

FCC Approves Assignment and Transfer of Control of Certain Verizon Wireless Licenses to AT&T; Approval Subject to Conditions, Including Service to Indian Reservation

Legal Alert
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The FCC has granted the applications of AT&T Inc. and Verizon Wireless to assign or transfer control of certain wireless licenses and related authorizations held by Verizon Wireless to AT&T subject to certain conditions. See *Application of AT&T Inc. and Celco Partnership d/b/a Verizon Wireless for Consent to Assign or Transfer Control of Licenses and Authorizations and Modify a Spectrum Leasing Arrangement*, WT Docket No. 09-104, FCC 10-116, Memorandum Opinion and Order (rel. June 22, 2010) (*Verizon-AT&T Transfer*).

In previously approving Verizon Wireless' acquisition of ALLTELL Corporation, the FCC required that Verizon Wireless divest licenses and associated business units in 105 of the affected markets in order to preserve and promote mobile competition in these markets. In the *Verizon-AT&T Transfer*, the FCC approves the transfer to AT&T of licenses and business units in 70 of these markets. In the great majority of these markets, which cover predominantly rural portions of the United States, AT&T currently provides either no mobile service or only very limited service. The FCC's approval is subject to several conditions and voluntary commitments made by AT&T and Verizon Wireless, including conditions relating to roaming, preservation of service on the Pine Ridge Indian Reservation, and a commitment by AT&T to divest 15 megahertz of spectrum in one Michigan market.

Specifically, the FCC's approval is subject to the following AT&T's voluntary commitments:

Roaming. AT&T commits to negotiate with CDMA (Code Division Multiple Access) roaming partners in good faith and to accommodate reasonable requests for CDMA roaming services at a cell site in accordance with the FCC's roaming rules for as long as AT&T provides CDMA retail or roaming services at that specific cell site. For any period during which AT&T continues to provide any automatic CDMA roaming service to Verizon Wireless at a cell site acquired in this transaction, AT&T commits to provide the same type of automatic CDMA roaming service at the same cell site to other facilities-based CDMA carriers upon reasonable request on reasonable terms and conditions, but AT&T will not be restricted from terminating CDMA services at any cell site to all CDMA carriers at anytime or be impeded from offering a robust HSPA (High Speed Packet Access) or GSM (Global System for Mobile Communications)

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service.

Divestiture of Spectrum. Within six months of the date of the closing of the transaction, AT&T commits either to file with the FCC an application to divest 15 MHz of spectrum (either 700 MHz, cellular, PCS, and/or AWS-1 at AT&T's election) in Michigan RSA No. 5, or else to surrender licenses for such amounts.

Provision of Services to Members of the Ogala Sioux Tribe on the Pine Ridge Indian Reservation. AT&T will undertake on a going forward basis the rights and obligations of WWC License LLC under the Tate Woglaka Service Agreement, which prescribes the terms under which WWC currently provides service to the Reservation. AT&T will build a 3G HSPA broadband wireless network on the Reservation and transition the divestiture CDMA network subscribers living within the boundaries of the Reservation to the 3G HSPA broadband wireless network within 12 months of the closing of the transaction. Subscribers will be eligible to receive new 3G handsets comparable to their existing CDMA handsets at no cost and with no contract extension. Until the transition to the 3G HSPA broadband wireless network is complete, AT&T will provide these subscribers with the same degree of access to services on the divestiture CDMA network as they currently have.