

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

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In the Matter of )

Implementation of Section 6002(b) of the )  
Omnibus Budget Reconciliation Act of 1993, )  
Annual Report and Analysis of Competitive )  
Market Conditions with Respect to Mobile )  
Wireless, Including Commercial Mobile )  
Services )

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) WT Docket No. 10-133  
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**REPLY COMMENTS OF T-MOBILE USA, INC.**

T-Mobile USA, Inc. (“T-Mobile”)<sup>1/</sup> hereby submits its reply comments in the above-captioned proceeding regarding the state of competition in the mobile wireless industry.<sup>2/</sup>

**INTRODUCTION AND SUMMARY**

While the mobile wireless marketplace is competitive today, the Commission has correctly noted a disturbing trend toward increasing market concentration as a result of the “two largest providers, AT&T, Inc. (AT&T) and Verizon Wireless, hav[ing] 60 percent of both subscribers and revenue.”<sup>3/</sup> With wireless in the midst of a rapid transition to a data-centric

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<sup>1/</sup> T-Mobile is the fourth largest wireless carrier in the United States and serves nearly 34 million customers. Its existing 3G technology now covers markets serving 212 million people, and it has begun to implement even higher speed HSPA+ technology that will cover 185 million people by the end of the year. T-Mobile’s dedication to providing its customers with outstanding service has earned it top honors in the J.D. Power and Associates 2010 Wireless Customer Care Performance Study.

<sup>2/</sup> *Wireless Telecommunications Bureau Seeks Comment on the State of Mobile Wireless Competition*, Public Notice, WT Docket No. 10-133, DA No. 10-1234 (rel. June 30, 2010).

<sup>3/</sup> *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993; Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services*, Fourteenth Report, FCC 10-81, ¶ 6 (2010).

market,<sup>4/</sup> the Commission can and should take a number of steps to enhance and strengthen competition in the industry in order to ensure continued investment, innovation, and consumer choice. Wireless competition is strongest at the retail level—benefitting consumers today with innovation, choice and value, but as we have stated previously, there are serious concerns about the extent of competition in input markets. Key inputs for mobile services include spectrum, roaming, backhaul and pole attachment access. The FCC can take some important steps to ensure that lack of competition and other imperfections in these input markets do not result in diminished competition in output, retail markets. *First*, it should make additional spectrum available for commercial mobile broadband services so that wireless providers can meet the bandwidth-intensive demands of customers. *Second*, it should move forward with its proposal to extend roaming obligations to non-interconnected data services so that wireless providers can offer customers seamless data connectivity. *Third*, the Commission should ensure that special access services are available at reasonable rates, terms and conditions. *Finally*, the Commission should commit to pole attachment reforms.

#### **I. THE COMMISSION SHOULD MAKE ADDITIONAL SPECTRUM AVAILABLE FOR COMMERCIAL USE**

Perhaps the most important step the Commission can take to promote wireless competition is to make additional licensed spectrum available for the deployment of next-generation commercial voice, data and video services. Chairman Genachowski has noted that spectrum is the “oxygen of our mobile networks.”<sup>5/</sup> Providers like T-Mobile have invested hundreds of millions of dollars in improving their networks and increasing spectrum efficiency,

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<sup>4/</sup> *Id.* at ¶¶ 4 & 183 (“Individual mobile wireless service providers...confirm that their customers are migrating from voice-centric services to data-centric services”).

<sup>5/</sup> Remarks of Chairman Julius Genachowski, CTIA Wireless I.T. & Entertainment, San Diego, California at 4 (Oct. 7, 2009), *available at* [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-293891A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-293891A1.pdf).

but network expansion and the use of spectrum-efficient technologies can stretch existing spectrum allocations only so far. Consumers are already demanding bandwidth-intensive applications that will quickly outpace current spectrum holdings. It is estimated that by 2014 customers will use 50 times more mobile data than they did only five years earlier.<sup>6</sup> T-Mobile has consistently noted the need for the Commission to allocate additional spectrum to meet escalating demands in the future.<sup>7/</sup>

Recognizing this critical need for more spectrum for mobile broadband services, the *National Broadband Plan* proposed that the Commission make 500 megahertz of spectrum available for broadband in the next 10 years and 300 megahertz in the next 5 years for mobile use.<sup>8/</sup> It noted that “the growth of wireless broadband will be constrained if government does not make spectrum available to enable network expansion and technology upgrades.”<sup>9/</sup> The *National Broadband Plan* recommended, among other things, that the FCC “make up to 60 megahertz available by auctioning Advanced Wireless Services (AWS) bands, including, if possible, 20

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<sup>6</sup> Ramon Nuez, *T-Mobile and the Mobile Broadband Future*, HUFFINGTON POST, June 4, 2010 available at [http://www.huffingtonpost.com/ramon-nuez/t-mobile-and-the-mobile-b\\_b\\_599699.html](http://www.huffingtonpost.com/ramon-nuez/t-mobile-and-the-mobile-b_b_599699.html).

<sup>7/</sup> See, e.g., Comments of T-Mobile USA, Inc., ET Docket No. 10-123 (filed June 28, 2010) (“The Commission should continue the reallocation process for [the 1675-1710 MHz band] while not precluding ongoing work with NTIA to identify additional spectrum for reallocation, especially the 1755-1780 MHz band.”); T-Mobile USA, Inc. Notice of Ex Parte, PS Docket No. 06-229 (filed Apr. 27, 2010) (urging the Commission to auction the 700 MHz D Block for commercial use and to pair the AWS-3/Upper J Block with 1755 – 1780 MHz); T-Mobile USA, Inc. Notice of Ex Parte, PS Docket No. 06-229 (filed March 4, 2010) (applauding Chairman Genachowski’s recent call to free up 500 MHz of spectrum for broadband use and encouraging the auctioning of the 700MHz D Block); Comments of T-Mobile USA, Inc., CG Docket No. 09-158 (filed July 8, 2010) (“as the Commission itself has acknowledged [spectrum capacity] is already severely constrained”); Comments of T-Mobile USA, Inc., GN Docket No. 09-191 (filed Jan. 14, 2010) (“T-Mobile and others have recommended that the Commission allocate and auction an additional 800 MHz of spectrum for commercial mobile broadband use”).

<sup>8/</sup> *Connecting America: The National Broadband Plan* (March 2010), at xii & 7, available at <http://download.broadband.gov/plan/national-broadband-plan.pdf> (“*National Broadband Plan*”).

<sup>9/</sup> *National Broadband Plan* at 77.

megahertz from Federal allocations”<sup>10/</sup> and that the Commission auction the 10 megahertz Upper 700 MHz D Block (the “D Block” spectrum) for commercial use that is technically compatible with public safety broadband services.<sup>11/</sup> President Obama subsequently issued a Memorandum directing executive departments, agencies, and offices to take action consistent with implementation of the spectrum goals of the *National Broadband Plan*.<sup>12/</sup>

T-Mobile appreciates the work the Commission has recently undertaken to make additional spectrum available for commercial use,<sup>13/</sup> and urges it to follow through on all the spectrum recommendations in the *National Broadband Plan*. In particular, the Commission and NTIA should continue to pursue the reallocation of 1755-1780 MHz band, which is ideally suited for a pairing with the 2155-2180 MHz (“AWS-3”) spectrum band already identified by the FCC for auction for commercial broadband services.<sup>14/</sup> T-Mobile also supports the efforts of the

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<sup>10/</sup> *Id.* at 86.

<sup>11/</sup> *Id.* at 84.

<sup>12/</sup> Press Release, The White House, Office of the Press Secretary, *Presidential Memorandum: Unleashing the Broadband Revolution* (June 28, 2010), available at <http://www.whitehouse.gov/the-press-office/presidential-memorandum-unleashing-wireless-broadband-revolution>.

<sup>13/</sup> See e.g., *Fixed and Mobile Services in the Mobile Satellite Service Bands at 1525-1559 MHz and 1626.5-1660.5 MHz, 1610-1626.5 MHz and 2483.5-2500 MHz, and 2000-2020 MHz and 2180-2200 MHz*, Notice of Proposed Rulemaking and Notice of Inquiry, ET Docket No. 10-142 (rel. July 15, 2010) (taking steps to make additional spectrum available for new investment in mobile broadband networks in accordance with the *National Broadband Plan*’s recommendation to develop 90 megahertz of Mobile Satellite Spectrum); *Amendment of Part 27 of the Commission’s Rules to Govern the Operation of Wireless Communications Services in the 2.3 GHz Band*, Report and Order and Second Report and Order, 75 FR 45058 (2010) (making available spectrum in the 2.3 GHz Wireless Communications Service (“WCS”) band in accordance with the *National Broadband Plan*’s recommendation).

<sup>14/</sup> Comments of T-Mobile USA, Inc., ET Docket No. 10-123, at 8 (filed June 28, 2010); see also T-Mobile USA, Inc., Notice of Ex Parte, WT Docket No. 07-195 (filed July 15, 2010) (noting the optimal pairing of the AWS-3 spectrum with spectrum currently occupied by the federal government at 1755-1780 MHz and expressing the hope that collaboration between the NTIA and the Commission will result in the identification of at least 20 MHz of spectrum in the band for reallocation and auction).

Commission and NTIA to investigate the potential utility of the 1675-1710 MHz spectrum band (the “1.6 GHz band”) for wireless broadband use.<sup>15/</sup>

In addition to these initiatives, the Commission should take steps to auction the 700 MHz D Block for commercial use, starting with the release of a Notice of Proposed Rulemaking before the end of this year. As the *National Broadband Plan* noted, “[d]ue to its favorable propagation characteristics and the emergence of a 4G technology ecosystem in the 700 MHz band, the D Block is likely to have high value for the delivery of commercial mobile broadband services.”<sup>16/</sup> An NRPM will provide an opportunity for all affected stakeholders –public safety entities as well as commercial entities – to put their positions regarding the appropriate use of the D Block on the record for the Commission to consider. Only by continuing to aggressively explore the availability of additional spectrum for providers of commercial services will the Commission be able to ensure continued growth and competitiveness in the wireless marketplace.

## **II. THE COMMISSION SHOULD MOVE FORWARD WITH ITS PROPOSAL TO EXTEND ROAMING OBLIGATIONS TO NON-INTERCONNECTED DATA SERVICES**

The Commission’s recent decisions to apply sections 201 and 202 of the Communications Act to automatic voice roaming,<sup>17/</sup> and eliminate the “home market exclusion,”<sup>18/</sup> will help ensure that roaming is available on just and reasonable terms and

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<sup>15/</sup> *Office of Engineering and Technology Requests Information on Use of 1675-1710 MHz Band*, ET Docket No. 10-123, Public Notice, DA 10-1035 (rel. June 4, 2010) (“1.6 GHz Public Notice”).

<sup>16/</sup> *National Broadband Plan* at 86.

<sup>17/</sup> *Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers*, Report and Order and Further Notice of Proposed Rulemaking, 22 FCC Rcd 15817 (2007).

<sup>18/</sup> *See Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers and Other Providers of Mobile Data Services*, Order on Reconsideration and Second Further Notice of Proposed Rulemaking, 25 FCC Rcd 4181 (2010) (“*Order on Reconsideration and Second NPRM*”).

conditions, thereby promoting competition by ensuring that consumers can enjoy seamless service wherever they travel. Given the emerging data-centric nature of mobile wireless services, it is now time for the Commission to extend automatic roaming requirements to wireless data services. As the *National Broadband Plan* noted in recommending that the Commission take this action, “data roaming is important to entry and competition for mobile broadband services.”<sup>19/</sup>

Consumers’ expectations for seamless data roaming are no different than they are for voice roaming. For wireless providers to compete, they must therefore be able to offer automatic data roaming just as they can offer automatic voice roaming. As T-Mobile has explained, increased consolidation in the wireless industry has limited the number of overall potential roaming partners, making a data roaming rule critical to ensure that T-Mobile and other carriers can be competitive with their larger rivals.<sup>20/</sup>

A data roaming rule would also benefit rural customers and would promote facilities-based investment in rural areas. As it did in the context of voice roaming, the Commission should presume that data roaming requests are reasonable and announce factors that it will consider in assessing roaming disputes. Finally, the Commission should adopt an expedited procedure for resolving disputes over roaming requests. Absent Commission oversight, data roaming will not be provided at reasonable rates, terms, and conditions or may be withheld altogether, diminishing competition at the retail level and harming consumers.<sup>21/</sup> By extending its roaming obligations to data services, the Commission will ensure that carriers other than

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<sup>19/</sup> *National Broadband Plan* at 49.

<sup>20/</sup> Comments of T-Mobile USA, Inc., WT Docket No. 05-265, at 7-8 (filed June 14, 2010); *see also Order on Reconsideration and Second NPRM* at ¶ 29 (“consolidation in the wireless industry may have reduced the number of available [data] roaming partners for some of the smaller, regional and rural carriers”).

<sup>21/</sup> *Id.*

AT&T and Verizon can be fully competitive in meeting customers' expectations of seamless mobile data coverage.

### **III. THE COMMISSION SHOULD ENSURE THAT SPECIAL ACCESS SERVICES ARE AVAILABLE AT REASONABLE RATES, TERMS AND CONDITIONS**

The *National Broadband Plan* recognized that “special access circuits play a significant role in the availability and pricing of broadband service” and, accordingly, it recommended that the Commission move forward with reforms to “ensure that special access rates, terms and conditions are just and reasonable.”<sup>22/</sup> T-Mobile agrees. Because incumbent local exchange carriers (“ILECs”) in many areas of the country, and particularly in rural areas, face little competition for their service offerings, the Commission should move quickly to implement reforms in the special access market.<sup>23/</sup>

As T-Mobile detailed recently in the Commission's ongoing special access proceeding, wireless providers need special access services and facilities to provide backhaul to connect their base stations to mobile switching centers, as well as to link their networks to the networks of other providers.<sup>24/</sup> T-Mobile and other providers of mobile services frequently purchase backhaul services from third parties, many of which compete with T-Mobile in the retail service market. Even though some mobile providers, including T-Mobile, are transitioning away from purchasing traditional time-division multiplexed (“TDM”) services (*e.g.*, DS1s and DS3s), and instead are purchasing higher-bandwidth Ethernet services, Ethernet likely will not be available

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<sup>22/</sup> *National Broadband Plan* at 48.

<sup>23/</sup> In T-Mobile's experience, competition in the market for backhaul can vary dramatically across various geographic markets. In most urban areas, several potential providers including ILECs, cable companies and other competitive access providers compete to provide backhaul, and this increases the chances that backhaul will be available at reasonable rates, terms and conditions. By contrast, in areas with lower population densities where ILECs' special access services are generally the only practical option for backhaul, the rates, terms and conditions are often unreasonable.

<sup>24/</sup> Comments of T-Mobile USA, Inc., WC Docket No. 05-25 (filed Feb. 24, 2010).

for several years in many markets, and all providers will continue to rely on TDM for voice services in the short term. Affordable backhaul is even more important for wireless providers now that customers are demanding more data and broadband services. Even AT&T CEO Randall Stephenson recently emphasized the importance of backhaul, noting that backhaul is “where the bottleneck is” and that the number one issue right now is “getting fiber to [] cell sites.”<sup>25/</sup>

The Commission should consider adopting a mechanism by which parties could resolve disputes about special access arrangements rapidly, especially in markets where competition is not ensuring the availability of reasonable rates, terms and conditions.<sup>26/</sup> The Commission should also consider reforms to the special access services that, in T-Mobile’s experience, are least subject to competition: second-mile DS1s and DS3s. In areas with inadequate competition, the Commission should require ILECs to provide the Commission with economic cost data so that it can develop a set of benchmark average costs.<sup>27/</sup> Because the demand for mobile broadband is increasing exponentially, affordable backhaul is becoming even more crucial for wireless providers.

#### **IV. THE COMMISSION SHOULD REFORM RULES GOVERNING POLE ATTACHMENTS**

The current pole attachment regulations and practices make it difficult for alternative suppliers to construct backhaul networks, and for mobile providers to self-supply backhaul when they must rely on pole or conduit space owned by others.<sup>28/</sup> Because local zoning restrictions

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<sup>25/</sup> Geoff Colvin, *Randall Stephenson: Making Connections*, FORTUNE, Aug. 5, 2010 available at [http://money.cnn.com/2010/08/04/news/companies/randall\\_stephenson\\_att.fortune/index.htm](http://money.cnn.com/2010/08/04/news/companies/randall_stephenson_att.fortune/index.htm).

<sup>26/</sup> Comments of T-Mobile USA, Inc., WC Docket No. 05-25, at 9-10 (filed Feb. 24, 2010).

<sup>27/</sup> *Id.* at 11-12.

<sup>28/</sup> Comments of T-Mobile USA, Inc., GN Docket No. 09-51 (filed June 8, 2009).

often hinder the construction of new communications towers, utility poles at times may be a wireless carrier's best (or only) option to provide facilities-based service. While many utilities now treat CMRS facilities as routine attachments, some still have not adopted reasonable and transparent procedures for CMRS attachments.

To foster continuing expansion of wireless broadband services and intermodal telecommunications competition, therefore, the Commission should rule that CMRS providers are entitled to fair and reasonable access to utility poles without being subject to state entry regulation and under the same general make-ready timelines for "wired" services. Such access should be accomplished via fully transparent master agreements, with rental rates that are as low and close to uniform as possible. And, the Commission should adopt a rebuttable presumption that code compliant wireless attachments are safe, as well as establish expedited enforcement procedures that provide appropriate penalties to deter utility noncompliance. Enactment of such measures would go a long way toward promoting ubiquitous and affordable wireless services and spurring broadband deployment.

## **CONCLUSION**

Although the retail wireless marketplace is competitive, the Commission can and should take steps to ensure the continued growth of competition and the innovation and consumer choice it makes possible by guaranteeing that key inputs to strong retail competition – such as spectrum, roaming, backhaul and pole attachment access – are available on reasonable terms and conditions to all wireless providers. Specifically, the Commission should make more licensed spectrum available for mobile broadband access; move forward with its proposal to extend its roaming rules to data services; revise its special access regulation so that wireless carriers have

access to sufficient backhaul capacity at reasonable rates, terms and conditions; and streamline the pole attachment process for wireless facilities.

Respectfully submitted,

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