

October 24, 2011

EX PARTE PRESENTATION

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

Re: Ex Parte Presentation in WT Docket No. 11-65, *Applications of AT&T Inc. and Deutsche Telekom AG For Consent to Assign or Transfer Control of Licenses and Authorizations*

Dear Ms. Dortch:

On October 20, 2011, the following representatives met with Commission staff regarding the above-referenced proceeding: Cathy Sloan for the Computer and Communications Industry Association; Jeff Blum and Alison Minea for DISH Network L.L.C.; Chris Riley for Free Press; Andrew Jay Schwartzman for Media Access Project; Gigi Sohn for Public Knowledge; Rebecca Thompson for Rural Cellular Association; and Trey Hanbury for Sprint Nextel Corporation. Present on behalf of the Commission were Jim Bird, Patrick DeGraba, Paul de Sa, Renata Hesse, Gregory Rosston, Austin Schlick, and Tom Peters.

During the meeting, we urged the Commission to swiftly designate for hearing AT&T's proposed takeover of T-Mobile. Nearly two months have passed since the Department of Justice filed a lawsuit to block the merger, and the record in the Commission's proceeding closed on June 20, 2011. The record demonstrates that AT&T and Deutsche Telekom have failed to carry their burden of proof in showing that the proposed transaction is in the public interest. There is no set of conditions or divestitures that would resolve the substantial harms posed to the public and to competition. The proposed transaction will raise prices, discourage innovation, and harm consumers.

We pointed out that delay in issuing a Hearing Designation Order would be contrary to the vital role the Commission, as the expert agency, plays in regulating spectrum licensees and protecting the public interest under the broad statutory mandate set forth in the Communications Act. Safeguarding this mandate through the prompt issuance of a Hearing Designation Order is especially important given the "serious concerns about the impact of the proposed transaction on competition."¹ Moreover, delay in issuing a Hearing Designation Order runs the risk of undermining T-Mobile's incentive to compete aggressively in the marketplace while regulatory proceedings remain pending regarding the proposed transaction. This uncertainty causes harm to consumers, who benefit from

¹ See Statement of FCC Chairman Julius Genachowski, August 31, 2011, *available at* http://transition.fcc.gov/Daily_Releases/Daily_Business/2011/db0831/DOC-309371A1.doc (last accessed Oct. 21, 2011).

T-Mobile's role as a leader in introducing innovative technologies and aggressive pricing plans.

An administrative hearing will confirm that the proposed transaction is contrary to the public interest and should be rejected. We pointed out that T-Mobile can survive and thrive after the pending merger is denied. Indeed, the sooner the Commission acts to designate a hearing and ultimately to deny its consent to the proposed transaction, the sooner T-Mobile can refocus its efforts on growing its business consistent with the public interest. A recent Bureau of National Affairs (BNA) report, attached hereto for inclusion in the record, concludes that a standalone T-Mobile has a number of "promising and attractive" options before it once the AT&T takeover is rejected.²

Respectfully submitted,

/s/ Alison A. Minea

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Corporate Counsel
DISH Network L.L.C.

Cc: Jim Bird
Patrick DeGraba
Paul de Sa
Renata Hesse
Gregory Rosston
Austin Schlick
Tom Peters

Attachment

² See Martyn Roetter, Alan Pearce, and Barry Goodstadt, *T-Mobile USA: A Better Future Without AT&T*, BNA Daily Report for Executives, October 6, 2011, at 1 (attached).