

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		

SUPPLEMENTAL COMMENTS OF THE CITY OF BALTIMORE, MARYLAND

1. The City of Baltimore, Maryland ("Baltimore City") here by submits these Supplemental Comments in response to the Commission's public notices of September 6, 2002 (DA-2202) and September 17, 2002 (DA-2306) in the above-captioned proceeding. Baltimore City filed initial comments on May 6, 2002, and reply comments on August 7, 2002. These Supplemental Comments are directed in particular to the Reply Comments filed on August 7, 2002, by a group of organizations known as the "Private Wireless Coalition" and Nextel Communications, Inc., together called "Joint Commenters." The Joint Commenters' Reply Comments were designated the "Consensus Plan" or "Consensus Proposal" in the Commission's Public Notices.

2. The Consensus Plan purports to represent the collective thinking of representatives of "every type of licensee operating in the 800 MHz band,"^{1/} and the title "Consensus Plan" implies virtually universal agreement. Baltimore City does not take issue with the fact that the Joint Commenters have attempted to craft a plan acceptable to multiple interest groups. Indeed, representatives of Baltimore City had a cordial meeting with representatives of the Private

^{1/} Consensus Plan at p. 2.

Wireless Coalition to discuss the Coalition's efforts. Nevertheless, Baltimore City does not agree that the Consensus Plan is the correct solution to an interference problem the full scope of which has yet to be determined. Baltimore City further disagrees with any claim that the Joint Commenters represent virtually all users of the 800 MHz band. Even if they represent trade organizations with wide coverage of 800 MHz users, that does not mean that the Consensus Plan is supported by virtually all, or even a majority, of their individual member spectrum users. Baltimore City urges the Commission not to adopt the Consensus Plan, and certainly not based on the current record. It also wishes to set the record straight with regard to references to Baltimore City in the Joint Commenters' Reply Comments.

3. As Baltimore City stated in its earlier filings, it has not been established, on the record or otherwise, that interference problems are so pervasive that a nationwide overhaul of the entire band is needed. Baltimore City is cited as an example of a public safety user experiencing "pervasive interference problems," with a statement that Baltimore City has spent \$70 million to upgrade its system but it still experiences interference.^{2/} It is true that Baltimore City spent \$70 million to upgrade its public safety system, but no inference should be drawn that the upgrade was undertaken because of interference. It was undertaken to move the system from outdated into modern technology. While it is true that some interference is still being experienced, the effect of that interference is to make a few channels unusable from time to time. Those channels are blocked by the system controller; so while the total capacity of the system is reduced, radio traffic is not interrupted, and the radio system remains usable and effective. To the extent that Baltimore City has been able to trace such interference, it appears to come from improper operation by other licensees, which could be corrected by those licensees operating within the terms of their licenses and the Commission's Rules. Baltimore City's point in noting the amount it had spent on its system upgrade was not to encourage a major band overhaul but rather to

^{2/} Consensus Plan at pp. 3-4.

emphasize the problems that such an overhaul would create. Baltimore City continues to urge that before any drastic plan is implemented, existing operations should be inspected, and the current rules should be enforced.

4. Assuming that something beyond enforcement is ultimately demonstrated to be necessary, there are many problems with the Consensus Plan which indicate that the Consensus Plan may never work; but in all events adoption now would be premature. Several other commenters have also highlighted some of these problems. They include:

a. No more than \$500 million in funding has been promised -- an amount that will not come close to covering the cost of a reorganization of the 800 MHz band. Baltimore City has no funds to finance rebuilding its system in whole or in part.

b. It has not been established that a one-for-one channel swap will be available and that no licensee will be left with fewer channels or less coverage than it has now. Baltimore City needs all of its channels.

c. A system that would require public safety radios to have narrower front ends would curtail future system expansion possibilities and would impose additional costs any time a public safety system had to change channels. The Commission should encourage increased flexibility in equipment design, not decreased flexibility.^{3/}

d. Requiring public safety entities to forfeit channels not occupied within five years assumes that public safety needs will not continue to grow over time -- an assumption that is unrealistic and incorrect. It also ignores issues that relate to budgeting and funding public safety system construction and the time those processes necessarily take when governmental entities are involved.

e. Congressional approval will be required to assign commercial frequencies without competitive bidding. There is no assurance such approval will be forthcoming.

^{3/} Increased flexibility has been one of the objectives of the Commission's strong encouragement of the development of software-defined radio equipment.

f. The Consensus Plan requires mobile satellite systems and other commercial interests to relinquish spectrum, which they have indicated they are unwilling to do. As the commission well knows, litigation usually results when someone loses exclusive access to desirable spectrum.^{4/} Litigation can be expected to delay implementation of the Consensus Plan, perhaps for years, making it an ineffective way to provide early relief to the extent that interference in fact exists.

g. The Consensus Plan does not explain how public safety entities will be able to transition seamlessly to a new system without any system interruption or degradation; and in fact, it is doubtful that a seamless transition is possible. Baltimore City stressed in its earlier filings the critical importance of continuous full service to avoid reckless endangerment of public safety and the lives and safety of first responders in emergencies. If handsets are to be retuned, who will provide loaner or other substitute radios that will work with Baltimore City's integrated radio system while existing radios are in the shop? Baltimore City's police, fire, and public safety officials cannot afford to miss or drop a single emergency call or to endanger the general public or public safety personnel.

i. The Consensus Plan assumes that all 800 MHz channels are equal. Baltimore City noted in its initial comments that prediction and actual performance do not always match when it comes to radio signal propagation. Baltimore City's system, which was carefully designed at great expense, might not have the same coverage if its channels were changed either up or down in the spectrum. It is also not clear that the towers that now hold Baltimore City's antennas could hold a second set of antennas during a transition.

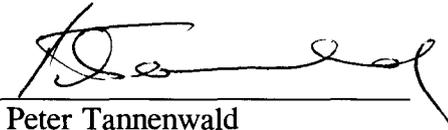
j. The Consensus Plan assumes that public safety systems will continue to be designed with small number of high powered centralized transmitters. That may or may

^{4/} See, e.g., the litigation and associated legislative efforts resulting from the Commission's decision to allow terrestrial access to the Ku-band satellite band for terrestrial services but requiring applicants to bid at auction, *Broadwave Albany, L.L.C.*, ET Docket No. 98-206, FCC 02-116, released May 23, 2002.

not be the case, but lessons learned from the World Trade Center 9-11 disaster suggest that more flexible system design, including additional transmitters, may be needed to penetrate large, heavily populated buildings. The public safety community must not be relegated to a frozen spectrum preserve where technology is not permitted to evolve to deliver public safety services more effectively.

5. In sum, it has not been adequately established that there is a pervasive interference problem that requires a plan as drastic as the Consensus Plan; nor is Baltimore City satisfied that the process of moving its system to new channels would be adequately funded, would not result in dangerous service interruption, and would result in a system as good as the one that is now in place. What is clear is that at least Nextel would end up with a new band of valuable channels -- an objective that has no place in this proceeding. It also appears that at least some parties believe that aggressive operating practices by commercial operators, including Nextel, have caused much of the existing problem. The Commission must itself investigate existing operations in thorough detail before any serious thought is given to a controversial and disruptive reorganization of the 800 MHz band, and certainly before any new rules are adopted.

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September 23, 2002

CERTIFICATE OF SERVICE

I, Peter Tannenwald, do hereby certify that I have on this 23rd day of September, 2002, caused to be sent by first class United States mail, postage prepaid, copies of the foregoing "Supplemental Comments of the City of Baltimore" to the following:

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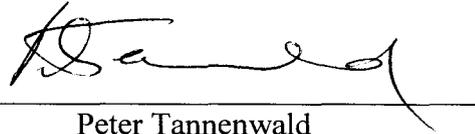
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