

**STATEMENT OF  
COMMISSIONER MICHAEL J. COPPS**

Re: *Review of the Commission's Program Access Rules and Examination of Programming Tying Arrangements*, MB Docket No. 07-198

Drilled down to its core, the purpose of this item is to minimize unfair behavior in such a way to benefit consumers through more competition. When it comes to competition and diversity in video programming distribution, it is essential for the FCC to determine how unfair behavior short-changes consumers by stifling competition. I believe the Program Access Order before us today can go a long way toward giving consumers the benefits of some additional competition.

Congress gave us more-than-adequate authority in Section 628 of the Communications Act to prohibit unfair acts by cable operators that significantly hinder or prevent competitors from providing programming to consumers. The record developed in response to the Commission's Notice of Proposed Rulemaking looked at whether to extend the program access rules to terrestrially-delivered programming. That record makes clear that lack of program access is a serious concern precisely because it limits competition. Today's action by the Commission addresses these concerns in what I believe is a balanced, consumer-friendly way.

The item deals in a significant way with the Regional Sports Networks that have been used as a wedge by companies to deny non-replicable programming to interested consumers. With the advent of HD, the sports viewing experience—and the expectations for that experience—have changed. This is must-have programming in standard definition; it is also must-have programming in high definition. Today we determine for good reason that withholding an HD feed is withholding a separate channel, even where a standard definition version of the network is available.

A more difficult issue is how to treat news programming. It will come as no surprise to anyone that I consider news to be critically-important programming. Getting it from a diversity of sources is what enhances our civic dialogue, so the scales tip, in my mind, against mandating access to one local news show and in favor incentivizing the production of diverse news programming. That's what localism and diversity are all about.

Today's Order adopts rules for complainants to pursue program access claims and addresses the fact that some players in these disputes will be larger and more powerful than others and that it is imperative to have a process that is reasonably accessible to all. For this reason I am pleased that language is included to indicate that factual evidence, and not just time-consuming and expensive analyses, can be the basis for a showing of harm by potential complainants. By the same token, the inclusion of a standstill to continue service during disputes, along with the inclusion of good faith language, should assist in preventing the process from being unduly lengthy and expensive. Protracted, expensive and unnecessary procedures too often translate into consumer harm.

I thank the Chairman and colleagues for working to more fully realize the potential of the draft Order. This item has been awaiting action for years and today, thanks to the Chairman's leadership; it's action that we get. And good action, too. Thanks also to the Media Bureau staff as well as the Office of General Counsel for their extraordinary efforts to address the challenging, and often deep-in-the-weeds, issues related to program access in a way that will undoubtedly benefit consumers.