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Remarks by
Commissioner James H. Quello
Federal Communications Commission

at the

NATIONAL RELIGIOUS BROADCASTERS ASSOCIATION
Luncheon
January 31, 1989

I am pleased to bring you greetings from the FCC -- the Friendly Communications Commission -- reflecting the spirit of a kinder and gentler government relationship.

I remember my good friend and then Chairman Dick Wiley's amusing story about the three greatest lies in America -- "the check is in the mail," "it is great to be poor, it builds character," and "we are from the FCC and we are here to help you! Well, under the rekindled kinder co-operative spirit in government, we are here to help you -- if you also help yourselves by self policing and in demanding the highest ethical requirements for religious broadcasters. To your credit, there is every evidence that you are doing exactly that!

The last time I addressed you was in 1985. Much has transpired since that time. We have recently witnessed the closing chapter of the Reagan presidency. While a complete analysis of the Reagan years awaits future historians, I believe there is one fact that cannot be disputed. With the undying support of religious leaders such as the National Religious Broadcasters, Ronald Reagan was able to place basic moral,

religious and patriotic values at the top of America's political agenda. We have once again found moral courage and national spirit.

The relationship between high moral and religious standards is evident throughout this nation's history. Our first president, George Washington said it best, "Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports."

Recently, we celebrated our bicentennial inaugural. Given the importance of national moral values to our democracy, the nation is very fortunate to have George Bush as President of the United States. President Bush will continue the traditions established by George Washington and rekindled by Ronald Reagan and keep America on the right course. The ship of state is in good hands.

We must recognize, however, that the responsibility to set the moral tone for the nation rests not only with the President, or the government, but, with all of the citizenry. As members of the National Religious Broadcasters, you have the unique privilege, indeed obligation, to act as beacons on the important moral issues of our day. This duty goes well beyond the public trustee responsibilities imposed by the Communications Act. Ultimately you must answer to a higher regulatory authority and His sanctions can be far more severe than those found in the FCC rules.

Influence and power carry with it tremendous responsibilities. I need not remind you of the difficulties caused by a few discredited religious broadcasters. To your credit, the NRB is continuing to police itself. I applaud your efforts. You must remain ever vigilant, however, to ensure that your reputation, and more importantly, the reputation of the message you broadcast, remain beyond reproach.

Your message provides an important counterbalance to the increasing levels of violence and filth in our society. At a time when our news is filled with murders, political corruption, war, sex and child abuse, we need a message that lifts the spirit and inspires the best in us. As our movies, even television movies, become more sexually explicit we need programming to teach our children that relationships between men and women are based on sacrifice and love, not simply casual sex. Do not let the transgressions of a reckless few discourage your mission. America needs your message. You provide a safe harbor for millions of people who seek inspirational comfort and positive family values.

For its part, the Federal Communications Commission has the responsibility to ensure that the airwaves remain free of material that is obscene and indecent. Government regulations in this area are constrained by the First Amendment and the Communications Act, which prohibit censorship.

While I'm a strong advocate for full Amendment rights, I also believe that our founding fathers didn't guarantee freedom of speech and press for repulsive obscene purposes. Regarding indecent speech, I agree with Justice Stephen's observations in the now famous Pacifica case:

These words offend for the same reasons that obscenity offends. Their place in the hierarchy of First amendment values was aptly sketched by Mr. Justice Murphy when he said "such utterances are not an essential part of any exposition of ideas, and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality.

Pacifica Foundation Inc. v. FCC, 438 U.S. 726, 746 (1978).

Now I would like to set the record straight regarding recent FCC activity in regulating indecent speech. Some have criticized us for relaxing our indecency rules. Nothing could be further from the truth.

After the Pacifica case was decided in 1978, the Commission proceeded to define indecency narrowly. In fact, the only time the FCC would make a finding of indecency was where a broadcaster repeatedly uttered the seven dirty words expressly prohibited by the Pacifica decision. Moreover, broadcasts containing these words could be aired after 10 PM.

Between 1978 and 1987 no sanctions were issued by the Commission for indecent speech. Simply stated, it was open season.

In 1987 the Commission finally moved to eradicate what was becoming an increasing problem. First, we expanded the definition of what would be considered indecent speech. Indecency was no longer limited to the seven dirty words but included any language or material that depicts or describes, in terms patently offensive as measured by contemporary community standards for broadcasting, sexual or excretory activities or organs.

The second major aspect of our decision was to change the time when such material could be presented. Because our primary goal is to protect children from such messages, we ruled that such material could not be aired before 12 midnight. Thus, the Commission actually tightened rather than relaxed its obscenity rules.

The Court of Appeals, however, did not agree with the Commission. While the Court upheld the broader definition of indecency, it struck down the Commission's 12 midnight rule. The Court ruled that the Commission did not prove that this additional restriction was necessary to protect children.

Recently, in response to legislation that prohibited indecent speech from being broadcast at all times, the Commission adopted a rule that completely banned indecent speech from the airwaves. We were promptly sued. Oral argument was held in the United States Court of Appeals on January 23. Unfortunately, our rule was struck down. While it is not entirely clear, the Commission's ability to prohibit indecent speech appears to be limited to daytime hours.

My purpose for relating this information to you is not merely to describe our legal problems. Everybody has trouble with lawyers and judges, including the Commission. You should be aware, however, that we are doing everything in our power to draft an effective rule governing broadcast indecency. Often we are faced with the situation where the rule we prefer will not survive Court review. We shall continue to take positive steps in this area. Ultimately, with your help and prayers, I believe we will succeed.

In the long run, I believe the problems you have faced in the past few years will make your organization stronger. Your actions to establish enforceable ethical guidelines sends a strong signal to America. I know you will succeed in these endeavors. America needs to hear your positive messages to strengthen our moral and religious fiber. Keep up the good work, may your tribe increase and God bless you!