



## Despite Dilemmas, Wireless Merger Likely to Get OK

Posted by [Ken Fellman](#) on May 4, 2011

The proposed AT&T – T-Mobile transaction poses a conflict and a challenge for the Obama Administration. Both the President and the [FCC's](#) National Broadband Plan promote the goal of rolling out next generation wireless broadband service to 95 percent of the nation. Proponents of the transaction claim that the [AT&T acquisition of T-Mobile's spectrum licenses](#) is the best way for the company to meet the nation's broadband goals.

The Obama Administration has also made job-growth the key focus of its policies. The acquisition of T-Mobile by AT&T will almost certainly result in a significant loss of jobs, at least in the short term. Moreover, the joining of the nation's second and fourth largest wireless companies is likely to put Sprint (the third largest) at risk, resulting in an AT&T-Verizon Wireless duopoly. Opponents also warn that the concentration of market power in two entities will result in higher prices and reduced incentives for innovation. Consumers of wireless services, including large volume users like businesses and governments, should consider filing comments and assert the need for consumer protections in the FCC review process.

The jobs issue is not an easy one to analyze. AT&T laid off workers after acquiring [BellSouth](#); and the proximity of AT&T and T-Mobile stores in many communities (some on the same blocks) makes a net job-loss likely. On the other hand, T-Mobile is German-owned and non-union. Expect AT&T to promise the growth of American jobs as a result of this transaction. [The Communications Workers of America](#) is already publicly in favor of the transaction.

AT&T is confident that the deal will be approved by federal regulators. It will owe [Duetsche Telekom](#) a break-up fee of \$3 billion if the deal does not close. AT&T has a highly skilled, well-respected management team leading the effort to gain regulatory approval in Washington. The Department of Justice will focus its review on market dominance and antitrust issues, and if it approves the transaction it is difficult to imagine a different result from the FCC, which is focused on whether the transaction is in the public interest. At this early stage, odds favor approval, albeit with some substantial conditions to sweeten the public interest side of the equation, and with divestiture of AT&T holdings in certain markets where the resulting duopoly would be immediately apparent.

It could take about a year for the review process to be complete – which puts us right in the middle of the 2012 election.

Ken Fellman is a partner in the Denver-based law firm of [Kissinger & Fellman](#), and he specializes in telecommunications law on behalf of governmental entities. He is president of the National Association of Telecommunications Officers and Advisors. He can be reached at 303-320-6100 or [info@kandf.com](mailto:info@kandf.com).