

**SEPARATE STATEMENT OF
COMMISSIONER KATHLEEN Q. ABERNATHY**

General Motors Corporation and Hughes Electronics Corporation, Transferors, and The News Corporation Limited, Transferee, For Authority to Transfer Control, MB Docket No. 03-124

I write separately to clarify my rationale for not supporting the imposition of a proposed condition to restrict DirecTV from segregating some, but not all, local broadcast stations to wing satellites. As the Order specifically states, “[w]ith regard to APTS/PBS’s proposed condition to restrict DirecTV from segregating local broadcast stations to wing satellites, we recognize that the proposed transaction may give DirecTV greater incentive to favor News Corp.’s Fox broadcast network programming and therefore to move other broadcasters onto other satellites. There is not a majority to decide whether this increased incentive results in a merger specific harm.”

I do not believe the issue is merger specific because any incentive to use wing satellites for some, but not all, broadcast stations is applicable to all DBS providers, not just News Corp. In fact, the National Association of Broadcasters and the Association of Local Television Stations filed a petition asking for modification or clarification of the Commission’s rules regarding carriage of television broadcast stations by DBS providers in a manner that requires subscribers to obtain a second satellite dish antenna.¹ Since the Bureau’s decision in that matter is subject to an application for review by the full Commission, I believe that this issue is best addressed in the context of that proceeding. In the interim, the Bureau’s decision provides that if any DBS provider chooses to carry local stations using a second dish to receive some those stations, it must do so in a manner that does not violate Section 76.66 of our rules and Section 338(d) of the Communications Act.²

¹ See *National Association of Broadcasters and Association of Local Television Stations, Request for Modification or Clarification of Broadcast Carriage Rules for Satellite Carriers*, 17 FCC Rcd 6065 (MD, 2002).

² “[T]he satellite carrier shall retransmit the signal of the local television broadcast stations to subscribers in the station’s local market on contiguous channels and provide access to such station’s signals at a nondiscriminatory price and in a nondiscriminatory manner on any navigational device, on-screen program guide or menu. 47 U.S.C. Section 338(d).