

Judge Rules Sprint, C Spire Can Sue AT&T

Nedra Pickler, Associated Press

WASHINGTON (AP) — A federal judge ruled Wednesday evening that Sprint Nextel Corp. and a regional cell phone company can sue AT&T Inc. over its acquisition of rival T-Mobile USA.

AT&T had asked U.S. District Judge Ellen Segal Huvelle to dismiss the case because Sprint and Ridgeland, Miss.-based C Spire Wireless did not have the right to sue over the deal that would create the nation's largest wireless phone carrier.

Dallas-based AT&T already is fighting an antitrust lawsuit brought by the Obama administration that claims the AT&T-T-Mobile merger would lead to higher wireless prices, less innovation and fewer choices for consumers. AT&T says the deal will allow it to better serve customers and expand its wireless network.

But Huvelle ruled Sprint and C Spire could move forward with some of its claims, including that the deal would block their access to the most innovative handsets, which they say are becoming the primary way to attract customers. Wireless carriers compete for devices, sometimes winning exclusive deals with manufactures such as AT&T's deal to exclusively provide iPhone service from the popular smartphone's release in 2007 until early this year.

Huvelle said manufacturers want to design devices for larger carriers because they can sell the most phones. Sprint and C-Spire argue that with 129 million customers combined after the merger, AT&T and T-Mobile would control more than 40 percent of the national market and have increased power to get exclusive deals that would hurt smaller competitors' business.

Huvelle agreed with AT&T that Overland Park, Kan.-based Sprint and C Spire do not have the right to sue on many of the grounds they attempted, including their claim that the deal would lead to higher retail rates. She said that is a harm to consumers and not the companies themselves.

Wayne Watts, AT&T senior executive vice president and general counsel, said in a statement that the company was pleased that the ruling dismissed the majority of its competitors' claims.

"We believe the limited, minor claims they have left are entirely without merit," the statement said.

Sprint's vice president of litigation, Susan Haller, said in a statement that the company was pleased to have "the chance to continue fighting to preserve competition on behalf of consumers and the wireless industry."

Eric Graham, vice president strategic and government relations for C Spire Wireless,

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said the judge's ruling "will ensure that all parties harmed by AT&T's proposed takeover of T-Mobile will have the benefit of a fair hearing."

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