

June 3, 1975

CONCURRING STATEMENT OF
COMMISSIONER JAMES H. QUELLO

I fully concur in the issuance of the Notice of Proposed Rule Making concerning cable television channel capacity and access channel requirements. However, I wish to express my personal views concerning certain of the matters treated therein.

I believe there is a need to amend our present requirement for provision of access channels by any cable system located within a major market. Obviously such requirement places an undue burden on small systems which happen to be located within a major market area, and, conversely, ignores the benefits of access channels in the case of larger systems located outside of major markets. In my opinion the trigger for such obligation should be actual subscriber count, potential subscriber count, or possibly cable community population.

I question whether this Commission should pre-determine the number or purpose of access channels to be provided as an initial minimum. In my opinion, this determination is one to be made by the local franchising authority in conjunction with community participation. Should local determinations specify only a public access and an educational access channel, then this is the expressed need of the community and should satisfy this Commission. On the other hand, should the local determinations specify five access channels, for whatever purpose, then the practicalities of cost and utilization are matters for acceptance or rejection by the cable bidder as a simple business judgment. The only requirement this Commission should place on the operating cable system is an "N plus 1" formula, i. e., necessary channel capacity for signal carriage and local requirement plus the capacity to provide one additional channel upon demand and need therefor. Thus the cable operator always has a channel in reserve at all times.

I would delete our present two-way capacity requirement as being an unnecessary burden on a cable system. Certainly it is enough to recognize that a cable operator may add two-way capacity at his option when the need or demand therefor arises. Frankly, I do not believe this Commission needs to pre-commit the cable industry to an expenditure for a service that is not utilized. When the need arises and subscribers are willing to pay to satisfy the need, the cable operator will provide the specified service. But I cannot agree that cable systems must provide in advance for nebulous eventualities which may never develop in a practical sense.

I hope to see deletion of our present "one for one" rule, which requires that a system provide one non-broadcast channel for each broadcast channel used. Again I return to my own view that the "N plus 1" formula is sufficient, recognizing the mechanical problems of channel capacity and the limitations inherent in "state of the art" component parts.

Finally, before this Commission adopts further rules which look to the future development of cable, I think it must expend substantial effort in obtaining practical statistical data on current uses of cable facilities and must project future potential based on statistical data rather than "blue sky" expectations as in the past. I suggest that statistical studies heretofore submitted by such representative groups as NAB and NCTA, as well as by individual broadcasters and cable system operators, should be incorporated into the overall study effort to provide as wide a data base as possible. In my little more than a year's experience in this Commission, I have been deluged with conjecture and speculation both pro and con as to the values and impact of cable television--I would much prefer to be deluged with statistics and facts.

In short, I think the Commission has burdened the cable industry unnecessarily with requirements and restrictions which cannot be statistically or practically supported.

Hopefully, this Commission in the near future will take positive, well-reasoned steps toward eliminating the more unreasonable burdens which have been placed on the cable industry.