

Remarks by Commissioner James H. Quello
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Thank you for inviting me here today to express my views on the very critical problem of excessively graphic violence, brutality and sex on television. The American public, as well as their elected representatives, have become increasingly outraged by such programming, especially in light of recent events in which children, imitating dangerous behavior they witness on television or in the movies, have been killed or have hurt others. You have asked me to address whether sex and violence on television are being over-glamorized on television. I think that the answer is self evident. The important issue for the public and policymakers is "What should be done about it?"

The most practical answer today --

Widespread and direct citizen action against broadcast and cable programmers and advertisers, complemented by a voluntary industry system that would label programs having violent content unsuitable for children. In short, citizen action and industry action, not citizen-induced government intervention, is what will work.

Recently about every case of legislative or FCC regulatory attempts to influence program content has been rejected by federal courts as government intrusion on First Amendment rights or censorship.

In the strongest statement to date, the Supreme Court last summer in a significant ruling on the must carry provisions of the 1992 Cable Act, though not rejecting must carry per se, 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."

Specific legislation or FCC rules controlling or prohibiting violence or imposing quantitative program standards for children's TV programming would be opposed and probably overturned by lawyers quoting this Supreme Court warning that the FCC must not impose on broadcasters the FCC's notion of what the public ought to hear.

The Supreme Court statement must be considered by both the FCC and Congress when contemplating content-related issues such as violence, indecency or children's TV quantitative standards. As a longtime advocate of violence restraint and indecency enforcement, the court statements have influenced my legal, if not personal, position.

In the face of these constitutional constraints, aggressive citizen action can play a key role in sensitizing programmers and advertisers to the need for more responsibility and more positive family values in TV, radio and cable.

Citizen groups like Terry Rakolta's Americans for Responsible TV, Morality in Media and American Family Association have been effective in sensitizing programmers and advertisers to the critical need for responsible, positive programming. Under pressure from public groups, some advertisers have dropped sponsorship and stations have become more aware of a constant open public revolt against program excesses.

It was direct citizen action that launched Terry Rakolta, Mormon mother of four, on the national scene as a leading activist against excessive TV sex and violence. The title "Married with Children" sounded like a good family program to her. She had all her children watching the initial program and was shocked by explicit sexual depiction and her 10 year old son shouting "Hey Mom, look at that!" Through personal calls and boycott threats, she induced every advertiser at that time to drop the program.

The latest examples of strong direct citizen action are Hispanic groups boycotting products advertised on the Howard Stern radio program. Twenty four major advertisers are being targeted by thousands of outraged Hispanics. Also, several Hispanic groups have filed petitions to deny radio licenses to stations carrying Stern -- a costly legal process. In the long run, I think the advertising boycott and the demonstrated public outrage will be more effective than legal action that may not pass court review.

The jury is still out on the ultimate effect of the public boycotts of the station and the advertisers but the negative publicity appears to be a source of real concern. In TV, there is evidence that public displeasure and negative publicity are causing the desired reaction among broadcasters and program syndicators. I was impressed at the last NATPE convention when I approached four syndicated program sales execs - and overhead them say, "Just try to sell a violent program to the TV stations -- they aren't buying. The Senate and the FCC, reacting to public criticism, have them all worried." So to the citizen groups, keep up your direct advocacy and your good work.

But citizen advocacy admittedly has its limits. Programmers and advertisers may be initially responsive to such advocacy. But if a program, regardless of its content, finds a mass audience, the desires of the smaller citizen advocacy group may not ultimately win out.

If we were operating in the same mass media environment that existed twenty years ago, that would be a problem, because the programming options of the advocacy group would be restricted to broadcasting. However, with the advent of DBS, MMDS, digital TV compression, phone companies authorized to provide cable TV programming and many more new cable channels, the main legislative and regulative thrust is for competition and deregulation rather than program regulation and intrusion.

The public has many choices today. That factor, along with recent court decisions upholding First Amendment rights, has resulted in legislative and regulatory restraints -- and in providing broadcasting and cable further opportunity for reasonable self-regulation. Thus, it is increasingly more difficult to legislate or regulate program restraints when a great and ever-increasing variety of multi-channel program choices are available to the public just for a twist of the dial or for the insertion of a VCR tape.

Against the backdrop of continuing public clamor and given the limitations on direct government action, it is time for program producers, broadcasters and cable operators to heed the warnings of public groups, Congress and the FCC and exercise reasonable program restraints. They should also schedule adequate warnings to protect impressionable children from excessive glamorized violence and sex.

In fact, in a major address to the annual Variety/Wertheim Schroder lunch in New York two years ago, I urged programmers to take precisely those steps. The statements I made in that 1993 speech during my interim chairmanship could apply today.

I quote from that speech delivered over two years ago:

"America's epidemic of violence must be brought under control. And responsible TV and cable executives and program producers must take the lead or Congress might. It is time to place public good ahead of appealing to the lowest common denominator with violence and sex for profits."

"An AP article quoted me as supporting enforcement action to protect children from graphic violence and brutality. It has bothersome First amendment implications for me. . . . There may be considerable public support for legislating time constraints to protect children from brutality, murder and rape similar to time constraints for indecency that has been upheld by court decisions. That eventually is for Congress to decide."

"With increased public clamor and government concern, it is time for network executives, cable operators and Hollywood producers to institute corrective action and display increased programming responsibility and social sensibilities."

Reed Hundt, in his first major speech of his new chairmanship in early 1994, gave the forces opposing violence a major shot in the arm with an eloquent criticism of excessive violence in TV and cable programming. He repeated his concerns just last week, proposing that programs be rated for their violent content. Good idea!

I believe a voluntary industry rating system makes sense. Is it a perfect solution? No. It will not, for example, assure uniformity, because different programmers may have different ideas of what constitutes violence. Nor will it categorically eliminate violence from all or part of the programming day. But what it will do is enable adults to responsibly supervise and control the amount and type of violent programming their children will be allowed to watch. And it would pass First Amendment scrutiny. The name of the game should, and must, be parental empowerment and industry responsibility, not government empowerment and regulation, in this sensitive area of program content.

Nor have the realities of this situation been lost upon the programming industry. Recently David Levy, a highly respected program producer, writer and executive director for the Caucus for Producers, Writers and Directors in Hollywood, made a shocking and significant statement. I quote:

"There are those who argue that if our corporate television and cable leaders fail to recognize that our national character is at stake, that, therefore, they must act responsibly, that they have been granted free access to our homes and children, that if they fail to put the people's interests first, then, perhaps as a last resort -- provided the FCC, the Congress, and the courts also fail to protect American values, recognizing that First Amendment rights are not absolutes -- serious consideration, some suggest, may have to be given to the necessity of amending the First Amendment in order to preserve and protect the general welfare."

"Can such a suggestion be deflected? Of course, it can. That depends upon the corporate leadership of the networks and cable."

Clearly, there are continued public, Congressional and regulatory warnings against excessive dramatized violence and brutality on TV and cable. There is a significant threat in that more and more disenchanted citizens may disagree with us who believe that the First Amendment was ordained by God, carved in stone and beyond updated revision or interpretation to safeguard what is perceived to be the public welfare.

A word to the wise should be superfluous.

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