

EXHIBIT J



November 4, 2024

Hill Brakefield
Associate

888 16th Street NW
Suite 300
Washington DC 20006
+1 202 953 8190
hbrakefield@hausfeld.com

VIA ELECTRONIC MAIL

DISH Network Corporation
c/o Clifford E. Yin
Coblentz Patch Duffy & Bass LLP
1 Montgomery St #3000
San Francisco, CA 94104
cyin@coblentzlaw.com

Re: Subpoena to DISH in *Dale v. Deutsche Telekom AG*, No. 22-3189 (N.D. Ill.)

Dear Clifford:

We write to follow up on our October 24, 2024 meet and confer. However, before addressing our most recent meet and confer, we find it necessary to address the inaccuracies in DISH's October 17, 2024 email.

DISH has done everything but "worked in good faith to locate and produce documents, meet and confer, and answer [Plaintiffs'] questions." Starting with our first meet and confer on March 14, 2024, DISH's conduct has been characterized by intentional delay, failure to engage in negotiations during meet and confers, and refusal to respond to Plaintiffs' straightforward questions and proposals.

DISH brazenly attempts to blame Plaintiffs for the delay in resolving the pending disputes. But for months, DISH has been preventing the parties from meaningfully negotiating Plaintiffs' subpoena by showing up to meet and confers substantively unprepared to discuss Plaintiffs' requests, refusing to promptly schedule follow-up discussions, or simply canceling them altogether.

Starting on March 27, DISH indicated that it had no desire to quickly resolve the parties' disputes when it unilaterally cancelled a meet and confer the parties had originally scheduled at the conclusion of their March 14 meet and confer. Even though the Court did not stay discovery in this case, DISH took the position that because the Court had granted T-Mobile's request to certify for interlocutory appeal the Court's order denying T-Mobile's motion to dismiss, DISH "will not be producing any documents or otherwise expending any additional resources in responding to the subpoena."

DISH offered a similar refusal in response to Plaintiffs' April 22 email seeking a meet and confer. When we explained on April 24 that there was no discovery stay, and that we did not agree with DISH's unilateral delay, you responded on April 25, 2024, with a new excuse—a trial that would prevent you from discussing the case with us for the next four weeks. You then ignored entirely Plaintiffs' May 9, 2024 email that asked for a meet and confer.

After the Seventh Circuit denied T-Mobile’s petition for an interlocutory appeal, Plaintiffs again reached out to DISH to reschedule the meet and confer that DISH improperly canceled. That same day you responded to indicate that you were finally “in discussion with the client to move things along,” a step that should have been handled after the parties’ initial meet and confer—not two months later—but did not provide availability for a meet and confer. When, on May 31, 2024, Plaintiffs had to reach out again to ask DISH when it would reschedule the meet and confer it improperly canceled, DISH only offered availability after midnight ET for the next few weeks. Offering to meet and confer after midnight is no better than outright refusing to meet and confer. You also spent weeks refusing to allow us to meet and confer with any other members of your team who could meet at a normal business hour, including your highly capable senior associate.

When Plaintiffs explained the inappropriateness of DISH’s proffer, DISH responded on June 8, 2024, by inexplicably claiming that it had “been offering to meet and confer, repeatedly, over the last several weeks.” The **only** time DISH made an offer to meet and confer was its May 31, 2024 email, in which it indicated that it would not be available for a meet and confer until the middle of the night.

In sum, DISH’s claim in its October 17, 2024 email that it “has not delayed and has not abused the meet and confer process” is simply false.

DISH’s behavior did not improve when we were finally able to meet and confer after more than two months of delay. We should not have been surprised. DISH set the tone during the parties’ first meet and confer by incorrectly claiming that it was not a wireless company before the T-Mobile merger closed, even when Plaintiffs pointed out that DISH had amassed significant spectrum prior to the merger, had spent large sums of money lobbying against other mergers between network operators, and had been subject to discovery in litigation challenging the merger at issue here.

The intransigence continued in the parties’ June 13, 2024 meet and confer. DISH represented that it would produce some documents reflecting its discussions with the DOJ, FCC, and CPUC to the extent it still possessed them. However, it would not provide a timeline for making any document productions. It did not know whether those documents pre-dated or post-dated the merger. It still did not provide any response to proposals made in Plaintiffs’ May 31, 2024 letter. And it took the bizarre position that it does not now and had not in the past had wireless subscribers. Plaintiffs made it clear during this meeting that reproduction of documents from the *pre-merger* investigations and litigation would not satisfy Plaintiffs requests for documents *post-dating* what DISH produced as part of those investigations and litigation. We explained that we need custodial searches for requests of more recent documents and that any burden objections are best handled by negotiating search methodology. With respect to structured data, we also explained that Plaintiffs cannot divine the relevant data fields without DISH providing the list of fields it maintains in the customer databases with data responsive to Request Nos. 21–22 and the plan databases with data responsive to Request Nos. 24–25.

On July 3, 2024, DISH followed up on the parties’ meet and confer to provide a date by which it would make its promised document production and to clarify its previous statement that it had

neither pre- nor post-merger subscribers. It represented for the first time that “pursuant to the Transition Agreement, the subscriber data was hosted on T-Mobile’s data system until about mid-2023. Any available data through that date, if it now exists at all, would be with T-Mobile, not with DISH. It appears that any customer structured data requests for DISH would only be mid-2023 onwards.”

Plaintiffs responded on July 9, agreed to review DISH’s production to see what additional pre-merger discovery Plaintiffs may need, asked for clarification on why DISH represented that its forthcoming production would not be “a complete reproduction” of what it produced to the DOJ, CPUC, and other agency investigations, and asked DISH to clarify its representation that it only had customer structured data from mid-2023 onwards. DISH’s July 3 email narrowly focused on Boost subscribers when Plaintiffs requested in their subpoena, and had consistently discussed in previous correspondence and meet and confers, DISH subscribers without reference to specific brands under DISH’s umbrella. We therefore asked whether DISH’s references to Boost referred to “Boost Mobile subscribers, Boost Infinite subscribers, or both,” and whether DISH was considering its Gen Mobile, Ting Mobile, and other brands when it represented that it did not have subscriber data.

DISH responded on July 15, 2024, confirming that it has not maintained its productions to the DOJ, CPUC, and other agency investigations but said it would provide answers to Plaintiffs’ other questions “shortly.”

Plaintiffs did not hear back “shortly.” Having not heard anything for more than a week, Plaintiffs emailed DISH on July 23, 2024, seeking an update. DISH responded on July 26, 2024, stating that it would be “easier to discuss on a call.” Along with this nonanswer to Plaintiffs’ straightforward questions, DISH made its first document production. It represented in a letter accompanying that production that the volume “contains 304 documents.” But inspection revealed that there were only 173 substantive documents. The rest of the production comprised 131 system files (such as font data), inflating the total document count. Plaintiffs responded the next day scheduling the proposed call which DISH suggested it would use to respond to Plaintiffs’ questions.

The parties held that meet and confer on August 1, 2024. DISH clarified that T-Mobile hosted the customer data for Boost Mobile and Boost Infinite subscribers until June 2023. It also stated that while it had access to that information during the merger transition period that it can no longer access this data. Plaintiffs again pressed DISH for an explanation of how it could represent that it has no subscriber data prior to June 2023 when DISH had customers under the Ting Mobile and Gen mobile brands prior to that date. DISH took the position that such data was not relevant to Plaintiffs’ case—and therefore DISH would not produce it—because DISH acquired those brands in different mergers. In doing so, you confirmed that DISH’s previous representation that it lacked any subscribers was not factually correct. And just as in the parties’ June 13, 2024 meet and confer, DISH would not take a position on any of the proposals in Plaintiffs’ May 31, letter.

Plaintiffs sent DISH a follow-up email on August 12, 2024. They asked DISH to confirm in writing that it no longer had access to or the ability to request access to Boost Mobile and Boost Infinite

data predating June 2023. They also reiterated the relevance of DISH’s subscriber data for its Gen Mobile and Ting Mobile customers and confirmed that DISH’s August 1 refusal to produce such data placed the parties at an impasse. Plaintiffs then asked DISH to clearly state whether it is refusing to produce anything that predates the T-Mobile Merger’s closing. They closed their email asking for a meet and confer to discuss DISH’s first production volume with the explicit request that DISH “be prepared to explain which requests DISH will search for and produce documents and which requests it will not.”

When the parties finally met and conferred—after Plaintiffs had to email DISH on August 29 prodding it for a response to Plaintiffs’ August 12 email—DISH once again failed to provide any useful information to advance discussions. It still did not take a position on any of Plaintiffs’ proposals in their May 31 letter. Instead, it argued that Plaintiffs should wait until DISH’s second production volume, review that production volume, and then schedule yet another meet and confer to see what additional documents Plaintiffs wanted. Plaintiffs explained that was unlikely to move the needle, as DISH’s first minor production did not fulfill Plaintiffs’ Request Nos. 1–4, let alone all of Plaintiffs’ other Requests. DISH did confirm it would not agree to produce any pre-merger documents, creating another impasse ripe for court resolution.

But a significant number of Plaintiffs’ requests remained in limbo, because DISH would neither agree to an impasse nor accept Plaintiffs’ proposals for potentially narrowing their scope. Accordingly, Plaintiffs reiterated that they needed DISH to respond in writing to Plaintiffs’ May 31, 2024 letter and each of the proposals therein. Plaintiffs asked for a written response by September 17. DISH said it could not guarantee a letter by that date because of its outside counsel’s schedule but that it would nonetheless get us the requested response. But, as has become standard practice, DISH failed to provide any correspondence on September 17, or at any time thereafter.

Plaintiffs reached out to DISH on September 19 as a gentle reminder that they were waiting for the promised response to their May 31 letter, to yet again ask for the requested data sample, and to share a data dictionary they received from T-Mobile in a final attempt to receive anything approaching a data sample to help move discussions along.

DISH then waited for another week—until September 27, 2024—before responding that it could not produce a data sample without first meeting and conferring about Plaintiffs’ requests (despite Plaintiffs having tried to meet and confer on this very issue for months). Frustratingly, the parties were essentially back at step one on structured data.

That brings us to the blatantly inaccurate claims in DISH’s October 17, 2024 email. DISH’s claim that Plaintiffs are “constantly shifting positions” stands on—at best—mischaracterizations of the parties’ correspondence. As explained above, Plaintiffs have never cabined their request for customer data to Boost Mobile. Boost Mobile was only a topic of conversation at our August 1, 2024 meet and confer because Plaintiffs had to ask several rounds of follow up questions to get a full and accurate response from DISH regarding what subscriber data it possesses and what data it is willing to produce. Plaintiffs then had to raise other DISH entities because DISH sought to obscure those from discussion.

Furthermore, DISH’s contention that Plaintiffs “shifted focus again” during our September 6, 2024 meet and confer by “stating there was never a formal response to the May 31, 2024 letter (raised for the first time)” flies in the face of all the facts. We detail above the numerous occasions on which Plaintiffs asked for a definitive response to Plaintiffs’ proposals in their May 31 letter. DISH either outright refused to provide such answers or it simply ignored Plaintiffs’ requests.

To put a finer point on it, at no point during any of the three meet and confers after May 31 did DISH take a position—i.e., whether it accepted Plaintiffs offer or agreed that we are at an impasse—on any of Plaintiffs’ individual proposals. We also asked several times for a response via email and did not receive any from DISH. Finally, DISH represented during our September 6, 2024 meet and confer that it would finally provide us a response letter, but it never followed through.

At no point did Plaintiffs agree to defer discussions about their May 31 letter until DISH decided it was done trickling out documents. To the contrary, Plaintiffs asked DISH to take a clear position on each of their proposals in that letter on numerous occasions, including during our June 13, 2024 meet and confer.

The only way to describe where we stand after DISH’s steadfast refusal to provide a yes or no answer to the proposals in Plaintiffs’ May 31 letter is impasse. DISH has had five months to respond on Plaintiffs’ scope proposal—its refusal to do so will be taken as a refusal to produce, and we intend to proceed accordingly.

Finally, we address several items from our October 24, 2024 meet and confer. Again, we are disappointed that DISH ignored the request in Plaintiffs’ October 15, 2024 email asking DISH to be ready to discuss its positions on Plaintiffs’ May 31 proposals. During our meet and confer, DISH only took positions on Plaintiffs’ Request Nos. 35 and 36. Plaintiffs explained that they might agree to some narrowing of those requests but that they would not take them off the table. Rather than proposing any compromise, DISH took the position that it would refuse to produce anything at all, placing us at an impasse on those requests.

DISH confirmed its position that it will not agree to discovery predating the merger’s close. As we explained during the meet and confer, we cannot agree to foregoing pre-merger discovery altogether. That places us at an impasse.

DISH also maintained that non-Boost data are irrelevant. We explained the relevance of those data, and reiterated that Plaintiffs will not drop their request for all the DISH customer data responsive to their requests. That creates yet another impasse.

We also discussed DISH’s second production volume, but you were unprepared to answer questions about those documents. For example, Plaintiffs pressed you for answers regarding the Monitoring Trustee Datasite, but you did not have basic information about who has access to that Datasite or the volume of documents contained in that Datasite.

As we explained during our October 24 meet and confer, it may be the case that the Monitoring Trustee Datasite contains a significant portion of the documents and data Plaintiffs seek. Had DISH come to our initial meet and confer prepared to negotiate giving Plaintiffs access to some or all that Datasite, it may have saved a significant amount of money on the unproductive meet and confers and correspondence it commissioned instead. And prompt access to that Datasite may also prevent what looks now to be a necessity: judicial intervention.

We hope this is the only letter of this nature that we must send. While DISH's conduct has been lacking, we remain optimistic that it will come to the table and start seeking solutions rather than continue avoiding its obligations to meet and confer in good faith to resolve its objections to Plaintiffs' subpoena. To that end, please provide us with answers to Plaintiffs' questions about the Monitoring Trustee Datasite by November 11, 2024. If DISH wishes to narrow the number of disputes we must present to the Court—or obviate the need for judicial enforcement entirely—please provide us with a written response to each of Plaintiffs' proposals in their May 31, 2024 letter by November 11.

Kind regards,

A handwritten signature in blue ink, appearing to read "Brian J. Hall".