

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

*In the Matter of Review of the Commission's Broadcast and Cable
Equal Employment Opportunity Rules and Policies
MM Docket No. 98-204*

When we approved the Second Notice of Proposed Rulemaking that formed the basis for the item we adopt today, I stated both my hope that the NPRM would result in strong EEO rules that I would be able to support, and my concern that the NPRM as written did not reflect the deep and passionate commitment to a diverse workplace that America must have if it is to fulfill its potential. I thank my colleagues for their willingness to work together since then. Each of us comes at this issue with somewhat different perspectives and premises. Each of us would likely have written the item differently if we were assigned authorship. Nevertheless, we engaged in dialogue so that we could reach some compromises that would not only create rules that would withstand court scrutiny but also -- and for me most importantly -- move us toward some credible equal opportunity initiatives. I commend Chairman Powell for his commitment to put in place rules for what I am convinced is one of the most important issues confronting the Commission.

To me, EEO rules are indeed an essential part of the obligation to serve the public interest. This is not an area in which we can afford to be timid, because there is nothing less than civil rights at stake. Diversity of viewpoint, ownership, and employment in media have long been and continue to be fundamental public policy goals. In my view, how we craft these rules is also related -- closely, intimately connected -- to the public interest that both the FCC and broadcasters are charged to promote. This is not something we do at the fringes, or something divorced from our other ongoing work; it is, rather, at the heart of what we do, and how we do here will affect how we do across the board.

We are taking some first positive steps on equal employment opportunity today. We require broadcasters and MVPDs to conduct broad outreach for all full-time job openings, to provide information on full-time job openings to community groups who request such information, and to participate in a number of longer-term recruitment initiatives. In addition, we have incorporated some of the input we received, both from commenters and from those who joined us for the *en banc* hearing back in June, to help make our original proposals stronger. For example, as suggested by the Minority Media & Telecommunications Council, stations and MVPDs that participate in job fairs under the menu of broad recruitment options in the rules must send personnel who have substantial responsibility for hiring decisions to those fairs. Further, as Charles Warfield of Inner City Broadcasting suggested at the *en banc*, we are encouraging the use of EEO training for industry management personnel by adding it to that menu of options. I am pleased that we will be looking more carefully at the application of the rules to part-time employees through a further notice. I am particularly pleased that we have emphasized in

this order our commitment to examine and act upon licensees' compliance with our EEO rules at license renewal time. I, for one -- and I think I am not alone -- would be more than amenable to imposing strong and serious sanctions – *very* strong and *very* serious, up to and including revocation of licenses -- for demonstrated lack of compliance.

As I stated when we released the Second NPRM, I understand that the decisions of the D.C. Circuit severely limited the scope of EEO rules the Commission could adopt. I was concerned that we not react timidly to a court decision that I personally thought was timid to begin with. Then as now, I am saddened by any retreat in the area of equal employment opportunity and, indeed, in civil rights generally. Nevertheless that decision was out there, daunting and discouraging of the kind of proactivity that many of us would like to see.

Most of us understand that we are nowhere near the objective of equal opportunity in communications today – not that we've reached that happy summit in too many other areas of our national life, either. Just two years ago, a FCC-commissioned study by the Ivy Group documented what many of us already knew: that minorities and women have faced pervasive discrimination in the media industry since its beginnings. The report concluded that government actions or inaction on particular regulatory and market issues -- including “uneven enforcement” of EEO policy -- have exacerbated the barriers.

I've heard the bad news personally in my conversations with many minority and women's groups. African American broadcasters tell me that, even though some of them have done pretty well in this industry, they didn't think they could repeat that success the way things are going. Here, not so incidentally, is a hugely important area that we need to look at intensively as we study the effects of media concentration. The effects of consolidation are not just economic; they are many-pronged and surely have critically important equal opportunity and diversity implications. We have a long way to go to open wide the doors of equal opportunity, and to keep them open, in our communications industries.

I also welcome the fact that today the Commission commits to helping spread the word about the importance we attach to these rules. I hope we will take full advantage of this commitment, getting out around the country to emphasize the importance of equal opportunity and proactively assisting the industry toward full compliance. I hope we will follow through on this zealously, and I, for one, will be a willing and enthused participant.

Lastly, I cannot over-emphasize the important role that must still be fulfilled by all the individuals and organizations who assisted us in developing and crafting these rules. We owe you a deep debt of gratitude for all the hard work and dedication that went into this process. But as you know better than me, equal opportunity work is never done. So you need to help us – no, you need to lead us – into making this program live and breathe and work. I'll give you just one example. There was apprehension that, under the circumscriptions of the court, we could not require broadcasters to send job

announcement notices to minority recruiters. That would be somehow too aggressive and intrusive. But I don't believe there is anything constraining any individual or organization from reaching out and urging any particular recruitment agency to request such notices from broadcasters. And we say in the item that said recruiter only has to ask once and it will be permanently on the list to receive such notices. It might not be the easiest or most ideal way to go; but it just may be workable and effective until we can do better. So I hope we will look creatively and imaginatively and actively at the rules being approved today. The point is that there is nothing that prevents a broadcaster, cable operator, or any other MVPD from taking action beyond what we require today.

While I've been in this town long enough to never be surprised, I would surely be immensely disappointed if anyone challenged this modest proposal. That energy could be better utilized in making the rules we approve today work. Going forward, I would hope that, once these rules are fully implemented, the Commission would consider pushing its equal opportunity program further.

I hope that today's proceeding will join all stakeholders in a spirit of working together to open the doors of equal opportunity. America is a land of diversity. We will succeed not by regretting that diversity, but by celebrating it. I hope all of us -- Commission, industry, trade associations, labor, and advocates all -- will celebrate our diversity by making these rules work. And when in the course of America's progress we are one day afforded the opportunity to be even more active, I hope we will seize that day, too.