

Statement of Commissioner James H. Quello
FCC En Banc Hearing on Children's Television Programming
June 28, 1994

Today, more than ever before, there is an increased awareness on the part of broadcasting and the general public of the need to serve the child audience.

Two major contributors to this increased awareness are (1) the public outcry and attendant publicity against excessive glamorized sex and brutal violence on TV and radio accessible to children and (2) The Children's Television Act of 1990 which requires broadcasters to serve the educational and informational needs of children.

From the number of letters received and parents I have spoken to, it is apparent that the public is placing a prime priority on protecting children from excessive TV and radio sex and violence over the general requirement of serving educational and information needs of children.

Nevertheless, the Children's Television Act places an affirmative programming obligation on broadcasters to serve the educational and informational needs of children. It is this affirmative obligation that the Commission will explore today.

Today's hearing is prompted by concerns that commercial broadcasters need to do more, or do better, in meeting their obligations under the Act. In my judgment, broadcasters have heeded the public outcry and are now acting responsibly to curb violence and indecency. I commend their efforts and urge them to continue. On the programming front, I am also aware that it takes time for children's program product to reach the market and be available for broadcast. With the Act now in effect for two years, I would note that any perceived lack of performance on broadcasters' part due to marketplace lagtime is apparently soon being remedied. Indeed, the results of a study of almost 300 stations conducted by NAB shows that the amount of regularly-scheduled educational and informational children's programming increased 81% from Fall 1990, the year before the Act took effect, to Fall 1993.

We should explore steps the Commission could take now to encourage the amount of desirable children's programming in the market without risking First Amendment reversal. In this regard the collaboration between LIN Broadcasting, Disney and PBS for the production, promotion and broadcast of "Bill Nye, the Science Guy," is a model for further consideration and action.

Today I'd like to explore actions the Commission and the industry can take to allow broadcasters, both commercial and public, and program producers to combine their strengths to make more meritorious children's programming available to the television audience. PBS has a track record of producing children's programming that is held up as the model for others to follow - but it is short of funds. Commercial broadcasters have the funds, but their ties to mass audience demographics and advertising revenues make them, in the eyes of some, less-than-perfect presenters of educational children's programming. And producers have the creative genius to envision and create - but they must be assured of a reasonable compensatory market for their product.

I believe there are affirmative steps this Commission can take to advance the interests of the welfare of the child audience without the need for more intrusive forms of regulation. I would appreciate the insights of the panelists on how we might productively go about doing so.

I also believe that overly detailed quantitative and qualitative government requirements that broadcasters program to meet the educational and informational needs of children are more subjective, more difficult to implement, and less-defensible intrusions into broadcasters' First Amendment rights than any other pending legislation or regulation to control excessive glamorized sex and brutal violence on television. However, Congress has passed the Children's Television Act, which the FCC must enforce.

Broadcasters in their own self-interest should be encouraged by the public to meet the educational and informational needs of children without a governmental mandate that is likely to risk court reversal on First Amendment grounds. I have always been an active proponent of the public interest responsibilities of broadcasters. However, I believe some rethinking and some revision is in order.

From now on, government must carefully consider whether or not heaping more rules on broadcasters will produce beneficial results. Indeed, I am becoming increasingly concerned that a potential three-way parlay of more rules, more multichannel competition, and more taxes and fees may substantially damage broadcasters' ability to discharge their public trusteeship obligations.

In our endeavor to repair perceived deficiencies in broadcasters' performance we must bear in mind that American broadcasting, even with faults that are inherent in any business, is the most varied, comprehensive, and best service in the world. Broadcasting also remains the only in-home informational and entertainment medium free to the public. Television and radio remain the only media that cost the same today -- free -- as they were when they were introduced years ago.

Industry entrepreneurship and investment made the American system of broadcasting the best in the world, not government underwriting and not government regulation. Government regulation is necessary to protect the public against the predation of monopolists and those with market power. In the multichannel world of today and tomorrow, broadcasters are not a monopoly. Nor are they scarce, either in absolute number of broadcast outlets or as one component of a mind-boggling plethora of electronic and print media. They simply do not require continued rigid government monopoly-type oversight. And public policymakers need to consider carefully the implications of this exploding multichannel and multimedia competition on broadcasters' incentives to continue to provide universal, free television service. Overtaxing broadcasters -- whether by unnecessary rules or by regulatory fees not tied to the regulation broadcasting really warrants -- may harm, and not help, achieve the aims intended.

At the FCC's En Banc Children's Television Hearing today, we stand at an important crossroad. We can either travel the path of more intrusive program content rules and risk court reversal, or we can develop creative ways, consistent with the realities of today's video marketplace, by which broadcasters can voluntarily achieve the types and amounts of children's programming the public wants. I know which path I would rather take, and I intend to explore it. I look forward to hearing and evaluating the testimony of the panel of experts today.

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