

STATEMENT OF CHAIRMAN AJIT PAI

Re: *Review of the Commission's Rules Governing the 896-901/935-940 MHz Band*, WT Docket No. 17-200

In 1998, a young lawyer in the U.S. Department of Justice's Antitrust Division began working on his first case. It involved a 1995 consent decree between Nextel Communications, Inc. and the United States, the goal of which was "preserving competition for trunked [Specialized Mobile Radio] customers" in the 900 MHz band. As the lawyer came to learn, the 900 MHz band was the home of narrowband services like two-way dispatch—services seen as useful then, but unlikely to be the wave of the future (as Nextel argued, seeking to use the spectrum to compete with cellular companies). The band itself seemed rather a mess, with disparate analog users scattered throughout and the rationalization of holdings a seeming impossibility. And so, even in the 1999 filing that the young lawyer helped draft, the Department conceded that its "expectations for new competition in the 900 MHz band have been largely unrealized to date."¹ That would be the case for many years.

Over two decades later, things have come full circle. And it is with great pleasure that I can report that the federal government is finally making fundamental reforms to enable these airwaves to reach their highest-valued uses. In particular, the FCC is changing the rules of the 900 MHz band to help critical infrastructure entities develop and deploy mission-critical broadband services. And as we do so, we're delivering on yet another plank of the 5G FAST Plan—one that will help us meet the communications needs of industries that provide crucial services to the American public.

900 MHz users are enthusiastic about the possibilities that reliable broadband will open for them. Broadband access will enable industries to leverage technologies for applications like private LTE networks—next-generation networks that can enable Voice over LTE, grid resiliency and monitoring, wildfire mitigation, enhanced cybersecurity, and more. Utilities are eager to use broadband to modernize the electric grid. Southern California Edison, a utility in a state hard-hit by fires in recent years, predicts that broadband will enable innovative monitoring technologies that will help utilities detect and extinguish fires caused by downed power lines.

At the same time, we have heard loud and clear from users of the band that narrowband still has an important place in supporting their operations. So the Order we adopt today strikes a balance between the goals of expanding access to broadband wireless communications services and maintaining access to sufficient spectrum for existing narrowband services. Specifically, the Order would make six of the band's 10 megahertz of low-band spectrum available for advanced broadband communications while preserving the remaining four megahertz of the band for continued narrowband operations.

Our plan today not only will serve the existing users of the band, but also will rely on their unique expertise to make the transition to broadband possible. When we started to explore the possibility of

¹ Memorandum of the United States in Opposition to Nextel's Motion to Vacate the 1995 Consent Decree at 9, *U.S. v. Motorola*, Case No. 1:94CV02331 (TFH) (filed Feb. 28, 1999), available at <https://www.justice.gov/atr/case-document/file/505296/download>. The principal author of the brief may have presaged his current approach to FCC regulation in noting on the Justice Department's behalf that competitive entry into the communications marketplace using the 900 MHz band "has been contingent on reform of a variety of FCC restrictions and rules that have had, and in some cases may still have, the practical effect of impeding entry into wireless communications markets," and that "new entrants must acquire rights to use the requisite spectrum, frequently through an FCC auction process. Both the first and second steps have been frequently delayed by litigation and the vagaries of the regulatory process." *Id.* at 16-17.

transitioning the band, some incumbents rightly expressed concerns about applying a one-size-fits-all approach to a band in which usage across the country is as varied as the landscape. In some regions, the band is underused, while in others, utilities and industry operate vast, interconnected narrowband communications systems. The market-driven solution we adopt today acknowledges those realities and ensures that 900 MHz band incumbents have a say in how the transition happens.

In particular, our negotiation-based transition process relies on private agreements between prospective broadband licensees and existing operators in the band to acquire, relocate, or provide robust interference protection to incumbent operations. We will issue broadband licenses on a county-by-county basis only where these negotiations are successful for the vast majority of incumbent licensees. While our plan necessarily accounts for holdouts, it ensures that any relocated incumbents will be fairly compensated and that the broadband licensee will bear the costs of relocation. Our plan also ensures that the U.S. Treasury will be compensated for spectrum assigned from the Commission's inventory to facilitate the transition of the band.

We also propose to modify the Association of American Railroads's (AAR's) nationwide 900 MHz band license, which traces a 140-mile-wide ribbon surrounding rail-lines all across the contiguous United States. Early on in considering the transition of the band, we realized that any transition plan would have to account for AAR's unique license. Without relocating AAR out of the new broadband segment of the band, there would be virtually no county in the nation that could be transitioned to broadband. Today's proposed modification can accomplish the herculean task of fully moving AAR's license to the new narrowband segment of the band while preventing disruption to critical rail operations. The proposed modification not only will clear a major incumbent from the new broadband segment, but also will facilitate upgrades to AAR's network that will make railways across the nation safer.

I appreciate the creative ideas of Anterix, a large holder of 900 MHz spectrum, which focused attention on the band's potential, as well as the assistance of narrowband incumbents like AAR and NextEra in crafting solutions to allow for continued narrowband use. Using a market-based approach to maximize the consumer benefits to be derived from this public resource perfectly encapsulates FCC spectrum policy over the past three years, and I'm optimistic to see what the future holds for the 900 MHz band.

I'd like to thank all the FCC staff who worked tirelessly on this item: from the Wireless Telecommunications Bureau, Erin Boone, Lloyd Coward, Anna Gentry, Garnet Hanly, Kari Hicks, Susannah Larson, Roger Noel, Milton Price, Jessica Quinley, Jaclyn Rosen, Moslem Sawez, Dana Shaffer, Josh Smith, Sean Spivey, Donald Stockdale, Cecilia Sulhoff, and Joel Taubenblatt; from the Office of Economics and Analytics, Nick Copeland, Evan Kwerel, Paul LaFontaine, Catherine Matraves, Giulia McHenry, and Gary Michaels; from the Office of Engineering and Technology, Bahman Badipour, Michael Ha, Tom Mooring, and Aspasia Paroutsas; from the Office of General Counsel, Mike Carlson, David Horowitz, Tom Johnson, Keith McCrickard, and Bill Richardson; from the Office of Communications Business Opportunities, Chana Wilkerson; and from the Enforcement Bureau, Ricardo Durham, Matt Gibson, Kevin Pittman, Ron Ramage, and Josh Zeldis. And to any young attorneys currently in the Attorney General's Honors Program at the U.S. Department of Justice, I wish you a speedier resolution to the issues you're working on than almost twenty-two years.