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March 17, 2004

The Honorable Kathleen Q. Abernathy
Commissioner
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

In re: *Ex Parte* Presentation
WT Docket No. 02-55

Dear Commissioner Abernathy,

On March 5, 2004, Nextel Communications, Inc. ("Nextel") submitted an ex parte filing entitled "What Windfall? A Review of the Valuation Components of the Consensus Plan." In its presentation, Nextel makes a number of assertions about spectrum valuations that are simply not credible. The only consistency in Nextel's "New Math" approach to spectrum valuations is an aggressive inflating of the value of its "contributed" spectrum and an aggressive deflating of its desired new spectrum. Nextel's question "what windfall?" is resoundingly answered by any reasonable reading of the facts, the market reactions and the law bounding agency actions. The numbers do in fact add up to a substantial windfall.

- **Nextel's Numbers Don't Add Up.** Nextel claims that its spectrum spread across three bands is more valuable than contiguous spectrum at 1.9 GHz. This requires a New Math methodology under which its encumbered, disjointed, non-nationwide 800 MHz spectrum is valued at over 60 percent more than a comparable amount of exclusive, nationwide 1.9 GHz spectrum. This makes no sense for two reasons. First, if Nextel valued 1.9 GHz spectrum at the same MHz for MHz rate as its surrendered 800 MHz spectrum, Nextel would be receiving $5.76 billion in 1.9 GHz spectrum rather than the $3.335 billion estimated in its ex parte – a valuation swing of well over $2 billion. Second, financial analysts have consistently concluded that contiguous spectrum in the PCS bands would be worth **more** than non-contiguous 800 MHz spectrum, not less, as Nextel pretends. Thus, Nextel's math is premised upon patently faulty assumptions.

- **Nextel's New Math Does Not Count the Increased Value of its 800 MHz Spectum.** A striking feature of Nextel's submission is its claim that rebanding within 800 MHz results in a loss of 2.5 MHz of spectrum worth $1.44 billion – a loss that should be counted as a credit toward the 1.9 GHz spectrum. While Nextel would reduce its total amount of spectrum at 800 MHz from 8.5 MHz to 6 MHz on average, there is no recognition assigned in the ex parte to the plain fact

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that the surrendered spectrum is interleaved, encumbered, and less than nationwide in coverage. The 6 MHz of spectrum Nextel would receive after rebanding is nationwide, exclusive, contiguous and adjacent to 10 MHz of other spectrum held by Nextel. Kane Reece estimates a net gain of $2.3 billion to Nextel from this change alone within 800 MHz.

- **Nextel's SEC Filings and Analysts' Reports Contradict Nextel's Claim that its Plan Causes a $2 Billion Loss to the Company.** Nextel represents that its proposal will result in a net loss of $2 billion to the company. However, its March 11, 2004, Securities and Exchange Commission 10-K report omits any disclosure that the plan would have materially adverse financial effects. In contrast, industry analysts have undercut Nextel's own ex parte by noting that the contiguous spectrum being sought under the plan is more valuable than the spectrum being contributed. One prominent analyst estimates the net benefit to Nextel as being in the $1.5 billion to $3.2 billion range.

- **Nextel's Proposal Is Not Legal.** Significantly, Nextel's ex parte ignores an obvious fatal flaw. Whether the spectrum valuations are right or wrong, the Commission does not have legal authority to bypass competitive bidding procedures established by Congress to engage in the type of private negotiations and spectrum grants inherent in Nextel's proposal.

In sum, Nextel's numbers do not add up. Instead, the facts and application of a consistent methodology leads to the inescapable conclusion that Nextel would be receiving a significant windfall under its "consensus" proposal.

Respectfully submitted,

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