

with a minimum of regulatory cost and delay facilitate the movement of spectrum in the secondary market to its highest valued use, improve efficient use of spectrum, increase opportunities for access to spectrum where needed, and benefit wireless consumers by enhancing the services made available to them?

54. If we were to permit transfers of control and assignment of licenses to proceed on a notification-only basis, we request comment on transactions involving unjust enrichment payments and/or the assumption by a transferee or assignee of the licensee's installment payment plan terms. Under such a regulatory structure, should the presence of either one or both of these factors disqualify a transfer of control or assignment of license from processing under our forbearance procedures?

Alternatively, would we be able to build a process for determining the amount of the applicable unjust enrichment payment as well as preparing and signing the documents necessary for a transferee or assignee to assume some portion or all of a licensee's installment payment obligations that ensures that these efforts do not unduly delay implementation of a lease agreement while affording the Commission sufficient time to act?

55. If we were to allow transfers of control and assignment of licenses to proceed without prior Commission approval, what safe harbors or conditions should we impose to ensure that our public interest objectives are not impeded by permitting such transactions to proceed without individualized Commission review? We could apply the same conditions and elements set forth above for spectrum lease arrangements, including: the transferee or assignee must satisfy applicable eligibility and use restrictions associated with the licensed spectrum; the transferee or assignee must comply with the foreign ownership requirements applicable to Commission licensees; the transfer or assignment must not raise any competitive concerns; and, the transfer or assignment must not raise any other public interest concerns, to the extent we determine we need to adopt any other benchmarks or conditions.

56. We request commenters to assess the appropriateness of each of these conditions in applying forbearance from prior public notice and Commission consent to transfers of control and assignment of licenses. Further, the same questions raised regarding these conditions and benchmarks in the context of spectrum leasing eligible for forbearance processing are applicable in

this context, and we request interested parties to address those matters here as well. In particular, would forbearance from prior Commission approval for transfers and assignments that meet these conditions facilitate our objectives for development of secondary markets? Would comparability of treatment between spectrum leases, on the one hand, and transfers of control and license assignments, on the other hand, help promote a marketplace that provides incentives to parties to employ the most appropriate arrangements and more effectively drive spectrum use to its highest valued use? In light of the fact that transfers and assignments involve transfer of *de jure* as well as *de facto* control, and on a permanent basis, should we impose any conditions on forbearance that would not apply in the leasing context?

57. If we were to pursue forbearance for transfer and assignment applications, should we employ the same notification requirements as proposed for spectrum leases in a forbearance regime as set forth in the *Report and Order*? Does this provide sufficient notice to interested parties, in light of the differences between spectrum leases and transfers of *de jure* and *de facto* control? Could this process be revised in any way to achieve a better balance among the competing public policy objectives implicated by any such plan for forbearance for transfers and assignments?

58. We request commenters to address whether the forbearance conditions noted above would satisfy the section 10 requirements for extending forbearance to some applications involving transfers of control and/or license assignments. Can parties provide any further explanation why forbearance from the 30-day public notice period and individualized prior Commission review and approval supports a finding that the section 10 test has been met? To the extent parties suggest alternative or additional conditions and benchmarks to be used to define transfers of control and assignment of licenses that might be processed on a forbearance basis, we request that they address in detail the section 10 implications of their proposals.

59. In assessing whether forbearance from prior public notice and individualized Commission review meet the section 10 test, we request commenters to consider the provisions of section 310(d), in particular the requirement that no transfer of control or assignment of license may take place unless the Commission finds that "the public interest, convenience, and necessity will be served thereby." The

statutory transfer of control obligations help to ensure that a licensee, initially found qualified to hold a Commission authorization, does not in turn replace itself with an unqualified entity or somehow use the transfer/assignment process to shirk its obligations to the Commission. We wish to ensure that any forbearance policies adopted in the context of transfer and assignment applications will not undercut our ability to carry out this obligation.

60. We acknowledge that in seeking comment on extending forbearance policies to some transfer and assignment applications, we are striving to balance competing goals. We anticipate that more successful functioning of secondary markets—both spectrum leases and outright transfers and assignments—will benefit consumers by increasing the range of wireless services available to them and driving spectrum to its highest valued use. But our public interest considerations are not limited solely to an assessment of competitive issues. We must also look to the Commission's other statutory objectives in weighing whether forbearance from traditional application processing for transfer and assignment applications in total furthers the public interest and whether it can be authorized in accordance with the provisions of section 10. We specifically request comment from interested parties regarding all the factors that should be taken into account in making our public interest calculus in this situation.

61. Finally, to the extent that we pursue forbearance from traditional regulatory processing for substantial transfer and assignment applications in the Wireless Radio Services encompassed within the *Report and Order* or in any additional services based on this *Further NPRM*, relief from prior public notice and Commission approval requirements would be available only for telecommunications services and telecommunications carriers. In a manner parallel to adopting forbearance-based notification processing for spectrum leases, we recognize the need to provide consistent treatment to similar types of wireless service licenses. In addition, in the case of transfers and assignments, there is a real likelihood in today's environment that a licensee would have licenses that would be eligible for forbearance and some that would not. We seek comment on how to ensure that we can expeditiously process a proposed transfer of control or assignment of license that involves both categories of licenses. Are there alternative ways we can streamline processing of transfer and assignment applications involving