

**STATEMENT OF
CHAIRMAN KEVIN J. MARTIN**

Re: In the Matter of *Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission's Rules*, CS Docket No. 98-120, Third Report and Order and Third Further Notice of Proposed Rulemaking

I am pleased with the action that the Commission takes today. With the adoption of this Order, cable operators will be obligated to ensure that all of their customers will be able to watch all broadcast stations after the digital transition.

This item, at its core, is about the consumer. It is about ensuring that all Americans with cable – regardless of whether they are analog or digital subscribers – are able to watch the same broadcast stations the day after the digital transition that they were watching the day before the transition. If the cable companies had their way, you, your mother and father, or your next door neighbor could go to sleep one night after watching their favorite channel and wake up the next morning to a dark fuzzy screen. This is because the cable operators believe that it is appropriate for them to choose which stations analog cable customers should be able watch. It is not acceptable as a policy matter or as a legal matter. The 1992 Cable Act is very clear. Cable operators must ensure that all local broadcast stations carried pursuant to this Act are “viewable” by all cable subscribers. Thus, they may not simply cut off the signals of these must-carry broadcast stations after the digital transition. The Order we adopt today prevents the cable operators from doing just that.

To put this in perspective, according to Commission staff calculations, there are approximately 15 million households with more than 30 million television sets that rely on over-the-air signals - that is, do not subscribe to any cable or satellite service. But there are over 40 million homes with 120 million analog cable television sets. Thus, in the absence of the action we took today, some broadcast stations would have become unwatchable on these 120 million television sets. And, millions of consumers will be disenfranchised.

Importantly, in the item we adopt today, we do not dictate how cable operators must fulfill their statutory requirement to make all broadcast signals viewable to its subscribers. Rather, we give them a choice. Accordingly, the Commission is not forcing consumers to purchase or lease a set top box to continue watching their favorite channels. This decision lies in the hands of the cable company. They can avoid the need for new boxes by choosing to downconvert the digital signal into analog at their headend. This downconversion would permit analog cable subscribers to continue watching broadcast television just as they do today without disruption. Of course, to the extent that a cable system is all-digital, like DBS systems are, all consumers are given a box that allows them to watch all of the broadcast stations.

Significantly, the statute's viewability requirements do not contain an exception for small cable operators. And, there was not much in our record to justify carving out some subset of such operators from the rules we adopt today. Although I believe that the benefits of the digital transition should be shared by all Americans, I also have sympathy for the constraints of very small cable systems. For this reason, we will allow these providers to file waivers to the extent they can show that they do not have the capacity to carry another digital channel. And, we have sought comment in a FNPRM as to whether we should adopt some different rules for a small subset of cable operators. I look forward to completing this proceeding in the next six months - well in advance of the February 2009 transition - so that these operators have sufficient notice of their obligations.

Today's item guarantees that consumers will be able to watch all broadcast stations at least until February 2012. In advance of this date, the Commission will review whether these rules continue to be necessary to protect consumers. Some of the factors that I believe are important for the Commission to consider in its review are the extent to which consumers still rely on analog cable service, the state of the cable systems' conversion to digital, how customers have fared under the digital transition (including any added costs or service disruption they may experience), and the extent to which additional resources have been allocated by Congress to help consumers manage the transition.

The American consumer is, and continues to be, our highest priority. Without the proper policies in place, some viewers may be left in the dark or be unable to realize the full opportunities offered by digital technology. This is just one of numerous policy proceedings that the Commission has undertaken to facilitate the nation's transition from analog to digital television. During the next 17 months, we plan to issue additional orders that will adjust our rules and policies in anticipation of the transition on February 17, 2009. We are committed to taking whatever actions are necessary to minimize the potential burden the digital transition could impose on consumers and maximize their ability to benefit from it.