

Telecommunications Group Of The Year: Latham & Watkins

By Kelcee Griffis

Law360 (January 17, 2020, 2:22 PM EST) -- Latham & Watkins LLP held a prominent role in steering T-Mobile's pending merger with Sprint last year, as well as developing net neutrality and Telephone Consumer Protection Act case law, earning the firm a spot among Law360's 2019 Telecommunications Groups of the Year.

Members of the firm's communications law practice advised T-Mobile's board of independent directors on various elements of its Sprint acquisition as the deal raced toward regulatory approval in 2019. Latham & Watkins attorneys also negotiated spinoff deals to satellite TV provider Dish Network that were ordered as part of the deal's approval.

Matthew Brill, who chairs the firm's communications law practice group, said the firm's involvement in the T-Mobile-Sprint deal stands out because it's multi-faceted.

"This is a notable transaction because it's intertwined with the government approval processes," he said. "Deals can be complex in and of themselves, but where they intersect with government approval processes, they certainly take on some added complexity."

Brill said his group's work and coordination with other parts of the firm on Sprint-T-Mobile showcased the cohort's collaborative talents. The Washington, D.C.-centric practice group comprises 138 lawyers with 80 partners among its ranks. Those attorneys often work with technology-focused colleagues in the California Bay Area and entertainment and media experts in Los Angeles, according to the firm.

"It definitely was an opportunity for us to provide assistance across different groups, different geographies and really play to our strengths," Brill said of the firm's Sprint-T-Mobile work.

Latham attorneys also focused on combating overreach in the language and application of the Telephone Consumer Protection Act in the last year, advancing arguments that a litigation-fueling part of the TCPA contains content-based restrictions on free speech in violation of the First Amendment.

The U.S. Supreme Court has now agreed to take up the constitutionality of the statute's ban on certain auto-dialed calls as it relates to one of three similar Latham-backed cases. The review, which specifically stems from a Fourth Circuit decision in April, has the potential to dial back the bounds of TCPA



enforcement and give companies more leverage in lawsuits over unsolicited calls and texts from consumers.

“There’s been enormous abuse of the TCPA by plaintiffs’ lawyers, and our clients that make legitimate calls to their customers and prospects are being punished unfairly for routine business interactions,” Brill said. “We hope to return the TCPA to a more defensible and rational plane.”

In August, the firm persuaded a New York federal district court to deny class certification to a group of robocall recipients who said Time Warner Cable erroneously reached them with communications directed at the number’s previous owner. Latham analyzed data from the proposed class and proved that over 80% of the calls did in fact reach the intended recipient, according to the firm.

Latham was able to “defeat that class through painstaking analysis and expert work to show why individual issues would predominate,” Brill said, calling the win “an extraordinary victory for our client” as well as a step toward developing “helpful precedents to defeat a lot of these cases more broadly.”

The communications law group also tackled the hot-button issue of net neutrality on the state level, representing internet service providers in California and Vermont to combat laws that attempted to replace a slate of overturned online protections.

Both states enacted laws that would mandate internet service providers could not manipulate web traffic that passed over their networks. In Vermont, the law specifically applied to ISPs that obtain government contracts, but the California law was much more wide-ranging.

“It’s really historically been an issue debated at the federal level, but in recent years, we’ve seen a lot of state activity and state legislatures and governors through executive orders have attempted to impose state-specific net neutrality mandates,” Brill said.

In both instances, Latham secured agreements from the states to halt enforcement of the laws until appeals of the FCC’s net neutrality deregulation are resolved. As petitions for rehearing at the D.C. Circuit are still pending and subsequent Supreme Court appeals are possible, Brill said the state laws could remain paused for a long while.

--Additional reporting by Allison Grande, Jimmy Hoover and Ben Kochman. Editing by Philip Shea.