CONCURRING STATEMENT OF
COMMISSIONER MICHAEL J. COPPS

Re: *In the Matter of Shareholders of Univision Communications, Inc. and Broadcasting Media Partners, Inc. for Transfer of Control of Univision Communications, Inc., et al., BTCCT-200607718AGO et al.*

The underlying premise of today's Order is that having ***no*** interest in a media entity is identical to having a ***non-attributable*** interest for purposes of our media ownership rules. Technically, that may be true. Our ownership rules restrict only attributable interests, so whether an interest is non-attributable or non-existent typically is immaterial as far as our rules are concerned. That is the basic conclusion in today's Order and I concur in its bottom line.

But simply because divestiture and non-attribution may be interchangeable for purposes of our rules does not mean they are always interchangeable in reality. If Company A has no interest at all in Company B, we can be relatively certain that Company A cannot influence Company B's affairs. By contrast, if Company A has a non-attributable interest in Company B, the risk of influence is almost certainly higher. For instance, where there is a single majority shareholder and the investor is not a major program supplier or same-market media entity, an investor could hold 49 percent of a broadcaster's voting stock and 100 percent of its debt and still not have an "attributable" interest under our rules.

Our attribution rules attempt to strike a balance—trying on the one hand not to discourage investment in media companies, while on the other hand trying to identify those investments that actually could bestow influence. This is not an exact science. Like any regulation, attribution rules will not be perfect. They may mistakenly preclude some investments that would not bestow influence and mistakenly permit others that would. To the extent that mistakes fall into the latter category, non-attribution could have a significantly different real-world impact than divestiture.

The question then becomes how rigorous our broadcast attribution rules are and how close they come to capturing the influence-bestowing relationships that can and should be captured. The last comprehensive review of our rules was initiated more than a decade ago and concluded in 2001. Our insulation criteria for limited partnerships have been largely unchanged since 1984. I have no doubt that parties have learned to structure their deals to avoid tripping the attribution rules we have in place. But that begs the question of whether that means they are unable to exert influence or are simply finding ways to exert influence that the Commission's rules don't anticipate.

It's time for the Commission to take a fresh look at our broadcast attribution rules. How we determine which broadcast properties "count" against a particular company is as important as the substantive rules themselves. We cannot focus solely on reinforcing the front door against harmful media consolidation and leave the back door unlocked.