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June 10, 2011

The Honorable Patrick J. Leahy
Chairman
Committee of the Judiciary
United States Senate
Washington, DC 20510-6125

Re: Follow-up Questions - AT&T/T-Mobile USA Merger

Dear Chairman Leahy,

In response to your May 19, 2011 letter to Randall Stephenson, I attach hereto AT&T's responses to the Committee's Follow-Up Questions regarding AT&T's proposed acquisition of T-Mobile USA from Deutsche Telekom.

As Mr. Stephenson testified, with the scale, spectrum, and other resources generated by this transaction, the combined company will be able to offer Long Term Evolution ("LTE")—the premier next-generation wireless broadband technology—to more than 97 percent of the U.S. population. In the process it will create jobs and investment, help bridge the digital divide, and help achieve the Administration's rural broadband objectives, all without the expenditure of government funds. Since the hearing the transaction has drawn support from across the political and commercial landscape. For your convenience, I include below a listing of these supporters:

- ***The governors of fifteen states***, many with large rural populations: Arkansas, Colorado, Georgia, Idaho, Iowa, Kentucky, Louisiana, Maine, Michigan, Nevada, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas. These fifteen governors support this merger because they recognize that the combined company's expanded LTE deployment will bring much-needed investment, innovation and job creation to their constituents.

- ***Labor unions representing 16.8 million workers***—including the Communications Workers of America, the AFL-CIO, the Teamsters, the Service Employees International Union, the International Union of Painters and Allied Trades, the American Federation of Teachers, the United Food and Commercial Workers, and the United Mine Workers of America. These unions support this merger because it will give more workers access to good jobs at the only major unionized wireless provider in the United States.

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- ***Minority rights advocates*** such as the NAACP, the Hispanic Institute, the Minority Media and Telecommunications Council, Pride at Work, and many others. These groups support this transaction because the combined company's higher-quality mobile broadband services and expanded LTE deployment will help bridge the digital divide and empower the disenfranchised to become full participants in our digital society.

- ***Disabilities rights organizations*** such as the World Institute on Disability, the American Foundation for the Blind, the American Association for People with Disabilities, and the United Spinal Association, which understand that, by facilitating widespread access to next-generation wireless broadband, this merger will increase access to healthcare, workforce participation, and opportunities for civic and social engagement.

- ***Rural advocacy groups*** such as the National Grange, the U.S. Cattlemen's Association, the National Black Farmers Association, the Intertribal Agricultural Council, and the National Rural Health Association, which understand the importance of expanded LTE coverage for bringing telemedicine, distance learning, e-commerce and other vital services to the citizens of rural America.

- ***Environmental groups*** such as the Sierra Club and Future 500, which recognize that the merger will enable broader deployment of smartgrid and other machine-to-machine solutions that can improve energy efficiency, reduce carbon emissions, and help protect the environment.

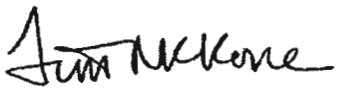
- ***Venture capital firms*** such as Kleiner Perkins, Sequoia Capital, Charles River Ventures, Matrix Partners, Technology Crossover Ventures, Radar Partners, and Lightspeed Ventures, which support this merger because the widely available LTE platform it makes possible will help fuel the entrepreneurship, innovation and investment that is critical to U.S. leadership in high-tech industries.

- ***Equipment and handset manufacturers*** such as Qualcomm, RIM, Pantech, Corning, Avaya, Juniper Networks, Brocade, JDS Uniphase, Amdocs, Tellabs, ADTRAN, Sierra Wireless, and many others, which understand that the combined company will be able to use spectrum more efficiently, improve service quality, and deploy an expanded LTE network, all of which will in turn drive a virtuous cycle of technology deployment, job creation, and economic growth.

- ***Providers of applications, content, and technology***, including Microsoft, Oracle, Yahoo!, and Facebook; the industry-shaping technology leaders represented by TechNet; the 340 high-tech companies represented by the Silicon Valley Leadership Group; and the more than 3000 small and mid-sized software developers and information technology providers of the Association for Competitive Technology. All of these entities recognize that the combined company's expanded LTE network will play a crucial role in supporting the innovative products and services they are developing for American consumers and businesses.

On behalf of AT&T, I want to thank you for the time and resources you and the rest of the Committee and the Subcommitee on Antitrust, Competition Policy and Consumer Rightrs have devoted to reviewing this transaction.

Sincerely,



SEN. KOHL'S FOLLOW UP QUESTIONS FOR THE RECORD FOR

HEARING ON "THE ATT/T-MOBILE MERGER

1(a). During your testimony, you stated that T-Mobile customers will continue to have the benefit of lower price T-Mobile pricing plans after the merger. For how long will this be true?

Consistent with prior integrations, AT&T will map T-Mobile's rate plans into AT&T's billing systems. T-Mobile customers will have the option to renew their contracts and, if they wish, to exchange their existing handset for a comparable handset from AT&T's device portfolio, all while keeping their existing plans. We will, of course, incentivize former T-Mobile USA customers to consider AT&T's plans, pricing and options, because we believe that we have a compelling and industry-leading value proposition to offer. But, in the end, our intention is to allow T-Mobile USA consumers who choose to maintain their current rate plan on their current or comparable device to do so. We have not determined if there will be an eventual sunset of this policy.

(b) What about new customers after the merger is completed? Will they be able to the benefit of the lower priced T-Mobile plans?

It is not practical to make any guarantees about rate plans for new customers, as rates will continue to be set by the competitive marketplace that is extremely dynamic. Both DOJ and FCC have shied away from any sort of rate regulation for that reason. Thus, post-merger, new customers of the combined company will be new "AT&T" customers and will have access to AT&T's rate plans and value offerings, as they evolve from time to time in response to competitive forces.

2. On an investor call on March 21, 2011, Rick Linder, AT&T's Chief Financial Officer, said that "over time, this transaction enhances both our revenue growth and our margin potential." What did he mean? How does the deal enhance your "margin potential"? Is that the result of not having to deal with a price competitor? Or by raising prices?

It is neither of those things. In the first place, the transaction promises large cost savings that will improve AT&T's margins. Because our margin is our revenue minus our cost, reducing costs is the principal way in a highly competitive industry to create the potential for improving margins. As to revenue growth, part of the answer is that this transaction will increase AT&T's exposure to wireless, and we expect the wireless industry to continue to grow more quickly than AT&T's other lines of business. Moreover, we see an opportunity for the combined company to improve on T-Mobile's relatively low smartphone penetration, ARPU, and churn performance. And customers of both companies will benefit from expanded capacity and improved service. Thus, the transaction will allow AT&T to serve the combined customer base better and should lead to revenue growth from increased output and increased uptake of data services.

3. AT&T argues that cell phone prices have fallen sharply over the last ten years. But most of the data about cell phone prices over the last decade reflects the prices for voice calling. But in recent years, cell phones – especially smart phones – are increasing being used for data – that is, to connect to the Internet. Have prices for data usage fallen over the last three years? Hasn't AT&T's recently imposed usage caps on data, so that consumers pay more the more data they use?

Prices for both voice and data have fallen dramatically over the years. As Mr. Stephenson stated in his testimony, the effective price of wireless data from AT&T, measured by average revenue per megabit, has plummeted by almost 90% from 2007-2010 and the average industry revenue per text message declined 70% from 2005 to 2008.[1] Moreover, AT&T has not instituted caps on its data plans. In June 2010, we introduced tiered pricing for new smartphone customers whereby customers purchase an initial tier of data capacity per month, and pay for additional data increments for usage in excess of the initial tier. We did so, in part, to help manage the incredible demand for data that we have been seeing on our network – 8,000% increase from 2007 to 2010. For the vast majority of our customers, this would result in a price reduction: the 2GB tier costs $25/month compared to the $30 unlimited plan, and well over 90% never exceed 2GBs. Moreover, a customer can check her monthly usage by dialing *data#, and customers on a tiered plan receive text message alerts when they have reached 65%, 90%, and 100% of their monthly data plan usage threshold so that they can avoid overages if they so choose.

4(a). Mr. Stephenson, this nation has a long history of dealing with market dominance over our telephone system held by AT&T. For much of the 20th century AT&T and its Bell operating system was effectively the telephone monopoly for the vast majority of the United States. It operated under the motto "ONE SYSTEM, ONE POLICY, UNIVERSAL SERVICE."

Thirty years ago, the government expended enormous effort in its antitrust suit against AT&T, believing that the Ma Bell phone monopoly suppressed competition, raised prices, and retarded innovation . It succeeded in 1984 and what had been the AT&T phone monopoly was broken up into many pieces. That break-up unleashed a huge wave of technological innovation, resulting in such innovations as the fax machine, e-mails, the Internet, and ultimately, the cell phone industry.

Are we now in danger in recreating AT&T's dominance in the wireless phone industry in this century that it once had in the landline phone market in the last century? Or, if not a monopoly of AT&T alone, a duopoly of AT&T and Verizon?

It is important to remember just how dramatically the telecommunications industry has evolved from the old Bell System. In 1983, telecommunications consisted of wireline connections, and the Bell System had monopoly control over every facet of the industry. It made and provided the phones, wires, equipment and all services, features, and functionalities provided between one subscriber and another. And it had a franchised

[1] *Fourteenth Wireless Report* at ¶192.

monopoly over the bottleneck facilities that long-distance competitors needed to access subscribers. The marketplace today resembles nothing like this. It is characterized by vigorous intermodal and intramodal competition that is driving change at breakneck pace. Hence, whereas consumers who wished to communicate in 1983 had one option – the phone and service provided by the phone company, consumers today have multiple options – in terms of equipment, services and providers – at their disposal. Nothing about this merger can reverse that dynamic. Indeed, this merger will *increase* competition in the wireless industry by relieving AT&T of capacity constraints that would limit its ability to compete aggressively. And while T-Mobile, a provider that has been losing subscribers and has no path to LTE, will no longer be competing independently, AT&T will continue to compete with Verizon, Sprint, MetroPCS, US Cellular, Leap, cable TV entrants, and many other providers of wireless services. Ongoing innovation that is producing new devices, applications and ways of using wireless service – driven by the innovative efforts of wireless carriers – will keep competition dynamic.

(b) Your filing with the FCC, Mr. Stephenson, talks at length of the benefits from combining AT&T and T-Mobile by combining spectrum holdings, increasing efficiency of service, and eliminating redundancies and overlapping functions of the two companies. All of this, you claim, will make for better service to consumers. But isn't a natural extension of this argument that it would be better if we just had one cell phone company serving the whole country just like in the days of the AT&T phone monopoly in the last century? This would be much more efficient, wouldn't it?

No it is not. Mr. Stephenson's point is that AT&T and T-Mobile have uniquely compatible networks, technology and spectrum that drive extraordinary efficiencies. That is not true of all combinations. For example, T-Mobile and Sprint use different technologies and a combination of those two companies would not be nearly as synergistic.

5 (a). What is your estimate of the number of AT&T employees who are likely to lose their jobs after this merger?

Our industry and company have been in the midst of a radical transformation for some time. Parts of our business, most notably wired voice, are in a state of persistent decline, while others, like data and video, are growing. That transformation, which, of course, has a direct impact on employment, will continue.

This merger will ensure that our growth platforms continue to have the capacity we need to meet our customers' growing need for mobile bandwidth. It will give us the capacity we need to continue to compete aggressively for more customers, will result in an additional $8 billion in investment by the combined company, and enable us to commit to build 4G LTE to 97% of the U.S. population. All of those things are good for jobs and the economy. The LTE commitment, in particular, will help trigger a virtuous cycle of investment and jobs for rural America, which is why the Administration has made widespread deployment of mobile broadband a key priority. While the transaction allows for efficiencies that can be realized, in part, by phasing out certain duplicative functions, those reductions, just as in

prior transactions, will be achieved mostly by natural attrition. The CWA and the AFL-CIO support the merger because they know we will be providing good paying jobs as a result of this transaction.

(b) If you contend that your build out and expansion of your network will cause you to create jobs, will you commit that this merger will create no net job loss? Will you commit to that as a condition at the Justice Department and FCC?

Due to the continuing declines in certain parts of our business, we are not in a position to make such a commitment. We nevertheless are proud of our labor record in managing our workforce in prior transactions and do not believe any commitments are necessary. As stated above, this transaction results in job creation across the country, which is why the CWA and AFL-CIO and other labor organizations support this merger. Nevertheless, we welcome the opportunity to work with FCC and DOJ to address any concerns they may have.

6 (a). One of AT&T's main justifications for this merger is that it will be able to offer the latest technology of cell phone service – known as "LTE" -- to 97% of the nation, up from around 80% of the nation you plan to serve with this technology by the end of the year. But some question whether you need to buy one of your three national competitors to do this. Couldn't you have expanded your rural cell service by spending some of the $ 39 billion you are spending to acquire [T-Mobile] to upgrade your rural service? Why is it necessary to acquire T-Mobile in order to expand your rural service?

AT&T *has* been investing in its network since long before this transaction. AT&T has been adding cell sites as quickly as it identifies suitable locations and can bring those sites online; it has deployed the nation's largest Wi-Fi network and pioneered the use of Wi-Fi hotzones to offload traffic; and it has deployed distributed antenna systems ("DAS") around the country and hundreds of thousands of femtocells. In addition, AT&T has purchased additional spectrum when available. But, as discussed below, these and other measures, while useful in various contexts, are simply not—individually or collectively—an adequate solution to AT&T's larger scale capacity and spectrum constraints, and in no way could such *ad hoc* measures replicate the undeniable benefits of this transaction. This merger, in contrast, will allow AT&T to achieve much greater capacity expansion than it could ever hope to realize through alternative strategies as a standalone company.

- **<u>Network Enhancements</u> - AT&T has deployed the largest Wi-Fi network of any carrier; pioneered the use of Wi-Fi "hotzones" in high traffic urban and campus environments; deployed DAS systems around the country; and deployed hundreds of thousands of femtocells. But these techniques also have significant limits. Some, such as WiFi and DAS, can provide only localized capacity offload. Others, such as femtocells are used primarily to improve coverage (e.g., inside buildings) and provide little or no capacity lift. These piecemeal technology "solutions" cannot solve the macro-level constraints confronting AT&T, and they cannot, alone or together, provide relief on anything approaching the scale or timeline of this transaction.**

- **Cell Sites - AT&T could not add anywhere close to the number of cell sites it will obtain from the acquisition in a remotely comparable timetable. The reality is that in a highly developed network with an already dense grid in high-traffic areas, suitable towers or other structures must (1) meet stringent requirements for location, height, orientation, and lack of obstructions *and* (2) have space available for AT&T's equipment in addition to any other provider already using the structure. Even when AT&T is able to locate suitable locations, it faces delays, costs, and obstacles beyond its control that are inherent in any such *ad hoc* process. The process for adding cell sites to an established grid is complex. AT&T must not only find a suitable and available location, but then arrange to acquire the site through purchase or lease, comply with regulatory requirements that necessitate extensive studies and consultation, apply for and obtain building permits and zoning approvals, contract with third-party vendors to purchase the needed equipment, construct the site, obtain the necessary backhaul, and then integrate the site into the network. These steps individually and collectively take time, and AT&T cannot unilaterally accelerate many of them.**

- **Spectrum – AT&T's AWS and 700 MHz spectrum is destined for AT&T's LTE service, which it is deploying now. AT&T cannot, as a practical matter, use that spectrum instead to relieve congestion on its UMTS network because its millions of UMTS customers have handsets that will not work on that spectrum. In any event, even if AT&T could somehow redirect its AWS and 700 MHz spectrum to UMTS, that spectrum *would then be unavailable for LTE*, at least until it could be re-cleared of all UMTS users. Moreover, spectrum on the secondary market is a potential solution only when it is available in the right place, at the right time, and in the right frequency bands. Spectrum meeting these conditions is not often available. For similar reasons, spectrum leased from wholesale providers such as Clearwire or LightSquared cannot address AT&T's mounting capacity constraints. Among other limitations, AT&T has a large embedded base of subscribers whose existing handsets would not work on those providers' spectrum bands or with their technologies. As a result, while Clearwire or LightSquared spectrum may well offer reasonable solutions for carriers like MetroPCS or Leap because they do not face similar constraints, AT&T needs additional spectrum to relieve congestion on its *existing* service bands, which serve millions of current customers.**

Prior to this transaction, AT&T decided that an 80% LTE build was the limit our company could justify to our shareholders. That decision reflected not only the availability of spectrum, but the significantly higher cost and lower return of expanding to more remote locations, and the need to simultaneously make the required investments to keep up with our current network demands. This deal changes that calculus. It gives us additional spectrum, scale, and other resources to expand LTE deployment to more than 97% – 55 million more than our current plans allowed. For instance, in many areas throughout the country T-Mobile's AWS spectrum will allow us to launch LTE or enhance our LTE product. Moreover, T-Mobile's customer base, when combined with ours, can increase

subscription for LTE-based services across the country, generating additional revenue to support the return on our investment in the rural areas to which we can build LTE as a result of this merger. Likewise, the other synergies of this transaction enable us to justify the necessary capital investments required to expand our LTE coverage from less than 20 percent of the U.S. landmass to roughly 55 percent.

(b) The merger's critics argue that AT&T already owns spectrum in rural areas that it does not use, so that it doesn't need to acquire T-Mobile to reach rural areas. What is your response?

While the spectrum from T-Mobile is part of the reason AT&T will be able to deploy LTE to 97% of the population, it takes more than spectrum to expand LTE coverage. It also takes considerable capital investment in infrastructure, the costs of which are higher in rural areas than urban areas, and the return on which is lower because of the lower population density. The T-Mobile transaction gives us the spectrum, scale and resources that enable AT&T to commit to expanding 4G LTE to 97% of the U.S. population. It is also important to bear in mind that the additional spectrum will not only permit a broader footprint, but a more robust LTE product in many areas, and will also enable AT&T to delay LTE capacity shortages that we project would otherwise occur in some markets. And, finally, the capacity gains from this transaction are not only from spectrum acquired from T-Mobile. The synergies created by this transaction – cell sites, channel pooling, etc. – effectively create new capacity that is the functional equivalent of new spectrum. Importantly, even after this merger, we will have less spectrum than Sprint/Clearwire.

(c) Regional and other carriers have long depended on device interoperability to ensure that their customers can "roam" on other carriers' networks when they are traveling. As AT&T builds out its LTE network, will it support interoperability between devices that run on its LTE network and the LTE networks of other carriers?

The FCC currently has a petition pending before it on this issue. That said, mandating a carrier to offer devices that operate in spectrum the carrier is not licensed to use would not make business sense or help consumers. In fact, such a mandate could result in derailing current LTE deployment while new standards are debated and established. Further, mandated interoperability would require adding components to the handsets, which would increase the costs of those handsets. These costs would ultimately be passed on to consumers. All of this runs contrary to what consumers want: timely access to the latest technologically through advanced devices with the most innovative features, offered at competitive prices.

Moreover, if there is a perceived benefit for carriers operating on other spectrum to enable their phones to operate on our network, there is nothing that prevents those carriers from buying dual band phones. But there is no reason why AT&T should be required to buy dual band phones that will not benefit – and in fact would negatively impact – our customers.

(d) AT&T opposed the FCC's rules that require it to negotiate data roaming arrangements, saying that it would harm companies that are building out by giving competitors a "free pass to roam on other providers' networks in rural areas." But, as we heard at the hearing, these agreements are essential to companies like Cellular South so that they can offer consumers a competitive product of nation-wide service. Now, AT&T is asserts that it competes with companies like Cellular South. Do you agree that data roaming is essential for regional carriers to be able to compete with AT&T? And, have you changed your opinion on the FCC's data roaming requirement?

As a major investor in the US economy over the past four years, we strongly believe that carriers should be investing in their own networks – which brings with it increased capacity and jobs. That said, we recognize the importance of roaming to providers that do not have ubiquitous infrastructure. Our position in the FCC proceeding was not that roaming is unnecessary, but that roaming *rules* are unnecessary. We noted in that regard that commercially negotiated roaming arrangements are already available in the marketplace. Indeed, Cellular South, whom you reference in your question, boasts in its advertisements that "from coast to coast, we handpicked the best networks to give you better coverage in far more places than AT&T." Those are not the words of a provider that lacks roaming options. Although we believe that the FCC's roaming mandate was, thus, unnecessary, we will fully comply with it. AT&T has entered into fifteen (15) 3G data roaming agreements; twelve (12) since the FCC issued its data roaming order.

7. In 2000, the Justice Department blocked the attempt by MCI and Sprint to merge. At the time MCI and Sprint were the number 2 and 3 long distance phone companies. Unlike AT&T, which is today one the nation's largest local phone companies, both MCI and Sprint had very small local phone operations. So some might say that MCI/Sprint merger raised fewer concerns than this one.

Why is this merger different from the failed MCI/Sprint merger of a decade ago?

The main focus of the MCI WorldCom/Sprint review was the internet backbone business, where the parties were #1 and #2. In long distance, they were 2 of only 3 facilities-based competitors, unlike the 5 or more we have today in the large majority of local wireless markets. Moreover, the DOJ alleged that entry barriers were high, in part because of statutory restrictions on the regional Bell operating companies, while the recent activities of Clearwire and LightSquared make clear that there are new entrants in the wireless business today. Indeed the fact that the term 'long distance' and the concept of legal entry barriers have become such a distant memory shows how dramatically more competitive the telecommunications industry in this country has become in just over a decade.

8. At the hearing, you said that T-Mobile was not the "focus" of your competition. What company is the focus of your competition? How can you say that you compete with regional carriers, such as Cricket, Cellular One, U.S. Cellular, and Cincinnati Bell, which in most cases hold only a fraction of the market share of T-Mobile, while maintaining that you don't compete with T-Mobile?

As we said in our FCC filing, T-Mobile does not exert material competitive pressure on AT&T. We primarily focus on Verizon, followed closely by Sprint. We are also increasingly concerned about the all-you-can eat, no contract carriers like MetroPCS and Leap – which we estimate have a greater share than T-Mobile in several markets. And in some local markets, it is US Cellular or Cellular South or another competitor that commands our attention because they have been particularly successful in those markets. If you look at what happened in the marketplace in just the last quarter you can see where our competitive focus is and has to be, which is on competitors who are taking share. In the first quarter of 2010 Verizon added over 900,000; Sprint added over 700,000 (best in five years); MetroPCS added 700,000; Leap added over 300,000. T-Mobile lost customers that quarter (as well as the prior quarter).

9. Please describe with specificity the terms and conditions AT&T has agreed to should the merger not be completed (what is commonly referred to as the "break-up fee")?

In the event this transaction does not receive regulatory approval on terms consistent with the provisions of the Stock Purchase Agreement and the transaction does not close as a result, AT&T will be required to pay a breakup fee of $3B, transfer to T-Mobile certain AWS spectrum that is not needed by AT&T for its initial LTE roll out, and provide a roaming agreement to T-Mobile on terms favorable to both parties. The "break-up fee" is described in the Stock Purchase Agreement covering this transaction. Attached hereto is a copy of the Company's 8-K, filed with the Securities Exchange Commission on March 21, 2011 which contains a copy of the Stock Purchase Agreement.

Follow-up Questions Of Senator Patrick Leahy (D-Vt.),
Chairman, Senate Judiciary Committee,
Hearing On "The AT&T/T-Mobile Merger: Is Humpty Dumpty Being Put Back Together Again?"
May 11, 2011

Questions for Randall Stephenson, President & CEO, AT&T:

1) Wireless service is limited in many areas of Vermont, in spite of the fact that both AT&T and T-Mobile currently have unused spectrum that either could arguably build out. In some places, Vermonters still have no wireless service at all -- this is simply unacceptable. I remain concerned that, with or without this acquisition, Vermonters will not have adequate access to 4G technology.

   a) Today, why has AT&T chosen not to build out its available spectrum in certain rural areas of Vermont, as well as other rural areas around the country?

   AT&T previously made a business decision to build out LTE to approximately 80% of the U.S. population. This build would cover approximately 47% of the population of Vermont. That decision was based in part on the availability of spectrum, the significantly higher cost and lower return of expanding to more remote locations and the disproportionately higher infrastructure costs for rural deployment. and the need to simultaneously make the required investments to keep up with our current network demands. In light of the billions of dollars required for this expansion and the capacity challenges we faced with our existing network, we concluded that an 80% build was the limit our company could justify to our shareholders.

   b) How will this acquisition affect AT&T's decision of whether to invest in building out spectrum in rural areas for which it previously determined that spectrum build-out was not financially viable?

   The elegance of this transaction is that is provides the scale, scope and resources that we need to expand LTE deployment to more than 97% of the U.S. population – 55 million more than our current plans allowed. For instance, in many areas throughout the country we will use T-Mobile's AWS spectrum to launch LTE or enhance our LTE product to deliver faster speeds and enable greater spectral efficiency. Moreover, T-Mobile's customer base, when combined with ours, can increase subscription for LTE-based services across the country, generating additional revenue to support the return on our investment in the rural areas to which we can build LTE as a result of this merger.

2) Since announcing this acquisition, your company has touted the potential benefits the transaction would bring to rural areas in the form of increased availability of 4G access. AT&T has represented to my staff that within two years, this acquisition will actually result in 250,000 more Vermonters having access to its 4G service than could otherwise be serviced by both companies independently.

   a) What methodology and assumptions were used to determine that this acquisition will provide AT&T's 4G access to an additional 250,000 Vermonters?

      We estimated our potential LTE coverage area, post-merger, based on network planning and engineering, spectrum availability, and cellular propagation characteristics. We then compared that to the potential LTE coverage area based on AT&T's pre-merger planning. We then compared those respective coverage areas to census data, at the census block level, to come up with the relative difference in population coverage.

   b) Can you guarantee to me that AT&T will serve an additional 250,000 Vermonters with 4G service?

      In a letter dated May 18, 2011, AT&T committed to meet this 4G LTE commitment, and in so doing, provide next generation mobile broadband technology and more options for rural customers in Vermont. Under AT&T's current, pre-merger plan, almost half of the state's population will have access to 4G LTE from AT&T. Because of the spectrum, scale, and resources resulting from this transaction and within six years of the merger close, AT&T will provide 4G LTE to approximately 250,000 more Vermonters and an additional 4,500 square miles. The additional 4G LTE build plan made possible by the merger covers communities such as Island Pond, St. Johnsbury, Arlington, Cabot and Manchester. In total, AT&T's 4G LTE build plan is expected to cover over 85% of Vermonters.

3) AT&T's pledge to provide 4G service to an additional 250,000 Vermonters is premised on the argument that T-Mobile does not have the capability or plans to provide consumers with its own 4G service, and that its current HSPA+ service is not truly "4G". T-Mobile, however, advertises today that its company is "America's Largest 4G Network."

   Today, does AT&T consider T-Mobile's HSPA+ technology a competitor to AT&T's 4G LTE service? (Please explain what factors you use in making this determination.)

To clarify, today both AT&T and T-Mobile are offering HSPA+ service. HSPA+ technology offers advanced High Speed Packet Access (HSPA) capabilities, which delivers 4G speeds. This is why both companies advertise 4G today.

However, one of the significant benefits of this transaction is that, because of the scale, scope and resources resulting from the merger, AT&T is able to bring LTE mobile broadband to 97% of the U.S. populations. LTE or Long Term Evolution is the next technology cycle in the wireless industry and offers faster data speeds, less latency, and more spectrally efficiency than HSPA+. T-Mobile has stated publicly that it has no clear path to LTE.

4) One area that cellular telephone companies must improve is in their ability to identify the location of emergency 911 callers. The ability of E911 operator to locate a cellular caller during an emergency call has and will continue to save lives.

   What plans does AT&T have to improve its E911 location based technologies?

   AT&T is migrating to an A-GPS location system for E9-1-1. In an A-GPS location system, the network assists the handset in determining its location by providing it a list of satellites that should be visible to the handset. This speeds up satellite acquisition and location determination which in turn, in an emergency situation, increases the speed and accuracy of locating a customer using the handset.

   AT&T has completed upgrades in significant portions of its network to enable A-GPS and should complete this process by the end of 2011. AT&T began deploying AGPS in its 3G Network in 2007 but there are still many handsets that do not support AGPS. AT&T will continue to support the network based solution (UTDOA) to satisfy compliance for non-AGPS handsets.

Questions to ALL WITNESSES:

1) Will consumers benefit from AT&T's acquisition of T-Mobile?

   We absolutely believe that consumers will benefit from better service, expanded LTE deployment (to more than 55 million Americans), greater innovation and generally a more competitive wireless industry. And, it's a great illustration of how the private sector, with private capital, is helping to make the Administration's national broadband initiative a reality.

2) In what ways might AT&T's acquisition of T-Mobile benefit consumers?

Consumers will experience significant and measurable consumer benefits – better, faster, higher quality wireless services, and a much broader LTE network. And, this transaction highlights how the private sector is funding investment that serves a broad public policy interest – the rollout of LTE to more than 97% of the U.S. population – to 55 million more Americans than covered by our prior plans – many in rural areas and small communities. The merger will result in increased network capacity, beyond what both companies would be able to do independently. More network capacity and bandwidth equals increased network output and capabilities. This allows the combined company to compete aggressively to retain and win new business and while also enabling companies like Apple, Google and hundreds of others to continue to innovate with devices, services, content and apps.

3) In what ways might AT&T's acquisition of T-Mobile harm consumers?

None. As discussed above and in Mr. Stephenson's testimony, we absolutely believe that this transaction is particularly good for our customers.

"The AT&T/T-Mobile Merger: Is Humpty Dumpty Being Put Back Together Again?"
Questions for the Record submitted by Senator Charles E. Grassley

Questions for Mr. Randall L. Stephenson

1. At the hearing, I asked you how the proposed merger would impact both rural customers and providers. In my state there are large areas with, at best, mediocre cellular service. You testified the proposed merger with T-Mobile would allow rural residents access to greater, more reliable service. Specifically, you said that a total of 181 new cities in Iowa would be added to AT&T's service area.

    a. Please explain how this transition will take effect. What specifically about the merger will give these 181 cities greater service than they have now?

    While the spectrum from T-Mobile allows AT&T to deploy LTE to 97% of the population, it takes more than spectrum to expand LTE coverage. It also takes considerable capital investment in infrastructure, the costs of which are higher in rural areas than urban areas, and the return on which is lower because of the lower population density. The T-Mobile transaction not only gives AT&T spectrum where it lacks the necessary spectrum to deploy LTE, but also provides additional scale, scope and resources that enable AT&T to commit to expanding 4G LTE to 97% of the U.S. population. The importance of those benefits cannot be overstated. To put them into perspective, as a result of this merger, AT&T will expand its planned LTE footprint from less than 20 percent of the U.S. land mass to roughly 55 percent. It is also important to bear in mind that the additional spectrum will not only permit a broader footprint, but a more robust LTE product in many areas, and will also enable AT&T to delay LTE capacity shortages that would otherwise occur in some markets. And, finally, the capacity gains from this transaction are not only from spectrum acquired from T-Mobile. The synergies created by this transaction – cell sites, channel pooling, etc. – effectively create new capacity that is the functional equivalent of new spectrum.

b. In these areas where new service will be provided, what will be the impact on regional wireless providers, such as Iowa Wireless?

This transaction will provide more competition in these rural areas. More competition will lead to more choices for consumers and will spur innovation.[1]

2. During the hearing, I asked Mr. Meena and yourself how the proposed merger will affect the fees rural carriers pay to national providers when customers travel outside of the rural coverage area. Mr. Meena expressed the difficulty his company has faced in trying to negotiate such agreements.

a. As a follow up to the hearing, has any progress been made between AT&T and Cellular South on this particular matter?

Cellular South operates with a different technology – CDMA that is incompatible with ours. In February 2010, Cellular South acquired, Corr Wireless, a small GSM-based company that operates in parts of Alabama and Georgia. AT&T has a 2G roaming agreement in place with them. In November 2010, AT&T approached Corr Wireless and offered it 3G roaming services, but we heard nothing back from them. Later that month, AT&T contacted Cellular South and offered to discuss a 3G roaming agreement for Corr Wireless. Again, AT&T received no response. Cellular South recently inquired about a 3G/4G roaming agreement, and we are currently negotiating with them. Regarding LTE, Cellular South has announced that it already has a roaming agreement with LightSquared.

b. Is this an example of what regional carriers will face in the future, i.e., difficulty in attempting to forge new agreements with AT&T, that may face reduced incentives to work with smaller carriers?

No. There is no difficulty in carriers negotiating roaming agreements. As a major investor in the US economy over the past four years, we strongly believe that carriers should be investing in their own networks – which brings with it increased capacity and jobs. That said, we recognize the importance of roaming to providers that do not have ubiquitous

[1] We understand that T-Mobile holds a non-controlling majority stake in Iowa Wireless. In a May 31, 2011 Petition filed with the FCC, Iowa Wireless requested that the FCC require AT&T to agree to certain commitments to foster the continued provision and expansion of wireless services in rural areas, should the FCC determine that the transaction is in the public interest. AT&T does not believe Iowa Wireless will be harmed by the transaction. We will honor any contractual and legal obligations that may arise out of the transaction and, to the extent that any complications arise due to the nature of the existing obligations, AT&T is committed to working with Iowa Wireless to find a mutually acceptable alternative business solution.

infrastructure. Our position in the FCC proceeding was not that roaming is unnecessary, but that roaming *rules* are unnecessary. We noted, in that regard, that commercially negotiated roaming arrangements are already available in the marketplace. Indeed, Cellular South, whom you reference in your question, boasts in its advertisements that "from coast to coast, we handpicked the best networks to give you better coverage in far more places than AT&T." Those are not the words of a provider that lacks roaming options. Although we believe that the FCC's roaming mandate was, thus, unnecessary, we will fully comply with it. AT&T has entered into fifteen (15) 3G data roaming agreements; twelve (12) since the FCC issued its data roaming order.

Senate Judiciary Committee
Subcommittee on Antitrust, Competition Policy and Consumer Rights
Hearing on "The AT&T/T-Mobile Merger:
Is Humpty Dumpty Being Put Back Together Again"
May 11, 2011
Questions for the Record from U.S. Senator Al Franken
for Randall L. Stephenson, President & CEO, AT&T

1. Many critics of this deal have charged that if AT&T wanted to expand its coverage to rural areas, it could do that today. Please provide detailed information to answer the following questions:

   a. Where do you currently hold spectrum? What percentage of the country is currently covered by AT&T's network?
   AT&T's spectrum holdings are described in detail in a 567 page chart that was filed with the FCC and that is available publicly at http://fjallfoss.fcc.gov/ecfs/document/view?id=7021240430

   Please list any counties (and their estimated population) where AT&T does not have spectrum holdings.

   None.

   b. What percentage of Minnesota is covered by AT&T's network?

   Minnesota is a state in which AT&T has suffered from a particularly acute shortage of spectrum. In many markets we have had to support our combined GSM and UMTS customers on a comparatively small amount of spectrum -- for example, 35 MHz in St. Cloud, 40 MHz in Rochester, and even less in a number of other markets, especially in southern Minnesota. Our GSM coverage (no roaming) is approximately 50,151 sq. mi. or 50.59% of the land mass of the State; with roaming our GSM network covers 67,321 sq. mi. or 79.99% of the land mass of the State. Our UMTS network covers 60,531 sq. mi. or 71.92% of the land mass of the State.

   c. If you purchase T-Mobile, what percentage of your spectrum will overlap with T-Mobile's spectrum, both nationally and in Minnesota?

   Both AT&T and T-Mobile hold some spectrum everywhere in Minnesota and nationwide. Other competitors and potential competitors, including Verizon, Sprint, Clearwire, LightSquared, and DISH, also have spectrum everywhere or almost everywhere nationwide.

d. In order to accomplish your stated goal of providing 4G coverage to 97% of America, where will you need to build out your existing spectrum, as opposed to merely acquiring T-Mobile's spectrum?

AT&T's spectrum holdings are described in detail in a 567 page chart that was filed with the FCC and that is available publicly at http://fjallfoss.fcc.gov/ecfs/document/view?id=7021240430. Expanding our LTE build from 80% of the U.S. population to 97% of the U.S. population requires expanding the geographic footprint of that build-out from less than 20% of the U.S. land mass to about 55%. In various areas around the country, we plan to use T-Mobile's AWS spectrum to launch LTE, provide a faster and more spectrally efficient LTE product, or alleviate anticipated LTE capacity concerns. We are still evaluating the optimal spectrum deployments in each of the areas that will benefit from the expansion of our LTE footprint from 80% of the U.S. population to 97% of the U.S population

What is your time frame for completing this build out, both nationally and in Minnesota?

We intend to reach 97% of the U.S. population with LTE mobile broadband within six years from the closing date of this transaction.

e. If this deal is not permitted to go through, what is AT&T's plan to continue to expand its network? What coverage do you expect the company will have nationally in 5 years and 10 years time?

AT&T's current plan is to build out LTE to 80% of the US population by the end of 2013.

2. You stated in your testimony that a build out on your existing spectrum is not possible without T-Mobile's spectrum and that you need to "free up" spectrum in order to accomplish this build out. Please list the geographic areas—both nationally and in Minnesota—where you need to free up spectrum in order to accomplish this build out. Please explain how and why you will need to migrate customers, and whether this same need applies to low population areas where there are presumably far less data demands on your network.

This transaction effectively creates new capacity which is critical to our ability to address GSM and UMTS capacity constraints and enhance network performance – as AT&T transitions to LTE. The importance of those benefits cannot be overstated. Standing alone, AT&T could not realize these network integration efficiencies that will have a multiplier effect in areas where the increased capacity permits the combined company to accelerate the migration of spectrum to more spectrally efficient technologies. These network integration efficiencies will reduce the total amount of spectrum allocated to the older, less spectrally efficient GSM network and thereby free up spectrum that can be redeployed for more spectrally

efficient UMTS and LTE services. These network integration benefits will extend to all geographic areas in Minnesota and nationally where the two companies operate standalone networks today. Finally, capacity limitations in particular geographic markets are not defined by population density, but by the number of customers that have chosen our wireless services, their present and expected future usage patterns, the technology choices they have made, and our spectrum holdings in that particular geographic area. Accordingly, AT&T faces capacity constraints in many urban and more rural areas throughout the nation. Similarly, by enabling the combined company to redeploy T-Mobile USA's AWS spectrum from UMTS to LTE, the transaction will generate yet further efficiencies in spectrum usage.

3. You have said that in order to transition your customers from GSM to LTE, you will need more spectrum. Other wireless carriers have been able to complete similar transitions without buying out a major competitor. Please explain why you are not able to upgrade your customers' equipment to multi-band devices to enable a seamless transition.

   We are deploying LTE beginning this summer in certain markets and LTE handsets will be available this fall. But tens of millions of our existing customers have handsets that are not LTE-enabled. Experience demonstrates that even with incentives the process of transitioning customers to a new technology will take years. For example, Sprint has been transitioning 800 MHz spectrum users for seven years and appears to have several more years to go before it will be done, notwithstanding an original requirement that it complete the transition in three years.[1]

   Moreover, AT&T requires sufficient spectrum to handle the volume of mobile data traffic its customers are generating in a particular location and on a particular network technology – be it 2G, 3G or 4G LTE. We expect that by 2015 the mobile data volume on our network will be 8 to 10 times what it was in 2010. What is different about AT&T and why we are facing a spectrum crunch sooner than others is that we have been a leader in the smartphone revolution that has created soaring wireless broadband demand as we continue to support customers and businesses that are content with their 2G services. Carriers without legacy customer bases on legacy technologies – such as new entrants Clearwire and LightSquared – can make different choices, dedicating all their spectrum to a new 4G network built from scratch, leapfrogging existing providers. We do not have that option.

4. In much of rural Minnesota, you already have more than 40 MHz of unused spectrum. Why don't you take a fraction of the money you are planning to spend to buy T-Mobile and instead build out your existing spectrum in rural Minnesota?

   As an initial matter, we disagree with the premise that "in much of rural Minnesota [AT&T] already [has] more than 40 MHz of unused spectrum." Minnesota is a state in which AT&T has a particularly acute shortage of spectrum.

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[1] Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order, *Improving Public Safety Communications in the 800 MHz Band*, 19 FCC Rcd 14969, 15001 ¶ 57 (2004).

This is not a simple question of building out existing spectrum. AT&T *has* been investing in its network since long before this transaction. AT&T has been adding cell sites as quickly as it identifies suitable locations and can bring those sites online; it has deployed the nation's largest Wi-Fi network and pioneered the use of Wi-Fi hotzones to offload traffic; and it has deployed about 1,800 public distributed antenna systems ("DAS") and hundreds of thousands of femtocells. In addition, AT&T has purchased additional spectrum when available. But, as discussed below, these and other measures, while useful in various contexts, are simply not — individually or collectively — an adequate solution to AT&T's systemic capacity and spectrum constraints, and in no way could such *ad hoc* measures replicate the undeniable benefits of this transaction. This merger, in contrast, will allow AT&T to achieve much greater capacity expansion than it could ever hope to realize through alternative strategies as a standalone company.

- **<u>Network Enhancements</u> - AT&T has deployed the largest Wi-Fi network of any carrier; pioneered the use of Wi-Fi "hotzones" in high traffic urban and campus environments; deployed nearly 1,800 public DAS systems; and deployed hundreds of thousands of femtocells. Each of these techniques has appropriate applications in a cellular network, and AT&T employs each of them today (and has for years). But these techniques also have significant limits. Some, such as WiFi and DAS, can provide only localized capacity offload. Others, such as femtocells are used primarily to improve coverage (e.g., inside buildings) and provide little or no capacity lift. These piecemeal technology "solutions" cannot solve the macro-level, system-wide constraints confronting AT&T, and they cannot, alone or together, provide relief on anything approaching the scale or timeline of this transaction.**

- **<u>Cell Sites</u> - AT&T could not achieve anywhere close to the number of cell sites enable by this transaction on a remotely comparable timetable. The reality is that in a highly developed network with an already dense grid in high-traffic areas, suitable towers or other structures must (1) meet stringent requirements for location, height, orientation, and lack of obstructions *and* (2) have space available for AT&T's equipment in addition to any other provider already using the structure. Even when AT&T is able to locate suitable locations, it faces delays, costs, and obstacles beyond its control that are inherent in any such *ad hoc* process. The process for adding cell sites to an established grid is complex. AT&T must not only find a suitable and available location, but then arrange to acquire the site through purchase or lease, comply with regulatory requirements that necessitate extensive studies and consultation, apply for and obtain building permits and zoning approvals, contract with third-party vendors to purchase the needed equipment, construct the site, obtain the necessary backhaul, and then integrate the site into the network. These steps individually and collectively take time, and AT&T cannot unilaterally accelerate many of them.**

- **Spectrum – AT&T's AWS and 700 MHz spectrum is destined for AT&T's LTE service, which it is deploying now. AT&T cannot, as a practical matter, use that spectrum instead to relieve congestion on its UMTS network because its millions of UMTS customers have handsets that will not work on that spectrum. In any event, even if AT&T could somehow redirect its AWS and 700 MHz spectrum to UMTS, that spectrum *would then be unavailable for LTE*, at least until it could be re-cleared of all UMTS users. Moreover, spectrum on the secondary market is a potential solution only when it is available in the right place, at the right time, and in the right frequency bands. Spectrum meeting these conditions is not often available. For similar reasons, spectrum leased from wholesale providers such as Clearwire or LightSquared cannot address AT&T's mounting capacity constraints. Among other limitations, AT&T (like T-Mobile USA) has a large embedded base of subscribers whose existing handsets would not work on those providers' spectrum bands or with their technologies. As a result, while Clearwire or LightSquared spectrum may well offer reasonable solutions for carriers like MetroPCS or Leap because they do not face similar constraints, AT&T needs additional spectrum to relieve congestion on its *existing* service bands, which serve millions of current customers.**

AT&T previously made a business decision to build out LTE to approximately 80% of the U.S. population. That decision reflected not only the availability of spectrum, but the significantly higher cost and lower return of expanding to more remote locations, and the need to simultaneously make the required investments to keep up with our current network demands. In light of the billions of dollars required for this expansion and the capacity challenges we faced with our existing network, we concluded that an 80% build was the limit our company could justify to our shareholders. This deal changes that calculus. It gives us additional spectrum, scale, and other resources that we need to expand LTE deployment to more than 97% – 55 million more than our current plans allowed. For instance, in many areas throughout the country we will use T-Mobile's AWS spectrum to launch LTE or enhance our LTE product to deliver faster speeds and enable greater spectral efficiency. Moreover, T-Mobile's customer base, when combined with ours, can increase subscription for LTE-based services across the country, generating additional revenue to support the return on our investment in the rural areas to which we can build LTE as a result of this merger. Likewise, the other synergies of this transaction enable us to justify the necessary capital investments required to expand our LTE coverage from less than 20 percent of the U.S. landmass to roughly 55 percent.

5. Verizon owns far less spectrum than AT&T, and yet it does not appear to have the same concerns about spectrum crunch as your company. Please provide a breakdown of all wireless network capital expenditures made by AT&T over the last five years, and how those capital expenditures compare to Verizon's investments. Please explain why AT&T has not chosen to invest more to improve its network, and why it has not at least kept pace with Verizon's investments, especially given the data demands of its iPhone customers.

   As an initial matter, we disagree with the premise that "Verizon owns far less spectrum than AT&T." Verizon's overall spectrum holdings are comparable to AT&T's, and it holds 22 MHz of contiguous spectrum nationwide in the 700 MHz band.

   Over the past four years, AT&T has invested more in the U.S. than any other public company – about $75B. In 2009, AT&T spent $6B on wireless investment; in 2010, we spent more than $9B – a 50% increase in wireless investment in a single year.

   In addition to the capital outlays cited above, over the past four years, and including the pending Qualcomm transaction, AT&T spent an *additional* approximately $23 billion on spectrum auctions and acquisitions to obtain spectrum and expand its wireless network footprint and customer base. Due to the different manner in which Verizon may track its investments, we have not attempted to represent or characterize Verizon's investments and expenditures over this same time period.

6. The Federal Communications Commission (FCC) once required AT&T and other large telephone companies to file Automatic Reporting Management Information System (ARMIS) reports in order to monitor service quality and network investment. In 2008 they did away with the filing requirement, but asked that you continue to maintain the records. Please provide copies of the last three years of these reports.

   The FCC's ARMIS reports contain data relevant to wireline companies. In 2008, the FCC did away with the filing requirements for ARMIS reports 43-05 and 43-06 which deal with service quality and customer satisfaction indices. AT&T's ARMIS 43-05 and 43-06 reports for the years 2007-2009 are available at the attached link http://fjallfoss.fcc.gov/eafs7/PresetMenu.cfm. The reports are listed under AT&T's wireline operating companies. The data records that would comprise AT&T's 2010 filing are contained in the attached spreadsheets.

7. What percentage of the "special access" market does AT&T own?

It is impossible to determine what percentage of the "special access" market AT&T currently serves because AT&T's competitors are under no obligation to publicly report (and do not report) data concerning their revenues from the provision of special access services or the number of special access circuits/lines they provide.

In any event, the only special access services that even arguably could be implicated by the proposed merger of AT&T and T-Mobile are those used to provide backhaul functions – that is, carry traffic between a wireless provider's cell sites and switches. Because T-Mobile USA does not offer this service, the transaction will not reduce the number of suppliers available to other wireless carriers. Moreover, because of the explosion in demand for wireless data services, wireless providers are increasingly replacing existing copper TDM backhaul facilities with much higher capacity fiber or microwave Ethernet facilities. As a consequence, wireless backhaul is being offered not only by traditional TDM-based special access service providers, but cable companies and additional competitors such as Level 3, FiberTower, and fiber wholesalers such as Zayo.[2] Thus, it should come as no surprise that the providers of such services are fragmented and highly competitive. Indeed, according to a report by Vertical Systems Group on Year-End 2010 U.S. Business Ethernet Port Share, ILECs collectively supply less than half of business Ethernet ports today; no single provider has more than a 24 percent share of the overall business; seven companies have more than five percent; and five of the top eight providers lost port share or remained steady in 2010.[3]

Please list AT&T's special access revenues and earnings for each of the last five years.

For SEC reporting purposes, we track and report results on an operating segment basis; that is, Wireless, Wireline (of which special access is a part), Advertising and Other. We analyze and report results for those segments based on segment income before income taxes and certain other expenses, which are managed only on a total company basis and thus are reflected only in consolidated results.

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[2] *See* Comments of AT&T Inc., *Special Access Rates for Price Cap Local Exchange Carriers, AT&T Corp. Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*, WT Docket No. 05-25, at 15-17 (filed Jan. 19, 2010) ("*AT&T Jan. 19, 2010 Special Access Comments*"); Comments of Qwest Commc'ns Int'l Inc., *Special Access Rates for Price Cap Local Exchange Carriers, AT&T Corp. Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*, WC Docket No. 05-25, RM-10593, at 12-17 (filed Jan. 19, 2010).

[3] Vertical Systems Group, *Year-End 2010 U.S. Business Ethernet Port Share*; *see also* Vertical Systems Group, *Mid-Year 2010 U.S. Business Ethernet Port Share* ("Continuing a trend that was identified from previous share results, Competitive Providers and Cable MSOs once again gained port share from Incumbents [ILECs]. This trend is attributed primarily to a broadening of market competition[.]").

AT&T historically has filed with the FCC certain regulatory accounting data, which the FCC used in calculating rates of return for all jurisdictionally interstate services collectively on an enterprise basis. Some parties have improperly tried to misuse these data to calculate AT&T's and other carriers' purported service-specific earnings from providing special access services. But these data cannot be used to calculate reliable or meaningful service-specific returns, and the FCC has recognized this. That is because, as the Commission has stated, "economic theory does not provide a clear answer to the question of how joint and common and fixed costs should be allocated for costing purposes" and "[t]his is particularly problematic in the telecommunications industry due to the very high proportion of joint and common costs and fixed costs."

Making these data even more unreliable, the Commission ceased updating its rules for how costs should be allocated among services more than a decade ago. It did so for two reasons: (1) it had replaced cost-based rate regulation with price caps, so this data was no longer relevant for ratemaking; and (2) the rules could not keep pace with changes in the marketplace.[4] In light of these considerations, the Commission concluded that industry and government resources should not be wasted in a continuing and futile effort to update its allocation factors, and it instead froze the already outdated rules governing cost allocations as they existed at that time. To the extent some parties attempt to show a service-specific rate of return based on accounting data filed pursuant to those rules, they are misusing that data, and their calculations bear no relationship whatsoever to reality.

8. How much has AT&T collected in Universal Service Funds (USF) for each of the last five years? If this merger is approved, how much government support (in the form of USF funding and other government funds) does AT&T expect to collect in each of the next five years, and what percentage of those will be used to build out AT&T's network to rural areas?

To be clear, AT&T will use private funds to expand its LTE footprint to 97% of U.S. population as a result of the merger.

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[4] *Jurisdictional Separations and Referral to the Fed.-State Joint Bd.*, 16 FCC Rcd. 11382, ¶ 12 (2001) ("*Separations Freeze Order*") (describing rules as "outdated regulatory mechanisms that are out of step with today's rapidly evolving telecommunications marketplace."). *See also id:* ("rapid changes in telecommunications infrastructure" will cause "cost shifts in separations results because these and other new technologies . . . as well as a competitive local exchange marketplace" have not been appropriately incorporated into the "current Part 36 rules"); Notice of Proposed Rulemaking, *Jurisdictional Separations Reform and Referral to the Fed.-State Joint Bd.*, 12 FCC Rcd. 22120, ¶¶ 9-16 & n.86 (1997) ("*Separations NPRM*").

As you know, the federal universal service fund (USF) consists of four separate programs: high-cost, low-income, schools and libraries (known as E-rate), and rural health care (RHC). AT&T's operating affiliates (wireline and wireless) participate in some or all of the programs. To the extent the second question is intended to address both wireline and wireless networks ("what percentage of those will be used to build out AT&T's network to rural areas?"), attached please find the requested information, by universal service program, at the holding company level.

Low-income, E-rate, and RHC programs. **The FCC's low-income, E-rate, and RHC programs reimburse service providers for their participation in these programs. For example, AT&T's operating affiliates that are eligible telecommunications carriers (ETCs) provide discounted service to eligible low-income consumers through the FCC's Lifeline and Link-Up programs. The E-rate program provides discounts to eligible schools and libraries while the RHC program provides discounts to eligible rural health care providers. AT&T, like other participating service providers, subsequently obtains reimbursement from the FCC's USF administrator for having provided such discounts to eligible consumers, schools, libraries, and rural health care providers. We do not anticipate any significant change in a post-AT&T/T-Mobile merged company's disbursements for these three reimbursement programs. To be sure, the FCC is currently considering fundamental reforms to both its low-income and RHC programs; however, AT&T has no basis to believe that any resulting reforms would affect the AT&T/T-Mobile merged company differently than any other participating service provider.**

High-cost program. **The FCC also is considering long overdue reform to its high-cost program. Since early 2008, AT&T has been urging the FCC to overhaul this program by repurposing it to support broadband deployment in high-cost, unserved areas. AT&T believes this support should be competitively awarded and available both to fixed broadband network providers (*e.g.*, wireline providers) and mobile wireless providers. If the FCC adopts AT&T's reform proposal, the FCC would identify high-cost areas eligible for broadband-focused high-cost support. Broadband providers would voluntarily apply for funding and the FCC would select winning applicants based on a number of criteria (*e.g.,* lowest proposed price per unserved household). The FCC would select only one fixed broadband network provider per geographic area. Additionally, the FCC would establish an Advanced Mobility Fund within what the FCC has termed the Connect America Fund (or CAF) to provide support to selected mobile wireless applicants that commit to provide mobile wireless broadband service in currently unserved areas. The merger should enable reductions in the size of the Advanced Mobility Fund not only because AT&T will use private funds for its LTE deployment but because that deployment should reduce the number of unserved areas that will be funded.**

In response to the question posed above, while AT&T expects that almost all, if not all, of the CAF-eligible areas that the FCC will identify will be rural, AT&T cannot forecast how much CAF support it will receive, *if any*. For example, AT&T has recommended that the FCC phase out all high-cost support to all ETCs in five years and transition that money to the CAF (and the Advanced Mobility Fund within the CAF). If the FCC adopts our proposal, it is possible that AT&T would lose all of its high-cost support in five years because AT&T's wireline operating affiliates decided *not* to seek CAF support. Under the current rules, ETCs use high-cost support to provide the FCC's supported services (i.e., voice telephony service) in their designated service areas. If the FCC makes no changes to its high-cost program, which seems unlikely, AT&T anticipates receiving an estimated $467 million/year for the next five years post-T-Mobile merger. This figure is based on AT&T's and T-Mobile's 2010 high-cost support ($464 million for AT&T plus $3 million for T-Mobile), using publicly available data. This figure is only an estimate that does not reflect anticipated line losses that AT&T's wireline affiliates will sustain, which will have the effect of lowering those affiliates' high-cost funding over the next five years. To be clear, consistent with our LTE commitment, the combined AT&T/T-Mobile company would not seek or use high-cost universal service support to defray its LTE deployment costs.

AT&T Inc.'s Operating Affiliates' Federal High-Cost Universal Service Support (2005-2010)

2005: $ 294 million
2006: $ 378 million
2007: $ 441 million
2008: $ 426 million
2009: $ 435 million
2010: $ 464 million

9. AT&T has stated that this deal contains $40 billion in synergies, including $10 billion in "support and general administration synergies." What cost savings or "synergies" does AT&T expect to obtain as a result of job cuts or layoffs?

Our industry and company have been in the midst of a radical transformation for some time. Parts of our business, most notably wired voice, are in a state of persistent decline, while others, like data and video, are growing. That transformation, which, of course, has a direct impact on employment, will continue. We have analyzed the synergies expected from this transaction using the same detailed methodology as in prior transactions. These include cost savings that will result from combining and optimizing duplicate functions. However, as with prior transaction, we expect most job reductions will occur through natural attrition.

This merger will ensure that our growth platforms continue to have the capacity we need to meet our customers' growing need for mobile bandwidth. It will give us the capacity we need to continue to compete aggressively for more customers, will result in an additional $8 billion in investment by the combined company, and enable us to commit to build 4G LTE to 97% of the U.S. population. All of those things are good for jobs and the economy. The LTE commitment, in particular, will help trigger a virtuous cycle of investment and jobs for rural America, which is why the Administration has made widespread deployment of mobile broadband a key priority. The CWA and the AFL-CIO and other labor organizations support the merger because they know we will be providing good paying jobs as a result of this transaction.

a. Please list how many employees AT&T expects to cut in its first year, second year, and third year, if this merger is approved.

   We do not have an estimate at this time. As in past mergers, we anticipate that most job reductions will be through attrition.

b. How many of these cuts will be in Minnesota?

   We do not have an estimate at this time. As in past mergers, we anticipate that most job reductions will be through attrition.

c. Does AT&T intend to cut T-Mobile employees first, if layoffs are needed?

   It is within the Company's customers' and shareholders' best interest to employ and retain the most qualified employees from either AT&T or T-Mobile. That said, if there is a choice between retaining US-based employees versus positions that have been out-sourced overseas, we will cut out-sourced jobs.

10. Reed Hundt, the former Chairman of the FCC, has said that if the government approves this deal in exchange for a commitment to build out broadband to rural America, it will amount to a "state-authorized bribe." Please respond to this and explain why it wouldn't be in your best interests to build out your network to cover more of rural America regardless of whether this deal is approved.

We cannot comment on what former Chairman Hundt meant by this statement. Building to rural areas is very expensive. The construction required is more costly due to the terrain and the return on investment is often limited due to the lack of population density. Moreover, expanding our LTE footprint from 80% of the population to 97% requires expanding our geographic footprint from less than 20% of the U.S. land mass to roughly 55%. Prior to this transaction, AT&T decided that an 80% LTE build was the limit our company could justify to our shareholders. That decision was based in part on the availability of spectrum, the significantly higher cost and lower return of expanding to more remote locations, and the need to simultaneously make the required investments to keep up with our current network demands. On the other hand, the T-Mobile transaction provides the scale, spectrum and resources that enable AT&T to commit to expanding 4G LTE to 97% of the U.S. population.

11. In AT&T's filings with the FCC for its Cingular and Centennial mergers, did AT&T argue that the wireless market is a national market?

We did, however, the FCC and DOJ have considered these arguments repeatedly and have concluded that wireless markets are local. Our experience is that, in today's wireless marketplace, consumers overwhelmingly make their purchasing decisions at the local level where they live, work and sleep. And this is true regardless of whether these local competitors also sell their services in other localities.

12. It is widely reported that AT&T offers some of the most expensive wireless plans, and Consumer Reports recently indicated that T-Mobile plans typically cost $15 to $50 less per month. Can you explain why AT&T pricing plans are so much higher than your competitors?

The wireless market is extremely competitive. FCC data shows that ¾ of Americans have a choice from among at least 5 wireless providers.[5] Within this context, providers compete on many different fronts, including, but not limited to, price, features, handsets, customer service, innovation, and service quality. And different carriers offer different value propositions. To the extent you imply that AT&T's prices are higher in all cases than those of our competitors, that is incorrect. AT&T offers a wide array of product and pricing options – ranging from simple voice plans, to text messaging plans, to data plans, to family plans to package plans that

[5] Fourteenth Report, *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993*, 25 FCC Rcd 11407, 11621-22 ¶¶ 42-45 (May 20, 2010).

combine multiple products – to meet the diverse needs of its customers. In some instances, the price of a given AT&T plan or package may be higher than the price of a comparable offering of one or more of our competitors. In some instances it is not.

13. If this merger is approved, will AT&T commit to continue offering T-Mobile's wireless plans at the same rates (adjusting for inflation) to both T-Mobile customers and AT&T customers for a minimum of ten years? What assurances can AT&T make that we won't see a large spike in prices at the expiration of any conditions on the merger?

Consistent with prior integrations, AT&T will map T-Mobile's rate plans into AT&T's billing systems. T-Mobile customers will have the option to renew their contracts and, if they wish, to exchange their existing handset for a comparable handset from AT&T's device portfolio, all while keeping their existing plans. We will, of course, incentivize former T-Mobile USA customers to consider AT&T's plans, pricing and options, because we believe that we have a compelling and industry-leading value proposition to offer. But, in the end, our intention is to allow T-Mobile USA consumers who choose to maintain their current rate plan on their current or comparable device to do so.

14. If this merger is permitted to go through, will AT&T commit to divesting a significant percentage of its best spectrum to competitor companies?

It is premature to be talking about divestitures and we will not speculate on the options. This transaction will produce enormous consumer benefits and it will do so without harming competition. But if any concerns remain after the FCC and DOJ have had a chance to look at all of the facts, then we will have that conversation at the appropriate time.

15. If this merger is permitted to go through, will AT&T commit to adopting net neutrality principles across its wireless networks for an unlimited period of time?

The FCC has adopted net neutrality rules for wireline broadband providers and a parallel but different set of rules for wireless broadband providers. AT&T is not one of the companies that is appealing the FCC's new rules to the courts.

16. How much does AT&T expect to spend on lobbying and other costs related to seeking government approval of this deal over the next year? Please list the name of the lobbying firms and lobbyists you are employing in this effort, as well as the amounts you have paid to these firms and individuals and what you expect to pay in the coming year.

This transaction involves the review and approval by both the FCC and DOJ. In addition the Judiciary Committees of both the Senate and House have held hearings on the merger and it is anticipated that the Commerce Committees of both chambers also will be holding hearings. In addition to our own in-house personnel we have retained outside counsel, economists and regulatory experts. AT&T files its quarterly lobbying disclosures (LD-2) as required under the Lobbying Disclosure Act. (LDA), and the outside firms we employ are required to comply with the LDA as well, including the public filing requirements. All of these reports are available for public review at: http://soprweb.senate.gov/index.cfm?event=selectfields]**.**

QUESTIONS REGARDING SENATE JUDICIARY COMMITTEE HEARING:

"THE AT&T/T-MOBILE MERGER: IS HUMPTY DUMPTY BEING PUT BACK TOGETHER AGAIN?"

FROM SENATOR RICHARD BLUMENTHAL

Questions for AT&T (Stephenson):

There is considerable debate regarding how best to increase wireless capacity for carriers. AT&T has argued that this merger will allow it to acquire more spectrum, but others claim that AT&T is underusing its current spectrum, and could resolve its data load problems by building or better utilizing more towers. How expensive would it be to simply increase the wireless capacity of AT&T's spectrum by adding equipment to existing towers?

In looking at this question, the important consideration is not the absolute amount of spectrum we have, but whether we have sufficient spectrum to handle the volume of mobile data traffic customers are generating in a particular location and on a particular network technology – be it 2G, 3G or 4G LTE. We expect that by 2015 the mobile data volume on our network will be 8 to 10 times what it was in 2010. Moreover, different spectrum is used to support customers with different handsets – 2G, 3G and soon to be 4G LTE. Simply adding equipment to AT&T's existing cell sites will not achieve the public benefits this transaction will deliver, including the delivery of LTE mobile broadband to 97% of the U.S. population.

I can assure you AT&T is investing heavily to squeeze every bit of capacity we can out of our existing spectrum. We have instituted Wi-Fi offloads; accelerated customer shift from our 2G to 3G networks; and have been acquiring compatible spectrum from third parties where it is available. These solutions, while helpful, are insufficient to broadly address the growing spectrum challenge we face. The elegance of this transaction is that AT&T and T-Mobile have uniquely compatible networks and spectrum. Integrating the networks will free up capacity – the functional equivalent of new spectrum.

Finally, the combined company expects to integrate thousands of T-Mobile USA cell sites, effectively splitting cell sites, thereby doubling the traffic volumes that can be carried over the same amount of spectrum in the area served by the original sites. The resulting network will be significantly denser than either company's network could be in the absence of this transaction. This integration will begin immediately after closing and continue on a rolling basis, with the combined company giving priority to areas currently suffering spectrum and capacity constraints and thus obtaining these capacity gains soonest in the areas that need them the most. The company expects to see service improvements in areas of various markets in as early as nine months.

1. If AT&T invested $39 billion in improving their existing network, instead of buying T-Mobile, couldn't the company achieve the same network capacity gains without removing one of its three biggest rivals from the marketplace?

   No. Because AT&T and T-Mobile USA have well-matched cell site grids, use the same network technologies, and have contiguous and compatible spectrum holdings, the transaction will increase capacity through more efficient use of spectrum and network resources, and the combined network will far exceed the sum of its parts. That increased capacity will be *the functional equivalent of new spectrum.* Those otherwise unavailable capacity increases will give the combined company the flexibility it needs to improve service quality for existing services and reallocate spectrum to more spectrally efficient technologies. Indeed, because these efficiencies will enable such spectrum redeployment, they will have a multiplier effect. For example, efficiencies that reduce the spectrum needed to provide GSM service and thereby free up spectrum that can be redeployed for UMTS service will trigger far greater *network-wide* efficiencies because UMTS is more spectrally efficient than GSM by an order of magnitude.

2. Before proceeding with this merger, had AT&T considered and developed a plan to free up spectrum by modernizing its legacy networks? If so, please provide a detailed timeline for implementation of this plan.

   Yes, as stated above, we not only developed but implemented significant efforts to increase Wi-Fi offloads; accelerate customer shift from our 2G to 3G and to LTE networks; and have been acquiring spectrum from third parties where it is available. These solutions, while helpful, are insufficient to broadly address the growing spectrum challenge we face.

3. Has AT&T considered and developed a plan for moving forward if this merger is blocked? If so, please provide a detailed timeline for implementation of this plan.

Our current plans for LTE deployment are to reach 80% of the U.S. population by the end of 2013. And, absent this transaction, we will move forward with this plan as well as continuing to address spectrum and capacity constraints on a localized basis as best we can.

4. The Communication Workers of America is supportive of this merger because it believes that it will help to create more well-paying union jobs. But our experience in Connecticut with AT&T and its contract negotiations with the local CWA has raised some concerns about this merger. What guarantees has AT&T made, or can make, about allowing T-Mobile workers to organize after the merger is approved?

AT&T traditionally has remained neutral in all union organizing efforts and will do so here post transaction. In addition, AT&T and CWA have a card check neutrality agreement; thus if the T-Mobile employees decide they want to be represented by the CWA, then that process is in place.

5. In past AT&T mergers, the company has identified how many jobs it expects will be lost. AT&T estimated it would eliminate 13,000 jobs after its merger with SBC, and estimated that it would cut 10,000 jobs after its merger with BellSouth. Has AT&T calculated how many jobs it will eliminate if this merger goes through? If so, how many? If not, why not?

No. We have not conducted as granular analysis of this transaction. Obviously, there will be overlaps in corporate functions. Consistent with our prior transactions, however, we plan to handle any overlaps primarily through natural attrition.

6. How many T-Mobile retail stores does AT&T anticipate closing?

We do not know at this time.

7. Does AT&T support device interoperability? If so, will AT&T promise that devices built to work on AT&T's future LTE networks will also be usable on other carriers' LTE networks?

Although AT&T generally supports the basic goal of device interoperability, we do not believe that it would make business sense or help consumers to mandate that a carrier offer devices that operate in spectrum the carrier is not licensed to use. In fact, such a mandate could derail current LTE deployment, as it would require new interoperability standards to be established by standards bodies which would then have to be implemented, tested and certified by handset and network equipment manufacturers.

Further, mandated interoperability would require adding components to the handsets, which would increase the costs of those handsets. These costs would ultimately be passed onto to consumers. All of this runs contrary to what consumers want: timely access to the latest technologically through advanced devices with the most innovative features, offered at competitive prices.

Moreover, if there is a perceived benefit for carriers operating on other spectrum to enable their phones to operate on our network, there is nothing that prevents those carriers from buying dual band phones. But there is no reason why AT&T should be required to buy dual band phones that will not benefit – and in fact would negatively impact – our customers.

8. As internet usage becomes more ubiquitous in our society, it is increasingly important that internet providers not be allowed to discriminate against particular types of content flowing over their networks. Market consolidation threatens the personal and consumer freedom that the internet offers by reducing the pro-consumer benefits of network competition. If this merger is allowed to go through, the wireless market will be effectively controlled by a duopoly, meaning two companies will dictate the rules for access to wireless internet. Is AT&T willing to commit to robust open internet rules if this merger is approved, in order to ensure that AT&T will not use its vastly improved market position to discriminate against internet content for the financial benefit of AT&T?

As an initial matter, we disagree with the statement that post this transaction there will be a duopoly. The wireless industry is extremely competitive today and will remain so following the merger. Approximately three-quarters of Americans can choose from at least five facilities-based wireless providers in the local areas where they live and work.[1] Thus, focusing on the national subscriber shares or revenues of Verizon and AT&T would ignore the highly dynamic, local nature of wireless

[1] Fourteenth Report, *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993*, 25 FCC Rcd 11407, 11621-22 ¶¶ 42-45 (May 20, 2010) ("*Fourteenth Wireless Report*").

competition that has been the basis of review by the DOJ and FCC in wireless mergers for many years. Indeed, as both the Justice Department and FCC have consistently found, it is at the local market level where competition is appropriately evaluated in the wireless industry. And in those local markets, competition is thriving. For example, in addition to the widely available service offerings of Verizon and Sprint, MetroPCS and Leap Wireless both offer nationwide service plans to consumers in markets covering more than 280 million Americans.

The FCC has adopted net neutrality rules for wireline broadband providers and a parallel but different set of rules for wireless broadband providers. AT&T is not one of the companies that is appealing the FCC's new rules to the courts.

9. A specific instance of net neutrality concerns that inhere in the wireless market is the recent news that T-Mobile is allowing its customers to make calls over WiFi when available, instead of using the cellular network, and will not charge its customers for the voice minutes used in these calls. This is an innovative idea that benefits the carriers by reducing data loads on their cellular network and consumers by allowing them to make calls for free. Will AT&T commit to keeping this service for the T-Mobile customers that it acquires if this merger is allowed to go through?

While we have learned about some of the basic aspects of the T-Mobile offering, AT&T does not currently have sufficient information about the network architecture of the T-Mobile USA's Wi-Fi calling service to make this commitment. Should the merger be approved, AT&T will fully evaluate the service to determine if it would offer a high-quality experience and value to our customers.

AT&T does, however, offer its customers a similar service. For customers with poor reception in their homes or businesses, the AT&T Microcell is a device that works in conjunction with the customer's home computer, and routes the customer's wireless voice and data traffic over the customer's high speed Internet connection and can be used with any AT&T 3G wireless device.

10. T-Mobile is viewed as the low-cost alternative to the other national carriers. A comparison of pricing plans finds that T-Mobile customers frequently pay less than customers of AT&T for similar features. This merger threatens those rates, and could mean that a savvy consumer who did his research, compared plans from different carriers, and signed a contract with T-Mobile could find himself, as a result of this merger and through no fault of his own, paying almost $500 per year more than he agreed to pay. Can AT&T promise that T-Mobile's customers will be able to keep their existing plans at previously agreed-upon prices, and that altering a plan by adding or removing services will not disqualify a T-Mobile customer from keeping an existing plan?

Consistent with prior integrations, AT&T will map T-Mobile's rate plans into AT&T's billing systems. T-Mobile customers will have the option to renew their contracts and, if they wish, to exchange their existing handset for a comparable handset from AT&T's device portfolio, all while keeping their existing plans. We will, of course, incentivize former T-Mobile USA customers to consider AT&T's plans, pricing and options, because we believe that we have a compelling and industry-leading value proposition to offer. But, in the end, our intention is to allow T-Mobile USA consumers who choose to maintain their current rate plan on their current or comparable device to do so.

11. How long will T-Mobile customers be able to keep their existing plans—months, years, or indefinitely?

No definite time plan has been established.

12. If T-Mobile customers will be required to switch to AT&T plans and phones, what compensation or other incentives will they receive?

T-Mobile consumers will not be required to switch to AT&T plans.

13. Last month, the Supreme Court decided *AT&T v. Concepcion*, a case that effectively abolishes class action lawsuits by requiring aggrieved consumers to submit to mandatory binding arbitration of disputes. Mandatory binding arbitration clauses are anti-consumer, and these clauses are pervasive in cellphone contracts, leaving consumers holding the bag when a company defrauds or otherwise harms them. How many consumer disputes has AT&T forced to go to mandatory binding arbitration?

The Supreme Court's decision in *AT&T Mobility LLC v. Concepcion* does not mean that class actions have been or will be abolished. Many class actions arise in contexts in which the parties to the lawsuits have not entered and could not enter into agreements requiring individual arbitration. These include, for example, environmental class actions such as those brought against BP following the Gulf oil spill, and the vast majority of securities fraud class actions. Such class actions will continue. And even in contexts in which such agreements are possible, some parties will decide not to enter into arbitration agreements.

In addition, the Supreme Court's decision in *Concepcion* does not mean that every arbitration agreement will be enforced. For example, the Court's decision would not preclude courts from refusing to enforce arbitration clauses that impose high costs on consumers, require them to travel to inconvenient locations, or prohibit arbitrators from awarding consumers the individual remedies (such as statutory damages, punitive damages, and attorneys' fees) that they could receive in court.

AT&T is proud of its arbitration program, and does not believe that its provision is "anti-consumer." To the contrary, AT&T's arbitration clause provides consumers with significant benefits. It offers AT&T customers the ability to pursue their disputes before a neutral decision maker and to receive a quick decision in a simplified process that laypersons can use without the need for a lawyer.

Here are some facts about AT&T's arbitration agreement:

- **At the outset, if a customer prefers, he or she can choose to take the dispute to small claims court instead of pursuing arbitration.**
- **If the customer chooses to arbitrate, AT&T pays all of the costs of arbitration for all consumer claims of $75,000 or less, unless an arbitrator concludes that the claim is frivolous. (Even then, a customer's fees are capped at $125 for claims of $10,000 or less, which is far less expensive for the consumer than in court.)**
- **AT&T will even pay the customer's filing fee at the outset (instead of reimbursing the customer later) if the customer states that he or she is unable to pay the fee.**
- **The process is simple; a customer can fill out a one-page form (called a "notice of dispute") that is available on AT&T's web site to inform us of their claim. AT&T has 30 days to make a settlement offer before the customer may demand arbitration before the AAA. Both because of the incentives created by the arbitration provision and because it's a good business practice to satisfy our customers, AT&T strives to resolve all customer disputes before they even reach the arbitration phase.**
- **Under AT&T's arbitration provision, a customer will receive a minimum of $10,000 if the arbitrator awards the customer more than AT&T's last written settlement offer. In addition, under such circumstances, a customer who is represented by a lawyer will receive twice the attorneys' fees that the lawyer incurred to bring the claim in arbitration, and reimbursement for any expenses (including expert witness fees and costs) that the attorney reasonably accrues for investigating, preparing, and pursuing the customer's claim.**
- **When claims are for $10,000 or less, customers have the exclusive power to decide whether the arbitration will be conducted in person, telephonically, or on the papers.**
- **AT&T waives any right it may have to recover attorneys' fees against its customers. As you may know, Texas recently expanded the range of cases in which defendants can recover their fees from unsuccessful plaintiffs, so this waiver on the part of AT&T provides a meaningful benefit to consumers who arbitrate claims.**

For these reasons, the Supreme Court recognized—quoting the lower courts—that under AT&T's arbitration provision, customers are "'essentially guarantee[d]' to be made whole" and indeed are "better off under their arbitration agreement with

AT&T than they would have been as participants in a class action." *AT&T Mobility LLC v. Concepcion*, 131 S. Ct. 1740, 1753 (2011).

Indeed, prior to the Supreme Court's decision in Concepcion, the vast majority of courts that had considered challenges to the fairness of AT&T's arbitration provision under state law had rejected those challenges and concluded that the provision was enforceable as a matter of state law.[2] Certainly in the context of AT&T's consumer-friendly arbitration process, it cannot be said that consumers are left "holding the bag."

Your question appears to be asking about the number of disputes that are resolved in accordance with our arbitration program. It bears mention that the vast majority of customer disputes are resolved well before a customer needs to consider pursuing a claim in arbitration. AT&T customers frequently resolve their concerns by calling or e-mailing AT&T's Customer Care department. It is the Customer Care department's responsibility, among other things, to address customer concerns and to satisfy those concerns to the customer's satisfaction to the extent possible. That is why, for example, AT&T Mobility has recorded the fewest number of Better Business Bureau (BBB) complaints and received the lowest BBB complaint rate among the four largest national wireless carriers, contributing to an average national rating of A+ in 2010.

Some customers choose to proceed further by invoking the dispute-resolution process under their service agreements. Our records reflect that, between January 1, 2007—shortly after the AT&T provision at issue in *Concepcion* was introduced—and June 1, 2011, 1,343 notices of dispute were sent to AT&T. Most of those disputes were settled without the need for the customer to demand a formal arbitration. Thus, a far smaller number of customers initiated an arbitration with the American Arbitration Association ("AAA"). According to our records, during the same time frame, 151 demands for consumer arbitrations were filed with the AAA. Again, most of these demands are resolved before an arbitration award is issued. For that reason, only 10 disputes reached the stage of a final arbitral award.

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[2] AT&T's arbitration clause has been enforced under the laws of seven States. **Alabama:** *Powell v. AT&T Mobility*, 742 F. Supp. 2d 1285 (N.D. Ala. 2010). **Arkansas:** *Davidson v. Cingular Wireless LLC*, 2007 WL 896349 (E.D. Ark. Mar. 23, 2007). **Florida:** *Cruz* v. *Cingular Wireless, LLC*, 2008 WL 4279690 (M.D. Fla. Sept. 15, 2008), *appeal pending*, No. 08-16080-C (11th Cir.). **Michigan:** *Francis v. AT&T Mobility LLC*, 2009 WL 416063 (E.D. Mich. Feb. 18, 2009). **Missouri:** *Fay v. New Cingular, Wireless, PCS, LLC*, 2010 WL 4905698 (E.D. Mo. Nov. 24, 2010), *appeal pending*, No. 10-3814 (8th Cir.). **Texas:** *Johnson v. AT&T Mobility, L.L.C.*, 2010 WL 5342825 (S.D. Tex. Dec. 21, 2010). **West Virginia**: *Wince v. Easterbrooke Cellular Corp.*, 681 F. Supp. 2d 679 (N.D. W. Va. 2010); *Strawn v. Cingular Wireless LLC*, 593 F. Supp. 2d 894 (S.D. W. Va. 2009); *see also State ex rel. AT&T Mobility, LLC v. Shorts*, 703 S.E.2d 543 (W. Va. 2010). Only California and one other state had held the provision unenforceable under state law.

14. What percentage of consumer disputes resulted in a decision in favor of the consumer (defined as a decision in which the consumer receives at least the entire amount in controversy and is either not required to pay travel, arbitrator, and other fees and costs associated with the arbitration, or receives enough money to cover such fees and costs)?

As discussed above, most consumer disputes, whether pursued through AT&T's customer service department or through the dispute-resolution process under the AT&T arbitration agreement, are resolved to our customers' satisfaction. Thus, we can say with confidence that, of the over 1300 notices of dispute mentioned in response to the prior question, the vast majority of disputes were settled in a manner that (we believe) the customer deemed to be a satisfactory resolution of his or her claim. Thousands of other consumer disputes are resolved before the formal dispute-resolution process is even invoked.

We have not undertaken a study to determine how many such disputes resulted in "a decision in which the consumer receives at least the entire amount in controversy and is either not required to pay travel, arbitrator, and other fees and costs associated with the arbitration, or receives enough money to cover such fees and costs." We can affirm that in the 10 disputes that reached the stage of a final arbitral award, there were five arbitral decisions that awarded the consumer choosing the arbitration an amount less than or equal to AT&T's last written offer, and five decisions that found that no award was due the consumer. In none of these ten decisions was the consumer required to pay out of town travel, arbitrator, and other fees and costs associated with the arbitration.

Very few consumers who bring complaints to AT&T feel the need to proceed to the next stage of the dispute resolution process—a step which simply involves the filing of a one -page form.

Indeed, the Supreme Court recognized in *Concepcion* (quoting the lower courts) that consumers may well be better off under AT&T's arbitration provision than they are in a class action. 131 S. Ct. at 1753. As noted above, customers typically are not required to pay arbitration fees to pursue their claims. Any travel costs are likely negligible; under the AT&T provision, any arbitration hearing takes place in the customer's home county, and the customer has the option of arbitrating by telephone or on the papers alone if he or she prefers.

In court, by contrast, consumers rarely win individual lawsuits to such an extent that they receive "at least the entire amount" they asked for, and it is even more rare that they recover all of the costs mentioned in the question. It is rarer still that consumers receive "the entire amount in controversy" when they are members of a class action. That is so for two reasons. First, it has long been recognized that class-

action lawsuits almost always are resolved for no more than pennies on the dollar.[3] Second, very few customers successfully file claims and receive recoveries from class-action settlements. As one study put it, the claims filing rates are "modest to negligible"—in some cases far below one-tenth of one percent.[4]

15. How long does the arbitration of consumer disputes typically take?

As noted above, the vast majority of customer disputes under ATTM's arbitration provision are resolved quickly (often within 30 days) and informally, without the need for an arbitrator to be appointed. Therefore, relatively few disputes require a customer to file an arbitration demand. That said, based on ATTM's records, for those disputes that resulted in an arbitral award between January 1, 2007, and June 1, 2011, the average length of time between a customer's filing of an arbitral demand and issuance of the award was 5.1 months.

That time frame mirrors the AAA's broader experience. According to one study, consumer arbitrations administered by the AAA proceed to an award in an average of four to six months.[5] Litigation takes much longer: A civil case filed in a federal district court today faces, on average, a delay of over two years (25.3 months) before reaching trial.[6] Class actions may take five or more years between initiation and resolution.

16. How long did the longest arbitration of a consumer dispute take?

Based on a review of our records of consumer arbitrations conducted between January 1, 2007, and June 1, 2011, the longest consumer arbitration took approximately 10.5 months from the filing of the demand for arbitration to issuance of the award.

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[3] *See* Daniel Fisher, *St. Louis Judge Hands Lawyers $21 Million For Coupons*, Forbes.com On the Docket (June 23, 2010), *available at* http://blogs.forbes.com/docket/2010/06/23/st-louis-judge-hands-lawyers-21-million-forcoupons; Daniel Fisher, *Lawyer Appeals Judge's Award of $21 Million in Fees, $8 Coupons for Clients*, Forbes.com (Jan. 10, 2011), *available at* http://blogs.forbes.com/danielfisher/2011/01/10/lawyer-appeals-judges-award-of-21-million-in-fees-8-coupons-for-clients ("The judge didn't even see fit to inquire into the lawyers' valuation of the coupon portion of the settlement, despite strong evidence that less than 10% of coupons in such cases are ever redeemed").

[4] *See* Deborah R. Hensler, *et al.*, Class Action Dilemmas: Pursuing Public Goals for Private Gain 96 (RAND Inst. for Civ. Justice 2000), *available at* http://www.rand.org/pubs/monograph_reports/MR969/; *In re Grand Theft Auto Video Game Consumer Litig.*, 251 F.R.D. 139 (S.D.N.Y. 2008) (2,676 out of 10 million class members made claims); *Palamara v. Kings Family Rests.*, No. 07-317, 2008 WL 1818453, at *1-*3 (W.D. Pa. Apr. 22, 2008) ("approximately 165 class members" out of 291,000 "had obtained a voucher" under the settlement).

[5] *Analysis of the American Arbitration Association's Consumer Arbitration Caseload, available at* http://www.adr.org/si.asp?id=5027.

[6] *U.S. District Court—Judicial Caseload Profile* (2009), *available at* http://www.uscourts.gov/cgi-bin/cmsd2009.pl.

17. What fees and costs are typically paid by the consumer when arbitrating a consumer dispute?

Typically, under AT&T's arbitration agreement, the consumer pays nothing. As explained above, for claims of $75,000 or less, AT&T ordinarily pays all fees and costs of arbitration. AT&T will even pay the customer's filing fee at the outset (instead of reimbursing the customer) if the customer requests that we do so.

18. AT&T claims that it offers consumers a $7,500 "bonus" if an arbitrator's award exceeds the last settlement offer presented by AT&T to the consumer before arbitration. How many times has AT&T paid such a bonus?

Under AT&T's current arbitration provision, a customer is entitled to a $10,000 minimum payment if an arbitrator awards the customer more than AT&T's last written settlement offer.[7] There is a very simple reason why AT&T has never had to make the $10,000 minimum payment. As the district court recognized in *Concepcion*, the minimum-payment provision creates a powerful incentive for AT&T to offer customers more than the value of their claims in order to resolve them before an arbitrator is selected. Indeed, as the Supreme Court noted in *Concepcion*, the District Court found that the availability of a potential substantial minimum payment and double attorneys' fees is "sufficient to provide incentive for the individual prosecution of meritorious claims that are not immediately settled," and that is why "the Ninth Circuit admitted that aggrieved customers who filed claims would be 'essentially guarantee[d]' to be made whole." 131 S. Ct. at 1753. Thus, the fact that only a few disputes wind up being arbitrated is akin to the fact that only about 1% of civil cases filed in the federal courts actually go to trial.[8]

19. Are the settlement offers referred to in the previous question required to be in writing?

While AT&T's arbitration provision does not mandate that settlement offers be in writing, any settlement offer that an arbitrator would consider in determining whether a customer is entitled to the $10,000 minimum payment must be in writing.

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[7] An earlier version of the arbitration provision offered a potential minimum payment that was the greater of $5,000 or the jurisdictional maximum of the consumer's local small claims court. For California customers, the minimum payment was $7,500. *See Concepcion*, 131 S. Ct. at 1744 & n.3.

[8] *See* United States Courts, *U.S. District Courts—Civil Cases Terminated, by Nature of Suit and Action Taken, During the 12-Month Period Ending March 31, 2010, available at* http://www.uscourts.gov/Viewer.aspx?doc=/uscourts/Statistics/FederalJudicialCaseloadStatistics/2010/tables/C04Mar10.pdf.

20. One of the problems with class action bans in arbitration clauses is that they serve as barriers to resolving consumer disputes: a lawyer will not take a case involving a small amount of money, and the considerable problems with arbitration make it an unappealing forum for consumer dispute resolution. It is alleged in one of the *amicus curiae* briefs to *Concepcion* that fewer than 200 of AT&T's customers brought arbitration claims against the company in the period between January 1, 2003, and December 31, 2007. Given AT&T's millions of customers, what explanation does AT&T provide for the very low number of disputes?

AT&T's arbitration agreement does not act as a barrier to dispute resolution. Rather, it gives consumers the choice between going to small claims court or the opportunity to resolve their claims against us, at our expense, through a time-tested, fair, and efficient process subject to the Due Process Protocols of the AAA. The vast majority of consumer disputes are not the types of claims that consumers could ever bring as part of a class action. For such claims, AT&T's arbitration agreement gives the typical customer something he or she might not otherwise find through litigation – a chance for success.

As the Supreme Court noted, in an opinion joined by Justices Stevens, Breyer, Souter, and Ginsburg, without arbitration, "the typical consumer who has only a small damage claim (who seeks, say, the value of only a defective refrigerator or television set) [would be left] without any remedy but a court remedy, the costs and delays of which could eat up the value of an eventual small recovery."[9] The prospect of obtaining legal representation for such a claim is negligible, given the small amount of money at stake. And the overwhelming majority of such claims cannot be brought as class actions because they rest on facts specific to each individual consumer.

Thus, one analysis recently concluded with respect to employment claims (which are larger than most consumer claims) that "only about 5% of the individuals with an employment claim who seek help from the private bar are able to obtain counsel," meaning that for 95% of employees seeking to remedy possible wrongdoing, "it looks like arbitration—or nothing."[10]

By contrast, arbitration provides a simple and cost-free way for individuals to vindicate their claims. As part of our arbitration agreement, we have included innovative, customer-friendly premium awards that provide a very substantial economic incentive for those customers with low-value claims to assert claims against us that otherwise might not be worth their while. This approach not only

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[9] *Allied-Bruce Terminix Cos. v. Dobson*, 513 U.S. 265, 281 (1995).

[10] Theodore J. St. Antoine, *Mandatory Arbitration: Why It's Better Than It Looks*, 41 U. Mich. J.L. Reform 783, 792 (2008).

allows but encourages AT&T to resolve most individual claims far more effectively, and far more quickly, than a class action would.

The question, which points to the number of arbitration proceedings that were initiated at a time before AT&T introduced the arbitration provision at issue in *Concepcion*, seems to imply that the number of arbitrations is too small given the large number of customers that AT&T has the opportunity to serve. But, as explained in response to earlier questions, the reason that relatively few formal arbitrations take place is that hundreds of thousands—if not millions—of disputes (most of them individualized) have been resolved informally, whether through the customer-service process or through the pre-arbitration dispute resolution process. Because the vast majority of consumer concerns are resolved at the outset, it is rare that a consumer will remain dissatisfied to the point that he or she needs to demand arbitration. The arbitration program AT&T has developed does not act as a barrier to dispute resolution—to the contrary, it drives resolution of customers' disputes to their satisfaction.

21. Is AT&T willing to commit to not using arbitration clauses in AT&T contracts to block its customers from exercising its rights under the law?

We are proud of the arbitration program we have developed. Arbitration agreements, if structured properly, provide consumers with a fast, fair, and relatively simple process for addressing their concerns and complaints. That is why we have strived to ensure that our arbitration agreement is the best in the country. One U.S. District Court judge described AT&T's arbitration agreement as containing "perhaps the most fair and consumer-friendly provisions this Court has ever seen."[11] Another has recognized AT&T's arbitration provision as "unusually customer-centered."[12]

Accordingly, we do not believe our customers would benefit from the elimination of the unique choices and features made available to them in our arbitration agreements.

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[11] *Makarowski v. AT&T Mobility, LLC*, 2009 WL 1765661, at *3 (C.D. Cal. June 18, 2009).

[12] *Strawn v. AT&T Mobility, Inc.*, 593 F.Supp.2d 894, 900 n. 6 (S.D.W.Va. 2009).

Senator Mike Lee
Questions for the Record
Randall Stephenson, AT&T

1. A recent *CNET* article noted that AT&T has more unused spectrum than any other wireless carrier.

   a. Can you tell us why you have yet to fully utilize your existing spectrum holdings and instead are seeking to acquire new spectrum through this and other acquisitions?

   In looking at this question, the important consideration in whether you have sufficient spectrum to handle the volume of mobile data traffic customers are generating in a particular location and on a particular network technology – be it 2G, 3G or 4G LTE. We expect that by 2015 the mobile data volume on our network will be 8 to 10 times what it was in 2010. Moreover, different spectrum is used to support customers with different handsets – 2G, 3G and soon to be 4G LTE. Many customers like the service they have or want to keep their cell phone. We have to work with customers to migrate them to 3G, and eventually LTE, and to new handsets over a reasonable period of time. It could take years to complete that transition.

   We are actively rolling out our LTE technology using 700 MHz and AWS spectrum. We need to keep that spectrum clear for 4G LTE. Thus, we are putting that 700 MHz spectrum to very good use, and it will be important to serving our customers in the future as they migrate to LTE. A significant benefit of this transaction is the deployment of LTE mobile broadband to 97% of the U.S. population.

   b. If you are not able to take advantage of T-Mobile's spectrum holdings, what are your options for developing a nationwide 4G/LTE network?

   AT&T previously made a business decision to build out LTE to approximately 80% of the U.S. population. That decision was based in part on the availability of spectrum, the significantly higher cost and lower return of expanding to more remote locations, and the need to make the required investments to keep up with our current network demands. In light of the billions of dollars required for this expansion and the capacity challenges we face with our existing network, we concluded that an 80% build was the limit our company could justify to our shareholders. Absent this deal, and the additional spectrum, scale, and other resources that it gives us to expand LTE deployment, we would build the LTE network to the 80% of the U.S. population as planned.

c. Do you think the national interest would be better served by a few spectrum-rich providers than by a larger number of providers each with less spectrum? Why?

The nation's interest would be best served by making spectrum available – no matter if the provider is large or small. We estimate that in 2015 we will carry the same amount of mobile data traffic by mid-February that we carried for the *entire* year in 2010. That is how fast the mobile Internet is growing. There simply is not enough spectrum available to meet the growing demand. Just about the only thing that can slow down innovation, investment and growth is lack of capacity to meet this demand – and that is why there is such a focus on spectrum. As FCC Chairman Genachowski recently cautioned, "[i]f we do nothing in the face of the looming spectrum crunch, many consumers will face higher prices – as the market is forced to respond to supply and demand – and frustrating service."[1] The fact is that even with everyone's best efforts, it will be <u>years</u> before significant amounts of new spectrum are made available and placed into service. That is just the reality we face. The mobile wireless industry needs more spectrum and it needs it soon.

2. In the mobile communications market, spectrum is a scarce but necessary resource. This is particularly true given the increasing demand for greater data services at higher speeds and with more consistent coverage. Unless and until additional spectrum is made available, existing spectrum must be used as efficiently and effectively as possible so that the U.S. remains a leader in mobile data technologies.

a. What specific efficiencies are created by this merger with regard to spectrum?

The T-Mobile transaction gives us the spectrum, scale, and resources that enable AT&T to commit to expanding 4G LTE to 97% of the U.S. population. It is also important to bear in mind that the additional spectrum will not only permit a broader footprint, but a more robust LTE product in many areas, and will also enable AT&T to delay LTE capacity shortages that we project would otherwise occur in some markets. And, finally, the capacity gains from this transaction are not only from spectrum acquired from T-Mobile. The synergies created by this transaction – cell sites, channel pooling, etc. – effectively create new capacity that is the functional equivalent of new spectrum. Importantly, even after this merger, we will have less spectrum than Sprint/Clearwire.

b. How will AT&T coverage and service benefit consumers in rural areas? Urban areas?

One immediate effect will be on service quality. Integrating the T-Mobile network will quickly add capacity, resulting in increased data speeds and fewer dropped calls. As explained above, however, another major benefit of the transaction will be in connection with AT&T's LTE expansion.

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[1] *Prepared Remarks of FCC Chairman Julius Genachowski,* CTIA Wireless 2011 (March 22, 2011), *available at* http://www.fcc.gov/Daily_Releases/Daily_Business/2011/db0322/DOC-305309A1.pdf.

c. How long will it take for these positive effects to benefit consumers?

We are very experienced at integrating wireless networks quickly and efficiently. For the cell sites, on the day the merger closes, we will get to work in our most challenged markets and integrate the networks as quickly as possible. Integrating T-Mobile cell sites in our network will quickly add capacity, resulting in increased data speeds and fewer dropped calls, in areas serviced by those sites. We expect the integration to start delivering benefits in about 9 months in certain areas and be complete within 24 months. On the expanded LTE network, we expect to reach our goal - 97% of the U.S. population - within 6 years of closing.

3. With only three post-merger companies controlling a large percentage of a wireless broadband market in which smaller providers depend on their larger competitors for data roaming and other services, interoperability between networks and technologies is increasingly important to enabling robust competition.

a. If this merger is approved, what challenges would there be for interoperability?

This transaction does not affect the current debate on interoperability. The AT&T and T-Mobile networks use compatible technologies.

b. Will AT&T support device interoperability and ensure that devices built to work on AT&T's future LTE networks will be usable on the LTE networks of other carriers?

The FCC currently has a petition pending before it on this issue. That said, mandating a carrier to offer devices that operate in spectrum the carrier is not licensed to use would not make business sense or help consumers. In fact, such a mandate could result in derailing current LTE deployment while new standards are debated and established. Further, mandated interoperability would require adding components to the handsets, which would increase the costs of those handsets. These costs would ultimately be passed onto to consumers. All of this runs contrary to what consumers want: timely access to the latest technologically through advanced devices with the most innovative features, offered at competitive prices. Moreover, if there is a perceived benefit for carriers operating on other spectrum to enable their phones to operate on our network, there is nothing that prevents those carriers from buying dual band phones.

c. Customers who want to switch networks are faced with many obstacles that complicate the process, including contract cancellation fees, handset incompatibilities, and number change charges. What will AT&T do to make the process of switching carriers as smooth as possible?

Like many other carriers, AT&T gives prospective customers a choice when they sign-up for service: purchase a handset at the standard retail price from AT&T and select a no commitment, month-to-month service plan, or choose a heavily discounted or free handset and sign-up for a two-year service plan.[2] Given this choice, the overwhelming majority of our customers voluntarily choose a discounted or free handset with a two-year service plan. AT&T offers its customers who choose this offer of a discounted or no-cost handset plus two-year service plan, two alternative forms of performance in fulfilling their contractual obligation. The customer can stay with AT&T service for the life of the service plan, or pay an Early Termination Fee (ETF) and terminate before the service plan ends. AT&T reduces the amount of the applicable ETF for each month the customer has maintained service under his or her contract. In light of the popularity of the low-cost/no-cost handset option, AT&T intends to continue offering this choice to consumers following the merger. T-Mobile USA consumers that are not presently on plans with an ETF (*e.g.*, month-to-month service) can keep their existing plans or switch to another provider following the transaction. T-Mobile USA consumers that chose T-Mobile USA plans with an ETF can likewise keep their plans following the transaction, and AT&T will honor the terms of those plans.

4. If this merger is approved, AT&T will become the only national provider on a GSM network, creating increased market power for AT&T with respect to handset providers and other GSM-based industry players, including smaller competitors who need GSM data roaming agreements. What steps will AT&T take to prevent anticompetitive abuse of the market power it will have in the GSM arena?

Device manufacturing is a global business, and the standards bodies are international. AT&T does not have the ability to control those processes. From this perspective, the merger of AT&T and T-Mobile will not change anything. This merger will not have an adverse impact on smaller carriers who need GSM data roaming. Wireless carriers enter into roaming agreements to provide their own customers wireless services in those areas of the country where they do not have a wireless network. These roaming agreements are arrived at through arms-length bargaining of terms and conditions, including commercially reasonable roaming rates, and are generally reciprocal. Today, AT&T is a "net purchaser" of roaming services, and will remain so after the merger closes, meaning that it purchases more roaming services for its customers than it sells to other carriers' customers. Accordingly, as a net payer of roaming charges, AT&T has

[2] Consumers also have a "Bring Your Own Device" option; they can bring a compatible handset of their choosing to AT&T's network and obtain a service plan from AT&T. *See Your Device, Your Way* at http://choice.att.com/flash/customersdevices.aspx.

every incentive to keep roaming rates low. Moreover, smaller carriers in the U.S. are deploying LTE networks and are offering LTE devices. For example, MetroPCS was the first U.S. carrier to offer an LTE phone. Cellular South, which had previously complained about the standards-setting process, has since announced that it is deploying its LTE network and is planning to offer two LTE smartphones made by Samsung. As carriers – which are CDMA and GSM today and thus unable to roam on one another's networks – move to LTE, there will be more carriers available on which to roam.

5. In addition to the benefits consumers will enjoy as a result of expected spectrum efficiencies, this merger will also directly impact consumers in terms of pricing, choice among a diversity of pre-paid and post-paid plans, and customer service. In particular, T-Mobile is known for its low-price offerings and its unlimited service plans.

   a. Will AT&T offer pricing plans comparable to those currently offered by T-Mobile? Including unlimited data plans?

      It is not practical to make any guarantees about rate plans for new customers, as rates will continue to be set by the competitive marketplace. Both DOJ and FCC have shied away from any sort of rate regulation for that reason. Accordingly post-merger, new customers of the combined company will be new "AT&T" customers and thus will have access to AT&T's rate plans and packages.

      That said, consistent with prior integrations, AT&T will map T-Mobile's rate plans into AT&T's billing systems. T-Mobile customers will have the option to renew their contracts and, if they wish, to exchange their existing handset for a comparable handset from AT&T's device portfolio, all while keeping their existing plans. We will, of course, incentivize former T-Mobile USA customers to consider AT&T's plans, pricing and options, because we believe that we have a compelling and industry-leading value proposition to offer. But, in the end, our intention is to allow T-Mobile USA consumers who choose to maintain their current rate plan on their current or comparable device to do so.

   b. Are T-Mobile customers likely to experience an increase in dropped calls as the networks are merged?

      No. In fact, one of the principal benefits of this transaction is that both AT&T and T-Mobile customers will see improved service quality, especially in constrained areas. Integrating the T-Mobile network will result in numerous network synergies that create additional capacity and will improve service resulting in increased data speeds and fewer dropped calls.

c. How long will it take after the approval of the merger for AT&T customers to notice an improvement in their service?

We expect network integration to be complete within 24 months with certain areas experiencing capacity benefits in as little as 9 months.

d. Consumer Reports had AT&T near the bottom in most customer service categories. Will this merger improve customer service?

Yes. Among other things, we expect to identify the best practices of both AT&T and T-Mobile in this area, and employ them to create a consistent, efficient, best-in-class customer experience.

6. There are claims your acquisition of T-Mobile would result in a duopoly. Although you may disagree with that assertion, do you believe that further market concentration is likely to result in increased regulation of the wireless market?

The wireless industry is extremely competitive today and will remain so following the merger. Approximately three-quarters of Americans can choose from at least five facilities-based wireless providers in the local areas where they live and work.[3] Thus, focusing on the national subscriber shares or revenues of Verizon and AT&T would ignore the highly dynamic, local nature of wireless competition that has been the basis of review by the DOJ and FCC in wireless mergers for many years. This reflects the purchasing habits of customers who buy at the local level. Indeed, as both the Justice Department and FCC have consistently found, it is at the local market level where competition is appropriately evaluated in the wireless industry.

And in those local markets, competition is thriving. For example, in addition to the widely available service offerings of Verizon and Sprint, MetroPCS and Leap Wireless both offer nationwide service plans to consumers in markets covering more than 280 million Americans. These two companies have signed a long-term mutual roaming agreement and are both growing rapidly with their no-contract, low-price, all-you-can-eat offerings. In the first quarter of 2011, MetroPCS and Leap Wireless together had more than 1 million net cusotmer additions. MetroPCS already offers LTE and Leap plans to start rolling out LTE later this year. At a recent investor conference, MetroPCS's Chief Financial Officer summed up the reasons for his company's success as follows:

[3] Fourteenth Report, *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993*, 25 FCC Rcd 11407, 11621-22 ¶¶ 42-45 (May 20, 2010).

> **We have a national footprint that is embedded in all of our rate plans for the everyday low price that we offer our customers. We were on the forefront of deploying 4G technologies, and in the prepaid space we really were the pioneer in introducing smartphones, which I think went a long ways to really leveling the playing field from a handset selection standpoint with the nationals. So we've really morphed into more of a full national type carrier with a regional facilities-based network.[4]**

But these are hardly the only choices in the competitive wireless market. US Cellular is a leading provider of nationwide service plans in 26 states and offers its customers nationwide 3G data roaming. In May 2011, the company announced that it was accelerating its LTE deployment plans and intends to initiate service LTE service in a number of markets in the fourth quarter of 2011. Cellular South sells nationwide service plans to customers in six states and recently announced arrangements with LightSquared and Samsung that will give CellSouth "a nationwide 4G-LTE footprint"[5] and its customers "a first-class LTE experience," including the choice of two new Samsung 4G LTE handsets to be introduced later this year.[6]

In addition, Clearwire is both a retailer of 4G data services (under the "Clear" brand), with more than a million retail customers, and a supplier of wholesale inputs to 4G WiMAX retail providers such as Sprint, Time Warner Cable, and Comcast. It also recently entered into a wholesale arrangement with Best Buy, under which the consumer electronics retailer will use Clearwire's spectrum to market 4G services, known as "Best Buy Connect." Similarly, new entrant LightSquared is deploying a nationwide, wholesale LTE network and has entered into a number of wholesale arrangements with retail wireless providers, including Leap, Cellular South and BestBuy. LightSquared plans to intiate LTE service in early 2012 and expects to cover 260 million people by the end of 2015. With all of these existing and new providers competing vigorously to serve American consumers, the wireless industry will remain one of the most intensely competitive industries in the nation.

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[4] Braxton Carter, CFO, MetroPCS, JPMorgan Technology, Media and Telecom Conference (May 17, 2011).

[5] Cellular South, *LightSquared and Cellular South Announce They Have Entered into a Bilateral Roaming Agreement* (Apr. 20, 20110), https://www.cellularsouth.com/ news/2011/20110419b.html.

[6] Cellular South, *Cellular South announces strategic alliance with Samsung Telecommunications to build LTE 4G high-speed wireless broadband data network infrastructure* (Nov. 17, 2010), https://www.cellularsouth.com/news/2010/20101117.html.