

**STATEMENT OF
COMMISSIONER MICHAEL J. COPPS**

Re: Comcast Corporation Request for Waiver of Section 76.1204(a)(1) of the Commission's Rules; Implementation of Section 304 of the Telecommunications Act of 1996; Commercial Availability of Navigation Devices

Eleven years ago, Congress instructed the Commission to assure the commercial availability of set top boxes. The message was clear: American consumers should be able to purchase a device at Best Buy or Wal-Mart that works just as well with their television as the cable company's own device. This openness is clearly good news for cable subscribers. Vigorous competition will drive prices down and increase the pace of technological innovation.

Anyone who doubts the importance of replacing vertical integration with device openness need only look at the effects of the FCC's 1968 *Carterfone* decision, which freed consumers from the obligation to lease AT&T's black rotary phone. This reform unleashed a flood of less expensive phones and paved the way for innovations like the fax and answering machine. Indeed, it is no exaggeration to say that *Carterfone*—by enabling third-party manufacturers to develop and sell dial-up modems—played a critical role in bringing the Internet to American homes.

In a series of orders over the past decade, the FCC has affirmed that an integration ban is the right way to foster a robust market for third-party set top boxes. Yet for a variety of reasons, we have repeatedly postponed the effective date of the ban. The time for delay is over. I am delighted that Comcast consumers will soon be able to enjoy the benefits of a retail market for set top boxes. I am confident this will translate into lower prices and a better viewing experience for consumers.

Though I approve today's *Order*, I do want to address one procedural issue raised by our decision. The statute expressly requires the Commission to **grant** any waiver request made under Section 629(c) within 90 days. Because our decision **denies** such a request—and for good reason—the plain text of the statute does not require us to issue our decision within the 90-day statutory period. But even though our decision complies with the letter of the law, I do not think it is consistent with its spirit. I therefore note my view that a better practice would be to issue a grant **or denial** of a Section 629(c) waiver request within 90 days.

I thank the Bureau for their hard work on this item.