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Nextel Looks To Purchase High-Frequency Wireless Spectrum To Minimize Interference

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As I have mentioned previously, wireless spectrum is incredibly valuable. While it's not a commodity that can be touched or viewed, its value has increased as vast numbers of consumers have taken to the airwaves by purchasing — and using — wireless phones. The more players, the higher the value of the spectrum.

In the early days of interest in wireless capabilities, different services were allotted different portions of the spectrum to serve different purposes. Certain blocks of spectrum were allocated to broadcast radio and television, while others were reserved for governmental use — primarily law enforcement and public safety uses. As more users have joined the party, some sections of the spectrum have become more valuable than others.

For a more detailed discussion of this issue, see my column from March entitled *Value of Radio Wave Spectrum is on the Rise Again as Competing Carriers Bid for Licenses*, March 8, 2004.

I return to the issue this month because of some very recent — and highly unusual — activity from the New York Attorney General's Office. Attorney General Eliot Spitzer, late last month, went out on a limb to ask the Federal Communications Commission to raise the amount that Nextel, a carrier that serves customers in New York, must pay to obtain a high-frequency spectrum in order to minimize radio interference with public safety users. While the attorney general is certainly a welcome participant in the discussion, since wireless spectrum allocation is solely within the purview of the FCC, this action seems to be way out of his — and the state's — jurisdiction.

Spitzer's voice has not been the only surprising one raised. In fact, as recently as April 30, the Cellular Telecommunications and Internet Association (CTIA), of which Nextel is a member, also spoke out against Nextel's move to the valuable spectrum.

The move toward minimized interference by Nextel raises two important and distinct issues. The first is which piece of the spectrum pie Nextel should get, and the second is the price that Nextel should pay for that spectrum. Nextel wants the valuable spectrum located at 1.9 GHz, although the other carriers would prefer that Nextel move to the less valuable 2.1 GHz spectrum. Nextel wants to pay \$850 million for a move to the 1.9 GHz prime wireless real estate, while the CTIA believes that Nextel should pay \$3 billion for a move to the less valuable 2.1 GHz spectrum.

In any case, the FCC commissioners have only agreed on a basic plan to relocate the public safety entities while moving Nextel to the spectrum located at 1.9 GHz. However, the commissioners have yet

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to decide on the cost and terms for such a move.

What's this really about? Wireless competition has intensified dramatically over the past 12 months. With the advent of wireless number portability, compounded by additional investment and marketplace consolidation, those players in the wireless game that want to make the most of the opportunities presently available need to think creatively and quickly to corner and retain the biggest and most productive market-share(s).

Even Sprint joined the fray on May 3, announcing a reconfiguration of its wireless network and service offerings. This action may be in response to carriers' concerns about the power that a potential Cingular/AT&T Wireless company could have. Others, including Verizon Wireless, the largest provider of wireless services in the U.S. today, are keen to maintain their nationwide dominance in the wireless marketplace.

Back to the New York Attorney General's perceived role. Spitzer's letter to the FCC supports the position taken subsequently by CTIA that if Nextel gets the spectrum, it needs to pay top dollar for it. Why should he care? The answer is that Verizon Wireless, a New York company, has bid \$5 billion for the same valuable 1.9 GHz spectrum, and Verizon Wireless, along with most of its competitors is not interested in seeing Nextel walk away with prime real estate for a song. Is it possible that the attorney general's comments are about what's best not only for Verizon Wireless but also for New York State?

From my perspective, Spitzer has done a laudable job as New York's top attorney. But I'm concerned that this action is more about creating headlines on a much larger stage than the one where he currently performs, than it is about any concern about how much one wireless carrier pays for spectrum. This is simply not a state issue.

Despite Spitzer's success in going after the investment bankers whose activities he felt harmed New Yorkers, there is no such argument here. (Is it possible that Spitzer's foray into this arena is a response to Nextel's hiring of former New York Mayor Rudolph Guiliani's consulting firm to address the issues of spectrum allocation among other issues?) In any case, the attorney general's activities are, from my perspective, grandstanding plain and simple.

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