

**STATEMENT OF
COMMISSIONER MIGNON L. CLYBURN**

Re: *Implementation of the Commercial Advertisement Loudness Mitigation (CALM) Act;*
MB Docket No. 11-93

I don't often quote my colleagues on the bench. But today, I proudly embrace the line that we've heard many times from the distinguished gentleman from Virginia in stating that as a commissioner, I don't tell Congress what to do. Congress tells me what to do.

And in that vein, we move forward with an Order which will greatly improve the parity of volume levels in commercials to that of the programs they accompany. For far too long, TV viewers either frantically reached for the remote to turn down the volume when television commercials began or endured what sometimes were frightening decibel levels that resulted in considerable alarm, anger, and spilled popcorn.

Congress heard the cries of the TV-watching public and saw fit to construct a bill that addressed this concern. Congresswoman Anna Eshoo, who notes that the issue of loud commercials has been a top consumer complaint for almost 50 years, constructed a bill that passed the House via voice vote, meaning a roll call vote was not even necessary. The Senate followed a similar path, passing the bill by unanimous consent.

Ms. Eshoo went on to proclaim that the CALM act "gives the control of sound back to the consumer, where it belongs", and I absolutely agree.

In crafting an item that adheres to the bill Congress passed, we had to try as best we could to achieve a balance and to not over-burden industry with new requirements that would adversely harm the bottom lines of smaller operators and add onerous new expenses. As I mentioned when I began speaking, we do as Congress instructs us, but hopefully with a glow stick and not a flamethrower.

Our Media Bureau's staff, including our engineers, worked tirelessly to guide us through this rulemaking while consulting with industry. We did all we could to minimize the burden on operators large and small while at the same time maintaining the broad coverage that Congress specified with regard to technology parameters. Further, we needed to put into place an enforcement mechanism to address future problems as they arise and to continue to field complaints from the public.

Congress chose the ATSC A/85 recommended practice, which the industry created and the Commission incorporated from this point forward. Making that mandatory will add certainty to the business planning of stations, cable operators, and other MVPDs nationwide, just as Congress intended. Safe harbor and compliance provisions, including certifications, spot checks, and waiver requests, will serve to maintain the balance sought by Congress and the FCC in not burdening industry.

This item demonstrates the deft handling of interests that could potentially collide when Congress, an agency, industry players, and consumers intersect. All four can be, and often are, filled with passion for their stake in what's being considered, and finding common ground can be elusive. I believe we've done that here, in a way that satisfies all of the parties involved. Consumers cried out, Congress heard them, and the FCC worked with affected industries as well

as consumer representatives to address the issue. This is an example of government receptiveness and efficiency, and the American public should take great comfort in it.

I want to thank Lyle Elder, Evan Baranoff, Alison Neplokh, Shabnam Javid, and the often-imitated but never duplicated Eloise Gore. This item is the result of your hard work and dedication, and I thank you for it.