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July 16, 2010

Via Electronic Filing

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

Re: ***Ex Parte Notice***

GN Docket Nos. 10-127 and 09-191,
WT Docket Nos. 06-150 and 07-195,
PS Docket No. 06-229, ET Docket No. 10-142

Dear Ms. Dortch:

Only July 16, 2010, Thomas J. Sugrue of T-Mobile USA, Inc. ("T-Mobile"), Ari Q. Fitzgerald, counsel to T-Mobile, and the undersigned, met with Edward Lazarus, Chief of Staff of the Commission, regarding the Commission's pending proceeding on the framework for broadband Internet services and issues raised in the other proceedings referenced above.

During the meeting, the T-Mobile representatives urged the Commission to defer any decision to reclassify the transmission or connectivity component of wireless broadband Internet service as a telecommunications service subject to Title II of the Communications Act, noting the significant technological, consumer usage and historical differences between wireless and wireline broadband. The T-Mobile representatives pointed out that with wireless networks, bandwidth capacity must be shared by all users in a given cell. This bandwidth sharing and the mobility of wireless users pose unique network management challenges for wireless providers that are not present in wireline settings.

The T-Mobile representatives also noted the fierce retail competition that exists in the wireless broadband market;[1] the relatively nascent state of wireless broadband; the aggressive manner in which wireless providers, including T-Mobile, have embraced open networks and other service innovations; consumer-friendly initiatives (*e.g*, with regard to billing, disclosure and customer care) launched by T-Mobile and other providers in the retail wireless sector; and the potentially negative impact on innovation and investment that could be caused by a decision to reclassify wireless broadband at this time.

If, notwithstanding the significant differences between wireless and wireline broadband, the Commission decides to subject wireless broadband to regulation under Title II, the T-Mobile representatives urged the Commission to refrain from imposing on wireless broadband providers all of the obligations imposed on wireline broadband providers. At a minimum, they urged the Commission to allow additional time for wireless broadband technology, services and business models to develop before considering, in light of market developments, whether net neutrality rules are needed.

The T-Mobile representatives also urged the Commission to move forward expeditiously with a Notice of Proposed Rulemaking on its Upper 700 MHz D block rules, noting T-Mobile's support for the proposal outlined in the Commission's National Broadband Plan ("NBP") and the Commission's previously expressed intention to commence the rulemaking in the second or third quarter of 2010.[2] In addition, the T-Mobile representatives discussed the benefits of pairing the AWS-3 spectrum with spectrum currently occupied by the federal government at 1755-1780 MHz, expressing the hope that collaboration between the National Telecommunications and Information Administration ("NTIA") and Commission will result in the identification of at least 20 MHz of spectrum in the band for reallocation and auction.

Finally, T-Mobile praised the Commission's recent decision to propose and explore ways to modify the existing allocation, secondary market and service rules applicable to mobile satellite service ("MSS") spectrum in the 2 GHz, Big LEO and L-Bands, so that the

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[1] According to the Commission's *2010 Wireless Competition Report*, 90.9% of Americans have a choice of at least four distinct facilities-based wireless providers, and 95.8% can choose between three. *See Fourteenth Annual Report on Wireless Competition*, WT Docket No. 09-66, FCC 10-81, at ¶ 44 (rel. May 20, 2010) ("*2010 Wireless Competition Report*"). As of last year, 58% of the U.S. population had a choice of at least four mobile wireless broadband providers, and 76.1% of Americans could choose between three. *See id*. at ¶ 47. This number is rapidly trending upward – the percentage of Americans with a choice of three mobile wireless broadband providers leapt from 51% to 76% from May 2008 to November 2009. *See id.* All told, more than 150 facilities-based wireless providers do business in the U.S., T-Mobile Wireless Innovation Comments, GN Docket No. 09-157, at 7 (filed Sept. 30, 2009), 46 different providers offer wireless mobile broadband service, T-Mobile Open Internet Comments, GN Docket No. 09-191, at 9 (filed Jan. 14, 2010); *FCC Broadband Status Report* at 23, 44-45, Tbl. 10, Tbl. 20, and at least 60 non-facilities-based Mobile Virtual Network Operator ("MVNO") providers operate in the U.S. as well. 2*010 Wireless Competition Report* at ¶ 33.

[2] *See FCC Announces Broadband Action Agenda* (Apr. 8, 2010).

spectrum can be put to more efficient use in the provision of terrestrial mobile broadband services.

Pursuant to Section 1.1206 of the Commission's rules, an electronic copy of this letter is being filed for inclusion in the above-referenced dockets.

Sincerely,

Kathleen O'Brien Ham
Vice President, Federal Regulatory Affairs
T-Mobile USA, Inc.

cc: Edward Lazarus