

OPTIONAL SPEECH MATERIAL

Commissioner James H. Quello

American Association of Advertising Agencies
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The regulatory power of the FCC has been overestimated, underestimated, challenged, debated and damned. Of course, the function and jurisdiction of the FCC as an independent regulatory agency has been defined and guided by the Constitution and by the laws of the Communications Act of Congress. The FCC was established as an "Arm of Congress".

William F. Buckley, Jr., interviewing FCC Chairman Wiley last fall, said "I think it fair to say that Mr. Wiley and his distinguished colleagues - (a term I would probably have used anyway but which I made it a point to use since I happen, in what I once thought to be my private life, to be Chairman of the Board of a broadcasting company) wield greater economic power than all the courts put together." That is probably overstating FCC power somewhat -- although the impact and ramifications of some of our decisions are agonizing and awesome. However, the Senate and the House in the exercise of oversight authority make certain that regulatory agencies maintain a becoming humility. The numerous inquiries from oversight and special study or investigatory committees are a regulatory fact of life. The questioning is intense and detailed. In fact, I wouldn't be surprised if someday a question would be included in an inquiry ----- "Is there anything known only to you that could possibly be used to embarrass, discredit, or impeach you. Please state and remember you are under oath."

My good friend, Congressman John Dingell, gave me fair advance warning. When I was first nominated, he said "What do you want the damn job for? - you will be beat up by Congress and overruled in the Courts." So we do get beat up by Congress from time to time, but a majority of our decisions are sustained in court.

As I mentioned, some of the decisions are awesome. Arguments pro and con are equally persuasive. You listen, read, deliberate, soul-search and agonize. You even wish you could flip a coin. First and foremost consideration is which action best serves overall public interest? In this case, what is the public interest? Where do reason and justice predominate? Which viewpoint or action scores the most points legally, ethically and morally?

Finally, it's "H" hour and "D" day ---the Commission votes. Promptly after the Commission vote, three things invariably happen. First, the losing litigant or proponents immediately charge the Commission with not serving the public interest. (You haven't served their private interests or adopted their proposals, hence you are not serving public interest in their estimate). Your motives are impugned.

Second, the losing litigants or proponents damn you in Congress, in the press and among friends and organizations sympathetic to their cause or viewpoints. (Sometimes the objective is to cause a tough oversight hearing).

Third, the FCC decision is appealed in court---the third is a perfectly legal and ethical recourse. Just spare us the first two steps - chances are, we have suffered enough making the initial decision.