

Concluding Remarks: A Regulatory Perspective

by Commissioner James H. Quello

Broadcasting/Cable Interface III

June 5, 1989

It is difficult to provide additional regulatory perspective at this late hour after the impressive parade of communications leaders and legal experts presented by Broadcasting/Cable Interface III. Senator Inouye, Chairman Markey, Chairman Patrick, Jack Valenti, Stephen Weiswasser and the brilliant panelists covered every possible communications perspective except my own personal version.

In the interest of merciful condensation of time, I'll address only one major subject -- the subject with the most far-reaching implications for the future of communications in America and, incidentally, billable hours for communications lawyers and lobbyists, is the telco-cable issue. This contentious ongoing FCC proceeding may result in recommending that Congress lift the statutory ban against telcos offering cable television in the phone company service area.

In my opinion the key question to resolve is whether telco entry will be a threat or a boon to preserving free universal TV service. I believe the crucial public interest issue for Congress and the Commission should be the preservation of free local television service to all the public.

573

Only broadcasting, not cable or phone fiber service, has a government licensed obligation to provide TV service to the public. Broadcasting is by far the principal source of local news and government affairs, of vital local services like traffic, road, weather, school closing reports and emergency bulletins. And only broadcasting has a program-issues public file requirement for license renewal and for public inspection. I have repeatedly stated that no unregulated transmission pipeline monopoly, cable or phone fiber, should have the power to obstruct or prevent a broadcaster from discharging his government mandated requirement to serve the public on the very channels assigned by the government (FCC).

The ultimate implementation of nationwide telco entry is probably years away. As I have mentioned at the NAB convention, both the potential and problems are mind-boggling.

The best I can do at this time is to share some tentative or preliminary thoughts with you. Congress should probably remove MJF restrictions on information services for BOCs, subject to certain conditions such as computer III requirements of comparable treatment for all enhanced services. BOCs should be able to provide video service on a common carrier basis. BOCs would not be permitted to provide video programming as video programming is defined in the Cable Act.

The 1984 Cable Act should be modified to enable video programmers to use phone common carrier facilities without requiring franchise permission from municipality or state.

Common carrier facilities should be universally available to programmers under normal tariff provisions.

If and when franchising authority problems are solved, then I would recommend prohibiting telephone companies from purchasing existing cable systems thus assuring a competitive marketplace and also encouraging developing of a switched fiber network.

It is no secret that I strongly urge Congress to enact must carry legislation for conventionable cable systems assuring station licensees access to the public they are licensed to serve. I have 30 pages of testimony in the Congressional record on this subject.

I believe it eventually serves the public interest to have all local broadcast signals available on the switched fiber network at reduced tariff rates. Reduced tariff rates are justified because of the government requirement that local broadcasters serve the public interest. Broadcasters serve everyone -- with emphasis on the millions of non cable subscribers.

Of course, the main question of telco entry into video programming remains unanswered. We are still in a fact gathering inter-industry negotiation stage. I plan to propose a full en banc FCC hearing on all aspects of the telco issue after the new commissioners are confirmed. The hearings will seek testimony from the best informed leaders from broadcasting,

cable, telephone companies, Justice Department antitrust division, and also experts from liberal and conservative think tanks like the Brookings Institution and the Heritage Foundation. The hearings would reinforce and complete the FCC teleco record on this complex issue and serve as an informational process for new commissioners. The FCC findings and recommendations will then be forwarded to the Senate and House Communications Committees for legislative consideration. If new commissioners are in place by early fall, the en banc hearings could be scheduled for December or January. This will avoid any rush to judgment and, more importantly, provide a complete record representing various expert viewpoints on which to base a well informed, practical decision which best serves overall public interest on this contentious issue.

A few years ago, a clean-up speaker ingratiated himself with the audience by remarking, "The mind can only absorb what the seat can endure." It applies today -- now at 5:45 PM after a long, but very productive, thought provoking, day. Congratulations to Broadcasting Magazine and Wiley Associates for a most successful forum. Best wishes for judicious use of your more knowledgeable perspectives and unchafed seats.