

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of the Commission's Rules)	WT Docket No. 97-82
Regarding Installment Payment Financing)	
For Personal Communications Services)	
(PCS) Licensees)	
)	

**REPLY COMMENTS OF THE
PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION,
POLYCELL COMMUNICATIONS, INC.,
AND CFW COMMUNICATIONS**

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SUMMARY

The Commission is on the verge of improperly dismantling a successful program that is both providing entrepreneurs with a means of entry into the lucrative PCS industry and consumers with an additional mobile wireless carrier alternative. Congress correctly found, and past Commissions have agreed, that open auctions would create an insurmountable hurdle for entrepreneurs to bid for and win the most sought after PCS radio licenses.

Now, based upon the allegations and innuendo of some of the country's most established wireless carriers, the Commission is poised to cripple its entrepreneur's program. Before taking this drastic step, the Commission must critically examine the vague claims of select carriers as to their "immediate" desire to offer 3G services. The Commission must also scrutinize the claims of spectrum shortages from carriers still using inefficient analog technologies.

If the Commission finds—based on evidence not yet in this record—that these carriers have pressing, immediate needs for spectrum, it should expedite actions to re-allocate government bands and implement the WRC IMT-2000 decision. It also should advise these carriers that it will look favorably upon requests to use the secondary market mechanisms created or approved by the Commission—such as disaggregation, partitioning, affiliations, swaps or management agreements. The Commission also should favorably consider waivers of its spectrum cap limits upon a carrier's showing of specific spectrum needs in specific markets.

However, the accommodation of these carriers' business plans need not, and should not, be at the expense of bringing additional designated entity PCS competitors to the market. In this regard, the Commission should cast a critical eye on those companies that now claim that access to C or F Block spectrum is crucial to their business plans. These companies have known for years that these bands are reserved for entrepreneurs and could not have conceivably based their spectrum expansion plans on the entirely fortuitous NextWave bankruptcy followed by a reauction under changed eligibility rules.

Certain carriers claim that "the record" demonstrates that designated entities cannot compete in the PCS industry. The record shows that less than five percent (5%) of designated entity PCS licensees are in bankruptcy and the rest are either building out or operating their networks in conformance with Commission deadlines. The record shows that following the end of the Commission's installment payment policy, designated entity licensees who paid in full are bringing services to the public in an expeditious manner.

Certain carriers then claim that "the record" demonstrates that designated entities cannot compete in the largest urban markets. The record shows that entrepreneurs are the driving force in all sectors of the U.S. economy for new jobs, new investment, and new innovations. As to the PCS sector, entrepreneurs are operating or currently building networks in "small" markets such as New Orleans, Boston, Cleveland, Minneapolis, Nashville, and New York. The record shows that a first generation wireless success story—Nextel—now believes it is time to roll up the carpet to opportunities for others and is willing to submit comically overblown financial projections to convince the Commission that the era of wireless entrepreneurship is over.

Certain carriers believe that “the record” shows that the Commission can provide designated entities with a meaningful opportunity to compete for and hold PCS licenses by replacing set asides with bidding credits in open auctions. This Commission is repeatedly and unequivocally on record that bidding credits would be of no value for entrepreneurs bidding for the most lucrative PCS markets against entrenched incumbents. The record is not clear as to how past auction results for other less sought after bands is relevant to predicting success for the most valuable mobile spectrum ever released for competitive bidding.

Certain carriers suggest that “the record” demonstrates that designated entities can be viable with only 10 MHz of spectrum. The record shows that the most vehement promoters of this spectrum take back are now telling the Commission that 10 MHz is not nearly enough to compete in an era of advanced voice and data services. The +10 MHz Coalition includes SBC, AT&T, BellSouth, CTIA, U S West, and AirGate (a Sprint PCS affiliate). These carriers are open in their belief that 20 or 30 MHz systems are the minimum necessary to offer twenty-first century services. According to SBC, “[t]his is particularly true in . . . large markets, where a single 10 MHz license is almost certainly not enough to support a viable voice and data business.”

The +10 MHz Coalition argues that “the record” demonstrates that they are unable to offer advanced services with their current spectrum assignments, despite the fact that all of them now hold 10 MHz, 25 MHz, 30 MHz or more in hundreds of markets. What these carriers don’t say is that the record shows that splitting the existing 30 MHz C Block, cutting back on the designated entity set aside and opening the F Blocks will permanently handicap—if not foreclose—the birth of another regional or

national competitor, while these carriers divide up among themselves the more digestible 10 MHz and 15 MHz additions to their networks.

After a careful review of this record PCIA believes that the Commission can only decide to retain its PCS set aside program. The Commission should conduct the November reactions under the set aside rules that have proven to be necessary to provide entrepreneurs a meaningful opportunity to participate in the provision of PCS services.

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The Personal Communications Industry Association, joined by CFW Communications and Polycell Communications, Inc. (hereinafter "PCIA"), hereby files its reply comments in the above-captioned proceeding.

PCIA continues to urge the Commission to maintain the existing rules for the remaining C and F block auctions. After taking a very hard look at the record that has been created here, PCIA has concluded that the facts – not the smoke-and-mirrors, but the actual facts – demonstrate that the Commission's rules, crafted in furtherance of its statutory goal, have been a resounding success, and should be continued.

In reviewing the record, PCIA notes that it cannot recall a time when the record in a proceeding has been so replete with unsupported allegations and innuendo. For example, the bulk of the established incumbent carrier community continues to assert that the handful of well-publicized bankruptcies of C block licensees demonstrates that the Commission's DE rules are not a success. In reality, the record demonstrates that approximately 95% of these licensees are building out either ahead of, or in accordance

with, their license obligations, and deserve the continued support of the Commission in their attempt to expand their footprints or enter new markets.

Many established incumbent carriers, such as AT&T Wireless Services, Inc. (“AT&T Wireless”), also profess to speak for the DE applicants and licensees in arguing that the 30 MHz block should be chopped into 10 MHz “mini” or “sub” blocks so that the blocks “. . . are more affordable to small businesses”¹ Beyond their “concern” for the health of new competitors, it is clear that these large incumbent carriers want the C block broken up into 10 MHz sub-blocks to limit competition in both the auction itself and in the marketplace, as well as to reduce their own costs of network expansion or migration. This channelization best facilitates their ability to add additional spectrum to their existing networks. These carriers know full well that 10 MHz is not enough for carriers to build and operate a viable mass market system, and that virtually all carriers seeking to offer mobile wireless service, including Third Generation (“3G”), need a minimum of 20 MHz.

None of these established incumbent carriers discuss the fact that the likely end result of creating three 10 MHz blocks with no eligibility requirements is that this spectrum will be gobbled up by existing national or regional carriers, leaving no spectrum for DEs. Reconfiguring the spectrum as proposed ensures no other carrier will emerge with capacity equal to that of an established incumbent carrier to offer diverse services or provide price competition, and thus, will not facilitate additional competition in the broadband mobile wireless market. It would also sound the death knell for DE

participation in these auctions, and hamper those DEs who are already offering service or are under construction. The record demonstrates that these incumbent carriers, for example, have declined to offer roaming agreements, or offer such agreements only on onerous terms.²

PCIA urges the Commission to recognize these realities when deciding whether to proceed with its proposed changes. PCIA knows that incumbent carriers are placing enormous pressure on the Commission to obliterate the DE rules. However, any significant changes to the rules – such as changes in the eligibility rules to allow the likes of AT&T Wireless, BellSouth, or Verizon to bid for the C and F Block licenses – would foreclose any possibility of DE success. This result would both violate Section 309(j) and be poor public policy. The 10 MHz/10 MHz/10 MHz proposal destroys any opportunity for DEs without existing spectrum to compete in the mobile marketplace. In light of these facts, PCIA urges the Commission to complete the process of putting PCS licenses into the hands of entrepreneurs who will bring another CMRS alternative to local, regional and, yes, national markets.³

¹ See Comments of AT&T Wireless at 1.

² See Comments of Alpine PCS at 14.

³ The Commission's grandfathering rules should also be clarified, but not modified. The Commission also should clarify that any entity that participated in either auction 5 or Auction 10, or any entity that is sufficiently related to a prior auction applicant so that an authorization could be assigned from one entity to another on a pro forma basis and without there being any substantive change in control, would be eligible as an Entrepreneur in Auction 35. This clarification would supplement, and not conflict with, the Commission's proposal in the *Further Notice* that qualified Entrepreneurs who merge with other qualified Entrepreneurs would not be deemed ineligible by virtue of the merger.

I. THE RECORD UNQUALIFIABLY SUPPORTS MAINTAINING THE SET-ASIDES FOR DE PARTICIPATION IN THE C AND F BLOCKS

A. The Designated Entities' Experience Continues to be a Resounding Success.

The Commission's *Further Notice* cited to eight bankruptcies of C block licensees in support of its tentative conclusion to modify the rules governing C and F block eligibility. PCIA submits that virtually all licensees in the C and F blocks, with those few exceptions, are currently building out or have built out their systems in accordance with, or in advance of, the timelines established under the Commission's rules. Thus, approximately 95% of the C and F block licensees are meeting or exceeding the requirements set forth in the Commission's rules. This is nothing less than a tremendous success for the Commission and the DE especially community considering the regulatory turmoil that has dogged these start-up businesses.

The now defunct installment payment rules clearly led to speculative auction outcomes, causing many credible licensees to exit the auctions out of recognition that the prices for licenses far exceeded the real world valuations. The litany of bidders that left the auction include Telecorp ("prices got too high, and things got crazy"), U.S. AirWaves (CEO John DeFeo stated "we do not believe the large, high quality markets are economically viable to produce the appropriate returns."), NorthCoast Mobile Communications (President John Dolan, stated that bidding had reached "a level of speculative excess which we could not economically justify").⁴ These business plans

⁴ Comments of U S West, WT Docket No. 96-59, at Attachment A at 13 (filed Apr. 15, 1996)

were derailed by the actions of a handful of licensees, including NextWave, and they should not be derailed again by the likes of Nextel, U S West, or SBC. The Commission has revised its rules to eliminate installment payments, and thus eliminate the artificial frenzy for licenses that was exhibited by NextWave and others. As was the case in last year's PCS C and F block reauction, the remaining DE licenses should be available to entrepreneurial applicants with rational business plans.

B. The Commission Should Not Succumb To The Discredited Economic Theories Of Incumbent Carriers.

While the established carrier community often pays lip service to the needs of the DE community, Nextel drops any of these pretensions.⁵ Nextel states that small businesses – by definition “do not have and cannot attract the financial prerequisites to acquire, construct, and deploy a competitive wireless telecommunications system in almost any BTA in the U.S.”⁶ It cannot be denied that entrepreneurs and small businesses are the driving force behind new jobs, new investments, and new innovations in the U.S. economy, and there is simply no reason to assume otherwise for the U.S. telecommunications sector.⁷

⁵ Nextel sadly forgets from whence it came. As PCIA notes in its comments filed in response to Nextel's Petition for Waiver, Nextel is a plausible poster child for the DE community. A few short years ago, Nextel itself would have qualified as a designated entity and have been eligible to participate in the C block auctions. Nextel has grown in a few short years from a “mom-and-pop” style company to a company with substantial assets and resources at its disposal. PCIA does not understand why Nextel believes that others are not equally capable of duplicating Nextel's success.

⁶ Nextel Comments at 5-6.

⁷ Congress recognized the need to promote entrepreneurs and small businesses in the wireless sector through Section 309(j) due to their proven value as drivers of growth, jobs and innovation for the U.S. economy. According to the U.S. Small

As justification for its extraordinary position, Nextel sets up a straw man analysis in which it asserts that a new entrant would have to spend billions of dollars and establish geographic coverage equal to that of its competitors prior to even launching service.⁸ Even a cursory review illustrates that Nextel's analysis is ludicrous. For example, Nextel claims that a new entrant "cannot launch service until it has replicated fully the coverage and quality provided by incumbent wireless carriers." In Los Angeles, according to Nextel, this means that the new entrant would need to construct about 2,000 cell sites prior to signing up even one customer.⁹ Nextel's position is frivolous. As an initial matter, the amount of cell sites arguably necessary is grossly exaggerated.¹⁰ In addition,

Business Administration, small businesses employ 53 percent of the non-farm work force, contribute 47 percent of all sales in the country and are responsible for 51 percent of the private gross domestic product. From 1990 to 1995, small firms created 76 percent of net new jobs. In 1992, almost 96 percent of all U.S. exporters were small businesses.

Over 8.5 million women-owned firms employed 23.8 million workers and generated \$2.8 trillion in revenues in 1997, up dramatically over the decade. Over 3.25 million minority-owned firms employed 3.9 million workers and generated \$495 billion in revenues in 1997, also up dramatically over the last decade.

The SBA reports that small firms produce 55 percent of innovations, twice as many per employee as large firms. Small firms obtain more patents per sales dollar and more discoveries per sales dollar than large firms do. (Small firm innovations in this century include the airplane, audio tape recorder, heart valves, optical scanners, pacemakers and the personal computer.) Almost 38 percent of workers in high technology occupations worked in small firms in 1996, up from 32 percent just five years earlier. According to a survey conducted for SBA, 90 percent of high technology small firms recorded their first sales within one year of founding and 66 percent had profits by the second year.

The Facts About Small Business 1999, U.S. Small Business Administration Office of Advocacy, www.sba.gov/ADVO.

⁸ Nextel Comments at 7-11 & Declaration of Michael T. Sicoli at 1.

⁹ Nextel Comments at 2.

¹⁰ It is our understanding that Sprint PCS intended to roll out its Los Angeles system with fewer than 450 sites, and actually recently deployed in Los Angeles with just over 300 cell sites.

with 30 MHz of capacity, in contrast to the 10 MHz that Nextel presumes, a carrier needs significantly less cell sectorization¹¹ leading to as much as 200-300 percent fewer transmitter sites. Even under Nextel's worst case geography scenario, the new entrant might need 1,000 sites in Los Angeles, not 3,000; 200 sites in Norfolk, not 600; and 300 sites in San Diego, not 900.

All of the existing PCS carriers of which PCIA is aware have built out systems in phases, just as did the cellular carriers and Nextel. In fact, the Commission's build out requirement reflect this business reality.¹² Even today, neither the PCS carriers nor Nextel have come close to replicating the "coverage" provided by the incumbent wireless providers who have had many years head start in the market, or have come close to serving all of the BTA service territory, wall-to-wall, which is more likely what 2000+ sites would cover.

As more fully explained by Alpine PCS, Inc. ("Alpine"), Sprint PCS has built-out only approximately 15% of its geographic coverage – "its core city areas and along highways connecting these core cities. Almost none of the rural areas have been provisioned."¹³ Alpine also submits conclusive evidence demonstrating other carriers that have a similar footprint to that of Sprint PCS. Such carriers, including AT&T Wireless, among others, also cover only 15% of their service territory.¹⁴ It is simply fallacious of Nextel to presume that new entrants would be required to meet this virtually

¹¹ See Reply Comments of OPM Auction Co.

¹² See 47 C.F.R. § 24.203

¹³ Alpine Comments at 13.

“wall-to-wall” build-out in phase one, when no other carrier has done so, even large, successful ones.¹⁵

This misleading assumption is also at the heart of another of Nextel’s premises, *e.g.*, that a DE carrier will not be able to generate any revenue until its wall-to-wall gold-plated 3G system is built and operational. Nextel is wrong again. As have Sprint PCS, AT&T Wireless, Nextel, and all other carriers of which PCIA is aware, DEs will roll out service in the core of their markets as soon as they have a viable local offering. This service roll-out will generate revenues for continued capital investment and debt service. How much revenue will vary from business plan to business plan, and market to market, but to suggest that no revenue would be generated until there is a wall-to-wall, gold-plated system in place suggests gross, and fatal, inaccuracies in Nextel’s suggested cost analysis.

Additionally, Nextel’s use of the cost of spectrum in the recent United Kingdom auctions is inapposite to the cost of spectrum in the United States. An appropriate benchmark is the cost of spectrum in the Commission’s most recent reauction of C and F block licenses, where the average cost of a license was \$3.60 per POP, not the \$120 per POP used by Nextel in its back-of-the-envelope “analysis.”

¹⁴ *Id.* at n.34 & Attachment 7.

¹⁵ Moreover, a DE could decide to serve niche markets, such as minority and ethnic groups, still ignored by mainstream wireless carriers. The Commission should not ignore the value of these newer carriers in carrying out its universal service goals.

Moreover, Bear Stearns Co. recently estimated Nextel's current capital expenditures at \$27 per POP. In contrast, in its initial comments, Nextel tries to convince the Commission that it would cost approximately \$550 million to operate a 3G network in Norfolk to the point of reaching positive cash flows. In Norfolk, a market of 1.6 million POPs, under Nextel's calculation, this would be \$343 in capital expenditures per POP, not the \$27 it reported to Bear Stearns.¹⁶

In light of Nextel's seeming disregard or ignorance of the realities of how systems are built out and capitalized, the Commission can put no credence in Nextel's conclusion that DEs are not capable of building out PCS systems.

C. The Record Unequivocally Demonstrates That 10 MHz Is Not Sufficient For Carriers Who Seek To Build New Systems Instead Of Augmenting Existing Systems

The consensus of PCIA PCS members is that 10 MHz of spectrum is insufficient for any carrier to build and operate a viable voice and data system in the 21st Century. This view also is supported by the very commenters who seek to relegate DEs to 10 MHz businesses.¹⁷

Admittedly, it may be possible to do an initial launch of services in some markets, but that is a far cry from being able to operate an ongoing system that could accommodate growth in subscribership for this as well as next generation services. The capacity constraints soon would drive a carrier with only 10 MHz to a point it would not be cost effective to satisfy the growth. A carrier deploying CDMA technology, for

¹⁶ See Bear Stearns & Co., *Wireless Trading Multiples*, June 16, 2000.

example, not only would have to increase cell site density immensely, but also it would have to use Enhanced Variable Rate/Coders (“EVRCs”) and all available 1.25 MHz CDMA carriers (*i.e.* three carrier channels within 5 MHz) in order to cope with high penetration and high usage. In addition, unlike the cdmaONE standard, which uses a 1.25 MHz carrier channel, cdma2000 Phase II (to be deployed in 2002) will use a 5 MHz carrier channel to provide voice and 384+ kbps packet data. Thus, a cdmaONE carrier, which intends to deploy true 3G service using cdma2000 Phase II technology, would face significant spectrum problems within a 10 MHz channel. The same difficulties of using 10 MHz of spectrum also exists for other 2.5G and 3G technologies.

Even the entrenched incumbents believe that at least 20 MHz, and in some cases 30 MHz, is necessary to offer viable twenty-first century systems. SBC Communications, Inc. (“SBC”) unequivocally concludes that in larger markets “a single 10 MHz license is almost certainly not enough to support a viable voice and data business.”¹⁸ It also concludes that “30 MHz of PCS spectrum is needed to offer a *full complement* of both voice and data wireless services.”¹⁹ As documented by SBC, U.S. AirWaves, NorthCoast Communications, and others, *at least* 20 MHz is required to enable any carrier to offer 3G wireless services. AT&T Wireless’ pleading makes clear that it believes it needs 10 MHz in addition to the 30 MHz it already has, to allow it to

¹⁷ See, *e.g.* U S West at 5.

¹⁸ SBC Comments at 11.

¹⁹ SBC Comments at 9.

prepare for its 3G roll-out.²⁰ As noted above, the need for at least 20 MHz results from the fact that 10 MHz of spectrum is the bare minimum for the “carrier” component of a 3G system, which is composed of two 5 MHz blocks. Thus, a carrier with only 10 MHz could create a 3G system, but could serve only a limited number of subscribers. Even the Cellular Telecommunications Industry Association (“CTIA”), unqualifiedly takes the position that “it is not technically possible to offer 3G in 10 MHz of spectrum.”²¹

U.S. AirWaves goes so far as to suggest that, although a licensee technically initially could provide second generation services using just 10 MHz of spectrum, “such an alternative is highly undesirable from a business perspective,”²² and would negatively impact the ability of any such carrier to raise the necessary financing. The financial

²⁰ PCIA continues to wonder what AT&T Wireless, Nextel, and other broadband carriers’ business plans contemplated for 3G roll-out prior to the NextWave bankruptcies. Clearly their business plans did not predict the NextWave bankruptcy or sequence of other events that have brought the licenses in Auction Number 35 back to the market. PCIA submits that, rather than relying on their crystal ball, these carriers had planned a transition to 3G with 700 MHz spectrum, and other government spectrum yet to be designated. Nothing has happened that would prevent these carriers from pursuing those hopefully studiously prepared business plans.

²¹ See U.S. AirWaves Comments at 5; Letter from Thomas E. Wheeler, Cellular Telecommunications Industry Association to William E. Kennard, Chairman, Federal Communications Commission (Jan. 7, 2000) (stating that “it is not technically possible to offer 3G in 10 MHz of spectrum.”). CTIA later expands upon its position. In CTIA’s February 22 comments on the Nextel petition, it states “. . . Nextel also has proposed to divide the reclaimed 30 MHz C Block license into separate 20 MHz and 10 MHz authorizations. This proposal would disadvantage any carrier to expand into new markets in order to compete with incumbent carriers who will have at least 25 MHz of cellular spectrum or 30 MHz of PCS spectrum. This would place a new entrant at a competitive disadvantage since it would not acquire enough spectrum (*i.e.*, capacity) to provide the advanced services offered by its competitors and demanded by its potential customers.”

²² U.S. AirWaves at 5.

community needs assurances that those they back can meet the demands of the market over the long term – not just at initial build-out.²³

II. CREATING MINI-BLOCKS OF 10 MHz EACH OUT OF THE 30 MHz BLOCK WILL ELIMINATE ANY POSSIBILITY OF ADDITIONAL COMPETITION IN THE MOBILE BROADBAND MARKETPLACE.

AT&T, Nextel, and most other incumbent wireless carriers request the Commission to chop the 30 MHz C block spectrum into three 10 MHz mini-blocks. The incumbent carriers make this request, in part, so that they can expand their existing 30 MHz systems without running afoul of the Commission's recently reaffirmed 45 MHz spectrum cap limits. The purchase of the bulk of these frequencies by incumbent carriers will ensure that no viable new competitor will be able to emerge from these auctions.

Perhaps NextWave best characterized the public harm that would result from such a proposal. According to NextWave,

[b]y balkanizing the existing 30 MHz blocks into 10 MHz sub-blocks, the Commission facilitates extension of the present mobile wireless market structure. . . . the end result is likely to be that the C block of PCS spectrum will not be used to add another national competitor. Rather, it would serve merely as a means for incumbents to enlarge existing spectrum holdings. Clearly, this was not Congress' intent when it authorized the auctions and sought assurances of market diversity.²⁴

Moreover, despite the patronizing view of many of the established carriers that three 10 MHz blocks would better suit the needs of entrepreneurs, AT&T Wireless makes

²³ The Commission itself repeatedly has acknowledged the difficulties in access to capital as a market entry barrier for designated entities. *Section 257 Proceeding to Identify Market Entry Barriers for Small Businesses*, Report, 12 FCC Rcd 16802 (1997). The Commission should not exacerbate this difficulty by further handicapping DEs' access to sufficient spectrum.

²⁴ NextWave Comments at 6.

clear that the real reason for its desire to have 10 MHz blocks is not so altruistic. In substantial part, AT&T Wireless and its brethren seek to create as many 10 MHz blocks as possible so as to lessen competition among themselves for the 10 MHz blocks in each market. The incumbent carriers, in effect, have devised a plan where, in any given market they are assured that they will not need to compete against one another to achieve their spectrum goals, contrary to the scenario of the upcoming 700 MHz auctions. AT&T Wireless implicitly recognizes this when it says that it is opposed to a 20/10 split because it would “. . . create intense competition for the single remaining 10 MHz block from both existing licensees facing spectrum cap issues and small businesses”²⁵ Despite the business plans of these incumbent carriers, the Commission and the public can ill-afford to limit or curtail the opportunity for additional competition in broadband mobile wireless services.

Even assuming *arguendo* that these carriers do need additional capacity, it is not appropriate to take that additional capacity from the designated entity community. PCIA wholly supports the promise of and need to transition to advanced communications services. PCIA is on record as supporting the need for additional spectrum for all carriers to provide these 3G services. The Commission should move forward immediately to reallocate the government spectrum that it set out in its Spectrum Policy Statement. It also should move as quickly as possible to domestically allocate all of the bands identified by the most recent WRC for IMT-2000. For those carriers with more immediate spectrum needs, the Commission should confirm its willingness to act upon

²⁵ AT&T Wireless at 4 n.6.

secondary market transfer mechanisms such as disaggregation, partitioning, affiliations, swaps, and management agreements. The Commission should also favorably consider waivers of its spectrum cap limits upon a carrier's showing of specific spectrum needs in specific markets as set forth in the Commission's recent *Spectrum Cap Report and Order*.²⁶

Under no circumstances, however, should the Commission return to the designated entity "pie" to dice it up in favor of supporting incumbents' business plans while these carriers have viable alternatives. Nothing in this record justifies the drastic measures that the Commission is contemplating here.

²⁶ Any carrier with immediate spectrum needs is also free to participate in the upcoming 700 MHz auction either alone or is a consortium.

III. CONCLUSION

For the foregoing reasons, PCIA urges the Commission to terminate this proceeding and leave in place the current rules for DE participation in the C and F block reauctions.

Respectfully submitted,

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