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**FCC
COMMISSIONER
JAMES
QUELLO**

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RADIO INK

Radio's Premier Management
& Marketing Magazine™

VOL XI • NUMBER 21 • OCTOBER 14, 1996

INTERVIEW

FCC Commissioner James Quello



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He has spent his entire professional life in broadcasting and the last 22 years at the FCC making changes that ultimately have affected the path of Radio. Taking time to reflect on what has happened since he began in the business, Quello let his hair down to talk to us about Radio then, now and in the future.

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A Radio Sales Toolkit

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Want to increase your revenue and have things start happening right now? Here are some of the tools, services, products and training that can do just that, plus give you an edge in the consistently competitive market and, hopefully, produce results that will make everyone a winner.



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INTERVIEW

FCC's James Quello

James Quello, commissioner of the Federal Communications Commission (FCC), has had a lifelong career in Radio. He has served at the FCC for 22 years and, prior to his appointment, was a veteran Detroit broadcast executive. Commissioner Quello has seen Radio persevere from its glory days, through threats to its future from the "magical box with pictures," to the industry it is today. For the last two decades, he has had an active role in decisions that have shaped the rules and regulations of Radio. Already the recipient of dozens of awards, Commissioner Quello will receive two more this month, a grand roast at the annual Bayliss Media Roast and an induction into the Radio Hall of Fame. So, what better time than the present to talk to a man some truly consider ... a Washington monument.

INK: If you look at your time at the Commission and all that has happened in Radio, it almost can be compared to somebody seeing the Wright Brothers at Kitty Hawk and then seeing the SST.

QUELLO: What I'm opposing now is I don't want a return to the regulation of the '60s and '70s. This is the '90s. However, there occasionally seems to be some movement that way.

INK: Your FCC career began more than 22 years ago, but it wasn't easy getting started.

QUELLO: I broke all records for the length of a confirmation hearing because I came from the industry. I was on and off the stand for eight days. They didn't have anything on me except in that very activist year. People were wondering whether someone from the industry should be regulating the industry because tele-

vision and Radio were responsible for about 80 percent of the controversy at the time. I was 59 or so and was not going back to broadcasting. I understand its strengths and weaknesses. I think I can bring a real world practical experience to it, and that's what happened. It is kind of strange, my next two reappointments both took about 20 minutes.

INK: What controversy involved Radio and television in 1974?

QUELLO: It was a very activist era. You had a lot of people challenging Radio and television stations and license renewals in comparative hearings saying that we can do a better job than they can.

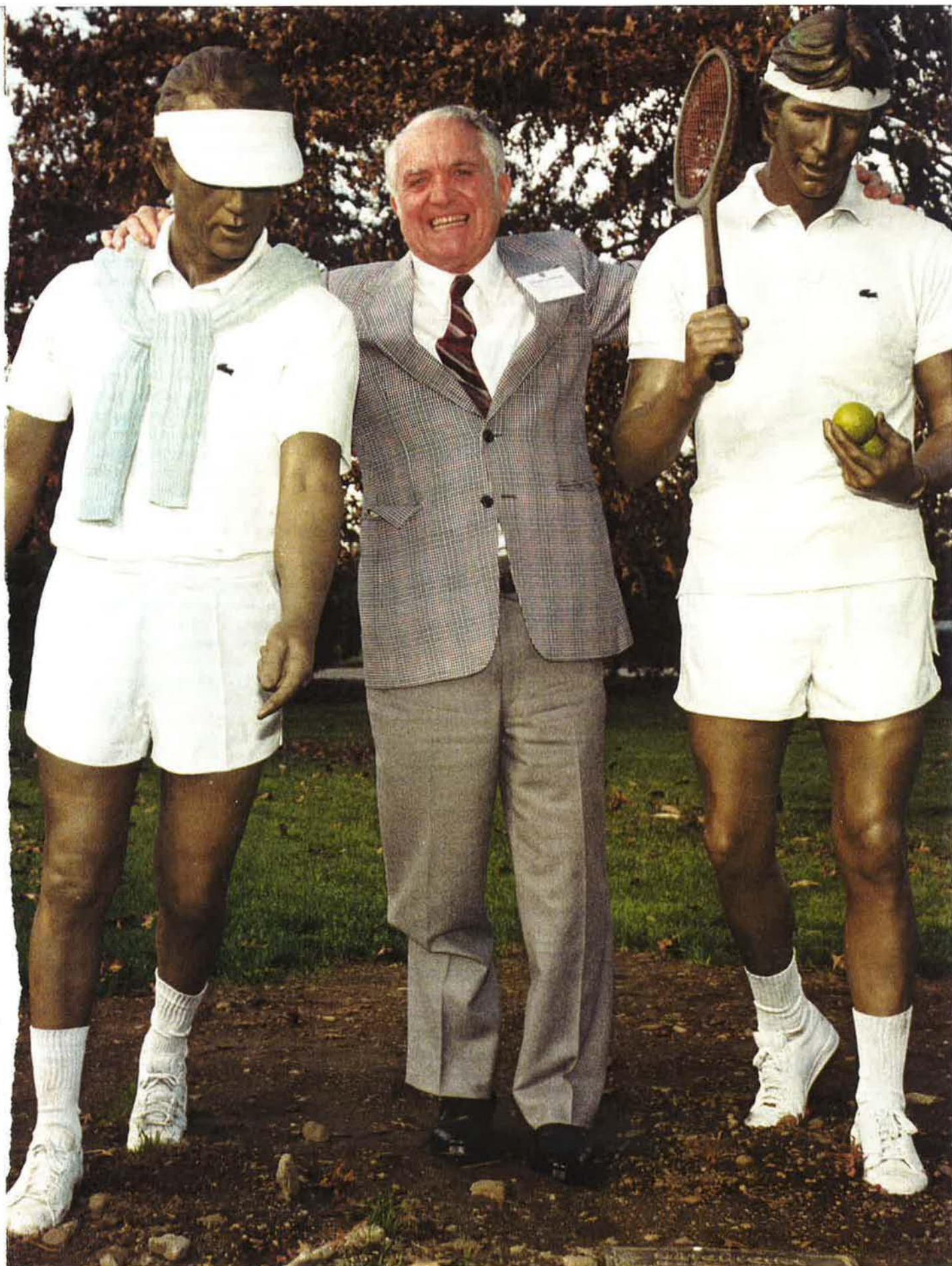
INK: Was that because of the liberal press or the perception of the liberal press?

QUELLO: It was not only the liberal press because a lot of the liberal press also owned television and Radio stations. Frankly, it was because of the statute, and commission rules allowed it to happen. By license renewal time, you were subject to a challenge. Now, this is one of the big benefits of the Telecommunications Act (Telecom Act). It got rid of the challenge. It is now a two-step renewal process. If you are found qualified, no one can challenge you. The commission makes a determination that you are qualified. If you're not qualified, it is open season. A great majority of people are going to be found qualified, so this two-step renewal was a very important part of the Telecom Act. The other thing was the fact that both Radio and television licenses were extended to eight years. Radio went from seven to eight and TV from five to eight. I think the two-step renewal got rid of an awful lot of what were self-serving, time frivolous, almost blackmail petitions against licenses.

INK: Unlike the justice system in America, it used to be that license holders were presumed guilty until proven innocent. They had to prove themselves.

QUELLO: When I first came to the commission, I was a little bit short. I said, there is one licensee out there, and, if I wanted to study it, I could do a better job in this aspect or some other aspect and challenge him. Then, maybe, rather than going through a very expensive lawsuit, he'd pay me off to get me off the case. Later, the FCC itself said, well, paying off will be illegal and not permissible. Now, Congress took care of it and said, look, if you're qualified, you're qualified. No one challenges you, and that's fair. It hasn't been mentioned much but is a very positive aspect of the Telecom Act, that and extending the license renewal. As you know, Congress also extended the number of Radio stations. Nationally, as far as Congress is concerned, you can own as many stations as you want but, in doing that, love the Congressmen individually, including Chairman John Dingell who is a very influential member of the Commerce Commit-





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tee. He is chairman when the Democrats are in power and when they aren't. He is the senior Democrat on communications in the House. He expected sensible local limits. I support sensible local limits.

INK: Do you believe the way it ended up is sensible?

QUELLO: I think the way it has ended up, so far, is sensible. For example, I happened to be in Detroit on other business ... when I heard the surprise announcement that CBS was buying Infinity. I was called by everyone: AP, *The Wall Street Journal*, *The Los Angeles Times*, *The New York Times*, etc. They'd say, "What do you think?" I'd say, "I think as long as there is robust competition, and there isn't macro-dominance, it is okay." With Infinity and CBS, that brought them up to six stations in Detroit, and Evergreen already had six stations there, so they would be competing with each other. Now, it has not been determined yet what the national limit should be. We have to come up with that. There are a lot of ways to decide, for antitrust purposes, on the total advertising in the market or on the total Radio advertising in the market. For example, the question is, should one person be able to own 50 percent of the Radio advertising in a market? You know, we do have such things as diversity and reasonable competition to think about.

INK: But, 50 percent of the Radio revenue only may equate to 3.5 to four percent of the total advertising revenue in one market.

QUELLO: Well, that is something that has to be considered, has not been decided yet and will be the big controversy.

INK: What do you think?

QUELLO: I haven't made up my mind yet. It would bother me if I were in a Radio market and had to compete with someone that had 50 percent of all the Radio advertising in the market tied up. What he could do to me, if I were a single owner or an owner of two stations, in the way of competitive pricing and other things, would bother me a little bit. So, we haven't made that decision yet. Antitrust will get in there, and, usually, antitrust triggers at 35 percent or more. Antitrust, the Department of Justice, so far, has indicated, without making it a rule yet, that they would take the percent-



Quello being sworn in by Judge Damon Keith in 1991.

age of Radio advertising only and consider that. Now, in the case of Infinity, a few months ago when I was in Detroit, the total advertising that CBS and Infinity had in the Detroit market, counting all advertising, TV and newspapers, would be eight percent. The total they had of Radio only would be 35 percent.

INK: There have been cases of some very well run stations where, with only an AM and an FM, an owner had 40 percent or more of the Radio revenue in a particular market. It had nothing to do with the num-

ber of stations.

QUELLO: It's possible in a medium market if you have a dominant station, but it wouldn't be in a major market.

INK: So, it would be set by market size much like the local market caps?

QUELLO: Somewhat similar. In a market that has 30 or 40 signals, it might make a hell of a difference, but we haven't come up with what is the fair thing to do. These owners are providing a diverse program. They're not going to put all six stations or eight stations on one thing. They are going to give you a little bit of everything. I

have a tendency, personally, to consider more favorably stations owned by professional broadcasters rather than finance men. Now, Lowry Mays is a large owner, but he was a salesman, a GM, and he's a broadcaster. At least with Lowry, you've got a broadcaster, and, with Karmazin, you've got a broadcaster. I like to see Radio stations owned by professional longtime broadcasters and, I hope, not commodity traders.

INK: The Telecom Act made Radio a much bigger business. Now, one group can do a billion dollars worth of business making it very attractive for a non-broadcast company to own.

QUELLO: It is possible, and, then, it is up to the FCC. We have the most difficult yet the most easily explained thing, and that is, we have to make a public interest finding. So, if the FTC approves it, we don't have to approve it, necessarily. They still have to pass a public interest finding hearing. A public interest finding, a lot of times, will depend on the Commissioners and from what viewpoint they see this. I never have forgotten completely where I came from. I came from broadcasting, and I think I bring a real world practical viewpoint to communica-

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tion regulations in broadcasting, particularly for Radio and TV. If you remember, there were a lot of takeovers two years ago. On TV, there was a lot of criticism about things being traded off like commodity traders. They had hostile takeovers by people that had absolutely nothing to do with broadcasting. They'd buy it, go rabid with it, make money with it and then sell it for more money. This bothered me and continues to bother me. But, now, I think these big people buying it are professional broadcasters wanting to get bigger. But, how much bigger do you get before you have a backlash? Every time we relax these acquisition rules or ownership rules, we get a mixed feeling. Some people come in and say, thank God I had someone to sell to because I had a smaller station. Other people say, I want to stay in business, so how can I compete against someone who owns six to eight stations in my market? So, you see, you've got a mixed bag out there.

INK: When we interview group owners and ask them about the Telecom Act we get two answers: 1) "I don't think they went far enough," and 2) "I think they went too far, and is it going to correct itself?" What do you think?

QUELLO: As far as national ownership, I'm not worried about that at all. The thing that really counts is local concentration. The key thing is, at what point do you get a market dominance that is anti-

competitive and hurts all the others? Now, the counterargument to that is, well, one newspaper can be the only newspaper in a large market, so why can't I own all the Radio stations in a market? All right, that is a viewpoint, but you have to remember that Radio still is renting a government facility and a license, so you still have a public interest obligation. I don't think you're going to be able to have one person own every Radio station in the market and have Congress or the FCC think it is okay. I don't think it is going to go that far. I think that CBS buying Infinity or Evergreen is all right and sounds okay to me. If you have a market dominance thing, like Jacor, it is going to be a problem, and I don't know what we're going to do with that.

INK: You talk about the public interest. Back in the '70s, it was very regulated, and Radio stations had to prove that they served the public.

QUELLO: Here's the thing on ascertainment. I thought this was the most unnecessary thing in the world. If you don't know your market, what the hell are you doing in the business? You're going to go around and ask people what your problems are? It made government bigger and made broadcasters' paperwork unnecessary, so I was glad to see ascertainment go. I think deregulation, extended license renewal and all that make sense. It makes for smaller government, less paperwork and fewer impediments for broadcasters.

INK: What about the percentage of pro-



Quello with Quincy Jones.


gramming devoted to non-entertainment that Radio stations were required to do, such as public affairs, public service and public information? Do you think it has hurt the public by lifting those requirements?

QUELLO: I never considered it a requirement. I considered it an opportunity because that is the way you make yourself really respected and known in the community. I did this, not by going to the time buyer or ad agency and asking for a schedule of spots, but by being very active in big civic drives in which I was on the same committees with these chief presidents and VPs. So, I think, not only is it doing the right thing, but it is the smart thing for business.

INK: With the way the industry has changed, is there still opportunity for minority ownership?

QUELLO: I just had come on the Commis-


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sion when the very first black-owned television station in America was **Channel 62** in **Detroit**. They were a first-class outfit and hired the number one black anchor from **Channel 4**. I told them that I would do everything I could to help out. I'm just delighted, finally, to see black ownership of a TV station. But, you have to remember one thing, listeners are not loyal to the ownership. They are loyal to the programs, and your listeners are going to be listening to stations that have the rights to the **Detroit Lions**, **Detroit Tigers**, **Detroit Pistons**, **Red Wing** hockey, **Olympics**, big movies and everything else. You already had two independents in Detroit. One of them, **Channel 9 Windsor**, covered all over Detroit and was playing American syndicated features. So, you had the first black station in Detroit, **Channel 62**, having to



Quello at his alma mater, Michigan State University, with Ted Turner

buy second-rate, leftover syndication. Finally, the only way they could make enough money to pay the bills, and they had lost money the first three or four years, was to sell to religious groups. Even in ownership, people are loyal to the format or to the station and what program it has. They are not loyal to the owners.

INK: You were talking about TV signals overlapping which is what happened to Radio back in the '80s. Did you support or oppose Docket 8090 which allowed new signals to come into markets?

QUELLO: Well, I was among the minority of the Commission who got up at the NAB and said, we need more Radio stations like a hole in the head. If anything, there is more out there than even can

make a living now. Of course, some of the 8090s did all right, but, overall, I think that's what happened. You almost got over-Radioed to the point at which more and more people had a hard time making a living. So, I was not a supporter of the 8090 deal.

INK: It seems duopolies and, ultimately, the Telecom Act were ways to amend the problems created by 8090.

QUELLO: Well, they were. If you have a competitive problem, you seek other ways. How are we going to make it go? I don't know how much money has been made in FM with the subliminal signal. I don't see anyone making a lot of money with that. The only thing that bothers me a little bit now is how people are going to pay for stations when they are paying 20 times the cash flow. That's a hell of a high multiple. I can understand nine or 10, but 20? Now, will the economy of scale by being a group make that possible? Some of those stations are going to be pretty high-priced, and that bothers me. The other thing I should tell you is that when I was in Radio in the Army in 1950 or '51, we had this big threat of TV. People were saying that Radio was through, and television was going to take its place.

INK: Radio survived the first threat from television. How do you think Radio will fare with cable and satellite programming?

QUELLO: In the multi-channel world, you now have more television stations, 1,600 low power stations, wired cable and

MMDS Cable coming on strong. You're going to have all these multiple signals, all carrying television programs and television series. I think Radio is going to be a very, very solid buy. You're not going to have quite the dilution in Radio that you're going to have in television and in pictures.

INK: Radio and the distribution of the airwaves have been regulated, but newspapers never have.

QUELLO: Well, do you know why? Everyone could start a newspaper. With Radio and TV, you needed a license from the government. You're using a government spectrum.

INK: Does the government own that spectrum, and should it own that spectrum?

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SIDELINES

- ◆ Leisure Activities: Tennis, reading.
- ◆ Recommended reading: Don West's new book, *The Alabaster Box*.
- ◆ Mentor or role model: President Harry Truman.
- ◆ The most interesting person you know is ... Chairman John Dingell.
- ◆ If you had 30 minutes to sit and talk with one person, whom would you choose? Joan Lunden.
- ◆ If you were granted one wish, what would it be? Continued health and productivity.
- ◆ If you could go back in time, where would you go? WJR management 1958-70, Detroit.
- ◆ Whom did you listen to on the Radio when you were growing up? Arthur Godfrey, Lowell Thomas, Lone Ranger and Green Hornet.
- ◆ What did you want to be when you grew up? Newspaper reporter and columnist.
- ◆ What is your pet peeve with Radio? Talk show excesses.



- ◆ The most embarrassing thing that ever happened in my career was ... Tennis introduction to Washington, D.C. — government tournament, first and only time I would push up my athletic supporter receiving serves.
- ◆ What has been your most elusive goal? Acquiring monetary wealth.
- ◆ Of what achievement are you most proud? Twenty-two years FCC 1) implementation of Cable Act meeting congressional deadlines; 2) final Financial Interest/Syndication decision by courts based on my dissent; and 3) early and constant primary advocate of free, over-the-air TV.
- ◆ As a listener, what is your favorite format? News/Talk.
- ◆ What advice would you give someone who wants to get into Radio? Early practical training in college.

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QUELLO: If you haven't bought it, then it is on lease for public interest reasons. You didn't pay for the spectrum. You got it free. When you got it free, you had a public service obligation for use of that spectrum, and that's the way it is. Lately, there has been a big drive coming to this new spectrum, digital TV auctioning. I'm against auctioning it. I think free, over-the-air TV is entitled to the best in audio and video transmission, and that is what digital represents. You shouldn't put an auction on it. Remember, I'm the one who got the auction authority for the FCC from Congress and did the first spectrum allocation for auctions. Television and Radio do not get money directly from the subscriber, they are the only free services. If you're pleased with free, over-the-air service, and I've been the prime promoter and advocate of it, then you don't auction off the broadcasting spectrum because it is going to cost them a lot to get into the HDDB and digital anyway.

INK: Are the annual regulatory fees that are in place now just another way for broadcasters to pay for their spectrum?

QUELLO: I guess so, yes. I'll tell you what eventually should happen, and this is a quantum leap. If we can arrive at some reasonable way to let the broadcasters pay for the broadcasts, then let them have the same type of liberty that newspapers, magazines and everything else have. If you pay for the spectrum, it is yours. Then, it is up to the public to decide. I had a big drive going that way with Lionel Van Deerlin, one great chairman. Here was a rather liberal Democrat from California, a very bright and nice guy. When I told him, let's get a reasonable price to pay for the spectrum and get rid of all regulation, he went for it and introduced the bill. Then, he and his staff put out a spectrum fee that was about four times more than I wanted or that was reasonable, and the bill died. You know, eventually, that might be worth it. Down the line, you pay for it once, then you operate it. From then on, no more regulation except for an engineering oversight.

INK: Do you give present broadcasters the first right, or is this going to go back to the auction to whoever can pay the most?

QUELLO: The present place broadcasters

who paid marketplace price for it have that right. The only thing is, how do you assess this thing in a reasonable way? It's going to be one hell of a controversy. I'll be out of here by then.

INK: Set it and run, huh?

QUELLO: What I would do is pay something to get rid of the regulation. The big thing is, I think, this two-step license renewal was terribly important. I think the NAB deserves a lot of credit for that and for the eight year license extension. These are very, very important.

INK: What about DAB, is it a threat to broadcasters?

QUELLO: It is. It is hard to keep back advanced technology. You're going to have 40 different stations coming in there. I think a majority of the commissioners now think it should be a subscription service, which would make a lot of difference.

INK: It would. Then, it would be similar to cable.

QUELLO: Well, yes, and that's the way I feel. Cable already has a channel of 30 stations you can buy, and not too many people are buying it. If it is a subscription service that is available, I think that would work out.

INK: What role should the FCC play?

QUELLO: This has nothing to do with Radio but has something to do with the broadcast business as a whole. Eventually, and what I'd like to see, hopefully, someday, is that we can arrive at the millennium, at which time competition will replace regulation. I think the only reason you need the government is because of the continued need for an engineering traffic cop to make sure there is no interference. You have to have that. Someone has to say, hey, you're interfering with someone else or going beyond your power. You have to have some kind of an orderly allocation of power in range of reach. Outside of that, I think everything else in the marketplace could take care of you. If you go too far, people will turn you off. So, down the line, competition should replace regulation. The only place, if government has to come in, would be in the antitrust department because you can't have one person monopolizing a public government spectrum.

INK: Commissioner, you said, if you go too far, people will quit listening, which brings up the First Amendment and fines for indecency. Did Howard Stern go too far?

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QUELLO: I was the last guy who should be going after Stern. Remember, I was in the Army for five years and overseas for nearly



Quello celebrating his 80th birthday.

33 months. As far as that sexually oriented, overused "F" word is concerned, I've heard it, I've used it, and I've done it but not in front of kids. Now, I mentioned this in a speech I gave to the Radio/Television News Directors. Stern has a perfect right to be wrong. He has a First Amendment right, particularly, to ridicule government officials. You can criticize your government, and that's why the First Amendment is there. He had a First Amendment right to be an uncensorable smart ass. He did not have a First Amendment right to violate established rules against indecency and obscenity. That's where he went too far.

INK: People don't have to listen to it. They have a choice.

QUELLO: Yes. They can turn it off. The only reason why Congress and the law get into it is that a lot of young kids tune in, and that's a problem.

INK: You're the "roastee" at this year's Bayliss Foundation Dinner?"

QUELLO: Yes, that should be fun. I think Karmazin is going to make it. I think he ought to get Stern to give me a shot. I never have met him, but we're in peaceful coexistence now. I find the guy quite entertaining. He's funny as hell.

INK: That people take him as seriously

as they do, I think, is a great joy to him.

QUELLO: I think so, but I'm past that stage. I made the Broadcasting Cable Hall of Fame last year. On one end, they had a TV camera. They came up to me and said, can we ask you a few questions, Commissioner? I thought it would have something to do with the TV Cable Hall of Fame. Then, they asked if I had a personal animosity for Howard Stern. I said, no, I have no personal animosity. He is an entertainer who just went a little bit too far. You know who was interviewing me and making it out to be a television thing? It was Stuttering John, who wasn't stuttering a damn bit. I don't have a hard-on for Stern, anymore, just clean up his act enough so that he doesn't go quite that far, that's all. You think from my experience, with five years in the Army and 33 months overseas, I should be the last person to have it in for this guy because I have a semi-raunchy sense of humor myself.

INK: So, what do you do next?

QUELLO: Michigan State University would like to have me teach Broadcast Management and the practicalities of regulation. There is a possibility that they'll name a chair after me, and they can't raise money until I get out of here. So, that's why I'll probably get out of here in late spring. But, I'm going to wait and see how things turn out. There are a lot of people who want me to go for reappointment and are willing to take the necessary steps to do it, but I don't know whether I want to cash in that big of a chip at this stage. Despite the fact that I have 75 percent of my marbles, I am 82 years old.

INK: Would you go for another five years?

QUELLO: I think it is time for me to think about teaching. With this chair, it will make up for the money I lost by selling my Capital Cities stock.

INK: You've made a great impact during your years of service.

QUELLO: I'm up to my elbows in awards, too. I call them my pre-posthumous awards.

INK: Hey, it's better than posthumous.

QUELLO: Oh, yeah!

INK: At least you can enjoy them now.

QUELLO: I enjoy them now. I also ascribe it to age. With age, you get venerable. With venerability, you get credit for virtues you never had. I'm grateful.

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