**Federal Communications Commission Senator Charles Schumer Senator Kirsten Gillibrand**

Re: WT Docket No. 18-197 322 Hart Senate Office Bldg. 478 Russell Senate Office Bldg.

Filed electronically at: Washington, D.C. 20510 Washington, D.C. 20510

http://apps.fcc.gov/ecfs

I am simultaneously submitting this letter to the FCC as part of their review of the proposed merger between Sprint and T-Mobile, and to the two senators from my home state of New York to address my concerns about the lack of fairness and transparency in the wireless industry. In your own ways, each of you can play a critical role in changing the way wireless companies operate in the United States.

I have been a cell phone “hobbyist” for the past 30 years, and it is my observation that over the last decade the wireless companies in the United States have achieved an effective stranglehold over American consumers. In addition, the competition amongst the wireless providers is not always fair and honest competition that benefits consumers -- rather, each of the “Big 4” wireless companies engage in activities that are not consumer friendly.

Looking at the business and pricing practices over the last 15 or more years reveals a distinct pattern of the wireless companies following each other’s actions. While the carriers would like to call that “competition”, a large number of those me-too movements have resulted in consumers paying more and/or receiving less services. Examples include plan design changes, removal of unlimited data options, etc. All of these moves have been carefully thought out with a singular goal in mind – to **increase the key Wall Street metric** for the wireless industry, commonly referred to as Average Revenue Per User (ARPU).

Also adding to their profits, in recent the wireless companies have gone “contract free”, and tout this as a benefit to consumers. The end result is that most consumers’ bills have increased after adding in the portion of the equipment installment plan charges for device purchases that were previously subsidized by the carriers. The reality is that removing up-front phone subsidies benefitted the carriers, who are required to account for these subsidies as a GAAP expense when the device is sold. While some carriers now offer monthly bill credits to promote certain devices, customers are clearly paying more for their devices than they previously did, and monthly service charges haven’t decreased by nearly enough to offset the lost equipment subsidies. The end result has been a price increase for most customers, disguised as a consumer benefit.

Despite now paying the full price for their phones, the vast majority of the devices sold by the carriers are software locked to a particular network and/or have software tweaks that prevent the device from working with other networks. By paying full retail price, it’s only fair that consumer be able to take their device to any carrier they want, and have reasonable expectations that the device will fully function on that network. The carriers will argue that they need customized software for their networks, but every iPhone since LTE became available installs the carrier settings automatically based on which carriers SIM card is inserted (it is my understanding that Samsung has also recently adopted a similar approach for their flagship devices). In addition, most carriers impose large, poorly advertised and communicated fees that can add 20% or more to the advertised prices they promote. Each of these issues are addressed in the following sections of this letter.

**Incompatible Devices**

In addition, each of the wireless carriers uses their purchasing power to have devices customized for their networks. While they claim this benefits the customer’s user experience, what quite often happens is the manufacturers will customize the device so that it will not be fully compatible with any other network (as noted above, Apple is the exception to this rule as their carrier customizations are both limited and automatically updated based on the SIM card). More insidiously, many manufacturers sell a nearly identical device under a different name (with a different plastic shell) to each carrier. In some cases, it is the same exact device with the same name (e.g., Samsung Galaxy 8, LG G6, etc.), but with different software. Since the carrier specifies which frequency bands it requires, the unfortunate result in many cases is that the carrier specific version of the device will support ONLY the carrier’s own frequency bands and will not support most of the frequency bands used by other US carriers. It is important to note that the US is virtually the only country where most devices sold don’t work on all of the networks of the country, and that practice needs to end.

**Carrier Locked Devices**

All carriers in the US, with the exception of Verizon postpaid devices (Verizon locks their prepaid devices), currently “lock” the devices they sell to their own network, encumbering them from being activated on another network. The technical term for this is “mobile subsidy locking”, but with the vast majority of mobile devices being sold with minimal (or no) upfront carrier subsidies, these locks only serve to prevent consumer choice. In particular, locking device to a particular carrier imposes additional restrictions on products in an unprecedented act that transcends any type of fair competition. For all intents and purposes, buying an item on credit should not result in an additional restrictions or encumbrances of the product.

**Absurd Fees**

Lastly, wireless carriers add an inordinate amount of fees to their bills, often made to look like taxes. They now separate the carrier-imposed fees from the taxes, but they do not include these fees in their advertised prices. For example, my family plan is $120/month, but there are an additional $23 of fees that get added, not including the actual federal/state/local taxes. These fees add nearly 20% to my bill, which makes the telecommunications industry one of the worst offenders in adding fees to cover the overhead of their businesses.

All of the above practices exist today, and the proposed merger between T-Mobile and Sprint would serve to further reduce consumer choice. While T-Mobile has grown in recent years, unfortunately Sprint’s failure to make smart investment decisions and build out their network has reduced its ability to continue on its own (even with the backing of Softbank). While I would strongly prefer that Sprint not be acquired by any of the other legacy carriers, there are a limited number of companies that would be able to effectively make Sprint a formidable competitor, and none such entity has come forward despite the recently announced Sprint/T-Mobile merger being known for some time now. As such, a Sprint/T-Mobile merger would seem to be a forgone conclusion.

**It’s time for a Wireless Customer Bill of Rights:**

Given the dependence American citizens have on their wireless service, and the enormous power the wireless companies yield, it’s time for a mandated wireless customer bill of rights. While the following is far from an exhaustive list, it is my firm belief that fairer competition will be fostered if consumers are provided the following:

1. **Device Compatibility:** All devices with an MSRP of $129 or more must support the primary bands and VoLTE specification of all carriers in the US. The list of primary bands shall be updated periodically, but as of the date of this letter the primary LTE bands would consist of Bands 2,4,5,12,13,17,25, 26, 29, 30, 66 and 41. In addition, the CDMA/WCDMA bands used for non-LTE service for each of the primary carriers shall be supported. Smartphones at this price-point with these features exist today (many of the Amazon Prime unlocked devices meeting this criteria).
2. **Eliminate Carrier Subsidy Locking**: All devices sold at 50% or more of MSRP shall not be subsidy locked; for this purpose, carrier arranged financing or monthly bill credits shall not count as a subsidy. Devices sold for less than 50% of MSRP may be temporarily locked but shall be permanently unlocked after 6 months of paid service, with such unlock to be happen automatically (if unlocking cannot be done automatically, customers shall be provided via email and/or text message information so they can manually unlock the device once the 6-month term is completed).
3. **Consumer Freedom of Choice:** All wireless carriers shall be required to activate any device capable of using one or more frequencies utilized by the carriers. This will allow customers to activate any capable device on any network, without restriction. While Verizon’s Band 13 agreement with the FCC currently requires this, Verizon still precludes certain capable devices from being activated (e.g., iPhone 7/7S purchased from AT&T/T-Mobile with the non-Qualcomm chipset). Similarly, no carrier shall in any way encumber any device from being activated on another network, including a mobile virtual network operator (MVNO) – Sprint is notorious for flagging devices that are or were previously used on a Sprint subsidiary from being used on any other Sprint network provider (e.g., it is very difficult to get a Boost phone activated on Sprint without finding someone in the right department at Sprint who can actually override the flag) – for all intents and purposes, Sprint treats their subsidiary MVNOs like separate carriers that compete with each other.
4. **Full Price Transparency:** All wireless carriers must include all fees in all advertised prices, so that customers can make a fair comparison of carrier pricing and understand the true pricing of their plan. Advertising a price and adding 20% or more in carrier imposed fees is simply disingenuous.

**How to Get the Carriers to Adopt the Wireless Bill of Rights:**

The wireless industry has countless lobbyists who will undoubtedly oppose these 4 tenets. Noentheless, the industry is keen to acquire more spectrum, and my person opinion is that until these key criteria are adopted, a carrier should not be permitted to participate in any further wireless spectrum auctions. In addition, anti-trust approval for any mergers in the wireless industry should also be conditioned on agreeing to the above criteria.

I appreciate and applaud your efforts to ensure consumers are treated fairly and honestly by the wireless companies.

Sincerely,

Craig Rosenthal

17 Lety Lane, Montebello, NY 10901

crosenthal@netzero.net