

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

Re: *In the Matter of South Seas Broadcasting, Inc.*, Order, RM-11415

U.S. citizens living in American Samoa have just as much right to expect reasonable rates when calling to and from other parts of the United States as the rest of us do. In that vein, South Seas Broadcasting petitioned the Commission to look at expanding the implementation of Section 254(g) of our enabling statute to cover wireless providers, including those providing “wireless calls from the mainland of the United States to the U.S. Territory of American Samoa.” Section 254(g) protects consumers by requiring a “provider of interstate interexchange telecommunications services” to provide such services in each State at rates no higher than those in any other State. And, for purposes of the Act, it is indisputable that “State” includes U.S. territories. When we implemented this provision of the Telecommunications Act of 1996, we in fact did exactly what South Seas Broadcasting is asking us to do—apply this requirement to wireless providers. After much litigation, the sad fate of so many provisions of the pro-competitive law, the D.C. Circuit vacated in 2000 our finding that Section 254(g) “unambiguously” applied to wireless providers and remanded the matter back to the Commission. So, for more than a decade, the applicability of Section 254(g) has remained in limbo—a statutory tool possibly at our disposal should consumer protection demand it. The present case does not give us enough of a record to assess the rates being paid for wireless calls to and from the U.S. territories or the merits of whether we should move forward with a proceeding on Section 254(g). But, the majority goes too far, reaching an unnecessary and unsupported conclusion that Section 254(g) does not apply to wireless providers. Congress crafted this provision of the Act to ensure that citizens living outside the lower 48 states—Alaska, Hawaii and the U.S. territories—had access to affordable communications. As we go forward, we must not lose sight of that Congressional intent irrespective of the technology choice a consumer makes. In my ten years at the Commission, I have seen too many examples where we have abdicated our authority—our consumer protection responsibilities—without adequate foundation. I believe this is such a case, and therefore must respectfully concur.

