

Mr. Marcelo Claure
“Game of Phones: Examining the Competitive Impact of T-Mobile-Sprint Transaction”
Subcommittee on Antitrust, Competition Policy, and Consumer Rights
Senate Committee on the Judiciary
Questions for the Record
Submitted June 27, 2018

QUESTIONS FROM SENATOR BOOKER

- 1. Page 80 of your Public Interest Statement¹ states the merger will result in “thousands of additional American Jobs.” However, both Sprint and T-Mobile have reputations for sending American call center jobs offshore to the Philippines, Guatemala, Honduras, India, Mexico, the Dominican Republic, Costa Rica, and Canada.**
 - a. How are you going to increase jobs despite having to eliminate many retail jobs due to redundancy?**
 - b. Will you guarantee today that the net increase in jobs you’re promising will be jobs on American soil?**

As my testimony emphasized, one of the things that excites me most about this merger is that it will enable us to add employees in the United States and to bring jobs that have moved offshore back home. In particular, the combined company has committed to spend nearly \$40 billion—far beyond what Sprint has been able to spend in recent years or what it could spend alone—to achieve a world-class 5G network and to increase its retail footprint to market this new technology, creating thousands of U.S. jobs directly and indirectly. If the merger is approved though, John Legere will be the CEO of the combined company. Accordingly, I will defer to him to respond to the questions above about the combined company’s plans.

- 2. T-Mobile has a history of federal labor law violations and has had charges and grievances filed against it with the NLRB. Since 2011, T-Mobile has been subject to roughly 60 unfair labor practice charges. For instance, T-Mobile was found to have illegally fired pro-union workers and also found to have prohibited employees from talking with one another about wages, workplace investigations, and safety.²**

¹ DESCRIPTION OF TRANSACTION, PUBLIC INTEREST STATEMENT, AND RELATED DEMONSTRATIONS RELATED TO APPLICATIONS OF T-MOBILE US, INC. AND SPRINT CORPORATION FOR CONSENT TO TRANSFER CONTROL OF LICENSES AND AUTHORIZATIONS, WT DOCKET NO.18-197 (June 18, 2018) (hereinafter “Public Interest Statement”), *available at* [https://ecfsapi.fcc.gov/file/10618281006240/Public%20Interest%20Statement%20and%20Appendices%20A-J%20\(Public%20Redacted\)%20.pdf](https://ecfsapi.fcc.gov/file/10618281006240/Public%20Interest%20Statement%20and%20Appendices%20A-J%20(Public%20Redacted)%20.pdf)

² *T-Mobile USA, Inc.*, 363 NLRB No. 171 (Apr. 29, 2016) *aff’d in part and reverse in part* by 865 F.3d 265 (5th Cir. 2017).

Similarly, Sprint also has a history of workers' rights violations, including, at one point, firing 226 employees in San Francisco to avoid a union election. Sprint admitted to more than 50 labor law violations during that organizing campaign.³

a. Will the New T-Mobile commit to reverse its past behavior and make a firm commitment to respect workers' rights?

If the merger is approved, John Legere will be the CEO of the combined company. Accordingly, I will defer to him to respond to the question above.

As Executive Chairman and former CEO of Sprint, however, I must respectfully take issue with the way that the question characterizes Sprint's employee relations record.

Sprint offers a rewarding, collegial and positive work environment in which we treat our employees with fairness and respect. Sprint has and continues to respect its employees' right to choose under the law whether or not to be represented by unions, and in the past 20 years, Sprint has not been cited for any federal labor law violations. Sprint therefore respectfully, but strongly, denies a history of workers' right violations.

In addition, the characterization of the specific Sprint labor matter mentioned in the question above is simply not accurate. It appears to be related to a single, isolated event that occurred over 20 years ago (long before my time at Sprint) when Sprint closed a call center called La Conexion Familiar (LCF) that had been involved in a union organizing campaign.

My understanding is that the issue ultimately ended up in court and, in 1997, the U.S. Court of Appeals for the District of Columbia unanimously ruled in Sprint's favor, agreeing with Sprint that "NLRB's conclusion that union activity motivated Sprint's closure decision lacks substantial evidence in the record" and setting the NLRB's order aside.⁴ Among other things, the D.C. Circuit's opinion emphasized "overwhelming record evidence that LCF was in a serious and sustained financial decline throughout the months before its closure."

3. In your Public Interest Statement you discuss the disciplining effects that cable companies entering the wireless market have on wireless competition.⁵ You discuss how cable companies can leverage their cable infrastructure combined with spectrum access agreements with wireless providers to offer reliable, quality and price competitive wireless services to their customers. A critical input into that offering is spectrum access, which is done by agreements between the mobile network operators, like Sprint and T-Mobile, and the cable company. In your

³ NLRB Case No. 20-CWA-26203.

⁴ *LCF v. NLRB*, 129 F.3d 1276 (D.C. Cir. 1997).

⁵ Public Interest Statement at 105-111.

Public Interest Statement, you acknowledge the importance of these agreements being offered on “favorable terms.”⁶ Moreover, T-Mobile Executive Vice President Peter Ewen attests that “the same competitive incentives” that will drive T-Mobile to pursue new retail subscribers by offering lower prices and innovative service offerings including 5G services, will also exist for the New T-Mobile as it engages with MVNOs.⁷

According to Mr. Ewen, the combined company will be able to drastically reduce retail pricing for service. If true, this is certainly an important benefit to consumers. In thinking of market effects, one might reasonably expect that the same synergies that New T-Mobile is relying on to predict significant reductions in retail pricing would extend to the MVNO market and that MVNOs could anticipate similar reductions in the wholesale rates they pay. Indeed, Mr. Ewan states that the merger will help with “maintaining existing, and attracting new [MVNOs].”⁸ However, there is real concern this merger will lead to MVNO agreements with less than “favorable terms.” Higher post-merger costs could lead to MVNOs being pushed out of the market which would be a blow to competition.⁹ Can you make a commitment that wholesale pricing will adjust in tandem with retail pricing and that MVNOs will be afforded the same pricing benefits you claim the merger will create for consumers?

If the merger is approved, John Legere will be the CEO of the combined company. Accordingly, I will defer to him to respond to the question above.

⁶ *Id.* at 107.

⁷ Ewen Declaration at 14 (page 241 of Public Interest Statement pdf).

⁸ *Id.*

⁹ Jacob Kastrenakes, *Justice Department Examining Whether T-Mobile-Sprint Merger Would Raise Prices on Other Carriers*, <https://www.theverge.com/2018/6/7/17438424/doj-tmobile-sprint-investigation-price-increase-mvno> (last visited June 26, 2018).