

Concurring Statement
of
FCC Commissioner James H. Quello

In Re: Amendment of Part 76 of the Commission's Rules
Concerning Carriage of Television Broadcast
Signals by Cable Television Systems.

I fully support initiating this Notice of Inquiry and Notice of Proposed Rulemaking looking toward the establishment of mandatory carriage rules that meet the legitimate interests of all participants in the marketing of broadcast programming. I hope that commenters will focus on the constitutional issues raised by the court in Quincy Cable TV, Inc. v. FCC (Quincy),¹ as well as describe reasonable solutions to the practical problems involved in imposing carriage obligations on cable systems.

I also wish to note my concern about consolidating into this docket the issues raised in three separate dockets involving mandatory carriage of TV stereo, teletext, and data transmission on the vertical blanking interval.² In my view, this is not a sound procedure. Only a short comment period has been provided here, and this new docket should focus on the crucial issue of what mandatory carriage rules would meet the concerns raised in Quincy. It would be unfortunate if the parties' comments are diffused by discussion of issues that are clearly peripheral to the legal questions raised in Quincy.

A wiser course of action would be to leave the other dockets open pending resolution of this NOI/NPRM. If the Commission chooses not to adopt any mandatory carriage rules, these other dockets could be dismissed as moot. And if mandatory carriage rules are adopted, these peripheral issues could then be addressed on their quite separate merits at that time. It is my hope that even with consolidation, this is the procedural approach that the Commission will adopt.

1 768 F.2d 1434 (D.C. Cir. 1985).

2 Docket No. 21323; BC Docket No. 81-741; and MM Docket No. 84-168.