

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA)
Department of Justice, Antitrust Division)
450 5th Street, N.W., Suite 7000)
Washington, D.C. 20530,)

and)

STATE OF LOUISIANA,)
Office of the Attorney General)
1885 North Third Street)
Baton Rouge, Louisiana 70802)

Plaintiffs,)

v.)

AT&T INC.)
One AT&T Plaza)
208 South Akard Street)
Dallas, Texas 75202,)

and)

CENTENNIAL COMMUNICATIONS)
CORP.)
3349 Route 138)
Wall, New Jersey 07719,)

Defendants.)

Civil No.

Filed:

COMPLAINT

The United States of America, acting under the direction of the Attorney General of the United States, and the State of Louisiana, by its Attorney General James D. "Buddy" Caldwell, bring this civil action to enjoin the merger of two telecommunications services providers, AT&T Inc. ("AT&T") and Centennial Communications Corp. ("Centennial"), and to obtain equitable

and other relief as appropriate. Plaintiffs allege as follows:

I. NATURE OF THE ACTION

1. AT&T entered into an agreement to acquire Centennial, dated November 7, 2008, under which the two companies would combine their telecommunications services businesses (“Transaction Agreement”). Plaintiffs seek to enjoin this transaction because it will substantially lessen competition in mobile wireless telecommunications services in the following eight geographic markets: the Lafayette LA MSA (CMA 174); Alexandria LA MSA (CMA 205); LA RSA 3 (CMA 456); LA RSA 5 (CMA 458); LA RSA 6 (CMA 459); LA RSA 7 (CMA 460); MS RSA 8 (CMA 500); and MS RSA 9 (CMA 501).

2. AT&T provides mobile wireless telecommunications services in 50 states and serves in excess of 79.6 million subscribers. Centennial provides mobile wireless telecommunications services in six states, Puerto Rico, and the United States Virgin Islands, and serves approximately 1.1 million wireless customers. AT&T and Centennial are two of only a few providers of mobile wireless telecommunications services in the eight geographic markets in Louisiana and Mississippi identified above. Unless this acquisition is enjoined, consumers of mobile wireless telecommunications services residing in these areas likely will face increased prices, diminished quality or quantity of services, and less investment in network improvements for mobile wireless telecommunications services. Accordingly, AT&T’s acquisition of Centennial would violate Section 7 of the Clayton Act, 15 U.S.C. § 18.

II. 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. Plaintiff Louisiana, by and through its Attorney General, brings this action in its respective sovereign capacity and as *parens patriae* on behalf of the citizens, general welfare, and economy of Louisiana 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. AT&T and Centennial 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.

III. THE DEFENDANTS AND THE TRANSACTION

6. AT&T, with headquarters in Dallas, Texas, is a corporation organized and existing under the laws of the State of Delaware. AT&T is one of the world's largest providers of communications services. AT&T is the second largest mobile wireless telecommunications services provider in the United States as measured by subscribers, provides mobile wireless telecommunications services in 50 states, and serves in excess of 79 million wireless subscribers. In 2008, AT&T earned mobile wireless telecommunications services revenues in excess of \$44 billion, and its total revenues were in excess of \$124 billion.

7. Centennial, with headquarters in Wall, New Jersey, is a corporation organized and existing under the laws of the State of Delaware. Centennial is the eighth-largest mobile wireless telecommunications services provider in the United States as measured by subscribers, and provides mobile wireless telecommunications services in six states, Puerto Rico, and the United

States Virgin Islands. In Puerto Rico, Centennial is also a competitive local exchange carrier, providing voice, data and connectivity solutions to residential, telecommunications carrier, and enterprise customers. For the fiscal year ending May 31, 2009, Centennial had approximately 1.1 million wireless subscribers and approximately 694,900 access line equivalents in Puerto Rico, and earned approximately \$1 billion in revenues.

8. Pursuant to the Transaction Agreement, AT&T will acquire Centennial for approximately \$944 million. If this transaction is consummated, AT&T and Centennial combined would have approximately 80 million wireless subscribers in the United States, with approximately \$45 billion in mobile wireless telecommunications services revenues.

IV. 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 270 million people in the United States who own mobile wireless telephones. In 2008, revenues from the sale of mobile wireless telecommunications services in the United States were over \$148 billion. To provide service, 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 in the 800 MHz

band for each Metropolitan Statistical Area (“MSA”) and Rural Service Area (“RSA”) (collectively, “Cellular Market Areas” or “CMAs”), totaling 734 CMAs covering the entire United States. The first mobile wireless voice systems using this cellular spectrum were based on analog technology, now referred to as first-generation or “1G” 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 which are divided among Major Trading Areas (“MTAs”) and Basic Trading Areas (“BTAs”). 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. 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 from analog to digital-based second-generation or “2G” technologies, using GSM (global standard for mobility) or CDMA (code division multiple access). More advanced technologies (“2.5G” and “3G”) have also been widely deployed for

mobile wireless data services. Wireless carriers are in the process of evaluating, testing, and deploying even more advanced wireless data technologies, such as WiMAX and Long Term Evolution, which will offer higher data transmission rates.

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 spheres within which a group of customers has the same competitive choices for mobile wireless telephone services. The number of 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 their prices 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 following FCC spectrum licensing areas: Lafayette LA MSA (CMA 174); Alexandria LA MSA (CMA 205); LA RSA 3 (CMA 456); LA RSA 5 (CMA 458); LA RSA 6 (CMA 459); LA RSA 7 (CMA 460); MS RSA 8 (CMA 500); and MS RSA 9 (CMA 501). 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 seven of the eight cellular license areas described above, AT&T and Centennial are significant providers of mobile wireless telecommunications services (based on subscribers), and together their combined share in each area ranges from 51% to 89%. The eighth area, MS RSA 9, is rural. In MS RSA 9, AT&T and Centennial hold a large portion of the cellular licenses

covering the CMA and have fairly extensive networks. Providers have found that cellular spectrum, given its characteristics, is more efficient in serving rural areas. Consequently, the holders of PCS licenses in MS RSA 9 have not fully constructed their networks throughout the CMA, opting instead to serve only a few areas where the population density is higher or there are major highways. The PCS spectrum holders are weak competitors and will remain so in the portions of MS RSA 9 where the merging parties will hold all the cellular spectrum post-merger. Thus, in each of the eight relevant geographic markets, AT&T and Centennial are 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 A to this Complaint, concentration in these geographic areas today ranges from over 2900 to more than 6576, which is well above the 1800 threshold at which plaintiffs consider a market to be highly concentrated. After AT&T's proposed acquisition of Centennial is consummated, the HHIs in the relevant geographic areas will range from over 4500 to more than 8100, with increases in the HHI as a result of the merger ranging from over 200 to over 3350, significantly beyond the thresholds at which plaintiffs consider a transaction likely to cause competitive harm.

19. Competition between AT&T and Centennial 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 AT&T and Centennial to be particularly attractive competitors because other providers' networks often lack coverage or provide lower-quality service. If the proposed acquisition is

consummated, competition between AT&T and Centennial 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 AT&T and Centennial 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 AT&T's proposed acquisition of Centennial, if it were consummated. Although the FCC recently auctioned more spectrum that can be used for mobile wireless telecommunications services, it is unlikely that networks will be constructed using this spectrum to support entry in the relevant geographic markets in the next two to three years due to the largely rural nature of the areas and buildout costs.

V. VIOLATION ALLEGED

21. The effect of AT&T's proposed acquisition of Centennial, 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 AT&T and Centennial 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.

VI. REQUESTED RELIEF

The plaintiffs request:

23. That AT&T's proposed acquisition of Centennial 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 November 7, 2008, or from entering into or carrying out any agreement, understanding, or plan, the effect of which would be to bring the telecommunications businesses of Centennial under common ownership or control;

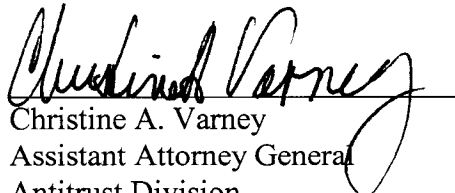
25. That plaintiffs be awarded their costs of this action; and

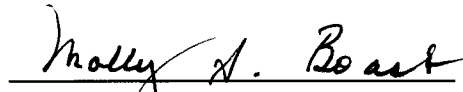
26. That plaintiffs have such other relief as the Court may deem just and proper.


Dated: October 13, 2009

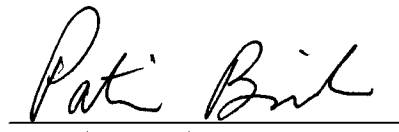
Respectfully Submitted,


FOR PLAINTIFF UNITED STATES OF AMERICA:

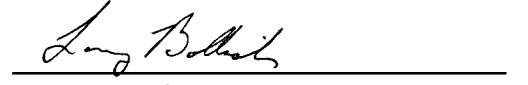

Christine A. Varney
Assistant Attorney General
Antitrust Division

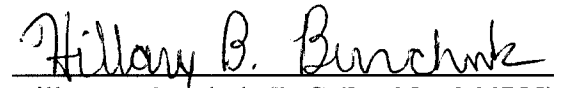

Molly S. Boast
Deputy Assistant Attorney General
Antitrust Division


William F. Cavanaugh
Deputy Assistant Attorney General
Antitrust Division


Patricia A. Brink
Deputy Director of Operations
Antitrust Division


Nancy Goodman
Chief, Telecommunications & Media
Enforcement Section
Antitrust Division


Laury Bobbish
Assistant Chief, Telecommunications &
Media Enforcement Section
Antitrust Division

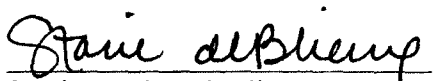

Hillary B. Burchuk (D.C. Bar No. 366755)
Lauren Fishbein (D.C. Bar No. 451889)
Lawrence Frankel (D.C. Bar No. 441532)
Peter Gray
Justin Hurwitz
Lorenzo McRae (D.C. Bar No. 473660)

Attorneys, Telecommunications & Media
Enforcement Section
Antitrust Division
U.S. Department of Justice
Liberty Square Building
450 Fifth Street, N.W., Suite 7000
Washington, D.C. 20530
Phone: (202) 514-5621
Facsimile: (202) 514-6381

FOR PLAINTIFF STATE OF LOUISIANA

STATE OF LOUISIANA

JAMES D. "BUDDY" CALDWELL
Attorney General



Stacie Lambert deBlieux
Assistant Attorney General
Louisiana Department of Justice
Public Protection Division, Antitrust
P.O. Box 94005
Baton Rouge, LA 70804
Phone: (225) 326-6449
Facsimile: (225) 326-6498

APPENDIX A

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.*