Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Improving Public Safety Communications	)	WT Docket No. 02-55
In the 800 MHz Band	)	
	)	
Consolidating the 900 MHz Industrial/Land	)	
Transportation and Business Pool Channels	)	

COMMENTS OF VERIZON WIRELESS TO
SUPPLEMENTAL COMMENTS OF THE CONSENSUS PARTIES

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SUMMARY

In accordance with the Commission's Public Notice of January 3, 2003, Verizon Wireless respectfully submits these comments in response to Supplemental Comments filed by the Consensus Parties on December 24, 2002 ("Supplemental Comments").[1] The Supplemental Comments provide additional implementation details concerning the proposal of the Consensus Parties to mitigate CMRS – public safety interference through a realignment of the 800 MHz band ("Consensus Plan"). This includes details on how the Consensus Plan will be funded, procedures for relocating 800 MHz incumbents, and proposed changes to the Commission's rules to mitigate harmful interference.[2]

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[1] *Wireless Telecommunications Bureau Seeks Comment on "Supplemental Comments of the Consensus Parties" Filed In The 800 MHz Public Safety Interference Proceeding – WT Docket No. 02-55*, FCC Public Notice, DA 03-19, rel. Jan. 3, 2003; *In the Matter of Improving Public Safety Communications in the 800 MHz Band, Consolidating the 900 MHz Industrial/Land Transportation and Business Pool Channels*, Notice of Proposed Rulemaking ("NPRM"), FCC 02-81 (rel. Mar. 15, 2002).

[2] *See* Supplemental Comments of the Consensus Parties (filed Dec. 24, 2002) ("Supplemental Comments"), in response to NPRM at ii.

The Consensus Plan remains a mirage. It holds out an illusory promise, reducing interference, when the record already shows it does not even address one of the primary causes of this interference. Yet, it would force hundreds of entities to engage in massive, hugely expensive relocation. The plan's source of funding is equally illusory. While it dangles an $850 million fund, it omits any up-front funding commitments that can be enforced, let alone legally binding commitments for long-term reimbursement. Finally, the plan's principal advocate, Nextel, demands that it be given valuable spectrum outside the 800 MHz band as the "take it or leave it" price for offering this mirage of a plan. Nextel's chutzpah in threatening the Commission with killing the entire Consensus Plan if it does not get its free spectrum should give the Commission pause about even considering the Consensus Plan at all.

Verizon Wireless previously noted that there are significant flaws in the original plan proposed by Nextel and other Consensus Parties.[3] First, the Consensus Plan proposes no real solution for the interference problems experienced by public safety licensees, because a realignment of the 800 MHz band without substantial modifications or replacement of public safety equipment will not eliminate the potential for harmful interference. Second, the Consensus Plan caps the funding for realignment at a level that is likely to fall well short of the amount required to facilitate all required relocations, and furthermore, is entirely reliant on a promise from, and the future financial success of, a single wireless company – namely Nextel. Finally, it demands that the Commission grant

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[3] *See* Comments of Verizon Wireless (filed May 6, 2002) ("Verizon Wireless Comments"), in response to NPRM, at 12-17; *see also* Comments of Verizon Wireless (filed Sep. 23, 2002) ("Verizon Wireless Comments on Consensus Plan"), in response to FCC Public Notices DA 02-2202 and DA 02-2306, at 3-15.

an unjustified and illegal spectrum windfall to Nextel – the one entity that is the cause of the vast majority of the interference problems experienced by public safety licensees.

There is nothing in the Supplemental Comments that addresses these fundamental flaws. In fact, the further details provided in the Supplemental Comments regarding how the Consensus Plan would be implemented provide additional evidence that the plan cannot accomplish the Commission's objectives in this proceeding, and that the interference problems experienced by public safety licensees can be addressed through simpler and more effective solutions, as described herein. The Commission should not be fooled into moving toward the mirage that is the Consensus Plan. It should move in a different direction that will actually reduce interference without the serious flaws the Consensus Plan contains.

I. THE CONSENSUS PLAN DOES NOT ADEQUATELY ADDRESS INTERFERENCE IN THE 800 MHz BAND.

The Supplemental Comments incorrectly assert that the Consensus Plan will largely eliminate the potential for harmful interference to public safety operations in the 800 MHz band. They state that the proposed band realignment "in-and-of-itself" will eliminate the vast majority of intermodulation interference and, with the adoption of new interference standards, will reduce the potential for interference resulting from out-of-band emissions.[4] However, the Supplemental Comments are silent on how the Consensus Plan will address receiver overload – one of the predominant causes of interference to public safety operations. This is not surprising, since most cases of receiver overload involve Nextel, the leading proponent of the plan. The simple fact,

[4] Supplemental Comments at 39.

however, is that the proposed band realignment will not in any way mitigate this type of interference.

A. Receiver Overload

As Verizon Wireless detailed in its previous submissions to the Commission, receiver overload occurs when a public safety mobile receiver, operating near the edge of its service area, is in the presence of a relatively strong, nearby undesired signal.[5] If the undesired signal is passed through the radio frequency ("RF") filter in the front-end of the receiver, and the signal is strong enough, it can overload the low noise amplifier in the receiver. This is one of the predominant causes of interference to public safety operations, because public safety mobile radios are designed to receive over the entire 851-869 MHz band. In fact, they extend into the cellular band above 869 MHz. This means that public safety mobile radios are designed to receive frequencies that are licensed to Nextel and some cellular carriers for their base station transmissions.[6] As a result, mobile receivers that are being used near the edge of the public safety coverage area (where service is already marginal) and very close to a commercial base station (where the interfering signal is of relatively high power) may experience receiver overload.

Receiver overload can be mitigated or eliminated by various techniques, used independently or in combination. First, the public safety mobile receivers can be

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[5] Verizon Wireless Comments at 5.

[6] Cellular carriers licensed in the B-band typically do not contribute to receiver overload interference, because their base stations operate above the range in which public safety receivers typically operate.

designed to employ narrower filters in the front-ends of the radios to limit the amount of emissions that gets into the receiver. Second, public safety licensees can improve system coverage by deploying more base stations, and thus, ensuring that the desired public safety signal is strong relative to the interfering signal throughout the public safety service area. Finally, commercial operators can reduce the "on-street" power level of their signals in the area where the public safety licensee is experiencing harmful interference. This can be done by reducing the transmitter power, decreasing antenna gain, or decreasing the downtilt angle of the antenna.

Receiver overload cannot be mitigated, even to a small degree, through a realignment of the 800 MHz band if these other measures are not taken. Existing public safety mobile radios will continue to receive the entire 851-869 MHz band, and thus, intentionally receive the signals of commercial operators. The Consensus Parties acknowledge that the use of improved filtering in these radios "will greatly lessen the likelihood that public safety receivers will experience interference from stronger signals in adjacent allocations."[7] In fact, they recommend that the Commission establish a requirement that future public safety equipment be designed to sufficiently reject signals in adjacent allocations.[8] However, the Consensus Parties do not contemplate the replacement of a significant number of existing public safety mobile radios under the band realignment funded by Nextel. This is understandable, given the funding constraints imposed by Nextel and the substantial costs involved in such an endeavor.

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[7] Supplemental Comments, Appendix F, at F-8.

[8] *Id.*

However, it means that the proposed band realignment will not mitigate one of the most significant causes of interference to public safety operations – receiver overload.

B. Intermodulation

Interference in the form of intermodulation distortion can be a problem for public safety operations in the 800 MHz band. Intermodulation ("IM") occurs when two or more signals operating at different frequencies combine to produce new signals, called IM products, at different frequencies.[9] If the signals are strong enough, and the IM products fall on or near the desired public safety signal, harmful interference can result.

IM products can be produced by two Nextel signals, a Nextel signal and a cellular signal, or two cellular signals. They can be created inside a radio transmitter ("transmitter-generated IM"), inside a receiver ("receiver-generated IM"), or by some unknown source. Transmitter-generated IM can be mitigated or eliminated through filtering at the transmitter. It cannot be mitigated with improved filtering in the public safety receiver, because the IM product is "in-band" to the receiver. Receiver-generated IM can be mitigated or eliminated by improving the IM rejection characteristics of the receiver or by incorporating improved front-end filtering to ensure that undesired signals do not get into the receiver. Verizon Wireless believes that the IM interference experienced by public safety licensees is predominantly receiver-generated, and we are unaware of any cases of transmitter-generated IM experienced by public safety licensees in the 800 MHz band.[10]

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[9] Verizon Wireless Comments at 5.

[10] The Commission has previously ruled that a licensee is responsible for resolving IM interference if the source of IM is under its control. In the case of interference to public

Verizon Wireless acknowledges that a realignment of the 800 MHz band will mitigate some IM interference, because the potential for IM products to fall inside the public safety band will be reduced. However, the potential for IM interference will not be eliminated with band realignment. Moreover, there are other equally if not more effective ways to mitigate IM interference, including improved filtering in public safety mobile receivers and improved coverage of public safety systems.

Verizon Wireless continues to believe that the interference mitigation techniques discussed supra, and described in greater detail in the Best Practices Guide, represent a more effective solution to the interference problems experienced by public safety licensees than a wholesale realignment of the 800 MHz band. This is particularly true given the relatively few cases of harmful interference and the enormous costs of band realignment. The Supplemental Comments acknowledge the shortcomings of the Consensus Plan in resolving interference by proposing changes to the Commission's rules and continued application of the Best Practices Guide. These measures are deemed necessary by the Consensus Parties even after the band realignment has occurred because the realignment cannot resolve all interference.[11]

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safety operations in the 800 MHz band, the source of "receiver-generated" IM is the public safety phone, which is under the control of the public safety licensee, not the CMRS licensee. *In the Matter of Resolution of Interference Between UHF Channels 14 and 69 and Adjacent-Channel Land Mobile Operations*, Report and Order, FCC 91-241, 6 FCC Rcd No. 18, 5148-5155, rel. Aug. 29, 1991, at ¶ 29.

[11] Verizon Wireless agrees that revisions to the Best Practices Guide may be necessary to ensure efficient and effective resolution of harmful interference. However, we believe that the procedures described in Appendix F of the Supplemental Comments are, at best, incomplete. For example, Appendix F would appear to require CMRS licensees to bear the full burden of resolving OOBE or intermodulation interference experienced by non-cellular licensees as long as the signal strength of the latter is –98 dBm or better for existing systems, regardless of individual circumstances such as where inferior receivers

II. THE COMMISSION SHOULD NOT IMPOSE A MORE STRINGENT OUT-OF-BAND EMISSIONS LIMIT ON COMMERCIAL LICENSEES, BECAUSE IT WOULD NOT CORRECT THE PROBLEM.

While the Consensus Plan fails to deal with the primary interference problems discussed above, it is equally flawed in proposing restrictions to stop a form of interference that is not part of the problem. The plan proposes to limit out-of-band emissions ("OOBE") from cellular operations above 869 MHz. There is substantial evidence in the record to conclude that such emissions are not significant contributors to the interference experienced by public safety operations.[12] Consequently, the proposal of the Consensus Parties to impose strict OOBE limits on cellular carriers is totally unjustified. The expense incurred by cellular carriers to bring existing equipment into compliance with such a requirement would be staggering. Verizon Wireless has estimated that this requirement would cost it hundreds of millions of dollars. This would significantly impact our investments in other areas of the business, and would ultimately result in higher prices for the wireless products and services that our customers purchase. We urge the Commission to reject this draconian proposal. In the unlikely event that a public safety licensee experiences harmful interference as a result of cellular OOBE, such

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are employed. Appendix F proposes new receiver standards, which Verizon Wireless supports, but says nothing about how this impacts the division of responsibility in resolving interference. Supplemental Comments at Appendix F.

[12] Verizon Wireless Comments at 6; *see also* Joint Comments of Cingular Wireless LLC and ALLTEL Communications, Inc. (filed May 6, 2002), in response to NPRM, at 6 and generally at Appendix A; *see also* Comments of AT&T Wireless Services, Inc. (filed May 6, 2002), in response to NPRM, at 6; *see also* Comments of Southern LINC (filed May 6, 2002), in response to NPRM, at 13; *see also* Reply Comments of ALLTEL Communications, Inc., AT&T Wireless Services, Inc., Cingular Wireless LLC, Coupe Communications, Inc., First Cellular, Nokia Inc., Southern LINC, and United States Cellular Corporation, (filed Aug. 7, 2002), in response to NPRM, at 3.

interference can be resolved by commercial operators on a case-by-case basis at substantially lower cost.

III. NEXTEL'S PROPOSAL TO "FUND" THE CONSENSUS PLAN REMAINS FUNDAMENTALLY FLAWED.

In the Supplemental Comments, Nextel states it has increased its financial commitment in support of the Consensus Plan. Nextel has now pledged to pay up to $850 million towards the relocation costs of 800 MHz incumbents. It claims that this amount is sufficient to pay for not only the relocation of public safety licensees, but also the relocation of private mobile licensees, which its original proposal did not include. Nextel's funding proposal is flawed in several respects.

First, the Supplemental Comments omit any explanation as to how the relocation fund would be legally enforceable. The concept relies entirely on Nextel's voluntary commitment to pay $850 million into a relocation fund that is administered by a private entity. The failure to contain any binding commitments by Nextel is a glaring omission that should stop any consideration of the Consensus Plan. Embarking on a radical, massive relocation plan, without the funding in place, would be foolish.[13]

Second, the Consensus Plan proposes to cap the amount of monies available to facilitate band realignment at $850 million, including $700 million for public safety licensees and $150 million for private mobile licensees. It attempts to demonstrate the sufficiency of these amounts by providing estimates of the relocation costs for each

[13] The funding approach and its lack of up-front, binding, payments, should remind the Commission of its experiences with the installment payment system it devised prior to auctioning the original PCS licenses. The failures of that system should not be repeated here.

classification.[14] However, the basis for these estimates is unclear and wholly at odds with the estimated costs expressed by other commenting parties.[15] As a result, even with Nextel's increased commitment, the proposed fund is unlikely to be sufficient to pay for all required relocations.

Even the Consensus Parties suggest that Nextel's proposed funding will not be sufficient. The Supplemental Comments note that, while the Consensus Parties believe Nextel's revised funding commitment is a reasonable "estimate" of total costs, it is subject to "several significant variables."[16] In particular, there continues to be uncertainty as to the number of public safety mobile radios that will need to be replaced, "which could have a significant impact on the total costs."[17] The Consensus Parties note that "the substantial cost difference between replacing and reprogramming a radio is such that small variations in the total number of radios to be replaced will have a significant impact on the total cost of implementing the Consensus Plan."[18]

The Consensus Parties contend that this uncertainty is mitigated, however, by establishing provisions under the Consensus Plan to ensure that relocations will not be required if there are no longer funds available. These provisions may provide assurances to the incumbents that unfunded relocations will not be mandated, but they provide no assurances that the band realignment will actually be completed. To the contrary, given

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[14] Supplemental Comments at Appendix A.

[15] *See* Comments of Small Business in Telecommunications to Supplemental Comments of the Consensus Parties (filed Jan. 10, 2003) ("SBT Supplemental Comments"), in response to Supplemental Comments, at 20.

[16] Supplemental Comments at 6.

[17] *Id.*

[18] *Id* at 6-7.

that there is broad agreement that the number of radios requiring replacement will likely vary from the current estimates and the fact that even small variations in these numbers will significantly impact the costs of relocation, it is almost certain that Nextel's pledged funds will be insufficient and the proposed realignment will not be completed.

Finally, the proposal to fund the Consensus Plan is precarious. Since it relies on an unenforceable, voluntary pledge from a single private entity which financial success is not guaranteed, it raises serious questions about whether it can be implemented at all. Even assuming the fund remains capped, Nextel would incur substantial costs under the plan, including $850 million in relocation costs, millions more to launch and operate a dual-band 800/900 MHz system that will later be abandoned, billions to build-out a system at 1.9 GHz, and significant administrative, legal, engineering, and other associated costs.[19] The key question is not whether Nextel believes it can finance such a plan – or even whether the Commission thinks Nextel can. Abject reliance on speculative financing is no way to conduct a massive spectrum realignment.

The Commission cannot adopt any band realignment plan that relies entirely on a single company's present and future success. It must have assurance that the plan will be fully funded. The Consensus Plan omits such assurance. For this reason alone, it fails.

IV. NEXTEL'S PROPOSAL TO TRADE SPECTRUM IS UNJUSTIFIED AND ILLEGAL.

Verizon Wireless has previously noted that Nextel's "spectrum swap" proposal is unrelated to the interference issues at 800 MHz, and designed only to advantage Nextel

[19] SBT Supplemental Comments at 32.

by allowing it to trade low-value spectrum for spectrum with significantly higher value. It is a spectrum grab, plain and simple. Granting Nextel's request is absolutely unjustified, competitively unfair, and clearly illegal.[20]

Nextel proposes to trade approximately 10 MHz of spectrum in the 700 MHz, 800 MHz, and 900 MHz bands for an "equal" amount of spectrum in the 1.9 GHz band.[21] It argues that such a trade is necessary to facilitate the realignment of the 800 MHz band and, in the process, keep all 800 MHz incumbents, including Nextel, "whole." Nothing could be further from the truth. The 700 MHz and 900 MHz spectrum that Nextel proposes to trade and the 1.9 GHz spectrum that Nextel seeks in exchange have no bearing on the interference issues at 800 MHz. Moreover, the spectrum that Nextel proposes to trade is non-contiguous, heavily encumbered, and in some cases subject to significant technical restrictions. There is simply no lawful basis for the Commission to adopt Nextel's request.

Importantly, the 700 MHz spectrum that Nextel proposes to trade is "guard band" spectrum that is subject to substantial restrictions under the FCC's rules.[22] First, Nextel is licensed as a Guard Band Manager and must lease the predominant amount of its

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[20] Verizon Wireless Comments on Consensus Plan at 10.

[21] Nextel proposes to trade 4 MHz of spectrum in the 700 MHz "guard band", approximately 2 MHz of spectrum in the 800 MHz band, and approximately 4 MHz of spectrum in the 900 MHz band for 10 MHz of spectrum at 1910-1915 MHz / 1990-1995 MHz ("1.9 GHz band").

[22] In establishing rules for the 700 MHz band, the Commission determined that there was a potential for future commercial operations in the band to cause harmful interference to public safety operations in the band. As a result, it determined that some of the commercial spectrum (746-747/776-777 MHz and 762-764/792-794 MHz) would be reserved for "guard bands." These "guard bands" would be made available for commercial use but would be subject to significant restrictions designed to protect public safety operations.

spectrum to unaffiliated entities.[23] As a result, it would not have access to most of the Guard Band spectrum for which it holds a license, and for which it seeks an even trade for spectrum at 1.9 GHz.[24] Second, Guard Band Managers and operators in the 700 MHz Guard Band are subject to strict frequency coordination, interference, and technical rules designed to protect public safety operations in the adjacent bands. This includes strict emissions limitations,[25] and a prohibition on the deployment of cellular system architectures.[26] Finally, operators in the 700 MHz Guard Band must protect incumbent TV broadcasters from harmful interference until they vacate the band at some unspecified date in the future.[27]

The FCC has previously noted the substantial impact that these restrictions have on the valuation of 700 MHz Guard Band spectrum. In establishing the upfront payment and minimum opening bid requirements for the 700 MHz Guard Band auction, the FCC lowered its originally proposed minimum payments because it concluded that the value of the licenses would be significantly affected by (1) encumbrances of TV broadcasters, (2) susceptibility to interference from adjacent commercial systems, and (3) technical restrictions designed to protect public safety licensees from interference.[28] The

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[23] *See* 47 C.F.R. § 27.603(c).

[24] Nextel holds 700 MHz Guard Band licenses in only 40 markets, and the Consensus Plan does not address how it would justify taking spectrum away from the other licensees that purchased licenses in the 700 MHz Guard Band auction.

[25] *See* 47 C.F.R. § 27.53(d).

[26] *See* 47 C.F.R. § 27.2(b).

[27] TV Broadcasters are not required to vacate the 700 MHz band before January 1, 2007, and then only if 85% of the viewing public has access to digital TV.

[28] *Auction of Licenses for the 700 MHz Guard Bands Scheduled for June 14, 2000*, FCC Public Notice, DA 00-781, rel. Apr. 10, 2000, at 32.

Commission cannot legally allow Nextel to trade spectrum that is so severely restricted for spectrum that is not.

In addition, the Consensus Plan fails to address how the Commission can reallocate the 700 MHz Guard Band spectrum to public safety use without a change in the law, which requires that the 700 MHz Guard Band be used for commercial purposes.[29] And, it fails to address how this reallocated spectrum would be used if the 700 MHz Guard Band were eliminated. Do the Consensus Parties suggest that a guard band is no longer necessary to separate commercial operations from public safety operations in the 700 MHz band? Do they propose that a new guard band be established, thus further reducing the amount of useable spectrum available for commercial use? Or, do they propose, as Nextel did in its earlier comments, that the entire upper 700 MHz band be made available for public safety use? The Consensus Parties' intentions are not clear from the Supplemental Comments. In any event, Verizon Wireless opposes any reallocation of 700 MHz spectrum unless it is part of a plan to move public safety operations out of the 800 MHz band entirely.

V. THERE ARE BETTER ALTERNATIVES AVAILABLE TO THE COMMISSION FOR RESOLVING INTERFERENCE AT 800 MHz.

As discussed supra, Verizon Wireless believes that interference in the 800 MHz band can be effectively mitigated through implementation of the Best Practices Guide. This is the most flexible and cost effective means for resolving the different types of

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[29] *See* Section 337 of the Communications Act, 47 U.S.C. § 337(a)(2), as added by § 3004 of the Balanced Budget Act of 1997, Pub. L. No. 105-33, 111 Stat. 251 (1997). Interestingly, the Consensus Parties have previously opposed a relocation of public systems out of the 800 MHz band to the 700 MHz band on the grounds that it would require legislation.

interference that occur in the band. However, if the Commission determines that a realignment of the 800 MHz band is necessary, we recommend two alternative approaches. Each of these approaches is predicated on limiting the realignment to the 800 MHz band. No other bands (i.e., 700 MHz, 900 MHz, 1.9 GHz) need be affected.

The deficiencies of the Consensus Plan are established in the bold attempt by Nextel to obtain an unjustified spectrum windfall while proposing a precarious and insufficient funding mechanism to resolve interference problems at 800 MHz for which it is primarily responsible. It is clear from the Supplemental Comments that the Consensus Plan is little more than a series of frequency swaps between Nextel and other 800 MHz incumbents. It does not require that any systems be moved to or from the 700 MHz, 900 MHz, or 1.9 GHz bands, and in fact, need not implicate these bands at all. The realignment of the 800 MHz band, therefore, could be effected through a series of market-based agreements between the incumbent licensees. To the extent the Commission's rules need to be amended to facilitate such frequency swaps, we propose that the Commission make such amendments.

Obviously, we would anticipate that the incumbent public safety and private mobile licensees would require Nextel to pay for their relocation expenses, though this should be left to private negotiations to determine. However, if the estimates of the Consensus Parties are correct, we anticipate that Nextel would pay no more than the $850 million that it has already committed to pay. In addition to resolving the interference problems experienced by public safety licensees, we expect that such a market-based realignment would yield benefits to Nextel in the form of contiguous spectrum, and thus,

we believe that there is significant incentive for Nextel to pursue such a strategy once the Commission rejects the Consensus Plan.

Alternatively, the Commission could fund the realignment of the 800 MHz band by auctioning the 1.9 GHz spectrum that Nextel seeks to acquire. An auction would almost certainly raise considerably more funds than those pledged by Nextel, providing a greater assurance that the realignment of the 800 MHz band could actually be implemented. In fact, the additional funds provided by such an auction could also be used to provide public safety licensees with new, state-of-the-art equipment, and thus, resolve the interference problems that the proposed band realignment alone fails to adequately address.

Verizon Wireless recognizes that the Commission may not have the authority to utilize auction proceeds for such an activity. However, there has been considerable support in the Bush Administration and in Congress for the establishment of a fund (paid for by spectrum auctions) to relocate Federal agencies out of reallocated spectrum.[30] It is not unreasonable to think that there would be support for a similar fund to relocate public safety licensees, particularly if the signatories to the Consensus Plan advocate it as the most certain way to obtain relocation funding. If so, such a plan would avoid the uncertainties and legal challenges associated with the Consensus Plan.

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[30] U.S. Department of Commerce, *Letter from Theodore W. Kassinger, General Counsel, to The Honorable Richard B. Cheney, President of the Senate, Regarding a Draft Bill to Amend the Communications Act of 1934 to Create a Spectrum Relocation Fund* ("Relocation Fund Transmittal Letter"), (sent Jul. 23, 2002), available at http://www.ntia.doc.gov/ntiahome/congress/2002/legistransmittal7232002.htm.

CONCLUSION

Verizon Wireless urges the Commission to reject the Consensus Plan as unjustified, unworkable, and illegal. It does not eliminate the potential for interference to public safety operations, it relies on a precarious and implausible funding mechanism that is legally unenforceable, and it grants a substantial windfall to Nextel. We believe that harmful interference in the 800 MHz band can be most effectively resolved through application of the Best Practices. To the extent that the Commission believes these solutions are not sufficient and that a realignment of the 800 MHz band is necessary, we urge the Commission to consider the alternative realignment proposals described herein.

Respectfully submitted,

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Dated: February 10, 2003

Certificate of Service

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