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April 14, 2010

VIA ELECTRONIC FILING

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

RE: Roaming Obligations of Commercial Mobile Radio Service Providers
WT Docket No. 05-265
Notice of Ex Parte Presentation

Dear Ms. Dortch:

On April 13, 2010, Joan Marsh, Jeanine Poltronieri and Terri Hoskins, representing AT&T, met with John Giusti, Chief of Staff and Legal Advisor to Commissioner Michael J. Copps. The purpose of the meeting was to discuss the roaming obligations of CMRS providers. The AT&T representatives expressed AT&T's views, consistent with AT&T's comments filed in this proceeding, that changes to the existing roaming rules are not needed and that voluntary negotiated roaming agreements continue to flourish.

We also take this opportunity to correct misstatements of fact contained in the April 9, 2010 ex parte letter filed by Leap Wireless International, Inc.¹

- Contrary to Leap's assertion, AT&T has not "pull(ed) up the roaming ladder for competitors."²
 - Prior to the Commission's adoption of automatic roaming requirements in the *2007 Roaming Order*, AT&T already had reciprocal roaming agreements with the vast majority of the GSM carriers in the United States.³
 - The same is true today. Indeed, AT&T has roaming agreements with every domestic GSM carrier (small or large) that has requested a roaming agreement with AT&T.

¹ Letter from James H. Barker, Latham & Watkins LLP, Counsel, Leap Wireless International, Inc., WT Docket Nos. 05-265, 08-95 (filed April 9, 2010) ("Leap Ex Parte Letter").

² *Id.* at 2.

³ Letter from Michael P. Goggin, Counsel, AT&T Inc., WT Docket No. 05-265 (filed December 22, 2009) ("AT&T December 22, 2009 Ex Parte Letter") at 7.

Each agreement allows home market roaming and none discriminate through price or otherwise against roaming inside a carrier's licensed service area.⁴

- In total, AT&T has entered into over 40 domestic roaming agreements. There are only a handful of domestic GSM carriers that do not have a roaming agreement with AT&T, and none of these carriers have requested a roaming agreement.⁵
- AT&T is not, as Leap contends, a “net seller(s) of roaming minutes.”⁶
 - AT&T is a net payor of roaming minutes.⁷
 - AT&T is a net payor of roaming minutes on a per minute and per megabit basis.
 - As such, AT&T relies on commercially negotiated roaming agreements so that its customers may continue to enjoy their wireless services when traveling outside of the AT&T footprint.

Proponents of a home roaming obligation have presented no new facts or changed circumstances that warrant reversal of the Commission's considered judgment in the *2007 Roaming Order* that a “home market” roaming requirement would frustrate facilities-based competition and dis-incent build-out. These carriers advocate for a change in the rule to enable themselves to limit investment in network deployment to the most profitable parts of their licensed service areas, even where they hold the spectrum resources necessary to build-out such areas in their entirety. For example, in its company profile, Leap admits that it has no plans for build-out in certain areas, readily admitting that it “keeps costs low by. . . covering *only the urban and suburban areas* where its potential customers live, work and play.”⁸ Similarly, in its most recent ex parte filing, T-Mobile asserts that “population density” should be a factor considered by the Commission when it is determining whether a denial of roaming is reasonable, but not “the extent to which a carrier requesting roaming has built out its own facilities or how long it has held spectrum in the market.”⁹ Such an analysis would give a green light to carriers focus their build-out efforts solely on densely populated areas, but ignore less populated, generally rural, areas. This is not a result the

⁴ *Id.*

⁵ *Id.* at 7.

⁶ Leap Ex Parte Letter at 3.

⁷ See Reply Comments of AT&T, WT Docket No. 09-66 at 68 (“AT&T remains a net payor of roaming fees and, therefore, contrary to the claims of some, retracts every incentive to enter into fair and reasonable roaming arrangements with other carriers.”)(filed October 22, 2009); Comments of AT&T, WT Docket No. 09-66 at 90 (“AT&T remains a net payor of roaming fees: in the first six months of 2009, AT&T paid more than 40 percent more in roaming expenses than it collected from other carriers.”) (filed September 30, 2009); Cingular Wireless LLC Opposition to Joint Petition for Commission Inquiry, WT Docket No. 05-265 at 5 (“Cingular and Verizon Wireless are net-payors in the current roaming environment – they pay more roaming fees than they collect.”) (filed May 5, 2006); Reply Comments of Cingular Wireless LLC, WT Docket No. 05-265 at 8 (“Cingular is a net payor in the current roaming environment – it pays more roaming fees than it collects.”) (filed January 26, 2006).

⁸ Corporate Profile, Leap Wireless, available at <http://phx.corporate-ir.net/phoenix.zhtml?c=95536&p=irol-homeProfile&t=&id=&> (emphasis added).

⁹ Letter from Sara F. Leibman, T-Mobile USA, Inc., WT Docket 05-265 (filed April 13, 2010) at 2.

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Commission should encourage. By reversing its prior decision on home roaming, the Commission will encourage carriers to avoid the costs of deployment and frustrate the National Broadband Plan's second goal: "[t]he United States should lead the world in mobile innovation, with the fastest and *most extensive wireless networks* of any nation."¹⁰

In accordance with the Commission's rules, this letter is being filed electronically with your office for inclusion in the public record.

Sincerely,

/s/Jeanine Poltronieri

cc:

John Giusti
Bruce Gottlieb
Angela Giancarlo
Louis Peraertz
Charles Mathias
Ruth Milkman
James Schlichting
Paul Murray
Nese Guendelsberger
Peter Trachtenberg

¹⁰ Federal Communications Commission, Connecting America: The National Broadband Plan (March 16, 2010) at 9 (emphasis added).