



February 21, 2019

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, DC 20554

**Re: WT Docket No. 18-197; GN Docket No. 18-238; GN Docket No. 18-231; WC Docket No. 11-10; WC Docket No. 17-287; and WC Docket No. 17-108**

Dear Ms. Dortch:

On Friday, February 15, 2019, staff from New America’s Open Technology Institute (“OTI”) met with Commissioner Geoffrey Starks to discuss OTI’s ongoing efforts to close the digital divide and ensure equitable access to an open and secure internet. Also in attendance were Michael Scurato, Acting Legal Advisor for Media and Consumer Protection, and Randy Clarke, Acting Legal Advisor for Wireline and Public Safety. Attending for OTI were Kevin Bankston, Director; Sarah Morris, Deputy Director; Eric Null, Senior Policy Counsel; Joshua Stager, Senior Policy Counsel; Becky Chao, Policy Analyst; and Amir Nasr, Policy Analyst.

In this meeting, we discussed the urgent threat that T-Mobile’s proposed acquisition of Sprint poses to consumers and competition. We noted OTI’s extensive filings on the transaction,<sup>1</sup> and outlined the ways in which the merger would destroy competition in the wireless market, raise prices for consumers, and exacerbate the digital divide. The merger would devastate the prepaid and wholesale services markets by combining two of the fiercest competitors. The merger also threatens the sustainability of the Lifeline program, which is particularly dependent on Sprint’s continued participation as the only major facilities-based provider. T-Mobile has expressed disinterest in serving Lifeline customers and has largely abandoned the program.<sup>2</sup> If

---

<sup>1</sup> Competition Advocates Ex Parte Notice, WT Docket No. 18-197 (Dec. 20, 2018); Petition to Deny of Common Cause, Consumers Union, New America’s Open Technology Institute, Public Knowledge, and Writers Guild of America, West, WT Docket No. 18-197 (Aug. 27, 2018) (“OTI Petition to Deny”); Reply Comments of New America’s Open Technology Institute, WT Docket No. 18-197 (Oct. 31, 2018).

<sup>2</sup> 2017 Universal Service Monitoring Report, CC Docket No. 96-45, WC Docket No. 02-6, WC Docket No. 02-60, WC Docket No. 06-122, WC Docket No. 10-90, WC Docket No. 11-42, WC Docket No. 13-184, WC Docket No. 14-58, (April 13, 2018) at 27; Matt Wood & S. Derek Turner, *The T-Mobile/Sprint Merger Is Bad News. Here’s Why*, Free Press (May 1, 2018) <https://www.freepress.net/our-response/expert-analysis/insights-opinions/t-mobilesprint-merger-bad-news-heres-why>; Joan Engebretson, *CFO: ‘Non-sustainable’ T-Mobile Lifeline Business to be Phased Out*, Telecompetitor (June 8, 2017), <https://www.telecompetitor.com/cfo-non-sustainable-t-mobile-lifeline-business-to-be-phased-out/>.

acquired by T-Mobile, Sprint is likely to exit Lifeline, which could devastate the program and leave millions of low-income Americans without voice or broadband service. Furthermore, the applicants' promise to build a nationwide 5G network does not justify the merger, as neither company needs the merger to build a 5G network and, indeed, both companies have said that they are proceeding with 5G buildout regardless of the merger's fate.<sup>3</sup> We also expressed opposition to any conditional approval of the transaction, noting the Commission's past difficulties in enforcing such conditions.<sup>4</sup>

We also discussed OTI's extensive work to improve competition and transparency in the broadband market. We outlined OTI's filings in the Commission's proceedings on modernizing Form 477, Section 706, and the Communications Marketplace Report.<sup>5</sup> We highlighted the flaws of Form 477, including its overreliance on self-reported data, its lack of geographic granularity, and its lax standards for internet speed reporting. We discussed the benefits of collecting more granular data, such as address-level data, and of real-time reporting. Further, we urged the Commission to collect broadband pricing and performance data as part of its Form 477 modernization and Section 706 review.<sup>6</sup> Studies have consistently shown that the high cost of broadband service is a primary cause of the digital divide, yet the federal government does not collect any reliable data on this metric.<sup>7</sup> We also discussed OTI's *Cost of Connectivity* reports, which surveyed broadband pricing in selected markets in the United States and abroad.<sup>8</sup>

Regarding Section 706, we expressed our support for the Commission to include better data, increase the throughput benchmark for "advanced telecommunications service," and

---

<sup>3</sup> OTI Petition to Deny at 33-36.

<sup>4</sup> Karl Bode, *Comcast Merger Chances Stall As Regulators Realize Comcast Meddled In Hulu Management, Ignored NBC Deal Conditions*, TechDirt (Apr. 22, 2015), <https://www.techdirt.com/articles/20150422/04580130746/comcast-merger-chances-stall-as-regulators-realize-comcast-meddled-hulu-management-ignored-nbc-deal-conditions.shtml>.

<sup>5</sup> Comments of New America's Open Technology Institute, GN Docket No. 18-238, GN Docket No. 18-231, WC Docket No. 11-10 (Sep. 17, 2018); Reply Comments of New America's Open Technology Institute, GN Docket No. 18-238, WC Docket No. 11-10 (Oct. 1, 2018); Comments of New America's Open Technology Institute, WC Docket No. 11-10 (Oct. 10, 2017); Comments of New America's Open Technology Institute, the Institute for Local Self-Reliance, National Association of Telecommunications Officers and Advisors, National League of Cities, and Next Century Cities, GN Docket No. 18-231, WC Docket No. 18-141, GN Docket No. 17-142 (Aug. 17, 2018).

<sup>6</sup> New America's Open Technology Institute Ex Parte, WC Docket No. 17-287, GN Docket No. 18-238, WC Docket No. 11-10 (Nov. 20, 2018).

<sup>7</sup> Monica Anderson, *Digital divide persists even as lower-income Americans make gains in tech adoption*, Pew Research Center (March 22, 2017), <http://www.pewresearch.org/fact-tank/2017/03/22/digital-divide-persists-even-as-lower-income-americans-make-gains-in-tech-adoption/>; John B. Horrigan & Maeve Duggan, *Barriers to broadband adoption: Cost is now a substantial challenge for many non-users*, Pew Research Center (Dec. 21, 2015), <http://www.pewinternet.org/2015/12/21/3-barriers-to-broadband-adoption-cost-is-now-a-substantial-challenge-for-many-non-users/>.

<sup>8</sup> Nick Russo et al., *The Cost of Connectivity 2014*, New America (Oct. 30, 2014), <https://www.newamerica.org/oti/policy-papers/the-cost-of-connectivity-2014/>.

remove barriers to municipal broadband networks. OTI also strongly believes that the Commission should continue to reject the notion that mobile broadband can serve as a viable substitute for fixed broadband.

We also detailed our support for a robust Lifeline program and our strong opposition to the Commission's 2017 Lifeline item, including the proposals to eliminate wireless resellers, impose strict caps on the program budget and lifetime benefits, force Lifeline providers to collect co-pays, and eliminate standalone broadband.<sup>9</sup> We expressed concern that the proceeding remains open, and urged action to close it as soon as possible to remove the threat the NPRM poses to low-income consumers who depend on the program for connectivity.

However, even if the Commission abandons the 2017 item, successful deployment of the National Verifier remains an urgent priority. The National Verifier is a central component of the Commission's efforts to promote Lifeline participation and improve program integrity. Unfortunately, implementation of the Verifier has been slow and program participants have complained of difficulties. OTI recently hosted a panel discussion that highlighted these concerns.<sup>10</sup> We also reiterated OTI's support for a robust application programming interface at the National Verifier, which would ease the application process for those eligible for Lifeline service.<sup>11</sup>

We also reiterated OTI's strong support for restoring the strong net neutrality rules in the 2015 Open Internet Order, and more generally restoring the Commission's oversight of broadband internet access services.

---

<sup>9</sup> Comments of New America's Open Technology Institute, WC Docket No. 17-287 (Feb. 21, 2018); Reply Comments of New America's Open Technology Institute, WC Docket No. 17-287 (March 23, 2018).

<sup>10</sup> *Death by a Thousand Cuts: The FCC's Dangerous Proposal to Kill the Lifeline Program and Hurt Low-Income Americans*, New America (Jan. 23, 2019), <https://www.newamerica.org/oti/events/death-by-a-thousand-cuts>.

<sup>11</sup> New America's Open Technology Institute et al. Ex Parte, WC Docket Nos. 17-287, 11-42, 09-197 (Aug. 10, 2018).

Respectfully submitted,

Kevin Bankston  
Becky Chao  
Sarah Morris  
Amir Nasr  
Eric Null  
Joshua Stager

New America's Open Technology Institute  
740 15<sup>th</sup> Street, NW Suite 900  
Washington, DC 20005

Cc: Michael Scurato and Randy Clarke