

**CONSOLIDATED SEPARATE STATEMENT OF
COMMISSIONER KEVIN J . MARTIN, CONCURRING IN PART**

*Re: Joint Application for Review of Constellation Communications Holdings, Inc., Mobile Communications, Inc. and ICO Global Communications (Holdings) Limited, Memorandum Opinion and Order, File Nos. SAT-T/C-20020718-00114 et al.;
Emergency Application for Stay of Globalstar, L.P., Memorandum Opinion and Order, File Nos. SAT-LOA-19970926-00151/52/53/54/56 et al.;*

While I do not take issue with these Orders' interpretation of the "non-contingent satellite manufacturing contract" milestone, I question the usefulness of our approach. With respect to Globalstar, we take away its license because Globalstar's manufacturing contract would not have provided for completion of construction of Globalstar's originally proposed system within Globalstar's original construction milestones. But Globalstar sought modification of its system and extension of the construction milestones. Globalstar specifically sought an opportunity to cure its satellite manufacturing contract to conform to the original requirements should its modification and extension requests be denied. In light of these facts, I think Globalstar could rather easily have entered into the requisite contract in order to meet the first milestone and preserve its license. Whether Globalstar could have ultimately lived with such a contract is a harder question, but Globalstar would have bought itself time to try. It thus seems to me that Globalstar is here being penalized for taking a more honest approach.

With respect to Constellation and MCHI, we take away their licenses because we conclude that their agreements to share satellite infrastructure with ICO do not constitute satellite manufacturing contracts. As with Globalstar, we rely in large part on the fact that these agreements do not commit Constellation and MCHI to implement the systems they were originally licensed to operate. While it is unclear whether Constellation and MCHI could have entered into the kind of contracts we deem are required in order to preserve their licenses, it does seem clear that they could have provided a viable service through their sharing agreements. I am not sure that the penalty of taking away their licenses is a fair match to the perceived transgressions.

In the end, I think the strict enforcement of the "non-contingent satellite manufacturing contract" milestone may be too blunt an instrument to address these questions. Going forward, I would prefer a more nuanced approach.