

# **EXHIBIT L**



December 16, 2024

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**VIA ELECTRONIC MAIL**

DISH Network Corporation  
c/o Clifford E. Yin  
Coblentz Patch Duffy & Bass LLP  
1 Montgomery St #3000  
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Re: Enforcement of Subpoena to DISH in *Dale v. Deutsche Telekom AG*, No. 22-3189 (N.D. Ill.)

Dear Clifford:

DISH's November 14, 2024 letter confirms that we are at an impasse on Plaintiffs' Requests, other than those for structured data (Request Nos. 21–22 and 24–25). We plan to seek judicial enforcement of selected Requests from Plaintiffs' Subpoena.<sup>1</sup> Before taking that step, we write to inform you of the relief Plaintiffs intend to seek so that DISH has an opportunity to accept Plaintiffs' final offer instead of burdening the Court with this dispute.

Plaintiffs have made extraordinary accommodations to resolve DISH's objections to the subpoena. We can no longer wait for DISH start dealing in good faith, particularly with respect to Request Nos. 5–7, 9–13, 15, 19–20, and 23. We intend to ask the Court to intervene. However, Plaintiffs can withdraw some of those requests from their forthcoming motion—or they can forgo filing any motion at all—if DISH makes the “go-get” productions described below and agrees to perform custodial searches for narrowed Request Nos. 7, 9, 11, 15, and 19.

First, Plaintiffs will abstain from moving on their Request Nos. 5, 6, 10, 12, 13, 20, 23 if DISH produces the full copies of each version of the following documents from June 2018 through June 2024 (i.e., Q2 2018 – Q2 2024):

- Presentations regarding shutdown of the Sprint Network and DISH's CDMA Migration Initiative;
- Retail Wireless Group Strategic Review Presentations, including the quarterly presentations and any presentations created for the Board of Directors;
- DISH Network's quarterly reviews; each version of the “Model-c2” presentation, including the final version;

<sup>1</sup> Although Plaintiffs intend to request the Court to compel production only with respect to certain requests in their subpoena and as narrowed in this and other letters, Plaintiffs reserve their rights to seek enforcement with respect to other requests in the future. Plaintiffs' repeated good faith attempts to negotiate compliance with their subpoena, including through narrowing, shall not be taken as a waiver of those requests.

- Financial models (e.g., spreadsheets) projecting Your costs to provide retail mobile wireless service;
- Documents sufficient to show Your costs of providing retail mobile wireless service;
- Documents sufficient to show all bundles offered to retail mobile wireless service customers, including the components of the bundle, the price of the bundle, the cost to DISH for providing the bundle, and the dates during which DISH offered the bundle; and
- Reports or presentations of the results of any speed tests performed on Your network.

Each of these requests is relevant and proportional to the needs and importance of the litigation: T-Mobile persuaded regulators and courts that its merger with Sprint should be allowed to proceed because DISH would step in as a viable competitor in the retail mobile wireless services market. But whether DISH could realistically become a viable competitor turns on whether it technically and financially can (or even has aspirations to) become a fourth competitor in the retail mobile service market. These requests are reasonably calculated to discover evidence that is probative of DISH's capacity and willingness to compete in that market—and accordingly of the merits of Plaintiffs' Clayton Act and Sherman Act claims.

Moreover, these requests are guided by the limited (and, to be clear, incomplete) productions DISH has made to date, as well as DISH's representations (and, thus, admissions) that the documents it has produced are responsive to portions of Plaintiffs' requests (albeit without specificity as to the Requests to which they respond). *See, e.g.*, DISH00000411; DISH00000436; DISH00000451; DISH00000803; DISH00000822; DISH00004804; DISH00005753. At a minimum, the requested documents that DISH is withholding are responsive to Plaintiffs' Request Nos. 5, 6, 10, 12, 13, 20, and 23. The minimal number of documents DISH has produced are not fully responsive to any of Plaintiffs' requests, and the targeted requests Plaintiffs intend to enforce are calculated to obtain a full and accurate picture of DISH's business, its impact on the retail mobile wireless service market, and the harm Plaintiffs currently suffer as a consequence of T-Mobile's acquisition of Sprint and the subsequent failure of DISH to emerge as a legitimate fourth competitor in the market.

A key aspect of these requests are the documents DISH submitted to the Monitoring Trustee datasite. While your November 14 letter admits that DISH has produced some of the documents it submitted to the datasite, it does not represent it has produced *all* the documents submitted to that datasite, which Plaintiffs have explained are relevant to this case. The fact that a third party other than DISH maintains the site is irrelevant. DISH's productions confirm it has access to and/or possesses copies of the documents it submitted to that datasite. And your suggestion that Plaintiffs can obtain the confidential information DISH submitted to the Monitoring Trustee from T-Mobile is no excuse to continue withholding these relevant documents. We are only seeking the documents DISH provided to the Monitoring Trustee, which T-Mobile does not possess.

Second, Plaintiffs will abstain from moving on Request Nos. 7, 9, 11, 15, and 19 if DISH agrees to perform custodial searches from June 2018 through June 2024 for those Requests using the following custodians: Charlie Ergen, Will Platz, Stephen Bye, Jeff McSchooler, John Swieringa,

Marc Rouanne, Stephen Stokols, and Rob Hussa. Those narrowed Requests, in this final compromise offer, are as follows:

- Request No. 7: Communications discussing the Master Network Services Agreement or the Transaction's effect on service pricing, market shares, plan introductions, network investments, and network coverage or speeds in the retail mobile wireless market;
- Request No. 9: Documents, ESI, and communications related to (1) the need or desire to acquire spectrum—whether via auction, purchase from a competitor, or via acquisition of another company—to compete with other mobile network operators; (2) analysis or projections of how spectrum acquisitions by T-Mobile would affect plan costs, or plan pricing for T-Mobile customers; (3) analysis or projections of how spectrum acquisitions by T-Mobile or other mobile network operators would affect plan costs for other mobile network operators, or plan pricing set by other mobile network operators; and (4) the portion of customer plan costs T-Mobile attributes to capital expenditures related to spectrum acquisition;
- Request No. 11: Documents and ESI since January 1, 2017, related to your 5G network strategy, such as long-term planning or strategic assessment presentations and communications that discuss the following: (1) Your roadmap for deploying 5G services (such as the timeline for deployment and the order in which deployment would occur in different geographic markets); (2) Your decisions related to which frequency bands to use for Your 5G service(s) (e.g., mmWave versus mid-band or low-band); (3) investments in infrastructure for Your 5G network; (4) consumer feedback on the accessibility and reliability of Your 5G network; (5) pricing of Your 5G services, including any associated financial models; (6) advertising strategy for Your 5G network or services; (7) comparisons of Your 5G network or services to those of competitors such as AT&T, T-Mobile, and Verizon; (8) 5G network KPIs (e.g., cell availability, session setup success rate, RTT latency, user throughput, packet loss rate etc.); and (9) Your viability as a competitor to Verizon, AT&T, and T-Mobile;
- Request No. 15: Documents, ESI, and communications related to pricing changes for Your retail mobile wireless plans (increases or decreases), advertising strategy related to price changes, and customer feedback regarding the pricing of Your retail mobile wireless plans; and
- Request No. 19: Documents, ESI, and communications related to customer complaints or satisfaction with respect to network coverage, upload/download speeds, pricing, or 5G availability on DISH's or a competitor's network.

Plaintiffs are willing to make these significant compromises to avoid Court intervention. Given the complexity of this case and the importance of these materials to Plaintiffs' claims, the narrowing is more than reasonable. While we agree with your representations that DISH is differently situated than the major MNOs—as Plaintiffs allege, DISH has not developed into a viable fourth competitor in the market and is unlikely to do so—discovery is still necessary from DISH because it rejected our offer to stipulate that it has not and cannot effectively compete in the

retail mobile wireless service market, depriving price-conscious consumers like Plaintiffs of a competitive market. DISH cannot both claim to be a real player in the retail mobile wireless service market and avoid entirely discovery in this case by hiding behind unsubstantiated claims of burden.

If DISH does not want to burden the Court with this dispute, please let us know by December 30, 2024 whether it agrees to provide the discovery outlined above. Plaintiffs can promptly begin negotiating search terms for the custodial requests. If, instead, DISH again refuses to adopt a reasonable position in a compromise to resolve this dispute, we will file our motion to enforce the subpoena in early January 2025. Please provide us with DISH's answer in writing.

Finally, although we do not believe that the parties are at an impasse on structured data, we do have some concerns that an impasse is near. We would like to use this opportunity to crystallize DISH's position. The draft data security agreement DISH sent us on December 3, 2024, suggests that DISH may refuse to produce structured data for all its subscribers as Plaintiffs requested. The draft states that we have discussed production of structured data for Boost Mobile and Boost Infinite subscribers but omits mention of DISH's other customers falling under brands such as Gen Mobile and Republic Wireless. Plaintiffs have been unequivocal during the parties' meet and confers and in written correspondence that their requests—including those for structured data—extend to the entirety of DISH's retail wireless business. Likewise, it is essential for Plaintiffs to have data pertaining to Partner coverage—meaning whether DISH's brands have contracted, or are contracting, with other MNOs to obtain coverage—as requested in Request No. 22 to prove their claims. Please confirm that DISH plans to produce structured data for *all* its subscribers, including with an indication of Partner coverage.

Kind regards,

*/s/ Renner K. Walker*