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

*Re: Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992,* MB Docket No. 05-311

With the issuance of this *Notice* we begin the process of answering a complex question: when, if ever, do cable franchising requirements become unreasonable barriers to entry by competing cable service providers, and how should "unreasonable" barriers be defined and dealt with?

This question is complex for several reasons. First, as the *Notice* points out, local franchising authorities clearly have authority over many of the operational aspects of local cable service: granting or denying franchises, imposing buildout requirements, and requiring specific access channel facilities and support. Nevertheless, this authority is not absolute: it is limited by the explicit provision of Section 621(a)(1) of the Communications Act, which states that they may not unreasonably refuse to grant a franchise to a competing cable service provider.

Determining what constitutes an "unreasonable" requirement in real-life terms will require a particularly careful study of the legal predicates and the factual record. We need to correctly interpret not only the provisions of the Communications Act, but also the holdings of federal preemption case law. Taken together, these laws require that we accurately separate franchising obligations that are costly and time-consuming from those that are so burdensome and irrelevant that they constitute *de facto* entry barriers. This is an exacting standard, and meeting it will demand that we have a full and fair factual record. I believe the *Notice* we are adopting today will help us compile that record.

And if we can successfully identify and remedy franchising requirements that are precluding competitive entry, we will have accomplished much. Increasing cable competition will help consumers by lowering cable rates and giving consumers more choices and better service. Fully functioning markets invariably do a better job of maximizing consumer welfare than regulators can ever hope to achieve. That is why the added discipline of marketplace competition helps the FCC move in the direction of less federal regulation.

We can move away from economic regulations designed for a monopoly environment and focus our sights more narrowly on regulations designed to respond to social policy concerns that are not addressed by market forces.

Increasing competition and less burdensome regulatory oversight will also help broadband network deployment by all providers. And there is no doubt that cheaper, faster, and more accessible advanced broadband services will further our individual and national welfare.

Both new entrants and incumbent cable providers will benefit from the elimination of terms and conditions found to be unreasonable. Both will be freed to reallocate their resources to more productive uses.

A vigorously competitive market is a marvelous thing, and ensuring that the benefits of competition and new technology flow to cable consumers is one of the best actions the Commission can take. I am happy to support this *Notice* because it will help us do that.