DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Verizon Communications Inc.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States of America* v. *Verizon Communications Inc.,* Civil Action No. 08–cv–1878 (EGS). On October 30, 2008, the United States filed a Complaint alleging that the proposed acquisition by Verizon Communications Inc. of the wireless telecommunications services businesses of Alltel Corporation would violate Section 7 of the Clayton Act, 15 U.S.C. 18 by substantially lessening competition in the provision of mobile wireless telecommunications services in 94 cellular market areas (''CMAs''). The proposed Final Judgment, filed the same time as the Complaint, requires the divestiture of mobile wireless telecommunications services businesses for CMAs in the states of Alabama, Arizona, California, Colorado, Georgia, Idaho, Illinois, Iowa, Kansas, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Ohio, South Carolina, South Dakota, Utah, Virginia, and Wyoming.

Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection at the Department of Justice, Antitrust Division, Antitrust Documents Group, 1st Floor, Liberty Square Building, 450 5th Street, Washington, DC 20530 (202–514–2481), on the Department of Justice's Web site (*http://www.usdoj.gov/atr*) and at the Office of the Clerk of the United States District Court for the District of Columbia. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee is set by the Department of Justice regulations.

Public comment is invited within 60 days of the date of this notice. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to Nancy Goodman, Chief, Telecommunications and Media Enforcement Section, Antitrust Division, U.S. Department of Justice, 1401 H Street, NW., Suite 8000, Washington, DC 20530 (202–514–5621).

J. Robert Kramer II,

Director of Operations, Antitrust Division.

In the United States District Court for the District of Columbia

United States of America, Department of Justice, Antitrust Division, 1401 H Street, NW., Suite 8000, Washington, DC 20530;

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State of California, California Office of the Attorney General, 300 So. Spring Street, Suite 1702, Los Angeles, California 90013;

State of Iowa, Iowa Department of Justice, Hoover Office Building-Second Floor, 1305 East Walnut Street, Des Moines, Iowa 50319;

State of Kansas, Kansas Office of the Attorney General, Consumer Protection/ Antitrust, 120 SW 10th Avenue, 2nd Floor, Topeka, Kansas 66212;

State of Minnesota, Minnesota Attorney General's Office, 445 Minnesota Street, Suite 1200, St. Paul, Minnesota 55101;

State of North Dakota, Antitrust Division, Office of Attorney General, 4205 State Street, P.O. Box 1054, Bismarck, North Dakota 58502–1054;

and

State of South Dakota, Office of the Attorney General, 1302 E. Highway 14, Suite I, Pierre, South Dakota 57501–8501m

Plaintiffs,

v.

Verizon Communications Inc., 140 West Street, New York, New York 10007;

and

Alltel Corporation, One Allied Drive, Little Rock, Arkansas 72202, Defendants.

Civil No. Case: 1:08–cv–01878. Assigned To: Sullivan, Emmet G. Assign. Date: 10/30/2008. Description: Antitrust.

Complaint

The United States of America, acting under the direction of the Attorney General of the United States, the State of Alabama, by its Attorney General Troy King, the State of California, by its Attorney General Edmund G. Brown Jr., the State of Iowa, by its Attorney General Thomas J. Miller, the State of Kansas, by its Attorney General Steve Six, the State of Minnesota, by its Attorney General Lori Swanson, the State of North Dakota, by its Attorney General Wayne Stenehjem, and the State of South Dakota, by its Attorney General Lawrence E. Long, bring this civil action to enjoin the merger of two mobile wireless telecommunications services providers, Verizon Communications Inc. (''Verizon'') and Alltel Corporation (''Alltel''), and to obtain other relief as appropriate. Plaintiffs allege as follows:

1. Verizon entered into an agreement to acquire Alltel, dated June 5, 2008, under which the two companies would combine their mobile wireless telecommunications services businesses (''Transaction Agreement''). Plaintiffs seek to enjoin this transaction because it likely will substantially lessen competition to provide mobile wireless telecommunications services in 94 geographic markets where Verizon and Alltel are among the most significant competitors.

2. Verizon's mobile wireless telecommunications services network covers 263 million people in 49 states and serves in excess of 70 million subscribers. Alltel provides mobile wireless telecommunications services in 35 states and serves approximately 13 million subscribers. The combination of Verizon and Alltel likely will substantially lessen competition for mobile wireless telecommunications services throughout North and South Dakota, and geographic areas in Alabama, Arizona, California, Colorado, Georgia, Idaho, Illinois, Iowa, Kansas, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Carolina, Ohio, South Carolina, Utah, Virginia and Wyoming, where both Verizon and Alltel currently operate. As a result of the proposed acquisition, residents of these areas will likely face increased prices, diminished quality or quantity of services, and less investment in network improvements for these services.

I. Jurisdiction and Venue

3. This Complaint is filed by the United States under Section 15 of the Clayton Act, 15 U.S.C. 25, to prevent and restrain defendants from violating Section 7 of the Clayton Act, as amended, 15 U.S.C. 18. Plaintiffs Alabama, California, Iowa, Kansas, Minnesota, North Dakota, South Dakota by and through their respective Attorneys General, bring this action in their respective sovereign capacity and as parens patriae on behalf of the citizens, general welfare, and economy of their respective States under Section 16 of the Clayton Act, 15 U.S.C. 26, to prevent defendants from violating Section 7 of the Clayton Act, 15 U.S.C. 18.

4. Verizon and Alltel are engaged in interstate commerce and in activities substantially affecting interstate commerce. The Court has jurisdiction over this action pursuant to Sections 15

and 16 of the Clayton Act, 15 U.S.C. 25 and 26, and 28 U.S.C. 1331 and 1337.

5. The defendants have consented to personal jurisdiction and venue in this judicial district.

II. The Defendants and the Transaction

6. Verizon, with headquarters in New York, is a corporation organized and existing under the laws of the State of Delaware. Verizon is one of the world's largest providers of communications services. Verizon is the second largest mobile wireless telecommunications services provider in the United States as measured by subscribers, provides mobile wireless telecommunications services in 49 states, and serves in excess of 70 million subscribers. In 2007, Verizon earned mobile wireless telecommunications services revenues of approximately $43 billion.

7. Alltel, a subsidiary of Atlantis Holdings LLC, is a corporation organized and existing under the laws of the State of Delaware, with headquarters in Little Rock, Arkansas. Alltel is the fifth largest mobile wireless telecommunications services provider in the United States as measured by subscribers, and provides mobile wireless telecommunications services in 13 states. Alltel has approximately 13 million subscribers and in 2007, it earned approximately $8.8 billion in revenues.

8. Pursuant to the Transaction Agreement, Verizon will acquire Alltel for approximately $28 billion. If this transaction is consummated, Verizon and Alltel combined would have approximately 83 million subscribers in the United States, with over $51 billion in mobile wireless telecommunications services revenues.

III. Trade and Commerce

A. Nature of Trade and Commerce

9. Mobile wireless telecommunications services allow customers to make and receive telephone calls and obtain data services using radio transmissions without being confined to a small area during the call or data session, and without the need for unobstructed line-of-sight to the radio tower. Mobility is highly valued by customers, as demonstrated by the more than 262 million people in the United States who own mobile wireless telephones. In 2007, revenues from the sale of mobile wireless telecommunications services in the United States were over $138 billion. To meet this desire for mobility, mobile wireless telecommunications services providers must deploy extensive networks of switches, radio transmitters, and receivers and interconnect their networks with the networks of wireline carriers and other mobile wireless telecommunications services providers.

10. In the early to mid-1980s, the FCC issued two cellular licenses (A-block and B-block) in each Metropolitan Statistical Area (''MSA'') and Rural Service Area (''RSA'') (collectively, ''Cellular Market Areas'' or ''CMAs''), for a total of 734 CMAs covering the entire United States. Each license consists of 25 MHz of spectrum in the 800 MHz band. The first mobile wireless voice systems using this cellular spectrum were based on analog technology, now referred to as first-generation or ''IG'' technology.

11. In 1995, the FCC licensed additional spectrum for the provision of Personal Communications Services (''PCS''), a category of services that includes mobile wireless telecommunications services comparable to those offered by cellular licensees. These licenses are in the 1900 MHz band and are divided into six blocks: A, B, and C, which consist of 30 MHz each; and D, F, and F, which consist of 10 MHz each. Geographically, the A- and B-block 30 MHz licenses are issued by Major Trading Areas (''MTAs''). C-, D-, E-, and F-block licenses are issued by Basic Trading Areas (''BTAs''), several of which comprise each MTA. MTAs and BTAs do not generally correspond to MSAs and RSAs.

12. With the introduction of the PCS licenses, both cellular and PCS licensees began offering digital services, thereby increasing network capacity, shrinking the size of handsets, and extending handset battery life, in addition, in 1996, a specialized mobile radio (''SMR'' or ''dispatch'') spectrum licensee began using SMR spectrum to offer mobile wireless telecommunications services comparable to those offered by other mobile wireless telecommunications services providers, in conjunction with its dispatch, or ''push-to-talk,'' service. Although there are a number of providers holding spectrum licenses in each area of the country, not all providers have fully built out their networks throughout each license area. In particular, because of the characteristics of PCS spectrum, providers holding this type of spectrum generally have found it less attractive to build out in rural areas.

13. Today, more than 95 percent of the total U.S. population lives in counties where three or more mobile wireless telecommunications services operators offer service. Nearly all mobile wireless voice services have migrated to the second-generation, or ''2G'' digital technologies, using 3SM (global standard for mobility) or CDMA (code division multiple access). Even more advanced technologies (''2.5G'' and ''3G''), based on the earlier 2G technologies, have been deployed for mobile wireless data services.

B. Relevant Product Market

14. Mobile wireless telecommunications services is a relevant product market. Mobile wireless telecommunications services include both voice and data services provided over a radio network and allow customers to maintain their telephone calls or data sessions without wires when traveling. There are no cost-effective alternatives to mobile wireless telecommunications services. Because fixed wireless services are not mobile, they are not regarded by consumers of mobile wireless telecommunications services to be a reasonable substitute for those services. It is unlikely that a sufficient number of customers would switch away from mobile wireless telecommunications services to make a small but significant price increase in those services unprofitable. Mobile wireless telecommunications services accordingly is a relevant product market under Section 7 of the Clayton Act, 15 U.S.C. 18.

C. Relevant Geographic Markets

15. The United States comprises numerous local geographic markets for mobile wireless telecommunications services. A large majority of customers use mobile wireless telecommunications services in close proximity to their workplaces and homes. Thus, customers purchasing mobile wireless telecommunications services choose among mobile wireless telecommunications services providers that offer services where they live, work, and travel on a regular basis. The geographic areas in which the FCC has licensed mobile wireless telecommunications services providers often represent the core of the business and social sphere within which customers have the same competitive choices for mobile wireless telephone services. The number and identity of mobile wireless telecommunications services providers varies among geographic areas, as does the quality of services and breadth of geographic coverage offered by providers. Some mobile wireless telecommunications services providers can and do offer different promotions, discounts, calling plans, and equipment subsidies in different geographic areas, varying the price for customers by geographic area.

16. The relevant geographic markets, under Section 7 of the Clayton Act, 15 U.S.C. 18, where the transaction would substantially lessen competition for mobile wireless telecommunications services are effectively represented by the 94 FCC spectrum licensing areas specified in Appendix A. It is unlikely that a sufficient number of customers would switch to mobile wireless telecommunications services providers who do not offer services in these geographic areas to make a small but significant price increase in the relevant geographic markets unprofitable.

D. Anticompetitive Effects

1. Mobile Wireless Telecommunications Services

17. In each of the cellular license areas described in Appendix A, Verizon and Alltel are significant providers of mobile wireless telecommunications services (based on subscribers), and together their combined share in each area ranges from over 55% to 100%. In addition, each is the other's closest competitor for a significant set of customers.

18. The relevant geographic markets for mobile wireless services are highly concentrated. As measured by the Herfindahl-Hirschman Index (''HHI''), which is commonly employed in merger analysis and is defined and explained in Appendix B to this Complaint, concentration in these geographic areas ranges from over 2100 to more than 9100, which is well above the 1800 threshold at which plaintiffs consider a market to be highly concentrated. After Verizon's proposed acquisition of Alltel is consummated, the HHIs in the relevant geographic areas will range from over 4000 to 10,000, with increases in the HHI as a result of the merger ranging from over 300 to over 4900, significantly beyond the thresholds at which plaintiffs consider a transaction likely to cause competitive harm.

19. Competition between Verizon and Alltel in the relevant geographic markets has resulted in lower prices and higher quality in mobile wireless telecommunications services than otherwise would have existed in these geographic markets. In these areas, consumers consider Verizon and Alltel to be particularly attractive competitors because other providers' networks often lack coverage or provide lower-quality service, in all but two of these CMAs, Verizon and Alltel each hold cellular spectrum licenses. If Verizon's proposed acquisition of Alltel is consummated, competition between Verizon and Alltel in mobile wireless telecommunications services will be eliminated in these markets and the relevant markets for mobile wireless telecommunications services will become substantially more concentrated. As a result, the loss of competition between Verizon and Alltel increases the merged firm's incentive and ability in the relevant geographic markets to increase prices, diminish the quality or quantity of services provided, and refrain from or delay making investments in network improvements.

2. Entry

20. Entry by a new mobile wireless services provider in the relevant geographic markets would be difficult, time-consuming, and expensive, requiring spectrum licenses and the build out of a network. Therefore, any entry in response to a small but significant price increase for mobile wireless telecommunications services by the merged firm in the relevant geographic markets would not be timely, likely, or sufficient to thwart the competitive harm resulting from Verizon's proposed acquisition of Alltel, if it were consummated.

IV. Violation Alleged

21. The effect of Verizon's proposed acquisition of Alltel, if it were to be consummated, may be substantially to lessen competition in interstate trade and commerce in the relevant geographic markets for mobile wireless telecommunications services, in violation of Section 7 of the Clayton Act, 15 U.S.C. 18.

22. Unless restrained, the transaction will likely have the following effects in mobile wireless telecommunications services in the relevant geographic markets, among others:

a. Actual and potential competition between Verizon and Alltel will be eliminated;

b. Competition in general will be lessened substantially;

c. Prices are likely to increase;

d. The quality and quantity of services are likely to decrease; and

e. Incentives to improve wireless networks will be reduced.

V. Requested Relief

The plaintiffs request:

23. That Verizon's proposed acquisition of Alltel be adjudged to violate Section 7 of the Clayton Act, 15 U.S.C. 18;

24. That defendants be permanently enjoined from and restrained from carrying out the Agreement and Plan of Merger dated June 5, 2008, or from entering into or carrying out any agreement, understanding, or plan, the effect of which would be to bring the wireless services businesses of Verizon and Alltel under common ownership or control;

25. That plaintiffs be awarded their costs of this action; and

26. That plaintiffs have such other relief as the Court may deem just and proper.

Dated: October 30, 2008

Respectfully Submitted,

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Appendix A

(1) Lima OH MSA (CMA 158);
(2) Hickory NC MSA (CMA 166);
(3) Fargo-Moorhead ND-MN MSA (CMA 221);
(4) Mansfield OH MSA (CMA 231);
(5) Dothan AL MSA (CMA 246);
(6) Sioux City IA-NE MSA (CMA 253);
(7) Albany GA MSA (CMA 261);
(8) Danville VA MSA (CMA 262);
(9) Sioux Falls SD MSA (CMA 267);
(10) Billings MT MSA (CMA 268);
(11) Grand Forks ND-MN MSA (CMA 276);
(12) Rapid City SD MSA (CMA 289);
(13) Great Falls MT MSA (CMA 297);
(14) Bismarck ND MSA (CMA 298);
(15) Casper WY MSA (CMA 299);
(16) AL RSA 7 (CMA 313);
(17) AZ RSA 5 (CMA 322);
(18) CA RSA 6 (CMA 341);
(19) CO RSA 4 (CMA 351);
(20) CO RSA 5 (CMA 352);
(21) CO RSA 6 (CMA 353);
(22) CO RSA 7 (CMA 354);
(23) CO RSA 8 (CMA 355);
(24) CO RSA 9 (CMA 356);
(25) GA RSA 6 (CMA 376);
(26) GA RSA 7 (CMA 377);
(27) GA RSA 8 (CMA 378);
(28) GA RSA 9 (CMA 379);
(29) GA RSA 10 (CMA 380);
(30) GA RSA 12 (CMA 382);
(31) GA RSA 13 (CMA 383);
(32) ID RSA 2 (CMA 389);
(33) ID RSA 3 (CMA 390);
(34) IL RSA 8 (CMA 401);
(35) IL RSA 9 (CMA 402);
(36) IA RSA 8 (CMA 419);
(37) KS RSA 1 (CMA 428);
(38) KS RSA 2 (CMA 429);
(39) KS RSA 6 (CMA 433);
(40) KS RSA 7 (CMA 434);
(41) KS RSA 11 (CMA 438);
(42) KS RSA 12 (CMA 439);
(43) KS RSA 13 (CMA 440);
(44) MN RSA 1 (CMA 482);
(45) MN RSA 2 (CMA 483);
(46) MN RSA 7 (CMA 488);
(47) MT RSA 1 (CMA 523);
(48) MT RSA 2 (CMA 524);
(49) MT RSA 4 (CMA 526);
(50) MT RSA 5 (CMA 527);
(51) MT RSA 6 (CMA 528);
(52) MT RSA 7 (CMA 529);
(53) MT RSA 8 (CMA 530);
(54) MT RSA 9 (CMA 531);
(55) MT RSA 10 (CMA 532);
(56) NE RSA 5 (CMA 537);
(57) NV RSA 2 (CMA 544);
(58) NV RSA 5 (CMA 547);
(59) NM RSA 1 (CMA 553);
(60) NM RSA 5 (CMA 557);
(61) NM RSA 6 (CMA 558);
(62) NC RSA 2 (CMA 566);
(63) NC RSA 5 (CMA 569);
(64) NT RSA 1 (CMA 580);
(65) ND RSA 2 (CMA 581);
(66) ND RSA 3 (CMA 582);
(67) ND RSA 4 (CMA 583);
(68) ND RSA 5 (CMA 584);
(69) OH RSA 2 (CMA 586);
(70) OH RSA 5 (CMA 589);
(71) OH RSA 6 (CMA 590);
(72) SC RSA 1 (CMA 625);
(73) SC RSA 2 (CMA 626);
(74) SC RSA 3 (CMA 627);
(75) SC RSA 7 (CMA 631);
(76) SD RSA 1 (CMA 634);
(77) SD RSA 2 (CMA 635);
(78) SD RSA 3 (CMA 636);
(79) SD RSA 4 (CMA 637);
(80) SD RSA 5 (CMA 638);
(81) SD RSA 6 (CMA 639);
(82) SD RSA 7 (CMA 640);
(83) SD RSA 8 (CMA 641);
(84) SD RSA 9 (CMA 642);
(85) UT RSA 3 (CMA 675);
(86) UT RSA 4 (CMA 676);
(87) UT RSA 5 (CMA 677);
(88) UT RSA 6 (CMA 678);
(89) VA RSA 1 (CMA 681);
(90) VA RSA 8 (CMA 688);
(91) WY RSA 1 (CMA 718);
(92) WY RSA 2 (CMA 719);
(93) WY RSA 4 (CMA 721);
(94) WY RSA 5 (CMA 722).

Appendix B

Herfindahl-Hirschman Index

''HHI'' means the Herfindahl-Hirschman Index, a commonly accepted measure of market concentration. It is calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. For example, for a market consisting of four firms with shares of 30, 30, 20, and 20 percent, the HHI is 2600 ($30^2 + 30^2 + 20^2 + 20^2 = 2600$). (**Note:** Throughout the Complaint, market share percentages have been rounded to the nearest whole number, but HHIs have been estimated using unrounded percentages in order to accurately reflect the concentration of the various markets.) The HHI takes into account the relative size distribution of the firms in a market and approaches zero when a market consists of a large number of small firms. The HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases.

Markets in which the HHI is between 1000 and 1800 points are considered to be moderately concentrated, and those in which the HHI is in excess of 1800 points are considered to be highly concentrated. *See Horizontal Merger Guidelines* ¶ 1.51 (revised Apr. 8, 1997). Transactions that increase the HHI by more than 100 points in concentrated markets presumptively raise antitrust concerns under the guidelines issued by the U.S. Department of Justice and Federal Trade Commission. *See id.*

In the United States District Court for the District of Columbia United States of America, State of Alabama, State of California, State of Iowa, State of Kansas, State of Minnesota, State of North Dakota, and State of South Dakota:

Plaintiffs,

v.

Verizon Communications Inc., and Alltel Corporation,

Defendants.

Civil No.: 08 1878.

Final Judgment

Whereas, plaintiffs, United States of America, State of Alabama, State of California, State of Iowa, State of Kansas, State of Minnesota, State of North Dakota, and State of South Dakota, filed their Complaint on October, 2008, plaintiffs and defendants, Verizon Communications Inc. (''Verizon'') and Alltel Corporation (''Alltel''), by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or admission by any party regarding any issue of fact or law;

And whereas, defendants agree to be bound by the provisions of this Final Judgment pending its approval by the Court;

And whereas, the essence of this Final Judgment is the prompt and certain divestiture of certain rights or assets by defendants to assure that competition is not substantially lessened;

And whereas, plaintiffs require defendants to make certain divestitures for the purpose of remedying the loss of competition alleged in the Complaint;

And whereas, defendants have represented to plaintiffs that the divestitures required below can and will be made and that defendants will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

Now therefore, before any testimony is taken, without trial or adjudication of any issue of fact or law, and upon consent of the parties, it is *ordered, adjudged and decreed:*

I. Jurisdiction

This Court has jurisdiction over the subject matter of and each of the parties to this action. The Complaint states a claim upon which relief may be granted against defendants under Section 7 of the Clayton Act, as amended (15 U.S.C. 18).

II. Definitions

As used in this Final Judgment:

A. ''Acquirer'' or ''Acquirers'' means the entity or entities to whom defendants divest the Divestiture Assets.

B. ''Alltel'' means Alltel Corporation, a subsidiary of Atlantis Holdings LLC, a corporation organized and existing under the laws of the State of Delaware, with headquarters in Little Rock, Arkansas, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

C. ''CMA'' means cellular market area which is used by the Federal Communications Commission (''FCC'') to define cellular license areas and which consists of Metropolitan Statistical Areas (''MSAs'') and Rural Service Areas (''RSAs'').

D. ''Divestiture Assets'' means each mobile wireless telecommunications services business to be divested under this Final Judgment, including all types of assets, tangible and intangible, used by defendants in the operation of the mobile wireless telecommunications services businesses to be divested. To ensure that the divested mobile wireless telecommunications services businesses remain viable, ongoing businesses, the term ''Divestiture Assets'' shall be construed broadly to accomplish the complete divestiture, as required by this Final Judgment, of the entire business of

(1) Alltel in each of the following CMA license areas:

(a) Lima OH MSA (CMA 158);
(b) Hickory NC MSA (CMA 166);
(c) Fargo-Moorhead ND-MN MSA (CMA 221);
(d) Mansfield OH MSA (CMA 231);
(e) Dothan AL MSA (CMA 246);
(f) Sioux City IA-NE MSA (CMA 253);
(g) Albany GA MSA (CMA 261);
(h) Danville VA MSA (CMA 262);
(i) Sioux Falls SD MSA (CMA 267);
(j) Billings MT MSA (CMA 268);
(k) Grand Forks ND-MN MSA (CMA 276);
(l) Rapid City SD MSA (CMA 289);
(m) Great Falls MT MSA (CMA 297);
(n) Bismarck ND MSA (CMA 298);
(o) Casper WY MSA (CMA 299);
(p) AL RSA 7 (CMA 313);
(q) AZ RSA 5 (CMA 322);
(r) CA RSA 6 (CMA 341);
(s) CO RSA 4 (CMA 351);
(t) CO RSA 5 (CMA 352);
(u) CO RSA 6 (CMA 353);
(v) CO RSA 7 (CMA 354);
(w) CO RSA 8 (CMA 355);
(x) CO RSA 9 (CMA 356);
(y) GA RSA 6 (CMA 376);
(z) GA RSA 7 (CMA 377);
(aa) GA RSA 8 (CMA 378);
(bb) GA RSA 9 (CMA 379);
(cc) GA RSA 10 (CMA 380);
(dd) GA RSA 12 (CMA 382);
(ee) GA RSA 13 (CMA 383);
(ff) ID RSA 2 (CMA 389);
(gg) ID RSA 3 (CMA 390);
(hh) IL RSA 8 (CMA 401);
(ii) IL RSA 9 (CMA 402);
(jj) IA RSA 8 (CMA 419);
(kk) MN RSA 1 (CMA 482);
(ll) MN RSA 2 (CMA 483);
(mm) MT RSA 1 (CMA 523);
(nn) MT RSA 2 (CMA 524);
(oo) MT RSA 4 (CMA 526);
(pp) MT RSA 5 (CMA 527);
(qq) MT RSA 6 (CMA 528);
(rr) MT RSA 7 (CMA 529);
(ss) MT RSA 8 (CMA 530);
(tt) MT RSA 9 (CMA 531);
(uu) MT RSA 10 (CMA 532);
(vv) NV RSA 2 (CMA 544);
(ww) NV RSA 5 (CMA 547);
(xx) NM RSA 1 (CMA 553);
(yy) NM RSA 5 (CMA 557);
(zz) NM RSA 6 (CMA 558);
(aaa) NC RSA 2 (CMA 566);
(bbb) NC RSA 5 (CMA 569);
(ccc) ND RSA 1 (CMA 580);
(ddd) ND RSA 2 (CMA 581);
(eee) ND RSA 3 (CMA 582);
(fff) ND RSA 4 (CMA 583);
(ggg) ND RSA 5 (CMA 584);
(hhh) OH RSA 2 (CMA 586);
(iii) OH RSA 5 (CMA 589);
(jjj) OH RSA 6 (CMA 590);
(kkk) SC RSA 1 (CMA 625);
(lll) SC RSA 2 (CMA 626);
(mmm) SC RSA 3 (CMA 627);
(nnn) SC RSA 7 (CMA 631);
(ooo) SD RSA 1 (CMA 634);
(ppp) SD RSA 2 (CMA 635);
(qqq) SD RSA 3 (CMA 636);
(rrr) SD RSA 4 (CMA 637);
(sss) SD RSA 5 (CMA 638);
(ttt) SD RSA 6 (CMA 639);
(uuu) SD RSA 7 (CMA 640);
(vvv) SD RSA 8 (CMA 641);
(www) SD RSA 9 (CMA 642);
(xxx) UT RSA 3 (CMA 675);
(yyy) UT RSA 4 (CMA 676);
(zzz) UT RSA 5 (CMA 677);
(aaaa) UT RSA 6 (CMA 678);
(bbbb) VA RSA 1 (CMA 681);
(cccc) VA RSA 8 (CMA 688);
(dddd) WY RSA 1 (CMA 718);
(eeee) WY RSA 2 (CMA 719);
(ffff) WY RSA 4 (CMA 721);
(gggg) WY RSA 5 (CMA 722).

(2) Verizon, that was acquired from Rural Cellular Corporation in August 2008, in each of the following CMA license areas:

(a) KS RSA 1 (CMA 428);
(b) KS RSA 2 (CMA 429);
(c) KS RSA 6 (CMA 433);
(d) KS RSA 7 (CMA 434);
(e) KS RSA 11 (CMA 438);
(f) KS RSA 12 (CMA 439);
(g) KS RSA 13 (CMA 440); and

(3) Verizon (but not including any assets acquired from Rural Cellular Corporation) in each of the following CMA license areas:

(a) MN RSA 7 (CMA 488); and
(b) NE RSA 5 (CMA 537).

The Divestiture Assets shall include, without limitation, all types of real and personal property, monies and financial instruments, equipment, inventory, office furniture, fixed assets and furnishings, supplies and materials, contracts, agreements, leases, commitments, spectrum licenses issued by the FCC and all other licenses, permits and authorizations, operational support systems, cell sites, network infrastructure, switches, customer support and billing systems, interfaces with other service providers, business and customer records and information, customer contracts, customer lists, credit records, accounts, and historic and current business plans that relate primarily to the wireless businesses being divested, as well as any patents, licenses, sublicenses, trade secrets, know-how, drawings, blueprints, designs, technical and quality specifications and protocols, quality assurance and control procedures, manuals and other technical information defendants supply to their own employees, customers, suppliers, agents, or licensees, and trademarks, trade names and service marks or other intellectual property, including all intellectual property rights under third-party licenses that are capable of being transferred to the Acquirer(s) either in their entirety, for assets described in (a) below, or through a license obtained through or from defendants, for assets described in (b) below; provided that defendants shall only be required to divest Multi-line Business Customer contracts if the primary business address for that customer is located within any of the license areas described herein, and further, any subscriber who obtains mobile wireless telecommunications services through any such contract retained by defendants and who are located within the license areas identified above, shall be given the option to terminate their relationship with defendants, without financial cost, at any time within one year of the closing of the Transaction. Defendants shall provide written notice to these subscribers within 45 days after the closing of the Transaction of the option to terminate.

The divestiture of the Divestiture Assets shall be accomplished by:

(a) transferring to the Acquirer(s) the complete ownership and/or other rights to the assets (other than those assets used substantially in the operations of defendants' overall wireless telecommunications services business that must be retained to continue the existing operations of the wireless properties that defendants are not required to divest, and that either are not capable of being divided between the divested wireless telecommunications services businesses and those not divested, or are assets that the defendants and the Acquirer(s) agree, subject to the approval of plaintiff United States, shall not be divided); and

(b) granting to the Acquirer(s) an option to obtain a nonexclusive, transferable license from defendants for a reasonable period, subject to the approval of plaintiff United States, and at the election of the Acquirer(s), to use any of defendants' retained assets under paragraph (a) above used in operating the mobile wireless telecommunications services businesses being divested, so as to enable the Acquirer(s) to continue to operate the divested mobile wireless telecommunications services businesses without impairment. Defendants shall identify in a schedule submitted to plaintiff United States and filed with the Court as expeditiously as possible following the filing of the Complaint, and in any event prior to any divestiture and before the approval by the Court of this Final Judgment, any and all intellectual property rights under third-party licenses that are used by the mobile wireless telecommunications services businesses being divested that defendants could not transfer to the Acquirer(s) entirely or by license without third-party consent, the specific reasons why such consent is necessary, and how such consent would be obtained for each asset.

E. ''Multi-line Business Customer'' means a corporate or business customer that contracts with a divesting defendant for mobile wireless telecommunications services to provide multiple telephones to its employees or members whose services are provided pursuant to a contract with the corporate or business customer.

F. ''Transaction'' means the Agreement and Plan of Merger among Ceilco Partnership, Airtouch Cellular, Abraham Merger Corporation, Alltel Corporation and Atlantis Holdings LLC, dated June 5, 2008.

G. ''Verizon'' means defendant Verizon Communications Inc., a Delaware corporation, with its headquarters in New York, New York, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

III. Applicability

A. This Final Judgment applies to defendants Verizon and Alltel, as defined above, and all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

B. If, prior to complying with Section IV and V of this Final Judgment, defendants sell or otherwise dispose of all or substantially all of their assets or of lesser business units that include the Divestiture Assets, they shall require the purchaser to be bound by the provisions of this Final Judgment. Defendants need not obtain such an agreement from the acquirer(s) of the assets divested pursuant to this Final Judgment.

IV. Divestitures

A. Defendants are ordered and directed, within 120 days after consummation of the Transaction, or five calendar days after notice of the entry of this Final Judgment by the Court, whichever is later, to divest the Divestiture Assets in a manner consistent with this Final Judgment to an Acquirer or Acquirers acceptable to plaintiff United States in its sole discretion, upon consultation with the relevant plaintiff State, or, if applicable, to a Divestiture Trustee designated pursuant to Section V of this Final Judgment. Plaintiff United States, in its sole discretion, upon consultation with the relevant plaintiff State, may agree to one or more extensions of this time period not to exceed 60 calendar days in total, and shall notify the Court in such circumstances. With respect to divestiture of the Divestiture Assets by defendants or the Divestiture Trustee, if applications have been filed or are on file with the FCC within the period permitted for divestiture seeking approval to assign or transfer licenses to the Acquirer(s) of the Divestiture Assets, but an order or other dispositive action by the FCC on such applications has not been issued before the end of the period permitted for divestiture, the period shall be extended with respect to divestiture of those Divestiture Assets for which FCC approval has not been issued until five days after such approval is received. Defendants agree to use their best efforts to accomplish the divestitures set forth in this Final Judgment and to seek all necessary regulatory approvals as expeditiously as possible. This Final Judgment does not limit the FCC's exercise of its regulatory powers and process with respect to the Divestiture Assets. Authorization by the FCC to conduct the divestiture of a Divestiture Asset in a particular manner will not modify any of the requirements of this decree.

B. In accomplishing the divestitures ordered by this Final Judgment, defendants shall promptly make known, if they have not already done so, by usual and customary means, the availability of the Divestiture Assets. Defendants shall inform any person making inquiry regarding a possible purchase of the Divestiture Assets that they are being divested pursuant to this Final Judgment and provide that person with a copy of this Final Judgment. Defendants shall offer to furnish to all prospective Acquirers, subject to customary confidentiality assurances, all information and documents relating to the Divestiture Assets customarily provided in a due diligence process except such information or documents subject to the attorney-client or work product privileges. Defendants shall make available such information to plaintiffs at the same time that such information is made available to any other person.

C. Defendants shall provide the Acquirer(s) and plaintiffs information relating to the personnel involved in the operation, development, and sale or license of the Divestiture Assets to enable the Acquirer(s) to make offers of employment. Defendants will not interfere with any negotiations by the Acquirer(s) to employ any defendant employee whose primary responsibility is the operation, development, or sale or license of the Divestiture Assets.

D. Defendants shall permit prospective Acquirers of the Divestiture Assets to have reasonable access to personnel and to make inspections of the Divestiture Assets; access to any and all environmental, zoning, and other permit documents and information; and access to any and all financial, operational, and other documents and information customarily provided as part of a due diligence process.

E. Defendants shall warrant to the Acquirer(s) that (1) the Divestiture Assets will be operational on the date of sale, and (2) every wireless spectrum license is in full force and effect on the date of sale.

F. Defendants shall not take any action that will impede in any way the permitting, licensing, operation, or divestiture of the Divestiture Assets.

G. Defendants shall warrant to the Acquirer(s) of the Divestiture Assets that there are no material defects in the environmental, zoning, licensing or other permits pertaining to the operation of each asset and that following the sale of the Divestiture Assets, defendants will not undertake, directly or indirectly, any challenges to the environmental, zoning, licensing or other permits relating to the operation of the Divestiture Assets.

H. Unless plaintiff United States, in its sole discretion upon consultation with the relevant plaintiff State, otherwise consents in writing, the divestitures pursuant to Section IV, or by a Divestiture Trustee appointed pursuant to Section V, of this Final Judgment, shall include the entire Divestiture Assets, and shall be accomplished in such a way as to satisfy plaintiff United States in its sole discretion that these assets can and will be used by the Acquirer(s) as part of a viable, ongoing business engaged in the provision of mobile wireless telecommunications services. The divestiture of the Divestiture Assets, whether pursuant to Section IV or Section V of this Final Judgment:

(1) shall be made to an Acquirer or Acquirers that, in plaintiff United States's sole judgment, upon consultation with the relevant plaintiff State, has the intent and capability (including the necessary managerial, operational, technical, and financial capability) of competing effectively in the provision of mobile wireless telecommunications services; and

(2) shall be accomplished so as to satisfy plaintiff United States in its sole discretion, upon consultation with the relevant plaintiff State, that none of the terms of any agreement between an Acquirer(s) and defendants shall give defendants the ability unreasonably to raise the Acquirer's costs, to lower the Acquirer's efficiency, or otherwise to interfere with the ability of the Acquirer to compete effectively.

I. The Divestiture Assets listed in each numbered subsection below shall be divested together to a single Acquirer, provided that it is demonstrated to the sole satisfaction of plaintiff United States, upon consultation with the relevant plaintiff State, that the Divestiture Assets will remain viable and the divestiture of such assets will remedy the competitive harm alleged in the Complaint:

(1) Alabama
(a) Dothan MSA (CMA 246);
(b) ALRSA7 (CMA 313);

(2) Colorado
(a) CO RSA 4 (CMA 351);
(b) CO RSA 5 (CMA 352);
(c) CO RSA 6 (CMA 353);
(d) CO RSA 7 (CMA 354);
(e) CO RSA 8 (CMA 355);
(f) CO RSA 9 (CMA 356);

(3) Georgia
(a) Albany MSA (CMA 261);
(b) GA RSA 6 (CMA 376);
(c) GA RSA 7 (CMA 377);
(d) GA RSA 8 (CMA 378);
(e) GA RSA 9 (CMA 379);
(f) GA RSA 10 (CMA 380);
(g) GA RSA 12 (CMA 382);
(h) GA RSA 13 (CMA 383);

(4) Idaho
(a) ID RSA2 (CMA 389);
(b) ID RSA 3 (CMA 390);

(5) Illinois
(a) IL RSA 8 (CMA 401);
(b) IL RSA 9 (CMA 402);

(6) Iowa/Nebraska
(a) Sioux City MSA (CMA 253);
(b) IA RSA 8 (CMA 419);
(c) NE RSA 5 (CMA 537);

(7) Kansas
(a) KS RSA 1 (CMA 428);
(b) KS RSA 2 (CMA 429);
(c) KS RSA 6 (CMA 433);
(d) KS RSA 7 (CMA 434);
(e) KS RSA 11 (CMA 438);
(f) KS RSA 12 (CMA 439);
(g) KS RSA 13 (CMA 440);

(8) Southern Minnesota
(a) MN RSA 7 (CMA 488);

(9) Montana
(a) Billings MSA (CMA 268);
(b) Great Falls MSA (CMA 297);
(c) MT RSA 1 (CMA 523);
(d) MT RSA 2 (CMA 524);
(e) MT RSA 4 (CMA 526);
(f) MT RSA 5 (CMA 527);
(g) MT RSA 6 (CMA 528);
(h) MT RSA 7 (CMA 529);
(i) MT RSA 8 (CMA 530);
(j) MT RSA 9 (CMA 531);
(k) MT RSA 10 (CMA 532);

(10) Nevada
(a) NV RSA 2 (CMA 544);
(b) NV RSA 5 (CMA 547);

(11) New Mexico
(a) NM RSA 5 (CMA 557);
(b) NM RSA 6 (CMA 558);

(12) North Carolina
(a) Hickory MSA (CMA 166);
(b) NC RSA 2 (CMA 566);
(c) NC RSA 5 (CMA 569);

(13) North Dakota/Northern Minnesota
(a) Fargo-Moorhead ND-MN MSA (CMA 221);
(b) Grand Forks ND-MN MSA (CMA 276);
(c) Bismarck MSA (CMA 298);
(d) MN RSA 1 (CMA 482);
(e) MN RSA 2 (CMA 483);
(f) ND RSA 1 (CMA 580);
(g) ND RSA 2 (CMA 581);
(h) ND RSA 3 (CMA 582);
(i) ND RSA 4 (CMA 583);
(j) ND RSA 5 (CMA 584);

(14) Ohio
(a) Lima MSA (CMA 158);
(b) Mansfield MSA (CMA 231);
(c) OH RSA 2 (CMA 586);
(d) OH RSA 5 (CMA 589);
(e) OH RSA 6 (CMA 590);

(15) South Carolina
(a) SC RSA 1 (CMA 625);
(b) SC RSA 2 (CMA 626);
(c) SC RSA 3 (CMA 627);
(d) SC RSA 7 (CMA 631);

(16) South Dakota
(a) Sioux Falls MSA (CMA 267);
(b) Rapid City MSA (CMA 289);
(c) SD RSA 1 (CMA 634);
(d) SD RSA 2 (CMA 635);
(e) SD RSA 3 (CMA 636);

(f) SD RSA 4 (CMA 637);
(g) SD RSA 5 (CMA 638);
(h) SD RSA 6 (CMA 639);
(i) SD RSA 7 (CMA 640);
(j) SD RSA 8 (CMA 641);
(k) SD RSA 9 (CMA 642);

(17) Utah
(a) UT RSA 3 (CMA 675);
(b) UT RSA 4 (CMA 676);
(c) UT RSA 5 (CMA 677);
(d) UT RSA 6 (CMA 678);

(18) Wyoming
(a) Casper MSA (CMA 299);
(b) WY RSA 1 (CMA 718);
(c) WY RSA 2 (CMA 7I9);
(d) WY RSA 4 (CMA 721);
(e) WY RSA 5 (CMA 722);

provided however: (i) The Divestiture Assets in Minnesota RSA 7 must be divested to the same acquirer as the wireless business assets in Minnesota RSA 7 (CMA 488), Minnesota RSA 8 (CMA 489), Minnesota RSA 9 (CMA 490) and Minnesota RSA 10 (CMA 491), recently purchased by defendant Verizon from Rural Cellular Corporation, that must be divested pursuant to the proposed Modified Final Judgment in *United Slates et al.* v. *ALLTEL Corp. et al.*, Civ. No. 06–363 1 (RHKJAJB) (D. MN filed Sept. 7, 2006); (ii) the Divestiture Assets in New Mexico RSAs 5 and 6 must be divested to the same acquirer as the wireless business assets in the Las Cruces NM MSA (CMA 285), currently owned by defendant Alltel, that must be divested pursuant to the proposed Modified Final Judgment in *United States* v. *Bell Atlantic Corp. et al,* Civ. No. 1 :99C Vol 119 (EGS) (D.D.C. filed May 7, 1999); (iii) the Divestiture Assets in the Lima and Mansfield OH MSAs and OH RSAs 2, 5 and 6 must be divested to the same acquirer as the wireless business assets in the OH RSA 3 (CMA 587), currently owned by defendant Alltel, that must be divested pursuant to the proposed Modified Final Judgment in *United States* v. *Bell Atlantic Corp. et al.*, Civ. No. 1:99C Vol 119 (EGS) (D.D.C. May 7, 1999); and (iv) the Divestiture Assets in SC RSAs 1, 2, 3 and 7 must be divested to the same acquirer as the wireless business assets in the Anderson SC MSA (CMA 227), currently owned by defendant Alltel, that must be divested pursuant to the proposed Modified Final Judgment in *United States* v. *Bell Atlantic Corp. et al.*, Civ. No. I :99CV01 119 (EGS) (D.D.C. May 7, 1999). In addition to the foregoing, nothing in this section shall be construed as limiting the ability of an Acquirer to purchase the assets in more than one numbered subsection, and defendants shall be required to consider bids from potential acquirers that are contingent on the acquisition of all of the assets in more than one of the numbered subsections. The assets in each CMA license area listed in Subsection II.D of this Final Judgment but not listed in any of the above subsections (Danville VA MSA (CMA 262); AZ RSA 5 (CMA 322); CA RSA 6 (CMA 341); NM RSA 1 (CMA 553); VA RSA 1 (CMA 681); and VA RSA 8 (CMA 688)) can be sold to a single Acquirer or acquired together with other Divestiture Assets. With the written approval of plaintiff United States, in its sole discretion, upon consultation with the relevant plaintiff State, defendants or the Divestiture Trustee may sell, to a single acquirer, fewer than all of the assets contained in the numbered subsections above, to facilitate prompt divestiture to an acceptable Acquirer(s).

J. At the option of the Acquirer(s) of the Divestiture Assets, defendants shall enter into a contract for transition services customarily provided in connection with the sale of a business providing mobile wireless telecommunications services or intellectual property licensing sufficient to meet all or part of the needs of the Acquirer(s) for a period of up to one year, provided that defendants shall only be required to license the Verizon brand to the acquirer(s) of the Divestiture Assets in the CMAs listed in Section ILD.3 for a period of nine (9) months. The terms and conditions of any contractual arrangement meant to satisl3 this provision must be reasonably related to market conditions.

K. To the extent that the Divestiture Assets use intellectual property, as required to be identified by Section HD, that cannot be transferred or assigned without the consent of the licensor or other third parties, defendants shall use their best efforts to obtain those consents.

V. Appointment of Divestiture Trustee

A. If defendants have not divested the Divestiture Assets within the time period specified in Section IV.A, defendants shall notify plaintiff United States, and the relevant plaintiff State of that fact in writing, specifically identifying the Divestiture Assets that have not been divested. Upon application of plaintiff United States, upon consultation with the relevant plaintiff State, the Court shall appoint a Divestiture Trustee selected by plaintiff United States and approved by the Court to effect the divestiture of the Divestiture Assets. The Divestiture Trustee will have all the rights and responsibilities of the Management Trustee who may be appointed pursuant to the Preservation of Assets Stipulation and Order, and will be responsible for:

(1) Accomplishing divestiture of all Divestiture Assets transferred to the Divestiture Trustee from defendants, in accordance with the terms of this Final Judgment, to an Acquirer(s) approved by plaintiff United States, in its sole discretion upon consultation with the relevant plaintiff State, under Section IV.A of this Final Judgment; and

(2) Exercising the responsibilities of the licensee of any transferred Divestiture Assets and controlling and operating any transferred Divestiture Assets, to ensure that the businesses remain ongoing, economically viable competitors in the provision of mobile wireless telecommunications services in the license areas specified in Section II.D, until they are divested to an Acquirer(s), and the Divestiture Trustee shall agree to be bound by this Final Judgment.

B. Defendants shall submit a proposed trust agreement (''Trust Agreement'') to plaintiff United States, which must be consistent with the terms of this Final Judgment and which must receive approval by plaintiff United States in its sole discretion, upon consultation with the relevant plaintiff State, who shall communicate to defendants within 10 business days its approval or disapproval of the proposed Trust Agreement, and which must be executed by the defendants and the Divestiture Trustee within five business days after approval by plaintiff United States.

C. After obtaining any necessary approvals from the FCC for the assignment of the licenses of the Divestiture Assets to the Divestiture Trustee, defendants shall irrevocably divest the remaining Divestiture Assets to the Divestiture Trustee, who will own such assets (or own the stock of the entity owning such assets, if divestiture is to be effected by the creation of such an entity for sale to Acquirer) and control such assets, subject to the terms of the approved Trust Agreement.

D. After the appointment of a Divestiture Trustee becomes effective, only the Divestiture Trustee shall have the right to sell the Divestiture Assets. The Divestiture Trustee shall have the power and authority to accomplish the divestiture to an Acquirer(s) acceptable to plaintiff United States, in its sole judgment, upon consultation with the relevant plaintiff State, at such price and on such terms as are then obtainable upon reasonable effort by the Divestiture Trustee, subject to the provisions of Sections IV, V, and VI of this Final Judgment, and shall have such other powers as this Court deems appropriate. Subject to Section V.G of this Final Judgment, the Divestiture Trustee may hire at the cost and expense of defendants the Management Trustee appointed pursuant to the Preservation of Assets Stipulation and Order and any investment bankers, attorneys or other agents, who shall be solely accountable to the Divestiture Trustee, reasonably necessary in the Divestiture Trustee's judgment to assist in the divestiture.

E. In addition, notwithstanding any provision to the contrary, plaintiff United States, in its sole discretion, upon consultation with the relevant plaintiff State, may (1) require defendants to include additional assets, and (2) with the written approval of plaintiff United States, allow defendants to substitute substantially similar assets, which substantially relate to the Divestiture Assets to be divested by the Divestiture Trustee.

F. Defendants shall not object to a sale by the Divestiture Trustee on any ground other than the Divestiture Trustee's malfeasance. Any such objections by defendants must be conveyed in writing to plaintiff United States and the Divestiture Trustee within 10 calendar days after the Divestiture Trustee has provided the notice required under Section VI.

G. The Divestiture Trustee shall serve at the cost and expense of defendants, on such terms and conditions as plaintiff United States approves, and shall account for all monies derived from the sale of the assets sold by the Divestiture Trustee and all costs and expenses so incurred. After approval by the Court of the Divestiture Trustee's accounting, including fees for its services and those of any professionals and agents retained by the Divestiture Trustee, all remaining money shall be paid to defendants and the trust shall then be terminated. The compensation of the Divestiture Trustee and any professionals and agents retained by the Divestiture Trustee shall be reasonable in light of the value of the Divestiture Assets and based on a fee arrangement providing the Divestiture Trustee with an incentive based on the price and terms of the divestiture, and the speed with which it is accomplished, but timeliness is paramount.

H. Defendants shall use their best efforts to assist the Divestiture Trustee in accomplishing the required divestitures, including their best efforts to effect all necessary regulatory approvals. The Divestiture Trustee and any consultants, accountants, attorneys, and other persons retained by the Divestiture Trustee shall have full and complete access to the personnel, books, records, and facilities of the businesses to be divested, and defendants shall develop financial and other information relevant to the assets to be divested as the Divestiture Trustee may reasonably request, subject to reasonable protection for trade secret or other confidential research, development, or commercial information. Defendants shall take no action to interfere with or to impede the Divestiture Trustee's accomplishment of the divestitures.

I. After its appointment, the Divestiture Trustee shall file monthly reports with plaintiff United States, and the relevant plaintiff States, and the Court setting forth the Divestiture Trustee's efforts to accomplish the divestitures ordered under this Final Judgment. To the extent such reports contain information that the Divestiture Trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address, and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person. The Divestiture Trustee shall maintain full records of all efforts made to divest the (1) investiture Assets.

J. If the Divestiture Trustee has not accomplished the divestitures ordered under the Final Judgment within six months after its appointment, the Divestiture Trustee shall promptly file with the Court a report setting forth (1) The Divestiture Trustee's efforts to accomplish the required divestitures, (2) the reasons, in the Divestiture Trustee's judgment, why the required divestitures have not been accomplished, and (3) the Divestiture Trustee's recommendations. To the extent such reports contain information that the Divestiture Trustee deems confidential, such reports shall not be filed in the public docket of the Court. The Divestiture Trustee shall at the same time furnish such report to plaintiff United States, and the relevant plaintiff States, who shall have the right to make additional recommendations consistent with the purpose of the trust. The Court thereafter shall enter such orders as it shall deem appropriate to carry out the purpose of the Final Judgment, which may, if necessary, include extending the trust and the term of the Divestiture Trustee's appointment by a period requested by plaintiff United States, upon consultation with the relevant plaintiff States.

K. After defendants transfer the Divestiture Assets to the Divestiture Trustee, and until those Divestiture Assets have been divested to an Acquirer or Acquirers approved by plaintiff United States pursuant to Sections IV.A and IVU, the Divestiture Trustee shall have sole and complete authority to manage and operate the Divestiture Assets and to exercise the responsibilities of the licensee and shall not be subject to any control or direction by defendants. Defendants shall not use, or retain any economic interest in, the Divestiture Assets transferred to the Divestiture Trustee, apart from the right to receive the proceeds of the sale or other disposition of the Divestiture Assets.

L. The Divestiture Trustee shall operate the Divestiture Assets consistent with the Preservation of Assets Stipulation and Order and this Final Judgment, with control over operations, marketing, and sales. Defendants shall not attempt to influence the business decisions of the Divestiture Trustee concerning the operation and management of the Divestiture Assets, and shall not communicate with the Divestiture Trustee concerning divestiture of the Divestiture Assets or take any action to influence, interfere with, or impede the Divestiture Trustee's accomplishment of the divestitures required by this Final Judgment, except that defendants may communicate with the Divestiture Trustee to the extent necessary for defendants to comply with this Final Judgment and to provide the Divestiture Trustee, if requested to do so, with whatever resources or cooperation may be required to complete divestiture of the Divestiture Assets and to carry out the requirements of the Preservation of Assets Stipulation and Order and this Final Judgment. Except as provided in this Final Judgment and the Preservation of Assets Stipulation and Order, in no event shall defendants provide to, or receive from, the Divestiture Trustee or the mobile wireless telecommunications services businesses any non public or competitively sensitive marketing, sales, pricing or other information relating to their respective mobile wireless telecommunications services businesses.

VI. Notice of Proposed Divestitures

A. Within the later of two (2) business days following (i) the execution of a definitive divestiture agreement, or (ii) the filing of the Complaint in this action, defendants or the Divestiture Trustee, whichever is then responsible for effecting the divestitures required herein, shall notify plaintiff United States, and the relevant plaintiff State, in writing of any proposed divestiture required by Section IV or V of this Final Judgment. If the Divestiture Trustee is responsible, it shall similarly notify defendants. The notice shall set forth the details of the proposed divestiture and list the name, address, and telephone number of each person not previously identified who offered or expressed an interest in or desire to acquire any ownership interest in the Divestiture Assets, together with fill details of the same.

B. Within fifteen (15) calendar days of receipt of notice by plaintiff United States and the relevant plaintiff State, plaintiff United States and any plaintiff State receiving such notice, may request from defendants, the proposed Acquirer, any other third party, or the Divestiture Trustee, if applicable, additional information concerning the proposed divestiture, the proposed Acquirer, and any other potential Acquirer. Defendants and the Divestiture Trustee shall furnish any additional information requested within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree.

C. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after plaintiff United States and the relevant plaintiff State have been provided the additional information requested from defendants, the proposed Acquirer, any third party, and the Divestiture Trustee, whichever is later, plaintiff United Slates, upon consultation with the relevant plaintiff State, shall provide written notice to defendants and the Divestiture Trustee, if there is one, stating whether or not it objects to the proposed divestiture. If plaintiff United States provides written notice that it does not object, the divestiture may be consummated, subject only to defendants' limited right to object to the sale under Section V.F of this Final Judgment. Absent written notice that plaintiff United States does not object to the proposed Acquirer or upon objection by plaintiff United States, a divestiture proposed under Section IV or Section V shall not be consummated. Upon objection by defendants under Section V.F, a divestiture proposed under Section V shall not be consummated unless approved by the Court.

VII. Financing

Defendants shall not finance all or any part of any divestiture made pursuant to Section IV or V of this Final Judgment.

VIII. Preservation of Assets

Until the divestitures required by this Final Judgment have been accomplished, defendants shall take all steps necessary to comply with the Preservation of Assets Stipulation and Order entered by this Court and cease use of the Divestiture Assets during the period that the Divestiture Assets arc managed by the Management Trustee. Defendants shall take no action that would jeopardize the divestitures ordered by this Court.

IX. Affidavits

A. Within twenty (20) calendar days of the filing of the Complaint in this matter, and every thirty (30) calendar days thereafter until the divestitures have been completed under Section IV or V, defendants shall deliver to plaintiffs an affidavit as to the fact and manner of its compliance with Section IV or V of this Final Judgment. Each such affidavit shall include the name, address, and telephone number of each person who during the preceding thirty (30) calendar days, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts defendants have taken to solicit buyers for the Divestiture Assets, and to provide required information to prospective Acquirers, including the limitations, if any, on such information. Assuming the information set forth in the affidavit is true and complete, any objection by plaintiff United States upon consultation with the relevant plaintiff State, to information provided by defendants, including limitation on information, shall be made within fourteen (14) calendar days of receipt of such affidavit.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, defendants shall deliver to plaintiffs an affidavit that describes in reasonable detail all actions defendants have taken and all steps defendants have implemented on an ongoing basis to comply with Section VIII of this Final Judgment. Defendants shall deliver to plaintiffs an affidavit describing any changes to the efforts and actions outlined in defendants' earlier affidavits filed pursuant to this section within fifteen (15) calendar days after the change is implemented.

C. Defendants shall keep all records of all efforts made to preserve and divest the Divestiture Assets until one year after such divestitures have been completed.

X. Compliance Inspection

A. For the purposes of determining or securing compliance with this Final Judgment or whether the Final Judgment should be modified or vacated, and subject to any legally recognized privilege, authorized representatives of the United States Department of Justice (including consultants and other persons retained by plaintiff United States) shall, upon written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendants, be permitted:

(1) access during defendants' office hours to inspect and copy, or at plaintiff United States's option, to require defendants to provide hard copy or electronic copies of, all books, ledgers, accounts, records, data and documents in the possession, custody, or control of defendants, relating to any matters contained in this Final Judgment; and

(2) to interview, either informally or on the record, defendants' officers, employees, or agents, who may have their individual counsel present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by defendants.

B. Upon the written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, defendants shall submit written reports or response to written interrogatories, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

C. No information or documents obtained by the means provided in this section shall be divulged by plaintiff United States to any person other than an authorized representative of the executive branch of plaintiff United States, any relevant plaintiff state, or, pursuant to a customary protective order or waiver of confidentiality by defendants, the FCC, except in the course of legal proceedings to which plaintiff United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by defendants to plaintiff United States, defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(l)(G) of the Federal Rules of Civil Procedure, and defendants mark each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(l)(G) of the Federal Rules of Civil Procedure,'' then plaintiff United States shall give defendants ten (10) calendar days notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

XI. No Reacquisition

Defendants may not reacquire or lease any part of the Divestiture Assets during the term of this Final Judgment.

XII. Retention of Jurisdiction

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XIII. Expiration of Final Judgment

Unless this Court grants an extension, this Final Judgment shall expire ten years from the date of its entry.

XIV. Public Interest Determination

Entry of this Final Judgment is in the public interest The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, including making copies available to the public of this Final Judgment, the Competitive Impact Statement, and any comments thereon and plaintiff United States's responses to comments. Based upon the record before the Court, which includes the Competitive Impact Statement and any comments and response to comments filed with the Court, entry of this Final Judgment is in the public interest.

Date:

Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C 16

United States District Judge

In the United States District Court for the District of Columbia

United States of America, State of Alabama, State of California, State of Iowa, State of Kansas, State of Minnesota, State of North Dakota, and State of South Dakota, Plaintiffs, v. Verizon Communications Inc. and Alltel Corporation, Defendants

Case: 1:08–cv–01878. Assigned To: Sullivan, Emmet G. Assign Date: 10/30/2008. Description: Antitrust.

Competitive Impact Statement

Plaintiff United States of America (''United States''), pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (''APPA'' or ''Turmey Act''), 15 U.S.C. 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

Defendants entered into an Agreement and Plan of Merger dated June 5, 2008, pursuant to which Verizon Communications Inc. (''Verizon'') will acquire Alltel Corporation (''Alltel''). Plaintiffs United States and the States of Alabama, California, Iowa, Kansas, Minnesota, North Dakota, and South Dakota filed a civil antitrust Complaint on October 30, 2008, seeking to enjoin the proposed acquisition. The Complaint alleges that the likely effect of this acquisition would be to lessen competition substantially for mobile wireless telecommunications services in 94 Cellular Market Areas (''CMAs'') in Alabama, Arizona, California, Colorado, Georgia, Idaho, Illinois, Iowa, Kansas, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Ohio, South Carolina, South Dakota, Utah, Virginia, and Wyoming where Verizon and Alltel are among the most significant competitors, in violation of Section 7 of the Clayton Act, 15 U.S.C. 18.[1] This loss of competition would result in consumers facing higher prices, lower quality service and fewer choices of mobile wireless telecommunications services providers.

At the same time the Complaint was filed, plaintiffs also filed a Preservation of Assets Stipulation and Order (''Stipulation'') and proposed Final Judgment, which are designed to eliminate the anticompetitive effects of the acquisition. Under the proposed Final Judgment, which is explained more fully below, defendants are required to divest mobile wireless telecommunications services businesses and related assets in the 94 CMAs (the ''Divestiture Assets''). Under the terms of the Stipulation, defendants will take certain steps to ensure that, during the pendency of the ordered divestitures, the Divestiture Assets are preserved and operated as competitively independent, economically viable ongoing businesses without influence by defendants.

Plaintiffs and defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof. Defendants have also stipulated that they will comply with the terms of the Stipulation and the proposed Final Judgment from the date of signing of the Stipulation, pending entry of the proposed Final Judgment by the Court and the required divestitures. Should the Court decline to enter the proposed Final Judgment, defendants have also committed to continue to abide by its requirements and those of Stipulation until the expiration of time for appeal.

II. Description of the Events Giving Rise to the Alleged Violation

A. The Defendants and the Proposed Transaction

Verizon, with headquarters in New York, is a corporation organized and existing under the laws of the state of Delaware. Verizon is one of the world's largest providers of communications services. It is the second largest mobile wireless telecommunications services provider in the United States measured by subscribers, providing mobile wireless telecommunications services in 49 states to more than 70 million subscribers. In 2007, Verizon earned mobile wireless telecommunications services revenues of approximately $43 billion.

Alltel, a subsidiary of Atlantis Holdings LLC, is a corporation organized and existing under the laws of the State of Delaware, with headquarters in Little Rock, Arkansas. Alltel is the fifth largest mobile wireless telecommunications services provider in the United States measured by subscribers providing mobile wireless telecommunications services in 13 states to approximately 13 million subscribers. In 2007, Alltel earned approximately $8.8 billion in mobile wireless telecommunications services revenues.

Pursuant to an Agreement and Plan of Merger dated June 5, 2008, Verizon will acquire Alltel for approximately $28 billion. If this transaction is consummated, Verizon and Alltel combined would have approximately 83 million subscribers in the United States, with over $51 billion in mobile wireless telecommunications services revenues.

[1] In order to alleviate competitive concerns associated with the proposed acquisition, defendants also have agreed to divest wireless businesses in six additional CMAs, covered by the final judgments in *United States et al.* v. *Alltel Corp. et al.*, Civ. No. 06–3631 (RHKIAJB) (D. MN filed Sept. 7, 2006), and *United States* v. *Bell Atlantic Corp. et al.*, Civ. No. 1:99CV01119 (EGS) (D.D.C. filed May 7, 1999), which prohibit defendants from reacquiring the wireless businesses in those CMAs. The wireless businesses in those CMAs will be divested pursuant to proposed modifications of those Final Judgments.

The proposed transaction, as initially agreed to by defendants, would lessen competition substantially for mobile wireless telecommunications services in a large number of CMAs in Alabama, Arizona, California, Colorado, Georgia, Idaho, Illinois, Iowa, Kansas, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Ohio, South Carolina, South Dakota, Utah, Virginia, and Wyoming. This acquisition is the subject of the Complaint and proposed Final Judgment filed by plaintiffs.

B. Mobile Wireless Telecommunications Services Industry

Mobile wireless telecommunications services allow customers to make and receive telephone calls and obtain data services using radio transmissions without being confined to a small area during the call or data session, and without the need for unobstructed line-of-sight to the radio tower. Mobility is highly valued by customers, as demonstrated by the more than 262 million people in the United States who own mobile wireless telephones. In 2007, revenues from the sale of mobile wireless telecommunications services in the United States were over $138 billion. To meet this desire for mobility, mobile wireless telecommunications services providers must deploy extensive networks of switches, radio transmitters, and receivers and interconnect their networks with the networks of wireline carriers and other mobile wireless telecommunications services providers.

In the early to mid-1980s, the FCC issued two cellular licenses (A-block and B-block) in each Metropolitan Statistical Area (''MSA'') and Rural Service Area (''RSA'') (collectively, CMAs), for a total of 734 CMAs covering the entire United States. Each license consists of 25 MHz of spectrum in the 800 MHz band. The first mobile wireless voice systems using this cellular spectrum were based on analog technology, now referred to as first-generation or ''1G'' technology.

In 1995, the FCC licensed additional spectrum for the provision of Personal Communications Services (''PCS''), a category of services that includes mobile wireless telecommunications services comparable to those offered by cellular licensees. These licenses are in the 1900 MHz band and are divided into six blocks: A, B, and C, which consist of 30 MHz each; and D, E, and F, which consist of 10 MHz each. Geographically, the A- and B-block 30 MHz licenses are issued by Major Trading Areas (''MTAs''). C-, D-, E-, and F-block licenses are issued by Basic Trading Areas (''BTAs''), several of which comprise each MTA. MTAs and BTAs do not generally correspond to MSAs and RSAs. With the introduction of the PCS licenses, both cellular and PCS licensees began offering digital services, thereby increasing network capacity, shrinking the size of handsets, and extending handset battery life. In addition, in 1996, a specialized mobile radio (''SMR'' or ''dispatch'') spectrum licensee, began using SMR spectrum to offer mobile wireless telecommunications services comparable to those offered by other mobile wireless telecommunications services providers, in conjunction with its dispatch, or ''push-to-talk,'' service.

Although there are a number of providers holding spectrum licenses in each area of the country, not all providers have fully built out their networks throughout each license area. In particular, because of the characteristics of PCS spectrum, providers holding this type of spectrum generally have found it less attractive to build out in rural areas.

Today, more than 95 percent of the total U.S. population lives in counties where three or more mobile wireless telecommunications services operators offer service. Nearly all mobile wireless voice services have migrated to the second-generation, or ''2G'' digital technologies, using GSM (global standard for mobility) or CDMA (code division multiple access). Even more advanced technologies (''2.5G'' and ''3G''), based on the earlier 2G technologies, have now been deployed for mobile wireless data services. Additionally, during the past two years, the FCC has auctioned off additional spectrum that can be used to support mobile wireless telecommunications services, including Advanced Wireless Spectrum (1710–1755 MHz and 2110–2155 MHz bands) and 700 MHz band spectrum, although it will be several years before mobile wireless telecommunications services utilizing this spectrum are widely deployed.

C. The Competitive Effects of the Transaction on Mobile Wireless Telecommunications Services

Mobile wireless telecommunications services include both voice and data services provided over a radio network and allow customers to maintain their telephone calls or data sessions without wires when traveling. There are no cost-effective alternatives to mobile wireless telecommunications services. Because fixed wireless services are not mobile, they are not regarded by consumers of mobile wireless telecommunications services to be a reasonable substitute for those services. It is unlikely that a sufficient number of customers would switch away from mobile wireless telecommunications services to make a small but significant price increase in those services unprofitable.

The United States comprises numerous local geographic markets for mobile wireless telecommunications services.[2] A large majority of customers use mobile wireless telecommunications services in close proximity to their workplaces and homes. Thus, customers purchasing mobile wireless telecommunications services choose among mobile wireless telecommunications services providers that offer services where they live, work, and travel on a regular basis. The geographic areas in which the FCC has licensed mobile wireless telecommunications services providers often represent the core of the business and social sphere within which customers have the same competitive choices for mobile wireless telephone services. The number and identity of mobile wireless telecommunications services providers varies among geographic areas, as does the quality of services and breadth of geographic coverage offered by providers. Some mobile wireless telecommunications services providers can and do offer different promotions, discounts, calling plans, and equipment subsidies in different geographic areas, varying the price for customers by geographic area.

The relevant geographic markets, under Section 7 of the Clayton Act, 15 U.S.C. § 18, where the transaction would substantially lessen competition for mobile wireless telecommunications services are effectively represented by the following FCC spectrum licensing areas:

(1) Lima OH MSA (CMA 158);
(2) Hickory NC MSA (CMA 166);
(3) Fargo-Moorhead ND-MN MSA (CMA 523);
(4) Mansfield OH MSA (CMA 231);
(5) Dothan AL MSA (CMA 246);
(6) Sioux City IA-NE MSA (CMA 253);
(7) Albany GA MSA (CMA 261);
(8) Danville VA MSA (CMA 262);
(9) Sioux Falls SD MSA (CMA 267);
(10) Billings MT MSA (CMA 268);
(11) Grand Forks ND-MN MSA (CMA 276);
(12) Rapid City SD MSA (CMA 289);
(13) Great Falls MT MSA (CMA 297);
(14) Bismarck ND MSA (CMA 298);
(15) Casper WY MSA (CMA 299);
(16) AL RSA 7 (CMA313);

[2] The existence of local markets does not preclude the possibility of competitive effects in a broader geographic area, such as a regional or national area, though plaintiff United States does not allege such effects in this transaction.

(17) AZ RSA 5 (CMA 322);
(18) CA RSA 6 (CMA 341);
(19) CO RSA 4 (CMA 351);
(20) CO RSA 5 (CMA 352);
(21) CO RSA 6 (CMA 353);
(22) CO RSA 7 (CMA 354);
(23) CO RSA 8 (CMA 355);
(24) CO RSA 9 (CMA 356);
(25) GA RSA 6 (CMA 376);
(26) GA RSA 7 (CMA 377);
(27) GA RSA 8 (CMA 378);
(28) GA RSA 9 (CMA 379);
(29) GA RSA 10 (CMA 380);
(30) GA RSA 12 (CMA 382);
(31) GA RSA 13 (CMA 383);
(32) ID RSA 2 (CMA 389);
(33) ID RSA 3 (CMA 390);
(34) IL RSA 8 (CMA 401);
(35) IL RSA 9 (CMA 402);
(36) IA RSA 8 (CMA 419);
(37) KS RSA 1 (CMA 428);
(38) KS RSA 2 (CMA 429);
(39) KS RSA 6 (CMA 433);
(40) KS RSA 7 (CMA 434);
(41) KS RSA 11 (CMA438);
(42) KS RSA 12 (CMA 439);
(43) KS RSA 13 (CMA 440);
(44) MN RSA 1 (CMA 482);
(45) MN RSA 2 (CMA 483);
(46) MN RSA 7 (CMA 488);
(47) MT RSA 1 (CMA 523);
(48) MT RSA 2 (CMA 524);
(49) MT RSA 4 (CMA 526);
(50) MT RSA 5 (CMA 527);
(51) MT RSA 6 (CMA 528);
(52) MT RSA 7 (CMA 529);
(53) MT RSA 8 (CMA 530);
(54) MT RSA 9 (CMA 531);
(55) MT RSA 10 (CMA 532);
(56) NE RSA 5 (CMA 537);
(57) NV RSA 2 (CMA 544);
(58) NV RSA 5 (CMA 547);
(59) NM RSA 1 (CMA 553);
(60) NM RSA 5 (CMA 557);
(61) NM RSA 6 (CMA 558);
(62) NC RSA 2 (CMA 566);
(63) NC RSA 5 (CMA 569);
(64) ND RSA 1 (CMA 580);
(65) ND RSA 2 (CMA 581);
(66) ND RSA 3 (CMA 582);
(67) ND RSA 4 (CMA 583);
(68) ND RSA 5 (CMA 584);
(69) OH RSA 2 (CMA 586);
(70) OH RSA 5 (CMA 589);
(71) OH RSA 6 (CMA 590);
(72) SC RSA 1 (CMA 625);
(73) SC RSA 2 (CMA 626);
(74) SC RSA 3 (CMA 627);
(75) SC RSA 7 (CMA 631);
(76) SD RSA 1 (CMA 634);
(77) SD RSA 2 (CMA 635);
(78) SD RSA 3 (CMA 636);
(79) SD RSA 4 (CMA 637);
(80) SD RSA 5 (CMA 638);
(81) SD RSA 6 (CMA 639);
(82) SD RSA 7 (CMA 640);
(83) SD RSA 8 (CMA 641);
(84) SD RSA 9 (CMA 642);
(85) UT RSA 3 (CMA 675);
(86) UT RSA 4 (CMA 676);
(87) UT RSA 5 (CMA 677);
(88) UT RSA 6 (CMA 678);
(89) VA RSA 1 (CMA 681);
(90) VA RSA 8 (CMA 688);
(91) WY RSA 1 (CMA 718);
(92) WY RSA 2 (CMA 719);
(93) WY RSA 4 (CMA 721); and
(94) WY RSA 5 (CMA 722).

It is unlikely that a sufficient number of customers would switch to mobile wireless telecommunications services providers who do not offer services in these geographic areas to make a small but significant price increase in the relevant geographic markets unprofitable.

These geographic areas of concern for mobile wireless telecommunications services were identified via a fact-specific, market-by-market analysis that included consideration of, but was not limited to, the following factors: the number of mobile wireless telecommunications services providers and their competitive strengths and weaknesses; Verizon's and Alltel's market shares, along with those of the other providers; whether additional spectrum is, or is likely soon to be, available; whether any providers are limited by insufficient spectrum or other factors in their ability to add new customers; concentration in the market, and the breadth and depth of coverage by different providers in each area and in the surrounding area; each carrier's network coverage in relationship to the population density of the license area; each provider's retail presence; local wireless number portability data; and the likelihood that any provider would expand its existing coverage or that new providers would enter.

Verizon and Alltel are significant providers of mobile wireless telecommunications services in each of the CMAs listed above. Their combined share of subscribers in each area ranges from over 55 percent to 100 percent. In addition, each is the other's closest competitor for a significant set of customers.

Verizon and Alltel each hold cellular spectrum licenses in all but two of these CMAs Verizon does not own cellular spectrum in the other two CMAs—NE RSA 5 and MN RSA 7—but is a strong competitor because, unlike many other providers with PCS spectrum in rural areas, it has constructed a PCS network that covers a significant portion of the population. Considering these factors, defendants Verizon and Alltel are also strong and close competitors considering their brand recognition, service quality and reputation, coverage, handset selection, and service features.

The relevant geographic markets for mobile wireless services are highly concentrated. As measured by the Herfindahl-Hirschman Index (''HHI''), which is commonly employed in merger analysis and is defined and explained in Appendix B to the Complaint, concentration in these geographic areas ranges from over 2100 to more than 9100, which is well above the 1800 threshold at which plaintiffs consider a market to be highly concentrated. After Verizon's proposed acquisition of Alltel is consummated, the HHIs in the relevant geographic areas will range from over 4000 to 10,000, with increases in the HHI as a result of the merger ranging from over 300 to over 4900, significantly beyond the thresholds at which plaintiffs consider a transaction likely to cause competitive harm.

Competition between Verizon and Alltel in the relevant geographic areas has resulted in lower prices and higher quality in mobile wireless telecommunications services than otherwise would have existed in these geographic areas. If Verizon's proposed acquisition of Alltel is consummated, competition between Verizon and Alltel in mobile wireless telecommunications services will be eliminated in these areas. As a result, the loss of competition between Verizon and Alltel increases the merged firm's incentive and ability in the relevant geographic markets to increase prices, diminish the quality or quantity of services provided, and refrain from or delay making investments in network improvements.

Entry by a new mobile wireless services provider in the relevant geographic areas would be difficult, time-consuming, and expensive, requiring spectrum licenses and the build out of a network. Therefore, any entry in response to a small but significant price increase for mobile wireless telecommunications services by the merged firm in these relevant geographic areas would not be timely, likely, or sufficient to thwart the competitive harm resulting from Verizon's proposed acquisition of Alltel, if it were consummated without the divestitures provided for in the proposed Final Judgment.

For these reasons, plaintiffs concluded that Verizon's proposed acquisition of Alltel likely would substantially lessen competition, in violation of Section 7 of the Clayton Act, in the provision of mobile wireless telecommunications services in the relevant geographic areas alleged in the Complaint.

III. Explanation of the Proposed Final Judgment

The divestiture requirements of the proposed Final Judgment will eliminate the anticompetitive effects of the acquisition in mobile wireless telecommunications services in the geographic areas of concern. The proposed Final Judgment requires defendants to divest the Divestiture Assets within one hundred twenty days after the consummation of the Transaction, or five days after notice of the entry of the Final Judgment by the Court, whichever is later. The Divestiture Assets are essentially the entire mobile wireless telecommunications services businesses of one of the merging companies in the geographic areas described herein where Verizon and Alltel are each other's close competitors for mobile wireless telecommunications services. These assets must be divested in such a way as to satisfy plaintiff United States in its sole discretion upon consultation with the relevant plaintiff state that the assets will be operated by the purchaser as a viable, ongoing business that can compete effectively in each relevant area. Defendants must take all reasonable steps necessary to accomplish the divestitures quickly and shall cooperate with prospective purchasers.

The proposed Final Judgment requires that a single purchaser acquire all of the Divestiture Assets in each of the following numbered subsections:

(1) Alabama (a) Dothan MSA (CMA 246); (b) ALRSA7 (CMA313);

(2) Colorado (a) CO RSA 4 (CMA 351); (b) CO RSA 5 (CMA 352); (c) CO RSA 6 (CMA 353); (d) CO RSA 7 (CMA 354); (e) CO RSA 8 (CMA 355); (f) CO RSA 9 (CMA 356);

(3) Georgia (a) Albany MSA (CMA 261); (b) GA RSA 6 (CMA 376); (c) GA RSA 7 (CMA 377); (d) GA RSA 8 (CMA 378); (e) GA RSA 9 (CMA 379); (f) GA RSA 10 (CMA 380); (g) GA RSA 12 (CMA 382); (h) GA RSA 13 (CMA 383);

(4) Idaho (a) ID RSA 2 (CMA 389); (b) ID RSA 3 (CMA 390);

(5) Illinois (a) IL RSA 8 (CMA 401); (b) IL RSA 9 (CMA 402);

(6) Iowa/Nebraska (a) Sioux City MSA (CMA 253); (b) IA RSA 8 (CMA 419); (c) NE RSA 5 (CMA 537);

(7) Kansas (a) KS RSA 1 (CMA 428); (b) KS RSA 2 (CMA 429); (c) KS RSA 6 (CMA 433); (d) KS RSA 7 (CMA 434); (e) KS RSA 11 (CMA 438); (f) KS RSA 12 (CMA 439); (g) KS RSA 13 (CMA 440);

(8) Southern Minnesota[3] (a) MN RSA 7 (CMA 488);

(9) Montana (a) Billings (CMA 268); (b) Great Falls (CMA 297); (c) MT RSA 1 (CMA 523); (d) MT RSA 2 (CMA 524); (e) MT RSA 4 (CMA 526); (f) MT RSA 5 (CMA 527); (g) MT RSA 6 (CMA 528); (h) MT RSA 7 (CMA 529); (i) MT RSA 8 (CMA 530); (j) MT RSA 9 (CMA 531); (k) MT RSA 10 (CMA 532);

(10) Nevada (a) NV RSA 2 (CMA 544); (b) NV RSA 5 (CMA 547);

(11) New Mexico[4] (a) NM RSA 5 (CMA 557); (b) NM RSA 6 (CMA 558);

(12) North Carolina (a) Hickory MSA (CMA 166); (b) NC RSA 2 (CMA 566); (c) NC RSA 5 (CMA 569);

(13) North Dakota/Northern Minnesota (a) Fargo-Moorhead ND-MN (CMA 523); (b) Grand Forks ND-MN (CMA 276); (c) Bismarck MSA (CMA 298); (d) MN RSA 1 (CMA 482); (e) MN RSA 2 (CMA 483); (f) ND RSA 1 (CMA 580); (g) ND RSA2 (CMA 581); (h) ND RSA 3 (CMA 582); (i) NI RSA 4 (CMA 583); (j) ND RSA 5 (CMA 584);

(14) Ohio[5] (a) Lima MSA (CMA 158); (b) Mansfield MSA (CMA 231); (c) OH RSA 2 (CMA 586); (d) OH RSA 5 (CMA 589); (e) OH RSA 6 (CMA 590);

(15) South Carolina[6] (a) SC RSA 1 (CMA 625); (b) SC RSA 2 (CMA 626); (c) SC RSA 3 (CMA 627); (d) SC RSA 7 (CMA 631);

(16) South Dakota (a) Sioux Falls MSA (CMA 267); (b) Rapid City MSA (CMA 289); (c) SD RSA 1 (CMA 634); (d) SD RSA 2 (CMA 635); (e) SD RSA 3 (CMA 636); (f) SD RSA 4 (CMA 637); (g) SD RSA 5 (CMA 638); (h) SD RSA 6 (CMA 639); (i) SD RSA 7 (CMA 640); (j) SD RSA 8 (CMA 641); (k) SD RSA 9 (CMA 642);

(17) Utah (a) UT RSA 3 (CMA 675); (b) UT RSA 4 (CMA 676); (c) UT RSA 5 (CMA 677); (d) UT RSA 6 (CMA 678);

(18) Wyoming (a) Casper MSA (CMA 299); (b) WY RSA 1 (CMA 718); (c) WY RSA 2 (CMA 719); (d) WY RSA 4 (CMA 721); (e) WY RSA 5 (CMA 722).

The CMAs have been grouped to reflect the fact that carriers frequently are more competitive where they serve contiguous areas. Some customers often travel across FCC licensing areas, so operating a larger contiguous service area can be an important feature for selling the product in each affected market. Moreover, there may be significant efficiencies associated with serving a broader geographic area. In deciding on the particular packages to require, plaintiff United States recognized that selling areas with significant linkages across these areas provides greater assurance that the buyer will be an effective competitor. Plaintiff United States also recognized, however, that larger packages might discourage potential buyers who might otherwise have the strongest incentives to replace the lost competition in any one particular area. The proposed Final Judgment strikes a balance between these potential issues by creating bundles that are geographically linked but allowing potential buyers to effectively suggest larger packages by bidding conditionally on multiple packages. The proposed Final Judgment also gives plaintiff United States in its sole discretion upon consultation with the relevant plaintiff State the flexibility to allow even smaller packages of assets as appropriate to ensure a successful divestiture.

A. Timing of Divestitures

In antitrust cases involving mergers or joint ventures in which the United States seeks a divestiture remedy, it requires completion of the divestitures within the shortest time period reasonable under the circumstances. Section IV.A of the proposed Final Judgment in this case requires divestiture of the Divestiture Assets, within 120 days after the consummation of the Transaction, or five days after notice of the entry of the Final Judgment by the Court, whichever is later. Plaintiff United States in its sole discretion, upon consultation with the relevant plaintiff State, may extend the date for divestiture of the Divestiture

[3] In addition, defendants will divest the wireless businesses in MN RSAs 7 through 10, recently acquired by Verizon from Rural Cellular Corporation, pursuant to the proposed Modified Final Judgment in *United States et al.* v. *Alltel Corp. et al.*, Civ. No. 06–3631 (RHKJAJB) (D. MN filed Sept. 7, 2006), to the same acquirer as the acquirer of the Divestiture Assets in the CMA specified in this subsection.

[4] In addition, defendants will divest the wireless business in the Las Cruces MSA (CMA 285), currently owned by Alltel, pursuant to the proposed Modified Final Judgment in *United States* v. *Bell Atlantic Corp. et al.*, Civ. No. 1 :99CV01 119 (EGS) (D.D.C. filed May 7, 1999), to the same acquirer as the acquirer of the Divestiture Assets in the CMAs specified in this subsection.

[5] In addition, defendants will divest the wireless business in OH RSA 3 (CMA 587), currently owned by Alltel, pursuant to the proposed Modified Final Judgment in *United States* v. *Bell Atlantic Corp. et al.*, Civ. No. I :99CV01 19 (EGS) (DD.C. filed May 7, 1999), to the same acquirer as the acquirer of the Divestiture Assets in the CMAs specified in this subsection.

[6] In addition, defendants will divest the wireless business in the Anderson MSA (CMA 227), currently owned by Alltel, pursuant to the proposed Modified Final Judgment in *United States* v. *Bell Atlantic Corp. et al.*, Civ. No. 1 :99C VOl 19 (EGS) (D.D.C. May 7, 1999), to the same acquirer as the acquirer of the Divestiture Assets in the CMA specified in this subsection.

Assets by up to 60 days. Because the FCC's approval is required for the transfer of the wireless licenses to a purchaser, Section IV.A provides that if applications for transfer of a wireless license have been filed with the FCC, but the FCC has not acted dispositively before the end of the required divestiture period, the period for divestiture of those assets shall be extended until five days after the FCC has acted. This extension is to be applied only to the individual Divestiture Assets affected by the delay in approval of the license transfer and does not entitle defendants to delay the divestiture of any other Divestiture Assets for which license transfer approval is not required or has been granted.

The divestiture timing provisions of the proposed Final Judgment will ensure that the divestitures are carried out in a timely manner, and at the same time will permit defendants an adequate opportunity to accomplish the divestitures through a fair and orderly process. Even if all Divestiture Assets have not been divested upon consummation of the transaction, there should be no adverse impact on competition given the limited duration of the period of common ownership and the detailed requirements of the Stipulation.

B. Use of a Management Trustee

The Stipulation filed simultaneously with this Competitive Impact Statement ensures that the Divestiture Assets remain an ongoing business concern prior to divestiture. To accomplish this objective, the Stipulation provides for the appointment of a management trustee selected by plaintiff United States upon consultation with the plaintiff States, to oversee the operations of the Divestiture Assets. The appointment of a management trustee is appropriate because the Divestiture Assets are not independent facilities that can be held separate and operated as stand alone units, but are an integral part of a larger network which, to maintain their competitive viability and economic value, should remain part of that network during the divestiture period. A management trustee will oversee the continuing relationship between defendants and these assets to ensure that these assets are preserved and supported by defendants during this period, yet run independently. The management trustee will have the power to operate the Divestiture Assets in the ordinary course of business, so that they will remain independent and uninfluenced by defendants and so that the Divestiture Assets are preserved and operated as an ongoing and economically viable competitor to defendants and to other mobile wireless telecommunications services providers. The management trustee will preserve the confidentiality of competitively sensitive marketing, pricing, and sales information; ensure defendants' compliance with the Stipulation and the proposed Final Judgment; and maximize the value of the Divestiture Assets so as to permit expeditious divestiture in a manner consistent with the proposed Final Judgment.

The Stipulation provides that defendants will pay all costs and expenses of the management trustee, including the cost of consultants, accountants, attorneys, and other representatives and assistants hired by the management trustee as are reasonably necessary to carry out his or her duties and responsibilities. After his or her appointment becomes effective, the management trustee will file monthly reports with plaintiffs setting forth efforts taken to accomplish the goals of the Stipulation and the proposed Final Judgment and the extent to which defendants are fulfilling their responsibilities. Finally, the management trustee may become the divestiture trustee, pursuant to the provisions of Section V of the proposed Final Judgment.

C. Use of a Divestiture Trustee

In the event that defendants do not accomplish the divestiture within the periods prescribed in the proposed Final Judgment, the Final Judgment provides that the Court will appoint a trustee selected by plaintiff United States upon consultation with the relevant plaintiff State, to effect the divestitures. As part of this divestiture, defendants must continue, as has been the practice while the businesses have been managed by the Management Trustee, to relinquish any direct or indirect financial control and any direct or indirect role in management. Pursuant to Section V of the proposed Final Judgment, the divestiture trustee will have the legal right to control the Divestiture Assets until they are sold to a final purchaser, subject to safeguards to prevent defendants from influencing their operation.

Section V details the requirements for the establishment of the divestiture trust, the selection and compensation of the divestiture trustee, the responsibilities of the divestiture trustee in connection with the divestiture and operation of the Divestiture Assets, and the termination of the divestiture trust. The divestiture trustee will have the obligation and the sole responsibility, under Section V.D, for the divestiture of any transferred Divestiture Assets. The divestiture trustee has the authority to accomplish divestitures at the earliest possible time and ''at such price and on such terms as are then obtainable upon reasonable effort by the Divestiture Trustee.'' In addition, to ensure that the divestiture trustee can promptly locate and divest to an acceptable purchaser, plaintiff United States, in its sole discretion upon consultation with the relevant plaintiff State, may require defendants to include additional assets, or allow defendants to substitute substantially similar assets, which substantially relate to the Divestiture Assets to be divested by the divestiture trustee.

The divestiture trustee will not only have responsibility for sale of the Divestiture Assets, but will also be the authorized holder of the wireless licenses, with full responsibility for the operations, marketing, and sales of the wireless businesses to be divested, and will not be subject to any control or direction by defendants. Defendants will continue to have no role in the operation, or management of the Divestiture Assets other than the right to receive the proceeds of the sale. Defendants will also retain certain obligations to support the Divestiture Assets and cooperate with the divestiture trustee in order to complete the divestiture.

The proposed Final Judgment provides that defendants will pay all costs and expenses of the divestiture trustee. The divestiture trustee's commission will be structured, under Section V.G of the proposed Final Judgment, so as to provide an incentive for the divestiture trustee based on the price obtained and the speed with which the divestitures are accomplished. After his or her appointment becomes effective, the divestiture trustee will file monthly reports with the Court and plaintiffs setting forth his or her efforts to accomplish the divestitures. Section V.J requires the divestiture trustee to divest the Divestiture Assets to an acceptable purchaser or purchasers no later than six months after the assets are transferred to the divestiture trustee. At the end of six months, if all divestitures have not been accomplished, the trustee and plaintiffs will make recommendations to the Court, which shall enter such orders as appropriate in order to carry out the purpose of the Final Judgment, including extending the trust or term of the trustee's appointment

The divestiture provisions of the proposed Final Judgment will eliminate the anticompetitive effects of the transaction in the provision of mobile wireless telecommunications services. The divestitures of the Divestiture Assets will preserve competition in mobile wireless telecommunications services by maintaining an independent and economically viable competitor in the relevant geographic areas.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, IS U.S.C. 16(a), the proposed Final Judgment has no prima facie effect in any subsequent private lawsuit that may be brought against defendants.

V. Procedures Available for Modification of the Proposed Judgment

The United States and defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty days of the date of publication of this Competitive Impact Statement in the **Federal Register** or the last date of publication in a newspaper of the summary of this Competitive Impact Statement, which ever is later. All comments received during this period will be considered by the Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to the Court's entry of judgment. The comments and the response of plaintiff United States will be filed with the Court and published in the **Federal Register**.

Written comments should be submitted to:

Nancy M. Goodman, Chief, Telecommunications and Media Enforcement Section, Antitrust Division, U.S. Department of Justice, 1401 H Street, NW., Suite 8000, Washington, DC 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. Alternatives to the Proposed Final Judgement

Plaintiffs considered, as an alternative to the proposed Final Judgment, a full trial on the merits against defendants. Plaintiffs could have continued the litigation and sought preliminary and permanent injunctions against Verizon's acquisition of Alltel. Plaintiffs are satisfied, however, that the divestiture of assets and other relief described in the proposed Final Judgment will preserve competition for the provision of mobile wireless telecommunications services in the relevant areas identified in the Complaint.

VII. Standard of Review Under the Proposed Final Judgment

The Clayton Act, as amended by the APPA, requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the Court shall determine whether entry of the proposed Final Judgment "is in the public interest." 15 U.S.C. 16(e)(l). In making that determination, the court, in accordance with the statute as amended in 2004, is required to consider:

> A. The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and
>
> B. The impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. l6(e)(l)(A) & (B). In considering these statutory factors, the court's inquiry is necessarily a limited one as the government is entitled to "broad discretion to settle with the defendant within the reach of the public interest." *United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1461 (D.C. Cii. 1995); *see generally United States* v. *SBC Commc'ns, Inc.,* 489 F. Supp. 2d 1, 11 (D.D.C. 2007) (assessing the public interest standard under the Tunney Act).[7]

As the United States Court of Appeals for the District of Columbia Circuit has held, under the APPA a court considers, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. See Microsoft, 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the decree, a court may not "engage in an unrestricted evaluation of what relief would best serve the public." United States v. BNS. Inc., 858 F.2d 456, 462 (9th Cir. 1988) (citing *United States* v. *Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir. 1981)); see also *Microsoft,* 56 F.3d at 1460–62; United States v. Alcoa, Inc., 152 F. Supp. 2d 37, 40 (D.D.C. 2001). Courts have held that:

> [t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is "*within the reaches of the public interest.*" More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).[8] In determining whether a proposed settlement is in the public interest, a district court "must accord deference to the government's predictions about the efficacy of its remedies, and may not require that the remedies perfectly match the alleged violations." *SBC*

[7] The 2004 amendments substituted "shall" for "may" in directing relevant factors for a court to consider and amended the list of factors to focus on competitive considerations and to address potentially ambiguous judgment terms. *Compare* 15 U.S.C. 16(e) (2004), *with* 15 U.S.C. I 6(e)(1) (2006); *see also SBC Commc'ns,* 489 F. Supp. 2d at 11 (concluding that the 2004 amendments "effected minimal changes" to Tunney Act review).

[8] *Cf. BNS,* 858 F.2d at 464 (holding that the court's "ultimate authority under the {APPAJ is limited to approving or disapproving the consent decree"); *United States* v. *Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to "look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass"). *See generally Microsoft,* 56 F.3d at 1461 (discussing whether "the remedies {obtained in the decree are} so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest' ").

Commc'ns, 489 F. Supp. 2d at 17; *see also Microsoft,* 56 F.3d at 1461 (noting the need for courts to be ''deferential to the government's predictions as to the effect of the proposed remedies''); *United States* v. *Archer-Daniels-Midland Co.,* 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (noting that the court should grant due respect to the United States' prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case).

Courts have great flexibility in approving proposed consent decrees than in crafting their own decrees following a finding of liability in a litigated matter. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' '' *United States* v. *Am. Tel, & Tel. Co.,* 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting *United States* v. *Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975)), *aff'd sub nom. Maryland* v. *United States,* 460 U.S. 1001 (1983); see also *United States* v. *Alcan Aluminum Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy). To meet this standard, the United States ''need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17.

Moreover, the Court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint, and does not authorize the Court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' *Microsoft,* 56 F.3d at 1459. Because the ''court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that ''the court is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States did not pursue. Id. at 145 9–60. As this Court recently confirmed in SBC Communications, courts ''cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to make a mockery of judicial power.'' *SBC Commc'ns,* 489 F. Supp. 2d at 15.

In its 2004 amendments, Congress made clear its intent to preserve the practical benefits of utilizing consent decrees in antitrust enforcement, adding the unambiguous instruction ''[nothing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.'' 15 U.S.C. 16(e)(2). The language wrote into the statute what the Congress that enacted the Tunney Act in 1974 intended, as Senator Tunney then explained: ''[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' 119 Cong. Rec. 24,598 (1973) (statement of Senator Tunney). Rather, the procedure for the public interest determination is left to the discretion of the court, with the recognition that the court's ''scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings.'' *SBC Commc'ns,* 489 F. Supp. 2d at 11.[9]

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by plaintiff United States in formulating the proposed Final Judgment.

Dated: October 30, 2008

Respectfully submitted,

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[9] *See United States* v. *Enova Corp.,* 107 F. Supp. 2d 10, 17 (D.D.C. 2000) (noting that the ''Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone''); *United States* v. *Mid-Am Dairymen, Inc.,* 1977–1 Trade Cas. (CCII) ¶ 61,508, at 71,980 (W.D. Mo. 1977) (''Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.''); S. Rep. No. 93–298, 93d Cong., 1st Sess., at 6 (1973) (''Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.'').

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Bell Atlantic Corporation; Proposed Modification of Final Judgment

Notice is hereby given that a Motion to Modify the Final Judgment, Stipulation, and Memorandum in Support of the Motion to Modify the Final Judgment, have been filed with the United States District Court for the District of Columbia in *United States* v. *Bell Atlantic Corporation,* Civil No. 1 :99CV0 1119. On May 7, 1999, the United States filed a Complaint (and a Supplemental Complaint on December 6, 1999) alleging that the proposed merger between Bell Atlantic Corporation and GTE Corporation (the merged firm known as ''Verizon Communications Inc.'') and the proposed joint venture between Bell Atlantic and Vodafone AirTouch Plc (the joint venture now known as ''Verizon Wireless'') would violate Section 7 of the Clayton Act, 15 U.S.C. 18, by substantially lessening competition in wireless mobile telephone service in certain areas of Alabama, Arizona, California, Florida, Idaho, Illinois, Indiana, Montana, New Mexico, Ohio, South Carolina, Texas, Virginia, Washington, and Wisconsin.

The Final Judgment, entered on April 18, 2000, required the defendants to divest certain mobile wireless telecommunications services businesses. Divestitures were made to Ailtel in 25 Cellular Market Areas (''CMAs''). The modification would allow the defendants to reacquire the divested wireless system assets in 22 of those CMAs—Cleveland MSA (CMA 16), Tampa MSA (CMA 22), Phoenix MSA (CMA 26), Akron MSA (CMA 52), Greenville SC MSA (CMA 67), Tucson MSA (CMA 77), El Paso TX MSA (CMA 81), Mobile MSA (CMA 83), Albuquerque MSA (CMA 86), Canton MSA (CMA 87), Lakeland MSA (CMA 114), Pensacola MSA (CMA 127), Lorain MSA (CMA 136), Ft. Myers MSA (CMA 164), Sarasota MSA (CMA 167), Bradenton MSA (CMA 211), AZ RSA 2 (CMA 319), FL RSA 1 (CMA 360), FL RSA 2 (CMA 361), FL RSA 3 (CMA 362), FL RSA 4 (CMA 363), and FL RSA 11 (CMA 370). The modification would allow the defendants to reacquire three additional CMAs—Anderson SC MSA (CMA 227), Las Cruces NM MSA (CMA 285) and OH RSA 3 (CMA 587)—only until the assets are divested according to terms specified in the Modified Final Judgment.