

ASSURANCE OF VOLUNTARY COMPLIANCE

Recognizing that substantial benefits may flow to Colorado from the significant promises made by T-Mobile and Sprint to improve 5G coverage in Colorado, particularly in rural areas, and to enable Dish, a Colorado company, to become a substantial competitor, the Office of the Attorney General agrees to drop its lawsuit to block the merger so long as the Merger Parties agree to the specific commitments made below. At the same time, the Office of the Attorney General is entering into a binding agreement with Dish to ensure that Colorado benefits from its success as a wireless competitor.

This Assurance of Voluntary Compliance (“Assurance”) is entered into between the State of Colorado, by and through its Office of the Attorney General (the “OAG”) and T-Mobile US, Inc. (“T-Mobile”) and Sprint Corporation (“Sprint” and, together with T-Mobile, the “Merger Parties”). This Assurance is entered into by the OAG and the Merger Parties to have the OAG withdraw from participation in the multistate litigation described in Section II, paragraph 5 below and settle the claims asserted there.

I. PARTIES

1. The OAG has authority to enforce state and federal antitrust laws, and has authority to finally and fully resolve any disputes between the OAG and the Merger Parties.
2. T-Mobile is a publicly traded Delaware corporation headquartered in Bellevue, Washington. T-Mobile is currently the third largest wireless carrier in the United States, serving over 72 million customers under the T-Mobile and Metro by T-Mobile brands.
3. Sprint is a publicly traded Delaware corporation headquartered in Overland Park, Kansas. Sprint is the fourth-largest wireless carrier in the United States, serving over 54 million customers under the Sprint, Boost Mobile, Virgin Mobile, and Assurance Wireless brands.

II. FACTUAL SUMMARY

4. On April 29, 2018, the Merger Parties announced that they had entered into a definitive agreement for an all-stock transaction in which T-Mobile and Sprint would combine to form the New T-Mobile (the “Merger”). The OAG investigated potential anticompetitive effects related to the proposed Merger and sought relevant information from the Merger Parties regarding New T-Mobile’s proposed business plan and strategic development for Colorado.
5. On June 11, 2019, the OAG joined other states in filing a civil antitrust law enforcement action to enjoin the Merger under Section 16 of the Clayton Act, 15 U.S.C. § 26, *State of New York et al v. Deutsche Telekom AG et al.*, No. 1:19-cv-05434 (S.D.N.Y. 2019) (the “SDNY Litigation”). In the SDNY Litigation, the OAG and other states alleged that the Merger

may lessen competition in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18.

6. To resolve concerns posed by the OAG regarding the Merger, the Merger Parties have proposed, and the OAG has accepted, a series of commitments set forth below that will be enforceable by the OAG under the laws of the State of Colorado. This Assurance memorializes those commitments.

III. CONSIDERATION

7. This Assurance, in its entirety, shall be conditioned upon (a) the OAG withdrawing as a party to the SDNY Litigation and any other related adverse legal action by the OAG; (b) OAG becoming a party to a complaint filed by the DOJ regarding the Merger and further joining the DOJ in any settlement of such complaint; and (c) the closing of the Merger.

8. The Merger Parties and the OAG enter into this Assurance as a compromise and complete and final settlement of all pending claims related to the OAG's participation in the SDNY Litigation. This Assurance is entered into without any trial or adjudication of any issue of fact or law or finding of liability of any kind, and nothing contained in this Assurance shall be construed to limit or to restrict the Merger Parties' rights to use this Assurance to assert and maintain the defenses of res judicata, collateral estoppel, payment, compromise and settlement, accord and satisfaction, or any other legal or equitable defense in any pending or future legal or administrative action.

9. Nothing contained in this Assurance may be taken as or construed to be an admission or concession by the Merger Parties of any violation of law or regulation, or of any other matter of fact or law, or of any liability or wrongdoing. Neither this Assurance, nor any negotiations, statements or documents related thereto, shall be offered or received in any legal or administrative proceeding or action as an admission, evidence or proof of any violation or liability under or wrongdoing in connection with any law, rule or regulation, except in an action by the OAG to enforce the terms of this Assurance. The Merger Parties expressly deny that the Merger violates any state, federal, or local law, regulatory scheme, administrative pronouncements, ordinance, or the common law, and so state they are entering into this Assurance to avoid further inconvenience and costs of potential litigation.

IV. RELEASE

10. The OAG acknowledges that execution of this Assurance constitutes a complete and final settlement and release by the OAG of all pending disputes, including, but not limited to, civil claims, causes of action, restitution, disgorgement, damages, fines, costs, penalties, or attorney's fees that were asserted or could have been asserted by the OAG against the Merger Parties, and/or any of their Affiliates, successors, employees, shareholders, officers, directors, agents and/or assigns, individually or collectively, relating to or based on the subject matter of the SDNY Litigation.

V. DEFINITIONS

11. For purposes of this Assurance, unless otherwise defined herein, capitalized terms are defined as follows:

- a) “Affiliate” is defined as any entity, individual, firm, or corporation, directly or indirectly controlling, controlled by, or under common control with the Merger Parties.
- b) “Closing Date” is defined as the closing date of the Merger.
- c) “Colorado Population” is defined as the population of Colorado as derived from the population data licensed through the 2016 Pitney Bowes study, which provides population at the census block level. The 2016 Pitney Bowes study is based on the 2010 Census, but then updated based on more recent information. According to the 2016 Pitney Bowes study, the Colorado Population is 5,563,110. That population number is fixed for purposes of calculating compliance with these commitments as is the population per census block through which covered pops will be determined.
- d) “Colorado Rural Population” is defined as the population of Colorado within rural areas (as defined by the U.S. Census Bureau) derived from the population data licensed through the 2016 Pitney Bowes study, which provides population at the census block level. The 2016 Pitney Bowes study is based on the 2010 Census, but then updated based on more recent information. According to the 2016 Pitney Bowes study, the Colorado Rural Population is 773,432. That population number is fixed for purposes of calculating compliance with these commitments as is the population per census block through which covered pops will be determined.
- e) “FCC Nationwide Drive Test” is defined as the drive test described in the Letter from Nancy J. Victory, Counsel for T-Mobile US, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission, WT Docket No. 18-197 (May 20, 2019) (“FCC Commitment Ex Parte”).
- f) “In-Home Broadband Service” is defined as a residential broadband service with minimum speeds of 25 Mbps downlink and 3 Mbps uplink.
- g) “Market” is defined as to advertise and offer a product or service for sale including, but not limited to, through TV, radio, Internet, digital, electronic, voice, print, mail, or in-person channels.
- h) “Multi-state Commitments” are defined as those conditions with respect to verification, mobile rate plans, and broadband Internet access programs, except with respect to state-specific commitments regarding the In-Home Broadband Service Product.

VI. RELIEF

12. The OAG acknowledges that the Merger Parties have provided certain commitments to the Federal Communications Commission (“FCC”) and DOJ with respect to the Merger (“Federal Commitments”) and recognizes that such Federal Commitments may ultimately inure to the benefit of the State of Colorado and its consumers and are subject to the enforcement authority of the FCC and DOJ.

13. The Merger Parties assert and the OAG acknowledges that the Federal Commitments along with the Colorado-specific commitments set forth below shall require New T-Mobile to provide substantial 5G coverage across Colorado and provide high-speed 5G wireless service to a significant number of Colorado residents.

14. The OAG has accepted the terms of this Assurance and the terms and conditions contained in any final judgment entered in federal court as a complete and final settlement of all pending claims, as set forth herein. This Assurance shall further be enforceable by the OAG, as set forth herein. Therefore, the Merger Parties agree to the following commitments regarding the State of Colorado (“Commitments”):

15. Statewide Network Build Commitment

- a) Within three (3) years of the Closing Date, New T-Mobile will deploy a 5G network in Colorado with:
 - i) At least 68% of the Colorado Population having access to download speeds equal to or greater than 100 Mbps, as verified by the FCC Nationwide Drive Test; and
 - ii) At least 76% of the Colorado Population having access to download speeds equal to or greater than 50 Mbps, as verified by the FCC Nationwide Drive Test.
- b) Within six (6) years of the Closing Date, New T-Mobile will deploy a 5G network in Colorado with:
 - i) At least 92% of the Colorado Population having access to download speeds equal to or greater than 100 Mbps, as verified by the FCC Nationwide Drive Test; and
 - ii) At least 93% of the Colorado Population having access to download speeds equal to or greater than 50 Mbps, as verified by the FCC Nationwide Drive Test.

16. Rural Network Build Commitment

- a) Within three (3) years of the Closing Date, New T-Mobile will deploy a 5G network in Colorado with:
 - i) At least 60% of the Colorado Rural Population having access to download speeds equal to or greater than 100 Mbps, as verified by the FCC Nationwide Drive Test; and

- ii) At least 63% of the Colorado Rural Population having access to download speeds equal to or greater than 50 Mbps, as verified by the FCC Nationwide Drive Test.
- b) Within six (6) years of the Closing Date, New T-Mobile will deploy a 5G network in Colorado with:
 - i) At least 74% of the Colorado Rural Population having access to download speeds equal to or greater than 100 Mbps, as verified by the FCC Nationwide Drive Test; and
 - ii) At least 84% of the Colorado Rural Population having access to download speeds equal to or greater than 50 Mbps, as verified by the FCC Nationwide Drive Test.

17. In-Home Broadband Commitment

- a) Within three (3) years of the Closing Date, New T-Mobile will Market its In-Home Broadband Service product to at least 58,000 households in the State of Colorado, of which at least 24,000 will be rural households.
- b) Within six (6) years of the Closing Date, New T-Mobile will Market its In-Home Broadband Service product to at least 360,000 households in the State of Colorado, of which at least 68,000 will be rural households.

18. Low-Price Mobile Plan Commitment. For at least five (5) years following the Closing Date, New T-Mobile will offer a new low-priced plan in the State of Colorado that is available to all customers and provides:

- a) Unlimited talk, text, and 2GB of data for \$15 or less per month; and
- b) Unlimited talk, text, and 5GB of data for \$25 or less per month.

19. Broadband Access for Education Commitment. Colorado will receive the full Colorado-specific benefits of the New T-Mobile nationwide broadband Internet access program that provides free connectivity and equipment to households with school-age children, provided that all litigant states in the multi-state litigation SDNY Litigation settle such litigation.

20. Jobs Commitment. All T-Mobile and Sprint retail employees in Colorado in good standing as of the Closing Date will receive an offer of employment with New T-Mobile.

VII. ENFORCEMENT & VERIFICATION

21. Verification of Performance Under this Agreement. For each of the Commitments specified in Section VI above, New T-Mobile will provide the OAG with any additional Colorado-specific results and data produced as part of any reporting provided to the FCC or DOJ as part of the Federal Commitments verification processes, including the Colorado-specific results of the independent drive tests conducted at years three (3) and six (6) pursuant to the Federal Commitments (“Verification Material”), within sixty (60) days of providing the Verification Material to the FCC and DOJ.

22. Enforceability of Terms Under this Agreement. The terms of this Assurance are subject to the authority of the Colorado Attorney General's Office, and the OAG may take action as provided under the laws of the State of Colorado to enforce the terms of this Assurance, provided, however, that: (a) the OAG shall promptly (and, in any event, within fourteen (14) days) give written notice to New T-Mobile of any specific alleged breach of any term of this Assurance or any failure to meet any Commitment under this Assurance; (b) New T-Mobile shall remedy such breach as soon as practicable but will have up to one-hundred and twenty (120) days from the OAG's notification of such alleged breach or failure to remedy such alleged breach or failure before OAG may take enforcement action (the "Cure Period") or, alternatively, New T-Mobile shall provide to the OAG within forty-five (45) days from receipt of the notice a response including a statement explaining why New T-Mobile believes that no breach has occurred and an explanation of the facts and circumstances at issue, or, where applicable, a statement explaining why the alleged breach cannot reasonably be cured. In the event that New T-Mobile materially fails to meet any of the Commitments agreed to herein, or to satisfactorily explain or remedy such breach as provided in this Section VII, the OAG may seek a monetary remedy by commencing the appropriate proceeding in state court for enforcement of this Assurance (the "Enforcement Proceeding"). The OAG agrees to refrain from initiating the Enforcement Proceeding or filing any other civil or criminal action pertaining to the subject matter of this Assurance, until after the expiration of such Cure Period and any applicable waivers or extensions thereto. The Merger Parties and New T-Mobile expressly consent to jurisdiction of the state courts in Denver, Colorado, and all parties waive any objection of any kind that could arise from § 6-4-107(3), C.R.S.

23. Voluntary Contribution. The Merger Parties agree that, in the event that the Enforcement Proceeding concludes that the New T-Mobile has materially failed to meet any of Commitments, New T-Mobile will make a voluntary contribution (the "Voluntary Contribution") to the OAG within sixty (60) days of such determination. Any payment made under this Assurance shall be held, along with any interest thereon, in trust by the Attorney General to be used for reimbursement of actual costs and attorneys' fees, the payment of restitution, if any, and for future consumer fraud or antitrust enforcement actions, or to support consumer education and public welfare. The Voluntary Contribution will be in lieu of the OAG taking any other civil or criminal action pertaining to the subject matter of this Assurance. The amount of the Voluntary Contribution will be calculated in accordance with this section:

- a) 3-Year Commitments. In the event that the Enforcement Proceeding determines that New T-Mobile has materially failed to meet any of the Commitments specified in Section VI, Paragraphs 15(a), 16(a), and 17(a), the applicable Voluntary Contribution shall be calculated as follows:
 - i.) The amount of the Voluntary Contribution shall be calculated based on the largest percentage by which New T-Mobile missed its 3-Year Commitment (Section VI, Paragraphs 15(a), 16(a), and 17(a), each constituting an individual commitment);
 - ii.) Where a Commitment has multiple elements (as in Section VI, Paragraphs 15(a) and 16(a)), the Enforcement Proceeding shall determine the percentage

by which New T-Mobile has fallen short under each element and calculate the Voluntary Contribution based on the highest calculated percentage missed of any element;¹

- iii.) Each 1% of shortfall with respect to the commitment in Paragraphs 15(a)(ii) and 16(a)(ii) shall constitute 0.5% for purposes of the calculation in (ii); and
- iv.) The following contribution scale will apply:

Missed Percentage	Voluntary Contribution
>0%-5%	\$5,000,000
>5%-10%	\$10,000,000
>10%-25%	\$15,000,000
>25%-50%	\$25,000,000
>50%	\$40,000,000

b) **6-Year Commitments.** In the event that the Enforcement Proceeding determines that New T-Mobile has failed to meet any of the Commitments specified in Section VI, Paragraphs 15(b), 16(b), and 17(b), the Voluntary Contribution for the 6-Year Commitments shall be calculated as follows:

- i.) The amount of the Voluntary Contribution shall be calculated based on the largest percentage by which New T-Mobile missed its 6-Year Commitment (Section VI, Paragraphs 15(b), 16(b), and 17(b) each constituting an individual commitment);
- ii.) Where a Commitment has multiple elements (as in Section VI, Paragraphs 15(b) and 16(b)), the Enforcement Proceeding shall determine the percentage by which New T-Mobile has fallen short under each element² and calculate the Voluntary Contribution based on the highest calculated percentage missed of any element;
- iii.) Each 1% of shortfall with respect to the Commitment in Paragraphs 15(b)(ii) and 16(b)(ii) shall constitute 0.5% for purposes of the calculation in (ii).
- iv.) The following contribution scale shall apply:

Missed Percentage	Voluntary Contribution
>0%-5%	\$7,500,000
>5%-10%	\$15,000,000
>10%-25%	\$20,000,000
>25%-50%	\$30,000,000
>50%	\$40,000,000

¹ For example, if New T-Mobile misses its 15(a)(i) Commitment by 20%, its 15(a)(ii) Commitment by 12%, its 16(a)(i) Commitment by 30%, its 16(a)(ii) Commitment by 22%, and its 17(a) Commitment by 5%, the Voluntary Contribution would be calculated based on the largest missed percentage (30%) and would be \$25,000,000, unless offset by Federal Commitment payments as described in Paragraph 26 below.

² For example, if there is a Commitment to serve 68% of the Colorado Population at 100 Mbps speeds (3.78M people out of a total population of 5.56M) and New T-Mobile is able to serve only 3.36M people by the deadline, the company would fall short by 420,000, which would be a percentage missed of 11% ($420,000 \div 3.78M \times 100 = 11\%$).

24. Enforcement of Other Commitments. In the event that the Enforcement Proceeding determines that New T-Mobile has materially failed to meet the Commitments described in Section VI, Paragraphs 18-20, the applicable Voluntary Contribution for each such Commitment shall be limited to a single payment of up to \$2,500,000.

25. Excessive Contribution Prevention. Notwithstanding any other provision in this Section, after accounting for the first \$5,000,000, the amount of any Voluntary Contribution will be reduced, on a dollar-for-dollar basis, by any amount paid by New T-Mobile pursuant to any failure to meet the Federal Commitments.

26. Force Majeure. In making a determination regarding New T-Mobile's compliance under this Section, the OAG and/or court in the Enforcement Proceeding shall take into account and, in its reasonable discretion, appropriately reduce the metric, extend the deadline or reduce the Voluntary Contribution amount sought in the Enforcement Proceeding associated with Commitments missed due to unanticipated *force majeure* circumstances beyond the New T-Mobile's control, including, but not limited to, war, rebellion, hurricanes and other major storms, earthquakes, fires, terrorism, strikes, riots, insurrections, civil commotions, blockades, law or order of any government body, significant interference or exceptional failures of state or local governmental authorities, significant interruptions in the supply chain, or acts of God.

27. Multi-State Settlements. Colorado will be able to avail itself of any Multi-state Commitments granted to attorneys general for those states that are party to *State of New York et al v. Deutsche Telekom AG et al*, in settlement of that litigation, if those terms are more favorable than those agreed to herein as reasonably determined by the AGO.

28. Notwithstanding the above, the terms of this Assurance are independent of the terms of any commitments to, or conditions imposed by, the FCC and/or the DOJ. The OAG acknowledges that the Merger Parties may be subject to enforcement of such terms by the FCC and/or the DOJ and that enforcement of such terms is not within the scope of this Assurance or the authority of the OAG, unless otherwise provided in any final consent judgment entered by a federal court.

29. The OAG represents that it will seek enforcement of the provisions of this Assurance with due regard for fairness.

VIII. GENERAL PROVISIONS

30. Term. The Term of this Assurance shall be seven (7) years from the Closing Date, or 180 days after New T-Mobile provides the final Colorado specific results of the 6-year FCC Nationwide Drive Test to Colorado, whichever is later.

31. No Third-Party Beneficiaries. There is no private right of action, explicit or implicit, created by this Assurance to enforce its terms. No person or entity is intended to be a third-party beneficiary of the provision of this Assurance for the purposes of any civil, criminal,

or administrative action in any court or before any authority. Nor shall any person or entity be permitted to assert any claim or right as a beneficiary or protected class under this Assurance. Nothing contained in this Assurance shall be construed to deprive any person, corporation, association, agency, or other entity of any right provided by law, regulation, or administrative pronouncement independent of this Assurance.

32. No Waiver. Nothing in this Assurance shall be construed or used as a waiver, limitation or bar on any defense otherwise available to the Merger Parties' rights to defend themselves from or make arguments in any pending or future legal or administrative action, proceeding, local or federal claim or suit, including without limitation, private individual or class action claims or suits, relating to the Merger Parties' conduct prior to the execution of this Assurance, or to the existence, subject matter, or terms of this Assurance.

33. Severability. If any clause, provision or section of this Assurance shall, for any reason, be held illegal, invalid or unenforceable, such illegality, invalidity or unenforceability shall not affect any other clause, provision or section of this Assurance, and this Assurance shall be construed and enforced as if such illegal, invalid or unenforceable clause, section or provision had not been contained herein.

34. Preemption. In the event that any statute or regulation pertaining to the subject matter of this Assurance is modified, enacted, promulgated or interpreted by the Federal government or any Federal agency, such as the FCC, and a court of competent jurisdiction holds that such statute or regulation is in conflict with any provision of this Assurance, Merger Parties may comply with such statute or regulation, and such action shall constitute compliance with the counterpart provision of this Assurance.

35. Attorneys' Fees and Costs. Each party shall bear its own attorneys' fees and costs in connection with this subject matter. The Merger Parties expressly agree that they waive any right to costs under Federal Rule 41(d) or its state equivalent based on any action discussed in this AVC.

36. Public Record. Once fully executed, this Assurance is a public document. Upon request, a copy of this document or any information in it shall be made available to any person by the Office of the Attorney General.

37. Headings. The titles and headings of each section of this Assurance are for convenience purposes only and are not intended by the Merger Parties or the OAG to lend meaning to the actual terms of this Assurance.

38. Notice. All notices required to be sent under this Assurance shall be sent via United States Certified Mail, return receipt requested, to the following addresses:

For the Attorney General:
Colorado Department of Law
Consumer Protection Section
Antitrust Unit

Ralph L. Carr Colorado Judicial Center
1300 Broadway, 7th Floor
Denver, CO 80203


For the Merger Parties:

David A. Miller
Executive Vice President, General Counsel and Secretary
12920 SE 38th Street
Bellevue, WA 98006

39. Execution in Counterparts. This Assurance may be executed in counterparts, each of which is an original and all of which are one and the same.


40. Entire Agreement. This Assurance sets forth the entire agreement of the Merger Parties and may be amended solely by written agreement signed by the OAG and the Merger Parties or their authorized representatives.

WHEREFORE, the following signatures are affixed hereto:

 10/18/19

G. Michael Sievert
President & Chief Operating Officer

T-Mobile US, Inc.

 10/18/2019

Natalie Hanlon Leh
Chief Deputy Attorney General

State of Colorado, by and through its
Office of the Attorney General