



1212 New York Ave. NW  
Suite 900  
Washington, D.C. 20005  
202-525-5717

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June 21, 2023

*VIA ECFS*

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
45 L Street, NE  
Washington, DC 20554

**Re: Applications of T-Mobile US, Inc. and Ka’Ena Corporation for Transfer Control of International Section 214 Authority Held by Mint Mobile, LLC and UVNV, Inc.: GN Docket No. 23-171.**

Dear Ms. Dortch:

On May 22, 2023, the Commission issued a Public Notice seeking comment on applications filed for the transfer of control of Mint Mobile, LLC and UVNV, Inc. from Ka’Ena Corporation to T-Mobile US, Inc.<sup>1</sup> On behalf of the R Street Institute, a Washington, D.C.-based free-market think tank with additional offices in California, Texas, Ohio and Florida, I write in support of approving the proposed transaction. We believe the merger will benefit customers and will not negatively affect market competition.

T-Mobile has offered to pay up to \$1.35 billion to acquire the Ka’Ena corporation, which operates Mint Mobile and Ultra Mobile—two mobile virtual network operators (MVNOs) that already offer services exclusively on T-Mobile’s networks.<sup>2</sup> As a free-market think tank, R Street supports mergers and acquisition frameworks that are based on the consumer-welfare standard and neutrally applied. We therefore urge the Commission to follow precedent of previous cases and make a determination consistent with the consumer welfare standard.

Under Sec. 214(a), the Commission must determine whether the proposed transfer of control will “serve the public interest, convenience and necessity.”<sup>3</sup> In a previous order, the Commission explained that they sought to determine whether the proposed transfer of control of licenses and authorizations would “serve the public interest, convenience and necessity” and that, to make that determination, they started by assessing whether the transaction would violate “specific provisions of the Act, other applicable statutes,

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<sup>1</sup> Applications of T-Mobile US, Inc. and Ka’Ena Corporation for Transfer Control of International Section 214 Authority Held by Mint Mobile, LLC and UVNV, Inc. (GN Docket No. 23-171)

<sup>2</sup> Letter from Nancy Victory, DLA Piper LLP, Counsel to T Mobile, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 23-171. at 2.

<sup>3</sup> See 47 U.S.C. §214(a), See also Verizon Communications Inc. – América Móvil, S.A.B. de C.V. Order, 36 FCC Rcd. 16994, at 17008, para. 37 (2021) quoting China Mobile International (USA) Inc., Application for Global Facilities-Based and Global Resale International Telecommunications Authority Pursuant to Section 214 of the Communications Act of 1934, as Amended, Memorandum Opinion and Order, 34 FCC Rcd 3361, 3366, para. 9 (2019).



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and the Commission’s rules.”<sup>4</sup> They also recognized that “features of the wholesale contracts make it difficult for [mobile network operators (MNOs)] to coordinate on the terms of wholesale contracts to harm rival stand-alone MVNOs.” With these factors in mind, the Commission approved that transaction, citing the nominal horizontal impact on competition.<sup>5</sup> The Commission should be consistent with its approach to reviewing an MNO’s acquisition of MVNOs, so the same standards that have already been applied in previous decisions should be applied to current and future proceedings.

Additionally, the Commission has long recognized that “a vertical merger may increase a merged firm’s incentive to raise rivals’ costs either by foreclosing supply ... or by raising the price at which it sells the input to competitors.”<sup>6</sup> Especially in cases where the MVNO exclusively utilizes the network of the acquiring party, there would be no incentive to for them to take either of these actions. Furthermore, companies aggressively compete for MVNO agreements, so there would be little market incentive to drive up the cost of these services.

Lastly, the U.S. government has previously looked at the public-interest benefits of these transactions and found that they have the potential to “enhance the merged firm’s ability and incentive to compete, which may result in lower prices, improved quality, enhanced service, or new products.”<sup>7</sup> In previous decisions, the Commission has found that acquisitions of this type “reduce the cost of serving” customers by reducing “incremental network costs.” Further, the merged companies often develop better “device buying power” because of their improved ability to secure price-conscious customers.<sup>8</sup>

In summary, the Commission has created a clear precedent for evaluating and determining whether or not the agency should approve acquisitions between MNO and MVNO providers and should therefore neutrally and consistently follow precedent and the consumer-welfare standard when reviewing such acquisitions to maximize potential benefits for consumers.

Respectfully submitted,

Jonathan Myles Laurier Cannon, Esq.  
*Policy Counsel*  
R Street Institute  
1212 New York Ave. NW  
Suite 900  
Washington, D.C. 20005  
(202) 525-5717  
[Jcannon@rstreet.org](mailto:Jcannon@rstreet.org)

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<sup>4</sup> Verizon Communications Inc. – América Móvil, S.A.B. de C.V. Order, 36 FCC Rcd. 16994, para. 21 (2021) (Verizon Order)

<sup>5</sup> *Id.* at 51

<sup>6</sup> *Id.* at 56

<sup>7</sup> *Id.* at 72 and 76

<sup>8</sup> *Id.* at 77