

May 26, 1983

Concurring Statement of
FCC Commissioner James H. Quello

In re: Frequency Reallocation to the Multipoint Distribution
Service (MDS), General Docket 80-112 & CC Docket 80-116

As you know, my consistent position on this issue has been that there is a heavy burden of proof on those who seek to take away frequencies reserved for educational purposes. I am concerned that the Commission is not adequately taking into consideration the educational community's future needs for this spectrum as this nation moves into the information age. Nevertheless, the staff and some of my colleagues do want to make additional channels available for commercial video services. Given that this is inevitable, I believe that this document represents an exceptional balancing of competing interests in a very difficult area. I believe that if reallocation must result, this document appears to be a reasonable approach which maintains priority where it belongs -- with educational entities.

I have been reluctantly persuaded to concur in this document because of the following provisions and assurances:

- (1) all existing ITFS applicants, permittees, and licensees have been "grandfathered";
- (2) at least 20 channels are reserved exclusively for ITFS;
- (3) educators will be permitted for the first time to lease excess capacity so as to provide the potential for needed additional revenues;
- (4) MDS applicants will receive only a conditional construction permit and must get an agreement in writing from the existing ITFS licensee before they can begin construction on the same channel or an adjacent channel;
- (5) MDS applicants must protect ITFS operators against interference.

Finally, I must note that the Commission, in making its decision, had to give some weight to the lack of existing use of the ITFS spectrum. It is a significant argument that in a substantial number of states there are no channels in use and no applications on file.

While we cannot ignore the loss of potential for ITFS service resulting from this action, I strongly hope that the educational community will recognize the significant benefits which will accrue to the ITFS service as a result of this decision. We must all now look to the future and allot the highest priority to applying the ITFS service as an innovative tool for making our nation more productive and our people better able to cope with a rapidly changing world.