

**Separate Statement  
of  
Commissioner James H. Quello**

Re: Applications of Omaha TV 15, Inc., Channel 15/Omaha, Mid-America Broadcasting, Inc., Koplak Communications, Inc., and Family Television, Inc. (Omaha, Nebraska).

I concur with the majority's decision to grant the application of Mid-America Broadcasting, Inc. My preference would have been to uphold the conclusions reached by the Review Board. I am compelled to write separately because the Commission, reaching well beyond the facts before us, decided to use the case as a vehicle for making significant changes to the Commission's integration analysis.

Apart from any substantive concerns, fundamental changes in our integration policy should have been accomplished through a notice and comment proceeding. In fact, the courts have admonished the Commission for making changes to its comparative process without the benefit of public comment. Cf. Citizens Communications Center v. FCC, 447 F.2d 1201, 1204 n.5 (D.C. Cir. 1971).

The necessity for rational public comment is certainly evident from the majority's decision to embrace a mathematical formula to compute part-time integration. I understand the desire to develop a more precise comparative integration analysis. However, the precision created by the majority's decision is illusory at best.

The majority embrace a calculation modeled after the Herfindahl-Hirshman Index. The purported benefit of the HHI calculation is that by weighting certain factors it avoids the direct proportional approach to calculating part time integration criticized by the Review Board in Van Buren Community Broadcasters, Inc., 87 F.C.C.2d 1018, 1022 (Rev. Bd. 1981). However, this formula is designed to measure industrial concentration and the probability of coordinated monopolistic behavior. F.M. Sherer, Industrial Market Structure and Economic Performance, 58-59 (1980). There is no evidence that the assumptions underlying the HHI have any relevance to the Commission's integration policies. Thus, the Commission simply does not know whether the formula gives appropriate consideration to locally owned and operated facilities. Moreover, even if the calculations give proper weight to our integration concerns, how significant is a simple numerical advantage in this comparison? For example, if applicant A scores 4410 under this analysis and applicant B scores 4409, should the difference of one point be decisionally significant? If not, at what point does a simple numerical advantage become important? Such decisions are every bit as subjective as our current approach.

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The problems inherent in the majority's approach should have been subject to the rigors of public comment. I do not object to revisions of our comparative process, the system is far from perfect. However, I would have preferred a more complete discussion of the issues before making such a radical change in policy.