

EXHIBIT C

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

ANTHONY DALE, BRETT JACKSON,
JOHNNA FOX, BENJAMIN BORROW-
MAN, ANN LAMBERT, ROBERT ANDER-
SON, 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

**RESPONSES AND OBJECTIONS TO SUBPOENA TO
PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS**

PROPOUNDING PARTY: Plaintiff Anthony Dale, et. al.

RESPONDING PARTY: Third Party Dish Network Corporation

Plaintiffs have issued highly burdensome subpoenas seeking extremely competitive and proprietary information from third parties, including DISH Network Corporation (“DISH” or Responding Party), as part of their improper attempt to re-litigate the merger and acquisition of Sprint and T-Mobile (“the Transaction”) even though the Department of Justice approved the Transaction and lawsuits brought by various attorneys general on behalf of consumers have been adjudicated.

Pursuant to Rules 34 and 45 of the Federal Rules of Civil Procedure and the Local Civil Rules of the United States District Court for the Northern District of Illinois, DISH submits these Objections and Responses to the Subpoena to Produce Documents, Information, Or Objects Or to Permit Inspection Of Premises In A Civil Action to DISH Network Corporation, dated October 19, 2022 (“Subpoena”) served by Plaintiffs Anthony Dale et al (collectively, “Plaintiffs”).¹ To the best of its knowledge, information, and belief, DISH responds as follows:

OVERALL OBJECTIONS TO SUBPOENA

1. DISH objects to the Subpoena on the grounds that it is premature at this stage of the litigation. Defendant T-Mobile’s motion [ECF No. 120] to certify the Court’s Order [ECF No. 114] for interlocutory appeal remains pending, and that motion, if granted, and any appeal stemming therefrom, may obviate the need for the burdensome third-party discovery caused by this Subpoena. DISH will not produce documents in response to this Subpoena unless or until the Court determines that Defendant’s motion should not be granted and/or the Court of Appeals makes a determination that the case should move forward past the pleading stage.

¹ Plaintiffs and DISH agreed that DISH’s Responses and Objections would be due February 2, 2024. Accordingly, DISH’s Responses and Objections are timely.

2. DISH objects to the Subpoena and the specific requests contained therein on the grounds that they are overly broad and unduly burdensome insofar as they seek documents created or exchanged prior to the public announcement of the Transaction in April 2018 and subsequent DOJ and court approval in April 2020. DISH further objects that documents created or exchanged prior to the approval of the Transaction are not relevant to the claims and defenses in this matter. Specifically, the Court in the above-captioned case has noted that “this case does not focus on the wisdom of the merger, but its consequences.” [ECF No. 114 at 5; *see also id.* at 40 (“Plaintiffs’ suit is focused on the effects of the merger, subject to those conditions, after it was effectuated in April 2020.”). Any search for or production of such documents would be unduly burdensome and disproportionate. *Uppal v. Rosalind Franklin Univ. of Med. & Sci.*, 124 F.Supp.3d 811, 815 (N.D. Ill. 2015) (finding that a subpoena requesting irrelevant information imposes an inherently undue burden).

3. DISH objects to the Subpoena on the grounds that Plaintiffs’ claims are barred by *res judicata*. *Res judicata* bars claims that were litigated in a previous action where there is “(1) an identity of the causes of action; (2) and identity of the parties or their privies; and (3) a final judgment on the merits.” *Bell v. Taylor*, 827 F.3d 699, 706 (7th Cir. 2016) (internal citations and quotation marks omitted). Whether there is an identity of a cause of action is determined by whether the lawsuits “arise out of a common core of operative facts.” *Id.* (internal citations and quotation marks omitted). Here, it is undisputed that this action and *New York v. Deutsche Telekom (AG)*, 19 Civ. 5434 (VM), decided in the United States District Court for the Southern District of New York, both arise out of T-Mobile US, Inc.’s acquisition of Sprint Corporation in 2020. *Compare* 439 F. Supp.3d 179, 186 (S.D.N.Y. 2020) (addressing a group of State Attorneys General “seeking to enjoin the proposed acquisition of Sprint by T-Mobile” due to

claims that “the effect of the Proposed Merger would be to substantially lessen competition in the market for retail mobile wireless telecommunications services . . . in violation of Section 7 of the Clayton Act”) *with* Plaintiffs’ Class Action Complaint [ECF No. 1], ¶¶ 1, 7 (bringing complaint “under Section 7 of the Clayton Act” challenging “the merger of T-Mobile US, Incorporated (“T-Mobile”) and Sprint Corporation (“Sprint”)” and alleging that “Competition has declined precipitously as a result” of the merger.) Moreover, the Plaintiffs in this action were represented by their privies, the Attorneys General of their respective States, in the *New York* action. *See Oneida Nation v. Village of Hobart*, 968 F.3d 664, 688 (7th Cir. 2020) (“In the preclusion context, privity has come to be seen as a descriptive term for designating those with a sufficiently close identity of interests,” particularly where “the action was [] brought on behalf of’ the party against whom preclusion is sought) (cleaned up). As Illinois Attorney General Kwame Raoul explained after settling claims in the *New York* case, he “challenged T-Mobile’s merger with Sprint to protect Illinois consumers from the risks that come with decreased competition.” *Attorney General Raoul Announces Settlement with T-Mobile and Sprint in Merger Lawsuit*, available at <https://illinoisattorneygeneral.gov/dA/a6776919e0/202003-11%20SETTLEMENT%20WITH%20T%20MOBILE%20AND%20SPRINT%20IN%20MERGER%20LAWSUIT.pdf> (March 11, 2020). *Cf.* Mem. Op. and Order [ECF No. 63] (declining to transfer the instant litigation to S.D.N.Y. because one Plaintiff resides in the Northern District of Illinois and three other Plaintiffs are similarly Illinois citizens). Finally, the *New York* court reached a final determination on the merits, finding that the merger was “not reasonably likely to substantially lessen competition” in the “dynamic and rapidly changing” retail wireless industry and concluding that the “Plaintiff States have failed to prove a violation of Section 7.” 439 F. Supp.3d at 248. The Seventh Circuit has explained the importance of *res judicata* in

“protect[ing] litigants from the expense and disruption of being haled into court repeatedly.”

Bell, 827 F.3d at 708 (quoting *Palka v. City of Chicago*, 662 F.3d 428, 437 (7th Cir. 2011)).

DISH objects and asserts that, as a non-litigant in the matter, *res judicata* takes on ever greater importance and should be applied to shield DISH from Plaintiffs’ overbroad and burdensome discovery requests related to claims that were already adjudicated by the Southern District of New York.

4. DISH objects to the Subpoena on the grounds that Plaintiffs are estopped from challenging or seeking discovery into the legal issues surrounding DISH’s involvement in the Transaction due to issue preclusion. Issue preclusion, or collateral estoppel, prevents reexamination of issues resolved in prior litigation and applies where “(1) the issue sought to be precluded [is] the same as that involved in the prior litigation; (2) the issue must have been actually litigated [in the prior litigation;] (3) the determination of the issue must have been essential to the final judgment; and (4) the party against whom estoppel is invoked must have been fully represented in the prior action.” *In re Calvert*, 913 F.3d 697, 701 (7th Cir. 2019) (quoting *Matrix IV, Inc. v. Am. Nat'l Bank & Trust Co. of Chi.*, 649 F.3d 539, 547 (7th Cir.2011)). The Subpoena is directed at issues already decided in the *New York* litigation: for example, Plaintiffs propound five requests with multiple sub-parts aimed at obtaining discovery regarding “governmental proceedings; meanwhile, the *New York* court devoted substantial analysis to “Federal Agency Review and DISH as a New Entrant,” 439 F.Supp.3d at 224-33. Indeed, almost all of the issues addressed by the Subpoena (and certainly all of the issues actually relevant to the underlying claims and defenses in this matter) were addressed by the *New York* court in that litigation. Issues regarding DISH’s entry into the relevant market, the sufficiency thereof in demonstrating a competitive impact on the relevant market; the likelihood

of DISH’s success in the relevant market, and the timeliness of DISH’s transition to becoming an MNO were actually litigated and determined in the *New York* litigation. *See e.g., id.* Moreover, the *New York* court made clear that evidence regarding DISH’s participation in the relevant market introduced at trial was an essential element of the court’s conclusion that the “Plaintiff States had failed to prove” a Clayton Act violation. *Id.* at 248. Finally, DISH restates and incorporates its statement in Objection 3 above regarding the Plaintiffs’ representation by their State Attorneys General in the *New York* litigation and applies the same to this objection. Because the issue of DISH’s involvement in the Transaction that is the subject of this action was already litigated and determined by the *New York* court, DISH objects that the considerable and wide-ranging discovery sought by the Subpoena should be deemed precluded.

5. DISH objects to the Subpoena on the grounds that the numerosity and breadth of the requests in combination with the timing of the Subpoena represent a failure on the part of Plaintiffs and their attorneys to take reasonable steps to avoid foisting an undue burden on DISH as a non-party. Fed. R. Civ. P. 45(d)(1). In determining whether the burden imposed by a subpoena on a non-party is “undue,” courts heavily consider non-party status as a “significant factor” alongside whether the information requested is relevant, the requesting party’s “substantial need” for the documents, the breadth of the requests, the time-period covered by the requests, the particularity of the requests, and the overall burden imposed, including whether “the requesting party had an opportunity to obtain the information through the normal discovery process, or the information sought is cumulative or duplicative of other discovery.” *Little v. JB Pritzker for Governor*, No. 18 C 6954, 2020 WL 1939358, at *2 (N.D. Ill. Apr. 22, 2020). Not only have Plaintiffs in this case issued requests to DISH with the expectation that documents be produced before seeking any documents from the actual Defendants in the action, but Plaintiffs

have taken no steps (let alone reasonable ones) to ascertain whether the information sought is publicly available (such as through DISH's public filings to SEC) or is available through discovery-sharing procedures approved by courts in this Circuit. *See, e.g., Wilk v. Am. Medical Ass'n*, 635 F.2d 1295 (7th Cir. 1980). Moreover, Plaintiffs' numerous requests seeking documents created or exchanged prior to DISH's involvement in the relevant market or the approval of the Transaction, as well as requests for patently irrelevant information (much of which consists of confidential or trade-secret material), further indicate Plaintiffs' lack of tailoring in issuing this Subpoena to DISH. *Little*, 2020 WL 1939358, at *8 (awarding sanctions where issuing party failed to obtain subpoenaed materials in the ordinary discovery process, served facially overbroad requests, and failed to confer with the subpoenaed non-party).

6. DISH objects to the Protective Order entered in this Action on the grounds that it does not adequately protect the sensitive and highly confidential information sought by the Subpoena because it lacks a level or designation that prohibits in-house attorneys from viewing confidential information, including sensitive financial or highly competitive information.

OBJECTIONS TO DEFINITIONS

1. DISH objects to the definition of "Affiliate MVNOs" insofar as it purports to seek information that is not relevant to the claims and defenses in this matter, particularly information created or exchanged prior to the approval of the Transaction in April 2020. DISH further objects that documents created or exchanged prior to Transaction Approval in April 2020 are not relevant to the claims and defenses in this matter. Specifically, the Court in the above-captioned case has noted that "this case does not focus on the wisdom of the merger, but its consequences." [ECF No. 114 at 5; *see also id.* at 40 ("Plaintiffs' suit is focused on the effects of the merger, subject to those conditions, after it was effectuated in April 2020."). DISH also objects to this

definition to the extent it purports to seek information that is beyond DISH's possession, custody, or control.

2. DISH objects to the definition of "Agreement" on the grounds that it is overly broad and seeks information that cannot be produced in accordance with the Federal Rules of Civil Procedure. For example, DISH cannot produce non-recorded "oral" Agreements.

3. DISH objects to the definition of "All" to the extent it purports to extend such terminology beyond its ordinary meaning.

4. DISH objects to the definition of "AT&T" on the grounds that it is overly broad, vague, ambiguous, and seeks information that is not relevant to the claims and defenses in this matter. DISH will limit its interpretation of "AT&T" to AT&T, Inc.

5. DISH objects to the definition of "Communication" on the grounds that it is overly broad and seeks information that cannot be produced in accordance with the Federal Rules of Civil Procedure. For example, DISH cannot produce non-recorded "oral" communications.

6. DISH objects to the definition of "The Company," on the grounds that it is overly broad, vague, ambiguous, and unclear as to which entity and as to which point in time "The Company" may refer. DISH will attempt to interpret requests related to "The Company" consistent with its understandings of the claims and defenses in this matter.

7. DISH objects to the definition of "DISH" on the grounds that it is overly broad and seeks information that is not relevant to the claims and defenses in this matter. DISH Network Corporation has numerous "parent" and "subsidiary" companies, many of which do not participate in the Retail Wireless Market, were not involved in decision-making related to the Transaction, and do not have possession, custody, or control of relevant documents. To the

extent DISH produces documents in response to the Subpoena, DISH will produce relevant, non-privileged documents within its possession, custody, or control.

8. DISH objects to the definition of “Document” on the grounds that it is overly broad, unduly burdensome, vague, and ambiguous. DISH objects to the inclusion of “duplicate[s],” “copies,” and “drafts” in the definition of “Document” on the grounds that it is, by definition, cumulative and/or duplicative, Fed. R. Civ. P. 26(b)(2)(C)(i), and efforts to search for, collect, and produce “duplicate[s],” “copies,” and “drafts” would be unduly burdensome and disproportionate to the needs of the litigation. DISH also objects on the grounds that “drafts,” particularly of “legal pleadings,” often contain information that is protected from disclosure by the attorney-client privilege, the work-product doctrine, and/or other applicable privileges or protections. DISH objects to the inclusion of “instant messages, “text messages (SMS or other), “electronic chats,” and “Slacks (or similar programs)” in the definition of “Document” on the grounds that searching and producing such data would require unreasonable efforts that are disproportionate to the needs of the case, particularly considering DISH’s status as a non-party. DISH objects to the inclusion of “tangible materials on which there is any recording or writing of any sort” in the definition of “Document” to the extent it purports to seek direct access to DISH hardware or information systems. Fed. R. Civ. P. 34 (Advisory Committee Notes on 2006 Amendment). DISH objects to the inclusion of “file[s],” “folder tabs,” and “containers and labels appended to, or associated with, any physical storage device” in the definition of “Document” on the grounds that such items are unlikely to contain information relevant to the claims and defenses in this matter and efforts to collect such items are likely to be unduly burdensome and disproportionate to the needs of this case. To the extent DISH produces

“documents” in response to the Subpoena, DISH will produce such “documents” as they are kept in the ordinary course of business.

9. DISH objects to the definition of “DOJ” to the extent it seeks information related to entities that are not relevant to the claims and defenses in this case.

10. DISH restates and incorporates its objection to the definition of “Document” and applies the same to the definition of “Electronically Stored Information (‘ESI’). DISH objects to the inclusion of “activity listings” in the definition of “ESI” on the grounds that such information is voluminous and would be unduly burdensome to search and review. DISH further objects that, to the extent “activity listings” are relevant to the claims and defenses in this matter, Plaintiffs can glean such information from the more convenient and less burdensome review of readily available email metadata fields. DISH objects to the inclusion of “database files” in the definition of “ESI” on the grounds that production of databases would be unduly burdensome and disproportionate to the needs of this case. To the extent DISH produces information from databases in response to the Subpoena, DISH will produce such information in the form of reporting generated in the ordinary course of business. DISH objects to the inclusion of “operating systems,” “source code,” “PRF files,” “PRC files,” “batch files,” and “ASCII files” in the definition of “ESI” on the grounds that such data is unlikely to contain information relevant to the claims and defenses in this case and are likely to consist of confidential, trade secret data that would be unduly burdensome to search, review, and/or produce and is therefore not proportional to this case. DISH objects to the inclusion of electronic data in “deleted file[s]” or “file fragment[s]” in the definition of “ESI” on the grounds that search, review, or production of such information would require extraordinary efforts that are not proportional to this litigation, particularly in light of DISH’s status as a non-party. DISH objects to the inclusion of

information “stored on” computer media, “cloud storage” or “a personal digital assistant” in the definition of “ESI” to the extent it would require undue or disproportionate efforts or to the extent such media, storage, or devices are beyond DISH’s possession, custody, or control.

11. DISH objects to the definition of “FCC” to the extent it seeks information related to entities that are not relevant to the claims and defenses in this case.

12. DISH objects to the definition of “FTC” to the extent it seeks information related to entities that are not relevant to the claims and defenses in this case.

13. DISH objects to the definition of “Including” to the extent it purports to extend such terminology beyond its ordinary meaning.

14. DISH objects to the definition of “Meeting” on the grounds that it is overly broad and seeks information that is not relevant to the claims and defenses in this matter and/or cannot be produced in accordance with the Federal Rules of Civil Procedure. DISH objects that information related to “meetings” undertaken “for any purpose” beyond those relevant to this case would be unduly burdensome and disproportionate. *Uppal*, 124 F. Supp.3d at 815. DISH further objects that it cannot produce non-recorded “meetings.”

15. DISH objects to the definition of “MNSA” on the ground that the term “original” is vague, ambiguous, and undefined. DISH will interpret this terminology as referring to the 2020 Master Network Services Agreement between T-Mobile US, Inc. and DISH.

16. DISH objects to the definition of “Or” to the extent it purports to extend such terminology beyond its ordinary meaning.

17. DISH objects to the definition of “Person” to the extent it seeks information regarding persons or entities that bear no relevance to the claims or defenses in this matter and/or information that is beyond DISH’s possession, custody, or control.

18. DISH objects to the definition of “Relating to,” “referring to, “regarding,” or “with respect to” to the extent the definition purports to extend such terminology beyond its ordinary meaning.

19. DISH objects to the definition of “Retail Mobile Wireless Market” to the extent Plaintiff purports to differentiate the relevant analysis from the *New York* court’s determination regarding competition in the retail mobile wireless telecommunications service (“RMWTS”) market. *See* 439 F. Supp.3d at 193. DISH will interpret this terminology in a manner that is consistent with the *New York* court’s definition of the RMWTS market.

20. DISH objects to the definition of “Second Request” to the extent that it presumes without evidence that DISH was the recipient of any such Request. DISH also restates and incorporates its overall objections to the Subpoena related to *res judicata* and collateral estoppel and applies each to this definition.

21. DISH objects to the definition “Small business” on the grounds that it is vague and ambiguous with respect to the terms “Retail Cell Service Market” and “enterprise plan.” DISH will interpret the term “small business” in accordance with its ordinary meaning in the context of the RMWTS market as defined by the *New York* court. 439 F. Supp.3d at 193.

22. DISH objects to the definition of “Sprint” on the grounds that it is overly broad, vague, ambiguous, and seeks information that is not relevant to the claims and defenses in this matter. DISH will limit its interpretation of “Sprint” to Sprint Corporation.

23. DISH objects to the definition of “States’ Pre-Merger Case” on the grounds that it is vague and ambiguous regarding what constitutes a “pre-filing investigation conducted by the States.” DISH further restates and incorporates its overall objections to the Subpoena on the grounds of *res judicata* and collateral estoppel and applies each to this definition.

24. DISH objects to the definition of “Subscriber” and “Subscriber-level data” on the grounds that it is overly broad, unduly burdensome, and seeks information that is not relevant to the claims and defenses in this matter. In particular, information regarding “a subscriber’s use of a mobile wireless provider’s applications or network” constitutes confidential data subject to federal regulation. *See, e.g.*, 47 U.S.C. § 222; 47 C.F.R. § 64. Disclosure of such information is not necessary to the resolution of this matter and would be disproportionate to the needs of this case. Fed. R. Civ. P. 26(b)(1); 45(d)(3)(B)(i).

25. DISH restates and incorporates its objection to the definition of “DISH” and applies the same to the definition of “Subsidiary,” “affiliate,” and “joint venture.” To the extent DISH produces documents in response to the Subpoena, DISH will produce relevant, non-privileged documents within its possession, custody, or control.

26. DISH restates and incorporates its second overall objection to the Subpoena and applies the same to the definition of “The Transaction.” DISH further objects to the definition of “The Transaction” on the grounds that it is overly broad, unduly burdensome, and seeks information that is not relevant to any claims or defenses in this matter insofar as it seeks information prior to the approval of the Transaction in April 2020.

27. DISH objects to the definition of “Verizon” on the grounds that it is overly broad, vague, ambiguous, and seeks information that is not relevant to the claims and defenses in this matter. DISH will limit its interpretation of “Verizon” to Verizon Communications, Inc.

28. DISH restates and incorporates its objection to the definition of “DISH” and applies the same to the definition of “You” or “Your.” DISH further objects to the inclusion of “third part[ies]” and “former directors, officers, employees, agents, [or] representatives” in the

definition of “You” or “Your” to the extent it purports to seek information that is beyond DISH’s possession, custody, or control.

29. DISH objects to the Subpoena and the specified requests contained therein to the extent the Requests seek documents that do not exist or that improperly seek DISH to create new documents.

OBJECTIONS TO INSTRUCTIONS

1. DISH restates and incorporates its first and fifth overall objections to the Subpoena and applies each to Instruction 1. DISH further objects to Instruction 1 on the grounds that the date and time for production of documents was set without first conferring with DISH and the Subpoena purports to require document productions from DISH prior to productions from the parties to this matter. *Little*, 2020 WL 1939358, at *6. As such, DISH objects that the timeline for document production is unduly burdensome and disproportionate to the needs of the litigation. DISH is willing to confer with Plaintiffs regarding a reasonable time for completing any document production in response to the Subpoena if the Court determines that Defendant’s motion [ECF No. 120] should not be granted and/or the Court of Appeals makes a determination that the case should move forward past the pleading stage.

2. DISH objects to Instruction 2 on the grounds that it is overly broad and exceeds the parameters of the Federal Rules of Civil Procedure. DISH further objects to the inclusion of documents in the possession, custody, or control of DISH’s “attorneys” in Instruction 2 to the extent it would require the production or disclosure of information protected from discovery by the attorney-client privilege, the work-product doctrine, or any other applicable privilege or immunity. To the extent DISH produces documents in response to the Subpoena, DISH will

produce reasonably accessible, relevant, non-privileged documents within its possession, custody, or control.

3. DISH objects to Instruction 3 on the grounds that it is overly broad, unduly burdensome, and purports to impose obligations that exceed those set forth in the Federal Rules of Civil Procedure. To the extent DISH produces documents in response to the Subpoena, DISH will produce reasonably accessible, relevant, non-privileged documents as such documents are kept in the ordinary course of business. Fed. R. Civ. P. 45(e)(1)(A).

4. DISH objects to Instruction 4 on the grounds that it is unduly burdensome and seeks discovery that is cumulative and duplicative. Fed. R. Civ. P. 26(b)(2)(C)(i).

5. DISH objects to Instruction 5 on the grounds that it is overly broad, unduly burdensome, and purports to impose obligations that exceed those set forth in the Federal Rules of Civil Procedure. Specifically, DISH objects to this instruction insofar as it requires DISH to create new documents that do not already exist. To the extent DISH produces documents in response to the Subpoena, DISH will produce such documents in reasonably usable formats consistent with Fed. R. Civ. P. 45(e)(1)(B).

6. DISH objects to Instruction 6 on the grounds that it is overly broad, unduly burdensome, and purports to impose obligations that do not exist under the Federal Rules of Civil Procedure. DISH further objects to Instruction 6 insofar as it seeks information regarding documents that are not in DISH's possession, custody, or control. DISH objects to this instruction insofar as it requires DISH to create new documents that do not already exist.

7. DISH restates and incorporates its objection to Instruction 6 and applies the same to Instruction 7. DISH further objects to the extent Instruction 7 implies duties beyond those

imposed on non-parties by common law and the Federal Rules of Civil Procedure. DISH objects to this instruction insofar as it requires DISH to create new documents that do not already exist

8. DISH objects to Instruction 8 to the extent it purports to impose obligations that exceed those set forth in Fed. R. Civ. P. 45 and 26(b)(5). To the extent DISH withholds otherwise responsive documents on the basis of privilege or protection, DISH will describe such documents in accordance with the Federal Rules of Civil Procedure.

9. DISH restates and incorporates its objections to Instruction 3 and Instruction 8 and applies each to Instruction 9. To the extent DISH produces documents in response to the Subpoena, DISH will produce reasonably accessible, relevant, non-privileged documents as such documents are kept in the ordinary course of business. Fed. R. Civ. P. 45(e)(1)(A).

10. DISH objects to Instruction 10 on the grounds that it exceeds the parameters of the Federal Rules of Civil Procedure. DISH further objects to Instruction 10 to the extent it purports to presume that production of “datasets” or “databases” or “subscriber-level data” is relevant to the underlying claims and defenses or proportional to the needs of this case. Fed. R. Civ. P. 26(b)(1); 45(d)(3)(B)(i).

11. DISH objects to Instruction 11 on the grounds that it purports to impose obligations that exceed those set forth in the Federal Rules of Civil Procedure. DISH further objects to Instruction 11 on the grounds that it is vague and ambiguous with respect to the term “flat file format.” To the extent DISH produces documents in response to the Subpoena, DISH will produce such documents in reasonably usable formats consistent with Fed. R. Civ. P. 45(e)(1)(B).

12. DISH objects to Instruction 12 on the grounds that it purports to impose obligations that exceed those set forth in the Federal Rules of Civil Procedure. To the extent

DISH produces documents in response to the Subpoena, DISH will produce such documents in reasonably usable formats consistent with Fed. R. Civ. P. 45(e)(1)(B).

13. DISH restates and incorporates its second overall objection to the Subpoena and applies the same to Instruction 13. DISH further objects that Instruction 13 is unduly burdensome and purports to seek information that bears no relevance to the claims and defenses in this matter. *Uppal*, 124 F. Supp.3d at 815. DISH will not produce documents created or exchanged prior to the approval of the Transaction in April 2020.

14. DISH objects to Instruction 14 to the extent it purports to impose obligations that do not exist under the Federal Rules of Civil Procedure. To the extent DISH produced documents in response to the Subpoena, DISH will respond to the best of its knowledge, information, and belief in accordance with Fed. R. Civ. P. 45(e).

RESPONSES AND OBJECTIONS TO DOCUMENT REQUESTS

DOCUMENT REQUEST NO. 1:

All documents and ESI produced to, submitted to, seized by, or received from the DOJ, the FCC, the FTC, or any other governmental, Congressional, administrative, regulatory or investigative body of the United States, District of Columbia, or any state of the United States concerning the Transaction, including but not limited to:

- a. all civil investigative demands, Second Requests, subpoenas and requests for documents You have received from the United States Department of Justice or any governmental, Congressional, administrative, regulatory or investigative body of the United States, District of Columbia, or any state of the United States concerning the Transaction;
- b. all position papers, white papers, prepared remarks (including any drafts of such papers or remarks), and associated backup data and code given, submitted or presented or intended to be given, submitted or presented to any governmental body;
- c. all documents and ESI related to approval of the Transaction by the Federal Communications Commission;

- d. all documents related to approval of the Transaction by the CPUC;
- e. all transcripts, notes summaries, and recordings of oral testimony created in connection with any federal or state regulatory review of the Transaction, whether or not procured by Civil Investigative Demand, Second Request or other compulsory process; or
- f. all communications between You and any governmental body regarding the Transaction, including without limitation, documents concerning search methodologies for custodial and non-custodial sources and documents concerning or constituting Your narrative responses to interrogatories or questions posed by the United States Department of Justice or any governmental, Congressional, administrative, regulatory or investigative body of the United States, District of Columbia, or any state of the United States concerning the Transaction.

RESPONSE TO DOCUMENT REQUEST NO. 1:

DISH restates and incorporates its overall objections to the Subpoena and its objections to Plaintiffs' definitions and instructions, and applies each to Document Request 1. DISH further objects to this Request on the grounds that it clearly seeks information that is available to Plaintiffs through more convenient, less burdensome, and less expensive means than seeking documents from DISH as a non-party, such as through searches of public records, discovery sharing, or issuing requests through the Freedom of Information Act (FOIA) or other similar state statutory mechanisms. DISH objects to this Request as vague and ambiguous with respect to the terms "investigative body" and "associated backup data or code given." DISH objects to this Request on the grounds that it improperly seeks discovery about discovery insofar as it seeks information regarding DISH's "search methodologies," despite Plaintiffs' lack of any standing to so inquire. Moreover, DISH objects that much of the information sought via this Requests is either irrelevant to the underlying claims and defenses in this matter or proof that Plaintiffs' claims are barred by *res judicata* or the issues precluded through collateral estoppel. DISH further objects to this Request on the grounds that it seeks irrelevant pre-merger information

created or exchanged prior to April 2020. *See Motion to Dismiss Order [ECF No. 114] at 5, 40.* DISH objects that much information “intended to be given” but not actually provided to government entities is likely protected from disclosure by the attorney-client privilege, the work-product doctrine, or other applicable privileges or protections. Finally, DISH objects that this Request is overbroad in that is unbounded by time.

Based on the foregoing Objections, DISH responds as follows: DISH is willing to meet and confer to determine if Request 1 can be appropriately narrowed to focus on non-duplicative, relevant, and proportionate information not obtainable through more convenient, less burdensome, and less expensive sources.

DOCUMENT REQUEST NO. 2:

All documents and ESI produced by You in the States' Pre-Merger Case, including but not limited to documents and ESI produced by You during any pre-filing investigation.

RESPONSE TO DOCUMENT REQUEST NO. 2:

DISH restates and incorporates its overall objections to the Subpoena, its objections to Plaintiffs' definitions and instructions, and its objection to Document Request 1, and applies each to Document Request 2. DISH further objects to this Request as vague and ambiguous as to the undefined term “pre-filing investigation.” DISH also objects that this Request clearly seeks documents that are available through more convenient, less burdensome, and less expensive discovery-sharing mechanisms approved by courts in this Circuit. *See, e.g., Wilk, 635 F.2d 1295.*

Based on the foregoing Objections, DISH responds as follows: DISH is willing to meet and confer to determine if the Request can be appropriately narrowed to focus on non-duplicative, relevant, and proportionate information not obtainable through more convenient, less burdensome, and less expensive sources.

DOCUMENT REQUEST NO. 3:

Beginning in January 2010, all documents and ESI submitted to, or seized by, the DOJ, the FCC, the FTC, or any other governmental, Congressional, administrative, or regulatory body of the United States, the District of Columbia, or any state of the United States concerning potential and attempted mergers between AT&T, Sprint, and/or T-Mobile, as well as any communications related to these potential mergers, including:

- a. internal communications, including internal communications within Sprint; and
- b. communications with third-parties, including but not limited to AT&T, Deutsche Telekom AG, and Softbank.

RESPONSE TO DOCUMENT REQUEST NO. 3:

DISH restates and incorporates its overall objections to the Subpoena, its objections to Plaintiffs' definitions and instructions, and its objections to all foregoing Document Requests, and applies each to Document Request 3. DISH further objects to this Request as vague and ambiguous with respect to the term "potential and attempted mergers." DISH also objects to this Request on the grounds that it clearly seeks information that is available to Plaintiffs through more convenient, less burdensome, and less expensive means. For example, "communications with . . . Deutsche Telekom AG" should be sought from Deutsche Telekom AG as a party to this action rather than subjecting DISH to that burden. *Little*, 2020 WL 1939358, at *6. Moreover, DISH objects to this Request on the grounds that DISH does not have possession, custody, or control of "internal communications within Sprint," particularly those dating back to 2010 with respect to undefined actions that predate the approval of the Transaction underpinning Plaintiffs' litigation. *See* Motion to Dismiss Order [ECF No. 114] at 5, 40. Such communications, to the extent they exist, are irrelevant to the claims and defenses in this matter and any burden on DISH would be disproportionate to the needs of this case. *Uppal*, 124 F. Supp.3d at 815. DISH

objects to this Request to the extent it calls for disclosure of information that is protected by the attorney-client privilege, the work-product doctrine, and any other applicable privileges and protections. Finally, DISH objects that the timeframe implicated by this Request reveals that Plaintiffs have failed to take reasonable steps to avoid imposing an undue burden on DISH by seeking irrelevant information.

Based on the foregoing Objections, DISH responds as follows: DISH does not believe any “potential and attempted mergers” other than the Transaction actually challenged by Plaintiffs are relevant to the claims and defenses in this matter. DISH will not expend efforts to search for, collect, review, or produce records in response to this Request as drafted.

DOCUMENT REQUEST NO. 4:

All communications relating to the Transaction, including the DOJ Consent Decree and the States' Pre-Merger Case, between DISH and any employee, executive, director, or representative of any of the following since January 1, 2010:

- a. the DOJ;
- b. the FCC; or
- c. any state law enforcement or regulatory authority, including but not limited to:
 - i. the CPUC; or
 - ii. the office of the Attorney General for the State of California, the State of Colorado, the State of Michigan, the State of Maryland, the State of Connecticut, the State of Minnesota, the State of Mississippi, the State of New York, the State of Nevada, the State of Hawaii, the State of Illinois, the State of Oregon, the Commonwealth of Pennsylvania, the State of Texas, the Commonwealth of Virginia, the State of Wisconsin, the Commonwealth of Massachusetts, or the District of Columbia.

RESPONSE TO DOCUMENT REQUEST NO. 4:

DISH restates and incorporates its overall objections to the Subpoena, its objections to Plaintiffs' definitions and instructions, and its objections to all foregoing Document Requests, and applies each to Document Request 4. DISH further objects to this Request on the grounds that it clearly seeks information that is available to Plaintiffs through more convenient, less burdensome, and less expensive means than seeking documents from DISH as a non-party, such as through searches of public records, discovery sharing, or issuing requests through FOIA or other similar state statutory mechanisms. Finally, DISH objects that the timeframe implicated by this Request reveals that Plaintiffs have failed to take reasonable steps to avoid foisting an undue burden on DISH by seeking irrelevant information.

Based on the foregoing Objections, DISH responds as follows: DISH is willing to meet and confer to determine if the Request can be appropriately narrowed to focus on non-duplicative, relevant, and proportionate information not obtainable through more convenient, less burdensome, and less expensive sources.

DOCUMENT REQUEST NO. 5:

All documents and ESI submitted to or received from, and communications with, the monitoring trustee appointed January 13, 2020 to oversee the DOJ Consent Decree, or any individual working for that trustee, including any communications relating to the Transaction, even those that predate the appointment of the trustee.

RESPONSE TO DOCUMENT REQUEST NO. 5:

DISH restates and incorporates its overall objections to the Subpoena, its objections to Plaintiffs' definitions and instructions, and its objections to all foregoing Document Requests, and applies each to Document Request 5. DISH further objects to this Request on the grounds

that it clearly seeks information that is available to Plaintiffs through more convenient, less burdensome, and less expensive means than seeking documents from DISH as a non-party, such as through searches of public records, discovery sharing, or issuing requests through FOIA or other similar state statutory mechanisms. Finally, DISH objects that the timeframe implicated by this Request reveals that Plaintiffs have failed to take reasonable steps to avoid imposing an undue burden on DISH by seeking irrelevant information.

Based on the foregoing Objections, DISH responds as follows: DISH is willing to meet and confer to determine if the Request can be appropriately narrowed to focus on non-duplicative, relevant, and proportionate information not obtainable through more convenient, less burdensome, and less expensive sources.

DOCUMENT REQUEST NO. 6:

All communications, slide decks, reports, memos, and any other kind of document regarding, related to, planning, or responding to the planned shutdown of Sprint's 3G CDMA network and Sprint's LTE network.

RESPONSE TO DOCUMENT REQUEST NO. 6:

DISH restates and incorporates its overall objections to the Subpoena, its objections to Plaintiffs' definitions and instructions, and its objections to all foregoing Document Requests, and applies each to Document Request 6. DISH further objects on the grounds that this Request is vague, ambiguous, and overbroad with respect to the term "planned shutdown" outside the context of the Transaction underpinning Plaintiffs' claims.

Based on the foregoing Objections, DISH responds as follows: DISH is willing to meet and confer to determine if the Request can be appropriately narrowed to focus on non-duplicative, relevant, and proportionate information not obtainable through more convenient, less

burdensome, and less expensive sources.

DOCUMENT REQUEST NO. 7:

All communications since January 1, 2018, relating to any of the following:

- a. the Transaction, including the DOJ Consent Decree and the States' Pre-Merger Case;
- b. any aspect of DISH or DISH's retail wireless customers' access to T-Mobile's wireless communications network, including but not limited to pricing, utilization, download speeds, coverage, and planned 3G'network shutdown;
- c. any of the terms of the MNSA, including any subsequent amendments, even if "Master Network Services Agreement" or "MNSA" does not appear in the communication; or
- d. any proposed or adopted revision to the MNSA, even if "Master Network Services Agreement" or "MNSA" does not appear in the communication, including negotiations over amendments to these terms. All communications should be included, whether or not they resulted in an amendment.

RESPONSE TO DOCUMENT REQUEST NO. 7:

DISH restates and incorporates its overall objections to the Subpoena, its objections to Plaintiffs' definitions and instructions, and its objections to all foregoing Document Requests, and applies each to Document Request 7. DISH objects that this Request is cumulative and duplicative of other Requests in this Subpoena, illustrating Plaintiffs' failure to take reasonable steps to tailor the Subpoena to avoid foisting undue burden on DISH as a non-party. DISH also objects that "communications" regarding "terms of the MNSA" and "any proposed or adopted revision to the MNSA" are likely to include documents protected from disclosure by the attorney-client privilege, the work-product doctrine, or other applicable privileges or protections. DISH objects that many communications sought via this Request were exchanged with parties to this litigation and can be obtained through sources that are more convenient, less burdensome, and less expensive than issuing a subpoena to a non-party. DISH also objects that many

communications sought via this Request are likely to contain confidential commercial information potentially subject to nondisclosure provisions in other contracts to which DISH is a party. DISH objects that the timeframe implicated by this Request reveals that Plaintiffs have failed to take reasonable steps to avoid imposing an undue burden on DISH by seeking irrelevant information. Finally, DISH objects to this Request on the grounds that it is overly broad and unduly burdensome to the extent Plaintiffs purport to dictate the terms of DISH's search for potentially responsive records. *The Sedona Principles, Third Ed.: Best Pracs., Recs. & Principles for Addressing Elec. Doc. Prod.*, 19 Sedona Conf. J. 1, 118-23 (2018) (Principle 6).

Based on the foregoing Objections, DISH responds as follows: DISH is willing to meet and confer to determine if the Request can be appropriately narrowed to focus on non-duplicative, relevant, and proportionate information not obtainable through more convenient, less burdensome, and less expensive sources.

DOCUMENT REQUEST NO. 8:

All communications with any affiliate MVNO relating to any of the following:

- a. network speed, reliability, or disruptions;
- b. details of business arrangement, including but not limited to spectrum license or consumer pricing;
- c. network rollout, including 4G and 5G rollout; or
- d. the Transaction.

RESPONSE TO DOCUMENT REQUEST NO. 8:

DISH restates and incorporates its overall objections to the Subpoena, its objections to Plaintiffs' definitions and instructions, and its objections to all foregoing Document Requests, and applies each to Document Request 8. DISH also objects that this Request seeks information that is not relevant to any claims or defenses in this matter, as Plaintiffs allegations deal with

pricing in the MNO market and do not relate to any MVNO. DISH also objects that many communications sought via this Request are likely to contain confidential commercial information potentially subject to nondisclosure provisions in other contracts to which DISH is a party. Finally, DISH objects that this Request is overbroad in that is unbounded by time.

Based on the foregoing Objections, DISH responds as follows: DISH does not believe any “communications with any affiliate MVNO” are relevant to the claims and defenses in this matter. DISH will not expend efforts to search for, collect, review, or produce records in response to this Request as drafted.

DOCUMENT REQUEST NO. 9:

All documents, ESI, and communications related to spectrum auctions or spectrum purchases, or spectrum acquisition.

RESPONSE TO DOCUMENT REQUEST NO. 9:

DISH restates and incorporates its overall objections to the Subpoena, its objections to Plaintiffs’ definitions and instructions, and its objections to all foregoing Document Requests, and applies each to Document Request 9. DISH also objects that this Request seeks information that is not relevant to any claims or defenses in this matter and is so overbroad as to not allow for a meaningful response.

Based on the foregoing, DISH responds as follows: DISH will not expend efforts to search for, collect, review, or produce records in response to this Request as drafted.

DOCUMENT REQUEST NO. 10:

All internal assessments since January 1, 2016 related to 5G, including but not limited to 5G investment, rollout, maintenance, performance, consumer purchases, enterprise purchases, promotion, or competition, either internally or between You and any employee, executive, or

representative of any of the following:

- a. Deutsche Telekom AG;
- b. Softbank;
- c. AT&T;
- d. Verizon;
- e. affiliate MVNOs; or
- f. any regulator, including the FCC, the DOJ, the FTC, the CPUC, or any other federal, state or local regulator.

RESPONSE TO DOCUMENT REQUEST NO. 10:

DISH restates and incorporates its overall objections to the Subpoena, its objections to Plaintiffs' definitions and instructions, and its objections to all foregoing Document Requests, and applies each to Document Request 10. DISH objects that this Request is cumulative and duplicative of other Requests in this Subpoena, illustrating Plaintiffs' failure to take reasonable steps to tailor the Subpoena to avoid foisting undue burden on DISH as a non-party. DISH also objects to this Request on the grounds that it clearly seeks information that is available to Plaintiffs through more convenient, less burdensome, and less expensive means. For example, "assessments" exchanged with "Deutsche Telekom AG" and/or an "employee, executive, or representative" thereof should be sought from Deutsche Telekom AG as a party to this action rather than subjecting DISH to that burden. *Little*, 2020 WL 1939358, at *6. DISH objects that this Request is vague and ambiguous with respect to the term "internal assessments," particularly as such terminology applies to documents potentially exchanged with parties external to DISH. DISH also objects to this Request as vague and ambiguous as to the undefined terms "5G investment," "rollout," "maintenance," "performance," "consumer purchases," "enterprise purchases," "promotion," and "competition." DISH objects that many documents sought via this

Request are likely to contain confidential commercial information, some of which potentially may be subject to nondisclosure provisions in other contracts to which DISH is a party, production or disclosure of which is not necessary or proportional to the resolution of the claims or defenses in this litigation. Finally, DISH objects that the timeframe implicated by this Request reveals that Plaintiffs have failed to take reasonable steps to avoid imposing an undue burden on DISH by seeking irrelevant information.

Based on the foregoing Objections, DISH responds as follows: DISH is willing to meet and confer to determine if the Request can be appropriately narrowed to focus on non-duplicative, relevant, and proportionate information not obtainable through more convenient, less burdensome, and less expensive sources.

DOCUMENT REQUEST NO. 11:

All documents and ESI since January 1, 2017 related to 5G, including but not limited to 5G investment, rollout, maintenance, performance, consumer purchases, enterprise purchases, promotion, or competition.

RESPONSE TO DOCUMENT REQUEST NO. 11:

DISH restates and incorporates its overall objections to the Subpoena, its objections to Plaintiffs' definitions and instructions, and its objections to all foregoing Document Requests, and applies each to Document Request 11. DISH objects that this Request is cumulative and duplicative of other Requests in this Subpoena, illustrating Plaintiffs' failure to take reasonable steps to tailor the Subpoena to avoid foisting undue burden on DISH as a non-party. DISH also objects to this Request as vague and ambiguous as to the undefined terms "5G investment," "rollout," "maintenance," "performance," "consumer purchases," "enterprise purchases," "promotion," and "competition." DISH objects that many documents sought via this Request are

likely to contain confidential commercial information, some of which potentially may be subject to nondisclosure provisions in other contracts to which DISH is a party, production or disclosure of which is not necessary or proportional to the resolution of the claims or defenses in this litigation. Finally, DISH objects that the timeframe implicated by this Request reveals that Plaintiffs have failed to take reasonable steps to avoid imposing an undue burden on DISH by seeking irrelevant information.

Based on the foregoing Objections, DISH responds as follows: DISH is willing to meet and confer to determine if the Request can be appropriately narrowed to focus on non-duplicative, relevant, and proportionate information not obtainable through more convenient, less burdensome, and less expensive sources.

DOCUMENT REQUEST NO. 12:

All documents and ESI since January 1, 2017 related to the cost of providing service, including the cost of 5G rollout, as well as all internal models that analyze cost.

RESPONSE TO DOCUMENT REQUEST NO. 12:

DISH restates and incorporates its overall objections to the Subpoena, its objections to Plaintiffs' definitions and instructions, and its objections to all foregoing Document Requests, and applies each to Document Request 12. DISH objects that this Request is cumulative and duplicative of other Requests in this Subpoena, illustrating Plaintiffs' failure to take reasonable steps to tailor the Subpoena to avoid foisting undue burden on DISH as a non-party. DISH further objects that many documents sought via this Request are likely to contain confidential commercial information, some of which potentially may be subject to nondisclosure provisions in other contracts to which DISH is a party, production or disclosure of which is not necessary or proportional to the resolution of the claims or defenses in this litigation. DISH objects that much

of the information sought via this Request can be obtained through sources that are more convenient, less burdensome, and less expensive than issuing a subpoena to a non-party, such as through DISH’s publicly available regulatory filings with the Securities and Exchange Commission (SEC) and/or the FCC. Finally, DISH objects that the timeframe implicated by this Request reveals that Plaintiffs have failed to take reasonable steps to avoid imposing an undue burden on DISH by seeking irrelevant information.

Based on the foregoing Objections, DISH responds as follows: DISH is willing to meet and confer to determine if the Request can be appropriately narrowed to focus on non-duplicative, relevant, and proportionate information not obtainable through more convenient, less burdensome, and less expensive sources.

DOCUMENT REQUEST NO. 13:

All documents and ESI related to competition in the retail mobile wireless market, including but not limited to retail mobile wireless pricing, quality adjusted pricing, market share, the effect of the Transaction, innovations in plan introductions, discounting, sales, network coverage, network speed, network investment, or spectrum purchases, or competitive intelligence documents or SWOT analysis

RESPONSE TO DOCUMENT REQUEST NO. 13:

DISH restates and incorporates its overall objections to the Subpoena, its objections to Plaintiffs’ definitions and instructions, and its objections to all foregoing Document Requests, and applies each to Document Request 13. DISH objects that this Request is cumulative and duplicative of other Requests in this Subpoena and is vastly overbroad in seeking “all documents and ESI related to competition in the retail mobile wireless market,” illustrating Plaintiffs’ failure to take reasonable steps to tailor the Subpoena to avoid foisting undue burden on DISH as a non-

party. DISH further objects that many documents sought via this Request are likely to contain confidential commercial information, some of which potentially may be subject to nondisclosure provisions in other contracts to which DISH is a party, production or disclosure of which is not necessary or proportional to the resolution of the claims or defenses in this litigation. DISH objects that much of the information sought via this Request can be obtained through sources that are more convenient, less burdensome, and less expensive than issuing a subpoena to a non-party, such as through searches of public records, seeking discovery from parties to this action, or utilizing discovery sharing mechanisms. Finally, DISH objects that the timeframe implicated by this Request reveals that Plaintiffs have failed to take reasonable steps to avoid imposing an undue burden on DISH by seeking irrelevant information.

Based on the foregoing Objections, DISH responds as follows: DISH believes that this Request is so overbroad as to not allow for a meaningful response and that DISH is not an appropriate recipient of this Request as a non-party to this litigation. DISH will not expend efforts to search for, collect, review, or produce records in response to this Request as drafted.

DOCUMENT REQUEST NO. 14:

All documents and ESI concerning, analyzing or discussing the Transaction, including its presumed, anticipated, likely, or actual effects on competition for retail mobile wireless service, including, without limitation, the Transaction's presumed, anticipated likely, or actual effects on pricing, spectrum acquisition, rollout rates, quality of service, prices charged to MVNOs for network access, or any provider's market share.

RESPONSE TO DOCUMENT REQUEST NO. 14:

DISH restates and incorporates its overall objections to the Subpoena, its objections to Plaintiffs' definitions and instructions, and its objections to all foregoing Document Requests,

and applies each to Document Request 14. DISH objects that this Request is cumulative and duplicative of other Requests in this Subpoena and is vastly overbroad in seeking “all documents and ESI concerning, analyzing, or discussing the Transaction,” illustrating Plaintiffs’ failure to take reasonable steps to tailor the Subpoena to avoid foisting undue burden on DISH as a non-party. DISH further objects that many documents sought via this Request are likely to contain confidential commercial information, some of which potentially may be subject to nondisclosure provisions in other contracts to which DISH is a party, production or disclosure of which is not necessary or proportional to the resolution of the claims or defenses in this litigation. DISH objects that much of the information sought via this Request can be obtained through sources that are more convenient, less burdensome, and less expensive than issuing a subpoena to a non-party, such as through searches of public records, seeking discovery from parties to this action, or utilizing discovery sharing mechanisms. Finally, DISH objects that this Request is overbroad in that it is unbounded by time and seeks information that is clearly irrelevant to the claims and defenses in this case, such as information regarding “spectrum acquisition” and “prices charged to MVNOs.”

Based on the foregoing Objections, DISH responds as follows: DISH is willing to meet and confer to determine if the Request can be appropriately narrowed to focus on non-duplicative, relevant, and proportionate information not obtainable through more convenient, less burdensome, and less expensive sources.

DOCUMENT REQUEST NO. 15:

All documents and ESI concerning Your pricing of retail mobile wireless service.

RESPONSE TO DOCUMENT REQUEST NO. 15:

DISH restates and incorporates its overall objections to the Subpoena, its objections to

Plaintiffs' definitions and instructions, and its objections to all foregoing Document Requests, and applies each to Document Request 15. DISH also objects to this Request on the grounds that it is overly broad and unduly burdensome insofar as it purports to encompass "all documents and ESI" concerning DISH's "pricing of retail mobile wireless service." DISH further objects to this Request on the grounds that DISH publicizes its pricing of retail mobile wireless services and therefore this information is available to Plaintiffs through more convenient, less burdensome, and less expensive means than issuing a non-party subpoena. Finally, DISH objects that this Request is overbroad in that it is unbounded by time

Based on the foregoing Objections, DISH responds as follows: DISH is willing to direct Plaintiffs to publicly available information related to DISH's pricing of retail mobile wireless service after April 2020.

DOCUMENT REQUEST NO. 16:

All documents and ESI concerning providing service for MVNOs, including pricing and other contract revisions.

RESPONSE TO DOCUMENT REQUEST NO. 16:

DISH restates and incorporates its overall objections to the Subpoena, its objections to Plaintiffs' definitions and instructions, and its objections to all foregoing Document Requests, and applies each to Document Request 16. DISH objects that this Request is overly broad and unduly burdensome in calling for "All documents and ESI concerning providing service for MVNOs." DISH also objects that this Request seeks information that is not relevant to any claims or defenses in this matter, as Plaintiffs allegations deal with pricing in the MNO market and do not relate to any MVNO. DISH also objects that many communications sought via this Request are likely to contain confidential commercial information potentially subject to

nondisclosure provisions in other contracts to which DISH is a party, production or disclosure of which is not necessary or proportional to the resolution of the claims or defenses in this litigation. DISH objects that many documents concerning “contract revisions” are likely to be protected from disclosure by the attorney-client privilege, the work-product doctrine, or other applicable privileges or protections. Finally, DISH objects that this Request is overbroad in that it is unbounded by time.

Based on the foregoing Objections, DISH responds as follows: DISH does not believe any documents “concerning providing service for MVNOs” are relevant to the claims and defenses in this matter. DISH will not expend efforts to search for, collect, review, or produce records in response to this Request as drafted.

DOCUMENT REQUEST NO. 17:

All communications with AT&T, Verizon, Sprint, T-Mobile or any MVNOs since January 1, 2017, or between T-Mobile and Sprint prior to April 1, 2020, relating to any of the following:

- a. the Transaction;
- b. retail mobile wireless plan pricing, including discounting;
- c. spectrum acquisition;
- d. rollout rates of services over time and region, including rollout of 5G;
- e. quality of service, including download/upload speed, latency, and packet loss;
- f. prices charged to MVNOs for network access;
- g. retail mobile wireless plan subscriber numbers, usage levels, and churn rates; or
- h. joint technology investment or operations efforts with either company relating to mobile wireless telecommunications.

RESPONSE TO DOCUMENT REQUEST NO. 17:

DISH restates and incorporates its overall objections to the Subpoena, its objections to Plaintiffs' definitions and instructions, and its objections to all foregoing Document Requests, and applies each to Document Request 17. DISH objects that this Request is cumulative and duplicative of other Requests in this Subpoena and is vastly overbroad in seeking "all communications," some of which DISH is not party to, such as those "between T-Mobile and Sprint," regarding eight topics, some of which are plainly irrelevant to the claims and defenses in this case, again illustrating Plaintiffs' failure to take reasonable steps to tailor the Subpoena to avoid foisting undue burden on DISH as a non-party. DISH further objects that many documents sought via this Request are likely to contain confidential commercial information, some of which potentially may be subject to nondisclosure provisions in other contracts to which DISH is a party, production or disclosure of which is not necessary or proportional to the resolution of the claims or defenses in this litigation. DISH objects that much of the information sought via this Request can be obtained through sources that are more convenient, less burdensome, and less expensive than issuing a subpoena to a non-party, such as through searches of public records, seeking discovery from parties to this action, or utilizing discovery sharing mechanisms. Finally, DISH objects that the timeframe implicated by this Request reveals that Plaintiffs have failed to take reasonable steps to avoid imposing an undue burden on DISH by seeking irrelevant information.

Based on the foregoing Objections, DISH responds as follows: DISH is willing to meet and confer to determine if the Request can be appropriately narrowed to focus on non-duplicative, relevant, and proportionate information not obtainable through more convenient, less burdensome, and less expensive sources.

DOCUMENT REQUEST NO. 18:

All documents, including agendas, minutes, notes, or memoranda, of any industry trade association meeting pertaining to wireless mobile telecommunications services.

RESPONSE TO DOCUMENT REQUEST NO. 18:

DISH restates and incorporates its overall objections to the Subpoena, its objections to Plaintiffs' definitions and instructions, and its objections to all foregoing Document Requests, and applies each to Document Request 18. DISH also objects that the information sought via this Request can be obtained through sources that are more convenient, less burdensome, and less expensive than issuing a subpoena to DISH, such as through seeking discovery from parties to this action or issuing a subpoena to the "industry trade association" from which Plaintiffs purportedly seek discovery.

Based on the foregoing Objections, DISH responds as follows: DISH does not believe that it is an appropriate recipient of this Request as a non-party. DISH will not expend efforts to search for, collect, review, or produce records in response to this Request as drafted.

DOCUMENT REQUEST NO. 19:

All documents concerning trends or analysis of customer complaints or customer satisfaction either specific to Your wireless mobile telecommunications services subscribers or market wide.

RESPONSE TO DOCUMENT REQUEST NO. 19:

DISH restates and incorporates its overall objections to the Subpoena, its objections to Plaintiffs' definitions and instructions, and its objections to all foregoing Document Requests, and applies each to Document Request 19. DISH objects that this Request seeks information that is not relevant to any of the claims and defenses in this matter, which do not relate to "trends or

analysis of customer complaints or customer satisfaction.” DISH also objects insofar as this Request seeks information “market wide” and not specific to DISH as such information can be obtained through more convenient, less burdensome, and less expensive methods than issuing a non-party subpoena to DISH. DISH further objects that many documents sought via this Request are likely to contain confidential commercial information, some of which potentially may be subject to nondisclosure provisions in other contracts to which DISH is a party, production or disclosure of which is not necessary or proportional to the resolution of the claims or defenses in this litigation. Finally, DISH objects that this Request is overbroad in that it is unbounded by time.

Based on the foregoing Objections, DISH responds as follows: DISH believes that this Request is so overbroad as to not allow for a meaningful response and that DISH is not an appropriate recipient of this Request as a non-party to this litigation. DISH will not expend efforts to search for, collect, review, or produce records in response to this Request as drafted.

DOCUMENT REQUEST NO. 20:

All documents related to the practice of bundling of phones and/or other devices with service, including SMS messaging, data plans, phone minutes, etc.

RESPONSE TO DOCUMENT REQUEST NO. 20:

DISH restates and incorporates its overall objections to the Subpoena, its objections to Plaintiffs’ definitions and instructions, and its objections to all foregoing Document Requests, and applies each to Document Request 20. DISH objects that this Request seeks information that is not relevant to any of the claims and defenses in this matter, which do not relate to “the practice of bundling of phones and/or other devices with service.” DISH objects that much of the information sought via this Request can be obtained through sources that are more

convenient, less burdensome, and less expensive than issuing a subpoena to a non-party, such as through searches of public records, seeking discovery from parties to this action, or utilizing discovery sharing mechanisms. Finally, DISH objects that this Request is overbroad in that it is unbounded by time.

Based on the foregoing Objections, DISH responds as follows: DISH is willing to direct Plaintiffs to publicly available information related to DISH's pricing of retail mobile wireless service, including publicly available plans that bundle phones with such service after April 2020. Otherwise, DISH will not expend efforts to search for, collect, review, or produce records in response to this Request as drafted.

DOCUMENT REQUEST NO. 21:

Monthly subscriber-level plan data (in machine-readable format such as *.csv, *.txt, .xls, .xlsx, .ods, or other native flat file format) on all of Your U.S. retail mobile plan subscribers, including individuals and small businesses, between 2010 to present. This data should include, by subscriber:

- a. Subscriber name
- b. date of most recent contract initiation;
- c. all contract renewal dates;
- d. original contract price, broken into original monthly price and original monthly data allowance;
- e. all other discounts, promotional benefits, or other benefits received by subscriber, including but not limited to free or discounted phones (specify model and brand of phone, where applicable);
- f. original contract features and plan characteristics, including but not limited to contract type (*e.g.*, pre-paid/post-paid), high speed data access, terms of 5G data access, and any entertainment access;
- g. current monthly payment, data allowance, and, where applicable, autopay discount;

- h. current monthly data usage, including time and amount of data use on 3G, 4G, and 5G networks and measures of data upload and download speeds, latency, and packet loss;
- i. current month measures of cost of providing the subscriber service;
- j. current contract terms, including but not limited to contract type (e.g., pre-paid/post-paid), high speed data access, terms of 5G data access, any entertainment access;
- k. any fees, including but not limited to late payment or data overage fees, charged this month;
- l. current number of lines;
- m. last month's data usage by line;
- n. current phone model for each line, for each subscriber;
- o. current residential zip code and CMA;
- p. subscriber age; and
- q. an indicator for whether the subscriber has terminated the contract in the present month.

RESPONSE TO DOCUMENT REQUEST NO. 21:

DISH restates and incorporates its overall objections to the Subpoena, its objections to Plaintiffs' definitions and instructions, and its objections to all foregoing Document Requests, and applies each to Document Request 21. DISH also objects to this Request on the grounds that it is unduly burdensome insofar as it purports to require that DISH create documents for the purposes of discovery, particularly in a case in which DISH is a non-party. DISH further objects to this Request on the grounds that the information sought constitutes confidential personal and commercial information, much of which is subject to nondisclosure provisions in other contracts to which DISH is a party and/or to federal regulations that restrict disclosure of such information. *See, e.g., 47 U.S.C. § 222; 47 C.F.R. § 64.* Relatedly, DISH objects the Request as calling for information that is likely to include confidential, personal, and/or sensitive third-party

information protected by the Consumer Telephone Records Protection Act, HIPPA, the Gramm-Leach-Bliley Act, and/or various other privacy laws and/or contractual obligations that may prohibit DISH from making any disclosure, and/or to the extent that disclosure of the requested information would violate the privacy rights of any current or former customers, suppliers, or employees. DISH objects that, to the extent relevant to the underlying claims and defenses in this case, information regarding its subscribers is reported in DISH's publicly available regulatory filings with the SEC and/or the FCC and is therefore available through more convenient, less burdensome, and less expensive means than issuing a non-party subpoena. Finally, DISH objects that the timeframe implicated by this Request reveals that Plaintiffs have failed to take reasonable steps to avoid imposing an undue burden on DISH by seeking irrelevant information and information that does not exist with respect to "subscribers" prior to DISH's acquisition or buildout of a retail mobile wireless business.

Based on the foregoing Objections, DISH responds as follows: DISH is willing to direct Plaintiffs to publicly available information from SEC filings related to DISH's retail mobile wireless subscribers after April 2020. Otherwise, DISH will not expend efforts to search for, collect, review, or produce records in response to this Request as drafted.

DOCUMENT REQUEST NO. 22:

Monthly U.S. census-block level data (in a native flat file format such as *.csv, .txt, .xls, .xlsx, .ods, or as a collection of flat files, or alternatively, as code sufficient to create machine-readable files from the data) from 2010 to present. Alternatively, please produce the most finely-disaggregated responsive data available to You. Please include, by census block identifier:

- a. total number of subscribers;
- b. indicators showing all wireless coverage availability during the current month, including but not limited to 2G, 3G, 4G, 4G LTE, 5G Extended Range, 5G Ultra Capacity, and Partner coverage;

- c. for each type of available wireless coverage in b), mean and median download speed, upload speed, and latency for this month;
- d. number of outages or other service problems this month;
- e. current month measures of cost of providing the subscriber service; and
- f. customer chum rates (*i.e.*, customer retention rates).

RESPONSE TO DOCUMENT REQUEST NO. 22:

DISH restates and incorporates its overall objections to the Subpoena, its objections to Plaintiffs' definitions and instructions, and its objections to all foregoing Document Requests, and applies each to Document Request 22. DISH also objects to this Request on the grounds that it is unduly burdensome insofar as it purports to require that DISH create documents for the purposes of discovery, particularly in a case in which DISH is a non-party. DISH further objects to this Request on the grounds that the information sought constitutes confidential personal and commercial information, much of which is subject to nondisclosure provisions in other contracts to which DISH is a party and/or to federal regulations that restrict disclosure of such information.

See, e.g., 47 U.S.C. § 222; 47 C.F.R. § 64. Relatedly, DISH objects the Request as calling for information that is likely to include confidential, personal, and/or sensitive third-party information protected by the Consumer Telephone Records Protection Act, HIPPA, the Gramm-Leach-Bliley Act, and/or various other privacy laws and/or contractual obligations that may prohibit DISH from making any disclosure, and/or to the extent that disclosure of the requested information would violate the privacy rights of any current or former customers, suppliers, or employees. DISH objects that, to the extent relevant to the underlying claims and defenses in this case, information regarding its subscribers is reported in DISH's publicly available regulatory filings with the SEC and/or the FCC and is therefore available through more convenient, less burdensome, and less expensive means than issuing a non-party subpoena.

Finally, DISH objects that the timeframe implicated by this Request reveals that Plaintiffs have failed to take reasonable steps to avoid imposing an undue burden on DISH by seeking irrelevant information and information that does not exist with respect to “subscribers” prior to DISH’s acquisition or buildout of a retail mobile wireless business.

Based on the foregoing Objections, DISH responds as follows: DISH is willing to direct Plaintiffs to publicly available information from SEC filings related to DISH’s retail mobile wireless subscribers after April 2020. Otherwise, DISH will not expend efforts to search for, collect, review, or produce records in response to this Request as drafted.

DOCUMENT REQUEST NO. 23:

All documents concerning all data, inputs, metrics, and results from any internal network speed test run since January 1, 2010; (sic)

RESPONSE TO DOCUMENT REQUEST NO. 23:

DISH restates and incorporates its overall objections to the Subpoena, its objections to Plaintiffs’ definitions and instructions, and its objections to all foregoing Document Requests, and applies each to Document Request 23. DISH objects that this Request seeks information that is not relevant to any of the claims and defenses in this matter, which do not relate to DISH’s “internal network speed.” DISH objects that many documents sought via this Request are likely to contain confidential commercial information, production or disclosure of which is not necessary or proportional to the resolution of the claims or defenses in this litigation. DISH objects that much of the information sought via this Request can be obtained through sources that are more convenient, less burdensome, and less expensive than issuing a subpoena to a non-party, such as in DISH’s publicly available regulatory filings with the SEC and/or the FCC or in publicly available news stories. Finally, DISH objects that the timeframe implicated by this

Request reveals that Plaintiffs have failed to take reasonable steps to avoid imposing an undue burden on DISH by seeking irrelevant information and information that does not exist with respect to information related to DISH’s “internal network” dated prior to DISH’s acquisition or buildout of a retail mobile wireless business.

Based on the foregoing Objections, DISH responds as follows: DISH is willing to direct Plaintiffs to publicly available information related to DISH’s 5G network after April 2020. Otherwise, DISH will not expend efforts to search for, collect, review, or produce records in response to this Request as drafted.

DOCUMENT REQUEST NO. 24:

All Documents concerning all of Your retail mobile wireless plans that have been available any time between 2011 and the present, including, for each plan:

- a. all names, abbreviations, numeric IDs, or shorthand descriptions associated with the plan, both public and internal;
- b. date the Company first began developing the plan;
- c. date the plan first became available to consumers;
- d. date when the Company stopped offering the plan;
- e. all terms of the plan, including but not limited to monthly data caps, monthly payment, fees, any included entertainment plans, network type, and coverage, and other network quality attributes such as download/upload speed, latency, and packet loss;
- f. number of existing and new subscribers for each plan by CMA and month;
- g. current month measures of cost of providing the subscriber service for each plan; and
- h. information on all promotions and discounts ever associated with the plan, including, for each promotion or discount:
 - i. the dates that the promotion or discount became available or unavailable to consumers and ended since January 1, 2010;

- ii. all promotional material associated with the promotion or discount, including but not limited to print ads, video advertisements, and mailings to prospective consumers; and
- iii. the terms of the promotion or discount, including but not limited to the duration, details about changes to plan pricing, changes to payment schedule, changes to available data, and changes to fees.

RESPONSE TO DOCUMENT REQUEST NO. 24:

DISH restates and incorporates its overall objections to the Subpoena, its objections to Plaintiffs' definitions and instructions, and its objections to all foregoing Document Requests, and applies each to Document Request 24. DISH objects that this Request is cumulative and duplicative of other Requests in this Subpoena and is vastly overbroad in seeking "All Documents concerning all of Your retail mobile wireless plans," illustrating Plaintiffs' failure to take reasonable steps to tailor the Subpoena to avoid foisting undue burden on DISH as a non-party. DISH further objects to this Request on the grounds that DISH publicizes its pricing of retail mobile wireless services and therefore this information is available to Plaintiffs through more convenient, less burdensome, and less expensive means than issuing a non-party subpoena. Finally, DISH objects that the timeframe implicated by this Request reveals that Plaintiffs have failed to take reasonable steps to avoid imposing an undue burden on DISH by seeking irrelevant information and information that does not exist with respect to information related to DISH's "retail mobile wireless plans" dated prior to DISH's acquisition or buildout of a retail mobile wireless business.

Based on the foregoing Objections, DISH responds as follows: DISH is willing to direct Plaintiffs to publicly available information related to DISH's pricing of retail mobile wireless plans after April 2020.

DOCUMENT REQUEST NO. 25:

Each database or data set used or maintained by the Company relating to retail mobile

wireless subscriptions at any time after January 2010, that contains information relating to each subscriber's:

- a. demographics, including but not limited to zip code, CMA, and age;
- b. subscription history, including the start date, end date, and plan name of all plans the subscriber has purchased, including plans from Sprint, T-Mobile, or the merged entity; or
- c. for each subscription the subscriber has purchased:
 - i. original contract terms, including but not limited to original contract price and original monthly data allowance;
 - ii. original contract features, including but not limited to high speed data access, terms of 5G data access, other quality attributes such as download/upload speed, latency, and packet loss, and any entertainment access;
 - iii. number of lines;
 - iv. the terms of all discounts, promotional benefits, or other benefits received by subscriber, including but not limited to free or discounted phones (specify model and brand of phone);
 - v. at the monthly level, the current phone model for each line, for each subscriber, including whether that model is 4K-enabled;
 - vi. at the monthly level, all monthly payments, fees, and discounts;
 - vii. at the monthly level, total data usage by line, and mean and mean upload, download, and latency speed by line;
 - viii. at the monthly level, by each line, total data usage by network (e.g., data used on 3G, data used on LTE, and data used on 5G); or
 - ix. the date(s) and details of any plan price or other term changes.

RESPONSE TO DOCUMENT REQUEST NO. 25:

DISH restates and incorporates its overall objections to the Subpoena, its objections to Plaintiffs' definitions and instructions, and its objections to all foregoing Document Requests, and applies each to Document Request 25. DISH also objects to this Request on the grounds that it is overly broad and unduly burdensome insofar as it purports to require that DISH produce

entire “database[s]” or “data set[s].” DISH further objects to this Request on the grounds that the information sought constitutes confidential personal and commercial information, much of which is subject to nondisclosure provisions in other contracts to which DISH is a party and/or to federal regulations that restrict disclosure of such information. *See, e.g.*, 47 U.S.C. § 222; 47 C.F.R. § 64. Relatedly, DISH objects the Request as calling for information that is likely to include confidential, personal, and/or sensitive third-party information protected by the Consumer Telephone Records Protection Act, HIPPA, the Gramm-Leach-Bliley Act, and/or various other privacy laws and/or contractual obligations that may prohibit DISH from making any disclosure, and/or to the extent that disclosure of the requested information would violate the privacy rights of any current or former customers, suppliers, or employees. DISH objects that, to the extent relevant to the underlying claims and defenses in this case, information regarding its subscribers is reported in DISH’s publicly available regulatory filings with the SEC and/or the FCC and is therefore available through more convenient, less burdensome, and less expensive means than issuing a non-party subpoena. Finally, DISH objects that the timeframe implicated by this Request reveals that Plaintiffs have failed to take reasonable steps to avoid imposing an undue burden on DISH by seeking irrelevant information and information that does not exist with respect to “subscriptions” prior to DISH’s acquisition or buildout of a retail mobile wireless business.

Based on the foregoing Objections, DISH responds as follows: DISH is willing to direct Plaintiffs to publicly available information from SEC filings related to DISH’s retail mobile wireless subscriptions after April 2020. Otherwise, DISH will not expend efforts to search for, collect, review, or produce records in response to this Request as drafted.

DOCUMENT REQUEST NO. 26:

Organization charts sufficient to identify:

- a. individuals who act as custodians of business records and other information for You, such as all persons responsible for ESI management, organization, retention, preservation, and destruction of ESI;
- b. all of Your internal information services or information technology departments; and
- c. all individuals who are responsible for creating back-ups for archiving email messages.

RESPONSE TO DOCUMENT REQUEST NO. 26:

DISH restates and incorporates its overall objections to the Subpoena, its objections to Plaintiffs' definitions and instructions, and its objections to all foregoing Document Requests, and applies each to Document Request 26. DISH also objects to this Request on the grounds that it seeks information that is patently irrelevant to any of the claims and defenses in this matter. DISH objects to the extent this Request purports to seek discovery about discovery.

Based on the foregoing Objections, DISH responds as follows: DISH does not believe this Request is aimed at discovery of information relevant to the claims and defenses in this matter. DISH will not expend efforts to search for, collect, review, or produce records in response to this Request as drafted.

DOCUMENT REQUEST NO. 27:

Documents sufficient to show those persons most knowledgeable about the Company's data storage, dataset creation, data cleaning, and data maintenance, including each database or data set responsive to this request.

RESPONSE TO DOCUMENT REQUEST NO. 27:

DISH restates and incorporates its overall objections to the Subpoena, its objections to

Plaintiffs' definitions and instructions, and its objections to all foregoing Document Requests, and applies each to Document Request 27. DISH also objects to this Request on the grounds that it seeks information that is patently irrelevant to any of the claims and defenses in this matter. DISH objects to the extent this Request purports to seek discovery about discovery.

Based on the foregoing Objections, DISH responds as follows: DISH does not believe this Request is aimed at discovery of information relevant to the claims and defenses in this matter. DISH will not expend efforts to search for, collect, review, or produce records in response to this Request as drafted.

DOCUMENT REQUEST NO. 28:

Documents sufficient to explain the meaning of the data responsive to any of these requests, including all record laYouts (sic), data dictionaries, field codes, and other codes or descriptions.

RESPONSE TO DOCUMENT REQUEST NO. 28:

DISH restates and incorporates its overall objections to the Subpoena, its objections to Plaintiffs' definitions and instructions, and its objections to all foregoing Document Requests, and applies each to Document Request 28. DISH also objects to this Request on the grounds that it seeks information that is patently irrelevant to any of the claims and defenses in this matter. DISH objects to the extent this Request purports to seek discovery about discovery.

Based on the foregoing Objections, DISH responds as follows: DISH will not expend efforts to search for, collect, review, or produce records in response to this Request as drafted. To the extent DISH produces documents in response to the Subpoena, DISH will produce such documents in reasonably usable formats in accordance with the Federal Rules of Civil Procedure.

DOCUMENT REQUEST NO. 29:

Documents sufficient to show how to operate or run any of the programs maintained on the computer-related equipment or system utilized by You to maintain data responsive to any of these requests, including whether any such data can be produced within a machine-readable format such as *.csv, *.txt, .xls, .xlsx, .ods, or other native flat file format.

RESPONSE TO DOCUMENT REQUEST NO. 29:

DISH restates and incorporates its overall objections to the Subpoena, its objections to Plaintiffs' definitions and instructions, and its objections to all foregoing Document Requests, and applies each to Document Request 29. DISH also objects to this Request on the grounds that it seeks information that is patently irrelevant to any of the claims and defenses in this matter. DISH objects to the extent this Request purports to seek discovery about discovery.

Based on the foregoing Objections, DISH responds as follows: DISH will not expend efforts to search for, collect, review, or produce records in response to this Request as drafted. To the extent DISH produces documents in response to the Subpoena, DISH will produce such documents in reasonably usable formats in accordance with the Federal Rules of Civil Procedure.

DOCUMENT REQUEST NO. 30:

Documents that reflect or describe Your policies, procedures, and guidelines for Your company's use or retention of email, instant messages, or other forms of electronic communications.

RESPONSE TO DOCUMENT REQUEST NO. 30:

DISH restates and incorporates its overall objections to the Subpoena, its objections to Plaintiffs' definitions and instructions, and its objections to all foregoing Document Requests, and applies each to Document Request 30. DISH also objects to this Request on the grounds that

it seeks information that is patently irrelevant to any of the claims and defenses in this matter. DISH objects to the extent this Request purports to seek discovery about discovery.

Based on the foregoing Objections, DISH responds as follows: DISH does not believe this Request is aimed at discovery of information relevant to the claims and defenses in this matter. DISH will not expend efforts to search for, collect, review, or produce records in response to this Request as drafted.

DOCUMENT REQUEST NO. 31:

Documents that reflect or describe Your policies, procedures, and guidelines for the provision or funding of mobile phones or mobile services to Your employees.

RESPONSE TO DOCUMENT REQUEST NO. 31:

DISH restates and incorporates its overall objections to the Subpoena, its objections to Plaintiffs' definitions and instructions, and its objections to all foregoing Document Requests, and applies each to Document Request 31. DISH also objects to this Request on the grounds that it seeks information that is patently irrelevant to any of the claims and defenses in this matter. DISH objects to the extent this Request purports to seek discovery about discovery.

Based on the foregoing Objections, DISH responds as follows: DISH does not believe this Request is aimed at discovery of information relevant to the claims and defenses in this matter. DISH will not expend efforts to search for, collect, review, or produce records in response to this Request as drafted.

DOCUMENT REQUEST NO. 32:

Documents that reflect or describe Your document retention policies and any litigation hold implemented in connection with this litigation, including the date that any litigation hold was implemented.

RESPONSE TO DOCUMENT REQUEST NO. 32:

DISH restates and incorporates its overall objections to the Subpoena, its objections to Plaintiffs' definitions and instructions, and its objections to all foregoing Document Requests, and applies each to Document Request 32. DISH also objects to this Request on the grounds that it seeks information that is patently irrelevant to any of the claims and defenses in this matter. DISH objects to the extent this Request purports to seek discovery about discovery.

Based on the foregoing Objections, DISH responds as follows: DISH does not believe this Request is aimed at discovery of information relevant to the claims and defenses in this matter. DISH will not expend efforts to search for, collect, review, or produce records in response to this Request as drafted.

DOCUMENT REQUEST NO. 33:

All documents referring to the concealment, destruction, or spoliation of any documents that are responsive to any of these document requests.

RESPONSE TO DOCUMENT REQUEST NO. 33:

DISH restates and incorporates its overall objections to the Subpoena, its objections to Plaintiffs' definitions and instructions, and its objections to all foregoing Document Requests, and applies each to Document Request 33. DISH also objects to this Request on the grounds that it seeks information that is patently irrelevant to any of the claims and defenses in this matter. DISH objects to the extent this Request purports to seek discovery about discovery. DISH objects that the term "spoliation" is inapt in the context of a non-party subpoena. Finally, DISH objects that documents implicated by this Request are likely to contain information that is protected from disclosure by the attorney-client privilege, the work-product doctrine, or other applicable privileges or protections.

Based on the foregoing Objections, DISH responds as follows: DISH does not believe this Request is aimed at discovery of information relevant to the claims and defenses in this matter. DISH will not expend efforts to search for, collect, review, or produce records in response to this Request as drafted.

DOCUMENT REQUEST NO. 34:

All documents reflecting or describing policies or practices regarding employee or contractor use of personal devices not owned or controlled by the Company to create, receive, store, or send work-related documents or communications and any technical controls to limit such use.

RESPONSE TO DOCUMENT REQUEST NO. 34:

DISH restates and incorporates its overall objections to the Subpoena, its objections to Plaintiffs' definitions and instructions, and its objections to all foregoing Document Requests, and applies each to Document Request 34. DISH also objects to this Request on the grounds that it seeks information that is patently irrelevant to any of the claims and defenses in this matter and is cumulative and duplicative of other requests in this Subpoena. DISH objects to the extent this Request purports to seek discovery about discovery.

Based on the foregoing Objections, DISH responds as follows: DISH does not believe this Request is aimed at discovery of information relevant to the claims and defenses in this matter. DISH will not expend efforts to search for, collect, review, or produce records in response to this Request as drafted.

DOCUMENT REQUEST NO. 35:

All documents provided to, transmitted to, received from, or concerning Plaintiffs.

RESPONSE TO DOCUMENT REQUEST NO. 35:

DISH restates and incorporates its overall objections to the Subpoena, its objections to Plaintiffs' definitions and instructions, and its objections to all foregoing Document Requests, and applies each to Document Request 35. DISH also objects to this Request on the grounds that it clearly seeks information that is available to Plaintiffs through more convenient, less burdensome, and less expensive means. For example, "documents provided to, transmitted to, or received from" Plaintiffs are, by definition, available to Plaintiffs as a party to this action and Plaintiffs should conduct searches of their own records rather than subjecting DISH to that burden. *Little*, 2020 WL 1939358, at *6. DISH also objects that Plaintiffs claim standing on the basis of their status as customers of Verizon and AT&T and therefore any relationship they may have or have had with DISH is not relevant to the claims and defenses in this litigation. *See* Motion to Dismiss Order [ECF No. 114]. Finally, DISH objects that many documents implicated by this Request are likely to contain information that is protected from disclosure by the attorney-client privilege, the work-product doctrine, and/or other applicable privileges or protections.

Based on the foregoing Objections, DISH responds as follows: DISH is not an appropriate recipient of this Request as a non-party and any non-privileged documents relevant to the claims and defenses in this case are equally available to Plaintiffs through a search of their own records. DISH will not expend efforts to search for, collect, review, or produce records in response to this Request as drafted.

DOCUMENT REQUEST NO. 36:

All documents about Your communications concerning the above-captioned action with non-parties, including class members or any governmental entity.

RESPONSE TO DOCUMENT REQUEST NO. 36:

DISH restates and incorporates its overall objections to the Subpoena, its objections to Plaintiffs' definitions and instructions, and its objections to all foregoing Document Requests, and applies each to Document Request 36. DISH also objects to this Request on the grounds that information exchanged between DISH and non-parties about this action are unlikely to contain information relevant to the claims and defenses in the litigation. DISH objects that many documents implicated by this Request are likely to contain information that is protected from disclosure by the attorney-client privilege, the work-product doctrine, or other privileges or protections in light of the common interest/joint defense agreement between DISH and other subpoenaed third parties in this Action, including but not limited to AT&T and Verizon. Any burden on DISH for such discovery would therefore be disproportionate to the needs of this case.

Based on the foregoing Objections, DISH responds as follows: DISH is not an appropriate recipient of this Request as a non-party any discovery of documents implicated by this Request would not be proportional to the needs of the case. DISH will not expend efforts to search for, collect, review, or produce records in response to this Request as drafted.

DATED: February 2, 2024

COBLENTZ PATCH DUFFY & BASS LLP

By: 

RICHARD R. PATCH

State Bar No. 88049

CLIFFORD E. YIN

State Bar No. 173159

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Attorneys for Third Party Defendant

Dish Network Corporation

1 **PROOF OF SERVICE**

2 **Dale v. Deutsche Telekom Ag**
3 **1:22-cv-03189 (N.D. Ill.)**

4 **STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO**

5 At the time of service, I was over 18 years of age and **not a party to this action**. I am
6 employed in the County of San Francisco, State of California. My business address is One
7 Montgomery Street, Suite 3000, San Francisco, CA 94104-5500.

8 On February 2, 2024, I served true copies of the following document(s) described as

9 **RESPONSES AND OBJECTIONS TO SUBPOENA TO PRODUCE
10 DOCUMENTS, INFORMATION, OR OBJECTS**

11 on the interested parties in this action as follows:

12 Brendan P. Glackin

*Attorney for Plaintiffs,
13 Anthony Dale, et al.*

Lin Y. Chan

14 Nicholas W. Lee

Sarah D. Zandi

15 Jules A. Ross

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23 **BY MAIL:** I enclosed the document(s) in a sealed envelope or package addressed to the
24 persons at the addresses listed in the Service List and placed the envelope for collection and
mailing, following our ordinary business practices. I am readily familiar with the practice of
Coblenz Patch Duffy & Bass LLP for collecting and processing correspondence for mailing. On
the same day that correspondence is placed for collection and mailing, it is deposited in the
ordinary course of business with the United States Postal Service, in a sealed envelope with
postage fully prepaid.

25 **BY E-MAIL OR ELECTRONIC TRANSMISSION:** I caused a copy of the
26 document(s) to be sent from e-mail address mdallas@coblenzlaw.com to the persons at the e-mail
27 addresses listed in the Service List. I did not receive, within a reasonable time after the
transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on February 2, 2024, at San Francisco, California.

Melissa Dallas

Melissa Dallas

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