

CONCURRING STATEMENT OF FCC COMMISSIONER JAMES H. QUELLO

Re: Disposition of RKO General, Inc.'s Thirteen Other Stations

I am reluctantly concurring because of the guarantees that hearings will not commence until court appeals are completed.

Without the provisions for an effective freeze on hearings, I would have vigorously dissented. Even with the provision, I strongly disagree with the conclusions advanced in the Commission's document reflecting improperly on RKO's character qualifications.

I believe the Commission is still perpetuating the gross injustice of the first RKO decision when the Commission overruled its Administrative Law Judge and its own Broadcast Bureau that resulted in denying the licenses of three major TV stations and jeopardizing thirteen other stations. This first decision already represents the harshest punishment in FCC history.

Today's decision designating the thirteen stations for hearing further emphasizes the critical need for more mature, objective Commission reasoning. It particularly calls for outright rejection of the unprecedented and preposterous "character is not divisible theory" which triggers a chain of draconian license denials--harsh inequitable punishment out of all proportion to the violations committed or for the punishment necessary to assure a proper deterrent effect.

Today the majority has again overruled its Broadcast Bureau which recommended approval of a spin-off proposal submitted by RKO. I favored the spin-off, but it was rejected by a majority vote of the Commission. The proposed spin-off would have protected the innocent stockholders and assure that future operations of the stations would be in compliance with Commission rules and in the public interest.