

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ANTHONY DALE, BRETT JACKSON,
JOHNNA FOX, BENJAMIN
BORROWMAN, ANN LAMBERT,
ROBERT ANDERSON, and CHAD
HOHENBERY on behalf of themselves and
all others similarly situated,

Plaintiffs,

v.

DEUTSCHE TELEKOM AG et al.,

Defendants.

Case No. 22-cv-3189

Judge Thomas M. Durkin

Magistrate Judge Jeffrey Cole

**MOTION FOR LEAVE TO FILE BRIEF OF *AMICUS CURIAE* CTIA – THE
WIRELESS ASSOCIATION**

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*Counsel for Amicus Curiae, CTIA – The Wireless
Association*

Pursuant to Local Rule 5.6, CTIA – The Wireless Association (“CTIA”) respectfully requests leave to file the accompanying *amicus curiae* brief in support of Defendant T-Mobile’s motion to certify the Court’s November 2 order for interlocutory appeal.

CTIA represents the U.S. wireless communications industry and the companies throughout the mobile ecosystem that enable Americans to lead a 21st century connected life. The association’s members include wireless carriers, device manufacturers, suppliers, as well as application and content companies. CTIA has a strong interest in this case. Plaintiffs are customers of two CTIA members: AT&T and Verizon, which are not parties to this case. Compl. ¶¶ 12–18. Plaintiffs’ antitrust claims against the T-Mobile-affiliated Defendants (“T-Mobile”) rest on a boundless theory of causation, positing a daisy chain of events that Plaintiffs seek to trace to the T-Mobile-Sprint merger. Under Plaintiffs’ theory, the merger between *T-Mobile and Sprint* somehow caused third parties *AT&T and Verizon* to charge higher prices for their nationwide wireless plans, thereby supposedly injuring Plaintiffs. Compl. ¶¶ 106–108, 122, 129. This theory raises significant concerns for CTIA, its members, and businesses generally because it weakens the guardrails that the courts have established to protect parties from expending significant time and energy to litigate speculative claims. CTIA has an interest in this Court’s certification of its order for appellate review to promote legal certainty and predictability on these issues.

This Court has discretion to allow CTIA to file its *amicus curiae* brief. *Chaimberlain Group, Inc. v. Interlogix, Inc.*, No. 01-6257, 2004 WL 1197258, at * 1 (N.D. Ill. May 28, 2004). An *amicus* brief may be filed if it will “assist the [court] ... by presenting ideas, arguments, theories, insights, facts, or data that are not found in the parties’ briefs,” and “the amicus has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide.” *Id.* (quoting *Voices for Choices, et al. v. Illinois Bell Telephone Co.*, 339 F.3d

542, 545 (7th Cir. 2003)). CTIA’s brief will aid this Court by offering its unique perspective as a representative of the wireless industry on the competitive pressures that wireless carriers continue to face after the T-Mobile-Sprint merger and the implausibility of Plaintiffs’ theory of causation.

CTIA’s brief will also aid the Court by presenting its “practical perspectives on the consequences of potential outcomes” in this litigation. *Prairie Rivers Network v. Dynegy Midwest Generation, LLC*, 976 F.3d 761, 763 (7th Cir. 2020). Antitrust standing is a bedrock requirement that helps protect CTIA members—as well as countless other businesses—from the burdens of frivolous lawsuits seeking to extract settlement payments for meritless claims. CTIA and its members therefore rely on the proper application of this requirement. Here, however, Plaintiffs’ theory of standing—which this Court’s November 2, 2023 order (ECF No. 114) accepted—is at the very least highly “contestable.” CTIA submits this brief to explain the destabilizing effects that a relaxed pleading standard and acceptance of Plaintiffs’ speculative theory of causation would have on the industry and countless other companies throughout the mobile ecosystem.

T-Mobile consents to the filing of this motion. On December 8, 2023, counsel for CTIA requested similar consent from counsel for Plaintiffs. As of December 11, counsel for Plaintiffs have not taken a position on (or responded to) this request.

Dated: December 11, 2023

Respectfully submitted,

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