

**SEPARATE STATEMENT OF
COMMISSIONER MICHAEL J. COPPS,**

Re: Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Notice of Proposed Rulemaking; and Review of Regulatory Requirements for Incumbent LEC Broadband Telecommunications Services, Notice of Proposed Rulemaking.

I will vote to approve these Notices of Proposed Rulemaking because I think they have been significantly improved, and given more balance, during the discussions preceding today's meeting. These Notices recognize the importance of competition and, importantly, do not reach tentative conclusions. Nevertheless, I do not vote for these Notices without some concern for the competition framework laid out by Congress in the 1996 Act.

I understand the need to ask questions. In particular, the Commission indicated in 1999 that it would reexamine every three years the list of network elements that need to be unbundled pursuant to section 251(c)(3). I generally do not mind asking questions, but we must be sensitive to the larger context.

This is a time of great uncertainty in the economy, for the telecommunications industry, and for competition for both telecommunications and Internet services. The years since passage of the Act have seen high-flying expectations, and lately, descent into worry and trepidation. I hear from competitors and incumbents alike the desire for certainty and stability in the regulatory environment. I fear that these broad Notices may not be meeting this need.

Some parties may read these Notices and conclude that the Commission has a predetermined agenda to remake the competition framework. Whether accurate or not, this perception, coupled with the uncertainty created by these broad Notices, can damage competition as surely as any final rules adopted by this Commission.

We must recognize that setting competition policy is the exclusive jurisdiction of Congress. I approach these proceedings optimistic that the Commission will show proper restraint and will not presume to question the statutory competitive framework. Instead, the Commission should use these proceedings to understand the marketplace better in our role as policy implementers and not policy makers. And we should not create concern, even unwittingly, that our zeal to deregulate before meaningful competition develops might cripple the very competition that Congress sought to engender.

Let the record show, however, that if our proceedings should ever turn into an attempt to undermine the competitive framework that Congress adopted in the 1996 Act, I will – without hesitation – oppose such overreaching.