

**STATEMENT OF COMMISSIONER ROBERT M. MCDOWELL
CONCURRING IN PART**

Re: Broadcast Localism, Report and Notice of Proposed Rulemaking, MB Docket No. 04-233

I support today's report, which provides a comprehensive overview of the issues raised by commenters, and the public at our field hearings regarding how broadcasters address the needs of their local communities. In reaction to their data and opinions, today we decide to make some improvements. Specifically, in the report we commit to:

- better inform the public about our broadcast renewal process;
- encourage our Diversity Committee to work with industry trade associations to learn of emerging ownership opportunities, and to create educational conferences regarding broadcast transactions; and
- investigate technical options for potential radio applicants to find available FM spectrum.

I am pleased that we are moving forward to encourage public participation in our license renewal process, and providing opportunities for people of color and women to learn more about emerging broadcast transactions, as well as access to more FM spectrum.

I have concerns, however, about the Notice of Proposed Rulemaking. There, we tentatively conclude that broadcast licensees should convene permanent advisory boards made up of community officials and leaders to help the licensees ascertain the programming needs of the community. We also tentatively conclude that the Commission should adopt processing guidelines, such as minimum percentages to ensure that stations produce a certain amount of locally-oriented programming.

As I noted when the majority adopted the Enhanced Disclosure order at last month's agenda meeting, the Commission eliminated ascertainment requirements for television and radio stations in 1984 after a thorough examination of the broadcast market. Today, we are again heading back in time -- in the wrong direction. Vigorous competition motivates broadcasters to serve their local communities. I do not believe that government needs to, or should, foist upon local stations its preferences regarding categories of programming. We risk treading on the First Amendment rights of broadcasters with unnecessary regulation. An order reflecting these conclusions will be overturned in court.

Finally, I am also concerned about the tentative conclusion that we should grant Class A status to certain LPTV stations. While this idea may be beneficial, the conclusion is premature without closer examination. Accordingly, I concur with the

NPRM section of today's item, and look forward to reviewing these issues carefully after receiving public comment.