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***Perspectives from FSF Scholars***  
***December 3, 2018***  
***Vol. 13, No. 44***

**Putting Today's Mobile Broadband Marketplace in Context**

by

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The Federal Communications Commission is now considering the proposed merger between T-Mobile and Sprint. Free State Foundation scholars have submitted [comments](#) and [reply comments](#) addressing the context in which the Commission should evaluate the competitive impacts of the transaction. In those comments, FSF urged the FCC, as part of its competitive impact analysis, to consider fixed and mobile services as part of a broader broadband market.

And, more specifically, our comments stated that the emergence of cable providers as "hybrid mobile networks operators" has blurred the formerly distinct lines between fixed and mobile services, rendering the FCC's past view of the mobile wireless market outdated:

Wireless market entry by Comcast and Charter Communications using hybrid WiFi/cellular mobile wireless networks as well as DISH Network's planned launches of IoT and 5G networks diminish the likelihood of significant price increases, post-merger. Commission precedents like the CenturyLink/Level 3 Order (2017) factor such entry into the review analysis.

It is more likely that wireless and wireline broadband services properly are part of an overall broadband communications market – a broader broadband market, if you will – as these two market segments become increasingly substitutable. Traditional market definitions, such as a “mobile broadband” market, are now likely to be overly narrow,

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just as "cable" is certainly outdated and overly narrow as a meaningful product market definition.

In September 2018, Michelle Connolly, a member of the Free State Foundation's Board of Academic Advisors and former Chief Economist at the FCC, published an important report titled ["Competition in Wireless Telecommunications: The Role of MVNOs and Cable's Entry into Wireless."](#) Dr. Connolly discusses how cable providers, as hybrid mobile network operators (HMNOs), should be considered legitimate competitors to mobile broadband providers and why HMNOs should be considered in evaluating the competitiveness of the mobile services market segment.

In the FCC's transactional review of the T-Mobile/Sprint merger and its reports regarding wireless competition, the Commission should consider the emergence of HMNOs and other technologies in its competition analyses. Presently, the Commission's consideration of the mobile wireless broadband market only accounts for facilities-based wireless providers (Mobile Network Operators or MNOs), like Verizon, AT&T, or T-Mobile. Non-facilities-based providers (Mobile Virtual Network Operators or MVNOs), which purchase network capacity from MNOs and resell the service rather than building out their own facilities, are not included. (TracFone is the most popular MVNO.)

Back in 2010 in its *Fourteenth Mobile Wireless Report*, here is what the FCC said about the mobile wireless broadband market and MVNOs:

MVNOs are not counted as separate competitors from their hosting facilities-based providers in our analysis of market structure. MVNOs are mobile wireless service competitors which, like facilities-based providers, compete for subscribers. However, because MVNOs purchase their mobile wireless services in wholesale contracts from facilities-based providers, the ability of MVNOs to compete against their host facilities-based provider is limited. Also, MVNOs do not compete through network investments and upgrades as do facilities-based providers.

Regarding pure MVNOs, and at that time, the Commission's view may have been reasonable. However, the market has evolved significantly since 2010. And one way is that cable operators now are offering mobile services as HMNOs that use a combination of their own facilities and leased services to provide their proprietary mobile broadband services. For example, for its "Xfinity Mobile" wireless offering, Comcast has an [MVNO agreement](#) to use Verizon's mobile network, while offloading data onto its fixed broadband network and Wi-Fi hotspots all over the country.

HMNOs differ from MVNOs in that they compete with MNOs through network investments and upgrades. For example, in addition to investing [nearly \\$8 billion in its nationwide fixed broadband network in 2017](#), Comcast also spent over \$1.7 billion in the Incentive Auction for 600 MHz, showing its long-term interest in becoming a self-sustaining mobile network provider. Since Comcast introduced "Xfinity Mobile" in April 2017, Charter now has begun offering "Spectrum Mobile," and Altice says it will launch its own wireless service in early 2019.

At the end of the second quarter in 2018, just a year after it had launched, Xfinity Mobile had nearly 800,000 subscribers. And Dr. Connolly predicts that HMNOs will continue to become more popular because cable companies can offer complementary assets. They have robust fiber and coaxial cable networks, which reduce the costs of expanding their customer base. They generally have the right to install facilities in public rights-of-way, accelerating their ability to upgrade and expand wireless networks. And Dr. Connolly suggests that cable providers will be able to offer services including video, voice, fixed broadband, and mobile broadband as part of attractive bundles.

The FCC's [Twentieth Wireless Competition Report](#), released in September 2017, acknowledged Comcast's and Charter's new mobile services, but it continued to treat them as resellers (MVNOs), not as hybrid networks (HMNOs), ignoring the innovations in technology and their business models. The *Twentieth Report* also failed to analyze the increasing substitutability of fixed and mobile broadband services. In July 2018 [comments](#) submitted to the FCC regarding mobile wireless competition, FSF provided evidence of market substitutability between fixed and mobile broadband services and specifically asked the Commission to consider this evidence in its next competition report.

Dr. Connolly's report also addresses the increasing substitutability of various broadband technological platforms:

[A]s technology, infrastructure, and vertical integration/partnering evolve, consumers will face more similar levels of quality and pricing for services providing “connectivity,” regardless of whether the provider is officially considered to be a mobile wireless network operator, a cable operator, an MVNO, a satellite operator, or a 5G operator.

Increasing substitutability between wireless and fixed services, along with the eventual hybridization of wireless and fixed broadband networks, leads to increasingly direct competition across all of these providers in a single market for providing connectivity to consumers. Much of this competition will be in the form of differentiation of services. Still, there will be direct competition for customers. Viewing or defining all of these markets as independent of one another is quickly becoming anachronistic.

In light of the increasing substitutability of fixed and mobile services and the disruption created by HMNOs and other nascent wireless technologies, a static analysis of the mobile wireless marketplace is misplaced. As FSF stated in its [reply comments](#) regarding the T-Mobile/Sprint merger, artificial rules regarding the number of providers that should exist in a marketplace are especially inappropriate in this dynamic technological space and ever-changing marketplace:

The Commission should reject any artificial rule demanding four nationwide mobile wireless providers. Post-merger, consumer choices will still include three nationwide mobile service providers, plus regional providers, and hybrid Wi-Fi/cellular service providers Charter Communications and Comcast. “New T-Mobile” would likely be a stronger competitor. And the proposed merger would provide New T-Mobile an accelerated pathway for nationwide 5G network coverage that neither provider would have by themselves.

In sum, in the context of the Commission's evaluation of the T-Mobile/Sprint merger, and, indeed, in its ongoing evaluation of the competitiveness of the broader broadband market of which mobile broadband is an important part, the agency must take into account recent marketplace developments, such as the emergence of HMNOs discussed in Dr. Connolly's report, and all the evidence contained in FSF's comments submitted to the Commission.

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