

CONCURRING STATEMENT OF COMMISSIONER MICHAEL J. COPPS

Re: In the Matter of Digital Broadcast Copy Protection, Notice of Proposed Rulemaking

The Commission today takes two major steps to encourage the nation's long-delayed transition to digital television. With this last agenda item, we move to resolve the continuing industry deadlock over inclusion of technologies to provide digital broadcast copy protection. In the previous item, we addressed the important issue of requiring digital tuners in our television receivers.

I have often said that the transition to digital television involves a number of moving parts. Each of these parts -- the broadcasters, the cable industry, set-top box manufacturers, receiver manufacturers and content producers -- spent a lot of time looking to the others to take the first step. Five years ago, the Commission established a schedule for broadcasters' transition to DTV, with the presumption that the other parts of the transition would follow. Instead, the transition has been delayed, partly by the lack of digital content, partly by the lack of sets capable of receiving digital signals. No one is wholly to blame for the delays. Like Pogo, we have met the enemy and it is... us. All of us. The Commission can be faulted for lack of judgment on what it would take to get the job done, and just about every segment of the industry can be faulted for delay and obfuscation along the way.

The history is not pretty, but it is just that -- history. That was then and this is now. "Now" is Congress telling us to get the transition done. "Now" is important segments of the industry finally stepping up to the plate and investing large amounts of money to make the transition happen. "Now" is Chairman Powell pushing all the players to commit the resources and the effort to get us, finally, across the finish line. "Now" is logjam-breaking time. And I believe many of the players understand this and should be commended for it.

Given digital media's susceptibility to piracy, the issue of content protection must be resolved before broadcasters will make new, innovative and expensive digital content widely available. Yet a decade of discussion among the players has yielded no solution. It is time for a solution. Today's Commission action should make this plain for all to understand. It should also make clear to various industry stakeholders that they have only a small window to reach agreement on the technicalities involved or they will face a solution imposed upon them in the near-term future.

I concur here because I would have preferred us to reach today a determination on the matter of the Commission's authority to impose a solution. I believe a strong case can be made that the statute provides us with such authority. I fear this question could cost us precious additional time, when we could have resolved it at the outset. I caution my colleagues not to let this become an issue that impedes our final action.

Although there is not a majority here to resolve the issue of the Commission's authority, I am nevertheless pleased that we are moving forward today to solicit stakeholder input on a number of other questions pertinent to the Commission's rulemaking on digital broadcast copy protection. I look forward to a full record that includes the views of all interested stakeholders, particularly consumer groups. Finally, permit me to reemphasize the urgency which I believe attends these digital television transition issues and my hope that the record can be expeditiously compiled so that we can proceed to final action within a very few months, at most.