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Before the
American SMR Network Association Inc.
June 16, 1987
Westin Hotel -- Washington, D.C.

I appreciate the invitation and opportunity to be with you today and to share this panel with my FCC colleagues. It is a pleasure to meet with a group of licensees who recognize the value of spectrum and who, in turn, are recognized for their implementation of spectrum efficient technologies.

Today, I would like to share with you my review of recent FCC decisions. Standing back for a few minutes and reviewing Commission actions over the past year, leads me to conclude that at best the Commission is sending inconsistent signals to the marketplace. Signals (no pun intended) that directly and indirectly affect you. Let me explain what I mean.

In July 1986, the Commission adopted a Report and Order in Docket Nos. 84-1231, 1233, 1234 allocating previously reserved spectrum to, among others, the private land mobile radio services. In that proceeding the SMR services received 5 MHz of spectrum. Furthermore, the Commission required trunking of SMR services and a narrower 12.5 kHz channeling plan with some flexibility. The rationale behind the trunking requirement on all channels in the SMR pool is the more efficient utilization of the spectrum. The Commission praised the efficiency of trunked systems.

Regarding the narrower channeling plan, the Commission, in balancing the divergent goals of spectrum efficiency and high communication quality, was compelled to give greater weight to the spectrum efficiency. Therefore, the Commission adopted a 12.5 kHz channeling plan with some technical flexibility. The bottom line of both the trunking and channeling plan is, again, spectrum efficiency.

Three weeks after releasing the allocation decision, the Commission issued a Notice of Proposed Rulemaking in PR Docket No. 86-404 proposing to amend Part 90 Subparts M and S of the Commission's rules. Here, the Commission seems to be making a 180 degree change in the rationale used for implementing its earlier allocation decision. The Commission is suggesting in Docket No. 86-404 that the argument for spectrum efficiency necessary to accommodate the allegedly increasing demand for spectrum is no longer essential to the rules governing SMR licensees. By proposing to eliminate loading requirements, by allowing SMR licensees greater flexibility to aggregate channel widths thereby offering different services and different service quality requiring greater bandwidth without prior FCC approval, and by increasing the pool of eligibles to include, among others, the Federal government, seems to defeat the rationale of spectrum need and efficiency that served as the basis for the earlier allocation decision.

Back in the late 1960s and early 1970s, the Commission established loading standards to encourage licensees to use

their communication channels to the fullest potential (see, Docket No. 18261). The Commission reaffirmed its commitment to loading standards when it rejected requests for overall reconsideration of the loading standards (see, Docket 79197, 1983). In 1983, the Commission decided to retain loading standards to ensure that channels are used to full capacity.

You have had to live with loading standards and judging from your comments in response to the proposal to eliminate them, I believe you can continue to live with loading standards at least in the top urban areas. You and the American public have benefited from such standards. Commissioner Quello in his separate statement on the M&S item opposed the proposal to eliminate loading requirements. The channel recovery program has been successful in reclaiming unused channels. Approximately 2,000+ SMR channels have been reclaimed due to the failure to meet loading or construction requirements. Furthermore, these channels were reclaimed in the 21 largest U.S. cities where waiting lists exist for SMR channels. This indicates the clear need to maintain loading standards. By reclaiming channels, those who are interested and committed in developing SMR services may now have access to these unused channels. Without the loading standards and the channel recovery program, spectrum appearing as licensed by FCC records would remain fallow -- serving neither you nor the public interest.

Now I will admit, once we move out of the top urban areas perhaps some flexibility could be introduced regarding loading standards. I believe, however, that it would be inconsistent with sound public policy and certainly the public interest to eliminate loading standards, especially in those areas where there is the greatest alleged need for spectrum.

Regarding the proposal to expand SMR end-user eligibility, caution must be taken to ensure your Part 90, private carrier status. The majority believes that the current restrictions regarding end-user eligibility places SMR licensees at a competitive disadvantage relative to common carriers. If the premise is that you are to be competitors with common carriers, then you may suffer their regulatory status. Regarding the proposal to allow the Federal government as a possible end user, the majority cites the number of waiver requests the Commission has received from the Federal government and the fact that they have no 800 MHz spectrum. First, I believe that the number of waiver requests made by the government is rather small -- I understand that the Commission has received and granted two such waivers during the past few years. Therefore, I do not see the waiver request process as creating an undue burden on the Commission's processing resources. Also, I believe it was the Federal government who gave up 800 MHz bands in the first place. Basically, I am telling you to use caution in evaluating the proposal to expand end-user eligibility.

Another mixed signal the Commission has given to SMR licensees pertains to equipment available in the recently allocated 900 MHz bands (see, partial reconsideration of General Docket Nos. 84-1231, 1233, 1234). The Commission has long favored and fostered a competitive telecommunications environment. Yet, to date, only one equipment manufacturer has been type accepted in the new 900 MHz bands. You know more so than I, that the manufacturer of your base station equipment essentially determines the manufacturer for the rest of your system's equipment needs. I'm not here to fault the manufacturer who has received type acceptance, for certainly they have demonstrated the ability to respond to market demands. As licensees, however, you should encourage other equipment manufacturers to move forward quickly in getting their equipment type accepted by the Commission. Furthermore, the Commission should ensure that its policies do not inhibit a competitively priced equipment market.

Finally, I would like to provide a few comments on a couple of other issues that indirectly affect you. Recently, in General Docket 85-172, the UHF/Land Mobile Sharing Proceeding, information previously unknown to the Commissioners was revealed. This information consisted of monitoring studies or projects conducted by the Field Operations Bureau. The results of these studies were rather damaging to the argument of spectrum need, the rationale for many FCC decisions including the July 1986 allocation Order. Basically the studies indicate

private land mobile radio services where there is an alleged increase in demand for spectrum.

I have raised these issues today to demonstrate what I believe to be inconsistent Commission policy affecting you and other private radio services. Furthermore, I believe such inconsistencies can work against the public interest and licensees such as yourself. Perhaps such inconsistencies could be explained away if the end result of these policy decisions was to license all the available spectrum and to let licensees barter and trade among themselves for spectrum -- does this sound like a modification of the auction proposal? A thought I leave with you.

that many channels are unoccupied in the top urban areas. This type of study in conjunction with other studies conducted by the Commission reopens the wound of demonstrating need for spectrum. I am a believer that such monitoring studies provide one important factor in the equation necessary for the Commission to make sound spectrum allocation decisions. Absent such information, the Commission's decisions could be detrimental to both you and the public interest. Assume for one moment that the Commission based its allocation decisions on the number of licenses issued and the number of applications received. This approach creates an artificial paper demand for spectrum. How is the Commission to fulfill its statutory requirement of spectrum management without determining whether licensees are actually using the spectrum, or in the case of loading standards, meeting the requirements of their license. The channel recovery plan and FOB data clearly indicate that not all those who have been issued a license are using the spectrum.

One other item, a recently released NPRM in CC Docket 87-120 addresses the flexible allocation of frequencies in the public land mobile services for paging and other services. Essentially, these licensees are your common carrier counterparts. The Notice states that as cellular technology makes its presence within a market there is a migration from radio common carriers to cellular. More importantly, the item suggests that perhaps need standards are necessary in this service. In light of the FOB studies and the channel recovery program, perhaps such need standards should be applicable to the