Tim Donahue
President and Chief Executive Officer

May 11, 2004

The Honorable Michael K. Powell
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: *Written Ex Parte Presentation*
WT Docket No. 02-55

Dear Chairman Powell:

During the past two years, Nextel Communications, Inc., has worked closely with members of the public safety and private wireless communities to craft a comprehensive and permanent solution to the dangerous problem of 800 MHz CMRS – public safety interference: the Consensus Plan for 800 MHz Realignment. The International Association of Chiefs of Police, International Association of Fire Chiefs, Major Cities Chiefs Association, Major County Sheriffs' Association, National Sheriff's Association, the Association of Public-Safety Communications Officials - International and numerous other public safety and private wireless interests have contributed their time, energies and resources to developing this innovative solution.

The Consensus Plan *exceeds* every goal you and your fellow Commissioners established for this proceeding: eliminating interference, providing additional spectrum for public safety, and minimizing disruption to incumbent 800 MHz licensees. It will enable all 800 MHz licensees to enjoy interference-free spectrum use – whether as competitors, in private system use, or in support of public safety and homeland security missions. Yet the Commission is apparently considering undercutting the Consensus Plan's carefully crafted balancing of interests by substituting 2.1 GHz spectrum for the 1910-1915/1990–1995 MHz (the PCS "G Block") replacement spectrum Nextel would receive in return for its unprecedented commitment of billions of dollars and valuable spectrum to improve public safety communications at 800 MHz.

Mr. Chairman, the Consensus Plan is a substantial undertaking, requiring Nextel to contribute more than $4 billion worth of spectrum and financial support for retuning 800 MHz incumbents, establishing interference control measures and funding other implementation costs in a unique partnership with public safety communicators, private wireless interests and the Commission. We have pledged bankruptcy-proof financing for retuning 800 MHz incumbents and to undertake a massive retuning of our own network. We have maintained this commitment for more than two years. None of our competitors

Nextel Communications, Inc.
2001 Edmund Halley Drive Reston, VA 20191 Phone 703.433.4320

NEXTEL™

has made a remotely comparable offer – despite the fact that they are causing at least 25 percent of the interference and getting a free ride on the Consensus Plan solution.

In addition, Nextel recently reached an agreement with the television broadcasters to relocate *all* 1.9 GHz Broadcast Auxiliary Service ("BAS") licensees upon Nextel being granted the PCS G Block, at a cost to Nextel of more than $500 million. This agreement will facilitate BAS clearing without disrupting newsgathering activities, advance Nextel's access to the 1.9 GHz channels, and eliminate entry barriers for 1.9 – 2.0 GHz mobile satellite licensees.

Nextel's wireless competitors have offered neither financial support nor spectrum contributions to eliminate CMRS – public safety interference and enhance public safety communications. Nevertheless, they are now urging the Commission, through CTIA, to grant Nextel less valuable replacement spectrum at 2.1 GHz, in lieu of the PCS G Block. That competitors, under cover of a trade association, would attempt to dictate the spectrum Nextel receives – in return for its spectral and financial contributions to eliminating CMRS – public safety interference – is the height of anticompetitive audacity, and *in and of itself* warrants Commission rejection of their collusive gambit. Those advocating 2.1 GHz *are not* public safety communications operators confronting CMRS – public safety interference, nor are they our nation's first responders who rely daily on wireless communications when putting their lives on the line to protect and serve our citizens.

The sole goal of the 2.1 GHz advocates is to decrease competition and inflict damage on Nextel by manipulating this proceeding to force Nextel to accept – at great cost – inferior replacement spectrum. Nextel rejects 2.1 GHz as replacement spectrum because of the potential for interference among adjacent 2.1 GHz licensees, the "one-off" channel pairing separation (duplexer gap) at 2.1 GHz that requires developing all new base station infrastructure and handset units, the denial of scale economies with existing cellular, PCS or enhanced SMR infrastructure or handsets, the inferior propagation at 2.1 GHz requiring additional network capital costs, and the unknown challenges and requirements of relocating an entire group of incumbent 2.1 GHz microwave licensees about which the record contains virtually no information. These deficiencies will delay and raise the costs of any 3G or 4G broadband technology Nextel could offer to consumers at 2.1 GHz, thereby benefiting Nextel's competitors.

I trust you will resist the entreaties of those who would take advantage of Nextel's contributions to improving public safety communications to place Nextel at a competitive disadvantage. In that spirit, I reaffirm Nextel's commitment to the Consensus Plan, or a variant that includes Nextel receiving the PCS G Block as replacement spectrum in return for its spectral and financial contributions. Nextel is ready to commence 800 MHz realignment to eliminate CMRS – public safety interference, and to relocate all 1.9 GHz BAS licensees, upon Commission approval of the Consensus Plan.

Nextel's commitment *does not apply*, however, if the Commission substitutes 2.1 GHz for the 1.9 GHz G Block replacement spectrum. For all of the reasons discussed above, *2.1 GHz is untenable for Nextel's shareholders*. My responsibility to Nextel's shareholders requires that Nextel obtain comparable value in any retuning transaction: 2.1 GHz does not meet that test. Nextel cannot and will not accept that result and will avail itself of every possible legal challenge to that outcome.

This letter is the first time I have written to you concerning this proceeding and I do not do so lightly. My direct correspondence with you is warranted, however, by the importance to all Americans of solving the 800 MHz public safety interference problem. The Commission's fundamental responsibility is to manage the electromagnetic spectrum to prevent interference among its licensees; public safety's role is to protect life and property. In my view, the Consensus Plan is the only comprehensive, proactive and fully funded means to achieve the critical goals the Commission established for this proceeding. The extensive record conclusively establishes that the Consensus Plan is fair to all stakeholders, including the American taxpayer.

I look forward to working with you and the Commission to conclude promptly this proceeding and begin implementing 800 MHz realignment.

Sincerely,

Timothy M. Donahue
CEO and President
Nextel Communications, Inc.

cc: Commissioner Kathleen Q. Abernathy
Commissioner Michael J. Copps
Commissioner Kevin J. Martin
Commissioner Jonathan S. Adelstein
Bryan Tramont
Sheryl Wilkerson
Jennifer Manner
Paul Margie
Samuel Feder
Barry Ohlson
John Rogovin
John B. Muleta
Catherine W. Seidel
David Furth
Aaron Goldberger

NEXTEL