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June 19, 2013

*FILED IN ECFS*

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

**Re: IB Docket No. 12-343; Sprint Nextel Corp. and SoftBank Corp., Joint Application for Consent to Transfer International and Domestic Authority**

Dear Ms. Dortch:

DISH Network Corporation (“DISH”) hereby notifies the Commission that, yesterday, the State of Minnesota Public Utilities Commission (“Minnesota PUC”) issued the attached Notice of Comment Period on Possible PUC Reconsideration of Approval of Transfer of Control of Sprint to Starburst II (“Notice”) (Exhibit 1). The Notice invites comment on whether the Minnesota PUC should reconsider its approval of the proposed acquisition by SoftBank Corporation (“SoftBank”) of control over Sprint Nextel Corporation (“Sprint,” collectively with SoftBank, the “Applicants”), as requested by DISH in light of the changes the Applicants announced on June 11, 2013, to their proposed merger agreement.

Comments on the Notice are due on July 8, 2013, and reply comments are due on July 18, 2013. In light of the Minnesota PUC’s schedule, as well as the agency’s rules, which generally require ten days’ notice before a matter may come before the agency, *see* Minn. R. 7829.2800, DISH expects that the earliest date on which the Minnesota PUC would decide whether to reconsider its approval would be August 1, 2013.

The Notice was specifically issued in response to a letter dated June 14, 2013, filed with the Minnesota PUC by DISH (attached as Exhibit 2). DISH’s letter requested reconsideration of the Minnesota PUC’s approval based on the same substantial amendments to the Sprint-SoftBank agreement that DISH has raised with the Commission, including the reduction of SoftBank’s capital infusion into Sprint from \$8 billion to \$5 billion, and the requirement that Sprint adopt a “poison pill” mechanism that hampers any other party from acquiring a substantial stake in Sprint on the open market.

Marlene H. Dortch  
June 19, 2013  
Page 2



Sincerely,

/s/

Pantelis Michalopoulos  
Christopher Bjornson  
*Counsel for DISH Network Corporation*

cc: (By Electronic Mail)  
Kathleen Collins  
Neil Dellar  
Aaron Goldschmidt  
David Krech  
Wayne McKee  
Paul Murray  
Christopher Sova  
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**Exhibit 1**

**State of Minnesota Public Utilities Commission**

**Notice of Comment Period on Possible PUC Reconsideration of Approval of  
Transfer of Control of Sprint to Starburst II**



*Mark E. Oberlander for*

Burl Haar, Executive Secretary

STATE OF MINNESOTA PUBLIC UTILITIES COMMISSION

**NOTICE OF COMMENT PERIOD ON POSSIBLE PUC  
RECONSIDERATION OF APPROVAL OF TRANSFER OF CONTROL OF  
SPRINT TO STARBURST II**

*Issued: June 18, 2013*

**In the Matter of the Joint Petition by Sprint Communications Company, L.P. and  
Starburst II, Inc. for Approval of Indirect Transfer of Control of Sprint  
Communications Company L.P. to Starburst II, Inc.**

**PUC Docket Number/s: P466/PA-12-1289**

**Comment Period:** Initial comment period closes July 8, 2013  
Reply comment period closes July 18, 2013

**Topic/s Open for Comment:**

- What action should the Commission take regarding the letter filed by DISH Network Corporation (DISH) requesting the Commission to reconsider approval of the Sprint/Starburst II transaction?

**Project Background:** On January 23, 2013, the Commission approved the transfer of control of Sprint to Starburst II. On June 14, 2013, DISH filed a letter requesting the Commission to reconsider its approval of the Sprint/Starburst II transaction. According to DISH, the companies have materially amended the merger agreements and that additional review is necessary before the transaction can be consummated. DISH asks the Commission to direct parties to file an amended petition fully describing all changes in the terms of agreement and how they affect Minnesota.

**Full Case Record:** All documents filed in this docket are available on the Commission's website at [www.puc.state.mn.us](http://www.puc.state.mn.us), select "Search eDockets," enter the year (12) and the docket number (1289), select "Search."

**Subscribe to the Docket:** Receive notification when new documents are filed in this docket at [www.puc.state.mn.us](http://www.puc.state.mn.us), select "Subscribe to a Docket," and follow the prompts.

**Questions about Commission process and procedure?** Contact Commission staff, Lillian Brion, at [651-201-2216](tel:651-201-2216) or [lillian.brion@state.mn.us](mailto:lillian.brion@state.mn.us).

**Change your mailing preferences:** E-mail [consumer.puc@state.mn.us](mailto:consumer.puc@state.mn.us) or call 651-296-0406.

**This document can be made available in alternative formats (i.e., large print or audio) by calling 651-296-0406 (voice). Persons with hearing loss or speech disabilities may call us through Minnesota Relay at 1-800-627-3529 or by dialing 711.**

**Exhibit 2**

**Letter from DISH Network Corporation to State of Minnesota Public Utilities  
Commission, June 14, 2013**



dishNET Wireline L.L.C.  
2460 W. 26<sup>th</sup> Ave., Suite 380-C  
Denver, CO 80211

**VIA ELECTRONIC FILING**

14 June 2013

Burl W. Haar, Executive Secretary  
MINNESOTA PUBLIC UTILITIES COMMISSION  
121 7<sup>th</sup> Place East, Suite 350  
Minneapolis, MN 55101-2147

Re: *In the Matter of the Joint Petition by Sprint Communications Company L.P. and Starburst II, Inc. for Approval of Indirect Transfer of Control of Sprint Communications Company L.P. to Starburst I, Inc.*, Docket No. P466/PA-12-1289

Dear Dr. Haar,

By its Order dated January 23, 2013, the Minnesota Public Utilities Commission ("MPUC") approved the transfer of control of Sprint Communications Company L.P. ("Sprint") to Starburst II. ("Starburst"). (Sprint and Starburst are collectively referred to as "Joint Applicants").<sup>1</sup> The docket remains open pending notification by the Joint Applicants of the closing of the transaction.

DISH Network Corporation ("DISH")<sup>2</sup> now requests that the MPUC reconsider its initial approval of the proposed transaction since the facts upon which the MPUC based its analysis and decision no longer hold true. In particular, the Joint Applicants have materially amended the merger agreement that was before the Commission so that additional review is necessary before the transaction can be consummated.

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<sup>1</sup>*In the Matter of the Joint Petition by Sprint Communications Company L.P. and Starburst II, Inc. for Approval of Indirect Transfer of Control of Sprint Communications L.P. to Starburst II*, MPUC Docket No. P-466/PA-12-1289 ("Sprint TOC Docket").

<sup>2</sup>DISH, through its subsidiary DISH Network L.L.C., is the third-largest provider of video services in the United States with almost 14.1 million subscribers. In addition to satellite television, DISH's subsidiary, dishNET Wireline, L.L.C., provides residential and broadband services in Minnesota and the remaining 13 states in the historic Qwest (now CenturyLink) footprint. DISH is also transforming itself into a provider of wireless services. It has purchased wireless spectrum and has made a competing offer to purchase Sprint.



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The Joint Applicants' amendment of their agreement, which was announced on June 11, 2013, is a material change in the transaction described in the Joint Petition.<sup>3</sup> Among other things, it reduces from \$8 billion to \$5 billion the capital infusion into Sprint that the Joint Applicants touted as one of the main benefits of the transaction. DISH has provided the Federal Communications Commission ("FCC") with a more detailed analysis of the material changes to the agreement. Exhibit A is a copy of that letter.

Throughout their advocacy before federal and regulators, the Joint Applicants have represented that expanded broadband deployment will result from the \$8 billion capital infusion into Sprint. The Joint Applicants described how the public interest would benefit in Minnesota:

The proposed SoftBank/Sprint transaction will make Sprint a more effective competitor to Verizon and AT&T by providing Sprint the financial resources needed to accelerate and expand **broadband deployment in Minnesota** and other parts of the country. The transaction is designed to enable Sprint to take advantage of an \$8 billion capital infusion, scale efficiencies, and SoftBank's expertise and resources as a leading mobile Internet company to provide better, more innovative broadband services to consumers across the United States. Sprint's wireline operations will benefit from the improved balance sheet that will result from the capital infusion from SoftBank. This stronger financial foundation will allow Sprint to increase its network investment, accelerate its broadband deployment, and improve its coverage. The greater financial resources also can be used by Sprint to offer a wider range of **devices and services to Minnesota consumers**. *Minnesota consumers* should benefit from faster download speeds and technology and service innovation. The resulting greater competition and innovation can, in turn, stimulate economic growth and promote job creation.<sup>4</sup> (emphasis added).

Softbank now retreats from its promise to the MPUC and the consumers of Minnesota. Under the amended merger agreement, \$3 billion of the \$8 billion is no longer available to

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<sup>3</sup> Sprint Nextel Corp. Current Report (Form 8-K) (June 11, 2013) see also Letter from Sprint Nextel Corp., Softbank Corp., Starburst I, Inc., Starburst II, Inc. and Starburst III, Inc. to Marlene H. Dortch, Secretary, Federal Communications Commission, IB Docket No. 12-343 (June 11, 2013) ("Applicant's Letter").

<sup>4</sup> *Sprint TOC Docket, Joint Petition for Approval of Indirect Transfer of Control In the Matter of the Joint Petition of Sprint Communications Company L.P. and Starburst II for Approval of Indirect Transfer of Control of Sprint Communications Company L.P. to Starburst II, Inc.* at p. 9-10.



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Sprint for network investment or broadband deployment. That's a material reduction of almost 40 percent of the promised capital infusion.

The Department of Commerce ("DOC") Staff noted the benefits of that aspect of the transaction in its recommendation to the MPUC. The DOC found that the \$8 billion infusion would "increase Sprint's network investment, accelerate its broadband deployment and improve its coverage. Minnesota customers are expected to benefit from faster download speeds, technology and service innovation."<sup>5</sup> It is reasonable to infer that such a material change will have a substantial impact on the ability of the Joint Applicants to invest in infrastructure upgrades to the extent represented in the Joint Petition.

As the DOC has noted, the proposed transaction requires MPUC approval. *See* Minn. Stat. §§ 237.16, subd. 4, 237.23, and 237.74 subd. 12. Before the MPUC can approve the transaction, it must conclude that it is in the public interest. Such a substantial change in the material terms of the transaction requires the matter be reopened to determine whether the modified transaction remains in the public interest. To that end, DISH urges the MPUC to direct that the Joint Applicants file an amended petition that fully describes all changes in the terms of their agreement and how those changes may impact Minnesota. The amended Petition should address whether the promised investments for Minnesota will be maintained notwithstanding the reduced investment. Once an amended petition has been filed, the MPUC should then solicit public comments, consistent with past MPUC practice. Based on the amended petition and any comments received, the Commission can then determine how it wishes to proceed.

Please let me know if you require additional information.

Regards,

A handwritten signature in black ink that reads "Wm. P. Hunt III".

William P. Hunt III  
Director, Regulatory

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<sup>5</sup> *Sprint TOC Docket*, Comments of the Minnesota Department of Commerce, Dec. 11, 2012, at p. 2.

***EXHIBIT A***

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June 12, 2013

*FILED IN ECFS*

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

**Re: IB Docket No. 12-343; Sprint Nextel Corp. and SoftBank Corp., Joint Application for Consent to Transfer International and Domestic Authority**

Dear Ms. Dortch:

DISH Network Corporation (“DISH”) files this letter in response to the announcement that Sprint Nextel Corporation (“Sprint”) and SoftBank Corporation (“SoftBank” and together with Sprint, the “Applicants”) have amended their merger agreement. The amendment, as reported by the Applicants, significantly changes the proposal that the Commission has been evaluating. Among other things, it reduces from \$8 billion to \$5 billion the capital infusion into Sprint that the Applicants have touted as one of the transaction’s two main benefits.<sup>1</sup> The amendment also introduces a poison pill defense that could inhibit both potentially superior offers and any substantial U.S. ownership of Sprint shares in the future.<sup>2</sup> The new agreement therefore requires a revised application, a new Public Notice, and an updated public interest analysis.<sup>3</sup>

One of the two primary public interest benefits cited by SoftBank—accelerated and expanded wireless broadband deployment—was presented by the Applicants as flowing directly

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<sup>1</sup> Sprint Nextel Corp., Current Report (Form 8-K) (June 11, 2013); *see also* Letter from Sprint Nextel Corp., SoftBank Corp., Starburst I, Inc., Starburst II, Inc., and Starburst III, Inc. to Marlene H. Dortch, Secretary, FCC, IB Docket No. 12-343 (June 11, 2013) (“Applicants’ Letter”).

<sup>2</sup> *Id.*

<sup>3</sup> *See* 47 C.F.R. § 1.927(h) (requiring a new public notice period for major amendments). Should the Commission disagree, however, at minimum the Commission and interested parties should have a reasonable time period to consider and comment on the major changes.

from the \$8 billion capital infusion into Sprint. Here is how SoftBank ties the two together in the introduction to the application:

SoftBank's \$20.1 billion investment includes a direct infusion in Sprint of \$8 billion in new capital, allowing Sprint to strengthen its balance sheet and lower its borrowing costs. This stronger financial foundation can enable Sprint to increase its network investment, accelerate its broadband deployment across multiple spectrum bands, and improve its coverage. Sprint anticipates taking advantage of its strengthened financial position by offering a wider range of devices and services to consumers. Sprint also anticipates taking advantage of other market opportunities to enhance its ability to provide superior service to its customers. The transaction thus promises to increase the speed, coverage, reliability, and capabilities of Sprint's wireless broadband network and offer consumers a more competitive choice in the broadband world.<sup>4</sup>

In their own words, then, SoftBank and Sprint asked the Commission to find that SoftBank's acquisition of Sprint would serve the public interest due, in substantial part, to the size of this capital infusion into this country's third largest wireless service provider. Indeed, when the New Jersey Rate Counsel questioned SoftBank's commitment to this infusion, SoftBank responded that it "is a firm commitment," that it had already provided \$3.1 billion to Sprint, and that "SoftBank is contractually committed to provide the remaining \$4.9 billion" when the transaction closes.<sup>5</sup>

SoftBank has now gone back on its promise. Under the terms of the amended merger agreement, \$3 billion of the \$8 billion—almost 40% of the promised capital infusion—will not be available to Sprint for network investment or broadband deployment after all.<sup>6</sup> And yet the Applicants have asserted that their "public interest demonstration is unaffected" by the amendment.<sup>7</sup> The only explanation that can be found for this conclusory statement is a cryptic snippet from their news release: "[T]he reallocation of primary capital to Sprint stockholders is warranted given the companies' refined operating and capital expenditures synergy expectations."<sup>8</sup>

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<sup>4</sup> Sprint Nextel Corp. and SoftBank Corp., IB Docket No. 12-343, Public Interest Statement, at i (Nov. 15, 2012).

<sup>5</sup> Sprint Nextel Corp. and SoftBank Corp., IB Docket No. 12-343, Joint Opposition to Petitions to Deny, at 11 (Feb. 12, 2013).

<sup>6</sup> Sprint Nextel Corp., Current Report (Form 8-K) (June 11, 2013).

<sup>7</sup> See Applicants' Letter at 1.

<sup>8</sup> *Id.* at Attachment EX-99.1, at 1 (June 11, 2013).



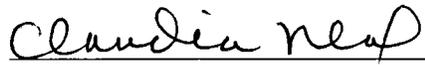
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                                  ) ss  
COUNTY OF HENNEPIN    )

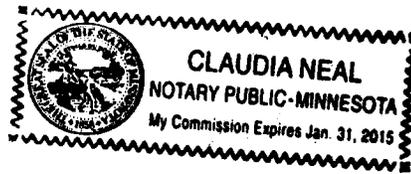
I, Amy K. Milbradt, being first duly sworn, deposes and says on the 14th day of June, 2013 served the attached *Letter to Burl Haar* in Docket No. P466/PA-12-1289 by electronic service or by depositing in the United States Mail at the City of Minneapolis, a true and correct copy thereof, properly enveloped with postage prepaid, as designated on the attached service list.

  
\_\_\_\_\_  
Amy K. Milbradt

Subscribed and sworn to before me  
this 14th day of June, 2013.

  
\_\_\_\_\_  
Notary Public

GP:3436948 v1



| First Name | Last Name  | Email                         | Company Name                       | Address   | Delivery Method    | View Trade Secret | Service List Name         |
|------------|------------|-------------------------------|------------------------------------|---|--------------------|-------------------|---------------------------|
| Julia      | Anderson   | Julia.Anderson@ag.state.mn.us | Office of the Attorney General-DOC | 1800 BRM Tower<br>445 Minnesota St<br>St. Paul,<br>MN<br>551012134          | Electronic Service | Yes               | OFF_SL_12-1289_PA-12-1289 |
| Thomas     | Bailey     | tbailey@briggs.com            | Briggs And Morgan                  | 2200 IDS Center<br>80 S 8th St<br>Minneapolis,<br>MN<br>55402               | Electronic Service | No                | OFF_SL_12-1289_PA-12-1289 |
| Diane      | Browning   | diane.c.browning@sprint.com   | Sprint Nextel                      | KSOPHN0314-3A459<br>6450 Sprint Pkwy<br>Overland Park,<br>KS<br>66251       | Electronic Service | No                | OFF_SL_12-1289_PA-12-1289 |
| Andrew     | Carlson    | acarlson@briggs.com           | Briggs And Morgan                  | 2200 IDS Center<br>80 South<br>Eighth Street<br>Minneapolis,<br>MN<br>55402 | Electronic Service | No                | OFF_SL_12-1289_PA-12-1289 |
| Linda      | Chavez     | linda.chavez@state.mn.us      | Department of Commerce             | 85 7th Place E Ste 500<br>Saint Paul,<br>MN<br>55101-2198                   | Electronic Service | No                | OFF_SL_12-1289_PA-12-1289 |
| Burl W.    | Haar       | burl.haar@state.mn.us         | Public Utilities Commission        | Suite 350<br>121 7th Place East<br>St. Paul,<br>MN<br>551012147             | Electronic Service | Yes               | OFF_SL_12-1289_PA-12-1289 |
| J. G.      | Harrington |                               | Dow Lohnes, PLLC                   | Suite 800<br>1200 New Hampshire<br>Avenue<br>Washington,<br>DC<br>20036     | Paper Service      | No                | OFF_SL_12-1289_PA-12-1289 |
| John       | Lindell    | agorud.ecf@ag.state.mn.us     | Office of the Attorney General-RUD | 1400 BRM Tower<br>445 Minnesota St<br>St. Paul,<br>MN<br>551012130          | Electronic Service | Yes               | OFF_SL_12-1289_PA-12-1289 |
| Michael H. | Pryor      | N/A                           | Dow Lohnes, PLLC                   | 1200 New Hampshire Ave<br>NW Ste 800<br>Washington,<br>DC<br>20036-6805     | Paper Service      | No                | OFF_SL_12-1289_PA-12-1289 |