

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

**In re: Notice of Proposed Rule Making on the Revision of
Radio Rules and Policies**

Broadcast radio markets have changed considerably over the past decade. The proliferation of over-the-air radio stations, aural cable services and the possibility of satellite delivered radio to mobile as well as fixed locations creates a very competitive radio marketplace. I believe it is appropriate for the Commission to examine closely regulations that might thwart broadcast radio's ability to compete. At the same time, however, the Commission must be careful not to place disproportionate emphasis on competition at the expense of public interest, localism, diversity and minority ownership.

I agree that we should ask questions about if, or how, Commission regulations may limit radio broadcasters' ability to compete in the changing marketplace. I do not necessarily agree with some of the proposals presented in the Notice of Proposed Rule Making. Generally, I would focus this proceeding on AM radio only, and more specifically on the numerical limits on ownership. I believe that ownership limits based on national or local audience levels may invite a number of problems for the Commission. The Commission could find itself mired in local population figures and local radio audience shares in its efforts to resolve disputes or to establish the appropriate benchmarks. This is particularly difficult since audience shares change frequently.

The proposal to allow the ownership of more than one AM station within a market so long as combined local market share does not exceed a given level, and the possibility of joint ventures, may present significant problems for individually owned local radio stations. Local broadcasters may be faced with increased competition from dominant group owners who may own two or more AM stations and an FM outlet within a community, especially if there are no penalties if the audience share benchmark is exceeded. Additionally, joint ventures may create undesirable local market conditions. More rural markets may be dominated by adjacent, more populated or urban markets.

Special attention must be given to the effects of the proposals on the Commission's interest in fostering minority ownership. Although the item references petitions filed by the National Association for the Advancement of Colored People, the League of United Latin American Citizens, the National Hispanic Media Coalition and the National Black Media Coalition to increase the current 14 AM and 14 FM ownership limitation to 20 AM and 20 FM, these petitions reference the existing 12-12-12 rules and the exception they provide for minority owned stations. The numerical ownership proposals in the Notice pertain to ownership in general, not just ownership by minorities. To the extent that numerical limitations can affect minority ownership, the numerical ownership proposals contained in the Notice could, in fact, reduce the number of stations available for minority ownership. Such an outcome runs contrary to Commission objectives and policies to increase minority ownership of broadcast stations.

Within the context of the proposals to allow for common ownership of broadcast radio stations in a market, I also have concerns about the proposal to allow simulcasting on these commonly owned stations. Commenters should indicate when simulcasting would be appropriate and for what duration. How does simulcasting effect diversity?

Finally, I agree we should examine the proliferation of time brokering requests. The growth of such arrangements either could be an indication of the financial condition faced by local radio broadcasters, or an opportunity to maximize profits at the expense of serving the public interest, or a real opportunity to serve the community by providing programming otherwise not available on the station. Careful attention must be given to this matter.

In responding to the proposals contained in this Notice, commenters also should address the ramifications of these proposals to the principles of public interest, localism, diversity and minority ownership. Although we must assure our rules do not inhibit a competitive, viable broadcast industry, a license is no guarantee that the broadcaster's operation will be profitable. Obviously, profitable broadcasters are in a better position to serve the public interest. What distinguishes broadcasting from other industries, however, is its public interest requirements.

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