

Petition to Deny Merger Qualified Opposition to Merger

Console Enterprises is a small business, located in Chico, California. Today Console Enterprises (hereafter, Console), is focused on developing 5G rural and mobile broadband solutions for the Small Office & Home Office “SOHO” market segments.

We are submitting a petition to deny the transfer of licenses and assets from Sprint to T-Mobile, and block the merger from transacting. In the alternative, are asking the Commission to consider and potentially seek considerations, as well as specific commitments from the parties, that would protect consumers and small innovators alike, if it chooses to permit the merger.

Console is a very small business with less than ten employees. Pursuant to 47 CFR 1.3 and 1.1206, the Commission is allowed to accept less-formal petitions and motions (such as from small businesses) when warranted. We thank the Commission in advance for reviewing this petition, considering the limited resources our company has. This document was drafted by engineers, building real-world products today, not lawyers.

Pursuant to this, our petition’s subsequent motions and responses may be limited to analysis and remarks following any replies Sprint and T-Mobile may offer. We respect that the Commission will take it for what it is, a small business asking the merger to not happen in its current form.

We look forward to reviewing Sprint and T-Mobile’s responses - and ask the Commission to balance them with the public’s interests - alongside other consumers and small businesses that have already expressed comments objections and, clearly, share these same concerns.

Console’s *Ex Parte* Interest in This Merger

Console is engineering 4G LTE and 5G NR home internet routers and solutions, as well as IoT solutions in the fields of Connected Car, Personal Computing, and Computer Entertainment.

Our company is evaluating entering the MVNO market with hardware solutions we have been engineering, specifically to better provide rural broadband to rural Americans.

Our Petition

Console objects to the Sprint and T-Mobile merger in general because it will critically stifle competition in the wholesale 4G and 5G markets. The amazing landscape we have achieved today in this industry, one that pioneered the iPhone and Android right here in America, was done with four national carriers.

Specifically, this merger likely will greatly stifle competition for unlimited (*or, uncapped, speed-rated*) data solutions in use-cases beyond standard smartphones and tablets. We are directly concerned about this merger’s impact to broadband home and office internet over 4G and 5G, as well as its impact on IoT solutions - including consumer solutions such as infotainment in automotive, AR, and VR segments.

We believe that Sprint and T-Mobile could accommodate and address these concerns to our satisfaction, and to the Commission's. After reviewing present public-facing documentation by Sprint and T-Mobile, however, our concerns remain.

Below we raise our concerns and objections in-depth.

Last year's sudden industry shift, removing all public-facing, standalone unlimited data solutions for home internet - And a failure to fully address this concern by Sprint and T-Mobile for rural customers

In the fall of 2017, there were unlimited data solutions - for home internet use - available from at least three of the four national Tier 1 wireless providers. AT&T, Sprint, and T-Mobile all offered unlimited data solutions that provided end users the ability to get unlimited home internet service. T-Mobile specifically did that with its One+ International unlimited tethering offering, whereas Sprint and AT&T offered physical hotspots and routers, with unlimited data.

Today, no national carrier offers unlimited data for home internet use without severe speed restrictions or data caps. All three carriers noted above, have pulled these offerings from the market, and replaced them with capped, small data allocations, often times costing more their previously-unlimited solutions (as in the case of Sprint and AT&T).

Importantly, two of these three carriers that had offered such solutions - suddenly retracted them, as late as this month (in the case of T-Mobile) and are now seeking to merge.

In fact, the only first-party solution today for 4G LTE Home Internet that is unlimited, and meets the old definition of "broadband" set forth by the FCC (of 5 Mbps), is Verizon's prototype Visible prepaid service - which is currently an invite-only offering. And tellingly, Verizon has not committed to offering unlimited data for home internet in the future on that - noting that it is "for the time being" during testing.

Verizon themselves have intercepted some home internet solutions potentially, violating consent decrees, such as in FCC Enforcement Bureau case 16-242 *Nguyen v. Verizon* - which has been ongoing for over two years now, without resolution. Meanwhile, rural America sits without viable solutions.

Our reason for bringing this petition before the Commission could not better be underscored, but by this objection. Already, we have seen in a one year period, that the carriers have removed effectively all standalone, first-party unlimited data home internet solutions from the market. Reducing the number of national carriers from four to three will only embolden the carriers to limit these solutions - hurting rural America.

Both Sprint and T-Mobile today have loosely/effectively claimed that this merger is the best option for rural America. Console is extremely skeptical of these claims. However, it is telling that both carriers withdrew from offering standalone unlimited data home internet, and yet refuse to assure the Commission and the public that it will not return if approved.

We ask if the Commission decides to let the merger go forward, that it seek firm commitments from Sprint and T-Mobile to resume offering unlimited data home internet solutions for both first-party, and a la carte in the wholesale/MVNO market segments - without access restrictions for resale or managed service use cases.

Sprint and T-Mobile's considerable vagueness in addressing impacts to the IoT market segment - and its intention to address wind-down of CDMA and migration to 5G NR

Assuming Sprint and T-Mobile merge, the networks will combine two technologies that do not align technically - CDMA/EVDO and UMTS/HSPA. This is unique amongst Tier 1 wireless providers today.

As we saw with the Sprint merger with Nextel, there were considerable issues and problems in winding down the Nextel (iDEN) network that led to widespread consumer frustration. Today, Sprint has positioned itself as a CDMA IoT platform, including targeting customers that are migrating from Verizon's CDMA network, set to sunset at the end of next year.

It remains unclear to Console how long the combined company would continue to operate its CDMA network. While the shift to 5G NR is inevitable, we do seek clarity on how long this legacy network would continue to operate, should the companies merge. The continued operation of CDMA on 1900 MHz spectrum adds additional complexities that will impact the IoT market - but at the same time - shutting it down immediately after merging network cores, would leave many IoT customers without service. This would have a disparate and significant impact on IoT customers.

Finally, while Sprint is not the largest player in rural America, Sprint's 3G CDMA voice network and extended agreements with other carriers are used regularly there. Rural consumers deserve a sunset plan for understanding how they will be rebanded to LTE, and potentially a coordination plan for rural customers in those markets during rebanding, as 1900 MHz CDMA is reformed for LTE or NR use.

Sprint and T-Mobile likely could continue to operate as viable competition, if the merger was denied

While few have questioned T-Mobile's viability today, much attention has been made about Sprint and its ability to continue to function viably in the marketplace. Softbank, Sprint's majority shareholder need only complete its commitments to the Trump Administration, in our view, to remain viable.

Over the past year, Sprint has greatly accelerated technologies that would maintain its viability. Deploying HPUE - a power enhancement to its high-frequency spectrum - has greatly improved coverage. Sprint is expected to ship, later this year, a new version of its Magic Box technology that will combine large-scale local coverage enhancements with anticipated femtocell technology.

Combined with Sprint's anticipated rollout of VoLTE in September, Sprint's chronic coverage issues should largely be resolved by the end of the year. Indeed, Sprint claims only a "one percent difference in coverage" - and these new deployments of VoLTE and a new generation of Magic Box will remediate greatly its rural coverage issues.

Console is confident that T-Mobile and Sprint would remain viable operations without merging. Even if not, other companies would likely partner with one or the other company, maintaining a four carrier competitive landscape - should the need arise in the future. As such, we feel any of the two carrier's claims that their merger is essential to advance the nation's wireless landscape, lack merit.

Sprint and T-Mobile's commitment to first-party home internet solutions lacks specifics

In various regulatory filings, Sprint and T-Mobile have committed to offering a \$60 per month home internet solution, using their combined - un-launched 5G network. The only major specifics that the combined proposed company have provided, is that it would potentially require customers to maintain mobile phone service with the company - and that it would be capable of supplying both internet as well as T-Mobile's planned television offerings.

This is an important part of Sprint and T-Mobile's public interest justification for this merger. However, we are seriously concerned about the extent of their proposal, and the reduced competition that the merger would cause in this area.

We ask the companies to provide more specifics as to this proposed solution. Would this solution have data limits? What definition of "broadband" service would it utilize? Would it be uncapped and unthrottled? Or would it be subject to a speed limit or data cap? If so, what would those limits generally be? Would viewing T-Mobile's television service be "zero-rated" or perform better than other solutions?

While it is significant that the two companies have committed to such a solution, it is extremely unclear to us how that service would work - or if it would even benefit rural consumers.

Today, for comparison Verizon's lone unlimited data solution for home internet (Visible prepaid) is speed-limited to 5 Mbps, which is even questionable as to if it meets modern standards for broadband connectivity. 5 Mbps performs slower than most maximum speeds for rural ADSL and ADSL2 connections, which generally range from a maximum speed of 6 Mbps to 20 Mbps.

Finally, consistent with our first objection/reason, T-Mobile and Sprint have left completely unanswered as to if they will allow for resale or MVNO solutions that parallel or mimic this planned offering. As discussed in-depth in additional objections below, many rural families would need such a solution to be available to rural solutions providers.

A general lack of MVNO commitments from Sprint and T-Mobile to ensure continued competition in the market segment

In addition to rural broadband, there are other key considerations for the MVNO marketplace and landscape that Console feels should be brought before the Commission for consideration.

Specifically, new device types and designs that the market cannot foresee, often rely on IoT pricing and solutions.

Today, the four national carriers provide sufficient competition for new solutions to negotiate with all four carriers - and seek a market price. Console is seriously concerned that the reduction from four carriers to three, will greatly restrict the ability for small businesses and startups to enter this market easily.

We ask the Commission to weight the necessity of this merger, as argued by both companies, with the potential solutions that Sprint and T-Mobile have to resolve this concern. This includes potentially publishing market wholesale and IoT pricing online and, for example, committing to "take all comers" in terms of wholesale access in small groups, such as 100 accounts or more.

It is not our goal to dictate how Sprint and T-Mobile should operate their IoT lines of business. Our objection to this merger, in this regard, is asking the FCC to raise these concerns, and navigate if the potential reduction in national carriers warrants additional considerations in terms of requiring minimum sales standards for wholesale market segments - that would welcome and grant small startups access to these networks for new, innovative solutions.

The lack of commitment to wholesale unlimited data solutions - And the necessity for wholesale solutions in closing the rural broadband gap

Rural broadband has historically been handled by small businesses, that regionally specialize in deploying to far-out customers. This particularly occurred in the early days of DSL - where DSL providers typically allowed for wholesale access by rural small businesses. These small businesses could roll out service trucks, and directly support customers within the range of their employees.

Later this was eventually opened to national providers, companies like Earthlink and NetZero, which were instrumental in maximizing DSL solutions for those unaware or incapable of doing necessary market research. They, in turn, worked with small businesses who then deployed to those customers.

With wireless home internet key to closing the rural broadband gap today, this need is only going to be magnified. No national carrier has the resources to roll out service trucks to each home in rural America, in order to deploy fixed wireless antennas, calibrate signal boosters and amplifiers - as well as provide on-site support for individual consumers, and their devices, in these remote and rural locations.

Sprint and T-Mobile's merger will have a serious and critical impact on this important solution and offering. Today, small businesses can competitively solicit and target four national carriers, comparing three other national carrier's home internet and solutions. This has led to reseller and MVNO partnerships, including under T-Mobile and Sprint. This includes operations and companies such as Unlimitedville and 4G Antenna Shop.

Our primary concern to this merger is that with only three carriers, no operation will commit to wholesale deployment and resale (MVNO solutions) for unlimited home internet going forward.

To be perfectly clear, Console is not seeking any specific consideration or treatment (positive or negative) for our company. Instead, we are seeking Sprint and T-Mobile's combined commitment, if they were to merge, that they will offer unlimited data wholesale, MVNO, reseller, and managed service solutions for home internet and rural broadband to all viable local and national small-to-midsize business participants in this space.

Without such an MVNO solution in rural broadband, Console is seriously concerned that rural America will be unable to access affordable broadband by the local businesses that would be capable of deploying, billing, and supporting these solutions.

Conclusion

For the reasons above, we ask Sprint and T-Mobile to provide greater responses and address the concerns we have raised in this petition, and ask the Commission to deny the merger, as it does not serve the public interest.

However, at the same time, we hope that Sprint and T-Mobile can and will remediate their proposed merger, with answers and sufficient redress to address our concerns, at which time we would withdraw our petition.

Finally, we again thank the Commission for reviewing this extensive petition, which after reviewing all filings in the docket thus far, is unique to this process from a small business.

/s/ Christopher Price

Christopher Price
CEO, Console Enterprises