

Justice Dept wants to put off AT&T-T-Mobile trial

December 9 2011, By NEDRA PICKLER , Associated Press

(AP) -- The Justice Department said Friday it wants to withdraw or postpone its antitrust case against the proposed merger between AT&T Inc. and smaller rival T-Mobile USA now that the two companies pulled their application with the Federal Communications Commission to approve the deal.

The companies took back their FCC application two weeks ago after the commission's chairman came out against the \$39 billion deal. The companies have said they will seek approval from a federal judge who has scheduled a February trial on the Justice Department's case, and will file another FCC application later.

The increasing government opposition is threatening the deal, with analysts now giving it only a slim chance of going through. Deputy Assistant Attorney General Joe Wayland told U.S. District Judge Ellen Segal Huvelle that there's "not a real transaction" until the companies file again with the FCC, and the government plans to file a motion next week to put off the case.

Huvelle gave the government until Tuesday to do so and scheduled a hearing for Thursday on the matter. Huvelle told AT&T she was concerned the [company](#) was "using" the court and wasting its time. "I have some responsibility to the taxpayers ... to make sure we aren't being used in a way we weren't intended," Huvelle said.

AT&T attorney Mark Hansen responded that the Dallas-based company

did not start the court battle. The [Justice Department](#) did when it sued on Aug. 31, saying the combination of the No. 2 and No. 4 cellphone companies in the country would reduce competition and lead to higher prices for consumers.

Hansen said it didn't make sense to have both the FCC and the court trying to rule on the [merger](#) at the same time, so the companies decided to proceed first with the trial that's already been scheduled.

"If we can't convince the [court](#) of this, we won't win," Hansen said. "We understand that."

George Cary, an attorney for T-Mobile, a subsidiary of Germany's Deutsche Telekom AG, told the judge the deal is over if the trial doesn't proceed expeditiously.

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