

**Concurring Statement of Commissioner James H. Quello**

**In Re Applications of Midland Broadcasters, Inc. et al.; Lotus Communications, Inc. and University of Southern California; Sun Mountain Broadcasting, Inc.; Commonwealth Broadcasting of Northern California et al.; Buckley Broadcasting Corp. et al.**

With some consternation, I face yet again a series of Commission decisions designed to pit Big Brother against industry. With extreme reluctance, I concur in these items, recognizing that, for the most part, a sanction of some sort may be necessary in these cases due to the licensees' failure to comply with our equal employment opportunity rules. Most of these sanctions are against licensees in medium to large markets, where the resources to comply with our EEO rules are, presumably, more readily available than in small markets. In addition, several of the remiss licensees in these cases are located in markets with some of the highest concentrations of minorities in the country, thus providing further justification for sanctions.

Nonetheless, the severity of the sanctions in these cases compel me, yet again, to beseech my colleagues at the Commission to change their focus in ensuring compliance with these very important policies. Compliance could be encouraged -- I think more effectively than by means of harsh punishment -- through use of a "three strikes and you're out" policy. The first violation of our EEO or other rules (except for rules involving safety or intentional rule violations) would result in a warning and imposition of reporting conditions; a second violation would result in a fine and a short-term renewal; a third violation would result in a large fine or designation for hearing.

Another option to encourage, rather than painfully extract, compliance would be to allow broadcasters, as we currently allow common carriers, to settle cases where justified, entering into a consent decree with the Commission that is mutually beneficial to all the parties involved. The Commission would benefit from conserving resources, broadcasters would benefit from gaining prompt disposition of their applications, and minorities would benefit from the funds collected through consent decrees. In the consent decree or other context, I again urge that the Commission use monies collected through enforcement of EEO rules (and other rules as well) for constructive, positive, and practical affirmative purposes. Such purposes could include the funding of programs for educating and training minorities for careers in media, or for funding minority ownership of media properties.

I know that, right now, I am one of the few, but growing, voices for reform of our stepped-up enforcement scheme. But I will continue to be a voice -- persistent, balanced, and increasingly vocal -- supporting an innovative approach to ensuring equal opportunities for minorities. I remain convinced that the best way of ensuring equal opportunities is by working with, rather than against, the very industry that must provide these opportunities.