

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

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

Plaintiffs,

v.

DEUTSCHE TELEKOM AG, and
T-MOBILE US, INC.,

Defendants.

Case No. 1:22-cv-03189

Hon. Thomas M. Durkin
Hon. Jeffrey Cole

**DECLARATION OF SWATHI BOJEDLA IN SUPPORT OF
PLAINTIFFS' MOTION TO COMPEL DISH TO PRODUCE
DOCUMENTS RESPONSIVE TO PLAINTIFFS' SUBPOENA**

I, Swathi Bojedla, declare as follows:

1. I am admitted to the Bars of the District of Columbia and the State of New York. I am admitted *pro hac vice* in this case. I am a partner at the law firm of Hausfeld LLP, and Counsel for Plaintiffs in the above-captioned manner. I make this declaration in support of Plaintiffs' Motion to Compel DISH Network L.L.C. ("DISH") to Produce Documents Responsive to Plaintiffs' Subpoena. I have personal knowledge of the facts set forth herein, and, if called as a witness, I could and would competently testify thereto.

2. On October 19, 2022, Plaintiffs subpoenaed DISH with 36 Requests for Production. At this time Plaintiffs also informed DISH in writing that DISH was not obligated to object or produce discovery until after Plaintiffs' Rule 26(f) discovery conference with T-Mobile US, Inc. ("T-

Mobile”).

3. Plaintiffs have since served two corrected subpoenas—one to correct the place of performance, which was served on November 6, 2024, and a second to correct a drafting error with respect to the definition of “Affiliate MVNOs (Mobile Virtual Network Operator),” on February 10, 2025. A true and accurate copy of Plaintiffs’ Second Corrected Subpoena is attached hereto as **Exhibit A**.

4. On November 17, 2023, Plaintiffs notified DISH that Plaintiffs and T-Mobile held a Rule 26(f) conference on November 10, 2023 and that DISH’s response to Plaintiffs’ subpoena was due December 19, 2023, 30 days after DISH received notice of the party’s Rule 26(f) conference. A true and correct copy of Plaintiffs’ November 17, 2023 letter to DISH is attached as **Exhibit B**.

5. On February 2, 2024, DISH provided Plaintiffs with its Responses and Objections to Plaintiffs’ Requests after DISH requested, and Plaintiffs granted, a 45-day extension for DISH’s response. A true and correct copy of DISH’s February 2, 2024 Responses and Objections is attached hereto as **Exhibit C**.

6. On March 14, 2024, Plaintiffs and DISH had their first meet and confer to discuss DISH’s Responses and Objections to Plaintiffs’ Requests. DISH and Plaintiffs scheduled a second meet and confer for April 1, 2024. A true and correct copy of email correspondence between DISH and Plaintiffs from March 22, 2024 to May 20, 2024 is attached as **Exhibit D**.

7. On March 27, 2024, DISH cancelled the meet and confer scheduled for April 1, 2024 and stated DISH would not produce documents responsive to Plaintiffs’ subpoena until the resolution of T-Mobile’s interlocutory appeal of the District Court’s ruling on T-Mobile’s motion to dismiss.

8. On April 24, 2024, Plaintiffs requested a second meet and confer and informed DISH no discovery stay was issued pending the Seventh Circuit’s review of T-Mobile’s appeal. In response, DISH stated it was unavailable to meet and confer for four weeks due to DISH’s outside counsel’s

participation in a trial for a separate matter. Furthermore, DISH reiterated it was unwilling to meet and confer until the Seventh Circuit issued a ruling on T-Mobile's interlocutory appeal. On May 9, 2024, Plaintiffs insisted on a meet and confer to avoid court intervention but DISH did not respond to Plaintiffs' request until May 20, 2024, after the Seventh Circuit affirmed the District Court's ruling on T-Mobile's motion to dismiss, and again refused to meet with Plaintiffs until after DISH's outside counsel's unrelated trial concluded.

9. On May 31, 2024, Plaintiffs wrote DISH offering to narrow the scope of several of Plaintiffs' Requests in the interest of compromise. Plaintiffs also reiterated their request for a second meet and confer with DISH. A true and correct copy of Plaintiffs' May 31, 2024 letter to DISH is attached as **Exhibit E**.

10. On May 31, 2024, DISH's response to Plaintiffs' request for a meet and confer only offered availability after midnight ET for the next three weeks. At Plaintiffs' insistence the parties agreed to a second meet and confer on June 13, 2024.

11. On July 26, 2024, DISH made its first document production which DISH represented "contains 304 documents." Attached as **Exhibit F** is a true and correct copy of DISH's July 26, 2024 letter to Plaintiffs. Upon Plaintiffs' inspection, DISH's production included 131 system files (such as font data), meaning DISH's first production was limited to 173 documents responsive to Plaintiffs' Requests.

12. On August 1, 2024, Plaintiffs and DISH met and conferred where DISH stated it would not produce customer data on Boost Mobile and Boost Infinite before June 2023 because such data was hosted by T-Mobile until that time and DISH did not have access to pre-June 2023 subscriber data for either Boost brand. DISH also stated it would not be producing subscriber data related to its Ting Mobile and Gen Mobile brands on the belief that such data was irrelevant to Plaintiffs' case.

13. On August 12, 2024, Plaintiffs informed DISH the parties were at an impasse given DISH's refusal to produce subscriber data for Gen Mobile and Ting Mobile customers. Plaintiffs' correspondence also sought clarification whether it was DISH's position that DISH would not produce document predating the closing of T-Mobile's merger ("Merger") with Sprint Corporation ("Sprint"). Attached as **Exhibit G** is a true and correct copy of Plaintiffs' August 12, 2024 email to DISH.

14. On August 30, 2024, DISH responded to Plaintiffs' August 12, 2024 email offering to meet and confer the following week. Attached as **Exhibit H** is a true and correct copy of DISH's August 30, 2024 email to Plaintiffs.

15. On September 6, 2024, the parties held their fourth meet and confer. By this time, DISH had not and continued not to take a position on the proposals in Plaintiffs' May 31, 2024 letter. At the meet and confer Plaintiffs asked DISH for a written response to May 31, 2024 letter and to each proposal therein for negotiations to proceed. DISH agreed to provide Plaintiffs a response to the May 31, 2024 letter.

16. DISH did not provide a written response to Plaintiffs' May 31, 2024 letter nor any other correspondence with Plaintiffs until September 27, 2024 when DISH simply said DISH could not produce a data sample (and thus begin the process of responding to Plaintiffs' requests for structured data) until meeting and conferring further about Plaintiffs' Requests. Attached as **Exhibit I** is a true and correct copy of DISH's September 27, 2024 email to Plaintiffs.

17. On October 24, 2024, the parties and met conferred and DISH confirmed it would not agree to discovery predating the close of the Merger and also informed Plaintiffs DISH would not produce documents responsive to Plaintiffs' Request Nos. 35 and 36. DISH's position on those requests, pre-Merger production generally, and the production of subscriber data related to DISH's Gen Mobile and Ting Mobile brands, placed the parties at impasse.

18. Plaintiffs wrote to DISH on November 4, 2024 to memorialize the history of DISH's unproductive behavior throughout 2024 and attempt to crystalize disputes with respect to Plaintiffs' subpoena. A true and correct copy of Plaintiffs' November 4, 2024 letter to DISH is attached as **Exhibit J**.

19. On November 14, 2024, DISH sent Plaintiffs a letter claiming Plaintiffs' Requests were overly broad, disproportionate to the needs of the case, and unduly burdensome to DISH as a non-party. A true and correct copy of DISH's November 14, 2024 letter to Plaintiffs is attached as **Exhibit K**.

20. On December 16, 2024, Plaintiffs made DISH another offer of compromise. Plaintiffs' correspondence offered to accept "go-get" productions to satisfy DISH's responses to Plaintiffs' Request Nos. 5-7, 9-13, 15, 19-20 and 23. Under Plaintiffs' proposal DISH would only be required to eight custodians to satisfy DISH's responses to Plaintiffs' Request Nos. 7, 9, 11, 15, and 19 (with each Request narrowed further from its original scope). Attached as **Exhibit L** is a true and correct copy of Plaintiffs' December 16, 2024 letter to DISH. Those custodians are:

21. **Charlie Ergen, Chairman and CEO of DISH.** Ergen founded EchoStar, which he merged with DISH in 2023, and reportedly holds 91.4% of the voting power of its equity shares.¹ Ergen is not your ordinary chairman of the board. During the Merger, Charlie Ergen "exchanged text messages" with then-Assistant Attorney General Makan Delrahim, who "advised him on how to secure regulatory approval from the Federal Communications Commission, which also needed to approve the deal."² It was widely reported that Ergen was "the linchpin in the government's attempts to . . . approve a Merger between the nation's third- and fourth-largest wireless providers"; he played "a starring role in what may result in the dramatic overhaul

¹ EchoStar Corp., SEC Schedule 13D/A (June 26, 2024), available at <https://ir.echostar.com/static-files/116ef85e-cbe7-45df-b865-08bd79846d60>.

² Melody Wang & Fiona Scott Morton, *The Real Dish on the T-Mobile/Sprint Merger: A Disastrous Deal from the Start*, ProMarket (Apr. 23, 2021), <https://www.promarket.org/2021/04/23/dish-t-mobile-sprint-merger-disastrous-deal-lessons/>.

of the nation’s telecommunications market,” and “negotiate[ed] with the DOJ and T-Mobile on a deal that would save the proposed Merger”³ Media reports attributed the Merger’s approval to Ergen, noting that the approval “may be thanks to Dish Network Chairman Charlie Ergen and his behind-the-scenes deal making”: “Ergen, the mercurial billionaire who controls Dish, appears to have played a pivotal role in convincing US judge Victor Marrero that the satellite TV giant can create a viable wireless carrier to replace sprint with a little help from his friends[.]”⁴ But Ergen himself has now recanted his past views: when T-Mobile prematurely shut down Sprint’s 3G CDMA network (*see* Request No. 6), Ergen “denounce[d] the unexpected shutdown as ‘anticompetitive.’”⁵

22. **Will Platz, Senior Finance Manager at DISH.** Platz served as Senior Finance Manager at DISH from 2020 to 2024 where he led DISH’s internal Financial Analysis team.⁶ He led “post-acquisition integration” projects and conducted “executive presentations on strategic projects.”⁷ Additionally, Platz managed DISH’s internal review of its expenses for its MVNO program. He analyzed customer profitability and DISH’s enterprise value. Prior to his role as Senior Finance Manager, Platz served as a Finance Manager at DISH and advised DISH’s leadership on DISH’s mergers and acquisitions within the telecommunications industry.

23. **Stephen Bye, Chief Commercial Officer of DISH.** Bye held the position of Chief Commercial Officer at DISH from December 2019 to January 2023. He led DISH’s wireless network business, including DISH’s development and commercialization of a 5G network. In the words of Charlie Ergen, “[Bye] has been an integral part of building our wireless business, helping lead efforts

³ Mike Dano, *What Does Dish’s Charlie Ergen Want?*, LightReading (July 10, 2019), <https://www.lightreading.com/5g/what-does-dish-s-charlie-ergen-want->.

⁴ Josh Kosman, *Dish’s Charlie Ergen Might Have Been the Key to T-Mobile’s Sprint Acquisition*, New York Post (Feb. 11, 2020), <https://nypost.com/2020/02/11/dishs-charlie-ergen-might-have-been-the-key-to-t-mobiles-sprint-acquisition/>.

⁵ Wang and Morton, *supra* n.2.

⁶ William Platz, LinkedIn, <https://www.linkedin.com/in/williamplatz/> (last visited on Feb. 13, 2025).

⁷ *Id.*

to maximize our wireless efforts and prepare use to monetize our investments[.]”⁸ Bye later served on DISH’s board from January 2023 to December 2023.

24. **Jeffrey McSchooler, Executive Vice President of Wireless Engineering and Operations.** McSchooler served as Executive Vice President of Wireless Engineering and Operations, a role he has held since August 2018. He oversees DISH’s build-out of its wireless systems that support DISH’s nationwide narrow band-IoT and 5G networks.⁹

25. **John Swieringa, Chief Operating Officer and President of Retail Wireless.** Swieringa oversaw deployment, management, and day-to-day activities of DISH’s 5G broadband network and DISH’s retail wireless business during his stint as President and COO of DISH’s wireless business from January 2022 to January 2024.¹⁰ After previously rotating between roles as President and COO of DISH’s wireless business from December 2018 to January 2022, Swieringa held both titles.¹¹

26. **Stephen Stokols, CEO of Boost Mobile from July 2020 to August 2023.**¹² Stokols’ responsibilities included management of Boost’s sales, market strategy, and business operations. Stokols oversaw Boost’s network deployment and long-term strategic planning.¹³

27. **Marc Rouanne, Chief Network Officer from December 2019 to March 2024.**

⁸ DISH Network Corp., Press Release, Stephen Bye Joins DISH Network Board of Directors (Jan. 10, 2023), <https://about.dish.com/2023-01-10-Stephen-Bye-Joins-DISH-Network-Board-of-Directors>.

⁹ Jeff McSchooler, LinkedIn, <https://www.linkedin.com/in/jeff-mcschooler-160718103/> (last visited on Feb. 13, 2025).

¹⁰ John Swieringa, About DISH, <https://about.dish.com/John-Swieringa> (last visited Feb. 13, 2025).

¹¹ John Swieringa, LinkedIn, <https://www.linkedin.com/in/johnswieringa/> (last visited on Feb. 13, 2025).

¹² Stephen Stokols, LinkedIn, <https://www.linkedin.com/in/stokols/> (last visited on Feb. 13, 2025).

¹³ Stephen Stokols, About DISH (Sept. 22, 2020), <https://about.dish.com/2020-09-22-DISH-taps-wireless-innovator-and-FreedomPop-founder-Stephen-Stokols-to-lead-Boost-Mobile>.

Rouanne had responsibility for the (delayed to 2028) build-out of DISH's nationwide 5G network.¹⁴ Rouanne's day-to-day responsibilities involved strategic planning for DISH's wireless network and the development of new 5G technologies to enable DISH's 5G capabilities.¹⁵ Therefore, Rouanne likely possesses relevant documents related to DISH's network planning, testing, and deployment, a critical factor for measuring DISH's competitive capacity in the wireless market.

28. **Rob Husa, Senior Vice President of Boost Mobile.** Husa held multiple executive positions at Boost from July 2019 to January 2023, including Chief Financial Officer, Senior Vice President of Retail Wireless Operations and finally Senior Vice President of Boost Mobile.¹⁶ Husa likely had input in Boost's sales and market strategy for Boost's retail wireless business.¹⁷

29. On December 30, 2024, DISH rejected Plaintiffs' latest compromise proposal in Plaintiffs' December 16 letter. DISH reiterated it would not produce pre-Merger documents and alleged all documents prior to April 2020 were irrelevant to Plaintiffs' claims and disproportional to the needs of the case. Furthermore, DISH claimed its prior productions responded to Request Nos. 5, 6, 10, 12, 13, 20 and 23. Finally, DISH reiterated its refusal to produce documents related to DISH's MVNO brands Ting, Gen, and Republic Wireless. Despite rejecting Plaintiffs' proposal, DISH insisted the parties were not at impasse. Attached as **Exhibit M** is a true and accurate copy of DISH's December 30, 2024 letter.

30. On January 17, 2025, Plaintiffs asked DISH to meet and confer to explain DISH's objections. The parties then met and conferred on January 24, January 29, February 3, and February

¹⁴ Marc Rouanne, LinkedIn, <https://www.linkedin.com/in/marc-rouanne-133a8ba/> (last visited on Feb. 13, 2025).

¹⁵ Marc Rouanne, Fierce Network, <https://www.fierce-network.com/person/marc-rouanne> (last visited Feb. 13, 2025).

¹⁶ Rob Husa, LinkedIn, <https://www.linkedin.com/in/roberthusa/> (last visited Feb. 13, 2025).

¹⁷ *Id.*

7. As of the parties' most recent meet and confer on February 7, the parties are at impasse on Plaintiffs' request for eight custodians, Plaintiffs' go-gets responsive to Requests Nos. 5-7, 9-13, 15, 19-20 and 23, and Plaintiffs' request for structured data and other documents from DISH's MVNO brands including, but not necessarily limited to Ting, Gen, and Republic Wireless. Attached as **Exhibit N** is a true and accurate copy of Plaintiffs' January 17, 2025 letter.

31. On March 14, 2024, Plaintiffs met and conferred telephonically with DISH. At the meet and confer the parties discussed Plaintiffs Requests and DISH's productions to those Requests.

32. On June 13, 2024, Plaintiffs met and conferred telephonically with DISH. The meet and confer was attended by Hill Brakefield and Swathi Bojedla for Plaintiffs and by Amber Leong for DISH. At the meet and confer the parties discussed whether DISH would reproduce its pre-merger productions it made to agencies that investigated the merger and Plaintiffs' Requests for custodial searches and structured data.

33. On August 1, 2024, Plaintiffs met and conferred telephonically with DISH. The meet and confer was attended by Hill Brakefield for Plaintiffs and by Cliff Yin and Amber Leong for DISH. At the meet and confer DISH explained its position that its affiliate MVNOs were irrelevant to Plaintiffs case.

34. On September 6, 2024, Plaintiffs met and conferred telephonically with DISH. The meet and confer was attended by Swathi Bojedla and Hill Brakefield for Plaintiffs and by Cliff Yin and Amber Leong for DISH. At the meet and confer DISH objected to producing any pre-merger documents.

35. On October 24, 2024, Plaintiffs met and conferred telephonically with DISH. The meet and confer was attended by Swathi Bojedla and Hill Brakefield for Plaintiffs and by Cliff Yin and Amber Leong for DISH. At the meet and confer DISH reiterated it would not produce any pre-merger documents and the parties discussed the scope of Plaintiffs post-merger Requests.

36. On January 25, 2025, Plaintiffs met and conferred telephonically with DISH from 4:30pm to 5:48pm ET. The meet and confer was attended by Renner Walker, Jose Roman Lavergne, Shana Herman, and Hayden Dwyer for Plaintiffs and by Cliff Yin and Amber Leong for DISH. At the meet and confer the parties discussed Plaintiffs' compromise proposal in Plaintiffs' December 16, 2024 letter and DISH's concerns with the protective order.

37. On January 29, 2025, Plaintiffs met and conferred with DISH from 3:30pm to 4:01pm ET. The meet and confer was attended by Renner Walker, Jose Roman Lavergne, Shana Herman, and Hayden Dwyer for Plaintiffs and by Cliff Yin and Amber Leong for DISH. At the meet and confer the parties discussed DISH's concerns with the protective order, Plaintiffs Requests for custodians, "go-get" productions, and structured data, and DISH's objection to Plaintiffs' Requests.

38. On February 3, 2025, Plaintiffs met and conferred telephonically with DISH from 3:30pm to 4:33pm ET. The meet and confer was attended by Renner Walker, Jose Roman Lavergne, Shana Herman, and Hayden Dwyer for Plaintiffs and by Cliff Yin and Amber Leong for DISH. At the meet and confer the parties discussed the protective order, Plaintiffs Requests for custodians, "go-get" productions, and structured data, and DISH's objections to Plaintiffs' Requests.

39. On February 7, 2025, Plaintiffs met and conferred telephonically with DISH from 4:30pm to 5:02pm ET. The meet and confer was attended by Renner Walker, Jose Roman Lavergne, Shana Herman, and Hayden Dwyer for Plaintiffs and by Cliff Yin and Amber Leong for DISH. At the meet and confer the parties discussed the briefing schedule for Plaintiffs' motion to compel, DISH's pre-merger productions, and that DISH would accept service of Plaintiffs' second amended subpoena. DISH refused to accept Plaintiffs' declaration of impasse with respect to custodial searches unless Plaintiffs provided search terms.

40. On February 10, 2025, Plaintiffs emailed DISH with a set of search terms for DISH. As of this filing, DISH has not responded to Plaintiffs' email. Attached as **Exhibit O** is a true and

correct copy of Plaintiffs' February 10, 2025 email to DISH.

41. Attached as **Exhibit P** is a true and correct copy of a Letter from Jeffrey H. Blum, Dish Network Corp., to Marlene H. Dortch, FCC (Sept. 18, 2024).

42. On February 13, 2025, Plaintiffs filed a largely identical copy of the current motion and served it on DISH by email, consistent with how DISH had consented to service of the Second Corrected Subpoena by email (*see supra* ¶ 31; Ex. O).

43. On February 14, 2025, Plaintiffs identified minor corrections to the cover motion (*see* ECF Nos. 232, 234) that led Plaintiffs to conclude filing a corrected motion was warranted. *See* ECF Nos. 234, 238.

44. Plaintiffs and DISH exchanged emails regarding the corrected motion on February 14. Despite having “previously agreed to accept service by email of prior case documents (including the operative Rule 45 requests), . . . [t]his time, DISH refused to accept service by email unless Plaintiffs agreed DISH could have more than two weeks to respond.” *See* ECF No. 238. Plaintiffs did not want to “further delay these proceedings,” and therefore declined. *Id.* As a result, “DISH instructed Plaintiffs to ‘serve DISH in the ordinary course,’” and so “Plaintiffs thus physically served DISH’s counsel as well as DISH at its corporate headquarters in Colorado and at its registered agent in Illinois on Tuesday, February 18, 2025 and Wednesday, February 19, 2025 (*see* ECF No. 237).” *See id.*

45. Thereafter, T-Mobile filed a motion seeking leave to file responses to Plaintiffs’ motion and DISH’s opposition. *See* ECF Nos. 240, 241. To accommodate T-Mobile’s request, the Court denied Plaintiffs’ motion “without prejudice to refiling.” ECF No. 241.

46. On March 6, 2025, Plaintiffs and T-Mobile jointly propounded a list of questions to DISH regarding structured data. Attached as **Exhibit Q** is a true and correct copy of an email chain with emails between Plaintiffs, T-Mobile, and DISH between March 6 and March 18, 2025. Plaintiffs

posed the following question to DISH: “Does DISH maintain data on subscribers’ Census Block Groups and zip codes in its subscriber data that can precisely identify a subscribers’ location? If so, please include those data fields in subscriber-level data and churn data. For the sake of clarity, Plaintiffs are seeking data on subscribers’ Census Block Groups, not the more granular data on Census Blocks.” *See* Exhibit Q. DISH responded: “The structured data contains a field named SUBSCRIPTION_ZIP_CODE. This field will contain information recording a subscriber’s ZIP code.” *Id.* Plaintiffs thereafter sought clarification and a more complete response, asking: “We want to know also if there is a separate field for census block group, we understand there is zip code level data available.” *Id.* To date, DISH has not responded to Plaintiffs’ question.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: March 21, 2025

Respectfully submitted,

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