

**Communications
Workers of America**
AFL-CIO, CLC

501 Third Street, N.W.
Washington, D.C. 20001-2797
202/434-1100



March 22, 2019

BY ELECTRONIC FILING

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

RE: Ex Parte Notice. 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:

In two highly inflammatory ex parte letters dated March 8 and March 11, 2019, T-Mobile launches an attack on the Communications Workers of America (CWA).¹ The attack on CWA is part of a recent and broader attack by T-Mobile on companies, organizations, economists, and academics who have suggested that the proposed transaction is not in the public interest. In this letter, CWA responds.

T-Mobile's acquisition of Iowa Wireless Services (iWireless). CWA's assessment of T-Mobile's acquisition of iWireless demonstrates the harm that transaction had on rural customers, prepaid customers, and authorized dealers.² Our analysis was based on publicly available store location data collected from the iWireless and T-Mobile websites and interviews with numerous former iWireless authorized dealers in rural Iowa. In response to our assessment, T-Mobile has submitted various false and misleading claims to the Commission that fail to refute CWA's conclusions.

T-Mobile fails to refute the overwhelming evidence that T-Mobile's iWireless acquisition harmed customers and authorized dealers, especially those in rural Iowa. As part of the merger proceedings, T-Mobile and Sprint have claimed that their merger will allow them to bring choice

¹ See Letter from Cathleen A. Massey, Vice President, Federal Regulatory Affairs, T-Mobile USA, Inc. to Marlene H. Dortch (March 8, 2019); Letter from Trey Hanbury, Counsel to T-Mobile US, Inc. to Marlene H. Dortch (March 11, 2019).

² See CWA, "Disrupting Rural Wireless: How A T-Mobile Takeover Harmed Consumers and Small Businesses in Iowa." February 13, 2019 ("Disrupting Rural Wireless"). See also Ex Parte Letter from Debbie Goldman, Communications Workers of America, to Marlene H. Dortch, WT Docket No. 18-197 (March 1, 2019).

and competition to rural communities.³ Although T-Mobile could have used the iWireless acquisition to demonstrate its purported commitment to rural America, our analysis demonstrates that T-Mobile's iWireless acquisition was especially bad for rural customers and authorized dealers. Prior to T-Mobile's takeover, iWireless stood out from other carriers due to its large rural retail network that provided choice and convenience to dozens of small and isolated communities in Iowa where no other wireless carrier had a retail presence.⁴ As part of the transaction, T-Mobile terminated 86 percent of iWireless' retail locations, including the vast majority of iWireless' rural locations.⁵

Rather than responding to CWA's substantive analysis, T-Mobile derides former iWireless authorized dealers as merely "stores within stores" that "happened to sell iWireless plans on the side."⁶ T-Mobile attempts to dismiss CWA's assessment on the basis that a number of former authorized dealers remained in business as independent retailers after the transaction, suggesting that there was no harm to the authorized dealers or to the communities they served.⁷ T-Mobile also discounts the experiences of former dealers by claiming that "when a pawnshop stops selling iWireless, there is no loss in employment and the pawnshop remains in business."⁸

This argument conveniently ignores the fact that CWA's report and presentation to the transaction team did not make claims about massive job losses resulting from the iWireless transaction. Instead our report focused on the company's decision to abandon small rural communities in Iowa and to deprive them of the local retail access and customer service previously offered by iWireless dealers.

Many rural communities that previously had an iWireless retail location are too small to support a standalone wireless retailer.⁹ Former iWireless president James Craven Shumaker admitted to the Commission that "the use of these authorized dealers allowed iWireless to maintain a geographic retail presence in difficult to serve rural areas."¹⁰ Former iWireless dealers that operated multiple businesses out of the same establishment were not merely selling iWireless plans "on the side," they were providing a vital service that no other wireless carrier offered in their communities. In such communities, local business owners often operate multiple businesses out of the same establishment because it allows them to provide services that would otherwise not be available in their community. For customers living in those communities, losing the iWireless dealer that operated out of the hardware store or insurance agency was no different than the closure of a dedicated standalone wireless store. T-Mobile's claims demonstrate its ignorance and disregard for the needs of rural communities.

³ See, for example, "T-Mobile and Sprint to Combine, Accelerating 5G Innovation & Increasing Competition." April 29, 2018. See also T-Mobile and Sprint, Description of Transaction, Public Interest Statement, and Related Demonstrations, WT Docket No. 18-197, June 18, 2018.

⁴ See Disrupting Rural Wireless at 3-4.

⁵ *Id.* at 1, 3, and 4.

⁶ See March 8 Ex Parte at 2, March 11 Ex Parte at 2-3.

⁷ *Id.*

⁸ See March 8 Ex Parte at 2, March 11 Ex Parte at 3.

⁹ iWireless operated 67 percent of all stores in places with a population of fewer than 2,500. See Disrupting Rural Wireless at 1.

¹⁰ See Declaration of James Craven Shumaker in March 11 Ex Parte at 2.

Above all, former authorized dealers interviewed by CWA wanted to remain T-Mobile dealers following the transaction because they knew that they provided a vital service to their communities and wanted to continue providing that service after the transaction.¹¹ Shelia Hall, a former authorized dealer from Iowa Falls, told CWA: “[T-Mobile] left us out in the cold. I don’t like that, I don’t like it for myself, and I don’t like it for my customers, because they matter... They could have just closed one door and immediately opened another one and say, ‘Here is T-Mobile now. You’re covered just like you would be with iWireless.’”¹²

Some former authorized dealers told CWA that they had just a few days’ notice before they had to cease sales and surrender their iWireless inventory.¹³ Rural authorized dealers reported that they received no support or compensation for helping postpaid iWireless customers transition to T-Mobile services, which they felt forced to do due to the lack of T-Mobile-branded stores outside the state’s urban areas.¹⁴ For example, Jason Chase, a former iWireless authorized dealer and mayor of Rock Rapids, a rural community in northwest Iowa, told CWA that the lack of local stores forced many of his former iWireless customers to come to him for help with switching to T-Mobile service, which he did without compensation from T-Mobile. “You’re handing an older person a piece of paper and telling them to call a number and order a new SIM card to put in a phone. They don’t even know what a SIM card is. They don’t know how to take the battery off,” reported Mr. Chase. “So the fact that they think that those customers could handle it was not cool, especially when there was no [local] store for support.”¹⁵

T-Mobile also attempts to justify the closure of iWireless retail locations because they supposedly provided inconsistent customer service and had unpredictable costs. For example, it claims that “pawnshops do not generally provide the award-winning service subscribers have come to expect from the Un-carrier.”¹⁶ T-Mobile’s claims misleadingly suggest that T-Mobile does not utilize the “store within a store” retail model, when in reality there are hundreds of non-exclusive Metro by T-Mobile authorized dealers that operate locations out of places such as gas stations, tobacco shops, payday loan centers, jewelry stores, and other independent retailers.¹⁷ In

¹¹ See *Disrupting Rural Wireless* at 2, 9-11.

¹² *Id.* at 2.

¹³ *Id.*

¹⁴ *Id.* at 6-7.

¹⁵ *Id.* at 6.

¹⁶ See March 8 Ex Parte at 2 and March 11 Ex Parte at 2.

¹⁷ As of October 2018, Metro by T-Mobile operated approximately 758 non-exclusive authorized dealers. Examples of these dealers include:

Authorized Retailer	Address	Secondary business type	Business type source:
Mr. Electronics	8505A 4th Ave, Brooklyn, NY	Electronics store	See Google Street View
B. J. PROFESSIONAL SERVICES, INC.	6017 W Belmont Ave, Chicago, IL	Independent retailer	See Google Street View
Choice Products and Services Inc.	3540 W Broadway, Council Bluffs, IA	Gas station	See Google Street View
Smoker Friendly Hayward	24068 Grand St, Hayward, CA	Tobacco	See Google Street View
Mary's Jewelry	1003 Lincoln Ave, San Jose, CA	Jewelry	See Google Street View

Iowa alone, seven out of the current 37 Metro by T-Mobile locations are non-exclusive authorized dealers.¹⁸ In sum, T-Mobile provides no evidence to justify its gutting of iWireless’ “store within a store” authorized dealers’ construct.

Further, T-Mobile’s response misleadingly suggests that iWireless’ retail footprint was significantly smaller than what we reported. For example, they claim that “23 of the 27 iWireless authorized dealer stores remain in business as independent retailers or have become Metro authorized dealers.” iWireless’ former president also reported to the Commission that iWireless only had 27 corporate stores and 27 authorized dealer locations.¹⁹ CWA’s assessment is based on a list of 129 iWireless retail locations retrieved by data aggregator AggData on October 1, 2017 from the iWireless’ website, just a few days after T-Mobile announced the acquisition on September 26, 2017.²⁰ Evidence of iWireless’ larger retail footprint is also provided in T-Mobile’s press release announcing the acquisition, which stated that iWireless had 103 corporate stores and authorized dealers, and in internal business documents.²¹ When T-Mobile claims that iWireless only had 27 authorized dealers, it is only referring to the authorized dealers that remained in business at the end of the transition period around late June 2018, almost seven months after the transaction closed.²² As we explained in our report, however, iWireless and T-Mobile started terminating authorized dealers in late 2017.²³

T-Mobile claims that it has aggressively expanded its retail footprint in Iowa since the transaction. However, T-Mobile fails to mention that there are no T-Mobile-branded stores outside the state’s urban areas, and the handful of rural Metro by T-Mobile stores are located in bigger rural communities, such as Muscatine and Mason City, which have a population of 24,000 and 27,000 residents respectively, and not in the small and isolated communities that iWireless used to serve, such as Rock Rapids and Tipton, which have a population of 2,500 and 3,200 residents respectively.²⁴ Physical retail is a key aspect of wireless access, which is why T-

Placerville Check Cashing & Wireless	1440 Broadway, Placerville, CA	Payday loan center	See Yelp profile
--------------------------------------	--------------------------------	--------------------	----------------------------------

In addition, Metro by T-Mobile also has over 200 payment centers at Amscot locations. Amscot provides financial services, including check cashing, bill payment, and payday loans.

¹⁸ Metro by T-Mobile data retrieved in January 2019. Locations listed as non-exclusive dealers include: 1) 3138 Sunnyside Ave, Burlington, IA; 2) 110 W Main St, Washington, IA; 3) 510 B Ave, Kalona, IA; 4) 3540 W Broadway, Council Bluffs, IA; 5) 200 N Main Ave, Sioux Center, IA; 6) 125 W K St, Forest City, IA; 7) 1710 Lincoln Ave Ste E, Spirit Lake, IA.

¹⁹ See March 8 Ex Parte at 2. See also Declaration of James Craven Shumaker in March 11 Ex Parte at 2.

²⁰ Available at <https://www.aggdata.com/aggdata/complete-list-i-wireless-locations>.

²¹ See T-Mobile’s iWireless acquisition press release. “T-Mobile to Acquire Remaining Interest in Iowa Wireless from Aureon,” September 26, 2017. See also TMUS-FCC-00848042 (internal business document showing the number of iWireless retail locations in operation prior to the completion of the acquisition by T-Mobile in January 2018).

²² CWA reviewed AggData’s list of iWireless stores listed on iWireless’ website as of October 1, 2017 and identified 28 stores that would be closing in August 2018, which is approximately the same number of authorized dealers T-Mobile claims iWireless had. Multiple former authorized dealers interviewed by CWA reported that they received a termination letter on or about late June 2018.

²³ See Disrupting Rural Wireless at 9.

²⁴ Population figures from U.S. Census, 2013-2017 American Community Survey 5-Year Estimates.

Mobile's strategy of focusing retail almost exclusively in the state's urban areas resulted in the retention of only 22 percent of iWireless' customers.²⁵

Instead of responding to the substance of CWA's assessment, much of T-Mobile's response is focused on attacking iWireless' network, including calling the small, rural carrier a "failing company stuck in 2G and 3G," and pointing to T-Mobile's alleged network investments.²⁶ At no point has CWA made any claims regarding iWireless' network, so these arguments are merely efforts to distract from the substance of our findings. Furthermore, T-Mobile's supposed network investments did not preclude T-Mobile from working with iWireless' authorized dealers to continue serving customers in rural communities.

CWA's Job Loss Estimates. T-Mobile fails to refute CWA's well-documented projections that the merger will result in substantial job losses and it does not make a credible case for retaining two prepaid brands if the merger with Sprint were to take place.

T-Mobile disputes CWA's estimate of 30,000 job losses, including 11,800 job losses from prepaid retail consolidation (not 13,000, as T-Mobile incorrectly claims in its March 11 ex parte), but fails to make a credible case for retaining two prepaid brands that directly compete for the same customers.²⁷ Metro by T-Mobile and Boost Mobile's retail stores are highly concentrated in similar areas of the country, and are often located very close to each other. Our analysis of Boost Mobile and Metro by T-Mobile store locations data finds that half of all Boost Mobile stores are located less than one-third of a mile from the closest Metro by T-Mobile store and 75 percent of Boost Mobile stores are within eight-tenths of a mile from the closest Metro by T-Mobile.²⁸ T-Mobile claims that it plans to retain both Metro by T-Mobile and Boost Mobile because each brand allegedly caters to different customer segments, but it has provided no evidence supporting this claim, no commitments about how long the prepaid brands will remain separate, no commitments to renew dealer agreements, no indication of the marketing budgets, discounting strategies and corporate structures that would allow the brands to continue to compete for customers effectively.

Finally, T-Mobile disingenuously picks and chooses when to include "direct internal" and "direct external" jobs in its employment claims, conveniently ignoring the critical role of authorized dealers in both T-Mobile's and Sprint's operations. T-Mobile claims that CWA's 30,000 job-loss estimate is not credible because it represents the number of employees Sprint has today.²⁹ This claim demonstrates T-Mobile's disingenuous cherry-picking when it comes to direct and indirect employment, choosing to support its arguments with "direct internal" employment figures when it needs to support a claim with a smaller employment figure, such as

²⁵ iWireless used to have approximately 75,000 customers. T-Mobile only retained approximately 17,000 of those customers: "As a result of the acquisition of IWS, we included an adjustment of 13,000 branded postpaid phone and 4,000 branded prepaid IWS customers in our reported subscriber base as of January 1, 2018." See T-Mobile Q1-2018 Form 10-Q. Available at: <https://www.sec.gov/Archives/edgar/data/1283699/000128369918000026/tmus03312018form10-q.htm>.

²⁶ John Legere testimony at the U.S. House of Representatives, Communications & Technology Subcommittee on the T-Mobile and Sprint Merger, February 13, 2019. See March 8 ex parte at 1-2 and March 11 ex parte at 2-3.

²⁷ See Reply Comments of Communications Workers of America, WT Docket No. 18-197, at 5 (filed October 31, 2018); See also March 11 Ex Parte at 6.

²⁸ CWA analysis of store location data collected from MetroPCS and Boost Mobile's websites in May 2018.

²⁹ See March 11 Ex Parte at 5.

the example provided in the March 11 ex parte. However, many of the Applicants' claims of post-merger job growth come from "direct external" employment, which Applicants define as those jobs that perform core functions but are outsourced to dealers and contractors. For example, consider the Applicants' claim that the New T-Mobile will add 5,000 new jobs from rural store expansion, even though T-Mobile and Sprint expect that about 80 percent of new rural stores will be operated by authorized dealers.³⁰ According to CWA's analysis, approximately 84 percent of T-Mobile and Sprint's postpaid and prepaid retail stores and 74 percent of their current retail staff are "direct external" workers employed through authorized dealers.³¹

Labor market impact of the proposed merger. T-Mobile objects to the Economic Policy Institute/Roosevelt Institute study on the economic impact of the proposed T-Mobile/Sprint merger.³² Specifically, T-Mobile takes issue with the difference between the labor market definition used in the source papers to estimate the effect of concentration on earnings and the labor market definition used in the application of that relationship to retail wireless labor markets.

As the attached Declaration from study author Marshall Steinbaum demonstrates, the three source papers use a variety of labor market definitions that are both broader and narrower than the retail wireless labor market used in the T-Mobile/Sprint application.³³ As Steinbaum notes, the specifications selected from these three papers were chosen to be closest to the retail wireless labor market used in the T-Mobile/Sprint study.

Indeed, as Steinbaum notes, "[t]he fact that the specifications used are, in general, wider than the retail wireless labor market weights the likelihood *against* finding anti-competitive effects of the merger in those labor markets." If the labor market definition in the source papers are "very broad" as claimed by T-Mobile, then the models "should understate the negative effect of changing concentration on worker earnings."³⁴ Thus, "[t]he use of specifications with a broader market definition from the source studies as opposed to the retail wireless labor market is a conservative modeling choice, likely to under-predict the effect of changes in concentration

³⁰ See T-Mobile and Sprint, Description of Transaction, Public Interest Statement, and Related Demonstrations, WT Docket No. 18-197, June 18, 2018, at 68.

³¹ This estimate assumes that T-Mobile and its authorized dealers employ eight employees per postpaid store and three employees per prepaid store. Based on postpaid store counts retrieved on February and March 2019, and prepaid store counts retrieved in October 2018. Postpaid store count used in calculation is 9,202, with approximately 59 percent operated by authorized dealers; prepaid store count 15,176, with approximately 99 percent operated by authorized dealers.

³² See March 11 Ex Parte at 3-5. See also 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>; Ex Parte Letter from Debbie Goldman, Communications Workers of America, to Marlene H. Dortch, WT Docket No. 18-197 (March 1, 2019).

³³ Benmelech, Efraim, Nittai Bergman, and Hyunseob Kim. 2018. "Strong Employers and Weak Employees: How Does Employer Concentration Affect Wages?" *NBER Working Papers*, no. 24307 (treats individual firms as labor markets); Azar, José, Ioana Marinescu, and Marshall Steinbaum. 2017. "Labor Market Concentration." *NBER Working Papers*, no. 24147 (Includes not only occupationally-defined labor markets, but also specifications in which job titles define labor markets. For example, retail wireless store managers and line workers would work in two separate labor markets.). See also Rinz, Kevin. 2018. "Labor Market Concentration, Earnings Inequality, and Earnings Mobility." CARRA Working Paper no. 2018-10.

³⁴ See March 8 Ex Parte at 2.

on earnings.” In other words, the criticism leveled by T-Mobile actually shows that the study makes conservative assumptions.

Lastly, since the completion of this study, several other economic papers have shown a relationship between higher employer concentration in a labor market and lower earnings of workers in that market, including loss of earnings for workers after hospital mergers in local labor markets.³⁵

Wireless Worker Signatures. T-Mobile questions the legitimacy of the petition submitted by CWA. But its evidence does not support its conclusion. CWA concedes that the submitted list inadvertently included 12 duplicate names and several incomplete fields, including some with only initials for the first or last names, thus bringing the total number of signatories to approximately 800. T-Mobile does not dispute the validity of those 800 names.

Labor Violations. T-Mobile objects to CWA’s portrayal of T-Mobile as a company with a long history of labor violations.³⁶ Specifically, T-Mobile objects to CWA’s mention of Unfair Labor Practice (ULP) charges against T-Mobile. CWA agrees with T-Mobile that the quantity of filings by itself is not dispositive, and, in fact, there were many more than 40 unfair labor practice charges *filed* against T-Mobile.³⁷ To be clear, CWA was referring to the approximate number of charges filed against T-Mobile that were determined to be *meritorious* by either the National Labor Relations Board (NLRB) Regional Directors, the NLRB Administrative Law Judges, the NLRB Board members, and/or the courts, all of whom found T-Mobile responsible for having violated the National Labor Relations Act (NLRA).³⁸ While T-Mobile may take issue with our use of the term “guilty,” it does not dispute that T-Mobile has been found on repeated occasions of having violated the law.³⁹

Moreover, we strongly object to T-Mobile’s contention that the matters to which we refer wherein T-Mobile was found to have violated the NLRA only involve policies that did not affect any employee. First, the cases regarding its unlawful policies, such as one which prevented T-Mobile workers nationwide from talking with one another about wages and working conditions, which is the most substantive right that workers have under the NLRA, certainly affected T-Mobile workers by squelching rights that are protected under U.S. labor law. Secondly, the

³⁵ See Berger, Daniel, Kyle Herkenhoff, and Simon Mongey. 2019. “Labor Market Power.” Working Paper; Prager, Elena, and Matt Schmitt. 2018. “Employer Consolidation and Wages: Evidence from Hospitals.” Working Paper; Qiu, Yue, and Aaron Sojourner. 2019. “Labor Market Concentration and Labor Compensation.” Working Paper.

³⁶ See March 11 Ex Parte at 5-6.

³⁷ As to the comparison that T-Mobile makes regarding the number of unfair labor practice charges filed against CWA, AT&T and Verizon, we reiterate that it is not the number of charges filed, but rather the number that are deemed to have merit, and, further, it must be expected that more NLRB charges would be filed against unionized entities since bargaining unit workers are much more empowered and educated about their rights in the workplace. See Case Search Page, National Labor Relations Board, available at <https://www.nlr.gov/search/cases> (last accessed March 20, 2019).

³⁸ Merit determinations are initially made by the NLRB's Regional Directors. When charge allegations are found to have merit, the charged party is given an opportunity to settle the matter before the Region issues a complaint. If the charged party agrees to settle the matter and the Regional Director approves such settlement, the case will be closed after full compliance with the settlement agreement. In fact, more than 90% of meritorious unfair labor practice charges are settled in this manner.

³⁹ While we are not dealing with criminal matters, the term “guilty” is defined as being responsible for grave misdoing, which certainly describes T-Mobile’s conduct.

determinations that T-Mobile unlawfully interrogated, surveilled, threatened, isolated and retaliated against workers because of their union and protected concerted activities, including through discipline and discharge, as well as its unlawful assistance and support of an employer-dominated union, have detrimentally affected worker empowerment and union support.

T-Mobile attempts to sidestep its own egregious labor history by referring to the number of NLRB charges filed against CWA. However, T-Mobile fails to recognize that the bulk of those charges were not considered meritorious charges by the NLRB.⁴⁰ CWA stands by its analysis that T-Mobile has more unfair labor practice charges per employee than other large non-union companies exposed to worker organizing, such as Walmart and McDonald's.

Sincerely,



Debbie Goldman
Telecommunications Policy and Research Director
Communications Workers of America

Attachment:

Declaration of Marshall Steinbaum

cc: David Lawrence
Jim Bird
Joel Rabinovitz
Monica DeLong
Chris Smeenk
Aalok Mehta
Bill Dever
Charles Mathias
Catherine Matraves
Max Staloff
Kirk Arner
Aleks Yankelevich
Umair Javed

⁴⁰ Most of the ULPs against CWA that the NLRB deemed without merit involved a grievant who objected to CWA's determination regarding grievance processing.