

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
AT&T And Deutsche Telekom AG Seek FCC	)	WT Docket No. 11-65
Consent To The Transfer Of Control Of The	)	
Licenses And Authorizations Held By T-	)	
Mobile USA, Inc. And Its Subsidiaries to	)	
AT&T, Inc.	)	

**REPLY IN SUPPORT OF PETITION TO DENY OF  
NATIONAL HISPANIC MEDIA COALITION (“NHMC”)  
NATIONAL INSTITUTE FOR LATINO POLICY (“NiLP”)**

The National Hispanic Media Coalition (“NHMC”)<sup>1</sup> and the National Institute for Latino Policy (“NiLP”)<sup>2</sup> (together, “Petitioners”), respectfully submit this brief reply in support of their petition to deny AT&T Inc.’s (“AT&T”) application for consent to acquire the licenses of T-Mobile USA, Inc. and its subsidiaries (“T-Mobile”). AT&T and T-Mobile’s joint opposition stretches nearly 230 pages, yet it fails to address many of Petitioners’ concerns about this acquisition, outright ignoring many of them. Notably, AT&T and T-Mobile – although suggesting that consumers have nothing to worry about regarding the effect of this acquisition on prices – make no promises to reduce or even maintain current prices. Nor do they promise to

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<sup>1</sup> NHMC is a twenty-five year old, non-profit media advocacy organization whose mission is to improve the image of Latinos as portrayed by the media, increase employment opportunities for Latinos in the media and telecommunications industries, and advocate for media and telecommunications policies that benefit Latinos and other people of color. NHMC is online at [www.nhmc.org](http://www.nhmc.org).

<sup>2</sup> NiLP (formerly the Institute for Puerto Rican Policy) is a 501(c)(3) nonprofit and nonpartisan policy center established in 1982. One of the leading think tanks in the Latino community utilizing an action research model, NiLP is involved in a wide range of policy issues affecting the Latino community. NiLP is online at <http://www.latinopolicy.org/index.html>.

improve customer service and choice. In fact they rebuff calls for FCC conditions to those ends.<sup>3</sup> At the same time, they concede that this acquisition would lead to layoffs.<sup>4</sup>

Substantial evidence in the docket suggests that this acquisition would result in less competition, higher prices, poorer customer service, less consumer choice and fewer jobs in the telecommunications sector.<sup>5</sup> AT&T and T-Mobile's attempts to rebut this evidence are unconvincing.

AT&T and T-Mobile's assertion that the acquisition would lead to lower prices is suspect. They suggest that the increased capacity that AT&T would gain through this acquisition would "lower the cost of serving additional subscribers and thus create incentives to expand output and lower prices relative to the levels expected in the absence of this transaction."<sup>6</sup> Yet this is a much different story than the one AT&T presented to its shareholders, which focused instead on lowering the joint entity's costs and increasing T-Mobile's annual revenue per user.<sup>7</sup> Conspicuously absent from AT&T's shareholder presentation is any claim that it would reduce or maintain prices if the acquisition were approved. And again, AT&T and T-Mobile seem unwilling to make any similar promise to the Commission even as they are attempting to prove that this acquisition would be in the public interest. In addition to their lack of clarity on pricing, mounting evidence suggests that, indeed, this acquisition would ultimately result in higher prices

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<sup>3</sup> Joint Opposition of AT&T, Inc. Deutsche Telecom AG, and T-Mobile USA, Inc. to Petitions to Deny and to Reply to Comments at 217-219, WT Dkt. No. 11-65 (filed June 10, 2011) ("AT&T-T-Mobile Opposition").

<sup>4</sup> *Id.* at 93.

<sup>5</sup> *See, e.g.*, Petition to Deny of Free Press at 14, 16, 17, 33, 35, 43-45, WT Dkt. No. 11-65 (filed May 31, 2011) ("Free Press Petition"); Petition to Deny of Media Access Project, *et al.* at 9, 12, 15, 19-22, 41, 43-45, WT Dkt. No. 11-65 (filed May 31, 2011) ("MAP Petition"); Petition to Deny of Greenlining Institute at 1, 17, 20, 24, WT Dkt. No. 11-65 (filed May 31, 2011).

<sup>6</sup> AT&T-T-Mobile Opposition at 59, 134, 219.

<sup>7</sup> PowerPoint: Randall Stephenson, *AT&T + T-Mobile: A World Class Platform for the Future of Mobile Broadband* at Slide 29 (Mar. 21, 2011), available at [http://www.att.com/Common/about\\_us/pdf/INV\\_PRES\\_3-21-11\\_FINAL.pdf](http://www.att.com/Common/about_us/pdf/INV_PRES_3-21-11_FINAL.pdf).

for a number of reasons,<sup>8</sup> but especially given T-Mobile's history of exerting downward pressure on prices.<sup>9</sup>

Finally, AT&T and T-Mobile fail altogether to respond to how this acquisition would impact AT&T's poor record on customer service. Although they allude on multiple occasions that AT&T customers would receive "better service,"<sup>10</sup> those claims seem to all pertain to reception problems as opposed to customer assistance for billing questions and technical support. AT&T and T-Mobile's failure to even acknowledge arguments about AT&T's lackluster customer service is troubling, especially as billing experts and retail employees appear likely to be pink-slipped if this acquisition is permitted, leaving even fewer employees to respond to AT&T and T-Mobile customers' issues.

AT&T relies on unsupported statements and letters from a few civil rights organizations – many of whom lack expertise on telecommunications issues – to argue that this acquisition would close the digital divide and, therefore, benefit people of color.<sup>11</sup> For instance, AT&T cites a brief letter that states that the "benefits of this merger to the consumer, especially Latinos, are incredibly significant and would go a long way to erase the digital divide" given AT&T's plan to roll out LTE.<sup>12</sup> This argument is flawed because it is based on the incorrect assumption that wireless phones are substitutes for home broadband access. Petitioners strongly support efforts to close the digital divide, however, AT&T's plans for LTE service would not accomplish that

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<sup>8</sup> MAP Petition at 9, 15, 19-22; Free Press Petition at 13, 14, 16, 17; Ernesto Falcón, *An AT&T/T-Mobile Merger Will Not Lower Prices*, PUBLIC KNOWLEDGE POLICY BLOG (June 15, 2011 16:27 EST), <http://www.publicknowledge.org/blog/attt-mobile-merger-will-not-lower-prices>.

<sup>9</sup> MAP Petition at 19-22.

<sup>10</sup> See, e.g., AT&T-T-Mobile Opposition at 60.

<sup>11</sup> *Id.* at 1-2, 79, 88-90 (citing a letter from the Cuban American National Council); see also Letter of National Coalition on Black Civic Participation, WT Dkt. No. 11-65 (filed May 31, 2011); Letter of ASPIRA Association, WT Dkt. No. 11-65 (filed May 31, 2011).

<sup>12</sup> AT&T-T-Mobile Opposition at 76-77.

goal.<sup>13</sup> Petitioners agree with a statement from Brent Wilkes, the National Executive Director of the League of United Latin American Citizens (or, “LULAC”), that

cell phone Internet access does not provide the same opportunities as having broadband at home attached to a computer. Cell phone users cannot do homework, search for jobs, or utilize healthcare applications on their mobile devices.<sup>14</sup>

To the extent that these new adopters would access this service over their cell phones, they would continue to have a substandard internet experience. And even if they could connect their computers to LTE service through their cell phones, they would still have to pay an additional fee separate and apart from the fees that they already pay for data services. This is not a cost-effective remedy to closing the digital divide, even as cost is one of the main barriers to broadband adoption, and the primary barrier for Latinos.<sup>15</sup>

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<sup>13</sup> John Horrigan, vice president of research at TechNet, has also opined that mobile broadband does not provide the same level of functionality as home connections, stating that “mobile use is great for quick information hits and nuggets of information along the way, but it doesn’t lend itself to job success.” Cecilia Kang and Krissah Thompson, *Hispanics trail other groups in Web usage, confidence*, THE WASHINGTON POST (June 16, 2011), available at [http://www.washingtonpost.com/business/economy/2011/02/22/AB4KNVI\\_print.html](http://www.washingtonpost.com/business/economy/2011/02/22/AB4KNVI_print.html); see also Omar L. Gallaga, *Can mobile phones narrow the digital divide?*, STATEMAN (July 4, 2010), available at <http://www.statesman.com/business/technology/can-mobile-phones-narrow-the-digital-divide-784691.html>.

<sup>14</sup> Jacqueline Clary, *Members of Broadband Opportunity Coalition: How LULAC is Promoting Broadband Adoption*, BROADBAND & SOCIAL JUSTICE (Feb. 1, 2011), available at <http://broadbandandsocialjustice.org/2011/02/members-of-the-broadband-opportunity-coalition-how-lulac-is-promoting-broadband-adoption/>.

<sup>15</sup> A recent FCC report found that 36% of Americans who have not adopted broadband cite cost as the primary reason. John B. Horrigan, *Broadband Adoption and use in America: OBI Working Papers Series No. 1* at 5 (FCC 2010), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-296442A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-296442A1.pdf). The latest NTIA report found that price is the main reason for non-adoption among Latinos with 35.9% saying that they do not have high speed access at home because it is too expensive. *Digital Nation: Expanding Internet Usage, NTIA Research Preview* at 23 (2011), available at [http://www.ntia.doc.gov/reports/2011/NTIA\\_Internet\\_Use\\_Report\\_February\\_2011.pdf](http://www.ntia.doc.gov/reports/2011/NTIA_Internet_Use_Report_February_2011.pdf).

## CONCLUSION

For the foregoing reasons, Petitioners urge designation for a hearing and denial of AT&T's application, as the public interest harms of this acquisition greatly outweigh any potential benefits.

Respectfully Submitted,

*Jessica J. González*

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## CERTIFICATE OF SERVICE

I, Jessica J. González, hereby certify that the foregoing Reply was served upon the following parties via Fed Ex and electronic mail on this 20<sup>th</sup> day of June, 2011:

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Additionally, I sent copies of the foregoing Petition to Deny by electronic mail to:

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