

September 23, 1982

Statement of  
FCC Commissioner James H. Quello  
Dissenting in Part

In Re: The City of New York Municipal Broadcasting System AM  
Radio Proceeding

I must dissent to that part of the Commission's decision which denies nighttime operating authority to public broadcast station WNYC -- ending almost 40 years of nighttime noncommercial service. I am convinced that the Administrative Law Judge correctly determined that WNYC's nighttime operation has uniquely served the special needs and interests of its audience, and thus, I believe that this service should be permitted to continue.

This is a case where the Commission must exercise its responsibility to choose between conflicting valuable services. The majority recognizes that WNYC's programming is meritorious, but chooses to adhere strictly to its general technical standards. In my view, ample cause has been shown to retain all of WNYC's unique public-service oriented programming. In weighing these issues, I consider it particularly relevant that WNYC's nighttime operation causes no interference to the primary service area of station WCCO and that each area which might receive additional secondary service from WCCO is located within the secondary service area of at least 10 other clear channel stations.

As a final matter, I believe that the majority has erroneously relied on the fact that the meritorious programming of station WNYC theoretically could be shifted to co-owned station WNYC-FM, a fulltime station. In fact, it is also possible that some other station in the market will take the opportunity to present any programming lost by cessation of WNYC's nighttime operations. The relevant question, however, is whether this meritorious programming will, in fact, be shifted to another station or whether it will instead be discontinued. The majority opinion implies an obligation on the part of WNYC's licensee to use any facility at its disposal to disseminate this valuable information. No such obligation exists, and there may be sound reasons why the licensee will choose to continue the present format of its FM facility. Should this occur, it is the Commission, and not the licensee, which has denied the citizens of New York access to unique programming which clearly served their special needs and interests.

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