

To FCC Chairman Julius Genachowski, Commissioners Michael Copps, Mignon Clyburn, Robert McDowell (cc: Meredith Atwell Baker) and U.S. Department of Justice Antitrust Division;

AT&T's \$39 billion dollar takeover of T Mobil USA is yet another in a series of large telecommunications merger (think AT&T SBC Communications, AT&T Bell South, AT&T Wireless with Cingular Wireless; Qwest US West, Qwest Century Link) that over time are slowly re-assembling the once loathed Ma Bell monopoly (more on this below and why it needs to stop).

I have filed comments before and written urging that the proposed merger of AT&T Mobility with T Mobil be rejected for serious anti competitive and anti consumer harms likely to occur as a result of the merger. I have stated that if antitrust still means anything in the country the merger must be rejected. I have provided excerpts from articles detailing how AT&T is a spectrum hog -- they have enough spectrum but have under-invested in increasing their network capacity since re-merging with SBC Communications & Bell South to re-establish Ma Bell's monopoly position it once had on fixed wire-line rotary phones and apply it to wire-line broadband and wire-line phones again. I will detail five problems with the AT&T T Mobil merger for consumers and/or innovators. In addition to describing Five Things Wrong with the Merger, I will debunk AT&T's fiction about the merger (their Mobilize Everything PR campaign is to Monopolize Everything including wireless phone service and mobile broadband now) in a Fact vs. Fiction section and detail why this deal is bad for America. It's a lot of reading but this is a serious issue and the FCC and DOJ must have all the facts of why this is bad and hopefully having reviewed the facts they will reject the merger in its entirety. Change the way you handle merger approvals to not rubber stamp a disastrous merger with conditions but deny such mergers as necessary. If a merger is safe you can approve it but when a merger like this comes that is dangerous reject it. Even if you approve it with conditions competition will decline in wireless market, AT&T will have more market dominance and I can assure you the merger mania won't stop with T Mobil AT&T will want even more mergers.

The telecom companies say don't regulate us we have enough competition but what happens when competition reduces from four companies to three, to two? Then competition becomes insufficient and the duopoly providers have incentives to discriminate and they can get away with it if there are no rules.

Below are new comments which I will also file in the docket at FCC.gov against the merger.

AT&T wants you to believe that its takeover of T-Mobile would be good for jobs, innovation and the economy, while saving you hundreds of dollars on your mobile bills.

Don't believe the fairy tale. If this deal goes through, just two companies, AT&T and Verizon, would

control nearly 80 percent of the mobile market in America. With too few choices, mobile phone users would face higher prices, poorer service, and less innovation.

Here are Five Things Wrong with AT&T's Merger:

AT&T's \$39 billion takeover of T-Mobile USA is yet another in the series of large telecom mergers that over time are slowly reassembling the Ma Bell monopoly of old.

It's now left to federal regulators at the Department of Justice and the Federal Communications Commission to decide what's really best for Americans.

Should they let two national carriers dominate our mobile world? Would giving AT&T and Verizon near complete control benefit smart phone users, create more jobs, make broadband access widespread, and fuel our sputtering economy?

Consolidation of the scale being proposed by AT&T resembles the old railroad and oil trusts of the 19th century. It seems unthinkable to suggest that turning one of the most innovative sectors "back to the future" would help. Why go there?

Yet AT&T wields unparalleled political power in Washington. It stands a good chance of convincing regulators to discard with common sense, stand aside and let this mega-merger sail through on approval.

Here are five reasons that all Americans -- and not just T-Mobile and AT&T customers -- should be concerned by the return of the new, old Ma Bell:

1. The merger would further erode what little competition exists in the wireless market.

The merger hands two companies, AT&T and Verizon, control over nearly 80 percent of the wireless market. That translates to widespread abuses of market power, something AT&T is already known for.

In any other industry, allowing this much concentration, especially without any meaningful oversight or regulatory protections, would be unthinkable. By comparison, the top 10 oil producing firms combined control less than 80 percent of the U.S. market, but this wireless merger will give that level of market dominance to just two companies.

Imagine if ExxonMobil were to merge with BP, Shell, Chevron-Texaco, and Citgo. That would net

ExxonMobil the same level of market control as AT&T will have with this deal. And unlike the gasoline market, where consumers can just drive another block to choose another station, wireless users are locked into long-term contracts.

2. The merger would result in higher prices and fewer choices for wireless consumers.

AT&T and Verizon currently control nearly two-thirds of the market and have a long history of raising prices in concert, as they both did early last year by requiring all customers on feature phones to add data plans.

Sprint and T-Mobile (the third and fourth largest of the four national carriers) were meant to exert some competitive discipline on the big two. The average fee for AT&T users (\$63 per post-paid subscriber) is some 20 percent more than the amount T-Mobile users pay (\$52 per T-Mobile &T subscriber).

You take T-Mobile's lower cost structure out of our wireless equation and the remaining providers have even fewer checks against raising prices on every user. And prices have risen steadily, according to J.D. Power and Associates. In December 1998, the monthly Average Revenue Per User (ARPU) for wireless companies was \$39.43. By the end of 2010, this has risen to more than \$49. This steady price increase comes despite the fact that carriers' own operating costs have declined substantially, as their profits have risen.

This change will be particularly acute for the 34 million people who now subscribe to T-Mobile. Even if AT&T agrees to honor their existing contracts for their remaining length, they will surely see higher prices when those contracts expire or when they need to buy a new handset or make changes to their contracts.

3. This merger will kill tens of thousands of U.S. jobs.

When was the last time a merger actually created jobs for Americans and not more pink slips? This merger is no different. And yet that hasn't stopped AT&T from wrapping itself in the flag by noting that T-Mobile is a subsidiary of a German company.

But T-Mobile USA is based in Bellevue, Washington and employs nearly 40,000 U.S. citizens. The plain fact is that AT&T plans to put these American jobs at risk. Their executives say the plan to save \$40 billion through merger "synergies." This means that many of the T-Mobile jobs at retail stores and call centers will be eliminated. The planned shuttering of thousands of wireless towers will result in the firing of an untold number of technicians. And there will be more jobs lost as the cost-cutting effects of this merger ripple through the broader economy.

4. This merger is a raw deal for American innovation.

AT&T has a history of making handset manufactures cripple features like WiFi on devices, and of blocking the use of certain applications like Google Voice and Slingbox.

The merger would stifle innovation both in devices and on the network. The combined carriers would be able to leverage an unfair amount of market power to prioritize which handsets get used, what technologies work on those handsets and which Apps you'll be able to upload from the network (Imagine AT&T prioritizing it's own inferior voice recognition and navigation applications over those offered by Google or a innovating startup).

According to the Wall Street Journal, handset manufacturers are remaining mum on the deal, possibly out of a "fear of angering a powerful customer" in AT&T, which can make or break a device by simply deciding to allow it on its network.

Would a merged AT&T permit any device innovation that challenges its bottom line? Using history as a guide, the likely answer would be, "no."

5. The merger is a threat to free speech and openness on the wireless web.

AT&T along with Verizon has fiercely opposed any wireless Net Neutrality requirements, with AT&T brokering a deal with the FCC to ensure they have the legal right to block online content and charge application developers additional tolls just to reach AT&T customers.

The FCC's weak Net Neutrality decision was the result -- exempting mobile services from openness protections based on Chairman Julius Genachowski's assumptions that competition existed in wireless.

With further consolidation AT&T and Verizon will be in an even stronger position to play gatekeeper on the wireless web, picking winners and losers, limiting our ability to connect and share information and ultimately slowing the pace of mobile Internet innovation.

The fact of this merger shows how the U.S. must have strong Net Neutrality rules, according to Sen. Dick Blumenthal of Connecticut: "Regulatory approval should contain strict conditions to ensure that consumer concerns about cost, access, choice, and competition are adequately addressed. Moreover, such high wireless market concentration raises serious potential net-neutrality concerns that should be addressed. The largest mobile network in the nation must not be allowed to limit access to content in a discriminatory manner."

## Why the AT&T T Mobil Deal is Bad for America!

AT&T's \$39 billion dollar takeover of T Mobil USA is yet another in a series of large telecommunications merger (think AT&T SBC Communications, AT&T Bell South, AT&T Wireless with Cingular Wireless; Qwest US West, Qwest Century Link) that over time are slowly re-assembling the once loathed Ma Bell monopoly. If approved by federal regulators at the Department of Justice & The Federal Communications Commission, the merger will leave just three national wireless carriers, and give AT&T and Verizon Wireless control over 80% of the entire market. While consolidation on this scale resembles the old railroad and oil trusts of the 19th century and should be rejected out of hand, AT&T has unparalleled political power (unfortunately) and stands a good chance of pushing this merger through with minimal meaningful constraints:

Americans should be concerned about this merger, and the problems of a largely unregulated market with just two viable firms at the top. This is a raw deal for consumers, for competition, and for American innovation.

This massive merger will further erode what little competition exists in the wireless market.

All wireless consumers should expect to face higher prices and fewer choices.

This merger will result in two companies AT&T and Verizon controlling nearly 80 percent of the wireless market, leaving Sprint a distant third as the only other national carrier.

AT&T has to get the government's approval because the size of the merger is so massive and the loss of competition so great.

This merger is bad for innovation, free speech, and experimentation on the wireless web. AT&T has a track record of restricting content that flows across its wireless network, and unlike T Mobil charges its customers stiff penalties for exceeding AT&T's approved monthly data allotments.

This merger will kill tens of thousands of U.S. jobs AT&T's track record on post merger layoffs is poor, with the company having shed nearly 200,000 jobs in the last decade.

This deal is bad for consumers, competition and American innovation:

This merger will result in two companies AT&T and Verizon controlling nearly 80 percent of the wireless market, leaving a weakened third place Sprint as the only other national carrier.

Expect market power abuses from a reconstituted Ma Bell: In any other industry allowing this much concentration, especially without any meaningful oversight and/or regulatory protections would be unthinkable.

Fact vs. Fiction

AT&T says: The T-Mobile takeover "strengthens and expands U.S. mobile broadband infrastructure, "and that it helps us "achieve policymaker goals of deploying broadband to 95 percent of the country, including smaller, rural communities"

Reality: According to recent Commerce Department data, wireless services are already available to 95 percent of Americans. If this merger goes through, analysts speculate that AT&T will decommission upwards of 40,000 wireless towers, reducing the quality of coverage for hundreds of thousands of Americans.

AT&T says: "The wireless marketplace will be more competitive" as a result of the merger.

Reality: For those keeping score, the phone company is actually saying that consumers will gain more choice among mobile phone carriers by subtracting T-Mobile from your options. There is nothing about having less competition that will benefit wireless consumers. And if regulators approve this deal, they will further cement duopoly control over the wireless market by AT&T and Verizon.

AT&T says: The overall average price-per-minute for wireless services has declined 50 percent since 1999, "during a period which saw five major wireless mergers."

Reality: That figure is highly misleading. While the cost to consumers for voice services has dropped, the sum total of charges on mobile phone bills has dramatically increased. Added costs include spiraling rates for texting and data services as well as hidden handset subsidies. With less competition among carriers, we can expect AT&T to charge you even more.

AT&T says: The merger "enables the next era of American innovation and continued growth of U.S. high tech industry."

Reality: The merger would allow AT&T to exert even greater gatekeeper control over what happens on the wireless Web. The company has a long history of blocking competing services -- like Skype, GoogleVoice and Slingbox. And AT&T's expanded control over the handset market will stifle innovation in devices. In the past, AT&T has crippled handheld phones that can do more than what the company wants.

AT&T says: The merger will expand the American workforce by moving thousands of new jobs to the United States.

Reality: When was the last time a merger actually created jobs for Americans and not more pink slips? This merger puts the jobs of nearly 40,000 U.S. T-Mobile employees at risk. Many of the jobs at retail stores and call centers will be eliminated, and there will be more jobs lost as the effects of this merger ripple through the broader economy.