
Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Improving Public Safety Communications)
in the 800 MHz Band) WT Docket No. 02-55
)
Consolidating the 900 MHz Industrial/Land)
Transportation and Business Pool Channels)

To: The Commission

**REPLIES OF THE
AMERICAN MOBILE TELECOMMUNICATIONS ASSOCIATION, INC.**

Respectfully submitted,

AMERICAN MOBILE TELECOMMUNICATIONS
ASSOCIATION, INC.

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The American Mobile Telecommunications Association, Inc. (“AMTA” or “Association”), in accordance with Section 1.415 of the Federal Communications Commission (“FCC” or “Commission”) Rules and Regulations, respectfully submits its Reply Comments in the above-entitled proceeding.¹ The Association also is a signatory to the Reply Comments filed by the Joint Commenters which include a number of Public Safety organizations, the “Private Wireless Coalition” as further identified in that filing, and Nextel Communications, Inc. (“Nextel”). While there is no painless or inexpensive way to resolve the public safety/Commercial Mobile Radio Service (“CMRS”) interference problem in the 800 MHz band that prompted FCC adoption of the NPR, the Joint Comments outline a workable framework for addressing the three critical issues identified by the Commission: 1) interference elimination; 2) minimum disruption to existing services; and 3) provision of sufficient spectrum for public safety.² The instant filing addresses only those issues of particular concern to the Specialized Mobile Radio (“SMR”) industry whose constituents have a significant presence in the 800 MHz band.

I. AMTA SUPPORTS THE CONSENSUS PROPOSAL DETAILED IN THE JOINT COMMENTS FILED BY PUBLIC SAFETY ORGANIZATIONS, PRIVATE WIRELESS COALITION AND NEXTEL.

¹*Notice of Proposed Rule Making*, WT Docket No. 02-55, FCC 02-81 (rel. March 15, 2002) (“NPR” or “Notice”).

²NPR at ¶ 26.

The record in this proceeding confirms several significant facts. First, there is an interference problem in the 800 MHz band caused by the proximity of “cellularized”³ CMRS systems to relatively high-site, high-power 800 MHz land mobile systems that is affecting both public safety and other incumbents in the band. Second, the solutions proposed to date would require some number of 800 MHz incumbents to relocate their systems, either within the 800 MHz band or to another band, triggering the costs and disruption inherent in any such migration. Third, there are technical, economic and political factors associated with each recommended solution that will impact its practical feasibility. Fourth, the variety of user categories, system configurations, and types of licenses in the 800 MHz band, coupled with the absence of significant “greenspace” for rebanding and the FCC interest in identifying additional 800 MHz spectrum for public safety use, make this spectrum reconfiguration a particularly difficult one to navigate.

AMTA’s Comments in this proceeding focused on the need to identify with particularity the causes of interference in the band and to evaluate the likely ameliorative impact of the proposed solutions before deciding which licensees should move and to what spectrum. The Association’s members are uniquely familiar with the impact of rebanding since a substantial number of them already have been retuned from Upper 200 800 MHz channels to spectrum in the lower portion of the band pursuant to FCC Rule Section 90.699. While the original 800 MHz retuning proceeded reasonably smoothly, it is not a process to be undertaken lightly. Therefore, AMTA concluded:

It is essential that whatever course the FCC selects to resolve these interference problems, it must have confidence that the corrective action will be effective both

³The Notice defines “cellular-like” or “cellularized” systems as those employing multiple low power base stations, automated handoff and frequency re-use, and, further, as those consisting of a large number of base stations, each with a relatively low antenna that limits coverage to a small area around the base station. NPR at §§ 11, 12.

immediately and in the longer-term, that it is technically and logistically achievable, and that it is as cost-effective as possible.⁴

Since filing its Comments, AMTA has participated in the efforts of the Joint Commenters to craft a compromise solution that addresses the three essential elements identified in the Notice while also recognizing the interests of all 800 MHz incumbents. Work remains to be done. Nonetheless, the Association is satisfied, given the technical, economic and political parameters within which any solution must fit, that the consensus recommendation reasonably balances the competing interests in this band. The 800 MHz band bifurcation proposal detailed in the Joint Comments is expected to substantially alleviate the CMRS/public safety interference problem as evidenced by support from the key organizations representing public safety interests. By comparison with other proposed solutions, it will require significantly fewer incumbents to change frequencies and none except Nextel to relocate out of the band, thereby minimizing both the associated cost and system disruption. It will make some additional 800 MHz spectrum available for public safety use without forcing other non-cellularized incumbents from the band.

The proposal is a compromise. As such, it cannot satisfy entirely the interests of any of its supporters and does not accommodate the preferences of every incumbent. Moreover, as in any compromise, it will not be possible for the FCC to pick and choose among the carefully balanced plan elements without jeopardizing support for the whole. However, AMTA is pleased that the proposal acknowledges that some individual situations will need to be given specific consideration as we move from band planning to implementation. AMTA suggests that the following issues be considered at that time should the Commission adopt the solution proposed by the Joint Commenters.

⁴AMTA Comments at ¶ 7.

II. SMR REBANDING ISSUES.

1. Commercial Systems are Uniquely Impacted by Rebanding.

As noted above, many 800 MHz licensees already have been retuned once pursuant to the rights granted Upper 200 EA licensees under FCC Rule Section 90.699. The EA auction winners, almost exclusively Nextel or Nextel Partners, Inc. (“NPI”), were permitted to relocate incumbents in that band segment to other 800 MHz spectrum, provided the spectrum was “comparable” and the cost of doing so was paid by the EA licensee.⁵

That process did proceed without undue difficulty, perhaps surpassing the most optimistic expectations of the incumbents and the FCC. However, although the out-of-pocket costs of migrating to other channels or even installing new equipment were paid by the EA licensee, the impact on the relocated incumbent’s ongoing business was not a compensable item. Particularly in instances where subscribers units had to be physically retuned or replaced, it required the operator to convince the customer to make the equipment available at a mutually acceptable time and place for the work to be done, recognizing that there is no convenient time or place from a customer’s perspective.

The Commission is aware of the highly competitive nature of the wireless marketplace.⁶ Some 800 MHz operators estimate that between 20% and 30% of their customer units abandoned the system during the relocation process. Those subscribers elected to move to a different service rather than be inconvenienced by having their units retuned. The fact that the retuning was not for the benefit of their provider, but a requirement of the FCC, made no difference. They simply did

⁵47 C.F.R. § 90.699.

⁶See, e.g., *In the Matter of Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive market Conditions with Respect to Commercial Mobile Services*, Seventh Report, FCC 02-179 (rel. July 3, 2002).

not want to go through the process given the multiplicity of wireless alternatives immediately available.

Thus, any 800 MHz rebanding that requires commercial systems to change frequencies must be expected to negatively impact at least some of their core businesses. For example, for a company such as Motient Communications Inc. that relies entirely on 800 MHz channels to serve approximately 240,000 subscribers nationwide, the impact would be devastating if it were required to physically modify each of its subscriber units to change the control channels. AMTA believes the Joint Commenters have acknowledged the extraordinary hardship that would result in that situation and are committed to identifying a rebanding solution that would leave Motient's control channels untouched.

The optimal solution to the public safety/CMRS interference problem would permit all non-interfering SMR systems to remain where they are in the band.⁷ However, the Association has not seen any proposal that would permit SMR systems to remain unaffected that does not also require both public safety support which has not been evidenced and multiple legislative actions beyond the control of the parties or the FCC. The fact that the consensus plan is not expected to require the retuning, or in many instances the second retuning, of SMR systems operating in the Lower 80 SMR channels is a significant factor in AMTA's decision to support it. Nonetheless, the plan is predicated on clearing all spectrum below 809/854 MHz to provide a 3 MHz paired allocation as a substitute for the NPSPAC allocation at 821-824/866-869 MHz. The incumbents on the channels to be cleared

⁷This is not to say that non-commercial systems will find the retuning process either convenient or easy. However, unlike SMR operators, they control both the infrastructure and mobile units that operate on it and can schedule the migration for the time best suited to their business requirements. They do not face the likelihood of losing a significant portion of their business because they must undergo the process.

include a substantial number of SMR licensees that already were relocated from the Upper 200 800 MHz band, as well as SMR licensees that purchased 25-channel blocks of contiguous frequencies in the General Category auction.⁸ AMTA is pleased that the Joint Comments recognize that the interests of these operators should not be compromised in the rebanding process. The Association intends to participate actively in the implementation phase of this proceeding to ensure that result.

B. Because There are a Variety of Commercial Systems in the 800 MHz Band, the Consensus Proposal Will Need Flexibility to Accommodate Certain Operations.

The 800 MHz band supports a wide variety of user categories, system configurations, and types of licenses. It is a home for both commercial and private internal operations. It is populated by trunked and conventional systems, some with high-site, high-power system designs, some with low-power, low-site, and some with a combination of the two. It includes both site-specific and overlay geographic-based, auctioned licenses which in some, but not all, cases are held by the same entity. This complex mosaic of incumbents significantly complicates even the streamlined rebanding plan recommended in the Joint Comments.

AMTA concurs with the fundamental premise of the consensus plan: there must be a line of demarcation in the 800 MHz band between cellularized and non-cellularized systems and public safety systems must be located as far as possible from the former. It believes the plan provides a blueprint for segregating these two types of demonstrably incompatible system types with a minimum amount of incumbent disruption.

⁸See, e.g., *Auction of Licenses for 800 MHz Specialized Mobile Radio (SMR) Service in the General Category Band (851-854 MHz) and Upper Band (861-865 MHz)*, Public Notice, DA 00-1100 (rel. May 18, 2000).

However, the plan, of necessity, includes a relatively broad brush definition of a cellularized system and generally proposes a one-size fits all, nationwide rebanding solution.⁹ In fact, as acknowledged in the Joint Comments, there currently are a small number of systems operating on spectrum in what would become the non-cellularized segment of the band below 806-809/851-854 MHz that arguably meet all three criteria for a cellular system configuration, but which have not caused interference to public safety or other incumbents. Typically these systems operate a combination of high-site and low-site facilities to meet specific coverage requirements dictated by their business, industrial and public safety customers in an individual market, rather than to provide the ubiquitous on-street and in-building coverage expected by cellular subscribers. Their facilities may differ from the CMRS systems identified as causing interference in other respects, such as the types of combiners used, but they nonetheless satisfy the three criteria proposed for classification as cellular.

⁹The plan does address the unique requirements of the Canadian and Mexican border regions in which the full complement of 800 MHz spectrum is not available to licensees in this country and which, therefore, demand individualized sub-allocations.

The Joint Comments acknowledge that these systems will require specific consideration in the implementation phase of the 800 MHz rebanding plan. For example, the largest such licensee is Southern LINC. In its licensed area, its holdings, together with Nextel's, would require more than the proposed 16 MHz cellularized allocation. Thus, it may be necessary to consider a carve-out of additional low-site, low-power spectrum in those areas, or to take other appropriate steps to ensure that Southern LINC's and any other such operations are not compromised by the 800 MHz rebanding process. Alternatively, some systems already classified as cellular may elect to maintain their current operating parameters, in which case they should be able to co-exist compatibly in the non-cellularized portion of the band. These relatively unique situations will demand targeted solutions which protect public safety and other incumbents from interference without unnecessarily limiting the deployment of more advanced, often more efficient, technologies.¹⁰ AMTA is optimistic that these individual instances can and will be accommodated through a cooperative industry effort.

Similar attention will need to be paid to the relocation of General Category EA licensees. The consensus plan proposes that such licensees be assigned channels from the Lower 80 or remaining General Category (between 854.0125 and 854.7375 MHz) EA spectrum to be vacated by Nextel. It specifies that EA licensees will get frequency assignments equal to the spectrum they hold currently based on their existing site-specific authorizations and the white space available for their use within their EAs.

¹⁰The Joint Comments include a recommended waiver process by which an 800 MHz licensee would be permitted to deploy a cellular-like system architecture upon a showing that the system would not cause interference and would promote the public interest.

AMTA concurs with that approach, although its achievability will depend on how closely Nextel's holdings match those of General Category EA licensees that must be relocated.¹¹ The Association also is pleased that the Joint Comments specifically recognize that rebanding must include an assurance of spectrum neutrality so that licensees lose neither channels nor capacity in the process. This may become particularly significant for relocated EA licensees whose authorizations were granted in blocks of 25 contiguous channels. While some systems require separation between co-located channels for optimal operation, others are designed to take advantage of the flexibility of contiguous channels. It will require careful spectrum planning to preserve those individual design elections as licensees are migrated out of the General Category band segment.

C. Outside Funding for All Incumbents is Essential to any Equitable 800 MHz Rebanding Solution.

The last, but perhaps the most critical, issue is how any 800 MHz rebanding plan will be funded. The Joint Comments confirm that Nextel will guarantee a \$500 million fund for public safety migration costs. Should those funds be exhausted before retuning is completed, Nextel will have the unilateral right to decide whether to provide additional monies and public safety will have the reciprocal right to stop rebanding unless funding becomes available. This approach is intended to encourage the public safety community and Nextel to cooperate in identifying sources for additional funding if the \$500 million proves insufficient.

¹¹AMTA also assumes that no General Category licensees, EA or otherwise, will be relocated without a determination that the public safety community in the area has a foreseeable need for NPSPAC spectrum. There are rural geographic areas in which public safety does not operate in the 800 MHz band at all and may have no plans to do so. The public interest clearly would not be served if operating 800 MHz systems were forced to change frequencies and clear spectrum that then remained fallow.

Importantly, from AMTA's perspective, the Joint Comments also note specifically that non-public safety incumbents should not be obligated to finance their own relocations to alleviate an interference problem not of their making. It indicates that Nextel and the PWC are considering this issue, and specifies that these funding issues also will need to be finalized if the consensus rebanding plan is to proceed.

The Association absolutely concurs. Its support of the plan proposed in the Joint Comments is premised, in part, on the more limited number of system relocations it would require, an approach that clearly will reduce the overall cost of band realignment. It would be unconscionable, and AMTA would not support this solution if the cost of financing it was expected to be shouldered by some confederation of non-cellularized, non-public safety operators in the band, much less by the smaller number of licensees unfortunate enough to hold licenses in the 806-809/851-854 MHz band. AMTA considers this matter to be of the utmost importance and intends to work cooperatively with the other Joint Commenters in identifying an equitable, achievable solution.

III. CONCLUSION.

AMTA is pleased to participate in and support the efforts of the Joint Commenters in identifying a consensus 800 MHz rebanding plan. As a compromise solution, it does not and cannot fully satisfy the interests of all band incumbents, particularly those whose systems will be required to change frequencies even though they cause no interference. Its implementation will require a significant effort on the part of all affected parties. Nonetheless, in the Association's opinion it represents the most balanced proposal to date for alleviating interference, minimizing band disruption and identifying additional public safety spectrum, the three criteria identified by the FCC

as essential components of an acceptable approach, and does so within the technical, economic and political framework that defines the boundaries of achievable solutions.

AMTA urges the Commission to proceed expeditiously to adopt an 800 MHz rebanding plan consistent with the consensus proposal described in the Joint Comments and with the additional comments detailed herein.