

Serious National Security Concerns and the Sprint and T-Mobile Merger

The Sprint/T-Mobile merger raises a number of serious national security concerns which should be thoroughly vetted by Congress. Sprint and T-Mobile have predicated their merger as the pathway to 5G. If that is the public interest benefit of this transaction, it must be weighed against the public interest harms. Chief among those is the serious national security implications of relying on 5G telecommunications equipment manufactured by companies with close ties to the Chinese Government.

Given a record of Chinese cyberespionage and many risks for abuse, the United States has a significant national security interest in seeing telecommunications equipment from Huawei and ZTE become less ubiquitous, not more. At a minimum, the United States has an interest in ensuring that this equipment does not have a place in building America's first 5G network, a national security imperative. But given the interconnected nature of telecommunications networks, supply chain logistics, and economies of scale, the United States also must be proactive in ensuring Huawei and ZTE do not get a foothold in the telecommunications networks of our allies in Europe and Asia.

Under mounting pressure from many governments and companies that have already banned Huawei, ZTE, and other Chinese technologies from their respective telecommunications infrastructure, Sprint and T-Mobile have said only that they would consider not using this technology.¹ Neither party has offered any readily verifiable and enforceable governmental agreement not to use Huawei equipment in the New T-Mobile's promised US 5G mobile network. This issue is simply too important to rely on vague inferences or simply take either company at their word, particularly when the best indications are that they're only considering banning the future use of this equipment, not actively removing it from current wireless deployments.

Approximately half of all Deutsche Telekom revenue comes from North America, a number that will increase significantly if it is allowed to acquire Sprint. If Deutsche Telekom wants continued access to US consumers and the financial windfall they provide, it must commit to removing Chinese technology from its current networks and refrain from using Chinese suppliers for any future network deployments.

Some have noted that in December, the Committee on Foreign Investment in the U.S. (CFIUS) approved the proposed merger between Sprint and T-Mobile. But CFIUS is, by design, a process limited in scope and focused on a fairly narrow criterion. It is not a process intended to prove or explore whether approval of a transaction will advance America's interests globally, but instead to determine whether a foreign ownership stake in a newly created company is problematic.

Widening the lens, much about T-Mobile and Sprint's ownership should concern us about the ubiquity of Huawei and ZTE in a proposed new 5G Network. Deutsche Telekom owns T-Mobile

¹ Reuters, "T-Mobile, Sprint See Huawei Shun Clinching US Deal," [December 14, 2018](#).

and Tokyo-based SoftBank owns Sprint. Both companies would own substantial parts of the New T-Mobile.²

SoftBank has ties to the Chinese Communist Party that present a vulnerability for the New T-Mobile. The recent discoveries of Chinese microchips capable of spying on users implanted in Supermicro motherboards and perpetual threats of Chinese hacking underscore the importance of ensuring that the New T-Mobile presents no threat to the US telecommunications infrastructure, US consumers, and US national security.³ As of 2013, Sprint did not indicate that they removed their existing Huawei hardware.⁴ As of January 2016, Sprint confirmed its network still used Huawei equipment and has not publicly indicated otherwise.⁵

Serious Issues Surrounding Huawei and the New T-Mobile

Deutsche Telekom and Sprint have entangled histories with and ties to Huawei. It is very likely, then, that the New T-Mobile will include Huawei and ZTE hardware in its proposed 5G network, unless the United States Government commits to merger approval only if the company commits to excluding Huawei equipment. Even if the rumors are true that the New T-Mobile has said it will not purchase any new Huawei equipment going forward, that says nothing about the Huawei and other security-reducing equipment already in the Applicants' existing networks. This observation is made by examining how Sprint and T-Mobile's two parent companies, SoftBank and Deutsche Telekom, have developed 5G in their respective countries (Japan and Germany):

- Deutsche Telekom has been testing Germany's first 5G network by installing Huawei radio towers throughout Berlin.⁶
- SoftBank has signed Memorandums of Understanding with Huawei to work on 5G and artificial intelligence, a crucial partnership to lead the development of the Internet of Things.⁷ Furthermore, SoftBank has used Huawei and ZTE custom equipment to deploy 5G in Japan. ZTE has declared that it is working with SoftBank to capture part of the 5G market in Japan.⁸
- SoftBank has recently stated that it cannot replace the Huawei and ZTE hardware currently in use in its network because it is created specifically for Softbank and the product of research partnerships between both companies.⁹
- Deutsche Telekom has historically worked with Huawei, with research partnerships going back to 2012, when Huawei was accused, and later found guilty, of stealing technology

² Bloomberg, "T-Mobile Wins U.S. Security Approval for Sprint Deal, Sources Say," [December 17, 2018](#).

³ Bloomberg, "New Evidence of Hacked Supermicro Hardware Found in US Telecom," [October 9, 2018](#).

⁴ The Hill, "Sprint / T-Mobile Deal Must Not Allow China to Threaten US Security," [September 20, 2018](#).

⁵ LightReading, "Surprise! Sprint Still Has Huawei In Its Network," [January 25, 2016](#).

⁶ Reuters, "Deutsche Telekom Premier's Europe's First 5G Antennas," [October 12, 2017](#).

⁷ Huawei, "SoftBank and Huawei Demonstrate 5G Use Cases," [September 8, 2017](#); Huawei, "SoftBank and Huawei's Wireless X Labs Sign Connected Robot MoU to Explore New Cloud Robotics," [November 24, 2017](#).

⁸ Android Headlines, "ZTE Targets Japan for 5G Development, Teams Up with SoftBank," [February 16, 2018](#).

⁹ Reuters, "Japan's Top Three Telcos to Exclude Huawei, ZTE Network Equipment," [December 10, 2018](#).

from T-Mobile development labs in Bellevue, WA.¹⁰ Deutsche Telekom also uses Huawei equipment to manage its mobile network in Europe and has teamed up to offer cloud-based storage services.¹¹

Given that both companies are familiar with Huawei and its hardware, including the development of client-specific products, there have been serious concerns that New T-Mobile will seek to use this hardware in the development of its 5G network in the US.

Additionally, Deutsche Telekom has begun testing and operating 5G networks in Europe using Huawei hardware. Beyond the 5G test network in Berlin mentioned above, its Polish subsidiary just opened a working commercial 5G network in Warsaw. This network is modeled after the Berlin test network and includes the same Huawei equipment.¹² Given that Deutsche Telekom is building 5G networks based on its Berlin model, it stands to reason they may use the same model in the US.

A History of Using Suspect Equipment and Not Following Through on National Security Promises

Sprint and T-Mobile claim they need to merge their companies in order to construct the US's first mobile 5G network. Mobile 5G allows phones and other smart devices to maintain a 5G connection anywhere, allowing near-ubiquitous and continuous tracking and data-gathering. The technology needed to build this network is currently being developed and tested. While Qualcomm, Ericsson, Nokia, and Samsung are participating in this process, Huawei is currently the largest producer of the radio antennas and base stations necessary to deploy 5G.¹³ In fact, the US currently does not have a company capable of manufacturing the radio access network hardware, but there are multiple alternative hardware vendors in allied western economies.¹⁴

The US has been pressuring Deutsche Telekom to discontinue its use of Huawei equipment in its network.¹⁵ Despite reports that the company is seeking to replace the Huawei equipment, Deutsche Telekom did not delay the christening of its first commercial 5G network, built with Huawei technology, in Warsaw, Poland on December 7th.¹⁶ Deutsche Telekom has also used Huawei equipment to build a test 5G network in Berlin.¹⁷ Deutsche Telekom has historically worked with Huawei, with research partnerships going back to 2012, despite Huawei being accused and later found guilty of stealing technology from T-Mobile development labs in

¹⁰ The Seattle Times, "Jury Awards T-Mobile \$4.8M in Trade-Secrets Case Against Huawei," [May 18, 2017](#).

¹¹ Tech Crunch, "Deutsche Telekom Ties Up with Huawei in Growing Amazon / Google Cloud Rivalry," [October 18, 2015](#).

¹² Deutsche Telekom, "T-Mobile Polska Launches 5G Network in Warsaw," [December 7, 2018](#).

¹³ Forbes, "Chinese Government Helps Huawei with 5G," [May 8, 2017](#).

¹⁴ Forbes, "The US, China and Others Race to Develop 5G Mobile Networks," [April 3, 2018](#).

¹⁵ Ibid.

¹⁶ Deutsche Telekom, "T-Mobile Polska Launches 5G Network in Warsaw," [December 7, 2018](#).

¹⁷ Reuters, "Deutsche Telekom Premieres Europe's First 5G Antennas," [October 12, 2017](#).

Bellevue, WA.¹⁸ Deutsche Telekom also uses Huawei equipment to manage its mobile network in Europe and has teamed up to offer cloud-based storage services.¹⁹ In light of China's desire to be a worldwide leader in 5G network equipment, Deutsche Telekom's continued use of Huawei technology only helps China reach this goal. If the United States is serious about beating China in the race to 5G, it should lobby the German government (which owns 32% of Deutsche Telekom) to no longer use Huawei equipment.

Sprint's promises to replace and ban Huawei and other Chinese equipment are also cause for concern largely because SoftBank has a history of defying such agreements. As such, any official agreements made to ban the use of Chinese technology would need strong and immediately verifiable monitoring and enforcement. When SoftBank purchased Sprint in 2013, it had to commit to a national security agreement with the Department of Defense, the Department of Homeland Security, and the Department of Justice to obtain its Committee on Foreign Investment in the United States (CFIUS) clearance. Part of this agreement was that all Huawei equipment was to be removed from the Sprint network by the end of 2016.²⁰ When asked by journalists in January 2016 about why it had not started removing Huawei equipment from the network, Sprint responded that it would not comment on the timeline it had chosen.²¹ It was never since publicly confirmed that Sprint removed Huawei hardware from its network.²²

Since Softbank has only considered making concessions following mounting public scrutiny, recent promises made by the company to ban the future and current use of Huawei or ZTE equipment in emerging and existing sections of its Japanese 5G network should be viewed skeptically.²³ Put simply, Softbank has only promised to change its behavior after it was caught behaving badly.

For example, while suggesting it might not use Huawei technology in the future, SoftBank also recently stated that it cannot replace the Huawei and ZTE hardware it currently has in its Japanese network as it is made specially for them and the product of research partnerships with both companies.²⁴ As such, SoftBank's commitment to not using Chinese technology is questionable at best.

Softbank and the Chinese Communist Party

Even if the New T-Mobile were perfectly compliant with keeping suspect technology out of the US networks, there are serious concerns about the company's relationship with China. SoftBank's

¹⁸ The Seattle Times, "Jury Awards T-Mobile \$4.8M in Trade-Secrets Case Against Huawei," [May 18, 2017](#).

¹⁹ Tech Crunch, "Deutsche Telekom Ties Up with Huawei in Growing Amazon /Google Cloud Rivalry," [October 18, 2015](#).

²⁰ Securities and Exchange Commission, Form 8-K: Sprint Nextel Corporation, [May 29, 2013](#).

²¹ LightReading, "Surprise! Sprint Still Has Huawei In Its Network," [January 25, 2016](#).

²² The Hill, "Sprint / T-Mobile Deal Must Not Allow China to Threaten US Security," [September 20, 2018](#).

²³ Nikkei, "SoftBank to Remove Existing Huawei Equipment Amid Security Concerns," [December 13, 2018](#).

²⁴ Reuters, "Japan's Top Three Telcos to Exclude Huawei, ZTE Network Equipment," [December 10, 2018](#).

owner, Masayoshi Son, has numerous connections to the Chinese Communist Party (CCP). This is problematic because of how the CCP coerces companies and individuals to cooperate with its national security activities. Thus, Son and SoftBank's direct connections to the CCP could undermine the integrity of the US telecommunications infrastructure.

To begin, Jack Ma, a confirmed member of the CCP, is a Board Member of SoftBank meaning there is a direct way for the CCP to influence SoftBank's decisions.²⁵ Furthermore, SoftBank owns nearly a quarter of Alibaba, China's largest and most profitable company.²⁶ Although Alibaba is nominally a private company, the company's CEO Jack Ma (the same one that sits on SoftBank's executive board) is a member of the CCP; the Party has been known to use extralegal measures (such as imposing more regulations and applying direct pressure to company executives) to bend the company to its will.²⁷

This is yet another way in which the CCP has control over SoftBank: it has an economic incentive to cooperate. SoftBank is also planning to open an investment headquarters in China to help its Vision Fund with the numerous investments it wants to make in Chinese tech firms.²⁸ This is evidence that SoftBank is not trying to distance itself from the CCP or Chinese investment.

Numerous Nations Consider Huawei and ZTE a National Security Threat

Despite evidence and testimony from international intelligence agencies, SoftBank and Deutsche Telekom have been pursuing partnerships and developing technology with Huawei and ZTE. American, British, Australian, New Zealand, and Canadian intelligence communities have all voiced their concerns that Huawei and ZTE equipment are either a part of the Chinese intelligence apparatus or working closely with it. The United States House Select Committee on Intelligence conducted an investigation into Huawei and ZTE in 2012, and found the companies claims and evidence that they do not work with the CCP's intelligence and military apparatuses were not credible.²⁹ Since then, the US has banned the use of Huawei or ZTE equipment by government agencies and contractors.³⁰ Australia and New Zealand have banned Huawei and ZTE equipment from development in their 5G networks.³¹ MI6 has cautioned on the use of Huawei equipment and British Telecom is currently removing existing Huawei hardware from its network.³² Canadian

²⁵ The Wall Street Journal, "The Ma-Son Mutual Admiration Society," [May 10, 2010](#).

²⁶ The New York Times, "Investing in SoftBank Is Becoming a Bet on Its Founder's Deal-Making Prowess," [July 13, 2018](#).

²⁷ Georgetown Law Journal, "Beyond Ownership: State Capitalism and the Chinese Firm," [2015](#).

²⁸ Reuters, "SoftBank's Vision Fund to Hire China Team, Set Up Mainland Office," [December 4, 2018](#).

²⁹ US House of Representatives, "Investigative Report on the US National Security Issues Posed by Chinese Telecommunications Companies Huawei and ZTE," [October 8, 2012](#).

³⁰ CNBC, "Six Top US Intelligence Chiefs Caution Against Buying Huawei Phones," [February 13, 2018](#).

³¹ Reuters, "China's Huawei Slams Australia 5G Mobile Network Ban as 'Politically Motivated,'" [August 22, 2018](#); Bloomberg, "New Zealand Bans China's Huawei from 5G Wireless Networks," [November 27, 2018](#).

³² Reuters, "Exclusive: Britain Says Huawei 'Shortcomings,' Expose New Telecom Network Risks," [July 19, 2018](#); The Guardian, "BT Removing Huawei Equipment from Parts of 4G Network," [December 5, 2018](#).

intelligence has stated Huawei equipment is closely monitored and they are considering recommending a ban of use in Canadian 5G networks.³³

To conclude, there is ample evidence that should the merger between Sprint and T-Mobile be approved, New T-Mobile will seek to use Huawei technology in its 5G network, absent prohibitions on using such equipment or the imposition of national security requirements from the United States Government. This would pose a significant threat to US and worldwide telecommunications infrastructure. If the merger is to be approved, it must include robust and verifiable mandates that New T-Mobile not use any technology produced by these Chinese companies or in partnership with these Chinese companies – either in their existing networks or in new network equipment purchases moving forward.

³³ The Globe and Mail, "Ottawa Probes Huawei Equipment for Security Threats," [September 7, 2018](#).