

**SEPARATE STATEMENT OF COMMISSIONER KEVIN J. MARTIN,  
APPROVING IN PART AND DISSENTING IN PART**

*Re: Review of Part 15 and other Parts of the Commission's Rules, Order, ET Docket No. 01-278*

I dissent in part from this Order because I fear we are insufficiently taking into account the impact of our aggressive implementation schedule for radar detector compliance, which will result in substantial economic losses for Radio Shack Corporation. I agree with the majority's decision not to modify the August 28, 2002 deadline for manufacturing or importing radar detectors that do not comply with the emission limits we adopted in this proceeding as well as its decision to extend the retail deadline until October 27, 2002. I disagree, however, with the majority's resolution of Radio Shack Corporation's request for waiver.

Radio Shack halted the importation and manufacture of noncompliant radar detectors immediately when the Commission adopted the new emission limits. Nevertheless, Radio Shack currently has an inventory of approximately 85,000 noncompliant radar detectors already located in its U.S. stores and distribution centers. It has made clear that it will sell the bulk of this current inventory regardless when the retail deadline occurs. *See* Letter from Joe D. Edge on behalf of Radio Shack Corporation at 2 (filed Aug. 26, 2002) (“[W]ithout an extension of the marketing deadline or with only a minimal deadline extension, the 85,000 radar detectors now in inventory must be liquidated through ‘fire sales.’”). The only question is whether Radio Shack must sell these products through fire sales at greatly reduced prices in order to meet an imminent deadline or whether it can sell them in a more orderly fashion over a longer period of time. In either case, the number of noncompliant products in the marketplace – and therefore the impact on satellite services – will be the same. However, the fire sale approach will cause Radio Shack significant economic harm and extreme logistical burdens. Radio Shack estimates the loss to be in excess of several million dollars from cut-rate prices on inventory and many millions more in lost sales.

Because there is little benefit to forcing Radio Shack to meet an October 27, 2002 retail deadline while there are substantial costs, I would have given it more time to sell its products. At the very least, I would have given Radio Shack a reasonable amount of time to sell the 60,000 units that are on its stores' shelves. Accordingly, I dissent from the majority's decision on Radio Shack's waiver petition.