

CONFIDENTIAL TREATMENT REQUESTED

Pursuant to Sections 0.457 and 0.459 of the FCC's rules and FOIA exemption 4,¹ T-Mobile USA, Inc. ("T-Mobile") respectfully requests that the Commission withhold from public inspection and give confidential treatment to the highly confidential, business sensitive information contained in the attached submission (the "Confidential Information").

The FCC and the Freedom of Information Act ("FOIA") recognize the need to protect trade secrets and commercial information. Specifically, FOIA Exemption 4 permits parties to withhold from public inspection "trade secrets and commercial or financial information obtained from a person and privileged or confidential."² Commercial or financial information is confidential under FOIA if its disclosure will cause substantial harm to the competitive position of the entity from which the information was obtained.³ In conformance with this statutory mandate, the Commission allows parties seeking to withhold materials from public inspection under FOIA Exemption 4 to file a request for non-disclosure pursuant to the requirements of Section 0.459.⁴ If a party who submits materials which it wishes withheld from public inspection shows that the materials contain trade secrets or privileged or confidential commercial, financial or technical data, the materials will not be made routinely available for inspection.⁵ Accordingly, pursuant to the Commission's Rules, T-Mobile submits the following explaining the nature of this request for confidential treatment

The Confidential Information constitutes highly sensitive commercial information that falls within FOIA Exemption 4. Because T-Mobile is providing commercial information "of a kind that would not customarily be released to the public," this information is "confidential" under Exemption 4 of FOIA. *See Critical Mass Energy Project v. NRC*, 975 F.2d 871, 879 (D.C. Cir. 1992).

In support of this request and pursuant to Section 0.459(b) of the Commission's rules, T-Mobile hereby states as follows:

¹ 47 C.F.R. §§ 0.457, 0.459, 5 U.S.C. § 552(b)(4).

² *See* 5 U.S.C. § 552(b)(4).

³ *See Nat'l Parks and Conservation Assoc. v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974); *Critical Mass Energy Project v. NRC*, 975 F.2d 871, 879-90 (D.C. Cir. 1992).

⁴ *See* 47 C.F.R. §§ 0.457(d)(2), 0.459.

⁵ *See* 47 C.F.R. § 0.457(d)(2).

1. Identification of the Specific Information for Which Confidential Treatment Is Sought (Section 0.459(b)(1))

T-Mobile seeks confidential treatment with respect to the entirety of the attached submission.

2. Description of the Circumstances Giving Rise to the Submission (Section 0.459(b)(2))

T-Mobile is making this submission in accordance with 47 C.F.R. § 63.10(c)(4).

3. Explanation of the Degree to Which the Information Is Commercial or Financial, or Contains a Trade Secret or Is Privileged (Section 0.459(b)(3))

The information described above is protected from disclosure because the Confidential Information constitutes highly sensitive financial and commercial information about T-Mobile's network. This information constitutes highly sensitive commercial information "which would customarily be guarded from competitors." 47 C.F.R. § 0.457.

4. Explanation of the Degree to Which the Information Concerns a Service that Is Subject to Competition (Section 0.459(b)(4))

The telecommunications market is highly competitive and the Confidential Information concerns highly sensitive business financial and commercial information.

5. Explanation of How Disclosure of the Information Could Result in Substantial Competitive Harm (Section 0.459(b)(5))

Disclosure of the Confidential Information would provide T-Mobile's competitors with sensitive insights related to T-Mobile's finances and business operating procedures and practices, which would work to T-Mobile's severe competitive disadvantage.

6. Identification of Any Measures Taken to Prevent Unauthorized Disclosure (Section 0.459(b)(6))

T-Mobile does not make the Confidential Information publicly available. This information would not be disclosed without a non-disclosure agreement or equivalent confidentiality obligation.

7. Identification of Whether the Information Is Available to the Public and the Extent of Any Previous Disclosure of the Information to Third Parties (Section 0.459(b)(7))

T-Mobile has not made the Confidential Information publicly available.

8. **Justification of the Period During Which the Submitting Party Asserts That Material Should Not Be Available for Public Disclosure (Section 0.459(b)(8))**

T-Mobile requests that the information remain confidential because its disclosure during that time could give T-Mobile's competitors insights into how to compete with T-Mobile or prejudice it in transactions.

9. **Any Other Information That the Party Seeking Confidential Treatment Believes May Be Useful in Assessing Whether Its Request for Confidentiality Should Be Granted (Section 0.459(b)(9))**

Data subject to this request also would qualify for Exemption 4 of the Freedom of Information Act. Exemption 4 protects information that is (i) commercial or financial; (ii) obtained by a person outside of the government; and (iii) privileged or confidential. 5 U.S.C. § 552(b)(4).