

**STATEMENT OF  
COMMISSIONER MICHAEL J. COPPS**

***In the Matter of Applications of Nextel Communications, Inc. and Sprint Corporation for  
Consent to Transfer Control of Licenses and Authorizations, WT Docket No. 05-63.***

Our data convinces me that this merger is not likely to reduce competition to an unacceptable level in markets where the two companies overlap. In most markets Nextel and Sprint are not market share leaders. As a consequence, the merger of these companies does not give the combined entity a dominant position or even the largest market share in most markets. Sprint Nextel, however, will be the market share leader in a small number of markets. But in most of these markets four or more substantial competitors will continue to compete post-merger. In most of the rest of these markets, one or the other applicant has little or no market share, so the merger does not significantly change the competitive situation.

As the Order notes, however, while this merger does not create market dominance in any particular market, it is part of a trend that merits close and continuing monitoring by the Commission. In less than a year mergers have reduced the number of national wireless competitors by one third. Only last year consumers could choose between six national carriers. There are now only four. The average US market's HHI score has grown from 2,900 (before the Cingular/AT&T merger) to 3,100 (after the Cingular/AT&T merger) to 3,300 (after the Nextel/Sprint merger). That means that consumers in the average community now have the equivalent of only 3.03 equal sized competitors—national, regional and local combined. While I am sensitive to the arguments that six national competitors could not have been forever sustained in the wireless market, I am also concerned about what this substantial reduction in the number of competitors may mean for wireless consumers. The FCC will have to take a hard look at whether ~~we are foregoing our market analysis~~ <sup>we are foregoing our market analysis</sup>, 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." Measuring a company's compliance with FCC public safety rules is, to my mind, central to this determination. Under our 911 public safety rules, ninety-five percent of the applicants' customers must have handsets that can locate a caller when they place a 911 call by the end of this year. Nextel has admitted that it will violate this rule and will miss the deadline by an alarming two years.

I believe we should have conditioned approval of this merger on Sprint Nextel either meeting its 911 deadline, or having a waiver or consent decree in place. We should have insisted that Sprint Nextel immediately get itself on a path to full public safety compliance. I am disappointed that we do not do more today to ensure compliance with our public safety deadline. I hope that we do not pay a price for this decision, because Nextel's efforts to comply with our rules do not seem to be working. I am pleased, however, that the company is considering stepping up its efforts to comply with our public safety rules by, for example, offering cash incentives to spur necessary upgrades. But whatever efforts Sprint Nextel now takes, unless the company has a waiver or consent decree approved by the FCC, it must still meet its December 31, 2005 deadline. If it does not do so, and if there is no acceptable waiver or consent decree in place, today's Order states explicitly that the Commission "will not hesitate to take enforcement action." Finally, I want to commend my colleague Commissioner Adelstein for his hard work on this item, particularly on issues related to the 2.5 GHz band and the wireline spin-off. I was pleased to support his effort to obtain a condition that the merged entity must meet wireless

broadband deployment milestones using its 2.5 GHz holdings. This is vitally important spectrum that needs to be utilized fully. I hope that these milestones will bring consumers some much needed broadband competition. I am also happy to support the condition related to the merged entity's wireline spin-off. This will help ensure that the spin-off company is not weighted down by misallocations that could inhibit its ability to compete. The merged entity has committed that the "LTD Holding Company will receive an equitable debt and asset allocation at the time of its proposed spin-off so that the company will be a financially secure, Fortune 500 company." The continued strength of this company is critically important to its workers and its customers. The Commission will monitor this commitment when we review the merged entity's application to effectuate this spin-off.

Thanks to the merger team for all their hard work in bringing this proceeding to us today.