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American telecoms

The art of the deal

NEW YORK

T-Mobile and Sprint will find it hard to persuade regulators that their merger will add jobs and reduce prices

JOHN LEGERE, the lion-maned boss of T-Mobile, made his wireless firm the fastest-growing carrier in America by cutting prices and giving customers better deals than AT&T and Verizon, which he relentlessly mocked on Twitter as retrograde behemoths. His personal brand as an industry maverick may have helped too. On April 29th he put that image to the test, agreeing to a combination with Sprint, the next largest carrier after T-Mobile, and creating a behemoth under his leadership.

The deal, all in shares, values the combined entity at $146bn including debt. If approved by regulators, it would squeeze the number of providers in the wireless market in America from four to three. That is a big "if"—twice earlier this decade, antitrust authorities have either stepped in to prevent such an outcome or indicated that they would do so, for fear of higher prices for consumers.

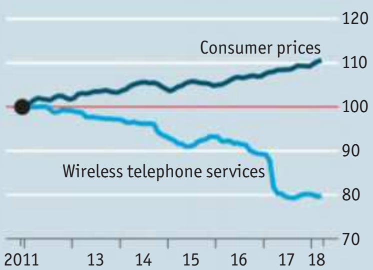
Mr Legere presumably knows the challenge, so he appealed to the political priorities of President Donald Trump. First came a promise that the union with Sprint would add thousands of jobs in America (despite also promising shareholders $6bn of annual savings, mostly cost cuts). Second, he pledged that the two firms would spend $40bn within three years to build a national 5G mobile broadband network much more quickly than either Verizon or AT&T, by taking advantage of a combination of their spectrum assets. Mr Trump's administration has made it clear that it covets early development of a 5G network, to stop China winning the battle over the technology. In addition, "Trump-led tax reform" was "particularly helpful" to the deal's economics, cooed Mr Legere. Investors, worried that Mr Trump's Department of Justice will not be so easily charmed, sold shares in both companies.

The deal represents a big retreat for Masayoshi Son, boss of SoftBank, which owns 85% of Sprint. Mr Son engineered a $20bn takeover of Sprint in 2013, with the aim of merging it with T-Mobile, but badly misjudged the regulatory mood. Twice he tried and failed to merge Sprint with T-Mobile and put Sprint in charge. Instead Sprint gave up its third-place position in the wireless market while consistently losing money, raising the spectre of bankruptcy.

Downwardly T-Mobile

United States, price indices

December 2011=100



Source: Bureau of Labour Statistics

Calling the deal a merger seems a face-saving gesture for Mr Son. The new company will be called T-Mobile, Mr Legere will run it and Deutsche Telekom, its parent firm, will own a plurality of shares. But SoftBank won better terms than analysts expected, getting 27% of the new company and four board seats, including one for Mr Son. He will be able to switch attention from Sprint to his new $100bn Vision Fund, a giant technology fund.

The two companies argue, with some support from analysts, that telecommunications companies increasingly need massive scale to succeed. AT&T and Verizon have more combined market share now than they did five years ago, at about 70%. (T-Mobile, with 16%, has gained market share mostly from Sprint, which has 12%.) AT&T is trying to buy Time Warner, pending a regulatory challenge (see next article), in part to better lock in customers. Both AT&T and Verizon are investing in 5G. Mr Legere and Marcelo Claure, the boss of Sprint (pictured above), say that only by joining up can T-Mobile and Sprint compete against the larger firms.

Their claims about 5G do contain some truth. Combined, the two companies own enough spectrum to cover much of the country with a far zippier network than either has now, though not at the fastest speeds promised with 5G. "Sprint is bringing some serious spectrum assets that T-Mobile doesn't have and really needs badly for 5G," says Stéphane Téral of IHS Markit, a provider of market and financial data.

The new T-Mobile would be better and stronger, analysts say, but its prices would probably not be lower. Projections from T- ▸▸

Mobile and Sprint of sharply higher profit margins for the merged firm suggest another priority.

In 2011 regulators blocked an acquisition of T-Mobile by AT&T, and in 2014 they indicated to T-Mobile and Sprint that they believed the market still needed four carriers. Customers have benefited: monthly wireless bills for urban consumers have fallen by 20% since 2011 (see chart on previous page). Mr Legere's success at T-Mobile, in fact, could be the merger's undoing. T-Mobile appeared on the verge of collapse in late 2011 when regulators blocked the AT&T acquisition. Since 2013 it has thrived, adding 40m customers by getting rid of long-term contracts, reducing prices and offering unlimited data usage. Craig Moffett of MoffettNathanson writes that the justice department "undoubtedly feels vindicated by its 2011 decision". He gives the merger a 50-50 chance of approval. ■

Media consolidation

Vintage legal drama

NEW YORK

The government's case against AT&T and Time Warner has gone badly

NEAR the end of the antitrust trial over AT&T's $109bn acquisition of Time Warner, Richard Leon, the presiding judge, asked Randall Stephenson, chief executive of AT&T, what the pay-television market would look like in seven years' time. Mr Stephenson mused in his folksy Oklahoma drawl that seven years ago his predictions for today would have missed "so hard" when it came to the decline of pay-TV and the rise of competition from Silicon Valley.

The exchange sounds self-deprecating but it highlighted what AT&T argued was a crucial weakness in the government's case. The Department of Justice, which is seeking to block the deal, has chiefly looked back to the past, not forward to a video and advertising market increasingly shaped by Netflix, Google and Facebook. Many analysts agree, and are cautiously optimistic about AT&T's chances of a favourable settlement or ruling in time for the deal's closing deadline of June 21st.

Further media consolidation would then unfold as big competitors pursue similar vertical mergers of content and distribution businesses. Comcast might immediately launch a hostile bid for much of 21st Century Fox, for example, potentially upending Disney's planned acquisition of much of Rupert Murdoch's entertainment business. It would take only months for the marketplace to transform again.

The central question of the trial, which adjourned on April 30th with closing arguments, is whether AT&T, which owns DirecTV, a satellite provider, would extract higher prices from other pay-TV distributors and thus from their customers, by threatening to withhold Time Warner's TV networks from them. The government argued that AT&T could do so, at a cost to consumers of more than $400m a year, because networks such as TNT and CNN represent "must-have" content.

Daniel Petrocelli, AT&T's lead lawyer, and defence witnesses, punched several holes in this argument. They argued it would be "absurd" for AT&T to withhold content from anybody because it would cost them dearly to do so. They said the government's expert witness, Carl Shapiro, had used an economic model based on unreasonable assumptions, overestimating how many consumers would switch pay-TV providers if Turner networks were temporarily blacked out. And they said that Mr Shapiro and the government had not sufficiently reckoned with the pay-TV industry's rapidly declining hold over customers. Several million customers each year are dropping expensive pay-TV packages, including from DirectTV, as consumers flee for cheaper options like Netflix. In other words, ever-fewer people must have Time Warner's so-called "must-have" TV networks.

In his testimony Mr Stephenson played up such struggles. He said he wants to use the billions AT&T is still earning from the declining satellite business to invest in cheaper video options for mobile-phone customers, something he is already doing without Time Warner. He argues that the battleground has moved to mobile in the fight with Netflix, Google and Facebook for subscriptions and advertising.

That reasoning suggests what may be the real long-term goal for AT&T, which is to use entertainment content to improve its position (it is currently in second place) in wireless, and to take away broadband customers as wireless data speeds become more competitive with fixed-line broadband. If the Time Warner merger goes through, Verizon, the largest wireless provider, may likewise feel compelled to acquire an entertainment firm (concentration in the wireless sector is partly what led this newspaper to recommend blocking the deal when it was announced, in 2016). It is hard to predict how the market will look in seven years. But this is unlikely to be the last time that antitrust regulators and industry lawyers clash in court. ■

So last season

Glencore in the DRC

Rumble in the jungle

A hard-slugging mining giant meets its match in Congo

IN THE mining world the bout has the drama of a heavyweight title fight. In one corner is Ivan Glasenberg, billionaire boss of Glencore, the world's biggest commodities-trading firm. In the other is Dan Gertler, an Israeli billionaire accused by America of corruption related to his dealings with Joseph Kabila's government in the Democratic Republic of Congo (DRC).

The prize is a battery mineral, cobalt, which Glencore produces in the DRC and whose value has almost tripled since the electric-vehicle revolution accelerated at the start of 2017. It will be a tough fight. In the DRC Glencore is currently facing the potential loss of one of its biggest mines and sharply higher mining levies, as well as a costly lawsuit. "It's a shakedown of Glencore," says an analyst in London.

The clash between Messrs Glasenberg and Gertler, two former business partners, dates back to December, when the American government slapped sanctions on Mr Gertler, accusing him of amassing hundreds of millions of dollars through "opaque and corrupt" mining deals in the DRC, which he denies. Glencore's two mining companies in the country, Kamoto Copper Company (KCC) and Mutanda Mining, had been paying royalties to firms owned by Mr Gertler in recent years, as required by Gécamines, the country's state mining company. In order to avoid violating the sanctions, Glencore says it has stopped those payments.

On April 27th a company affiliated to Mr Gertler filed a suit in the DRC to freeze some assets of KCC and Mutanda, and to seek damages of almost $3bn for future unpaid royalties. The sum is staggering. Glen- ▸▸