

April 16, 2019

VIA ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street SW
Room TWA325
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:

In its March 22, 2019 submission,¹ the Communications Workers of America (“CWA”) backtracks on its prior statements concerning T-Mobile US, Inc.’s (“T-Mobile”) acquisition of Iowa Wireless (“iWireless”), fails to respond to critical facts about the jobs-positive effect of the merger between T-Mobile and Sprint Corporation, and attempts to introduce new misrepresentations into the record.

CWA’s Flip-Flops on iWireless. T-Mobile submitted evidence refuting CWA’s false claims of job losses following the iWireless acquisition.² In response, CWA now abandons its argument that the iWireless acquisition is relevant to the FCC’s review of the employment effects of the Sprint/T-Mobile merger. CWA maintains it “did not make any claims about massive job losses resulting from the iWireless transaction.”³ This statement plainly mischaracterizes what T-Mobile previously said.⁴ And CWA simply ignores that it previously cited the acquisition of iWireless as “a much more recent and informative example to assess the

¹ Letter from Debbie Goldman, Telecommunications Policy and Research Director, Communications Workers of America, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 18-197 (filed Mar. 22, 2019) (“CWA Reply Letter”).

² See Letter from Trey Hanbury, Counsel to T-Mobile US, Inc., to Marlene H. Dortch, Secretary, FCC, WT Docket No. 18-197, Attachment A: Declaration of James Craven Shumaker (filed Mar. 11, 2019) (“T-Mobile Reply Letter”).

³ CWA Reply Letter at 2 (“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.”).

⁴ Compare CWA, *Disrupting Rural Wireless: How A T-Mobile Takeover Harmed Consumers and Small Businesses in Iowa*, at 9 (Feb. 2019), attached to Letter from Debbie Goldman, Telecommunications Policy and Research Director, Communications Workers of America, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 18-197 (filed Mar. 1, 2019) (“Lastly, dozens of iWireless dealers lost an important revenue stream and source of foot traffic, which in some cases forced them to lay off workers”) (“*Disrupting Rural Wireless*”) with T-Mobile Reply Letter at 2 (citing *Disrupting Rural Wireless* at 13) (“CWA misleadingly claims that T-Mobile’s 2018 acquisition of iWireless, a small Midwestern wireless operator with 289 employees, forced businesses to lay off workers.”).

job effects of the proposed transaction⁵ than the MetroPCS acquisition, which saw enormous job gains following the 2013 acquisition.⁶

In another instance of revisionism, CWA now says that it never “made any claims regarding the iWireless network,”⁷ and thus any arguments regarding network quality are not germane to “the harm that transaction had on rural customers.”⁸ But even a cursory review of the union’s public statements reveals CWA claimed that “iWireless service plans were less expensive and higher quality than T-Mobile’s plans.”⁹ CWA is wise to walk away from its earlier claims. The truth is that T-Mobile is investing more than \$70 million to build out and upgrade its Iowa network to improve wireless service and lay the groundwork for 5G across Iowa, including the rural customers that CWA claims were harmed by the transaction. The LTE coverage maps provided in the T-Mobile Reply Letter illustrate the network improvements T-Mobile has already made and demonstrate even more improvements throughout 2019.¹⁰

In addition to walking away from its own false messaging, CWA also attacks statements nobody ever made. For example, CWA claims T-Mobile “misleadingly suggest[s] that T-Mobile does not utilize the ‘store within a store’ retail model.”¹¹ T-Mobile never made any such claim, which may explain CWA’s conspicuous failure to provide a citation. Rather, the T-Mobile Reply Letter made the simple point that T-Mobile sought to avoid *iWireless*’s “store-within-store” model “[d]ue to inconsistent customer service and unpredictable costs.”¹² Indeed, many iWireless stores were located in businesses like pawn shops and hardware stores, and these businesses did not close following the transition to T-Mobile. More importantly, the relative merits of the store-within-store retail model have no bearing on whether iWireless’s locations were capable of meeting T-Mobile’s high standards for customer service.

CWA’s Consultant Ignores the Fatally Flawed Labor Market Definition. In his reply declaration,¹³ CWA’s consultant continues to defend the implausible conclusion that the merger would depress the wages of retail wireless workers. As T-Mobile pointed out, the only way to reach this result is by defining the labor market so narrowly that it would effectively assume that wireless retail employees cannot seek employment outside of the wireless retail market. That conclusion defies common sense to anybody with a passing familiarity with the service economy.

⁵ Comments of Communications Workers of America, WT Docket No. 18-197, at 57-58 (filed Aug. 31, 2018) (“CWA Comments”); *see also* Reply Comments of Communications Workers of America, WT Docket No. 18-197, at 8-9 (reiterating that the iWireless acquisition is “a more appropriate case study” in determining the employment effects of the acquisition).

⁶ Reply Comments of T-Mobile US, Inc. and Sprint Corporation, WT Docket No. 18-197, at 116-17 (filed Sept. 17, 2018).

⁷ CWA Reply Letter at 5.

⁸ *Id.* at 1.

⁹ *Disrupting Rural Wireless* at 2.

¹⁰ T-Mobile Reply Letter, Attachment B.

¹¹ CWA Reply Letter at 3.

¹² T-Mobile Reply Letter at 2.

¹³ CWA Reply Letter, Declaration of Marshall Steinbaum.

The relevant labor market is actually quite large and fluid. According to the Bureau of Labor Statistics, the 6-digit Standard Occupational Classification category that represents “Retail Salespersons” (41-2031) includes 4,448,120 employees.¹⁴ To circumvent this obvious fact, CWA’s consultant uses a labor market definition that includes approximately 220,000 employees,¹⁵ or about one twentieth the size of the labor market for Retail Salespersons. CWA’s consultant even assumes that the North American Industry Classification System industry code 443142, “Electronics Stores,”¹⁶ which had a total national labor force of 432,901 employees in September 2018, was too broad.¹⁷

The net effect is that the EPI Study’s labor market definition excludes virtually the entire service sales sector and approximately half of electronics retailers, many of which (e.g., Best Buy and Apple) offer wireless service plans. The EPI Study is also wholly inconsistent with real-world hiring in the wireless retail market. For example, approximately two-thirds of T-Mobile’s retail employees reported that their previous employer was not AT&T, Verizon, Sprint, or T-Mobile.¹⁸ T-Mobile retail employees come from a diverse array of American employers, which includes Home Depot, Wells Fargo, LA Fitness, and Best Buy. Moreover, because wireless carriers do not establish wages at independently owned and operated retailers, claims of labor market monopsony are even further overstated; even within the wireless sector, there are many employers, not just a handful. In his response, CWA’s consultant fails to address these glaring conceptual errors even though his report explicitly concedes that too narrowly defining the relevant labor market would cast doubt on the entire study’s conclusions.¹⁹

CWA Claims It Didn’t Mean “Unfair Labor Practice Charges” When It Said “Unfair Labor Practice Charges.” CWA has repeatedly claimed that T-Mobile is a serial violator of the National Labor Relations Act because CWA has filed a large number of unfair labor practice (“ULP”) charges against T-Mobile.²⁰ Now that T-Mobile has shown that CWA received more than 15 times as many ULP charges as T-Mobile over the same time period, CWA seems to

¹⁴ *Occupational Employment and Wages, May 2018: 41-2031 Retail Salespersons*, Bureau of Labor Statistics, <https://bit.ly/2YXGQhW> (last modified Mar. 29, 2019).

¹⁵ See Adil Abdela and Marshall Steinbaum, *Labor market impact of the proposed Sprint–T-Mobile merger*, Economic Policy Institute, at 8 (Dec. 17, 2018), available at <https://bit.ly/2D4BW9J> (“EPI Study”) (“The labor market definition used here is by commuting zones and by retail employment by the merging parties, their prepaid affiliates, and their wireless competitors, including both corporate-owned and authorized-dealer stores.”); *id.* at 5 (“Researchers at Change to Win (2018) estimate total retail employment among AT&T, Verizon, Sprint, T-Mobile, and their prepaid affiliates (including both corporate stores and authorized dealers) is currently approximately 220,000.”).

¹⁶ *2017 NAICS Definition: 443142 Electronics Stores*, United States Census Bureau, available at <https://bit.ly/2uXVQ1I> (last visited Apr. 16, 2019).

¹⁷ See *Quarterly Census of Employment and Wages: Private, NAICS 443142 Electronics stores, All Counties – 2018 Third Quarter, All establishment sizes*, Bureau of Labor Statistics, available at <https://bit.ly/2l9vrXi> (last modified Sept. 5, 2018).

¹⁸ The prior employment data presented here summarizes self-reported information by T-Mobile retail store hires submitted between January 1, 2014 and January 30, 2019.

¹⁹ EPI Study at 19 (conceding that “if we have defined labor markets incorrectly, then there may be greater elasticity of labor supply in response to increased market concentration (as we measure it) than there was in the samples of markets used by the studies we rely on”).

²⁰ See CWA Comments at 68.

have dropped its past claims.²¹ CWA now says that, despite repeatedly and explicitly referring to “[ULP] charges” against T-Mobile as defined by the National Labor Relations Act,²² CWA actually meant “*meritorious*” ULP charges.²³ CWA’s latest “correction” to the attention-grabbing falsehoods presented throughout the proceeding does not last long: the very next sentence of the CWA Reply Letter reverts back to the claim that T-Mobile has more “[ULP] charges per employee than other large non-union companies exposed to worker organizing.”²⁴ CWA provides no analyses or facts to support this claim. Nor does CWA acknowledge its novel qualifier of a “non-union compan[y] exposed to worker organizing.”²⁵ CWA does not explain its vague and expansive qualifier, much less provide any support for its latest assertion.²⁶ In any event, CWA has failed to demonstrate any merger-specific connection between these false allegations and the Commission’s review of this transaction.²⁷

T-Mobile Is a Great Place to Work. T-Mobile consistently receives multiple Best Place to Work awards annually. For example, the company was recently named as one of the 100 Best Places to Work in the US by Fortune Magazine;²⁸ as number 19 in the 25 Highest Rated Companies for Vacation & Paid Time Off by independent, employee crowd-sourced Glassdoor;²⁹ and the only wireless company in Glassdoor’s best places to work.³⁰ Ethisphere Institute also named T-Mobile one of the World’s Most Ethical Companies each year for the past ten years.³¹ Both employees and outside organizations across the country have concluded that T-Mobile is a terrific place to work.

²¹ See T-Mobile Reply Letter at 8.

²² 29 U.S.C. §§ 158, 160.

²³ CWA Reply Letter at 8.

²⁴ *Id.* (emphasis added).

²⁵ Compare CWA Reply Letter at 8 (“more [ULP] charges per employee than other large non-union companies exposed to worker organizing”) with Letter from Debbie Goldman, Telecommunications Policy and Research Director, Communications Workers of America, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 18-197, at 3 (filed Feb. 27, 2019) (“more [ULP] charges per employee than any other large company”).

²⁶ One explanation is that CWA selectively excluded unionized shops because CWA is bound to provide AT&T with “support before appropriate regulatory and legislative bodies.” Bill McMorris, *Tlaib Spearheads Anti-Sprint/T-Mobile Merger Campaign*, WASHINGTON FREE BEACON (Mar. 2, 2019), <https://bit.ly/2ushSJK>. Indeed, AT&T has more than 1,100 ULP charges against it between 2011 and 2018. This may also explain CWA’s pattern of behavior in this proceeding more generally.

²⁷ It is well established that merger review is limited to “consideration of merger-specific effects.” See, e.g., *Applications for Consent to the Transfer of Control of Licenses from Comcast Corporation and AT&T Corp., Transferors, to AT&T Comcast Corporation, Transferee*, Order, 17 FCC Rcd 22633 ¶ 11 (2002).

²⁸ *100 Best Companies to Work For 2019*, FORTUNE, <https://bit.ly/2qfAMU8> (last visited Apr. 16, 2019).

²⁹ *25 Highest Rated Companies for Vacation & Paid Time Off*, Glassdoor (July 7, 2018), <https://bit.ly/2eKpFMq>.

³⁰ *2019 Best Places to Work Employees’ Choice*, Glassdoor, <https://bit.ly/2UFcx0o> (last visited Apr. 16, 2019).

³¹ *Ethisphere Recognizes 128 World’s Most Ethical Companies for 2019*, Ethisphere (Feb. 26, 2019), available at <https://bit.ly/2GYfgLG>.

Making T-Mobile a great place to work means taking care of the T-Mobile team, and T-Mobile provides some of the best employee benefits in the industry. For example, T-Mobile fully covers the bill for tuition at five online universities and provides tuition assistance for other schools for both full- and part-time employees.³² T-Mobile also provides financial and wellness support to help reduce the burdens associated with childcare and other family-related issues.³³ T-Mobile also has committed to providing jobs and training to those who serve our country, and the company has pledged to hire 10,000 veterans and military spouses by 2023.³⁴ New T-Mobile employees will receive benefits that are the same as or better than what they currently receive through T-Mobile or Sprint.

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CWA's latest letter continues its campaign of half-truths, unsound methodology, and outright misrepresentations in this proceeding. Based on CWA's track record here and elsewhere,³⁵ the Commission should not give CWA's assertions any weight.

This letter is filed pursuant to section 1.1206(b) of the Commission's rules governing *ex parte* communications. Please direct any questions regarding this submission to me.

Respectfully submitted,

/s/ Trey Hanbury

Trey Hanbury
Counsel to T-Mobile US, Inc.

cc: Jim Bird
David Krech
Catherine Matraves
Linda Ray
Kathy Harris

³² T-Mobile, *Careers: Culture and Benefits*, <https://t-mo.co/2G4zMc6> (last visited Apr. 16, 2019).

³³ *Id.*

³⁴ T-Mobile, *Community: Military*, <https://t-mo.co/2G2ukq6> (last visited Apr. 16, 2019).

³⁵ See T-Mobile Reply Letter at n.35 (providing a brief overview of the numerous incorrect jobs claims made by CWA).