



June 7, 2011

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

*RE: WT Docket No. 11-65 AT&T/Deutsche Telekom Application for Transfer of Control of T-Mobile Licenses EX PARTE COMMUNICATION*

Dear Ms. Dortch:

On or about May 31, 2011, more than fifty Petitions to Deny approval of the above transaction were filed in this docket, along with a very significant number of comments opposing the transaction.<sup>1</sup> Of course, some comments supported the transactions.

Among the Petitions to Deny were two by members of the National Association of State Utility Consumer Advocates (“NASUCA”): the New Jersey Division of Rate Counsel (“NJ Rate Counsel”) and Utility Consumers’ Action Network (“UCAN”).<sup>2</sup> NASUCA commends these Petitions to Deny to the attention of the Federal Communications Commission (“Commission”), and wishes to state its support for those Petitions. The analysis in the NJ Rate Counsel and UCAN Petitions shows clearly that the acquisition by AT&T Inc. (“AT&T”) of T-Mobile USA Inc. (“T-Mobile”) is not in the public interest and the application should be denied. As the NJ Rate Counsel Petition states,

The proposed acquisition by AT&T of T-Mobile, a current subsidiary of Deutsche Telekom, would harm competition, by inter alia jeopardizing the ability of regional and all-you-can-eat ... carriers to compete; likely creating more pressure for yet further concentration in the wireless industry; potentially denying consumers’ access to low-priced wireless offerings; diminishing the fragile and limited competition that now exists in the special

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<sup>1</sup> E.g., Comments of Ad Hoc Telecommunications Group, with Declaration of Dr. Lee Selwyn.

<sup>2</sup> The UCAN Petition was filed jointly with New Media Rights and the Privacy Rights Clearinghouse.

access services market; and further entrenching AT&T's "gatekeeper" role in telecommunications and adjacent markets. The transaction would generally not be in the public interest. Furthermore, the transaction seeks to solve problems that may not exist (such as AT&T's purported spectrum shortage, AT&T's ability to innovate and the ability of United States companies to compete globally), and the Applicants claim benefits that are entirely speculative and probably not enforceable (e.g., roll-out of mobile broadband to unserved areas, faster innovation, and fewer dropped calls). The Applicants' starting premise of effectively competitive wireless markets is flawed, and therefore much of its analysis of the impact of the proposed transaction on competition is misguided.<sup>3</sup>

And the UCAN, et al. Petition discusses

the detrimental impact the potential merger will have in numerous areas of the wireless industry, because of 1) AT&T's anti-innovation history and the lack of net neutrality rules in the wireless space 2) the negative affect on customer service, prices, and variety of services available, and 3) the removal [of] the most privacy-friendly of the four major carriers from the market.<sup>4</sup>

Taken singly or together, these Petitions – along with the many other Petitions to Deny – provide more-than-adequate support for the Commission's denial of this application.

NASUCA appreciates the Commission's consideration of these views.

Respectfully submitted,

*/s/ Charles Acquard*  
Executive Director  
NASUCA  
8380 Colesville Road, Suite 101  
Silver Spring, MD 20910

CC: Chairman Genachowski, Commissioners Copps, McDowell, and Clyburn; Edward Lazarus, Rick Kaplan, Zac Katz; Mark Stone; Angela Giancarlo; Louis Peraertz; Ruth Milkman, James Schlichting, Jane Jackson

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<sup>3</sup> NJ Rate Counsel Petition at 2.

<sup>4</sup> UCAN, et al. Petition at 3.