

April 21, 2020

Dear Members of the 116th Congress:

As you are well aware, the merger between T-Mobile US, Inc. (“T-Mobile”) and Sprint Corp. (“Sprint”) (collectively, “New T-Mobile”) closed on April 1, 2020. For nearly two years, T-Mobile argued that as soon as it could join forces with Sprint, it would be in a position to compete effectively against AT&T, Verizon, and other telecom and cable industry giants by offering numerous “compelling public interest benefits” to America’s broadband consumers.¹ Indeed, New T-Mobile made *merger-specific* build-out commitments to expand coverage and increase download speeds to rural America. The companies did so in order to convince both the Federal Communications Commission (“FCC”) and the U.S. Department of Justice (“DOJ”) to approve the merger, as follows:

- New T-Mobile will offer download speeds of **25 Mbps** or more to **84% of America’s rural POPs** by **2024**.²
- New T-Mobile will offer download speeds of **25 Mbps** or more to **2.4 million square miles of rural America** by **2024**.³
- New T-Mobile will offer “outdoor” coverage to **99% of America’s rural POPs** by **2024**.⁴
- New T-Mobile will bring 5G to at least **99% of the U.S. population** receiving download speeds of **50 Mbps** or more by **April 1, 2026**.⁵
- New T-Mobile will bring 5G to at least **90% of the U.S. population** receiving download speeds of **100 Mbps** or more by **April 1, 2026**.⁶

¹ “Public Interest and Competition Benefits,” Presentation by T-Mobile and Sprint to FCC (May 3, 2019); see [https://ecfsapi.fcc.gov/file/10507164972079/May%207%20Redacted%20Ex%20Parte%20\(Starks\).pdf](https://ecfsapi.fcc.gov/file/10507164972079/May%207%20Redacted%20Ex%20Parte%20(Starks).pdf).

² *Id.*

³ *Id.* This equates to over 80% of the U.S. land mass in the Lower 48 states.

⁴ *Id.*

⁵ Letter from T-Mobile to the FCC (August 1, 2019); see <https://ecfsapi.fcc.gov/file/1080116872398/2019.08.01%20Redacted%20Ex%20Parte.pdf>.

⁶ *Id.*

At the state level, T-Mobile has committed to further build-out requirements with several state attorneys general, the California Emerging Technology Fund, and the California Public Utilities Commission.⁷

The New T-Mobile has repeatedly and emphatically claimed that as a direct result of the merger, it would have the necessary resources to deliver 5G to millions of square miles of the U.S. and hundreds of millions of Americans, including those living in and traveling through rural America.

As the U.S. begins the recovery process from the COVID-19 pandemic and Congress contemplates passing additional stimulus measures, the undersigned urge Congress not to award T-Mobile with any forthcoming infrastructure funding to meet its merger-specific build-out commitments agreed to when it sought approval of the merger from the FCC, DOJ, state attorneys general, and the state public utilities commissions. The FCC has already preliminarily decided that New T-Mobile should not be permitted to participate in its rural \$9 billion 5G Fund to the extent the funding would go toward helping New T-Mobile meet its merger specific build-out commitments.⁸ In a draft release of the FCC’s *Notice of Proposed Rulemaking*, the FCC made it clear that the “5G Fund for Rural America... would support 5G-capable mobile broadband networks in areas that will not be covered by T-Mobile’s deployment commitments.”⁹ The FCC went on to add that it would be “inappropriate to allow the use of high-cost support to fulfill merger conditions”¹⁰ and that its decision to approve the merger “would be conditioned on

⁷ Press Release, California Emerging Technology Fund and T-Mobile Reach Agreement on Public Benefits for Sprint Acquisition (Apr. 8, 2019); see http://www.cetfund.org/files/190408_CETF_MediaRelease_T-Mobile%20FINAL.pdf; AG Paxton Announces Settlement Agreement with T-Mobile on Sprint Merger (Nov. 25, 2019); see <https://www.texasattorneygeneral.gov/news/releases/ag-paxton-announces-settlement-agreement-t-mobile-sprint-merger>; Agreement between T-Mobile and Florida Attorney General Ashley Moody (Sep. 27, 2019); see [http://myfloridalegal.com/webfiles.nsf/WF/GPEY-BGKM5Q/\\$file/T-Mobile+agreement.pdf](http://myfloridalegal.com/webfiles.nsf/WF/GPEY-BGKM5Q/$file/T-Mobile+agreement.pdf); T-Mobile and Sprint pledged commitments in Mississippi; see <http://www.ago.state.ms.us/wp-content/uploads/2019/10/MS-T-Mobile-agreement-executed.pdf>; Colorado Attorney General’s office secures 2,000 jobs, statewide 5G network deployment under agreements with Dish, T-Mobile (Oct. 21, 2019); see <https://coag.gov/press-releases/attorney-generals-office-secures-2000-jobs-statewide-5g-network-deployment-under-agreements-with-dish-t-mobile-10-21-19/>; California Public Utilities Commission, Decision Granting Application and Approving Wireless Transfer Subject to Conditions, Rev. 1 (Mar. 11, 2020); See <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M333/K177/333177640.PDF>.

⁸ The FCC recently launched a rulemaking proceeding that will define the structure and terms of the FCC’s 5G Fund. The purpose of the 5G Fund is to “support the deployment of 5G mobile wireless broadband and voice services through even the most remote, rugged and sparsely populated parts of the country.” *In the Matter of Establishing a 5G Fund for Rural America, Universal Service Reform – Mobility Fund*, [DRAFT] Notice of Proposed Rulemaking and Order, GN Docket No. 20-32, WT Docket No. 10-208 (Closed), FCC-CIRC2004-02 (NPRM/Order); see <https://ecfsapi.fcc.gov/file/0418240229109/FCC-18-42A1.pdf>, at p. 1 of FCC Fact Sheet.

⁹ *Id.*

¹⁰ *Id.* ¶ 23.

the network build out commitments of the licensees to provide 5G service to a large portion of the U.S. population, including rural areas.”¹¹

Similarly, to the extent there will be additional stimulus recovery measures Congress needs to make sure T-Mobile does not receive funding as a corporate handout to meet commitments it already made based on synergies that it lauded to get its deal done.

Respectfully,

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¹¹ *Id.* ¶ 108.