

April 27, 2011

Chairman Julius Genachowski  
Federal Communications Commission  
445 12th Street S.W.  
Washington, DC 20554

**Re: Notice of Ex Parte Presentation: WT Docket Nos. 11-18, 11-65, DA 11-252,  
ULS File No. 0004566825**

Dear Chairman Genachowski:

The Commission is poised to begin its review of a massive, transformative horizontal merger between AT&T and T-Mobile. Free Press, Media Access Project, Public Knowledge, Consumers Union, and the Open Technology Initiative of the New America Foundation (together, “Public Interest Organizations”) write this letter to highlight the relationship between the proposed T-Mobile transaction and AT&T’s other pending acquisition of nationwide and regional 700 MHz spectrum licenses from Qualcomm. Both the T-Mobile merger and the Qualcomm license transfer, if approved, would further empower an already dominant wireless carrier to leverage its control over devices, backhaul, and consumers in ways that stifle competition. As with other mergers, the competitive impact of the two transactions in combination may be even greater than the impact of each separately. Consequently, if the Commission does not immediately deny the proposed Qualcomm license transfer as requested by numerous parties,<sup>1</sup> the two proceedings should be combined to enable a full and complete competitive analysis.

As the Public Interest Organizations have argued in their prior filings, the Commission should deny the proposed transfer of Qualcomm’s 700 MHz spectrum licenses to AT&T, because the harm to consumers and to competition exceeds any potential benefits of the transfer. Licenses for beachfront spectrum below 1 GHz are disproportionately held by two companies, AT&T and Verizon Wireless. The proposed Qualcomm license transfer would only further this competitive disparity.

The Public Interest Organizations note again that the burden of proof falls on the applicants to demonstrate that a proposed transfer serves the public interest, convenience, and necessity. Falling far short of this standard, applicants AT&T and Qualcomm have delivered only contradiction and concealment. Applicants attempt to argue simultaneously that AT&T faces substantial competition from a large number of wireless carriers, and that AT&T needs additional spectrum licenses to continue to operate its business. Neither of these arguments is true – and certainly, both cannot be true at the same time, as most of AT&T’s supposed competitors possess far smaller and far less valuable spectrum license holdings. Furthermore, AT&T and Qualcomm did not acknowledge the proposed merger between AT&T and T-Mobile in their filings in the Qualcomm docket, including in the opposition filed after the T-Mobile merger was officially announced, even though such a transaction is clearly relevant to the

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<sup>1</sup> Petitions to deny the proposed Qualcomm license transfer were filed by Cellular South, Inc., DISH Network L.L.C., Rural Cellular Association, and the Rural Telecommunications Group, Inc., as well as the undersigned public interest organizations. Other petitions requested explicit conditions on the grant of the application.

