Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of T-Mobile License LLC Spectrum Manager Lease Arrangements	File Nos. 0009021213 & 0009021220

PETITION FOR RECONSIDERATION

Verizon is aggressively rolling out 5G and has the fastest 5G services in the market today. We also remain the most efficient user of spectrum in the country. But as the Commission has recognized in creating the spectrum screen, concentration of needed spectrum in the hands of a single operator can raise serious competitive concerns and, over time, threaten the health and competitiveness of the wireless market. For this reason, Verizon[1] petitions for reconsideration of the Bureau's acceptance of T-Mobile License LLC's Spectrum Manager Lease arrangements with Channel 51 License Company LLC and LB License Co, LLC.[2] These arrangements will exacerbate the extent to which T-Mobile exceeds the Commission's 250 MHz screen for low- and mid-band spectrum in the relevant markets, including those where it already exceeds the screen by more than 100 MHz. Given this concentration of scarce low- and mid-band spectrum — and if the spectrum screen is to have any continued meaning — the Commission should grant reconsideration, subject the arrangements to a searching competitive

[1] The Verizon companies participating in this proceeding are the regulated, wholly owned subsidiaries of Verizon Communications Inc.

[2] *See* Public Notice, *Wireless Telecommunications Bureau Assignment of License Authorization Applications, Transfer of Control of Licensee Applications, De Facto Transfer Lease Applications and Spectrum Manager Lease Notifications, Designated Entity Reportable Eligibility Event Applications, and Designated Entity Annual Reports*, Report No. 15137, at 19 (July 15, 2020); 47 C.F.R. §§ 1.9020(e)(1)(iii), (e)(2)(iv).

analysis, and reject these arrangements where it finds competitive harms or require T-Mobile to take action to mitigate those harms, including spectrum divestitures.

T-Mobile's own statements underscore the competitive harms from T-Mobile's concentration of spectrum. T-Mobile's President of Technology, Neville Ray, recently boasted that, even before these arrangements take effect, T-Mobile's low- and mid-band spectrum holdings give it such a "material advantage" in the marketplace that its "competition doesn't have a path to match [it] for some time."[3] Indeed, Mr. Ray claimed that T-Mobile has a "2x" or "3x multiple" in the "mid- and low-bands" over AT&T and Verizon — a lead that he claims increases to "a 5, maybe even a 6 multiple" in terms of "applying that spectrum for the customer[s'] use."[4] The Commission should not allow T-Mobile to dramatically expand that lead in many of the country's largest markets without subjecting these arrangements to the same rigorous competitive analysis the Commission normally applies to transactions that exceed the spectrum screen.

T-Mobile suggests that, because it *already* exceeds the spectrum screen in 193 of the 200 counties in which it is adding spectrum, the Commission should ignore the competitive effects of T-Mobile obtaining *even more* spectrum in those counties.[5] That makes no sense. In 71 of those

[3] T-Mobile US, Inc. at Wells Fargo Telecom 5G Forum (Virtual) – Final, Fair Disclosure Wire, at 4, 6 (June 18, 2020) (statements of Neville Ray, President of Technology, T-Mobile) ("T-Mobile Market Presentation").

[4] *Id.* at 5.

[5] Because T-Mobile first notified the Commission of these Spectrum Manager Lease arrangements on March 23, 2020, it used the 240 MHz screen then in effect. However, effective April 27, 2020, the screen increased to 250 MHz. *See* Final Rule, *Transforming the 2.5 GHz Band*, 84 Fed. Reg. 57343 (Oct. 25, 2019) (announcing April 27, 2020 effective date for changes to the spectrum screen adopted in the *2.5 GHz Report and Order*); Memorandum Opinion and Order, Declaratory Ruling, and Order of Proposed Modification, *Applications of T-Mobile US, Inc., and Sprint Corporation for Consent To Transfer Control of Licenses and Authorizations*, 34

counties, the Spectrum Manager Lease arrangements will put T-Mobile at least 25% *further* over the current total spectrum screen than it already is.[6] In the remaining 121 counties, the arrangements will put T-Mobile between 10% and 24% further over the current total spectrum screen.[7] Those increases are significant and cannot be summarily brushed aside as having "little incremental effect."[8]

The Commission should also look closely at the six counties where these leases themselves will cause T-Mobile to exceed the current spectrum screen for the first time.[9] While T-Mobile describes the arrangements as "edging T-Mobile US over the [total] spectrum screen[],"[10] that is true of only two counties (Barnstable and Dukes in Massachusetts).[11] In the other four counties, the arrangements will push T-Mobile as much as 19 MHz over the total spectrum screen, and by about 12 MHz over on average. These are not *de minimis* changes and they should be subject to review.

FCC Rcd 10578, ¶ 72 n.228 (2019) ("*T-Mobile-Sprint Merger Order*") (describing the effects on the spectrum screen of the *2.5 GHz Report and Order*).

[6] For example, in Cook County, Illinois, T-Mobile will go from 50 MHz over the current total spectrum screen to 70 MHz over — a 40% increase. T-Mobile Application Exh. 2 at 1 (Low- and Mid-Band Spectrum Aggregation), https://wireless2.fcc.gov/UlsEntry/attachments/attachmentViewRD.jsp?applType=search&fileKey=1816436519&attachmentKey=20837379&attachmentInd=applAttach.

[7] For example, in the District of Columbia, T-Mobile will go from 62.5 MHz over the current total spectrum screen to 72.5 MHz over — a 16% increase. *Id.*

[8] T-Mobile Application Exh. 1 at 7, https://wireless2.fcc.gov/UlsEntry/attachments/attachmentViewRD.jsp?applType=search&fileKey=1682949933&attachmentKey=20835873&attachmentInd=applAttach.

[9] T-Mobile had identified seven such counties, but the Spectrum Manager Lease arrangements will give T-Mobile 242.7 MHz of low- and mid-band spectrum in Rabun County in Georgia, which is below the current spectrum screen. T-Mobile Application Exh. 2 at 5.

[10] T-Mobile Application Exh. 1 at 4.

[11] In these counties, T-Mobile is adding 20 MHz of spectrum to bring it from 231.3 MHz to 251.3 MHz — just "edging" over the current screen.

Nor can T-Mobile rely on its recent merger approval to shield its new spectrum agreements from scrutiny. Approval of a merger does not immunize a party from review of subsequent transactions. The Commission's conclusion that "New T-Mobile's significant post-transaction spectrum holdings" are "unlikely" to foreclose rivals from expanding capacity[12] does not preclude the Commission's review of the competitive impact of the even more significant spectrum holdings T-Mobile will have as a result of these arrangements. T-Mobile also justified its post-merger spectrum position by asserting that it would "fully utilize the combined and complementary spectrum resulting from the merger to accelerate the transition to the delivery of spectrally efficient and advanced 5G services," claiming that it was "not acquiring the spectrum for the purpose of denying assets to competitors."[13] T-Mobile now seeks to extend what it describes as its "material advantage" in spectrum holdings, even as it has not yet "fully utilize[d]" the huge swaths of spectrum to which it gained access through its merger.[14] And if all the mid- and low-band spectrum T-Mobile obtained through the merger is needed to deploy 5G, additional concentration of that spectrum in T-Mobile's hands will necessarily make it harder for other providers to compete.

[12] *T-Mobile-Sprint Merger Order* ¶ 99.

[13] Joint Opposition of T-Mobile US, Inc. and Sprint Corporation at 29-30, WT Docket No. 18-197 (Sept. 17, 2018).

[14] T-Mobile Market Presentation at 6. T-Mobile also just asked the California Public Utilities Commission for two additional years to meet the benchmark to provide average speeds of 300 Mbps to 93% of California. *See* Joint Applicants' Petition for Modification of Decision 20-04-008 at 2, Application Nos. 18-07-011 & 18-07-012 (Cal. Pub. Utils. Comm'n June 22, 2020), https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M340/K668/340668671.PDF.

Indeed, T-Mobile's tune on spectrum aggregation has changed noticeably.

2012 T-Mobile	2020 T-Mobile
It "is contrary to the public interest" for a carrier to add to its spectrum holdings when it already has "more than twice, and in some [areas] nearly three times," as much spectrum as its rivals.[15]	A "2x" or "3x" lead in the "mid- and low-band[]" spectrum over rivals "does not raise any competitive or other public interest concerns."[16]
When a carrier "already has a tremendous advantage," adding to that lead will result in "an excessive concentration" of spectrum "that will make it significantly more difficult for other[s] . . . to compete."[17]	Even though T-Mobile's spectrum holdings provide it with a "material advantage" that its rivals will not "have a path to match . . . for some time," adding to that lead "do[es] not raise any spectrum aggregation or competitive concerns."[18]
The "Commission should not rubber-stamp . . . [t]ransactions merely because they satisfy the current 'spectrum screen.'"[19]	The Commission should rubber-stamp the transaction as to the 193 counties in which T-Mobile already "exceed[s] the current spectrum holdings threshold" and is adding more spectrum.[20]

The Commission should heed 2012 T-Mobile's warnings and not allow T-Mobile to widen its lead without at least conducting a searching inquiry into the competitive consequences.

As the Commission is aware, the wireless industry will require access to low- mid-, and high-frequency spectrum to deliver the full promise of 5G services. These different "spectrum

[15] Petition To Deny of T-Mobile, USA, Inc. at i, 13, *Application of Cellco Partnership d/b/a Verizon Wireless and SpectrumCo LLC for Consent To Assign Licenses*, WT Docket No. 12-4 (Feb. 21, 2012) ("T-Mobile Petition To Deny").

[16] *See* T-Mobile Market Presentation at 4; T-Mobile Application Exh. 1 at 3.

[17] T-Mobile Petition to Deny. at i, 11, 13.

[18] T-Mobile Market Presentation at 4, 6; T-Mobile Application Exh. 1 at 6.

[19] T-Mobile Petition To Deny at ii.

[20] T-Mobile Application Exh. 1 at 6-7.

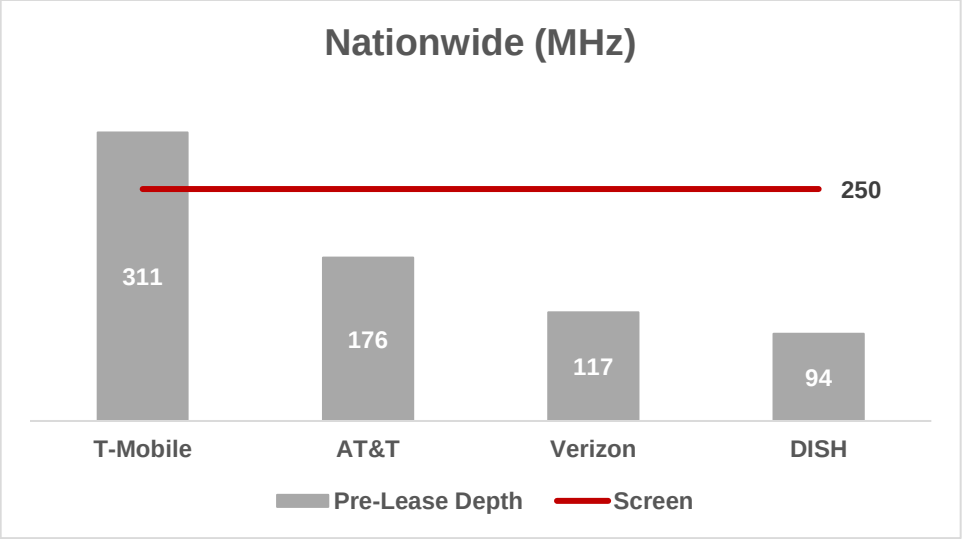
bands vary in breadth and in their propagation characteristics," and "[s]ervice providers deploy their spectrum bands differently depending on the nature of the service, geography, density, or other factors in their network build-out."[21] To enable wireless providers to offer those novel services to meet consumer demand, the Commission has engaged in numerous efforts "to facilitate access to low-band, mid-band, and high-band spectrum for the benefit of American consumers."[22] Yet there is very little additional low- or mid-band spectrum with the wide, contiguous spectrum blocks best suited for 5G services — like the C-band spectrum to be auctioned in December 2020 — that is immediately available for 5G deployment. And as T-Mobile previously told the Commission, the competitive analysis "should exclude spectrum" — such as the C-band — that the Commission "cannot rationally conclude will likely be suitable and available for retail mobile voice and broadband in the near term."[23]

Consumers also benefit from vibrant competition among the providers using that spectrum to deploy 5G services. And as T-Mobile has previously recognized, ensuring the continuation of that robust competition requires close scrutiny of transactions that would allow any one competitor to hold an overly large portion of that spectrum. Yet T-Mobile has an overly large share of the available low- and mid-band spectrum nationwide.

[21] Report, *Communications Marketplace Report*, 33 FCC Rcd 12558, ¶ 31 & n.99 (2018).

[22] Second Report and Order, Second Further Notice of Proposed Rulemaking, Order on Reconsideration, and Memorandum Opinion and Order, *Use of Spectrum Bands Above 24 GHz for Mobile Radio Services*, 32 FCC Rcd 10988, ¶ 7 (2017).

[23] T-Mobile Petition To Deny at 22. Even with accelerated clearing, the first tranche of C-band spectrum will not be available to mobile operators until December 2021.



As shown above, on a population-weighted basis — and *before* T-Mobile obtains spectrum from these Spectrum Manager Lease arrangements or any spectrum leased from DISH — T-Mobile already holds licenses for 311 MHz of low- and mid-band spectrum nationwide.[24] That is more than the low- and mid-band spectrum licensed to Verizon and AT&T *combined*.

The Commission has found that it is appropriate "to use [its] initial spectrum screen and case-by-case analysis to evaluate the likely competitive effects of increased spectrum aggregation through secondary market transactions."[25] The spectrum screen "help[s] identify those local markets in which competitive concerns are more likely."[26] Where "holdings trigger the spectrum screen by a significant amount," there is "potential to harm the public interest

[24] Verizon calculated these population-weighted averages using 2018 Census data and information in the Commission's ULS for the 50 States and District of Columbia.

[25] Report and Order, *Policies Regarding Mobile Spectrum Holdings*, 29 FCC Rcd 6133, ¶ 231 (2014).

[26] Memorandum Opinion and Order, *SprintCom, Inc., Shenandoah Personal Communications, LLC, and NTELOS Holdings Corp. for Consent To Assign Licenses and Spectrum Lease Authorizations and To Transfer Control of Spectrum Lease Authorizations and an International Section 214 Authorization*, 31 FCC Rcd 3631, ¶ 17 (Wireless Telecomms. Bur. and Int'l Bur. 2016).

through foreclosure or raising rivals' costs."[27] For example, where a transaction would have resulted in Sprint exceeding the spectrum screen by "approximately 40 megahertz" in "seven Virginia markets" — and "at least double" the spectrum of its rivals in two of those markets — the Bureaus found that "this level of spectrum aggregation potentially could result in competitive harms," which Sprint ameliorated through spectrum divestitures.[28] Similarly, when Verizon had "the most substantial total spectrum holdings of any . . . provider at the national level," the Commission found that Verizon's acquisition of additional spectrum "raise[d] competitive issues" based on Verizon's "total aggregation of spectrum," which Verizon "mitigated" through voluntary divestitures of spectrum to T-Mobile.[29]

As shown above, it is T-Mobile that has the most substantial total low- and mid-band spectrum holdings of any provider at the national level. And, through these lease arrangements, T-Mobile would exceed the spectrum screen by greater than 40 MHz and in more — and more highly populated — markets than in the Sprint-Shentel-NTELOS transaction. Because the "number of local markets triggered by the screen also helps identify the potential for competitive effects that are broader than individual markets,"[30] the Commission must look carefully at the competitive consequences in at least these markets.

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[27] *Id.* ¶ 22.

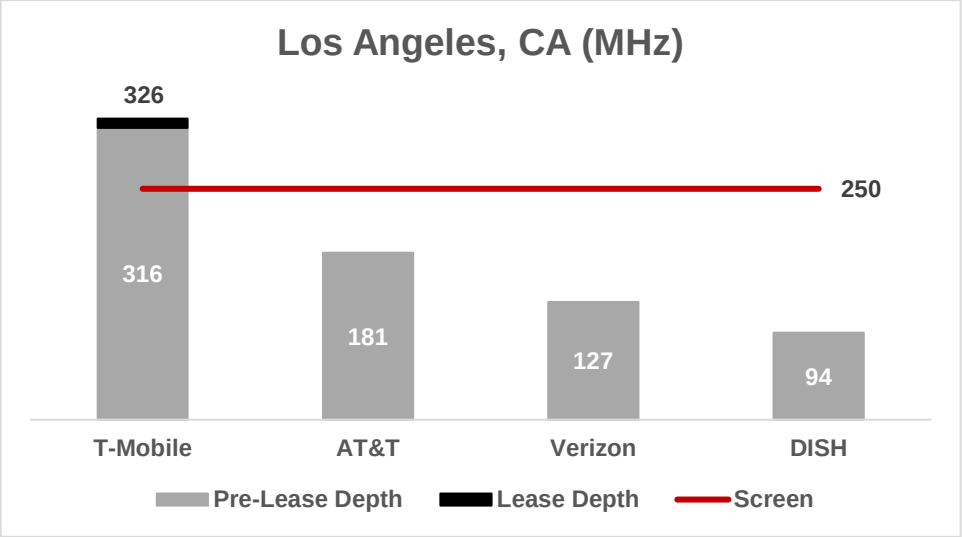
[28] *Id.* ¶¶ 24, 26.

[29] Memorandum Opinion and Order, *Applications of Cellco Partnership d/b/a Verizon Wireless and SpectrumCo LLC and Cox TMI, LLC for Consent To Assign AWS-1 Licenses*, 27 FCC Rcd 10698, ¶¶ 70, 77, 127-128 (2012).

[30] Memorandum Opinion and Order, *Applications of Cricket License Company, LLC, et al., Leap Wireless International, Inc., and AT&T Inc. for Consent To Transfer Control of Authorizations*, 29 FCC Rcd 2735, ¶ 39 (Wireless Telecomms. Bur. and Int'l Bur. 2014).

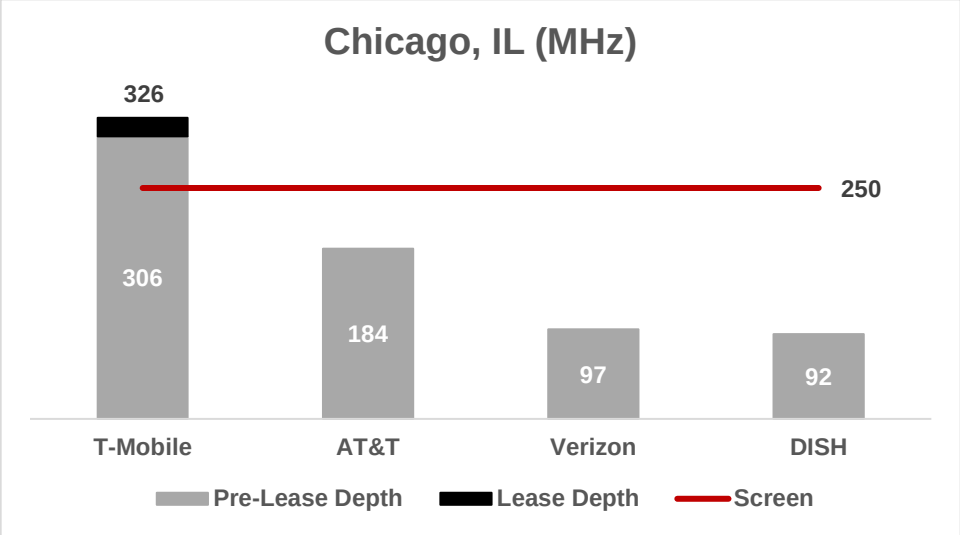
Below, we show T-Mobile's massive lead in low- and mid-band spectrum in the most populated Partial Economic Areas ("PEA") in which T-Mobile is obtaining even more spectrum through these arrangements.[31]

Los Angeles (PEA 2). In the counties that comprise the Los Angeles PEA, T-Mobile will have 326 MHz of low- and mid-band spectrum available. T-Mobile will not only be more than 30 percent over the spectrum screen, but also have 80 percent more of such spectrum than AT&T and more than two-and-a-half times as much as Verizon.

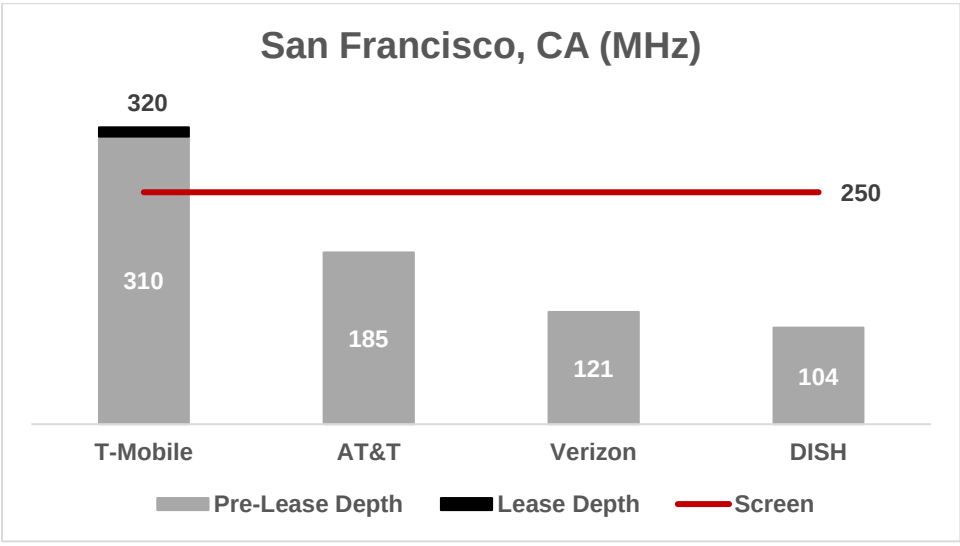


[31] The figures are population-weighted averages using 2018 Census data and include the additional spectrum T-Mobile is obtaining through these arrangements.

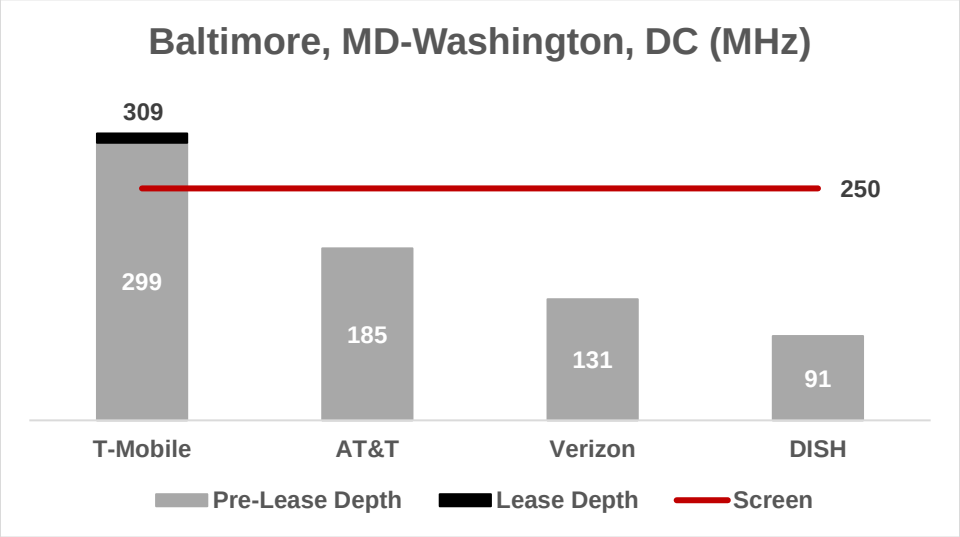
Chicago (PEA 3). In the counties that comprise the Chicago PEA, T-Mobile will also have 326 MHz of low- and mid-band spectrum available. T-Mobile will not only again be more than 30 percent over the spectrum screen, but also have more than 75 percent more of such spectrum as AT&T and more than 3.3 times as much as Verizon.



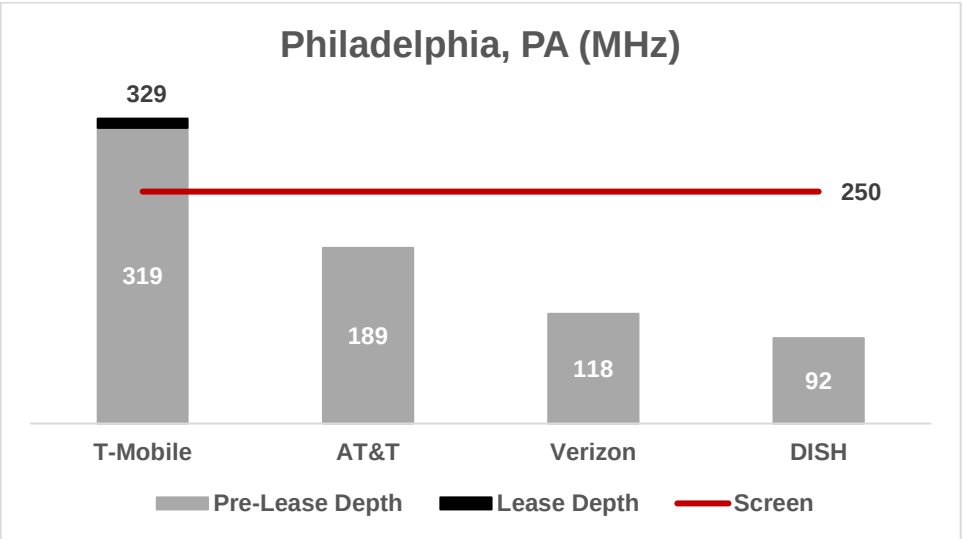
San Francisco (PEA 4). In the counties that comprise the San Francisco PEA, T-Mobile will have 320 MHz of low- and mid-band spectrum available. T-Mobile will not only be nearly 30 percent over the spectrum screen, but also have more than 70 percent more of such spectrum as AT&T and 2.5 times as much as Verizon.



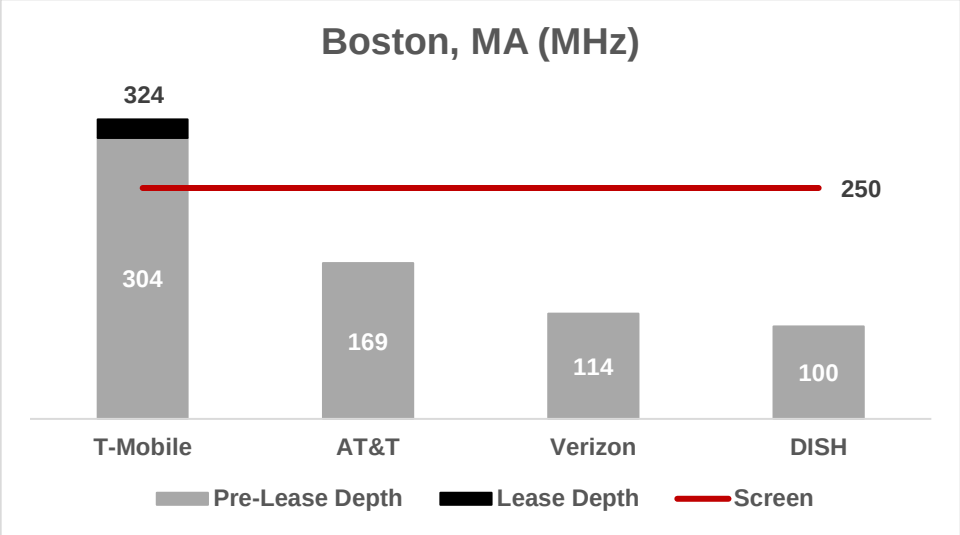
Baltimore, MD-Washington, DC (PEA 5). In the counties that comprise this PEA, T-Mobile will have 309 MHz of low- and mid-band spectrum available. T-Mobile will not only be more than 20 percent over the spectrum screen, but also have two-thirds more of such spectrum as AT&T and more than 2.3 times as much as Verizon.



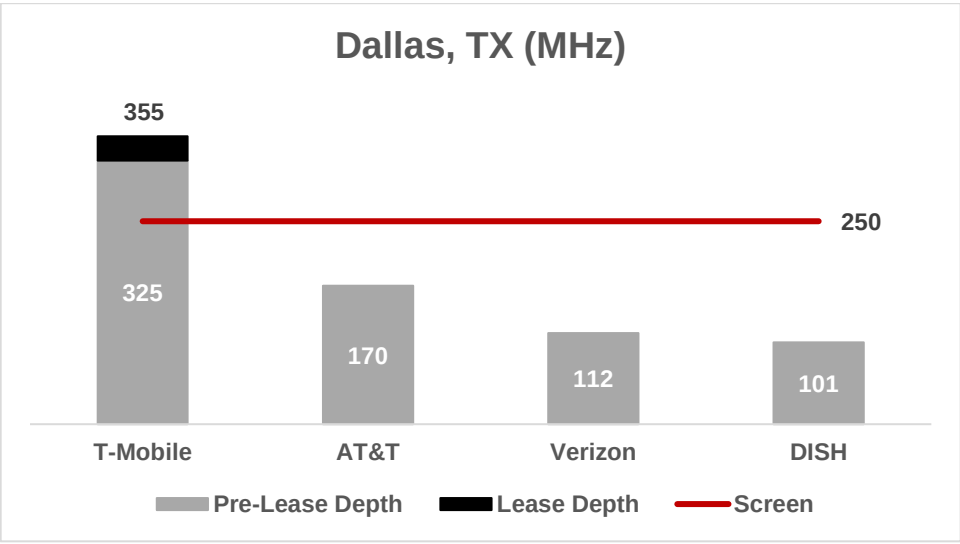
Philadelphia (PEA 6). In the counties that comprise the Philadelphia PEA, T-Mobile will have 329 MHz of low- and mid-band spectrum available. T-Mobile will not only be more than 30 percent over the spectrum screen, but also have nearly 75 percent more of spectrum as AT&T and more than 2.75 times as much as Verizon.



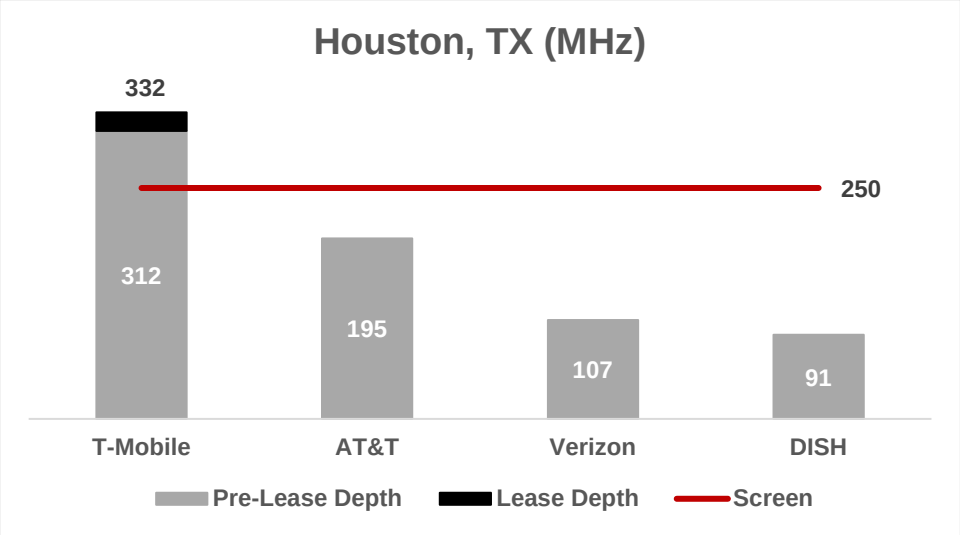
Boston (PEA 7). In the counties that comprise the Boston PEA, T-Mobile will have 324 MHz of low- and mid-band spectrum available. T-Mobile will not only be nearly 30 percent over the spectrum screen, but also have more than 90 percent more of such spectrum as AT&T and more than 2.8 times as much as Verizon.



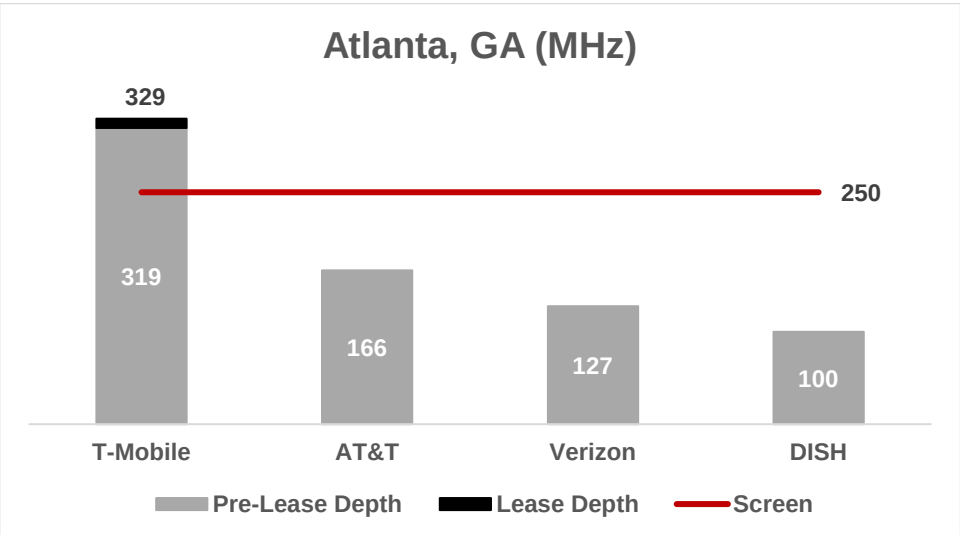
Dallas (PEA 8). In the counties that comprise the Dallas PEA, T-Mobile will have 355 MHz of low- and mid-band spectrum available. T-Mobile will not only be more than 40 percent over the spectrum screen, but also have more than double the amount of such spectrum as AT&T and more than three times as much as Verizon.



Houston (PEA 10). In the counties that comprise the Houston PEA, T-Mobile will have 332 MHz of low- and mid-band spectrum available. T-Mobile will not only be more than 30 percent over the spectrum screen, but also have 70 percent more of such spectrum as AT&T and more than three times as much as Verizon.



Atlanta (PEA 11). In the counties that comprise the Atlanta PEA, T-Mobile will have 329 MHz of low- and mid-band spectrum available. T-Mobile will not only be more than 30 percent over the spectrum screen, but also have nearly two times as much of such spectrum as AT&T and more than 2.5 times as much as Verizon.



For these reasons, the Commission should grant reconsideration and should subject the Spectrum Manager Lease arrangements to its competitive analysis. Where the Commission concludes that the arrangements are likely to cause competitive harms — and, as shown above, there is a high likelihood of such harms — the Commission should reject the arrangements or require T-Mobile to take action to mitigate those harms, including requiring spectrum divestitures.

Respectfully submitted,

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