

CELLCO PARTNERSHIP D/B/A  
VERIZON WIRELESS, SPECTRUMCO,  
LLC AND COX TMI WIRELESS, LLC

SEEK FCC CONSENT TO THE  
ASSIGNMENT OF AWS-1 LICENSES

WT Docket No. 12\_4

Petition to Deny

Mr. Maneesh Pangasa

A Consumer

## I. Introduction

Cellco Partnership d/b/a Verizon Wireless ("Verizon Wireless"), SpectrumCo, LLC ("SpectrumCo"),<sup>2</sup> and Cox TMI Wireless, LLC<sup>3</sup> ("Cox," and together with Verizon Wireless and SpectrumCo, the "Applicants") have filed two separate applications (collectively, "Applications") pursuant to Section 31 O(d) of the Communications Act of 1934, as amended,<sup>4</sup> seeking approval to assign spectrum licenses. In the first application, Verizon Wireless and SpectrumCo request consent to assign 122 Advanced Wireless Services (AWS-1)<sup>5</sup> licenses to Verizon Wireless from SpectrumCo ("Verizon")

<sup>1</sup> On January 11, 2012, the Wireless Telecommunications Bureau (WTB) issued a public notice establishing WT Docket No. 12-4 for the Verizon-SpectrumCo Application and the Verizon-Cox Application and designated the *ex parte* status of the Applications as permit-but-disclose under the Commission's rules. Commission Opens Docket for Proposed Assignment of Licenses to Verizon Wireless from SpectrumCo and Cox and Designates Proceeding as Permit-But-Disclose, *Public Notice*, DA-12-35, WT Docket No. 12-4 (reI. Jan. 11, 2012).

<sup>2</sup> SpectrumCo is a joint venture among subsidiaries of Comcast Corp. ("Comcast"), Time Warner Cable Inc. ("Time Warner Cable"), and Bright House Networks, LLC ("Bright House"). SpectrumCo is owned by Comcast (63.6 percent), Time Warner Cable (31.2 percent), and Bright House (5.3 percent). *See* Verizon Wireless-SpectrumCo Application, File No. 0004993617, Public Interest Statement at 2.

<sup>3</sup> Cox TMI Wireless, LLC is a subsidiary of Cox Communications, Inc., which Cox states is the third largest cable company in the country, and a long-time provider of high-speed Internet and local telephone services. *See* Verizon Wireless-Cox Application, File No. 0004996680, Public Interest Statement at 2. At the time SpectrumCo was granted the AWS-1 licenses that are the subject of the Verizon Wireless-SpectrumCo Application, an affiliate of Cox Communications, Inc. ("Cox Communications") held a 10.441 % equity interest in SpectrumCo. *See* Application of SpectrumCo LLC, ULS File No. 0002774487, filed October 4, 2006, and Verizon Wireless-Cox Application, Public Interest Statement at 3. In 2009, the Cox Communications affiliate exited the SpectrumCo venture, receiving as part of its redemption value the AWS-1 licenses that are the subject of the Verizon Wireless-Cox Application. *See* Verizon Wireless-Cox Application, File No. 0004996680, Public

Interest Statement at 3.

447 U.S.C. § 310(d).<sup>5</sup> The AWS-I band consists of multiple paired blocks within the 1710-1755 MHz and 2110-2155 MHz range. *See*

## **II. Summary**

We all remember the 1980's and its awesome [fashion](#) and [music](#).

While some may want to revisit those aspects of the past, I don't think anyone wants to return to the era of the cable and Ma Bell monopolies. I hereby petition a more thorough review of the transaction and the effects of the marketing agreements between Verizon Wireless and the cable cartel limiting competition.

Opening up communications markets was the purpose of the 1996 Telecommunications Act. The Act was designed to help phone companies get into the pay-TV business, and cable companies get into the phone business. Yet after a series of regulatory blunders, this promise of increased competition and lower prices has become a distant memory, like [7-Up Gold](#). And the situation is only getting worse. Instead of trying to buy out a competitor like AT&T tried unsuccessfully with its now abandoned T-Mobile merger Verizon is going into business with it – or more correctly with them. **It cut a deal**

with the biggest cable companies, which paid \$2.4 billion for spectrum in a 2006 auction and then sold it to Verizon for \$3.6 billion. Along with the spectrum sale, however, are the side deals, which could raise the company's profile. Verizon Wireless will market cable company high-speed Internet service everywhere but where Verizon offers its fiber optic FiOS service.

## **II. Comparisons to AT&T T-Mobile Transaction**

During the FCC's review process of the AT&T T-Mobile merger factual evidence was submitted invalidating AT&T's claims that it faced a spectrum shortage and had to buy T-Mobile. The evidence revealed that AT&T was in fact a spectrum hog wanting to buy all of the spectrum they can to deprive smaller carriers of the needed spectrum to effectively compete. As a result smaller carriers like 3<sup>rd</sup> place national carrier Sprint Nextel and even regional carriers like MetroPCS, Leap Wireless and C-Spire (formerly Cellular South) would be left with crumbs. The fact that AT&T accidentally submitted a document to the FCC they later redacted disproving their own claims hurt AT&T Mobility's merger prospects with T-Mobile further. If the FCC is of the mind to approve this deal it should make the abandonment of the marketing agreements a condition for approval.

We keep hearing that there is a spectrum crisis which the FCC has even acknowledged and said they hope to resolve by holding more spectrum auctions if Congress allows them to do so. Larger carriers AT&T and Verizon Wireless mention the rising use of smart phones and tablets by heavy bandwidth users. These carriers by the way are throttling wireless service of all users and imposing data caps. The AT&T T-Mobile merger was denied by regulators at the U.S. Department of Justice who's Antitrust Division filed a lawsuit to stop the merger and the Federal Communications Commission, which reportedly last December moved to refer the transaction to an administrative law judge.

The Twin Bells AT&T Inc., and Verizon Communications wield enormous influence in the telecommunications market today and their counterparts ("Twin Cells") AT&T Mobility and Verizon Wireless had the AT&T T-Mobile merger been approved would have had a near duopoly on the wireless market. Fortunately, Ma Bell was denied a Ma Cell with the rejection of that merger. However, Verizon's deal is also troubling. Unlike the AT&T takeover, which was rather blatant in its anticompetitive aspects, Verizon's deal is more subtle but just as dangerous. Verizon Wireless is dividing up the world between it and Comcast, Time Warner and Bright House, the owners of the spectrum being purchased.

### **III. Background**

Last December [Verizon announced](#) it had signed a \$3.6 billion deal with its erstwhile competitors Comcast, Time Warner Cable and Bright House Networks. In many ways, this announcement placed a capstone on the grave of the 1996 Telecom Act's biggest promise to America: genuine competition in communications service offerings. The telco-cable deal comes in two parts. The first lets Verizon buy wireless spectrum — the public airwaves over which iPads, cell phones and radios receive data — that these three cable companies teamed up to purchase from the Federal Communications Commission in 2006.

The second part of the deal maps out terms by which the companies agree to stay out of each other's way. While the terms of these agreements remain undisclosed, it's been widely reported that the deal is an accord for the companies to sell one another's services to common customers in their (sometimes overlapping) service

territories.

This means Comcast subscribers hoping to see lower prices as a result of Verizon FiOS competition shouldn't hold their breath. It means smart phone owners who wanted more companies to enter the mobile data marketplace got coal for Christmas. It means the future where consumers are empowered to choose the pay-TV channels they want, and not the 500-plus channel bundles they are coerced into buying, could be strangled in its crib. Ultimately, it means the quality of U.S. communications networks [will continue to trail that of other developed nations](#) as less competition leads to less incentive to invest in infrastructure.

#### **IV. Facts, Congressional Intent Against Transaction**

This deal directly contradicts the promise Congress made to the country when it passed the 1996 Telecommunications Act. Back in 1995, the word "competition" was used 196 times on the floor of the Senate to describe the bill. The [Congressional Record](#) describes the purpose of the 1996 Telecommunications Act: "to provide for a pro-

competitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans ... "

Senators praised the bill's potential to open up the market.

"Allowing cable companies to provide phones and phone companies to provide cable, this bill will spur competition and reduce costs to the Nation," [said Sen. Ted Stevens](#).

And in the House, rhetoric about competition was equally strong. "Congress has risen to the task ... so that American consumers will have more choices and innovative services, and will pay lower prices for communications products," [said Rep. Dennis Hastert](#).

Unfortunately, the bright future our congressional leaders forecast 15 years ago has been undermined by a series of bad decisions the FCC made to prematurely deregulate the sector before competition had a stronger foothold. Former White House technology policy adviser [Susan Crawford](#) rightly notes, "... in each metropolitan

area, wired access to information, entertainment, news and communication will be controlled by a single actor. That actor, the local cable monopoly, is, at the moment, unconstrained by real competition or oversight and benefits from overwhelming economies of scale."

With the latest announcement by Verizon and Big Cable, we are seeing companies that are supposed competitors openly striking deals to divide up the market.

## **V. Factual Legal Argument Against Transaction.**

Going back to the issue of Congressional intent when the Telecom Act was last updated in 1996 it is worth noting the FCC has through a number of unfortunate and premature deregulatory policies stifled the competition from developing in broadband that Congress wanted in the Telecom Act. In a way you could say the FCC has undermined the Telecom Act and in doing so has consistently violated Congressional intent. However, all is not lost yet. The

Telecom Act, which was meant to open the market for telecommunications to cable companies and the market for, pay TV to phone companies while on life support is still alive for now. Were this deal to be approved and the marketing agreements allowed to proceed though the Telecom Act would practically be dead.

## **VI. Jobs Issue**

No doubt Verizon Wireless in pushing for the approval of this deal might try to trump up the talking point of job creation as AT&T unsuccessfully did for its dead T-Mobile USA merger. Verizon Wireless is not unionized and so far its workers have been disallowed to join or form a union. Verizon Communications workers who could permanently lose their jobs as a result of this transaction should the marketing agreements public interest groups have rightly decried, as anti-competitive non-compete agreements though are unionized. So this transaction could lead to a net loss of union jobs in America.

In contrast the AT&T T-Mobile merger would have likely produced a net gain of union jobs in America since T-Mobile USA is a non-unionized company but AT&T Mobility is CWA Union's thinking in

supporting said merger was that T-Mobile workers could get to work for AT&T Mobility and CWA Union could increase the membership of their union. In fact CWA Union used fuzzy math provided by AT&T parroting AT&T's lies of job gains as a result of the proposed merger.

There should be no doubt Wall Street banks and investors would like to see Verizon abandon its landline business to focus solely on its wireless business. However, despite Wall Street's advice for Verizon Communications to go out of business or sell itself to another company – that is to separate Verizon's landline business from the wireless firm.

It is worth noting that what's good for the corporate executives and some shareholders is not good for the general public. Wall Street supported the defunct AT&T T-Mobile merger and some Wall Street banks lost money due to the denial of the merger and AT&T's abandonment of it but the defeat of the merger while bad for Wall Street was good for consumers. Besides Wall Street crashed the U.S. Economy with its reckless financial speculation and got bailed out for it. The point is this transaction should not be approved at least not in its current form and not without conditions preventing the anti-competitive marketing agreements from ever being implemented.

