

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

In the Matter of)	
)	
AT&T Wireless Services, Inc.,)	
Transferor, and)	WT Docket No. 04-70
Cingular Wireless Corporation,)	
Transferee)	
For Consent to Transfer Control)	

**Comments of
Communications Workers of America**

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INTRODUCTION AND SUMMARY

The Commission should act expeditiously to approve the joint application submitted by AT&T Wireless Services (“AWS”) and Cingular Wireless Corporation (“Cingular”) to transfer control of AWS to Cingular.¹ The proposed merger will result in significant public interest benefits, with no corresponding harm to competition.

CWA represents more than 700,000 employees in telecommunications, broadcasting, publishing, manufacturing, airlines, health care and other private and public sector organizations. CWA represents virtually all of the 22,000 non-management employees at Cingular. CWA also represents some AWS employees.

The proposed merger of AWS and Cingular will lead to many public interest benefits. The combined company will be able to improve the quality of existing voice and data services, expand Cingular’s national facilities-based footprint, and accelerate the deployment of advanced third-generation (“3G”) services on a national scale.

Moreover, Cingular is a recognized leader among U.S. corporations for its high-performance human resource policies and progressive labor-management relations. Cingular management and CWA have established an industry-leading partnership designed to improve quality, productivity, and employee satisfaction. CWA is confident that Cingular’s positive human resource policies will carry over to the merged entity, with benefits to employees, communities, and customers. CWA urges the Commission to ensure that merger-related growth translates into new opportunities for AWS and Cingular employees.

¹ In the Matter of AT&T Wireless Services, Inc., Transferor, and Cingular Wireless Corporation, Transferee For Consent to Transfer of Control, Application for Transfer of Control, (“Joint Application”), WT Docket No. 04-70, March 18, 2004.

In addition to numerous public interest benefits, the merger poses no harm to competition. The wireless market will continue to be highly competitive after the merger, with five strong providers in the national wireless market, plus additional strong regional and local companies.

Because the proposed merger will result in many public interest benefits and no harm to competition, the Commission should act expeditiously to approve the proposed merger between Cingular and AWS.

I. THE PROPOSED MERGER WILL ALLOW THE COMBINED COMPANY TO OFFER NEW SERVICES, IMPROVE QUALITY, AND ACCELERATE DEPLOYMENT OF ADVANCED TECHNOLOGIES

The proposed merger will provide the combined company with the spectrum and infrastructure that it needs to improve quality, offer new services, and deploy new technologies over the short- and long-term.

In many locations, Cingular and AWS operate three different networks – the original cellular service using an analog network (Commission rules require cellular licensees to maintain their analog networks), a TDMA digital network built to provide customers with digital service, and a GSM digital network built to facilitate the transition to 3G capable technology. Because Cingular and AWS must divide their spectrum in order to run three separate networks, each company operating separately has a limited ability to improve quality without degrading another aspect of network operation. As a result, Cingular and AWS subscribers periodically suffer from overloaded circuits in several major cities.²

² *Consumer Reports* notes that Cingular and AT&T subscribers suffer from overloaded circuits in several major cities. See Joint Application, 10-15.

The proposed merger will allow the merged company to improve the quality of service it provides to customers by addressing these issues far more efficiently and quickly than Cingular and AWS could do separately. The merged entity will be able to combine Cingular's and AWS' separate communication channels, which will result in an exponential, nonlinear increase in capacity and improvement in service quality.³ After the merger, the combined networks will be able to close dead spots within many cities, reduce coverage gaps in many rural areas, and reduce the number of dropped calls by 20 to 40 percent, equivalent to 66 million fewer blocked calls annually.⁴

The merger will also expand the size of Cingular's footprint, thereby reducing reliance on roaming networks. Cingular will expand coverage into six more states, and increase its metropolitan area coverage from 87 to 97 of the top 100 markets. (Verizon Wireless serves 97 of the top 100 markets; Nextel serves the 100 top markets; and Sprint is in all 50 states.) Roaming charges will be eliminated in many areas: in Denver, Co., Pittsburgh, Pa., Phoenix, Az., and Minneapolis, Mn. for Cingular customers and in Portland, Or., Salt Lake City, Ut., and Tulsa, Ok. for AWS customers.

The expansion of Cingular's footprint will also allow customers to access far more promptly on a nationwide basis new features available over the new GSM network, such as push-to-talk capabilities. In rural areas where one company has cellular service and the other offers PCS service, the merger will allow customers with dual-band phones to expand their coverage area, since cellular service covers a wider geographic area than PCS.⁵

³ *Id.*, 12.

⁴ *Id.*, 10-12.

⁵ *Id.*, 15.

In addition, the proposed merger will facilitate deployment of advanced 3-G technology. The United States is far behind Europe and Japan in deployment of 3-G wireless networks. Cingular and AWS customers cannot access advanced wireless services such as streaming video, high-speed Internet transmission, multimedia messaging capabilities, delivery of pictures over cell phones, and location-based services at speeds comparable to those provided in Europe, Japan, and by new Verizon and Sprint offerings in this country.

In order to deliver such services, Cingular and AWS must upgrade their networks to the Universal Mobile Telecommunications System (“UMTS”). To deploy UMTS, a carrier must set aside a minimum of 10 MHz of dedicated spectrum. Because Cingular must continue serving customers on its legacy networks, there are only 38 metropolitan areas in which it has sufficient spectrum to deploy UMTS. However, post-merger Cingular would have sufficient spectrum to offer some UMTS in 75-80 of the top metropolitan areas and in many rural areas.⁶

Finally, the merger will benefit working families and communities with high-wage, high-skill union jobs. Cingular management is committed to progressive human resource policies including the right of their employees to select union representation free from employer interference. As a result of these policies, Cingular employees across the United States and Puerto Rico have selected union representation with CWA. CWA has negotiated contracts with Cingular to improve wages and benefits, and address concerns regarding employment security and working conditions.

In an effort to improve customer service, productivity, and employee satisfaction, CWA and Cingular have formed a Strategic Partnership. The partnership operates in the workplace and at

⁶ *Id.*, 15-19.

the top levels of the corporation and union. In the workplace, labor and management teams work together to streamline work processes in order to improve the quality and efficiency of service customers receive. At the corporate level, company management and union leaders address strategic issues that improve productivity and quality in order to grow the business, thereby benefiting employees with enhanced employment security.

CWA has confidence that these positive human resource policies will continue after the merger. This will benefit working families, their families, and their communities with high-wage, high-skill, union jobs. CWA urges the Commission to ensure that merger-related progress translates into opportunity for AWS and Cingular employees.

Consumers will also benefit from improved customer service operations. Researchers have found that “high performance” employment policies such as those practiced by Cingular contribute to the ability of a firm to provide quality customer service. High performance practices require significant investment in human capital, including employee training, good wages and benefits, and programs that involve employees in workplace and corporate decision-making. Research finds that union representation enhances the ability of firms to implement and sustain these quality-enhancing high-performance practices.⁷

CWA is fully confident that Cingular’s industry-leading high-performance employment practices and its positive labor-management relations will carry over to the merged entity, with a positive impact on the ability of employees to provide high-quality service to customers.

⁷ Eileen Appelbaum and Rosemary Batt, *High-Performance Work Systems: American Models of Workplace Transformation*, Washington, D.C.: Economic Policy Institute, 1993; Adrienne Eaton and Paula B. Voos, “Unions and Contemporary Innovations in Work Organization, Compensation, and Employee Participation, in *Unions and Economic Competitiveness*, Lawrence Mishel and Paula B. Voos (ed.), Armonk, N.Y.: M.E. Sharpe, 1992, pp. 173-207. Paul Wallich, “Look for the Union Label: New Analysis of Economic Data Shows that Unionization Could Maximize Productivity,” *Scientific American*, Aug., 1998.

In sum, the proposed merger between Cingular and AWS will benefit consumers, employees, and communities with improvements in wireless service, accelerated deployment of advanced services, and good employment practices.

II. THE PROPOSED MERGER WILL NOT LEAD TO REDUCED COMPETITION IN WIRELESS TELEPHONY SERVICES

Not only will the proposed merger result in improved service and more rapid deployment of advanced services, it will not result in any harm to competition in the wireless market. As the Commission noted in its *Eight Annual CMRS Competition Report*, there is “a high level of competition for mobile telephone consumers.”⁸ Prices for any-distance wireless packages continue to decline. The cellular consumer price index has declined 33 percent since 1997, and average revenue per minute declined nine percent from 2001 to 2002 (the most recent data available) and dropped 76 percent since 1994. Industry analysts describe wireless price competition as “fierce,” “intense,” and “ultra-competitive.”⁹

One need only open the daily newspaper or turn on the television to see the wireless ad wars as evidence of the vibrant state of competition in the wireless market. Wireless carriers compete with packages offering expanded minutes and coverage at lower prices, family talk plans, no roaming fees, earlier “no fee” nighttime hours, and other options. According to Commission statistics, one-third of wireless customers change carriers each year.¹⁰ Wireless local number portability has facilitated consumer choice and churn.

The wireless market today consists of six national carriers – AWS, Cingular, Nextel, Sprint, T-Mobile, and Verizon Wireless. It also includes a number of large regional carriers, including

⁸ FCC, *Eight Annual CMRS Competition Report*, 18 FCCR at 14812.

ALLTEL, Western Wireless, United States Cellular, and Dobson Communications Corp. There are also numerous smaller players in local markets.¹¹

After the merger, there will still be five national competitors and many regional and local players. While the merger will result in a concentration level (based on revenue shares) over 2000 as measured by the Herfindahl-Hirschman Index (HHI), the Commission has noted that in the wireless market, “moderate to high concentration is not necessarily a threat to competition.”¹² In fact, the Commission concluded in the *2000 Biennial Regulatory Review* that market concentration levels up to an HHI of 2,850 were acceptable given the competitive state of the industry.¹³

The proposed merger will also not harm wireline competition. Cingular competes vigorously for customers with SBC and BellSouth in-region. Wireline carriers are losing customers to wireless carriers. According to research firm In-Stat/MDR, more than 14 percent of consumers now use a wireless phone as their primary phone.¹⁴

In sum, the proposed transaction will not harm competition in the wireless market, but rather will promote competition with the emergence of a more effective competitor able to provide better service and more rapid deployment of advanced services.

III. CONCLUSION

The Commission should expeditiously approve the proposed merger between AWS and Cingular. The transaction will result in a multitude of public interest benefits. Cingular’s

⁹ *Id.*

¹⁰ *Id.* At 14801.

¹¹ *Id.*

¹² *See 2000 Biennial Regulatory Review*, 16 FCCR at 22668.

¹³ *Id.*

progressive human resource policies will benefit employees, their families, and the communities in which they live with high-wage, high-skill union jobs. The Commission should ensure that synergies result in employment opportunities for AWS and Cingular workers. Consumers will also benefit from the Cingular-CWA labor-management partnership designed to improve quality and efficiency in service.

Consumers will also benefit because the merged entity will be able to use the combined spectrum and infrastructure more efficiently to provide consumers with better voice and data services, an expanded national footprint, and more rapid deployment of new and advanced services. Finally, the proposed merger poses no public interest harm as the wireless market will remain “ultra-competitive” with five national and numerous regional and local players after the transaction.

Respectfully submitted,

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¹⁴ *Communications Daily*, Feb. 26, 2004, 8.