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September 14, 2015

By Electronic Filing and By Hand Delivery

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

Re: In the Matter of Promoting Interoperability in the 700 MHz  
Commercial Spectrum, WT Docket No. 12-69

**REQUEST FOR CONFIDENTIAL TREATMENT**

Dear Ms. Dortch:

Pursuant to the Commission's decision in *Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission*, GC Docket No. 96-55 (FCC 98-184), released Aug. 4, 1998 (“*Confidential Information Order*”) and in accordance with the Freedom of Information Act (“FOIA”) and the Commission’s Rules related to public information and inspection of records, *e.g.* 47 C.F.R. §§ 0.457 and 0.459, AT&T Services, Inc. (“AT&T”), hereby submits this request for confidential treatment of certain information (included in Attachment 2) included as part of AT&T’s Second Progress Report on Commitments (the “Report”), to be filed today in accordance with the Commission’s October 25, 2013 order in this docket. A public, redacted version of the Report will be filed electronically, and a confidential, unredacted version will be filed by hand.

**Statement pursuant to 47 C.F.R. § 0.459(b)**

**(1) Identification of the specific information for which confidential treatment is sought.**

AT&T seeks confidential treatment of information regarding the details of its planned deployment of Multiple Frequency Band Indicator (MFBI) technology, which are set forth in Attachment 2 to its Report.

**(2) Identification of the Commission proceeding in which the information was submitted or a description of the circumstances giving rise to the submission.**

The information is being provided to in connection with AT&T’s Report in the matter captioned above.

**(3) Explanation of the degree to which the information concerns a service that is subject to competition.**



The information being provided to the Commission involves details about AT&T's plans to deploy MFBI in its 700 MHz LTE network. AT&T's mobile broadband services are offered in competition with numerous other national and regional providers, including facilities-based providers and MVNOs. The industry is highly competitive. The presence of such competition and the likelihood of competitive injury threatened by release of the information provided to the Commission is, by itself, sufficient basis for the Commission to withhold the information from public disclosure. *CNA Financial Corp. v. Donovan*, 830 F.2d 1132, 1152 (D.C. Cir. 1987); *Frazee v. U.S. Forest Service*, 97 F.3d 367, 371 (9<sup>th</sup> Cir. 1996); *Gulf & Western Indus. v. U.S.*, 615 F.2d 527, 530 (D.C. Cir. 1979).

- (4) Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged.**
- (5) Explanation of how disclosure of the information could result in substantial competitive harm.**

Exemption 4 requires a federal agency to withhold from public disclosure confidential or privileged commercial and financial information of a person unless there is an overriding public interest requiring disclosure, and the Commission has a longstanding policy of protecting the confidential commercial information of its regulatees under FOIA Exemption 4.

The information in Attachment 2 to AT&T's Report includes confidential commercial information regarding AT&T's plans to deploy MFBI technology, which is non-public and competitively sensitive information. The release of such information could result in competitive harm to AT&T to the extent that it became available to AT&T's competitors. *See, e.g., AT&T Services, Inc., et al., v. Cox Enterprises, Inc., et al.*, Order, File No. CSR-8066-P, 23 FCC Rcd 14176 (2008) (Establishing a protective order to protect AT&T's churn data); *see also GC Micro Corp. v. Defense Logistics Agency*, 33 F.3d 1109 (9<sup>th</sup> Cir. 1994).

Commission precedent has found this type of information to be competitively sensitive and exempt from disclosure under Exemption 4.<sup>1</sup> Specifically, the Commission has recognized that competitive harm can result from the disclosure of confidential business information that gives competitors insight into a company's costs, customer pricing (i.e. billing records), network facilities, market strategies, and capital expenditures.<sup>2</sup>

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<sup>1</sup> *See e.g. In Matter of Pacific Bell Telephone Company Petition for Pricing Flexibility for Special Access and Dedicated Transport Services*, CCB/CPD No. 00-23, DA 00-2618, November 20, 2000 (supporting confidentiality for collocation data); *Local Exchange Carrier's Rates, Terms and Conditions for Expanded Interconnection Through Virtual Collocation for Special Access and Switched Transport*; *Southwestern Bell Telephone Company*, 13 FCC Rcd 13615 (1998)(keeping administrative operating expenses confidential because it would provide insight into business strategies); *AT&T/McCaw Merger Applications* 9 FCC Rcd 2610 (1994)(keeping confidential accounting records showing account balance information).

<sup>2</sup> *Id.*



- (6) **Identification of any measures taken by the submitting party to prevent unauthorized disclosure; and**

This information has been maintained on a confidential basis within AT&T and would not ordinarily be disclosed to parties outside the company. Specifically, AT&T has procedures for the handling and retaining information that is confidential and proprietary. Employees are not permitted to share such information outside of AT&T without appropriate prior authorization, and only after agreement from the party receiving the information to regard and protect it as confidential under a non-disclosure agreement.

- (7) **Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties.**

The information being provided in Attachment 2 is not available to the public. While some of the information is necessarily available to AT&T's equipment vendors, they are obligated to maintain it confidentially under NDAs.

- (8) **Justification of the period during which the submitting party asserts that material should not be available for public disclosure.**

The material should be kept confidential for at least two years.

- (9) **Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted.**

Should you have any questions please contact me at (202) 457-2055.

Sincerely,

/s/ Michael P. Goggin



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September 14, 2015

By Electronic Filing

***PUBLIC – REDACTED VERSION***

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

Re: In the Matter of Promoting Interoperability in the 700 MHz  
Commercial Spectrum, WT Docket No. 12-69

Third Progress Report on AT&T Commitments

Dear Ms. Dortch:

On October 25, 2013 the FCC adopted a Report and Order in the matter of “Promoting Interoperability in the 700MHz Commercial Spectrum”. As part of this order, AT&T is required to provide a periodic written report and meet with the Commission staff to demonstrate progress made toward the commitments outlined in the its September 10, 2013 commitment letter. Attachment 1 summarizes the commitments made by AT&T and the progress toward these commitments as part of its third progress report.

In accordance with the Commission’s rules, this letter is being filed in the above referenced dockets via the FCC’s Electronic Comments Filing System.

Should you have any questions regarding the above, please feel free to contact me directly

Sincerely,

/s/ Joseph P. Marx

Attachments



### Attachment 1: AT&T Commitments on 700MHz Interoperability

The FCC's goal of promoting interoperability in the Lower 700MHz spectrum by creating a robust Band 12 ecosystem has largely been accomplished. In the two years since the Order was adopted, carriers have increasingly deployed 700 MHz A block networks that rely on Band 12 devices. More specifically, T-Mobile continues to expand its deployment of 700 MHz A block spectrum and has deployed in 141 market areas through the second quarter of 2015.<sup>1</sup> In addition, US Cellular through its partner King Street Wireless has enabled LTE on 700MHz Band 12 in over 100 markets nationwide.<sup>2</sup>

And per a report in Fierce Wireless, 'Last month T-Mobile CTO Neville Ray said that the LTE in 700 MHz deployment now covers 130 million POPs and that the company will get close to 190 million POPs by the end of the year. Importantly, Ray said that his goal is to have 50 percent of the company's subscriber base on a device that supports 700 MHz spectrum by the end of the year, which he said will improve coverage and in-building performance for customers. T-Mobile executives said they expected the continued deployment of 700 MHz spectrum to improve network performance and lead to lower churn.'<sup>3</sup>

Also, in the 2 years since the Report and Order has been released. AT&T has fully deployed the Multiple Frequency Band Indicator (MFBI) feature allowing it to broadcast both Band 17 and Band 12 in the Lower 700MHz spectrum throughout its network.

As a result of these activities, the handset ecosystem for Band 12 devices continues to explode. Starting this year, T-Mobile plans to support LTE Band 12 in all LTE capable phones (Q3 2014 earnings call transcript<sup>4</sup>). Given the broad array of Band 12 devices available as listed below, there can be no remaining argument that a robust ecosystem for Band 12 devices is lagging as such devices are now readily available to any carrier seeking them.

T-Mobile phones (band 12 officially supported<sup>5</sup> and enabled)

- Alcatel OneTouch Pop Astro 5042T
- Goggle Nexus 6
- HTC One M9 for T-Mobile
- LG G4 H811
- LG G Stylo H631
- LG Leon H345
- Microsoft Lumia 640 RM-1073
- Samsung Galaxy Avant SM-G386T

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<sup>1</sup> See <http://newsroom.t-mobile.com/media-kits/q2-earnings-2015.htm>

<sup>2</sup> See <http://www.kingstreetwireless.com/>

<sup>3</sup> See [http://www.fiercewireless.com/story/t-mobile-all-band-12-lte-devices-our-network-must-support-volte-e911/2015-08-28?utm\\_medium=nl&utm\\_source=internal](http://www.fiercewireless.com/story/t-mobile-all-band-12-lte-devices-our-network-must-support-volte-e911/2015-08-28?utm_medium=nl&utm_source=internal)

<sup>4</sup> See <http://seekingalpha.com/article/2606715-t-mobile-uss-tmus-ceo-john-legere-on-q3-2014-results-earnings-call-transcript?part=single>

<sup>5</sup> See <http://www.t-mobile.com/optional-services/coverage-phones-700.html>



- Samsung Galaxy Note 4 SM-N910T
- Samsung Galaxy Note Edge SM-N915T
- Samsung Galaxy S6 SM-G920T
- Samsung Galaxy S6 Edge SM-G925T
- Sony Xperia Z3 D6616 (band 12 enabled by June 2015 software update)
- ZTE ZMax Z970



Tablets (band 12 officially supported)

- LG G Pad F 8.0 V496
- Samsung Galaxy Tab 4 8.0 SM-T337T
- Samsung Galaxy Tab S 10.5 SM-T807T

Hotspots (band 12 officially supported)

- ZTE Z915 MF915

As to AT&T's specific commitments, we report as follows:

- 1) AT&T commits to moving forward expeditiously with testing the 3GPP Multi-Frequency Band Indicator software feature as soon as it is made available to AT&T by its RAN vendors. AT&T further agrees to fully deploy the new MFBI software feature in its 700 MHz network within 24 months of September 30, 2013. The end of the 24-month period will also commence the beginning of the device roll-out period.

*Status Update:*

*As of August 14, 2015 the MFBI feature has been fully deployed on our macro-cellular network and we are transmitting both Band 17 and Band 12 throughout the AT&T Network.*

*In addition, we have completed testing and activation of the MFBI feature on one of our small cell vendors. As of August 17, 2015 all of the small cells in our network have been fully deployed with the MFBI feature and we are transmitting both Band 17 and Band 12 on these small cells.*

*The second small cell vendor has not completed general availability of the MFBI feature and this product will not be deployed in the network until this feature successfully completes the testing.*

*See detailed schedule in Attachment 2 (filed confidentially).*

- 2) Once MFBI has been fully implemented by AT&T consistent with paragraph 2, AT&T shall provide LTE roaming to carriers with compatible Band 12 devices, consistent with the Commission's rules on roaming.

*Status Update:*

*We continue discussions with several Band 12 operators to stay aligned technically to support LTE roaming but are still encountering multiple issues associated with support of voice until the operators are fully deployed for VoLTE because of a lack of support for Circuit Switch Fallback capability. We are investigating the ability to support data only*



*roaming but additional details need to be analyzed.*

### The Transition

- 3) During the first year of the device roll-out period, 50% of all new unique devices that operate on the paired Lower 700 MHz bands, as identified by unique SKU numbers, introduced by AT&T into its device portfolio will be Band 12 capable devices. Memory or color finish variations on a single device shall not be considered separate unique SKUs. Machine-to-Machine (M-to-M) devices shall not be counted as “new unique devices” for purposes of this commitment.

*Status Update:*

*Per the previous report, many of our devices have been sold with Band 12 filters and can be upgraded via software to support Band 12. We will begin the process of transitioning to Band 12 late in 2015 and/or early 2016.*

- 4) During the second year of the device roll-out period, 75% of new unique devices that operate on the paired Lower 700 MHz bands, as identified by unique SKU numbers, introduced by AT&T into its device portfolio will be Band 12 capable devices. Memory or color finish variations on a single device shall not be considered separate unique SKUs. M-to-M devices shall not be counted as “new unique devices” for purposes of this commitment.

*Status Update:*

*N/A.*

- 5) Commencing at the conclusion of the second year of the device roll-out period, all new unique devices that operate on the paired Lower 700 MHz bands introduced by AT&T into its device portfolio will be Band 12 capable devices. In addition, from that time forward, AT&T will agree that its specifications for all new devices that are designed to operate in the paired Lower 700 MHz frequencies, including M-to-M devices, will call for Band 12 capability. However, M-to-M devices shall not be counted as “new unique devices” for purposes of this commitment.

*Status Update:*

*N/A.*

- 6) To demonstrate progress on its commitments, AT&T shall submit comprehensive written reports and meet with the Commission staff at each of 12 months, 18 months and 24 months from the date of its September 10, 2013 commitment letter that will provide information on AT&T’s progress toward meeting these commitments. Additionally, AT&T shall provide comprehensive written reports at 28 months, 40 months and 46 months to report on progress during the device roll-out period, and it shall file a certification to the Commission at the end of the device roll-out period to certify final completion of these commitments within 30 days.

*Status Update:*

*This is the third report.*

- 7) Consistent with these commitments, AT&T anticipates that its focus and advocacy within



the 3GPP standards setting process will shift to Band 12 related projects and work streams. More specifically, upon adoption of this commitment, AT&T commits to placing priority within the 3GPP RAN committee on the development of various Band 12 carrier aggregation scenarios. Upon completing implementation of the MFBI feature, AT&T anticipates that its focus on new standards related to the paired Lower 700 MHz spectrum will be almost exclusively on Band 12 configurations, features and capabilities. AT&T reserves the right to seek revisions and updates to Band 17 standards to the extent necessary to support legacy Band 17 devices and continuing Band 17 functionality on its network.

*Status Update:*

*All future efforts in the standards related to the lower 700MHz spectrum have shifted to Band 12.*

## **Attachment 2: Detailed RAN Schedule**

[REDACTED]

*Confidential. Not for Public Disclosure*