

January 23, 1987

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**SEPARATE STATEMENT  
OF  
COMMISSIONER JAMES H. QUELLO**

**Re: Complaint of Syracuse Peace Council against Television  
Station WTVH, Syracuse, New York.**

I agree with today's decision to solicit comment on whether enforcement of the Fairness Doctrine is constitutional and whether enforcement of the doctrine is contrary to the public interest.

In my separate statement to the 1985 Fairness Report, I stated that generally the Fairness Doctrine does not further its purpose of encouraging the presentation of issues of public importance and, therefore, does not serve the public interest. 1985 Fairness Report 102 F.C.C.2d 145, 253 (Separate Statement of Commissioner Quello). I have steadfastly believed, however, that the Fairness Doctrine was codified by the 1959 Amendments to the Communications Act. Id. The Commission is now confronted with two decisions from the United States Court of Appeals for the District of Columbia holding that the Fairness Doctrine is not mandated by statute. Meredith Corp. v. FCC, No. 85-1723, Slip Opinion (D.C. Cir. January 16, 1987); Telecommunications Research and Action Center v. FCC, No. 85-1160, Slip Opinion (D.C. Cir. September 19, 1986), petition for rehearing en banc denied (December 16, 1981). Because of these decisions, I believe it is appropriate to solicit comment on the Fairness Doctrine in the context of the case now before the Commission.

My preferred course of action, however, would have been to delay action here until finality is reached on the issue of whether or not the Fairness Doctrine is statutory. The issue is raised squarely in TRAC v. FCC and the time for filing petitions for certiorari has not expired. Questions regarding the statutory basis of the Fairness Doctrine are central to the Commission's ability to either eliminate or enforce the doctrine. I, therefore, believe it would have been more prudent to await final resolution of this issue.

While prudence may dictate we await final court action in the TRAC case before proceeding with the case now before us, I support today's decision because it merely solicits comment on the Fairness Doctrine. The Commission's Order does not reach the merits of the issue.