

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

June 20, 2011

Comments by Citizen Action of New York and the New York Public Interest Research Group

Citizen Action of New York is a statewide grassroots membership organization founded in 1983 to organize for economic, racial, social and environmental justice that has chapters through New York State, including in both rural and urban areas of the state. Citizen Action of New York has a 28 year history of empowering New Yorkers to take action on a broad range of issues including health care, education, consumer rights, and election reform.

The New York Public Interest Research Group (NYPIRG) was founded in 1973 and has a 38-year history of engaging in a diverse range of public policy matters on the local, state and national levels that affect the well-being and rights of New Yorkers. NYPIRG is New York State's largest nonpartisan, nonprofit, student directed research and advocacy organization, with active program interests in consumer protection, environmental preservation, government transparency and accountability, mass transit and student rights. Dating back to the 1970s, NYPIRG has supported and opposed rate and service plans submitted by telecommunications companies to the New York State Public Service Commission, called for consumer protections in the cellular communications marketplace, urged vigorous competition among telecommunications providers, sought to preserve net neutrality, and advocated for build-out in underserved areas.

Citizen Action of New York and NYPIRG are pleased to submit these comments to the Federal Communications Commission (FCC) regarding the proposed merger between AT&T and T-Mobile USA. We believe that the stakes associated with the merger are very high and that decisions made by federal authorities about the merger should be made only after a comprehensive review of the evidence concerning the impacts of the merger on jobs, and on rural and urban consumers has been undertaken.

We are aware that many comments have been submitted in relation to the issue of industry concentration, competition and market share. We do not seek to comment on these issues, but we do urge the FCC to examine several other key questions in assessing the potential impacts of the merger. These questions include the following and are each discussed briefly below:

1. What impact would the merger have on workers and in turn consumers? Would more urgently needed, good-quality jobs be created?
2. How would the merger affect consumers in rural New York communities that have been chronically underserved by the nation's wireless system?

3. Would combining the two companies lead to greater service capacity and gains in efficiency that would result in downward pressure on consumer prices and enhance geographic coverage and service quality? For example, could the merger improve service to densely populated areas, such as New York City, which have been plagued by high rates of dropped calls? What would be the effect upon low- and moderate-income consumers, including seniors and others on fixed incomes?

### **1. Potential Benefits to Workers, and Impact of that on Consumers**

AT&T has said it plans to invest an additional \$8 billion in upgrades to their infrastructure over the next seven years if the merger is approved. The construction and operation of a larger, more technologically advanced wireless network than would otherwise occur would appear to be a force for job creation. For example, one recent analysis shows that 96,000 new job-years could be created as a result of the merger.<sup>1</sup> Although state-by-state investment totals have not been estimated, given the need for additional build-out throughout rural New York, it would appear that the job-creation benefits for the state's labor force could be substantial.

In addition, AT&T has a unionized workforce while T-Mobile USA does not. AT&T has a policy of neutrality on unionization, allowing workers to make their own decisions about organizing, while T-Mobile and other carriers (including Sprint, which was another potential merger partner) oppose and try to block unionization. As a result, T-Mobile USA workers that work for the merged company could have the opportunity for union representation. This would not only represent an improvement for the pocketbooks, savings accounts, and workplace experience of T-Mobile USA workers, but also would translate into a boost for the economy to the extent that the spending power of those workers is increased. A unionized company is also less likely to outsource work, and is therefore more likely to maintain good, living wage jobs that contribute to the growth and stability of the middle class in the United States and in New York State. These potential job-related outcomes are important to the future of our economy, and would likely have a significant impact on consumers, in the form of, for example, better customer service. The impact on jobs and workers should be assessed and weighed heavily by the FCC.

### **2. Coverage in Rural New York**

Residents of the Adirondacks, Central New York and the Southern Tier of New York are among the millions of rural Americans in underserved communities who would benefit if increased coverage for those communities were one of the outcomes of the merger. AT&T has pledged to expand its 4G LTE network to cover those 50 million Americans. The FCC should determine the extent to which the proposed merger would increase coverage to rural New Yorkers relative to the status quo. Also, would the merger reduce prices for wireless service in rural New York as

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<sup>1</sup> Pollack, Ethan. "The Jobs Impact of Telecom Investment," Economic Policy Institute Policy Memorandum #185. May 2011, available at [www.epi.org/publications/entry/7127/](http://www.epi.org/publications/entry/7127/).

a result of the achievement of economies of scale that could spread the fixed costs of reaching areas with relatively low population densities? Currently, the cost of providing service to areas with low-population densities is higher than average given the small customer bases in rural areas.

Both public and private enterprise would benefit from increased access to broadband technology. Citizen Action of New York and NYPIRG believe that large investments in wireless networks is critical for small communities all over the U.S. by enabling them to become competitive in national and global marketplaces, and remaining viable, well-connected communities. Additionally, greater wireless connectivity could provide access to emergency services in many remote locations when individuals become lost, hurt, or impacted by natural disaster and need to contact health and rescue personnel. Similarly, elderly populations who are not able to travel easily could benefit from remote doctor check-ups and online diagnoses. It is critical for the FCC to determine the extent to which the proposed merger would speed up those processes.

### **3. New Capacity, Efficiency and Competition**

AT&T states that it will use the merger to increase its capacity and become a more-efficient company. Some economists view the merger as an opportunity to expand capacity and increase efficiency beyond the levels that could be created by the two separate companies in the absence of a merger. A recent report by the U.S. Government Accountability Office recognized that wireless industry consolidation can result in economies of scale, and price competition.<sup>2</sup> If so, consumers could benefit from the merger as access to high-speed wireless coverage is increased and downward pressure is placed on prices. But will the rhetoric and theory match the reality in this instance? The FCC needs to pay close attention to this question and find ways to ensure that the merger, if approved, generates the kinds of benefits that AT&T claims will occur and that some analysts expect. In conducting this analysis, the FCC must be particularly sensitive to the impact on low- and moderate-income consumers, who need the marketplace to compete based on cost, not just on network advances and cutting edge handset technology.

A related question is how the merger would affect wireless phone users in the densely populated New York City area. The rapid growth in and high level of demand for both voice and data service in densely populated areas like New York City has resulted in challenges for companies, AT&T included, to consistently provide high levels of service. That demand is expected to increase as more people shift to smartphones, the smartphones become more sophisticated and more people rely on access to increasingly data-rich graphics. AT&T claims that by combining the two companies, the ability of the new company to service that growing demand will be

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<sup>2</sup> “In particular, by enabling large national carriers to exploit economies of scale, consolidation can create greater productivity and economic efficiency. This industry consolidation may have especially improved the efficiency of the large national carriers, allowing them to offer more wireless services for similar or lower prices.” (U.S. Government Accountability Office. “Enhanced Data Collection Could Help FCC Better Monitor Competition in the Wireless Industry,” GAO-10-779. July 2010)

increased above and beyond what the two companies alone could provide. The FCC should determine the extent to which the merger would actually create these synergies.

## **Conclusion**

Citizen Action of New York and NYPIRG are submitting these comments because we believe that the FCC's assessment of the merger has crucial implications for the consumers and workers of New York and the rest of the nation. The FCC's decision will shape the cell phone and broadband marketplaces in the U.S. for coming years, if not decades. In view of the huge importance of this industry to our economy, our jobs, our health care system, and our daily lives, the stakes are incredibly high for New Yorkers and the nation. Given the potentially large benefits claimed by the proponents of the merger and the concerns raised by opponents of the merger, the FCC needs to consider all the potential impacts of the merger on consumers and workers. This should include asking the right questions about job creation, protection of workers' rights, impact on rural consumers, cost competition, and the effects of efficiencies and economies of scale on overall customer service. Moreover, if the FCC approves the merger, it should consider how it can hold the new merged entity to its promises of substantial investments in underserved areas (and attendant job creation), expansion into underserved rural areas and improved service delivery in congested ones, while promoting a robust marketplace where competition based on cost, quality and choice of plans and hardware flourishes.

Respectfully submitted,

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