

Remarks of
Commissioner Deborah Taylor Tate
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Developments in Communications Policy
**The James H. and Mary B. Quello Center for Telecommunication
Management & Law at Michigan State University**
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(As Prepared)

I. Introduction

Good afternoon and Happy Halloween! I want to thank Commissioner Jim Quello – my dear friend and the “Dean” of the Federal Communications Commission – for the invitation to speak and to Johannes for the kind introduction. I am saddened that Commissioner Quello could not be here today; I wish Jim a speedy recovery.

It is truly an honor and a privilege to speak to you this afternoon at the Quello Center, which is such a wonderful testament to Jim and Mary Quello’s dedication to public service and to their accomplishments in the world of communications law and policy. This morning I had the pleasure of spending time with the Center’s Co-Directors, Professors Steven Wildman and Johannes Bauer, and Associate Director, Gary Reid. We had a lovely conversation about the Quello Center and the current issues that are significant to the Center and to Michigan State University. I will remind Mr. Quello how fortunate he is to have such strong leaders at the Center. Speaking of Michigan State University – my Legal Counsel, Aaron Goldberger, a graduate of this great school, is here also. Thank you, Aaron, for everything that you do for me.

Jim Quello came to the FCC in 1974, a year when mobile phones were in their infancy, VCRs had not been introduced – not to mention DVD players and DVRs – and the Internet was unheard of, unless you worked at the Department of Defense, in which case you may have heard of a computer network concept called ARPAnet. His tenure at the FCC ultimately spanned over 23 years – the longest of any commissioner – and he served under five different presidents. This was in large part due to the fact that he always put good public policy above politics, and also because Commissioner Quello championed market entry by new technologies,

contending that limiting government regulation in the early stages of their development was the key to fostering such technological innovation. Commissioner Quello was right.

When Jim Quello arrived at the Commission, the time span between the conceptualization of a new communications service and its arrival on the market was almost six years. By 1997, the year he left the Commission, that time span had been reduced to less than eighteen months. Consumers, who now have access to such a vast array of communications services, especially mobile services, owe him a debt of thanks for his tireless efforts. After all, what would we do without our cell phones, Blackberries, and iPods?

The telecommunications industry, of course, has continued to thrive in the years since Mr. Quello left the Commission. Our communications platforms and technologies, from radio and television to 3G cell phones and broadband Wi-Fi “mesh” networks, continue to converge, further blurring their distinctions: we make telephone calls over the Internet, watch video programming on our cell phones, and get broadband access from our electric companies. As Commissioner Quello taught us, we need to continue to look for ways to revise the legacy regulatory structure at the FCC to keep up with the pace of change in the rapidly evolving and converging communications marketplace, a marketplace that now includes the entire world.

II. Children, Families, and the Media

I am deeply honored that President Bush appointed me to be a commissioner at the FCC. It’s a position that carries with it many responsibilities that have a lasting impact – not just on companies, but on our society as a whole. But, in my eyes, simply fulfilling my responsibilities has never been enough. Whether in my professional capacity as a public servant or as a private citizen and volunteer, I have spent most of my life working on issues that significantly impact children and families. I miss the university environment, having been in several positions at Vanderbilt University’s Child and Family Policy Center and the State and Local Policy Center. I also worked on the creation of better schools, the rewriting of the Tennessee mental health code, welfare reform, and the establishment of a home for addicted mothers and their children. I continue to be firmly committed to making a difference where important issues affecting children and families are at stake in items before us at the Commission, as they so often are.

Sometimes, such issues arise in unexpected ways. One of my first votes at the FCC, for example, was to approve a device that is implanted under the skin of

individuals with diabetes so that they can more easily monitor their blood-sugar levels. Most of the time, however, issues affecting children and families arise in more traditional ways. I'm thinking in particular of the important and timely topic of the increasing amount of indecent programming on television and radio. Nothing else before the Commission elicits remotely the same level of public outrage.

However, we as parents are, of course, the first line of defense in the protection of our children from indecent content. But I refuse to let anyone say we are the entire defense. Additionally, the media industry has begun to provide tools to help parents in their efforts. So, in keeping with the advice of that great Tennessee author, the late Alex Haley, who often said, "Find the good and praise it," let me mention a few positive changes: ratings are displayed prominently in many more programs today and technological solutions like the V-chip, parental controls in your cable box or TiVo, and language filtering software like that offered by TV Guardian are available right now. Even the wireless industry, as they move into the video marketplace, has adopted tools to assist parents, including insuring that a customer is over 18 years of age before providing them with service. There are also controls to limit the phone and media usage as well as minutes of use.

The statistics on media usage, particularly of television, are unbelievable. According to the A.C. Nielsen Company, the average American watches more than four hours of television per day. Even worse, the average American child watches 1500 hours of television per year, as compared to the 900 hours per year that child will spend in the classroom. The Kaiser Family Foundation found that 30% of children *under age 3* have a television in their bedroom! This percentage grows steadily with older children – 60% of children ages 8 to 17 have a television in their bedroom, almost a third of which have cable. My message to parents is simple: BE THE PARENT: turn off or at least monitor TV and other media, *Use the tools available*, and most importantly: spend time and really talk with your kids. My message to the media is simple as well: follow the law.

a. Childhood Obesity

Most every day, we hear another study regarding the national epidemic of childhood obesity. Yesterday, I met with Kellogg's to hear about their many commitments to fighting this problem, from eradicating trans fats, to the "100 calorie" packaging, and to encouraging more physical activity by kids. In recent years, experts, public officials, and parents have spent a lot of time talking about the content to which our children are exposed. It's very important that we – as a

society – continue to look for ways to make sure that media can be a positive force in our children’s lives.

While parents pay a great deal of attention to the programs their children watch, many fail to notice those programs’ advertisements. The marketing industry, however, is paying close attention to advertisements that can target children. Children are voracious consumers and it’s perfectly understandable that advertisers would target them – but it may not be entirely fair. According to recent research, most children can’t distinguish between programs and commercials until they are 4 or 5 years old. In addition, it is not until children are 7 or 8 years old that they are able to understand that advertising is designed to persuade – until that age they often accept advertisements as fact.

Studies that try to identify just how much influence media has on the childhood obesity problem can provide us with a great deal of insight. In studying these particular issues, we can find research that may draw different conclusions about the specific number of hours children watch TV, the total number of food advertisements they may see, or the number of hours they spend in some type of physical activity. While we may disagree on the accuracy of any one study, what I think we all can agree on is that our children are less active, more overweight and therefore less healthy than ever before. Simply put, childhood obesity is an epidemic.

Childhood obesity is a problem that we – parents, communities, universities, faith institutions, the industry, and the government – can solve by working together. On September 27th, I stood at the U.S. Capitol with Senator Sam Brownback and Chairman Kevin Martin to announce the formation of a task force which will examine the connection between the media and the epidemic of childhood obesity that we’re facing in America. The task force will bring together representatives from the food, television, and advertising industries, along with consumer advocacy groups and health experts.

You also may have heard or read about the wonderful announcement on Monday, October 18th, that Disney adopted new nutritional guidelines to promote healthier diets for our children. Additionally, I spent a few hours in Battle Creek yesterday speaking with executives and nutritionists from the Kellogg’s Corporation about their efforts to curb childhood obesity. Finally, Kentucky Fried Chicken announced today that it will stop using oil containing trans fats in the preparation of most of its food products. I hope that this is only the beginning of the changes that we’ll see, and I encourage all of you here to get involved. It’s going to take all of us – our entire society – to solve this problem.

IV. Media Ownership

Of course, there are just a few other media-related “problems” that we’re dealing with at the FCC. Most of them require us to consider both the challenges and the opportunities that arise from the significant technological advances that are occurring on a daily basis.

On the macro level, we’re confronted by the continuing emergence of new digital platforms for the delivery of media programming. Verizon and AT&T are rapidly expanding their FiOS and U-Verse video services. With increases in broadband penetration among American households, the Internet revolution is blossoming as the web becomes a destination, not just for short clips, but for full-length video programming. I recently had an opportunity to tour the Disney studios out in Burbank, and they showed me how they’re making more content available on the web. In fact, their website clearly advertises, “Watch tonight on TV. Watch tomorrow online.” They’re not the only ones doing this. Perhaps you’ve heard about a little website called YouTube, which has more than 19 million visitors and shows more than 100 million video clips each day? CBS recently signed a marketing agreement with YouTube and now has its own channel on the site, where it posts programming daily. Yahoo and Telemundo have partnered to start a website targeted to Hispanics. Others will certainly follow in their footsteps. And, of course, the picture wouldn’t be complete without mentioning DBS, satellite radio, internet radio, blogs, vlogs, and the iPod.

As I marvel at all of these developments, I keep thinking of the great opening line from the movie “The Fellowship of the Ring”: “The world is changed.” We’re truly on the verge of creating a media environment in which consumers can get their news, information, and entertainment programming from a variety of sources, whenever, wherever, and however they choose.

All of this change is exciting, but it also raises a number of questions that we at the FCC need to answer as we seek to adapt our media ownership rules to this new, digital world. How has this increased competition from new media affected broadcasters? How do our younger, media- and technology-savvy citizens get their news and information? My college age children, part of generation-i, the first generation to grow up with the Internet, get their news from the web and the Daily Show, not the local TV or radio station. How typical are they of the younger generations? How has media consolidation affected diversity of voices? How has it affected the production of content like children’s and family-friendly programming? Clearly, there are many, many other important questions for us to

consider. From a regulatory standpoint, the media marketplace of tomorrow is being shaped today.

The Commission is looking for input on our rules and how they impact the three core goals they are intended to further – competition, diversity, and localism. Recently, the Commission held the first of six planned public hearings in Los Angeles and El Segundo, California to review our broadcast ownership rules. At those hearings, we heard from members of the television, film, and recording industries who claim that the creativity of artists has been stifled due to media consolidation. We also listened to concerns from media industry employees who are now faced with fewer jobs, lower wages, and decisions made by a few conglomerates instead of local operators. Additionally, we heard from ordinary citizens as they voiced their views on the newspaper-broadcast cross ownership rules and the importance of local ownership in producing content that appeals to them. I encourage your participation in our hearings and I hope you will help us evaluate the transformation of the media marketplace that has occurred since we adopted our current regulations – a landscape vastly different from the world in which the FCC originally promulgated the media ownership rules.

V. BellSouth-AT&T Merger

On the topic of evolving markets, as many of you may know, the Commission is currently considering an item that addresses the proposed merger of AT&T and BellSouth. These companies assert that the merger will advance broadband and video service deployment throughout the region. BellSouth filed its application with the Commission on March 31st and we are now at day 194, past the Commission’s informal 180 day “shot clock” for merger reviews. The Department of Justice approved this merger without conditions on October 11, but the companies still need our approval before closing the deal.

A few weeks ago, we planned to vote on the item, but instead, we sought comment on several recent commitments BellSouth has discussed as a way to win unanimous support at the Commission. These include commitments to build out broadband to 100% of residential customers by the end of next year; much of this targeted at rural and low income areas. Additionally, the companies have committed to further improvements in public safety, protections for wholesale competition, offering stand-alone DSL service, offering a low-priced \$10 broadband offering, and trials to roll out wireless broadband. The Chairman has scheduled a meeting at the end of this week to address this application and, hopefully, the Commission is able to reach a decision by that time.

Also a part of the merger discussions is the issue of Internet policy – many call it “net neutrality.” I have publicly supported the four principles of Internet policy adopted by the Commission last year. While I support these principles, I am cautious about imposing new regulations in this area; the law of unintended consequences will haunt us if we are not careful. We must act carefully and respect the significant impact that even well-intentioned rules might have on network investment; we all benefit from the expansion of broadband networks and must consider the impact on the further rollout of these critical networks.

VI. Universal Service Reform

This year, in addition to my role as a commissioner, I’ve had the privilege of serving as the Chair of the Federal-State Joint Board on Universal Service. In fact, last month we spent two days hosting state commissioners and their staff in a training session at the FCC.

Many of you are much more familiar than I am with this world of acronyms – USAC, NECA, ICLS – but I *have* had the experience of seeing the practical effect that our universal service programs have on real people in real communities, from Appalachia to Alaska. Programs like Lifeline and Linkup help low-income households obtain and maintain telephone connections. The e-rate Fund subsidizes the cost of telecommunications and Internet access for schools and libraries around the country. I’m proud to say that, under the leadership of then-governor Don Sundquist, Tennessee was the very first state to connect all of its schools to the Internet. And, last month at the Commission’s September 2006 open agenda meeting, we adopted an Order establishing a rural healthcare pilot program, which will help public and non-profit healthcare institutions build state and region-wide broadband networks and connect them to the Internet2 network.

However, the program that seems to generate the most passionate discussion – and one that many of you have called on us to reform – is the so-called “high-cost” program that subsidizes rural telephone systems to ensure that rural customers are charged rates reasonably comparable to those charged to urban customers. “High cost” is a complex program that I’m sure only a few people truly understand, even at the FCC, and one that *is* ripe for significant reform, as there are problems on the contribution and distribution sides of the equation; or, for that matter, problems with the equation itself.

For example, to fund the “high cost” program, we have traditionally assessed interstate long-distance bills. At a time when the very notion of a long-distance

call is becoming anachronistic, however, it's increasingly difficult to rationalize this practice.

In addition, as critics of the program have observed, there are few, if any, incentives for those companies that benefit from the fund to operate efficiently. At the VON conference in Boston a few weeks ago, I had an opportunity to hear George Mason University's Professor Thomas Hazlett discuss his paper critiquing the fund. Professor Hazlett noted examples of USF support in the amount of \$13,000 per line, per year, despite the availability of far cheaper telephone alternatives in the area. He also observed the lack of measures in the system to punish inefficiency, which can result in overhead costs as high as \$500 per line.

There's also the important question of what companies, if any, should benefit from the fund. In addition to small, rural telephone companies, FCC policies allow ETCs ("eligible telecommunications carriers") to receive funding for the same rural areas. According to the Congressional Budget Office, support to these "competitive ETCs" – usually wireless companies – has spiked in the last 5 years and now accounts for nearly 17 percent of total universal service spending. Many of you have been asking, if it is so costly to provide service to an area that we must offer subsidies, why are we subsidizing two, three, or even more providers in that area? The questions surrounding USF reform are important ones, and I look forward to working with Congress, my fellow commissioners, and our state colleagues to address each of them.

VII. Spectrum Management

Another significant issue the FCC deals with on a daily basis is spectrum management. Commissioner Quello, your alumnus and this center's namesake, was instrumental in this area during his tenure at the Commission. As acting FCC Chairman, Mr. Quello obtained auction authority from Congress and initiated the process of spectrum auctions. Today, spectrum auctions continue to function as an efficient method of allocating spectrum to those entities that will use it most effectively, while also raising substantial revenue for the U.S. Treasury.

Just recently, the FCC completed a highly successful auction, in which we allocated a large swath of spectrum, issued 1,087 licenses to 104 bidders, and raised \$13.9 billion for the U.S. Treasury. I think we all hope for innovative new products and services, especially fixed wireless and new broadband technologies, to reach even our most remote citizens. I believe that this recent auction will facilitate getting these new products and services on the market and will positively contribute to the spread of universal service.

We are always open to improving the process, however. Whether we auction off spectrum bands for licensed use or reserve spectrum bands for unlicensed devices, the Commission continues to look for new ways of utilizing spectrum to its full capacity. For instance, as reported at the Open Meeting on October 12th, the FCC is taking a number of important first steps towards allowing new low power devices to operate on unused broadcast television channel frequencies which are not being used for authorized services. I hope that this will provide for more efficient and effective use of the TV spectrum and significantly benefit the public, especially those Americans in rural areas, by encouraging the development of new and innovative types of devices and services for businesses and consumers.

VIII. Homeland Security

Finally, and most importantly, I would like to touch on the issue of public safety and homeland security. Mere words can never fully express the emotions we feel or describe the images we see in our mind's eye when we reflect on the horrific attacks against our country on September 11, 2001. The events of that day five years ago left none of us untouched.

While we continue to mourn the innocent lives lost and honor the brave and selfless acts of the first responders, we must also learn from our experience and equip the nation to function more effectively in such times of crisis. At the Federal Communications Commission, my colleagues and I are keenly aware of how important all communications technologies are when public safety or homeland security concerns become paramount.

Earlier this year, at the second meeting of the FCC Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks in Mississippi, I heard personal accounts of the devastation caused by Hurricane Katrina. The one clear message I heard was the need for redundancy in communications networks. I applaud the collaborative efforts and contributions of the entire communications industry, which has worked hard to address the difficult policy and technical issues that make these necessary improvements possible.

As many of you know, the Commission recently unveiled its new Public Safety and Homeland Security Bureau, which will streamline these functions at the FCC. This action underscores the fact that the dissemination of vital information and interoperable communications at every level are our first line of defense against natural disasters, attacks on our homeland, and even the possibility of a pandemic, other health-related, or environmental attack. Yesterday, I toured

General Motors' OnStar facilities and witnessed a demonstration of their service – an incredible private sector tool which may not also assist drivers, but may also help provide information about disasters in the future.

IX. Conclusion

In closing, I want to encourage each of you to continue learning about the new and pending issues affecting communications law. I would argue that this industry is more exciting than it has ever been. I am so pleased to be a part of it, at such a crucial time when all of these technologies are converging and redefining our concept of telecommunications. I remind you that your contributions to communications and media policy, in the form of comments filed with the FCC, articles that you may write, and forums that you may participate in or host, do make a difference. They help to shape the debate by providing a framework for an analytical understanding of this very fluid market. I thank you – on behalf of those of us in public policy, government, and even industry – for this gift of your insight, intellect and ideas. We all share the ultimate objective: keeping America safe, connected, and competitive in the 21st century.

Thank you.