



TELECOMMUNICATIONS

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AT&T/T-Mobile: Putting Humpty Dumpty Back Together?

Will AT&T's proposed merger with T-Mobile improve service and solve a looming spectrum crunch or will it stifle competition by reducing the number of nationwide wireless providers and consolidating spectrum of two large carriers? That's the \$39 billion merger question now before federal and state regulators.

If approved, the proposed merger would create the nation's largest mobile carrier, with over 129 million subscribers using a GSM-based network with a likely transition to a Long Term Evolution (LTE) network. AT&T claims that this deal extends its LTE coverage plans to an additional 46.5 million Americans, covering 95 percent of the nation. Critics point out that this merger will stifle competition and further concentrate an already highly concentrated industry, which the FCC noted in its May 2010 Mobile Wireless Competition Report (Wireless Report) is not "effectively competitive." The FCC also found that the Herfindahl-Hirschman Index (HHI), which is used to determine mobile wireless service provider concentration, has increased by 697 (from 2151 to 2848) since from 2003 to 2008. Fewer competitors and more subscriber shares result in higher HHI index values, and DOJ antitrust merger scrutiny is typically applied to an increase in the HHI of 50 or greater when the post-merger HHI is above 1800.

The FCC's recent Wireless Report listed AT&T, Sprint Nextel, T-Mobile, and Verizon Wireless as the only four major nationwide facilities-based providers that all have mobile

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wireless networks that cover over 86 percent of the U.S. population. The next tier of facilities-based providers serve regional, multi-metro, or local wireless markets, and there are over one hundred small facilities-based providers throughout the country serving a single geographical area. Non-nationwide service providers typically rely on roaming agreements with nationwide facilities-based providers to extend their facilities-based network coverage.

It is too early to tell if regulators will approve this deal and, if so, what conditions are placed on it. But based on lessons learned from the failed Sprint-WorldCom merger, federal regulators do not look favorably on moving from three to two major facilities-based interexchange carriers. This merger would reduce the number of large nationwide facilities-based carriers covering most of the country from four to three, but more importantly it would concentrate an overwhelming majority of the U.S. wireless market in just two large, nationwide facilities-based carriers.

If regulators approve this merger, it will likely involve several concessions. Giving up spectrum, promoting net neutrality, and expanding wireless broadband in rural and underserved areas consistent with the FCC's National Broadband Plan are all possible conditions.

Will this merger continue the long string of wireless industry consolidation? Will it expand the availability of more advanced wireless services and features, or will it stifle competition? Time will tell whether Humpty Dumpty will soon be together again and, if so, with what restraints to keep Humpty from falling off the wall.

We welcome your thoughts. Please feel free to comment at our interactive blog at blog.tlgdc.com.

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