



April 13, 2010

EX PARTE NOTICE

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW, Room TW-A325
Washington, D.C. 20554

Re: WT Docket No. 05-265

Dear Ms. Dortch:

On April 12, 2010, Tom Sugrue and Sara Leibman of T-Mobile USA, Inc. (“T-Mobile”) met with David Goldman, Legal Advisor to Chairman Genachowski, and on April 13, 2010, Tom Sugrue and Kathleen O’Brien Ham, also of T-Mobile, met with John Giusti, Chief of Staff and Legal Advisor to Commissioner Copps, Louis Peraertz, Legal Advisor to Commissioner Clyburn, and Charles Mathias, Legal Advisor to Commissioner Baker, to discuss roaming issues raised in the above-captioned docket.

The T-Mobile representatives emphasized that roaming is an essential “input” to a competitive retail wireless marketplace and provided an account of how the market has become less competitive over time due to consolidation of wireless carriers. Whereas just a few years ago there were often competitive alternatives for roaming partners, now in most areas where T-Mobile seeks roaming arrangements, we are facing a monopoly market with a sole provider who also happens to be one of our major competitors. They stated that reasonable roaming arrangements are economically efficient and essential to the continued competitive health of the wireless industry, especially as it transitions to broadband.

Further, fair roaming helps promote facilities-based competition in rural areas. Indeed, T-Mobile’s decisions on whether to construct facilities in rural markets are driven in part by the availability of reasonable roaming in the surrounding areas. It is not economically feasible for T-Mobile to begin providing facilities-based service to a rural town or community without some reasonable assurance that the residents will have seamless coverage while traveling in the nearby areas. Accordingly, the availability of reasonable roaming arrangements would actually encourage competitive carriers to invest in facilities buildout in rural areas. Similarly, T-Mobile, unlike AT&T and Verizon, does not hold any lower band spectrum (*i.e.*, in the 700 MHz and 850 MHz bands), which has propagation characteristics that are much more favorable for use in rural areas than the

upper band spectrum (*i.e.*, in the 1.9 GHz and 1.7/2.1 GHz bands) that T-Mobile and other competitive carriers operate in. For this reason as well, roaming will remain crucial for the foreseeable future in those areas.

T-Mobile urges the Commission to eliminate the home market exclusion to the Commission's automatic voice roaming requirement promptly and avoid including language in the upcoming order that could inadvertently increase the bargaining power of the two largest wireless carriers. In particular, the Commission should adopt a presumption in favor of roaming, whether in-market or out-of-market, and make clear that a denial of roaming will be considered presumptively unreasonable. And, if the Commission believes it is necessary to list factors that will be considered in any complaint proceeding, it should look primarily at the availability of alternative roaming partners, the economic and demographic characteristics of the areas in which roaming is sought, and the propagation characteristics of the requesting carrier's spectrum. The first factor addresses the extent of competition in the market, while the latter two address whether it is reasonable to expect additional entry into the market given the characteristics of the area (*e.g.*, population density) and of the spectrum assets the requesting carrier holds. The Commission recently acknowledged in the National Broadband Plan that it is not economically or practically feasible for all competitors to construct facilities in all geographic markets, and that a well-functioning wholesale market is necessary for consumers and competition. Accordingly, the extent to which a carrier requesting roaming has built out its own facilities or how long it has held spectrum in the market is largely irrelevant to the question of whether a denial of roaming is reasonable.

The T-Mobile representatives also urged the Commission to issue a further notice of proposed rulemaking at its next open meeting on April 21, seeking comment on extending the automatic roaming requirement to data. They stated that the Commission has authority to adopt a data roaming rule and that T-Mobile will provide support for that position in its comments on the further notice. They also requested that the Commission establish a relatively short pleading cycle on data roaming to avoid continued harm to the industry and consumers.

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Pursuant to section 1.1206(b) of the Commission's rules, an electronic copy of this letter is being filed.

Sincerely,

/s/

Sara F. Leibman
Director, Federal Regulatory Affairs

cc: David Goldman
John Giusti
Louis Peraertz
Charles Mathias