

DISSENTING STATEMENT OF
FCC COMMISSIONER JAMES H. QUELLO

In re: Notice of Proposed Rulemaking re: Table of TV Channel
Allotments (Limited Facility Stations -- LFS Drop-ins)
September 18, 1980

The Commission is unwisely rushing to judgment on one of the most significant and potentially disruptive proposals in FCC history!

We simply do not have sufficient information on which to base an informed, responsible decision for a Notice of Proposed Rulemaking for Limited Facilities Stations.

In an attempt to achieve some idealistic but unproven social benefits which may be predestined to failure, the majority is dismantling the landmark Sixth Report and Order which provided an orderly, responsible TV allocations process. The proposed restructuring of TV with LFS (Limited Facilities Stations) is potentially damaging to this nation's television system because of interference to existing service and the disruption and confusion to consumers. It could well result in disservice to the overall public, minorities and majorities alike, with inferior, inadequate or lost service.

This massive step should be considered only after the most thorough study and analysis developed by a comprehensive inquiry. We must know more about the full consequences of LFS interference with full service stations and the effect on consumers in fringe and loss areas. There is a wide variation in interference in different areas. The "equivalent protection" theory is subject to valid challenge ---it seems more like a "paper" rather than practical alternative. Further, we should not rely on propagation curves for individual cases which do not adequately predict the interference levels in the real world.

We should have guidelines and specific, complete information as to what services will be affected or eliminated. We should know more about the relative stability of directional TV antennas in the VHF band. We need to know more about specific capabilities and total costs to consumers of receiving antennas which might reduce interference. We obviously need more information on effective use of terrain roughness factors in calculating propagation curves.

I particularly need considerably more information about the advantages of Limited Facilities Stations in relation to UHF stations before I can support a proposed rule. In my opinion, the staff greatly exaggerated the comparability of UHF and VHF. The proponents of this new allocations policy have conveniently concluded

that there is no longer a UHF handicap and that the millennium has arrived. If this is true, I see no immediate need for LFS since there are numerous UHF allocations which are not being utilized.

Historically, soon after the Commission first decided that VHF and UHF stations could co-exist within the same markets, it became obvious that the decision was based on inadequate information. Many UHF stations were constructed in the 50's only to go dark within a short time because they were unable to compete. Now that UHF is finally showing signs of progress, the majority is, in effect, adding new impediments to its further growth by proposing nationwide VHF drop-ins.

Also, if UHF is now fully comparable to VHF, it certainly isn't appreciated in New Jersey or Delaware, two states with justifiable complaints about no full VHF-TV service. I welcome even the promise of VHF service to New Jersey. However, it is doubtful if petitioners for full VHF service would be satisfied with low power drop-ins or LFS.

If substantial VHF service is really technically feasible for New Jersey, we should promptly provide that needed service without awaiting the outcome of this proceeding. Last October, the Commission was informed by our staff that there was "no possible way" to provide VHF service in New Jersey or Delaware. Since I am not aware that the laws of physics have been amended, I hope the technical judgments made today are superior to those made last October and that finally we can overcome this serious problem. If feasible, we should provide VHF service authorizations to New Jersey and Delaware on a special basis without awaiting the outcome of this rulemaking. The needs of these two states are obvious and unique and should be accorded specific, immediate attention without requiring a nationwide Limited Facilities Service allocation.

Overall, I can't understand why it is so imperative to restructure the entire television industry in September 1980 instead of adopting a more reflective, responsible approach based upon more complete knowledge and analysis.

I believe a matter of this significance and impact should receive the guidance and approval of Congress, not an "arm of Congress." It should be determined on a higher level by elected officials directly responsible to the American people - by the Congress and not by appointees to regulatory agencies. I have a nagging concern the majority is rushing into a course of action that may have a negative, disruptive impact on our quality of service and on the entire American TV system -- a system that with all its flaws and human errors is still the most informative, creative and diversified in the world.