

WT Docket 02-55

Congress of the United States

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Washington, DC 20515

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May 5, 2004

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The Honorable Michael Powell  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

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Federal Communications Commission  
Office of the Secretary

Dear Chairman Powell:

It has been widely reported that the Federal Communications Commission (FCC) is close to ruling on how to address interference to public safety operations in the 800 MHz band of spectrum. We are writing to ask that you address certain concerns regarding Nextel Communications' Consensus Plan before ruling on this issue.

Following is a list of our concerns:

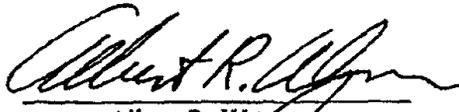
- **No guaranteed funding for public safety groups.** The Consensus Plan would require local public safety agencies to first incur the costs to upgrade their technology, and then endure a noncommittal reimbursement procedure. This scheme is irresponsible because in order to front the costs, these agencies would initially be required to obtain appropriations from their local government. The agencies would then apply to a "Fund Administrator" and a "Relocation Coordination Committee" for a reimbursement. Since neither of these private entities is associated with the United States government, they would not be held accountable for paying the reimbursements.
- **The Plan caps relocation funding at \$700 million for public safety agencies.** Motorola, the leading manufacturer of public safety equipment, has suggested that Nextel's estimate of \$850 million for public safety handset replacement may be significantly low. Based on their information, the additional cost for handset replacements could be over \$2 billion. If the FCC allows a cap on the already undependable funds for relocation costs, then the public safety agencies would risk imposing significant costs on local governments that could otherwise be avoided by dedicating spectrum auction funds.
- **The Plan will be tied up in litigation for years.** If the Consensus Plan, or a similar plan, is approved by the FCC, several wireless companies have already committed to filing lawsuits. Therefore, it is imperative that any FCC approved plan is legally sound. We do not believe that the Consensus Plan would hold up in court because its centerpiece is a transfer of spectrum without the auction required by section 309(j) of the Telecommunications Act of 1996. This section instructs the FCC to resolve mutually exclusive applications for spectrum through competitive bidding.

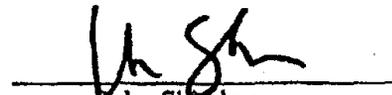
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- Nextel Communications has publicly stated that the public safety community is united behind the Consensus Plan, however, the Fraternal Order of Police (FOP), the Federal Law Enforcement Officers Association, and the National Volunteer Fire Council, along with numerous public safety agencies, have raised several concerns, including the issues raised herein. It is important to note that these organizations represent more than 1.1 million members of the public safety community.

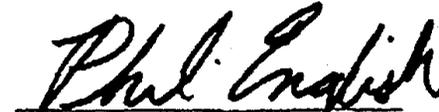
We ask that you respectfully provide us with detailed written responses to our concerns prior to any action taken by the FCC to resolve the interference problems in the 800MHz band of spectrum. Should you have any questions, please feel free to contact Lori Pepper in Congressman Wynn's office at 202-225-8699.

Sincerely,

  
Albert R. Wynn  
Member of Congress

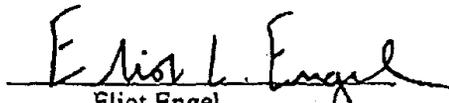
  
John Shunkus  
Member of Congress

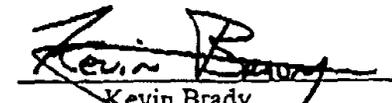
  
Ted Strickland  
Member of Congress

  
Phil English  
Member of Congress

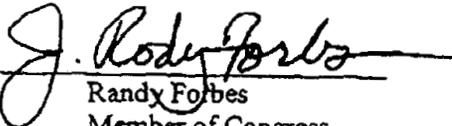
  
Robert Wexler  
Member of Congress

  
Spencer Bachus  
Member of Congress

  
Eliot Engel  
Member of Congress

  
Kevin Brady  
Member of Congress

  
Gene Green  
Member of Congress

  
Randy Forbes  
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J. Gresham Barrett  
Member of Congress

cc: Commissioner Kathleen Q. Abernathy  
Commissioner Jonathan S. Adelstein  
Commissioner Michael J. Cops  
Commissioner Kevin J. Martin