

CONCURRING STATEMENT OF
COMMISSIONER JAMES H. QUELLO

I concur with the majority's decision that a rulemaking is necessary to clearly establish the guidelines for broadcast licensees to follow when they decide it is in the public interest to reach formal agreements with local citizens groups. However, I have serious reservations about the approach the majority has outlined in the proposed policy statement.

I suggest that the following approach would be consistent with this Commission's continuing effort to assume the best broadcasting service possible to as many citizens as possible:

- (1) The Commission should continue to rely upon its present policy which requires each licensee to ascertain the needs and interests of the total community which he serves and to respond to those needs and interests with appropriate programming.
- (2) The Commission, consistent with its ascertainment policy, should continue to encourage dialogue between broadcasters and local citizens groups with the object of exchanging information which may prove useful to either or both.
- (3) When formal agreements result from such discussions, they should become a part of the licensee's public file so long as they remain in force.
- (4) The Commission should make no official acknowledgement of private agreements of the nature described above except upon complaint that a licensee has abrogated his responsibility under the terms of his license as a result of such agreements. Such consideration should be strictly limited to a determination as to whether there has been an abrogation of responsibility.
- (5) The Commission should reexamine its own internal policies and procedures to ensure adequate means for receiving and processing citizen complaints and petitions to deny fairly, thoroughly and expeditiously. We should also review our

industry equal employment opportunity program with the object of ensuring that industry employment policy is clearly enunciated and effectively implemented.

Proposals in the majority document that the Commission review the merits of some agreements inevitably carry with them the implication of Commission sanction. Once a review has been concluded, the Commission then becomes, in effect, a party to the agreement and bears an enforcement responsibility. Therefore, any Commission review, except for examination for a licensee's abrogation of his responsibility, and then only upon complaint, forces a result which should be avoided. The Commission should not concern itself with the existence or non-existence of any private agreement so long as the licensee meets his overall public responsibility.

The Commission should and does promote licensee-community dialogue on a broad scale. The entire community, including representative minority and activist groups, is provided an opportunity to express viewpoints and exert influence through the required ascertainment. The results are subject to both public and Commission review. Stations are now required to list in the public file at least ten principal needs and problems of the area served as determined through ascertainment and also the programming scheduled to meet the needs. Also licensee promise vs. performance is thoroughly reviewed by the Commission at license renewal time. Individual groups that demand agreements are not accountable to the public, to this Commission nor even to the licensees with whom they negotiated.

Citizens groups already have full opportunity to register a complaint or seek redress of grievances through letters to the Complaints & Compliance Division or through filing petitions to deny.

The question logically raised by private or special agreements is how a licensee can ensure that his commitments represent the various interests of his total service area. A negotiated agreement between a licensee and any citizens group, however laudable the objective, is not compatible with Commission requirement that a licensee conduct a thorough, continuing ascertainment to determine for himself the needs and interests of all his community. Also, the preferences of one group might well be antithetical to another. If many minority, civic or citizens groups all prevailed upon a station for special agreements, the resulting instability and chaos could threaten the quality of the overall broadcast service.

While my primary concerns relate to Commission sanction of private agreements, I am concerned that the public is largely unaware of provisions which can significantly affect what it sees and hears on radio and television. The majority has conceded the possibility that agreements should be included in a station's public file and I certainly agree that they should. However, I also believe that some affirmative action is necessary to inform the general public of their existence. For the convenience of the public, I would urge that the text be published, at appropriate intervals, in newspapers of general circulation available in the station's primary service area. Private agreements, of which the general public is unaware, are inimical to our system of broadcasting and serve only to undermine the licensee's responsiveness to the legitimate needs of the entire community.

Licensees are charged with programming and management decisions. They are accountable to the Commission. That's where the responsibility belongs, unfettered by additional, unnecessary rules, policies or agreements which hamper rather than enhance overall broadcast service.

Therefore, I concur with the above-stated reservations.