

**STATEMENT OF
COMMISSIONER JESSICA ROSENWORCEL**

Re: *Revision of the Commission's Program Access Rules*, MB Docket No. 12-68 et al.

In the Cable Television Consumer Protection and Competition Act of 1992, Congress directed the Commission to adopt rules prohibiting exclusive arrangements by vertically integrated cable companies with respect to satellite delivered programming. This prohibition was slated to expire in 2002 unless the Commission determined that an extension was “necessary to preserve and protect competition and diversity in the distribution of video programming.” The Commission previously extended this ban twice, in 2002 and 2007. Today, however, the agency concludes that a further extension is not warranted in light of changes in the video programming market.

Without question, the video marketplace has evolved in the past two decades. But technological change does not preclude the need to be concerned about anticompetitive behavior and the impact of vertical integration on consumers. Exclusive arrangements for “must have” programming can still lead to less competition, denying consumers the benefits of lower prices and higher quality services. This is especially true when such programming is withheld from unaffiliated distributors that are small, rural, or new entrants in the marketplace. Accordingly, Section 628 of the Communications Act provides a number of mechanisms apart from the blanket prohibition to challenge anticompetitive behavior on a case-by-case basis. To this end, the Order provides a shot clock to ensure timely resolution of complaints. It also provides a presumption that an exclusive arrangement with respect to regional sports networks will significantly hinder a complaining distributor from providing satellite cable programming or satellite broadcast programming. Furthermore, the Order seeks comment on whether the Commission should establish a number of additional presumptions, including whether an exclusive contract for a cable-affiliated regional sports network should be presumed to be an “unfair act” under Section 628(b) and whether a complainant should be presumed to be entitled to a standstill for an existing agreement under certain circumstances.

Consequently, I support today’s decision. However, the Commission must keep a watchful eye on the evolving marketplace and be ready to take action if the processes we adopt today do not provide consumers with the safeguards they need and deserve.