ATTACHMENT A

The Federal Communications Commission Public Interest Statement.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of	)	
	)	
Applications of Sprint Nextel Corporation,	)	
Transferor	)	IB Docket No. ______
	)	
SOFTBANK CORP., and Starburst II, Inc.,	)	
Transferees	)	
	)	
for Consent to Transfer of Control of Licenses	)	
and Authorizations	)	

PUBLIC INTEREST STATEMENT

SPRINT NEXTEL CORPORATION

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SUMMARY

The Applicants request FCC authorization for SOFTBANK CORP. ("SoftBank") to acquire an approximately 70 percent controlling interest in Sprint Nextel Corporation ("Sprint"). This transaction represents an investment of more than $20 billion in the U.S. wireless industry that promises to stimulate economic growth and provide substantial public interest benefits with no countervailing public interest harms. Because SoftBank has no attributable interests in any U.S. wireless carriers, and does not compete with Sprint in providing wireless communications services, the proposed transaction poses no risk of competitive harm to the U.S. wireless market. To the contrary, the transaction is expected to greatly stimulate wireless competition and innovation. It offers the potential to transform the U.S. wireless marketplace by creating a more vibrant rival to compete with today's two predominant wireless providers, Verizon Wireless and AT&T.

The transaction is intended to invigorate competition by providing Sprint the financial resources needed to accelerate and expand its wireless broadband deployment. SoftBank's $20.1 billion investment includes a direct infusion in Sprint of $8 billion in new capital, allowing Sprint to strengthen its balance sheet and lower its borrowing costs. This stronger financial foundation can enable Sprint to increase its network investment, accelerate its broadband deployment across multiple spectrum bands, and improve its coverage. Sprint anticipates taking advantage of its strengthened financial position by offering a wider range of devices and services to consumers. Sprint also anticipates taking advantage of other market opportunities to enhance its ability to provide superior service to its customers. The transaction thus promises to increase the speed, coverage, reliability, and capabilities of Sprint's wireless broadband network and offer consumers a more competitive choice in a broadband world.

The transaction also is expected to enhance Sprint's ability to obtain more favorable terms for mobile equipment, handsets, and applications. After the transaction, SoftBank's wireless holdings in Japan and the United States will serve approximately 92 million subscribers.[1] Sprint anticipates achieving economies of scale similar to those enjoyed in the United States only by Verizon and AT&T. SoftBank/Sprint should be a more attractive partner for handset manufacturers and application developers, stimulating innovation that will greatly benefit consumers. The transaction allows Sprint to benefit from SoftBank's leadership in developing and investing in cutting-edge mobile Internet technologies and services. Access to SoftBank's expertise and resources can assist Sprint in developing a range of new content, programming, and services for U.S. consumers.

The strong public interest benefits of this proposed transaction are illustrated by examining the results of a very similar investment SoftBank made in Japan in 2006 – an investment that has transformed the wireless marketplace in Japan and brought enormous benefits to Japanese consumers. In 2006, SoftBank acquired Vodafone's Japanese wireless operations, whose 16 percent subscriber share of the wireless market lagged behind the 80 percent combined share of its two larger rivals, NTT DOCOMO, Inc. ("DoCoMo"), and KDDI CORPORATION ("KDDI"), both of which are affiliated with incumbent, former monopoly wireline providers. Within months of that acquisition, SoftBank brought competitive pricing to the Japanese wireless market, began investing heavily in Vodafone's Japanese operations (renamed SoftBank Mobile), and introduced a series of innovative products and services. SoftBank's formula for successful market entry is to gain a firm understanding of customer

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1 The total number of subscribers of Sprint, SOFTBANK MOBILE Corp., and WILLCOM, Inc.

needs and desires and then develop and deploy services and technologies to address those needs. With this strategy, SoftBank has attracted millions of new customers in Japan and is now poised to pass KDDI as the second largest Japanese wireless provider.

The proposed SoftBank/Sprint transaction offers a similar opportunity to transform the U.S. wireless marketplace. As in Japan, SoftBank's investment and resources offer the potential to inject new, more aggressive competition by Sprint into a marketplace trending toward a duopoly. As a result of Sprint's more formidable competitive position, and the inevitable responses by AT&T and Verizon, consumers should expect to enjoy more choices and new, innovative applications, features, and services. The proposed transaction thus offers clear public interest benefits.

SoftBank and Sprint are submitting applications to transfer control of Sprint's FCC licenses, leases, and authorizations to SoftBank. Sprint and SoftBank also are filing transfer of control applications to transfer Sprint's prospective *de jure* controlling interest in Clearwire's licenses, authorizations, and leases to SoftBank because SoftBank, by virtue of its acquisition of an approximately 70 percent indirect interest in Sprint, also will indirectly acquire Sprint's interest in Clearwire.

In addition to the transfer of control applications, Sprint and SoftBank have submitted a Petition for Declaratory Ruling to allow SoftBank's indirect foreign ownership of Sprint to exceed the 25 percent benchmark set forth in Section 310(b)(4) of the Communications Act. As set forth in that petition and in this Public Interest Statement, there are strong public interest benefits to permitting this level of foreign ownership.

Accordingly, the Applicants respectfully request that the FCC expeditiously grant the Petition for Declaratory Ruling and the transfer of control applications referred to herein.

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PUBLIC INTEREST STATEMENT

Pursuant to Sections 214 and 310(d) of the Communications Act of 1934, as amended ("Communications Act" or "Act"), and the Cable Landing License Act, Sprint Nextel Corporation ("Sprint"), Starburst II, Inc. ("Starburst II"), and SOFTBANK CORP. ("SoftBank"), (collectively, the "Applicants") request the FCC's consent to the transfer of control of licenses, authorizations, and spectrum leases held by Sprint and Clearwire Corporation ("Clearwire") to effectuate a transaction under which SoftBank will acquire approximately 70 percent of the shares of Sprint and, as a result, a prospective, indirect *de jure* controlling interest in Clearwire. The Applicants also seek, via a separate filing, a declaratory ruling that SoftBank's indirect foreign ownership of Sprint is consistent with the public interest, as required under Section 310(b)(4) of the Act.

I. INTRODUCTION

The proposed transaction represents an investment of more than $20 billion in the U.S. wireless industry by SoftBank, an important provider of wireless and Internet services in Japan. As part of the transaction, SoftBank will invest approximately $12.1 billion to purchase shares from existing Sprint shareholders and will invest an additional $8 billion directly in Sprint. The scale of SoftBank's direct infusion of capital into Sprint reflects SoftBank's strong commitment to the U.S. market. This new capital can be used to strengthen Sprint's operations in every way, creating a stronger competitor and benefitting consumers. SoftBank's investment, in and of itself, is a significant public interest benefit of the proposed transaction, as it will strengthen Sprint's balance sheet and make possible increased investment in its network and wireless broadband services, directly benefiting Sprint's customers.

The public interest also will benefit significantly from SoftBank's entry into the U.S. wireless communications marketplace, as demonstrated by SoftBank's innovative and competition-enhancing approach to the Japanese wireless communications marketplace. SoftBank Mobile's growth in Japan was the result of an intensely customer-focused strategy of lowering prices, deploying extensive network and infrastructure upgrades, providing devices that met both general and specific customer needs, and improving all other aspects of the customer experience. As a leader in pricing initiatives aimed at attracting customers, SoftBank spurred competitive responses that helped reduce prices for all Japanese consumers, not just its own customers. A key part of SoftBank's success in Japan has been deploying new and innovative technology in network and customer devices. In the United States, the Applicants intend to build on that experience and on Sprint's ongoing Network Vision upgrade and technology consolidation process to similarly disrupt the marketplace. This approach can create significant consumer benefits in both the short term and the long term.

The FCC's precedent requires it to weigh these benefits against potential harm from the transaction. In this case, however, the transaction creates no risk of potential harm. This transaction will not result in any additional market or spectrum concentration, as SoftBank has no current market presence as a wireless carrier or spectrum holder in the United States. For the same reasons, SoftBank's acquisition of Sprint's interests in Clearwire will not cause any spectrum aggregation or competition concerns under the FCC's spectrum policies. Moreover, Clearwire's spectrum holdings have already been attributed to Sprint for spectrum screen (competitive analysis) purposes. The FCC has previously found that Sprint's ownership interest in Clearwire, and the aggregation of Sprint and Clearwire spectrum holdings, are in the public interest.[2] SoftBank's prospective control of Sprint – and through Sprint, prospective, indirect *de jure* control of Clearwire – creates no public interest concerns.

II. BACKGROUND

A. Description of the Applicants

1. Sprint

Sprint is a publicly traded Kansas corporation with headquarters in Overland Park, Kansas. Sprint is a global communications company that, through its subsidiaries,[3] offers a comprehensive range of wireless and wireline voice and data products and services designed to meet the needs of residential consumers, businesses, government subscribers, and resellers throughout the country and around the globe. Sprint offers wireless and/or wireline voice and data services in all 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. Sprint served nearly 56 million customers at the end of the third quarter of 2012 and is widely recognized for developing, engineering, and deploying innovative technologies, including the first wireless fourth generation ("4G") service from a national carrier in the United States. Sprint

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2 *See* Sprint Nextel Corporation and Clearwire Corporation; Applications for Consent to Transfer Control of Licenses, Leases, and Authorizations, *Memorandum Opinion and Order*, 23 FCC Rcd 17570, 17572, ¶ 3 (2008) ("*Sprint - Clearwire Order*").

3 Sprint is primarily a holding company. Most of Sprint's operations are conducted by its subsidiaries, including, but not limited to, Sprint Communications Company, L.P., Virgin Mobile, L.P., and Sprint Spectrum, L.P.

also is one of the country's largest carriers of Internet traffic, providing service over its Tier 1 Internet backbone that connects locations in the United States and other countries.

Sprint also holds a voting interest of approximately 48 percent in Clearwire, an FCC licensee and provider of 4G wireless broadband services, headquartered in Bellevue, Washington. Sprint has entered into an agreement to acquire additional shares in Clearwire.[4] Upon approval and consummation of that agreement, Sprint will own up to 50.45 percent of Clearwire's voting stock.

In addition, on November 7, 2012, Sprint announced its intent to acquire certain PCS spectrum licenses and customers from U.S. Cellular in parts of Illinois, Indiana, Michigan, Missouri and Ohio, including the Chicago and St. Louis markets.[5] Sprint and U.S. Cellular will file applications for assignment of the affected spectrum licenses from U.S. Cellular to Sprint.

2. *SoftBank and Starburst II*

SOFTBANK CORP. is a publicly-traded holding company organized and existing under the laws of Japan and headquartered in Tokyo. SoftBank has been listed on the Tokyo Stock Exchange since 1998. SoftBank's various subsidiaries and affiliates are engaged in a number of information technology and Internet-related businesses in Japan, including mobile communications, broadband infrastructure, fixed-line telecommunications, e-commerce, and web

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4 Sprint has entered into an agreement to acquire Eagle River Investments LLC's ("Eagle River's") interest in Clearwire. Clearwire will be filing *pro forma* license transfer applications for FCC consent to the Eagle River transaction.

5 Under the terms of the agreement, Sprint will receive 20 MHz of PCS spectrum in various Midwest markets including Chicago, IL, South Bend, IN and Champaign, IL and 10 MHz of PCS spectrum in the St. Louis market. The transaction includes approximately 585,000 U.S. Cellular customers. The transaction is subject to FCC and other customary regulatory approvals and is expected to close in mid-2013.

portals. The company also invests in dynamic, innovative Internet-based companies throughout the world.

SoftBank's wholly owned subsidiary, SOFTBANK MOBILE Corp. ("SoftBank Mobile") is currently the third largest wireless carrier in Japan, with approximately 30.5 million wireless subscribers, giving it approximately 22 percent of the Japanese wireless market as of September 30, 2012.[6] SoftBank Mobile generated wireless revenues of nearly $27.6 billion in fiscal year 2011, which ended on March 31, 2012. On October 1, 2012, SoftBank announced its intent to acquire eAccess Ltd., Japan's fourth largest wireless company, which provides service to 4.3 million subscribers under the EMOBILE brand.

SoftBank also provides wireline broadband and telecommunications services in Japan through two wholly owned subsidiaries, SOFTBANK BB Corp. ("SoftBank BB"), and SOFTBANK TELECOM Corp. ("SoftBank Telecom"). SoftBank BB provides residential wireline broadband service to approximately 4.2 million customers in Japan, and SoftBank Telecom provides a direct connection voice service, the "OTOKU line," to approximately 1.7 million primarily corporate subscribers in Japan.

SoftBank has no attributable interests in any U.S. spectrum licenses. SoftBank's only telecommunications interest in the United States is Japan Telecom America Inc. ("JTA"), which is a wholly owned subsidiary of SoftBank Telecom. Although JTA holds an international Section 214 authorization, JTA provides only limited private line services to its sole customer, SoftBank Telecom, and has no U.S. customers.

6 SoftBank Mobile's Japanese market share numbers do not include the approximately 4.8 million customers of WILLCOM Inc. ("WILLCOM"). WILLCOM provides wireless service using the Personal Handy-phone System ("PHS") – a wireless communications offering in Japan similar to PCS in the U.S. PHS uses small, low power cells that enable cell site hand offs.

SoftBank holds various minority interests in undersea cables through its wholly owned subsidiary, SoftBank Telecom. These interests include both direct ownership and an investment in a cable operating company. The direct interests are in the Korea-Japan Cable Network ("KJCN"), the China-US Cable Network, the Japan-US Cable Network, Asia-Pacific Cable Network 2, the Japan segment of FLAG Europe-Asia ("FEA"), TAT14, South-East Asia-Middle East-Western Europe 3, and the Pan-American cable network. The investment in the cable operating company is in Australia-Japan Cable Holdings Limited, which owns Australia-Japan Cable Limited, which in turn operates the Australia-Japan Cable ("AJC") cable between Australia and Japan. None of these interests exceeds 20 percent and SoftBank does not control any of these undersea cables or networks. SoftBank Telecom also owns or controls landing points in Japan at Kita-Kyushu (for the KJCN cable), Maruyama (for the Japan-US and AJC cables), and Miura (for the FEA cable).

SoftBank, including through its U.S. subsidiary, SOFTBANK Holdings Inc., also has made investments in Internet-related businesses in the United States. For example, SoftBank holds minority interests in Zynga, Inc., Gilt Groupe, Inc., and Ustream, Inc., none of which provide any telecommunications services.

Starburst II is an indirect wholly owned subsidiary of SoftBank. It is a Delaware corporation created in connection with this transaction. Starburst II holds no Commission authorizations.

B. Description of the Proposed Transaction

1. Overview

On October 15, 2012, Sprint and SoftBank announced that they had entered into agreements which will result in SoftBank investing over $20 billion in Sprint and acquiring approximately a 70 percent indirect interest in Sprint, with the remaining interest held by existing Sprint shareholders. Under the terms of the agreements, SoftBank formed a U.S. holding company, Starburst I, Inc. ("Starburst I"), which is wholly owned by SoftBank. Starburst I formed another new subsidiary, Starburst II, which directly owns a third subsidiary, Starburst III, Inc. ("Merger Sub"). As part of the transaction, Sprint will merge with Merger Sub, with Sprint being the surviving entity, and Starburst I will have approximately a 70 percent interest in Starburst II.

After the transaction is consummated, Sprint will be a wholly owned subsidiary of Starburst II, with SoftBank, through Starburst I, owning slightly less than 70 percent of the shares of Starburst II and existing Sprint shareholders owning the remaining shares of Starburst II.[7] Starburst II will own 100 percent of the stock of Sprint and its subsidiaries and Sprint and its subsidiaries will continue to hold all of the FCC authorizations that they currently hold. Upon consummation of the merger, Starburst II will be renamed "Sprint Corporation." The merger agreement includes protections to ensure that Sprint will not have non-World Trade Organization ("WTO") share ownership in excess of the limits set by the FCC's policies.

As part of the transaction, Sprint shareholders will receive an aggregate of approximately $12.1 billion from SoftBank via its subsidiaries in exchange for approximately 1.7 billion shares of Sprint stock.[8] Sprint shareholders will have the right to elect to exchange each of their

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[7] *See* Attachment 1 for a diagram illustrating the structure of the transaction. Under the terms of the merger agreement, Starburst I will hold 69.642 percent of Starburst II's common stock, and Sprint's current shareholders will hold the remaining 30.358 percent of Starburst II's common stock. Those percentages may change by an immaterial amount based on adjustment provisions in the Merger Agreement. Upon exercise of the warrant discussed *infra* at n.8, SoftBank would own approximately 70 percent of Starburst II.

[8] SoftBank also will receive a five year warrant to purchase approximately 55 million shares of Starburst II (representing slightly less than 1 percent of Starburst II's common stock) with an exercise price of $5.25 per share.

existing shares of Sprint for (1) $7.30 in cash or (2) one share of Starburst II stock.[9] In addition, SoftBank, via its subsidiaries, will contribute an aggregate of $8 billion to Starburst II's balance sheet in conjunction with this transaction; these funds are unrestricted and Sprint will have the flexibility to use this capital infusion to strengthen its balance sheet and invest in its network and its wireless broadband service to customers.[10] The transaction does not involve any assignment of Sprint's licenses, spectrum leases, or authorizations, or any change in the licensees that hold such licenses and authorizations, and those companies will continue to provide service to the public. Accordingly, the transaction will be seamless to Sprint's subscribers. Sprint's headquarters will continue to be located in Overland Park, Kansas and Sprint's current Chief Executive Officer ("CEO"), Daniel Hesse, will be the CEO of Starburst II, which will be renamed Sprint Corporation.[11]

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9 The elections by Sprint shareholders are subject to proration if shareholders in the aggregate elect more than the total amount of cash or stock consideration, which would result in the receipt of a mix of cash and stock. The proration is to ensure that approximately $12.1 billion in cash is paid in the merger to Sprint shareholders and only approximately 30.1 percent of Starburst II's common stock. Holders of Sprint stock options and other employee incentive awards will receive options and similar awards in Starburst II.

10 SoftBank, via Starburst I, will contribute $4.9 billion to Starburst II in addition to the approximately $12.1 billion to be paid in the merger to Sprint shareholders. SoftBank already has invested $3.1 billion in Sprint, in the form of a newly-issued convertible bond. *See* Press Release, Sprint Nextel Corp., Sprint Announces Closing of $3.1 Billion Convertible Bond (Oct. 22, 2012), available at http://newsroom.sprint.com/article_display.cfm?article_id=2436&view_id=3856 (reporting that Sprint announced the closing of a convertible bond sale to Starburst II, pursuant to which Starburst II agreed to purchase from Sprint a bond in the principal amount of $3.1 billion). Subject to all applicable regulatory approvals and subject to the provisions of the bond purchase agreement, the bond is convertible into an aggregate of 590,476,190 shares of Sprint common stock. If not earlier converted, principal and any accrued but unpaid interest under the bond will be due and payable on October 15, 2019. *See id.*

11 Six of Starburst II's ten directors will be designated by SoftBank at the time the merger becomes effective. The remaining four directors will consist of the CEO and three other current directors of Sprint.

By virtue of its acquisition of an approximately 70 percent indirect interest in Sprint, SoftBank will indirectly acquire Sprint's prospective *de jure* controlling interest in Clearwire.[12] The transaction will not involve the assignment of any of Clearwire's licenses, spectrum leases, or authorizations.[13] As with Sprint, there is no competitive overlap between SoftBank and Clearwire.

The parties intend to consummate the transaction as promptly as possible after the necessary FCC and other federal and state regulatory approvals have been received, Sprint's shareholders have approved the transaction, and other preconditions have been met.

2. Applications

The Applicants are filing with the FCC the required applications (1) requesting consent to the transfer of control to Starburst II and, ultimately to SoftBank, of all licenses, spectrum leases, and authorizations controlled by Sprint's subsidiaries, and (2) requesting consent to transfer Sprint's prospective *de jure* controlling interest in Clearwire's licenses, spectrum leases, and authorizations from Sprint to Starburst II and ultimately to SoftBank.[14] The licenses and authorizations subject to these applications include the existing domestic and international 214 authorizations, cable landing licenses, microwave licenses, and CARS licenses[15] and Title III

12 Sprint is acquiring additional shares in Clearwire as part of a separate transaction with Eagle River Investments LLC, which will give Sprint a *de jure* controlling interest in Clearwire. *See supra* n.4.

13 Clearwire and its subsidiaries will continue to independently provide service to the public.

14 Clearwire and its subsidiaries hold BRS and commercial EBS spectrum licenses, long term *de facto* leases, spectrum manager leases, microwave licenses, and two Cable Television Relay Service ("CARS") licenses. Clearwire is also a party to EBS and BRS "grandfathered" leases which do not require prior Commission approval for SoftBank to obtain indirect *de jure* control of Clearwire.

15 Clearwire holds a limited number of CARS licenses.

radio station authorizations held by Sprint's subsidiaries and by Clearwire and its subsidiaries.[16] Simultaneously with these applications, SoftBank and Sprint also are filing a Petition for Declaratory Ruling pursuant to Section 310(b)(4) of the Communications Act, 47 U.S.C. § 310(b)(4), seeking a declaratory ruling that it is in the public interest to permit a greater than 25 percent indirect foreign ownership interest in Sprint and its subsidiaries.[17] The Applicants are not seeking any waivers with respect to these filings.

3. *Related Governmental Filings*

In addition to approval by the FCC, the transaction is subject to review by the Committee on Foreign Investment in the United States ("CFIUS"), an inter-agency committee that includes the Federal Bureau of Investigation, the Department of Justice, the Department of State and the Department of Homeland Security.[18] The transaction also is subject to notification to and/or review by other governmental agencies, including review by the Department of Justice and/or the Federal Trade Commission pursuant to the Hart-Scott-Rodino Antitrust Improvements Act of 1976, 15 U.S.C. § 18(a), and the rules promulgated thereunder, state public utility commissions, and certain foreign countries.

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16 *See* Attachment 2 for a list of the licensees subject to the transfer of control. As required by Section 1.923(e) of the FCC's rules, 47 C.F.R. § 1.923(e), the Applicants state that the transfer of control of licenses and leases involved in this transaction will not have a significant environmental effect, as defined by Section 1.1307 of the FCC's rules, 47 C.F.R. § 1.1307. A transfer of control of licenses and leases does not involve any engineering changes and, therefore, cannot have a significant environmental impact.

17 Although SoftBank's acquisition of control of Sprint will include the transfer to SoftBank of Sprint's interests in Clearwire, Clearwire is not implicated in the Petition for Declaratory Ruling being filed by Sprint and SoftBank because Clearwire does not hold common carrier, broadcast, aeronautical en route, or aeronautical fixed radio station licenses and thus is not subject to the foreign ownership restrictions of Section 310(b). *See* 47 U.S.C § 310(b).

18 CFIUS is authorized to review transactions that could result in control of a U.S. business by a foreign person in order to determine the effect of such transactions on the national security of the United States.

C. Standard of Review

The FCC's review of the proposed transaction is governed by Sections 214(a) and 310(d) of the Communications Act of 1934, as amended.[19] Pursuant to those sections, the FCC should grant the proposed transfer of control upon finding that the transaction serves the public interest, convenience, and necessity.[20] To make this finding, the FCC examines whether the transfer of control complies with specific provisions of the Communications Act, other applicable statutes, the FCC's rules, and federal communications policy.[21] If the transaction does not violate a statute or rule, the FCC considers whether it could result in public interest harms by substantially frustrating or impairing the objectives or implementation of the Communications Act or related statutes.[22] The potential public interest harms of the transaction, if any, are weighed by the FCC against potential benefits.[23] The Applicants are required to demonstrate by a preponderance of the evidence that the proposed transaction, on balance, will serve the public interest.[24] The FCC's analysis is transaction-specific, focusing on the particular benefits and harms of the

19 47 U.S.C. §§ 214(a), 310(d).

20 *Id.*

21 *See, e.g.*, Applications of AT&T Wireless Services, Inc. and Cingular Wireless Corporation, *Memorandum Opinion and Order*, 19 FCC Rcd 21522, 21542-43, ¶ 40 (2004) ("*AT&T/Cingular Order*"); Applications of AT&T Inc. and Centennial Communications Corp., *Memorandum Opinion and Order*, 24 FCC Rcd 13915, 13927, ¶ 27 (2009) ("*AT&T/Centennial Order*"); Applications of Cellco Partnership d/b/a Verizon Wireless and Atlantis Holdings LLC, *Memorandum Opinion and Order and Declaratory Ruling*, 23 FCC Rcd 17444, 17460-61, ¶ 26 (2008) ("*Verizon Wireless/ALLTEL Order*").

22 *See, e.g.*, *Sprint/Clearwire Order*, 23 FCC Rcd at 17578-79, ¶ 19; *Verizon Wireless/ALLTEL Order*, 23 FCC Rcd at17460-61, ¶ 26.

23 *See, e.g.*, AT&T Inc. and BellSouth Corporation, Application for Transfer of Control, *Memorandum Opinion and Order*, 22 FCC Rcd 5662, ¶ 19 (2007) ("*AT&T/BellSouth Order*"); *Sprint/Clearwire Order*, ¶ 19; *AT&T/Cingular Order*, 19 FCC Rcd at 21542-43, ¶ 40.

24 *See, e.g.*, *AT&T/Cingular Order*, 19 FCC Rcd at 21542-43, ¶ 40; *Verizon Wireless/ALLTEL Order*, 23 FCC Rcd at 17460-61, ¶ 26; *Sprint/Clearwire Order*, 23 FCC Rcd at 17578-79, ¶ 19.

transaction before it, and the FCC has held consistently that it is improper to consider broader industry concerns or matters that are unrelated to the FCC's own jurisdiction in transaction proceedings.[25]

The scope of the FCC's review is governed by Section 310(d), which requires the FCC to dispose of the transfer application "as if the proposed transferee…were making an application under Section 308 for the permit or license in question."[26] The FCC is not permitted to consider how the public interest, convenience, or necessity would be served by transferring the permit or license to an entity other than the proposed transferee.[27]

Typically, the FCC begins by examining the transferor's and transferee's qualifications to hold FCC licenses.[28] The FCC has repeatedly affirmed the qualifications of Sprint to be an FCC licensee.[29] In addition, as set forth in the certifications in the applications and subject to grant of the Petition for Declaratory Ruling under Section 310(b)(4) of the Communications Act, the

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25 *See, e.g.*, *AT&T/BellSouth Order,* 22 FCC Rcd at 5692, n.154; Applications of Cellco Partnership d/b/a Verizon Wireless and SpectrumCo LLC and Cox TMI, LLC, *Memorandum Opinion and Order and Declaratory Ruling*, 27 FCC Rcd 10698, 10733-34, ¶ 94 (2012) (rejecting requested relief because the claimed harms "are not transaction-specific and the Commission generally will not impose conditions to remedy pre-existing harms unrelated to the transaction at issue").

26 47 U.S.C. § 310(d); *see also AT&T/Cingular Order*, 19 FCC Rcd at 21542-43, n.163; Applications of VoiceStream Wireless Corporation or Omnipoint Corporation, Transferors, and VoiceStream Wireless Holding Company, Cook Inlet/VS GSM II PCS, LLC, or Cook Inlet/VS GSM III PCS, LLC, Transferees, *Memorandum Opinion and Order*, 15 FCC Rcd 3341, 3345-46, ¶ 10 (2000).

27 47 U.S.C. § 310(d).

28 *See, e.g.*, Applications of VoiceStream Wireless Corp., Powertel, Inc. and Deutsche Telekom AG, *Memorandum Opinion and Order*, 16 FCC Rcd 9779, 9790, ¶ 19 (2001).

29 *See, e.g.*, *Sprint/Clearwire Order*, 23 FCC Rcd at17582-83, ¶ 23. The FCC generally does not "reevaluate the qualifications of transferors unless issues related to basic qualifications have been designated for hearing by the Commission or have been sufficiently raised in petitions to warrant the designation of a hearing." *AT&T/Cingular* Order, 19 FCC Rcd at 21546, ¶ 44 (footnote omitted).

record will demonstrate that SoftBank is fully qualified to hold FCC licenses. SoftBank's financial resources and experience in prudently and successfully operating and growing wireline and wireless services in Japan well qualify it to enter the U.S. wireless market through its investment in Sprint.

In this submission, the Applicants demonstrate that the proposed transaction will greatly benefit consumers and promote competition. The transaction will generate substantial public interest benefits without causing any competitive or public interest harms. The proposed transaction will not violate the Communications Act or any FCC rules or policies. Accordingly, the FCC should approve the instant applications without delay and without conditions.

III. THE PROPOSED TRANSACTION WILL BENEFIT CONSUMERS BY INVIGORATING WIRELESS COMPETITION AND PROMOTING BROADBAND INNOVATION AND DEPLOYMENT

A. The Proposed Transaction Will Promote Greater Competition, Particularly Given SoftBank's Record of Successfully Challenging Large Incumbent Rivals by Offering Innovative Services and Lower Rates

"Congress has determined that additional competition in telecommunications markets will better serve the public interest ...."[30] In assessing whether a proposed transaction will promote the public interest, the FCC considers "whether the merger will accelerate the decline of market power by dominant firms in the relevant communications markets and the merger's effect on future competition."[31]

The proposed SoftBank/Sprint transaction will help achieve this public interest objective by making Sprint a more effective competitor to Verizon and AT&T. The transaction is

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30 Application of GTE Corporation, Transferor, and Bell Atlantic Corporation, Transferee, *Memorandum Opinion and Order*, 15 FCC Rcd 14032, 14046-47, ¶ 23 (2000) ("*Bell Atlantic/GTE Order*").

31 *AT&T/Cingular Order*, 19 FCC Rcd at 21544-45, ¶ 42 (footnote omitted); *see also*, *e.g.*, *Bell Atlantic/GTE Order*, 15 FCC Rcd at 14046-47, ¶ 23.

designed to enable Sprint to take advantage of an $8 billion capital infusion, scale efficiencies, and SoftBank's expertise and resources as a leading mobile Internet company to provide better, more innovative broadband services to consumers throughout the United States. Sprint should thus be able to compete more aggressively with Verizon and AT&T. Consumers should benefit from faster download speeds and technology and service innovation. The resulting greater competition and innovation can in turn stimulate economic growth and promote job creation.

SoftBank has a proven record of invigorating competition against large incumbent providers. SoftBank's fundamental approach has been, first and foremost, to understand the needs and desires of consumers. As one analyst has observed, "SoftBank excels at grasping new consumer needs and incorporating them into its service offerings."[32] SoftBank's success includes reinvigorating Japan Telecom, which SoftBank acquired in 2004, and its more recent turnaround of WILLCOM, a Japanese wireless provider that is in the process of rehabilitation under the Japanese Corporate Rehabilitation Law and whose equity is 100 percent owned by SoftBank.[33] Through SoftBank's support, WILLCOM's subscribership has increased more than 30 percent since 2010. SoftBank's biggest and most relevant success, however, is its 2006 acquisition of Vodafone's Japanese wireless operations, Vodafone K.K.

SoftBank faced formidable odds by entering a Japanese wireless marketplace that was dominated by the wireless operations of the country's two largest providers, DoCoMo, an affiliate of the incumbent monopoly provider of wireline services in Japan, and KDDI, which grew out of Japan's long-time monopoly international voice service provider and provides

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32 Kenji Nishimura, "SoftBank: Initiate with Buy: Mobile portal site key to boosting growth," Deutsche Securities Inc., at 7 (Feb. 8 2008) ("Deutsche Feb. 2008").

33 Although SoftBank owns 100 percent of the shares issued by WILLCOM, SoftBank does not have effective control of the company and therefore SoftBank does not treat WILLCOM as a subsidiary by SoftBank.

wireless service under the *au* brand name. At the time of SoftBank's acquisition of Vodafone K.K., DoCoMo's and KDDI *au's* combined share of the Japanese wireless market was approximately 80 percent, even greater than AT&T's and Verizon's combined share of U.S. wireless customers.[34] Additionally, DoCoMo and KDDI had substantial first-mover advantages in terms of the quantity and nature of their spectrum holdings, including rights to prime 800 MHz spectrum, and a large, established customer base.

SoftBank initially sought to enter the Japanese wireless market by obtaining spectrum from the Japanese regulators.[35] Frustrated by the obstacles it faced, SoftBank sought assistance from the United States Trade Representative ("USTR") and the FCC to further open the Japanese wireless market to competition.[36] In comments filed with the FCC, SoftBank explained how the lack of effective competition in the Japanese market resulted in excessive rates for Japanese consumers and in excessive international termination rates for foreign country originated calls to the customers of the Japanese wireless carriers. SoftBank stated that, should it be granted a wireless license by the Japanese regulators, it was prepared to enter the Japanese market as "an aggressive competitor to the dominant carriers" and that it was "committed to lowering mobile rates generally."[37] As explained herein, SoftBank more than lived up to these statements.

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34 *See* Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993; Annual Report and Analysis of Competitive Market Conditions with Respect to Mobile Wireless, Including Commercial Mobile Services, *Fifteenth Report*, 26 FCC Rcd 9664, 9697, ¶ 31, Table 4 (2011) (reporting Verizon's wireless subscriber share at 31.94 percent and AT&T's wireless subscriber share at 29.80 percent).

35 SoftBank received its initial allocation of wireless spectrum in 2005. Japanese regulators, however, allocated spectrum in the 1.7 GHz band to SoftBank, while allocating the much more highly sought after "beachfront" spectrum in the 800 MHz band to DoCoMo and KDDI.

36 *See* SoftBank BB Corporation, Comments, IB Docket No 04-398, *et al.* (filed Jan. 14, 2005) at Exhibit 1 (attaching Dec. 17, 2004 comments filed with USTR).

37 *Id.* at 3.

Realizing that attempting to build a new wireless network from scratch would delay its market entry and the benefits of competition, SoftBank acquired the struggling Japanese wireless operations of Vodafone group in 2006 for approximately $15 billion. At the time of the acquisition, Vodafone K.K. was the third largest wireless carrier in Japan, but had only a 16 percent share of the wireless market – roughly the same market share currently held by Sprint in the U.S. wireless market.[38] In March of 2006, the month before SoftBank's acquisition, Vodafone K.K. was attracting only about 6 percent of new customers, with the remaining new net additional subscribers divided between DoCoMo and KDDI.[39]

SoftBank quickly began to reverse the fortunes of Vodafone K.K., which was renamed SoftBank Mobile. SoftBank greatly improved the customer experience and turned Softbank Mobile into a vibrant competitor by (1) implementing pricing innovations, (2) enhancing product offerings, (3) investing in SoftBank Mobile's network, and (4) providing innovative mobile Internet content.[40]

1. Pricing Innovations: Installment Sale and Low Basic Rates

SoftBank's primary strategy was to increase SoftBank Mobile's market share by offering attractive rates and installment plans. For instance, SoftBank Mobile introduced a major pricing innovation by allowing customers to purchase handsets on an installment plan, which allows a

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38 Declaration of Kazuhiko Kasai, attached hereto as Attachment 3, ¶ 12 ("Kasai Declaration").

39 Through fiscal year 2005, Vodafone K.K.'s share of new net subscriber additions ("net adds") was approximately 3.5 percent. For fiscal year 2011, SoftBank Mobile's share of net adds was about 41 percent. *Id.* ¶¶ 12, 22.

40 Kasai Declaration, ¶ 14. SoftBank Mobile also took various steps to improve its sales channels and its brand recognition through innovative and critically acclaimed advertising that drew attention to the uniqueness of SoftBank's products. Kasai Declaration, ¶ 17. As a result of these and other efforts, SoftBank Mobile received the most positive consumer rating of the three major carriers in the first year after the Vodafone acquisition. Deutsche Feb. 2008 at 25.

customer to obtain a handset with no upfront payment, but instead pay a separate monthly handset fee over 24 months.[41] As part of the plan, consumers received discounts on their monthly rates, effectively offsetting some or all of the installment payments for the device, depending on the cost of the device.[42] For many customers, the amount of the discount fully offset the monthly installment payment, effectively enabling the customer to obtain the phone for free. The plan proved extremely popular and completely changed how Japanese consumers bought handsets.[43]

Another SoftBank pricing innovation was the "White Plan," a new basic rate plan introduced in January 2007 that reduced basic monthly rates to levels far below those being charged by DoCoMo or KDDI.[44] SoftBank Mobile also initiated free calling among SoftBank Mobile customers between the hours of 1 a.m. and 9 p.m., and developed a heavily discounted student plan.[45] To facilitate the use of its free on-net calling plan, SoftBank Mobile sold mobile phones that used a different dial tone when the person being called was also a SoftBank Mobile user.[46]

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41 Kasai Declaration, ¶ 15.

42 *Id.*

43 *Id.*; Nathan Ramler, "SoftBank: Business looks good but expensive," Macquarie Group Ltd., at 5 (Aug. 27, 2009) ("Macquarie August 2007") (SoftBank "reinvented the mobile industry in Japan by shifting the consumption model away from high handset subsidies and high tariffs to a mix of tariff and handset payment plans.").

44 Kasai Declaration, ¶ 16. Under the White Plan, SoftBank's basic monthly rate was reduced from 2,880 yen to 980 yen. Hitoshi Hayakawa, "Risks of Softbank Mobile's price cut," Credit Suisse (Jan. 10, 2007). *See also* Hironori Tanaka, "Softbank: Big P&L Improvement; Next We Look for Better Cashflow," Morgan Stanley Japan Securities Co., Ltd., at 7 (Mar. 2, 2007) ("Morgan Stanley Mar. 2007"); Steve Scruton and Neale Anderson, "Softbank Corp (9984): Reiterate U/W as mobile share and DSL subs fail to grow," HSBC Bank plc, at 5 (Jun. 11, 2007).

45 Kasai Declaration, ¶ 16.

46 *Id.*

SoftBank's pricing plans resulted in lower prices for all consumers, not just its own customers. SoftBank's actions forced DoCoMo and KDDI to adopt similar pricing innovations, validating SoftBank Mobile's positive impact on mobile wireless prices in Japan.[47]

2. *Product Innovation and Network Enhancements*

SoftBank coupled innovative pricing plans with substantial capital investment in SoftBank Mobile's network and in new, innovative consumer devices. It sharply increased handset options available to consumers. For example, while Vodafone K.K. launched just four new handset models for the spring of 2006, SoftBank Mobile launched 14 new models in the spring of 2007.[48] In addition, SoftBank became the first provider of the iPhone in Japan in 2008.

SoftBank also invested heavily to meet its commitment to enhance the Softbank Mobile 3G network. First SoftBank upgraded the network inherited from Vodafone K.K., which had both coverage and capacity shortfalls relative to DoCoMo and KDDI. As of March 2006, Vodafone K.K. had deployed only about 21,000 base stations. SoftBank Mobile had caught up with DoCoMo and KDDI, having deployed more than 50,000 base stations by the end of March 2008.

SoftBank Mobile has continued to invest in its network. Today, SoftBank Mobile has deployed more than 195,000 base stations and small cell deployments. SoftBank Mobile has complemented this network buildout with more than 320,000 Wi-Fi hotspots, as well as through the deployment of femtocells and other in-building repeater systems that cost-effectively enable

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47 *Id.*

48 Kasai Declaration, ¶ 18. SoftBank Mobile also developed handsets to meet the specific needs of particular consumer groups, such as phones for younger children that sharply restricted whom they could call and included an emergency alarm, and specialized wireless devices like a wireless digital picture frame that can receive and automatically display photos from other wireless devices.

customers to enjoy robust access within their homes or offices while freeing capacity on the macro cellular network.[49]

3. *Leading the Mobile Broadband Revolution in Japan*

SoftBank also took aggressive steps to enhance mobile Internet content for SoftBank Mobile customers. In Japan, mobile phones have long played a larger role in boosting the use of devices that enable faster Internet connections than in the United States, where initial broadband adoption came largely through the use of personal computers that rely on wireline connections. SoftBank's acquisition of Vodafone K.K. was very much an extension of the company's wireline broadband initiatives and Internet investments. The acquisition launched SoftBank's "strategy to link content of the upper layer of the Internet with infrastructure on the lower layer."[50]

SoftBank was an early entrant in the Internet marketplace, joining with Yahoo! Inc. ("Yahoo!") to create Yahoo Japan Corporation ("Yahoo Japan") in 1996.[51] SoftBank today owns 42 percent of Yahoo Japan, which has been and remains Japan's leading web portal. To facilitate mobile broadband access, one of SoftBank's initial innovations was to equip SoftBank Mobile phones with a Yahoo button that permitted instant access to the Yahoo! Japan site.[52] SoftBank also significantly increased content available for mobile devices offered by SoftBank

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49 *Id.* ¶ 32.

50 Deutsche Feb. 2008 at 12.

51 SoftBank acquired approximately 5 percent of the outstanding shares of U.S. based Yahoo! Inc. in November 1995. SoftBank today holds a nominal number of Yahoo! shares.

52 *Id.* An analyst explained the benefit to consumers of the Yahoo! button:

> Users can access Yahoo! Japan's mobile portal site with one push of a button. Previously, accessing the Internet generally involved a series of entries, starting with pushing the "Internet" button on one's phone, then hitting "Internet select," "main menu," and "search." In effect, the Yahoo! button prefigured the one-touch access to content that characterizes modern smartphones.

Id.

Mobile and "re-engineered" the user interface to show more content on the device screen in a manner totally new on a Japanese "keitai."[53] Among other offerings, SoftBank Mobile introduced new mobile Internet content services for music and videos and made them easily available to users.[54]

SoftBank's emphasis on the mobile Internet perfectly positioned it to become Japan's first wireless company to offer the Apple iPhone in 2008. SoftBank's competitors, DoCoMo and KDDI, chose not to offer the Apple iPhone, concerned that it lacked features Japanese consumers had come to expect from their "keitai."[55] They were thus concerned that the iPhone would not be attractive to Japanese consumers. SoftBank, on the other hand, readily grasped the significance of the Apple iPhone as a method to access the Internet. Unlike its larger rivals, SoftBank understood that smartphones were really mobile "Internet machines," and had the potential to change people's lives.[56]

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53 "Keitai" is the Japanese term for a feature phone.

54 Kasai Declaration, ¶ 21.

55 There has been unique evolution of mobile devices and mobile content in Japan that is captured by the phrase "Galapagos Keitai" or "gala-kei" – a reference to the distinct evolutionary process on the Galapagos Islands. *See, e.g.*, Daisuke Wakabayashi, *Digits Blog: Japan's 'Galapagos' Mobile Dilemma*, WALL STREET JOURNAL, available at http://blogs.wsj.com/digits/2012/08/16/japans-galapagos-mobile-dilemma/ (Aug. 16, 2012); Don Fujiwara, *Japanese Keitai Culture: Galapagos Now!*, PIPELINE, available at http://www.pipelinepub.com/0112/OSS_BSS/Japans-Mobile-Landscape-1.php (Jan. 2012) ("*Keitai Culture*"), For many years Japanese feature phones or "keitai" "filled roles Westerners typically ascribe to PCs." *Keitai Culture*. Keitais incorporated many features like address books, schedulers, cameras, and games unique to the Japanese phones. DoCoMo, for example, had developed a mobile internet browser, the i-mode, that enabled web browsing but only for websites specifically tailored for the i-mode platform. *See id.* The iPhone offered a much more robust browser capability.

56 Kasai Declaration, ¶ 19.

4. Invigorating Competition in Japan – <u>And</u> in the United States

Japanese consumers responded to SoftBank Mobile's marketplace initiatives by switching to the newly-energized carrier. In just over a year, by May 2007, SoftBank Mobile was capturing a larger share of net new customers than either DoCoMo or KDDI, and it was also the carrier gaining the largest share of net additions in fiscal years 2007, 2008, 2010, and 2011.[57] SoftBank Mobile's share of net subscriber additions increased from about 3.5 percent in fiscal year 2005 to approximately 41 percent in fiscal year 2011.[58] SoftBank's impressive reversal of Vodafone K.K.'s wireless operations is reflected in various metrics. For example, net subscriber additions jumped from 200,000 in fiscal year 2005 under Vodafone K.K. to 2.7 million in fiscal year 2007 under SoftBank. Within two years of the acquisition, SoftBank stemmed declining service revenues by increasing customers and data revenue per user and has now generated positive revenue growth every year since fiscal year 2008, and greatly improved earnings margins, increasing yearly EBITDA margins.[59] Along with growth in subscribers and revenue, SoftBank Mobile also more than doubled its workforce.[60]

The SoftBank/Sprint transaction offers a similar opportunity to reinvigorate the U.S. wireless marketplace. Like Japan in 2006, the U.S. wireless marketplace is dominated by two large incumbent wireline affiliates whose competitors are hampered by capital constraints and

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57 Kasai Declaration, ¶ 22.

58 *Id.* Deutsche Bank wrote: "[SoftBank] has firmly established its image as a low-cost carrier through a succession of discount plans, improved its brand image via the media, introduced a strong lineup of advanced handsets ahead of its peers, and created a Super Bonus plan that allows consumers to procure those handsets without undue expense." Deutsche Bank Feb. 2008 at 17.

59 Kasai Declaration, ¶ 22.

60 *Id.* ¶ 22. In 2006, there were 2,686 full-time employees at SoftBank Mobile. In 2011, this number had increased to 6,602.

relative lack of scale. As in Japan, SoftBank's investment and resources can transform a U.S. marketplace trending toward a duopoly to one characterized by aggressive competition created by a stronger provider.[61] Although the precise strategies to be used remain to be determined, competition should lead to greater price competition, better service, and more innovation for consumers. The proposed SoftBank/Sprint transaction will thus serve the public interest by increasing the competitiveness of the wireless marketplace as a whole and in particular by creating a stronger national challenger to Verizon and AT&T. The FCC has on numerous occasions found transactions to be in the public interest when they increased competition with larger competitors.[62]

B. The Proposed Transaction Will Promote Wireless Broadband Service and Innovation

Promoting the deployment of broadband infrastructure and service is one of the FCC's highest priorities. As the FCC's National Broadband Plan stated,

> Broadband is the great infrastructure challenge of the early 21st century. ... [It] is a foundation for economic growth, job creation, global competitiveness and a better way of life. It is enabling entire new industries and unlocking vast new possibilities for existing ones. It is changing how we educate children, deliver

61 *See* Tero Kuittinen, "U.S. Consumers Need Softbank to Buy Sprint, FORBES (Oct. 11, 2012) (SoftBank investment in Sprint "could have a profound impact on the U.S. mobile market" given SoftBank's track record in challenging large incumbent providers in Japan).

62 *See, e.g.*, Applications filed by Global Crossing Limited and Level 3 Communications, Inc., *Memorandum Opinion and Order and Declaratory Ruling*, 26 FCC Rcd 14056, 14071, ¶ 44 (IB and WCB 2011) (approving merger of Global Crossing and Level 3 and finding that merger "is likely to lead to significant synergies and enhanced competition against similar providers, including some of the largest providers in the U.S. market"); BRH Holdings GP, Ltd., Transferor and EchoStar Corporation, Transferee, *Memorandum Opinion and Order*, 26 FCC Rcd 7976, 7981, ¶ 14 (IB 2011) (granting application to transfer control of Hughes Communications to EchoStar and finding that the proposed transaction could increase satellite capacity and facilitate the applicants' ability to offer bundled services, which in turn "could result in increased competition to terrestrial multichannel video programming distribution providers, such as Comcast and Verizon, which offer bundled services").

> health care, manage energy, ensure public safety, engage government, and access, organize and disseminate knowledge.[63]

The proposed transaction will further the FCC's broadband goals by providing Sprint greater financial resources, scale economies, and expertise to deploy wireless broadband service more aggressively and offer consumers innovative new mobile Internet services and applications.

1. *The Proposed Transaction Will Provide Sprint the Financial Resources to Accelerate and Expand Its Broadband Deployment*

The proposed transaction will provide an $8 billion capital infusion that Sprint can use to increase investment in its network and improve wireless broadband service to its consumers.[64] Without the transaction, Sprint is likely to face significantly greater challenges in raising capital. Sprint has incurred substantial indebtedness to finance its operations and invest in its business, and as a result is highly leveraged.[65] Thus, Sprint currently faces higher borrowing costs than its competitors and debt service requirements that are significant in relation to its revenues and cash flow.[66]

AT&T and Verizon each are far less leveraged, enjoy much higher cash flows than Sprint, and have considerably greater access to, and a lower cost of, capital. With these advantages, both Bell companies are on their way toward implementing multi-billion dollar

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63 FCC, CONNECTING AMERICA: THE NATIONAL BROADBAND PLAN, Executive Summary at 1 (2009), available at http://www.broadband.gov/plan/ (last visited Nov. 13, 2012).

64 Of the $8 billion capital infusion, $3.1 billion has already been provided to Sprint in the form of convertible debt, and $4.9 billion will be provided at the time the proposed transaction closes upon obtaining regulatory and shareholder approvals. *See supra* n.10.

65 As of December 31, 2011, the carrying value of Sprint's total debt was approximately $20.3 billion. *See* Sprint Nextel Corp., SEC Form 10-K, at 17 (Feb. 27, 2012).

66 *Id.*

investment programs to deploy LTE service throughout their network footprints.[67] These carriers possess tremendous advantages in spectrum portfolios that permit 10x10 MHz (or potentially greater) LTE deployments. As explained in the attached Declaration of Stephen J. Bye, Sprint's Chief Technology Officer and Senior Vice President of Technology Development and Corporate Strategy, to remain competitive, Sprint must continue to respond with its own broadband investment program.[68]

Sprint already has taken an important step in initiating LTE deployment by implementing Network Vision, a multi-year, $4 billion infrastructure initiative that will reduce operating costs and enhance network flexibility for deploying LTE and other broadband technology.[69] The proposed SoftBank transaction provides Sprint the financial resources needed to expand and accelerate its broadband investment program. Sprint intends to invest part of SoftBank's $8 billion capital infusion in its broadband network, with the rest intended to improve Sprint's balance sheet and remain available for future strategic purposes. A stronger balance sheet will

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67 AT&T recently announced that it will invest an additional $14 billion over the next three years to expand and enhance its wireless and wireline broadband networks. The additional investment includes $8 billion for AT&T's wireless initiatives, such as expanding its LTE network to cover 300 million Americans by the end of 2014. Counting this additional investment, AT&T's total capital spending will be approximately $22 billion for each of next three years. AT&T's CEO stated that, "[w]ith our strong balance sheet, these capital investments are manageable." Press Release, AT&T Inc., AT&T to Invest $14 Billion to Significantly Expand Wireless and Wireline Broadband Networks, Support Future IP Data Growth and New Services (Nov. 7, 2012), available at http://www.att.com/gen/press-room?pid=23506&cdvn =news&newsarticleid=35661. Verizon is similarly implementing a multi-billion dollar investment program to upgrade to LTE technology throughout its nationwide footprint. *See* Verizon Wireless, LTE Information Center, available at http://news.verizonwireless.com/LTE/ Overview.html (last visited Nov. 13, 2012).

68 Declaration of Stephen J. Bye, attached hereto as Attachment 4, ¶ 6 ("Bye Declaration").

69 *See* Press Release, Sprint Nextel Corp., "Sprint Nextel Reports Third Quarter 2012 Results," at 2 (Oct. 25, 2012), available at http://newsroom.sprint.com/article_display.cfm? article_id=2440 (as of end of the third quarter, Sprint had deployed 4G LTE in 32 cities, with 115 additional markets expected in the coming months).

mean greater financial stability and lower borrowing costs.[70] With lower borrowing costs, Sprint expects to be able to raise additional capital to improve broadband service to customers.

Sprint is currently deploying LTE technology in its 1.9 GHz PCS G Block (1910-1915/1990-1995 MHz) spectrum, with the expectation that in most markets this deployment will be followed by the roll-out of LTE in other portions of Sprint's spectrum holdings.[71] The proposed transaction can enable Sprint to accelerate this deployment by introducing LTE more rapidly in these various bands and in more markets.[72] In addition, with the financial resources provided by the SoftBank transaction, Sprint expects to expand the capacity of its broadband network by deploying more LTE cell sites in high-traffic areas and small cells to increase capacity, speed, and network reliability.[73] As the FCC has found previously, capital investment that results in such expanded infrastructure and improved service to customers serves the public interest.[74]

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70 Bye Declaration, ¶ 7.

71 Bye Declaration, ¶ 8.

72 *Id.*

73 *Id.*

74 *See, e.g.*, Applications filed by Qwest Communications International Inc. and CenturyTel, Inc. d/b/a CenturyLink, *Memorandum Opinion and Order*, 26 FCC Rcd 4194, 4195-96, ¶ 2 (2011) (finding transaction to be in the public interest because, along with other factors, it would provide applicant a "strengthened financial position" to expand broadband deployment); Iridium Holdings LLC and Iridium Carrier, Holdings LLC, Transferors and GHL Acquisition Corp., Transferee, *Memorandum Opinion and Order and Declaratory Ruling*, 24 FCC Rcd 10725, 10735-36, ¶¶ 25-26 (IB 2009) (transaction would result in public interest benefits by strengthening applicant financially "and leave it better positioned to raise capital necessary to develop, launch and operate" new services); Applications for the Assignment of License from Denali PCS, L.L.C. to Alaska DigiTel, L.L.C. and the Transfer of Control of Interests in Alaska DigiTel, L.L.C. to General Communication, Inc., *Memorandum Opinion and Order*, 21 FCC Rcd 14863, 14867, ¶¶ 7, 14910-11, ¶¶ 114-16 (2006) (finding that transaction may result in public interest benefits where it provided infusion of capital and increased resources to allow applicant to improve services to the public and compete more effectively against two larger providers); Sprint Corporation, *Declaratory Ruling and Order*, 11 FCC Rcd 1850, 1863, ¶ 82 (1996) ("We

2. *The Proposed Transaction Will Allow Sprint to Leverage SoftBank's Expertise and Best Practices as One of the World's Leading Mobile Internet Companies*

The proposed transaction provides Sprint far more than additional capital resources. Sprint can also draw on the expertise and resources SoftBank has developed as one of the world's leading mobile Internet investors and innovators. As described above, SoftBank Mobile has been one of the most innovative carriers in Japan, offering pro-consumer pricing plans, reinventing business processes and offering new and exciting products tailored to consumer needs and desires. Although Sprint's market initiatives would be tailored to the particular circumstances of the U.S. marketplace, SoftBank and Sprint anticipate taking a similarly innovative and pro-consumer approach in the United States.[75] These innovations will focus on consumer needs and desires and will seek to differentiate Sprint's service from its competitors.

A key part of these efforts will be to enhance consumer access to mobile Internet content and applications. Sprint expects to take advantage of SoftBank's mobile Internet expertise and investments to offer U.S. consumers a range of new services, such as mobile commerce, gaming, and video and music content over an enhanced wireless broadband network. The transaction should thus promote innovative new services that will greatly benefit the U.S. consumer.[76] Leveraging SoftBank's expertise and investments in mobile Internet innovations will help Sprint compete more effectively against its larger rivals, which have their own technology venture capital funds.[77]

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agree with Sprint that this capital infusion to its wireless activities is an important procompetitive effect of the proposed transaction.").

75 *See* Bye Declaration, ¶¶ 16-17; Kasai Declaration, ¶¶ 26-28.

76 Bye Declaration, ¶ 17.

77 *Id.*

Sprint and U.S. consumers can also benefit from SoftBank's technical expertise in deploying 4G broadband network technology. For example, as described above, SoftBank has deployed thousands of Wi-Fi hotspots and other small cell technologies to boost capacity in the SoftBank Mobile network. SoftBank's technology leadership is reflected in the performance of the wireless services it provides. It currently provides the fastest 4G service in Japan, with average downlink speeds of 18.2 Mbps in the heavily congested Tokyo area,[78] substantially faster than its Japanese rivals.

3. *The Proposed Transaction Will Produce Scale Economies That Will Promote Broadband Innovation for Consumers*

As explained in the Bye Declaration, the mobile technology ecosystem has become truly global in scope, as vendors and manufacturers design and manufacture devices and mobile applications for sale throughout the world.[79] Verizon and AT&T are major players in this global ecosystem because of their large number of subscribers. They each have approximately 100 million U.S. subscribers. Verizon's U.S. scale is magnified by the 400 million worldwide subscribers of Vodafone, a major investor in Verizon, and AT&T's scale is enhanced by the fact that it uses GSM technology, the predominant network technology in the world.[80] The size of these global players gives them significant influence in the technology ecosystem; for example, their size helps them gain priority from technology vendors in developing new handsets and chipsets that operate on their particular spectrum bands and including features that help them stand out in the marketplace.[81]

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78 Report issued by ICT Research & Consulting on August 28, 2012.

79 *See* Bye Declaration, ¶ 10.

80 *Id.* ¶ 11.

81 *Id.*

Sprint needs similar access to the global mobile technology ecosystem to help it compete more effectively with rival wireless providers in the U.S. Because of its current small size, Sprint has at times faced challenges in working with vendors to develop equipment and devices to implement Sprint's broadband plans.[82] The proposed transaction is expected to help Sprint overcome these challenges given that, post-transaction, SoftBank's wireless services in the United States and Japan will have a total of approximately 92 million subscribers. This larger subscriber scale should help SoftBank/Sprint increase the combined company's profile in the global technology ecosystem and thereby obtain higher vendor prioritization in the "roadmap" for designing and developing mobile technology. By providing Sprint a subscriber scale similar to its larger wireless competitors, the proposed transaction is intended to enable Sprint to provide its customers, on a timely basis, cost-competitive and cutting-edge handsets and innovations necessary to compete more aggressively against these larger rivals.[83] The transaction will thus promote competition and help Sprint satisfy consumer demand for new, innovative handset features and services.

As a higher volume purchaser of handsets and broadband technologies, SoftBank and Sprint will be able to offer handset vendors and mobile application developers a more attractive partner for developing new devices and service innovations. Vendors and developers should have strong incentives to design and innovate for a platform that reaches approximately 92 million subscribers, thereby helping to address the scale advantages Verizon and AT&T enjoy

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[82] *Id.* ¶ 12.

[83] *Id.* ¶ 13.

today and fostering greater innovation and competition in the mobile device ecosystem that exits today.[84]

IV. THE PROPOSED TRANSACTION WILL HAVE NO ADVERSE COMPETITIVE EFFECTS OR OTHER PUBLIC INTEREST HARMS

The proposed transaction will have no adverse competitive effects. Sprint and SoftBank are not wireless competitors today, and SoftBank's acquisition of an approximately 70 percent interest in Sprint will not diminish wireless competition in any respect. The transaction will not increase horizontal market concentration given that SoftBank has no attributable interests in any U.S. wireless carriers. Thus, neither of the tests the FCC applies to assess the potential for competitive harm, increased market concentration or spectrum aggregation, is implicated. As the FCC has stated, "[t]ransactions that do not significantly increase concentration or do not result in a concentrated market ordinarily require no further analysis of their horizontal impact."[85]

The proposed transaction raises no spectrum aggregation concerns. The transaction will not increase Sprint's or Clearwire's spectrum holdings, as SoftBank holds no attributable interest in U.S. spectrum licenses or leases. Clearwire's spectrum holdings are already fully attributed to Sprint, with the FCC having found in its 2008 *Sprint – Clearwire Order* that Sprint's ownership interest in Clearwire serves the public interest.[86] More generally, the FCC's 2008 order found that the merger of the Sprint and Clearwire 2.5 GHz licenses, authorizations, leases and related assets into "New Clearwire," and Sprint's 51 percent interest in New Clearwire, would not cause competitive harm and would serve the public interest.[87] SoftBank's acquisition of indirect *de*

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84 *Id.* ¶ 14.

85 *AT&T/ Centennial Order*, 24 FCC Rcd at 13931, ¶ 34.

86 *See Sprint/Clearwire Order*, 23 FCC Rcd at 17572, ¶ 3.

87 *Id.* at 17572, ¶ 3, 17619 ¶¶ 124, 127.

jure control of Clearwire through its Sprint investment does not affect these public interest findings, which hold true today and do not require reexamination.

The proposed transaction will also have no adverse impact Sprint's commitment to carry out the FCC's 800 MHz band reconfiguration program, which, among other things, will virtually eliminate the risk of commercial-public safety interference in the 800 MHz Land Mobile Radio band.[88] Sprint has worked diligently to implement the FCC's 800 MHz reconfiguration program.[89] Post-closing, SoftBank and Sprint will remain fully committed to satisfying Sprint's reconfiguration obligations as set forth in the FCC's rules and policies and successfully concluding this project.

V. ADDITIONAL MATTERS

A. Request for Procedural Considerations

1. Request for Approval of Additional Authorizations

The applications being filed are intended to list all FCC licenses, authorizations and spectrum leases held by Sprint and/or Clearwire and their subsidiaries. However, Sprint and/or Clearwire and their subsidiaries may have on file, or may hereafter file, additional requests for authorizations for new or modified facilities which may be granted while the transfer of control applications are still pending, or they may enter into new spectrum leases before the FCC acts on these applications. Accordingly, the Applicants request that the FCC's order granting the transfer of control applications include the authority for Starburst II to acquire control of (1) any

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88 *See* Improving Public Safety Communications in the 800 MHz Band, *Report and Order*, 19 FCC Rcd 14969 (2004).

89 Sprint recently reported that over 99 percent of all necessary Frequency Reconfiguration Agreements between 800 MHz licensees and Sprint have been signed, that over 85 percent of the 800 MHz non-border area licensees have retuned and that 14 National Public Safety Public Advisory Committee Regions are complete. *See* Letter from Lawrence R. Krevor and James B. Goldstein, Sprint Nextel Corporation, to David Furth, Deputy Bureau Chief, Public Safety and Homeland Security Bureau, FCC, WT Docket 02-55 (Nov. 1, 2012).

license or authorization issued to Sprint and/or Clearwire or their subsidiaries during the FCC's consideration of the transfer of control applications or during the period required for consummation of the transaction following approval; (2) any applications or lease notifications that are pending at the time of consummation; and (3) any leases of spectrum that Sprint and/or Clearwire and their subsidiaries enter into while this transaction is pending before the FCC or the period required for consummation. Such action would be consistent with prior FCC decisions. In addition, the Applicants ask that FCC approval include any licenses, spectrum leases and authorizations that may have been inadvertently omitted from the applications and related filings.

2. *Exemption from Cut-off Rules*

Pursuant to Sections 1.927(h), 1.929(a)(2), 1.933(b), and 25.116(b)(4) of the FCC's rules, and to the extent necessary, the Applicants request a blanket exemption from any applicable cut-off rules in cases where Sprint and/or Clearwire and their subsidiaries file amendments to pending applications to reflect the change in the ultimate ownership of the licenses and authorizations related to this transfer of control. Specifically, the Applicants request that amendments reporting a change in ownership not be treated as major amendments that require a second public notice for still-pending applications. The scope of the transaction demonstrates that the ownership changes would not be made for the acquisition of any particular pending application, but as part of a larger transaction undertaken for an independent and legitimate business purpose. Grant of this request would be consistent with previous FCC actions routinely granting a blanket exemption in cases involving multiple licenses.

3. *Unconstructed Facilities*

Nearly all of the FCC authorizations covered by the transfer of control applications involve constructed facilities. However, certain geographic-area licensed facilities in certain services (*e.g.*, the Enhanced Specialized Mobile Radio ("ESMR") service, the Personal Communications Service ("PCS"), the Wireless Communications Service ("WCS"), and the Broadband Radio Service ("BRS")), as well as certain Fixed Microwave Service licenses are authorized but not yet required to be constructed. The transfer of control of these unbuilt facilities is incidental to this transaction, with no separate payment being made for any individual authorization or facility. Accordingly, there is no reason to review the transaction from a trafficking perspective.[90]

B. National Security Agreement

The Applicants recognize that the FCC will condition its grant of the transfer of control of Sprint on entry into a national security agreement between Sprint and the Department of Justice, the Federal Bureau of Investigation and the Department of Homeland Security. They have no objection to such a condition.

C. No Waivers

The Applicants are not requesting any waivers in connection with these applications other than the exemption from the cut-off rules described above.

VI. CONCLUSION

In reviewing the proposed transaction, the FCC balances the public harms of a proposed transaction against its public interest benefits.[91] Under this balancing test, the FCC's review of the instant transaction is straightforward. As demonstrated in this Public Interest Statement, SoftBank's proposed acquisition of an approximately 70 percent interest in Sprint, as well

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90 *See* 47 C.F.R. § 1.948(i) (authorizing the FCC to request additional information if the transaction appears to involve unconstructed authorizations obtained for the "principal purpose of speculation"); *id.* § 101.55(c)-(d) (permitting transfers of unconstructed microwave facilities provided that they are "incidental to the sale [of] other facilities or merger of interests").

91 *AT&T/Centennial Order*, 24 FCC Rcd at 13927, ¶ 27.

Sprint's prospective *de jure* controlling interest in Clearwire, will result in substantial public interest benefits and no public interest harms.

Sprint and SoftBank have also submitted with their applications a Petition for Declaratory Ruling to allow indirect foreign ownership of Sprint to exceed the 25 percent benchmark set forth in Section 310(b)(4) of the Communications Act. As set forth in that petition and in this Public Interest Statement, there is a strong public interest basis for permitting this level of foreign ownership.

For the foregoing reasons, and for the reasons set forth in the individual applications filed herewith, the proposed transaction complies with all applicable FCC rules, and will serve the public interest. The Applicants request that the FCC expeditiously grant its consent to the proposed transaction by granting the associated transfer of control applications and the Petition for Declaratory Ruling.