

**Remarks by Commissioner James H. Quello
Federal Communications Commission, U.S.A.**

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Broadcaster Autonomy and the State
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JEFFERSON RE-VISITED -- PRESS FREEDOMS -- PRESS RESPONSIBILITIES

I was intrigued with the slogan "I love my country, but I fear my government."

Graffiti in Russia? No.

Imprints on American T-shirts? Yes.

It is hardly a slogan you expect in a democracy -- a government elected and supposedly controlled by the people.

The slogan has varied implications -- fear of government intrusions on basic human or civil rights -- or fear of government mandates affecting freedom of the press and speech.

Generally, in America, the slogan is popular with First Amendment absolutists to warn against government restrictions on journalistic freedom of speech and freedom of the press.

The founding fathers of the United States in proclaiming independence from a tyrannical dictatorship wisely instituted press and speech freedoms to give citizens the right to criticize or protest government actions. First Amendment freedoms were conferred to provide citizens a check against potential government abuses, not to provide government a check against critical press reports.

Today in America, we have full press freedom for the printed press, but some government restrictions on the electronic press of TV and radio. Government regulation or press restrictions on broadcasting were originally deemed necessary because of the scarcity of spectrum allocated by government. Government allocation and regulations were initially essential to prevent interference and then further deemed necessary to assure that public interest would be served. Stations were and are licensed by the government to serve "the public interest, convenience and necessity."

However, Congressional and regulatory First Amendment constraint in the name of serving the public interest are increasingly subject to Court scrutiny and criticism. Scarcity is becoming much less a factor in the multi-channel, multi-faceted communications world of today with TV, cable, DBS and VCRs. And diversity is assured by the vast variety of available programs.

In fact, a Supreme Court ruling this summer sent a strong message to the FCC on regulating program content. The Court stated:

The FCC's oversight responsibilities do not grant it the power to ordain any particular type of programming that must be offered by broadcast stations. The Commission may not impose upon them its private notions of what the public ought to hear.

However, recent Court decisions have supported regulatory time constraints to protect children from indecent material.

The possible remaining logic for continued government controls might be -- Should a medium as influential and pervasive as television be permitted to be controlled by unelected business executives? Can powerful corporate commercial combinations of computers, TV, cable, phone, radio, newspapers and magazines whose primary motive is necessarily profit for stockholders and corporate officers be trusted to truly serve the overall public interest? Is the need for public approval for sales success and corporate growth a sufficient motivator for serving the public interest? Is there a need for some sort of nationwide citizen survey or referendum on public attitudes or approval of TV? I'm not sure, for example, how TV with what many say is an overdose of brutal violence and glamorized sexexplicit dramatization would fare in a wide public referendum from all segments of society. The established rating systems indicate there is a large audience, but the ratings are more quantitative than qualitative. Is this large audience an appreciative or disapprovingly one? On the other hand, today, the public has a wide range of multi-channel programming to tune in or tune out.

There is a convincing counter-argument to objections about TV news and public affairs controlled by profit motivated communications corporations or highly paid newscasters. Should the most influential and powerful electronic media be controlled by government officials whose primary goal is necessarily to be re-elected and to propagate themselves in office? Most thinking citizens today like Thomas Jefferson in 1787, would be affected by the "fear my government" syndrome and opt for press freedoms.

Our founding fathers recognized the importance of an independent Fourth Estate to serve as a check on the powers of government when they adopted the First Amendment, stating "Congress shall make no law . . . abridging the freedoms of speech or of the press"

Now two hundred years later, the First Amendment itself must not become the rationale for the government to check the powers of the press and to regulate speech.

Let's revisit Thomas Jefferson and gain a historic perspective on press freedom and criticism.

Thomas Jefferson, of course, was a great champion of press freedom at a critical time in our nation's history. He wrote in 1787 the following:

The basis of our government being the opinion of the people, the very first object should be to keep that right; and were it left to me to decide whether we should have a government without newspapers, or newspapers without government, I should not hesitate a moment to prefer the latter.

Nevertheless, Jefferson, himself, was an ardent critic of the press. In 1807, he wrote:

Perhaps an editor might begin a reformation in some such way as this. Divide his paper into four chapters, heading the 1st, Truths. 2d, Probabilities. 3d, Possibilities. 4th, Lies. The first chapter would be very short.

Some years later, a disillusioned Mr. Jefferson had apparently abandoned any hope that the press could be salvaged. He told a friend:

I do not take a single newspaper, not read one a month, and I feel myself infinitely the happier for it.

The press in Jefferson's day took great delight in doing what the press has always done: biting the hand that feeds it. The press so values its independence that it happily denounces friend and enemy alike and then seeks refuge in Mr. Jefferson's First Amendment. Jefferson believed that abuse of a free press was self-correcting as he wrote to friends in Hartford:

Conscious that there was not a truth on earth which I feared should be known, I have lent myself willingly on the subject of a great experiment, which was to prove that an administration, conducting itself with integrity and common understanding, cannot be battered down, even by the falsehoods of a licentious press . . .

I have never therefore even contradicted the thousands of calumnies so industriously propagated against myself. But the fact being once established, that the press is impotent when it abandons itself to falsehood, I leave to others to restore it to its strength, by recalling it within the pale of truth.

Freedom of the press, like all freedoms under our form of government, is conferred by the people. That carries with it the obvious notion that it can be taken away by the people. To the extent that the American people perceive that the press, especially the electronic press, is pursuing its self interest to the detriment of the public interest, the press has reason for concern.

Freedom of the press confers upon reporters the freedom to be wrong so long as it is not done with "malice" -- a very subjective, difficult standard -- and, in the case of broadcasters, so long as there is no evidence of deliberate news distortion. However, editors, publishers and broadcast executives have the responsibility to make sure reporters are not wrong too often or to such an egregious degree that they are an embarrassment to their organization or profession. In my view, broadcast owners, executives and managers should more and more assume the role of publisher or even editor-in-chief.

The major impact of television and radio today on the American way of life is in news and news analysis, not in entertainment programs. I have said it before, and now more than ever, broadcasting is most respected and remembered for its hours of exceptional journalism.

The greatest benefit most Americans derive from broadcasting is information. This potential for molding public opinion poses an enormous responsibility and challenge. It calls for more top management training and involvement in that most vitally important aspect of broadcast business -- news. Top management must emphasize truth and responsibility in news and

public affairs reporting over individual or corporate quests for ratings, money and power.

It is clear that television is the most influential and pervasive form of the press. In recent years, surveys have consistently shown that more Americans turn to television for news than to any other medium. This must be regarded as a "two-edged sword" by those who have careers in television news. It is obviously flattering to be the press of choice and to exercise the greatest impact on a majority of Americans. That popularity, however, carries with it a public awareness of a role that requires the highest standards of professionalism. That public awareness may also contribute to the unique government regulations that apply to electronic journalism. Television has chosen to focus a spotlight on some of the nation's most prominent figures and institutions, and often the glare from that spotlight has been harsh and decidedly unflattering. To the extent that television has exposed real flaws in those individuals and institutions, it has performed a function for which journalism is uniquely suited. To the extent, however, that television has trivialized officials and institutions which are important to the fabric of our society, it has performed a public disservice and it caters to those who would retain and even tighten the straightjacket on electronic journalism.

Jefferson believed that abuse of the First Amendment by the press is self-correcting and that there will always be citizens who will call the press to account for its excesses. I can hardly disagree with Jefferson on this topic, but I wonder about the manner in which any needed corrections might come about. Is it possible that the press in general, and the electronic press in particular, might become so powerful and so arrogant that the public would approve, or acquiesce in, a remedy that goes far beyond merely correcting the problem? I hope not.

It has been suggested that the proper role of the press is to be an adversary of government. I believe that this is a simplistic and troublesome philosophy. The proper role of the press is to seek the truth and to inform. The press must present facts in a timely manner and in a context that is calculated to educate the populace in the most truthful, complete manner possible.

I urge -- just as some recent self-criticism by the press suggests -- that the media re-examine its attitudes, its manners and -- most importantly -- its tendency to act primarily as an "adversary." I believe it more appropriate for the press to assume the role of watchdog rather than attack dog.