

DISSENTING STATEMENT OF FCC COMMISSIONER JAMES H. QUELLO

Re: Amendment of the Primer on Ascertainment of
Community Problems by Broadcast Renewal
Applicants in regard to the Community Leader
Survey.

In 1976, the Commission sought to provide broadcasters with guidance as to how much and what kinds of community ascertainment efforts would be considered sufficient. We established a list of categories of community leaders which should be included in most communities. Broadcasters had some assurance that by ascertaining those leaders represented in the listed categories they would meet the Commission's requirements. 150

In this revision, the Commission seems to be returning to the ambiguous pre-1976 approach. Paragraph 11 of this order states that "...broadcasters have a responsibility to insure that all significant elements or institutions which are readily accessible within their community of license, whether or not they are one of the nineteen categories on the Checklist, are ascertained." (emphasis supplied) Thus, opportunities for increased litigation and "dog in the manger" license challenges are significantly increased. Who can say, at this point, what "readily accessible" means in terms of the licensee's responsibilities. Paragraph 11 also notes: "As to other elements or institutions which may be significant in a particular community but not readily accessible, they too should be ascertained if their existence is brought to the attention of the broadcaster. (emphasis supplied) Now we are required to judge such arcane matters as "inaccessible significance" in assessing licensee performance. We, thus, are prepared, presumably, to forego ascertainment of those elements or institutions which are both "inaccessible" and "insignificant"; they, of course, know who they are.

I believe that licensees should continue to exercise their good faith judgment with regard to ascertainment. I further believe that the Commission's Checklist should provide a reliable means of restricting this requirement to readily understandable and reasonable limits.

Therefore, I dissent.