

# FCC had 'questions of fact' on AT&T-T-Mobile deal

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(AP) -- A report by the staff of the Federal Communications Commission says AT&T Inc. and T-Mobile USA provided flawed information to justify AT&T's planned \$39 billion acquisition of its smaller rival.

The report, released Tuesday, says the companies' application left open "material questions of fact." For instance, the staff did not see reason to believe AT&T's claims that the merger would create jobs rather than eliminate them.

The [FCC](#) staff also rejected AT&T's assertion that it would not have reason to build out its new wireless data network fully if it was not allowed to buy [T-Mobile](#) USA. They noted that AT&T competes with Verizon Wireless, which is pursuing a full network buildout.

The report found the companies failed to show the deal was in the public interest, echoing conclusions by the Justice Department, which sued three months ago to stop the acquisition. The combination of the No. 2 and No. 4 cellphone companies in the country would reduce competition and likely lead to higher prices, they say.

"Competition is the engine of our free market economy and a cornerstone of the FCC's mandate," FCC Chairman Julius Genachowski said in a statement. "Our review of this merger has had a clear focus: fostering a competitive market that drives innovation, promotes investment, encourages job creation and protects consumers."

Genachowski last week moved to stop the deal by recommending the application be sent for review by a judge. That added another hurdle for AT&T. Analysts now believe the Dallas-based company has virtually no chance to get the deal approved.

On Thursday, the companies said they were withdrawing applications to the FCC regarding the merger to focus on their court battle with the Justice Department. The FCC formally allowed that Tuesday. The companies have said that they intend to resubmit their bid "as soon as practical."

AT&T's top lobbyist, Jim Cicconi, said the FCC's decision to release the report was "troubling."

"This report is not an order of the FCC and has never been voted on. It is simply a staff draft that raises questions of fact that were to be addressed in an administrative hearing, a hearing which will not now take place," he said. "It has no force or effect under law, which raises questions as to why the FCC would choose to release it."

In an order adopted Tuesday, the FCC's head of wireless telecommunications said the report was being released because the staff's work remains relevant, given the companies' pledge to resubmit the application later. Not releasing it, the order said, wouldn't be fair to businesses, public-interest groups and others that have invested time and resources on it.

Cicconi said AT&T had not had a chance to look at the report in order to rebut its claims.

T-Mobile USA, a subsidiary of Germany's Deutsche Telekom AG, had no immediate reaction to the report.

AT&T and T-Mobile announced the proposed deal in March.

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