

**STATEMENT OF  
COMMISSIONER BRENDAN CARR**

Re: *Petition for Determination of Effective Competition in 32 Massachusetts Communities and Kauai, HI (HI0011)*, MB Docket No. 18-283 and CSR No. 8965-E.

Today's decision is a straightforward case of statutory interpretation. In Section 623 of the Communications Act, Congress determined that a cable system is subject to effective competition if a local exchange carrier or its affiliate offers comparable video programming services directly to subscribers by any means.

That test is plainly met in this case. DIRECTV NOW is provided by an affiliate of a LEC (AT&T). This OTT streaming service meets both prongs of the FCC's comparability test. And it is offered directly to subscribers in the relevant franchise areas over existing broadband facilities. While some argued that the statutory test is not satisfied because DIRECTV NOW may not be provided via AT&T's facilities or because AT&T does not operate LEC facilities in the particular franchise areas, Congress imposed no such requirements in the statute. Indeed, the FCC determined nearly 20 years ago that a competitor need not provide video service over a LEC's facilities to meet the statutory test. Rather, the text is clear that competing video service providers can offer their service by "any means."

In addition to the statutory analysis, today's decision also makes sense in light of the vibrant market for video services that Americans now enjoy. In addition to DIRECTV NOW, consumers have access to online, live-TV streaming services, such as Sling, Hulu, YouTube, and PlayStation Vue, not to mention to an ever-growing array of on-demand video services and content-sharing platforms. Not to be left behind, established video providers are finding innovative ways to bring their content to consumers. For instance, DISH and INCOMPAS recently announced a partnership whereby competitive network providers will offer customers DISH TV online video content and DVR equipment. And we're seeing even more competition emerging from new 5G in-home offerings, including one provider that is offering a free trial of YouTube TV with its 5G Home Internet plan. So, I am glad that today's decision also reflects the realities of the modern media marketplace.

I want to thank the Media Bureau for its work on the item. It has my support.