

**Joint Statement of
Commissioner Jonathan S. Adelstein and
Commissioner Michael J. Copps,
Dissenting in Part**

Re: Section 272(f)(1) Sunset of the BOC Separate Affiliate and Related Requirements

We dissent in part from today's decision insofar as it allows the separate affiliate requirements in Section 272 to sunset for Verizon in New York without the necessary analysis by the Commission. As the Commission stated so clearly just last week in its decision on the *SBC California 271 Order*, "our principal guarantee under the Act against improper accounting practices and cross-subsidizations is compliance with the structural and accounting safeguards of section 272." In this era of corporate governance problems and accounting deprivations, we find it incredible that the Commission would eliminate a tool to provide safeguards and accounting transparency without even addressing the arguments raised in the record.

In Section 272, Congress required Bell companies to provide long-distance and manufacturing services through a separate affiliate. In implementing these requirements, the Commission concluded that Congress adopted these safeguards because it recognized that Bell companies may still exercise market power at the time they enter long-distance markets. Congress provided that these requirements would continue for three years, but could be extended by the Commission by rule or order.

Congress clearly gave the Commission the charge to determine whether these structural, accounting, and auditing safeguards remain necessary to prevent anticompetitive discrimination in the market. Yet the Commission has neglected to consider whether there is a need for these or alternative safeguards. The Commission has also not addressed other steps necessary to prevent discrimination, such as performance measures, notwithstanding that that issue has been pending for more than a year. Further, the Commission has failed even to address arguments raised in the record.

In particular, the Commission has not considered the views of our State colleagues. The New York Commission found that elimination of these requirements would be premature. The Texas Commission – the next State in the queue for elimination of these requirements – concluded that the sunset of the Section 272 safeguards would be "imprudent and untimely," and "would fail to meet Congress' objectives in implementing Section 272." Since the State commissions are engaged in the Section 271 process from the beginning, and are our partners in the effort to carry out the directives of Congress, it is particularly important to weigh their considerations, and particularly that of the affected State, as we move to this next phase.

Further, we have neglected to analyze the market in New York. Our data on whether competition is taking hold is sketchy and non-integrated. The data we have and the analysis derived from it are, for us, insufficient for making the determination mandated by Congress.

By neglecting to comprehensively evaluate the basis for our action in this proceeding, we now reach the anomalous result that rural independent carriers are subject to more stringent separation requirements than the Bell companies. We would have preferred to address all of these issues together in a coherent and reasoned manner.

Without doing so, we have not fulfilled our statutorily mandated responsibilities.