

# United States Senate

WASHINGTON, DC 20510

May 23, 2019

The Honorable Ajit Pai  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, D.C. 20554

The Honorable Makan Delrahim  
Assistant Attorney General for the Antitrust  
Division  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

Dear Chairman Pai and Assistant Attorney General Delrahim:

We write to you regarding Chairman Pai's May 20, 2019 statement expressing his intention to recommend that the Federal Communications Commission (FCC) approve the proposed merger of T-Mobile US, Inc. (T-Mobile) and Sprint Corporation (Sprint).<sup>1</sup> As we outlined in detail in our previous letter, we are concerned that this four-to-three merger does not serve the public interest and would result in substantial anticompetitive effects, harming consumers, workers, and innovation.<sup>2</sup> Accordingly, we again urge both the FCC and the Department of Justice (Department) to reject this transaction.

We are aware of the proposed behavioral conditions that T-Mobile and Sprint have offered to the FCC as part of their efforts to gain regulatory approval of their market-consolidating merger,<sup>3</sup> but these commitments would not prevent the harms this transaction would produce. Among other issues, the behavioral conditions and voluntary commitments offered are filled with loopholes, lack meaningful enforcement mechanisms, and do not come close to ameliorating the negative effects that a reduction in wireless competition would cause for consumers across the country, including the wholesale and prepaid markets.

Additionally, the parties' submission includes a handful of vague promises. For instance, they commit to building out the 5G network in rural America, but it still falls far short. It fails to include a pledge to create jobs and opportunities for the ones that will be lost – a factor in the FCC's public interest determination as Commissioner Starks has recognized.<sup>4</sup>

Ironically, in his statement, Chairman Pai has endorsed a set of conditions that are almost entirely behavioral in nature and unrelated to any merger-specific harms – precisely the type of conditions which both of you have so strongly criticized in the past. In addition, we are concerned about the process by which these commitments came about – without any public input

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<sup>1</sup> Chairman Pai Statement on T-Mobile/Sprint Transaction, May 20, 2019, *available at* <https://www.fcc.gov/document/chairman-pai-statement-t-mobilesprint-transaction>.

<sup>2</sup> Letter to Chairman Pai by Senators Blumenthal, Klobuchar, Udall, Brown, Gillibrand, Warren, Sanders, Booker, and Markey, February 12, 2019.

<sup>3</sup> T-Mobile/Sprint Counsel filing May 20, 2019 Accessed here <https://newtmobile.com/wp-content/uploads/2019/05/FCC-Filing-May-20.pdf>

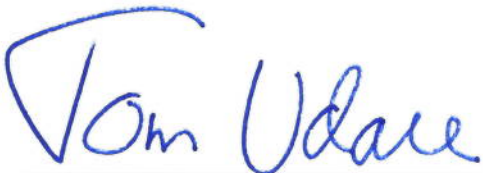
<sup>4</sup> The Kansas City Star, For Johnson County native and new FCC commissioner, jobs factor into Sprint merger, March 22, 2019, <https://www.kansascity.com/news/politics-government/article228280384.html>.

or visibility. We agree with Commissioner Rosenworcel that the FCC “should put them out for comment so the public can tell us just what they think about this new proposal.”<sup>5</sup> Therefore, we request that the FCC let in light on T-Mobile’s substantially revised merger plans and allow for a 30-day comment period so that interested parties may evaluate T-Mobile and Sprint’s proposals.

We note that Chairman Pai has expressed support for this merger subject to the behavioral conditions and voluntary commitments proposed by the Applicants and based on the public interest standard applied by the FCC. Even with the proposed behavioral conditions and voluntary commitments, the merger of T-Mobile and Sprint does not appear to be in the public interest, and we urge Chairman Pai to reconsider his support for the transaction.

The Department applies a different standard under section 7 of the Clayton Antitrust Act, which prohibits mergers that substantially lessen competition. The conditions proposed by the parties to the FCC do not alleviate our competitive concerns. For the reasons set forth in our letter of February 12, 2019 and above, we reiterate our call on the Department to protect competition and consumers by opposing this proposed merger.

Sincerely,



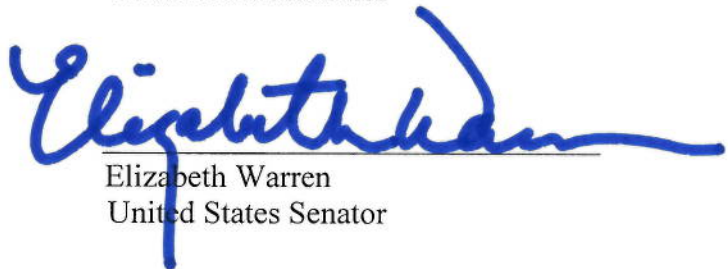
Tom Udall  
United States Senator



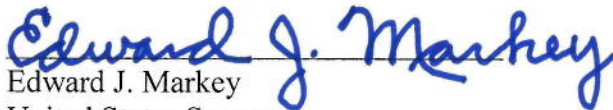
Amy Klobuchar  
United States Senator




Richard Blumenthal  
United States Senator



Elizabeth Warren  
United States Senator



Edward J. Markey  
United States Senator



Cory Booker  
United States Senator

cc: Commissioner Michael O’Rielly  
Commissioner Brendan Carr  
Commissioner Jessica Rosenworcel  
Commissioner Geoffrey Starks

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<sup>5</sup> Jessica Rosenworcel, Twitter, May 20, 2019, 10:15 am.