

Exhibit 3

Appendix

*Description of AT&T's Practices to
Encourage Choice and Innovation in Wireless
Devices and Applications*

APPENDIX

DESCRIPTION OF AT&T'S PRACTICES TO ENCOURAGE CHOICE AND INNOVATION IN WIRELESS DEVICES AND APPLICATIONS

The purpose of this Appendix is to provide the Federal Communications Commission (“FCC” or Commission”) with a detailed description of the practices AT&T has developed and implemented to facilitate and encourage third-party device manufacturers and applications developers to create innovative new products and services that use AT&T’s wireless network.

The wireless marketplace is intensely competitive, and a wireless network operator’s success in that marketplace depends on providing customers with the best possible experience. As wireless customers use their devices for a broader and broader range of activities, wireless network operators have powerful incentives to make the broadest possible range of devices and applications available to their customers. Wireless networks, however, have limited capacity, and, therefore, wireless network operators must manage traffic levels to accommodate and achieve the performance requirements for as many of these uses as possible while limiting the potential for some uses to harm quality of service for everyone else. This balancing act is a complex and dynamic process, and wireless network operators’ capabilities and policies are constantly evolving as they continue to make investments to improve their networks and as they work with device manufacturers and applications developers to improve the efficiency and compatibility of their products with the networks.

AT&T has long been an industry leader in promoting the use of innovative new devices on its wireless networks. AT&T’s customers can choose among scores of handsets from all of the major manufacturers featuring virtually every major operating system and a variety of features and capabilities. The lineup of AT&T-approved devices changes constantly as AT&T works with manufacturers to develop and optimize innovative new offerings. AT&T also permits a customer to “bring your own device.” That is, AT&T customers can take any FCC-approved handset that is compatible with AT&T’s network and frequencies, obtain and install a SIM card from AT&T, configure the device and use it on AT&T’s network. Beyond traditional phones and “smartphones,” AT&T leads the industry in working with a large array of manufacturers to support and promote an endless variety of non-traditional wireless-enabled devices, including healthcare devices, e-readers, smartmeters, GPS-enabled fleet management devices, and many others. As explained below, AT&T also maintains cutting edge programs and procedures to facilitate the necessary testing and certification processes to ensure devices used on its networks can make full, optimized use of the networks’ capabilities and do not harm the network or AT&T’s customers or cause undue network congestion.

AT&T also continues to lead the industry in embracing wireless application diversity. AT&T was among the first wireless network operators to offer an “app store,” to actively promote third-party applications development, and to embrace handset and operating system-based app stores. AT&T’s customers today have access to literally hundreds of thousands of applications, and AT&T continues to pour resources into programs that help developers design new applications and support their offerings in the marketplace. AT&T recognizes that the more it can invest to provide innovative and enhanced capabilities and features to applications

developers and content providers, the greater the opportunity for these providers to develop innovative services that will, in turn, drive demand for broadband networks – which creates a “virtuous cycle” of investment and innovation by both network owners and applications developers. For these reasons, AT&T has mounted intense efforts to reach out to application developers to provide support for the design of new applications, and it actively encourages the proliferation of online applications stores in addition to its own (the AT&T AppCenter).

Given capacity limits and shared resources, AT&T cannot, of course, responsibly permit every user to use every conceivable application under every possible circumstance. To provide all of its customers with the best possible experience, AT&T imposes certain limited but vitally important restrictions in its Wireless Terms and Conditions to protect quality of service for everyone. Similarly, like many other online applications stores, AT&T screens the applications that it offers in its own AT&T-branded stores, to assure its customers that, among other things, the apps it sells do not contain malicious or otherwise clearly objectionable content (*e.g.*, viruses and pornography) and will not cause harm to the network or to other users.

The multiplicity of operating systems, applications stores, and user environments offered in the wireless marketplace today gives customers an unprecedented level of choice. In contrast to the “do-it-yourself” wireline context – in which customers assume responsibility for purchasing, maintaining and trouble-shooting interactions between the broadband connection and hardware, operating systems, security and virus protection systems and applications – many wireless customers prefer a more managed environment, with the simplicity and quality assurances that such environments offer. Many of the most exciting innovations in recent years have come through this model, exemplified by the iPhone. Other customers prefer a more customizable environment, without pre-“certification” of applications or content-related restrictions, and the marketplace offers an abundant variety of options for these customers as well, exemplified by the proliferation of Android phones. AT&T offers all of these options, and the fact that consumers have heartily embraced this entire *continuum* of options demonstrates that wireless network operators are appropriately meeting customer needs for both “open” and “managed” user experiences. The extraordinarily dynamic nature of these efforts to balance important competing concerns counsels against any attempt by the Commission to mandate any particular approach for everyone.

I. AT&T’S DEVICE POLICIES.

AT&T’s network operates on the worldwide GSM standard, and AT&T operates the largest GSM/Edge/UMTS/HSDPA network in the United States. AT&T’s network is therefore compatible with numerous devices used on networks throughout the world, and, more importantly, manufacturers have strong incentives to develop innovative new devices for AT&T’s networks, because those devices can also be sold worldwide. AT&T routinely and actively works with all major manufacturers to design and deploy innovative new devices, and to make its network even more accessible to innovative devices, AT&T continues to expand its capabilities to support new business plans and distribution methods for new technologies. At the same time, AT&T maintains rigorous testing and certification processes to ensure that the devices work as intended and that they do not harm the network or other AT&T wireless customers.

Handsets. AT&T's approach has been extremely successful in providing its customers the most and best choices when it comes to handsets. AT&T works with virtually every major handset manufacturer and offers customers more than 100 handsets through AT&T's retail outlets at any given time, from basic voice handsets to the most advanced "smartphones" available in the marketplace today.¹ These handsets run every major operating system, including Symbian, Microsoft, Palm, iPhone OS, Blackberry, and Android, among others, and as discussed further below, hundreds of thousands of applications are available for these devices with thousands of new applications becoming available each month. AT&T has a strong business incentive to make its network as device-friendly as possible, consistent with protecting safety, reliability, and quality of service, because maximizing the variety of devices available for use on the AT&T network increases the value of AT&T's own network and services.² For these reasons, AT&T routinely works directly with numerous manufacturers to help design, customize, and optimize their devices to operate on the AT&T network.

The development process for new handsets is typically very collaborative between AT&T and handset manufacturers. Design concept discussions may begin 12 to 18 months prior to launch, with ongoing dialogue to optimize the final product. Each handset sold by AT&T undergoes a rigorous testing and certification process within AT&T. After the device manufacturer has conducted regulatory testing to acquire FCC approval and is either undergoing or has completed certification from the PTCRB (a global organization created by Mobile Network Operators to provide an independent evaluation process for GSM/UMTS Certification), AT&T tests the handsets in its labs and in the field and works closely with manufacturers to work out bugs and optimize the user experience.

This process of testing and certification covers a wide range of activities and environments. AT&T first tests the device in one of its labs to address issues not covered by FCC, PTCRB and other tests. After it has been determined that the device is sufficiently stable, AT&T field-tests the device. A device will be tested for interoperability with the various radio access networks deployed by AT&T. AT&T's network equipment is supplied by a variety of manufacturers who each implement features and functionality slightly differently. Therefore, devices are tested to ensure interoperability with all of its existing network equipment and configurations. AT&T also "drive-tests" the device on its network to simulate the user experience under real-world conditions, and it thoroughly tests and evaluates the user interface and accessories. AT&T's own testing has uncovered many problems that required correction, such as: (1) problems relating to handing off connections between different radio access technologies (which would otherwise result in dropped calls); (2) the ability of certain devices to connect to AT&T's Femto cells (both with respect to authentication and hand-offs between Femto and other cells); and (3) activation of features in the device that are not supported by

¹ See <http://www.wireless.att.com/cell-phone-service/cell-phones/index.jsp>.

² See, e.g., *AT&T Rolls Out New Flagship Services and Spring Portfolio of Quick Messaging Devices*, March 15, 2010, available at <http://www.att.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=30633&mapcode> ("As a growing number of consumers increasingly realize the benefits of mobile broadband and applications, AT&T is bringing smartphone-like experiences to a wider range of powerful yet affordable devices designed for the mass-market.").

certain equipment in the network (which can also result in dropped calls). High-end handsets may be subjected to more than 1500 test cases, and in 2009 alone, AT&T's certification process identified approximately 1,200 issues of the highest severity – issues that require resolution prior to launch. Once AT&T certifies the handset, it is ready for release through AT&T distribution channels.

AT&T recognizes, however, that it cannot anticipate every potential need of every potential customer. Accordingly, AT&T does not limit customers to the handsets offered through its retail outlets. Because AT&T's network is built on the GSM worldwide standard, there are many handsets sold throughout the world that are compatible with AT&T's network (*i.e.*, GSM handsets capable of using AT&T's 850 MHz and 1900 MHz spectrum). AT&T therefore offers its customers a “your device, your way” program, that allows a customer to obtain service from AT&T on any device compatible with its network.³ The customer must obtain a SIM card from AT&T, configure the device's settings to work with AT&T's network,⁴ and obtain a rate plan from AT&T.

AT&T does not currently have a “certification” process for these non-AT&T phones. AT&T permits customers to use any GSM phone that has been approved by the FCC and that will work on AT&T's frequencies. Depending on the specific capabilities of the phone, the customer using a non-AT&T-certified phone may not be able to access all of the capabilities of the AT&T network, and of course there is no guarantee that the phone will work as well as a phone that AT&T itself has certified. To be sure, non-AT&T-certified phones also carry some risk that particular features or characteristics could cause performance problems for the network or other device users. So far this has not been a serious problem for AT&T, principally because only a very small number of customers prefer a handset beyond the many available in AT&T's online and retail stores.

Emerging Devices. Traditional phones and smartphones, however, are only the beginning. Demand for new types of data-centric devices that may or may not include voice services is exploding. These devices include consumer oriented devices (*e.g.*, eReaders, Netbooks, personal navigation devices, and digital photo frames) and enterprise devices (*e.g.*,

³See <http://choice.att.com/flash/customersdevices.aspx> (“your device, your way. You've got the choice: either conveniently get a phone through AT&T for guaranteed worry-free functionality, or bring any GSM Phone and we'll connect it to our network.”).

⁴ See *id.* (“Bring your own phone. Whether you purchase a phone from us or bring your own, we welcome you to AT&T. . . . Since we built our network on the GSM worldwide standard, it's easy to bring any GSM phone for use on AT&T's network. Here's how: (1) Check your phone's compatibility with AT&T. (2) Come in to an AT&T store to get a SIM card and a rate plan. (3) Configure your device for voicemail, messaging, and internet browsing.”). AT&T's representatives can reconfigure the device in an AT&T store, or AT&T's website has detailed instructions. See <http://choice.att.com/customers/faq.aspx?id=4,5&group=Devices> (“Your non-AT&T phone must have an AT&T SIM and rate plan, and your settings will need to be updated to access AT&T features such as MMS, wireless internet and voicemail” and providing detailed instructions for “the general settings for MMS and wireless internet that should work for most non-AT&T devices”).

telemedicine, smart electric grids, fleet and freight tracking, vending machine management, and security and surveillance). Through 2009, AT&T certified more than 370 wireless specialty consumer and machine-to-machine (M2M) devices, and AT&T is currently supporting or has announced plans to support: (1) e-readers, such as the Amazon Kindle and Barnes & Noble nook, as well as agreements to support the Plastic Logic QUE proReader and Interead's COOL-ER 3G; (2) netbooks from Acer, Dell, Lenovo, and Samsung, as well as the Apple iPad; (3) personal navigation devices, such as the Garmin nuvi 1690 and the TomTom XL 340S LIVE; (4) digital photo frames, such as Isabella's VIZIT and the Pandigital Photo Mall; and (5) telematic devices.⁵ And the pace of certification is accelerating: according to a recent study by ABI Research (December 2009), "[i]n 2014 there will 2.5 billion connected data-centric devices in use worldwide, and of those, almost 1.5 billion will *not* be handsets."⁶

AT&T has been helping manufacturers bring innovative devices to its network for decades.⁷ Indeed, AT&T has developed an entire organization to help companies in this emerging devices ecosystem to drive innovation and growth in this area. In October 2008, AT&T consolidated much of this expertise into AT&T's new "Emerging Devices Organization." The mission of the Emerging Devices Organization is to "find more ways to connect people with their world through new connected devices, great networks, strong partnerships with the best end-to-end customer experience and to do it better than anyone else."⁸ It seeks to "[d]eliver game-changing hardware and applications that leverage the AT&T wireless network" and to "[d]iscover tomorrow's innovations."⁹

The challenge for most manufacturers of emerging devices is that, unlike traditional handset manufacturers, they typically lack any experience or expertise with incorporating wireless connectivity into consumer devices. Emerging devices often present the wireless network operator with complex issues as well, such as how the device will be activated, how the customer will be billed for time or usage, and how to provide appropriate customer support. AT&T's Emerging Devices Organization provides device innovators with a single point of contact to obtain the information and support that is needed for every stage of execution, from product development to deployment to billing to ongoing customer support. Anyone interested

⁵ AT&T Press Release, "AT&T Supports More Than 370 Wireless Specialty Devices," January 26, 2010, *available at* <http://www.att.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=30437&mapcode>.

⁶ TelecomEngine News Desk, ABI: OEM and Retail MVNOs will have 505 million customers by 2014, Telecom Engine, December 2, 2009, *available at* http://www.telecomengine.com/newsglobe/article.asp?HH_ID=AR_5967 (emphasis added).

⁷ *See, e.g.*, AT&T Presentation, *Developing Integrated Devices for AT&T's Wireless Network*, October 11, 2007, http://developer.att.com/devcentral/community/webcasts/docs/Integrated_devices_v3.pdf (describing innovative devices AT&T has helped establish on its network since 1985).

⁸ Slide Presentation, AT&T Developer Summit, Amplify Your Impact, at 5, *available at* http://developer.att.com/devcentral/community/Events/Emerging_Devices_Organization.pdf.

⁹ *Id.*

in developing a device for use on AT&T's network can begin the process (or simply research the process) by visiting AT&T's Emerging Device Organization's website (<http://www.att.com/edo>), which provides comprehensive step-by-step information on the processes, technical guidelines, and other requirements for new devices intended to be used on AT&T's network.¹⁰

Innovators with specific devices in mind are encouraged to contact and engage AT&T's Emerging Devices Organization early in the process, so that AT&T can assign a team to the proposed product and help guide the innovator through the complexities of designing the new product. One of the most fundamental areas where AT&T's Emerging Device Organization can provide immediate assistance is in helping the innovator choose a business model. Where will the device be sold? How will it be activated? How will the customer be billed for service? Who will provide the customer service? These are threshold questions that AT&T's Emerging Devices teams – which have experience with the thousands of devices deployed on AT&T's network – are able to help companies address.

AT&T has made significant investments to develop and deploy innovative network capabilities designed specifically to address anticipated business plan needs of emerging device manufacturers. For example, AT&T has developed systems that allow devices to be activated “out of the box,” which means products can be sold by the manufacturer (or a distributor) directly to customers and the customer can then activate the device from her home or office. AT&T has also developed an array of innovative billing systems, including systems that can bill by time (minutes, hours, days, months) or by capacity (*e.g.*, by the kilobyte or megabyte). And, AT&T has various ways of working with manufactures to handle customer support for their products. In addition, AT&T has worked closely with various emerging device makers to develop additional innovative network capabilities to meet their specific needs.

In addition to working with emerging device developers to develop business models, AT&T's Emerging Devices Organization works closely with developers on the technical aspects of their devices. AT&T provides online technical manuals and “best practices” manuals,¹¹ online forums where innovators can seek advice from other innovators,¹² and live access to AT&T technical engineers.¹³ AT&T and Ericsson also recently announced the “AT&T Connection Kit for Device Developers,” which contains everything needed to integrate the nation's fastest 3G network with emerging and machine-to-machine (M2M) devices.¹⁴

¹⁰ The website provides, for example, practical and technical information that includes basic materials, such as the “Guide to Emerging Device Acronyms,” and advanced materials, such as guides to “Hardware Development Best Practices,” “Antenna Best Practices,” and even a guide to “Applying Biometrics Technology in a Mobile World.”

¹¹ See <http://www.att.com/edo/launch-your-device/finalize-specifications/development-tools.jsp>

¹² See <http://developerboards.att.lithium.com/t5/Devices-and-Platforms/bd-p/DEVPLT>.

¹³ See <http://www.att.com/edo/launch-your-device/engage-edo-team>.

¹⁴ [http://www.att.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=30671&mapcode=.](http://www.att.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=30671&mapcode=)

AT&T will also help the developer determine product specifications. Depending on the product, a developer can choose from AT&T's EDGE, 3G, or 4G LTE network (which we expect to launch in 2011). Different product designs may be more suitable for one network over another. AT&T has also made substantial investments to reduce or eliminate some of the most difficult technical issues that arise when designing a new device. For example, one of the most difficult tasks in designing a new wireless device is finding radio components compatible with the developer's design and that meet the specification for the target network. AT&T for several years now has sought to reduce developer costs of finding the right components by working with several vendors to establish pre-approved "radio modules" – *i.e.*, components that manage communication with AT&T's network – that are "made to the highest performance standards by experienced proven vendors."¹⁵ By using these modules, the innovator is "assur[ed] that the device can perform well on AT&T's wireless network and deliver the experience customers demand."¹⁶ There are now more than 45 pre-approved modules for many different applications, including ones with built-in Java platforms for on-board application development and ones with special purpose tracking modules that can provide GPS capabilities integrated with the core radio features.¹⁷ AT&T has also made it extremely easy to choose a pre-approved module. An innovator can use the module selection function on AT&T's Emerging Devices Website – which is an interactive tool that identifies appropriate modules based on the desired capabilities, size, memory and other features – or the innovator can call AT&T's Emerging Devices Team to discuss selection of appropriate modules with an AT&T engineer.¹⁸

Once the developer has decided on business model and product specification, the product is tested and certified in AT&T's Network Ready certification process.¹⁹ AT&T opened a dedicated emerging device certification lab in Austin, Texas, in September 2009. As one of AT&T's white papers explains, "AT&T's network certification process is exacting in its detail. In fact, our test engineers will conduct nearly 1,100 test cases on your device — including lab,

¹⁵ Hardware Development – Best Practices to Ensure Successful Outcomes, § 3.2.6, *available at* http://www.att.com/edo/en_US/pdf/HWDevelopmentBestPractices.pdf.

¹⁶ Slide Presentation, AT&T Developer Summit, Amplify Your Impact, at 29, *available at* http://developer.att.com/devcentral/community/Events/Emerging_Devices_Organization.pdf.

¹⁷ *Id.*

¹⁸ *See* <http://www.att.com/edo/launch-your-device/finalize-specifications/matching-tools-form.jsp> ("AT&T has certified a range of modules in order to speed your time to market. To identify which modules may be right for you, simply provide answers for any of the six questions below. Choosing information for your two most critical technology decisions will produce the best results. We'll suggest potential matches and provide information on contacting the module manufacturer. To view all modules, simply click on the submit button."). Of course, a developer may also choose to use a module that has not been pre-approved by AT&T (although doing so may increase the time needed to certify the device).

¹⁹ Of course, the device also must independently be approved by the Commission and certified by the PTCRB, which certifies all GSM devices.

field, reliability, and network protection tests.”²⁰ The manufacturer can request up to five test SIM cards from AT&T at no cost.²¹ AT&T reviews the request, provides the SIM, and authorizes live network testing. This testing is necessary both to ensure that the device does not harm the network and meets AT&T’s specifications, and to ensure that the device works as expected so that customers are not disappointed.²² If the device does cause harm to AT&T’s network or to other customers, AT&T stops the test and requires the device to be removed from service until the issue is fixed.²³ AT&T’s certification process typically takes about four weeks.²⁴ Even if the manufacturer is not yet ready for certification, it can test its device on the AT&T network through the AT&T Control Center by using AT&T’s M2M Developer Kit.²⁵

²⁰ *Hardware Development – Best Practices to Ensure Successful Outcomes*, AT&T White Paper (Doc. No. 0801, Rev. V1.5), Dec. 16, 2009, at 22-23.

²¹ See <http://www.att.com/edo/launch-your-device/test-and-certify/obtain-test-sims.jsp> (“If you are utilizing an AT&T pre-certified module, you can request test SIMs from AT&T. In order to obtain test SIMs, you must provide the device manufacturer name, model number, and firmware version. All requests for SIMs should be submitted to EDO via the SIM Request Form.”); see also <http://www.att.com/edo/launch-your-device/test-and-certify/sim-request-form.jsp> (SIM Request Form).

²² *Hardware Development – Best Practices to Ensure Successful Outcomes*, AT&T White Paper (Doc. No. 0801, Rev. V1.5), Dec. 16, 2009 (“AT&T developed its thorough network certification process for devices both to protect our network’s integrity and optimization as well as to ensure that our customers – and your customers – benefit from the best possible experience with our network”); see also <http://www.att.com/edo/launch-your-device/test-and-certify> (“The Network Ready certification enables us to ensure that new devices do not harm the AT&T network. An unstable device that mismanages network resources is damaging to all parties. AT&T Network Ready certification ensures that your device is tested against our network and performs to network specifications.”).

²³ See <http://www.att.com/edo/launch-your-device/test-and-certify/obtain-test-sims.jsp> (“AT&T will review your request and provide test SIMs and authorization for live network testing. In the event that a device is determined to be causing harm to AT&T’s network or customers, AT&T will require that the device be removed from service until the issue is fixed.”).

²⁴ *Hardware Development – Best Practices to Ensure Successful Outcomes*, AT&T White Paper (Doc. No. 0801, Rev. V1.5), at 24, Dec. 16, 2009.

²⁵ See The “AT&T Connection Kit” allows manufacturers that use AT&T certified modules in their devices to conduct real world tests of their devices. The AT&T Connection Kit includes “3 Test SIMs with AT&T Connectivity” that permit “30MB per SIM per month for 6 months,” “50 SMS messages per SIM per month,” and “[s]ervice across the United States.” See <https://att.m2m.com/devkit>. In addition, the kit includes a “benchmark device” that permits the manufacturer to “[e]stablish [a] successful benchmark connection,” “[s]ee network connection details,” and “[t]est and troubleshoot connectivity.” *Id.* The kit further includes “[f]ull Access to AT&T Control Center,” a “[c]omplete suite of developer tools,” and “[r]eal-time visibility to device + network behavior” that allows manufacturers to “[t]est-as-you-build for fast, quality development.” *Id.*

Once certification is complete, AT&T will schedule a “Test and Turn Up” appointment, to enable the manufacturer to connect its devices to the AT&T network.²⁶ AT&T continues to provide support even after launch, with SIM order entry and tracking, online self-provisioning, operations and call center support, billing support, and other training and support materials.²⁷

II. AT&T’S APPLICATIONS POLICIES.

American consumers clearly have access to a wealth of applications: they downloaded 832 million in 2009 – a ninefold increase in two years.²⁸ And, AT&T has been the industry leader in promoting the availability of applications.

AT&T Supports Apps For All Major Mobile Operating Systems. Each wireless device is run by an operating system, and only applications that are compatible with that operating system will work on that device (just as a personal computer program that is compatible with Microsoft Windows 7 may not work on computers running Apple OS X or Linux). AT&T ensures that its customers have access to the applications that they desire by offering at least one handset – and typically several handsets – for each of the major operating systems and environments, including Blackberry, iPhone OS, Microsoft Windows Mobile, Palm OS, Symbian, and Android. Under AT&T’s applications policies, customers can use their browsers to go anywhere on the Internet and download virtually any application that is compatible with their chosen handset/operating system. AT&T customers are thus free to download compatible “apps” from myriad sources, including device manufacturers portals (*e.g.*, Apple’s iTunes Store,²⁹ BlackBerry’s App World,³⁰ Palm’s App Catalog,³¹ Nokia’s Ovi Store,³² Samsung’s Application Store,³³ Sony’s PlayNow arena,³⁴ and LG’s Application Store³⁵); mobile operating

²⁶ See <http://www.att.com/edo/launch-your-device/connect-to-our-network.jsp> (“To deploy, you will need to connect to our network. Connection requirements will vary based on your offering and anticipated sales volumes, and may engage up to four AT&T Mobility Data Centers (DC). . . . Once you have signed a contract and provided the necessary information, the provisioning timeframe is six weeks. Following contract signature, an AT&T Solutions Engineer will work with you to gather data for SMS provisioning; data transport over the Commercial Connectivity Service infrastructure (including information needed to provision the custom Access Point Name); and firewall requirements. Once this is complete, your SSE will schedule a ‘Test and Turn Up’ appointment.”).

²⁷ See <http://www.att.com/edo/launch-your-device/launch.jsp>.

²⁸ Ralph de la Vega, *Apps for All: Building a World-Class Platform to Enable Innovation*, 2010 AT&T Developer Summit, at 2, January 6, 2010.

²⁹ <http://www.apple.com/iphone/apps-for-iphone/>.

³⁰ <http://na.blackberry.com/eng/services/appworld/>.

³¹ <http://www.palm.com/us/products/software/mobile-applications.html>.

³² <https://store.ovi.com>.

³³ <http://www.samsungapps.com>.

³⁴ <http://www.playnow-arena.com>.

system portals (e.g., Google’s Android Market³⁶ and Microsoft’s Windows Mobile Downloads³⁷); independent mobile application portals (e.g., Handango³⁸ and GetJar³⁹); and stand-alone developer portals (e.g., Facebook⁴⁰ and The Wall Street Journal).⁴¹

AT&T’s support for these app stores is not passive. AT&T actively works with mobile operating systems developers to facilitate AT&T customer access to the apps from these stores. For example, AT&T continues to enter into agreements with operating system companies, under which AT&T preloads apps on compatible handsets that provide access to their applications stores (such as Microsoft’s Windows Marketplace, Nokia’s Ovi store, or Android Market).⁴² In addition, AT&T provides enhanced billing services so that purchases from these stores by AT&T customers appear on the AT&T wireless bill, thus making it easier for AT&T customers to purchase apps from these stores.⁴³

AT&T also aggressively supports the development of apps that can be offered through the various app stores (including AT&T’s own app store, discussed below). AT&T offers “Developer” tools that make its Universal Design guidelines available to developers and offers specific support for multiple operating systems.⁴⁴ AT&T currently has more than 30,000 developers registered in its devCentral developer relations program (which was introduced in 2002 and was the first program of its kind by a major wireless network operator).⁴⁵ In addition, AT&T collaborates with developers and provides resources and access to the information needed to create virtually any type of application and content for any of the world’s major mobile operating systems. AT&T makes available software development kits (SDKs) from several

³⁵ <http://www.lgapplication.com>.

³⁶ <http://www.android.com/market>.

³⁷ <http://www.microsoft.com/windowsmobile/en-us/downloads/default.aspx>.

³⁸ <http://www.handango.com>.

³⁹ <http://www.getjar.com>.

⁴⁰ <http://www.facebook.com/mobile/>.

⁴¹ http://online.wsj.com/public/page/0_0560.html.

⁴² Press Release, *AT&T Launches Major Initiative to “Bring Apps To All,”* Jan. 6, 2010, available at <http://www.att.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=30353>.

⁴³ *Id.*

⁴⁴ See <http://choice.att.com/developers/GettingStarted.aspx>; see also <http://choice.att.com/developers/CreateIt.aspx> (“Whether you are building a mobile web site or a downloadable application or even an application for the device’s native operating system, we provide you with the tools and resources to help. In addition to the usual tools like SDKs, emulators, and custom APIs, AT&T offers dev support in the form of expert tutorials, web boards, webcasts and podcasts”).

⁴⁵ See, e.g., David Christopher, AT&T, *Apps for All: Building a World-Class Platform to Enable Innovation*, 2010 AT&T Developer Summit, at 2, January 6, 2010 (30,000 registered members in AT&T Developer program).

“device and operating system manufacturers,” “testing tools” for mobile applications, “simulators” for testing applications, “programming guides” with “in-depth technical discussion of different wireless technologies to help [developers] build and improve [their] wireless applications,” “style guides” that “describe best practices and requirements for different AT&T distribution channels,” white papers with “developer insights, recommendations, and technical information about key wireless development topics,” and numerous other resources.⁴⁶ Later in 2010, AT&T will open a new Virtual Innovation Lab that will provide developer support for speech, location, and messaging APIs, and two new Innovation Centers that will provide 3G and 4G radio frequency development support, testing, and demonstration.⁴⁷ Indeed, AT&T is simplifying access to a number of network application programming interfaces (“APIs”), including speech, optimization, media management, location, and security, and soon with increased access to other APIs such as address book, presence, and content management.⁴⁸ AT&T also actively supports the development of apps for operating systems used by non-smartphones. For example, AT&T recently announced that it now provides a software development kit and support for standardized development of applications for “mid-range phones” like quick messaging devices using the BREW Mobile Platform.⁴⁹

⁴⁶ AT&T Developer Resources, *available at* <http://developer.att.com/developer/index.jsp?page=toolsTechOverview&id=800064&WT.svl=800064>. Developers can gain access to almost all of the features of the Developer Program for free, but AT&T also offers a “deluxe” program with additional technical support and access to discounted devices and services for \$795/year, and a “corporate deluxe” program for larger companies for \$5000/year for ten subscriptions.

⁴⁷ AT&T Press Release, “AT&T Launches Major Initiative to Bring ‘Apps to All,’” January 6, 2010, *available at* <http://www.att.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=30353>.

⁴⁸ See <http://www.att.com/sdk/pages/NetworkAPIs.html> (“AT&T is simplifying access to its core mobility network capabilities, such as SMS, MMS, WAP Push, Terminal location, and device lookup capabilities, via a set of secure and simple standards-based APIs through the new AT&T Network Services Gateway. The AT&T Network Services Gateway will provide a consistent service creation and access control environment to all third-party developers. . . . Network APIs provide unique opportunities for third-party developers and enterprise customers to build real-time applications that integrate AT&T wireless network services. Developers can combine these network APIs with other Internet services to create composite services or mash-ups.”). Depending on the specific API and its impact on customer privacy and network security, the developer may be required to participate in varying levels of certification through AT&T’s certification process. See also White Paper, “AT&T Developer Program: AT&T Network Services API Overview,” December 15, 2009, *available at* http://www.att.com/sdk/documents/ATT_Network_Services_API_Overview.pdf.

⁴⁹ See <http://www.att.com/sdk/pages/BrewMobilePlatform.html>. Approximately 30 percent of AT&T’s customers who are new or upgrading use a quick messaging device, a category of wireless device that AT&T helped pioneer. <http://www.att.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=30353>. By 2011, about 90 percent of AT&T’s quick messaging devices will use the BREW platform, and AT&T’s new SDK supports both the BREW mobile platform plus cross-platform and Java support, network APIs and widgets.

Last year AT&T launched its innovative “AT&T Apps Beta,” a special program that allows developers to test applications with customers and receive customer feedback during the development process, regardless of where the developer will ultimately sell the app.⁵⁰ This was the first program of its kind to be offered by any U.S. wireless network operator, and it further enhances customer access to applications by allowing customers to test and use applications that are still under development, before they become broadly available. Through AT&T Apps Beta, customers can download trial versions of applications at no cost, and developers can test their ideas with AT&T customers and get direct feedback such as apps ratings, feature suggestions and identification of bugs. AT&T also operates an interactive community forum, which aggregates user-generated content, and offers tag clouds to indicate the most active discussions around various applications. A typical trial period lasts roughly four to six weeks, although the developer has flexibility according to its needs. AT&T also permits developers to use AT&T Apps Beta to get targeted user input for applications they may have already launched broadly. If an application is particularly well received, AT&T may make those applications available to all AT&T customers through its AppCenter (discussed below), and AT&T may provide additional promotional support. The Apps Beta program thus provides a double consumer benefit not available from other sources: consumers are able to gain access to new applications more quickly than would otherwise be the case, and customers have the opportunity to become involved in the development process itself, ensuring that the ultimate product is better.⁵¹

AT&T encourages the development of applications for various operating systems in a number of other ways as well. For example, AT&T conducts an annual development summit and an annual development contest, which this year is called “Open Call – Apps for All!”⁵² AT&T’s Developer Program also includes access to forums in which developers can communicate with one another, compare notes, offer advice, and answer questions as part of the

⁵⁰ See <http://appsbeta.wireless.att.com/login?id=choiceconsumer>.

⁵¹ See PR Newswire, *AT&T Launches “Apps Beta” Program to Advance Innovations in Applications, Issues Open Call to Developers*, April 2, 2009, available at <http://news.moneycentral.msn.com/ticker> (“Our goal is to deepen the dialogue with developers and give customers a chance to tell us what works and what doesn't,” said David Christopher, chief marketing officer for AT&T Mobility and Consumer Markets. “We hope that by facilitating this level of collaboration between the developer community and early adopters, we'll see even more innovation as developers gain valuable customer insights that will ultimately benefit their long-term application development and marketing strategies”).

⁵² See <http://www.opencallreg.com/main/default.aspx> (“The AT&T Developer Program is hosting its annual mobile application contest at CTIA WIRELESS 2010 in Las Vegas, giving developers the chance to win a share of \$40,000 in prize money and get their content or application out to over 85 million AT&T wireless subscribers”). The contest was previously known as the Fast Pitch Platinum Awards.

mobile development community.⁵³ And AT&T recently announced “Workbench,” a new enterprise app development platform for the iPhone.⁵⁴

The AT&T-Branded App Stores. In addition to offering devices and implementing policies that permit customers to download apps from myriad third-party sources, AT&T also operates its own online applications store. AT&T was among the first wireless network operators to open an online applications store, the AppCenter (formerly known as the MEdia Mall), in 2004.⁵⁵ The AppCenter today offers more than 90,000 titles from more than 115 content providers. These choices include ringtones, games, videos, graphics, and an endless array of tools (such as Wikimobile, weather, eBay auctions, mobile banking, navigation, foreign languages, medical applications, and services that provides live feeds from Facebook, Twitter and news sources).⁵⁶

Like many applications store operators, AT&T screens each application to ensure that it complies with AT&T’s policies, which essentially ensure that the application is not harmful to the network, other customers, or would otherwise harm AT&T’s brand before it is made available in the AT&T-branded store. This screening process is a significant consumer benefit, because buying applications through the AppCenter gives AT&T’s customers added assurance that the application meets AT&T’s standards of quality and security. Developers interested in developing and submitting applications for the AppCenter first establish a business arrangement with AT&T by accepting an online agreement (a process that takes just a few minutes). To submit an application for consideration, the developer completes a four-page form describing the application in both business and technical terms (*e.g.*, merchandising category, target audience, planned marketing effort, operating systems and platforms supported, specific device requirements, estimated data usage per session and user, an the like).⁵⁷ The developer also provides a demonstration of the application, either downloadable via email or SMS, or on a handset loaded with the application.⁵⁸ AT&T confirms that the submission complies with

⁵³ See, *e.g.*, <http://developerboards.att.lithium.com/cngddp>.

⁵⁴ See <http://www.att.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=30664&mapcode=>

⁵⁵ See <http://choice.att.com/flash/customersapplications.aspx> & <http://mediamall.wireless.att.com/sf/storefront>.

⁵⁶ See <http://mediamall.wireless.att.com/sf/storefront>.

⁵⁷ See AT&T Mobility Downloadable Application Submission Investigation Form, *available at* http://developer.att.com/devcentral/go_to_market/distribution/docs/ATTMobilityDownloadApplicationSubmissionInvestigationForm.doc.

⁵⁸ See *id.* at 1 (“Provide a demonstration of the application. We recommend sending in your demo via a download link in an email or via SMS so that we can download over the air. . . . If no download is possible, please plan to provide a handset with the application installed. The handset will be returned.”).

AT&T's content guidelines and terms of service⁵⁹ and determines whether and how to offer the application in the AppCenter. As discussed further below, AT&T is currently enhancing and streamlining these procedures by (1) standardizing the revenue sharing arrangements (which allows applications to be offered in the AppCenter more quickly), (2) accelerating the submission, review and acceptance process to a target of 30 days, and (3) automating other processes through the soon-to-be-introduced AT&T Developer Dashboard. But as explained above, AT&T's customers are not limited to obtaining applications from AT&T's applications store, and AT&T has helped developers optimize more than 4,000 other applications to run on AT&T's network.⁶⁰

AT&T also operates other platforms from which consumers can obtain various applications and services. For example, AT&T operates a wireless Internet portal called MediaNet, which provides content from more than 50 different providers (including ESPN, CNN, music services, mail and messaging services, weather and travel services, financial services, movie times and dining services, and many similar services in Spanish).⁶¹ AT&T also works with more than a dozen aggregators who deliver off-portal content (such as ringtones, graphics, video) from more than 500 different providers. AT&T's wireless customers have many email platforms available, including Blackberry, Microsoft Direct Push, Mobile Email, and Xpress Mail, and AT&T also has one of the largest (if not *the* largest) catalogue of mobile music in the industry and has more partnerships with digital music services than any other provider, including Napster, eMusic, iTunes, XM Radio, MobiRadio, MobiVJ, VIP Access, Mspot's Remix, and Pandora. Developers can also offer applications through messaging aggregators that enable access to AT&T's wireless gateway for sending text messages to AT&T customers. As with the AppCenter, however, AT&T approves these various offerings before they can be provided through AT&T's own branded channels, and AT&T ensures that these offerings are compatible with its network and meet certain other terms and conditions to ensure that the content remains appropriate.⁶²

⁵⁹ See White Paper, "AT&T Mobility: Content Standards and Guidelines 2008; Developer Reference" (last revised Sept. 17, 2008), available at http://developer.att.com/devcentral/go_to_market/distribution/docs/ATT_Mobility_Content_Standards_Guidelines.pdf. AT&T's content guidelines impose strict limits on nudity, graphic sexual behavior, intense profanity, hate speech, intense violence, and the use of alcohol, tobacco, or drugs. AT&T also imposes minimum safety guidelines for social networking or chat applications or games that allow communication between users, and are based on industry-accepted guidelines laid out by the Mobile Marketing Association.

⁶⁰ See AT&T and Consumer Choices Fact Sheet at 3 ("AT&T has worked with developers to help them optimize more than 4000 applications for our network, giving customers access to applications such as a glucose monitoring log (mydiabetic.com) to a psalm a day service (holybible.mobi)").

⁶¹ See <http://www.wireless.att.com/source/connect/medianet.aspx>. Both the AppCenter and MediaNet can also be accessed from AT&T's Internet portal, <http://www.att.net/mobile>.

⁶² See, e.g., White Paper, "AT&T Mobility Customer Experience Policy Amendments to MMA Best Practices and Guidelines for 3rd Party Content Providers," July 2009, available at http://developer.att.com/devcentral/go_to_market/distribution/docs/ATT_Customer_Experience_

As discussed above, AT&T also provides extensive support to applications developers to design new applications and optimize them for the AT&T network, regardless of whether those applications will be sold through an AT&T branded application store or a third-party store. For applications that will be sold through the AT&T branded app store, AT&T recently standardized its revenue sharing arrangements with developers, offering the industry standard 70/30 split, which allows developers to gain faster access to the AppCenter instead of entering into a customized arrangement with AT&T. In the second quarter of 2010, AT&T will introduce the AT&T Sandbox, which is a virtual network environment that will allow developers to test and evaluate their applications. AT&T will also launch a Developer Dashboard in early 2010, an Internet tool that will allow developers to track the state of applications submitted to AT&T, support digital signing of agreements with AT&T, and provide performance metrics and customer satisfaction feedback to the developers. All of these steps are part of a long-term initiative at AT&T to make more applications available to more customers over as many devices as possible, and make it as easy as possible for developers to use AT&T tools to design new applications and get them into the marketplace.

AT&T is constantly investing in its network to increase capacity and to make it more efficient and feature-rich, and AT&T routinely works with individual applications providers to help make their applications more efficient and optimized for AT&T's network as well. As recent history has shown, limitations on certain applications in AT&T's terms of service are often temporary, as the parties work through the network management issues to figure out a mutually agreeable way of offering the application. Accordingly, as AT&T continually monitors its network resources and the services using its network and as it works with individual developers, many developers have found ways to offer applications in new ways that address network concerns.

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AT&T's wireless services today are provided over an ever increasing variety of devices with different operating systems and capabilities and different specialized and targeted uses. This degree of specialization has always been a hallmark of the wireless customer experience. This differentiation spurs competition and investment, and it enhances choice, enabling consumers to select the features and functionalities they want from a diverse panoply of value propositions and to obtain a device that is optimized to provide a seamless experience with respect to those features and functionalities. This intense competition to provide the best possible customer experience by offering a wide variety of different integrated value propositions is what drives much of today's exploding wireless investment and innovation. With the flexible device and application policies discussed above, AT&T is committed to playing a leading role in that investment and innovation in the years ahead.

Policy.pdf (describing safety and content-related restrictions for aggregators and third party content providers).