

## **DISSENTING STATEMENT OF COMMISSIONER KEVIN J. MARTIN**

*Re: Review of the Commission's Rules and Policies Affecting the Conversion To Digital Television, Second Report and Order and Second Memorandum Opinion and Order, MM Docket No. 00-39, Adopted August 8, 2002*

First, I commend the Chairman for bringing this tough issue to a vote. As I have said previously, I believe it is extremely important for the Commission to resolve outstanding DTV-related issues quickly so that affected industries and consumers know the rules of the road. While I believe the costs of this isolated proposal outweigh the benefits, as I explain below, I appreciate that with every DTV-related decision this Commission makes, we further clarify those rules of the road. Indeed, I would have gone farther. I firmly believe that such clarity is what is needed to spur the digital transition, and I encourage the Commission to continue to actively resolve outstanding issues.

Generally, I prefer market-based forces to government regulation, and I am particularly cautious when regulation imposes a cost to consumers or requires consumers to purchase a product they may not use. In such situations, I believe the better course of action usually is to refrain from regulation and instead to provide consumers with a choice. If government intervention is necessary, however, I believe it must be clear that the benefits outweigh the costs.

Currently, consumers can choose whether to spend the extra money to purchase a television that includes a digital tuner. This Order sets out deadlines by when television manufacturers *must* include digital tuners, so that all but the smallest televisions will be able to receive digital broadcast signals "over the air." Today, however, few consumers receive their video programming only through over the air broadcasting. Instead, the vast majority of consumers receive broadcast programming through their cable or satellite provider. Even as the transition to digital is made, these consumers will probably prefer to continue to receive their video programming through cable or satellite. Thus, taking action on digital broadcast tuners alone, as we do to today, confers a real benefit only on the relatively small percentage of consumers (approximately fifteen percent) who do not rely on cable or satellite for broadcast reception. The costs, however, will be borne by every consumer who buys a television. I therefore fear that the costs of this requirement, as an isolated action, exceed the benefits, and I am not persuaded that it is the right step.

On the other hand, if we were to resolve the digital cable and broadcast tuner issues together, we would create a significantly greater benefit for consumers with relatively little additional cost. It is my understanding that manufacturers can integrate digital broadcast and cable reception capabilities, thereby incorporating these functions into televisions for approximately the same cost as the digital broadcast tuner alone. The value of being able to view digital programming, however, would accrue not just to consumers who rely on over-the-air broadcast, but to the approximately 70 percent of consumers who access their programming (including broadcast) via cable. Indeed, many of those consumers would have additional savings as they would no longer need to rent a set-top or "converter" box. Thus, if we were to ensure equipment functionality and

interoperability for all digital cable systems by requiring the cable industry to adopt a single standard, then manufacturers could build “digital cable ready” sets that also incorporate broadcast tuners. This action would impose approximately the same cost on consumers as the Order does today, yet would enable significantly more consumers to receive more digital programming. And if we were also to resolve outstanding cable carriage issues, we could further increase the amount of digital broadcast programming these consumers could access.

I nevertheless am hopeful that, in addition to concluding this proceeding today, we will resolve outstanding issues relating to cable carriage and cable compatibility in the very near future. I believe that such steps will facilitate and accelerate this country’s transition to digital television.