

DOJ Questions Viability of AT & T Merger, Seeks Trial Delay

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The Department of Justice told a judge today it will seek to delay proceedings in its antitrust suit over AT&T's merger with T-Mobile USA after the operator's withdrawal of its FCC application for the transaction left the deal's future in doubt.

DOJ lawyer Joseph Wayland said the agency will file a motion to stay the case or have it withdrawn by noon on Dec. 13 as it decides whether there is anything left to oppose.

AT&T has until the end of Wednesday to reply, and a hearing on the motions will be held Thursday.

AT&T pulled its FCC application to transfer T-Mobile's spectrum licenses two weeks ago to focus its efforts on reaching a settlement with the DOJ and avoid an administrative hearing on the deal.

That strategy may have backfired. [PC World](#) [1] reports that the DOJ wants to put its antitrust case on hold until AT&T refiles its merger application with the FCC.

The docket for the case has not yet been updated with documents from today's hearing.

AT&T attorney Michael Hansen told Judge Ellen Huvelle that "nothing has changed" and the trial should move ahead.

Hansen reportedly sketched out a hypothetical scenario in which AT&T wins the DOJ case without having to face down appeals and the FCC approves the merger solely on the basis of the favorable court judgment, allowing the merger to close in time for the transaction's September 2012 drop-dead date.

Sources at the hearing said Huvelle appeared skeptical of AT&T's argument and questioned the need to move forward with an expedited hearing.

AT&T general counsel Wayne Watts said the company was "eager" to move forward with a trial.

"We are anxious to bring to the American consumer the benefits of increased wireless network capacity and efficiencies that can only arise from combining the resources of AT&T and T-Mobile USA," he said in a statement. "We are eager to present our case in court."

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