

**STATEMENT
OF COMMISSIONER MICHAEL J. COPPS**

*In the Matter of: Implementation of the Cable Television Consumer Protection and Competition Act of 1992
Development of Competition and Diversity in Video Programming Distribution:
Section 628(c)(5) of the Communications Act
Sunset of Exclusive Contract Prohibition*

I support the extension of the statutory prohibition on exclusive contracts between a vertically integrated programmer and a cable operator for another five years. This prohibition has been effective in implementing Congress's goal of fostering competition to cable from DBS and other new video providers. During the ten years since that statute was adopted, cable's share of the market has dropped from 95% to 78%.

Much of the competition to cable has come from DBS services, however, new competitors such as SMATV systems or other competitive providers have provided other alternatives for some consumers. Just as the rules at issue here have made it possible for DBS to grow as a competitor to cable, the extension of this rule makes possible the growth of new competitors, building and protecting increasing competition in the market for video programming.

Because the statute expressly applies to "satellite cable programming," we do not appear to have the discretion to extend this provision to non-satellite delivered programming. This language, however, has given vertically integrated cable programmers the ability to enter into exclusive contracts when the programming is terrestrially – rather than satellite – delivered. Terrestrially delivered programming is often local news and sports programming – programming of particular concern to the local community. It is not clear whether, in adopting the language of this provision a decade ago, Congress anticipated the distinction between satellite delivered programming and terrestrially delivered programming, or that local programming would be exempt from this prohibition.

Congress did, however, anticipate that the prohibition on exclusive contracts created in 1992 would foster competition in the market for the delivery of video programming, and also anticipated that this provision might still be necessary to "preserve and protect competition and diversity" ten years hence. With this Order, we find that the rules we adopted pursuant to that provision continue to be necessary, and extend them and their protections for another five years.