

**STATEMENT OF
CHAIRMAN KEVIN J. MARTIN**

Re: Service Rules for the 698-746, 747-762 and 777-792 MHz Bands (WT Docket No. 06-150); Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems (CC Docket No. 94-102); Section 68.4(a) of the Commission's Rules Governing Hearing Aid-Compatible Telephones (WT Docket No. 01-309); Biennial Regulatory Review – Amendment of Parts 1, 22, 24, 27, and 90 to Streamline and Harmonize Various Rules Affecting Wireless Radio Services (WT Docket No. 03-264); Former Nextel Communications, Inc. Upper 700 MHz Guard Band Licenses and Revisions to Part 27 of the Commission's Rules (WT Docket No. 06-169); Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band (PS Docket No. 06-229); Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010 (WT Docket No. 96-86); Second Report and Order

With this Second Report and Order, the Commission takes an historic step towards two goals that have been priorities of mine as Chairman: (1) creating a nationwide, interoperable public safety broadband network and (2) furthering pro-competition broadband policies designed to increase penetration and ensure that consumers benefit from innovation and technological advancements.

First and foremost, we have no greater responsibility than meeting the needs of public safety. And I appreciate the presence of so many representatives of the public safety community here today. During a crisis, public safety officials need to be able to communicate with one another. We are all aware of problems that have been created by the lack of interoperability for public safety communications during recent crises like 9/11 and Hurricane Katrina. Emergencies – natural or man-made – do not make distinctions among emergency responders. It is imperative that the Commission recognize these challenges and provide a communications solution for our Nation's first responders that is available to everyone, regardless of the uniform they wear or the towns in which they live and work.

The public safety-private partnership we adopt today will ensure that public safety keeps pace with the advances in communications and gives first responders the broadband communications capabilities they need to protect safety of life and property of the American public. It has been almost six years since brave police and fire fighters ran into the Twin Towers and the Pentagon without an effective emergency communications system. We should not make these brave men and women wait any longer.

While I also would have supported a network exclusively for the use of public safety, the simple reality is that there currently is no way to fund such an enterprise. The use of a public safety-private partnership, however, creates an opportunity to provide state-of-the-art technologies to our Nation's first responders in a timely and affordable manner. Many national and local public safety organizations have expressed support for

a public-private partnership approach as their last, best chance to make this network a reality. We cannot afford to let the opportunity that the 700 MHz band offers for public safety pass us by.

The adoption of a National Public Safety Broadband Licensee to be a part of this partnership is also the best way to establish a truly interoperable network. The local licensing regime that has been used to date has resulted in a patchwork of networks that do not talk to each other. We cannot keep licensing public safety spectrum in the same manner as before and expect a different result. A National Public Safety Broadband Licensee will facilitate a unified national approach to the use of this spectrum, finally enabling all public safety users to talk to each other during a crisis. I therefore wholly support the public safety-private partnership adopted in today's order.

In addition, the license winner for about one-third of the spectrum will be required to provide a platform that is more open to devices and applications. Consumers will be able to use the wireless device of their choice and download whatever software they want onto it.

I am committed to ensuring that the fruits of wireless innovation swiftly pass into the hand of consumers. Currently, American consumers are too often asked to throw away their old phones and buy new ones if they want to switch cell phone carriers. And when they buy that new phone, it is the wireless provider, not the consumer, who chooses what applications the consumer will be allowed to use on that new handset.

Wireless consumers in many other countries face fewer restraints: for example, they can take their cell phones with them when they change carriers, and they can use widely available Wi-Fi networks – available in their homes, at the airport or at other hotspots – to access the Internet.

This auction provides an opportunity to have a significant impact on the next phase of wireless broadband innovation. A network that is more open to devices and applications can help foster innovation on the edges of the network. As important, it will give consumers greater freedom to use the wireless devices and applications of their choice when they purchase service from the new network owner.

When the same decision was made decades ago on the wireline network, we saw an explosion in innovation and choice. In the wake of the Carterfone decision, AT&T subscribers went from renting black rotary phones to purchasing competitively priced, innovative phones such as cordless phones with voice mail and caller ID. Investment in the market increased, new phones and calling features were developed and consumers benefited. Ultimately, these rules facilitated the development of the Internet, as consumers were able to attach modems to the network and go anywhere the Internet could take them without interference from the network owner.

We will ensure these open platform rules are implemented, through significant enforcement mechanisms that place the burden on the licensee to demonstrate their

compliance and that their policies are fair and reasonable. The auction provides a rare chance to promote innovation and consumer choice without disrupting existing networks or business plans. Indeed, the vast majority of spectrum used for wireless services will remain without such restrictions.

We must continue to encourage the critical investment needed to build the next generation wireless network. Since I have been Chairman, I have advocated strongly that applying network neutrality obligations, unbundling, or mandatory wholesale requirements to networks can undermine investment incentives. I do not support such regulations. The Order we adopt today does not apply these regulations to this block or any other block. The Commission has found the right balance between providing incentives for infrastructure investment and fostering innovation for new services and products.

The Commission recognizes that spectrum is a unique public asset, and we must obtain a fair return on this asset for the American people. To ensure that a fair price is paid, the Order includes a reserve price for this block of spectrum. That price, which is based on the winning bids for spectrum in our recent AWS-1 auction, will safeguard the value of the spectrum for American tax-payers.

Finally, the order adopted today provides a variety of block sizes and geographic areas, which will allow for broad participation by potential bidders with a variety of service plans and business models. Stringent build-out requirements – the toughest ever imposed by the Commission – will ensure that this spectrum is put to use quickly in both urban and rural areas. Those who fail to follow through will face tough penalties including the loss of spectrum.

This mix includes a block of spectrum that contains the ingredients to allow a national wireless broadband service to emerge. I have said it before, but it bears repeating, the upcoming auction presents the single most important opportunity for us to achieve the goal of a nationwide third broadband pipe – one that would be available to rural as well as urban Americans. With the adoption of this order, we are one step closer to allowing all Americans to enjoy the benefits of broadband competition – availability, high speeds, and low prices.

In conclusion, I am pleased that the Commission is adopting a fair and balanced plan that will help:

- 1) Facilitate next generation wireless broadband services in both urban and rural areas;
- 2) Establish a public-private partnership to deploy a wireless broadband network for public safety that will address the interoperability problems of today's system; and
- 3) Provide a more open wireless platform that will facilitate innovation and investment.