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December 13, 2011

**VIA ECFS**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: *Applications of AT&T Mobility Spectrum LLC and Qualcomm  
Incorporated for Consent to the Assignment of Licenses,*  
WT Docket No. 11-18

**NOTICE OF EX PARTE PRESENTATION**

Dear Ms. Dortch,

On Monday, December 12, 2011, Robert Quinn and Joan Marsh, representing AT&T, met with Commissioner Robert McDowell and Angela Giancarlo, the Commissioner's Chief of Staff. We expressed AT&T's continued commitment to and support of the draft item on circulation recommending approval of the transaction. We noted, however, that AT&T objects to the reduction to the spectrum screen outlined in footnote 137 in the Staff Analysis and Findings recently released in Docket No. 11-65 that is apparently included in the draft Order on circulation.<sup>1</sup> We argued that there was no record for making that reduction in this proceeding and that it is the first time in Commission history that there is a proposed downward adjustment to the screen.

We indicated that we were particularly concerned about this downward adjustment to the screen because the draft order apparently does not make any upward adjustments, notwithstanding that the Commission has expressly recognized that there are significant amounts of spectrum that are being used or could be used for the provision of mobile voice and broadband services but which are not today included in the screen.<sup>2</sup> Reducing the screen, while ignoring long overdue increases that have been recognized to be warranted, is not reasonable and raises questions about process. Therefore, if the Commission is to adjust the spectrum screen in this proceeding, it should include, not just reductions, but increases. To that end, the Commission should include all 194 MHz of BRS/EBS spectrum, not just the 55.5 MHz it currently considers, as the transition to the

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<sup>1</sup> *In re Applications of AT&T Inc. and Deutsche Telekom AG for Consent to Assign or Transfer Control of Licenses and Authorizations*, Staff Analysis and Findings, at 23 n.137, WT Docket No. 11-65 (rel. Nov. 29, 2011).

<sup>2</sup> Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, *Fifteenth Report*, 26 FCC Rcd 9664 (2011) at ¶ 276 at Table 26.

revised band plan is essentially complete and the Commission has acknowledged that this spectrum is already being used to provide mobile broadband service.<sup>3</sup> In addition, the Commission should include the PCS G block in which Sprint has announced it will launch LTE service in 2012, as well as MSS spectrum.

Going forward, and in light of our concerns about process and the central role the spectrum screen now plays in the Commission's competitive analysis of transactions, the Commission should make adjustments to its screen in an open rulemaking, conducted and concluded annually, allowing party participants to file comments on what is appropriate for inclusion in the screen, and subjecting the Commission's decisions on the screen to judicial review. The Commission should complete the first such proceeding expeditiously.

We further explained that AT&T plans to deploy the Qualcomm Spectrum as supplemental downlink, using carrier aggregation technology which will be enabled after the LTE Advanced standards are released. Supplemental downlink technology will allow AT&T to add downlink capacity to its LTE network by combining Qualcomm's unpaired 700 MHz spectrum with AT&T's paired spectrum to improve the downlink experience for its LTE customers. Supplemental downlink technology permits the bonding of non-contiguous spectrum, including unpaired spectrum, into a single wider channel.

Finally, we addressed competitors' and 700 MHz A-block license holders' latest attempts to override the 4G standards-setting process and mandate new banding requirements for AT&T. We explained, as an initial matter, that because we are not purchasing 700 MHz A block licenses in this transaction, such a demand is not specific to this merger and inappropriate. We also explained that interoperability is achievable through the use of multi-mode, multi-band chipsets, like those currently being developed by Qualcomm, that will support many frequency bands to accommodate unique carrier needs.

In accordance with Commission rules, this letter is being filed electronically with your office for inclusion in the public record.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joan Marsh', followed by a horizontal line extending to the right.

Joan Marsh

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<sup>3</sup> Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, *Fifteenth Report*, 26 FCC Rcd 9664 (2011) at ¶ 273.

cc: Commissioner Robert McDowell  
Angela Giancarlo, Esq.  
Best Copy and Printing, Inc.  
Kathy Harris, Esq.  
Ms. Kate Matraves  
Jim Bird, Esq.