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June 28, 2007

Written Ex Parte Communication

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W. Room TW-A325
Washington, DC 20554

Re: *Improving Public Safety Communications in the 800 MHz Band; Consolidating the 800 and 900 MHz Industrial/Land Transportation and Business Pool Channels; 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; Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz for use by the Mobile Satellite Service, WT Docket No. 02-55, and ET Docket Nos. 00-258 and 95-18*

Dear Ms. Dortch:

Sprint Nextel Corporation (Sprint Nextel) has more incentive than any other 2 GHz licensee to complete relocation of broadcast auxiliary service (BAS) licensees because its ability to access replacement spectrum hinges on successful completion of the BAS transition.¹ For more than two years, Sprint Nextel Corporation has worked with the broadcast industry to transition roughly one-thousand broadcast auxiliary service systems, each of which has scores of delicately integrated transmitters, receivers, antennas, controllers, and related equipment that sometimes require municipal review or international coordination. To date, Sprint Nextel has spent more than \$210 million dollars, purchased more than 13,000 pieces of equipment, and dedicated tens of thousands of man hours to relocate BAS operations.

New ICO Satellite Services G.P. (ICO), which has faced the same basic obligation to transition the same BAS incumbents since the year 2000 (five years prior to Sprint Nextel undertaking its 2 GHz relocation responsibility), has done virtually

¹ *Improving Public Safety Communications in the 800 MHz Band; Consolidating the 800 and 900 MHz Industrial/Land Transportation and Business Pool Channels*, Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order, 19 FCC Rcd. 14969, ¶ 222 (2004) (*2004 800 MHz Order*).

nothing to relocate the incumbents that currently occupy the 1990-2025 MHz band.² In sharp contrast to Sprint Nextel, ICO has not verified inventories, stored up equipment, developed contract templates, negotiated agreements, retained systems integrators, hired installers, or, indeed, made *any* apparent investment in the intricate systems, processes, and personnel necessary to reconfigure the band. From the sidelines, however, ICO continues to criticize the joint reconfiguration efforts of television broadcast auxiliary licensees, equipment vendors, system integrators and Sprint Nextel as inadequate to meet its 2 GHz mobile satellite service deployment.³

ICO proposes that the Commission require Sprint Nextel to relocate BAS incumbents in the top thirty markets by December 31, 2007. Sprint Nextel and the broadcast community, by contrast, are committed to transitioning BAS licensees in *all* markets as expeditiously as possible, not just the top thirty high-value major markets. ICO should understand by now that BAS operations routinely transcend static market boundaries. Broadcasters take mobile news trucks, helicopters, blimps and portable units from market to market as news breaks; transitioning only the top thirty markets without transitioning other markets in the newsgathering cluster would disrupt region-wide news operations. Accordingly, Sprint Nextel and the broadcast community agreed years ago to transition markets by “clusters” that track the pathways of station news gathering operations.

As a practical matter, moreover, transition progress in any one market can vary greatly depending on weather conditions, local news events, system complexity, zoning, system integration, and other factors beyond the control of either Sprint Nextel or the broadcast community. Mandating completion of ICO’s preferred top-thirty markets over less urban areas would not only disrupt newsgathering operations, but also would prevent Sprint Nextel and the broadcasters from achieving retuning progress in other markets while weather, zoning, or other issues are overcome in the top thirty markets. The 2 GHz relocation requires a complex set of interrelated activities involving all stakeholders from equipment designers and vendors, to antenna crews, to system integrators.⁴ Imposing new deadlines on Sprint Nextel alone will not change this reality and will not help broadcasters in the top thirty markets – or indeed any markets – to relocate more rapidly.⁵

² Under the *2004 800 MHz Order*, the Commission made clear that “MSS licenses will retain the option of accelerating the clearing of [BAS markets] so that they could begin operations before Nextel has completed nationwide clearing.” *2004 800 MHz Order*, 19 FCC Rcd. 14969, ¶ 257 (2004). ICO consequently has “its own relocation and reimbursement obligations to BAS incumbents,” a fact that ICO has conceded in its regulatory filings. *Improving Public Safety Communications in the 800 MHz Band; Consolidating the 800 and 900 MHz Industrial/Land Transportation and Business Pool Channels*, Memorandum Opinion and Order, 20 FCC Rcd. 16015, ¶ 114 (2005) (*2005 800 MHz Order*); ICO, Annual Report (Form 10-K), at 23 (April 2, 2007) (“The FCC’s rules require new entrants to the 2 GHz band, including 2 GHz MSS licensees, to relocate incumbent BAS users.”).

³ See Letter from Suzanne Hutchings Malloy, Senior Vice President, Regulatory Affairs, New ICO Satellite Services G.P., to Marlene H. Dortch, Secretary, Federal Communications Commission, WT Docket No. 02-55, ET Docket Nos. 00-258, 95-18 (filed June 14, 2007).

⁴ See generally, e.g., *Sprint Nextel Corporation, BAS Relocation Status Report*, WT Docket No. 02-55, ET Docket Nos. 00-258, 95-18 (filed March 7, 2007).

⁵ While ICO proposes deadlines divorced from real-world obstacles, Sprint Nextel and broadcast industry representatives are cooperating to identify actual systems, processes, and procedures that will speed the 2 GHz transition in all markets.

Sprint Nextel has implemented the 2 GHz BAS transition. ICO – despite more than seven years of opportunity – has not. Sprint Nextel's substantial up-front investment in equipment, process, and personnel will allow the company to complete the 2 GHz BAS retuning in an efficient and effective manner. By adding more staff, increasing warehouse space, storing up inventories, developing templates, and streamlining processes at every level, Sprint Nextel has helped ensure that BAS licensees move to the new bandplan as quickly as possible. ICO's uninformed, bystander pleading deserves no further Commission consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Trey Hanbury', with a stylized flourish at the end.

Trey Hanbury, Esq.
Director, Sprint Nextel Corporation