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May 13, 2010

## **EX PARTE PRESENTATION**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, DC 20554

**RE: Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless Including Commercial Mobile Services, WT Docket No. 09-66**

Dear Ms. Dortch:

On Wednesday, May 12, 2010, the undersigned had a telephone conversation with Angela Giancarlo, Chief of Staff & Senior Legal Advisor, Office of Commissioner Robert M. McDowell, regarding the above-captioned proceeding. The discussion focused on the impact of the wireless sector on the U.S. economy and the ongoing, substantial investment in wireless industry infrastructure.

The record in this proceeding contains innumerable data points demonstrating the important role of the mobile industry in the U.S. economy and continued and sustained wireless industry investment. A small handful of examples follows:

- In 2007 the U.S. wireless industry contributed nearly \$100 billion in value added to the American economy – more than the motion picture or motor vehicle manufacturing industries and comparable in economic contribution to all agriculture in America.<sup>1</sup>
- Economic contributions of wireless services grew on average over 16% per year during the fifteen years between 1992 and 2007 vs. less than 3% for the rest of the economy.<sup>2</sup>

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<sup>1</sup> See Harold Furchtgott-Roth, “The Wireless Services Sector: A Key to Economic Growth in America,” at 4-5 (Jan. 2009) (“Wireless Services Sector”), *attached to* Letter from Christopher Guttman-McCabe, CTIA—The Wireless Association®, to Chairman Julius Genachowski, FCC *et al.*, WT Docket No. 09-66 *et al.* (July 9, 2009) (“July 2009 CTIA filing”).

<sup>2</sup> See Wireless Services Sector at 7; “Mobile in America: Driving the Economy and Delivering the Communications Infrastructure for the Information Age,” at 3, *attached to* July 2009 CTIA Letter.

- In 2009 U.S. wireless providers invested a combined \$20.4 billion in operational networks, whereas wireless providers in the five largest European countries combined to invest \$17.9 billion in 2009.<sup>3</sup>
- As of June 2009, new data reported by CTIA reveal a cumulative capex figure of \$273.6 billion, including billions of dollars of investment made as the current market structure has evolved.<sup>4</sup>
- Looking ahead, Ovum estimates that the U.S. economy will experience productivity gains of almost \$860 billion from mobile broadband service in the decade between 2005-2016.<sup>5</sup>

The record also refutes the claims by some parties about the utility of a capital expenditures-to-revenues comparison in the mobile market.<sup>6</sup> Examining annual investment as a percentage of revenues in a dynamic, evolving industry fails as an indicator of competition because in an industry with tremendous growth, steady levels of investment would naturally be reflected as a declining percentage of revenues – even though the continuing investment is indicative of a vibrant, competitive market.

Moreover, the record contains references to the economic literature that explains that “capital investment levels are strongly affected by factors completely unrelated to a company’s revenues in the same year, and more closely linked to technological cycles, the cost of capital, and other factors.”<sup>7</sup> For example, there will be periods when consumer needs are best met by increased spending on spectrum resources, R&D, customer care, or other activities generally not booked as capital expenditures; these investments, however, are no less important for providing consumers with optimal service. In any event, the wireless industry continues to see tremendous investment. As AT&T observed, “AT&T’s and Verizon’s ratios (15.9% and 17.7%, respectively, in 2008) are higher than the ratios of *any other* Fortune 50 company, including

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<sup>3</sup> See Letter from Christopher Guttman-McCabe, CTIA—The Wireless Association®, to Marlene H. Dortch, FCC, WT Docket No. 09-66 *et al.*, at 16 (Apr. 29, 2010).

<sup>4</sup> See Verizon Wireless, Reply Comments, WT Docket No. 09-66, at 21-22 (filed Oct. 22, 2009).

<sup>5</sup> See Roger Entner, Ovum, “The Increasingly Important Impact of Wireless Broadband Technology and Services in the U.S. Economy,” (2008), *cited in* July 2009 CTIA Letter at 2.

<sup>6</sup> See Verizon Wireless Reply Comments at 21-24.

<sup>7</sup> *Id.* at 22.

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more than 50% higher than Google's (10.8%), nearly twice General Electric's (8.8%), more than three times IBM's (4.7%), and nearly five times Apple's (3.7%)."<sup>8</sup>

The mobile industry is characterized by continued substantial investment, with tremendous impact on American lives and productivity, and is the embodiment of robust growth and effective competition. The Commission's Competition Report should fully reflect this reality.

Respectfully submitted,

A handwritten signature in black ink that reads "Kathleen Gilh". The signature is written in a cursive, slightly slanted style.

cc: Bruce Gottlieb  
Angela Giancarlo  
Charles Mathias  
Louis Peraertz  
John Giusti  
Ruth Milkman  
James Schlichting  
John Leibovitz  
Nese Guendelsberger

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<sup>8</sup> AT&T, Reply Comments, WT Docket No. 09-66, at 23 (filed Oct. 22, 2009) (emphasis in original).