

Separate Statement
of
Commissioner James H. Quello

Re: Market Entry and Regulation of Foreign-Affiliated Entities
(Docket No. 95-).

I am concerned about the timing and scope of this Notice of Proposed Rule Making. While it is commendable for this Commission to clarify our rules regarding foreign carrier entry in an evolving and increasingly international communications marketplace, I am troubled that we are proposing review of Section 310 of the Communications Act when Congress has targeted foreign ownership as a subject for legislative action. Although I have long maintained that a Commissioner may ask any question of interest in a Notice of Proposed Rule Making, I believe that it is our role to seek and accept guidance from Congress; particularly when a subject is under active consideration in the Legislative Branch of our Federal Government. I believe that it unnecessarily complicates the resolution of this docket to incorporate a review of Section 310 into what could have been more expeditiously handled by a clarification of Section 214, as requested by the parties.

In what I believe is a misguided attempt to reach legal symmetry, this NPRM raises the issue of the application of possible revisions of Section 310 to broadcast facilities. I note, however, that we do not draw a tentative conclusion but, rather, merely seek comment on whether any revisions in our analysis of Section 310, if adopted, should apply to other than telephone carriers.

In clarifying our analysis under our statutory mandate, we must recall the history of the Communications Act. Restrictions on control of broadcast facilities were a bedrock principle of the Communications Act. In addition to legislative intent underlying the Communications Act of 1934, we must be mindful of current legislative activity. Telecommunications reform legislation attracted broad bipartisan support and came very close to passage in the previous Congress. Comprehensive telecommunications legislation has been identified as a priority in this current 104th Congress. Therefore, I believe that the Legislative Branch of our Federal Government, rather than this Commission, properly should take the lead in any reconsideration of Section 310, as they have indicated they are so doing.

In light of these concerns, I specifically ask commenters to address the issue of the appropriate scope of this proceeding.

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