

July 10, 2012

**BY ELECTRONIC FILING**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 Twelfth St., SW  
Washington, DC 20554

Re: *Application of Cellco Partnership d/b/a Verizon Wireless and SpectrumCo, LLC for Consent to Assign Licenses; 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:

On behalf of FairPoint Communications, Inc. ("FairPoint"), this letter serves to express support for and agreement with the concerns and proposals made in the letter filed today in the above-captioned proceeding by the Independent Telephone & Telecommunications Alliance (the "Midsized Carriers").

Based on a review of the available portions of those agency, resale and joint operating agreements filed in this proceeding by the Applicants (commonly referred to as the "Commercial Agreements") within the parameters of the applicable FCC protective orders,<sup>1</sup> FairPoint urges the Commission not to act on the pending license assignment applications before giving thorough consideration to the business arrangements among the Applicants that extend well beyond the purchase and sale of radio-frequency

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<sup>1</sup> Pursuant to an agreement with the Applicants, as Outside Counsel for FairPoint, the undersigned were provided access to certain Confidential and Highly Confidential Information subject to the protections and use restrictions of the protective orders adopted in this proceeding. *See Application of Cellco Partnership d/b/a Verizon Wireless and SpectrumCo, LLC for Consent to Assign Licenses; Application of Cellco Partnership d/b/a Verizon Wireless and Cox TMI Wireless, LLC for Consent to Assign Licenses, Second Protective Order, WT Docket No. 12-4 (Wireless Tel. Bur. rel. Jan. 17, 2012) ("Second Protective Order").*

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spectrum. Indeed, FairPoint is convinced that the Commercial Agreements not only are central to the overall transaction under Commission review, but also have the potential to dramatically and irrevocably alter the future competitive landscape for consumer broadband services as well as wholesale services. When the Applicants themselves have characterized the Commercial Agreements as “integrated” into the spectrum deal,<sup>2</sup> the Commission has a duty to fully understand their impact.

Because of the Highly Confidential designation of most of the material in the Commercial Agreements, FairPoint has only a limited understanding of their content. Although Outside Counsel has had greater access, we are severely restricted from discussing the substance of the Commercial Agreements with our clients, who have a far deeper knowledge of the business conditions in which the Commercial Agreements should be analyzed. FairPoint is counting on the Commission and staff to review the Commercial Agreements and engage the industry in a substantive discussion of their implications.

FairPoint agrees with ITTA that at least three aspects of the pending transactions threaten significant harm to the public interest:

- First, the preferential sales and marketing arrangements among the Applicants and their joint development of proprietary technology has the potential to impair competition in the wireline backhaul market and stifle investment in wireline broadband networks.
- Second, the close alliance among the largest wireless broadband network operator in the nation and the largest cable operators (who also are vertically integrated broadband and content providers) has the potential to stifle competitive alternatives for delivery of video and other content to consumers.
- Third, if this wireless-wireline alliance is allowed to move forward, FairPoint fears that it and other carriers like it will be unable to reach consumers, lacking seamless access to integrated and proprietary wireline-wireless handoff technology.

FairPoint supports the seven conditions proposed by ITTA as the *minimum* needed for the Commission to find that the pending transactions would serve the public interest:

1. Prohibit preferential backhaul arrangements among the Applicants.

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<sup>2</sup> See Reply Comments of the Greenlining Institute, WT Docket No. 12-4, pp. 5-6 (filed Mar. 26, 2012) (*citing* statement of David L. Cohen, Executive Vice President, Comcast Corp., to the Senate Judiciary Committee, Subcommittee on Antitrust).

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2. Prohibit discrimination in access to video content controlled by any of the Applicants.
3. Prohibit discriminatory or proprietary technical standards for hand-off between wireless and wireline networks, data sharing, content storage and access to competitive networks.
4. Prohibit the Applicants from enforcing data usage limits on customers using unaffiliated service providers unless the same data usage limits apply to their own customers.
5. Prohibit exclusivity in broadband retail offerings by Verizon Wireless.
6. Require the Applicants to follow the same porting processes that are required of telecommunications carriers under Part 64 of the Commission's rules.
7. Prohibit the cable Applicants from discriminatory or exclusionary sales practices for cable advertising.

Finally, FairPoint supports ITTA's request that the Commission require that the Applicants broaden their disclosure of the Commercial Agreements so that, at a minimum, Outside Counsel and company in-house counsel may discuss the impact of these arrangements on affected customers and markets, and in-house counsel may discuss their company's concerns with the Commission and Commission staff. Until the Commercial Agreements are fully reviewed, interested parties will not have had a meaningful opportunity to participate in this proceeding.

Please contact the undersigned if you have any questions.

Very truly yours,

/s/

Karen Brinkmann

Robin Tuttle

*Counsel for FairPoint Communications, Inc.*

cc: Sandra K. Danner, Broadband Division  
Wireless Telecommunications Bureau