

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

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| In the Matter of |) | |
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| Applications of AT&T Inc. and Deutsche Telekom AG |) | WT Docket No. 11-65 |
| |) | |
| For Consent to Assign or Transfer Control of Licenses and Authorizations |) | |
| |) | |

COMMENTS OF THE MOBILE500 ALLIANCE

The Mobile500 Alliance (“Mobile500”) represents the collective effort of 46 commercial and public broadcasters to bring nationwide mobile digital television (“Mobile DTV”) to market.¹ Mobile500’s Mobile DTV service will use existing broadcast infrastructure and spectrum to deliver the content consumers want where and when they want it. Mobile500 has committed publicly to using an open infrastructure based on the current Mobile DTV technical standard, with a planned launch by the end of 2011.²

Mobile500’s broadcast Mobile DTV service will compete with certain categories of video offerings from wireless carriers, including AT&T and T-Mobile. Indeed, the applicants in this proceeding identified the demands placed on their networks by the growing demand for, among other things, “streaming HD video” and “Mobile Video” as a reason for allowing the

¹ The 46 broadcasters that comprise Mobile500 represent over 420 television stations.

² In January 2011, Mobile500 released its Proposed Statement of Principles describing its vision for a robust, competitive Mobile broadcast DTV service. The Proposed Statement of Principles is attached as Exhibit 1.

transaction to proceed.³ Broadcast Mobile DTV offers distinct advantages over a cellular network's video offering. With its one-to-many architecture, broadcast technology is the most reliable, efficient method of delivering high-demand content, such as political speeches, sporting events, and emergency communications. The facilitation of reliable, bottleneck-free emergency communications in particular has important public-interest implications.

Mobile500 believes the proposed acquisition of T-Mobile USA ("T-Mobile") by AT&T Inc. ("AT&T") will give the merged firm the ability and incentive to foreclose the emerging competition from broadcast Mobile DTV. First, the merged firm is likely to acquire sufficient market power to prevent handset manufacturers from making devices with the microchips required to receive broadcast Mobile DTV signals. The national wireless carriers already exert significant influence over handset manufacturers, including overall product design. The merger will only increase AT&T's influence, increasing the possibility that it will enter commercial relationships that will prevent device manufacturers from deploying broadcast Mobile DTV-enabled devices, foreclosing the competition that Mobile500 otherwise might provide.

Second, the merged firm would have the ability and incentive to deny Mobile500 a key input to its proposed national broadcast DTV service. A nation-wide, free, advertising-supported service will require a back channel to send audience measurement and permission-based consumer usage information from Mobile DTV-enabled devices back to the Mobile500 network system. That back channel may be best facilitated by wireless data networks. In a robust competitive environment, Mobile500 believes it could reach commercial agreements with the four major wireless carriers for utilizing their data networks as the essential back channel. The

³ Description of Transaction, Public Interest Showing and Related Demonstrations, *In the Matter of Applications of AT&T Inc. and Deutsche Telekom AG*, WT Docket 11-65 (Apr. 21, 2011), at 3, 4.

elimination of one of the nationwide wireless carriers will further concentrate the market power of the incumbent carriers and may cause them to refuse the use of their networks to enable the Mobile DTV business model or attempt to control audience measurement and consumer usage data.

The merged firm's ability to foreclose the emerging competition from broadcast Mobile DTV is adverse to the public interest. Not only would foreclosure of broadcast Mobile DTV deny the benefits of competition in a nascent mobile video market, but the development of a reliable next-generation Mobile-Emergency Alert System ("M-EAS") could be impaired. PBS, with the support of LG Electronics and the Corporation for Public Broadcasting, has announced a pilot project to develop such a system based on broadcast Mobile DTV technology. The PBS pilot project, which has been endorsed by the Mobile500 Alliance, will create a template for television stations to broadcast rich-media emergency messages to the public, including to cellular telephones, tablets, laptops and in-car navigation systems in a way that avoids the chronic congestion of cellular systems in emergencies. As was evidenced by the life-saving performance of the Japanese mobile television system, 1-SEG, during that country's recent disasters, broadcast technology's one-to-many architecture, when leveraged by wireless carriers and mobile device manufacturers, could deliver emergency messages to millions of devices simultaneously, even when the operation of a point-to-point wireless network has been impaired and overburdened by a natural or man-made disaster.

The unique role of local broadcast content during the recent spate of tornadoes in Alabama and Missouri emphasizes this point. For example, senior Alabama officials relied on local television weather radar and live camera feeds to track tornadoes to provide warning and direct rescue operations, saving countless lives. Viewers also relied on the real-time tracking of

the storms' paths by local TV station meteorologists who advised the public on what evasive action to take and where to seek safe refuge and locate rescue operations. When these broadcast services are widely available on battery-powered handheld devices through Mobile DTV, warnings, as well as response and recovery information, will reach many more people.

Mobile500 maintains deep concerns about the proposed merger and resulting concentration of market power in the wireless communications industry. However, to help ensure that the proposed transaction is in the public interest, Mobile500 requests that, if the application is granted, it be granted only under specific conditions:

- (1) Require the merged firm to reach a commercial agreement through good faith negotiations to offer and promote to consumers devices for use on the AT&T and/or T-Mobile wireless voice and data networks that carry the hardware and software necessary to receive broadcast Mobile DTV, with a goal that fifty percent of all devices sold for use on the networks by the fourth quarter of 2013 have Mobile DTV reception capability; and
- (2) Require the merged firm to facilitate the back channel of any nationwide broadcast Mobile DTV network by acknowledging the ownership of audience measurement and consumer usage data by the distributors of the content being viewed and ensuring that data about consumers' viewership and usage be carried, with the consumers' permission, unimpeded back to the content distributor.

The Commission must evaluate the merger in the context of a nationwide spectrum policy. Broadcast technology's one-to-many architecture remains the most efficient way to deliver high-demand content, ranging from an emergency alert to the Super Bowl, to the American public. The Commission's decision on the application should therefore reflect a

commitment to protect consumers from potentially anti-competitive measures that would thwart the development of the broadcast Mobile DTV service.

Respectfully Submitted,

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Proposal for an Industry-wide Statement of Principles to Foster an Open and Competitive Market for Mobile DTV

The Mobile500 Alliance, comprised of leading television broadcast organizations, is proposing a voluntary statement of principles to help guide the development of an open, competitive, pro-consumer, and successful Mobile DTV industry. This proposed statement is based on input, advice, and requests from companies and organizations in the broadcasting, programming, consumer electronics, private equity, and software and hardware industries that are bringing Mobile DTV to market. We are seeking an open and collaborative process to refine the proposed list and create a consensus statement that can be embraced by the whole industry.

Proposed Statement of Principles

1. Our goal is to create a vibrant new growth industry in the United States, one that serves the public interest by using the open Mobile DTV technical standard to deliver a new generation of affordable mobile television services to American consumers.
2. Local television broadcasters are at the heart of the Mobile DTV service. With no additional spectrum, they are leveraging their investment in the digital transition to deliver local and national programming to Americans on the go—where they want it, when they want it. The unique role of local broadcasters will be preserved and expanded.
3. By deploying the one-to-many architecture of Mobile DTV for the distribution of high-demand video content, broadcasters will further increase their investment in the digital transition and again contribute to the more efficient use of the nation's wireless spectrum. Mobile DTV will free cellular network capacity for the unicast communications it was designed for and support a more rational spectrum use model.
4. Broadcasters will provide coverage with at least two Mobile DTV programming channels to 50 percent of the American public by the end of 2011, 85 percent by the end of 2013, and near-universal coverage by the end of the decade.
5. A wide selection of handheld, tablet, notebook, automotive, and adapter devices that can receive Mobile DTV will be available for American consumers—with or without mobile carrier contracts.
6. These devices will be built on open designs, with open client applications at the user interface level that allow devices and users to receive Mobile DTV content from a wide range of available broadcast signals.
7. Broadcasters will provide consumers with a growing choice of national and local content and services over Mobile DTV, most of which have never before been available on previous mobile platforms:
 - 7.1. Local news, sports, and weather;
 - 7.2. Emergency alerts without the chronic failure of landline and cellular networks in emergencies;
 - 7.3. A basic tier of advertiser-supported programming at no charge to consumers;

- 7.4. Accessible rich media for persons with disabilities;
 - 7.5. Educational programming and applications from public broadcasters;
 - 7.6. Additional access to video-on-demand, digital video recording, pay-per-view, subscription and other services.
8. To preserve content rights, enable new business models, and ensure the eligibility of non-commercial broadcasters to participate under FCC rules, free and paid content alike will come with conditional access and require consumers to opt-in on their mobile devices.
 9. To ensure that all consumer devices have the technical capability to receive content from any broadcaster, Mobile DTV platforms will employ a common, open approach to conditional access. The conditional access system (CAS) will:
 - 9.1. Be standards-based and comply with Part 6 of the ATSC Mobile DTV Standard, Service Protection and share a common trust authority.
 - 9.2. Enable multiple vendors to provide services for the CAS. Any device that complies with the CAS framework defined in Part 6 of the ATSC Mobile DTV Standard, Service Protection, will be able to receive, decrypt and play encrypted transmissions from different sources, even if those different sources each rely upon different subscriber management systems.
 - 9.3. Respect consumer privacy. Any CAS adopted will include strict privacy policies based on standard industry practices.
 10. To maintain a competitive industry, any national-level Mobile DTV network system that is deployed (to distribute content to stations, administer rights, insert ads, manage subscriptions, execute transactions, etc.), will maintain transparency and reasonable access among system operators and local broadcasters. In any such a system, local broadcasters will be provided competitive access for utilizing all features/functions offered, and costs will be fairly distributed on a non-discriminatory basis.
 11. Principles governing the business relationship between the Mobile DTV network system and any broadcaster that utilizes it:
 - 11.1. Respect for consumer privacy. Through the CAS and all other elements of the system workflow, strict privacy policies based on standard industry practices will be maintained regarding consumer usage and/or transaction data (see below).
 - 11.2. Shared ownership and control of data generated from the consumer's use of content that stations broadcast to Mobile DTV-enabled devices, including audience measurement, demographic, geolocation, and other permission-based information.
 - 11.3. Shared ownership and control over billing, transactions, and other interactivity that may be conducted over any back channel and that is generated from the consumer's use of associated content that stations broadcast to Mobile DTV-enabled devices.
 - 11.4. Shared participation in future advertising delivery models (e.g., addressable ads based upon consumer data generated from Mobile DTV devices) deployed for national and local markets.
 - 11.5. Nothing in any Mobile DTV network system should exclude local broadcasters from sharing future subscription, pay-per-use, video-on-demand, and other

- ancillary revenue-generating services as part of the Mobile DTV platform, regardless of networks (*e.g.*, 3G, LTE, and WiFi) used to transmit the content.
12. To ensure a competitive environment with wireless carriers, data generated from the consumer's use of, or interaction with, content that broadcasters transmit to Mobile DTV enabled devices will remain under the shared ownership and control of the broadcaster and the Mobile DTV network system, regardless of which back channel, including the wireless carrier's, is used to send the data.

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