WRITERS GUILD OF AMERICA WEST

March 11, 2019

The Honorable Jerrold Nadler
Chair, Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Doug Collins
Ranking Member, Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

The Honorable David N. Cicilline
Chair, Subcommittee on Antitrust,
Commercial and Administrative Law
House Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

The Honorable F. James Sensenbrenner
Ranking Member, Subcommittee on Antitrust,
Commercial and Administrative Law
House Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Dear Representatives Nadler, Cicilline, Collins and Sensenbrenner:

The Writers Guild of America West, a California labor organization representing more than 10,000 professional writers of motion pictures, television, radio, and Internet programming, is writing to express our opposition to the proposed merger of T-Mobile and Sprint. If approved, this merger would leave 98 percent of the national wireless market in the hands of just three companies. The reduction from four to three wireless providers in an already highly concentrated market poses significant harm to consumers and content creators. We ask the Energy and Commerce Committee to thoroughly examine this merger and to urge the FCC to reject it.

After AT&T and Verizon, T-Mobile and Sprint are the next largest operators in a highly concentrated market.[1] Once merged, Sprint-T-Mobile would have 131 million subscribers and significantly less incentive to compete with AT&T and Verizon than the separate companies have now. The three major wireless carriers would collectively have greater ability to raise prices, limit consumer data, and exercise gatekeeper power over online video, harming mobile video markets.

The Internet has created new programming choices and increased content competition, but this merger would threaten the pro-consumer growth of video consumption on wireless networks. While new over-the-top (OTT) content providers and online video offerings from traditional networks, combined with growing consumer adoption of Internet-connected devices, have spurred the growth of the mobile video market, the high cost of wireless data plans has limited mobile video consumption on wireless networks, and instead most consumers use Wi-Fi

[1] Roger Entner, *Industry Voices—Entner: Putting some context behind the T-Mobile, Sprint merger*, FierceWireless, Apr. 30, 2018, https://www.fiercewireless.com/wireless/industry-voices-entner-putting-some-context-behind-t-mobile-sprint-merger.

connections to watch video.[2] Sprint and T-Mobile, as smaller providers, have competed aggressively with Verizon and AT&T through network improvements, lower pricing and other pro-consumer features. In 2017, actions taken by Sprint and T-Mobile prompted all four major wireless companies to offer new unlimited data plans, allowing consumers to watch more mobile video content.[3]

The loss of competition from the smaller, maverick firms will increase the ability of a combined Sprint-T-Mobile along with AT&T and Verizon to raise prices for consumers, limit data, and exercise gatekeeper power over online video providers who wish to reach wireless consumers. The result will be greater constraints on mobile video usage and reduced competition in mobile video markets.

Online video is also vulnerable to interference from Internet service providers in the form of throttling[4] or pricing features like data caps that prioritize affiliated content.[5] With only three giant wireless firms rather than two large and two smaller, the likelihood of tacit coordination or "accommodating reactions" among the wireless providers greatly increases. For example, the three wireless companies that dominate the Canadian market raise prices at the same time and keep prices significantly higher than in the U.S.[6] We have seen competition among providers spur innovation and lower prices for consumers, but eliminating a major competitor would likely reverse that trend.

We believe the harms of this merger greatly outweigh the purported benefits touted by the companies, many of which are not merger-specific or may fail to materialize. We urge you to closely examine these harms at the Energy and Commerce Committee Hearing on February 13th and convey your opposition to this merger to the FCC.

Sincerely,

Corrina Freedman
Political and Legislative Director
Writers Guild of America West

cc: Members of House Committee on the Judiciary

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[2] A 2015 study found that 73% of consumers who watch mobile TV at least once a week use a Wi-Fi connection. See *Wi-Fi and Mobile TV: A RomCom with a Happy Ending?,* NCTA (July 24, 2015) https://www.ncta.com/whats-new/wi-fi-and-mobile-tv-a-romcom-with-a-happy-ending.
[3] Chaim Gartenberg, *Why every US carrier has a new unlimited plan,* The Verge (Feb. 17, 2017), https://www.theverge.com/2017/2/17/14647870/us-carrier-unlimited-plans-competition-tmobile-verizon-att-sprint.
[4] Olga Kharif, *YouTube, Netflix Videos Found to Be Slowed by Wireless Carriers,* Bloomberg (Sept. 4, 2018), https://www.bloomberg.com/news/articles/2018-09-04/youtube-and-netflix-throttled-by-carriers-research-finds.
[5] Kate Cox, *AT&T Exempts AT&T-Owned DirecTV App from Mobile Data Caps,* Consumerist (Sept. 7, 2016), https://consumerist.com/2016/09/07/att-exempts-att-owned-directv-app-from-mobile-data-caps/.
[6] Tristan Hopper, *Why Canadian cell phone bills are among the most expensive on the planet*, National Post, Sept. 18, 2017, http://nationalpost.com/news/canada/why-canadian-cell-phone-bills-are-among-the-most-expensive-on-the-planet.