Herring Networks, Inc.
4757 Morena Blvd. San Diego, CA 92117
Ph: 858-270-6900 Fax: 858-270-6901

March 6, 2019

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

Pursuant to Section 1.1206(b) of the Commission's Rules, 47 C.F.R. § 1.1206(b), notice is hereby provided of an oral, in person, communication in the above-referenced docket. This ex parte notice is filed on behalf of Herring Networks, Inc., d/b/a One America News Network and AWE.

On March 4, 2019, Charles Herring, President of Herring Networks, Inc., Bruce Fein and W. Bruce DelValle, with the law firm of Fein & DelValle PLLC, outside legal counsel for Herring Networks, met with FCC Commissioner Michael O'Rielly and his Chief of Staff and Senior Legal Advisor, Joel Miller.

Mr. Herring discussed the historical benefits of enhanced video competition to consumers and independent programmers provided by AT&T's and Verizon's entry into the video marketplace with U-verse TV and FiOS TV. Both video services distribute Herring's networks broadly. Mr. Herring highlighted that T-Mobile has already demonstrated its desire to enter the video marketplace in a meaningful way.

Mr. Herring voiced the conviction that a merger between T-Mobile and Sprint would accelerate the provision of video services and the deployment of 5G. The latter would strengthen marketplace competition and crown the United States as a 5G leader and supplier. Mr. Herring maintains that 5G promises to be a "game-changer" for the video and internet marketplace, benefiting consumers, independent programmers, and the national security. For these reasons, Mr. Herring stated that One America News Network and AWE support the merger and look forward to the roll-out of video and 5G by a combined T-Mobile and Sprint.

AWE
A WEALTH OF ENTERTAINMENT

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One America News Network

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Mr. Herring also discussed the need for changes to the carriage access regulations to promote the diversity of viewpoints that earmark a healthy democracy. The Cable Television Consumer Protection and Competition Act of 1992 seeks to "promote the availability to the public of a diversity of views and information through cable television and other video distribution media." The ancestor Cable Communications Policy Act of 1984 similarly seeks to "assure that cable communications provide and are encouraged to provide the widest possible diversity of information sources and services to the public." The United States Supreme Court likewise sermonized in *Associated Press v. United States,* 326 U.S. 1 (1945):

> "[The First] Amendment rests on the assumption that the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public, that a free press is a condition of a free society. Surely a command that the government itself shall not impede the free flow of ideas does not afford nongovernmental combinations a refuge if they impose restraints upon that constitutionally guaranteed freedom. Freedom to publish means freedom for all, and not for some. Freedom to publish is guaranteed by the Constitution, but freedom to combine to keep others from publishing is not."

Mr. Herring quoted Commissioner O'Rielly's December 2018 public statement on the dysfunctional resolution process for programmer carriage complaints under current Commission regulations:

> *"The ALJ process has been allowed to turn into a black hole of indecision, inefficiency and arbitrariness. It is not worthy of our great nation."*

Mr. Herring thanked the Commissioner for elevating the need for carriage access reform and his clear and strong language regarding the ineffectiveness of the carriage access regulations. The Commission's rules encourage abuse by dominant politically engaged cable companies to discriminate among content providers based on viewpoint, among other things.

Mr. Herring provided a three-page document with a title of "*Enhancements to the Carriage Access Rules, 76.1300*". Mr. Fein and Mr. DelValle briefly highlighted some of the points, with a focus on the need for a 120-day shot clock consistent with statutory mandates for resolving signal or carriage complaints filed by PEG or local broadcasting channels. Lead-footed justice is an antonym of genuine justice.

Mr. Herring stressed the distribution challenges faced by independent networks with conventional, well-established MVPDs because of notorious viewpoint discrimination. MVPDs occupy a distinct antitrust marketplace according to the United States Court of

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Appeals in *United States v. AT&T, Inc*. (February 26, 2019). The anti-competitive effects of MVPD discrimination are undiminished by new entrants in the video marketplace such as a combined T-Mobile and Sprint.

Mr. Herring stated that the existing carriage access regulations are an illusory remedy for the abusive and discriminatory behaviors of MVPDs. Time is of the essence in overhauling the Commission's public access regulations.

Respectfully submitted,

/s/ Charles P. Herring

Charles P. Herring
President
Herring Networks, Inc.