

**STATEMENT OF
COMMISSIONER MICHAEL J. COPPS**

RE: Implementation of Short-term Analog Flash and Emergency Readiness Act; Establishment of DTV Transition “Analog Nightlight” Program, MB Docket No. 08-255

A key lesson coming out of the DTV transition in Wilmington, NC on September 8 was the importance of broadcasting an analog message to the many consumers who were unprepared for the switch. Within days of the Wilmington test, I asked the Commission to develop market-by-market plans across the country, based upon factors such as analog channel and transmitter availability and industry willingness to participate. Then Senator Rockefeller and Representative Capps introduced their very forward-looking “analog nightlight” legislation, which passed the Senate on November 23 and the House on December 11. This legislation appropriately gives the FCC a short turnaround time—January 15, 2009—to fully implement a program in time for the upcoming transition. I commend Senator Rockefeller and Representative Capps for their tremendous work in seeing this important legislation through in such a compressed timeframe. It is now up to us to implement it just as effectively.

Unfortunately, today’s item lacks the thoroughness that I think Congress expects of us. I am particularly disappointed that little engineering work seems to have been done to maximize the number of stations that can participate in the program. Instead, the Notice applies a distance separation standard that protects against interference by requiring that Analog Nightlight stations be 164 miles or more from DTV stations operating on the same channel. The item acknowledges that this approach is “conservative” and likely over-protects digital signals from interference. In other words, it is a blunt instrument that contains fewer Analog Nightlight stations than can and should be accommodated. As a result, the Notice fails to identify a single potential Analog Nightlight station in 74 of 210 DMAs nationwide.

The item does propose to permit individual stations that do not meet the mileage separation requirements to submit their own engineering studies to demonstrate that they will not cause actual interference. I hope they do that, but we should not be placing the entire burden on individual stations to go to the trouble and expense of hiring engineering consultants and filing proposals with the FCC at this late date. The stakes are too high and time is too short. I do welcome my colleagues’ willingness to commit the FCC to identifying those areas where Analog Nightlight service will not be available and trying to find possible solutions. But it’s late in the day and this is not the way that a coordinated and proactive public-private partnership should work.