

July 22, 2005

BY ELECTRONIC FILING

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
The Portals
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: WT Docket No. 05-63
Ex Parte Presentation

Dear Ms. Dortch:

On July 21, 2005, Vonya McCann of Sprint Corporation and Lawrence Krevor of Nextel Communications, Inc. (Nextel) met with Paul Margie, Legal Advisor to Commissioner Michael Copps. Ms. McCann and Mr. Krevor discussed issues related to the proposed merger of Sprint and Nextel, including: compliance with the Commission's E911 service requirements; the opportunity for deploying broadband wireless interactive multimedia services (WIMS) in the 2.5 GHz band; and the possible impact of the merger on the future leasing of 2.5 GHz Educational Broadcast Service (EBS) spectrum for WIMS or other commercial communications services.

In particular, Ms. McCann and Mr. Krevor discussed the fact that unlike current commercial mobile radio service (CMRS) offerings, WIMS-type services in the 2.5 GHz band will likely be video-centric and support stationary and portable broadband consumer electronic and computing-oriented devices and services. As discussed in the record of this proceeding, the technical and operational characteristics of the band – such as its inferior propagation relative to the 800 MHz and 1.9 GHz spectrum bands – make it technically and economically ill-suited to the seamless mobile voice communications offered today in the lower CMRS spectrum bands.¹ Thus, while the reconfigured 2.5

¹ See *Joint Opposition to Petitions to Deny and Reply to Comments of Nextel Communications, Inc. and Sprint Corporation*, WT Docket No. 05-63 (filed April 11, 2005) (“The 2.5 GHz band will be unable to support voice communications economically with the same seamless interconnectivity and mobility that CMRS users enjoy today.”); see also, e.g., *Nextel Response to Request for Information*, WT Docket 05-63, Response to FCC Interrogatory Number 25 at 2 (filed May 20, 2005) (“[T]he 2.5 GHz band suffers from a variety of technical constraints, some intrinsic to the band and others a result of the licensing regime. For example, the effects of signal attenuation in the 2.5 GHz band compared to lower frequency ranges will require 2.5 GHz

GHz spectrum allocation for BRS/EBS services provides the necessary bandwidth for advanced WIMS-type broadband deployments, its inherent technical characteristics would not economically support traditional seamless, wide-area, high-mobility, voice-centric services.² These realities will guide the development of the 2.5 GHz band as one of a number of future wireless, fixed, and combined wireless/wireline “pipes” for providing consumers with the two-way, real-time, video-based communications capabilities of the broadband future.

As a related matter, Sprint and Nextel conduct good-faith negotiations with Educational Broadband Service (EBS) licensees for highly sought-after spectrum resources. Sprint and Nextel are committed to reaching mutually acceptable arrangements with any EBS licensee that wishes to lease its spectrum, and neither carrier has a policy of refusing to deal with licensees that want to retain more than the regulatory minimum portion of their spectrum for non-commercial use.

While the Commission’s rules permit EBS licensees to lease up to 95 percent of their spectrum to commercial operators for non-educational use, Sprint and Nextel recognize that such decisions are within an EBS licensee’s sole discretion. Indeed, contrary to the speculative claims of some parties to this proceeding,³ many of the leases that Nextel executed with EBS licensees in 2005 reserve substantially more than the regulatory minimum amount of spectrum for non-commercial use. In short, there is no basis in the record for concluding that the proposed merger would in any way preclude or inhibit EBS

licensees to develop their own network deployment plans, and identify and secure their own costly transmitter locations. Service providers will need to either construct more infrastructure than would be necessary in lower frequency bands, or cover less territory than would be possible using lower frequency bands.”); *Applications of Nextel Communications, Inc., Transferor, and Sprint Corp., Transferee, For Consent to Transfer Control of Licenses and Authorizations*, WT Docket No. 05-63 at 45-46 (filed Feb. 8, 2005) (discussing various technical impediments in the 2.5 GHz band, such as the 2.5 GHz band’s diminished propagation characteristics, the lack of common control channels, and the absence of standardized emission characteristics).

² The Commission has repeatedly held that BRS spectrum in the 2.5 GHz band should not be regarded as CMRS or “mobile telephony” spectrum. See, e.g., *Amendment of Part 2 of the Commission’s Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems*, First Report and Order and Memorandum Opinion and Order, 16 FCC Rcd. 17222, ¶¶ 19-26 (2001); *Applications of Western Wireless Corporation and ALLTEL Corporation For Consent to Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, WT Docket No. 05-50, ___ FCC Rcd. ___ at n.127 (rel. July 19, 2005) (Western Wireless/Alltel Merger Order), citing *Applications of AT&T Wireless Services, Inc. and Cingular Wireless Corporation*, Memorandum Opinion and Order, 19 FCC Rcd. 21522, 21542 ¶ 81 n.283 (2004) (Cingular-AT&T Wireless Order).

³ See, e.g., *Ex Parte Communication of the ITFS/2.5 GHz Mobile Wireless Engineering & Development Alliance, Inc. (IMWED)*, WT Docket No. 05-63 (July 11, 2005) (IMWED July 11, 2005 Ex Parte); *Letter from Harold Feld, Media Access Project, to Marlene H. Dortch, Secretary, Federal Communications Commission*, WT Docket No. 05-63 (July 18, 2005) (MAP July 18, 2005 Ex Parte).

licensees from using more than the regulatory minimum portion of their spectrum for non-commercial purposes.

Under section 1.1206(b)(2) of the Commission's rules, 47 C.F.R. § 1.1206(b)(2), please associate this letter with the above-referenced docket.

Sincerely,

/s/ Lawrence Krevor

Lawrence Krevor
Vice President
Nextel Communications

CC: Paul Margie