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

In the Matter of	)	
	)	
Applications of Sprint Nextel Corporation, Transferor	)	IB Docket No. 12-343
	)	
SoftBank Corp., and Starburst II, Inc., Transferees	)	
	)	
Joint Applications for Consent to Transfer of Control of Licenses, Leases, and Authorizations; and Petition for Declaratory Ruling under Section 310(b)(4) of the Communications Act of 1934, as amended	)	

OPPOSITION TO THE REQUEST TO HOLD THE PROCEEDING IN ABEYANCE

I. INTRODUCTION AND SUMMARY

The FCC should recognize the filing by DISH Network in this proceeding as nothing more than a bumbling attempt by a competitor of Sprint's to utilize the regulatory process to its own advantage.

In addressing the matters before it, the FCC ought to focus on its charter "[t]o promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies".

To date, the FCC has done a miserable job of promoting competition in the wireless industry. The industry is dominated by AT&T and Verizon. In practice, AT&T and Verizon have identical pricing and do not compete on price. The result is that the wireless industry has the highest profit margins of any industry in the United States and consumers are getting gouged on price.

Against this background, Clearwire has tried to compete despite the considerable head start and favorable regulatory treatment afforded to AT&T and Verizon and, not surprisingly, has failed miserably. Sprint also has tried to compete over a longer period of time and, fortunately for consumers, has had a modicum of success.

Given the current industry dynamics, the acquisition of Clearwire by Sprint and the infusion of cash into Sprint by Softbank is the best opportunity for the public to receive some benefit from wireless competition. Accordingly, the FCC should get out of the way and let Sprint effectuate its arrangements as quickly as the law permits.

II. The DISH Network is a Competitor of Sprint

There is no need for the FCC to parse the DISH's motives, as convoluted as they be, in this proceeding. DISH is a marketing partner of AT&T, and the parties effectively act as one before millions of consumers. See AT&T's website at: http://www.att.com/esupport/main.jsp?cv=810 Clearly, any regulatory-induced delay from this Petition will help AT&T and DISH in their partnership given the delay it will impose on Sprint's competitive plans. That is, AT&T's dominance will be further protected by the delay which will redound, in part, to the benefit of DISH.

III. Dish's Arguments are Not Only Surreal, They are Not Supported by Any Credible Analysis

DISH has put together a proposal that is conditioned on Sprint acting against its shareholders' best interest. It the FCC were to adhere to the rules of logic, DISH's requests would be rejected out of hand. But for purposes of completeness, the real fallacy of DISH's request from a regulatory perspective is exposed in its conclusion when it says: "…the harm to the public interest in moving forward is clear…"

It is instructive that the only other place in DISH's pleading that uses the term public interest is the following:

"As the Commission has put it:

> It is not in the public interest for our administrative processes to be utilized, either by design or by unintended result, in a manner which favors either the incumbent or the challenger in disputes over corporate control."

That is to say that DISH hasn't even tried to make its case on public interest grounds, other than to write the words down in a vacuum. The reason for this omission is obvious – it can't.

Regarding the issue raised by some of Clearwire's shareholders, the Commission should recognize that Clearwire has been and continues to be extremely poorly managed from the choice of its name, to its technology, to its marketing programs to its financial management, etc. Therefore, it is ludicrous for some current shareholders to expect to leverage the regulatory process to get greater compensation for themselves when what they have done is no more than participate in a blatant misuse of the public's scarce spectrum. If anything, the FCC should investigate whether these shareholders are fit to participate in the holding of public spectrum.

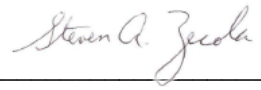
IV. The Commission Should Act Quickly to Promote Effective Competition

The FCC historically has been unwilling to take any proactive actions to fulfill its charter and promote competition in the wireless industry.

There are now precious few alternatives before the Commission to promote competition. Certainly, Dish's proposal has no chance to gain Sprint's approval and is effectively dead on arrival. According, the FCC should reject the request out of hand.

Finally, the FCC should recognize the terrible job it has done in the wireless industry in terms of promoting competition given the dominance of AT&T and Verizon, and at least take the relatively minor steps of approving the Softbank deal and the Clearwire acquisition on an expedited basis.

Submitted by:



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