

## Call Waiting: Department of Justice (DOJ) to Maintain Scrutiny of Wireless Industry Consolidation

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The wireless industry has seen steady consolidation since the late 1980s. Recently, in late 2013, reports began circulating about a potential merger between Sprint and T-Mobile, the nation's third and fourth-largest wireless carriers, respectively. Last week, however, in an interview with the ***Wall Street Journal***, William Baer, the assistant attorney general for the antitrust division at the **Department of Justice (DOJ)**, cautioned that it would be difficult for the Agency to approve a merger between any of the nation's top four wireless providers.

T-Mobile's CEO, John Legere, stated that a merger between his company and Sprint "would provide significant scale and capability." Baer, on the other hand, warned that "It's going to be hard for someone to make a persuasive case that reducing four firms to three is actually going to improve competition for the benefit of American consumers." As a result, any future consolidation in the wireless industry is likely to face a huge hurdle in the form of DOJ's careful scrutiny of any proposed transaction.

Much of the DOJ's interest in the wireless industry stems from the Agency's successful challenge of a proposed merger between T-Mobile and AT&T in 2011. Since then, Baer believes consumers have benefitted from "much more favorable competitive conditions." In fact, T-Mobile gained 4.4 million customers in 2013, bringing optimism to the company's financial outlook after years of losses. In the final two quarters of 2013, T-Mobile's growth bested that of both Sprint and AT&T. The low-cost carrier attracted customers and shook up the competition by upending many of the terms consumers had come to expect from wireless carriers, as well as investing in network modernization and spectrum acquisition. This flurry of activity has pushed the competition to respond with its own deals, resulting in "tangible consumer benefits of antitrust enforcement," according to Baer.

The DOJ's antitrust division has kept careful watch over the wireless industry the past few years. That scrutiny will remain, as the Agency persists to advocate that four wireless carriers are required for healthy market competition. The cards are beginning to play out from the Agency's decision, and as Baer stated, "competition today is driving enormous benefits in the direction of the American consumer."

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