

October 11, 2019

Mr. Scott Scheele
Chief, Telecommunications and Broadband Section
Antitrust Division, U.S. Department of Justice
450 Fifth Street NW, Suite 7000
Washington, D.C. 20530
Via e-mail to: scott.scheele@usdoj.gov

RE: *Tunney Act comment on the T-Mobile – Sprint merger proposed settlement*

Dear Mr. Scheele,

As stated in our letter to the Federal Communications Commission of October 31, 2018, the National Hispanic Caucus of State Legislators (NHCSL) supports the proposed merger of T-Mobile and Sprint (New T-Mobile).¹ We believe that the merger will generate material economic and educational benefits for the Hispanic-American community by improving broadband access and digital literacy. We believe the proposed settlement addresses some residual concerns we had previously identified and therefore support its enforcement.

NHCSL is a non-partisan, non-profit organization representing more than 400 Hispanic state legislators throughout the United States, Puerto Rico, and the U.S. Virgin Islands. Our primary mission is to organize Hispanic state legislators to better advocate on behalf of their constituents and Hispanic communities across the nation. In addition to our advocacy role, we provide leadership training and a forum for our members to collaborate and exchange information. Our efforts focus on advancements in education, healthcare, economic development, telecommunications and information technology, and employment and job training for the Hispanic community.

Broadband equity is a key policy issue for NHCSL and its constituents. In 2010, NHCSL released a landmark white paper studying the digital divide in the Hispanic community.² Our study showed that broadband adoption was far lower in Hispanic-American communities than in white or African-American communities. We also found that the lack of broadband access imperiled one's

¹NHCSL Letter regarding the Applications of T-Mobile US, Inc. and Sprint Corporation for Consent to Transfer Control of Licenses and Authorizations, Public Interest Statement, FCC WT Docket No. 18-197 (filed June 18, 2018) ("Public Interest Statement"), available at

<https://ecfsapi.fcc.gov/file/10311791322711/NHCSL%20letter%20re%20New%20T-Mobile.pdf>

² *Expanding Opportunities in the Hispanic Community: Solutions for Increased Broadband Access*, National Hispanic Caucus of State Legislators (2010) ("2010 White Paper") (<https://bloximages.chicago2.vip.townnews.com/nwitimes.com/content/tncms/assets/v3/editorial/7/16/71602168-fa39-5e13-80e0-a16bf9a7d2b9/4db74db1723f2.pdf>).



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health, finances, and ability to participate in modern society. As we noted at the time, “public and private investment is central to full digital inclusion through full access and adoption. Hundreds of billions of dollars are needed over the coming decades to upgrade and expand broadband networks and to enhance sustainable broadband adoption.”³

While many of these issues have improved in the last eight years, many remain salient as ever, and more investment in underserved communities continues to be a priority. In fact, wireless has become essential to Hispanics, 23% of whom tend to use it as their primary means to access the internet; more than any other group.⁴ Fortunately, New T-Mobile has stated that it plans to invest nearly \$40 billion to upgrade its nationwide network to 5G. And, because Americans of color are significantly overrepresented in T-Mobile’s customer base, much of that investment will directly benefit in communities of color.⁵ By combining the complementary spectrum sites and assets of Sprint and T-Mobile and investing in 5G infrastructure build-out to a greater extent than Sprint and the current T-Mobile would separately, New T-Mobile will help further bridge the digital divide by bringing underserved communities greater broadband coverage and quality of service.⁶ Its nationwide 5G network is slated to cover two-thirds of the U.S. population by 2020 and nearly 90% of the population by 2024.⁷

We are especially cognizant of New T-Mobile’s promises to use their low-band spectrum to improve connectivity in rural areas, which, along with the efforts of other industry members, is key to increasing the quality of life of America’s farmworkers, the vast majority of which are Hispanic.⁸ In communities without reliable access to high-speed broadband, NHCSL found in 2010 that citizens may not fully participate in the political process due to a lack of information about the issues being decided or the procedures for participation.⁹ And while connectivity may have markedly improved for younger urban Hispanics since then, older ones and those in rural areas still need more investment to fully enjoy the benefits of wireless.¹⁰ Civic engagement is a key benefit of broadband deployment, and NHCSL is on the front lines of informing, educating, and promoting the active participation of Hispanic Americans in the civic, political and electoral process. With New T-Mobile’s stronger network, more Americans of color will hopefully be able to meaningfully engage in civic participation than have up to this point.

We are not blind to the theoretical danger to competitive pricing of merging the third and fourth largest of the big four nationwide wireless carriers. But we take special note of the pricing

³ *Id.* at 8.

⁴ Pew Research Cntr., *Digital Divide Narrows for Latinos as More Spanish Speakers and Immigrants Go Online*, p. 15 http://www.pewhispanic.org/wp-content/uploads/sites/5/2016/07/PH_2016.07.21_Broadbank_Final.pdf

⁵ Public Interest Statements at 15.

⁶ *Id.* at ii, 65.

⁷ Public Interest Statement at 59.

⁸ Public Interest Statement at 65.

⁹ See *2010 White Paper* at 17; see also *Hispanics and the Future of America*, National Research Council Panel on Hispanics in the United States, NATIONAL ACADEMIES PRESS (2006).

¹⁰ Pew Research, *supra*, p. 7. See also, Yosief Getachew, et al., 5G, SMART CITIES & COMMUNITIES OF COLOR, pp. 19-20 (Joint Center for Political and Economic Studies, June 2017) at https://jointcenter.org/sites/default/files/Joint%20Center%205G%20Smart%20Cities%20And%20Communities%20of%20Color_Final%206.9.17.pdf

commitments that T-Mobile has made with the FCC.¹¹ And we believe that Sprint would not be able to effectively fund a competitive national 5G transition at a time when bandwidth is king.¹² This is particularly true given the recent revelations that much of Sprint's income has been illegally received from non-closed Lifeline accounts amounting to 30% of its Lifeline billing being fraudulent.¹³

We have consistently stated that because New T-Mobile will increase the total supply of cell sites and overall network capacity in the United States, mobile carriers will still be incentivized to competitive prices. And, as connectivity technologies converge and previously fixed-service-only providers move to provide wireless, we believe that competition, or at least the threat of meaningful competition, will also help keep consumer pricing in the current range or lower it.

We are especially heartened in this regard by the settlement's enforceable commitment that requires New T-Mobile to divest Sprint's prepaid business, including Boost Mobile, Virgin Mobile, and Sprint prepaid, along with certain spectrum assets, to Dish Network Corp., while making available to Dish at least 20,000 cell sites and hundreds of retail locations along with robust access to the New T-Mobile network for a period of seven years.

So, while we have never been as bullish on price reduction predictions brought on by the merger as the petitioners and certain economists were in their FCC filings,¹⁴ we believe it is likely that consumer pricing will at remain at least as competitive as it is today, even as we hope that it improves. That is particularly reassuring to wireless-dependent Hispanics and to Hispanic entrepreneurs, who are more likely than non-Hispanics to use the internet for marketing, public relations, and networking purposes.¹⁵

NHCSL's work with Verizon, AT&T, Comcast and Charter has taught us that good telecom corporate citizenship goes beyond pricing. We admire and are grateful for many of the non-pricing efforts those companies have made in diversity and inclusion with our communities and will expect the same or better from New T-Mobile.

T-Mobile has a strong history of diverse hiring, as evidenced by the numerous awards and recognitions the company has received for its commitment to diversity. T-Mobile has been named one of the "best employers for Latinos," and CEO John Legere was recognized as a top CEO for diversity.¹⁶ We are confident that New T-Mobile will work to internally increase and advocate for the hiring and promotion of Hispanics in the private sector. New T-Mobile has

¹¹ <https://ecfsapi.fcc.gov/file/10204163125179/Legere%20Pricing%20Commitment%20Letter%202002.01.2019.pdf>

¹² Public Interest Statement at 19.

¹³ Of course, we realize that T-Mobile had nothing to do with this issue.

¹⁴ Public Interest Statement at 51.

¹⁵ Parker Morse, *Six Facts About The Hispanic Market That May Surprise You*, Forbes (Jan. 9, 2018), <https://www.forbes.com/sites/forbesagencycouncil/2018/01/09/six-facts-about-the-hispanic-market-that-may-surprise-you/#3ba4640a5f30>.

¹⁶ Dixita Limbachia, *Top-rated CEOs for diversity: Leaders of T-Mobile, Intuit and HubSpot*, USA TODAY (June 6, 2018), <https://usat.ly/2sMdbJg>; Alan Goforth, *The Best Employers for Latinos 2018*, LATINO LEADERS (Feb. 28, 2018), <https://bit.ly/2MpSafY>.

committed to create thousands of new employment opportunities for Hispanic Americans.¹⁷ And NHCSL plans to hold it accountable to that commitment.

The quality of newly created opportunities for Hispanics is as important as the number of positions. New T-Mobile has been slated to feature at least one Hispanic board member, current Sprint Executive Chairman Marcelo Claure, who had a strong track record of C-suite diversity at Sprint, at a time when Hispanics are woefully underrepresented in corporate boardrooms, but who also allowed the Lifeline fraud to happen in his watch. We expect that, as part of accepting his new position, he will commit to specific plans and deliverables to improve services for the neediest. We will also push for the inclusion of another Hispanic in New T-Mobile's board of directors, especially one from a broader, non-industry, community leadership background. Both perspectives should help strengthen services to those most impacted by Lifeline. We hope that the number of Hispanic board members will only increase beyond that.

To underscore many of the above commitments regarding deployment and hiring, T-Mobile signed an extensive Memorandum of Understanding with the National Diversity Coalition that lays the groundwork for their implementation, particularly in California. We expect similar efforts nationwide. For Puerto Rico in particular, they are uniquely important now that AT&T has announced plans to sell, leaving New T-Mobile as the sole nationwide wireless carrier.

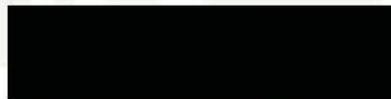
In summary, if all goes as planned, the merger of T-Mobile and Sprint will, on balance, improve the lives of our members' constituents and Hispanic-Americans and Americans of color across the United States, Puerto Rico, and the U.S. Virgin Islands by creating diverse jobs, stimulating the economy, and bridging the digital divide. We support the proposed settlement agreement.

Thank you for your consideration.

Respectfully submitted,



Senador Carmelo J. Rios Santiago
Majority Leader – Puerto Rico
NHCSL President



Kenneth Romero-Cruz
Executive Director



Representative Carlos Tobón
Rhode Island
NHCSL Vice President for Policy

¹⁷ Public Interest Statement at 68-69.