

March 31, 1983

Separate Statement of  
FCC Commissioner James H. Quello

In re: Authorization of Teletext Transmissions by TV Stations,  
BC Docket No. 81-741

My decision not to support mandatory cable carriage of teletext should not be interpreted to indicate any reduction in my strong commitment to continuing the mandatory cable carriage rules as they apply to conventional television programming. In my view, the strong justification for imposing these requirements -- protecting the availability of local broadcast service to the public -- does not apply to the ancillary teletext service. Therefore, I concluded it would not be proper to extend the rules' effects to this new service.

When the Commission declined to require cable television carriage of subscription television stations, it stated that "concern with the impact on broadcast service to the public... provided the most fundamental bases (sic) for the mandatory carriage rules."<sup>1/</sup> The Commission recognized that cable carriage was not fundamental to the survival or economic success of STV stations, and thus it did not require such carriage.<sup>2/</sup> This reasoning applies with equal force to teletext service.

Preserving the availability of conventional local broadcast service is a sound basis for the cable carriage rules. I am concerned that applying these rules to protect teletext would be an overextension of the Commission's authority which could ultimately undermine the Commission's valid exercise of authority in this area.

When the teletext signal is an integral part of conventional broadcast programming (e.g., closed captioning), mandatory carriage obligations may properly attach. It is my understanding, however, that existing copyright law can protect teletext carriage in this situation without Commission intervention.<sup>3/</sup> Should the state of the law change on this subject, I might well support a limited revisiting of the Commission's decision.

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1/ Memorandum Opinion and Order - Signal Carriage Rules - STV, 77 FCC 2d 523, 528 (1980), aff'd sub nom. WWHT, Inc. v. FCC, 656 F. 2d 807 (D. C. Cir. 1981).

2/ Id. at 528.

3/ WGN Continental Broadcasting Co. v. United Video, Inc., 693 F. 2d 622, rehearing denied, 693 F. 2d 628 (7th Cir. 1982).

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