

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

In the Matter of)
)
Improving Public Safety Communications) WT Docket No. 02-55
in the 800 MHz Band) DA 03-19
and) DA 03-163
Consolidating the 900 MHz Industrial/Land)
Transportation and Business Pool Channels)

To: The Commission

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

Respectfully submitted,

AMERICAN MOBILE TELECOMMUNICATIONS
ASSOCIATION, INC.

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February 10, 2003

The American Mobile Telecommunications Association, Inc. (“AMTA” or “Association”), by its attorneys and pursuant to Section 1.415 of the Federal Communications Commission (“FCC” or “Commission”) Rules and Regulations, respectfully submits its Comments in response to the Public Notice requesting comment on the Supplemental Comments of the Consensus Parties (“Supplemental Comments”) in the above-entitled proceeding.¹ AMTA is a signatory to the Supplemental Comments and supports prompt adoption of rules consistent with them. The Association also recommends that the Commission’s decision in this proceeding address the issues identified below with greater specificity than detailed in the Supplemental Comments.

I. INTRODUCTION

The Consensus Plan represents a collaborative response on behalf of a broad range of incumbents to a complex interference problem in the 800 MHz band. The parties supporting it have endeavored to craft a balanced solution, consistent with the Commission’s directive to minimize interference to public safety systems in the band with minimum disruption to the operations of existing services.² The Supplemental Comments filed on December 24, 2002 provided additional detail in respect to four critical components of the Consensus Plan: (1) funding; (2) procedures and processes for relocation of 800 MHz incumbents;³ (3) post-realignment interference protection standards; and (4) border area realignment plans.⁴

¹ Wireless Telecommunications Bureau Seeks Comment on “Supplemental Comments of the Consensus Parties” Filed in the 800 MHz Public Safety Interference Proceeding, *Public Notice*, DA 03-19 (rel. Jan. 3, 2003). The comment and reply comment dates subsequently were extended until February 10, 2003 and February 25, 2003 respectively; see *Order Extending Time for Filing of Comments*, WT Docket No. 02-55, DA 03-163 (rel. Jan. 16, 2003).

² *Notice of Proposed Rule Making*, WT Docket No. 02-55, 17 FCC Rcd 4873 at ¶ 5 (2002) (“800 MHz NPRM”).

³ AMTA understands that some parties are concerned about the role proposed in the Consensus Plan for the Relocation Coordination Committee (“RCC”). The Association intends to work with the Land Mobile Communications Council (“LMCC”) to ensure that the RCC fulfills its obligations in an efficient and impartial fashion, as contemplated in the Plan.

⁴ Supplemental Comments at p. ii.

The Plan is a solution reached through extensive negotiation among a significant number of parties with a direct interest in the 800 MHz band. It does not have the unanimous support of all 800 MHz incumbents or claim to offer a simple, painless, entirely transparent solution to the problem. Its implementation will require cooperation by many licensees, substantial funding, a not insignificant amount of time, and the adoption of post-rebanding regulations that may sacrifice some degree of operational latitude in the non-cellularized portion of the band in favor of optimal interference protection for public safety operations.

It is, in short, not a perfect plan. Its imperfections will be borne most heavily by AMTA's Specialized Mobile Radio ("SMR") members, some of whose systems again will have to be retuned with the unavoidable customer disruption and attendant subscriber attrition that will be felt particularly keenly in this difficult economic climate. In previously filed comments in this proceeding, the Association identified this issue as a fundamental problem with any 800 MHz rebanding approach. It continues to believe that it is inadequate simply to pay the out-of-pocket retuning costs for those SMR licensees whose customers' units must be reprogrammed. Since those payments will not reimburse them for revenue lost if customers abandon their systems entirely rather than cooperate in the retuning, the FCC should consider how such licensees can indeed be made whole.

Nonetheless, in AMTA's opinion, the Consensus Plan represents the most clearly developed blueprint for addressing an interference problem that the public safety community has described as intolerable. The Association endorses it with the refinements recommended herein, and continues to welcome suggestions from other interested parties and the Commission that will improve it further for the benefit of all 800 MHz incumbents.

II. THE 800 MHz REBANDING SOLUTION MUST ENSURE THAT ALL INCUMBENTS REMAIN WHOLE

A central tenet of the Consensus Plan is that no 800 MHz incumbent licensee will lose spectrum as a result of the band realignment and all will be relocated to “comparable” spectrum.⁵ For the most part, AMTA believes the approach described in the Plan will satisfy that condition. Each licensee in the 851-854 MHz band authorized to operate on a particular frequency(s) at a specific set of coordinates with defined operating parameters will be relocated to a channel between 854 and 861 MHz to be used at the same transmitter site and that also is comparable in respect to system functionality, capacity, quality of service and operating costs.⁶ These same factors were used to define comparability for purposes of the “upper 200” 800 MHz relocation process and generally produced acceptable results.⁷

Although the difficulty of developing a channel swap plan for these systems should not be underestimated, the complexity of the issues increases when the incumbent holds an Economic Area (“EA”) license that was purchased from the Commission in an auction. AMTA’s earlier-filed Reply Comments in this proceeding noted that such systems might require particular attention to ensure the preservation of individual system design decisions. Several factors contribute to making “apples-to-apples” EA swaps difficult. First, EA licenses in the to-be-relocated 851-854 MHz band authorize the use of contiguous blocks of frequencies while some of the potential replacement EA spectrum is assigned non-contiguous channels.⁸ Second, unlike licensees of the “upper 200” EA authorizations, EA licensees below 861 MHz did not acquire the right to relocate co-channel, site-specific incumbents, but instead are required to

⁵ Supplemental Comments at p. iv and Appendix C (I)(B).

⁶ Supplemental Comments at Appendix C (I)(B). Public safety systems operating on the 866-869 MHz NPSPAC spectrum also will be relocated, but because the 851-854 MHz spectrum to which those systems will be migrated, by then, will have been entirely vacated, the issue of the comparability of the replacement spectrum should not arise.

⁷ 47 C.F.R. § 90.699(d).

protect previously authorized co-channel systems.⁹ Thus, most EA licensees contend with some level of licensed incumbency on their spectrum. Third, EA systems may integrate EA and site-specific channels or include both EA spectrum that would be subject to relocation under the Consensus Plan and EA blocks that would remain untouched. Finally, to the extent an EA license was acquired for purposes of deploying a system classified as “cellularized” under the Consensus Plan definition, whether the EA block consists of to-be-relocated General Category channels or channels that would not be subject to rebanding or some combination of the two, that opportunity effectively would be foreclosed unless the licensee was able to secure a waiver pursuant to the rigorous process described in the earlier Consensus Plan filing.¹⁰

The Supplemental Comments touch on this issue, but without sufficient specificity to determine if the legitimate interests of these licensees will be accommodated.¹¹ Footnote 30, the most definitive statement on this point, indicates that EA licensees moved from channels 1-120 will receive equivalent spectrum, but even that commitment is not unequivocal. The Plan specifies that the replacement channels will have “comparable incumbency” without explaining how that would be calculated.¹² It also states that these holders of contiguous spectrum will

⁸ General Category EA licenses were issued in blocks of 25 contiguous channels while “lower 80” EA blocks consist of five channels, each separated by 1 MHz.

⁹ 47 C.F.R. § 90.683(a)(1).

¹⁰ Reply Comments of The Association of Public-Safety Communications Officials-International, Inc., et al. at p. 10. It is possible that an 800 MHz SMR licensee could implement a “cellularized” system without EA spectrum, but it would be difficult to have enough channels over a broad enough geographic area to make such an approach technically or economically viable. By contrast, EA licenses might not be essential for a non-commercial entity with a more limited area of coverage, access to “unfrozen” 800 MHz channels and a desire for “cellularized” deployment.

¹¹ Previous Consensus Plan filings have outlined proposals for addressing the interests of Southern LINC, the second largest license holder in the band and one that operates a system defined as “cellularized”, and Motient, both of which also are EA licensees. The scope of their respective spectrum holdings demand individualized solutions in whatever realignment approach is adopted. AMTA understands that discussions with those two entities are ongoing and the Association is optimistic that acceptable solutions will be identified for both companies. The remaining non-Nextel EA licensees collectively hold only a small number of authorizations and they generally are in geographic areas of relative spectrum plentitude.

¹² Most of the site-specific licenses that encumber non-Nextel EA authorizations are held by Nextel since it is by far the largest holder of both EA and site-specific authorizations in the 800 MHz band. To the extent EA licensees on channels 1-120 are relocated to other EA blocks held by Nextel below 861 MHz, spectrum Nextel has agreed to

receive replacement contiguous channels, but only “to the extent available.”¹³ The assumption appears to be that, having paid the FCC for the right to control a contiguous block of spectrum, relocated EA licensees nonetheless might be required to accept non-contiguous replacement channels.

The Footnote goes on to explain that there may be some small number of EAs in which Nextel does not hold sufficient geographic authorizations below 861 MHz, whether consisting of contiguous channels or not, to accommodate all EA licensees that need to be relocated. Then, and apparently only in that situation, the Plan acknowledges that EA licensees would be permitted either: (1) to remain on their existing channel 1-120 spectrum, subject to consent from the regional NPSPAC regional committee(s)¹⁴, or (2) to relocate to the “cellularized” block above 861 MHz.¹⁵ An EA licensee electing the latter option would be granted contiguous spectrum over the same geographic area and with comparable “white space” as its existing EA authorization.

If the proposal contemplates substituting non-contiguous for contiguous EA spectrum in some instances, it does not satisfy the fundamental premise of the Consensus Plan that relocated incumbents will be made whole; contiguous and non-contiguous spectrum blocks are not technically or operationally fungible.¹⁶ Moreover, to the extent the Plan proposes a bifurcation of the 800 MHz band with two distinct spectrum blocks, one for non-cellularized operations,

vacate entirely as part of the Consensus Plan, it is not clear how – or why – the replacement EA licenses would have comparable incumbency levels.

¹³ Supplemental Comments at n. 30.

¹⁴ This condition seemingly presumes that all EA licensees operate or intend to operate systems that would be defined as “cellularized”, an assumption that may not be accurate. AMTA believes that EA licensees operating entirely high-site, high-power systems should not be required to obtain public safety concurrence, a requirement that seemingly mirrors the waiver process recommended for licensees of cellularized systems that wish to continue operating below 861 MHz.

¹⁵ *Id.*

¹⁶ Of course, the relocated holder of a contiguous EA block will be free to migrate to non-contiguous spectrum if it agrees to do so on a voluntary basis.

including public safety facilities, and the other for cellularized systems, it should not be permitted to disenfranchise licensees on spectrum below 861 MHz whose systems meet the Consensus Plan definition of “cellularized”. Fundamental equity requires that a process be provided to enable them, like Nextel, to exchange spectrum below 861 MHz for comparable spectrum in the new cellularized block.

III. THE INDUSTRY MUST TAKE APPROPRIATE MEASURES TO AVOID INTERFERENCE PROBLEMS AT 900 MHZ

Implementation of the Consensus Plan will require Nextel to vacate a significant amount of capacity below 861 MHz. It first will need to create “green space” above 854 MHz for the relocation of incumbents in the 851-854 MHz band, and then will vacate its own holdings on those channels so that the 866-869 MHz NPSPAC allocation can be moved intact into that spectrum. The allocation of spectrum in the 2 GHz range to replace capacity Nextel will relinquish as part of the Consensus Plan is an essential ingredient in the proposal. However, as noted in the Supplemental Comments, “...Nextel will have to fully utilize its licensed facilities at 900 MHz and temporarily rely on dual-band operations for the capacity needed to avoid disruption of its service during Phase I and Phase II realignment....”¹⁷

AMTA supports Nextel’s use of its 900 MHz spectrum to alleviate the capacity constraints it will experience during the Consensus Plan implementation process. Its only caution is that the industry must take advantage of the experience gained at 800 MHz to prevent or at least minimize any interference between Nextel’s 900 MHz cellularized iDEN facilities and non-cellularized analog facilities in this band.¹⁸ Although there is no public safety allocation at

¹⁷ Supplemental Comments at p. 34.

¹⁸ By comparison with the 800 MHz band, there is substantially less “interleaving” of 900 MHz spectrum assigned to different systems. For the most part, channels are assigned in 10-channel blocks of contiguous frequencies. However, these 10-channel blocks are interleaved between licensee categories, such that an SMR block assigned to Nextel might sit between blocks assigned to Business and Industrial/Land Transportation licensees.

900 MHz, a number of entities with vital communications needs operate in the band, either with stand-alone systems or as users on 900 MHz SMR systems. Like their 800 MHz counterparts, those facilities typically are high-site, high-power while Nextel's iDEN operation, whether at 800 MHz or 900 MHz, is low-site, low-power. This dichotomy in system design has been identified as the fundamental cause of the 800 MHz interference problem being addressed in this proceeding and must not be replicated in the 900 MHz band, even on an interim basis.

AMTA is confident that no such problem need develop. The industry is armed with a much better understanding of the interference potential of operating such disparate systems in close geographic and spectrum proximity, and the Association is confident that there is a shared commitment to preventing a similar interference problem in this band. AMTA urges the parties to cooperate and coordinate their operations, consistent with the Best Practices Guide and other practical experience that has been gained during the effort to control interference in the 800 MHz band, and thereby prevent its recurrence.

IV. CONCLUSION

For the reasons described above, AMTA recommends that the FCC proceed promptly to act in a manner consistent with the positions expressed herein.