

November 25, 1985

**Concurring Statement of
FCC Commissioner James H. Quello**

In re: Transfer of control of Storer Communications, Inc. to
Subsidiaries of SCIPSCO, Inc.

I reluctantly concur in the majority's decision not to grant fully the applicants' request for waiver of Section 73.3555 of the rules to allow the option of divesting either WJBK-TV, Detroit or WTVG(TV), Toledo. I agree, of course, with the majority's determination that the degree of overlap between WJBK-TV, Detroit and WJKW-TV, Cleveland is de minimis, but I think it is a close question whether the overlap between the Toledo and Cleveland stations should not also be treated as de minimis.

There is no question that Toledo and Cleveland are separate markets, and the overlap of the Grade B signals of stations WTVG(TV), Toledo and WJKW-TV, Cleveland affects only 1.7 percent of the population within the Grade B service contours of the two stations. Also, neither station achieves a reportable share of viewers in the other station's market, and from five to ten other television stations serve the residents of the predicted Grade B contour overlap area.

In my view, this waiver request thus comes close to being within the standards set out in John Hay Whitney, 28 F.C.C.2d 736 (1971), where the Commission emphasized its concern that such a waiver must have no adverse effect on competition and must not create the potential for any domination of public opinion in the overlap area. These policy objectives would appear to be met by the sale of the Detroit station.

Nevertheless, permitting retention of the Cleveland and Toledo stations would require a significant departure from the Grade B overlap standard contained in Section 73.3555, and therefore I concur in the decision to require divestment of WTVG(TV), Toledo.