

**SEPARATE STATEMENT OF
COMMISSIONER MICHAEL J. COPPS,
APPROVING IN PART, DISSENTING IN PART**

Re: Implementation of Further Streamlining Measures for Domestic Section 214 Authorizations.

I support efforts to make our merger review more efficient and streamlined. Applicants have a right to expect an expeditious resolution. We must recognize, however, that Congress directed the Commission to ensure that acquisitions, including transfers of control, serve the public convenience and necessity. If the Commission fails to carry out this directive, it violates its responsibility under the Act.

I support establishing presumptive categories for streamlined merger review. I would also have been open to a process in which Commissioners could decide whether to accord streamlined treatment in other cases without additional burden or delay to the parties. But that is not the choice I was given. Rather, the majority has decided to vest the Bureau with the delegated authority to determine if any transaction -- whether or not it falls within the presumptive categories -- merits streamlined treatment or requires further investigation.

I do not support such an expansion of the Bureau's delegated authority. This position is not a reflection on the job the Bureaus do. We look to the staffs of the Bureaus for their expertise and judgment and I will continue to rely very heavily on the analysis and judgments of the truly excellent teams in the Bureaus. But mergers may be some of the most important and consequential cases that the Commission will be handling in this time of great economic change and uncertainty, and I believe that for these transactions, the buck must stop in the Commissioners' offices. By establishing presumptive categories, but then allowing the Bureau to decide in all instances on a case-by-case basis whether to streamline review of a transaction, the Commission abdicates an important part of its responsibility.

The Order points out that other Bureaus have greater delegated authority and that they conduct streamlined reviews under that authority. Although I do not believe that domestic wireline common carriers should be subjected to greater scrutiny by the Commission than other telecommunications providers, I do believe that before we expand the authority delegated to the Bureaus, we should examine the experience we have seen to date in the merger context. It may be that, in the area of merger review, we need a little less delegation. In the past year alone, one Bureau approved a merger involving a sizeable increase in foreign ownership without public notice or comment.¹ Another Bureau approved dozens of transactions last March that substantially increased the ownership concentration in small radio markets. All of these were done, I am told,

¹ *General Electric Capital Corporation, Transferors, SES Global, S.A., Transferees for Consent to Transfer Control of Licenses and Authorizations Pursuant to Sections 214(a) and 310(d) of the Communications Act and Petition for Declaratory Ruling Pursuant to Section 310(b)(4) of the Communications Act*, Supplemental Order, October 26, 2001.

without Commissioner input. I think both Congress and the American people want us to step up to the plate on important issues such as this.

So, I will agree where I can on the establishment of presumptive categories, and dissent where I must on the Bureau deciding cases outside the presumptive categories.