

**SEPARATE STATEMENT OF  
COMMISSIONER MICHAEL J. COPPS**

*Re: Sprint Nextel Corporation and Clearwire Corporation Applications For Consent to Transfer Control of Licenses and Authorizations, WT Docket No. 08-94*

Today's item enables the creation of a new competitor in the broadband Internet access market. That's good news—really good news. Of particular importance—given the haunting economic times in which we find ourselves—the new company will have access to billions of dollars of capital to build out its new WiMAX network. This network will provide millions of Americans with an additional option in the market for high-speed fixed broadband access—which is currently a duopoly or worse between cable and phone companies. The new network will also provide millions of Americans with a new option for mobile broadband Internet access—also currently a duopoly or worse between incumbent providers. So this counts as very good news for American consumers.

Equally important, the new network we enable today will be contractually committed to important principles of openness. Device manufacturers, application developers and content providers will not need to seek permission to innovate from a centralized network operator. Companies that seek to improve their devices can simply install a WiMAX radio, or design their software or Website for use on a WiMAX handheld device, secure in the knowledge that customers of the new company will be able to use these products as their designers intended—and on a fast, widely-deployed and robust network. This evolution will continue the important work in encouraging openness that this Commission began in the 700 MHz auction. Indeed, the new company's commitment to providing wholesale access actually goes beyond our 700 MHz conditions. This too counts as very good news for American consumers and innovators.

Finally, today's item requires Sprint Nextel to meet important E911 location accuracy benchmarks and to open its books to ensure that its Universal Service Fund support is commensurate with its real costs of providing service. As I stated in my previous statement, these are two reforms that I have supported in other proceedings and I am glad that consumers will benefit from them here.

Despite my enthusiasm for today's Order, I must note one element that I would have preferred to handle differently. The Commission has a statutory duty to prevent undue consolidation in the wireless marketplace. A spectrum cap—or the far less robust “spectrum screen” that the Commission, over my objection, uses instead—is a critical tool to enforcing this policy. As I have stated before, I believe the right way to account for new bands that have been made available for advanced wireless services would be through a comprehensive, industry-wide proceeding that would establish appropriate rules for valuing the relative desirability of different spectrum. But we have not conducted such a proceeding. Instead, we simply raise the spectrum screen in an ad hoc fashion merger-by-merger. While I appreciate the willingness of my colleagues to

fashion a spectrum screen for this transaction that somewhat reasonably (but far from perfectly) reflects the current marketplace realities, I think that a general rulemaking is still necessary and desirable and by far the better option.

Many thanks to the Bureau for their hard work on this item under demanding time constraints.