

INTERVIEW WITH AND ABOUT
SENIOR COMMISSIONER JAMES H. QUELLO
FEDERAL COMMUNICATIONS COMMISSION

By Susan Lynd

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Commissioner James H. Quello, a native Michigander, will complete thirteen years at the FCC this April 30th. It will be the third longest term of service in the history of that powerful federal agency and the longest term ever served by a Democratic member of the Commission.

How well has the former Vice President and General Manager of WJR and former 21 year member of the Detroit Housing and Urban Commission done?

The evidence and comments from Washington are very positive for the present senior commissioner. The opinions are derived from such accepted standards of measurement as Senate confirmation hearings, trade press editorials and articles, distinguished service awards (from public broadcasters associations, National Association of Television Programming Executives, National Radio Broadcasters Association, Michigan Association of Broadcasters, universities, etc.) and comments from FCC associates, communications attorneys and government officials.

The commissioner has come a long way since his tumultuous record-breaking 8-day confirmation hearing in February 1974. Washington activist groups opposed his confirmation because

465

he came from a regulated industry. They mounted a major campaign despite Quello's strong home-state support from such respected witnesses as the late Senator Phillip Hart, considered the conscience of the Senate; Congressman John Dingell; then Congresswoman Martha Griffith, and Congressmen Lucien Nedzi and William Ford. Federal District Judge Damon Keith, an old friend and fellow Detroit Housing Commissioner, also testified as did Detroitter Boniface Maile, former Commander-in-Chief of the Disabled American Veterans.

Quello's nomination in a Republican administration came about through the personal efforts of then U.S. Senate Whip Robert Griffin and Congressman Gerald Ford, who was soon to become Vice President and then President. Quello received strong endorsements from such varied groups as the New Detroit Committee, the Detroit Round Table, the Detroit Urban League, the Michigan Association of Broadcasters, the National Italian American Foundation, the National Veterans of Foreign Wars, all Michigan veterans' organizations, the Michigan state legislature with a joint testimonial resolution, the United Foundation, the Michigan Chamber of Commerce, the national Teamsters Union, the Adcraft Club of Detroit and national advertising organizations, along with strong personal endorsements from Michigan Governor William Milliken and Detroit Mayor Raymond Gribbs.

Despite all that support, he was on and off the hearing stand in the Senate room for an unprecedented eight days but was eventually confirmed unanimously by a Senate floor vote.

Broadcasting magazine, which initially opposed his nomination, characterized his hearing appearances as "forthright and feisty." Torbett McDonald, former liberal Democratic Chairman of the House Telecommunications Subcommittee, characterized Quello's testimony as courageous. Senator John Pastore, the Chairman conducting the lengthy hearings, finally recommended unanimous Senate approval. Among other things Italian-American John Pastore said he liked the way Quello spelled his name and answered questions.

The Congressional Quarterly publication in the fall of 1974 stated "Quello could look back upon his lengthy confirmation hearings with a satisfying sense of accomplishment."

In contrast to the 8 day ordeal, the next two confirmation hearings in 1980 and 1984 averaged twenty minutes each with not a single negative witness! Broadcasting Magazine, sometimes called the Bible of broadcasting, opposed his initial confirmation but supported him with a strong editorial before his last hearing in June 1984. It concluded:

"Of all the news that issued from the White House last week, none was more welcome to Fifth Estaters than that of Jim Quello's nomination to a third term on the FCC. As the story in "Top of the Week" testifies, he will present himself for Senate confirmation backed by far more friends than enemies--a record few can boast after 10 years in Washington."

"It would have been hard to prophesy so happy an ending when Quello first emerged from his native Michigan, with little but his credentials as a broadcaster (WJR-AM-FM Detroit) to commend him.

Even this page was slow to embrace his candidacy; among other reluctances was a belief that few would take him seriously, and that in the highly charged political atmosphere of that time (1974) he could never survive the confirmation process. Indeed, it took longer for his hearing than for any other commissioner before or since, with more witnesses aligned against him than for him."

"But what none took into account at the time--but as all know now--Jim Quello is no respecter of odds. When few others had faith in him, he just generated more within himself. Senators who stood in his way weren't allowed to do so in isolation--Quello himself would appear in their anterooms to demand they hear him out. And when he finally appeared before the Commerce Committee--according to one of several BROADCASTING accounts of that period--'His answers were forthright and occasionally feisty, and some of them had broadcasters in the audience holding their heads in their hands.'"

"Well, they take Quello seriously now, and for good reasons. He has applied himself with vigor and ardor to every issue that has come his way on that agency's crowded and complicated agenda. He has been both knowledgeable and sympathetic to the broadcaster's cause but no rubber stamp in voting their issues. His support for public broadcasting has made him a particular hero on that side of the aisle. And his opposition to blanket approval of financial interest repeal established him in a leadership role at the Fowler FCC. (That opposition did not endear him to the chairman, but it can't have hurt at the White House.)"

"Let there be no doubt this time. We're declaring for Quello early, and we plan to be there all the way."

Dean Burch who strongly opposed Quello's nomination when he was FCC Chairman in 1973 and early 1974 did a 360 degree turnabout by 1984. Speaking before the Independent Television Association's National Convention in early spring 1984, Burch said

"We should all light candles and have a vigil service to assure Commission Quello's reappointment. We need his professionalism on the Commission."

Quello's last hearing in June 1984 was for a seven year term that ends June 30, 1991. Both Chairman Barry Goldwater and Michigan Senator Don Riegle of the Senate Communications Committee lauded the senior commissioner's character and record. He was also gratified to receive strong support from Democratic Senator Ernest Hollings, now Chairman of the Senate Communications Committee. At the end of the hearing, Senator Goldwater asked Quello if he would be willing to serve his full term. Quello at that time an active 70 years of age, said "Yes sir! If God is willing, I'm willing!" Richard Wiley, former FCC Chairman and current president of the Federal Communications Bar Association, observed that Quello, a conservative to moderate Democrat, had always been nominated by a Republican president. Wiley explained,

"Quello is conservative enough to be nominated by President Reagan, moderate enough to be confirmed by Democrats and sensible enough to be welcomed by both sides. Generally speaking, his written opinions and decisions seem to be especially valued by key congressmen and senators of both parties."

Quello's answer to his seeming political dichotomy is

"I have personally served under both Democratic and Republican controlled Commissions (Only three of the five commissioners can come from the same party.) and was relatively comfortable with the different social and legal approaches to regulation. Fortunately, I and most of my colleagues don't decide complex regulatory issues by partisan Democratic or Republican votes. The issues are decided on the legal record and the individual commission's determination of logic, reason and serving public interest."

The unprecedented take-over of broadcast properties the past two years was vigorously opposed by Quello. He said broadcast properties carefully developed over 50 years of service in response to the public interest were being threatened by hostile take-overs by predators acquiring companies for quick financial gain. He particularly fought the initial hostile take-overs of Storer Broadcasting (WJBK, Channel 2 in Detroit) and the Evening News Association (WWJ radio; also former Channel 4) who he said were worthy competitors to WJR and had a long record of broadcasting in the public interest. He wrote a 4 column by-line article for the Los Angeles Times with key paragraphs stating:

"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."

Quello also stated in his speeches

"I don't think I was appointed by the president and ordained by Congress to accommodate a bunch of fast buck artists buying and trading broadcast properties like commodities."

Quello did not oppose the eventual friendly offer of Gannett Co. to take over the Evening News because he considered Gannett a reputable bona fide communications company. Years before he supported the swap of Channel 4 Detroit News for Channel 9,

Washington Post. He believed the trade furthered the FCC policy at that time of diversification of media control.

Chairman Mark Fowler characterizes the senior commissioner's approach to regulation as "concise, perceptive, practical and friendly. He cuts through detail and gets immediately to the practical bottom line of issues." Quello has served with Chairman Fowler for over five years and claims he supported the Chairman 95% of the time. The only big exceptions in five years seem to be the "must carry" and the "hostile take-over" issues.

Quello himself claims his approach to regulation is necessarily more journalistic than legalistic. In the process he occasionally gives lawyers a good-natured dig. In his latest January speech before a group of government officials and lawyers, he told this story

"A high-priced lawyer, a low-priced lawyer and Santa Claus were walking down the street and came upon a \$100 bill. Who got the \$100 bill? The high-priced lawyer, of course, because the other two are mythological characters!"

He concluded the interview by volunteering bottom line opinions on a number of current FCC issues including the following:

Obscenity on TV and Radio: If obscenity on the air is proven, we should nail somebody with a license revocation proceeding or a \$10,000 fine. I'm a strong journalistic First Amendment advocate, but our founding fathers didn't guarantee freedom of speech for this repulsive purpose. FCC action would have a much needed deterrent on smut on the air.

Sam Donaldson: Sam took a mild shot at me in the February issue of the Washingtonian Magazine. He stated I characterized his questioning the president about his son before Christmas as "the nastiest, most underhanded, most vicious question ever heard." He also generally tried to justify his behavior at presidential news conferences.

In the interest of accuracy, I told him I expressed disapproval but did not hyperbolize to that extent.

My last paragraph stated

"Your rationalization that insolence and boorishness are valuable tools of the journalist's trade leaves me bewildered. It may enhance your sense of self importance but I am at a loss to understand what those qualities bring to the quest for relevant truth."

Challenge to Minority Preferences: In an appearance before House Telecommunications Subcommittee oversight hearing, Quello was the only commissioner to support continuance of minority preference in awarding broadcast licenses. For the committee record, he said

"I'm not a lawyer but I believe we have broad discretionary authority to regulate broadcasting in the public interest. I believe reasonable minority representation in broadcast ownership in America serves the public interest -- with or without a direct nexus to programming. If the courts disagree, I must critically examine all their reasoning and reserve final judgment. I really think minorities have arrived in America and I am pleased with the great progress the past 20 years -- they play vital role in serving their country in the armed forces, elect important officials, receive widespread public acclaim and great wealth for their athletic and creative talents and also for their professional and executive attainments. They play an overall critical role in supporting American democracy. However, they still need added opportunities to own a chunk of the influential communications rock to become fully integrated into society."

"Eventually I hope we can arrive at the millenium where all Americans have equal opportunity without special preferences. All of us today favoring minority preferences must face the reality that it is an inherently sensitive issue evoking strong pro and con expression. It tends to breed resentment from other Americans not benefitting from special treatment or not fully appreciating its social value."

"However, in my opinion, we have not yet arrived at the millenium. We still have some "catch up" to do. There is still need for added minority incentives like tax certificates, preferences in lotteries and comparative hearings and also in economic aid to stimulate the desired diversity in ownership. As I said before, I simply believe reasonable increased minority representation in communications ownership serves the public interest. I remain committed to the Commission's longstanding goal of encouraging and assisting minority and female entry into broadcasting. I will carefully examine the court's opinion but I place the burden of proof on those that would challenge the constitutionality of our longstanding Commission policy of minority preferences."

Must-Carry: In my opinion, the FCC should have initially appealed the Court of Appeals decision invalidating the Commission's rules requiring cable systems to carry local TV signals. We should also have promptly initiated a notice of proposed rulemaking on its own motion to remedy the inequities described in the court opinion. The court practically invited the Commission to recraft the rule. The controversial court decision granted cable disproportionate power. I don't believe any entity controlling a monopoly distribution pipeline should have the power to thwart any local TV station's access to the audience to which it was licensed and is required to serve. I believe licensee service to the public is expressly required by the Communications Act. We should expedite the current FCC proposal as directed by Congress.

Repeal of Section 315 of the Communications Act of 1934 and

Fairness Doctrine: The prestigious RTNDA (Radio Television News Directors Association) is the appropriate organization to spearhead this renewed campaign. Courts are the logical vehicles for Constitutional challenge. I'm a longtime advocate of repeal, but have been of the opinion that the Fairness Doctrine was statutory. The Court of Appeals for the D.C. Circuit recently ruled that it is not statutorily based.

Amerika: In a free society we allow all types of social expression or TV productions. Networks and reporters even have the right to be wrong as long as they are not deliberately malicious or obscene. On a scale of 1 to 10, I give Amerika a weak 4 as a socially significant TV production.

Syndicated Exclusivity: I support the FCC proposed rulemaking to re-establish syndicated exclusivity. The syndicated exclusivity rule which the Commission repealed six years ago required cable systems to not import programs from distant television stations which were being broadcast by local stations. The purpose of the rule was to help enforce the exclusivity the local stations had contracted for. I was against elimination of the rule. This action validates my strong dissent of 1980. However, there are new legal problems with re-establishing the rule and we must analyze comments from expert legal minds.

Tauke-Tauzin Bill revising comparative hearings for license renewal: Excellent legislation correcting a much abused process. Merits the support of all broadcasters and fair-minded legislators if, in return, demands on broadcasters as license trustees are reasonable.

Cross Ownership Waivers: I believe the influential ANPA (American Newspaper Publishers Association) is the appropriate organization to spearhead an NPRM (notice of proposed rulemaking) to determine if and when enforcement of these rules is counterproductive to their intent and actually results in reducing diversity of media. In the meantime, waivers should be considered only when strong factual evidence is developed that divestiture would lessen the diversity of information and media available to the public. Parties seeking waivers would have to meet a strong burden of proof. However, cross ownership restrictions can be counterproductive -- for example, loss of TV stations was a major reason for the demise of the Washington Star, Boston Herald Traveler and the Philadelphia Bulletin.

Beer-wine ad ban and counter commercials: Unconstitutional, discriminatory and ineffective. Wise congressional action would minimize FCC involvement.

Public broadcasting VHF for UHF station swaps: An intriguing idea whose time has not come. Long-range implications are too negative and there is overwhelming opposition from a large

majority of public and commercial TV operators. Perhaps the idea should never come.

Scrambling satellite transmissions: Programmers have a right to protect their properties by scrambling, but means should be devised to provide satellite programming to rural areas at a reasonable cost.

FCC take-over problems: Reconsider and drop the ill-considered short term trustee concept in take-overs. Craft expedited FCC Form 315 procedures. FCC must pass on public interest qualifications before transfer of control. Also re-establish the 3 year holding rule to discourage indiscriminate trading of broadcast properties. Congressman Al Swift is right on target with his bill re-instating the three year rule.

Telephone structure, rate: There are many complex issues that are highly contested by competing interests. Subscriber line charges are required for the consumer's own long-range benefit. FCC must preserve universal service and do all in its power to provide a level playing field to achieve maximum benefits to the consumer and reasonable opportunity for business growth. If phone company profits become excessive and outstrip the economy, the FCC and state regulators may have to undergo a thorough, controversial review of the allowable rates of return. I tend to believe the benefits of additional subscriber line charges outweigh the disadvantages to all of us consumers.

Quello said he would be remiss if he didn't leave you a brief message on practicalities in regulations. As a non-lawyer, he finds great solace in this quote from President Franklin D. Roosevelt expressing his view of the role which should be played by an administrative agency in government. He said:

"A common sense resort to usual and practical sources of information takes the place of archaic and technical application of rules of evidence, and an informed and expert tribunal renders its decisions with an eye that looks forward to results rather than backwards to precedent and to the leading case. Substantial justice remains a higher aim for our civilization than technical legalism." (Emphasis added.)

Quello ended the interview with

"Overall, it's a challenging, fascinating time to be at the Federal Communications Commission. Congress, the FCC, the communications bar, the industries and the public must work together to maintain our communications leadership so that Americans remain the best informed, best served and the most gainfully employed people in the world. At my age, an active 72, and with 4-1/2 years more to serve, I'm not looking for anything but decent effective government in a strong, socially-progressive America."