CONFIDENTIAL] By virtue of its 55% ownership interest in Verizon Wireless, Verizon Communications has a **[BEGIN HIGHLY CONFIDENTIAL]**

[END HIGHLY CONFIDENTIAL]

The Commission's rules explicitly state that "[a]ctual working control, in whatever manner exercised, shall be deemed a cognizable interest,"[75] and Petitioners have specifically explained how the JOE Agreement **[BEGIN HIGHLY CONFIDENTIAL]**

[END HIGHLY CONFIDENTIAL] Applicants make no reference, much less rebuttal, to this argument in their Opposition.

III. THE COMMISSION SHOULD CONSIDER WHETHER THE AGENCY, RESALE, AND JOINT OPERATING ENTITY AGREEMENTS WILL VIOLATE THE ACT OR FRUSTRATE THE PURPOSES OF THE ACT.

The marketing, resale, and JOE agreements made between the Applicants as part of their agreements to transfer spectrum are an important part of the Commission's review in this proceeding. The Applicants admit that the Commission must consider all harms that would "arise from the transaction,"[77] but mistakenly fail to conclude that the Commission must consider all

---

[74] *See* 47 C.F.R. § 76.501 Note (f)(c). **[BEGIN HIGHLY CONFIDENTIAL]**

[END HIGHLY CONFIDENTIAL]

[75] *Id.* Note 1.

[76] **[BEGIN HIGHLY CONFIDENTIAL]**
[END HIGHLY CONFIDENTIAL]

[77] Joint Opposition at 64 (citing *Verizon Commc'ns Inc. and MCI, Inc.*, Memorandum Opinion & Order, 20 FCC Rcd 18433, 18446 ¶ 19 (2005); *IT&E Overseas, Inc. and PTI Pacifica Inc.*, Memorandum Opinion & Order & Declaratory Ruling, 24 FCC Rcd 5466, 5474 ¶ 14 (2009);

harms that would arise from the transaction, even if those harms are also relevant to other Commission proceedings. Applicants imply that if a particular issue raised by the proposed transactions has also been raised in another proceeding, then the Commission should simply ignore the issue and pretend that it has no relevance to the agreements.[78] The Commission need not, and indeed should not, ignore the harms that arise from a license transaction simply because those harms are also under discussion in another proceeding. Here, the commercial agreements are properly considered as part of the Applicants' overall license transfer agreement, and the Commission must block those agreements because they would violate the Communications Act and otherwise frustrate the Commission's ability to carry out the goals of the Act.

The Commission is responsible for effectuating the purposes of the Act and has the authority to review transactions to determine whether they frustrate those purposes. Even if a license transaction does not violate the Act, the Commission examines the proposed transfer to determine whether it would substantially impair or frustrate the enforcement or objectives of the Act and whether the transaction would produce potential public interest benefits to promote the goals of the Act.[79] Applicants argue that their proposed transactions do not violate Section 652(c) because they claim the section only applies to LECs and not to affiliates.[80] But the Commission has held that the statutory language can still apply to affiliates when such a reading is necessary to carry out the "regulatory purpose" of the provision, and the D.C. Circuit has agreed with this

---

Time Warner Inc. and Time Warner Cable Inc., Memorandum Opinion & Order, 24 FCC Rcd 879, 887 ¶ 13 (MB/WCB/IB 2009); *SBC Commc'ns Inc. and AT&T Corp.*, Memorandum Opinion & Order, 20 FCC Rcd 18290, 18303 ¶ 20 (2005)).

[78] Joint Opposition at 64–65.

[79] *Applications for Consent to the Transfer of Control of Licenses and Section 214 Authorizations by Time Warner Inc. and America Online, Inc., Transferors, to AOL Time Warner Inc., Transferee*, CS Docket No. 00-30, Memorandum Opinion & Order, ¶¶ 4, 12 (2001) ("AOL/Time Warner Order").

[80] Joint Opposition at 77.

interpretation.[81] Moreover, Section 652(c) certainly applies here, where, as Petitioners have argued, Verizon completely controls Verizon Wireless.[82] In fact, Verizon's own actions demonstrate that Verizon Wireless and Verizon Communications operate as one enterprise: Verizon Communications describes Verizon Wireless as one of its businesses, and the two companies share interlocking directorates.[83] To carry out the Congressional purpose of maximizing competition between cable and telecommunications carriers, the Commission should find that Section 652 applies to the proposed agreements between Verizon and the cable companies.

In addition to violating Section 652, the agreements run afoul of Section 310's public interest test. [84] Under the public interest standard, if a party attempts to evade the purpose or frustrate the application of the Communications Act—as Verizon and the cable companies are attempting to do—the Commission has authority to deny the proposed transaction or condition approval upon actions that would make the deal serve the public interest. The agreements here provide incentive for the Applicants to use business structures to evade the application of a rule or policy in contravention of the Commission's mandate to promote competition and the public interest. As a result, the Commission has authority to review the agreements.

Additionally, the mere fact that the Department of Justice ("DOJ") is also reviewing these agreements does not eliminate the Commission's authority. The Commission should review the commercial agreements to determine whether they comply with the goals of the Act and promote the public interest, regardless of whether the DOJ reviews the agreements for antitrust violations.

---

[81] *GTE Serv. v. FCC*, 224 F.3d 768, 773–74 (D.C. Cir. 2000).

[82] *See* Petition to Deny at 42–44.

[83] Petition to Deny at 42.

[84] Joint Opposition at 76–79.

Applicants say that to the extent elements of the agreements require government review to ensure the ongoing competitiveness of the marketplace, the DOJ is performing that review and is the only agency with the authority to do so.[85] But the Applicants are incorrect.

Not only is the Commission's authority to review the agreements independent from whether the DOJ reviews the agreements, but the Commission's standard of review is substantially broader than the DOJ's standard.[86] While the DOJ reviews the agreements to ensure competitive behavior, the Commission looks to ensure competitive behavior *plus* many other public interest factors. Furthermore, the fact that the DOJ is reviewing the agreements makes the case for the Commission's review that much stronger. The DOJ is reviewing the agreements because of serious anticompetitive concerns. Because these serious concerns could also inhibit the goals of the Act, the Commission must review the agency, resale, and JOE agreements, regardless of the DOJ's independent review.

IV. THE COMMISSION HAS BROAD AUTHORITY UNDER TITLES II AND III OF THE COMMUNICATIONS ACT TO REVIEW THE AGREEMENTS.

Contrary to Applicants' claims, the Commission has broad authority to review and block the commercial agreements, both in this license transfer proceeding and independently. The Commission has historically used this authority to impose restrictions on licenses granted to licensees and to review the contract agreements accompanying license transfers to protect and promote the public interest. Applicants' arguments to the contrary misunderstand the Commission's reasons for declining to review particular contracts in past proceedings. As discussed above, the commercial agreements at issue in this proceeding threaten serious harms to

---

[85] Joint Opposition at 75.

[86] *Applications of Comcast Corporation, General Electric Company and NBC Universal, Inc. for Consent to Assign Licenses and Transfer Control of Licenses*, MB Docket No. 10-56, Memorandum Opinion & Order, 26 FCC Rcd 4238, ¶ 24 (2011).

the public interest and the goals of the Communications Act, and are thoroughly intertwined with the license transfer agreement. As a result, the Commission can and should review the side agreements and block them outright or condition the license transfer upon their termination.

A. The Commission has Broad Authority Under Titles II and III to Review the Agreements and Implement Restrictions.

The Commission has broad, sweeping authority under Titles II and III of the Act to review the Verizon/SpectrumCo and Verizon/Cox license transfers and accompanying agreements and to determine whether they affirmatively serve the public interest. As the Commission itself has recognized, "Congress charged the Commission with 'regulating a field of enterprise the dominant characteristic of which was the rapid pace of its unfolding' and therefore intended to give the Commission sufficiently 'broad' authority to address new issues that arise with respect to 'fluid and dynamic' communications technologies."[87] The Commission has leeway to determine the jurisdictional basis and regulatory tools that will most effectively promote Congress's objectives and the public interest under the Communications Act.[88]

The Commission has consistently recognized its authority to allow or deny spectrum license transfers in the public interest under Section 310(d) and Section 214(a), and SpectrumCo and Cox will not be able to transfer its spectrum licenses to Verizon without Commission approval.[89] First, the Commission determines if a license transfer will comply with the

---

[87] *Preserving the Open Internet Broadband Industry Practices*, GN Docket No. 09-191, WC Docket No. 07-52, Report & Order, 25 FCC Rcd 17905, ¶ 15 (2010) (*Open Internet Order*) (citing *Nat'l Broad. Co., Inc. v. United States*, 319 U.S. 190, 219–20 (1943)).

[88] *Philadelphia Television Broad. Co. v. FCC*, 359 F.2d 282, 284 (D.C. Cir. 1966).

[89] *Applications Filed for the Transfer of Control of Insight Communications Company, Inc. to Time Warner Cable Inc.*, WC Docket No. 11-148, 2012 FCC Lexis 410, ¶ 7 (*Insight Communications Transfer*); *Rio Tinto America Inc. and Alcan Corp; Parent Companies of Various Subsidiary, Companies Holding Various Authorizations in the Wireless Radio Services*, File No. EB-09-IH-1665; 2011 FCC Lexis 5073, ¶ 3.

Communications Act, other statutes, and the Commission's rules. Even if the transfer complies with all of the statutes and rules the Commission must then look to how the transfer will affect the public interest and whether the transfer will frustrate the Commission's ability to effectuate the purposes of the Act.[90] The Commission has imposed many conditions to remedy likely harms that would arise from transactions under this broad authority.[91] The Commission is thus well within its authority to condition the proposed license transfers on the termination of the Applicants' side agreements, at which point the Applicants may choose to void their side agreements in order to accomplish their proposed license transfer.

B. Under Its Sweeping Authority, the Commission Has Reviewed Many Proposed Spectrum Transactions and Denied or Restricted the Proposals.

It is well established that the Commission has "authority to manage spectrum and establish and modify license and spectrum usage conditions in the public interest,"[92] including when the rule is based upon characteristics particular to an industry.[93] Time and again, the Commission has imposed requirements on existing licenses based on its broad authority over spectrum license grants and transfers under Titles II and III.[94] Congress mandated that the Commission "determine . . . whether the public interest, convenience, and necessity will be served by the granting of such [a license] application."[95] When the Commission implemented rules through the Open Internet Report and Order, it did so pursuant to Section 309(a), which

---

[90] *Insight Communications Transfer* at ¶ 7.

[91] *Id.* at ¶ 10.

[92] *Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers and Other Providers of Mobile Data Services*, WT Docket No. 05-265, Second Report & Order, 26 FCC Rcd 5411, ¶ 2 (2011) (*Roaming Obligations Order*).

[93] *Id.* at ¶ 62.

[94] *See, e.g.*, *Open Internet Order* at ¶ 133.

[95] *Id.*; 47 U.S.C. §§ 307, 309(a).

gives it the authority to regulate services in the public interest,[96] and Section 303(g), which directs it to encourage efficient uses in the public interest.[97] The Commission explained that companies "ha[d] the incentive and ability to block, degrade, or otherwise disadvantage the services of their online voice competitors."[98] Since competitors are not allowed to harm the network (by entering into agreements that may degrade service or otherwise),[99] the Commission implemented rules to prevent self-interested practices that would "jeopardize broadcasters' ability to offer . . . programming over the internet, and, in turn, threaten to impair their ability to offer high-quality broadcast content."[100] The Commission also looked to its "express and expansive authority" under Section 201 to ensure the practices of companies that provide both voice communications and broadband internet access services were "just" and "reasonable" and found that the practices that could block competitors' services were not reasonable before implementing Open Internet Rules.[101] The Open Internet Order is just one example of the Commission recognizing its statutory authority to impose new requirements on existing licenses, and then imposing requirements in accord with the public interest.[102]

The Commission has broad general authority "to establish license conditions and operational obligations, if the condition or obligation will further the goals of the Communications Act without contradicting any basic parameters of the agency's authority,"[103]

---

[96] *Open Internet Order* at ¶ 122.

[97] *Id.* at ¶ 128.

[98] *Id.* at ¶ 125.

[99] *Id.* at ¶ 134.

[100] *Id.* at ¶¶ 135, 128.

[101] *Id.* at ¶ 125.

[102] *Id.* at ¶ 135.

[103] *Id.* at ¶ 207.

and the Commission has used its authority to implement other restrictions on spectrum under Title III. For example, the Commission does not allow licensees of the Upper 700 MHz Band C Block, which was designated for public safety and commercial services,[104] to "block, degrade, or interfere with the ability of end users to download and utilize applications of their choosing on the licensee's C Block network, subject to reasonable management."[105]

With industry practices potentially impeding new devices and applications for consumer use, the Commission required C Block licensees to allow consumers to use any devices or applications (with some limitations).[106] The prohibition promoted the development of new devices and applications to the benefit of consumers, and it fell well within the Commission's statutory authority.[107] Section 303(r) requires the Commission to create rules and regulations to carry out the provisions of the Act, Section 309(j)(3) requires the Commission to "include safeguards to protect the public interest," and Section 303(b) encourages new uses, experimental uses, and effective uses of radio. When Verizon Wireless and other opponents objected to the rule, the Commission disagreed and held to its initial decision to implement the restrictions. Under Section 309(j)(3), the Commission articulated that the public interest of having available devices and applications well outweighed a possible loss in the monetary value of the spectrum to Verizon, when balancing the statutory objectives.[108] The rule was consistent with the

---

[104] *Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band; Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010*, PS Docket No. 06-229, WT Docket No. 96-86, Second Report & Order, 22 FCC Rcd 15289, ¶ 15 (2007) (*700 MHz Band Order*).

[105] *Id.* at ¶ 206.

[106] *Id.* at ¶ 207.

[107] *Id.*

[108] Id. at ¶ 208, 214, 215.

Commission's goals of "promoting commercial access to 700 MHz Band spectrum and the development of a nationwide interoperable broadband network for public safety users."[109]

The Commission also used its authority under several sections of Titles II and III to manage spectrum and modify license conditions when it imposed data roaming obligations on CMRS providers because the industry's general practices conflicted with the public interest and entrants' ability to compete in the market.[110] The rule required certain providers of commercial mobile data services to offer data roaming to other providers.[111] The Commission explained that when it grants a license, it does not convey ownership in the spectrum and the licensee cannot override its regulatory power over the spectrum.[112]

A number of provisions of the Act give the Commission authority to impose data roaming obligations. Section 301 requires the Commission to maintain the control over radio transmission channels.[113] Section 316 specifically allows the Commission to adopt new conditions on existing licenses. Section 303 allows the Commission to establish operational obligations and prescribe the nature of the services rendered for licenses to promote the public interest and Congressional goals.[114] Sections 201 and 202 require carriers to provide roaming services to other carriers on a just, reasonable, and non-discriminatory basis.[115] The Commission used its authority to create a rule that affected current agreements and developed new agreements between service providers, by obliging them to offer individually negotiated data roaming

---

[109] Id. at ¶3.

[110] *Roaming Obligations Order* at ¶ 62.

[111] *Id.* at ¶ 1.

[112] *Id.* at ¶ 62.

[113] 47 U.S.C. § 301. *Roaming Obligations Order* at ¶ 62.

[114] *Id.* at ¶ 62; 47 U.S.C. § 316.

[115] *Id.* at ¶ 4.

arrangements on reasonable terms.[116] The rule promoted the Communication Act's goal of fully realizing competitive mobile broadband services by allowing consumers greater use of their data plans, encouraging nationwide connectivity to data services, and enabling competitive development of data technology.[117]

The authority to promote the public interest by preventing spectrum licensees from acting in an anticompetitive manner is longstanding. In 1970, the Commission imposed prime time access rules on broadcasters, citing its authority under Section 303 to generally encourage the larger and more effective use of radio in the public interest.[118] Reviewing common network practices, the Commission found that "only three organizations control[led] access to the crucial prime time evening television schedule"—an "unhealthy situation."[119] Because the television industry monopolized control and eliminated sources of programming, it was in the public interest to limit network control, give independent programmers more access to the airwaves, and give the public more programming options.[120] The Commission concurrently adopted the financial interest and syndication rules "to encourage the development of diverse and antagonistic sources of program service."[121]

On appeal of the prime time access rules order, the Second Circuit upheld the Commission's authority under Section 303 to order licensees to give other competitors and

---

[116] *Id.* at ¶¶ 66, 68.

[117] *Id.* at ¶¶ 1, 28.

[118] *Mt. Mansfield Television, Inc. v. FCC*, 442 F.2d 470, 478 (2d Cir. 1971) (*Mansfield Television*). *See also* 47 U.S.C. § 303.

[119] *Amendment of Part 72 of the Commission's Rules and Regulations with Respect to Competition and Responsibility in Network Television Broadcasting*, Docket No. 12782, Report & Order, 23 FCC 2d 382, ¶ 21 (1970).

[120] *Mansfield Television*, 442 F.2d at 476.

[121] *Id.*

entrants the opportunity to broadcast.[122] The Court also upheld the financial interest and syndication rules on the basis that it was "reasonably ancillary to the effective performance of the Commission's various responsibilities for the regulation of television broadcasting" and therefore within the Commission's authority because it would encourage independent competing programmers in the market.[123]

Based on Commission precedent, the Commission has ample authority to review the license transfers at issue under Section 310(d). Verizon and the MSOs cannot use their spectrum licenses to "block, degrade, or interfere with" consumers' rights to competitive commercial services or competitors' rights to participate in the market.[124] The industry practices that could have prevented competition and harmed consumer choice, leading the Commission to place restrictions on spectrum licenses in the Orders discussed above, will likely happen if the Commission does not use its authority to review SpectrumCo's spectrum license transfer to Verizon in its entirety. Such practices would violate the "just" and "reasonable" requirements in Section 201. The Commission must use its authority to ensure the license transfer is in the public interest and promotes the effective, competitive use of spectrum.

C. The Commission May Act Pursuant to Its Statutory Authority Even If Its Rules or Reviews Effectively Render Existing Contracts Void or Illegal.

Not only must the Commission review the spectrum license transfer under Section 310(d), is also has the authority to review the accompanying agency, resale, and JOE agreements. Once the Commission has authority over a spectrum license transfer, Applicants cannot try to deny that authority by claiming to distinguish half of the contract as a separate agreement that the

---

[122] *Id.* at 480.

[123] *Id.* at 483, 486.

[124] *Open Internet Order* at ¶ 134; *700 MHz Band Order* at ¶ 207.

Commission does not have the right to review. In any event, the Commission has authority to regulate spectrum license transfers regardless of their accompanying contracts, and its rules can affect both preexisting and future agreements so long as the rules are constitutional.

The Commission has in the past taken action that effectively rendered existing contracts void. For example, the Commission prohibited housing associations' restrictive covenants because they impaired consumers' ability to receive video programming services through over-the-air reception devices.[125] In that instance, Section 207 of the Telecommunications Act of 1996 gave the Commission authority to create rules to promote consumer access to a broad range of video programming services and competition among service providers.[126] Specifically, "[t]he 1996 Act's direction to the Commission to prohibit restrictions that impair reception of over-the-air video programming services promotes the primary objective of the Communications Act, to 'make available, so far as possible, to all the people of the United States . . . a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges.'"[127]

The Commission also looked to its mandate to consider the public interest under Section 303. Thus, the Commission has authority to prohibit restrictive covenants that impair, delay, or block viewers' ability to access programming, even if the rules result in voided contracts. The Commission found it in the public interest to prohibit the covenants that impaired consumers'

---

[125] *Preemption of Local Zoning Regulation of Satellite Earth Stations*, IB Docket No. 95-59, *Implementation of Section 207 of the Telecommunications Act of 1996, Restrictions on Over-the-Air Reception Devices: Television Broadcast Service & Multichannel Multipoint Distribution Service*, CS Docket No. 96-83, Report & Order, Memorandum Opinion & Order, & Further Notice of Proposed Rulemaking, 11 FCC Rcd 19276, ¶¶ 5, 41–42 (1996) (*OTARD Order*). Restrictions included permits and shrubbery to conceal the devises. *Id.* at ¶ 16.

[126] *Id.* at ¶ 6.

[127] *Id.* at ¶ 1. *See* 47 U.S.C. § 151.

ability to access programming, but exempted nongovernmental covenants that promoted safety goals or did not impair program reception.[128] In adopting the rule, the Commission consolidated two previous rulemakings where it relied on its broad authority to implement regulations relating to wireless service,[129] specifically referring to Sections 1 and 705 and to Title III of the Communications Act.[130]

The Commission has also voided preexisting contracts between television programming service providers and owners of multiple dwelling units (MDUs) because it was in the public interest to have more than one programming option in their homes.[131] The Commission reasoned that since it had authority to implement rules that promote competitive satellite cable and satellite broadcast programming in the public interest under Section 628,[132] it could reach the exclusivity agreements that program providers made.[133] Providers who wanted to recoup investments from the exclusivity agreements argued that the Commission's authority was limited to anticompetitive practices that limited programming, but not customers.[134] The Commission responded that it had broad authority over both programming and customers—Congress knew how to narrowly draft provisions, but intentionally made Section 628 broad.[135] Looking past the

---

[128] *Id.* at ¶¶ 6, 24, 51.

[129] *Id.* at ¶ 2.

[130] *Preemption of Local Zoning Regulation of Satellite Earth Stations*, IB Docket No. 95-59, Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 5809, ¶ 11 (1996).

[131] *Exclusive Service Contracts for Provision of Video Services in Multiple Dwelling Units and Other Real Estate Developments*, MB Docket No. 07-51, Report & Order & Further Notice of Proposed Rulemaking, 22 FCC Rcd 20235 (2007) (*MDU Report & Order*).

[132] *Id.* at ¶¶ 50, 55, 40.

[133] *Id.* at ¶¶ 4, 27.

[134] *Id.* at ¶¶ 39, 44.

[135] *Id.* at ¶ 44.

form of the agreements to the resulting anticompetitive practices, the Commission prohibited exclusivity agreements for harming competition and denying services to residents of MDUs.[136]

D. The Commission Has Authority to Review Applicants' Proposed Spectrum Transfers and Therefore Has Authority to Review Accompanying Agreements.

The Commission has authority to review Applicants' proposed license transfers under Section 310(d), and therefore must also review the agency, resale, and JOE agreements under its sweeping authority under Section 303 to protect the public interest. It does not matter whether the side agreements themselves specifically involve spectrum license transfers—they are tied to the spectrum transfers, and the Commission can only collect all of the information it needs to determine what the communications landscape will look like post-transaction if the Commission considers *the entirety* of the agreements. The agency agreement may allow Applicants to cross-market each other's products in an attempt to dominate the market in an anticompetitive manner while effectively agreeing not to compete with each other.[137] Additionally, through the JOE the Applicants may develop new patents and use those patents to keep potential new entrants out of the market for broadband and wireless services. The Commission has the authority to review the agency, resale, and JOE agreements and must use that authority to determine whether the agreements will serve the public interest.

---

[136] *Id.* at ¶¶ 1, 15, 17. The D.C. Circuit later affirmed the Commission's authority to enact rules prohibiting exclusivity agreements. *Nat'l Cable & Telecomm. Ass'n v. FCC*, 567 F.3d 659 (D.C. Cir. 2009).

[137] The Applicants have admitted that they entered into the commercial agreements, in part, in case the spectrum transfer did not work as planned. For example, Verizon Communications CEO Lowell McAdam has quoted Comcast CEO Brian Roberts as saying, "look, if I sell you this spectrum that puts me on a particular path. I need to have a fallback that if this doesn't work as well as we had hoped that I am not blocked out of wireless." Lowell C. McAdam, President, Chief Executive Officer, COO & Director, Verizon Communications, Inc., UBS Global Media & Communications Conference, December 7, 2011.

Applicants argue that the Commission declines to review agreements that do not include license transfers.[138] But the Commission declined to review the agreements cited by Applicants for reasons other than being ancillary to the spectrum transfers at issue: in the AT&T-Centennial transaction, the Commission found the arguments regarding the settlement contract moot.[139] The Commission declined to review the GM-Hughes agreement because the alleged claim regarded specific classes of derivative shareholders and more properly belonged in state court.[140] Finally, the Commission did not decline to review any agreements in the Sprint Nextel-Clearwire transfer, but instead *declined to impose* reviews on all potential financially-backed contracts.[141] Furthermore, precedent exists for the Commission reviewing side agreements in spectrum transfer proceedings. For example, the Commission reviewed several agreements addressing business matters other than the proposed spectrum transfer (e.g., joint ventures and over-the-air broadcasting) during the Comcast/NBCU merger.[142]

In mandating that the Commission review license transfers, Congress granted the Commission broad authority and responsibility to determine whether proposed license transfer agreements—viewed in their entirety—affirmatively enhance the public interest. If the agreements fail to serve the public interest, frustrate the purposes of the Communications, or

---

[138] Joint Opposition at 70–71.

[139] *Verizon Wireless-ALLTEL Order*, 23 FCC Rcd at 17490-17491 ¶ 98; *see also AT&T Inc. and Centennial Communications Corp.*, Memorandum Opinion & Order, 24 FCC Rcd 13915, ¶ 152 (2009) ("AT&T-Centennial Order").

[140] *General Motors Corp. and Hughes Electronics Corp.*, Memorandum Opinion & Order, 19 FCC Rcd 473 ¶ 314 (2004).

[141] *Sprint Nextel Corp. and Clearwire Corp.*, Memorandum Opinion & Order, 23 FCC Rcd 17570 ¶ 101 (2008).

[142] *Applications of Comcast Corporation, General Electric Company and NBC Universal, Inc. for Consent to Assign Licenses and Transfer Control of Licenses*, MB Docket No. 10-56, Memorandum Opinion & Order, 26 FCC Rcd 4238, ¶ 38, 159–62 (2011).

frustrate the ability of the Commission to achieve the goals of the Act, the Commission must block the license transfer and accompanying agreements, or permit the transfer of spectrum only if the anticompetitive side agreements are voided.

CONCLUSION

WHEREFORE, the Commission should deny the Applications and block the Applicants' commercial agreements or refer the matter for a hearing pursuant to Section 310(d).

Respectfully submitted,

/s Harold Feld
Legal Director

/s Jodie Griffin
/s John Bergmayer
Staff Attorneys

/s Kara Novak
Law Clerk

PUBLIC KNOWLEDGE

MEDIA ACCESS PROJECT
NEW AMERICA FOUNDATION OPEN TECHNOLOGY INITIATIVE
ACCESS HUMBOLDT
BENTON FOUNDATION
NATIONAL CONSUMER LAW CENTER, ON BEHALF OF ITS LOW-INCOME CLIENTS

March 26, 2012

DECLARATION OF HAROLD FELD

I, Harold Feld, declare under penalty of perjury that:

1. I have read the foregoing Reply Comments of Public Knowledge et al.

2. I am the Legal Director for Public Knowledge ("PK"), an advocacy organization with members, including Verizon Wireless subscribers and subscribers of multichannel video programming cable service, who, in my best knowledge and belief, will be adversely affected if the Commission approves the proposed transactions.

3. PK members use the wireless devices associated with their accounts to make and receive voice calls, send and receive text messages, and use data services when they travel to various locations throughout the United States. PK members also receive multichannel video programming and wireline broadband access.

4. In my best knowledge and belief, PK members will be directly and adversely affected if the Commission allows the proposed transactions between Verizon Wireless and SpectrumCo and between Verizon Wireless and Cox TMI Wireless to proceed. They will likely face fewer choices for wireline and wireless broadband and for cable service. Furthermore, if the agreements are permitted, Applicants may subsequently modify the agreements in anticompetitive ways without FCC oversight, creating higher prices for these services for PK members.

5. The allegations of fact contained in the petition are true to the best of my personal knowledge and belief.

/s Harold Feld
Legal Director
PUBLIC KNOWLEDGE

CERTIFICATE OF SERVICE

I certify that on March 26, 2012, I sent a redacted copy of the foregoing Reply Comments by email to the following:

Michael Samsock
Cellco Partnership/Verizon Wireless
1300 I Street, NW, Suite 400 West
Washington, DC 20005
michael.samsock@verizonwireless.com

Nancy J. Victory
Wiley Rein LLP
1776 K Street, NW
Washington, DC 20006
nvictory@wileyrein.com
Counsel for Verizon Wireless

Adam Krinsky
Wilkinson Barker Knaur LLP
2300 N Street, NW, Suite 700
Washington, DC 20037
AKrinsky@wbklaw.com
Counsel for Verizon Wireless

Lynn Charytan
David Don
SpectrumCo LLC
300 New Jersey Avenue, NW, Suite 700
Washington, DC 20001-2030
lynn_charytan@comcast.com
david_don@comcast.com

Michael Hammer
Michael G. Jones
Brien C. Bell
Willkie Farr & Gallagher LLP
1875 K Street, NW
Washington, DC 20006
mhammer@willkie.com
mjones@willkie.com
bbell@willkie.com
Counsel for SpectrumCo LLC

Jennifer Hightower
Cox TMI Wireless, LLC
1400 Lake Hearn Drive, NE
Atlanta, GA 30319
jennifer.hightower@cox.com

Christina H. Burrow
J.G. Harrington
Dow Lohnes PLLC
1200 New Hampshire Avenue, NW
Suite 800
Washington, DC 20036
cburrow@dowlohnes.com
jharrington@dowlohnes.com
Counsel for Cox TMI Wireless, LLC

Best Copy and Printing, Inc.
FCC@BCPIWEB.COM

Sandra Danner
Broadband Division
Wireless Telecommunications Bureau
Federal Communications Commission
sandra.danner@fcc.gov

Jim Bird
Office of General Counsel
Federal Communications Commission
jim.bird@fcc.gov
TransactionTeam@fcc.gov

Joel Taubenblatt
Spectrum and Competition Policy Division
Federal Communications Commission
joel.taubenblatt@fcc.gov

/s Jodie Griffin
Staff Attorney
PUBLIC KNOWLEDGE