

December 20, 2012

Via Electronic Filing

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: *Applications of Sprint Nextel Corporation, Transferor, and SOFTBANK CORP. and Starburst II, Inc., Transferees, for Consent to Transfer of Control of Licenses and Authorizations – IB Docket No. 12-343*

Dear Ms. Dortch:

Transmitted herewith to supplement the below-listed IBFS applications is a copy of an amendment filed by the Applicants to the above-referenced applications.

ISP-PDR-20121115-00007	ITC-T/C-20121116-00298	ITC-T/C-20121116-00299
ITC-T/C-20121116-00297	ITC-T/C-20121116-00300	ITC-T/C-20121116-00301
ITC-T/C-20121116-00302	ITC-T/C-20121116-00303	ITC-T/C-20121116-00304
ITC-T/C-20121116-00305	ITC-T/C-20121116-00306	SCL-T/C-20121116-00014
SES-T/C-20121116-01029	SES-T/C-20121116-01031	

Please contact the undersigned if you have any questions.

Respectfully submitted,

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.**

In the Matter of)
)
Applications of Sprint Nextel Corporation,)
Transferor) IB Docket No. 12-343
)
SOFTBANK CORP., and Starburst II, Inc.,)
Transferees)
)
for Consent to Transfer of Control of Licenses)
and Authorizations)

AMENDMENT

Sprint Nextel Corporation (“Sprint”), Starburst II, Inc. (“Starburst II”) and SOFTBANK CORP. (“SoftBank”) (collectively, the “Applicants”) file this amendment and supplement to their previously-filed Applications for Transfer of Control of Licenses and Authorizations (“Applications”).¹ Through this amendment, the Applicants notify the Commission of a recent agreement by which Sprint has agreed to acquire the remaining shares of Clearwire Corporation (“Clearwire”) that Sprint does not already own.² As a result of this agreement (the “Clearwire

¹ See, e.g., Application of Sprint Nextel Corporation, SOFTBANK CORP., and Starburst II, Inc. for Consent to Transfer of Control, Public Interest Statement, attached to ULS File No. 0005483246 (Nov. 15, 2012) (“Public Interest Statement”).

² See *AGREEMENT AND PLAN OF MERGER by and among SPRINT NEXTEL CORPORATION, COLLIE ACQUISITION CORP. and CLEARWIRE CORPORATION, Dated as of December 17, 2012*, attached as Exhibit 2.1 to Form 8-K of Sprint Nextel Corporation, Dec. 18, 2012 (available at <http://www.sec.gov/Archives/edgar/data/101830/000119312512505717/d456262dex21.htm>) (“Merger Agreement”). With this Amendment, the Applicants, joined for these purposes with Clearwire, seek Commission consent to the transfer of *de facto* as well as *de jure* control of Clearwire’s licenses, leases and authorizations to Sprint, and, by virtue of SoftBank’s proposed acquisition of 70 percent of Sprint, to SoftBank.

Transaction”), Sprint will obtain direct *de facto* control and the other Applicants will obtain indirect *de facto* control of Clearwire, in addition to the *de jure* control Sprint has already acquired and which the initial Applications sought to transfer to SoftBank.³

The Commission has previously found that Sprint’s holding of a majority, controlling interest in Clearwire serves the public interest.⁴ In their Public Interest Statement regarding the above-captioned applications, the Applicants explained how SoftBank’s acquisition of an approximately 70 percent interest in Sprint, including Sprint’s interest in Clearwire, would produce significant public interest benefits and no competitive harm. As explained below, the Clearwire Transaction, which will give SoftBank both *de facto* as well as *de jure* control of Clearwire, will only serve to increase these public interest benefits.⁵

Description of Clearwire Transaction. On December 6 and 7, 2012, the Commission approved Sprint’s *pro forma* application to increase Sprint’s ownership of Clearwire from below

³ See Public Interest Statement at 1.

⁴ See *Sprint Nextel Corporation and Clearwire Corporation, Applications for Consent to Transfer Control of Licenses, Leases, and Authorizations*, WT Docket No. 08-94, Memorandum Opinion and Order, 23 FCC Rcd 17570 (2008), (approving merger of Sprint and Clearwire 2.5 GHz licenses, leases and assets and consenting to Sprint holding a majority, controlling interest in Clearwire without distinguishing between *de jure* and *de facto* control) (“*Sprint-Clearwire Order*”), *aff’d*, Order on Reconsideration, FCC 12-157 (rel. Dec. 19, 2012); Public Notice, *Wireless Telecommunications Bureau Action*, Report No. 8300, at 9 (rel. Dec. 12, 2012) (granting *pro forma* applications for consent to Sprint’s reacquisition of a *de jure* controlling interest in Clearwire as a result of a transaction with Eagle River Investment LLC). The Eagle River transaction increased Sprint’s ownership stake in Clearwire from below 50 percent to above 50 percent, thereby triggering the *pro forma* transfer of control applications required by the FCC’s transfer of control rule, 47 C.F.R. § 1.948(b)(1), and referenced above.

⁵ See *Public Interest Statement* at 30-31 (asking that the requested Commission decision include the approval of any applications pending at the time the transaction is consummated).

50 percent to approximately 50.45 percent through the acquisition of Clearwire stock held by Eagle River Investment LLC.⁶ That transaction is now consummated.⁷

On December 17, 2012, Sprint and Clearwire announced that they had entered into a definitive agreement by which Sprint will acquire the remaining stock of Clearwire that Sprint does not already own for an aggregate purchase price of approximately \$2.2 billion. Under the agreement, Collie Acquisition Corp., a wholly owned subsidiary of Sprint, will be merged into Clearwire, with Clearwire as the surviving corporation. Sprint's shares in Collie Acquisition Corp. and the shares Sprint and its subsidiaries currently own in Clearwire will be converted into shares of the surviving corporation, and all other shares of Clearwire will be converted into a right to receive the per-share cash consideration provided in the definitive agreement. (The Class B shares held by an affiliate of Intel Corporation will be converted into Class A shares of Clearwire immediately prior to the consummation of the Clearwire Transaction. Those Class A shares will then be treated like all other Class A shares in the Clearwire Transaction and be converted into a right to receive the per-share cash consideration provided in the Merger Agreement.)

The Sprint-Clearwire agreement includes provisions that condition Sprint's obligation to acquire Clearwire on the prior consummation of the SoftBank-Sprint transaction. Thus, the combination of the Clearwire Transaction and the SoftBank-Sprint transaction would result in a transfer of *de facto* control of Clearwire not just to Sprint but also, indirectly, to Starburst II and SoftBank. These provisions (a closing condition and a related termination provision) protect

⁶ See, e.g., Public Notice, *Wireless Telecommunications Bureau Action*, Report No. 8300, at 9 (rel. Dec. 12, 2012).

⁷ See, e.g., Notice of Consummation of Clearwire Corporation, ULS File No. 0005547899 (Dec. 12, 2012).

Sprint from the possibility that it might be required to acquire Clearwire but then subsequently fails to close its transaction with SoftBank.

The Clearwire Transaction is subject to the approval of 75 percent of the outstanding Clearwire shares, as well as a majority of the outstanding Clearwire shares not owned by Sprint, SoftBank or their respective affiliates. The remaining strategic investors in Clearwire – affiliates of Comcast Corp., Intel Corp. and Bright House Networks – have agreed to vote their shares of Clearwire in favor of the Clearwire Transaction and have agreed to sell their shares of Clearwire to Sprint in the event the Clearwire Transaction is not consummated for certain reasons, provided that Sprint’s obligation to acquire such shares (if the Clearwire Transaction were to be terminated) is contingent on the closing of the Sprint-SoftBank transaction.

At the consummation of the Clearwire Transaction, the Equityholders’ Agreement among Clearwire, Sprint and the other strategic investors that currently determines the governance of Clearwire will be terminated.

Public Interest Benefits of Clearwire Transaction. The Clearwire Transaction will help provide the financial resources needed to transition Clearwire’s network to LTE technology and improve wireless broadband service to Clearwire and Sprint customers. Clearwire has been facing a number of financial challenges, having recorded net losses in recent reporting periods and facing potentially significant additional losses for the foreseeable future.⁸ Clearwire also has incurred substantial indebtedness, and cautioned that the company may not be able to obtain

⁸ Clearwire Corporation Form 10-K, Feb. 16, 2012, at 23 (available at <http://corporate.clearwire.com/secfiling.cfm?filingID=1445305-12-337&CIK=1442505>) (“Clearwire 2011 10-K”). During the nine months ended September 30, 2012, for instance, Clearwire incurred \$1.31 billion of net losses from continuing operations. Clearwire Corporation Form 10-Q, Oct. 26, 2012, at 35 (available at <http://corporate.clearwire.com/secfiling.cfm?filingID=1442505-12-42&CIK=1442505>) (“Clearwire September 30, 2012 10-Q”).

adequate financing for longer-term needs.⁹ These financial challenges are hampering Clearwire's efforts to transition its network from WiMAX to LTE technology, which is important for maintaining the competitiveness of Clearwire's mobile broadband service.¹⁰

The Clearwire Transaction will help place Clearwire on a stronger financial footing and promote a stronger broadband competitor. In the short term, Sprint has agreed to provide the company up to \$800 million in interim financing prior to the closing, enabling Clearwire to continue to provide WiMAX-based broadband service to its customers while upgrading its network to meet the growing demand for LTE service. Moreover, upon approval of the proposed series of transactions, SoftBank's infusion of \$4.9 billion in additional capital to Sprint (on top of the \$3.1 billion previously invested in Sprint by SoftBank through the purchase of a newly-issued convertible bond) can help improve Clearwire's service by increasing network investment, accelerating broadband deployment, and promoting a wider range of devices and services with superior speed and reliability.¹¹

The Clearwire Transaction will facilitate these public interest benefits by eliminating the complexity and uncertainty related to Clearwire's current ownership and governance structure.¹² The proposed transaction will thus eliminate the inefficiencies created by the current structure

⁹ *Id.* at 35, 47; Clearwire 2011 10-K at 35. As of September 30, 2012, Clearwire had approximately \$4.47 billion in debt. Clearwire September 30, 2012 10-Q at 16.

¹⁰ Clearwire September 30, 2012 10-Q at 34, 49-50. Without access to additional capital, it is not certain that Clearwire could deploy LTE in a timely manner. *See id.* at 47 (stating that Clearwire was delaying a portion of its initial LTE deployment pending further funding).

¹¹ *See* Public Interest Statement at 23-25, 26-29.

¹² Phil Goldstein, *Sprint Makes \$2.1B Offer to Buy Clearwire*, FIERCE WIRELESS, Dec. 13, 2012, (available at <http://www.fiercewireless.com/story/sprint-wants-buy-rest-clearwire-21b/2012-12-13>); *see also* Phil Goldstein, *Sprint to Buy Clearwire for \$2.2B*, FIERCE WIRELESS, Dec. 17, 2012 (available at <http://www.fiercewireless.com/story/sprint-buy-clearwire-22b/2012-12-17>).

and allow Clearwire's customers to benefit fully from not only Sprint's resources and expertise, but also SoftBank's resources and expertise, which are described at length in the Sprint/SoftBank Public Interest Statement.¹³ In short, providing Sprint and SoftBank with both *de jure* and *de facto* control of Clearwire would create synergies and result in a more efficient integrated company than would exist if Clearwire continued to operate as a separate company.

With the enhanced capital position, expertise, and best practices provided by SoftBank, Sprint will be able to use Clearwire's 2.5 GHz spectrum more effectively as a result of the Clearwire Transaction.¹⁴ Indeed, the value and utility of Clearwire's 2.5 GHz spectrum for competitive wireless broadband services is best achieved by combining it with Sprint's complementary core coverage at 1.9 GHz and enhanced geographic coverage with 800 MHz spectrum holdings. Post-transaction, Sprint will be in a position to offer a more robust, higher-capacity mobile broadband network that can compete more effectively in the marketplace, particularly with the broadband services provided by AT&T and Verizon. Consumers will benefit from the resulting increase in competition and innovation.

No Competition Concerns. Increasing Sprint's current approximately 50.45 percent interest in Clearwire to 100 percent will have no adverse competitive effects. Clearwire's retail wireless business serves a very small share of total wireless subscribers,¹⁵ and substantially all of

¹³ See Public Interest Statement at 18-20, 25-27; Kasai Declaration at 5-6.

¹⁴ Sprint's Network Vision platform, because of its flexibility and robustness, will substantially enhance the ability to integrate Clearwire's spectrum into Sprint's network quickly and efficiently.

¹⁵ Clearwire has approximately 1.3 million retail subscribers, or only approximately 0.4 percent of the total number of all wireless connections. See *Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services*, Fifteenth Report, 26 FCC Rcd 9664, ¶ 158 (2011) (*Fifteenth Report*) (providing data on total number of U.S. wireless connections).

its 4G wholesale subscribers are Sprint customers. As noted above, the Commission already has found, in its 2008 *Sprint-Clearwire Order*, that the merger of the Sprint and Clearwire 2.5 GHz licenses, authorizations, leases and related assets into “New Clearwire,” and Sprint’s holding of a majority interest in New Clearwire, would not cause competitive harm and would serve the public interest.¹⁶ Moreover, the Commission already fully attributes Clearwire’s spectrum holdings to Sprint for spectrum screen purposes, with the Commission’s 2008 Order finding that the aggregation of the two companies’ spectrum holdings would serve the public interest. Consequently, allowing Sprint to acquire the remaining shares of Clearwire that it does not already own raises no spectrum aggregation concerns.

Similarly, SoftBank’s indirect acquisition of a *de jure* and *de facto* controlling interest in Clearwire raises no competitive concerns. As explained in the Public Interest Statement, SoftBank has no attributable interests in U.S. spectrum licenses or leases and does not compete with either Sprint or Clearwire today.¹⁷ SoftBank’s acquisition of Sprint’s interest in Clearwire consequently will not diminish wireless competition in any respect. The combination of Sprint, SoftBank and Clearwire will promote substantial public interest benefits with no countervailing competitive harms.

Conclusion. For the foregoing reasons, and for the reasons set forth in the original Applications and Public Interest Statement, the FCC should expeditiously grant the transfer of control applications as amended.

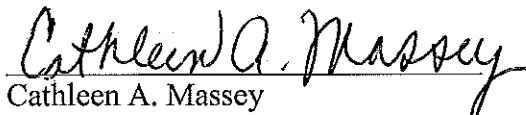
¹⁶ See *Sprint-Clearwire Order*, 23 FCC Rcd at 17572, ¶ 3, 17619 ¶¶ 124, 127.

¹⁷ Public Interest Statement at 29.

Showing Under Sections 1.927(g) and 1.948(i)(2)

The proposed acquisition by Sprint Nextel Corporation (Sprint) of the remaining shares of Clearwire Corporation (Clearwire) raises no concern under the Commission's rules governing trafficking in Commission licenses. Sprint currently holds a *de jure* controlling interest in Clearwire, and the proposed Sprint – Clearwire transaction will increase Sprint's ownership interest to 100 percent and also give Sprint *de facto* control of Clearwire. Clearwire clearly did not acquire its spectrum licenses "for the principal purpose of speculation or profitable resale of" its authorizations. 47 C.F.R. § 1.948(i)(2). As described in the foregoing Amendment, Clearwire has deployed wireless services to customers using its spectrum licenses, and the proposed series of transactions will benefit the public interest.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and corrected. Executed on December 20, 2012.



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