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September 30, 2019

Scott Scheele
Chief, Telecommunications and Broadband Section
Antitrust Division
U.S. Department of Justice
450 Fifth Street, N.W.
Suite 7000
Washington, DC 20530

Dear Chief Scheele:

Pursuant to the Tunney Act, and your office's solicitation of written public comments concerning the proposed settlement and divestiture requirement between the Department of Justice and Attorneys General for five states with T-Mobile U.S., Inc. (hereinafter "T-Mobile") and Sprint Corporation (hereinafter "Sprint") in their proposed merger, the Center for Individual Freedom (hereinafter "CFIF") hereby submits its Comment in support of the proposed settlement.¹

CFIF is a non-profit, non-partisan organization with over 300,000 grassroots supporters and activists across the United States. CFIF was established in 1998 for the purpose of safeguarding and advancing constitutional rights, as well as ensuring continued American innovation, prosperity, leadership, entrepreneurship and worldwide technological preeminence. As a central part of that mission, CFIF advocates for public policies that advance internet, technological and broadband development most freely, effectively and efficiently. On that basis, CFIF respectfully urges swift approval of the proposed merger between T-Mobile and Sprint.

As an initial matter, it is vital to frame the appropriate levels of scrutiny and burdens of proof in analyzing the issues underlying the proposed merger. In a free society and market economy, mutual agreements between willing private parties merit respect from reviewing authorities. Indeed, federal law directs executive agencies to "encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans."²

Accordingly, where the petitioning parties demonstrate that their proposal would serve the "public interest, convenience, and necessity," authorities should refrain from needless and

¹ 15 U.S.C. § 16.

² See, e.g., 47 U.S.C. §706.

harmful disruption and interference.³ Authorities' assessment should be measured and evidence-reliant.

In the instant matter, the parties' proposed merger promises a wealth of expected consumer benefits by enhancing the array of services to be made available relative to today's availability, as well as in the realm of jobs created and the benefit to the American economy more broadly.

The fifth generation ("5G") of wireless technology constitutes a central advance in the technology industry, not only because it offers faster wireless capability, but also because it opens the door to new applications of technology on the cutting edge of scientific advance.

As just one prominent example, consumers using 5G will be able to download full-length, high-definition films in a matter of seconds rather than drawn-out minutes. Through its lower latency - and therefore higher responsiveness - along with enhanced capacity, more devices will be able to connect to a single cell. As a result, the proliferation of household "smart" devices and appliances, and the "internet of things," will proceed exponentially.

Achieving 5G functionality will also require private infrastructure investment, which means billions of dollars of investment, and the countless new jobs required to build it.

All told, CTIA estimates that the 5G conversion will result in connection of one hundred times as many devices as currently, at speeds one hundred times faster, with a reduction to response times that are one-tenth of today's.⁴

Moreover, CTIA estimates that execution of the transition will mean \$275 billion in new investment, and nearly double that amount - \$500 billion - in additional economic growth. CTIA also estimates that the transition will support three million new jobs domestically, 800,000 of those in the critical construction sector.

The proposed T-Mobile/Sprint merger will accelerate and strengthen that transition. Rather than conceptualizing the merger as reducing the number of major market carriers from four to three, it is more accurate to recognize it as enlarging the number of major participants from two to three. Verizon, the largest carrier, counts approximately 151 million total subscribers, and AT&T, the second-largest, counts approximately 142 million. Those numbers dwarf T-Mobile's approximately 73 million subscribers and Sprint's approximately 54 million. By combining, the merged entities would compete more evenly with the two dominant market players.⁵

³ 47 U.S.C. §310(d).

⁴ CTIA, April 2018, "The Global Race to 5G," ¶10.

⁵ *FierceWireless*, May 30, 2017, "In 2017, How Much Low-, Mid- and High-Band Spectrum Do Verizon, AT&T, T-Mobile, Sprint and Dish Own, and Where?" <https://www.fiercewireless.com/wireless/2017-how-much-low-mid-and-high-band-spectrum-do-verizon-at-t-t-mobile-sprint-and-dish-own>.

Additionally, Verizon and AT&T currently claim substantially higher levels of low-band and mid-band spectrum than T-Mobile or Sprint, meaning that they possess a marked network quality advantage.⁶

Accordingly, a more appropriate examination of the current market reveals that the proposed merger is more accurately conceptualized as a two-to-three increase than as a four-to-three decrease. Thus, the completed merger will result in tighter market competition because the two largest wireless entities will be forced to contend with a new rival more equal to their respective sizes. The increase from two dominant competitors to three will benefit consumers through lower prices, better performance and more extensive private investment.

More specifically, economists estimate that the result from the additional competition by a third major market competitor will be a cost decrease of 55% per GB for consumers, and a 120% increase in cellular data availability.⁷

The merging companies' differing but complementary assets will create a symbiotic network with enhanced capacity, wider coverage and more effective wireless performance than currently exists. With T-Mobile's nationwide 600 MHz spectrum and Sprint's 2.5 GHz spectrum, the nation's highest-capacity network suddenly becomes possible. By 2024, it is expected that the new network will possess nearly double today's total capacity, as well as three times the total 5G capacity that T-Mobile and Sprint could achieve independently, and 5G speeds between four and six times what they could reach acting independently.⁸

In contrast, the absence of a T-Mobile/Sprint merger would thus mean slower deployment of a 5G nationwide network, as well as the absence of a larger-scale market competitor. Consumers would stand to suffer under that hypothetical circumstance.

The proposed merger would also inure to the benefit of the United States economy more generally.

To wit, T-Mobile expects to invest \$40 billion over the next three years to integrate the merging companies and introduce 5G capabilities. In turn, that investment means tens of thousands of new jobs created. According to estimates by NERA Economic Consulting, the proposed merger will generate 24,960 new jobs between 2019 and 2023 alone, including high-paying engineering and construction positions.

T-Mobile expects to create 3,625 new full-time positions in 2019 alone, compared to the companies' current standalone expectations. It further expects to open some 600 retail centers and five new customer care centers in rural areas and smaller population towns, which will create 12,400 new jobs by 2021. Another 7,500 new customer care jobs will exist by 2024 compared to the number of employees needed in the absence of a merger.

⁶ *Id.*

⁷ David S. Evans, Market Platform Dynamics, "Economic Analysis of the Impact of the Proposed Merger of T-Mobile and Sprint on the Deployment of 5G Cellular Technologies, the 5G App Ecosystem, and Consumers, Enterprises, and the Economy," Appx. G, Section V.C., ¶¶220-44.

⁸ T-Mobile US, Inc., June 18, 2018, "Description of Transaction, Public Interest Statement, and Related Demonstrations," <https://www.sec.gov/Archives/edgar/data/101830/000119312518197185/d503704d425.htm>.

Accordingly, the available evidence thus suggests that the proposed merger will not only benefit consumers through greater innovation, a more effective nationwide 5G network and increased infrastructure investment, it will also result in significant job creation and economic growth.

III. Conclusion

For the reasons set forth herein, CFIF and its 300,000 activists and supporters urge swift approval of the proposed merger between T-Mobile US, Inc., and Sprint Corporation.

Respectfully submitted,

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