

**STATEMENT OF  
COMMISSIONER MICHAEL J. COPPS**

*RE: Applications of Western Wireless Corporation and ALLTEL Corporation For Consent to Transfer of Control of Licenses and Authorizations (Memorandum Opinion & Order).*

The data compiled by FCC staff indicates that effectuation of this merger will likely leave an acceptable level of wireless market competition in most affected geographic areas. The applicants' networks overlap in only 27 markets nationwide. The Commission requires divestiture of nearly 60% of these markets, where the merger would have undermined competition.

In most of the remaining overlap markets four or more able competitors will continue to compete post-merger. In the rest the merger will not substantially change the competitive dynamic of the market at issue because one applicant has little or no market share. I am concerned that in a few markets, the market shares of remaining competitors are small compared with that of the merged entity. But these competitors have spectrum resources and built-out facilities that should enable them to take customers from the merged entity should the latter raise prices or reduce quality. But if we receive evidence in the future that smaller competitors cannot respond in this way because of the power of the market-share leader, the Commission will have to reconsider its reliance on this theory, which remains untested in the new wireless environment.

This market-by-market analysis is only one part of our merger review process. The FCC must also judge whether the merged entity will act in the public interest and whether the applicants have the requisite "citizenship, character, financial, technical, and other qualifications." Compliance with public safety protections is central to the public interest and to a company's qualifications. Americans increasingly rely on mobile phones for emergency calls. Therefore compliance with our 911 rules is of the utmost importance, especially at a time when homeland security must be a top priority for both our government and our companies and the threats to public safety are again so manifest. FCC Rules require that by December 31, 2005 ninety-five percent of the applicants' customers must have handsets that can locate a caller in an emergency. I am deeply troubled by the applicants' recent admission that they will likely fail to meet this responsibility and that they may, in fact, miss our public safety deadline by *two years*.

The Order states that if the company fails to meet its E-911 deployment responsibilities the Commission "will not hesitate to take enforcement action." While that is positive, I believe we should have gone beyond this assertion to *insist* that the merged company immediately get itself on a path to full public safety compliance. Because we do not, we could lose valuable time and E-911 deployment might suffer. I am disappointed that we do not do more today to ensure compliance with our public safety deadline.