

**DISSENTING STATEMENT OF
COMMISSIONER MICHAEL J. COPPS**

Re: TCI Cablevision of New Mexico, Inc., Memorandum Opinion and Order (CSR 5654-A); TCI Cablevision of New Mexico, Inc., Memorandum Opinion and Order (CSR 5623-A, CSR 5598-M); and Comcast Cablevision of New Mexico, Inc., Memorandum Opinion and Order (CSR 5508-A, CSR 5486-M)

I respectfully dissent from the decision to affirm the Bureau's conclusion that television station KRPV is not entitled to carriage on certain cable systems. KRPV is licensed to Prime Time Christian Broadcasting and carries 24-hour a day religious programming, including Spanish-language programming.

Although KRPV broadcasts from Roswell, New Mexico, which is as much as 200 miles from the cable systems' communities, it is in the same DMA, which generally provides KRPV with must carry rights on the cable systems. The Commission, however, has authority under the statute to exclude communities from a television station's market to better effectuate the purposes of the must carry statute. In making this determination, Congress directed the Commission to focus on the "value of localism" and examine, among other things, whether the station provides local service to the community.

In this instance, the Bureau held that KRPV does not satisfy any of the statutory criteria. Yet, the Bureau's decision does not adequately take into account that specialty stations, such as those with religious or non-English programming, may not have an appreciable audience share or historic carriage due to the specialized nature of its programming. The Bureau similarly dismisses, without adequate analysis, KRPV's argument that it provides programming to the communities in question by offering regular daily segments for all local churches to have television access and by airing a talk show hosted by a citizen of one of the cable communities.

I also take this opportunity to note an anomaly between this decision and the Commission's June 2003 media ownership decision. Today's decision makes much of the fact that the station is geographically distant from the cable communities and that citizens in the relevant communities cannot receive the over-the-air signal of KRPV. Today, the majority affirms that consumers will also not receive this station through their cable system. But, under our media consolidation decision, KRPV would have counted as a local station for evaluating mergers. So, for example, if two television stations in Albuquerque, Santa Fe or any of these other communities sought to merge, this Roswell station would have counted as another voice in the market. It is troubling that the Commission put in place rules under which KRPV is not part of the market for cable carriage purposes, but is part of the market when it comes to allowing more media consolidation. I hope the Commission would reexamine this anomaly when it considers the media ownership rules.