



May 16, 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:

The Communications Workers of America (CWA) submits this brief reply to T-Mobile's letter dated April 16, 2019.<sup>1</sup> When T-Mobile doesn't like the message, it tries to shoot the messenger. Rather than respond to the merits of the points CWA raised in its letter dated March 22, 2019,<sup>2</sup> the company dodges the issues, creates strawmen, and makes baseless credibility arguments. As it has done throughout this proceeding, T-Mobile uses highly inflammatory language to try to vilify those who bring forward facts it does not like.

CWA has shown that the proposed merger, in addition to being anticompetitive and presumptively illegal, is likely to result in the elimination of a significant number of U.S. jobs and the shuttering of numerous retail locations.<sup>3</sup> Common sense suggests as much. But CWA has gone further, and has modeled post-merger store closures using a methodology that tracks T-Mobile's own real-world retail location decisions.<sup>4</sup> CWA has also studied what happened

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<sup>1</sup> Letter from Trey Hanbury, Counsel to T-Mobile US, Inc. to Marlene H. Dortch, Secretary, FCC, WT Docket No. 18-197, April 16, 2019 ("T-Mobile April 16 Letter").

<sup>2</sup> Letter from Debbie Goldman, CWA Telecommunications Policy and Research Director, WT Docket No. 18-197, March 22, 2019 ("CWA March 22 Letter").

<sup>3</sup> CWA Comments, WT Docket No. 18-197, August 27, 2018; CWA Reply Comments, WT Docket No. 18-197, Oct. 31, 2019; CWA Comments on Applicants' New Econometric Study, Dec. 4, 2018; CWA Comments on Applicants' Revised Network Combination Plan and Economic Analysis and "New T-Mobile In-Home Internet," March 28, 2019.

<sup>4</sup> CWA Comments, pp. 54-65 and Appendix D; CWA Reply Comments, pp. 2-13.

recently to rural consumers in Iowa following T-Mobile's acquisition of iWireless – a real-world example from a recent transaction that suggests T-Mobile has little interest in rural America.<sup>5</sup>

***T-Mobile continues to misrepresent CWA's analysis of the impact on consumers and small businesses of the iWireless transaction.*** T-Mobile's April 16 letter continues its attempt to deflect attention from the real impact of its iWireless acquisition by changing the subject from retail access to network quality.<sup>6</sup> Contrary to T-Mobile's claim, CWA's research on the iWireless transaction did not purport to assess the quality of iWireless' network. Rather, CWA focused on the shutdown of 86 percent of retail outlets after the acquisition, and the decision to open zero T-Mobile-branded locations outside the state's urban areas.<sup>7</sup> In addition, the CWA report found that iWireless customers prior to the transaction had access to unlimited wireless service plans that were 23 percent cheaper than equivalent T-Mobile offerings, and had no data throttling or video quality limits, both of which were present in the T-Mobile plans.<sup>8</sup> At the time, iWireless and T-Mobile had mutual roaming agreements, meaning that iWireless customers already had access to the T-Mobile network and vice-versa.<sup>9</sup> In fact, when T-Mobile communicated with iWireless and T-Mobile customers about the shutdown of the iWireless network and transition to T-Mobile, the company went to great lengths to assure iWireless customers that they could "stay on the same awesome network," which was also a "network you already know and love," and to inform T-Mobile customers that they were "already roaming on the iWireless network" and that they would experience "the same great coverage [they have] always experienced in Iowa."<sup>10</sup> These statements to customers do not appear consistent with T-Mobile's newfound conviction that iWireless was a "failing company stuck in 2G and 3G."<sup>11</sup>

***Labor market impact of proposed merger.*** In its April 16 letter, T-Mobile again complains that the labor market definition used in the EPI/Roosevelt Institute analysis of the potential wage impact of the merger is overly narrow, claiming that the paper assumes that "wireless retail employees cannot seek employment outside of the wireless retail market."<sup>12</sup> CWA thoroughly responded to this critique in our March 22, 2019 letter.<sup>13</sup> In that letter, we emphasized that the EPI/Roosevelt report explicitly states that "while it is likely that workers

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<sup>5</sup> CWA Letter to Marlene Dortch, Secretary, FCC, WT Docket No. 18-197, March 1, 2019, Appendix A: *Disrupting Rural Wireless: How A T-Mobile Takeover Harmed Consumers and Businesses in Rural Iowa* ("Disrupting Rural Wireless").

<sup>6</sup> T-Mobile April 16 Letter, p.2.

<sup>7</sup> *Disrupting Rural Wireless*, pp.3-4.. See also CWA March 22 Letter, pp. 1-5 (for a detailed response to T-Mobile's earlier critique of the i-Wireless report).

<sup>8</sup> *Disrupting Rural Wireless*, p.12.

<sup>9</sup> Sean Kenney, "iWireless partners with T-Mobile for nationwide roaming," *RCR Wireless News*, Dec. 21, 2015 <https://www.rcrwireless.com/20151221/carriers/iwireless-partners-with-t-mobile-us-for-nationwide-roaming-tag17>; T-Mobile website, accessed April 24, 2019, via <https://www.t-mobile.com/customers/iowa-wireless-service>

<sup>10</sup> T-Mobile website, accessed April 24, 2019, via <https://www.t-mobile.com/customers/iowa-wireless-service>

<sup>11</sup> John Legere Testimony, U.S. House of Representatives, Communications & Technology Subcommittee Hearing, "Protecting Consumers and Competition: The T-Mobile and Sprint Merger," February 13, 2019.

<sup>12</sup> T-Mobile April 16 Letter, pp.2-3.

<sup>13</sup> CWA March 22 Letter, pp. 6-7.

outside the retail wireless sector might apply for jobs in that sector, employers nonetheless have a significant amount of unilateral power to set wages.”<sup>14</sup> Furthermore, as the authors explain in the original paper, recent research has found that labor markets can be defined even more narrowly than in this case, down to job titles and even individual firms “without finding substantially different results in terms of the magnitude of the estimated earnings elasticity to measured concentration.”<sup>15</sup> Thus, T-Mobile’s methodological concerns were clearly addressed in the original analysis, and confirmed in our March 22 letter. The report’s analysis found that increased concentration in the retail wireless market that would result from reducing the number of national retail wireless employers from four to three will result in annual earnings declines of as high as \$3,726 (or \$520 under the smallest-magnitude specification.)<sup>16</sup>

***T-Mobile History of Labor Law Violations.*** Because T-Mobile cannot defend its record of repeated violation of labor law,<sup>17</sup> it tries to confuse the Commission by claiming that it has “shown” that CWA received “15 times as many ULP [Unfair Labor Practice] charges as T-Mobile over the same period.”<sup>18</sup> The record shows nothing of the sort. CWA conducted its own search of the National Labor Relations Board (NLRB) database in an attempt to replicate T-Mobile’s outrageous assertion.<sup>19</sup> We were unable to do so. However, we researched a random sample that included 120 ULP charges listed between 2011 and August 2018 on the NLRB database with CWA as the “charged party.” We found:

- 110 of the 120 (91 percent) of the cases had nothing to do with CWA as an employer.
  - 90 involved “duty of fair representation” charges.<sup>20</sup> Of these, the NLRB Regional Director found 82 to have no merit, 3 were resolved by informal settlement, and 5 were withdrawn with adjustment.
  - 20 involved union-related topics, such as membership and union dues.
- Only 10 cases were filed against CWA in its capacity as an employer
  - The NLRB Regional Director found that 9 were no merit
  - 1 was resolved by informal settlement.

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<sup>14</sup> Adil Abdela and Marshall Steinbaum, *Labor market impact of the proposed Sprint–T-Mobile merger*, Dec. 17, 2018, p.9 attached to CWA Letter to Marlene Dortch, Secretary, FCC, WT Docket No. 18-197, March 1, 2019, as Appendix C). See also CWA March 22 Letter, pp. 6-7 and attached Declaration of Marshall Steinbaum.

<sup>15</sup> *Labor market impact of the proposed Sprint–T-Mobile merger*, p 9.

<sup>16</sup> *Id.*, p.1.

<sup>17</sup> See CWA Comments, pp. 68-69.

<sup>18</sup> T-Mobile April 16 Letter, p. 3. See also T-Mobile March 11 Letter, pp.5-6 (claiming that “the National Labor Relations Board’s (‘NLRB’) database shows that more than 700 such charges have been filed against CWA during this same period.”) Since the T-Mobile citation is to CWA Comments dated Aug. 27, 2018 referencing T-Mobile Unfair Labor Practice charges dating from 2011, CWA presumes but cannot confirm that T-Mobile’s citation covers the period from 2011 through Aug. 2018.

<sup>19</sup> The NLRB case database is available at <https://www.nlr.gov/search/cases>.

<sup>20</sup> A union has the legal obligation to provide “fair representation” to all workers in a collective bargaining unit represented by the union regardless of union membership. Typically, “duty of fair representation” charges are filed by a worker who disagrees with the union’s grievance handling. Workers who do not have union representation at work, of course, do not file “duty of fair representation” charges.

CWA represents 700,000 workers in thousands of bargaining units. Yet, according to our sampling of the NLRB database for the years 2011 through mid-2018, the NLRB Regional Directors found only one meritorious charge involving CWA as an employer, which represents 0.8 percent of the 120 ULPs in the sample.

In contrast, T-Mobile has been found guilty of violating U.S. labor law by administrative law judges, the NLRB, and/or the DC circuit six times since 2015, including illegally spying on union activists, violating free speech rights at work, and prohibiting an employee from discussing the investigation of her sexual harassment complaint with co-workers.<sup>21</sup>

CWA consistently fights to save U.S. telecommunications jobs, bring telecommunications jobs back to the U.S., and raise wages and improve working conditions for all telecommunications workers. We do this because we are a union of workers, with democratically elected leadership from shop stewards to the national president, accountable every single day to the members. The end result is a worker organization capable of raising questions about complicated corporate transactions like the T-Mobile/Sprint merger, which we estimate will result in the loss of 30,000 U.S. jobs and lower wages for workers in the wireless retail market.<sup>22</sup>

Sincerely,



Debbie Goldman  
Telecommunications Policy and Research Director  
Communications Workers of America

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

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<sup>21</sup> CWA Comments, pp. 68-69 (with citations to each case).

<sup>22</sup> CWA Reply Comments, pp. 4-5; *Labor market impact of the proposed Sprint-T-Mobile merger*.