

ARTER & HADDEN^{LLP}
ATTORNEYS AT LAW

ORIGINAL
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Austin
Cleveland
Columbus
Dallas
Dayton
Irvine
Los Angeles
Sacramento

EX PARTE ^{founded 1843} OR LATE FILED

1801 K Street, N.W., Suite 400K
Washington, D.C. 20006-1301
telephone 202.775.7100
facsimile 202.857.0172

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Mark Van Bergh
Direct Dial: (202) 775-7983
E-mail: VanBergh@arterhadden.com

October 2, 2002

Ms. Marlene Dortch
Secretary
Federal Communications Commission
The Portals, TW-A325
445 Twelfth Street, SW
Washington, D.C. 20554

Re: Notice of Oral Ex Parte Presentation
WT Docket No. 02-55

Dear Ms. Dortch:

Pursuant to Section 1.1206(b)(2) of the Commission's Rules, this notice is provided to confirm that on Tuesday, October 1, 2002, William K. Keane and undersigned counsel to the National Association of Manufacturers (NAM) and MRFAC, Inc., James Pakla of MRFAC, Inc. and the following representatives of NAM/MRFAC member companies met with Kathleen O'Brien Ham, D'Wana R. Terry, Shellie Blakeney, Jeanne Kowalski and Michael J. Wilhelm of the Wireless Telecommunications Bureau ("WTB"), regarding the above-referenced proceeding. The attending NAM/MRFAC member company representatives were Marvin McKinley, Clark Hart, Jennifer Warren, Dan Fiest, Scott Walters, Stan Jenkins, and Frank Weaver.

During the meeting NAM/MRFAC's representatives discussed their interest in and the issues raised in the Docket 02-55 proceeding as outlined in the attached summary.

NAM/MRFAC's representatives also noted their concern regarding the need to avoid significant costs and disruption to ongoing business operations. It is therefore critical that the Commission build a complete record demonstrating that any plan it might adopt is appropriate to the magnitude of and will satisfactorily resolve 800 MHz interference problems.

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An original and one copy of this letter are submitted for inclusion in the above-referenced proceeding.

Sincerely,



Mark Van Bergh
Counsel to NAM/MRFAC, Inc.

Enclosure

cc (w/o encl.): Kathleen O'Brien Ham
D'wana R. Terry
Shellie Blakeney
Jeanne Kowalski
Michael J. Wilhelm

THE 800 MHz INTERFERENCE ISSUE

The Issue

- The FCC has issued a Notice of Proposed Rulemaking that seeks to resolve the interference caused to public safety and industrial licensees in the 800 MHz band by Nextel and other digital cellular systems.
- Numerous conflicting solutions have been presented including one by cellular interests, one by a coalition including Nextel/public safety, one by utility companies, and one by NAM/MRFAC. The Nextel (or "coalition") plan suggests alleviating interference by "re-banding" 800 MHz spectrum. It would also provide Nextel with 10 MHz of new spectrum (1910-1915 / 1990-1995 MHz).

NAM/MRFAC's Interest

- Many NAM/MRFAC member companies utilize spectrum in the 800 MHz band for internal, safety/emergency response, logistics, remote control, mobile data, and productivity enhancing communications.
- Like public safety, NAM/MRFAC members have been subjected to disruptions and interference caused by cellular type systems.
- NAM/MRFAC are working with the FCC to develop an equitable solution to this problem which provides the greatest benefit -- and the least disruption -- for all concerned.

Guiding NAM/MRFAC Principles

- NAM/MRFAC urge that this proceeding be resolved according to certain basic principles:
 - Create an interference-free radio environment for Public Safety and Industrial users. Options include relocating Public Safety to contiguous spectrum at 700 MHz and re-banding 800 MHz spectrum into cellularized and non-cellularized segments.
 - Minimize costs for innocent Industrial, Business and Land Transportation users.
 - Not set the dangerous precedent of rewarding an interfering party with a major upgrade in its spectrum inventory at the expense of innocent licensees and additional competition.

NAM/MRFAC Position on the Coalition Plan

- For openers, the coalition plan does not represent a consensus. Important industries, such as manufacturers, utilities, and communications carriers, have expressed reservations.
- As the quid pro quo for its support, Nextel would receive a windfall of spectrum far more valuable than the spectrum it holds today. This amounts to rewarding a party for agreement to cease causing interference.
- Nextel at present occupies spectrum which is primarily non-contiguous; that is, channels originally set aside for, and in many cases still used for, other purposes (such as industrial uses). As proposed, Nextel would be granted much more valuable, contiguous spectrum.
- In effect, the greater the interference a user causes, and the more important the victim (primarily public safety in this instance), the more the FCC is pressured to bail out the interfering party in order to solve the problem. Acceding to this pressure would set a terrible precedent.
- In addition, the plan would appropriate spectrum previously allocated for Mobile Satellite services, thereby hindering the ability of that sector to deliver improved services to rural and other underserved areas -- undermining a core Commission policy.
- The plan fails to adequately address the difficult issues associated with U.S.-Canadian and U.S.-Mexican border areas where this spectrum is shared on a nearly equal basis. Any plan which fails to resolve this issue is seriously deficient.

The Better Approach

- Given the number of conflicting proposals currently before the FCC, the agency should ensure that a proper record is developed on the scope of the problem, and the costs and complexities of the various proposals, before adopting a solution. In the meantime, interim technical solutions ("Best Practices") should be quickly codified in the Commission's Rules.
- 800 MHz re-banding may be necessary but only based on a fully-developed record. Even then, re-banding is not a complete solution: A long-term solution requires consideration of 700 MHz in order to satisfy public safety needs for additional spectrum.
- Congressional legislation will be necessary to realize the 700 MHz solution. This would include revisions to the law presently requiring an auction of 700 MHz spectrum.

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The NAM represents 14,000 member companies (including 10,000 small and mid-sized manufacturers) and 350 member associations serving manufacturers and employees in every industrial sector and all 50 States. Headquartered in Washington, D.C., the NAM has 10 additional offices across the country. MRFAC, which began operations as the frequency coordinating arm for the NAM, is one of the Commission's certified frequency coordinators for the private land mobile bands from 30 to 900 MHz. For the past 23 years MRFAC has operated independently, providing coordination and licensing-related services, particularly for manufacturers and other industrial and business entities. MRFAC has long participated in spectrum rule-makings affecting the interests of manufacturers.