

OPENING STATEMENT OF
FCC COMMISSIONER JAMES H. QUELLO
FOR
SENATE CONFIRMATION HEARING FOR REAPPOINTMENT
TO THE
FEDERAL COMMUNICATIONS COMMISSION
JUNE 7, 1984

Thank you Mr. Chairman. With your permission, I'd like to present a brief opening statement.

As you know, I have been privileged to serve at the Federal Communications Commission for the past ten years. During that time we have been involved in a veritable explosion in technological developments, deregulation and unregulation which provides new challenges and responsibilities for congress and the FCC. There have been significant changes and far-reaching, oftentimes controversial, developments in practically all fields of communications -- from FCC radio deregulation (which, significantly, was upheld by the federal appellate court) to implementing Computer II and enacting revised regulations for the newly structured telephone industry.

During the past three years many outmoded or unduly intrusive regulations and unnecessary paperwork were eliminated, particularly in the broadcast area. The FCC also simplified license renewal procedures and technical requirements. In general, communications regulations were, and are, being replaced by marketplace competition. Meanwhile, the FCC introduced many additional communications facilities to the

marketplace, thus providing expanded service to the public. The Commission promulgated new or expanded service in: LPTV (low power television), DBS (direct broadcast satellite), MDS (multipoint distribution service), cellular radio, teletext, AM and TV stereo, cable, SMATV, STV and continued expansion in the number of FM, AM and UHF stations. The current FCC also authorized subcarrier service for radio and TV. In a very timely and significant action, the FCC also expanded the ways public broadcasters could raise additional funds, thus enhancing self-sufficiency.

With a few exceptions, I strongly supported the deregulatory thrust. My position on key policy issues is a matter of public record. In the more significant policy cases, my position has been emphasized by supporting, concurring or dissenting statements that have been available for public scrutiny.

During my present term, I was honored by the opportunity to serve as Chairman of the Temporary Commission on Alternative Financing for Public Telecommunications (TCAF) from October 1, 1981 to December 1, 1983.

Before I briefly summarize the work of TCAF, I want to take this opportunity to personally thank you, Mr. Chairman, for your leadership in supporting public broadcasting -- particularly in your sponsorship of the much needed authorizing legislation for public broadcasting. TCAF and all public broadcasters appreciate the crucial role you are playing in funding public

broadcasting at levels that will ensure that a distinctive and distinguished service continues to be available to the American people.

As you know, Congress established TCAF in 1981 because of its concern with the critical financing problem facing public broadcasting. That action constituted the first time in the history of public broadcasting that a special commission was established by statute to thoroughly consider all fundamental financing strategies for public broadcasting.

The legislative mandate to the new TCAF commission was both broad and specific. It sought answers to questions that have perennially surrounded public broadcasting support. It invited new ideas, it authorized an advertising demonstration program and it sought direction. The first report thoroughly examining 33 various funding options was submitted to Congress June 30, 1983. The second report on the results of the advertising experiment along with TCAF's recommendations was submitted to Congress October 1, 1983. I have summarized these two significant documents in a report submitted to Congress. I'd appreciate making this summary a part of the record of this hearing.

As you know, TCAF generally found that none of the alternative funding possibilities could replace the traditional funding procedures to preserve the character and viability of the existing public broadcasting system. Most of the 33 various funding options that were analyzed represented supplemental

rather than alternative funding. Also, there were no substantial alternatives that could have been effectively in place for the next three years and no preferable alternative in the foreseeable future. In conclusion, the proposed funding legislation is right on target and American TV service will greatly benefit if public broadcasting receives the bi-partisan support in Congress it needs and deserves.

My general approach to communications policy is pro-competitive. I usually believe marketplace solutions are in most cases better than regulatory ones. I supported most of the current efforts to discard excess regulatory baggage. It is frequently too easy for regulation to acquire a life of its own and to continue when the need has passed. However, I will question any deregulatory action that might ultimately reduce the quality of telecommunications services available to the public. In particular, this agency must guard against elevating administrative convenience to a point that jeopardizes our ability to ensure proper technical standards and operations. Also, I believe that with deregulation comes added responsibility to strongly enforce congressional statutes and remaining regulations and to monitor the telecommunications environment to ensure quality of service in the public interest.

I do believe government regulation is best conducted in a spirit of mutual cooperation with regulated industries. I believe progress can best be achieved with a constructive government attitude that provides incentives for innovation,

growth and improvement in service and products for the public. We should reserve adversary proceedings for major unresolved disagreements or egregious violations. In return, we should expect that telecommunications companies, because of their great impact on the American way of life, maintain a strong sense of social consciousness.

Broadcast licensees, and for that matter all businesses and corporations, have inherent responsibilities as public trustees. In America, all corporations exist by the will of the people. It behooves all corporations, acting in their own self-interests, to conduct themselves with a keen sense of social purpose, not only economic purpose. I believe the free enterprise or corporate system works in America, but I keep reminding myself that it was not ordained by God...In a democracy, any economic or social system can be legally altered by the people at the polls. So, the people have a right to expect reasonable benefits, enlightened management, fair treatment and equitable distribution of wealth for the public good. The great majority of American telecommunications and broadcasting corporations have reasonably fulfilled most expectations by providing the American people with the best communications services in the world and its employees with a high standard of living. One of our highest government priorities must be to preserve America's

markets and our preeminent position in world communications to assure healthy, progressive industries with gainfully employed Americans.

I'd like to emphasize that my experience has made me quite aware that the FCC is an arm of Congress and rightfully subject to oversight. As a member of a regulatory agency, I have tried to be cognizant of the needs and interests of the public and to act responsibly on issues articulated by the public's elected representatives in Congress.

There are many difficult decisions ahead for the Commission and I believe my previous Commission experience could lend continuity to ongoing policy issues. I also believe my practical experience in communications, particularly in the contentious commercial and public broadcast fields, along with my ten years of observing and implementing the various entities in the telecommunications explosion, could be helpful as even more new services evolve and new needs are identified.

Overall, it's a challenging, fascinating time to be at the Federal Communications Commission. We must all work together to maintain and increase our communications leadership so that Americans remain the best informed and best served people in the world.

Attachment

ATTACHMENT TO OPENING STATEMENT
OF
JAMES H. QUELLO
BEFORE THE
SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

CONFIRMATION HEARING
JUNE 7, 1984

STATEMENT OF FCC COMMISSIONER JAMES H. QUELLO
CHAIRMAN OF THE TEMPORARY COMMISSION ON ALTERNATIVE
FINANCING FOR PUBLIC TELECOMMUNICATIONS

Submitted to
THE SUBCOMMITTEE ON TELECOMMUNICATIONS, CONSUMER PROTECTION AND FINANCE
OF THE HOUSE COMMITTEE ON ENERGY AND FINANCE

March 29, 1984

SUBCOMMITTEE ON TELECOMMUNICATIONS, CONSUMER PROTECTION AND FINANCE
OF THE HOUSE COMMITTEE ON ENERGY AND FINANCE

March 29, 1984

I am pleased to submit this statement summarizing the work of the Temporary Commission on Alternative Financing for Public Telecommunications. Pursuant to congressional directions contained in the Public Broadcasting Amendments Act of 1981 (Public Law No. 97-35), the Temporary Commission submitted two reports to Congress.

The first report, Alternative Financing Options for Public Broadcasting, studied the range of existing and reasonably available alternatives to traditional federal support and concluded that, while the alternatives reviewed have the potential to provide supplemental revenue for the nation's public broadcasting system, they are unlikely to supplant traditional federal support within the foreseeable future.^{1/} Further, the Temporary Commission concluded that it was unable to identify any alternative which would be preferable to traditional funding procedures as a means to preserve the existing public broadcasting system. I know of no new information that erodes these conclusions. Therefore, I would like to emphatically restate my personal view that Congress should authorize and appropriate sufficient resources to provide a strong base for public broadcasting to maintain and expand the reach of its services.

On October 1, 1983, the Temporary Commission submitted its Final Report to Congress.^{2/} This report describes the advertising demonstration program conducted by the Temporary Commission to explore the issue of whether limited

^{1/} Temporary Commission on Alternative Financing for Public Telecommunications, 97th. Cong., 2d Sess., Alternative Financing Options for Public Broadcasting. (Printed for the use of the Subcommittee on Telecommunications, Consumer Protection, and Finance of the House Committee on Energy and Commerce, Comm. Print 97-JJ, July 1982).

^{2/} Copies of this report have been provided to the Subcommittee. Additional copies are available from my office.

advertising should be permitted on public broadcasting as a supplemental revenue source.

To analyze the advertising question, the Temporary Commission authorized ten public television stations to carry advertising messages over a 15 month period ending June 30, 1983. Only nine stations participated to the conclusion of the advertising demonstration program.^{3/} Seven of these stations presented advertising messages, while the other two stations styled their messages as "enhanced underwriting."^{4/}

The Temporary Commission selected an independent research organization, the ELRA Group, to assess viewers', subscribers', and the general public's attitudes toward carriage of advertising on public television stations. The Temporary Commission also directed the participating stations to file periodic status reports, conducted a survey of selected advertisers and underwriters, and consulted with independent experts, other federal agencies, and potentially affected entities such as unions and commercial broadcasters in order to assemble as complete a record as possible for congressional review.

The ELRA Group research generally demonstrated no negative reaction to limited advertising as a means to supplement funding for public television. While such positive results were essential to further consideration of the advertising question, several factors dictate that these findings cannot properly serve as the sole basis for a recommendation supporting limited advertising. First, the demonstration was not designed as a scientific

3/ See Table 1, attached, for a description of the participating stations and a summary of the revenues each received during the demonstration program.

4/ The Temporary Commission did not prescribe standards for acceptable "enhanced underwriting." All stations were free to present any type of message they chose within the statutory limits. Messages could not interrupt programming and were limited to a duration of 30 seconds.

experiment to test the hypothesis that permitting limited advertising would well serve the public broadcasting system. For example, due to the small number of stations interested in participating, the participating stations were essentially self-selected and clearly did not represent a cross-section of the public broadcasting community. ^{5/}

Second, the demonstration did not take into account the potential impact of limited advertising on union and copyright agreements as well as other service agreements under which noncommercial broadcasting enjoys favored treatment. Third, the demonstration could not measure long-term effects. Thus, while the ELRA research was a significant aspect of the Temporary Commission's work, it did not provide a litmus test of whether public television advertising should be encouraged.

The Temporary Commission concluded that advertising should be permitted only if Congress could clearly determine (1) that the benefits to public broadcasting overall would exceed the costs, and (2) that the risks associated with advertising would not be shared by public stations that chose not to carry advertising. Some of the primary factors leading to this decision were:

- ° that overall revenues to the system would be limited because most public television stations would not carry advertising due to legal restrictions, local economic considerations, or concern about advertising's impact on the character of the public broadcasting service;

5/ Seven of the final nine stations were VHF stations, while most public television stations operate on the disadvantaged UHF band. Also, four of the top five television markets were represented among the participating stations and only three participating stations were outside the top 13 markets.

- ° that the risks associated with advertising -- particularly risks to the copyright structure now applicable to all public broadcast programming -- could not be limited to the stations carrying advertising messages; and
- ° that, despite the demonstration's short-term findings, no experiment could demonstrate that there would not be an eventual adverse impact on other vital revenue sources, such as corporate underwriters, large private subscribers, or state and local government support.

The Temporary Commission recognized that its efforts did not resolve all the questions concerning whether advertising should be used to provide additional revenue for public broadcasting. The work of the Temporary Commission did, however, significantly reduce the range of uncertainty so as to permit a more informed policy decision by the Congress.

It is my personal view that the existing balance among the varied funding sources for public broadcasting plays a crucial role in maintaining the special character of public broadcast programming. If advertising revenues do not predominate over other funding sources, the unique nature of public broadcasting should not be unduly affected. Nevertheless, the absence of commercial messages on public broadcasting serves as the "bright line" distinction between the public and commercial broadcast services. While reasonable persons can differ on this issue, I cannot recommend that this bright line should be eroded at this time.

On a related subject, I would like to note that the Federal Communications Commission yesterday acted upon the Temporary Commission's recommendation that the FCC reduce its restrictions on underwriting acknowledgements to permit public broadcasters to identify supporters by using brand names and trade names; the statutory prohibition on the promotion of products or services is, of

course, expressly continued. Memorandum Opinion and Order in the Matter of
Commission Policy Concerning the Noncommercial Nature of Public Broadcasting
Stations, Docket No. 21136, March 28, 1984.

I would like to thank the Subcommittee members and staff who were so important to completion of all the Temporary Commission's work. In particular, I must expressly recognize the outstanding contributions of Congressman Al Swift and Congressman Tom Tauke who were among the most active of all the Temporary Commission's members. If we did not stray too far off course, it was due to the guidance and support provided by these gentlemen.

Thank you for this opportunity to present my views. I shall be happy to provide any additional information that you may require concerning the work of the Temporary Commission.

TABLE 1
The Advertising Demonstration Program Stations At-a-Glance

Name, (Channel) License Type	Location	#TV Households (rank)	ADP approach	1st ad/ expanded credit aired	Fiscal Year 1983 Net Proceeds ¹	Net Station Total Revenue ²	Proceeds as % of Station Revenue
WTTW (11) Community	Chicago, IL	2,979,670 (3)	Ads	6/14/82	\$1,309,358	\$13,428,114	9.75%
WHYY (12) Community	Wilmington, DE/ Phila., PA	2,425,640 (4)	Ads	6/1/82	\$813,403	\$8,746,980	9.30
WPBT (2) Community	Miami, FL	1,148,390 (13)	Ads	5/24/82	\$375,297	\$7,333,904	5.12
WYES (12) Community	New Orleans, LA	608,250 (34)	Ads	3/26/82	\$346,562	\$4,356,153	7.96
KCSM (60) College	San Mateo/San Francisco, CA	2,009,820 (5)	Ads	5/21/82	\$214,459	\$1,840,879	11.65
WIPB (49) University	Muncie, IN	223,789 (98)	Ads	6/2/82	\$61,270	\$1,292,857	4.74
WQLN (54) Community	Erie, PA	150,180 (138)	Ads	9/9/82	\$13,891 <u>\$3,134,240</u>	\$1,819,876 <u>\$38,818,763</u>	0.76 8.07%
WNET (13) Community	Newark, NJ/ New York, NY	6,471,390 (1)	Expanded credits	11/21/82	\$745,467	\$58,530,671	1.27%
WQED (13) Community	Pittsbg., PA	1,213,030 (12)	Expanded credits	10/1/82	\$141,609 <u>\$887,085</u>	\$18,806,454 <u>\$77,377,125</u>	0.75 1.15%

¹Fiscal Year 1983 is the period from July 1, 1982, to June 30, 1983, or the last four quarters of the five-quarter demonstration program; Net proceeds = gross billings for cash and non-program barter less direct costs of sales or special development efforts.

²Total station money and inkind income less development and fundraising expenses.

Source: Station reports submitted to the Temporary Commission