

TMUS/S/DISH: Final Notes for How to Watch Before Game Time

By [Blair Levin](#) | December 8, 2019

On Monday, the most important trial^[fnote]One could argue it was actually the trial that broke up AT&T but at that point, the wireless industry largely existed in the brilliant imagination of some engineers and a young cable executive named Craig McCaw. Wireless was considered so unimportant that the lawyer for AT&T basically gave away the cellular licenses to the Baby Bells without much thought. Because Karma has a weirder sense of humor than any of us can possibly understand, that lawyer eventually became the CEO of AT&T Wireless, which AT&T created by spending \$12.6 billion to buy McCaw's company, instead of simply having the original licenses.^[/fnote] ever for the wireless industry begins in New York. In this Weekend Update, we provide our final notes on recent developments and how to watch the trial.

We start with a summary of a call we did with antitrust experts last week. While both predicted the States win, both were intrigued by the implications of the Companies still arguing about the deal rather than just focusing on the fix. Both also offered advice on what witnesses and issues to watch for indications of how the Judge might be thinking. We then discuss the most important outcomes and revelations of two pre-trial conferences at the end of last week, including the Judge's own description of the issues, the parties' different framings of the core issue and the implications of the first six witnesses, all designed, we think, to allow the States to introduce course of business documents that will undercut the Companies claim of increased competitiveness as the motive for the deal and the fix.

We review some evidentiary rulings we don't believe will ultimately be material but one that has a potential to provide significant headline risk for the Companies. We note some filings at the FCC that go to an issue raised by the States in their pre-trial memo on the reliance of the Companies on proceedings that have not yet concluded. We conclude with a discussion of the importance of Charlie Ergen's credibility as a witness by reviewing how another judge, in a bankruptcy proceeding, viewed his credibility.

We note that we are again splitting our Weekend Updates in two, with a separate update focused on C-Band and

the upcoming Senate mark-up on related legislation being published sometime on Monday.

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