**The Verizon/Alltel Merger and the Divestiture of Properties to AT&T and Atlantic Tele-Network Inc.**

**General Background**

- In June 2008, Verizon Wireless, the nation's largest wireless carrier, engaged in a $28.1 billion merger with Alltel Corporation which was conditioned upon the divestiture of approximately $3 billion worth of overlapping properties in order to comply with FCC ownership and DOJ antitrust concerns.
- AT&T, the nation's second largest wireless carrier, is the chosen bidder for approximately two-thirds of the assets ($2.35 billion). In combination, Verizon and AT&T own 60% of the American wireless market and the top four wireless companies own 90% of the wireless industry in America. Final approval of the transfer of these assets is pending FCC and DOJ approval.
- Atlantic Tele-Network Inc. (ATNI) was chosen as the winning bidder for the remaining assets at a substantially reduced price of $200 million (in comparison with AT&T valuations). Atlantic Tele-Network is a foreign based company with no experience in retail-focused mobile networks in the American telecommunications industry.
- Extremely large deals such as the Verizon/Alltel merger are infrequent and the required divestitures of overlapping assets provide rare opportunities for independent small and socially disadvantaged groups (SDGs) to participate in telecommunications ownership opportunities and fulfill the Commission's statutory mandate to promote competition and manage the spectrum in the public interest.
- Verizon's decision to transfer most of the required divestiture assets from the nation's largest wireless carrier to AT&T, the nation's second largest wireless carrier, only redistributes valuable assets from one large industry player to another, increasing consolidation and stifling competition while continuing to raise the bar to prohibit new entrants and small independent owners from entering this market.

**Bidding Process Irregularities**

- The bidding process for the Verizon divestitures was contradictory and misleading. The bidding procedure letter that was sent to potential bidders by Verizon's broker, Morgan Stanley, referenced that bidders seeking acquisitions of Verizon market assets in addition to those identified for divestitures would not be considered. However, Verizon's final agreement with AT&T includes arrangements to swap assets that were not part of the Verizon divestiture schedule. Indeed, the final agreement includes AT&T swapping properties that it filed to acquire with the FCC in December 2008, namely Centennial Communications, but has not yet received FCC approval to own. Incredibly, AT&T is so confident in their ability to continue to amass properties and transfer them among their largest competitor that they have agreed to sell properties in a separate pending transaction that they have not yet acquired.
- Morgan Stanley, on behalf of Verizon, also stated that no bids for the required divestiture assets could be contingent upon financing. Nonetheless, ATNI's agreement is "subject to" bank approval.
- In addition, in a process fraught with conflict-of-interest activities, Morgan Stanley, the investment firm Verizon selected to conduct the search for buyers for the sale of the divestiture assets, held an interest in ATNI throughout the bidding consideration process and more than doubled that interest during the period prior to March 31, 2009 when it was announced that Morgan Stanley recommended ATNI as the winning bidder to acquire the Verizon divestiture properties. Morgan Stanley's ownership stake, a total of more than 36,000 shares, included more than 20,000 shares that were purchased during the period when Verizon was negotiating the sale of the divested assets. The announcement of the proposed sale to ATNI increased the value of

Morgan Stanley's interest by more than 40 percent, raising significant conflict-of-interest issues concerning whether Morgan Stanley was influenced in its recommendation to award ATNI the remaining Verizon assets by the substantial financial benefits it would accrue from a sale to ATNI.

**Conclusion**

- Verizon Wireless and AT&T are now being investigated by the Justice Department for anticompetitive activities and abuse of market power. Permitting Verizon Wireless and AT&T to further consolidate the wireless marketplace by trading spectrum would further increase both their ability and incentive to engage their market power to the detriment of consumers across the country.
- Most importantly, by ignoring ownership opportunities for legitimate small independent businesses to acquire any of the properties, Verizon and AT&T continue to diminish the number of small applicants willing or able to expend the resources for a process that discourages small business involvement and deliberately transfers required divestiture properties to predetermined companies with whom the sellers or sellers' agent have existing business relationships.
- The Commission should withhold approval of Verizon/AT&T and ATNI transactions until a thorough review is conducted on whether the public interests of promoting competition, sound spectrum management and meaningful consideration of independent small business and SDG participation were fulfilled. In addition, the FCC and DOJ should initiate an investigation to determine if the public interests were damaged due to irregularities and misrepresentations in the bidding process and if the divestiture process of public spectrum was transparent and proper.