Regulatory Parity Is a Fundamental Requirement for Spectrum Management.

The FCC must promulgate "technical requirements that are comparable to the technical requirements that apply to licensees that are providers of substantially similar [commercial] services." *Fresno Mobile Radio, Inc. v. FCC*, 165 F.3d 965, 967 (D.C. Cir. 1999) (quoting Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, § 6002(d)(3)(B), 107 Stat. 312 (1993)).

Discriminatory Aspects of The Consensus Plan		
Post-Consensus Plan	**Nextel**	**Southern LINC**
Spectrum Characteristics	• Contiguous Former NPSPAC Channels • Cleared of Incumbents • Interference-Free Spectrum	• Interleaved, Guard Band and Lower 80 Channels, Non-Contiguous • Receives Encumbered Spectrum • Interference-Prone Spectrum
Cellular Restrictions	• Complete Flexibility to Use Cellular Architecture • Flexible Technical and Licensing Standards • Transferable – Replacement spectrum is easier (and more lucrative) to assign or lease because of regulatory status as commercial spectrum	• Non-Cellular Band/Restriction Placed on System Design • Non-CMRS Technical Standards (e.g., Power and Emission Restrictions) • Non-Transferable – Replacement spectrum has use restrictions that limit assignability and otherwise reduce value
Equipment	• Has Advantage of Operating in Commercial Band, Which Will Have Maximum Vendor Support	• Left with Uncertain Vendor Support Because Operations Will Be in Non-Commercial, Non-Contiguous Portion of Band

Discriminatory Aspects of The Consensus Plan		
Post-Consensus Plan	**Nextel**	**Southern LINC**
Spectrum Auctions	• Delivers Spectrum Windfall ~ Increases Value of Spectrum Holdings by $1.3 to $6.5 Billion* at the Expense of Auction Licensees ~ Acquires 10 MHz of 1.9 GHz Spectrum without Auction for Bargain Price of $850 Million	• Upsets Settled Expectations and Distorts Market Mechanism ~ Loses Value of $52 Million Spent for EA Licenses with Specific Spectrum Characteristics, Technical Rules, and Equipment Availability ~ Receives No Opportunity to Negotiate Private Spectrum Purchase from FCC
Spectrum Exchange	• Trades Interleaved Site-Based and Encumbered EA Channels for Clear, Contiguous Former NPSPAC Channels • Receives Uniform Assignment of Former NPSPAC Spectrum Nationwide, Despite Regional Fluctuations in Interleaved Holdings • Allowed to Trade 700 and 900 MHz Channels With Significant Restrictions For Clear Spectrum Nationwide	• Trades Interleaved Site-Based and Encumbered (and Clear), Contiguous EA Channels for Restricted Spectrum • Receives No Contiguous Spectrum • Not Allowed to Trade-in Spectrum

* Comments of ALLTEL Communications, Inc., AT&T Wireless Services, Inc., Cingular Wireless LLC, Sprint Corporation, Southern LINC, and United States Cellular Corporation 9 n.36 (Feb. 10, 2003) (citing a Legg Mason study estimating that the Consensus Plan would result in a $1.3 billion net increase in the value of Nextel's spectrum holdings); Ex Parte of Verizon Wireless, WT Docket No. 02-55 (Oct. 27, 2003) (attaching study by Kane Reece and Associates projecting an increase in the value of Nextel's spectrum holdings by $6,485,000,000).

Discriminatory Aspects of The Consensus Plan		
Post-Consensus Plan	**Nextel**	**Southern LINC**
Relocation Coordination Committee ("RCC")	• Direct Representation • No Disclosure Obligation • Controls Timing of Relocation Negotiations • Obtains Access to Competitors' Information	• No Representation • Overly Broad Disclosure of Sensitive Information to Primary Competitor • Must Wait to Receive Proposal from Nextel and Given Short Deadline to Reach Agreement With Nextel • Receives Inadequate Assurances of Confidentiality