

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

Re: Telecommunications Services, Inside Wiring, Customer Premises Equipment and Implementation of the Cable Television Consumer Protection and Competition Act of 1992: Cable Home Wiring, CS Docket No. 95-184, MM Docket No. 92-260

Although I understand the importance of the concerns we address in this Order, I am not persuaded that we have the statutory authority to regulate “home run” wiring.

This Order relies on three statutory provisions for jurisdiction: Sections 4(i), 303(r), and 623 of the Communications Act of 1934. Sections 4(i) and 303(r) confer broad, general authority. Section 4(i) permits the Commission to “perform any and all acts, make such rules and regulations, and issue such orders, not inconsistent with this chapter, as may be necessary in the execution of its functions.” 47 U.S.C. § 154(i). Similarly, Section 303(r) authorizes the Commission “from time to time, as public convenience, interest, or necessity requires” to “make such rules and regulations and prescribe such restrictions and conditions, not inconsistent with law, as may be necessary to carry out the provisions of this chapter.” 47 U.S.C. § 303(r). I question whether these general provisions authorize the Commission to regulate the disposition of that part of a cable wire that runs from the demarcation point in a multiple dwelling unit to the point at which the wiring becomes devoted to an individual subscriber. Moreover, the interpretation of these provisions in this item offers no limitation on our authority, and thus I am not sure what this interpretation would *not* allow us to do. I am not as comfortable interpreting these provisions so broadly.¹

The Order also relies on Section 623, which instructs the Commission to ensure that basic cable rates are reasonable. Primary responsibility for these rates lies with the local franchise authorities, which set the local rates consistent with FCC rules. We ensure rates are reasonable by accepting cable operators’ appeals of local rate orders. Again, I am not sure that we can rely on this provision as a basis for regulating the disposition of home run wiring inside an MDU.

Accordingly, I dissent in part from this Order.

¹ My reluctance to use our general rulemaking authority to regulate wiring within a MDU is also due to the fact that Congress addressed this general issue in Title VI, expressly instructing the Commission to regulate the cable wiring *inside* a customer’s premises. *See* 47 U.S.C. § 544(i). That Congress did not similarly authorize us to proscribe rules regulating cable wiring *outside* the customer’s premises is notable.