

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC**

In the Matter of)
)
Applications for the Transfer of Control of)
Licenses and Authorizations of Nextel) **WT Docket No. 05-63**
Communications, Inc. and Sprint)
Corporation)
)
To: The Commission)

**COMMENTS OF THE
NATIONAL RURAL TELECOMMUNICATIONS COOPERATIVE**

1. Nextel Communications, Inc. and Sprint Corporation (collectively, the “Applicants”) propose to transfer control of their FCC authorizations (the “Merger”) and consolidate into the hands of a single entity up to 85% of the licensed 2.5 GHz spectrum.¹ The National Rural Telecommunications Cooperative does not oppose the Merger but is concerned that the Applicants’ proposed consolidation of the 2.5 GHz band may block competitors from obtaining access to licensed broadband spectrum, stifle competition and limit choices for wireless broadband services -- especially in rural America, where fewer broadband choices area available.²

2. The Commission has long recognized the importance of providing “all Americans with access to ubiquitous wireless broadband connections, regardless of their location.”³

¹ *Applications of Nextel Communications, Inc., Transferor, and Sprint Corporation, Transferee for Consent to the Transfer of control of Entities Holding Commission Licenses and Authorizations*, p. 47 (filed February 8, 2005) (Applications). See also Sue Marek, *Merger Mayhem, For Roaming, MVNO and Affiliate Cohorts, The Merger Means Both Uncertainty and Potential Opportunity*, Wireless Week, January 1, 2005 (available at <<http://www.wirelessweek.com/article/CA490429?spacedesc=Features&stt=001>>).

² NRTC is a not-for-profit cooperative of 750 rural electric cooperatives, 128 rural telephone cooperatives and 189 independent rural telephone companies located in 46 states. Since it was founded in 1986, NRTC’s mission has been to provide advanced telecommunications technologies and services to rural America. NRTC assisted in introducing the DIRECTV DBS service to rural America and currently works with many of its members in establishing Internet services in their rural communities. In April 2003, NRTC joined Liberty Satellite, LLC and Intelsat USA Sales Corporation, in investing in WildBlue Communications Inc. (WildBlue), a Ka-band satellite licensee. NRTC also offers Wi-Fi and DSL equipment through aggregated discount agreements with vendors.

³ Report and Order and Further Notice of Proposed Rulemaking, *Amendment of Parts 1, 21, 73, 74 and 101 of the Commission’s Rules*, 19 FCC Rcd. 14165, ¶1 (2004) (BRS Order). See also Report and Order and Memorandum

According to the Commission, broadband services are “essential to the economy of the 21st century.”⁴ Just two weeks ago, however, the Commission concluded that “rural consumers often have fewer choices for broadband services than consumers in more populated areas.”⁵

3. This problem of broadband access in rural America may be compounded by the Merger’s proposed consolidation of the 2.5 GHz band. The Commission has designated the 2.5 GHz band as the future home for the Broadband Radio Service (BRS) -- which is designed to promote the availability of broadband to all Americans and to encourage increased competition through the creation of new opportunities for new entrants.⁶ The Commission has characterized the 2.5 GHz band as ideally suited for the growth and rapid deployment of innovative and efficient wireless communications technologies and services, including wireless broadband.⁷ WiMAX providers and equipment manufacturers also have targeted this band for new wireless broadband services.⁸

4. The Applicants argue that the Commission should be unconcerned with the proposed consolidation of the 2.5 GHz band as a result of the Merger, because each of the Applicants currently holds its 2.5 GHz licenses in separate, non-overlapping areas.⁹ The Applicants’ argument does not consider the impact of the spectrum consolidation throughout the whole of

Opinion and Order, *Wireless Operations in the 3650-3700 MHz Band; Rules for Wireless Broadband Services in the 3650-3700 MHz Band*, FCC 05-56 (released March 16, 2005) (*3650 Order*). In the *3650 Order*, the Commission discusses its desire to “encourage multiple entrants and stimulate the rapid expansion of wireless broadband services -- especially in rural America.” *Id.*, ¶1.

⁴ Statement of Commissioner Martin, Fourth Report to Congress, *Availability of Advanced Telecommunications Capability in the United States*, 19 FCC Rcd. 20540 (*Martin Statement*). Then-Commissioner Martin concluded that access to broadband services is “especially important to rural America, providing business, educational and healthcare opportunities to remote parts of the country.” *Id.*

⁵ *3650 Order*, ¶2.

⁶ *BRS Order*, ¶5.

⁷ *Id.*, ¶1.

⁸ See White Paper, *Business Case Models for Fixed Broadband Wireless Access based on WiMAX Technology*, WiMAX Forum, October 10, 2004 (available at < http://www.wimaxforum.org/news/downloads/WiMAX-The_Business_Case-Rev3.pdf >).

⁹ *Applications*, p. 48, Exhibit E-1.

rural America, however, where much of the 2.5 GHz spectrum will be controlled post-Merger by a single entity.

5. Spectrum consolidation of this type has never been viewed by the Commission as a viable regulatory approach for facilitating competition. As the Commission has long recognized, the best method of introducing the benefits of competition is by increasing the number of potential competitors.¹⁰ Consistent with this approach, access by multiple licensees to the 2.5 GHz band will best promote broadband competition, particularly in rural areas with fewer broadband options.¹¹

6. The availability of licensed spectrum becomes especially important for rural America as WiMAX becomes commercially available. With the potential for much greater range and speed than WiFi, WiMAX may be the only technology besides satellite to be technically and economically feasible for many rural communities and individuals. Licensed spectrum will be essential for the provision of acceptable levels of service for enterprise broadband and voice over IP in rural areas.¹²

7. The Commission's longstanding policy of promoting the entry of multiple licensees should be the guiding principle in considering the proposed Merger.¹³ Multiple providers will best promote competition and benefit rural consumers.

¹⁰ Hearing Designation Order, *Application of EchoStar Communications Corporation, General Motors Corporation, and Hughes Electronics Corporation and EchoStar Communications Corporation*, 17 FCC Rcd. 20559 ¶88 (2002) (*EchoStar HDO*); Memorandum Opinion and Order, *Amendment of the Commission's Rules to Establish New Personal Communications Services*, 9 FCC Rcd 4957 (1994) (*CMRS Order*); see also Report and Order, *Establishment of the Rules and Policies for the Digital Audio Radio Satellite Service in the 2310-2360 MHz Frequency Band*, 12 FCC Rcd 5754 (1997) (*DARS Order*).

¹¹ *BRS Order*, ¶ 5.

¹² In a speech before rural WISPs at WISPCON VII delivered last week, Commissioner Jonathan S. Adelstein noted that he "regularly hear[s] from WISPs across the country that they need improved access to spectrum. Higher power operation can drive broadband deployment deeper and farther into all parts of America." Remarks of Jonathan S. Adelstein Commissioner, Federal Communications Commission, *WISPs: Providing Opportunities for Rural America through Access to Broadband*, WISPCON VII, The Bolger Center, Potomac, Maryland, March 21, 2005 (as prepared for delivery).

¹³ See, *EchoStar HDO*, ¶ 88.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I, HEREBY CERTIFY that on this 30th day of March, 2005, a true and correct copy of the foregoing Comments of the National Rural Telecommunications Cooperative in the matter of the Applications for the Transfer of Control of Licenses and Authorizations of Nextel Communications, Inc. and Sprint Corporation, WT Docket Number 05-63, was submitted electronically to the Federal Communications Commission, and served via electronic mail and First Class Mail upon the following:

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