

A.18-07-011 T-Mobile/ Sprint Merger: New York AG Decision

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Commissioner Rechtschaffen and ALJ Bemesderfer:

Attached is a copy of the decision that was issued today in the litigation brought by a group of state Attorneys General, including California Attorney General Xavier Becerra, to block the T-Mobile-Sprint merger in the U.S. District Court for the Southern District of New York. State of New York v. Deutsche Telekom AG, No. 1:19-cv-05434-VM-RWL (S.D.N.Y. filed June 11, 2019). In a thorough, 173-page decision, the court rejected the States' claims and concluded that the merger is not likely to substantially lessen competition in the market for retail mobile wireless services. To the contrary, the court found that the merger will allow the combined company to continue T-Mobile's "undeniably successful," pro-consumer Un-carrier strategy "for the foreseeable future." Decision at 168. The court further concluded that Sprint would likely continue to decline competitively absent the merger, and that as a result of the divestitures required by the DOJ and FCC, DISH will "aggressively compet[e]" in the wireless market "to the benefit of price-conscious consumers and open[] for consumer use a broad range of spectrum that had heretofore remained fallow." Decision at 168-69. With the release of Judge Marrero's decision, the Commission's prompt issuance of a decision now concluding its review of the transaction will help Joint Applicants to quickly deliver these recognized benefits of the transaction to consumers throughout California and the United States.

Accordingly, Joint Applicants respectfully urge the Commission to now take all appropriate steps to ensure issuance of a proposed decision with respect to Joint Applicants' applications as promptly as possible, and no later than February 25, 2020, so that the Commission can conclude its review at its March 26, 2020 business meeting. Joint Applicants anticipate closing the merger as soon as April 1, 2020, and the Commission's March 26, 2020 meeting is the last meeting at which the Commission could issue a final decision concluding its review of the applications before April 1. As you know, the applications have now been pending before this Commission for more than 18 months, and the second round of hearings and associated briefing were completed nearly two months ago. Continued delay in completing the Commission's review in this already-lengthy proceeding would be highly prejudicial to Joint Applicants, and it would only threaten to further delay the myriad benefits this merger will bring to all California consumers – particularly under-connected, low-income and rural consumers – as well as to the state's economy in general, and the Central Valley's economy in particular.

CC: President Batjer, Commissioner Guzman Aceves, Commissioner Shiroma and Commissioner Randolph

Suzanne Toller | Davis Wright Tremaine LLP

505 Montgomery Street, Suite 800 | San Francisco, CA 94111

Tel: (415) 276-6536 | Fax: (415) 276-6599 | Mobile: (415) 806-6536

Email: suzannetoller@dwt.com | Website: www.dwt.com

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