

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

AT&T CORPORATION and
TELE-COMMUNICATIONS, INC.,

Defendants.

CASE NUMBER 1:98CV03170

No. JUDGE: Emmet G. Sullivan
(A)

DECK TYPE: Antitrust

DATE STAMP: 12/30/98

COMPLAINT

The United States of America, acting under the direction of the Attorney General of the United States, brings this civil action pursuant to section 15 of the Clayton Act, as amended, 15 U.S.C. § 25, to obtain equitable relief in order to prevent and restrain a violation of section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and alleges as follows:

Nature of the Action

1. The United States brings this antitrust action to prevent the proposed merger of Telecommunications, Inc. ("TCI") into a wholly owned subsidiary of AT&T Corporation ("AT&T").
2. AT&T is the largest provider of mobile wireless telephone services in the United States. TCI, through a subsidiary, owns a 23.5 percent equity interest in the mobile wireless telephone business of Sprint Corporation ("Sprint"). Sprint is a provider of mobile wireless

telephone services in the United States with a national footprint of licenses and networks.

3. Following the defendants' proposed merger, AT&T, through its wholly owned subsidiary Liberty Media Corporation ("Liberty"), will own a 23.5 percent equity interest in Sprint PCS, one of its principal competitors in the provision of mobile wireless telephone services. The proposed merger, if consummated, may substantially lessen competition in the provision of mobile wireless telephone services in many geographic areas throughout the country.

Jurisdiction and Venue

4. This action is filed under Section 15 of the Clayton Act, as amended, 15 U.S.C. § 25, to prevent and restrain the violation by defendants, as hereinafter alleged, of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18.

5. AT&T, TCI and Sprint sell products and services in interstate commerce. The Court has jurisdiction of this action and jurisdiction over the parties pursuant to 15 U.S.C. §§ 4, 22 and 25, and 28 U.S.C. §§ 1331 and 1337.

6. Both AT&T and TCI have consented to the jurisdiction of this Court. Venue in this District is proper under 15 U.S.C. § 22 and 28 U.S.C. § 1391(c).

Defendants and the Proposed Acquisition

7. AT&T is a New York corporation with its headquarters in New York, New York. It is the largest provider of mobile wireless and long distance telecommunications services in the United States, with approximately \$5 billion in revenues from the sale of mobile wireless telephone services in 1998.

8. TCI is a Delaware corporation with its headquarters in Englewood, Colorado. TCI,

through a subsidiary, owns a substantial equity stake in Sprint's mobile wireless telephone operations, owning approximately 23.5% of the shares of Sprint PCS Tracking Stock. Sprint PCS provides or is licensed to provide mobile wireless telephone services in most of the metropolitan areas in the United States. In 1998, Sprint PCS's revenues were approximately \$975 million.

9. On June 23, 1998, AT&T entered into an agreement to purchase the stock and assets of TCI for approximately \$48 billion. The transaction includes the acquisition of the TCI wholly owned subsidiary TCI Wireline, Inc., which currently is a part of the Liberty Media Group of TCI and which holds approximately 23.5 percent of the Sprint PCS Tracking Stock issued by Sprint Corp. Pursuant to the AT&T/TCI merger agreement, this stock will be transferred to Liberty Media Corp., which will become a wholly owned subsidiary of AT&T. Thus, AT&T will acquire approximately a 23.5 percent equity interest in Sprint PCS, one of its principal competitors in the provision of mobile wireless telephone services.

Nature of Trade & Commerce

10. Mobile wireless telephone services permit users to make and receive telephone calls, using radio transmissions, while traveling by car or by other means. The mobility afforded by this service is a valuable feature to consumers. In order to provide this capability, wireless carriers must deploy an extensive network of switches and radio transmitters and receivers, and interconnect this network with the networks of local and long distance landline carriers, and with the networks of other wireless carriers. In 1998, revenues from the sale of mobile wireless telephone services totaled approximately \$30 billion in the United States.

11. Initially, mobile wireless telephone services were provided principally by two

licensed cellular carriers in each geographic area. AT&T acquired a substantial number of cellular licenses throughout various parts of the country. In 1995, the Federal Communications Commissions allocated (and subsequently issued licenses for) additional spectrum for the provision of personal communications services ("PCS"), a category of services which includes mobile wireless telephone services comparable to those offered by cellular carriers. Consumers have benefited from the entry of PCS providers by receiving lower rates and/or higher quality services in those areas in which PCS carriers have constructed their networks and begun to offer services. Measured by current subscribers and revenues, however, the two cellular carriers in each geographic area still control a large share of the market, with a collective share of 80% or more in many markets.

12. Sprint PCS is the largest PCS provider and has a large mobile wireless telephone customer base in the United States. In the last three years, Sprint has expanded and continues to expand both its geographic scope and service. Sprint's wireless network has a nearly nationwide footprint, providing service in approximately 160 cities throughout the United States, including 38 of the largest 50 metropolitan areas. It expects to expand its coverage to several other cities in the next two to three years.

13. AT&T, in addition to the cellular operations it owned as of 1995, acquired a substantial number of PCS licenses in other geographic areas, thereby expanding the geographic coverage of its wireless network. AT&T provides mobile wireless telephone services in 89 metropolitan areas, including 75 where it is one of two cellular operators. Like Sprint, AT&T's wireless network has a nearly nationwide footprint.

14. The ability to provide mobile wireless telephone services on their own networks in

most cities throughout the United States is an important competitive advantage for both Sprint and AT&T, particularly in competing to serve customers who travel, and therefore use their mobile phones frequently outside their home metropolitan areas. Both AT&T and Sprint have attempted to exploit this advantage by, among other things, offering a single-rate national plan charging a flat per minute usage charge, regardless of the location at which the call originates or terminates. Customers of other wireless carriers which have local or regional networks may be able to place and receive calls outside of their "home" areas, but when they do so, they typically incur significant "roaming" charges assessed by the carrier whose wireless network is being used.

Relevant Markets

15. Mobile wireless telephone services are a relevant product market. There are no cost-effective alternatives to mobile wireless services for those customers using these services. If after the transaction, the firms raised the price of mobile wireless telephone services a small but significant amount, a sufficient number of customers would not switch away from mobile wireless services to make that price increase unprofitable.

16. The relevant geographic markets are those areas in which AT&T is one of the two cellular licensees, and in which Sprint PCS is a PCS licensee. These areas include the metropolitan areas of New York City; Los Angeles; Dallas-Fort Worth; San Francisco-Oakland-San Jose; Miami-Ft. Lauderdale; Minneapolis-St. Paul; Seattle; Pittsburgh; Denver; Portland, OR; Sacramento; Salt Lake City; Las Vegas; and at least 18 other metropolitan markets.

Competitive Effects

17. In each of the geographic areas described in Paragraph 16, the market for the provision of mobile wireless telephone services is highly concentrated. AT&T is the largest or

second largest provider of mobile wireless telephone services in each of these markets. Sprint is one of a small number of competing providers in each of these markets and is a uniquely close substitute for AT&T.

18. AT&T's ownership of a substantial equity interest in Sprint PCS may substantially lessen competition in the relevant markets. By acquiring a partial ownership of Sprint PCS, AT&T will reduce its incentives to prevent customers from choosing Sprint PCS, rather than AT&T, as a provider of mobile wireless telephone services. As a result of the acquisition, AT&T will indirectly benefit, as an owner of Sprint PCS stock, when a customer chooses Sprint PCS rather than AT&T. Because of this ownership, AT&T will have less incentive to lower prices (or to increase the quality of its service) in order to prevent customers from switching to other providers of mobile wireless telephone services in areas in which Sprint PCS is a significant rival. This anticompetitive effect is exacerbated by the fact that AT&T and Sprint PCS are particularly close substitutes for one another for many customers, especially for those customers who are attracted by their strong brands and the nearly nationwide footprint offered by both AT&T and Sprint PCS.

19. Entry into the mobile wireless telephone services market sufficient to mitigate the competitive harm resulting from this acquisition is unlikely within the next two years.

20. Unless restrained, the proposed acquisition will violate Section 7 of the Clayton Act.

Harm to Competition

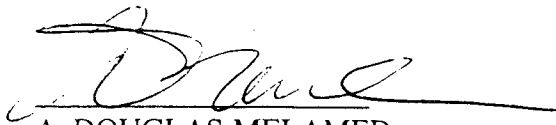
21. The effect of the proposed acquisition of TCI by AT&T may be substantially to lessen competition in interstate trade and commerce in violation of Section 7 of the Clayton Act.

22. The transaction would have the following effects, among others:

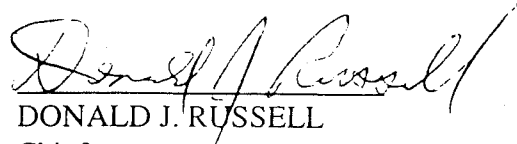
- a. competition generally in the sale of mobile wireless telephone services in areas within New York City; Los Angeles; Dallas-Fort Worth; San Francisco-Oakland-San Jose; Miami-Ft. Lauderdale; Minneapolis-St. Paul; Seattle; Pittsburgh; Denver; Portland, OR; Sacramento; Salt Lake City; Las Vegas and other geographic areas would be lessened substantially;
- b. actual and future competition between AT&T and Sprint PCS in the sale of mobile wireless telephone services in areas within New York City; Los Angeles; Dallas-Fort Worth; San Francisco-Oakland-San Jose; Miami-Ft. Lauderdale; Minneapolis-St. Paul; Seattle; Pittsburgh; Denver; Portland, OR; Sacramento; Salt Lake City; Las Vegas and other geographic areas would be substantially lessened;
- c. in New York City; Los Angeles; Dallas-Fort Worth; San Francisco-Oakland-San Jose; Miami-Ft. Lauderdale; Minneapolis-St. Paul; Seattle; Pittsburgh; Denver; Portland, OR; Sacramento; Salt Lake City; Las Vegas and other geographic areas, the prices for mobile wireless telephone services would be higher and services would be of lesser quality than they would have been without the transaction.

Requested Relief

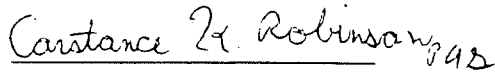
23. The United States requests (a) adjudication that AT&T's proposed acquisition of TCI would violate Section 7 of the Clayton Act; (b) preliminary and permanent injunctive relief preventing the consummation of the proposed acquisition; (c) an award to the United States of the costs of this action; and (d) such other relief as is just and proper.



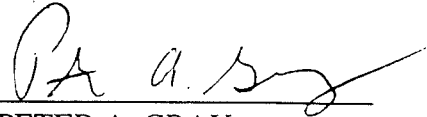
A. DOUGLAS MELAMED
Acting Assistant Attorney General



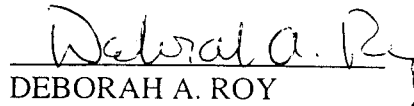
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