

Remarks by FCC Commissioner James H. Quello  
at  
Joint Meeting of the Detroit Adcraft Club  
and  
the Detroit Better Business Bureau

Michigan Inn  
May 17, 1985

Thanks for the gracious home town introduction. I'm delighted to revisit my home-club people after a 10-year absence . . . and I'm just brimming with stories about controversial regulatory issues that I want to share with you. They should demonstrate why FCC could well stand for "From Crisis to Crisis."

Looking back over the past two years, I recall monthly crises which kept the staff and commissioners in heated controversy and also kept the meters running in the communications law firms. Some uncharitable souls even profess that law firms have incentives to encourage crises, but surely such base motivation is far beneath such an august profession . . . the world's oldest or one of the oldest I'm told.

In fact, the pervasive FCC crisis received recognition from an emcee who introduced me last year stating, "the constant crisis situation at the FCC has caused our speaker many a sleepless afternoon." (The emcee was not from a regulated industry). Another toastmaster introduced me at my "Inside View of Regulatory Washington" speech with "and now here's the dope from Washington, Jim Quello." They say happenings come in threes so I wasn't too surprised some time ago when a letter addressed only to "That idiot at the FCC" found its way to my in-box. I quietly dispatched it to another office.

You do find that a tolerant, all-encompassing sense of humor is a plus at the FCC. In fact, a laid-back positive outlook with a sense of self-unimportance is particularly helpful in your dialogues with Congress at oversight hearings. At oversight one side or the other critiques our traditional dismal performance, punctures our vanity and reminds us, "Remember, you are an arm of Congress. You are an independent government agency, independent of the executive branch not Congress."

I mentioned before that it wouldn't surprise me if someday one of the inquisitorial questions from Congress might be "Is there anything known only to you and not to this committee that could possibly be used to discredit, embarrass or impeach you? Remember, you are under oath!" Nevertheless, let the record show that I find their criticism justified and their sardonic wit stimulating.

However, we don't always feel like Rodney Dangerfield. There are occasional moments that demonstrate the importance of having a Commission vote. (Cite experience in Italy during war and later in TAT-7 deliberations.)

Anyway, so much has happened since I spoke to you ten years ago. There have been two national elections, a mind-boggling telecommunications explosion and two reappointments for me to the FCC with my current term expiring July 1, 1991. When Chairman Barry Goldwater asked me if I were willing to serve my full term, I said, "Yes sir, if God is willing, I'm willing."

In a little different vein, I'm glad to report to the Better Business Bureau, a foremost proponent of self-regulation (and co-sponsor of this lunch) that the current Commission has accomplished more to get government off industry's back than any FCC in history.

During the past five years, we have been involved in a veritable explosion in technological developments, deregulation and unregulation which provides new challenges and responsibilities for industry 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) and TV deregulation to implementing Computer II and enacting revised regulations for the newly structured telephone industry.

During the past four years many outmoded or unduly intrusive regulations and unnecessary paperwork requirements 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 has 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 vote 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.

My general approach to communications policy is pro-competitive. I believe marketplace solutions for radio, TV and advertising are in most cases better than regulatory ones. I supported 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, our 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 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 someone once told me and 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, 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.

Overall, it's a challenging, fascinating time to be at the Federal Communications Commission. Congress, the FCC, the public, broadcasting and advertising 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.

## ADDENDUM TO SPEECH (Optional)

The formal part of my address, above, is the official speech of record. It delineates FCC accomplishments and my regulatory philosophy.

In this addendum, I'll list the foremost current crisis issues and give a bottom line opinion or a status update depending on the legal sensitivity of the issues. I'll also answer any questions regarding the subjects listed below that your time permits.

The most contentious recent issues are: the media mania; mergers and hostile takeovers; repeal of the fairness doctrine and Section 315; the problems of the adversarial press; public broadcasting V for U swaps; advertising authorization for public broadcasting; beer-wine counter commercials; multiple ownership rules; financial interest and syndication; telephone rates and restructuring; cable must-carry and copyright requirements; spectrum allocation and sharing; INTELSAT competition; the Westmoreland and CIA fairness doctrine complaints.

Each of the above subjects could merit a full speech in itself.

I'll anticipate a question on the subject that affects many people in the advertising-media business. . . takeovers and mergers that have dominated recent headlines.

The question could well be: why the explosive surge in the urge to merge in broadcast stocks? What part does the FCC play in takeovers?

It seems that today "Let's Make a Deal" is more than a popular TV game show. It has become the maxim of the TV industry.

Look at a few recent headlines and you can see that as the song goes, the joint is jumping, it is really jumping with a flurry of media takeovers and merger proposals.

"No Money Down -- Will Ted Turner Buy CBS on the Cuff"  
 "Terrible Ted Turner's Bid for CBS Viewed as Outlandish"  
 "Ted Turner Is Crazy Like a Fox"  
 "ABC-Cap Cites Merge, Little David Takes Over Goliath"  
 "Storer Girds for a Fight, Unusual FCC Ruling Opens Door to Hostile Break-Up Bid"  
 "Knight-Ridder Group Makes Bid for Storer"  
 "4th Network: Murdock TV 2 Billion Dollar Deal Faces FCC Hurdles"

"Metromedia Agrees to Sell Seven Stations"  
 "Multimedia Rejects Jack Kent Cooke Offer"  
 "Gannett Co. Reaffirms Anti-takeover Plans"  
 "Take-Over Tremors Top Network Agendas"  
 "Taft Acquires Gulf Stations"

There has never been a successful hostile takeover of a broadcast company. And until recently, few were attempted. Suddenly, there is a realization that it is possible and that most broadcast-cable properties are undervalued and are attractive cash flow vehicles.

My general attitude on takeovers by professional raiders was expressed in my article in the Los Angeles Times on March 22, 1985. The key excerpt is:

The financial community should realize that broadcast properties should not be considered just another takeover game. Potential buyers have to meet the requirements of not only the Securities and Exchange Commission and the Justice Department but also the FCC, which is required to make a public-interest finding before a transfer of control or ownership. The requirement for FCC approval is something that potential raiders should keep in mind.

Our broadcasting system requires a degree of stability that is not enhanced by excessive financial manipulation and speculation.

I'll discuss takeover items chronologically. The first rumor and action was Ted Turner's famous paper chase of CBS. Bottom line: If he meets all FCC requirements, as he seems to be doing, Turner will be entitled to full FCC consideration; this does not imply a vote for or against at this time. It also depends on whether he can acquire sufficient stock interest.

ABC/Capital Cities: This is a friendly merger between two reputable broadcasters. There should be no major problems. However, like all other takeovers requiring a long form, there will be 30 days for comment, 15 days for reply comments and 5 days for rebuttal comments. FCC must analyze comments and vote approval before transfer of control.

The Storer possible takeover by dissident stockholders: This posed problems for me and I believe the FCC action and attitude in the Storer case added further stimulus to the current takeover mania. I dissented to the FCC decision that found that attempts to place 8 new members on the Storer Board to cash in all assets did not constitute a substantial change of control. The key word was "substantial" -- a substantial finding would have required filing a long form subject to 30 days comment and 20 days reply comment. My dissenting public



statement made during the FCC meeting was widely quoted in the trade press. Following is an excerpt of my public statement from Broadcasting Magazine (April 15, 1985):

Some on the Commission were blasting the majority's decision. 'With this action, I'm afraid the FCC is promoting bust-up liquidations promoted by professional raiders and causing potential anarchy throughout the communications industry,' said Commissioner James Quello. 'Companies carefully developed over years by current management are now sentenced to publicly announced, summary dismemberment for a quick, short-range profit'. . .

Commissioners Quello and Henry Rivera agreed with the decision to launch a notice of inquiry on the subject. But both also dissented to the majority's ruling in the Storer case.

In a statement, Quello charged that the committee's plans were a 'prime example' of a substantial transfer of control requiring the filing of an FCC Form 315 up front. 'The new proposed board proposes a drastic transformation from an operational business to a nonbusiness,' Quello said. 'It requires very substantial control to effect this complete reversal of current management directions and long-range planning.'

'With a substantial transfer of control, the FCC must make a public interest finding before transfer of control and allow the public a 30-day comment period. The Commission has a broader obligation in transfers than the Securities and Exchange Commission, which protects shareholders, or antitrust departments, which preserve competition. The FCC has the obligation to protect the public interest -- to assure quality service to broadcast viewers and listeners. Quality service requires stability of ownership, long-range planning and development.'

Murdoch purchase of American stations: There should be no bar to acquisition if he solves alien ownership and cross ownership problems -- also depends on petitions to deny that may be filed. I asked Mr. Murdoch, "How do you plan to serve the public interest in America?" He mentioned his vast communications experience including two television stations in Australia and said he could bring \$400 to \$500 million to American programming and programming development.

Repeal of fairness doctrine and Section 315 is a longstanding, highly debated issue in Congress and the FCC. In a recent controversial speech, I charged that the over-zealous adversarial approach of the press was hampering efforts to gain full constitutional freedoms for the electronic press. Bottom line: despite all our efforts, it is unlikely Congress will repeal Section 315 and the fairness doctrine.

Telephone structure, rates, are now a major FCC common carrier problem. Remember, the FCC did not break-up AT&T. The courts and the Justice Department did. The FCC has the thankless task of reasonable implementation. I personally get criticism friendly and unfriendly. A friend of mine said the new AT&T rules were a great time saver -- he now gets three wrong numbers in the same time it used to take to get one. Another said that my quest for free speech certainly doesn't apply to his phone bill. Remember, the FCC has about 2,000 employees all with home phones and none are anxious to pay more for their own phone bill. Also, all of us were consumers before we became commissioners and we are still consumers. Bottom line: you will soon be paying a \$1.00 subscriber line charge -- for your own long range benefit. FCC will do its best to preserve universal service.

My controversial "Press Under Fire" Speech: Bottom line: fortunate timing, well-received and will be updated and revisited this fall.

Beer-wine ad ban and counter-commercials: Bottom line: unconstitutional, discriminatory and and ineffective. This requires at least a half hour treatise. Hearings will be conducted by House Communications Subcommittee starting May 21st on counter-commercial aspect of this issue. Remember, it can be scientifically demonstrated that as little as 1/4 bottle of whiskey can cause dangerous, irrational social behavior. Scientists pour 1/4 bottle of whiskey in a one pound rat. Depending on his genetics, the rat either passes out, runs amok on his treadmill or sexually assaults his own litter box.

All other crisis-evoking issues: Answers upon request.

I would be remiss if I didn't leave you a brief message on advertising. The observation is not mine but that of Stephen Leacock, the late Canadian author and humorist. He said: "Advertising may be described as the science of arresting the human intelligence long enough to get money from it." I wish you continued success in your pursuit of science.

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