Attachment—Additional Questions for the Record

Subcommittee on Communications and Technology
Hearing on
"Protecting Consumers and Competition: An Examination of the T-Mobile and Sprint Merger"
February 13, 2019

Mr. Chris Shelton, President, Communications Workers of America

The Honorable Billy Long (R-MO)

1. **CWA supported AT&T's proposed merger with T-Mobile in 2011 based in part on an Economic Policy Institute (EPI) study claiming that the merger would create up to 96,000 job-years of work. EPI used an input-output analysis to derive its estimate. Dr. Jeffrey Eisenach conducted a similar study of the Sprint/T-Mobile merger using the same input-output methodology and determined that the merger would create 117,500 job-years from 2021-2023. In response, CWA has called the predictive value of an input-out model "speculative." Is CWA's position that EPI used bad methodology in 2011? Should the Committee discount any other labor-related studies from EPI based on CWA's claims that EPI used bad methodology in its 2011 study?**

Response: Congressman Long distorts CWA's statement regarding the validity of input-output economic analysis and attempts to disparage the Economic Policy Institute, a highly respected economic analysis research organization. As CWA explained in our FCC Reply Comments in the T-Mobile/Sprint proceeding, the predictive value of an input-output model "depends upon the accuracy of the underlying economic data used to calculate the changes in economic activity." The Committee should evaluate any input-output model by this same criteria: the accuracy of the underlying economic data. (*See* CWA Reply Comments, WT Docket No. 18-197, Oct. 31, 2018 p. 10, fn. 37.)

2. **CWA accused T-Mobile of being a serial violator of labor laws. But CWA's record of labor violations is concerning. As one example, the National Labor Relations Board issued a complaint against CWA Local 1109 officials in 2017 after they attempted to illegally fine two Verizon workers nearly $40,000 when those employees chose to resign their union membership and go back to work following a coordinate strike across the eastern seaboard. How many members has CWA attempted to compel to remain members of the union through fines?**

Response: Unfortunately, Congressman Long's second question rests on a false premise and a misunderstanding of how strikes work. He asks: "How many members has CWA attempted to compel to remain members of the union through fines?" The short answer to Congressman

Long's question is: zero. CWA does not attempt to compel any person to remain members of the union through fines.

Congressman Long's preface for the question cites a matter involving two Verizon employees during the last Verizon strike. In 2016, CWA members went on strike when bargaining with Verizon broke down over key issues, especially the issue of jobs and offshore outsourcing. For 45 days, nearly 40,000 workers gave up their paychecks, walked picket lines, attended rallies, and engaged the public about keeping good, middle-class jobs in the United States. The striking CWA members won a groundbreaking contract for American workers. The strike forced Verizon to reverse outsourcing initiatives and create new field technician jobs. The strike convinced Verizon to add 1,300 new call center jobs that otherwise may have been filled overseas. These wins increased our members' job security and created middle-class job opportunities for the broader community. On top of these gains, the final agreements provided for a 10.9 percent wage increase, signing bonuses, healthcare reimbursement accounts, pension increases, and more. These achievements were only possible thanks to the solidarity, commitment, and sacrifice of the strikers.

During this strike, there were only isolated instances of members who crossed the picket line. The case cited by Congressman Long involves two such members.

When anyone joins an organization, a condition of membership is that you will follow the rules of the organization. If the rules are broken, there must be consequences. I'm sure organizations to which members of the Committee belong, whether it is a House party caucus or conference, or a chamber of commerce, or a union or professional association, have membership rules and ways of enforcing them. In the case cited by Congressman Long, I understand a union local undertook efforts to enforce its membership rules. Promulgating and applying such internal rules is completely lawful. While enjoying the rights and privileges of being a CWA member, two individuals crossed the picket line of a duly authorized strike. Per the rules, a member may be fined for such a violation. Of course, a member is free to resign his or her membership. If they resigned, they would no longer be subject to the rules of membership, though they would still owe any amounts incurred during their time as members. The issue in this case turned out to be whether and on what date did they resign their membership.

Per my understanding, both individuals in this case admitted that they crossed the picket line before they resigned. So a violation had occurred, and a penalty was perfectly legal and necessary. As I understand it, fines were issued against these two individuals because the union local did not receive their resignation letters. The individuals claimed to have mailed the resignation letters to the union local. The U.S. Post Office was consulted to determine what happened with those letters. In one case, there was no record of any attempt at delivery. In the other case, there was an attempted but unsuccessful delivery. In this dispute over when exactly the resignations were effective, the parties ultimately reached a settlement agreement, with each individual agreeing to pay some portion of the fine they incurred for crossing the picket lines. Neither individual was ever "compel[led] to remain members of the union through fines," as Congressman Long incorrectly suggests in his question.

Strikes only work when workers stand together collectively to withhold their labor. I am proud and grateful that nearly every single member did so in the 2016 strike. If more had crossed picket lines, the strike would not have been won, and there would be fewer Verizon jobs in the United States and lower pay for the jobs here. Instead, the strikers held strong, and the country is better for it.

One of the reasons that T-Mobile employees have been trying to organize a union with CWA is our track record of fighting offshore outsourcing, like we did in the Verizon strike. Even though they were not members, in recent years we assisted T-Mobile call center workers in winning Trade Adjustment Assistance after T-Mobile sent their jobs overseas. Accordingly, a strong union at T-Mobile would, for example, fight to keep the work at the Springfield, Missouri, call center in Congressman Long's district from being sent to places like the Philippines. A T-Mobile executive was recently videotaped at a company event in the Philippines saying there were a thousand employees there "that didn't exist 11 months ago." In the Philippines, workers' rights are in serious crisis, with employers utilizing short-term contractualized labor to circumvent labor laws and the government turning to arrests to crush organizing drives and strikes.

I urge Congressman Long to ask T-Mobile tougher questions about offshoring – and ensure written enforceable rules or agreements against such offshoring – since so many constituents rely on those call center jobs in his district.

Not long after the subcommittee hearing, T-Mobile employees delivered a petition to the Federal Communications Commission, signed by nearly 1,000 T-Mobile and Sprint workers from across the country, including workers at the Springfield call center. The petition reads:

> As front-line workers in retail sales and call centers, and as telecommunications technicians, we are concerned that the proposed merger between T-Mobile and Sprint will mean the loss of many American jobs, cuts in wages and commissions and a corresponding reduction in quality to our customers.
>
> Before approving the proposed merger, we ask you to require solid and verifiable assurances that the new company will not discard the front-line workers who have made T-Mobile and Sprint so successful. The companies must commit to:
>
> * Secure our jobs without cuts to compensation,
> * Bring back outsourced jobs from overseas and in the USA, and
> * Respect our rights on the job by putting an end to labor law violations.
>
> Without guarantees that our jobs will be protected, this merger should be rejected.

I urge members of the Committee to take these concerns from working people into account as you consider the merits of the Sprint-T-Mobile merger.

3. **According to The Center for Union Facts, a 501(c)(3) nonprofit organization that fights for transparency and accountability in America's labor movement, CWA is**

the target of many unfair labor practice allegations. The watchdog group records 995 allegations of breach of the duty of fair representation, 930 coercive actions, 914 refusals to bargain or bad faith bargaining, and 859 cases of repudiation or modification of a contract. Explain why the Committee should share CWA's purported concern for workers when CWA's track record of labor law violations is so abysmal.

Response: This question relies on the website of an organization called The Center for Union Facts (CUF). While Congressman Long asserts that CUF "fights for transparency," the organization itself has not been transparent about its funding. CUF is virulently anti-union and promotes extremist legislation that would deny workers the right to organize and collectively bargain.

In any event, the CUF website has successfully misled Congressman Long. I appreciate Congressman Long bringing this page to CWA's attention.

Congressman Long says that, according to CUF, "CWA is the target of many unfair labor practice allegations." The CUF website which Congressman Long references does indeed have a page entitled "Communications Workers of America, " which says:

> Unionized employees, business owners, managers, and others often bring labor law charges against unions. The National Labor Relations Board (NLRB) oversees the porcess [sic] of determining if the union violated the National Labor Relations Act.

The site then lists "Unfair Labor Practice (ULP) Allegations" by various classifications, with numbers of each such classification purportedly filed (over what time period is unclear). This appears to be purposefully designed to mislead the reader into thinking that these charges are all unfair labor practice allegations against CWA, especially judging from how Congressman Long reads the site. So the ruse worked. **But the vast majority of the charges listed on the page referenced by Congressman Long were filed by CWA against employers, regarding violations committed by companies, not the other way around.** For example, the "930 coercive actions" mentioned in Congressman Long's letter actually refer to 930 unfair labor practice charges listed on the CUF website filed by CWA because of employers' coercive actions against employees.

Clicking the hyperlink on this CUF page for the more specific list of the coercive action ULPs against employers reveals little detail other than the case number, the employer involved, and the fact that each of these charges involved "8(a)(1)." You need to be familiar with U.S. labor law to know that when the charge cites 8(a) in any fashion, the charge involves employer – not union – misconduct.

Indeed, in CUF's list of "coercive actions," you will find some, but not all of the charges filed against T-Mobile. So I'm not sure how CUF selected which charges to include. Missing from the list, for example, are a number of charges filed involving the Wichita, Kansas, T-Mobile call center. Those charges resulted in the following conclusions by an Administrative Law Judge in 2016:

- Respondent [T-Mobile USA Inc.] violated Section 8(a)(1) of the Act by disparately enforcing its Acceptable Use Policy, Enterprise User Standards, and No Solicitation rules against Union activity.
- Respondent [T-Mobile USA Inc.] violated Section 8(a)(1) of the Act by promulgating and maintaining "mass communication" prohibitions, no talking rules, and restrictive social media policies, because employees engaged in Union activity.
- Since June 2, 2015, Respondent[T-Mobile USA Inc.] violated Section 8(a)(1) of the Act by promulgating and maintaining overly broad "mass communication" prohibitions, no talking rules, and restrictive social media policies.
- On June 2, 2015, Respondent [T-Mobile USA Inc.] violated Section 8(a)(1) of the Act by telling employees they could not send "mass emails" about the Union.
- On June 2, 2015, Respondent [T-Mobile USA Inc.] violated Section 8(a)(1) of the Act by telling employees that they could not discuss the Union in working areas despite permitting discussions of other topics in the working areas.
- On June 2, 2015, Respondent [T-Mobile USA Inc.] violated Section 8(a)(1) of the Act by telling employees they could not use their work email to send any messages about the Union.
- On June 4, 2015, Respondent [T-Mobile USA Inc.] violated Section 8(a)(1) of the Act by surveilling employees in a nonwork area during nonworking time to discover their Union or protected concerted activities and sympathies.
- On June 4, 2015, Respondent [T-Mobile USA Inc.] violated Section 8(a)(1) of the Act by interrogating its employees about their Union or protected concerted activities and sympathies.
- Respondent [T-Mobile USA Inc.] violated Section 8(a)(1) of the Act by interrogating its employees about their friendship with known Union adherents to determine employees' Union activities and sympathies.
- Respondent [T-Mobile USA Inc.] violated Section 8(a)(1) of the Act by telling employees that it was creating a seating chart to isolate employees because of their Union activities and sympathies.
- Respondent [T-Mobile USA Inc.] violated Section 8(a)(3) of the Act by creating and maintaining a seating chart to isolate employees because of their Union activities and sympathies.
- Respondent [T-Mobile USA Inc.] violated Section 8(a)(1) by coercively threatening employees with loss of corporate awards in order to persuade them to cease engaging in union or other protected concerted activities, telling employees that it is disappointed because they engaged in Union or other protected activities, and telling employees to makes their lives easier in order to persuade them to cease engaging in Union or other protected concerted activities.
- On December 21, 2015, Respondent [T-Mobile USA Inc.] violated Section 8(a)(1) of the Act by creating an impression of surveillance and interrogating employees about their Union activities and sympathies.

T-Mobile USA Inc., Case Nos. 14-CA-155249, 14-CA-158446, 14-CA-162644, 14-CA-166164 (ALJ Decision, June 28, 2016). As you can see from this example, 8(a)(1) coercive actions are

propagated by companies, not unions. T-Mobile has appealed these findings, leaving the violations unremedied in the meantime.

I'm sure Congressman Long would agree that citing a list of charges filed against T-Mobile and other corporations for the proposition that *CWA* has an "abysmal" record of labor law violations, as Congressman Long put it, is a terribly dishonest argument. I do not blame Congressman Long for this dishonesty. I blame the misnomered "Center for Union Facts." Congressman Long may want to address this matter directly with CUF to ensure that no one else is misled by this organization. If a sitting Congressman can be misled, imagine how many unsuspecting individuals who are not responsible for making law and policy have incorrectly thought they could rely on something called the "Center for Union Facts" for facts about unions.

In any event, I do not want this separate CUF matter to distract from the subject of the hearing: the Sprint-T-Mobile merger and the threat it poses to American jobs and wages. Again, we estimate that the merger will result in 30,000 jobs lost and drive down wages of American workers in the wireless retail market by as much as $3,000 per year. This is why the Energy and Commerce Committee's oversight of the merger is so critically important.

4. **Unionized employees have petitioned to decertify CWA as their union 111 times according to UnionFacts.com. A significant number of workers in the telecommunications industry believe that CWA does not have their best interests at heart. How do you explain this large number of decertification's?**

Response: The final question from Congressman Long also relies on data from the "Center for Union Facts." Congressman Long asks about 111 decertification petitions listed on CUF's website. This list of petitions is offered for the proposition that "a significant number of workers in the telecommunications industry believe that CWA does not have their best interests at heart," per Congressman Long.

Yet CWA is the only organization consistently fighting to save U.S. telecommunications jobs, bring telecommunications jobs back to the U.S., and raise wages and improve working conditions for all telecommunications workers. We do this because we are a union of workers, with democratically elected leadership from shop stewards to the national president, accountable every single day to the members. The end result is a worker organization capable of raising questions about complicated corporate transactions like Sprint-T-Mobile, which, again, we estimate will result in the loss of 30,000 American jobs and lower wages for workers in the wireless retail market.

Congressman Long asks me to explain "the large number of decertification's."

CUF, whose reliability was demolished by Congressman Long's previous question, does not explain what happened with those 111 purported petitions – whether they were withdrawn, dismissed, or resulted in elections or what the outcome of the election was. Anyone in a bargaining unit can file a decertification petition. What happens next is what matters. I clicked

on the first petition listed on the CUF web page, involving a non-telecommunications employer named New Concepts for Living, Inc., and found that the petition had been withdrawn.

Nevertheless, per the CUF website, over an 11 year period, 111 petitions were filed. CWA represents thousands of bargaining units. Of those thousands of bargaining units with workers represented by CWA, per the CUF website, about 10 filings happen each year, which may or may not be supported by any significant number of workers within that bargaining unit. This seems like extremely poor support for the Congressman's proposition about how significant numbers of telecommunications workers feel.

Every week, workers sign cards to join CWA. They do this despite the systematic attacks on workers' rights perpetrated by companies like T-Mobile. To put a finer point on my testimony, some of the most infamously anti-union large employers in the United States have included Wal-Mart, Amazon, McDonald's, and FedEx. Yet, our review of these big businesses' records on the NLRB database found that, on a per employee basis, between 2009 and 2016, T-Mobile surpassed them all in terms of unfair labor practice charges filed against the company. T-Mobile's hostile attitude toward workers' rights will leave workers and their families especially vulnerable following any merger, without the ability to collectively bargain and take other collective action to save jobs and protect their wages and benefits.

Again, we estimate the Sprint-T-Mobile merger will result in the loss of 30,000 American jobs and drive down wages of American workers in the wireless retail market by as much as $3,000 per year.