

**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 other similarly situated,

Plaintiffs,

v.

DEUTSCHE TELEKOM AG, T-MOBILE
US, INC., and SOFTBANK GROUP CORP.,

Defendants.

Case No. 22-cv-03189

Judge Thomas M. Durkin

Magistrate Judge Jeffrey Cole

**DECLARATION OF MINAE YU IN SUPPORT OF DEFENDANT T-MOBILE US,
INC.'S MOTION TO COMPEL DISH NETWORK CORPORATION TO PRODUCE
DISCOVERY RESPONSIVE TO T-MOBILE'S SUBPOENA**

I, Minae Yu, declare as follows:

1. I am an attorney duly licensed to practice law in the State of California, and I have been admitted *pro hac vice* in this case. I am an associate attorney at the law firm of Gibson, Dunn & Crutcher LLP, counsel of record for Defendant T-Mobile US, Inc. ("T-Mobile") in this matter. I submit this declaration in support of T-Mobile's Motion to Compel DISH Network Corporation ("DISH") to Produce Discovery Responsive to T-Mobile's Subpoena. I have personal knowledge of the matters set forth herein, except where stated otherwise, and if called to testify, I could and would testify competently thereto.

2. On August 13, 2024, Plaintiffs provided T-Mobile with a copy of DISH's First Production Volume that was produced in response to Plaintiffs' subpoena served on DISH

(“Plaintiffs’ Subpoena”). On October 16, 2024, Plaintiffs provided T-Mobile with a copy of DISH’s Second Production Volume that was produced in response to Plaintiffs’ Subpoena. Together, DISH’s first and second productions totaled 383 documents.

3. On November 18, 2024, T-Mobile issued a subpoena to DISH (the “Subpoena”). The Subpoena requested documents and data related to Plaintiffs’ allegations and T-Mobile’s defenses, including documents and data concerning subscribers to DISH’s retail mobile brands, including those operated by DISH’s subsidiaries; DISH’s spectrum holdings, purchases and acquisitions; DISH’s network lease agreement with AT&T and payments made for network lease; DISH’s build-out and deployment of its 5G network, investments made and costs incurred for the network, and the network’s quality and capacity; DISH’s cost of operating its mobile business, broken down by month and types of costs; DISH’s gross and net profits, broken down by month; DISH’s customer life time value (“CLV”) data and computation methodology; the resolution of the shutdown of Sprint’s legacy CDMA network, which DISH publicly touted as improving the economics of the company; the prices, terms and features of DISH’s mobile plans offered to date; DISH’s efforts to compete and increase its subscriber base through plan features, prices, promotions, and marketing campaigns; and the prospects for the growth of DISH’s mobile business, among other things. After providing Plaintiffs notice of the Subpoena, on November 20, 2024, I emailed a copy to DISH’s counsel and asked whether they would accept service on behalf of DISH. Attached hereto as **Exhibit 1** is a true and correct copy of T-Mobile’s Subpoena.

4. On November 25, 2024, DISH’s counsel responded that she would accept service on behalf of DISH if T-Mobile would agree to extend the deadline for DISH to respond. On November 26, 2024, I offered an extension up to January 21, 2025, and requested that DISH provide T-Mobile copies of any sample subscriber-level structured data or data dictionaries that

were provided to Plaintiffs in the meantime. On December 10, 2024, DISH's counsel sent a document listing DISH's proposed data fields with high-level descriptions of the fields.

5. On January 21, 2025, DISH served its responses and objections to T-Mobile's Subpoena ("DISH's R&Os"). In its responses, DISH offered to produce structured data for its Boost subscribers, a copy of its network lease agreement with AT&T, and certain reports submitted to the Monitoring Trustee appointed to oversee DISH's and T-Mobile's compliance with the conditions imposed on T-Mobile's merger with Sprint, "if and only when the Protective Order is modified." DISH also directed T-Mobile to its prior production of 383 documents. Other than these documents, DISH refused to produce anything more. Attached hereto as **Exhibit 2** is a true and correct copy of DISH's R&Os.

6. On January 31, 2025, my colleague and I had a telephonic conference with DISH's counsel. The parties discussed DISH's concerns about the confidentiality order and some of the requests contained in the Subpoena but were not able to discuss all of the requests. The discussion was continued, with counsel agreeing to consider whether custodial searches or "go get" documents would be best suited for the requests.

7. On February 13, 2025, Plaintiffs filed their motion to compel, asking the Court to order DISH to produce (1) data concerning its subsidiary brands, Gen Mobile and Ting Mobile and (2) documents responsive to five "buckets" of requests located through custodial searches of eight DISH personnel. Before the filing of the motion, T-Mobile was not aware of the specific issues that would be presented in any motion by Plaintiffs.

8. On February 19, 2025, my colleague and I conferred telephonically with DISH's counsel again. After explaining that the discovery sought by Plaintiffs' motion was relevant and responsive to T-Mobile's Subpoena as well, I asked whether DISH would reconsider its refusal to

produce the discovery at issue in Plaintiffs' motion. DISH's counsel confirmed that DISH did not intend to revisit its refusal to produce data concerning its MVNO subsidiaries and maintained that it should not have to conduct any custodial searches because it is a nonparty. DISH's counsel also declined to engage in further discussions about T-Mobile's document requests until Plaintiffs' motion and DISH's concerns about the confidentiality order were resolved and asked T-Mobile to send any questions about its responses and objections in writing.

9. On February 24, 2025, T-Mobile sent DISH questions about its proposed subscriber structured data fields. Among other things, T-Mobile asked DISH to explain how the information sought by certain requests—such as DISH's cost of operating its mobile business, payments to AT&T for network access, and details about DISH's mobile plans—would be reflected in DISH's data as DISH claimed, given that none of the fields appeared to capture such information.

10. On February 25, 2025, T-Mobile sent DISH its proposal for resolving DISH's concerns about the confidentiality order.

11. On March 4, 2025, T-Mobile sent DISH a letter asking clarifications about DISH's positions and proposing a resolution for all of T-Mobile's document requests. T-Mobile requested a response to the letter, as well as to its February 24th structured data questions, by March 10, 2025, so that the parties could resolve or at least substantially narrow their disputes as much as possible and raise any outstanding issues to the Court in a single motion. Attached hereto as **Exhibit 3** is a true and correct copy of T-Mobile's March 4, 2025, letter to DISH.

12. As explained in the letter, for twelve requests (Requests Nos. 6–8, 11, 15, 23, 25, and 29–33) that sought readily-identifiable corporate records—such as cost data, profit and loss data, records of payments to AT&T, DISH's CLV data and computation methodology, and terms, features and prices of DISH's mobile plans—T-Mobile proposed that DISH produce responsive

documents on a “go get” basis.

13. T-Mobile proposed custodial searches for ten requests (Requests Nos. 5, 10, 12, 13, 16, 18, 20, 21, and 24) covering four discrete topics: (1) documents and communications concerning the statement by DISH’s chairman, Charles Ergen, during an earnings call that an amended network lease agreement between DISH and T-Mobile following the companies’ dispute about the shutdown of Sprint’s legacy CDMA network “improved the economics from a business perspective for [DISH], that it’s improved integration into how the networks work together and there’s a good spirit of cooperation between the teams. So it’s going to be – it’s a win-win for both companies”; (2) DISH’s spectrum needs, acquisitions and intended use; (3) documents concerning how DISH determines its prices, promotions, marketing, and plan features to compete with other carriers and the effectiveness of its competitive efforts in gaining subscribers; and (4) DISH’s internal assessment of its growth prospects, as well as communications—internally and with potential business partners—about the expansion of DISH’s mobile business. Unlike the “go get” requests, T-Mobile, as an outsider, has no means to identify specific documents that would contain the information sought by these requests. Accordingly, T-Mobile proposed eight custodians involved in making business decisions for DISH’s mobile business and proposed search terms designed to locate responsive documents. T-Mobile invited DISH to propose alternative custodians or modifications to the search terms. T-Mobile also requested that, to the extent DISH objected to the custodial searches based on burden, DISH specify the burden.

14. On March 10, 2025, DISH sent a one-page letter, rejecting T-Mobile’s proposal for resolving DISH’s concerns about the confidentiality order and stating that it would respond to T-Mobile’s March 4th letter “under separate cover.” Attached hereto as **Exhibit 4** is a true and correct copy of DISH’s letter to T-Mobile dated March 10, 2025.

15. On March 13, 2025, DISH sent an email responding to the structured data questions that T-Mobile sent on February 24, 2025. The email confirmed that cost data would not be contained in the subscriber structured data that DISH would produce. DISH further confirmed that the data would only provide limited information about its mobile plans, such as [REDACTED]

[REDACTED] DISH did not elaborate on whether its subscriber structured data would show DISH's payments to AT&T. Attached hereto as **Exhibit 5** is a true and correct copy of the March 13th email from DISH's counsel that I received.

16. DISH also sent a letter responding to T-Mobile's March 4th letter on the same day. DISH confirmed that its supplemental production of additional Monitoring Trustee reports would contain information responsive to three of T-Mobile's "go get" requests but declined to produce any additional documents. DISH also refused to conduct any custodial searches, but did not specify any burden associated with such searches. Attached hereto as **Exhibit 6** is a true and correct copy of DISH's letter to T-Mobile dated March 13, 2025.

17. On March 14, 2025, my colleagues and I conferred telephonically with DISH's counsel again to try to narrow the disputes. On the "go get" requests, DISH's counsel confirmed that DISH's subscriber structured data will not include cost data or records of payments to AT&T. I noted that cost data and payment records to AT&T could likely be extracted from DISH's general ledger and that AT&T's monthly invoices should likewise be readily identifiable. DISH still would not agree to produce the requested documents and data.

18. For DISH's mobile plan information, I explained that descriptions like [REDACTED] do not provide most of

the terms, features and fees for a plan, which are relevant to evaluating its value. I requested that DISH produce information for its historical mobile plans on par with that provided on DISH's website for its current mobile plans. I further explained that T-Mobile is only seeking information about historical plans that are no longer available on DISH's website, which should not be burdensome to produce since DISH has only offered a limited number of plans to date.

19. In response to T-Mobile's request for customer lifetime value ("CLV") data and computation methodology, DISH claimed that the information could be found in its SEC filings and that DISH does not maintain CLV information on a "subscriber-by-subscriber" basis. I explained that DISH's SEC filings do not contain such information, and that T-Mobile is not necessarily seeking CLV data on a "subscriber-by-subscriber" basis, but in any form that DISH maintains the information in the ordinary course of business. I further noted that DISH's own documents [REDACTED] and that DISH's Senior Financial Manager (who is among the custodians T-Mobile proposed) wrote on his LinkedIn page that his job responsibilities included "the development and presentation of quarterly customer lifetime value models of new and existing subscribers" and the use of "CLV insights to inform marketing and retention strategies, focusing on maximizing long-term profitability." DISH's counsel responded that DISH was not willing to produce CLV data and computation methodology at this time.

20. As for DISH's profit and loss data, I explained that DISH's SEC filings to which DISH directed T-Mobile only reports aggregate figures and that T-Mobile needs the underlying data that feeds into those topline figures, which should be readily available since DISH has to use the data to prepare its SEC filings. Again, DISH was not willing to produce the requested data.

21. DISH refused to conduct the custodial search proposed by T-Mobile as well. I

explained that T-Mobile was amenable to discussing modifications to its proposed custodians and search terms. Alternatively, I stated that if DISH would be willing to search for and produce specific documents identified through discussions with relevant custodians, T-Mobile would be willing to consider whether that would be sufficient—as opposed to search term-based custodial email searches. DISH’s counsel responded that even talking to potential custodians and looking for responsive documents would be burdensome and that it should not be DISH’s burden to identify relevant custodians or to propose search terms. I asked whether DISH had tested T-Mobile’s proposed search terms or had any concrete information on the burden associated with T-Mobile’s request for custodial document pulls. DISH’s counsel confirmed that DISH did not test the search terms or have any concrete information and stated that even testing the search terms would be burdensome.

22. Counsel agreed that DISH and T-Mobile are at an impasse on custodial searches. For the “go get” requests, DISH’s counsel stated that it would check with DISH once more, but if DISH did not agree by Monday, March 17, 2025, to produce the requested documents, the parties would be at an impasse on those requests as well. On March 18, 2025, DISH confirmed that it would not produce cost data, profit and loss data, CLV data and methodology, or further information about DISH’s mobile plans beyond the short descriptions contained in DISH’s subscriber structured data. As for DISH’s payments to AT&T, DISH claimed that the information would be contained in DISH’s network lease agreement with AT&T that it agreed to produce, subject to AT&T’s consent. DISH did not explain how a contract executed in 2021 would show charges by, and payments to, AT&T made thereafter or why DISH cannot simply produce the monthly invoices showing the actual charges and/or DISH’s payment records.

23. Attached hereto as **Exhibit 7** is a true and correct copy of printouts and screen shots

of DISH's website (<https://www.boostmobile.com/plans>) that I prepared, which provides terms, features, fees and other details about DISH's current mobile plans that are missing from DISH's proposed structured data fields.

24. Attached hereto as **Exhibit 8** is a true and correct copy of a press release titled "Justice Department Congratulates T-Mobile And Dish For Closing The Boost Divestiture," issued by the Department of Justice, Office of Public Affairs, dated July 1, 2020, available at <https://www.justice.gov/opa/pr/justice-department-congratulates-t-mobile-and-dish-closing-boost-divestiture> (last visited March 19, 2025).

25. Attached hereto as **Exhibit 9** is a true and correct copy of an article written by Linda Haredsty, titled "Cable's wireless subs come largely from AT&T, Verizon postpaid," published by Fierce Network, dated December 12, 2023, available at <https://www.fierce-network.com/wireless/cables-wireless-subs-come-largely-att-verizon-postpaid> (last visited March 19, 2025).

26. Attached hereto as **Exhibit 10** is a true and correct copy of an article written by Daniel Frankel, titled "Cable Controlled 75% of U.S. Mobile Growth in Q1, Is Exploiting Convergence Advantage Over Wireless, Analyst Says," published by NextTV, dated June 6, 2024, available at <https://www.nexttv.com/news/cable-controlled-75-of-us-mobile-growth-in-q1-is-exploiting-convergence-advantage-over-wireless-analyst-says> (last visited March 19, 2025).

27. Attached hereto as **Exhibit 11** is a true and correct copy of Comcast Corporation's press release reporting its 1st Quarter 2020 results, available at <https://www.cmcsa.com/news-releases/news-release-details/comcast-reports-1st-quarter-2020-results> (last visited March 19, 2025).

28. Attached hereto as **Exhibit 12** is a true and correct copy of Comcast Corporation's

press release reporting its 4th Quarter 2024 results, available at <https://www.cmcsa.com/news-releases/news-release-details/comcast-reports-4th-quarter-2024-results> (last visited March 19, 2025).

29. Attached hereto as **Exhibit 13** is a true and correct copy of Charter Communications, Inc.'s press release reporting its 1st Quarter 2020 results, available at <https://ir.charter.com/news-releases/news-release-details/charter-announces-first-quarter-2020-results> (last visited March 19, 2025).

30. Attached hereto as **Exhibit 14** is a true and correct copy of Charter Communications, Inc.'s press release reporting its 4th Quarter 2024 results, available at <https://corporate.charter.com/newsroom/charter-announces-fourth-quarter-and-full-year-2024-results#:~:text=Residential%20revenue%20totalled%20%2410.7%20billion,to%20the%20prior%20year%20period> (last visited March 19, 2025).

31. Attached hereto as **Exhibit 15** is a true and correct copy of an article written by Jeff Baumgartner, titled "Cable's wireless blitz picks up more steam," published by LightReading, dated August 16, 2024, available at <https://www.lightreading.com/wireless/cable-s-wireless-blitz-picks-up-more-steam> (last visited March 19, 2025).

32. Attached hereto as **Exhibit 16** is a true and correct copy of a report titled "The 2022 Navi US Wireless Plans Report," published by Navi, dated August 25, 2022, available at <https://www.yournavi.com/2022-navi-us-wireless-plans-report> (last visited March 19, 2025).

33. Attached hereto as **Exhibit 17** is a true and correct copy of a research article written by Kerry Baker, titled "Booster Rocket – Cable MVNO Speeds Take Off with Wifi," published by Ookla, dated January 14, 2025, available at <https://www.ookla.com/articles/cable-mvno-speeds-take-off-with-wi-fi> (last visited March 19, 2025).

34. Attached hereto as **Exhibit 18** is a true and correct copy of an article written by Monica Allevan, titled “Boost Mobile ramps up offerings at 7-Eleven stores nation-wide,” published by Fierce Network, dated December 1, 2022, available at <https://www.fierce-network.com/wireless/boost-mobile-offers-sim-kits-7-eleven-stores-nationwide>.

35. Attached hereto as **Exhibit 19** is a true and correct copy of a document with the beginning Bates number DISH00005715, which was produced in this case by DISH.

36. Attached hereto as **Exhibit 20** is a true and correct excerpted copy of DISH’s Annual Report for the year ending December 31, 2022, a full copy of which is available at <https://ir.echostar.com/financial-information/sec-filings-dish> (last visited March 19, 2025).

37. Attached hereto as **Exhibit 21** is a true and correct copy of DISH’s 3Q 2024 Earnings Call Transcript, available at <https://www.insidermonkey.com/blog/echostar-corporation-nasdaq-q3-2024-earnings-call-transcript-1390215/#q-and-a-session> (last visited March 19, 2025).

38. Attached hereto as **Exhibit 22** is a true and correct copy of a document with the beginning Bates number DISH00004984, which was produced in this case by DISH.

39. Attached hereto as **Exhibit 23** is a true and correct copy of a document with the beginning Bates number DISH00005471, which was produced in this case by DISH.

40. Attached hereto as **Exhibit 24** is a true and correct copy of Robert Husa’s LinkedIn profile, available at <https://www.linkedin.com/in/roberthussa/> (last visited March 19, 2025).

41. Attached hereto as **Exhibit 25** is a true and correct copy of Charles Ergen’s executive bio on DISH’s website, available at <https://about.dish.com/Charlie-Ergen> (last visited March 19, 2025).

42. Attached hereto as **Exhibit 26** is a true and correct copy of DISH's Q1 2021 Earnings Call Transcript, available at <https://news.alphastreet.com/dish-network-corp-dish-q1-2021-earnings-call-transcript/> (last visited March 19, 2025).

43. Attached hereto as **Exhibit 27** is a true and correct copy of DISH's Q3 2022 Earnings Call Transcript, available at <https://news.alphastreet.com/dish-network-corporation-dish-q3-2022-earnings-call-transcript/> (last visited March 19, 2025).

44. Attached hereto as **Exhibit 28** is a true and correct copy of DISH's Q3 2023 Earnings Call Transcript, available at <https://www.insidermonkey.com/blog/dish-network-corporation-nasdaqdish-q3-2023-earnings-call-transcript-1218740/?singlepage=1> (last visited March 19, 2025).

45. Attached hereto as **Exhibit 29** is a true and correct copy of DISH's 4Q 2021 Earnings Call Transcript, available at <https://seekingalpha.com/article/4490184-dish-network-corporations-dish-ceo-erik-carlson-on-q4-2021-results-earnings-call-transcript> (last visited March 19, 2025).

46. Attached hereto as **Exhibit 30** is a true and correct copy of T-Mobile's initial disclosures served on December 18, 2023, in this matter.

47. Attached hereto as **Exhibit 31** is a true and correct copy of Paul Orban's executive bio on DISH's website, available at <https://about.dish.com/Paul-W-Orban> (last visited March 19, 2025).

48. Attached hereto as **Exhibit 32** is a true and correct copy of a document with the beginning Bates number DISH00005743, which was produced in this case by DISH.

49. Attached hereto as **Exhibit 33** is a true and correct copy of a document with the beginning Bates number DISH00005858, which was produced in this case by DISH.

50. Attached hereto as **Exhibit 34** is a true and correct copy of a research article written by Linda Hardesty, titled “Dish and T-Mobile resolve their CDMA shut-off dispute,” dated February 24, 2022, published by Fierce Network, available at <https://www.fierce-network.com/5g/dish-and-t-mobile-resolve-their-cdma-shut-dispute> (last visited March 19, 2025).

51. Attached hereto as **Exhibit 35** is a true and correct copy of John Swieringa’s executive bio on DISH’s website, available at <https://about.dish.com/John-Swieringa> (last visited March 19, 2025).

52. Attached hereto as **Exhibit 36** is a true and correct copy of a document with the beginning Bates number DISH00000297, which was produced in this case by DISH.

53. Attached hereto as **Exhibit 37** is a true and correct copy of Will Platz’s LinkedIn profile, available at <https://www.linkedin.com/in/williamplatz/> (last visited March 19, 2025).

54. Attached hereto as **Exhibit 38** is a true and correct copy of Stephen Bye’s LinkedIn profile, available at <https://www.linkedin.com/in/stephen-bye-ceng-fiet-592499b6/> (last visited March 19, 2025).

55. Attached hereto as **Exhibit 39** is a true and correct copy of Stephen Bye’s profile on Technology Magazine, available at <https://technologymagazine.com/executive/stephen-bye> (last visited March 19, 2025).

56. Attached hereto as **Exhibit 40** is a true and correct copy of an article written by Linda Hardesty, titled “Dish gets its day in the sun, becomes No. 4 US wireless carrier,” published by Fierce Network, dated Feb. 11, 2020, available at <https://www.fierce-network.com/operators/dish-gets-its-day-sun-becomes-no-4-us-wireless-carrier> (last visited March 19, 2025).

57. Attached hereto as **Exhibit 41** is a true and correct copy of DISH’s press release

titled “Stephen Bye Joins DISH Network Board of Directors,” dated Jan. 10, 2023, available at <https://about.dish.com/2023-01-10-Stephen-Bye-Joins-DISH-Network-Board-of-Directors> (last visited March 19, 2025).

58. Attached hereto as **Exhibit 42** is a true and correct copy of an article titled “Dish retail wireless lead Stokols departs,” published by Mobile World Live, dated April 21, 2023, available at <https://www.mobileworldlive.com/dish-network/dish-retail-wireless-lead-stokols-departs/> (last visited March 19, 2025).

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that this Declaration was executed on March 21, 2025, in Los Angeles, California.

/s/ Minae Yu

Minae Yu