



VIA ECFS

Marlene H. Dortch
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Application of Cellco Partnership d/b/a Verizon Wireless and SpectrumCo, LLC for Consent to Assign Licenses and Application of Cellco Partnership d/b/a Verizon Wireless and Cox TMI Wireless, LLC for Consent to Assign Licenses, WT Docket No. 12-4

Dear Ms. Dortch:

Verizon and its proposed cable TV partners have objected to the Acknowledgments of Confidentiality filed in the proceeding WT 12-4 by Dr. Alan Pearce, Dr. Martyn Roetter, and Dr. Barry Goodstadt, identified as consultants to Information Age Economics (“IAE”)¹. The grounds for these objections are that IAE is not a party to the Proceeding and that none of us qualify as Consultants to a party since in any case Drs Roetter and Goodstadt are allegedly employees of IAE and not Consultants to anybody.

A description of these Objections as “arbitrary and capricious” is an understatement. Verizon, et al, responded to IAE’s *ex parte* filings in the second half of May², which clearly and unequivocally demonstrates that IAE has a legitimate role in this Proceeding. Furthermore, in their desperation to find any excuse to disqualify us they claim that Drs Roetter and Goodstadt are not consultants to IAE, but actually IAE employees, a position which neither of them enjoy or have ever claimed for themselves. They also argue that this disqualifies us doubly from access to confidential documents. In fact, each of us—Drs. Pearce, Roetter and Goodstadt are individual, independent researchers and consultants who have banded together on a pro bono basis in our filing to challenge the proposed Verizon-SpectrumCo transaction and have made this known to the FCC staff.

We have also noted that other Acknowledgments of Confidentiality have been accepted from individuals working on behalf of organizations that clearly do not meet the very limited and restrictive interpretation of who should be allowed to access confidential JMA and JOE documents on which Verizon and its cable partners are basing their objections to ours, e.g., Fairpoint Communications and Frontier Communications, despite objections filed by Verizon and its proposed cable TV partners, using the same argument that these organizations are not parties to the proceeding.

We therefore suspect that the real motivation behind Verizon, et al, objections is that the contents of these documents contain elements that would inevitably reveal irrefutable evidence to justify their rejection. Indeed, in our *ex parte* meeting with the FCC staff on May 22, we

¹ <http://apps.fcc.gov/ecfs/document/view?id=7021982205>

² <http://apps.fcc.gov/ecfs/document/view?id=7021922322>



speculated that there may be elements found within the confidential documents that will provide evidence of anti-competitive behavior by the proposed parties.

Without access to this confidential information, we have been able so far to refute their attempts³ to rebut the substantive evidence that we have developed and presented⁴ by demonstrating that in their rebuttal they have either misrepresented or fundamentally misunderstood some of our positions, while completely ignoring others.

Applicants' objections reflect a deeply disturbing attitude that ignores the value of having independent, objective analysts review these documents in order to accurately and independently assess whether or not their content and their implementation constitute unacceptable antitrust violations of fair competition.

We have no stake in the success or failure of Verizon's competitors. We are not beholden to any particular player in the broadband landscape, whether for example an Over-the-Top (OTT) services provider or a competing wireline operator. Our findings and recommendations are based on the best available evidence and facts. Our opposition to the proposed Verizon/cable MSO deals, so far, has been built on analyses and evidence of harm that we have been able to uncover, and has not been driven by any ideological crusade.

Indeed, our view of this transaction has been measurably altered as a function of the entrance of T-Mobile into the spectrum portion of the transaction. This will be reflected in our upcoming filing in Proceeding 12-175. Most of our concerns regarding the spectrum portion of the transaction have been alleviated in light of the benefits to consumers and competition likely to flow from T-Mobile's acquisition of more AWS spectrum, which we identified in 2011 as a much more preferable alternative to T-Mobile's acquisition by AT&T.⁵ This demonstrates the responsible nature of our third-party commentary in this proceeding and the objective and even-handed approach we have taken in this matter. However, we still have major concerns regarding the JMAs and the JOE. The parties' stance on our request for access to confidential information is itself a barrier to our objective analysis of the nature and content of these agreements. Once we gain access, we will conduct an objective and even-handed analysis of this material. Until that occurs, the parties' objection to our access will stand in the way of a complete analysis.

Thus, if as Verizon and the cable MSOs claim, there is nothing in their JMAs and JOE to warrant concern about their anticompetitive implications, we will so find and conclude, according to the facts. Our opinion will carry considerable weight in quarters which respect honest and objective advice and conclusions. We will be prepared to change our minds if the evidence uncovered in the documents justifies this conclusion (just as we have revised our opinion of the spectrum

³ <http://apps.fcc.gov/ecfs/document/view?id=7021923615>

⁴ IAE *ex parte* filings: <http://apps.fcc.gov/ecfs/document/view?id=7021920095>;
<http://apps.fcc.gov/ecfs/document/view?id=7021920096>;
<http://apps.fcc.gov/ecfs/document/view?id=7021920798>

⁵ Martyn Roetter, Alan Pearce, and Barry Goodstadt, "T-Mobile USA: A Better Future Without AT&T," BNA Daily Report for Executives, October 6 2011



transfer, in light of the new participation of T-Mobile which will be discussed in our filing in 12-175)

If **you** have questions, please do not hesitate to call.

Sincerely,

A handwritten signature in black ink that reads 'Alan Pearce'. The signature is written in a cursive style with a large initial 'A'.

Alan Pearce

President, Information Age Economics

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