

# **EXHIBIT E**



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**VIA ELECTRONIC MAIL**

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

Dear Clifford:

Thank you for meeting and conferring with us on March 14, 2024, regarding the subpoena that the Plaintiffs in *Dale v. Deutsche Telekom AG*, No. 22-3189 (N.D. Ill.), served on DISH Network Corporation. While we were disappointed that you took the untenable position that discovery of DISH (at least prior to the merger consummation, if not for some period after) is irrelevant to this litigation and then—despite the lack of a discovery stay in this case—that you refused to schedule any additional meet and confers while T-Mobile’s petition for interlocutory appeal remained pending at the Seventh Circuit, we appreciate DISH reengaging with Plaintiffs. We look forward to expedient resolution of any pending disputes to make up for DISH’s delay.

To that end, we write to follow up on the requests for which Plaintiffs indicated to you that they would narrow the scope of their initial requests and to confirm that DISH will search for and produce documents responsive to the other requests as served.

Some of the following proposals stem from our discussions with other third parties. As a courtesy to DISH, Plaintiffs are willing in this instance to narrow its subpoena to you in the same way it proposes narrowing similar requests served on other third parties.

Plaintiffs are willing to limit the scope of their requests to the period after DISH’s last production of documents and data in the States’ Pre-Merger Case if DISH agrees to produce all documents and data it produced as part of any regulatory investigation into the Transaction (e.g., the DOJ Civil Investigative Demand, the DOJ Second Request, the FCC’s investigation, and the CPUC’s investigation); as part of any Congressional investigation into the Transaction; and in response to a subpoena in the States’ Pre-Merger Case. Such productions would satisfy all of Plaintiffs’ Requests 1–3.

For Request Nos. 21, 22, and 25, Plaintiffs propose waiting to see what type of data DISH produced as part of any regulatory investigation into the Transaction, any Congressional investigation into the Transaction, or the States’ Pre-Merger Case. We may be able to agree to refreshing the data up through June 2024 using those fields.

For Request Nos. 12, 16, and 24, Plaintiffs are willing to limit the scope of those Requests to “documents sufficient to show” the information initially requested:

- Request No. 12: Documents sufficient to show Your cost of providing retail mobile wireless service, including the costs You attribute to each generation of service You offer or offered (e.g., 3G, 4G, 5G), the costs You incurred acquiring and installing 5G network hardware, the costs You incurred purchasing or leasing 5G spectrum, the costs You incurred purchasing or leasing cell towers for your 5G network hardware, Your monthly maintenance costs for each of your networks (e.g., 4G and 5G), and any modeling of projections or changes to the costs identified in this Request.
- Request No. 16: Documents sufficient to show (1) the terms and conditions each MVNO has agreed to for accessing DISH’s network, and (2) the rates each MVNO pays to access DISH’s network (in aggregate numbers as well as at a subscriber level).
- Request No. 24: Documents sufficient to show for each of Your retail mobile wireless plans: (a) all names, abbreviations, numeric IDs, or shorthand descriptions associated with the plan, both public and internal; (b) the date the Company first began developing the plan; (c) the date the plan first became available to consumers; (d) the date when the Company stopped offering the plan to new participants; (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) the number of existing and new subscribers for each plan by CMA and month; (g) the number of existing and new subscribers for each plan by CMA and month; and (h) any promotions or discounts associated with the plan, including the dates the promotion or discount was available and any terms or conditions for applying the promotion or discount to the plan.

Plaintiffs are also willing to narrow several other requests based on our March 19 discussions:

- Request No. 6: Documents, such as long-term planning or strategic assessment presentations, and communications related to your analysis of the impact that changes to Sprint’s 3G CDMA and LTE networks—including the shutdown of Sprint’s 3G network and the integration of Sprint’s LTE cell sites into T-Mobile’s LTE network (including decommissioning of cell sites not integrated into T-Mobile’s LTE network)—would have on: (1) Your share of the market for retail mobile wireless; (2) Your ARPU; (3) the rates You could (or should) charge for any mobile wireless plans that you have offered since the Transaction was announced; (4) Your assessment of how those network changes would impact the competitive landscape for provider of retail mobile wireless services; and (5) Your assessment of the impacts those network changes would have to consumers in the retail mobile wireless market.
- Request No. 8: Communications with an affiliate MVNO regarding any of the following: (1) concerns that the Transaction would impact network speed or reliability, or cause service disruptions; or (2) complaints that the Transaction impacted network speed, or reliability, or caused service disruptions.

- Request No. 9: All documents, ESI, and communications related to (1) the need or desire to acquire spectrum—whether via auction, purchase from a competitor, or via acquisition of another company—to compete with other mobile network operators; (2) analysis or projections of how spectrum acquisitions by T-Mobile would affect plan costs, or plan pricing for T-Mobile customers; (3) analysis or projections of how spectrum acquisitions by T-Mobile or other mobile network operators would affect plan costs for other mobile network operators, or plan pricing set by other mobile network operators; and (4) the portion of customer plan costs T-Mobile attributes to capital expenditures related to spectrum acquisition.
- Request No. 10: Communications between You and Deutsche Telekom AG, SoftBank, AT&T, Verizon, or any affiliate MVNOs regarding the following: (1) qualitative assessments of 5G deployment in Your network; (2) qualitative assessments of 5G deployment in AT&T's, T-Mobile's, or Verizon's network; (3) investment decisions related to 5G infrastructure in Your network or a competitor's network; (4) 5G network maintenance costs in Your network or a competitor's network; (6) and competition for customers of 5G services.
- Request No. 11: Documents and ESI since January 1, 2017, related to your 5G network strategy, such as long-term planning or strategic assessment presentations and communications that discuss the following: (1) Your roadmap for deploying 5G services (such as the timeline for deployment and the order in which deployment would occur in different geographic markets); (2) Your decisions related to which frequency bands to use for Your 5G service(s) (e.g., mmWave versus mid-band or low-band); (3) investments in infrastructure for Your 5G network; (4) consumer feedback on the accessibility and reliability of Your 5G network; (5) pricing of Your 5G services, including any associated financial models; (6) advertising strategy for Your 5G network or services; (7) comparisons of Your 5G network or services to those of competitors such as AT&T, T-Mobile, and Verizon; (8) 5G network KPIs (e.g., cell availability, session setup success rate, RTT latency, user throughput, packet loss rate etc.); and (9) Your viability as a competitor to Verizon, AT&T, and T-Mobile.
- Request No. 15: Documents and ESI related to: (1) the factors you consider when setting prices for Your retail mobile wireless plans; (2) strategic assessment of Your plan pricing since 2017; (3) decisions to revise the pricing of Your retail mobile wireless plans since 2017; (4) advertising strategy as it relates to changes in the pricing of Your retail mobile wireless plans; (5) customer feedback since 2017 regarding Your plan pricing; (6) the impact—if any—the Transaction would have on Your pricing strategy; (7) the impact—if any—the Transaction might have on AT&T's, Verizon's, or T-Mobile's pricing; (8) strategies for increasing revenue without adjusting subscribers' monthly service pricing; (9) comparison of the prices for Your retail mobile wireless services to those of AT&T, T-Mobile, or Verizon; and (10) the impact that a hypothetical 4-to-3 merger in the retail mobile wireless service market would have on Your ability or the ability of a competitor to increase prices for providing retail mobile wireless services.

Plaintiffs further agree to table any disputes regarding their Request Nos. 4, 18, and 26–34. For Request No. 4, it may be the case that whatever DISH produces to satisfy Plaintiffs' Requests 1–

3 will prove sufficient. It may also be the case that DISH lacks any post-merger discussions of the kind described in Request No. 4. However, we would like to know whether that is the case. Our need for the documents described in Request No. 18 is also likely to come into better focus once we receive the pre-merger documents. And Plaintiffs can abstain from seeking the documents described in Request Nos. 26–34 until it has a chance to evaluate whether there are any issues with document storage or retention.

For Request Nos. 5, 7, 13–14, 17, 19, 20, 23, 35–36, please provide us an update on whether DISH possesses any responsive documents, and if so when we can expect to begin receiving responsive documents.

Thank you again for engaging with us to resolve Plaintiffs' subpoena. Please let us know as soon as possible which of the proposals above are acceptable to DISH. While we hope that we can resolve any differences amicably, Plaintiffs will quickly move to enforce the subpoena with respect to any of the Requests for which we are at an impasse.

Kind regards,

/s/ Swathi Bojedla