

February 8, 2019

*BY ELECTRONIC FILING*

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

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

**REDACTED**

Dear Ms. Dortch:

On February 6, 2019, representatives of Altice USA, Inc. (“Altice”) including Lee Schroeder, Executive Vice President, Government & Community Affairs and Michael Olsen, Senior Vice President, Legal – Operations & Regulatory, together with their counsel from Akin Gump Strauss Hauer & Feld LLP, Jennifer Richter and Shea Boyd, held separate meetings with the following: Erin McGrath, advisor to Commissioner O’Rielly, Will Adams, advisor to Commissioner Carr, and Rachael Bender, advisor to Chairman Pai. The same representatives, joined with and their economists from The Brattle Group, Michael Cragg and Eliana Garcés, similarly met with Sprint/T-Mobile transaction team. A list of members of the Sprint/T-Mobile transaction team in attendance is included at Attachment A. On February 7, 2019, Lee Schroeder and Shea Boyd, met with Umair Javed, advisor to Commissioner Rosenworcel.

In these meetings, Altice discussed its recent filing made with the Commission on January 28, 2019, which is incorporated herein by reference.<sup>1</sup> Additionally, Michael Cragg and Eliana Garcés delivered a presentation outlining their declaration submitted to the Commission in the January 28 filing. The presentation is included herein at Attachment B.

This filing contains information that is “Highly Confidential” pursuant to the Protective Order in WT Docket No. 18-197. Pursuant to the procedures established in the Protective Order, a copy of the “Highly Confidential” filing is being provided to the Secretary’s Office. An additional copy is being provided to Kathy Harris of the Wireless Telecommunications Bureau. A redacted copy of this “Highly Confidential” filing labeled “Redacted – For Public Inspection” will be filed electronically in the above-captioned docket.

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<sup>1</sup> Letter from Jennifer Richter, Counsel to Altice, to Marlene H. Dortch, Secretary, Federal Communications Commission, WT Docket No. 18-197 (filed Jan. 28, 2019).

Sincerely,

/s/ Jennifer L. Richter  
Jennifer L. Richter

Attachments

**ATTACHMENT A**

Joel Rabinovitz

Kathy Harris

Monica DeLong

Garnet Hanly

Jim Bird

Ziad Sleem

Saurbh Chhabra

Weiren Wang

Nicholas Copeland

Aleks Yankelevich

David Lawrence

Pramesh Jobanputra

David Sieradzki

Patrick Sun

Catherine Matraves

Charles Mathias

Katherine LoPiccalo (by phone)

**ATTACHMENT B**

# Declaration of Michael Cragg and Eliana Garcés

## ECONOMIC REPORT

PRESENTED TO  
Federal Communications Commission

PRESENTED BY  
The Brattle Group

February 6<sup>th</sup>, 2019



THE **Brattle** GROUP

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# Motivation for the Declaration

Applicants have maintained that MVNOs, and in particular cable MVNOs, will exert increased competitive pressure post-merger

This declaration demonstrates that the competitiveness of cable companies crucially depends on access to MNO infrastructure

We demonstrate that this access will be significantly deteriorated post-merger, leading to increased consumer harm

# Agenda

## Markets Impacted by the Merger

- Retail markets with differentiated products
- Wholesale markets and the distinction between light MVNOs and iMVNOs

## Effects of the Merger

- Higher retail prices due to direct reduction of retail competition
- Additional consumer harm due to reduced cable iMVNO entry
- Including truncated cable competition in merger simulations greatly magnifies the merger's consumer harm

# Markets Impacted by the Merger

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# Markets Impacted by the Merger

**The proposed merger affects wireless markets at both retail and wholesale levels**

## **Retail Market:**

- 4-to-3 MNO consolidation
- Retail market is differentiated
- Light MVNOs do not exert significant competitive pressure on MNOs

## **Wholesale Market:**

- Light MVNOs and iMVNOs fundamentally differ because of core control
- iMVNOs are necessary for credible competition with MNOs

# Markets Impacted by the Merger

## Retail Wireless

### Price discrimination divides the retail market into segments

#### High-quality segment:

- Post-paid contracts, often with unlimited data and other features
- Higher ARPU
- MNOs' primary focus

#### Low-quality segment:

- Usage and quality restrictions, lower ARPU
- Serves budget conscious and low usage subscribers
- White label MVNOs and light MVNOs

# Markets Impacted by the Merger

## Retail Wireless

**Light MVNOs' products do not exert competitive pressure on MNOs' products**

**Usage and quality restrictions differentiate their products from premium postpaid plans**

- Distinct groups of users
- There is very limited switching from MNO postpaid plans to light MVNO plans ({{HCI [REDACTED] HCI}})
- MNOs typically only respond to each others' commercial offers

# Markets Impacted by the Merger

## Wholesale Market is Segmented

**There are two distinct products in the wholesale market and only iMVNO access enables meaningful competition with MNOs**

### **Light MVNO:**

- Operates as pure reseller of host MNO's services
- Service scope and quality determined by host MNO
- Limited ability to compete with MNO incumbents

### **iMVNO:**

- Operates using multiple MNOs' RANs and coverage
- Can use its own infrastructure for backhaul and access
- Retains "core control" to determine service capabilities and traffic flow
- Can compete directly on services with MNO incumbents

# Markets Impacted by the Merger

## Light MVNOs and iMVNOs

	Radio Sites	Access (e-)SIMs	Roaming	Data Internet...	Voice Messages	Rating Charging	MVNO CRM	MVNO Billing
White Label		Access Control	Roaming Partners & Networks	Data Services	VoLTE/ VoWiFi SMS	Online Rating Charging	Customer Portal CRM	Customer Billing
Light MVNOs		Access Control	Roaming Partners & Networks	Data Services	VoLTE/ VoWiFi SMS	Online Rating Charging	Customer Portal CRM	End Customer Billing
		Access Control	Roaming Partners & Networks	Data Services	VoLTE/ VoWiFi SMS	Online Rating Charging	Customer Portal CRM	End Customer Billing
iMVNOs		Access Control	Roaming Partners & Networks	Data Services	VoLTE/ VoWiFi SMS	Online Rating Charging	Customer Portal CRM	End Customer Billing

  

Legend:			
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Source: Letter from Jennifer Richter, Counsel for Alice, to Marlene H. Dortch, Secretary, *In the Matter of Applications of T-Mobile US, Inc. and Sprint Corporation for Consent to Transfer Control of Licenses and Authorizations*, WT Docket No. 18-197, September 20, 2018.

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# Markets Impacted by the Merger

## Unique Strengths of iMVNOs

**iMVNOs bring cost and quality control advantages that enable competition with MNOs**

### **Cost control**

- Dynamically steer to a host MNO, own Wi-Fi, or own RAN
- Achieve economies of scale within footprint

### **Network quality**

- Integrate and invest in macro towers, small cells, and backhaul
- Establish direct relationships with MNOs for national coverage

### **Can offer high-quality segment products**

- Tailored plan offerings, handset choice, usage management
- Unlimited data, bundled offers

# Effects of the Merger

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# Effects of the Merger

## Applicants' Model Predicts Significant Consumer Harm at Retail Level

**Predicted consumer harm by Applicants: {{HCI [REDACTED] [REDACTED] HCI}}**

- Consistent with evidence and previous DOJ and FTC assessments

**Merger-specific efficiencies do not compensate for the consumer harm:**

- Efficiencies need to be between {{HCI [REDACTED] [REDACTED] HCI}}
- Adjusted efficiencies presented by DISH are well below this threshold

**Model excludes pending cable competition absent merger and truncated iMVNOs because of merger**

# Effects of the Merger

## MNOs' Wholesale Incentives will be Significantly Altered

**MNOs will generally have less incentive to offer iMVNO access compared to light MVNO access**

**Incentives to provide iMVNO access determined by:**

- Cannibalization risk, iMVNO's ability to expand market, costs including congestion, synergies with complementary assets

**An MNO will have more incentives to provide cable companies with iMVNO contracts if:**

- The MNO is smaller
- The iMVNO reaches customers the MNO cannot reach
- The MNO can benefit from iMVNO assets

# Effects of the Merger

## MNOs' Wholesale Incentives will be Significantly Altered

### Only Sprint and T-Mobile sufficiently fulfill these conditions

- Sprint and T-Mobile are the smallest operators
- “Sprint’s network more attractive than its brand”
- Sprint and T-Mobile have lower monthly EBITDA compared to AT&T and Verizon (2016: \$13.00 and \$11.80 vs \$18.30 and \$22.71)
- Sprint and T-Mobile do not have fixed network business
- Sprint and T-Mobile are in need of densification

**MNO behavior reflects existing incentives. Only Sprint and T-Mobile (pre-announcement) quoted commercially attractive offers**

# Effects of the Merger Sprint and Altice Agreement

## Sprint found in Altice an efficient path to densification

- Altice provides infrastructure needed for densification
  - Sprint's high-band spectrum requires more cell site deployments

- {{HCI [REDACTED]

- [REDACTED]
- [REDACTED]

HCI}}

Sprint's documents value this deal at over {{HCI [REDACTED]

[REDACTED] HCI}}

# Effects of the Merger

## Threat of iMVNO Foreclosure

**The merged entity's incentives are to foreclose iMVNOs as its incentives will align more closely with those of AT&T and Verizon**

- Higher cost of cannibalization
  - Higher market share means larger loss of customers
  - More profitable retail activity decreases incentives for wholesale activities (increases the profit-maximizing wholesale access price)
- Unlikely to use a 'maverick strategy'
  - Capacity alone does not drive incentives in wholesale market
  - T-Mobile intends to focus on premium quality (5G)
  - Risk of coordination is increased

### The merger threatens the collaboration between Sprint and Altice

- The new entity's plan does not benefit from agreement to the same extent
  - Focus on 5G are likely to change plans for network densification
- {{HCI [REDACTED]  
[REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED] HCI}}

# Effects of the Merger

## Elimination of Competitive Entry

**By foreclosing iMVNOs, the merger will eliminate all possibility of credible entry in mobile wireless**

### **Entry by a full fledged MNO unlikely**

- High fixed costs (50,000 sites, spectrum), need large customer base, need capacity for unlimited data

### **Cable iMVNOs are the only credible entrants in mobile wireless**

- Fixed infrastructure and Wi-Fi connectivity
- Existing customer base
- Path for gradual build-up (Free in France, Fastweb in Italy)

**Altice has plans to gradually build up its wireless infrastructure but critically needs iMVNO access for a period of at least 5 years**

# Effects of the Merger

## Merger Simulations with Cable MVNOs

**Adding cable iMVNOs to Applicants' model increases welfare losses**

**Applicants' economists use a "nested logit" framework that de facto excludes iMVNOs**

**We model iMVNOs as being in one of the postpaid MNO nests**

- Adding representative nationwide cable iMVNO competition
  - Calculate costs using Altice's projections for the Sprint deal
  - Calibrate the wholesale bargaining process using a Nash-in-Nash framework and the terms of the Sprint-Altice agreement
  - Use switching surveys to estimate the cable iMVNO market's size

# Merger Simulations with Cable MVNOs

### **With cable iMVNOs, merger is even more harmful to consumers**

- Consumer harm increases by  $\{\{HCI \blacksquare HCI\}\}$  in 2023 with foreclosure and by  $\{\{HCI \blacksquare HCI\}\}$  without foreclosure

### **Even after including merger-specific efficiencies, the merger is still harmful**

- Consumer harm increases by  $\{\{HCI \blacksquare HCI\}\}$  (without foreclosure) or  $\{\{HCI \blacksquare HCI\}\}$  (with foreclosure) in 2023 relative to Applicants' model
- Retail and wholesale price increases for all products
- These estimates are conservative as cable iMVNOs are likely to be more competitive than MNOs

### **Preserving current iMVNO terms only mitigates about $\{\{HCI \blacksquare HCI\}\}$ of the merger's consumer harm**

# Merger Simulations with Cable MVNOs

**The merger will generate consumer harm and eliminate prospects for new forms of competition**

**Competition in wireless communications from cable operator iMVNOs requires nationwide RAN access**

**This nascent competition from cable iMVNOs will be eliminated by the merger**

**Accounting for cable iMVNOs greatly increases the consumer harm of the merger**

# Appendix Model

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# Merger Simulations

## Per-Subscriber Costs

**Inputs: Altice financial documents, Sprint agreement**

**iMVNO monthly per-subscriber costs in 2023:**

- {{HCI [REDACTED] HCI}} paid to Sprint for voice, data, and SMS fees
- {{HCI [REDACTED] HCI}} paid to domestic and international roaming partners
- {{HCI [REDACTED] HCI}} allocated for core control network costs and costs of deploying small cells for Sprint

**Light MVNO monthly per-subscriber costs in 2023:**

- {{HCI [REDACTED] HCI}} paid to the host MNO for voice, data, and SMS usage
- Matches TracFone's costs from Applicants' economists' inputs

**Host MNO monthly per-subscriber costs with a 50% margin:**

- {{HCI [REDACTED] HCI}} if hosting an iMVNO
- {{HCI [REDACTED] HCI}} if hosting a light MVNO

# Wholesale Bargaining Framework

**We model negotiations over iMVNO agreements using a standard Nash Bargaining framework:**

- Host MNO and iMVNO bargain over a wholesale price
- Both parties' disagreement payoffs equal profits from establishing a light MVNO together

**We use the observed terms of the Sprint-Altice agreement to infer Sprint's bargaining power consistent with the model**

# Merger Simulations

## Cable iMVNO Market Size

Altice will benefit from aggressive pricing and first-to-market advantages; we assume slower growth nationally

Altice {{HCI [REDACTED] HCI}} Our simulations model a nationally-representative cable iMVNO with a slower growth path  
We estimate cable iMVNO size using survey evidence:



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