

**SEPARATE STATEMENT OF
COMMISSIONER KEVIN J. MARTIN**

Re: Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems; Petition of City of Richardson, Texas, Second Order on Reconsideration, CC Docket No. 94-102

I am pleased to support this Order. I write separately, however, to express my concern with its analysis of the Commission's compliance with the court's decision in *Sprint v. FCC*, 315 F.3d 369 (D.C. Cir. 2003). *Sprint* held that the Commission failed to provide proper notice for a rule clarification under the Administrative Procedure Act when the only notice provided was a Bureau-level public notice. In this Order, we conclude that a Bureau-level public notice did provide adequate notice, because, unlike in *Sprint*, the notice was published in the Federal Register and contained an Initial Regulatory Flexibility Analysis. While I think this analysis is not unreasonable, we should avoid these issues. Ultimately, the Commission itself is responsible for the actions taken by the agency. The better course in the future is to issue Commission-level notices. A full Commission-level notice is the vehicle explicitly called for by *Sprint* and would plainly satisfy the court's concerns.