

Remarks by Commissioner James H. Quello
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A Word About: TV the Winning Superpower for Elections
Rulemaking Implementing 1992 Cable Act
Howard Stern Complaints

First, it simply is not true that Chairman Al Sikes was hospitalized or that my virus bug was caused by election shock-- He had successful surgery removing a small tumor and is doing very well. He sends you his best regards. And my virus bug is in a semi-state of remission -- Besides, I have a (D) after my name listings.

But what a tumultuous time to speak to an influential broadcast and civic group! And what a pleasant time to be in balmy Arizona, home of some great broadcast and cable operators. Your southwestern hospitality is appreciated. I only wish I had more time. We have so many current subjects to talk about and so little time -- at least reasonable luncheon speech time. I'm a firm believer in the old adage that the mind can only absorb what the seat can endure.

So let's talk briefly about a few of the most pertinent subjects. First, we have all witnessed, or endured, the most rambunctious presidential elections in recent history. Then yesterday, the FCC launched its first of a series of complex proposed rulemakings to implement the 1992 Cable Act. I strongly advocated the legislation. It is also noteworthy that the Cable Act caused the first override of a presidential veto spoiling a previous 35 to 0 perfect record for the administration.

Also, last week the trade and national daily press headlined the FCC notice of apparent liability for a \$105,000.00 fine against KLSX-FM in Los Angeles for indecent programming contained in a Howard Stern program.

This was the second time a notice of apparent liability was issued against FCC licensees for content contained in the Howard Stern show. I read with great interest a trade press editorial criticizing FCC actions while noting that influential family value organizations such as Terry Rakolta's Americans for

Responsible TV praised the Commission action. Incidentally, Mrs. Rakolta, a mother of four and a member of the National Advisory Council on Children's TV, gained national recognition for persuading advertisers to cancel ads in Married with Children and other objectionable programs scheduled at times accessible to children.

Joining Mrs. Rakolta on this indecency enforcement issue are Morality in Media, Concerned Women of America and The American Family Association. Mrs. Rakolta has taken a leading role in urging Commission enforcement of its rules governing indecency and obscenity. Recently Senator Jesse Helms wrote letters to all commissioners specifically urging the FCC to deny acquisition of additional stations by Infinity Broadcasting, originators of the Howard Stern program. Infinity seeks to acquire stations in Boston, Chicago and Atlanta. Joining Senator Helms' opposition to the transfer of stations to Infinity Broadcasting are Mrs. Rakolta's group and the American Family Association. As you may remember, Helms was the originator of the Congressional 24 hour indecency ban that was overwhelmingly approved by Congress, but later was remanded by the court to the FCC for further refinement as to times children would be exposed. So Congress promptly enacted a new anti-indecency law which the FCC is now implementing.

From the many complaints and letters received at the FCC, and from the overwhelming Congressional concern, broadcasters and program producers must become more aware that there is a powerful and growing public outcry against smut, excessive sex and violence on TV and radio -- particularly at times accessible to children or young teenagers. Personally, as an old beat-up combat veteran, I consider myself shockproof.

In that vein, Howard Stern certainly does not personally shock me. Stern has a First Amendment right to make entertaining outrageous remarks or to ridicule the FCC or any government official. However, no one has the right to violate indecency or obscenity laws. Also, broadcast licensees cannot abrogate responsibility for violations at their stations. I think Stern is a gifted creative talent who could attract large audiences without risking indecency violations and possibly placing licensees in jeopardy.

Well, this is post election time with all the upcoming speculations about a changing administration. You can hardly speak before a broadcast audience without commenting on this historic event that convincingly demonstrated that TV is indeed the winning superpower for elections. The election itself became the most rambunctious All American Championship verbal brawl in history.

President-elect Bill Clinton qualifies big time for a victory slogan of "Vidi, Video, Vici" -- I came, I televised and I conquered -- an updated version of the Roman classic. A telegenic, charismatic Clinton won the day with daily impressive appearances on TV news programs, talk shows, town meetings and debates. He and Vice President-elect Gore conducted a super campaign on issues that most troubled Americans -- economics, employment and a need for a change.

My next subject is a delicate one, but I believe Hillary Clinton deserves a distinguished service medal for her early heroic stand at the pass. When confronted with lurid tabloid reports of her husband's past indiscretions, she promptly, eloquently squelched all further probing with, and I paraphrase, "If I'm not upset or concerned, I don't see why anyone else should be concerned. Bill and I are together. It is no one else's concern." Right on Mrs. Clinton.

I mention this because the press, naturally including the electronic media, is increasingly accused of "gotcha" journalism, invading privacy, scandalizing public figures and assuming authoritarian power as adversaries at large. Press excesses tend to erode public confidence and endanger its most valuable asset -- credibility.

Dynamo Ross Perot who seemed destined to be running more to establish the nation's largest fan club than to become president, warned the press with one of his sententious instances "You guys have less respect in this country than even Congress."

Seriously, as an old electronic press alumni, I remind myself that in the final analysis, the press is only as powerful as the people permit it to be. The people, the voting public, are the real framers of laws and Constitutional Amendments.

I also want to take this opportunity to salute President Bush. He will eventually take his place in history as a great American and a heroic presidential commander-in-chief who forcefully initiated decisive action in the just Middle East "Desert Storm" War with his memorable slogan to the American people -- "You can't be the land of the free without being the home of the brave." He formed a strong coalition of allied forces through excellent international statesmanship. He appointed "superior field combat commanders who won a sensational swift victory with few casualties over Hussein's million man army who had boasted that the desert sands would run red with American blood. He restored much needed American prestige and established American world-wide leadership as a super power. He also was a major force in winning "the cold war." Personally, he will be remembered as a true patriot, a dedicated leader and the husband

of Barbara, Mrs. "Mom" America, one of the most popular and caring first ladies in recent history. He will also be remembered as a decent compassionate president who paid a harsh electoral penalty for giving lip service to the tax problem and for getting caught in a world wide economic down-draft. Less historically significant, he was the very first and only Republican president to ever appoint a 77 year old Democrat for another FCC five year term. Thank you Mr. President. I now look forward to working with President-elect Clinton and his administration.

Yesterday we initiated the first in a series of upcoming complex rulemakings to implement the landmark 1992 Cable Act.

This first notice proposes rules for retransmission consent and must carry -- legislation that I strongly advocated.

This legislation titled The Cable Television Consumer Protection and Competition Act became law October 5th over President Bush's veto. I was a staunch supporter of the bill, because I thought it was necessary to correct the serious imbalance between cable operators and broadcasters that the previous law had created. At the time, I wrote to Senator Hollings that "the addition of retransmission consent to the bill is essential to help ensure that broadcasters receive fair compensation for the value of their programming." Although I acknowledged that there were "honest disagreements on some parts of this bill," I wrote that "[o]n balance . . . S.12 will benefit the consumer and will help assure the continued viability of universal free television for all the public."

Now that the bill is the law of the land, we face the important task of ensuring that it is workable and fair to all concerned. Many of the new Cable Act's provisions will become effective on December 5 without any Commission action. Some of these requirements include must carry for noncommercial television stations, competitive franchise requirements, new requirements for leased access, multichannel cross ownership limits, notice provisions for unsolicited sexually-oriented programming and a 3-year anti-trafficking requirements, among other things.

Of course, there is much for the Commission to do, as well. Over the next few months we will initiate over a dozen rulemaking proceedings pursuant to the Act. Yesterday, we began this process by opening three important proceedings relating to must carry and retransmission consent, limitations on indecent programming on public or leased access channels and inside wiring.

I have been most closely associated with must carry, and more recently, the retransmission consent issues. I believe these rules represent basic justice for broadcasters, and for the viewers as well. I never believed that the Commission fully defended must carry rules in the past, which led to the predictable result of losing in court twice. Now, with a new law, backed by ample congressional findings, I believe that must carry has the support it deserves to withstand the court challenge that already has been filed. Our job at the Commission, in addition to defending the new law, is to fashion clear and workable standards for implementing must carry and retransmission consent. With that in mind, I urge broadcasters to file comments in this proceeding to help us with some of the complex issues we will face in fashioning the new rules.

The other rulemaking proceedings adopted on Thursday also raise important issues. In one proceeding, we will adopt rules enabling cable operators to restrict indecent programming that is offered on public and leased access channels. The idea is to restrict the access by children to this type of programming. In the third proceeding, we must fashion rules relating to the disposition of cable home wiring after the subscriber terminates his service. The Act suggests that subscribers should be able to acquire the inside wiring after service is ended.

In the coming months, we will face even more difficult issues. The Commission must devise workable approaches to regulating rates, ensuring competitive access to cable programming, sports migration, anti buy-through provisions, and so forth. To accomplish this task, the Commission wants -- and needs -- your input. I hope you will participate.

Congress, through Communications Chairman John Dingell, has promised additional funding to enable the FCC to effectively implement the 1992 Cable Act.

Many communications executives have asked my opinion of what effect the new administration may have on telecommunications policy or on broadcasting. The only sure reply would be "Ask President-elect Bill Clinton." I assume the new president will have a communications transition team to form policy in conjunction with the Democratic communications committee chairmen in the Senate and House. The three remaining commissioners -- Duggan, Barrett and I will give the Clinton transition teams our best shot when asked. As you know, Commissioner Duggan and I are Democrats. It seems that President Clinton will be able to appoint one Democrat and one Republican after his inauguration. As you know, only three commissioners can be appointed from one political party. This is to provide social, political and philosophical balance to the commission.

Fortunately, and logically, commissioners appointed to independent agencies are not authorized to become involved in political campaigns. Once appointed, commission decisions must be objectively determined by what best serves overall public interest, not by partisan politics.

I believe broadcasting that played such a vital role in the president's election will be treated fairly by the new administration. Also, Vice President-elect Gore was a leading proponent of the landmark 1992 Cable Bill advocated by broadcasters, the wireless cable association and the Consumer Federation of America. Also, Mrs. "Tipper" Gore has been a strong advocate of family values and protecting children from objectionable song lyrics.

As an overall new administration policy, I can only guess that, whenever practicable, competition will be preferred over regulation to attain a balanced marketplace for consumers.

As for me personally, and thanks for asking, my term expires June 30th, 1996. God and my wife willing, I plan to serve my full term. After that, I aspire to be the oldest active Michigan State University grad teaching at my Alma Mater in East Lansing, Michigan. I plan to retain my residence in Alexandria part-time.

Thanks for your restraint in holding your enthusiastic applause until now.

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