

RESPONSE TO QUESTION 39

The applicant is not currently a party to any pending court matter in which it has been accused of a felony or in which it faces the possibility of being finally adjudged guilty of monopolization or attempted monopolization of radio communication. Applicant notes, however, that AT&T, Inc. (“AT&T”) and AT&T Mobility, LLC (“AT&T Mobility”), affiliates of the applicant, are defendants in two cases in which civil plaintiffs have asserted antitrust monopolization and attempted monopolization claims related to radio communication.

In re A2P SMS Antitrust Litigation is pending in the U.S. District Court for the Southern District of New York. Plaintiffs allege that the AT&T Mobility and other carriers conspired to prohibit the transmission of A2P SMS messages through inexpensive 10-digit telephone numbers and to instead require senders of these messages to use common short codes (“CSCs”), to pay much higher lease and transmission charges, and to be subject to content review, thereby allowing the carrier and other defendants to earn much higher revenues than they would otherwise have earned. The basic injury allegation is that sending A2P messages would have been essentially free with 10 digit numbers (because short code lessees would have subscribed to unlimited messaging plans for \$20 per month and sent many thousands or hundreds of thousands of monthly messages), but that CSC lessees pay much higher prices of up to \$.03 per message due to the alleged conspiracy. AT&T Mobility’s position is that the claims are meritless.

Corr Wireless Communications, L.L.C. et al v. AT&T, Inc. et al is pending before the United States District Court for the Northern District of Mississippi. In this case, Corr Wireless Communications, LLC, Cellular South, Inc., and Cellular South Licenses, LLC allege that AT&T, Inc., AT&T Mobility, LLC, Motorola Solutions, Inc., Motorola Mobility, Inc., and Qualcomm Incorporated engaged in anticompetitive conduct at Third Generation Partnership Project (“3GPP”) by adopting Band 17 (which excludes the plaintiffs’ lower A Block holdings in the 700 MHz spectrum). The Court has already ruled that it does not have personal jurisdiction over AT&T. The Court has also ruled that the plaintiffs’ initial allegations failed to state a claim against AT&T Mobility. The matter continues to be pending, however, because the plaintiffs are seeking the Court’s permission to file an amended pleading. AT&T Mobility’s position is that the amended allegations are deficient, just as the initial allegations were. If the Court grants the pending motion to amend, AT&T Mobility will continue to challenge the plaintiffs’ allegations in the suit. If the Court denies the pending motion to amend, final judgment will likely be entered in favor of both AT&T Mobility and AT&T.