

**STATEMENT OF  
CHAIRMAN JULIUS GENACHOWSKI**

Re: *Review of the Commission's Program Access Rules and Examination of Program Tying Arrangements*, MB Docket No. 07-198.

Today, the Commission takes an important step in promoting competition, empowering consumers, and fostering innovation by closing a loophole in our Program Access rules. The loophole gives free rein to cable-TV operators to lock up local sports events and other popular programming and withhold them from rival providers. Locking up a much-loved local sports franchise could be game, set, match for cable competition. Consumers who want to switch video providers shouldn't have to give up their favorite team in the process. Today the Commission levels the competitive playing field.

This flows directly from both the record in this proceeding, and the steps that Congress and the Commission have taken in recent years to promote competition in the delivery of video programming. As a result of policies consistently implemented, consumers can increasingly choose their video service provider from among cable, direct broadcast satellite, and telephone company providers. But as Congress recognized in the Cable Act of 1992, for competition to remain vibrant, cable operators cannot unjustly deny competitors access to "must have" programming.

As we've heard, Commission rules implementing the Cable Act prohibited cable operators from using their control of the *satellite*-delivered programming that they own to harm competitors. At the time the rules were adopted, there was no inconsistency between the limitation to 'satellite' and the objective of promoting competition. However, over the years since the rules were first adopted, technological developments have made it increasingly cost effective for content providers to deliver their programming -- including local and regional content -- through fiber-optic or other non-satellite means. And so what originally was immaterial became a major loophole in our video competition rules.

In our 2007 Program Access Order, the FCC recognized that cable operators have a financial incentive to withhold programming from competitors. And indeed the record contains many examples of incumbent providers denying rivals access to terrestrially-delivered programming, particularly regional sports networks. This inhibits competition. The bottom line is that viewers should not be unfairly forced to choose between the sports teams they love and the provider they prefer. Our new rules allow competitors to seek recourse when they have been unreasonably denied access to terrestrially delivered programming.

Today's action represents a major step toward realizing the promise of a competitive marketplace for video services -- while also supporting innovation in the video marketplace. Our new rules are structured to preserve incentives for cable operators to develop innovative programming such as local news networks. The new rules also create a fair process for the Commission to adjudicate claims.

During the course of this proceeding, we received extremely helpful input from my fellow Commissioners, and the suggestions are reflected in a strong and balanced order. I'm grateful to our Media Bureau and General Counsel's office for their excellent work in studying the law, the economics, and the facts in the marketplace -- and developing rules to promote competition and innovation, thereby benefiting consumers. And I'm grateful to my colleagues on the Commission who have improved the outcome through their active engagement in the development of this order.