

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington D.C. 20554**

In the Matter of	)	
	)	
Applications of T-Mobile US Inc.	)	WT Docket # 18-197
and Sprint Corporation For Consent to	)	
Transfer Control of Licenses and Authorizations	)	

**COMMENTS OF MEDIA ALLIANCE**

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## **I – INTRODUCTION**

In response to the Federal Communications Commission's WT Docket # 18-197, Media Alliance submits these comments per the application to combine T-Mobile US Inc and Sprint Corporation, collectively “Applicants”.

Media Alliance is a Bay Area democratic communications advocate. Our members include professional and citizen journalists and community-based media and communications professionals who work with the media and on various digital and mobile platforms. The free flow of information across wireless networks and the affordability, reliability and ubiquity of mobile connectivity is crucial to their and our work. Citizen journalists, alternative outlets and community-based outreach workers have specific concerns about their ability to connect to their audiences and we write today to highlight those concerns in the context of this proposed merger.

## **II – THE PROPOSED MERGER INCREASES CONCENTRATION IN A HIGHLY CONCENTRATED MARKET**

The wireless marketplace, which provides mobile connectivity to the majority of the US population, is a highly concentrated market with four primary providers, namely AT&T, Verizon and the Applicants. There are no additional competitors of substance remaining in the United States marketplace.

In 2011, the Department of Justice (DOJ) concluded that further concentration in the marketplace would likely result in higher prices and decreased choices for consumers. There have been no new entrants into the marketplace, no significant changes in conditions, and no dramatic shift in the competitive landscape since that assessment. In fact, the wireless marketplace has seen more concentration with the absorption of Metro PCS (2013) into Applicant T-Mobile, and the absorption of Boost Mobile (2013) into Applicant Sprint. By traditional antitrust standards, an additional horizontal merger in an already highly concentrated market is concluded to be presumptively contrary to the public interest and conducive to anti-competitive activity that harms consumers. In the case of this particular price merger, likely impacts are greatly exacerbated by the transition of the #3 and #4 suppliers merging into a market leader and therefore losing existing incentives for maverick pricing strategies that have kept mobile pricing under some restraint. The loss of the two remaining providers incentivized to offer competitive pricing against the market leaders, is a concrete harm unlikely to be

ameliorated by merger conditions and likely to significantly damage the affordability, reliability and ubiquity of mobile platforms to our constituents and impair their ability to reach their audiences.

## **II – THE MERGER IS NOT NECESSARY TO SAVE SPRINT**

Applicants have made the case that merger approval should be forthcoming due to the impending failure of Sprint Corporation, whose imminent demise is predicted in order to dismiss anti-competitive concerns, ie it makes no difference since there will not be 4 primary carriers in the future marketplace regardless of whether the merger is completed or not. We would ask the Commission to exercise caution in accepting this line of reasoning. It is a familiar refrain as T-Mobile made the same claim eight years ago when it declared the impossibility of its survival without the completion of a merger with AT&T. However, T-Mobile has thrived and has, in fact, developed a loyal customer base due to numerous consumer-friendly initiatives including unlimited data plans, streaming packages and easier and more frequent upgrades, proving that competitive incentives (many matched almost immediately by applicant Sprint, and later by the market leaders) can and do directly benefit consumers and create a more vibrant marketplace. Sprint itself, apart from the context of the merger, has celebrated increasing financial health and stability, issuing a company press release in May of 2018 titled “Sprint Delivers Best Financial Results In Company History With Highest Ever Net Income And Operating Income In Fiscal Year 2017”.<sup>1</sup> This observation is not, in any way, intended to minimize the challenges Sprint may face if it goes forward as an independent player. All businesses must adapt to the market, make adjustments, and identify and execute successful business plans. But it should situate the Commission with the perspective that the merger must be assessed soberly as to whether the likely impacts are, in aggregate, beneficial to the public interest or harmful to the public interest. The full gamut of options available to the Commission a) merger approval b) merger approval with ameliorating conditions and 3) merger disapproval should remain on the table as viable options for the Commission's regulatory supervision with no apocalyptic invocations of doom.

## **III – THE PROPOSED MERGER WOULD RESULT IN MAJORITY CONTROL OF THE PREPAID MARKET**

One of the most directly anti-competitive impacts of the proposed merger lies in the prepaid niche where T-Mobile subsidiary Metro PCS and Sprint subsidiary Boost Mobile are the market leaders. The combined

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<sup>1</sup> <http://investors.sprint.com/news-and-events/press-releases/press-release-details/2018/Sprint-Delivers-Best-Financial-Results-In-Company-History-With-Highest-Ever-Net-Income-And-Operating-Income-In-Fiscal-Year-2017/default.aspx>

Metro-Boost entity would emerge from the proposed merger with dominant control over the prepaid market with over 60% of the market and a basically unfettered ability to raise prices and reduce choices for the most vulnerable and needy customers in the wireless market; those whose credit is inadequate to qualify for contractual postpaid service with the market leaders. They are, in the classic sense, the customers with nowhere else to go. Other entrants in the market are pre-emptively regional, not available in all sectors of the marketplace and lack brick and mortar service facilities.

Because wireless telephones have become a primary source of Internet connectivity for lower-income populations who often cannot afford wireline connections on a consistent basis, the hyper-concentration of one carrier dominance in the prepaid wireless market poses an existential threat to low-income Internet access. The Commission cannot rely on competitive forces to restrain price increases when there is little to no competition in effect and given the barriers to entry, no reasonable expectation of significant change. Of all of the concerns the merger raises, this particular spectre of complete market domination in the prepaid marketplace is one of the most clearly harmful impacts. For our constituencies that are trying to meet the information needs of poor and low-income communities and reach much of their audience through used and lower-priced smartphones and often use text messaging as an outreach mode, the prospect is completely terrifying. An unfettered price increase or the imposition of punitive data caps by the dominant prepaid carriers, Metro PCS and Boost, as a result of they no longer needing to compete against each other because they are the same entity, could cripple Internet connectivity for the poor, cutting them off services, connecting with friends and family, and information and entertainment resources they sorely need and depend upon.

#### **IV – THE MERGER IS DETRIMENTAL TO LIFELINE**

Applicant Sprint is a Lifeline provider via subsidiary unit Virgin Mobile, but in a merged entity with Applicant T-Mobile which does not service Lifeline customers and has made public statements to the effect that they believe the Lifeline program to be unsustainable and ineffective, it does not take a crystal ball to predict that long-term participation in the telephone subsidy program would be unlikely from the merged entity. We know the Commission itself has expressed mixed feelings about the Lifeline program and considered actions to cripple and restrict the program, but it remains Commission policy at this time and therefore the Commission must consider potential negative impacts on the program.

Those impacts are exacerbated by the potential of higher prices in the low-cost resellers marketplace as many of those companies participate in Lifeline using the Applicant's services, which again post-merger would lose the significant price restraints gained by competing against each other. Absent those competitive pressures, a merged entity with market dominance approaching 50% would likely see advantage in price increases, further weakening the Lifeline program as low-cost resellers pull out and widening the circle of negative repercussions for low income populations whose Internet connectivity is mostly or completely tied to wireless.

#### **V – 5G DEPLOYMENT IS NOT A PANACEA**

The primary assertion of the Applicants of a public interest benefit to the merger is a quicker, faster and more robust deployment of a 5G network. As other consumer advocates have detailed at length, and as both T-Mobile and Sprint executive management have assured their shareholders, 5G deployment is not contingent on the proposed merger as both Applicants have significant spectrum holdings, the intent and the opportunity to purchase more, and plans to deploy that predate the proposed merger.

But more to the point, while 5G will likely result in improved services to some customers, like 4G LTE before it, the hype is likely to exceed the reality. Years after the 4G revolution, service improvements have not reached many rural and low-density populations, and many wireless customers would be clueless if asked to define what they gained in a transition from 3G to 4G LTE or even when exactly it happened. As with any new technology, technical obstacles are significant and are not ameliorated by the merger as leafy foliage, low density housing, building penetration, and backhaul infrastructure issues are not magically disposed of by the Applicant's merging into one entity and the same limitations that have prevented ubiquitous FIOS and U-Verse deployment will similarly affect new deployments.

The merged entity may hope for greater financial resources for system investment as a result of the proposed merger, but if those greater financial resources are acquired by price increases to consumers in the postpaid and prepaid wireless marketplace, data caps, and merger efficiencies that cost 20,000 – 30,000 jobs as labor unions have predicted, then the projected economic benefits of 5G deployment will have significant collateral economic damages and damages concentrated on lower and middle class working Americans.

## VI – CONCLUSION

The Applicants proposed merger, which combines the #3 and #4 carriers in a highly concentrated wireless marketplace, introduces significant threats of anti-competitive behavior, potential negative impacts in the prepaid and subsidized marketplaces, and substantive job losses in exchange for public interest benefits that are, at best, speculative and that are likely to be accompanied by reduced choice and increased prices for the current customer base.

We believe that a thorough public interest analysis by the Commission will reveal several significant areas of concern that the Commission will have to address. If the Commission is unable to ameliorate these risks so that consumers are protected and cannot assure itself that significant public interests will directly accrue from the proposed merger, then it cannot allow the merger to proceed.

From our constituencies point of view, the maverick services provided by the Applicants including unlimited data plans at less than three figures a month, upgrades and contract free deals, affordable rates for low-cost resellers, Lifeline participation, and maintenance of affordable prepaid services, must remain intact in order to allow lower income communities to participate fully in digital life. The failure to maintain these opportunities will amount to a tacit exclusion from online society for many Americans, a hardening of the digital divide and an inability to better the lives of those not born with a silver spoon in their mouths. We cannot allow that to happen.

Respectfully submitted.

/s/ \_\_\_\_\_

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MEDIA ALLIANCE