

October 12, 2018

By ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, D.C. 20554

Re: Applications of T-Mobile US, Inc. and Sprint Corporation for Consent to Transfer Control of Licenses and Authorizations, WT Docket No. 18-197

Dear Secretary Dortch:

I, along with my partner Lauren Coppola, are outside counsel of record for CarrierX, LLC d/b/a freeconferencecall.com ("Free Conferencing"), a participant in the above-captioned proceeding. This letter is sent in response to T-Mobile US, Inc.'s ("T-Mobile") objection, dated October 2, 2018, to permitting access to the Stamped Confidential Information and Highly Confidential Information T-Mobile has provided to the Commission.

Free Conferencing filed a Petition to Deny the applications of T-Mobile and Sprint Corporation ("Sprint") on August 27, 2018. The petition details T-Mobile's deceptive and ongoing call blocking scheme, referred to as the One-Cent Policy, and provides substantial evidence that the policy was designed and is intended solely to reduce its own customers' calls to Free Conferencing and others that tend to have longer duration calls. The petition discusses how, in addition to the harm to Free Conferencing and other affected "free service" providers, the One-Cent Policy has caused significant harm to T-Mobile's subscribers, who were deceived into purchasing unlimited calling plans, only to be prevented from making unlimited calls. There is a clear danger of greater public harm should T-Mobile be permitted to merge with Sprint and expand the scope of the One-Cent Policy to more than 50 million customers of Sprint.

Prior to filing its petition, Free Conferencing requested permission from T-Mobile to disclose to the Commission, under the terms of the Protective Order, certain internal T-Mobile documents and testimony of a T-Mobile employee provided in the matter of *Inteliquent, Inc. v. Free Conferencing Corporation et al.*, Case No. 16-cv-06976

(N.D. Ill) (“Illinois Case”).¹ These documents and testimony show unambiguously T-Mobile’s reasons for implementing the One-Cent Policy. T-Mobile opposed even a confidential disclosure of its own documents and employee’s testimony to the Commission. T-Mobile then opposed Free Conferencing’s motion seeking Court approval to confidentially disclose the documents and testimony to the Commission.²

T-Mobile is not a party in the Illinois Case. However, one of the parties who is acting with T-Mobile in connection with the One-Cent Policy waived confidentiality on certain documents that show that T-Mobile’s true motive for the One-Cent Policy is to reduce its customers’ calls to Free Conferencing and other “free” services. Those documents are discussed in Free Conferencing’s Petition.

T-Mobile and Sprint filed their opposition to Free Conferencing’s petition on September 17, 2018. In it, T-Mobile offers no defense – or even an explanation of – its One-Cent Policy and, in fact, provides no substantive rebuttal to the merits of Free Conferencing’s petition. T-Mobile simply states, without any support, that Free Conferencing’s argument that the One-Cent Policy violates the Communications Act is “baseless.”³ Additionally, T-Mobile and Sprint claim that Free Conferencing’s petition should be dismissed for lack of standing. This argument, as will be explained in Free Conferencing’s reply due on October 31, 2018, must be rejected because, as shown in Free Conferencing’s petition, it is reasonably likely that the merger will result in Sprint implementing the One-Cent Policy, thus causing further economic injury to Free Conferencing. Indeed, Sprint’s subsidiary, Boost Mobile, just recently adopted a practice almost identical to the One-Cent Policy that is primarily focused on charging its subscribers for calls to Free Conferencing’s conferences and other “free” services.

T-Mobile now seeks to prevent Mrs. Coppola and me, as outside counsel for Free Conferencing, from reviewing its Stamped Confidential Information and Highly Confidential Information, claiming that we are seeking such review to further Free Conferencing’s litigation interests. This statement is disingenuous at best and deceitful at worst. Mrs. Coppola and I are seeking this information strictly for use in this proceeding.

¹ Free Conferencing needed T-Mobile’s permission (or Court approval) to make such a disclosure due to the Confidentiality Order entered in the Illinois Case. Free Conferencing has at all times abided by that order.

² See *Inteliquent, Inc. v. Free Conferencing Corporation et al.*, Case No. 16-cv-06976 (N.D. Ill) at Docket No. 422.

³ See Joint Opposition of T-Mobile US, Inc. and Sprint Corporation, WT Docket No. 18-197 at n. 452 (filed Sept. 17, 2018).

In truth, T-Mobile's aim is to prevent Free Conferencing, through outside counsel, from fully participating in the proceeding and to prevent scrutiny by the Commission of the One-Cent Policy and the threat of the policy being spread to 50 million more customers if the merger goes forward. Worse, T-Mobile is seeking to hide from the Commission the One-Cent Policy's true purpose knowing full well that T-Mobile documents and testimony reflect how and why it was developed and implemented.

On August 15, 2018, the Commission served General Information and Document Requests on T-Mobile. At least one of those requests encompasses the documents and information Free Conferencing sought to bring directly to the Commission's attention.⁴ If, for some reason, T-Mobile has not provided an adequate response to the Commission's request, Free Conferencing should be in a position to alert the Commission of the deficiency.

In addition, Free Conferencing should be permitted to rebut T-Mobile's lack of standing claim with T-Mobile's own documents (if any) that show the impact the One-Cent Policy has had on Free Conferencing's business and the impact it will have if spread to Sprint's subscribers. Free Conferencing also should be permitted to refute T-Mobile's assertion in its opposition that the One-Cent Policy is lawful with T-Mobile's own documents (if any) that show that the policy discriminatorily targets certain rural CLECs that connect Free Conferencing calls. Without access to these documents, there is no question that Free Conferencing's participation in the proceeding will be greatly prejudiced.

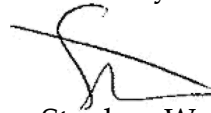
⁴ Request No. 33 seeks the following:

Provide all documents discussing T-Mobile's pricing decisions for any Relevant Product or Relevant Service in any Relevant Area and in the United States as a whole, including, but not limited to discussions of: (1) pricing plans, including unlimited; (2) pricing policies; (3) pricing forecasts; (4) pricing strategies; (5) pricing analysis; (6) introduction of new pricing plans or promotions, including local promotions and their determinants, and expected or actual impact; (7) tiered pricing, and expected or actual impact; (8) pricing decisions relating to each Relevant Service and Relevant Product; (9) which prices, if any, are set through individualized negotiations, and the criteria and process use to determine rates; and (10) any other factors considered in how the Company prices each Relevant Product or Relevant Service in each Relevant Area.

Mrs. Coppola and I have filed Acknowledgments of Confidentiality with the Commission.⁵ We fully understand and agree to be bound by the terms and conditions of the Protective Order, including the requirement that Confidential and Highly Confidential Information must only be used in this proceeding and any subsequent judicial proceeding arising directly from this proceeding. We fully understand that Confidential and Highly Confidential Information cannot be used in any other judicial proceeding, for commercial purposes, or for any other purpose. Contrary to T-Mobile's wild claim, I can assure you that Mrs. Coppola and I can maintain the confidentiality of information obtained through this proceeding as required by the terms of the Protective Order.

For these reasons, the Wireless Telecommunications Bureau should reject T-Mobile's objection.

Sincerely,



Stephen Wald

Counsel to CarrierX, LLC

cc: Kathy Harris
Joel Rabinovitz
Linda Ray
Kate Matraves
Jim Bird
David Krech
Nancy J. Victory

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⁵ Ms. Coppola and I provided copies of our signed Acknowledgments of Confidentiality to T-Mobile on September 27, 2018. In the cover letter, we requested in accordance with the terms of the Protective Order access to the Confidential and Highly Confidential Information T-Mobile has submitted to the Commission. Such a production imposes no burden on T-Mobile, as it could provide the electronic file(s) it produced to the Commission. We nevertheless made clear that — if T-Mobile preferred — we only need access to the documents related to the One-Cent Policy.