Public Knowledge

September 15, 2011

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

RE: Notice of *Ex Parte* presentation in: WT Docket No. 11-65

Dear Ms. Dortch:

On September 13, 2011, Gigi Sohn, President, and Harold Feld, Legal Director, Public Knowledge (PK), met with Commissioner Copps and his advisors, Josh Cinelli and Mark Stone, with regard to the above captioned proceeding.

PK urged the Commission to reject the proposed license transfer as ungrantable as a matter of law under Section 314. The Department of Justice (DoJ) determination that the national market is the relevant market confirms that, based on the Applicant's own admissions, the number of international GSM roaming partners will be reduced from 2 to 1. Alternatively, the Commission should designate the matter for hearing. Even if AT&T were to prevail in its opposition to the DoJ complaint under the antitrust law, a substantial issue of material fact would remain as to whether the transaction violates Section 314.

It would therefore, if the Commission decides it cannot resolve the Section 314 question as a matter of law on the basis of Applicants' own statements, be in the interest of judicial economy for the Commission to designate for hearing a swiftly as possible. In the event that DoJ prevails, Section 314 is automatically triggered because the license transfer would create an "unlawful monopoly." In the unlikely event that AT&T prevails, however, an issue of material fact would still remain.

For the same reason, it is also reasonable to assume that the court may well stay its proceeding until after the FCC makes its public interest determination. Because questions of material fact remain regardless of whether or not AT&T prevails, and because the resolution of the DoJ complaint is meaningless unless the FCC consents to the license transfer, long standing precedent would suggest that the litigation will be held in abeyance pending the outcome of the FCC's determination. Accordingly, the sooner the Commission resolves the question of the license transfers, the better for everyone.

PK left copies of its Reply to Opposition, filed June 20, 2011, its letter on Section 314 filed September 1, 2011. And a copy of the blog post "Why The AT&T/T-Mobile Deal Is Illegal," available at: http://www.publicknowledge.org/blog/why-attt-mobile-deal-illegal

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In accordance with the FCC's *ex parte* rules, this document is being electronically filed in the above-referenced dockets today.

Sincerely,

_____/s/_____
Harold Feld
Legal Director
Public Knowledge

CC: Commissioner Michael Copps
Mark Stone
Josh Cinelli