

STATEMENT OF
COMMISSIONER ROBERT M. McDOWELL

Re: 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 Report and Order, MB Docket No. 07-29, Report and Order and Notice of Proposed Rulemaking; Review of the Commission’s Program Access Rules and Examination of Programming Tying Arrangements; MB Docket No. 07-198, Notice of Proposed Rulemaking

In this Order, we extend the prohibition on exclusive contracts between vertically integrated programming vendors and cable operators for satellite-delivered programming for five years, until October 5, 2012, given the ongoing need to preserve and protect competition and diversity in the distribution of video programming. Although the video distribution marketplace has changed significantly since enactment of the ban, because of increased consolidation in the cable industry and significant regional clustering of cable systems, the ban remains warranted. I am supporting the extension of the exclusivity ban to help further encourage competition in the video distribution market. More competition in a particular market obviates the need for regulation.

With respect to the Notice of Proposed Rulemaking that we launch here to examine negotiations in the marketplace for retransmission consent and programming carriage, I support seeking comment on the questions my colleagues have raised. That said, I want to make clear at the outset that I am concerned about the Commission venturing into what has long been squarely within the realm of the private sector. We should give careful consideration before we regulators take any action that many interfere with private contracts. And as always, we must pay careful attention to Congress’ mandates and intentions with respect to these issues. I look forward to reviewing the comments from all interested parties.

Many thanks to the Bureau for the many late nights you have sacrificed on these and other matters.