

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

Re: *Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Chillicothe and Asheville, Ohio), MM Docket No. 99-322.*

I dissent for the reasons set forth at length in my earlier statements. See, e.g., *Table of Allotments for FM Stations in Evergreen, Alabama and Shalimar, Florida, released October 31, 2008*. The majority's application of the *Tuck* factors is so lax that it scarcely amounts to a test at all.

Here, for instance, the majority again affirms an astonishing staff finding that the fact that Asheville has ***less than 1%*** of the population of Columbus is not a sufficient disparity to justify an unfavorable finding under the "relative population" factor. Similarly, the majority affirms a staff finding that the work patterns of Asheville residents justifies a finding that it is an independent community, notwithstanding the fact that: (1) only 39 percent of Asheville residents work in the ***county*** in which Asheville is located; and (2) the average commute time of Asheville residents is 26 minutes and the village of Asheville is only about two miles long.

There are other infirmities in the analysis, but those alone would have sufficed to change the result and grant the Application for Review. I respectfully dissent. Given the deficiencies of the *Tuck* standard and its application in particular cases, I am very pleased that my colleagues have agreed to examine our radio allotment and assignment criteria, including the *Tuck* standard, as part of the recently released Rural Radio Service Notice of Proposed Rulemaking.<sup>1</sup>

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<sup>1</sup> *Policies to Promote Rural Radio Service and Streamline Allotment and Assignment Procedures*, Notice of Proposed Rule Making, FCC 09-30, (rel. Apr. 20, 2009).