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Re: Deutsche Telekom AG/VoiceStream Acquisition – Docket IB00-187

UTStarcom opposes the merger/acquisition of VoiceStream by Deutsche Telekom on the ground that it is likely to harm competition in smaller markets in the United States. While this merger is likely to increase competition in the largest markets by providing substantial capital to build out a national GSM network in the United States, it is equally likely to leave more rural markets behind. This is particularly true of small towns or even University Campuses that are covered by PCS licenses as a result of their being located near larger cities. Commission rules would allow for licenses to be built out serving only the larger population centers and ignoring the more rural areas. Competition is likely to be further harmed by the fact that the acquisition includes many “Designated Entity” PCS licenses that were initially reserved for small businesses.

UTStarcom manufactures and sells PCS equipment intended for operation by small, local phone companies to provide local mobility to subscribers at rates comparable to local telephone service. Our product is intended for operation in “Block C” PCS spectrum and is very well suited to towns with populations over a few thousand as well as to University campuses and surrounding college communities.

This transaction will give VoiceStream/DT a virtually unlimited supply of capital. UTStarcom would expect them to acquire additional licenses in Auction 35 and to build out GSM networks in areas where they can get a return on their investment, particularly in larger population centers and along major highways. On the other side, we would expect them to ignore smaller towns that are unlikely to generate large volumes of roaming traffic onto their national network. An ideal remedy in this situation would be for VoiceStream/DT to make spectrum available on the secondary markets, via partitioning or even via lease as proposed by the FCC. UTStarcom believes that VoiceStream/DT would be unlikely to make spectrum available in this manner as local telephone companies would be unlikely to deploy roaming GSM solutions in places where VoiceStream/DT deemed them not to be economical and because these arrangements take too much effort given any financial return available to VoiceStream/DT.

UTStarcom would support this merger if it included defined provisions for true “designated entities”, particularly rural telephone companies, cooperatives, and educational institutions to gain access to small amounts of spectrum (5 –15MHz) on a limited geographic basis. The benefits of making small amounts of spectrum, covering limited geographies, available for low power operations and subject to non-interference with wide area GSM systems, would seem to outweigh the negative impact of assigning these reserved licenses to one of the largest operators in the world. This could also serve as an example to further the general principles of a secondary market in spectrum supported by the Commission. With such provisions, UTStarcom would support this transaction as being in the public interest. Without these provisions, UTStarcom believes that this transaction will result in a reduction of potential competition in the rural US market and that it would not be in the public interest.

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