

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

Re: Federal-State Joint Board on Universal Service, Recommended Decision

This Decision is one of the most important that the Joint Board will consider this year. As the Commission and the Joint Board move forward with other universal service proceedings during the coming months, including an examination of the contribution methodology, it is important that we develop a consensus on the definition of universal service and how to achieve Congress' goals.

Universal service is a critical pillar of the Telecommunications Act of 1996. Congress clearly concluded that a core principle of federal telecommunications policy is that all Americans, no matter who they are or where they live, should have access to reasonably comparable services at reasonably comparable rates. Congress also wisely anticipated that the definition of universal service would evolve and advance over time.

I want to thank my colleagues on the Joint Board for their frank discussions on this Recommended Decision. The Decision is the product of much hard work by dedicated Joint Board members and equally dedicated staff. Nevertheless, I am concerned that today's Decision is not always forward-looking in its analysis. For example, as discussed below, the Joint Board seemingly discounts the importance of access to broadband services and to the Internet. In addition, the Joint Board seems overly constrained in its analysis by concerns about any increases to the fund or about the possibility that any change could disadvantage one industry sector or another. I write separately to highlight a few principal areas in which I have significant concerns with the Decision.

Advanced Services

I respectfully disagree with a fundamental premise of the majority in its discussion of advanced services. The majority concludes that advanced services are not essential to education, public health, or public safety because "many such resources are readily accessible through alternative means, such as by voice telephone or dial-up connections to the Internet." By this same logic, maybe telephones should never have been deemed essential because we had the telegraph.

I believe that advanced services *are* essential. Indeed, they are becoming more so with each passing day. Already, broadband is a key component of our nation's systems of education, commerce, employment, health, government and entertainment. Congress recognized the importance of broadband access in the Telecommunications Act of 1996. Not only did Congress give the FCC and the state commissions the statutory mandate to advance the cause of bringing access to advanced telecommunications to each and every citizen of our country, but it also directed that one of the guiding principles of universal service is that "access to advanced telecommunications and information services should

be provided in all regions of the Nation.” There is no doubting, in my mind, that Congress looks forward to the advancement of advanced services all across our country. But this important objective will not be achieved without such technologies eventually being included as eligible for universal service support. The majority’s seeming conclusion that market forces alone will accomplish this flies in the face of reality and is contrary to what many business leaders tell me. The Joint Board does little to advance the broadband effort when it concludes that advanced services are not essential.

I am also troubled by the conclusion that we cannot include broadband in the definition of universal service because some broadband providers do not also offer core telecommunications services. This rationale could prevent us from *ever* supporting broadband. The appropriate analysis should focus on the statutory directive to ensure that all consumers receive comparable services, not whether we should lower the standard so that more providers qualify.

Although it may be true that broadband is not yet completely ripe for inclusion in the list of supported services, it is my firm belief that broadband will satisfy the statutory criteria in the near future. In the meantime, universal service should not create barriers to broadband deployment. I am pleased that the Joint Board *does* endorse the concept that universal service should support infrastructure capable of providing broadband services. Although there is more we should do to promote broadband, my hope is that affirming this commitment will encourage carriers to undertake necessary investment to modernize infrastructure in their communities. In addition, I support launching a proceeding to examine steps we should take to promote the deployment of advanced services, and the role of universal service in that effort. This should be a priority matter.

As a final matter, I note with interest the Joint Board’s conclusion that, if the Commission were to adopt its tentative conclusions that broadband Internet access is an information service with a telecommunications component, then broadband Internet access could never be supported by universal service. The law of unintended consequences can inflict terrible damage some times, and if this is an outcome of the Commission’s *Wireline Broadband Notice*, the damage could be irreparable.

Other Issues

I am troubled by the Joint Board’s conclusion that the states carry the principal burden of ensuring that quality services are maintained. Both the states and the Commission need to work together to confront the challenges of service quality in a changing marketplace. Our objective is to bring the best communications system to all of our people. Rural, insular, and low-income consumers have a right to services that are as reliable as those provided to other consumers. The Commission must not abdicate its statutory responsibility to ensure that quality services are available at just, reasonable, and affordable rates.

I am also concerned that the Joint Board fails to take adequate account of the substantial impact of today’s Decision on the access of low-income consumers to

telecommunications services. For example, the Joint Board recognizes that low-income consumers in rural and tribal areas may be unable to access basic essential health, safety, and educational resources using the current list of supported services, but it does not take steps to address this problem. I urge the Joint Board to consider these issues further in its proceeding on the low-income mechanisms.

Finally, although I supported inclusion of equal access in the list of supported services, I recognize that this issue is a close call as demonstrated by the lack of consensus in the Joint Board. I look forward to reading the comments on this Recommended Decision and, in particular, a discussion of the impact on consumers of including or excluding equal access. For example, if universal service is about connecting all Americans, is it the consumer or the carrier who decides on the services and the identity of the provider that the consumer can access through that connection? In addition, some parties extol the benefits of wireless carriers offering consumers service packages that include bundles of any-distance minutes, but I look in vain for an explanation of how inclusion of equal access would preclude such plans. As for the competition issues, some opponents of including equal access state that these issues are relevant to the discussion but are more properly addressed in a future, but as yet unlaunched, proceeding. When the equal access issue is addressed by the Commission, I hope we will have the benefit of sufficient analysis on the competition issues to inform our decision-making.

Again, my gratitude goes out to all who worked so diligently to produce this document which now goes to the Commission. There it will receive, I am confident, the careful attention and high priority it so clearly merits.