

STATEMENT OF COMMISSIONER MICHAEL J. COPPS

Re: *Applications for the Assignment of Chris Craft Television Licenses to Fox Television Stations, Inc.*

I must respectfully dissent from the approval of this license transfer. This transaction presents a number of unique and troubling questions. In the final analysis, I cannot support the grant of an application that stretches the statutes, denies operative Commission rules and omits critically important consideration of the public interest.

As I review this and future transactions, I bear in mind my responsibility to faithfully implement Congressional mandates. The principal statutory inquiry that we must undertake in any license transfer is whether the “public interest, convenience, and necessity will be served by the granting of such application.”

In this case, the Applicants claim that, so long as the transfer complies with the Communications Act and the Commission’s rules, “there is no requirement that applicants make a public interest showing.” We need not even reach that question here, because these license transfer applications require waivers of operative rules. I recognize that, in some instances, short-term waivers may be necessary to effectuate a license transfer that is otherwise in the public interest. But in approving this transfer, the Commission is granting waivers of three different ownership rules. Certain of these are long-term waivers that appear to be based on the anticipation that prior to the termination of the waivers, the rules may be relaxed such that compliance need *never* occur. Sound decisions should not be premised upon subjective conjecture about how future actions by the courts, Congress or the Commission may change the law or alter the rules under which we are instructed to operate.

I am further troubled by today’s decision permitting foreign ownership in circumstances generally proscribed by the Act. The Act expressly provides that an additional public interest finding is required for a transfer to a corporation “that is directly or indirectly controlled by any other corporation of which more than one-fourth of the capital stock is owned of record or voted by aliens.” In its 1995 decision regarding the acquiring company, the Commission stated that “Section 310(b) was intended to safeguard domestic station licenses from undue foreign influence and control.” The Commission found that this Congressional intent, and the national security interests that underlie it, have “effectively created a presumption in the broadcast area that, absent special considerations that outweigh the statutory concerns, the public interest will be served by denying licenses to entities with alien ownership above 25 percent.”

In the same 1995 decision, however, the Commission approved a transaction and found that for the purposes of the foreign ownership rules, Fox may continue to acquire television stations “consistent with the public interest” subject to the same ownership structure. Rather than explain how the instant transaction would serve the public interest, or even how the denial of the grant of these applications would not serve the public interest, Applicants rely entirely on the going forward approval of the ownership structure in the 1995 Commission decision. Had I been on the Commission at the time of

that decision, I would not have accepted such an open-ended provision. Accepting the precedent in this instance, it nevertheless does not appear to me that this transaction is consistent with the ownership structure that the Commission approved in 1995 and ratified by a short form assignment and minimal restructuring in 1998. Although the Applicants have gone to great lengths to design agreements so that another company technically holds the station licenses transferred here, that company will not by any indicia own these stations. Indeed, the ownership and control schemata underlying this Applicant grow murkier and more Byzantine with each new iteration.

More fundamentally, today's decision, taken *en toto*, does not even consider the public interest benefits that could counterbalance the failure to comply with Commission rules and the granting of waivers. Some of the waivers at issue here are close calls, and, were they backed by a showing of the public interest, I might be able to support their grant. The record of this proceeding, however, is deafeningly silent when it comes to laying out the benefits to the American people of this proposed transaction.

I hope that in the future, parties making application to the Commission will take seriously the provisions of the Communications Act that require us to evaluate whether a grant serves the public interest. It is a responsibility that I take with the utmost seriousness and it will continue to be the critical determination in my decisions on this Commission.