHICH GOES BACK NEARLY SEVEN YEARS WHICH MADE A SIMILAR UNSUBSTANTIATED ALLEGATION HE NEVER BOTHERED TO CHECK IT OUT, HOWEVER. / THAT REPORT WAS EFFECTIVELY REFUTED AT THE TIME. AT NO TIME DID I ISSUE OR CAUSE TO BE ISSUED SUCH A PRESS RELEASE. / I'M NOT SURE THAT ISSUING A PRESS RELEASE TO ANNOUNCE YOUR CANDIDACY FOR APPOINTIVE OFFICE INVOLVES ANY MORAL OR ETHICAL QUESTION AS THE WRITER SEEMED TO IMPLY, BUT THE FACT IS I DID NOT ISSUE SUCH A RELEASE.

THEN, IN A SWEEPING CHARGE OF GUILT-BY-ASSOCIA-

WANTED A MOUTHPIECE AT THE FCC, A SURE VOTE AGAINST ANY INCONVENIENT REGULATION IN THE PUBLIC INTEREST. ANYONE WHO IS EVEN CASUALLY ACQUAINTED WITH MY RECORD AS AN FCC COMMISSIONER KNOWS THAT STATEMENT AND THE INNUENDO CONVEYED BY IT ARE RIDICULOUS. DURING MY TENURE, I HAVE VOTED TO DENY RENEWAL TO MORE THAN TWENTY LICENSEES. / I JOINED IN IMPOSING VARIOUS SANCTIONS IN OVER 600 CASES. IN THE COM-MISSION'S ENTIRE 49 YEAR HISTORY BEFORE I JOINED IT. NOT MORE THAN 40 RENEWALS HAD BEEN DENIED. / I HAVE SUPPORTED DENIAL IN EGREGIOUS INSTANCES DESPITE THE FACT THAT I BELIEVE OUR RULES AND PRECEDENTS HAVE DESPITE MY PERSONAL PHIL-OSOPHY, HOWEVER, I RECOGNIZE THAT I AM OBLIGED TO UPHOLD THE LAW AND THE COMMISSION'S RULES. STRONGLY SUPPORTED AND IN SOME CASES ADVOCATED INITIAL AFFIRMATIVE ACTION PROGRAM AND MINORITY OWNERSHIP PROPOSALS.

TO THE COLUMNIST SUPPORTED THE DEREGULATION OF CABLE TELEVISION DUR-ING A TIME WHEN CABLE AND BROADCASTING WERE ANTAG-ONISTS. A POSITION HARDLY REFLECTIVE OF A DESIRE TO "A MOUTHPIECE" FOR BROADCASTERS. BEFENDED BROADCASTERS AGAINST FRIVOLOUS AND VINDICTIVE PETITIONS WHEN IT BECAME CLEAR THAT THEY WERE UN-FOUNDED AND CALCULATED MORE TO HARRASS THAN TO I HAVE SPOKEN OUT AGAINST THE TACTICS OF SOME PRIVATE INTEREST GROUPS WHO HAVE ATTEMPTED TO CLOAK THEMSELVES IN THE MANTLE OF "PUBLIC INTEREST. "__SOME MAKE A CAREER OF GENERATING AND ABUSE OF THE COMMISSION'S PROCESSES AS WASTEFUL IN THE VAST MAJORITY OF CASES, I HAVE FOUND BROADCASTERS MORE RESPONSIBLE, MORE ACCOUNTABLE AND MORE SOCIALLY CONSCIOUS THAN THEIR ANTAGONISTS.

CONTINUING THE UNSUPPORTED ALLEGATIONS, THE COLUMNIST WROTE: "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." FIRST, IT SHOULD BE POINTED OUT THAT IT WAS A 4 TO 3 BY THE COMMISSION WHICH WENT AGAINST RKO GENERAL. VOTE ALSO. THE ADMINISTRATIVE LAW JUDGE WHO HEARD THE CASE AND WAS INTIMATELY FAMILIAR WITH THE TOTAL-ITY OF FACTS CONCLUDED RKO WAS QUALIFIED TO REMAIN A BROADCAST LICENSEE. THE COMMISSION'S BROADCAST BUREAU ALSO RECOMMENDED LICENSE RENEWAL. DISSENT WAS NOT A POSITION OF INTEMPERATE ISOLATION BUT A REASONED JUDGMENT BASED UPON A CAREFUL REVIEW SECOND, IF MY DISSENTING STATEMENT WAS IRRELEVANT, THIS ALLEGED FACT ESCAPED THE EDITORS OF THE WALL STREET JOURNAL, TV GUIDE, THE NEW YORK TIMES, THE WASHINGTON POST, THE WASHINGTON STAR,

FORTUNE MAGAZINE, BROADCASTING MAGAZINE AND TV DIGEST, ALL OF WHICH SAW FIT TO OUOTE MY STATEMENT. MANY OF ALSO, THE WRITER WHO PRESUMES T& SIT IN JUDGMENT OF MY LEGAL EXPERTISE RELIED VERY HEAVILY UPON HIS OWN IGNORANCE OF THE LEGAL PROCESS. GENERAL TIRE -- NOT THE RKO SUBSIDIARY -- ENTERED INT 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 AGAINST THE PARENT COMPANY. NEITHER A SETTLEMENT NOR A CONSENT DECREE INVOLVES ANY ACKNOWLEDGEMENT OF GUILT, A POINT WHICH THE COLUMNIST FOUND TOO SUBTLE TO GRASP. THE SALIENT FACT WAS THAT NEITHER AGENCY CHOSE TO PROSECUTE AND NEITHER MADE ANY FINDINGS AS TO THE GRAVITY ALLEGED MISCONDUCT. The glanger accuracy was not on some munor story in its the most seguetant and largest genety in the healong of the tree

AGAIN, QUOTING FROM THE LONG LIST OF INACCURATE

CHARGES LEVELED AGAINST ME: "HE VEHEMENTLY OPPOSED THE HOUSE COMMUNICATIONS SUBCOMMITTEE PLAN TO CHARG ${\cal E}$ '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 MONOP-THAT MOST OF YOU KNOW THAT I WAS AMONG THE FIRST TO ADVOCATE AND SUPPORT THE CONCEPT OF A SPECTRUM FEE AS AN ELEMENT IN THE EFFORT TO DE-ADVOCATED SPECTRUM FEES BEFORE BOTH HOUSE AND SENATE HEARINGS FORMER COLLEAGUES IN BROADCASTING EXPRESSED SHARP DISAPPROVAL OF MY POSITION AT THAT "GOVERNMENT MONOPOLY" TO WHICH THE WRITER SO SWEEPINGLY REFERRED. 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 MANIP-CERTAINLY DON'T SEE ANY MONOP-OLIES AROUND IN THE MAJOR RADIO AND TELEVISION MARKETS VERY COMMON TERM USED BY. ACTIVIST GROUPS TO DENIGRATE BROADCASTING MANY MORE RADIO AND TV STATIONS THAN NEWSPAPERS IN MARKETS OF ANY SIZE AND THEY COMPETE AGGRESSIVELY allother AGAINST COMPETITIVE STATIONS AND ALL OTHER MEDIA -NEWSPAPERS, MAGAZINES, OUTDOOR ADVERTISING, DIRECT RECENTLY SPOKE TO A GROUP OF RADIO BROADCASTERS IN PUERTO RICO WHO, AS A GROUP, CERTAINL' DON'T CONSIDER THEMSELVES TO BE MONOPOLIST NEARLY 30% OF THE PUERTO RICAN RADIO STATIONS REPORTED LOSSES TO THE COMMISSION ON THEIR ANNUAL REPORT FORM: DOES THAT SOUND LIKE MONOPOLY? IN MY FORMER HOME STATE OF MICHIGAN. MORE THAN 20% OF THE STATIONS RE-PORTED LOSSES IN 1977 AND NEARLY 23% REPORTED LOSSES

IN 1978. IN MY CURRENT STATE OF VIRGINIA, ABOUT 24%

OF THE RADIO STATIONS REPORTED LOSSES FOR 1978. THOSE

FIGURES DON'T SEEM TO BE CONSISTENT WITH AN INDUSTRY

"...MORE PROFITABLE THAN THE OIL INDUSTRY WITH FAR

LESS CAPITAL OUTLAY, FAR LESS RISK...", ETC. THERE IS

NO DENYING THAT SOME BROADCASTING STATIONS ARE

VERY PROFITABLE BUT PEOPLE MUST BE REMINDED THAT

UNCLE SAM IS A 48% PARTNER IN THOSE PROFITS, ALSO

DIVIDENDS ARE TAXED, SALARIES ARE TAXED TO SUPPORT

THE GOVERNMENT--ALL FROM PROFITABLE BUSINESSES.

A FINAL ASSERTION IN THIS FICTION-PACKED

COLUMN WHICH I CHOSE TO ANSWER, DEALT PRIMARILY

WITH CHILDREN'S TELEVISION. THE ASSERTION WAS:

"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 RULEMAKING, THOUGH HE VOTED

FOR A YEAR'S FINANCING."

I CERTAINLY DID NOT ATTEMPT TO 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, THE COLUMNIST NOTED CORRECTLY THAT I VOTED TO PROPOSE RULES PROVIDING FOR FUNDING OF CITIZEN PARTICPATION IN FCC PROCEEDINGS FOR A ONE-YEAR EXPERIMENTAL PERIOD.

I HAVE GONE TO SOME LENGTH TO REBUT A SINGLE RATHER INSIGNIFICANT NEWSPAPER COLUMN TO: FIRST,

GET IT OFF MY CHEST AND ALSO TO ILLUSTRATE TO YOU A MINDSET THAT IS NOT UNCOMMON THESE DAYS, EVEN IN GOVERNMENT REGULATORY CIRCLES. I BELIEVE THAT IT REPRESENTS A POINT OF VIEW THAT IS POTENTIALLY DESTRUCTIVE NOT ONLY OF THE REGULATED INDUSTRIES BUT--MORE IMPORTANT--DESTRUCTIVE OF THE REAL OVERALL PUBLIC INTEREST. IN THE MINDS OF SOME WITH

VERY LITTLE PRACTICAL MARKETPLACE EXPERIENCE,

are authoritisty

BIG IS BAD AND SUCCESS AND PROFIT SUSPECT.

I HAVE STATED MANY TIMES THAT I LIKE TO REGULATE HEALTHY, SUCCESSFUL INDUSTRIES. I BELIEVE
RULEMAKING CAN BE MORE CONSTRUCTIVELY ACCOMPLISHED
IN A SPIRIT OF MUTUAL COOPERATION. AT TIMES ADVERSARY ACTION IS UNAVOIDABLE, BUT IT SHOULD BE RESERVED FOR MAJOR AREAS OF DISAGREEMENT AFTER
THOROUGH DIALOGUE AND DELIBERATION.

I WISH YOU CONTINUED ACHIEVEMENT AND PROGRESS
IN THE CHALLENGING, EXCITING YEARS AHEAD. WITH ADVANCED TECHNOLOGY AND BROADCASTING INGENUITY, YOUR
BROADCAST SERVICE TO THE PUBLIC WILL GROW AND EXPAND. JUST REMEMBER THAT YOUR PRIVATE INTERESTS
ARE BEST SERVED BY DEDICATED PRIMARY EMPHASIS ON

HIGHER STR.