

Remarks by Commissioner James H. Quello  
Before the  
California Broadcasters Association Annual Convention  
Monterey, CA - July 17, 1995

Thanks for this opportunity to finally visit beautiful Monterey. It is especially gratifying that my first trip to this picturesque tourist haven is with broadcasters at the annual California state convention. What an exciting time to be a California broadcaster! Your pivotal electoral state is destined to be the focus of national attention at the upcoming 1996 elections. It makes me wish I were back in the broadcasting saddle again.

As you know, broadcasting was my principal lifetime career with 29 years in broadcasting compared to 20 years in the FCC and 5 years in the Army. I have no difficulty in establishing a mutuality of interests with state broadcasting associations. I was a former president of the Michigan Broadcasting Association and a government relations chairman for twelve years.

In fact, my wife of 57 years still identifies herself more with broadcasting than government regulations. When asked for a few remarks at a large Washington dinner several years ago, she caused an uproar (fortunately a humorous one) by bald-face stating "Hell, I had more fun and fonder memories as a broadcaster's wife than as a commissioner's wife." I interrupted yelling -- "Mary, I was much younger then."

Anyway, I'm glad to be here. Of course, at my age, I'm glad to be anywhere (etc.). With four-fifths of my lifespan behind me, I consider my remaining time at the hectic FCC as a staging area for Catholic purgatory -- and even that dismal imperative may require some merciful salvation.

Here today, we have so many hectic contentious issues to address and so little time. So please indulge me as I give you summarized opinions on just a few of the more publicized controversial communications issues affecting the FCC. The opinions stated here are my own and may or may not be shared by other commissioners. Some of these issues will be deliberated and decided in Congress.

1. HDTV and Digital Compression: A promising, exciting future development currently causing excessive churn. In my opinion, current broadcast licensees who undergo the expense and risks of implementing HDTV and compression techniques with their assigned frequencies are entitled to use their new channels to improve and expand free over-the-air service. If some of the additional channels are used for nonbroadcast subscription services, broadcasters should pay fees or be subject to competitive auctions to get the spectrum for those particular services.

And one additional note about advanced TV: In regulation, as in most other things in life, at some point we need to leave well enough alone. I am speaking now in specific reference to the questions about advanced digital TV recently submitted to the FCC by NCTA and the Media Access Project. For those of you who may not be aware of this letter, on July 6 NCTA wrote the Commission suggesting that, in considering digital TV, the Commission first ask itself whether there is a demand for digital broadcast service compared to digital cable service; who beside broadcasters might make use of the spectrum allotted for digital television; and whether the Commission should seek authority to make broadcasters buy their digital TV spectrum at auction.

I am dismayed that these questions are being raised at this late date in this longstanding proceeding. Far be it for me to suggest that the type of fundamental policy issues contained in the NCTA letter should not be aired. And put aside, for the moment, the implication running through some of these questions that broadcasters should perhaps not even make it to the starting gate in the multichannel digital horse race. The point here is that, like it or not, after seven years of work involving extensive public comment and a virtually unprecedented commitment of interindustry effort and resources to develop advanced TV, the Commission should not be considering what amounts to a new rulemaking when it comes to the basic regulatory framework of advanced digital TV. When we are so close -- so very close -- to actually bringing the new generation of television to reality, it borders on irresponsibility to reexamine issues so basic, and already so thoroughly considered, that to reopen them threatens to derail what so many have worked so hard for the better part of a decade to achieve -- to bring advanced TV to the public.

Some time ago in a different context I said that one of my first principles of regulation is: If it ain't broke, don't break it. I very much fear that if we fail to appreciate the wisdom of this approach in the very desirable advanced TV context, we will run the risk of attaining the worst of results with the best of intentions.

2. DARS: Ideally DARS should be instituted as a multi-channel subscription service. In the satellite DARS service, existing longtime applicants are entitled to have their applications processed under current policies without bidding at auction or inviting additional applications. With regard to terrestrial DARS, present broadcast licensees should be eligible to apply or bid for licenses with a required time to initiate the service. The prime concern is to preserve the vital local service performed by radio.

3. Relaxation of Multiple Ownership Rules for TV and Radio: I certainly support relaxation of multiple ownership rules in the multichannel communications world of today and the world of even more channels of tomorrow. However, I believe that there must be sensible local caps to prevent local market domination.

4. V Chip: Probably the least intrusive of proposals from a First Amendment viewpoint, provided the ratings boards for violence are composed of industry or individual citizen groups, not government appointees. Problems: There is no existing legally-acceptable definition of violence; it will be years before TV sets with V chips will be in use; and it is not clear that these new TV sets will be affordable for poor families. In recent speeches, I urged broadcaster responsibility, warning; "a word to the wise is superfluous." The issue is being addressed in Congress.

5. Recent D.C. Court Indecency Ruling: It constituted a vote of confidence in upholding FCC's rulemaking process. However, it doesn't lend itself to overbroad interpretation and there is a marked difference between time constraints on programming to provide a safe harbor for children and government imposed quantitative programming requirements on broadcasters. In the final analysis, this is not an administrative law issue to be decided by the FCC. This is a Constitutional issue to be decided by the Courts.

6. Fox: I believe the determining factor should be control, not foreign stock investment. There is no doubt, Fox is controlled both in law and in fact by an American citizen with 76% of the voting stock. In approving the Fox applications, the Commission finally created the long-sought fourth broadcast network. In my statement supporting the Commission action, I concluded "It is time to free Fox from costly litigation and unsubstantiated accusations and grant it the freedom and assurance to again devote all its resources to providing the public a strong competitive, diverse American fourth network. Final item is scheduled for the July 28th FCC meeting."

7. Kudos to Chairman Hundt and Roy Stewart on Backlog Reduction: Chairman Hundt initiated a backlog reduction drive that was vigorously implemented by Bureau Chief Roy Stewart. During the month of June, the Mass Media Bureau disposed of 93 contested applications by staff action and made recommendations to the Commission for disposition of 10 others. Only 23 contested cases older than 6 months remain, and these are all blocked from further processing until the applicants file needed amendments or court, hearing, or enforcement proceedings are completed. The Bureau achieved this goal while at the same time keeping the routine sale applications moving through in less than 60 days, and while reducing the number of appeals of staff actions related to sale applications by 68% in June. Only 18 appeals over 180 days old remain, and the Bureau's next goal is to eliminate them by July 31. I have no doubt that they will make that goal too, and I just want to give some public recognition to the Chairman's initiative and the staff's accomplishments.

8. Downsizing and Eventually Eliminating the FCC: Don't start dancing in the streets yet! The drastic deregulation and restructuring proposed by the Progress and Freedom Foundation Report represents the well considered opinions of a group of intellectual visionaries who are about ten years ahead of themselves.

Perhaps many of the Report's controversial proposals, particularly the personnel reductions, could be implemented at some time in the future when full competition replaces the need for regulation. This will come with the eventual establishment of a multi-channel, multi-faceted communications information highway offering consumers a great variety of competitive choices for communications services. Although we at the FCC are working toward that goal, we are not there yet.

Furthermore, before plans to drastically restructure the FCC can be considered, decisionmakers should first consider the number of FCC rulemakings it will take to implement proposed Congressional action this year that would fully open the communications marketplace to competition. For example, implementation of the 1992 Cable Act was the most resource-intensive undertaking in recent FCC history, requiring 27 rulemakings. If Congress passes the pending telecommunications legislation, it has been estimated that 60-80 new FCC rulemakings would be required.

Thus, the proposed legislation could impose resource requirements upon the FCC far exceeding those imposed by the 1992 Cable Act.

At this time, I suggest the following:

Let's first see what Congress eventually legislates and what detailed regulatory requirements are entailed.

Let's conduct a realistic audit of the FCC's current resource allocation and take further practical steps to eliminate duplication, unnecessary work, and consolidate agency administration, wherever possible.

Above all, we must keep an open mind to the proposition that regulation in any administration has a historic tendency to feed upon itself and requires periodic review.

9. FCC Move to the Portals: Opposed by practically everyone except the former GSA. Congress could save 25 million dollars and avoid at least a two month disruption of Commission processes by rejecting the idea once and for all.

10. The "Old Regime": In closing, I'd like to rebut some occasional disparaging characterizations of the "Old Regime." Some people may not realize that I consider myself a card carrying member. In fact, the "old regime" initiated many policies and services that are now touted as cornerstones of the new paradigm including such notables as spectrum auctions, PCS, LEOs, wireless cable and video dialtone.



It was also the "old regime" that began the process of deregulation to free communications entities from governmental intervention so that they can compete more vigorously in the increasingly competitive marketplace, by eliminating the Fairness Doctrine and the Financial Interest and Syndication rules, and by substantially deregulating the broadcast industry. Last, but not least, it was the "old regime" that had the foresight to pursue a digital High Definition Television system years before the "Information Superhighway" and digital HDTV became trendy.

The reason the "old regime" was able to hobble along at breakneck speed in developing these rather forward thinking approaches to communications policy, is that often overlooked trait that relative newcomers to the communications world lack: institutional intuition born of experience; that is, an understanding of what does and doesn't work, knowledge of what is and isn't important in the larger scheme, and knowledge of how to, and not to, get things done.

For those still paying attention to this card-carrying member of the "old regime," I advance the following key policy goals to carry us into the 21st Century: (1) continue to deregulate the communications industry where practicable, with an eye toward expanding universal free, over-the-air television; (2) continue to promote the introduction of new technology that offers substantial benefits to the public and the industries that employ that public; and (3) continue to make decisions that take into account that old-fashioned, "old regime" notion, observing the First Amendment and serving the public interest.

And that's the way it is -- at least for me.

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