CONCURRING STATEMENT OF COMMISSIONER MICHAEL J. COPPS

In the matter of 2002 Biennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996, MB Docket No. 02-XXX
Cross-Ownership of Broadcast Stations and Newspapers, MB Docket No. 01-235
Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets, MB Docket No. 01-317
Definition of Radio Markets, MB Docket No. 00-244

Let me begin by saying that I don't know of any issue before the Commission that is more fraught with serious consequences for the American people than the media ownership rules. There is the potential in the ultimate disposition of this issue to remake our entire media landscape, for better or for worse. At stake is how radio and television are going to look in the next generation and beyond. At stake are old and honored values of localism, diversity, competition, and the multiplicity of voices and choices that undergirds our American democracy. At stake is equal opportunity writ large – the opportunity to hear and be heard; the opportunity to nourish the diversity that makes this country great and which will determine its future; the opportunity for jobs and careers in our media industries; and the opportunity to make this country as open and diverse and creative as it can possibly be.

The Nineties brought new rules permitting increased consolidation in the broadcasting industry, on the premise that broadcasters needed more flexibility in order to compete effectively. These rules paved the way for tremendous consolidation in the industry – going far beyond, I think, what anyone expected at the time. These changes created efficiencies that allowed some media companies to operate more profitably and on a scale unimaginable just a few years ago. They may even have kept some companies in business, allowing stations to remain on the air when they otherwise might have gone dark. But they also raise profound questions of public policy. How far should such combinations be allowed to go? What is their impact on localism, diversity and the availability of choices to consumers? Does consolidation always, generally or only occasionally serve the interests of the citizenry? How do we judge these things?

Answering these and many other questions requires more than just personal impressions or philosophical ideas about government regulation or deregulation. Among other things, it demands detailed information on current realities in specific media markets, and far-ranging economic and market structure surveys. It also compels a look at consumer consumption habits. I commend Chairman Powell for putting together a Media Ownership Task Force to study the many ramifications of this issue. But I would emphasize that it's a lot to study, and doing it right requires significant resources of labor and money and time. I hope the Task Force will have the resources it needs to conduct studies that must be both very broad and very deep. Then I hope we might even consider, as a Commission, holding hearings here and around the country, to speak with Americans and better gauge what the reality of particular media markets is. I don't want to vote on final rules – and I would be reluctant to vote on final rules – unless and until I feel

comfortable that we have the information and the analysis needed to inform our votes. We need as many stakeholders as we can find to take part in this proceeding. I want to hear more from industry, from labor, from consumers, from academe, from artists and entertainers, from anybody who has a stake in how this is resolved. And I think just about everyone, if he or she stops to think about it, has an interest and a stake.

I also want to emphasize that commenters should not feel they have to limit themselves to the questions posed in this item. The Commission labors under no illusion that we have asked every possible question; indeed, we may have overlooked some that cry out for response, so I urge those who respond to look at every aspect of these issues that you deem relevant to our decision-making process.

I will concur with this *Notice* both because it fulfills our statutory mandate to review the ownership rules, and because it asks some important questions that should help us to determine whether the public interest continues to be served by these rules. However, though I would have preferred to have this *Notice* be a truly clean slate for our analysis, I have some concerns that the timing and tone of the *Notice* may be seen as prejudging these very important issues. Indeed, some analysts have already concluded that the ownership caps and limits are history. Just yesterday, the Precursor Group issued a release predicting that the result of our review in this proceeding will "likely permit the convergence, vertical integration and consolidation of the media sector," and that "[o]wnership caps and bars on cross ownership are highly likely to be repealed . . ." At this stage of the process – in the absence of the hard information we need to make informed decisions and in the absence of any finding that our rules no longer serve the public interest – I think such conclusions are, at the very least, premature. They are also dangerous.

Our Media Ownership Working Group is engaged in a number of studies on a variety of media issues related to or affected by the ownership rules. These have not yet been completed. My preference was to move forward with this review of our ownership rules only after those studies are completed. That would have simplified life for our stakeholders and probably saved folks the cost of filing more than one set of comments. However, I believe the decision to link the comment periods for this *Notice* and the studies mitigates the problem somewhat, and that it will allow commenters to make use of the data that the studies produce before they give us their final input.

Congress' mandated review of our media ownership rules insists that we only eliminate such rules if doing so is in the "public interest." Some still argue that "public interest" shouldn't count for much in our ownership reviews, and that this is just about picking a number and letting business build up to the limit. I think this Commission has moved beyond any such narrow approach to the public interest and that none of us embraces the concept that the public interest means anything other than the traditional Commission public interest standard. Thus, under the statute, even after *Fox Television*, we should change our media ownership rules only if real evidence demonstrates that the public interest continues to be served by doing so. And I believe that the courts are still amenable to keeping most of our rules, ***if*** we provide appropriate justification and

evidence to support them. Some observers act as though the court has decided to be rid of all our rules. They have said nothing of the sort.

Because the stakes here are so incredibly high, it is far more important that we get this done right than that we get it done quickly. I keep coming back to the high stakes involved in what we are doing. Suppose for a moment that the Commission decides to remove or significantly change current limits on media ownership -- and suppose our decision turns out to be a mistake. How do we put the genie back in the bottle then? No way.

Nevertheless, we are launched now on this fateful journey. Much hangs in the balance. But if we approach these proceedings with an open mind, with receptivity on all sides to hard facts and compelling evidence, and if we reach out, really reach out, to stakeholders all across this land, I believe the Commission can arrive at decisions that will serve the public interest and build our own credibility in the process.