

DOCKET FILE COPY ORIGINAL REDACTED - FOR PUBLIC INSPECTION

1776 K STREET NW
WASHINGTON, DC 20006
PHONE 202.719.7000
FAX 202.719.7049

7925 JONES BRANCH DRIVE
McLEAN, VA 22102
PHONE 703.905.2800
FAX 703.905.2820

www.wileyrein.com

June 10, 2011

FILED/ACCEPTED

JUN 10 2011

Federal Communications Commission
Office of the Secretary

VIA HAND DELIVERY AND ECFS

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth St, S.W.
Washington, D.C. 20554

Re: Applications of AT&T Inc. ("AT&T") and Deutsche Telekom AG ("Deutsche Telekom") for Consent to Transfer Control of the Licenses and Authorizations Held by T-Mobile USA, Inc. and Its Subsidiaries ("T-Mobile USA"), WT Docket No. 11-65

REDACTED - FOR PUBLIC INSPECTION

Dear Ms. Dortch:

Deutsche Telekom, by its attorneys, herewith responds to the information request ("*Information Request*") provided to Deutsche Telekom and T-Mobile USA in the above-referenced docket on May 27, 2011. Pursuant to the instructions in the information request and the *Protective Order* and *Second Protective Order* adopted in this proceeding,¹ the parties are also separately providing the following materials:

- Two paper copies of the redacted public version of this response ("Public Response") to Ms. Katherine Harris;
- Two paper copies of the confidential unredacted version of this response ("Confidential Response"), filed pursuant to the *Protective Order*, to Ms. Katherine Harris; and
- Electronic Media containing: (i) responses to Items 1; 2; 3(c)(ii); 4; 5(a)-(d); 6; 7; 8; 9 (other than the price lists); 10; 11; 12; 13; 14; 15; 16; 17; 22; 23; 25;

¹ See Applications of AT&T Inc. and Deutsche Telekom AG, Protective Order, DA 11-674 (rel. Apr. 14, 2011) ("*Protective Order*"); Applications of AT&T Inc. and Deutsche Telekom AG, Second Protective Order, DA 11-753 (rel. Apr. 27, 2011) ("*Second Protective Order*")

No. of Copies rec'd 0+1
List A B C D E

Ms. Marlene H. Dortch, Secretary

June 10, 2011

Page 2

26(e) and (f); 27; 28 (with respect to “plans, analyses and reports” request in final sentence); 29(a); 30; 32; 33; 35; 36; 37; 39; 40; 41 and 43 (“Document Requests”) in a format compatible with the FCC’s document review software (“Document Production”) and (ii) responses to Items 9 (price lists request); 18; 19; 20; 21; 29(b); 31; 34; 38; 45; 46 and 47 (“Data Requests”) in the electronic formats requested in the *Information Request*. The electronic media may be delivered in separate enclosures from different sources. Each delivery will have a separate cover letter identifying this proceeding.

Attached as Exhibit A to this letter is a document with clarifying and explanatory information regarding the materials provided in the Data Production and Document production, as well as textual responses to questions that are not Document Request or Data Requests, specifically Items 3(a) through 3(c); 5(e) and 5(f); 24; 26(a) through 26(d); and 31. As discussed with the staff, a Production Database was used that was created in response to a request by Department of Justice for documents related to its review of this transaction.² For Items that were substantively within the confines of the Production Database, responses to the Document Requests have been generated by performing searches on the text and metadata fields of the Production Database. Items requesting specific documents or information were addressed by further review of relevant Deutsche Telekom and T-Mobile USA files. The parties have attached, as Exhibit B to this letter, copies of the searches used to generate the search results included in the Document Production.³ Notably, during discussions with the FCC staff, the *Information Request* was clarified and, to the

² See Letter from Christine A. Varney, Assistant Attorney General, Antitrust Division, U.S. Department of Justice, to Mark W. Nelson, Esq., Cleary Gottlieb Steen & Hamilton LLP, Counsel to Deutsche Telekom AG (dated Apr. 21, 2011) (“*DOJ 2nd Request*”).

³ Because the Production Database utilizes one or more separate sub-libraries for each of the document custodians, the search requests in Exhibit A contain sufficient information (lines designated “eDMX: Custodian” indicate the search will include the documents of the custodian noted) to verify that the custodians searched for each request were as agreed with FCC staff. The parties also note that the line in the individual searches excluding the “NO-VAL” from the file extensions results in the elimination of electronic mail (“email”) records, which are not to be produced for the Document Requests seeking “all plans, analyses, and reports” under the definitions included. Certain queries also use a designation indicating a “TMUS: Responsive – Disposition” equal to something other than “Responsive.” Those queries are limiting the documents to a subclass of labels applied by human examiners. While the parties have utilized queries to determine the documents in the Production Database responsive to the Document Request, certain documents produced by the search that were later determined, through inspection, to be nonresponsive have been removed from the production. Where appropriate, others have been reclassified as responsive to different requests. The search terms shown in Exhibit B show the libraries searched to include only non-privileged documents. However, the identical searches have been performed in the privileged document library and the results used to generate the privilege log requested by the FCC.

Ms. Marlene H. Dortch, Secretary

June 10, 2011

Page 3

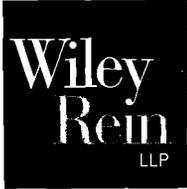
extent that requests relate to “the Company,” the company in question is assumed to be T-Mobile USA, unless the context demands otherwise. In other words, while Deutsche Telekom custodian records were searched, relevant products, services and markets have been limited to the United States operations of Deutsche Telekom through T-Mobile USA.

The information and documents provided in this response are based upon a review of available documents reasonably likely to contain responsive information and inquiry of those individuals and available sources likely to have relevant information. In certain cases, the information or data requested is not maintained in the ordinary course of business by Deutsche Telekom or T-Mobile USA, or the information or data may not be maintained in the format or with the granularity requested by the FCC. When information was not reasonably available within the time frame permitted by the information request or in the form requested, Deutsche Telekom and T-Mobile USA made commercially reasonable efforts to provide information to the extent possible.

We note that the Production Database contains only documents that are dated on or after January 1, 2009. Certain of the *Information Request* Items seek materials or summaries of materials that are dated prior to that date, including *Item 12*, *Item 34*, *Item 36* and *Item 44*. While Item 44 has been addressed, the Data Production and Document Production provided at this time are limited to documents dated on or after January 1, 2009. As discussed with the FCC staff, Deutsche Telekom and T-Mobile USA will provide supplemental materials responsive to those requests and based on material from prior to January 1, 2009 as soon as possible.

Deutsche Telekom and T-Mobile USA further note that while they are making all efforts to produce the entire Document Production today, the documents are returning from the vendor more slowly than originally specified. As a result, there is some potential that the database provided today may be a subset, although the majority, of the complete production. If that occurs, the Applicant will provide a supplemental database containing any remaining documents on Monday, June 13, 2011.

The Document Production also includes a number of documents that were natively created in German. The Production Database included, for such native German documents, human translations for certain categories of materials specified by the DOJ, with machine translations of others. Upon finalization of the Document Production, it was determined that approximately 230 documents in German were machine-translated. Many of these documents are long third party materials, such as news reports or analyses. Applicants intended to provide human translations of all of these documents, but have now received a quote of several hundred thousand



Ms. Marlene H. Dortch, Secretary

June 10, 2011

Page 4

dollars to obtain such translations. Given this extraordinary amount and the number and nature of the documents in the production, the FCC staff agreed that the Applicants would be permitted to file machine translations and would subsequently provide human translations of documents or classes of documents identified by the FCC.

We also note that, with respect to certain classes of Document Requests, few or no documents have been produced. Specifically, Items 5(b), 5(c) and 10 request documents that are almost exclusively attorney-client privileged or subject to the attorney work product doctrine. Items 26(a) and 26(b), and Item 28 (with respect to the Hogg and Larsen Declarations), also request in large part documents that are subject to a Joint Defense Agreement and are therefore privileged. In addition, a number of questions call for documents analyzing operations, plans or decisions that would apply in the event the Proposed Transaction is consummated, including Items 5(a), 11(c), 11(d), 11(e), 23, 25, 26(e), 26(f), 28 (with respect to the elimination of control channels); 31, 32, 33, 39, 40, and 41. However, the Proposed Transaction calls for the acquisition of T-Mobile USA by AT&T; thus the operations and management of the Merged Company will be under AT&T's control. As a result, there are very few, if any, documents that exist within the Production Database that discuss the Merged Company's plans. As a final matter, several questions, including Items 3c, 26(a), 26(b), 26(c), 26(d), 28 (with respect to the Hogg Declaration), 29(a), 33, and 42 (except with respect to Deutsche Telekom or T-Mobile USA Declarations), refer to statements or documents drafted by AT&T and neither Deutsche Telekom nor T-Mobile USA have material responsive to those questions. Finally, one question, Item 16, is targeted at standards-setting for 700 MHz band equipment; since T-Mobile USA has no 700 MHz licenses and did not participate in the standards activities for those bands, there is little material responsive to the question.

Deutsche Telekom and T-Mobile USA further observe that the Document Production contains some of the most sensitive documents of T-Mobile USA and Deutsche Telekom, including documents from the files of its chief executive officer and senior management. Accordingly, the parties separately filed a request to expand the scope of the *Second Protective Order* in this docket to include certain materials provided in this response.⁴ That request was granted by the FCC on June 9, 2011.⁵ Deutsche Telekom and T-Mobile USA request the return, or confirmation

⁴ See Letter from Nancy J. Victory, Counsel to Deutsche Telekom AG, to Marlene H. Dortch, Secretary, Federal Communications Commission (dated June 7, 2011).

Ms. Marlene H. Dortch, Secretary

June 10, 2011

Page 5

of the destruction of, all confidential and highly confidential material at the conclusion of this proceeding.

Deutsche Telekom and T-Mobile USA have made diligent efforts to ensure that no documents in the Document Production are privileged under the attorney-client privilege or attorney work product doctrine. To the extent that any privileged documents may have been included in the Document Production inadvertently, such production does not constitute a waiver of any applicable privilege. Deutsche Telekom and T-Mobile USA request that any privileged documents inadvertently produced be returned to Deutsche Telekom and T-Mobile USA as soon as such inadvertent production is discovered by any party, and reserve all rights to seek the return of any such documents.

Should any questions arise concerning this response, please do not hesitate to contact the undersigned immediately.

Respectfully submitted,



Eric W. DeSilva

cc: Katherine Harris (katherine.harris@fcc.gov)
Kate Matraves (catherine.matraves@fcc.gov)
Jim Bird (jim.bird@fcc.gov)

(Continued . . .)

⁵ See Letter from Ruth Milkman, Chief, Wireless Telecommunications Bureau, Federal Communications Commission, to Peter J. Schildkraut, Counsel to AT&T Inc., and Nancy J. Victory, Counsel to Deutsche Telekom AG (dated June 9, 2011); *available at*: http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-11-1037A1.pdf.

REDACTED – FOR PUBLIC INSPECTION

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of:)
)
Applications of AT&T Inc. and Deutsche)
Telekom AG)
)
For Consent To Assign or Transfer Control of)
Licenses and Authorizations)

WT Docket No. 11-65

FILED/ACCEPTED

JUN 10 2011

Federal Communications Commission
Office of the Secretary

RESPONSE TO INFORMATION REQUEST
BY DEUTSCHE TELEKOM AG AND T-MOBILE USA, INC.

Deutsche Telekom AG (“Deutsche Telekom”) and T-Mobile USA, Inc. (“T-Mobile USA” and with Deutsche Telekom, the “Applicant”) hereby provide certain narrative responses and explanations relevant to the Items sought from the Applicant in the FCC’s request for information dated May 27, 2011 (“*Information Request*”). As noted in the cover letter accompanying this submission, the Applicant has provided other responsive documents and data in the form of electronic media delivered to the FCC, including a series of standalone files (the “Data Production”) and a database of documents compatible with the FCC’s document review software (the “Document Production”). Accordingly, this document references those other productions, with some clarifications, and contains responses to a small subset of the FCC’s *Information Request*.¹

¹ Specifically, the Applicant has provided Electronic Media containing: (i) responses to Items 1; 2; 3(c)(ii); 4; 5(a)-(d); 6; 7; 8; 9 (other than the price lists); 10; 11; 12; 13; 14; 15; 16; 17; 22; 23; 25; 26(e) and (f); 27; 28 (with respect to “plans, analyses and reports” request in final sentence); 29(a); 30; 32; 33; 35; 36; 37; 39; 40; 41 and 43 in the Document Production and (ii) responses to Items 9 (price lists request); 18; 19; 20; 21; 29(b); 31; 34; 38; 45; 46 and 47 in the Data Production. As discussed with the staff, responses to the Document Requests have been generated by performing searches on the text and metadata fields of the documents in a document database (“Production

REDACTED – FOR PUBLIC INSPECTION

We note that the Production Database contains only documents that are dated on or after January 1, 2009. Certain of the *Information Request* Items seek materials or summaries of materials that are dated prior to that date, including *Item 12*, *Item 34*, *Item 36* and *Item 44*. While Item 44 has been addressed,² the Data Production and Document Production provided at this time for the other three Items are limited to materials dated after January 1, 2009. As discussed with the FCC staff, the Applicant will provide supplemental materials responsive to those requests and based on material from prior to January 1, 2009 as soon as possible.

Deutsche Telekom and T-Mobile USA further note that while they are making all efforts to produce the entire Document Production today, the documents are returning from the vendor slower than originally specified. As a result, there is some potential that the database provided today may be a subset, although the majority, of the complete production. If that occurs, the Applicant will provide a supplemental database containing any remaining documents on Monday, June 13, 2011.

The Document Production also includes a number of documents that were natively created in German. The Production Database included, for such native German documents, human translations for certain categories of materials specified by the DOJ, with machine translations of others. Upon finalization of the Document Production, it was determined that approximately 230 documents in German were machine-translated. Many of these documents are long third party materials, such as news reports or analyses. Applicants intended to provide

Database”) created in response to a request by Department of Justice for this transaction, *see* Letter from Christine A. Varney, Assistant Attorney General, Antitrust Division, U.S. Department of Justice, to Mark W. Nelson, Esq., Cleary Gottlieb Steen & Hamilton LLP, Counsel to Deutsche Telekom AG (dated Apr. 21, 2011), and the search terms used to create the first level results, which have been refined through human review, are included as Exhibit B to the filing.

² Item 44 was delivered to the FCC in advance of the deadline at the request of the FCC staff. *See* Letter from Eric W. DeSilva, Counsel to Deutsche Telekom AG, to Marlene H. Dortch, Secretary, Federal Communications Commission (dated June 8, 2011).

REDACTED – FOR PUBLIC INSPECTION

human translations of all of these documents, but have now received a quote of several hundred thousand dollars to obtain such translations. Given this extraordinary amount and the number and nature of the documents in the production, the FCC staff agreed that the Applicants would be permitted to file machine translations and would subsequently provide human translations of documents or classes of documents identified by the FCC.

1. Provide all plans, analyses, and reports discussing:

- a. the definition or determination of what constitutes a capacity or spectrum constraint, including the factors involved in making that determination in any relevant area (e.g., types of products and services offered and resulting demand; cost of additional capacity); and**
- b. potential resolutions of any constraint (including changes in price or actions to increase spectrum or spectral efficiency), and the implications on profitability or revenue of either the constraint or the resolution of the constraint.**

Documents responsive to *Item 1* are in the Document Production.

2. Provide all plans, analyses, and reports discussing:

- a. alternatives the Company considered to solve any constraints in capacity or to increase capacity to provide any relevant service in any relevant area, including:**
 - i. acquiring new spectrum;**
 - ii. plans to increase network capacity using existing spectrum, such as by adding cell sites or additional backhaul;**
 - iii. repurposing spectrum, including the transition of subscribers from the repurposed spectrum; and**
 - iv. alternative solutions to any spectrum constraint problems, including upgrading network or customer equipment, or changing prices;**
- b. current, future, or past problems or difficulties in providing any relevant service in any relevant area, including discussions of:**
 - i. spectrum utilization and efficiency;**
 - ii. any spectrum capacity constraints the Company is currently facing or the Company is projected to face in the future; and**

REDACTED – FOR PUBLIC INSPECTION

- iii. *how the Company evaluates and monitors capacity and capacity utilization, including the amount of spectrum, speed of connection, and facilities (including cell site configuration and backhaul) that are required to meet consumer demand; and*
- iv. *dropped and/or blocked calls and speed and other quality measures of data services;*
- c. *communications given by the Company to investors, investor analysts, industry analysts, bankers, or financial regulators regarding the impact of any constraints on the Company's expected performance, and provide any such communications given since January 1, 2009.*

Documents responsive to *Item 2* are in the Document Production.

3. *The Applicants state that the Proposed Transaction would result in the "more efficient use of 'spare' capacity in areas where one or both companies' networks are underutilized, driving improvements in both performance and capacity in those areas." (Public Interest Statement, page 8; see also pages 39-42; Hogg Declaration, m54-55).*
- a. *Define "spare" and "underutilized."*
 - b. *Provide a list of all relevant areas where "one or both companies' networks are underutilized."*
 - c. *Provide all plans, analyses, and reports discussing:*
 - i. *the Company's plans where the Company has underutilized networks;*
 - ii. *the Company's strategy with respect to obtaining or using spectrum below and/or above 1 GHz.*

As a preliminary matter, the Applicant notes that the use of the terms “‘spare’ capacity” and the concept of “underutilized” networks is derived from the Declaration of William Hogg, Senior Vice President of Network Planning and Engineering with AT&T Services, Inc. (“AT&T”) filed in the captioned docket.³ These terms—“spare capacity” and “underutilized network”—are not defined with reference to any technical thresholds in the Hogg Declaration and they are not terms used by the Applicant in the ordinary course of business.

³ See Declaration of William Hogg, Applications of AT&T Inc. and Deutsche Telekom AG, WT Docket No. 11-65 (filed April 21, 2011); available at: <http://fjallfoss.fcc.gov/ecfs/document/view?id=7021240424>.

REDACTED – FOR PUBLIC INSPECTION

Specifically with respect to *Item 3(a)*, the Applicant presumes that Mr. Hogg meant, when using the term “spare capacity,” the idea that a particular network was not fully loaded and had the ability to accommodate additional traffic. The Applicant does not believe that the term was intended to convey or refer to any specific metric for measuring capacity and was, instead, used in a conceptual sense. By extension, an underutilized network would, presumably, be a network that had spare capacity. Again, the Applicant does not believe the terminology “underutilized network” was intended to convey or refer to any specific metric for measuring network performance.

Item 3(b) requests “a list of all relevant areas where "one or both companies' networks are underutilized.” As an initial matter, the Applicant notes that, even if “underutilized network” were rigorously defined, the Applicant does not have such information for AT&T’s network. In any event, however, the Applicant does not believe that a list could be created based upon its understanding as to how “underutilized network” is used contextually. In context, the term refers to a network’s ability to accommodate additional traffic. To the extent that capacity is measurable, it should be clear that available capacity would vary by time and geographically, cell sector by cell sector. For example, one sector of a cell might experience a “busy hour” from 4-5 PM, whereas another cell sector across town might experience a busy hour from 7:30-8:30 AM. The same relevant area, therefore, might be viewed as having spare capacity or as being underutilized at different times of the day.

Item 3(c)(i) seeks all plans, analyses and reports “discussing the Company’s plans where the Company has underutilized networks.” There are no documents responsive to this request because the Applicant does not use this term in the ordinary course of business and would not base planning decisions around a concept as broad as “underutilized networks.”

REDACTED – FOR PUBLIC INSPECTION

Item 3(c)(ii) seeks all plans, analyses and reports the Applicant's strategy with respect to obtaining or using spectrum below and/or above 1 GHz. This question has been interpreted specifically to identify documents addressing the costs and benefits of using spectrum above 1 GHz as compared to spectrum below 1 GHz, as opposed to simply spectrum generally.

Documents responsive to *Item 3(c)(ii)* are in the Document Production.

4. ***For any relevant service or any relevant product in any relevant area, provide all:***
- a. ***strategic and business plans;***
 - b. ***other plans to reduce costs, improve services or products, improve service quality, improve capacity to transmit mobile wireless services, introduce new services or products;***
 - c. ***budgets and financial projections on a multistate, regional or national basis; and***
 - d. ***presentations to management committees, executive committees, boards of directors, investors, investor analysts, bankers and industry analysts.***

Documents responsive to *Item 4* are in the Document Production.

5. ***Provide all plans, analyses, and reports discussing the Proposed Transaction (except those discussing solely environmental, tax, human resources, OSHA, or ERISA issues), including:***
- a. ***all plans for changes in AT&T's and T-Mobile USA's operations, structure, policies, strategies, product offerings, corporate goals, financing, business, officers, employees or any other area of corporate activity as a result of the Proposed Transaction;***
 - b. ***any other terms or conditions of the Proposed Transaction that were considered but are not reflected in the merger agreement between the parties or in the other documents supplied in response to this Request;***
 - c. ***all terms and conditions were the Proposed Transaction not to be consummated; and***
 - d. ***the "break-up fee," including how it was determined, and including presentations regarding the "break-up fee" to investors, investor analysts, industry analysts, bankers, or financial regulators.***

Also provide:

REDACTED – FOR PUBLIC INSPECTION

- e. a timetable for the Proposed Transaction, including when it was first proposed and the actions that must be taken prior to consummation; and*
- f. to the extent not already provided, all agreements and similar documents relating to the Proposed Transaction, including all attachments, appendices, schedules, side or separate letter agreements to the Stock Purchase Agreement by and between Deutsche Telekom AG and AT&T Inc., and all similar documents by and among the Applicants, their Subsidiaries, Affiliates, or any subset thereof.*

Documents responsive to *Item 5(a)-(d)* are in the Document Production. We note, however, that *Item 5(a)* refers to decisions relating to the operation of the Merged Company, and those decisions will be made by AT&T. Accordingly, the Document Production includes few, if any, responsive documents. The Applicant notes that *Item 5(b)*, *Item 5(c)* and aspects of how the break-up fee were determined in *Item 5(d)* are largely subject to attorney-client privilege. Those documents are identified in the privilege log for the Document Production. *Item 5(e)* has been appended hereto as Attachment 1.

Item 5(f) requests any agreements the Applicant may have entered into relating to the Proposed Transaction. The Applicant has been informed by Commission staff that it may exclude from *Item 5(f)* schedules and annexes to the Stock Purchase Agreement, Shareholders Agreement and Seller and Purchaser Disclosure letters not already submitted to the Commission.⁴ On that basis, Applicant has no further documents responsive to *Item 5(f)*.

- 6. For any relevant service or any relevant product in any relevant area, provide all plans, analyses, and reports (including Nielsen reports and National Service Assurance reports) discussing:*
 - a. buyer substitution responses to price or product changes (quantitatively or qualitatively), including all analyses of elasticities of demand (own-price elasticities and cross-price elasticities with respect to competitors, and the elasticity of demand in the industry as a whole (aggregate elasticity of demand));*

⁴ See Letter from Philip Horton, Counsel to AT&T Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission (dated April 28, 2011).

- b. churn and subscriber acquisition and retention, including:**
 - i. churn data, including the correlation of churn with quality, length of contract commitments, national footprint, price, the expected impact of migration to new technologies such as LTE, on churn, and any other factors;**
 - ii. data or studies indicating that a customer left or switched to the Company because of pricing, network quality, customer service, or the absence or availability of particular services or devices (including figures on subscribers lost or gained), and any consumer surveys undertaken about consumer substitution across mobile wireless service providers;**
 - iii. any attempts to win customers from or stem losses to other mobile wireless service providers;**
 - iv. the Company's experience or success in retaining customers;**
 - v. the Company's experience or success in obtaining customers through marketing or promotions targeted at particular mobile wireless service providers, particular geographic areas, particular wireless devices or types of customers (including the offers made and the amount spent on the marketing effort, the number of new subscribers gained, churn rates for such subscribers, and revenue realized by the Company);**
 - vi. customer acquisition costs, including per gross addition costs; and**
 - vii. descriptions or analyses of bidding results for enterprise or other large customers.**
- c. share of sales or revenues of the Company or any of its competitors, including subscriber counts, gross additions, deactivations, and net additions; and**
- d. share of sales through various distribution channels (e.g. own sales versus sales through exclusive or non-exclusive third parties) of the Company (by channel and by name for each third party) and its competitors.**

Documents responsive to *Item 6* are in the Document Production.

- 7. For any relevant service or any relevant product in any relevant area, provide all plans, analyses, and reports discussing:**
 - a. any plans of, interest in, or efforts undertaken by the Company for any acquisition, divestiture, joint venture, alliance, or merger of any kind involving the provision or sale of any relevant product, or any relevant service, other than the Proposed Transaction;**

REDACTED – FOR PUBLIC INSPECTION

- b. any plans of, interest in, or efforts undertaken by the Company or its competitors to acquire spectrum;*
- c. any plans of, interest in, or efforts undertaken by the Company's competitors for any acquisition, divestiture, joint venture, alliance, or merger of any kind involving the provision or sale of any relevant product, or any relevant service, other than the Proposed Transaction;*
- d. the Company's analysis of, or response to, entry or potential competition;*
- e. any actual or potential effect on the supply, demand, cost, or price of any relevant service or any relevant product as a result of the introduction by a current competitor of any new pricing plan, relevant product or any relevant service; or*
- f. any actual or potential effect on the supply, demand, cost, or price of any relevant service or any relevant product as a result of competition & of any new entrant or new service (such as Wi-Fi, WiMax, VoIP, or internet access service) regarded by customers as a potential substitute.*

Documents responsive to *Item 7* are in the Document Production.

- 8. For any relevant service or any relevant product in any relevant area, provide all plans, analyses, and reports discussing:*
 - a. competitive positioning of the Company and other mobile wireless service providers (e.g., price and quality relative to others), or how reliability and reputation affect competition or potential competition; or*
 - b. how consumers or business customers or competitors view or perceive mobile wireless services or products offered by the Company or other mobile wireless service providers (including their perceptions of customer service, network quality, offering services at a particular rate, the impact of not offering particular wireless services or devices, the impact of pricing on decisions to take any relevant service or any relevant product, variation in subscribers' usage patterns across different pricing plans and devices, roaming, and the ability to use products internationally).*

Documents responsive to *Item 8* are in the Document Production.

- 9. Provide the Company's and any competitor's price lists. Provide all plans, analyses, and reports discussing either the Company's or any competitor's pricing decisions, including: (a) pricing plans; (b) pricing policies; (c) pricing forecasts; (d) pricing strategies; (e) pricing analyses; (f) introduction of new pricing plans or promotions, including local promotions and their determinants and expected or actual impact; (g) tiered pricing, including its relationship to data forecasts and profitability and expected*

or actual impact; and (h) pricing decisions relating to each relevant service and relevant product.

The data requested has been provided in the Data Production. The files in the Data Production include a “read_me.txt” file that contains the description and associations for all files, as well as relevant information regarding limitations, assumptions, and field definition variances. Documents responsive to the remainder of *Item 9* are in the Document Production.

10. *Provide all merger simulations, econometric modeling, or similar analyses that have been undertaken by the Company or any consultant or expert hired by the Company to analyze the effect of the Proposed Transaction, including all documents and data used in these analyses.*

The Applicant notes that merger simulations and econometric modeling, or similar analyses, to the extent that such documents exist, generally would consist of documents produced by CompassLexecon at the direction of the Applicant’s antitrust counsel, Cleary Gottlieb Steen & Hamilton LLP. Any such documents are privileged under the attorney work product doctrine. Privileged documents have been registered in the privilege log for the Document Production, and any non-privileged documents responsive to *Item 10* included in the Document Production.

11. *For any relevant service or any relevant product, in any relevant area, provide all plans, analyses, and reports discussing:*

- a. *the Company's advertising in any relevant area, or for any national, local, urban, suburban, or rural areas as defined by the Company;***
- b. *plans for targeting particular competitors, customers, or customer segments;***
- c. *plans for changes in the Company's marketing or advertising efforts as a result of the Proposed Transaction;***
- d. *whether the T-Mobile USA brand will be continued if the Proposed Transaction were to be consummated, and if so, for how long,***
- e. *whether, to what extent, and under what conditions will T-Mobile USA's current price plans be offered; or***

f. the advertising and marketing efforts of the Company's competitors.

Documents responsive to *Item 11* are in the Document Production. We note, however, that *Item 11(d)* and *Item 11(e)* refer to decisions relating to the operation of the Merged Company, and those decisions will be made by AT&T. Accordingly, the Document Production includes few, if any, responsive documents.

12. Provide all plans, analyses, and reports from January 1, 2007, to the present, discussing:

- a. the research and development of any new relevant product by the Company, individually or with vendors, including those discussing the Company's total expenditures associated with research, development and testing of new relevant products; and*
- b. the Company's introduction or possible introduction of a new mobile wireless pricing plan, new relevant product, new mobile wireless service offering, or changes to the terms and conditions of service.*

Documents responsive to *Item 12* are in the Document Production. As noted, however, documents responsive to this item dated between January 1, 2007 and January 1, 2009 were not included in the Production Database and are not included in the Document Production. The Applicant will provide supplemental materials addressing that time period as soon as possible.

13. Provide the Company's presentation to investors entitled "T-Mobile USA Investor Day" from January 20, 2011 and the corresponding transcript. Provide all documents used in preparing the presentation. Provide all plans, analyses and reports discussing the steps the Company has taken, and plans to take, to implement the plans and strategies discussed in the January 20, 2011 presentation.

The Applicant's presentation entitled "T-Mobile USA Investor Day," dated January 20, 2011, and the corresponding transcript, have been provided in the Document Production. Documents used in the preparation of that presentation as well as other plans, analyses and reports discussing the implementation of the presentation are in the Document Production.

14. The Applicants states that "[b]ecause Deutsche Telekom has determined that it cannot divert capital from its core business, it has directed T-Mobile USA to 'fund its future itself.'" (Public Interest Statement, page 32). Provide all documents discussing whether

REDACTED – FOR PUBLIC INSPECTION

Deutsche Telekom should require the Company to fund itself, including any analyses of risks, costs, spectrum issues, competitive issues, and other potential sources of capital.

Documents responsive to *Item 14* are in the Document Production.

15. *Provide all documents discussing the cost and relative valuation of different spectrum licenses the Company considered acquiring or acquired in the secondary market, including through the acquisition of firms.*

Documents responsive to *Item 15* are in the Document Production.

16. *Provide all plans, analyses, and reports discussing competition in the provision of any relevant service or any relevant product in any relevant area with respect to the Company's or any of its competitors analyses on standard setting for technologies relating to 700 MHz spectrum, including LTE and LTE devices and equipment.*

Documents responsive to *Item 16* are in the Document Production. The Applicant notes that it holds no 700 MHz licenses or spectrum and has not been a participant in standards-setting for 700 MHz. Accordingly, there are very few, if any, responsive documents.

17. *Provide all plans, analyses, and reports discussing the extent to which customers may substitute mobile wireless broadband services for wired broadband services and sales or marketing efforts that reflect such potential substitution.*

Documents responsive to *Item 17* are in the Document Production.

18. *Provide a list, as of the date of this Request, by CMA, of the cell sites owned or shared by the Company, the percentage of cell sites collocated each with the other Applicant, Sprint Nextel, Verizon Wireless, Leap, MetroPCS, US Cellular, and all other mobile wireless service providers.*

The data requested has been provided in the Data Production. The files in the Data Production include a “read_me.txt” file that contains the description and associations for all files, as well as relevant information regarding limitations, assumptions, and field definition variances.

REDACTED – FOR PUBLIC INSPECTION

19. ***Provide, by CMA, current and projected uplink and downlink data usage by the Company's current and projected customer base and the corresponding technologies and services currently used or projected to be used through 2014. Provide separate projections for: the Company. Describe the pricing and spectrum efficiency assumptions used in making these projections.***

The data requested has been provided in the Data Production. The files in the Data Production include a “read_me.txt” file that contains the description and associations for all files, as well as relevant information regarding limitations, assumptions, and field definition variances.

20. ***Provide a list, in csv format, as of the date of this Request, for each county within each state, the District of Columbia, and each municipality within Puerto Rico, of each spectrum license that can be used in the provision of mobile wireless services that the Company holds, has a joint venture or other business arrangement with regard to, leases from another person, has another interest in, manages, has contracted to acquire, or is in negotiations to acquire. For each license, identify the: (a) FIPS Code; (b) county (or the District of Columbia, or municipality in the case of Puerto Rico); (c) state (including the District Columbia and Puerto Rico); (d) market name; (e) market number (in the case of CMA, MTA, or BTA); (f) spectrum type; (g) spectrum block; (h) amount of spectrum; (i) the wireless technology format deployed (e.g., GSM, EDGE, UMTS, HSPA, HSPA+, LTE); and (j) whether the company: (i) holds; (ii) has a joint venture or other business arrangement with regard to; (iii) leases to or from another person; (iv) has an interest in; (v) manages; (vi) has contracted to acquire; (vii) is in negotiations to acquire; or (viii) plans to sell.***

The Applicant has provided the requested data for as “Item_20_Spectrum_Holdings.csv” in the Data Production.

21. ***Provide, as of the date of this Request, maps by bands of the geographic coverage of each relevant service provided by the Company, distinguishing by technological format (e.g., GSM, EDGE, UMTS, HSPA, HSPA+, and LTE, CDMA, EV-DO, EV-DO Rev. A). Provide coverage maps for a -95 and -85 dBm signal level or better for each of the relevant services provided by the Company. Provide the maps in a geo-referenced format, such as a shapefile (for ArcMap) or table (for Mapinfo).***

Geographic coverage information, in MapInfo “.tab” format, has been provided in the Data Production at the requested signal thresholds in the table files associated with “GSM_85_95_dBm.tab”, “GSM_850_85_95_dBm.tab” and “UMTS_85_95_RSCP.tab”. Each MapInfo table has two layers, which correspond to the -85 dBm and -95 dBm signal strength thresholds. The GSM data has been split into two files, with the “GSM_850” file representing

REDACTED – FOR PUBLIC INSPECTION

GSM coverage under the Applicant's one cellular authorization. The other GSM file represents coverage under the Applicant's PCS authorizations. We note that the Applicant does not differentiate between service at the air interface level, and therefore GSM and EDGE coverage is shown under "GSM." Similarly, HSPA, HSPA+, and HSPA+ dual carrier are shown under the UMTS data.⁵ The Applicant does not provide LTE, CDMA, EvDO or EvDO Rev. A services.

- 22. Provide all plans, analyses, and reports discussing the current and projected performance characteristics of HSPA+ and LTE, including the efficiency of spectrum use, upload and download speed, latency, and deployment configuration.**

Documents responsive to *Item 22* are in the Document Production.

- 23. Provide all plans, analyses, and reports discussing, if the Proposed Transaction were to occur:**
- a. where there will be overlaps in coverage;**
 - b. where and when existing cell sites will be consolidated and the criteria to be used to consolidate cell sites; or**
 - c. the number of cell sites that the Merged Company will own, share, or decommission.**

Documents responsive to *Item 23* are in the Document Production. We note, however, that *Item 23(a)* requests information relative to an analysis that would be conducted to make operational decisions for the Post Transaction entity, and, because the Applicant will not make those decisions, the likelihood of any analyses having been performed is very low to negligible. Moreover, *Item 23(b)* and *Item 23(c)* refer to decisions relating to the operation of the Merged Company, and those decisions will be made by AT&T. Accordingly, the Document Production includes few, if any, responsive documents.

- 24. Provide a list, as of the date of this Request, for each relevant area, of the percentage of cell sites where T-Mobile USA purchases its backhaul capacity**

⁵ The Applicant's entire UMTS footprint is HSPA+ enabled. The ability to deliver HSPA, HSPA+ or HSPA+ using dual carriers to any particular subscriber, however, is limited by the backhaul capacity at the site and the capabilities of the end user device.

- a. *individually;*
- b. *on a shared basis with AT&T; and*
- c. *on a shared basis with a mobile wireless service provider other than AT&T. Also, provide all plans, analyses, and reports discussing the Company's purchasing of backhaul capacity (whether the purchase is by the Company solely or jointly with other providers).*

Also, provide all plans, analyses, and reports discussing the Company's purchasing of backhaul capacity (whether the purchase is by the Company solely or jointly with other providers).

[Begin Confidential Information]

[End

Confidential Information] Documents responsive to *Item 24* are in the Document Production.

25. *Provide all plans, analyses, and reports discussing any possible modification by the Merged Company of the terms, including prices, for providing backhaul for unaffiliated mobile wireless service providers to new or existing towers.*

Documents responsive to *Item 25* are in the Document Production. However, *Item 25* refers to decisions relating to the operation of the Merged Company, and those decisions will be made by AT&T. Accordingly, the Document Production includes few, if any, responsive documents.

26. *The Applicants state that the Proposed Transaction is "projected to produce operational savings and other cost synergies exceeding \$39 billion, with annual savings of approximately \$3 billion starting in year three." (Public Interest Statement, page 9, see also pages 51-53). Rick Moore, in his declaration, discusses the "cost savings that will result from combining and optimizing customer support functions, including call center and billing operations." (Moore Declaration ¶ 32, 37).*

- a. *Provide all documents supporting the estimates of operational savings and other cost synergies referred to above.*
- b. *Provide all documents reviewed or relied upon by Mr. Moore in making the statements contained in Section V of his declaration.*
- c. *For each operational savings or cost synergy identified by the Applicants in determining their total savings and annual savings referred to in the Public Interest Statement and the supporting declarations, (i) provide a quantification*

REDACTED – FOR PUBLIC INSPECTION

of the operational savings or cost synergy and an explanation of how the quantification was calculated; and (ii) state the steps that the Company anticipates taking to achieve that operational savings or cost synergy, and the estimated time and costs required to achieve it.

- d. For each cost savings, state separately the one-time fixed cost savings, recurring fixed cost savings, and variable cost savings (in dollars per subscriber and dollars per year).*
- e. Provide all plans, analyses, and reports discussing how the Merged Company will integrate networks, switching facilities, cell sites and backhaul.*
- f. Provide all other strategic plans, policies, analyses, reports and presentations discussing expected cost savings from the Proposed Transaction.*

As an overriding matter, the Applicant notes that Mr. Moore is Senior Vice President of Corporate Development for AT&T, and that while the Applicant has reviewed Mr. Moore's declaration, the Applicant did not prepare Mr. Moore's declaration or review the factual underpinnings or modeling that supports Mr. Moore's declaration. As a result, the Applicant has no documents in response to *Item 26(a)* or *Item 26(b)*. Because the Applicant was not involved in the calculations determining the cost efficiencies, the Applicant is also not in a position to provide any information relevant to *Item 26(c)* or *Item 26(d)*. As a final matter, had the Applicant been provided any such documents, such documents would be privileged as having been shared pursuant to a Joint Defense Agreement.

Documents responsive to *Item 26(e)* and *Item 26(f)* are in the Document Production. However, *Item 26(e)* refers to decisions relating to the operation of the Merged Company, and those decisions will be made by AT&T. Accordingly, the Document Production includes few, if any, responsive documents on that item.

- 27. Provide all plans, analyses, and reports discussing: (a) spectrum requirements for all band segments; (b) the average data transmission speeds that the Company expects customers will be able to obtain; (c) actual and forecasted traffic and busy hour analyses, (d) total data tonnage; (e) capacity utilization rate; (f) vertically integrated operations; or (g) other technical or engineering factors required to attain any*

available cost savings or other efficiencies necessary to compete profitably in the sale or provision of any relevant product or any relevant service.

Documents responsive to *Item 27* are in the Document Production.

28. *The Applicants state that the Proposed Transaction would enable the Merged Company to eliminate redundant control channels and promptly "free up 4.8 to 10 MHz of extra spectrum, depending on the market," improving the quality of GSM service in congested areas or redeployed in the combined company's UMTS network. (Public Interest Statement, pages 8, 36, citing Hogg Declaration, ¶48, Larsen Declaration ¶7). The Applicants also state that channel pooling efficiencies are "expected to increase GSM capacity by as much as 15 percent in some areas and, among other benefits, will reduce the number of blocked calls." (Public Interest Statement, page 8; see also pages 37-39; Hogg Declaration, ¶¶ 50-53). Provide all plans, analyses, and reports discussing the effects of and the ability of the Merged Company to eliminate redundant control channels and achieve channel pooling efficiencies discussed in these statements. Provide all documents reviewed or relied upon by Mr. Hogg and Dr. Larsen in making the statements cited above. Provide all plans, analyses, and reports discussing how much control channel capacity is used to carry SMS text message traffic.*

Documents responsive to *Item 28* are in the Document Production. The Applicant notes, however, that the Hogg Declaration was prepared by AT&T, and therefore the Applicant has no access to documents used in the preparation of that declaration. Other than documents already in the record cited explicitly in the Larsen Declaration, Dr. Larsen has confirmed that he did not review or rely upon any other documents in making the statements referenced in *Item 28*. The Applicant also notes that, while Dr. Larsen reviewed the Hogg Declaration, documents analyzing these efficiencies, to the extent they exist, would have been attorney-client privileged and shared only pursuant to a Joint Defense Agreement relating to the Proposed Transaction. As a result, the documents would be privileged and recorded in the privilege log for the Document Production, but very few, if any, actual documents would exist in the Document Production.

29. *William Hogg states in his declaration that "deployment of outdoor [distributed antenna system] networks and Wi-Fi hotspots. . . are high-cost and ultimately cannot achieve the same nationwide efficiencies as the merger." Hogg Declaration, 7 73. Provide:*
- a. *all plans, analyses, and reports examined in preparing this statement; and*

REDACTED – FOR PUBLIC INSPECTION

- b. in csv format, for each county within each state, the District of Columbia, and each municipality within Puerto Rico, on a yearly basis from January 1, 2007, the number each of total picocell, femtocell, and Wi-Fi hotspots within each county.***

Documents responsive to *Item 29(a)* are in the Document Production. The Applicant notes, however, that the Hogg Declaration was prepared by AT&T, and therefore the Applicant has no access to documents used in the preparation of that declaration. The information requested in *Item 29(b)* and has been provided in the Data Production. The files in the Data Production include a “read_me.txt” file that contains the description and associations for all files, as well as relevant information regarding limitations, assumptions, and field definition variances. Applicant notes that it has no femtocells and that it does not have records of Wi-Fi hotspots prior to 2008.

- 30. To the extent not already provided, provide all plans, analyses, and reports (except engineering and architectural plans and blueprints) discussing the construction of new facilities (cell sites, aggregation points, switching centers, network operations centers, backhaul capacity, or any other physical location that houses hardware used by the network), the closing of any existing facilities, or the expansion, conversion, or modification of current facilities to provide any relevant product or any relevant service in any relevant area.***

Documents responsive to *Item 30* are in the Document Production.

- 31. Provide a list of each county within each state, the District of Columbia, and each municipality in Puerto Rico in which, as a result of the consummation of the Proposed Transaction, the Merged Company would no longer need roaming or wholesale agreements (from any other provider). Provide an estimate, and provide all supporting documents, of the yearly cost savings resulting from the reduction of the number of roaming agreements nationwide.***

The Applicant has provided, as “Item_31_Roaming_by_County.csv”, a text file with comma separated values listing the counties where it currently has roaming agreements and the carriers with which it roams other than AT&T. A roaming partner was included for any county where that entity has coverage, even if minimal coverage. The Applicant has listed a second

REDACTED – FOR PUBLIC INSPECTION

partner where more than roaming agreement exists, and there is no distinction in the order in which such partners were listed.

As noted in other contexts, the Applicant has no information on the decisions of AT&T with respect to post-consummation operations. It would be AT&T's determination as to where roaming agreements listed in "Item_31_Roaming_by_County.csv" would no longer be needed. Because the Applicant has not discussed this matter with AT&T, the Applicant has not attempted to analyze any cost savings resulting from redundant or unnecessary roaming agreements.

32. *Provide all plans, analyses, and reports discussing the possible effects of the Proposed Transaction on roaming or wholesale charges or discussing the Merged Company's offering of roaming or wholesale arrangements.*

Documents responsive to *Item 32* are in the Document Production. However, *Item 32* refers to decisions relating to the operation of the Merged Company, and those decisions will be made by AT&T. Accordingly, the Document Production includes few, if any, responsive documents.

33. *On page 54 of the Public Interest Statement, the Applicants state that the Proposed Transaction will create thousands of jobs. Provide all plans, analyses, and reports discussing the creation or loss of jobs if the Proposed Transaction were to be consummated.*

Documents responsive to *Item 33* are in the Document Production. However, *Item 33* refers to decisions relating to the operation of the Merged Company, and those decisions will be made by AT&T. Accordingly, the Document Production includes few, if any, responsive documents.

34. ***Provide a list, in csv format, of all exclusive relevant product agreements in force from January 1, 2004 to the present, including those that remain in effect and those that have already expired. For each agreement, provide (a) the name and/or model of the device, (b) the beginning and ending dates of the period of exclusivity; and (c) a summary of the other terms and conditions of the agreement, including any commitments with respect to: marketing the device; up-front discounts and subsidies; the pricing and duration of wireless service contracts; and policies on early termination fees.***

The Applicant has provided “Item_34_Exclusivity_Agreement_Summaries.csv” in the Data Production, as a text file with comma separated values, the data requested in *Item 34*.

Pursuant to a discussion with the FCC staff, the summaries are provided only for agreements in effect on or after January 1, 2009, and the Applicant will provide supplemental summaries for exclusivity agreements between 2004 and 2009 on or before June 24, 2011. The Applicant also notes that in many instances, and despite diligent searches, T-Mobile USA does not appear to have documents that would provide information responsive to some of the items requested by the FCC. In practice, agreements regarding exclusivity occasionally were based on unsigned term sheets or oral agreements, or were not reduced to documents. In others, documents, such as purchase orders or product addendums, may never have existed. The information provided in this response constitutes T-Mobile USA's best effort to summarize its exclusive device arrangements in effect during the covered period.

35. ***Provide all plans, analyses, and reports discussing the Company's plans regarding future relevant product agreements.***

Documents responsive to *Item 35* are in the Document Production.

36. ***Provide all plans, analyses, and reports, from January 1, 2008 to the present, discussing the possible expiration, renewal, extension, cancellation, or expansion of the scope of any roaming agreements between AT&T and T-Mobile USA.***

Documents responsive to *Item 36* are in the Document Production. As noted, however, documents responsive to this item dated between January 1, 2008 and January 1, 2009 were not