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REDACTED FOR PUBLIC INSPECTION

November 1, 2011

Via Electronic Filing and Hand Delivery

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

Re: *Applications of AT&T Inc. and Deutsche Telekom AG (“Applicants”) for Consent to Assign or Transfer Control of Licenses and Authorizations – WT Docket No. 11-65 – Written Ex Parte Presentation*

Dear Ms. Dortch:

AT&T has claimed that its proposed takeover of T-Mobile will promote its deployment of LTE technology,¹ but this claim seriously misrepresents the record. The evidence shows that, even without its proposed takeover of T-Mobile, AT&T will invariably deploy LTE to almost the entire U.S. population within the next few years to remain competitive with Verizon, which is deploying LTE to more than 95% of the population.² AT&T’s LTE deployment has nothing to do with the proposed transaction and certainly provides no justification for approving this anti-competitive merger.

¹ AT&T’s most recent claims regarding its LTE deployment are set forth in two *ex parte* letters. See Letter from Maureen R. Jeffreys, Counsel to AT&T, to Marlene H. Dortch, FCC Secretary, WT Docket No. 11-65, attached to Letter from William E. Cook, Counsel to AT&T, to Marlene H. Dortch, FCC Secretary (Sept. 20, 2011); Letter from Richard L. Rosen, Counsel to AT&T, to Marlene H. Dortch, FCC Secretary, WT Docket No. 11-65 (Aug. 8, 2011) (*AT&T Aug. 8 Ex Parte*).

² See Petition to Deny of Sprint Nextel Corporation, WT Docket No. 11-65, at 128 (May 31, 2011) (“Sprint Petition to Deny”).

AT&T's Internal Documents

AT&T presents a misleading picture of internal company deliberations concerning LTE deployment. Contrary to AT&T's assertions, AT&T "senior management" has at no time rejected the nationwide deployment of LTE at some point in the future even without the proposed takeover of T-Mobile. **[Begin Highly Confidential Information]** [REDACTED]

³ **[End Highly Confidential Information]**

As AT&T has acknowledged, AT&T's own marketing organization has proposed expanding AT&T's LTE coverage,⁴ **[Begin Highly Confidential Information]** [REDACTED]

³ **[Begin Highly Confidential Information]** [REDACTED] **[End Highly Confidential Information]**

⁴ See *AT&T Aug. 8 Ex Parte* at 2.

⁵ **[Begin Highly Confidential Information]** [REDACTED] **[End Highly Confidential Information]**

⁶ **[Begin Highly Confidential Information]** [REDACTED] **[End Highly Confidential Information]**

⁷ **[Begin Highly Confidential Information]** [REDACTED] **[End Highly Confidential Information]**

⁸ **[Begin Highly Confidential Information]** [REDACTED] **[End Highly Confidential Information]**

⁹ **[Begin Highly Confidential Information]** [REDACTED] **[End Highly Confidential Information]**

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¹⁰ [Begin Highly Confidential Information] [Redacted] [End Highly Confidential Information]

¹¹ [Begin Highly Confidential Information] [Redacted]
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¹² [Begin Highly Confidential Information] [Redacted]
[Redacted] [End Highly Confidential Information]

¹³ [Begin Highly Confidential Information] [Redacted]
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AT&T's Track Record: Where Verizon's Network Coverage Goes, AT&T Will Follow

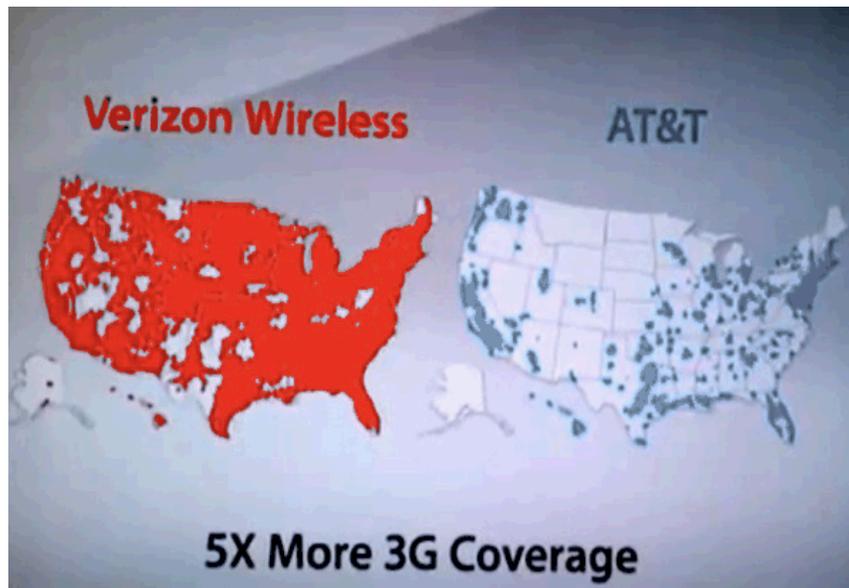
AT&T appears to be following the same strategy in deploying LTE that it used in deploying 3G service on its network: let Verizon take the lead in deploying the latest network technology across its nationwide footprint and then catch up within the next year or two. This strategy is driven by a basic principle: AT&T competes for customers based on network coverage, and this competition will force AT&T to match Verizon's 4G coverage just as AT&T was forced to match Verizon's nationwide 3G coverage.²³

In 2009, Verizon launched an ad campaign comparing Verizon's and AT&T's 3G network coverage:

²¹ [Begin Highly Confidential Information] [REDACTED] [End Highly Confidential Information]

²² [Begin Highly Confidential Information] [REDACTED] [End Highly Confidential Information]

²³ See AT&T, Annual Report (Form 10-K), Ex. 13 at 29 (Mar. 1, 2011) ("We . . . compete for customers based principally on price, service/device offerings, call quality, *coverage area*[,] and customer service.") (emphasis added).



AT&T responded with an aggressive ad campaign of its own featuring the actor Luke Wilson and describing the nationwide coverage of its 2.5G network. AT&T also filed a lawsuit against Verizon, claiming that Verizon's ads were making misleading statements relating "to the ability of AT&T's customers to use their wireless devices throughout the United States."²⁴ In the lawsuit, AT&T made clear that its "product is the delivery of wireless coverage to its customers" and that a "misleading claim about the extent of such coverage, or AT&T's ability to provide that coverage goes to the heart of AT&T's business."²⁵

AT&T, however, did more than file lawsuits and fight an advertising war: it expanded its 3G network footprint to compete with the 3G services offered by Verizon and other carriers. By 2010, AT&T had deployed its 3G network to approximately 75% of the population,²⁶ and this year it announced plans to extend the reach of its HSPA+ service to 97% of the population by the end of 2012.²⁷ AT&T lagged behind its competitors in deploying nationwide 3G service, but it is catching up in offering full nationwide coverage for this generation of technology.

²⁴ *AT&T Mobility LLC vs. Cellco Partnership d/b/a Verizon Wireless*, Civ. Action No. 1:09-cv-03057 (N.D. Ga.), Memorandum of Law in Support of Plaintiff's Motion for a Temporary Restraining Order, at 18 (Nov. 3, 2009), available at: <<http://www.engadget.com/photos/atandts-memorandum-of-law-in-support-of-temporary-restraining-order/#2418042>>.

²⁵ *Id.* at 17.

²⁶ *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993; Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services*, Fifteenth Report, 26 FCC Rcd 9664, ¶ 110 (2011).

²⁷ Joint Opposition of AT&T Inc., Deutsche Telekom AG, and T-Mobile USA, Inc., to Petitions to Deny and Reply to Comments, WT Docket No. 11-65, at 81 (June 10, 2011).

AT&T is taking the same approach in deploying LTE, letting Verizon take the lead but eventually matching Verizon's virtual nationwide LTE footprint. There may even be advantages to AT&T's approach, *e.g.*, deferring full nationwide LTE coverage allows AT&T to take advantage of future LTE upgrades and the declining costs of network equipment,²⁸ and may also promote a smoother customer transition as the carrier's LTE network is built-out after full deployment of its HSPA+ network.²⁹ Whatever the advantages of its strategy may be, it is clear that, even without the proposed T-Mobile takeover, AT&T will be compelled to deploy LTE to virtually the entire U.S. population to match its competitors' 4G service offerings on a nationwide basis. Otherwise, AT&T will be confronted with yet another ad campaign pointing out the gaps in its network. Hiring Hollywood actors and filing lawsuits will only go so far in addressing consumer expectations about having access to LTE network speeds *throughout* the United States.

AT&T's Ability to Deploy LTE Nationwide Without the T-Mobile Takeover

AT&T has never quantified how the T-Mobile transaction allegedly would allow AT&T to expand its LTE deployment. All that it has offered, despite a specific request by the Commission staff to provide record support for its claims,³⁰ are vague and conclusory arguments. Such speculative, unverifiable claims cannot form the basis of cognizable public interest benefits that can be taken into account in the Commission's review of the proposed transaction.³¹ AT&T's claims, however, are not just speculative,

²⁸ See, *infra*, note 37 and accompanying text; Neil Shah, "Should AT&T Deploy HSPA+ or Jump to LTE?" 4GWIRELESSJOBS.COM (May 15, 2010), *available at*: <<http://www.4gwirelessjobs.com/articles/article-detail.php?Should-AT&T-Deploy-HSPA+-Or-Jump-To-LTE-&Arid=MTMw&Auid=Njk=>>> ("AT&T also has an option to gain a competitive advantage by skipping LTE and instead deploying LTE Advanced (Rel 9 & Rel 10 specs) directly in early 2012").

²⁹ Todd Haselton, "AT&T CEO: Our 4G LTE Network Is 2-3 Years Behind Verizon's," BOY GENIUS REPORT (June 3, 2011), *available at*: <<http://www.bgr.com/2011/06/03/att-ceo-our-4g-lte-network-is-2-3-years-behind-verizons/>> (quoting AT&T spokesperson as stating: "AT&T didn't jump straight to LTE so that its customers would have a consistently fast mobile broadband experience. Customers of competitors who haven't made the same upgrades as AT&T has will find that they'll have fast speeds in LTE areas, but will see a steep drop-off in speeds when they leave LTE coverage zones. Plus, if they're using voice and data simultaneously, one of those connections will drop off. AT&T's customers will have a more consistent speed experience as they move between LTE and HSPA+ coverage areas.").

³⁰ See Letter from Renata Hesse, FCC, to Richard L. Rosen, Counsel to AT&T, WT Docket No. 11-65 (Aug. 24, 2011).

³¹ See *Applications of AT&T Inc. and Centennial Communications Corp. for Consent to Transfer Control of Licenses, Authorizations, and Spectrum Leasing Arrangements*, Memorandum Opinion and Order, 24 FCC Rcd 13915, ¶ 90 (2009).

they are factually incorrect. The record demonstrates that AT&T has the spectrum and financial resources to deploy LTE to almost the entire U.S. population – *without* the T-Mobile takeover.

AT&T's spectrum footprint already covers 97% of the U.S. population; the addition of T-Mobile's spectrum would produce very little further coverage.³² AT&T's current spectrum holdings are more than enough to allow it to deploy LTE to the vast majority of the population. Its unused AWS and 700 MHz spectrum alone will permit deployment of LTE to 95% of the population, and AT&T has made clear that it can also deploy LTE on its 850 MHz cellular band and PCS spectrum which covers almost the entire population.³³

AT&T, one of the largest companies in the world, also certainly has the resources to expand its LTE deployment from 80% to 97% of the U.S. population without the T-Mobile takeover. According to media reports, AT&T has estimated that the cost of expanding LTE deployment to 97% is \$3.8 billion.³⁴ That figure represents:

- Only 3% of AT&T's 2010 operating revenues (\$124 billion);
- Only 10% of the price AT&T would pay to acquire T-Mobile from Deutsche Telekom (\$39 billion);
- Only 15% of the cash payment (\$25 billion) AT&T would make to Deutsche Telekom as part of the T-Mobile purchase price, which Deutsche Telekom has stated it would use to deploy broadband in Europe, not the U.S.,³⁵ and

³² See Sprint Petition to Deny at 124-25.

³³ See Reply Declaration of Stephen Stravitz ¶ 97, Attachment B to Reply Comments of Sprint Nextel Corporation, WT Docket No. 11-65 (June 20, 2011) (“Stravitz Reply Decl.”); Sprint Petition to Deny at 126-27. AT&T's large amount of 700 MHz band and 850 MHz cellular band spectrum is particularly well suited for deploying LTE in rural areas given the propagation characteristics of these bands. AT&T can also acquire spectrum or enter into partnership arrangements with rural carriers in the very limited number of areas where it would need additional spectrum. See Sprint Petition to Deny at 127-28.

³⁴ Karl Bode, “Leaked AT&T Letter Demolishes Case for T-Mobile Merger,” BROADBAND DSLREPORTS.COM, Aug. 12, 2011, *available at*: <<http://www.dslreports.com/shownews/Leaked-ATT-Letter-Demolishes-Case-For-TMobile-Merger-115652>>.

³⁵ Deutsche Telekom Press Release, “Deutsche Telekom: US Deal Accelerates Own Transformation” (March 20, 2011), *available at*: <<http://www.telekom.com/dtag/cms/content/dt/en/1005632>> (quoting René Obermann, CEO, Deutsche Telekom: “This [transaction] will strengthen our position in Europe, whilst we are still participating in the rapidly growing business of mobile data. We will be able to focus more on the opportunities of a modern infrastructure in Germany and Europe . . .”).

- Only about twice as much as AT&T's 2010 media budget (\$1.87 billion), much of which it spent on its Luke Wilson television ads defending the coverage of its network against Verizon's claims.³⁶

Even the \$3.8 billion estimate, however, appears to overstate the cost of extending AT&T's LTE footprint from 80% to 97% of the population. **[Begin Highly Confidential Information]**

[End Highly Confidential Information] ³⁷ Moreover, AT&T's CEO has stated that the "cost curves" for deploying LTE "are already coming down very, very quickly."³⁸ The cost of implementing the last stage of LTE Everywhere in 2014 or later should consequently be significantly lower than estimates generated today. In addition, Sprint's engineering consultant, Steven Stravitz, has estimated that extending AT&T's LTE network to an additional 17% of the population would cost less than \$2 billion, particularly given the fact that AT&T should be able to overlay its LTE buildout on top of its existing 2G/3G network infrastructure.³⁹ If anything, Mr. Stravitz's estimate appears to be conservative, as T-Mobile has estimated it would cost \$1-2 billion to deploy LTE throughout its wireless network, not merely in rural areas.⁴⁰ Like T-Mobile, AT&T has an advantage in that LTE has evolved from the GSM technology family used in its current network, which according to AT&T's CFO gives AT&T "a

³⁶ Kunur Patel, "AT&T 'Rethink' Signals Détente in Attack-Ad Battle with Verizon," *ADVERTISING AGE*, April 12, 2010, *available at*: <<http://adage.com/article/news/t-rethink-signals-detente-attack-ad-war-verizon/143222/>>.

³⁷ **[Begin Highly Confidential Information]**

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³⁸ *How Will the Proposed Merger Between AT&T and T-Mobile Affect Wireless Telecommunications Competition? Hearing Before the Subcomm. on Intellectual Property, Competition, and the Internet of the H. Comm. on the Judiciary*, 112th Congress, Serial No. 112-45, Transcript at 175 (May 26, 2011) (Testimony of Randall Stephenson, AT&T), *available at*: <http://judiciary.house.gov/hearings/printers/112th/112-45_66543.PDF>.

³⁹ Stravitz Reply Decl. ¶ 107.

⁴⁰ "Investor Day T-Mobile USA with René Obermann, CEO, Deutsche Telekom AG and Philipp Humm, President and CEO, T-Mobile USA," Transcript of Presentation at 14 (Jan. 20, 2011), *available at*: <http://www.telekom.com/dtag/cms/contentblob/dt/en/979218/blobBinary/transcript_20012011.pdf>.

seamless path” to LTE.⁴¹ That “seamless path” should make AT&T’s evolution toward a nationwide LTE network less expensive compared to Verizon, Sprint and other carriers who use CDMA technology.

* * * * *

AT&T’s argument that it cannot fully deploy LTE without the T-Mobile takeover is specious. AT&T’s own internal documents and long track record refute this argument. Given its large spectrum position and extensive financial assets, AT&T is fully capable of deploying LTE to 97% of the U.S. population within the next several years. The Commission can thus rely on the competitive marketplace to promote AT&T’s LTE deployment to 97% of the population.

Pursuant to section 1.1206(b) of the Commission’s rules, 47 C.F.R. § 1.1206(b), and the Commission’s Second Protective Order in this proceeding, 26 FCC Rcd 6243, a redacted version of this *ex parte* notification is being filed electronically for inclusion in the public record of the above referenced proceeding. The highly confidential version is being submitted under seal by hand delivery to the FCC Secretary’s Office, and two copies of the highly confidential version are being hand delivered to Kathy Harris of the FCC’s Wireless Bureau.

Respectfully submitted,

/s/ Regina M. Keeney
Regina M. Keeney

cc: Jim Bird
Stacy Ferraro
Kathy Harris
Renata Hesse
Rick Kaplan
David Krech
Kate Matraves
Best Copy and Printing, Inc.

⁴¹ Transcript of AT&T Inc. Q1 2010 Earnings Conference Call (Apr. 21, 2010) (quoting AT&T CFO Richard Lindner), *available at*: <<http://seekingalpha.com/article/200029-at-amp-t-inc-q1-2010-earnings-call-transcript>>.