DISSENTING STATEMENT OF
COMMISSIONER MICHAEL J. COPPS

Re: In the Matter of the Applications of Shareholders of Tribune Company, Transferors and Sam Zell, et al., Transferees, for Consent to the Transfer of Control of the Tribune Company and Applications for the Renewal of License of KTLA(TV), Los Angeles, California, et al. – MB Docket No. 07-119.

If this Order were a newspaper, the banner headline would read "FCC Majority Uses Legal Subterfuge to Push for Total Elimination of Cross-Ownership Ban."

I have to admit, part of me admires the clever legal maneuvering. If the majority simply granted a two-year waiver to Tribune – which would have been the straightforward thing to do – Tribune would have been unable to go to court because a party cannot file an appeal if their waiver request is granted. So what does this Order do? It ***denies*** the waiver request but offers an automatic (and unprecedented) waiver extension as soon as Tribune runs to the courthouse door, lasting for two years or until the litigation concludes – whichever is ***longer***. Presto! Tribune gets at least a two-year waiver plus the ability to go to court immediately and see if they can get the entire rule thrown out. And most important, Tribune is *not* required to seek a hearing before the very court which expressly retained jurisdiction when it remanded the general newspaper-broadcast cross-ownership ban. Instead, Tribune can end run the Third Circuit and petition for review before what it may hope is a more sympathetic court.

The more I think about this approach, however, the more troubled I become. Publicly, the Chairman claims to want only a "modest" relaxation of the cross-ownership ban. Privately, he enlists Tribune as an accomplice to try and get the ban overturned in court. If the Chairman wants to eliminate the ban, he should stand up and say so. It's time to end the charade.

Although I object to the entire Order, I note that the permanent cross-ownership waiver in Chicago has absolutely no basis in the record or Commission precedent. None of these properties are in distress, and the fact that Chicago is a large market does not distinguish this case from scores of other combinations that exist now or could be formed in the future. Nor is a permanent waiver justified by the "long-term symbiotic relationship" among the properties. When these and other combinations were grandfathered, the Commission made clear that when they were voluntarily sold, it had to be to separate buyers. Thus, the Commission's policy, upheld by the Supreme Court, was to increase competition and diversity over time without disrupting existing service. *See FCC v. National Citizens Comm. for Broadcasting*, 436 U.S. 775 (1978); *Capital Cities/ABC Inc.,* 11 FCC Rcd 5841 (1995). To argue now that the passage of time argues for a permanent waiver is a brazen reversal of thirty years of settled precedent.

I dissent.