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

**June 15, 1995**

**RE: Establishment of Rules and Policies for the Digital Audio Radio  
Satellite Service in the 2310-2360 MHz Frequency Band**

In voting to issue this NPRM, it is impossible for me not to look ahead to what could happen in several years' time: multiple new channels of radio programming, available nationwide, bringing a new richness of program diversity to underserved areas and enhancing the diversity of radio services already available in larger markets.

But at the same time, it is impossible for me not to look back at what did happen several years ago: Docket 80-90. For like the promise of satellite DARS today, in 1983 Docket 80-90 promised to bring radio program diversity to underserved areas and enhance radio program diversity in larger markets.

Was it successful in doing this? Some would say yes: others, particularly radio licensees in smaller markets, would say that the addition of FM drop-in stations weakened existing stations in some markets, lessened the amount of locally-produced and oriented programming, and led to a chase for audience that, in some ways, transformed the nature of the radio service many of us receive today.

While I do not intend to dissect the good and the not-so-good effects of Docket 80-90 here, I feel compelled to note that, for good or ill, satellite DARS has the potential to become a super high-tech 80-90. This prospect counsels that this Commission be acutely concerned with how satellite DARS may impact terrestrial broadcasters' abilities to serve the needs and interests of their local communities.

I need not explain in detail my position on the importance of free, over-the-air broadcasting in a mass media environment based on the First Amendment, diversity, and access to information for everyone in our society. Keeping this in mind, I will carefully examine evidence submitted on the record in this proceeding to ascertain satellite DARS's potential impact on the future viability of terrestrial radio. Should the evidence indicate that satellite DARS will have a substantially adverse impact on the vital local service provided by terrestrial radio, I will consider either structuring the satellite DARS rules to ameliorate this impact, or relaxing the terrestrial rules to enhance traditional radio's ability to compete with a multichannel satellite radio system. We must strike a balance between ensuring the viability of existing services and authorizing new communications services.

Additionally, I am particularly concerned about the proposals to open up the satellite DARS service to new applicants and to auction off this spectrum. While I will fully review the record before etching my position in stone, I have **very** serious

concerns about these proposals. Before us stand four applicants, who apparently are ready, willing and able to initiate DARS service just as soon as the Commission grants their applications. These applications have been before us for as long as **four years**. Public notice of these applications appeared at the time they were filed, and other parties willing to invest time, money, and entrepreneurial ability, had an opportunity to file as well. Also, Congress instituted the Commission's auction authority only after these applications were on file. Under these circumstances, it strikes me as inequitable to do anything other than exercise the discretion given us in the auction legislation and grant the current applications, which the existing allocation can completely accommodate. This is consistent with my longstanding position in other proceedings in which the Commission has faced the issue of whether to auction off applications filed prior to auction authority. *See Memorandum Opinion and Order, Cellular Unserved Areas (License Selection Procedures), 9 FCC Rcd 7387 (1994);* see also MM Docket No. 94-131 & PP Docket 93-253 (June 15, 1995) (MDS pending applications).

I look forward to the comments in this very contentious proceeding.