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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

WRITER'S DIRECT DIAL NUMBER

William F. Caton, Acting Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Nextel White Paper Regarding Elimination of CMRS – Public Safety Interference in the 800 MHz Band
ET Docket No. 00-258
RM – 9920
RM – 9911

Dear Mr. Caton:

Blooston, Mordkofsky, Dickens, Duffy & Prendergast (BMDDP), on behalf of its clients who utilize spectrum in the 800 MHz band for commercial and private internal uses, hereby submits this letter with respect to the above-referenced White-Paper submitted by Nextel Communications, Inc. (Nextel) regarding its proposal for the elimination of harmful interference between licensees on the public safety and commercial 800 MHz channels.

In order to resolve the potential for interference to public safety operations in the 800 MHz band, Nextel has proposed the following:

a. To create two distinct channel blocks in the 800 MHz band – a 36 MHz block reserved for Public Safety and a 16 MHz Block for commercial uses.

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b. To relocate its licenses in Channels 1 – 400 to other spectrum at its own expense and contribute its 700 MHz Guard Band and 900 MHz SMR licenses in order to make spectrum available for relocating incumbent 800 MHz industrial/business users and non-cellular SMR users from the new public safety block.

c. To contribute up to $500 million towards relocation expenses for public safety entities licensed in the 800 MHz band with the balance to be paid for by cellular like SMR operators and cellular carriers.

d. To allow incumbent industrial/business licensees to either remain in the 800 MHz band on a secondary, non-interference basis to future public safety needs or relocate (at their own expense) to either the 700 MHz or 900 MHz channels vacated by Nextel.

e. Nextel would be licensed replacement spectrum, in exchange for the 16 MHz it is contributing for this purpose, in the 821 – 824 MHz band and a 10 MHz block in the reserve Mobile Satellite Service (MSS) band at 2.1 GHz.

While it is important for the Commission to take action to minimize the potential for harmful interference to public safety 800 MHz channels from commercial 800 MHz channels, the Commission's action must be equitable to all affected licensees:

a. Nextel's proposed treatment of incumbent industrial/business users in the 800 MHz must be changed. As currently proposed, Nextel is not offering any assistance to these users who have made significant investments in equipment and infrastructure in order to meet their communications needs. While in certain rural locations, the regional public safety plan may not immediately require the incumbent's spectrum, it will likely be needed in the not-to-distant future, either for actual communications or for interference protection purposes. In urban and suburban areas, and even in mid-sized markets, the need to relocate is likely to be imminent. Under Nextel's proposal, these licensees be licensed on a secondary, non interference basis; they may therefore be required to relocate to the 700 MHz or 900 MHz channels at their own expense, or obtain service from a commercial provider if replacement spectrum is not available. This treatment is highly inequitable. BMDDP recommends that that the Commission require that any incumbent licensee who relocates to other spectrum or is ultimately required to relocate to other spectrum at some future time have its relocation expenses reimbursed. For this purpose, the Commission could use a model similar to that used in connection with the

800 MHz SMR and Broadband Personal Communications Service auctions. In this way, the incumbent licensees would not be in a position of losing their investments in their much needed communications systems

b. Nextel has also proposed provide up to $500 million towards the costs of relocating public safety 800 MHz licensees to new spectrum, with the balance to be paid by incumbent cellular like 800 MHz SMR carriers and cellular carriers. In so doing, Nextel has implicitly conceded that $500 million will not cover the total costs of relocating the 800 MHz public safety licensees, which costs Nextel is urging be picked up by the other cellular like 800 MHz SMR carriers and cellular carriers. Because Nextel is the predominate commercial licensee in the 800 MHz band, Nextel must ensure that it bears the primary responsibility for the relocation costs. While there has been no empirical research to determine the costs of relocating all of the 800 MHz public safety systems, it is anticipated that these costs would be significantly higher than the $500 million proffered by Nextel. As a result, Nextel could only be liable for a small portion of the total relocation cost. And, as discussed above, relocation costs should not be limited to only public safety licensees. Rather, any 800 MHz licensee that relocates its facilities pursuant to the plan adopted by the Commission should be eligible to recoup its relocation expenses, since, but for Nextel's proposal, there would be no need for facility relocation.

c. Nextel's proposal to acquire a nationwide 10 MHz block of spectrum in the reserve Mobile Satellite Service (MSS) 2.1 GHz band in exchange for its contribution of 700 MHz and 900 MHz band spectrum and a pledge of $500 million dollars towards the cost of relocating public safety entities to other spectrum is unfair to the industry. This proposal, if adopted by the Commission, would place Nextel at a significant competitive advantage over other carriers with what amounts to a "free" 3G license that is worth billions of dollars even though these carriers would nonetheless be required to pay the balance of any relocation costs not covered by Nextel's pledge of $500 million. While Nextel essentially gains a "free" 3G license worth billions of dollars, the rest of the industry will receive no such benefit, and will be forced to pay full market value for its 3G spectrum at an FCC spectrum auction. BMDDP believes that the Commission should adopt an approach which levels the competitive playing field between carriers rather than permitting Nextel to receive a significant economic windfall.

In formulating any policy or Notice of Proposed Rulemaking arising out of Nextel's White Paper, BMDDP urges the Commission to apply these considerations

before making any formalized proposal. Please direct any questions or correspondence regarding this filing to our office.

Respectfully submitted,

John A. Prendergast
Richard D. Rubino

cc: Robert S. Foosner, Sr. Vice President and Chief Regulatory Officer
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Michael Powell, Chairman
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