freepress

Why the AT&T-T-Mobile Deal Is Bad for America

AT&T's $39 billion takeover of T-Mobile USA is yet another in a series of large telecommunications mergers that over time are slowly reassembling the once-loathed Ma Bell monopoly. If approved by federal regulators at the Department of Justice and the Federal Communications Commission, the merger will leave just three national wireless carriers, and give AT&T and Verizon control over almost 80 percent of the entire market.[1] While consolidation on this scale resembles the old railroad and oil trusts of the 19th century and should be rejected out of hand, AT&T has unparalleled political power and stands a good chance of pushing this merger through with minimal meaningful constraints.

- Americans should be concerned about this merger, and the problems of a largely unregulated market with just two viable firms at the top. This is a raw deal for consumers, for competition, and for American innovation.
- This massive merger will further erode what little competition exists in the wireless market.
- All wireless consumers should expect to face higher prices and fewer choices.
- This merger will result in two companies, AT&T and Verizon, controlling nearly 80 percent of the wireless market, leaving Sprint a distant third as the only other national carrier.
- AT&T has to get the government's approval because the size of this merger is so massive and the loss of competition so great.
- This merger is bad for innovation, free speech, and experimentation on the wireless web. AT&T has a track record of restricting content that flows across its wireless network, and unlike T-Mobile, charges its customers stiff penalties for exceeding AT&T's approved monthly data usage allotments.
- This merger will kill tens of thousands of U.S. jobs. AT&T's track record on post-merger layoffs is poor, with the company having shed nearly 200,000 jobs over the past decade.

This Deal is Bad for Consumers, Competition, Jobs & American Innovation

This merger will result in two companies, AT&T and Verizon, controlling nearly 80 percent of the wireless market, leaving a weakened, third-place Sprint as the only other national carrier.

- **Expect market power abuses from a reconstituted Ma Bell:** In any other industry, allowing this much concentration, especially without any meaningful oversight or regulatory protections, would be unthinkable.

Industry	Top Two Firm Market share	Top Four Firm Market share
Oil	24.0%	43.8%
Airline	30.7%	54.5%
Banking	20.2%	31.8%
Auto	35.3%	60.7%
Wireless*	76.1%	92.5%

** post AT&T acquisition of T-Mobile USA*

- By comparison, the top 10 oil producing firms combined control less than 80 percent of the U.S. market, but this merger will give that level of market dominance to just two wireless companies.[2]
- Surely it would be unthinkable if ExxonMobil were to merge with BP, Shell, Chevron-Texaco, and Citgo; but that would net ExxonMobil the same level of market control as AT&T will have with this deal. And unlike the gasoline market, where consumers have a choice on every corner, wireless consumers are locked into long-term contracts.

- **Say goodbye to the little competition that currently exists:** AT&T and Verizon currently control nearly two-thirds of the market and have a long history of raising prices in concert, as they both did early last year by requiring all customers on feature phones to add data plans.[3] Sprint and T-Mobile (the third and fourth largest of the four national carriers) are currently in the position to exert some competitive discipline on the big two. But this merger will destroy that floor of competition.
- **Expect higher bundled package prices and fewer low-end options:** AT&T and Verizon have tried to avoid competing with T-Mobile on the lower-end service offerings. Elimination of this important competitor means AT&T and Verizon will use their increased market power to protect their wireless voice revenues from over-the-top VoIP competition (Skype, GoogleVoice, Fring, etc…), and will push consumers into higher service "buckets" of voice, data and text messaging.
- **T-Mobile customers should expect their bills to rise by 20 percent or more:** T-Mobile currently serves 34 million customers, bringing in an average revenue of $52 per post-paid subscriber, compared to $63 for AT&T subscribers.[4] Even if AT&T agrees to honor existing T-Mobile contracts for their remaining length (at most, 2 years), these customers will surely see higher prices when those contracts expire or when they need to buy a new handset or make changes to their contracts. Indeed, AT&T has already announced that all T-Mobile customers who use 3G data services will need to upgrade their devices because AT&T plans to repurpose that spectrum for 4G services.[5]
- **Expect higher international roaming prices:** AT&T and T-Mobile are the only two U.S. carriers that use the GSM standard, the cellular standard used in most other countries. With AT&T acquiring a GSM monopoly, expect monopoly-level international roaming prices.
- **Expect fewer handset choices, and more crippled devices:** AT&T has a history of making handset manufactures cripple features like WiFi on devices,[6] and of blocking the use of certain applications like Google Voice and Slingbox.[7] Currently, T-Mobile as the only other U.S. GSM carrier has been able to offer itself as an alternative GSM network partner to device manufacturers, but this merger will eliminate that sole alternative.
- **Sprint customers, prepare for higher prices and fewer handset choices:** With AT&T swallowing T-Mobile and creating two massive companies at the top, Sprint will be weakened, unable to offer the best handsets and at the mercy of AT&T and Verizon, who control most of the wired "backhaul" networks that Sprint needs to carry its traffic between cell towers and the Internet. The market consolidation will also lessen pressures on Sprint to compete on price, with Wall Street analysts already saying that Sprint will benefit in the long term from the "more rational pricing environment" (translation: Verizon and AT&T will raise prices, so Sprint can, too). Also, this merger will very likely lead to further industry consolidation, with Sprint either buying up smaller regional prepaid carriers like Leap or MetroPCS, or with Sprint itself becoming a target for acquisition by Verizon, possibly giving two companies a total stranglehold on the U.S. market.

AT&T needs government approval because the massive size of this merger and the threat to competition.

- Under Department of Justice guidelines, the wireless market is already considered "highly concentrated," and this merger increases the level of market concentration at six times the level that normally triggers DOJ concern.[8]
- Even though the DOJ and FCC should under the law reject the deal outright, many observers expect AT&T's unparalleled lobbying clout in Washington, stemming from their position as the largest historical cash donor to both parties in Congress, is enough to push this otherwise unthinkable merger through.[9]

Consumers should expect a more closed wireless web.

- AT&T along with Verizon has fiercely opposed any wireless network neutrality requirements, with AT&T brokering a deal to ensure they have the legal right to block online content and charge application developers additional tolls just to reach AT&T customers, if the company even lets them. AT&T has a history of keeping consumer-desired applications like GoogleVoice and Slingbox off its wireless network. With this deal, AT&T and Verizon, the latter of which is suing to overturn the FCC's weak net neutrality rules, will be in a stronger position to play gatekeeper on the wireless web, picking winners and losers and ultimately slowing the pace of the mobile Internet innovation.

This merger will kill U.S. jobs

- Though AT&T wraps itself in the flag by noting that T-Mobile USA is a subsidiary of a German company, the plain fact is that AT&T plans to save $40 billion through merger "synergies," which will come through the closure of T-Mobile's U.S. retail stores, and the shuttering of thousands of wireless towers. This infrastructure provides real jobs to real working-class Americans, and this merger will destroy those jobs.
- AT&T has a poor track record on jobs. While AT&T has increased its size through a series of mergers and acquisitions, the company has shed nearly 200,000 jobs in the past decade. [10]

The Facts Behind AT&T's Pro-Consolidation Spin

Consumer's wireless bills have not dropped in the era of wireless consolidation

- If you look at what consumers are actually paying each month, prices have steadily increased, despite the fact that the overall cost to wireless carriers to operate their networks have dropped.
    - In December 1998, the monthly Average Revenue Per User (ARPU) for wireless companies was $39.43. In 2008, it was at $47.09.[11] And by the end of 2010, this has risen to more than $49.[12] This steady price increase comes despite the fact that the market has undergone massive expansion, and the carriers' own operating costs have declined substantially, even as profits have risen.[13]
    - Furthermore, contrary to AT&T's assertion that industry consolidation has been good for prices, since the pace of industry consolidation increased post-2008, prices have been on the rise.[14]
    - AT&T recently told shareholders that their own costs for transporting data declined by half last year, but consumer's data bills certainly did not decrease.[15]

- AT&T's current average revenue per postpaid user is one of the highest in the industry, at nearly $63; T-Mobile's is substantially lower at $52.

The benefits to rural America of this transaction are vastly overstated.

- AT&T already holds cellular licenses that could reach the entire U.S. population. These are valuable public airwaves that their business depends upon, and they already have a duty to build out their service territories. AT&T has promised to extend its 4G LTE network to 97% of the population, but it is unclear how much of an actual commitment this is. The company was expected to build out to this level regardless of the merger to have a true nationwide footprint and to compete with Verizon's 4G service, which will reach more than 96-98% of the country in the next few years.[16]
- It's a false choice to ask rural Americans to pay higher prices and endure poor customer service in exchange for at best modest increases in coverage.
- The $39 billion AT&T will expend for this merger far exceeds the amount of incremental capital investment needed for AT&T to future-proof its existing facilities and deploy next-generation services to nearly the entire U.S. population.

Claims that this transaction helps alleviate the spectrum crisis — if there even were a spectrum crisis — should be treated with skepticism.

- The so-called "spectrum crisis" is an alarmist notion pushed by AT&T in order to insulate it from competition. Some analysts estimate that between 70 percent and 90 percent of the capacity of AT&T's current spectrum holdings are unused.[17]
- There is certainly a need to get more spectrum to market, but as the DOJ stated in 2010, AT&T or Verizon (the latter whose CEO said "I don't think we'll have a spectrum shortage") aren't the one who need it.[18] Rather, spectrum is needed by the smaller players like T-Mobile, who lack any of the "beachfront" spectrum purchased by AT&T and Verizon in the FCC's 2007 700MHz auction.
- To the extent that AT&T's network suffers quality issues in areas like New York City or San Francisco, this is the result of lackluster effort on AT&T's part to invest in more towers and increased backhaul capacity, not a lack of spectrum.
- To illustrate that AT&T has vast stores of untapped spectrum, one of the buyout penalties it must pay to T-Mobile if the deal does not close is the transfer of some of AT&T's currently unused Advanced Wireless Service-band spectrum, which they have stated is not currently needed for their 4G LTE service rollout.

When AT&T claims the merger will increase efficiencies, what they really mean is the merger will create a largely unregulated market with two giants at the top.

- AT&T claims the acquisition with T-Mobile will increase its scale efficiencies, but if this deal is approved, the wireless market will function as a duopoly, with the top two carriers controlling nearly 80 percent of the market. AT&T may view this as more "efficient," but unregulated duopolies do not return those efficiencies to customers. If we are headed toward a wireless duopoly, policymakers need to recognize that sobering fact and evaluate what permanent, market-wide oversight and consumer protections are needed.

---

[1] According to SNL Kagan, at the end of 2010, shares of U.S. wireless subscribers were as follows: Verizon (33.6%), AT&T (31.4%), Sprint-Nextel (16.4%), T-Mobile USA (11.1%). All other regional and pre-paid carriers accounted for the remaining 7.5% of the more than 304 million subscriptions.

[2] U.S. Oil refinery industry data from Public Citizen's Energy Program (www.citizen.org/cmep). Airline industry market share data based on Revenue Passenger Miles, Jan - Dec 2010, from Research and Innovative Technology Administration, Bureau of Transportation Statistics. Banking industry data reflects total deposits as of June 2010, from FDIC. Auto industry data from Wards Automotive Group, reflecting 2010 vehicle sales. Wireless market share data based on year-end 2010 subscriber counts from SNL Kagan.

[3] *See e.g.* "AT&T-Verizon price war debunked (FAQ)," Marguerite Reardon, *Cnet News*, January 20, 2010. This behavior is not limited to the companies wireless segment either, with each raising landline service prices in concert in the past. *See* "Phone Giants' Rising Rates Questioned, Leslie Cauley, *USA Today*, January 27, 2008.

[4] *See* "AT&T and T-Mobile USA: The Future of Mobile Broadband," Joint Fact Sheet from AT&T and T-Mobile, available at www.MobilizeEverything.com.

[5] *See* "AT&T: T-Mobile 3G phones will need to be replaced," Peter Svensson, *Associated Press*, March 21, 2011.

[6] *See e.g.* Tim Wu, *Wireless Carterfone*, International Journal of Communications, Vol. 1, p. 390, 2007; Columbia Public Law Research Paper No. 07-154.

[7] *See e.g.* Eric Zeman, "AT&T Backflip, A Backward Step For Android," *InformationWeek*, March 8, 2010. *See also e.g.* Erica Ogg, "Apple and AT&T playing favorites with the App Store?" *Cnet*, May 13, 2009. *See also e.g.* Apple Inc., "Apple Answers the FCC's Questions," Aug. 22, 2009 ("There is a provision in Apple's agreement with AT&T that obligates Apple not to include functionality in any Apple phone that enables a customer to use AT&T's cellular network service to originate or terminate a VoIP session without obtaining AT&T's permission.")

[8] According to SNL Kagan subscriber counts for the end of 2010, the wireless market national HHI (Herfindahl-Hirschman Index) is currently 2561, and will increase 697 points to 3253. According to the Department of Justice Horizontal Merger Guidelines, a market with an HHI of greater than 2500 points is considered to be "highly concentrated," and in such markets mergers "that involve an increase in the HHI of between 100 points and 200 points potentially raise significant competitive concerns and often warrant scrutiny. Mergers resulting in highly concentrated markets that involve an increase in the HHI of more than 200 points will be presumed to be likely to enhance market power." *See* "Horizontal Merger Guidelines," U.S. Department of Justice and Federal Trade Commission, August 19, 2010.

[9] *See* http://www.opensecrets.org/orgs/list.php?order=A.

[10] Data based on AT&T and all acquired company's historical employment figures, as reported in 10-K annual reports.

[11] *See* "Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services," Federal Communications Commission, Seventh Report (2002), Fourteenth Report (2010).

[12] Free Press analysis of SNL Kagan data for year-end 2010.

[13] For example, according to SNL Kagan, AT&T's wireless segment net income more than tripled from $4.4 billion in 2006 to $15.3 billion in 2010. During this same period, Verizon's domestic wireless net income doubled from $9.6 billion to $18.7 billion.

[14] *See e.g.* "Average Length of Time Wireless Customers Keep Their Mobile Phones Increases Notably," J.D. Power and Associates, September 23, 2010 ("…the average reported monthly wireless bill is $78 in 2010, including federal and industry service taxes and fees, compared with $69 just three years ago").

[15] AT&T Inc., Q4 2009 Earnings Call Transcript, Jan. 30, 2010 ("it is costing [us] half of as much to move that bit today than it was a year ago").

[16] *See* Dave Burstein, "AT&T LTE Result On U.S. Coverage: ~ 0%," *Fast Net News*, March 22, 2011.

[17] *See* Dave Burstein, "70-90% Of AT&T Spectrum Capacity Unused," *Fast Net News*, March 22, 2011.

[18] *See* "A Conversation with Ivan Seidenberg," Council on Foreign Relations, April 6, 2010.