Communications
Workers of America
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BY ELECTRONIC FILING

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

RE: Notice of Ex Parte Meeting, Consolidated 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:

On March 6, Debbie Goldman and Hooman Hedayati of the Communications Workers of America (CWA), and Allen Grunes, CWA outside counsel, held a meeting with William Davenport, Chief of Staff and Senior Legal Advisor to Commissioner Geoffrey Starks to discuss the above-captioned proceeding. The attached PowerPoint was distributed at the meeting.

Mr. Grunes discussed the anti-competitive impact of the proposed T-Mobile/Sprint merger. He emphasized that the merger is presumptively anticompetitive under controlling antitrust case law and is presumed likely to enhance market power under the Horizontal Merger Guidelines (Guidelines). Based on annual revenues, CWA has estimated the Herfandahl-Hirschman Index (HHI) to be approximately 2,800 nationally premerger and approximately 3,250 post-merger.[1] In the *20th Mobile Wireless Competition Report*, using NRUF data, the Commission estimated that as of year-end 2016, the weighted average HHI for mobile wireless services was 3,101 (pre-merger).[2]

The national market and many local markets for mobile wireless services are "highly concentrated" under the Merger Guidelines, regardless of the metric used for the calculation. And the change resulting from the merger would be substantial. This is the likely reason that the Applicants have not seen fit to calculate HHIs in their Public Interest Statement or subsequently. Mr. Grunes criticized the Applicants repeated attempts to minimize the significance of the increase in concentration by calling the HHIs just a "screen." This is contradicted by the Guidelines and case law.[3] Furthermore, research by Prof. John Kwoka has shown that there is

[1] *See* CWA Comments, WT Docket No. 18-197, Aug. 27, 2018, at 18.
[2] *Id.* at 16-18.
[3] *See* CWA Reply Comments, WT Docket No. 18-197, October 31, 2018, at 17 & n.58.

economic support for the thresholds in the merger guidelines.[4] Prof. Kwoka's analysis shows that there is roughly a 90 percent probability in mergers resulting in highly concentrated markets and large increases in concentration result in price increase.

Mr. Grunes explained that two of the relevant markets in this transaction are the market for mobile telephony/broadband services and the market for prepaid wireless retail services. Mr. Grunes stressed that the New T-Mobile would exceed the Commission's spectrum screen in two-thirds of the counties in the United States, where 92 percent of the U.S. population resides.[5] Mr. Grunes also pointed out that the unilateral anticompetitive effects of the merger are likely to be significant, as products and services offered by T-Mobile and Sprint are close substitutes for a large number of customers. Finally, Mr. Grunes emphasized that there are inconsistencies between Applicants' own economists, and that Applicants' efficiency arguments have been a moving target.

Ms. Goldman stressed that the employment impact of a merger is part of the Commission's public interest analysis.[6] CWA's comprehensive analysis finds that the proposed merger would result in the loss of 30,000 jobs nationwide. Approximately 25,500 jobs would be eliminated as a result of overlapping retail store closures at postpaid and prepaid locations. Another 4,500 jobs would be eliminated due to duplicative functions at corporate headquarters in Overland Park, KS and Bellevue, WA.[7] For example, CWA's analysis of Boost and Metro store location data finds that half of all Boost stores are located less than one-third of a mile from the closest Metro store and 75 percent of Boost stores are within eight-tenths of a mile from the closest Metro.[8] Many of these stores risk closure if the merger is approved. Ms. Goldman noted that the Applicants' recent announcements that the new T-Mobile would open call centers in Overland Park KS, Fresno CA, and Rochester NY does not offset the substantial amount of work that both Applicants currently send to offshore call centers.

Ms. Goldman emphasized that recent economic literature suggests that labor market concentration could have important impacts on wages and worker bargaining power. According to a paper by the Roosevelt Institute and Economic Policy Institute, the T-Mobile/Sprint merger would reduce annual earnings of retail wireless workers by as much as $3,276 (or $520 under the smallest-magnitude specification). This corresponds to the decrease in annual earnings of U.S. wireless retail workers of $543.6 million per year (or $82.8 million under the smallest-magnitude specification).[9]

Ms. Goldman explained that the review of the Applicants' Public Interest Statement makes clear that the proposed merger would have marginal impact in rural areas. T-Mobile

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[4] John Kwoka, *The Structural Presumption and the Safe Harbor in Merger Review*, 81 ANTITRUST L.J. 837 (2017).

[5] *See* CWA Comments, WT Docket No. 18-197, Aug. 27, 2018, at 21-23.

[6] *See* CWA Comments, WT Docket No. 18-197, Aug. 27, 2018, footnotes 11-14 (AT&T/T-Mobile Staff Report: "As part of the public interest analysis, the Commission historically has considered employment related issues such as job creation." Puerto Rico/GTE Order: Finding that a no lay-off commitment serves the public interest. AT&T/Bell South Order: Finding that repatriating offshore jobs serves the public interest).

[7] *See* CWA Reply Comments, WTB Docket No. 18-197, Oct. 31, 2018, at 2-13.

[8] CWA analysis of store location data collected from MetroPCS and Boost Mobile's websites in May 2018.

[9] Economic Policy Institute and the Roosevelt Institute, *Labor market impact of the proposed Sprint–T-Mobile merger*, December 2018, https://www.epi.org/publication/labor-market-impact-of-the-proposed-sprint-t-mobile-merger.

already holds low-band spectrum best suited for long distances in rural America, but not at high speeds. Moreover, Sprint contributes very little rural infrastructure, and its mid-band spectrum is poorly suited for rural areas because it has shorter range and is easily obstructed by foliage and terrain. Post-merger, the New T-Mobile’s mid-band coverage would not reach 84.6 million Americans by 2021 and would leave 45.9 million rural Americans unserved in 2024.[10] T-Mobile’s low-band 5G will only provide marginal improvements to rural areas.

Conclusion. The Commission should not approve the proposed transaction without clear and enforceable commitments by the Applicants to protect jobs in the United States. The Commission should require that the Applicants ensure that the transaction does not cause a reduction in U.S. employment and that no employee of T-Mobile or Sprint loses a job as a result of this transaction. Further, the Applicants should commit to complete neutrality in allowing their employees to form a union of their own choosing, free from any interference by the employer.

Sincerely,

Debbie Goldman

Debbie Goldman
Telecommunications Policy and Research Director
Communications Workers of America

Attachment:
CWA Presentation on Proposed Sprint/T-Mobile Merger

cc: William Davenport

[10] *T-Mobile US, Inc. and Sprint Corporation Seek FCC Consent to the Transfer of Control of Licenses, Authorizations, and Spectrum Leases held by Sprint Corporation and Its Subsidiaries to T-Mobile US, Inc.*, WT Docket No. 18-197, Description of Transaction, Public Interest Statement, and Related Demonstrations, at 46-47, table 9 and figure 10 (filed June 18, 2018).