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FCC APPROVES DEUTSCHE TELEKOM/VOICESTREAM/POWERTEL REQUEST TO TRANSFER CONTROL OF LICENSES

Washington, DC -- Yesterday, the Federal Communications Commission adopted an Order approving the applications of two U.S. companies, VoiceStream Wireless Corporation (VoiceStream) and Powertel, Inc. (Powertel), and the German company Deutsche Telekom AG (DT), for authority to transfer control of licenses and authorizations held by VoiceStream and Powertel to DT in connection with the applicants' proposed merger. The Commission concluded that the proposed merger is a lawful transfer of control with public interest benefits for U.S. consumers.

The Commission evaluated the full record in this proceeding and the statutory obligations under Titles II and III of the Communications Act, as amended (the Act), including the foreign ownership provisions in Section 310. In approving the license transfers, the Commission found that:

- Sections 310(a) and (b)(4) of the Act do not prohibit foreign governments from having indirect ownership of Commission radio licensees in any amount in excess of 25 percent unless the Commission finds that the public interest is served by denial in a particular case. Upon consummation of the proposed merger here, VoiceStream and Powertel would become wholly-owned subsidiaries of DT. At that time, total non-U.S. ownership of DT would amount to approximately 77 percent, which would include approximately 45 percent German government ownership. The Commission held that where, as here, a foreign government proposes to acquire an indirect interest in a corporate licensee, that transaction is to be analyzed only under section 310 (b)(4).

- U.S. consumers will benefit from the effects of the proposed merger, which will include the build-out and extension of VoiceStream's network -- significantly expanding VoiceStream's national and international reach. U.S. consumers also will benefit from the resulting increase in competition in mobile services, including new communications services and new features.

- In response to concerns raised by commenters, the Commission found DT would have neither the incentive nor the ability to engage in unfair competition, specifically predatory pricing, in the U.S. domestic mobile telephony market.

With regard to conditions, the Commission also concluded:

- DT will be subject to the standard conditions set forth in the 1997 *Foreign Participation Order*, specifically, dominant carrier safeguards on the international routes where DT is dominant, including various accounting, structural separation, and reporting requirements designed to address the possibility that a foreign carrier like DT could discriminate against rivals of its U.S. affiliates. DT also must comply with the Commission's international accounting benchmarks and no special concession rules.

- DT and VoiceStream must comply with the separate written agreement reached among DT, VoiceStream, the Department of Justice (DoJ) and the Federal Bureau of Investigation (FBI), which addressed national security, law enforcement, and public safety concerns raised in this proceeding by the FBI and DOJ.

- Consistent with the *Foreign Participation Order,* DT's foreign ownership does not pose a high risk to competition in U.S. markets that otherwise would warrant imposition of tailored conditions to address such risk.

The Commission also made the following findings:

- DT's $5 billion investment in VoiceStream in September 2000 did not cause VoiceStream to violate the foreign ownership restrictions contained in Section 310 of the Act. Based on the level of foreign ownership that the Commission had previously approved for VoiceStream, DT's investment did not require prior Commission approval.

- Provisions of the VoiceStream DT Merger Agreement relating to VoiceStream's participation in spectrum auctions during the pendency of the merger did not result in an unauthorized transfer of control of VoiceStream to DT.

Upon release, the Commission's Memorandum, Opinion and Order will be made available on the FCC website: www.fcc.gov.

Action by the Commission, April 24, 2001, by Memorandum Opinion and Order (FCC 01-142). Chairman Powell and Commissioners Ness and Tristani, with Commissioner Furchtgott-Roth approving in part, dissenting in part (with respect to the separate agreement among DT, VoiceStream, the Department of Justice and the Federal Bureau of Investigation) and issuing a statement.

IB Docket No. 00-187.

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