EXHIBIT G

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Via E-Mail

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Re: *Dale et al. v. Deutsche Telekom AG and T-Mobile* (N.D. Ill. 22-3189)
Subpoena to Non-Party AT&T

Dear Swathi:

Thank you for meeting and conferring on September 6, 2024 with AT&T regarding Plaintiffs' Subpoena to AT&T (the "Subpoena"). AT&T writes to follow up concerning the Agreed Confidentiality Order and Plaintiffs' Subpoena requests.

I. Confidentiality Order.

As we have previously discussed, AT&T has concerns that the current Agreed Confidentiality Order in this case, ECF No. 98, will not adequately protect materials produced by AT&T. Plaintiffs seek some of AT&T's most sensitive commercial information and its subscribers' information, which includes personal identifiable information ("PII") of tens of millions of AT&T subscribers. While AT&T maintains objections to some of these requests, as detailed in its January 31, 2024 Responses and Objections, previous discussions with Plaintiffs, and our correspondence below, the amendment of the Confidentiality Order is a key threshold issue we hope can be resolved quickly. AT&T cannot begin productions, or share any amount of structured data, until it has assurance that its information and its customers' information (i) will not be disclosed to employees of its *direct competitors*; (ii) will be adequately protected through appropriate data security measures while in transit and at rest; (iii) will not be co-mingled with materials from other matters; and (iv) will not be uploaded into unsecure, unknown artificial intelligence systems. These protections must be ensured not only by legal counsel to the parties, but also apply to all experts and other vendors involved in this litigation. Accordingly, AT&T has attached a redline of its proposed edits to the Confidentiality Order to address these concerns. Please confirm Plaintiffs do not object to these revisions.

II. Plaintiffs' Subpoena Requests.

With regard to Plaintiffs' subpoena, AT&T again emphasizes, as it did in its January 31, 2024 Responses and Objections and during multiple meet and confers over the past several months (Mar. 12, June 3, and Sept. 6, 2024), that it is not a party to the Above-Captioned Action, which concerns the April 1, 2020 merger (the "Merger") of T-Mobile and Sprint. AT&T was not a party to the Merger between T-Mobile and Sprint, nor was it a party to the prior litigation or investigations surrounding the Merger.

As a non-party, AT&T's obligations to produce documents in this case are governed by Federal Rule of Civil Procedure 45, which makes clear a party issuing a subpoena "*must* take reasonable steps to avoid imposing undue burden or expense" on the non-party subpoena recipient. Fed. R. Civ. P. 45(d)(1) (emphasis added). The Subpoena Plaintiffs served on AT&T was facially overbroad, unduly burdensome, and unreasonable with 36 requests for documents and data containing more than 80 sub-parts, seeking information from a timespan of more than 13 years. Many of the requests concern issues that are irrelevant to this case (e.g., RFP No. 19, which calls for "All documents concerning trends or analysis of customer complaints or customer satisfaction either specific to Your wireless mobile telecommunications services subscribers or market wide") or are so overbroad that, as written, would encompass most documents at the company (e.g., RFP No. 13, which calls for "All documents and ESI related to competition in the retail mobile wireless market"). As the Court explained: "the focus remains on Plaintiffs' harm, the alleged wrongdoing by the Merging Entities, and the relationship between them." ECF No. 114 at 25.

Although AT&T appreciates that Plaintiffs have revised or narrowed some of their requests, the universe of materials Plaintiffs currently seek is still well beyond the relevant scope of the case; unduly burdensome and expensive to AT&T; and not proportional to the needs of the case. Further, Plaintiffs request that AT&T provide its most confidential and commercially sensitive information to its *direct competitors* without showing a substantial need for such material or employing reasonable steps to limit their requests to prevent undue harm to AT&T. *See* Fed. R. Civ. P. 45(d)(1), (3).

That said, without waiving any prior objections, in the spirit of compromise and to try to avoid expensive motion practice, AT&T makes the following proposals regarding the outstanding disputes between Plaintiffs and AT&T[1]:

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[1] AT&T understands there is no dispute concerning Requests Nos. 4-5 and 36 where AT&T has confirmed there are no responsive documents (AT&T's June 12, 2024 Email) and Request Nos. 18, 26-34 where Plaintiffs have "agree[d] to table any disputes" concerning those requests (Plaintiffs' May 21, 2024 Letter at 3).

(a) Pre-Merger Documents (Request Nos. 1-3 and Instruction No. 13).

Plaintiffs' Subpoena seeks documents dating back to January 1, 2010, more than *ten years* prior to the at-issue Merger, including document productions that AT&T made related to governmental investigations conducted Pre-Merger. The Court has held that Plaintiffs' case concerns pricing that occurred *after* the Merger between *Defendant T-Mobile and Sprint*, specifically ruling this "case does not focus on the wisdom of the merger, but rather its consequences" (ECF No. 114 at 5) and that "the focus should not be on the merger itself, *or the prior litigation surrounding it*, because this suit really arises from the alleged anticompetitive conduct that took place afterward" (ECF No. 63 at 9). In the very first paragraph of their brief resisting transfer of this case, Plaintiffs themselves said "This case is about the nationwide anticompetitive *effects* of the merger, not breach of the merger agreement." (ECF No. 59 at 1). Thus, AT&T maintains its objection that any documents prior to the consummation of the Merger (*i.e.*, documents from before April 1, 2020) are overly broad, unduly burdensome, not proportionate to the needs of the case, and will not lead to the discovery of relevant information.

Plaintiffs' Request Nos. 1-3 seek AT&T's productions from previous government investigations and litigation leading up to the Merger. Although AT&T believes such documents are not relevant to this case, in the spirit of compromise, AT&T has repeatedly offered to produce what remains of these previous productions (approximately 1,900 documents, dated from November 2016 to August 2019)[2] if Plaintiffs would agree not to seek additional Pre-Merger documents from AT&T absent good cause. On our September 6 meet and confer, Plaintiffs initially agreed to this proposal. However, later in that same conversation, Plaintiffs backpedaled, indicating their agreement may be conditioned upon the end date of these prior productions, and that Plaintiffs would reserve their right to seek additional documents between then and the date of the Merger regardless of good cause. This is unacceptable. Plaintiffs have not demonstrated that pre-Merger documents are relevant to any party's claim or defense in this case. Collecting additional documents from before the Merger would be an undue burden for AT&T and not proportional to the needs of the case. Please confirm whether Plaintiffs will agree—as you previously did—that if AT&T will produce these available prior productions, Plaintiffs will not seek additional documents pre-Merger without showing good cause. If we do not have agreement on this, AT&T stands on its objections to pre-Merger document discovery.

(b) Structured Data (Requests Nos. 21, 22, 25).

Plaintiffs seek voluminous and expansive subscriber and coverage data. Subject to and without waiving its objections, in the spirit of cooperation to reach resolution on the scope of

[2] As previously discussed, these productions were not retained in the ordinary course, as these prior matters ended years before the current case.

AT&T's structured data productions, AT&T is providing today a proposal of responsive subscriber data fields.

As discussed during the September 6 meet and confer, the privacy of AT&T's subscribers' personal information, including PII, is vitally important to AT&T. AT&T must and will take all efforts to ensure data security and data privacy protection. Accordingly, AT&T will provide sample subscriber data (showing data from the fields included in the attached proposal) once the protections proposed in the attached amended Confidentiality Order are in place.

(c) Documents Concerning Named Plaintiffs (No. 35).

In Request No. 35, Plaintiffs seek information concerning the named Plaintiffs. AT&T has agreed to conduct a reasonable search for and produce non-privileged records sufficient to show Plaintiffs Anthony Dale, Brett Jackson, Benjamin Borrowman, and Ann Lambert's retail mobile plans with AT&T after April 1, 2020. Accordingly, AT&T has begun this search. At the September 6 Meet and Confer, AT&T reminded Plaintiffs that it was having difficulty identifying Lambert's records and requested her "BAN" to facilitate its search. Plaintiffs agreed to look into this issue and follow up.

(d) AT&T Will Agree to Produce Documents Sufficient to Show Certain Information Requested (Nos. 6, 9-15, 20, 23, 24).

Subject to and without waiving its objections, in response to Request Nos. 6, 9-15, 20, 23, and 24, AT&T will make a reasonable effort to search for and produce non-privileged records, to the extent they exist, sufficient to show: AT&T's analysis of how spectrum acquisitions by T-Mobile impacted AT&T's sales and pricing (No. 9), AT&T's analysis of its investment in 5G's impact on AT&T's sales and pricing (Nos. 10 and 11), AT&T's costs of providing relevant services at a high-level (No. 12), AT&T's analysis of the competitive impact of the Merger and shutdown of Sprint's networks (Nos. 6, 13 and 14), AT&T's Post-Merger analysis of its sales and pricing (No. 15), AT&T's analysis of product bundling's impact on AT&T's sales and pricing (No. 20), and AT&T's analysis of speed tests since the Merger (No. 23).

AT&T intends to conduct targeted collections for these materials. AT&T objects to Plaintiffs' suggestion that AT&T must use custodial search-term based searches for its subpoena response. Plaintiffs admitted in the September 6 meet and confer that given the breadth of topics covered and information sought, they do not believe "one or two" AT&T custodians would suffice to capture the requested documents. Rather, Plaintiffs suggested that AT&T provide a proposed list of custodians, organizational charts, and search terms, to allow Plaintiffs to select which custodians and search terms they feel are appropriate. This is an improper request for a *non-party*. Asking AT&T to conduct full collections of numerous custodians' documents across several departments and engage in a broad search-term based review is unduly burdensome, expensive,

disproportionate, and exceeds the standards of Rule 45. Plaintiffs are wholly failing to take reasonable steps to avoid imposing undue burden or expense on AT&T (*see* Fed. R. Civ. P. 45(d)(1)).[3]

(e) Requests To Be Narrowed (Nos. 7, 17).

Request No. 7 seeks AT&T's communications with DISH, including among other things, communications regarding a "Master Network Services Agreement" and Request No. 17 seeks AT&T's communications with other carriers, including Defendants. As detailed in its Responses and Objections, AT&T is not a party to the Master Network Services Agreement, did not negotiate its terms, and is not bound by its obligations. Moreover, these requests are overly broad, unduly burdensome, unreasonably cumulative and duplicative of other requests, not proportional to the needs of the case, and seek information that would be in a Party's possession.

During the March 12 meet and confer, Plaintiffs acknowledged that these requests were overbroad, and AT&T understood that Plaintiffs intended to narrow these requests. However, Plaintiffs have not done so to date, including in their May 21, 2024 letter. Accordingly, and in an effort to avoid unnecessary disagreements, AT&T reminds Plaintiffs of their willingness to amend these requests. AT&T will consider any new proposal.

(f) Requests Concerning MVNO, Competitor Communications, and Customer Feedback (Nos. 8, 10, 14, 16, 19).

Several of Plaintiffs' requests (Nos. 8, 10, 14, 16) seek information with and concerning "Affiliate MVNOs." As detailed in its Responses and Objections, AT&T objects to Plaintiffs' definition of "Affiliate MVNOs" as "any mobile virtual network operators that provide service using leased facilities or leased capacity purchased from the **T-Mobile US, Inc. or Sprint Corporation** mobile networks" (emphasis added) because AT&T is not a party to any commercial arrangements between "mobile virtual network operators" and T-Mobile or Sprint, and has no way

[3] *See Craigville Tel. Co. v. T-Mobile USA, Inc.*, No. 19 CV 7190, 2022 WL 17740419, at *3 (N.D. Ill. Dec. 16, 2022) (permitting the third party to conduct targeted searches for responsive documents and denying the plaintiffs' motion to compel the third party to conduct custodial searches, reasoning: "[third-party] Ericsson also has shown the relief Plaintiffs request – that Ericsson should go back to the drawing board, identify potential custodians and data sources beyond those it has identified to date, image all data files from those custodians and data sources, and then work with Plaintiffs to develop a new list of search terms likely to locate Ericsson's responsive documents in places that Ericsson has not yet looked – is an undue burden. … Plaintiffs say the amount of additional time and expense of what they want Ericsson to do is not large considering that Ericsson is a very large company with substantial revenues. Burden is a relative concept, however. It involves considerations of cost but also utility and proportionality. In the Court's view, Ericsson need not undertake any additional burden now to comply with Plaintiffs' overly broad, disproportionate, and burdensome subpoena").

of identifying entities "that provide service using leased facilities or leased capacity purchased from [T-Mobile or Sprint]." Even assuming these requests apply to AT&T and its MVNOs, the requests remain irrelevant, vague and ambiguous, overly broad, unduly burdensome, and not proportional to the needs of the case. Plaintiffs' claims do not concern any of the arrangements between AT&T and its MVNOs.

Request No. 10 seeks AT&T's communications with its competitors and Request No. 19 seeks AT&T's analysis of how its customers perceive pricing and service before and after the Merger. Neither of these requests have anything to do with Plaintiffs' case. As the Court explained: "the focus remains on Plaintiffs' harm, the alleged wrongdoing by the Merging Entities, and the relationship between them." ECF No. 114 at 25. Further, these requests are overly burdensome because they would likely entail AT&T conducting extensive custodial collection and review. Such burden is disproportionate to any minor relevance to Plaintiffs' claims. AT&T has already agreed to make a reasonable effort to search for and produce non-privileged records sufficient to show its analysis of its sales and pricing in the Post-Merger landscape. That is more than sufficient for a non-party's obligations under Rule 45.

AT&T remains committed to responding to the Subpoena efficiently and with as little conflict as possible.

Sincerely,

Martin L. Roth P.C.