

**STATEMENT OF
COMMISSIONER JESSICA ROSENWORCEL
CONCURRING**

Re: *Petition for Determination of Effective Competition in 32 Massachusetts Communities and Kauai, HI (HI0011)*, MB Docket No. 18-283 and CSR No. 8965-E.

Take a look at the very first line of the Cable Television Consumer Protection and Competition Act of 1992 and you'll find that Congress was very clear about what it was doing when it enacted this law. The goal was simple. It was "to provide increased consumer protection and to promote increased competition in the cable television and related markets." To ensure this was the case, Congress laid out in detail how this agency, among others, would work to help ensure that competition thrives and consumers enjoy lower prices. After all, that's what you'd expect when there is greater competition: consumer bills that go down instead of up.

Of course, this law is now more than a quarter century old—as are its guidelines for measuring effective competition. I think it's fair to acknowledge that neither the authors of this law, nor those who offered nearly unanimous support for it in Congress, nor even the Commissioners who sat here before us, could have imagined the very different realities of today's media marketplace.

The way we watch has changed. The days of huddling around a single set, basking in the glow of a favorite program on a system with a handful of linear channels has largely gone away. Must See TV now means many devices and an array of viewing opportunities headed into homes through a mix of antennae, cables, and wireless technology. Channels and content are available when we want to watch, where we want to watch, and on any screen handy. But even as our viewing choices have multiplied and the marketplace has changed, I think under the law the interests of consumers must still come first.

Congress made this abundantly clear. Their intent was to increase competition to improve consumer protection—and lower prices. To this end, in the law Congress set up a statutory test for the presence of what it considered "effective competition." Here, we have a petition from a cable company that asks us to find that a video streaming service offered by a local exchange carrier meets the criteria for effective competition. With such a finding, authorities in two states will lose authority to oversee the rates for the basic cable service tier that are charged to consumers. That's because the underlying assumption is that competition will constrain rates. It asks this agency to consider, for the first time, how a specific type of streaming service should fit within the confines of the Cable Television Consumer Protection and Competition Act of 1992.

While I acknowledge a narrow, legal reading of the law suggests that the petition before us should be granted, I think the analysis from this agency is woefully deficient.

If protecting consumers is truly our top priority, this decision should include an assessment of the likelihood of price increases in the states where this agency is concluding competition is adequate to constrain prices. But comb through the pages of this decision and you will not find one. My office asked that our economists provide such an assessment, but we were refused.

So let me detail here what the consequences are for consumers where this agency is overriding state authority to regulate what is known as the basic cable service tier. According to the record in this proceeding, some consumers in the states affected by this proceeding can expect that rates for the basic cable service tier will double. On top of that, the very streaming service that this decision relies on to demonstrate the presence of competition just last week announced price increases of \$10 and \$15 for its basic service. In short, it sure looks like rates will go up.

If you ask me, this is not the kind of competition that protects consumers. To the extent that the relief requested in the petition before us fits within the law, then the law, frankly, is showing its age.

I acknowledge the statutory construction in this case may require the result in this decision. But because our analysis fails to provide an honest assessment of the likelihood of price increase for consumers, I concur.