

**JOINT STATEMENT OF
COMMISSIONERS MICHAEL J. COPPS AND JONATHAN S. ADELSTEIN,
CONCURRING**

Re: *Verizon Telephone Companies, Inc. Apparent Liability for Forfeiture*
(File No. EB-03-IH-0245)

We support today's Notice of Apparent Liability because it is an appropriate exercise of the Commission's enforcement authority. Nonetheless, we only concur because the timing of this decision sends the wrong signals concerning our oversight of section 272 affiliates. This is yet another illustration of how the Commission has fallen short of its statutory duties under Section 272. We need to do more to ensure that our oversight is of the kind and character that Congress intended.

Through Section 272, Congress required Bell companies to provide long distance and manufacturing services through a separate affiliate. In implementing these requirements, the Commission concluded that Congress adopted these safeguards because it recognized that Bell companies might still exercise market power at the time they enter long-distance markets. As part of these safeguards, Congress specifically required that Bell companies retain an independent auditor to review separate affiliate operations and produce a public report evaluating how they comply with the statute and the Commission's rules. Congress also provided that the long distance separate affiliate requirements would continue for three years, but could be extended by the Commission by rule or order.

On the three-year anniversary of its entry into the long distance market, the Commission allowed the Section 272 separate affiliate requirement for Verizon in New York to sunset. It did so without a crumb of analysis. We addressed neither the New York Public Service Commission's concerns that sunset was premature, nor the results of the independent audit report. Instead, we review the results of that audit in today's decision. This review takes place more than seven months *after* the Commission allowed the sunset of the New York Section 272 separate affiliate. This is backwards.

Despite the appropriateness of today's enforcement action, it highlights the shortcomings of our approach to section 272. By failing to use the statutory audit tool as part of a larger analysis *before* the decision to sunset is made, the forfeiture and admonishment we impose in this Notice of Apparent Liability are denied the context Congress intended.