

EXHIBIT B

PUBLIC INTEREST STATEMENT

In support of their applications to assign the 900 MHz Specialized Mobile Radio ("SMR") licenses of Motorola, Inc., Motorola SMR, Inc. and Motorola Communications and Electronics, Inc. (collectively "Motorola") to FCI 900, Inc., a wholly-owned subsidiary of Nextel Communications, Inc. (collectively "Nextel"), the applicants respectfully submit this public interest statement. As demonstrated below, the continued implementation of Nextel's digital wide-area SMR services "constitutes a clear public interest benefit"¹ and the proposed transaction will enhance Nextel's ability to expand its array of mobile wireless services and heighten overall competition in the Commercial Mobile Radio Services ("CMRS") marketplace. For these reasons and under the analysis employed by the Commission to evaluate the competitive effects of a proposed assignment of FCC licenses, this transaction is in the public interest and should be approved.

I. BACKGROUND

Nextel is a provider of digital wide-area SMR service, currently offering those services to over five million subscribers in most of the Nation's top markets. Motorola, the assignor of these 900 MHz licenses, is the sole supplier of Nextel's wide-area SMR handsets and is a significant investor in Nextel. Motorola currently uses its 900 MHz

¹ *In re Applications of Pittencrieff Communications, Inc., Transferor, and Nextel Communications, Inc., Transferee, For Consent To Transfer Control of Pittencrieff Communications, Inc. and its Subsidiaries, Memorandum Opinion and Order, DA 97-2260, released October 24, 1997 (hereinafter "Nextel-PCI Order")* at para. 65. See also *Memorandum Opinion and Order, DA 00-89, released January 14, 2000 ("Geotek Order")*.

SMR facilities to provide analog non-interconnected dispatch services in many of the major urban markets subject to this proposed transaction.

As one of only five CMRS providers with a national footprint,² Nextel's digital wide-area SMR network offers consumers a unique combination of fully integrated wireless services: cellular telephone, private network dispatch (*i.e.*, one-to-one communications that do not use the public switched telephone network ("PSTN")), instant conferencing (*i.e.*, fleet dispatch communications permitting a group conference call without use of the PSTN), paging, text messaging, voice mail and call forwarding -- all on a single handset with combined billing and customer support. Additionally, Nextel has launched its Nextel Online (sm) services, a wireless Internet service provided over its digital national network. As the Commission recently recognized, Nextel's "primary service offering [] is essentially a bundle of services in at least two markets, mobile voice and trunked dispatch."³ Moreover, Nextel's Direct Connect services option, standing alone, offers more than simply trunked dispatch, according to the Commission, "because to some degree it is a substitute for mobile voice features such as speed dialing and conference calling."⁴

Nextel's wide-area SMR services are a significant improvement over traditional analog dispatch services because they expand the typical "push-to-talk" coverage area,

² *Implementation of Section 6002 of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services, Fifth Report, FCC 00-289, released August 18, 2000 ("Fifth Report on Competition")* at pp. 9-10.

³ *Id.* at p. 70.

⁴ *Id.*

use the spectrum more efficiently, provide extra security through the use of digital technology, and add the options of mobile telephone, paging, wireless Internet and voice mail to the dispatch service. By offering this integrated package of services, Nextel has become a significant competitor to cellular and Personal Communications Services ("PCS") carriers throughout the Nation,⁵ and, as the Commission recently recognized, "continues to compete successfully in the mobile telephone market."⁶

Nextel's national all-digital wireless telecommunications network currently operates in over 300 cities in the U.S. and serves over five million subscribers.⁷ The subject transaction would enhance Nextel's competitive options by providing additional spectrum on which to provide a variety of services, including potentially a 900 MHz iDEN service that will be integrated into Nextel's 800 MHz iDEN system,⁸ or provide Nextel additional spectrum onto which it could move incumbents from the 800 MHz spectrum.

The transaction also would increase Nextel's spectrum capacity in major markets across the United States, enhance the quality of its service and increase Nextel's

⁵ Fifth Report on Competition at pp. 11, 30; see also *In re Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Conditions with Respect to Commercial Mobile Service*, Fourth Report, FCC 99-136, released June 24, 1999 ("Fourth Report on Competition") at p. 16, fn. 18.

⁶ Fifth Report on Competition at p. 30.

⁷ See Press Release "Nextel Reports Record Second Quarter 2000 Results," released July 18, 2000.

⁸ Nextel and Motorola, which is Nextel's equipment and network vendor, continue to investigate an expanded band 800/900 MHz iDEN product, as was described in Nextel's Public Interest Statement supporting the acquisition of certain 900 MHz SMR licenses from Geotek Communications, Inc. However, the rapidly evolving and expanding wireless telecommunications marketplace has forced Nextel to consider a variety of service options for its 900 MHz spectrum holdings -- each of which would enable Nextel to expand its system coverage and enhance the quality of services it provides to wireless telecommunications users throughout the U.S.

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flexibility in building out its nationwide footprint. As a provider using SMR spectrum to compete with cellular and PCS licensees, Nextel typically has less spectrum in a market than its competitors. Thus, the addition of this 900 MHz spectrum moves Nextel toward more equal footing with cellular and PCS providers. This will enhance Nextel's competitiveness by improving its lesser spectrum position vis-à-vis its CMRS competitors throughout the United States, thereby increasing competition in the overall CMRS marketplace.

Section 310(d) of the Communications Act requires the Commission to determine whether the proposed assignment of Motorola's licenses to Nextel will serve the public interest. This public interest determination includes an assessment of the transaction's impact on competition.⁹ Pursuant to the Commission's orders approving Bell Atlantic's merger with NYNEX,¹⁰ Bell Atlantic's merger with Vodafone Airtouch, PLC,¹¹ the merger of Voicestream and Omnipoint Corporation,¹² Nextel's acquisition of Pittencrieff Communications, Inc.,¹³ and Nextel's acquisition of 900 MHz SMR licenses

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⁹ See, e.g., *In the Matter of Applications of Nextel Communications, Inc. For Transfer of Control of OneComm Corporation, N.A. and C-Call Corp.*, 10 FCC Rcd 3361 (1995) ("OneComm Order") at para. 25 ("When examining a transfer of control under the public interest standard of Section 310(d) of the Communications Act, we consider the effect of the transfer on competition.")

¹⁰ See Memorandum Opinion and Order, FCC 97-286, released August 14, 1997, at para. 89.

¹¹ Memorandum Opinion and Order, DA 00-721, released March 30, 2000.

¹² Memorandum Opinion and Order, FCC 00-53, released February 15, 2000.

¹³ See *In Re Applications of NYNEX Corporation and Bell Atlantic Corporation, Memorandum Opinion and Order*, FCC 97-286, released August 14, 1997; *Nextel-PCI Order*, supra. at fn. 1. See also *In the Matter of the Merger of MCI Communications Corporation and British Telecommunications plc.*, *Memorandum Opinion and Order*, FCC 97-301, released September 24, 1997.

from Geotek,¹⁴ the Commission determines the impact of a proposed transaction on competition by:

- (1) Determining the relevant product and geographic markets;
- (2) Defining the actual and potential competitors in those markets;
- (3) Evaluating the effects that the transaction may have on competition in the relevant markets and
- (4) Evaluating the efficiencies, if any, that will result from the transaction, *e.g.*, cost reductions, productivity enhancements, improved incentives for innovation, spectrum efficiency, increased capacity and increased competition for other existing telecommunications services.

The applicants submit that Commission approval of the assignment of Motorola's 900 MHz SMR licenses to Nextel would serve the public interest and promote the competitive goals of Congress and the Commission, as discussed below.

II. DISCUSSION

A. Relevant Product and Geographic Markets

The first step in evaluating the competitive effects of a proposed assignment of Commission licenses is to determine the markets -- both product and geographic -- that may be impacted by the transaction.¹⁵ The Commission previously has concluded that all CMRS are competitive or potentially competitive and are, therefore, part of a single

¹⁴ Geotek Order, *supra.* at fn. 1. See also *In re Applications of Neoworld License Holdings, Inc. and Hughes Electronics Corporation and Wilmington Trust Company, Liquidating Trustee, For Consent to Assignment of Licenses*, Memorandum Opinion and Order, DA 00-1765, released August 4, 2000, at para. 16.

¹⁵ See, *e.g.*, *In Re Applications of Aerial Communications, Inc. and Voicestream Wireless Holding Corp.*, Memorandum Opinion and Order, DA 00-730, released March 31, 2000, at para. 30.

product market.¹⁶ The Commission has found, in fact, that the 900 MHz licenses at issue here “present[] significant opportunities for the development of certain types of wide-area mobile voice and data services that could compete with [CMRS] services.”¹⁷ Congress created the CMRS classification of mobile services due to the convergence of numerous private and common carrier mobile services, such as cellular, 800 MHz SMR and 900 MHz SMR, that were fulfilling similar consumer needs through similar service offerings.¹⁸ As these services naturally converged as technologies improved, Congress changed the law to ensure that all CMRS carriers would be subject to fair and equitable regulations.¹⁹ Since these different services were serving the same consumer needs, Congress concluded that they should be regulated under a common framework.²⁰

More recently, in the Fifth Report on Competition, the Commission recognized that this convergence is continuing in the marketplace and, therefore, continues to blur the lines between the varying types of CMRS services. Cellular and PCS licensees, the Commission noted, “now offer plans that allow unlimited calling among members of a

¹⁶ See *Third Report and Order*, 9 FCC Rcd 8009 (1994) at paras. 37 et seq. (“*Third R&O*”); *OneComm Decision*, supra at fn. 2, at para. 27; and *Order on the Assignment of Motorola Licenses*, DA95-890, (April 27, 1995) (“*Motorola 800 MHz Decision*”) at para. 17. In the *OneComm* and *Motorola* decisions, in particular, the Wireless Telecommunications Bureau (“Bureau”) concluded that, based on the *Third R&O*, “800 MHz SMR [is viewed] as just one of many competitive services within the larger CMRS marketplace.” *Id.* at paras. 27 and 17, respectively.

¹⁷ *Third R&O* at para. 113.

¹⁸ *Omnibus Budget Reconciliation Act of 1993*, Pub. L. No. 103-66, 107 Stat. 312 (1993).

¹⁹ In the *Motorola 800 MHz Decision*, moreover, the Bureau stated that its finding that all CMRS are competitive or potentially competitive is also an identification of “a trend towards . . . convergence among CMRS offerings and [a conclusion] that convergence will ultimately produce wide-spread direct competition among service providers.” See *Motorola 800 MHz Decision* at para. 16. In other words, the convergence of different wireless services into a single service offering like that offered by Nextel’s integrated package of bundled services, will produce competition among all CMRS providers.

defined group, such as a family, or among all of an operator's subscribers in a defined area."²¹ These service options are in direct competition with the dispatch services offered by SMR providers. Thus, the dispatch market is not a separate and distinct product market to be evaluated independently; rather, these services are part of the larger CMRS marketplace. If the Wireless Telecommunications Bureau ("Bureau") nonetheless chooses to evaluate it separately, that product market must include the presence of cellular and PCS providers that are offering competing services.

Moreover, in the Fifth Report on Competition, the Commission explicitly recognized that Nextel's services compete in the larger CMRS marketplace. For example, the Commission found that Nextel, having added 1.7 million new subscribers in 1999, was the Nation's second-fastest growing mobile telephone provider and seventh-largest mobile telephone provider overall.²² Nextel's iDEN services, in other words, compete directly with cellular, PCS and dispatch communications services in numerous markets throughout the country.²³ Cellular, PCS and dispatch providers, on the other hand, are offering services intended to compete directly with Nextel's services. **Thus, the appropriate product market for analyzing this proposed transaction is the CMRS marketplace.**²⁴ The Bureau's continued reliance on

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²⁰ Second Report and Order, 9 FCC Rcd 1411 (1994) at para. 13.

²¹ Fifth Report on Competition, *supra*. fn. 2, at p. 7.

²² *Id.* at p. 30.

²³ *See Id.*

²⁴ Further demonstrating that the CMRS marketplace is the relevant product market is the CMRS

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separate product markets is outdated, ignoring the marketplace realities that the Commission highlighted in its Fifth Report on Competition.

Nonetheless, in the Nextel-PCI Order, the Bureau separately evaluated the proposed transaction's impact on dispatch services and interconnected mobile telephone services.²⁵ Then, in the Geotek Order, the Bureau -- for the sake of "consistency" and "analytical convenience" -- also separately reviewed the transaction's impact on dispatch services and interconnected mobile telephone services, although recognizing that "the boundaries between various CMRS sectors are fluid."²⁶ Evaluating the subject transaction within the framework of two separate product markets, however, does not alter the fact that it is in the public interest -- as the Nextel-PCI, Nextel-Geotek and more recently, the Nextel-Fleettalk transactions demonstrated. Pursuant to the Bureau's analysis in the Nextel-PCI and Geotek Orders, therefore, Nextel will separately examine the impact of this transaction on dispatch communications services and interconnected mobile telephone services.

Once the product market is established, the Commission must determine the relevant geographic market for analysis of the competitive impact of the proposed transaction. The Bureau stated in the Nextel-PCI Order that "[a] properly defined geographic market aggregates consumers that face similar choices regarding vendors

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spectrum cap. The Commission has concluded that the 45 MHz CMRS spectrum cap is "the bright line test" that provides "assurance. . . that if [Nextel] falls under the cap [post-merger], the Commission will approve the acquisition." See *Third R&O, supra.* at fn.11, at para. 250.

²⁵ *Nextel-PCI Order* at para. 35.

²⁶ *Geotek Order* at paras. 26-27.

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of a particular product or service."²⁷ In the proposed Nextel-Motorola transaction, consisting of licenses covering various markets throughout the U.S., the relevant geographic market would not encompass Motorola's entire service area since, for example, consumers in more rural areas are not facing the same vendor choices as consumers in, for example, metropolitan areas. Thus, as it did in the Nextel-PCI Order, the Commission may choose to dissect the Motorola license footprints into those geographic markets encompassing more localized areas -- separating rural and urban areas.²⁸

In most of the urban areas encompassed within Motorola's licensed service areas, the existing SMR capacity is constrained, similar to other urban areas throughout the country.²⁹ In the rural areas covered by Motorola's 900 MHz SMR licenses, however, SMR licensees tend to have greater unused capacity, therefore enabling them to provide a broader range of services, *i.e.*, interconnected mobile telephone service, and to compete more directly with cellular and PCS providers.

With regard to the provision of interconnected mobile telephone service in urban and rural areas, the urban areas tend to have significantly greater competition as carriers typically start building their systems first in more highly populated areas.

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²⁷ *Id.* at para. 37, citing *Tampa Elec. Co. v. Nashville Co.*, 365 U.S. 320, 327 (1961).

²⁸ See *Nextel-PCI Order* at paras. 37-41. For purposes of this analysis, Nextel considers any area more than 25 miles beyond the population center of an MSA to be a rural market. Thus, for example, within a single 900 MHz MTA license area, there may be both urban and rural markets to be considered separately.

²⁹ *Nextel-PCI Order* at para. 39.

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Although rural areas are beginning to realize the benefits of interconnected mobile telephone service, it has been a relatively recent event, and PCS entrants are just beginning to provide service in some of those areas. Therefore, in examining the effects of this transaction on competition in each of the relevant product markets, the Commission may wish to examine those effects in urban and rural areas separately in light of their differing competitive dynamics.

Attachment 1 appended hereto provides a listing of the major markets in which Motorola currently holds 900 MHz SMR licenses and a listing of all licensed CMRS carriers within these markets (including 220, 800 and 900 MHz SMR as well as cellular and PCS operators). All of these licensees are authorized by the Commission to provide both interconnected mobile telephone service and dispatch services to the public. Additionally, Attachment 2 provides a listing of the top 50 MTAs in the U.S., the respective channel counts of Nextel and Motorola in each, and whether Nextel or Motorola are providing commercial services to the public in those markets.

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B. Actual and Potential Competitors in that Market

1. Dispatch Services

Urban. In the future, the number of dispatch competitors should continue to increase in many of these markets. Given that the 220 MHz auction has been completed for some time,³⁰ these licensees have had an opportunity to begin implementing dispatch services. In addition, there are other 900 MHz licensees operating in these markets, providing dispatch services to the public. The Commission also has adopted its "refarming" initiative in bands below 800 MHz, which provides for utilization of additional narrowband channels, as well as more effective utilization of existing channels through service pool consolidation,³¹ thus encouraging the implementation of dispatch services. Additionally, the Commission's decision in the 700 MHz guard band order, which precludes the introduction of cellular-like architectures on these channels, could create new opportunities to provide dispatch services.³² Thus, each of these Commission actions should result in added capacity for dispatch services.³³

Cellular and PCS providers, moreover, are free to enter the dispatch service market. In 1995, the Commission lifted the dispatch prohibition that had been applied

³⁰ See Public Notice, "Phase II 220 MHz Service Spectrum Auction Closes; Winning Bidders in the Auction of 225 Licenses in the Phase II 220 MHz Service," DA 99-1287, released July 1, 1999.

³¹ See *Report and Order and Further Notice of Proposed Rule Making*, PR Docket No. 92-235, 10 FCC Rcd 10076 (1995); *Memorandum Opinion and Order*, 11 FCC Rcd 17676 (1996); *Second Report and Order*, FCC 97-61, released March 12, 1997.

³² See *Second Report and Order*, FCC 00-90, released March 9, 2000.

³³ See *Geotek Order* at para. 39.

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to cellular carriers.³⁴ Nothing prevents cellular carriers from entering the dispatch marketplace and, presumably, as the demand for integrated services increases, these carriers could decide to provide dispatch communications. As the Commission stated in the Nextel-PCI Order, "entry into dispatch services is not inherently costly, technically challenging, or unduly time-consuming."³⁵ In fact, the Bureau recognized in the Geotek Order that a number of cellular and PCS carriers have introduced service offerings that mimic the functionalities and economies of dispatch services to provide an additional competitive alternative to existing dispatch offerings.³⁶ More recently, in the Fifth Report on Competition, the Commission found an increasingly competitive dispatch alternative being provided by cellular and PCS licensees offering calling plans intended to compete with the group functionality of dispatch services.³⁷ These calling plans typically permit "unlimited calling among members of a predefined group, such as family-oriented price plans, or among all of an operator's subscribers in a defined area."³⁸ Additionally, the Commission found competition for dispatch services in SBC's recent launch of an

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³⁴ See *Report and Order*, GN Docket No. 94-90, 10 FCC Rcd 6280 (1995).

³⁵ *Nextel-PCI Order* at para. 54.

³⁶ *Geotek Order* at paras. 37-38. For example, to mimic the cost-efficiencies inherent in the use of Direct Connect among members of the same "fleet" on Nextel's system, some CMRS carriers now offer free airtime on interconnected phone calls to and from mobile units in the same pre-defined "family" or "fleet."

³⁷ Fifth Report on Competition at p. 71.

³⁸ *Id.*

Ericsson technology that allows subscribers to make conference calls with as many as 30 persons by dialing a pre-programmed group number.³⁹

Rural. In rural areas, as the Commission recognized in the Nextel-PCI Order, there is significantly less demand for dispatch services than in urban areas. In many cases, therefore, dispatch service providers use their capacity not only for dispatch services but also for interconnected mobile telephone services. Operators on 800 MHz, 900 MHz and 220 MHz SMR frequencies, as well as cellular and PCS licensees that typically have excess capacity in these less-populated areas, all have the ability and opportunity to provide dispatch services in rural areas. Thus, there is significant opportunity for additional market entry.

In addition to the numerous potential new entrants into the dispatch market in the rural areas, Nextel's acquisition of Motorola's spectrum does not eliminate any current dispatch alternative since Motorola has yet to build out its 900 MHz systems in any non-urban areas covered by its licenses. As a result, just as the Bureau concluded in the Geotek Order, consumers in rural areas will have "the same access to alternative services and service providers in these markets as they currently have."⁴⁰

2. Interconnected Mobile Telephone

With regard to the interconnected mobile telephone market, the Commission has significantly increased opportunities for companies to provide commercial interconnected mobile services to the public, and, as a result, mobile telephone

³⁹ *Id.*

⁴⁰ *Id.* at para. 23.

subscriberhip continues to grow at a rapid pace. As of December 1999, there were approximately 86 million mobile telephone subscribers in the U.S.⁴¹ This, according to the Commission, was a 24% increase over the 69.2 million subscribers at the end of 1998.⁴² By auctioning the A, B, C, D, E and F blocks in the PCS service, the Commission has created up to six new wireless competitors in the mobile telephone service. In fact, many PCS providers have already deployed systems in a number of markets throughout the country, including all of the major markets on which the Nextel-Motorola transaction would have an impact.⁴³

Nextel's acquisition of Motorola's 900 MHz spectrum will enhance Nextel's opportunities to meet the growing demand for mobile telecommunications services -- particularly as the marketplace begins to demand a broadening array of voice and data offerings. By acquiring this 900 MHz SMR spectrum, Nextel may diversify its iDEN offerings in a dual-band 800/900 MHz product or through the development of complementary service offerings at 900 MHz that would permit Nextel to use its 800 MHz spectrum assignments solely to meet the growing demand for its current iDEN products and services. Additionally, Nextel may choose to use this 900 MHz spectrum as an avenue for relocating willing 800 MHz incumbents to free up additional 800 MHz

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⁴¹ Fifth Report on Competition at p. 4.

⁴² *Id.* at p. 9.

⁴³ As of 2000, 88% of the U.S. population has at least three mobile telephone providers offering service within their geographic market; 69% of the U.S. population has at least five providers to choose from; and four percent of the population can choose from seven different providers. See Fifth Report on Competition.

spectrum for Nextel's existing iDEN services. Nextel's acquisition of the Motorola spectrum, therefore, will enhance Nextel's ability to compete in the interconnected mobile telephone market, *i.e.*, the greater CMRS marketplace.

C. COMPETITIVE EFFECTS OF THE TRANSACTION

1. Dispatch Services

Urban. The addition of Motorola's channels in the urban areas will have significant competitive benefits for consumers as Nextel expands the capacity of its efficient, high-quality digital SMR service. As noted above, Nextel may expand this capacity by adding the dual band iDEN product, or perhaps, by relocating willing 800 MHz SMR incumbents to this spectrum, thereby creating additional capacity for Nextel's 800 MHz SMR services. The end result of this will be increased mobile communications capacity in urban areas and greater consumer access to dispatch communications services. Because Nextel is converting its existing analog systems to digital enhanced SMR systems, Nextel is increasing its spectrum capacity and putting the spectrum to much more efficient use. The addition of Motorola's 900 MHz SMR channels, currently utilized to provide analog services in most of the urban markets impacted by this proposed transaction, will allow Nextel to substantially increase the amount of capacity available for dispatch communications services throughout the subject areas -- whether at 800 MHz, 900 MHz or both. As capacity availability and spectrum reuse capabilities increase, downward pressure on consumer prices will continue.⁴⁴

⁴⁴ In the *Geotek Order*, the Bureau recognized Nextel's pro-competitive pricing efforts to date, *e.g.*, the

As the Commission recognized in the Nextel-PCI Order, this overall increase in capacity, as a result of implementing efficient digital technologies, is a benefit to consumers.⁴⁵ Moreover, while this transaction merges the SMR dispatch operations of two providers in these markets, there is nothing preventing the entry of others, e.g., cellular, PCS, and 220 MHz, into the dispatch market. In fact, in its Fifth Report on Competition, the Commission found that providers of trunked dispatch services “face considerable competitive pressures because their customers possess numerous competitive options.”⁴⁶ Among those options are traditional non-trunked dispatch services, private internal communications systems and the mobile telephone sector.⁴⁷ In addition, in 1999, there was growth in analog dispatch services in the 900 MHz, 450 MHz and 220 MHz allocations.⁴⁸ Thus, to the extent consumers in these markets demand analog dispatch services, there are a number of licensees (see Attachment 1) positioned to meet that demand.

Rural. Motorola generally has not provided dispatch services in the rural areas covered by its licenses. In many of these areas today, Nextel is a provider of analog dispatch services, and to a much more limited extent, digital SMR services. Thus, no competitor is being eliminated by this transaction, and the rural consumers’ analog

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introduction of per-second billing and the elimination of roaming and long distance charges. *Geotek Order* at para. 47.

⁴⁵ *Nextel-PCI Order* at para. 65.

⁴⁶ Fifth Report on Competition at p. 70.

⁴⁷ *Id.*

dispatch alternatives are in no way negatively impacted by this transaction. In fact, these consumers are likely to benefit in the future as Nextel plans to expand its iDEN services into most of these rural areas.

2. Interconnected Mobile Telephone Services

Nextel has demonstrated that its presence in the CMRS marketplace has provided consumers a unique alternative to cellular and PCS services, helped transform the pricing and billing of interconnected mobile telephone services (*i.e.*, CMRS services), fostered the increasing competitiveness of the CMRS marketplace, and assisted in “bringing the benefits of mobility to an ever-increasing segment of the country.”⁴⁹ As the Commission recently stated, “the operator most responsible for using digital technology to make SMR a mobile telephone competitor has been Nextel.”⁵⁰ The competitiveness among Nextel, cellular licensees and PCS licensees, according to the Commission, has fueled a consumer movement to digital technologies,⁵¹ increased overall mobile telephone subscribership,⁵² and a continued downward trend in prices.⁵³ This decrease in prices, moreover, appears to have resulted in overall increased usage by subscribers.⁵⁴

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⁴⁸ *Id.* at p. 71.

⁴⁹ Fourth Report on Competition at p. 5.

⁵⁰ Fifth Report on Competition at p. 30.

⁵¹ *Id.* at pp. 13-14.

⁵² *Id.* at p. 9.

⁵³ *Id.* at pp. 18-20.

⁵⁴ *Id.* at p. 23.

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Urban. In the urban areas, competition among providers of interconnected mobile telephone service is increasing with the Commission's continued allocation of mobile telecommunications spectrum and the licensing and deployment of PCS operations. To date, almost all A and B block PCS licensees (and some C, D, E and F block licensees) have commenced service in the major metropolitan areas covered by Motorola licenses. It is this competitive reality -- both as a means to introduce more competitive services and to respond to the initiatives of competitors -- that is driving Nextel's proposal to acquire Motorola's 900 MHz SMR licenses. The addition of this spectrum will increase Nextel's system capacity -- whether via a dual-band 800/900 MHz iDEN product, the relocation of willing 800 MHz SMR incumbents to this 900 MHz spectrum or the introduction of other adjunct services that would free up Nextel's 800 MHz spectrum for iDEN use -- to meet the growing demand for its iDEN services,⁵⁵ thereby further assuring the marketplace of an additional CMRS alternative. The presence of Nextel's wide-area SMR services, moreover, assures the continued availability of a unique mobile telephone service competitor in that Nextel will be providing its bundled service offering that includes mobile telephone services.

Finally, although the transaction will substantially enhance Nextel's 900 MHz SMR spectrum position in these markets, that total is still well below the Commission's

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⁵⁵ In 1999, Nextel was the Nation's second fastest growing CMRS providers, adding more than 1.7 million subscribers. Fifth Report on Competition at p. 30.

45 MHz CMRS spectrum cap.⁵⁶ In fact, because the 900 MHz SMR licenses held by Motorola have been assigned in 10-channel blocks within a non-contiguous spectrum band, the acquisition of these channels still would leave Nextel with far less spectrum -- much of it non-contiguous -- than most of its cellular and PCS competitors that are assigned up to 30 MHz of contiguous spectrum. Additionally, the acquisition of Motorola's 900 MHz SMR licenses in these urban markets is not effected by Nextel's 1995 Consent Decree with the U.S. Department of Justice, which is set to expire in October of this year.⁵⁷

Rural. The rural areas encompassed within Motorola's licensed service areas already are experiencing some interconnected mobile telephone service competition, albeit not to the extent of the competition in urban areas. While there are cellular licensees (as well as cellular resellers) in the rural areas, there is not likely to be a significant PCS presence in rural areas in the very near future since PCS licensees continue to focus primarily on urban areas.⁵⁸ Moreover, neither Nextel nor Motorola currently provides significant interconnected mobile telephone service in the rural areas within Motorola's service areas. As a result, this transaction would have little to no

⁵⁶ In establishing the CMRS spectrum cap, moreover, the Commission recognized the licensing disparities between SMRs and other CMRS competitors and concluded that no SMR licensee would ever be attributed more than 10 MHz of SMR spectrum in any one market.

⁵⁷ See Consent Decree, *U.S. v. Motorola et al.*, Case No. 1:94CV02331 (D.D.C. July 25, 1995). In the Consent Decree, Nextel and Motorola agreed to limit their aggregate ownership of 900 MHz SMR channels in 14 markets throughout the country. The Consent Decree was modified by an Order entered by the District Court on December 16, 1999.

⁵⁸ However, because Blocks C through F of the PCS spectrum were licensed for smaller Basic Trading Areas ("BTAs"), rural areas may see commercial service more quickly as licensees are required by the Commission's construction requirements to build out these less urban-oriented areas.

impact on the interconnected mobile telephone service market in rural markets. Cellular providers will continue in the near term to be the main source of these services while PCS entry -- and wide-area digital SMR entry -- will remain a future prospect.

D. PRO-COMPETITIVE AND EFFICIENCY BENEFITS

The proposed consolidation of Motorola's and Nextel's 900 MHz SMR channels would provide numerous pro-competitive benefits. First, the transaction would promote the advancement of innovative new services by Nextel by providing it the additional capacity necessary to attempt such innovation and promote new services. Nextel's integrated iDEN services provide consumers increased economic efficiencies by offering a number of services in a single handset, and they ensure increasingly efficient spectrum use since Nextel's digital technology enables greater capacity per channel than traditional analog operations. As the Commission stated in the Nextel-PCI Order, the introduction of Nextel's digital SMR services "constitutes a clear public interest benefit."⁵⁹

Second, assigning this 900 MHz spectrum to Nextel, as the Commission found in Geotek, "should promote public interest benefits by introducing new capacity, which in turn will allow possible price decreases, output increases, or a combination of these effects."⁶⁰ This "new capacity" should result from Nextel's history of efficient spectrum use -- such as deploying digital technologies which enable much more significant use of

⁵⁹ *PCI-Nextel Order* at para. 65. See also *Geotek Order* at para. 46 ("We find that there are public interest benefits to this transaction.")

⁶⁰ *Geotek Order* at para. 48.

this scarce public resource. Although Nextel's plans for using the spectrum continue to evolve -- due in large part to the dynamic nature of the increasingly competitive wireless telecommunications industry -- Nextel will put this spectrum to use in the very near future, thus expanding Nextel's overall spectrum capacity and enhancing its ability to compete in the overall CMRS marketplace.

Third, the acquisition of this spectrum may allow Nextel to realize the same cost and operational economies enjoyed by its cellular and PCS competitors currently operating on up to 30 MHz of spectrum. These economies, moreover, will be provided while ensuring that Nextel's spectrum position remains well below the 45 MHz permitted by the CMRS spectrum cap.⁶¹ Nextel customers nationwide will benefit from improved communications and expanded service offerings on Nextel's systems in all of these areas.

III. CONCLUSION

The proposed assignment of Motorola's 900 MHz SMR licenses to Nextel would result in the aggregation of additional SMR spectrum by Nextel. Any potentially adverse result is overwhelmed, however, by the benefits that would result from the transaction: access to more capacity (for both dispatch or mobile telephone services) for consumers; broader range of enhanced telecommunications features; better security via Nextel's use of digital technology; and expansion of total transmission capacity through more efficient technologies, thus allowing customers to choose whether they want dispatch, mobile telephone or both.

⁶¹ See *Geotek Order* at para. 46.

As the Commission has recognized, the CMRS marketplace continues to grow more and more competitive, with prices decreasing and subscribership increasing,⁶² and Nextel has contributed to the growth of this competition. Permitting the assignment of these licenses to Nextel will only further enhance Nextel's ability to compete with its spectrum-rich cellular and PCS competitors. Nextel will either provide iDEN or iDEN-like services on this 900 MHz spectrum, or alternatively, use it in a manner that frees up additional capacity at 800 MHz (*e.g.*, relocate willing incumbents to 900 MHz), thereby enhancing Nextel's ability to provide high-quality iDEN services to the public.

Accordingly, the proposed transaction would promote competition, benefit consumers and is in the public interest. The applicants respectfully request that the Commission approve their applications for assignment as expeditiously as possible.

(...Continued)

⁶² See Fourth Report on Competition.