Speech By FCC Commissioner James H. Quello

Before the

WIRELESS CABLE ASSOCIATION INTERNATIONAL'S
FIFTH ANNUAL INTERNATIONAL EXPOSITION AND CONFERENCE
Marriott's Orlando World Center
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Thank you for honoring me with your Golden Eagle Leadership award. I especially appreciate this significant addition to what I call my pre-posthumous awards. Of all my prestigious awards, this is by far and undeniably the most recent.

When I heard I was receiving an award, I realized this was one association lunch I could attend without being accompanied by a food taster.

This kind of recognition is especially gratifying and helps keep this senior citizen young at heart and active at working. For example, you may have noticed right before the House acted that I did not "waffle, wiggle or waver" about taking the forthright position that our FCC telco-video dialtone decision, with all its positive future potential, did not eliminate the need for the current cable legislation which is addressing present problems. I told the press that dialtone did not address such essential current issues as cable rates, retransmission consent, must carry, program access or major sports syphoning. Also, I said FCC action cannot negate the prerogatives of Congress, especially the restrictions of the 1984 Cable Act which Congress itself must revise.

So I was pleased, and you must be delighted that the House did not buy the proposal that the FCC video dialtone action supplanted the need for cable legislation. In fact, the House in a strong move that shocked your opponents and surprised the communications world voted 340 to 73 for a comprehensive cable bill that included program access requirements -- a most significant provision for wireless cable.

The next step is that the House bill, H.R. 4850, must be reconciled with Senate bill S. 12 at a conference committee. And then there is the constantly reported threat of a presidential veto. So you have won a significant legislative battle against all odds. But you have not yet won the war.

In this legislative battle, you were out-manned, out-dollared and, numerically, overwhelmingly out-lobbied -- but not out-fought. Reason and true cable competition were on your side. Bob Schmidt and your association and allies pulled the lobbying upset of the year -- no, the decade! I think Bob has earned a hallowed spot in the all-time lobbying hall of fame.

Also, you should build a WCA permanent monument to Congressman Billy Tauzin for his leadership in the program access fight. If Congressman Tauzin comes into your presence, fall on your knees and kiss his, ring -- figuratively if not literally.

There is now the promise of a great competitive cable marketplace in your future with wireless as a viable competitor. But there is a lot of work ahead to assure a great future for wireless cable. Remember, even with your well-earned battle victory, the war is not won. For a final conclusive victory, you must keep telling your positive story and sell the congressional conference committee and the White House.

Your association and allies must impress the president and the White House staff that this legislation provides for much-needed marketplace cable competition. It is definitely a pro-competitive, rather than re-regulatory, action. The White House policy, as you know is strongly and irrevocably pro-marketplace and anti-regulatory.

I think Bob Schmidt is on target in suggesting telegrams to the President and Chief of Staff Sam Skinner from all of you here urging no veto of this most important pro-competitive legislation. As you well know, the legislation stresses marketplace competition.

I agree with Bob that this action today will make possible an increase from 110 wireless cable systems to potentially over 1000 with better prices for consumers, more program choices, and increased employment.

Now on to the business at hand. Commissioner Duggan's thoroughness and eloquence in covering regulatory issues permits me to be mercifully brief today.

I do want to mention that the Commission has been able to take significant steps to help wireless cable become a viable competitor in the video distribution marketplace. To accomplish this, we have effected changes to our rules. The Commission has made spectrum available for MMDS operations; allowed ITFS licensees to lease excess capacity to wireless cable operators; allowed wireless cable operators access to Operational Fixed Service frequencies; and has provided MMDS use of ITFS frequencies where excess ITFS frequencies are available. These rules were formulated with the desire to foster the development and growth of wireless cable.

But all is not well with the regulatory process. As you know, we have time delays in application processing due to limited Commission resources; the avalanche of applications filed by application mills; the necessity of filing applications processed by different FCC Bureaus operating on different time schedules for processing such applications, are just a few of the regulatory barriers confronting today's wireless cable operator and applicant. Also, there are other regulatory, technological and financial issues that further complicate wireless cable operations, not to mention the program and price demands of your customers.

Relief is in sight, at least in the regulatory arena. Earlier this year, Chairman Sikes sought input from his fellow Commissioners on regulatory areas needing reform. Without discussing the matter among ourselves, each Commissioner proposed more attention be given to wireless cable development. Specifically, the tremendous backlog of applications is a major problem. Moreover, we generally agree that attention must be given to possible streamlining of MMDS regulations. With respect to expediting the Commission's processing of MMDS and ITFS applications, Commissioner Duggan, when speaking before you at your Denver meeting, suggested a "one-stop-shopping" approach rather than the current policy of having to apply to different FCC Bureaus to obtain the necessary channels to provide service to the public; a suggestion I heartily endorse. Fortunately, with the current proceeding in PR Docket 92-80 we are addressing the issue of application processing and proposing to make other changes to our rules that should translate into less regulatory headaches for wireless cable operators.

As you well know, we did not get into the current application processing logjam overnight. There was a time when processing of MMDS applications came to a standstill due to limited Commission resources and other more immediate matters. I remember my office receiving a call from a frustrated MMDS applicant who was just told by an FCC staffer that no MMDS applications were being processed due to staff reductions and staff reassignment. This occurred at a time when thousands of MMDS applications were being filed with the Commission. Needless to say, shortly after that call applications were once again being processed, but the damage was done and the backlog was burgeoning.

More recently, I heard horror stories of MMDS applicants finding themselves mutually exclusive with 1983 tentative selectees who never appeared on any Commission public notice. Furthermore, we have difficulty locating the 1983 tentative selectees.

Moreover, I hear numerous stories of MMDS licensees attempting to secure enough channels by pulling together MMDS, MDS, OFS and leased ITFS channels only to find their financing and construction frustrated by the inability to secure all the licenses needed within the appropriate time frame. Licensees have the license for one set of channels with the clock ticking on the construction time table, while waiting for other applications to be processed. This presents significant problems when actually constructing systems, not to mention the added costs.

On another subject, I have to deplore as most of you do, the tremendous disservice to wireless cable operators and to potential consumers inflicted by unscrupulous application mills. I was pleased to see the National Association of Securities Administrators issue a consumer warning regarding the fraudulent practice of selling MMDS licenses. These mill-generated applications have bogged down the Commission's application processing and have delayed service to the public.

Finally, I am all too aware of those who attempt to thwart the development of other wireless systems by seeking out school systems willing to file for ITFS frequencies and requesting receive site protection at sites that interfere with the potential wireless system. I am concerned that some school systems may not be aware of their obstructive role in this process as comments submitted in the Docket 92-80 proceeding seem to indicate.

With all of this in mind, it is necessary now more than ever before to remedy our regulatory processes so that wireless cable service can move forward and meet the challenging opportunities of a competitive video distribution marketplace. In an article appearing in last month's (June, 1992) TV Technology, experts say, and I quote --

> "...wireless cable is poised to take a position as a significant competitor for television subscribers. With nearly 360,000 subscribers on 70 systems domestically to date, the industry is predicting 3.5 million subscribers within two years, and a potential of 6 million subscribers within the next decade."

The potential is there. You must be prepared to meet the challenge. As a regulator, I will do all that I can do to allow you to reach your greatest potential. The Commission owes it first and foremost to the American public and secondly to those enterprising operators and financial institutions committed to initiating and expanding worthwhile competitive service.

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