

**SEPARATE STATEMENT OF
CHAIRMAN MICHAEL K. POWELL**

Re: Amendment of Part 22 of the Commission's Rules To Benefit the Consumers of Air-Ground Telecommunications Services, WT Docket No. 03-103; Biennial Regulatory Review—Amendment of Parts 1, 22, and 90 of the Commission's Rules; Amendment of Parts 1 and 22 of the Commission's Rules To Adopt Competitive Bidding Rules for Commercial and General Aviation Air-Ground Radiotelephone Service Mutually Exclusive Applications; Application of Verizon Airfone Inc. for Renewal of 800 MHz Air-Ground Radiotelephone License, Call Sign KNKG804, File No. 0001716212, Report and Order and Further Notice of Proposed Rulemaking (Adopted December 15, 2004).

The world of wireless telecommunications has seen immense technological and marketplace developments in the last decade. During that time, however, our rules for the 800 MHz commercial air-ground service has been locked in a narrowly defined technological and regulatory box and have kept passengers from using their wireless devices on planes. Nearly every party in the air-ground proceeding has commented that the existing band plan and our rules have hindered the provision of services that are desired by the public onboard aircraft.

With these actions today, we take important steps to bring the air-ground service up-to-date as both a technical and marketplace matter. We adopt an innovative new licensing approach that will allow the marketplace to help direct the most highly valued use of the commercial air-ground spectrum, which is the critical communications link from the air to the ground. We grant future licensees significant flexibility to meet consumer demand for broadband and other wireless services onboard aircraft while providing a reasonable transition period for the single remaining incumbent system. We lift the archaic technical constraints currently imposed on the 800 MHz air-ground service, while implementing the requirements and procedures necessary to ensure that public safety and other operations in adjacent bands are protected from harmful interference.

We have heard the calls and watched the engineers battle over just what can be accommodated in this tiny 4 MHz block. Based on the band proposals submitted by the parties in the proceeding, bidders will have three options for the air-ground spectrum which includes both exclusive and shared licensing band plans. Thus, the exact configuration will be determined not by the Commission, but by the winning bidders at auction. Similarly, the Commission should not dictate business plans or interference tolerance by choosing only one band plan. Licensees of all shapes and sizes should be permitted in this service. To help ensure that the market is more competitive and that the spectrum is put to its highest use we have imposed an eligibility limitation to prevent a single entity from holding new licenses for all 4 MHz of air-ground spectrum. The new air-ground services may be data, voice or broadband internet and it may be provided to any or all aviation markets.

We must remember the cellular duopoly days and the bricks and bag phones that existed then. That is why we need to do more to provide more choices and multiple platforms for communications between the air and the ground to satisfy the demand for better, high speed services. The fact is that we only have one provider left in this air-ground band, one provider

authorized to provide broadband aeronautical services over a satellite platform and one provider using the cellular bands for air-ground services. We need to do better and that is why we will soon be considering pending applications and a rulemaking to authorize more satellite providers and why we have asked questions in our ongoing 3G proceeding about the possibility of air-ground services in those bands. We will continue to explore opportunities for further competition in other bands and other platforms.

There is great potential for air-ground wireless services. Today, we bring the 800 MHz commercial air-ground service into the 21st century and lay the groundwork for its continued growth and expansion as well as its participation in the marketplace of air-ground services provided to airplane passengers via multiple modes.