

SEPARATE STATEMENT OF
COMMISSIONER KATHLEEN Q. ABERNATHY

Re: Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television, MM Docket No. 00-39 (adopted August 8, 2002)

Today's decision is a difficult balancing act between the need to continue to promote the DTV transition and a desire to protect consumers from excessive price increases for television sets. In addition, our decision involves significant regulatory intervention in the marketplace, something that I generally do not advocate because it can distort competition and drive up prices for consumers. Nevertheless, I support this decision for the following reasons: 1) the transition from analog to digital television is statutorily mandated and is not driven by market forces; 2) without the mass availability of television sets that can receive over-the-air digital signals the transition remains stalled; 3) the phase-out of analog only television sets from the market gives consumers access to digital broadcast signals during the transition and protects consumers from disruption of service at the end of the transition; and 4) consumers necessarily will face additional costs as a result of the transition and it is our job to mitigate those costs to the extent possible.

The transition to digital has never been a marketplace transition, but one mandated by Congress. Congress set a target date of December 31, 2006 for the return of the spectrum used by broadcasters for their analog channel, unless 85% of homes in a market cannot receive local digital broadcast television signals. Until such time, the spectrum that is currently used for analog channels cannot be made available for public safety and other wireless uses. Yet, I don't believe we will reach 85% of homes if analog only sets continue to be introduced into the market and television sets that can receive over-the-air digital signals are not widely available. Fewer than 16% of the DTV ready receivers sold in 2001 had the capability to receive over-the-air digital signals (through a set-top box or an integrated tuner). This represents only 0.2% of television households. There also has been little support from the consumer electronics industry as a whole for a voluntary inclusion of DTV tuners in television sets. Thus, market forces alone are not providing consumers with access to digital signals and it is therefore appropriate and indeed necessary at this time for the Commission to step in.

Moreover, consumers expect to receive over-the-air signals on the television sets that they purchase – whether it is the receipt of digital signals during the transition, or the receipt of *any* broadcast signal after the transition is over. Adopting a tuner requirement will ensure that consumer expectations are met and will limit the number of new sets being purchased today that will become obsolete at the end of the transition. Despite the increasing proliferation of cable television and direct broadcast satellite service, a significant number of American households continue to rely on over-the-air transmissions as their sole source of television programming. Even households subscribing to a MVPD frequently rely on over-the-air transmissions on one or more of their receivers. In fact, over 30% of television sets in the U.S. (81 million) are not connected to any MVPD service and receive all broadcast signals over-the-air. Furthermore, unless cable and DBS carriage of digital broadcast signals increases significantly, a digital tuner may be the

only access an MVPD household has to many digital broadcast services during the transition.

I recognize that consumers necessarily will face additional costs as a result of the transition and it is our job to mitigate those costs to the extent possible. I believe that the five year phase in approach adopted by the Commission today will mitigate such concerns and drive down the costs of digital television equipment more quickly. The incremental costs in the larger sets at the earlier stages will make up a relatively small portion of the price of the set. Market efficiencies will drive the price of tuners down so that by the time tuners are required for smaller television sets, the costs will have greatly decreased. Furthermore, the price of digital television sets has been declining steadily (according to one consumer electronics manufacturer, at a rate of approximately \$100 to \$800 per year for the large screen sets), which could offset any increased costs associated with inclusion of a DTV tuner. Imposing a tuner mandate also will ensure that consumer electronic manufacturers can compete on a level playing field such that the cost structure will be the same for all, and the increased volumes will drive down the costs for the benefit of all.

Today, we are taking a step forward in the digital transition, but it is one of many steps that must be taken. The Commission also has been considering copyright, “plug and play” cable compatibility, and must-carry issues. I do not believe, however, that we should be at a standstill until all these issues are resolved at once. Such inaction now will only serve to delay the transition, rather than act as a catalyst for advancing the transition. I also am pleased that we will address inclusion of PSIP as a mandatory part of the standard in the next DTV periodic review. I am particularly concerned about whether PSIP is necessary for the use of V-chip technology and I look forward to continuing the dialogue on this issue.