



PUBLIC NOTICE

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**NOTICE OF REQUESTS BY ADDITIONAL OFFICES OF STATE ATTORNEYS
GENERAL TO REVIEW SUBMISSIONS IN WT DOCKET NO. 18-197 THAT
CONTAIN NRUF AND LNP DATA**

CC Docket No. 99-200
CC Docket No. 95-116
WT Docket No. 18-197

On August 7, 2018, subject to a protective order, the Commission placed into the record in WT Docket No. 18-197 (Applications of T-Mobile US, Inc., and Sprint Corporation For Consent To Transfer Control of Licenses and Authorizations) various Numbering Resource Utilization and Forecast (“NRUF”) reports filed by wireless telecommunications carriers and disaggregated, carrier-specific local number portability (“LNP”) data related to wireless telecommunications carriers.¹ Pursuant to the associated protective order, outside persons participating or intending to participate in Docket No. 18-197 who are not involved in competitive decision-making activities and who have signed the Acknowledgment of Confidentiality attached to the protective order may review and use the NRUF and LNP data “solely for the preparation and conduct of [Docket No. 18-197] before the Commission.”²

The protective order further provides that if a state department or agency, among others, issues a subpoena for or orders the production of NRUF or LNP data or information derived from NRUF and LNP data (“NRUF/LNP Confidential Information”) that a person has received pursuant to the protective order, the person receiving such an order must notify all affected parties and the Commission, such that “the Commission and each affected Wireless Telecommunications Carrier has a full opportunity to oppose such production prior to the production or disclosure of any NRUF/LNP Confidential Information.”³

Pursuant to this provision, on August 29, 2018, T-Mobile US, Inc. (“T-Mobile”), notified the Commission that it had received a subpoena from the New York State Attorney General’s Office in connection with that Office’s investigation of the proposed merger between T-Mobile and Sprint Corporation (T-Mobile/Sprint merger), seeking all materials T-Mobile received from the FCC in

¹ See *Applications of T-Mobile US, Inc., and Sprint Corporation For Consent To Transfer Control of Licenses and Authorizations; Numbering Resource Utilization and Forecast Reports and Local Number Portability Reports To Be Placed Into the Record, Subject to Protective Order*, WT Docket No. 18-197, CC Docket No. 99-200, Public Notice, 33 FCC Rcd 7376 (2018).

² *Applications of T-Mobile US, Inc., and Sprint Corporation For Consent To Transfer Control of Licenses and Authorizations*, WT Docket No. 18-197, NRUF/LNP Protective Order, 33 FCC Rcd 7369 (2018).

³ While the protective order requires notice, obeying a validly issued subpoena or order does not violate the terms of the protective order.

connection with the Commission's investigation of this transaction, which includes NRUF/LNP Confidential Information. T-Mobile further stated that the New York State Attorney General's Office intends on sharing those materials with other state attorneys general that are investigating the merger and that have signed confidentiality agreements with T-Mobile and Sprint.⁴ Separately, the New York State Office of the Attorney General and the California Attorney General notified the Commission that in connection with their investigation of the proposed T-Mobile/Sprint merger, they plan to seek materials that contain or incorporate NRUF/LNP Confidential Information.⁵

The Commission has recognized that disaggregated, carrier-specific forecast and utilization data should be treated as confidential and should be exempt from public disclosure under 5 U.S.C. § 552(b)(4).⁶ Nonetheless, when the public interest has so required, the Commission has provided access to that data to persons not involved in competitive decision-making subject to a protective order requiring that the data be used solely for the purpose of participating in the relevant proceeding before the Commission and that the data and information derived from the data not be made public.⁷ The Commission has also provided NRUF and LNP data to the United States Department of Justice for the Department's use in antitrust investigations upon assurances from the Department that the material will be kept confidential and used for only legitimate enforcement purposes.⁸

On September 4, 2018, the Commission released a Public Notice notifying all wireless carriers that the New York State Office of the Attorney General and the Attorney General of the State of California, in connection with their investigation of the proposed merger between T-Mobile and Sprint, intended to seek access to NRUF and LNP data submitted to the Commission.⁹ On October 22, 2018, the

⁴ Letter from Nancy Victory, DLA Piper, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission (Aug. 29, 2018).

⁵ Letter from Elinor Hoffmann, Deputy Bureau Chief, Antitrust Bureau, New York State Office of the Attorney General to Donald Stockdale, Chief, Wireless Telecommunications Bureau, Federal Communications Commission (Aug. 24, 2018); Letter from Paula Blizzard, Deputy Attorney General, Department of Justice, State of California to Donald Stockdale, Chief, Wireless Telecommunications Bureau, Federal Communications Commission (Aug. 23, 2018).

⁶ *Numbering Resource Optimization*, CC Docket No. 99-200, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 7574, 7607, para. 78 (2000).

⁷ See, e.g., *Applications of New Cingular Wireless PCS, LLC, Dycorn Holding, Inc., and Wilkes Cellular, Inc., for Consent To Assign Lower 700 MHz C Block License and a Cellular License in Georgia; Numbering Resource Utilization and Forecast Reports and Local Number Portability Reports To Be Placed Into the Record, Subject to Protective Order*, WT Docket No. 17-82, CC Docket No. 99-200, Public Notice, 32 FCC Rcd 2955 (2017); *Applications of AT&T Inc., Leap Wireless Int'l, Inc., Cricket License Co., LLC, and Leap Licenseco, Inc., For Consent To Transfer Control and Assign Licenses and Authorizations; Numbering Resource Utilization and Forecast Reports and Local Number Portability Reports Placed Into the Record, Subject to Protective Order*, WT Docket No. 13-193, CC Docket No. 99-200, Public Notice, 28 FCC Rcd 12821 (2013).

⁸ See, e.g., *Notice of Request for Access to Carrier Data Filed in the Numbering Resource Utilization and Forecast (NRUF) Reports, Pleading Cycle Established*, CC Dkt. No. 99-200, CC Dkt. No. 95-116, Public Notice, 32 FCC Rcd 7553 (2017); *Notice of Request for Access to Carrier Data Filed in the Numbering Resource Utilization and Forecast (NRUF) Reports, Pleading Cycle Established*, CC Dkt. No. 99-200, CC Dkt. No. 95-116, Public Notice, 31 FCC Rcd 123 (2016).

Commission released a second Public Notice¹⁰ notifying all wireless carriers that the Offices of Attorney General in nine states—Alabama, Connecticut, Florida, Hawaii, Mississippi, Tennessee, Virginia, Washington, and Wisconsin—and the District of Columbia were seeking similar access to NRUF and LNP data in connection with their inquiries and investigations into the proposed merger between T-Mobile and Sprint.¹¹

The Commission has since received letters from additional Offices of Attorney General in four states—Colorado, Iowa, Maryland, and Massachusetts—seeking similar access to NRUF and LNP data in connection with their inquiries and investigations into the proposed merger between T-Mobile and Sprint.¹² The letters state that it is the policy of the Offices to keep the requested NRUF and LNP data confidential. The Offices of the Attorney General of Colorado, Iowa, Maryland, and Massachusetts each state that the Office will not disclose the information unless it is required by law or is necessary in

⁹ *Notice of Request by Offices of State Attorneys General To Review Submissions in Docket No. 18-197 That Contain NRUF and LNP Data*, CC Dkt. No. 99-200, CC Dkt. No. 95-116, WT Dkt. No. 197, Public Notice, 33 FCC Rcd 8567 (2018).

¹⁰ *Notice of Requests by Additional Offices of State Attorneys General To Review Submissions in Docket No. 18-197 That Contain NRUF and LNP Data*, CC Dkt. No. 99-200, CC Dkt. No. 95-116, WT Dkt. No. 197, Public Notice, DA 18-1078 (WTB Oct. 22, 2018).

¹¹ Letter from Billington M. Garrett, Assistant Attorney General, State of Alabama Office of the Attorney General to Donald Stockdale, Chief, Wireless Telecommunications Bureau, Federal Communications Commission (Sept. 7, 2018); Letter from Gary M. Becker, Assistant Attorney General, State of Connecticut Office of the Attorney General to Donald Stockdale, Chief, Wireless Telecommunications Bureau, Federal Communications Commission (Aug. 31, 2018); Letter from Catherine Jackson, Chief, Public Integrity Section, Public Advocacy Division, Government of the District of Columbia Office of the Attorney General to Donald Stockdale, Chief, Wireless Telecommunications Bureau, Federal Communications Commission (Sept. 7, 2018); Letter from Christopher Hunt, Assistant Attorney General, State of Florida Office of the Attorney General to Donald Stockdale, Chief, Wireless Telecommunications Bureau, Federal Communications Commission (Oct. 4, 2018); Letter from Rodney I. Kimura, Deputy Attorney General, State of Hawaii Department of the Attorney General to Donald Stockdale, Chief, Wireless Telecommunications Bureau, Federal Communications Commission (Sept. 5, 2018); Letter from Crystal Utley Secoy, Special Assistant Attorney General, State of Mississippi Attorney General's Office to Donald Stockdale, Chief, Wireless Telecommunications Bureau, Federal Communications Commission (Sept. 6, 2018); Letter from Victor J. Domen, Jr., Senior Assistant Attorney General, State of Tennessee Office of the Attorney General to Donald Stockdale, Chief, Wireless Telecommunications Bureau, Federal Communications Commission (Sept. 24, 2018); Letter from Tyler T. Henry, Assistant Attorney General, Commonwealth of Virginia Office of the Attorney General to Donald Stockdale, Chief, Wireless Telecommunications Bureau, Federal Communications Commission (Sept. 6, 2018); Letter from Neal H. Luna, Assistant Attorney General, Office of the Attorney General of Washington to Donald Stockdale, Chief, Wireless Telecommunications Bureau, Federal Communications Commission (Sept. 7, 2018); Letter from Gwendolyn J. Cooley, Assistant Attorney General, Office of the Attorney General of the State of Wisconsin to Donald Stockdale, Chief, Wireless Telecommunications Bureau, Federal Communications Commission (Sept. 27, 2018).

¹² Letter from Devin Laiho, Senior Assistant Attorney General, State of Colorado Department of Law to Donald Stockdale, Chief, Wireless Telecommunications Bureau, Federal Communications Commission (Jan. 15, 2019); Letter from Max M. Miller, Assistant Attorney General, Iowa Department of Justice Office of the Attorney General to Donald Stockdale, Chief, Wireless Telecommunications Bureau, Federal Communications Commission (Jan. 8, 2019); Letter from John R. Tennis, Assistant Attorney General & Chief, Antitrust Division, State of Maryland Office of the Attorney General to Donald Stockdale, Chief, Wireless Telecommunications Bureau, Federal Communications Commission (Jan. 31, 2019); Letter from Matthew M. Lyons, Assistant Attorney General, Commonwealth of Massachusetts Office of the Attorney General to Donald Stockdale, Chief, Wireless Telecommunications Bureau, Federal Communications Commission (Dec. 6, 2018).

connection with a legitimate law enforcement purpose or a judicial proceeding. The Offices of the Attorney General of Iowa, Maryland, and Massachusetts each state that they will protect the confidentiality of the documents and information to the fullest extent applicable, including pursuant to any applicable state law. The Offices of the Attorney General of Colorado and Massachusetts each state that if a discovery request or a request under applicable state laws is made, they will assert all applicable exemptions, privileges, and objections to disclosure.

The Commission is providing this notice to inform carriers of the requests of the Colorado, Iowa, Maryland, and Massachusetts Offices of the Attorney General to allow carriers the opportunity to contact the Offices of the Attorneys General or to take any other action they may deem appropriate if they have concerns or oppose disclosure. Comments or objections should not be filed with the Commission.

For further information, please contact Joel A. Rabinovitz, Office of General Counsel, joel.rabinovitz@fcc.gov, (202) 418-0689.

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