

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Applications of AT&T Inc. and DIRECTV)	MB Docket No. 14-90
for Consent To Assign or Transfer Control of)	
Licenses and Authorizations)	

INDEPENDENT COMPLIANCE OFFICER'S COMPLIANCE REPORT
ON AT&T/DIRECTV MERGER CONDITIONS
OCTOBER 23, 2017

TABLE OF CONTENTS

INTRODUCTION	2
EXECUTIVE SUMMARY	4
METHODOLOGY	6
APPROACH TO OBSERVATIONS AND RECOMMENDATIONS.....	11
AT&T COOPERATION WITH THE ICO	11
OBSERVATIONS ON AT&T'S COMPLIANCE WITH MERGER CONDITIONS.....	12
1A. FTTP Condition.....	12
1B. E-rate Condition	26
2. Non-Discriminatory Usage-Based Practices Condition	33
3. Discounted Broadband Services Program Condition	42
OBSERVATIONS: AT&T'S COMPLAINT REPORTING PROCESS.....	64

INTRODUCTION

On July 24, 2015, the Federal Communications Commission (“FCC” or the “Commission”) issued an order (the “Merger Order”)¹ approving the merger of AT&T with DirecTV (as a combined entity, “AT&T” or the “Company”), subject to certain conditions (the “Conditions”). Appendix B of the Merger Order sets forth the Conditions and requires the Company to engage an independent, third-party compliance officer.² Donald K. Stern of Affiliated Monitors, Inc. (“AMI”) was identified as the Independent Compliance Officer (“ICO”) pursuant to an agreement between AT&T and the Commission’s Office of General Counsel, who approved the selection.³ Staff from AMI were likewise approved to assist the ICO in the discharge of his duties. The ICO is responsible for evaluating the Company’s compliance with the Conditions and is required to submit a report within 60 days of receiving each of the semiannual reports that the Company must submit as part of its compliance obligations under the Merger Conditions.⁴ The ICO received the Company’s First Report on January 27, 2016, and filed the First ICO Report on March 28, 2016. The ICO received the Company’s Second Report on July 25, 2016, and filed the Second ICO Report on September 23, 2016. The ICO received the Company’s Third Report on February 24, 2017, and filed the Third ICO Report on April 25, 2017. The ICO received the Company’s Fourth Report on August 24, 2017. By agreement between the FCC staff and AT&T,

¹ *Applications of AT&T Inc. and DIRECTV for Consent to Assign or Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 30 FCC Rcd 9131 (2015).

² Merger Order App. B (cited hereafter as “Appendix B” or “App. B”) § VII.3.

³ Public Notice, *Independent Compliance Officer Identified in Accordance with AT&T-DIRECTV Merger Condition*, DA 15-1207 (Oct. 23, 2015).

⁴ The ICO’s report “shall include a detailed description of the Company’s efforts during the relevant period to comply with the conditions and will specifically meet the reporting requirements for the conditions set forth in this Appendix B.” App. B § VII.3.e.

the Third Report was submitted 30 days after the original due date.⁵ This was done to permit AT&T additional time to gather FTTP data for the third and later reporting periods. As a result, the reporting dates for AT&T are now February 24 and August 24 for each year of the reporting obligation. In this fourth report (the “Fourth ICO Report”), the ICO makes observations and a limited number of recommendations based on a review of AT&T’s reported progress on the following Conditions:⁶

1. Fiber to the Premises (“FTTP”) deployment to 12.5 million mass-market customer locations within four years (the “FTTP Condition”). App. B § III.2.(a).
2. The offer of 1 Gbps FTTP Service (“Gigabit FTTP Service”) to any E-rate eligible school or library located within or contiguous to a Distribution Area in which the Company deploys FTTP-based service (the “E-rate Condition”). App. B § III.2.(d).
3. The prohibition on favoring the Company’s own Video Programming (as defined in Appendix B) services, including through the exemption of such services from usage-based allowances (the “Non-Discriminatory Usage-Based Practices Condition” or “NDUP”). App. B § IV.2.
4. The establishment and commencement of a program to substantially increase broadband adoption in low-income households throughout the Company’s wireline footprint (the “Discounted Broadband Services Program Condition” or “DBS”). App. B § V.2.

What follows is a description of the methodology of the ICO’s data collection and analysis activities employed over the fourth reporting period, and a presentation, organized by Condition, of observations, suggestions, and recommendations for improving compliance, reporting, and the ICO’s planned monitoring activities during the next reporting period.⁷ Where useful, the ICO

⁵ *Letter from Matthew DelNero, Chief, Wireline Competition Bureau, FCC, to Maureen R. Jeffreys, Arnold & Porter LLP, Counsel for AT&T*, MB Dkt No. 14-90, DA 16-1370 (Dec. 9, 2016).

⁶ For purposes of the ICO’s Fourth Report, the ICO has not focused on AT&T’s compliance with the Condition related to internet interconnection disclosure, which is the subject of a separate analysis by an “Independent Measurement Expert.” *See* App. B § V.2.

⁷ *See* App. B § VII.3.d. (“The Independent Compliance Officer shall have the power and authority to review and evaluate the Company’s Implementation and Compliance Plan and any related materials, and recommend to the

points out specific plans for ongoing verification of the Company's activities under the Merger Conditions.

EXECUTIVE SUMMARY

Since the inception of this engagement, the ICO has developed and used standardized processes for reviewing and validating the Company's compliance with the Merger Order and independently testing data presented in the Company's Report. As detailed within this report, the ICO found that AT&T has met the specific reporting requirements called for in the Merger Order:

- AT&T deployed FTTP to a total of [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION] locations by June 30, 2017; it has not exceeded any of the limitations (*i.e.*, no more than 1,500,000 greenfield deployments; no more than 2.9 million Fiber to the Node upgrades for customers with speeds of 45 Mbps or more; and no use of Connect America Funds) imposed by the Merger Conditions on the FTTP deployment, [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION]; AT&T has in place appropriate controls to ensure Connect America Funds have not been used to fulfil its FTTP deployment obligation.
- AT&T has established that it offered 1 Gbps FTTP Service to E-rate eligible schools or libraries seeking such service through the Form 470 process located within or contiguous to Distribution Areas in which the company deploys FTTP-based service, although it has not deployed any covered service to an eligible school or library. AT&T has engaged in affirmative and adequate outreach to promote its service offerings to E-rate eligible schools and libraries.
- It appears that AT&T has in place appropriate practices and internal controls in the form of training and corporate review processes to achieve compliance with the Non-Discriminatory Usage-Based Practices Condition. The ICO, however, has not been able to validate the Company's practices and controls directly because of AT&T's assertion of the Attorney/Client Privilege over materials relating to the Company's processes and controls. Notwithstanding the limitations imposed by AT&T's assertion of the Attorney/Client Privilege, the ICO is satisfied the terms and conditions offered customers by AT&T for its Fixed Broadband Internet Access Service, including usage-

Company changes to address any perceived deficiencies in the Plan. Any such recommendations shall be included in the Independent Compliance Officer's Compliance Reports.”)

based allowances, do not discriminate in favor of AT&T's Video Programming services. The ICO reached this finding based on a thorough review of AT&T's published terms and conditions, including usage-based practices, relating to the Company's Fixed Broadband Internet Access Service.

- AT&T has satisfied all conditions relating to the Discounted Broadband Services Program. It has developed and refined a program that is offering discounted broadband services to eligible customers. The ICO is satisfied the Company is not intentionally requiring eligible customers to pay installation or modem charges or fees to participate in the program. AT&T is actively marketing the program and, in the first year of the program, promoted the program through advertisements and public service announcements having a minimum annual value of \$15 million. It has been aggressive in distributing program information to appropriate organizations and creative in enlisting community support to further the program. It has provided useful public access points for the program and taken appropriate steps to ensure the Company's Customer Service Representatives are properly trained.

AT&T has accurately described its compliance activities to date, and provided explanations in the few cases where there is no activity to report. The Company has been very responsive to the ICO's requests for information. In addition, the ICO notes that AT&T has responded appropriately to recommendations offered by the ICO. In short, AT&T has demonstrated its commitment to satisfying the Conditions of the Merger Order.

Through the course of its ongoing monitoring:

- The ICO has expanded its understanding and improved the processes used to track FTTP deployment and has expanded the number of field tests to confirm FTTP locations;
- The ICO has continued to examine under the E-rate Condition the process for identifying covered schools and libraries, reviewed all AT&T responses to Form 470 requests to date, and determined a methodology for substantive review of Gigabit FTTP Service deployment to E-rate eligible schools and libraries;
- The ICO has continued to review the Company's processes for complying with the Non-Discriminatory Usage-Based Practices Condition reporting, examined the terms and conditions offered by AT&T for its fixed broadband products and services, and reviewed public and private complaints regarding AT&T's activities affected by the Condition; and

- The ICO evaluated and tested AT&T's Discounted Broadband Services Program against Merger Order requirements, focusing extensively on AT&T's efforts to promote the program, training for personnel associated with the program, and the operations of the call centers responsible for assisting consumers with the application process.

We expect to further refine and adjust our approach as this effort continues and would welcome feedback from the FCC or AT&T on our efforts to date.

METHODOLOGY

After completing the review described in the first three ICO Reports, the ICO continued to follow the work plan designed to track AT&T's compliance with each Condition. That effort, ongoing since the beginning of the ICO's engagement, relies on the following activities:

- Requests for information necessary to test and evaluate each Condition, and follow-up on ICO recommendations contained in AT&T's reports;
- Meetings with the AT&T Project Management Team, as well as representatives from the Company's business lines, to review the processes the Company has established to meet each Condition, and results under each Condition to date;
- Document review, data analysis, and related testing and verification; and
- Field visits, which included presentations, interviews, and focus groups.

Requests for Information and Detailed Informational Meetings

As the ICO's review has delved into the Company's reporting processes and engaged in increased substantive testing, so too has the level of information exchange and direct engagement through meetings and site visits expanded over the reporting periods. We have found the framework established for this exchange over the reporting periods to be productive and efficient. The Company continues to respond to ICO requests, promptly setting meetings that include the appropriate AT&T business staff and officers, representatives of the operational compliance and legal functions, and outside counsel; providing detailed presentations that included samples,

demonstrative aids and illustrations, including live demonstrations of data accumulation and queries of internal databases; facilitating site visits for FFTP verification; and affording in each case adequate time for the ICO to ask follow-up questions.⁸ These meetings are essential to the ICO's understanding of AT&T's processes and efforts as they are established (and improved upon), both for complying with the Merger Conditions and for compiling the data needed for semiannual reporting.

The ICO submitted a Request for Information to AT&T on May 16, 2017, posing questions relating to each of the Conditions. The ICO had several follow up calls with AT&T to clarify the information requests and to exchange responsive information. The ICO's teams met with representatives from AT&T's Entertainment Group, Construction & Engineering, Network Planning, Sales & Service Centers, Legal, Compliance, and Program Management at AT&T's Dallas office on July 13, 2017, to receive an overview of AT&T's FFTP, E-rate, NDUP, and DBS efforts, and to discuss matters raised in the ICO's May 16, 2017, Request for Information. The FFTP discussion focused on AT&T's compliance efforts, and developments relating to reporting Multiple Dwelling Unit and "very small business" location deployments. The E-rate discussion provided the ICO with the opportunity to gain a greater understanding of AT&T's methodology for identifying covered schools and libraries, the E-rate Form 470 response process, AT&T's outreach efforts, and AT&T's current compliance methodology. The NDUP discussion addressed the relationship between DirecTV Now and AT&T's fixed broadband service offerings, the

⁸ The Company continues to provide copies of these presentations, making them electronically available to the ICO through outside counsel's extranet portal. The Company also makes available on the portal other documents requested by the ICO, or otherwise deemed useful by the Company for promoting the ICO's understanding of its internal practices, procedures, and controls.

Company's usage-based practices, and bundling practices. The DBS discussion provided an overview of AT&T's media spend to promote *Access from AT&T*, including how AT&T calculates the value of DirecTV advertisements; the Company's practices concerning charges relating to wall jack installation; training efforts relating to the DBS Program; key performance metrics for the DBS Program; and invoicing practices relating to *Access from AT&T*.

There were additional meetings conducted live and over AT&T's remote screen-sharing tool, including:

- May 4, 2017 meeting to discuss FTTP route planning;
- May 24, 2017 meeting to discuss the recommendations made in the ICO's Third Report;
- June 1, 2017 meeting to discuss AT&T questions regarding ICO's May 16 Request for Information;
- June 12, 2017 meeting to outline issues for July 13 Dallas meeting between AT&T and ICO;
- June 20, 2017 site visit to **[BEGIN CONFIDENTIAL INFORMATION]** **[END CONFIDENTIAL INFORMATION]** to assess *Access from AT&T* application process and practices;
- August 2, 2017 meeting to discuss ways to make the FTTP process more efficient; and
- August 10, 2017 meeting to review the E-rate process and the impact of state or consortia buys for covered schools and libraries.

For each of these sessions, AT&T took steps to ensure it had assembled appropriate AT&T representatives to address the matters on the agenda, including senior members of the Company's Entertainment Group, Construction and Engineering (C&E) group, and AT&T's overall Project Management Team. These meetings have permitted the ICO to validate the substantive and procedural aspects of AT&T's compliance efforts.

Document Review and Data Analysis

The ICO reviewed all materials provided with the Fourth Report, as well as documents provided in response to the ICO's various information requests. Over the course of the reporting period, and later for purposes of addressing questions relating to AT&T's activities over the reporting period, the ICO submitted multiple formal and informal requests for documents. In each case, the Company provided documents (both existing business records and materials prepared specifically to respond to requests) that met the ICO's needs. The ICO reviewed these materials and was provided opportunities to follow up with the appropriate AT&T team members to seek clarification and to pose additional questions.

The ICO reviewed the reporting processes and confirmed data contained in the CSV file regarding FTTP deployment for internal consistency and completeness. The ICO continues to work with AT&T to enhance methods for independent validation of the information in the FTTP CSV file, including the limitations imposed by that Condition. As noted in the Third ICO Report, AT&T has provided the ICO with access to the [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] and, as expected, this additional information has permitted the ICO to refine methods of independent testing of AT&T's FTTP deployment.

The ICO also reviewed documents and analyzed data relating to AT&T's E-rate compliance practices, its compliance with the NDUP Condition, and the Company's progress across the range of requirements set forth as part of the DBS Program Condition. The ICO has continued to review the Company's complaint monitoring process. The complaint review process affords the ICO with an additional opportunity to discover Condition-related issues that may

warrant further attention, while also demonstrating the performance of a critical element of the Company's internal controls.

Field Visits

The ICO planned and conducted field visits to randomly selected properties within selected geographic areas to confirm FTTP customer installation as reported by AT&T in its CSV file. To increase overall confidence in the verifications results, the ICO significantly expanded the number of field visits over the prior reporting periods. As described in more detail below, this verification process involves selecting sample customer locations from a chosen geographic area and visiting selected customer locations in the sample to verify each of the data fields contained in the FTTP deployment file. The ICO plans to conduct these FTTP site visits on a rolling basis throughout the period the Merger Conditions are in effect (with new locations reported by AT&T incorporated into the total potential sample population).

AT&T reports it has responded to all FCC Form 470s submitted from covered school and libraries for services required under the condition. To date, AT&T has not received any order for 1 Gigabit Service and, therefore, has not reported any E-rate deployments. That said, once AT&T reports E-rate deployments, the ICO will take appropriate steps to verify and validate the deployment. The ICO also has engaged in field-testing the Company's DBS Program in the form of reviewing audio recordings of customer-service calls and mailings provided to certain target groups, reviewing samples of *Access from AT&T* customer invoices, and conducting a site visit to [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] (AT&T's call center contractor responsible for providing customer service relating to *Access from AT&T* applications).

APPROACH TO OBSERVATIONS AND RECOMMENDATIONS

This Fourth ICO Report contains the ICO's observations relating to AT&T's compliance with each Condition, including recommendations and suggestions intended to help AT&T improve the success of its compliance efforts. The ICO relates its observations, suggestions, and recommendations here with the acknowledgment that this marks the fourth round of reports for both the Company and the ICO, that the two are in regular contact and routinely discuss modifications to the evaluation process. In addition, the ICO and AT&T are each separately in regular contact with Commission staff. The ICO has benefited from suggestions offered by AT&T and Commission staff.

AT&T COOPERATION WITH THE ICO

The ICO recognizes that compliance with the Merger Order Conditions is a significant undertaking on behalf of AT&T. In addition, making the numerous documents and other vast quantities of Company information available, and in a format that is amenable to analysis and comment by the ICO, requires more effort still. The staff and leadership of AT&T have been cooperative and supportive of the ICO, particularly with regard to (a) communicating the importance of the ICO's review, and encouraging cooperation, transparency and active participation; (b) accommodating requests for documents, scheduling meetings, and arranging site visits; and (c) expending considerable time and resources handling the logistics for field and other visits. The Company's dedicated team for Merger Condition compliance continues to demonstrate by its words and actions a commitment to meeting the Conditions and assisting the ICO in discharging his duties.

OBSERVATIONS ON AT&T'S COMPLIANCE WITH MERGER CONDITIONS

1A. FTTP CONDITION

FTTP Observation 1: AT&T's FTTP reporting satisfies Condition requirements.

We found that AT&T has addressed the conditions set forth in subsections III.2.a.- c. of Appendix B and delivered a report that satisfies subsection 3.a. The ICO reviewed the Fourth Report and Exhibit 1 regarding the reporting requirements set forth in Appendix B of the Merger Order. The Fourth Report provides the number of customer locations where FTTP service has been deployed as of June 30, 2017, as well as the number of greenfield locations, upgrades from FTTN technology, and the use of CAF subsidies. The CSV file submitted as Exhibit 1 to the Fourth Report contains each of the fields prescribed in Appendix B § III.3.a.(ii), as well as additional information (Distribution Area, service address, and a unique “service address identification number”). The Fourth Report does not yet include locations in Multiple Dwelling Units (MDUs) where AT&T has not been able to obtain a “Right of Access” agreement.⁹ Additionally, based on an agreement with the FCC, AT&T has counted customer locations where latitude and longitude has not yet been determined (rather than excluding those locations from the FTTP count until that information can be determined).

The FCC Order approving the merger required AT&T to expand its FTTP coverage to at least 5 million mass market customer locations by December 31, 2017. AT&T reports that it has

⁹ AT&T and the Commission staff have agreed that AT&T may count towards the FTTP buildout requirements under certain specified conditions the Customer Locations within MDUs that require the MDU owner and AT&T to agree to a right of access to deploy fiber within the MDU where agreement cannot be reached. Memorandum from Maureen R. Jeffreys to Marlene H. Dortch, Secretary, FCC (Oct. 6, 2016).

exceeded that requirement. The Total FTTP deployment as of June 30, 2017 and the remaining Condition goals are presented in the following table: ¹⁰

[BEGIN HIGHLY CONFIDENTIAL INFORMATION]

[END HIGHLY CONFIDENTIAL INFORMATION]

December 31, 2017 goal	5,000,000
December 31, 2018 goal	8,300,000
Four years of the closing date	12,500,000

FTTP Observation 2: AT&T continues to appropriately update the FTTP reporting process.

AT&T updated the FTTP Reporting Process as of June 2017 to ensure accuracy in the reporting process and production of the CSV file. Having a well-defined, repeatable and automated process enables AT&T to provide a reliable CSV file in response to the Condition requirements. Updates to the process since the last semi-annual CSV report include the data merging process, as well as the queries used to produce the CSV file.

AT&T provided the ICO the most recent June 5, 2017 summary of the **[BEGIN CONFIDENTIAL INFORMATION]**

[END CONFIDENTIAL

INFORMATION] At the ICO's request, AT&T also provided a copy of the **[BEGIN**

¹⁰ The FTTP Deployment numbers are extracted from the Fourth Report, as verified by the ICO. The Goals are extracted from the Merger Order.

CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION]

which has enhanced the ICO’s ability to independently evaluate compliance with Condition limits and exclusions.

At the ICO’s request, AT&T also provided clarification of steps in the process to enable the ICO to test reported data regarding the use of CAF, as well as plans to update the process to address Multiple Dwelling Units (“MDUs”) and FTTN Upgrades in the upcoming year.

FTTP Observation 3: [BEGIN HIGHLY CONFIDENTIAL INFORMATION]
[END HIGHLY CONFIDENTIAL INFORMATION]

The ICO reviewed the CSV file and confirmed that AT&T **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]**

[END HIGHLY CONFIDENTIAL INFORMATION] the ICO sample of FTTP locations for field verification includes, and will continue to include, locations in CSV files submitted with AT&T’s First – Fourth Reports. This is because future locations selected for field verification will be pulled from the universe of all deployments reported by AT&T **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]**

[END HIGHLY CONFIDENTIAL INFORMATION]

FTTP Observation 4: FTTN Upgrade Condition limit has not been reached.

The ICO confirmed that FTTP Condition limits for FTTN Upgrade to properties already receiving 45 Mbps have not been reached, as shown in the table below. ¹¹

[BEGIN HIGHLY CONFIDENTIAL INFORMATION]

[END HIGHLY CONFIDENTIAL INFORMATION]

During discussions with the AT&T team in July 2017, AT&T informed the ICO that **[BEGIN CONFIDENTIAL INFORMATION]**

[END CONFIDENTIAL INFORMATION] Of the 12.5 million locations where FTTP is to be installed, the Condition includes a restriction that no more than 2.9 million may be upgrades to customer locations that receive speeds of 45 Mbps or more using fiber to the node (“FTTN”) technology. The most recent *FTTP Reporting Process* states:

¹¹ The ICO extracted the December 31, 2016, Balance from the Third Report and the June 30, 2017, Balance from the Fourth Report, as verified by the ICO through field sampling and testing. The ICO extracted the Condition Limits from the Merger Order.

[BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION]

FTTP Reporting Process, p. 42.

AT&T representatives explained that through the Fourth Report the Company has taken the approach of **[BEGIN CONFIDENTIAL INFORMATION]**

**[END CONFIDENTIAL
INFORMATION]**

FTTP Observation 5: AT&T has not used Connect America Funds for the FTTP deployment required by the Condition.

AT&T reported that it did not use any CAF funds to construct FTTP deployment and included the following explanation to that regard:

AT&T has excluded from the CSV file any constructed FTTP customer location that is located in a PSA that AT&T reported as eligible for CAF I or CAF II funding, whether or not these CAF funds were used in whole or in part to construct that FTTP customer location. AT&T currently is deploying fixed wireless service with CAF funding.

Fourth Report, p. 10, n. 22.

The ICO confirmed through interrogation of the CSV file using keyword searches, including CAF, CAF I, CAF II, USF and other terms, that AT&T did not include in the CSV file locations where CAF funds were used for FTTP deployment.

FTTP Observation 6: AT&T is developing a process for documenting access or denial of access to install fiber in Multiple Dwelling Units.

The CSV files for the first four AT&T Reports contain locations in MDUs where AT&T has been granted a Right of Access (ROA) to the property and fiber has been deployed to the property location. For those MDU locations where AT&T and the property owner have not agreed to an ROA, the FCC and AT&T agreed to a counting methodology for MDU FTTP deployments. Our FTTP field verifications, to date, have not encountered any MDUs where AT&T does not have ROA to the property.

The Third Report, pp. 10-12, includes a description of the agreed-to process to be implemented by AT&T to count towards the FTTP buildout requirements Customer Locations within MDUs that require the MDU owner and AT&T to agree to an ROA to deploy fiber within

the MDU when (a) AT&T has deployed fiber within that MDU to the full extent of the rights obtained by AT&T from the MDU owner; or (b) AT&T has extended fiber to accessible terminals or other facilities in the right of way outside that MDU where the MDU owner does not grant access or the parties cannot agree on a plan for extending fiber within the MDU. In each case, for the Customer Locations to be counted, the FTTP deployment or fiber allocation must conform to certain parameters, which AT&T has implemented during the reporting period.

During the period preceding the Fourth Report, AT&T provided an updated overview of how the MDU deployment reporting process will work and examples of correspondence with MDU owners that will document MDU access or denial of access. AT&T plans to implement this process **[BEGIN CONFIDENTIAL INFORMATION]**

[END CONFIDENTIAL INFORMATION] The implementation of this process includes the electronic filing of correspondence with MDU owners that will be accessible to the ICO. The ICO has been working with AT&T to identify documentation and other data necessary to verify compliance with the Condition requirements, as modified by the process agreed to with the FCC.

As with the Third Report (Third Report, p. 15), AT&T elected not to implement the agreed-to process for counting MDU deployments for the Fourth Report until it can **[BEGIN CONFIDENTIAL INFORMATION]**

[END CONFIDENTIAL INFORMATION] See Fourth Report, pp. 9-10, n. 20.

The following flowchart explains the decision process for counting MDU living units in the CSV file:

[BEGIN HIGHLY CONFIDENTIAL INFORMATION]

[END HIGHLY CONFIDENTIAL INFORMATION]

[BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL

INFORMATION] to ensure the Company's interpretation is consistent with the FCC's interpretation of the agreement set forth in the Memorandum from Maureen R. Jeffreys to Marlene H. Dortch, Secretary, FCC (Oct. 6, 2016). We expect the parties to resolve this matter in the next reporting period. The ICO will take appropriate steps to validate AT&T's MDU deployments once

the parties are aligned on **[BEGIN CONFIDENTIAL INFORMATION]**

[END CONFIDENTIAL INFORMATION], and AT&T begins to count MDU deployments towards its FTTTP objectives under the Merger Order.)

RECOMMENDATION: AT&T coordinate with the FCC to ensure the Company's interpretation of the [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION] is consistent with the FCC's interpretation.

FTTTP Observation 7: The ICO has verified the FTTTP deployments reported by AT&T.

The ICO has continued to refine and improve field verification measures necessary to sample and verify AT&T reported FTTTP deployments. For this reporting period, the ICO's field verification of random samplings of FTTTP deployed locations over the reporting period found no exceptions to the locations reported by AT&T.

Sampling Methodology and Process

We first developed the ICO Sampling Plan for 2016 based on the data in the CSV file provided by AT&T in its First Report dated January 25, 2016, and subsequently amended in the Second Report dated July 25, 2016. The original plan randomly selected a sample of 16 cities or geographical areas that each include multiple DAs. Within those selected geographical areas, the ICO drew a random sample of AT&T designated DAs and, within each DA, a random sample of addresses where FTTTP deployment was identified by AT&T. This sampling methodology relied on smaller clusters of DAs within a selected geographic sample area, which permits a random selection of installations with equal probability of selection that are also more likely to be

geographically proximate (which tends to increase site visit efficiency). During the third reporting period, the FCC requested that the ICO expand the sample size to improve confidence in the validation of AT&T's efforts. The ICO increased to 15 the number of samples factored into the ICO's Third Report.

For the fourth report, the ICO increased the number of visited geographic samples to 18.¹² The 18 sites consist of Cypress TX, Spring TX, West Sacramento CA, Marrero (1) LA, Marrero (2) LA, Hialeah FL, Lake Worth FL, Vero Beach FL, Cleburne TX, Chula Vista CA, Irvine CA, Pike Road AL, Clanton AL, Griffin GA, Rome GA, Campbell CA, St. Louis MO, and Chicago IL.

To date, the ICO has visited a total of 531 sites chosen from 40 samples.

Pre-Site Visit Process

The field visits consist of confirming the address included in the CSV file is FTTP capable. Because prior site visits have identified address anomalies related to new construction (greenfield sites), the ICO now provides AT&T with a full list of the proposed site visit locations approximately one week in advance of each visit. This allows the Company to prepare in advance a list of Fiber Serving Terminals (FSTs) from construction blueprints intended to serve specific customer locations and to provide updated information regarding sample addresses that may have been altered during the final construction of living units. In turn, this allows the ICO Telecommunications Subject Matter Expert (SME) to confirm more quickly the location is FTTP capable. Addresses of MDU locations where AT&T reportedly has deployed FTTP service are

¹² The 18 ICO field visits were conducted from April 2017 through August 2017, or five months, as compared with 15 field visits over a six-month period for the Third Report. The intent of this change was to align the field visits and resulting data with the timing of the submission of AT&T's semiannual report (*i.e.*, August 24). Subsequent ICO reports will again include six months of field visit data.

now provided to AT&T approximately two weeks in advance so that access to telecom closets and other necessary areas may be arranged with building managers as needed.

Field Visit Steps

The ICO SME, accompanied by AT&T field technicians, travels to the selected FTTP address, and takes a Latitude and Longitude reading at the FTTP address. The ICO SME identifies which installed FST serves the selected sample location based on engineering information provided by AT&T and tests for fiber optic cable plant continuity to the Primary Flexibility Point (PFP). If a customer location is connected to the FST, the continuity test step is omitted, because the fiber connection itself demonstrates that AT&T is not only technically able to provide FTTP service, but is, in fact, providing service. If there are no connections to the FST, the AT&T technician tests for fiber optic cable plant continuity to the PFP. Due to the complexity of conducting digital light testing, the ICO SME now confirms FTTP capability between the PFP and the FST by visual observation of light emanating from the end of the fiber optic cable at the FST.

Field Visit Results

The ICO sample population included for this report total 417 separate DAs across 18 distinct geographical samples. After culling the DA samples within each of the 18 geographical areas to provide a logistically practical route for visits, 278 sites were identified and visited in the field. This represents a significant increase from the 171 sites across 15 samples reported by the ICO in the ICO Third Report.

The ICO SME found that all 278 locations visited met the criteria for inclusion in the FTTP site count. AT&T has assisted in this process by providing supporting data during the field visits for typical sites where a post-visit follow-up would have been required in the past. Typically, that

additional data consisted of engineering drawings demonstrating that a dwelling was proposed by a developer where one was not yet built, although AT&T had installed fiber to the location.

Access Challenges Exist and May Increase

Despite providing the site visit sample to AT&T in advance, the ICO SME still encounters difficulties on occasion accessing FTTP infrastructure. These access challenges include: No on-site staff at MDUs with the ability to provide access to AT&T's infrastructure; infrastructure placed in secured residential rear yards; and infrastructure that is inaccessible due to vegetation overgrowth. Up to this point, access issues have been infrequent. However, as AT&T **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]** **[END HIGHLY CONFIDENTIAL INFORMATION]** that can be included in the CSV, and MDUs are introduced under the FCC approved conditions, we anticipate an increased set of access challenges. The ICO will continue to take appropriate steps to coordinate closely with AT&T to promote efficient field verification efforts.

Address Anomalies Exist

[BEGIN CONFIDENTIAL INFORMATION]

[END

CONFIDENTIAL INFORMATION] The ICO also learned that it is not uncommon for AT&T to change, update, or remove sites from the latest revision of the CSV for reasons including, but not limited to:

- Changes in street names from the planning/design phase to the construction phase by developers or municipalities.

- Changes in home orientation on corner lots from the planning/design phase to the construction phase by developer/owner resulting in the house having an address on a perpendicular street.
- **[BEGIN CONFIDENTIAL INFORMATION]**

[END CONFIDENTIAL

INFORMATION]

Several of the site addresses in the ICO sample had to be corrected because the ICO sample is based on CSV files that are later updated by AT&T. AT&T explained in the Fourth Report:

The data provided in Exhibit 1 (CSV file) is obtained from AT&T's ordinary course databases, which may be modified or corrected from time to time. For example, these databases are routinely updated with changes, corrections, and improved data that may be obtained from the field as part of the ongoing FTTP deployment process. Such updates are common in greenfield locations where changes routinely occur as part of the development process, but database updates also occur in locations where AT&T overbuilds fiber. Accordingly, the information provided in Exhibit 1 for a particular Customer Location in one reporting period may be updated in a subsequent reporting period. As explained in the Second Semi-Annual Compliance Report, for each compliance report, AT&T plans to provide information for each of the total Customer Locations to which AT&T has deployed FTTP service in satisfaction of this Condition as of the end of that reporting period based on the data available in the ordinary course databases at that time.

Fourth Report, p. 11, n. 24.

Overall, the ICO finds these address anomalies are primarily the result of changes that occur as a normal part of property development; the anomalies have not yet impacted the accuracy of reported FTTP deployment. While these anomalies present additional work and challenges for the site visit teams in verifying FTTP deployment, and may yield minor discrepancies in AT&T reported data, the ICO is working with the Company to understand why these circumstances occur and to adjust our verification plans, if appropriate. Likewise, AT&T engineers are working to

identify where these conditions exist and to have documentation readily available to explain the circumstance during the field visit or immediately after the visit. As FTTP site verification continues, we expect both sides to continue refining and improving their processes. The ICO has also observed that the quality of data provided by AT&T has improved with each successive CSV data file.

ICO Plans for 2018 Inspections

The sampling plan for the rest of 2017 and 2018 will adhere to the basic methodology established in 2016 with two exceptions. As discussed earlier, as part of the pre-site visit process, AT&T has begun obtaining and reviewing construction documents and blueprints of DAs prior to inspections and having those records available at the time of the inspection. Having this process in place greatly assists the ICO SME and AT&T to resolve quickly site condition challenges encountered during visits. The ICO SME has now confirmed the feasibility of performing as many as 25 site inspections per day. Accordingly, we will continue to identify 25 potential sites within a given geographical sample for future site visits.

Field visits have been increased to two per month. When traveling distances permit, we can combine two or three geographic samples, consisting of 50 or more specific sites, into two (or more) days of back-to-back visits with the potential for increasing the number of overall sites visited. The increase in the number of clusters visited is necessary given the increased number of FTTP deployments required by the Condition in 2017 and 2018. We provide AT&T with advance notice of the cities/geographical areas to be visited (but not the specific locations) to allow for the ICO SME and AT&T personnel to coordinate schedules and group clusters according to their geographical proximity. AT&T must significantly increase the number of FTTP sites in 2018 and

again in 2019 in accordance with the Merger Conditions. Notwithstanding this development, and even though the efficiency of the site visit process has been dramatically improved, it is unlikely the ICO will be able continue the growth in FTTP site visits without additional improvements to the current site visit process, and the dedication of additional resources by the ICO and AT&T to the effort. We will continue to explore solutions to this looming challenge with AT&T.

1B. E-RATE CONDITION

FTTP E-Rate Observation 1: AT&T's E-rate reporting satisfies Condition requirements.

The ICO has reviewed the Fourth Report and Exhibits 2 through 6 to address the reporting requirements set forth in Appendix B. The Fourth Report includes a list of covered schools and libraries to which AT&T has submitted a bid to provide FTTP service (Exhibit 2), and copies of an equivalent version of the Form 470s associated with each bid prepared by Funds for Learning (Exhibit 3).¹³ AT&T reports that it is complying with the E-rate condition by “[d]eploying as requested 1 Gigabit FTTP Service to any bid awarded for that service by a covered school or library.” Fourth Report, p. 17. While technically accurate, AT&T did not receive any contracts to deploy 1 Gigabit FTTP service to any covered school or library and, therefore, did not submit a related CSV file.

The Fourth Report includes a description of outreach activities, including AT&T's efforts to promote awareness of the opportunity for covered schools and libraries to bid for 1 Gigabit FTTP Service; an example of AT&T's direct mail and email outreach efforts to covered schools and libraries (Exhibit 4); a list of technology conferences (Exhibit 5) at which AT&T sales

¹³ According to the FCC E-rate team, the information included on the forms prepared by Funds for Learning is equivalent to the information required on properly populated Form 470s.

representatives have interacted or plan to interact with prospective E-rate customers; and a sample of a promotional flyer (Exhibit 6). In summary, ATT has directly addressed the conditions set forth in subsection III.2.d. of Appendix B and delivered a report that satisfies subsection III.3.b.

FTTP E-rate Observation 2: AT&T has followed the same mapping process for identifying covered schools and libraries, with some improvements.

In the Fourth Report AT&T explained that it applied the same methodology for identifying covered schools and libraries as it applied in the Third Report. Fourth Report, pp. 13 & 14. AT&T explained the methodology as follows:

Specifically, AT&T compiled a list of fiber routes that include PSAs where AT&T has deployed FTTP-based service or plans to deploy FTTP by June 30, 2017. Using the most recently available National Telecommunications & Information Administration (“NTIA”) broadband mapping data on schools and libraries, AT&T identified all of the E-rate eligible individual schools and libraries located within those fiber routes, which is approximately [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION] schools and libraries. Because multiple PSAs make up a fiber route, this methodology sweeps well beyond what the Condition requires.

Fourth Report, p 14 (footnote omitted). AT&T’s current methodology relies on the use of Passive Optical Network (PON) Serving Areas, or PSAs, to establish the areas covered by the E-rate condition. The Merger Conditions require AT&T to offer 1Gbps FTTP Service “to any E-rate eligible school or library located within or contiguous to a *distribution area* in which the Company deploys FTTP-based service” Merger Condition, B.III.2.d (emphasis added). In its Third Report, AT&T explained that the term “distribution area” or “DA” relates to boundaries associated with copper technology, whereas for fiber, the term equivalent to DA is PON Serving Area or PSA. *See* Third Report, p. 16. AT&T also stated that PSA boundaries are often similar, but not identical, to copper DA boundaries. *Id.* The ICO does not have any objections or concerns with

AT&T's use of PSAs in lieu of DAs. The ICO confirmed that the methodology used for the Fourth Report is the same as for the Third Report which is described in the ICO Third Report at 24-26, with some enhancements.

Methods for Identifying Covered Schools and Libraries

We note that AT&T made a broad effort to identify all schools and libraries that exist within the fiber network that have been, or are planned to be, built by considering several sources. For the Third Report, the AT&T E-rate mapping process, dated February 15, 2017, *Determination of Intersection Between E-rate Locations & AT&T Internet with FTTP Build Plan Routes*, relied on National Telecommunications and Information Administration (NTIA) data to identify covered schools and libraries. **[BEGIN CONFIDENTIAL INFORMATION]**

[END CONFIDENTIAL INFORMATION] Overall the ICO finds that AT&T has been thorough in identifying all covered schools and libraries covered under the Condition.

Method for Identifying Fiber Route

As of December 2016, AT&T has used **[BEGIN CONFIDENTIAL INFORMATION]**

[END CONFIDENTIAL INFORMATION] for

capturing the boundaries of FTTP deployment within a PSA.¹⁴ According to AT&T, the [BEGIN
CONFIDENTIAL INFORMATION] [END CONFIDENTIAL
INFORMATION] is “overly inclusive” and will likely identify greater than [BEGIN HIGHLY
CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL
INFORMATION] schools and libraries. AT&T had previously informed the ICO that it was
working on its PSA boundary improvement and, if it is successful, AT&T would continue using
PSA boundaries for its mapping exercise. During July 13, 2017 discussions with the ICO, AT&T
explained that it will continue using the current methodology for the Fourth Report, as well as for
the 2017-18 E-rate season. The ICO finds AT&T’s approach reasonable and appropriate. The
ICO also acknowledges that continuing to use this method for the upcoming season makes sense,
as it provides consistent information from reporting period to reporting period.

FTTP E-rate Observation 3: AT&T reports using the same refined process for tracking and responding to Form 470s as used for the Third Report.

The ICO confirmed that the process described by AT&T for tracking and responding to Form 470s is identical to that used by AT&T for the Third Report. The process is documented as the *DTV I.B. Merger Requirement Processes*, and was last updated February 9, 2017.

The ICO confirmed that AT&T continues to use an expansive promotional outreach program that includes both direct outreach to covered schools and libraries, along with an effort to promote more general awareness of AT&T’s services among actual and potential E-rate customers. As part of this effort, AT&T continues to revise its E-rate customer notification to make it more

¹⁴ AT&T informed the ICO in November 2016 that the [BEGIN CONFIDENTIAL INFORMATION] [END
CONFIDENTIAL INFORMATION].

attractive and useful to potential customers. During discussions on July 13, 2017, AT&T representatives stated that **[BEGIN CONFIDENTIAL INFORMATION]**

[END CONFIDENTIAL INFORMATION]

AT&T Responded to All Received Form 470s

According to the Fourth Report, p. 16, AT&T provided a bid in response to **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]** **[END HIGHLY CONFIDENTIAL INFORMATION]** Form 470s from a covered school or library for 1 Gigabit FTTP Services during the 2017 E-rate funding season. A total of **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]** **[END HIGHLY CONFIDENTIAL INFORMATION]** Form 470s were received for the 2016-17 E-rate season (of which **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]** **[END HIGHLY CONFIDENTIAL INFORMATION]** were included in the Third Report). Exhibit 2 provides a listing of all Form 470s, as well as a link to the related form in Exhibit 3. Exhibit 3 includes copies of forms prepared by Funds for Learning that capture the information required on properly populated Form 470 documents. The E-rate fiscal year runs from July 1st to June 30th. Under the Commission's procedures, individual schools and libraries, school districts, library systems, buying consortia and states may post a Form 470 each fiscal year until approximately March/April, seeking bids for a contract that typically would begin the following July 1st. Thus, E-rate-related deployments for the 2016-17 E-rate season would not begin until on or after July 1, 2017. As of June 30, 2017, AT&T has not begun providing any E-rate eligible service covered by this Condition and therefore did not submit a CSV file with such data.

FTTP E-rate Observation 4: Schools and libraries often buy service from state agencies or government consortia.

During review of the Third Report, the ICO requested AT&T's explanation for why schools and libraries did not purchase 1 Gigabit service from AT&T. AT&T opined that in addition to increased competition, schools and libraries frequently fall under state, county, or other municipal contracting activities and would not be in the market for 1 Gigabit services independently. Subsequently, the ICO requested a more in-depth analysis by AT&T to support its explanation. During ICO/AT&T discussions on July 13, 2017, and in subsequent exchanges, AT&T provided the following analysis: There are 16 statewide networks in 15 of AT&T's 21 state ILEC footprint where a state agency and/or the state's higher education system has procured an internet backbone designed to deliver broadband services to anchor institutions, including schools and libraries --

- 10 states (AR, CA, GA, FL, IL, KY, NC, SC, TN, WI) where a state agency provides the state-wide network – most of these states buy these services from commercial ISPs and leverage E-rate and state funding –some were built with dark fiber¹⁵ using funding from the American Recovery and Reinvestment Act of 2009 (ARRA) Broadband Technology Opportunities Program (BTOP);
- 6 states (OH, OK, KS, WI, MI, MO) where the higher education system provides centralized internet access to all the schools;
- Under these models, the anchor institutions receive a finite amount of internet access at no cost or at a highly subsidized rate;
- The state agencies or university systems use E-rate and state budgets to fund these networks;
- These networks are a substitute for commercial ISP services and reduce the addressable market for internet access services for AT&T and its competitors;

¹⁵ A fiber network that has not been put into use.

- Schools and libraries generally only issue their own 470s to buy internet access services from commercial ISPs when they need to augment the service they receive from the state/higher education network.

[BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION]

Following the July 13 discussions, AT&T provided a listing of the state internet networks and associated links. The ICO examined those links and confirmed the states provided the services described by AT&T. AT&T also provided the ICO with insight into the services the Company provides to states or government buying activities that support covered schools and libraries, such as primary service, middle or last mile connections.

The Fourth Report presents a similar explanation:

While AT&T is the largest provider in the E-rate program of all network and voice services, AT&T often serves high speed internet needs for covered schools and libraries through solutions that are not funded through E-rate and/or not covered by the Condition. Accordingly, there are multiple reasons why AT&T may have few, if any, reportable deployments of 1 Gigabit FTTP Service during a reporting period. For example, in 15 states within AT&T's 21-state wireline service area, there are 16 state institutions that procure an internet backbone designed to deliver broadband service to anchor institutions, including schools and libraries. In particular, in 10 states, a state agency provides a statewide network, often purchasing the underlying broadband services from commercial ISPs, including AT&T. In six states, the higher education system provides centralized internet access to schools. The state agencies or university systems use E-rate and/or state budgets to fund these networks. Under these models, anchor institutions may receive a finite amount of internet access at no cost or at a rate that is subsidized by state budgets or federal broadband programs outside of E-rate. When schools and libraries can procure internet access services through these statewide networks, they generally only issue their own Form 470s to buy internet access services from commercial ISPs if they need to augment the service they receive from the statewide networks. Therefore, the statewide networks reduce the number of schools and libraries seeking to purchase commercial ISP services. In other instances, statewide networks themselves function as E-rate service providers,

competing at subsidized rates against AT&T and other commercial ISPs to provide service in response to school and library Forms 470.

Fourth Report, pp. 18-19 (footnotes omitted).

The ICO accepts AT&T's explanation for why no school or library has purchased 1 Gigabit service. That said, the ICO will take additional steps in subsequent reporting periods to monitor, assess, and validate AT&T's E-rate efforts under the Merger Conditions as AT&T continues to expand its fiber footprint. This will include steps to verify AT&T has responded to all appropriate Form 470 classifications of service, including "Lit Fiber Service" designations, as well as reviewing Form 471 funding requests for deviations from the underlying Form 470s.

2. NON-DISCRIMINATORY USAGE-BASED PRACTICES CONDITION

NDUP Observation 1: AT&T's NDUP reporting satisfies the Condition set forth in Subsection IV of Appendix B.

The ICO has reviewed the Fourth Report and Exhibit 7 regarding the requirements set forth in Appendix B, Section IV. As required by the Condition, AT&T's Fourth Report details its compliance with this condition, including a description and examples of the terms and conditions of its usage-based allowances relating to Fixed Broadband Internet Access Service and the Company's procedure for enforcing them. Fourth Report at 26-29; Ex. 7. Exhibit 7 contains a variety of information related to AT&T's Fixed Broadband Internet Access Service usage allowance practices, including: *AT&T Internet Terms of Service/att.net Terms of Use for Internet Services* (October 23, 2016 – March 21, 2017); *AT&T Internet Terms of Service; Broadband Information*; descriptions of network practices and performance characteristics; screenshots of the Company's online data calculator; customer "frequently asked questions"; descriptions of the monthly usage allowance tiers; webpages reflecting data-plan bundling options for new and

existing customers; relevant Myatt screenshots (including Shopping Flow and Adjust Data Limits screens); and customer announcement letters. Fourth Report at 26 and Ex. 7. The descriptions and supporting materials presented by AT&T in the Fourth Report accurately capture the information on its website relating to the terms and conditions associated with its usage-based allowances for its Fixed Broadband Internet Access Service. AT&T has delivered a report that addressed the conditions set forth in subsection IV.2 of Appendix B and delivered a report that satisfies subsection IV.3.

NDUP Observation 2: AT&T's Terms & Conditions and usage-based practices comply with the Condition.

The Fourth Report expressly states that AT&T does not discriminate in favor of its own Video Programming services, and that AT&T has complied fully with the Condition throughout the reporting period. Fourth Report at 23. The information available to the ICO confirms that AT&T's retail terms and conditions, including the application of usage-based allowances, do not discriminate in favor of its own Video Programming services or any content or application available through its Video Programming services, including through the exemption of one or more of its Video Programming services from usage-based allowances, in a manner that violates the Condition.¹⁶

The ICO did not identify any unbundled Fixed Broadband Internet Access Service offerings that included terms and conditions, usage-based allowances, or other features that discriminated against unaffiliated online video distribution services or favored AT&T's offerings.

¹⁶ The Condition "does not prohibit the Company from offering discounts for integrated bundles of the Company's U-verse or DIRECTV satellite Video Programming service or rebranded offering of these services with the Company's Fixed Broadband Internet Access Services." App. B § IV.2.

The usage-based allowances imposed by AT&T on its Fixed Broadband Internet Access Service offerings had equal application across the customer's online video use.

AT&T's DirecTV Now offering, while targeted largely at wireless users, including AT&T wireless subscribers, is also available for use over AT&T's Fixed Broadband Internet Access Service. <https://www.att.com/directv/directv-now.html> (last viewed Sep. 13, 2017). The ICO examined how DirecTV Now is offered or made available to fixed broadband users. DirecTV Now can be bundled with AT&T's Wireless Service; it cannot be bundled with AT&T's Fixed Broadband Internet Access Service. Fixed broadband users, including AT&T fixed broadband customers, can access DirecTV Now only as an "over-the-top" service delivered via a customer's broadband connection provided by AT&T or another broadband provider. **[BEGIN CONFIDENTIAL INFORMATION]**

[END CONFIDENTIAL INFORMATION] As noted elsewhere in this NDUP section, AT&T treats all internet traffic the same. *See* p. 33 *infra*. The ICO is satisfied AT&T's DirecTV Now service is offered in a manner consistent with the Merger Conditions.

AT&T makes available on its public website all product and service offerings for its Fixed Broadband Internet Access Service, including the terms and conditions, and associated usage-based allowances, relating to those offerings. *See* <https://www.att.com>, Broadband Information ("To help keep customers informed about our mass market broadband Internet access services, the AT&T website (www.ATT.com) describes the mass market wireless and wired broadband Internet access services we offer."). The ICO reviewed the relevant offerings, including the terms and conditions and usage-based allowances, published at www.ATT.com/internet, the *AT&T Acceptable Use Policy*, the Broadband Information page, the Internet Usage page, the *Home*

Internet Data Usage FAQs, and the *Internet Terms of Service*. The ICO also reviewed the promotions and product offerings under the Bundles Page, the Internet Page, and the AT&T Fiber Page. On the Internet Usage page, AT&T provides customers with information regarding data allowances, such as the monthly allotment of data, the availability of free unlimited data with bundling DirecTV or U-verse TV, and the offer of unlimited data for \$30/month without the bundle. AT&T also provides customers with resources to assist them in determining their data usage. The resources on AT&T's website include: *The Basics of Using Internet Data* video, the Data Calculator, the *How to Check Your Broadband Usage* video, and Usage Tips. The ICO did not find evidence of discriminatory intent or effect in these resources, rather the published resources adequately inform the customer of what data usage means and how to monitor it.

In reviewing the retail terms and conditions on the AT&T website, the FAQs, and the Broadband Information Page, the ICO did not identify any evidence that AT&T was discriminating in favor of its Video Programming services for its Fixed Broadband Internet Access Service. AT&T discloses the data usage limitations. AT&T states in the *Home Internet Data Usage FAQs* that it will “treat all [its] customers’ traffic the same, regardless if they are receiving unlimited data through bundling, adding it to their existing services or they have a monthly data allowance. Fourth Report, Exs. 7.d.i & 7.d.ii. AT&T also explains in the Broadband Information page that it uses network management practices to deal with congestion in its broadband network. Moreover, AT&T specifies in the *Internet Terms of Service* that it may adopt reasonable network management practices. Those network management practices include capping a customer’s data usage, modifying a customer’s serving facility or service technology, and/or modifying or limiting a customer’s data throughput speed or data consumption. AT&T explains in its published materials

that it will provide customers with notices when it adopts network management practices that apply to the customer's service. As noted above, AT&T's published materials inform customers that these network management practices will affect all customer's traffic the same.

The ICO compared the documents submitted by AT&T with the documents the ICO reviewed on the AT&T website. In conducting this comparison, the ICO did not identify any material discrepancies that raised concerns between the documents provided by AT&T and the documents on the website.

NDUP Observation 3: The ICO has not identified any customer, public, or other complaints establishing a violation of the NDUP Condition.

The ICO conducted continuous monitoring of the internet for complaints alleging discriminatory usage-based practices on the part of AT&T. One of the ways this was achieved was using internet alerts. The ICO set up broad alerts with the words "AT&T DirecTV," so that any content (articles, blogpost, etc.) containing those words would be flagged automatically and sent to the ICO via email. While the ICO received many alerts over the reporting period, the ICO did not identify any complaints alleging a violation of the Condition. Most of the alerts received concerned articles about AT&T's new product offerings and promotions; some concerned lawsuits involving AT&T (unrelated to the Condition); others commented on AT&T's business deals.

Another method used by the ICO to monitor the internet for complaints involved visiting websites that consumers or groups use as platforms for complaining about or discussing telecommunication practices.¹⁷ Two of the websites, Consumer Affairs and Broadband Expert,

¹⁷ <https://forums.att.com/t5/Internet-Forum/ct-p/attinternet> (last visited September 21, 2017); <http://www.broadbandexpert.com/high-speed-internet-reviews/att/> (last visited September 21, 2017); https://www.consumeraffairs.com/internet/att_broadband.html (last visited September 21, 2017).

published complaints about AT&T, mostly concerning the quality of the company's services and the cost of the services. Some of the complaints involved AT&T's data allowances, but these complaints did not raise genuine concerns relating to the Condition. Rather, the complaints took issue with the fact that AT&T imposed data caps, as opposed to presenting facts or information that AT&T used data caps to discriminate against unaffiliated video distribution services. There were complaints made on consumer forums between January 2017 to June 2017 that involved the speed of AT&T Internet when customers streamed Netflix. A search of Netflix's ISP Speed Index showed, however, that AT&T U-verse Internet is in the top 10 of United States internet service providers.¹⁸ Thus, these complaints did not raise concerns that AT&T was engaging in discriminatory usage-based practices that favored affiliated content over unaffiliated content.

The ICO also searched websites where non-profit groups like The Free State Foundation, Consumers Union, and Public Knowledge post complaints or discuss AT&T's internet services.¹⁹ There were some concerns expressed regarding AT&T's live streaming service DirecTV Now, however, the ICO did not find any complaints to be Merger Condition violations.

Furthermore, the ICO reviewed the complaint summaries provided by AT&T. Complaints are collected from several sources, such as complaints made directly to AT&T, to the FCC, to the

¹⁸ <https://ispspeedindex.netflix.com/country/us/> (last visited September 21, 2017). The Netflix Speed Index is a measure of prime-time Netflix performance on a particular ISP and not a measure of overall performance for other services/data that may travel across the specific ISP network. Faster Netflix performance generally means better picture quality, quicker start times, and fewer interruptions.

¹⁹ <http://freestatefoundation.blogspot.com/> (last visited September 21, 2017); <http://consumersunion.org/blog/> (last visited September 21, 2017); <https://www.publicknowledge.org/> (last visited September 21, 2017).

Better Business Bureau, and to state attorney general offices.²⁰ We have added a section at the end of the report detailing the ICO's observations concerning AT&T's complaint review process.

NDUP Observation 4: AT&T continues to use process controls tailored to achieve compliance with the Condition.

In February 2017, AT&T provided the ICO with an overview of the systems the company put in place to ensure compliance with the NDUP Condition and other legal requirements related to its product offers and pricing. The three pillars of the compliance system are training, process controls, and its reporting obligation to the FCC. During the current reporting period, the ICO attempted to review, assess, and evaluate AT&T's training and process controls as related to the NDUP Condition. The findings and conclusions reported by the ICO in its Third Report relating to AT&T's training and process controls have not changed during the current reporting period.

Training

AT&T provided the ICO with a training roster establishing that approximately [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] AT&T management and staff had received training relating to the NDUP Condition, and that one or multiple training sessions had been conducted several times a year between August 2015 and May 2017. [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL

²⁰ [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION]
[BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION]
[END CONFIDENTIAL INFORMATION]

The ICO concluded those complaints did not involve a violation of the Condition.

INFORMATION] According to AT&T, the training sessions are conducted by AT&T's outside counsel, and reportedly include an overview of the Condition, an examination of the specific terms and conditions imposed by the Condition, and a discussion of hypothetical customer offers that might implicate the Condition.

In February 2017, the ICO requested that AT&T produce relevant training materials and provide other opportunities to gain greater insight into AT&T's training (*e.g.*, observe training and/or interview those receiving the training). AT&T denied the ICO's request. AT&T informed the ICO the training and training materials were subject to the Attorney/Client Privilege, as the training and related materials consisted of protected attorney/client communications. AT&T legal counsel explained the training materials were developed by AT&T legal counsel and reflect the opinions of legal counsel as to what is necessary for the company to comply with its legal obligations under the Condition. If redacted to remove privileged content, legal counsel opined the materials would be worthless. Concerning the privilege relating to the conduct of the training, AT&T legal counsel explained that because of the legal content of the training, legal counsel conducted the training for the AT&T business teams, and the training was designed to provide the opportunity for candid attorney/client exchanges between counsel and the business representatives.

Without the ability to observe training, to interview those receiving the training, or to review the training materials, the ICO can only observe that AT&T appears to be providing appropriate employees with training on how to comply with the NDUP Condition. The ICO cannot comment directly on the effectiveness of the training and related materials.

Process Controls

AT&T has designed a process to ensure management secures legal approval for all new product offers and pricing before those offerings are made available to the public. For purposes of complying with the NDUP Condition, the control process generally starts with the business team presenting the details of its offer to AT&T legal counsel. **[BEGIN CONFIDENTIAL INFORMATION]**

[END CONFIDENTIAL INFORMATION]

This process is supported by two forms: **[BEGIN CONFIDENTIAL INFORMATION]**

[END

CONFIDENTIAL INFORMATION] AT&T provided the ICO with copies of both forms. AT&T withheld from the ICO populated versions of the forms reflecting actual product offerings. According to AT&T, those populated forms are subject to the Attorney/Client Privilege as those forms contain protected communications between attorney and client. The ICO explored with AT&T legal counsel options for gaining greater visibility into AT&T's process controls as AT&T uses those controls to vet actual product offerings for compliance with the NDUP Condition. The parties were unable to identify a way for the ICO to achieve greater visibility into the process given the privilege, other than for the ICO to review the output of the process in the public offerings published by AT&T on its website and in advertisements. Without access to the populated forms used by AT&T to review specific product offerings, or the ability to interview the AT&T officials and employees involved in the process, the ICO can only observe that AT&T has designed what appears to be an appropriate set of process controls to achieve compliance with the NDUP

Condition. The ICO cannot comment directly on how the process controls work or the effectiveness of the controls AT&T has put in place.

Notwithstanding the limitations experienced by the ICO relating to gaining access to information and activities subject to the Attorney/Client Privilege asserted by AT&T, the ICO believes that the available evidence demonstrates that AT&T has designed a multi-layered review process (together with a training regimen) that creates a positive internal control environment to support Condition compliance. This conclusion is borne out by the ICO's findings in the foregoing discussion relating to the NDUP Condition. The ICO has not identified any evidence in the public space (*e.g.*, the product offerings and related terms and conditions on AT&T's website, complaints posted on public sites, or complaints otherwise made available to the ICO) indicating a lack of compliance with the NDUP Condition. *See* NDUP Observation 3, *supra*.

3. DISCOUNTED BROADBAND SERVICES PROGRAM CONDITION

DBS Observation 1: AT&T's DBS reporting satisfies Condition requirements.

AT&T's Fourth Report addresses fully the requirements imposed by Appendix B § VI.2. including: (1) the total number of households participating in the AT&T DBS Program; (2) a detailed description of outreach efforts made during the reporting period to promote the DBS Program to schools and community-based organizations, including a list of participating organizations, and representative examples of promotional and collateral materials provided; and, (3) an analysis of DBS Program effectiveness to date. In its Fourth Report, AT&T described its compliance with FCC Condition VI requirements, along with an analysis of its overall effectiveness in meeting the requirements imposed by the Condition. The ICO has reviewed this report in detail, along with other public and confidential materials relevant to this Condition.

The ICO issued Requests for Information (RFIs) to AT&T seeking relevant documentation, information and data to provide a clearer understanding of AT&T's implementation and management efforts. The request was sent on May 16, 2017. The RFIs addressed DBS Program marketing, implementation, training, metrics, updates, communication of changes to the program, and quality improvement. Among other responses, the ICO received from AT&T: marketing packets and distribution lists; evidence of DBS Program advertising expenses; copies of customer bills; redacted recordings of calls to the customer call center; additional training materials; and quality improvement data. As has been the case, much of the requested information was posted by AT&T to a secure, external website.

The ICO's full DBS Team met with the AT&T DBS Team in Dallas on July 13, 2017 to discuss the materials submitted by AT&T and to get a better sense of the work of AT&T's DBS Team. On June 20, 2017, five members of the ICO DBS Team made a site visit to AT&T's contracted processing company in [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION] During that visit, ICO staff interviewed [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] managers, conducted a focus group comprised of agents that handle and process *Access from AT&T* program applications, toured the facility, and observed the processes, procedures, and handling of current AT&T *Access* program customer applications.

In addition to the on-site meetings, AT&T hosted DBS conference calls with the ICO on the dates listed below to address the topics raised in the RFIs, field questions in real-time, and/or to prepare for the in-person meetings.

<u>Conference Call Date</u>	<u>Topic of Discussion</u>
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May 24, 2017	Clarify DBS Recommendations in the ICO Third report
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June 1, 2017	Request for information; Question & Answers
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September 14, 2017	Request for information; Question & Answers
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The AT&T DBS Team provided the ICO with 25 call-agent recorded calls every month.

The calls were selected by the method previously agreed upon by AT&T and the ICO and described in the ICO's Third Report to the FCC. The calls were posted to the secure, external website by the middle of each month and reviewed by the ICO's DBS Team shortly thereafter.

DBS Observation 2: AT&T's DBS Program, established on April 22, 2016 as required under FCC Condition VI, is operational and robust.

After review and assessment of available information provided by AT&T in various formats along with independent testing identified in this report, the ICO is satisfied that the AT&T DBS Program (*Access from AT&T*) website has been operational as of April 22, 2016, has adequate management support, and continues to garner new enrollees. AT&T's Fourth Report indicates the following:

- Eligible customers continue to be provisioned at the highest speed available at their location as set forth under the Condition, with applicable pricing provided.
- AT&T is offering *Access from AT&T* to qualifying households in areas with connections speeds lower than 3 Mbps at a rate of \$5 per month, going beyond the requirements of the Conditions.

Fourth Report, pp. 32 – 33. The ICO has verified these representations.

For the *Access from AT&T* program, AT&T [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION] so that all qualifying prospective participants may obtain broadband service.

In the Second ICO Report, the ICO reported that [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION] and

outstanding debts associated with wireline services incurred more than six months from application are waived to help facilitate easier access to the program.²¹ While the former is accurate, the latter is not entirely so. Outstanding debt for AT&T's Fixed Broadband Internet Access Service is not factored into the application process, but it is not waived; **[BEGIN CONFIDENTIAL INFORMATION]**

[END CONFIDENTIAL INFORMATION] The clarified process is still more favorable to consumers than the Condition requires. We noted one example confirming this policy during the monitoring of calls made to call center agents in March 2017: **[BEGIN CONFIDENTIAL INFORMATION]**

[END CONFIDENTIAL INFORMATION]

As of June 30, 2017, AT&T documented **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]** **[END HIGHLY CONFIDENTIAL INFORMATION]** unique views to *Access from AT&T* information on its website, and **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]** **[END HIGHLY CONFIDENTIAL INFORMATION]** visits to its "Apply Now" link. Fourth Report, p. 48. These figures are consistent with the data provided to the ICO by AT&T's DBS Team in the form of its Key Performance Indicators (KPI), an internal metric used to assess program performance.

²¹ *Independent Compliance Officer's Compliance Report on AT&T /DIRECTV Merger Conditions*, September 23, 2016, p. 44.

As of June 30, 2017, AT&T reports providing discounted broadband service to **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]** **[END HIGHLY CONFIDENTIAL INFORMATION]** households through the *Access from AT&T* program, distributed among all 21 states in the wireline footprint. Fourth Report, p. 36. These figures are consistent with the data provided to the ICO by AT&T's DBS Team via a report of its KPIs.

AT&T has established protocols and processes to determine if *Access from AT&T* applicants meet requirements regarding SNAP eligibility (or SSI in California).

- AT&T has continued its engagement of third-party vendor, **[BEGIN CONFIDENTIAL INFORMATION]** **[END CONFIDENTIAL INFORMATION]**, to conduct SNAP and other eligibility/verification checks at the time of DBS Program application.
- Applicants are required to provide evidence of participation in SNAP (or SSI in California), and AT&T has expanded its definition of acceptable documentation of participation to alleviate customer difficulties with this aspect of the application process.

As of June 30, 2017, AT&T was providing discounted broadband service to **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]** **[END HIGHLY CONFIDENTIAL INFORMATION]** households receiving California SSI benefits through the *Access from AT&T* program. Fourth Report, p. 50.

AT&T reports that it is simplifying its annual recertification process. Rather than require a renewal application, AT&T has explained it will notify current *Access from AT&T* customers that they will automatically be approved for the next year and AT&T will direct them to contact the company for alternative service only if they no longer participate in a benefit qualifying program. The ICO has confirmed through the call agent recording monitoring process that customers are no longer being instructed that they must recertify annually. In addition, the ICO confirmed that during the account set-up process, customer service representatives inform

customers that, when necessary, a notification may be sent to them approximately thirty days in advance of their unique anniversary date with specific instructions on what they need to do to continue their participation in the *Access from AT&T* program. The ICO will continue to review the renewal process in the next report to further verify and validate AT&T's process.

The ICO reviewed a sample of billing statements from two *Access from AT&T* customers in each of the 21 states in AT&T's wireline footprint. AT&T generated the statements through a random selection process and provided the redacted, recent bills of 42 customers to the ICO for review, 30 of whom were customers new to AT&T, 12 of whom were existing customers who had switched to the *Access from AT&T* program. Among the 42 customers, 35 were on the \$10/month plan and 7 were on the \$5/month plan. The selection process was designed to provide initial bills for the customer following enrollment in the *Access from AT&T* program, as well as the most recent bills. In total, we reviewed 222 individual statements; some customers had as few as three statements, and none more than seven.

- Data statements were included in all 222 billing statements.
- Data usage was included on 220 statements.
- Total charges were specified on all 222 billing statements.
- Additional fees were not seen on any statements reviewed in this period.

Based on the information reported by AT&T to date and our independent reviews, the ICO is satisfied that all key aspects of the *Access from AT&T* program meet Condition requirements.

ICO Observation 3: AT&T continues to provide a link on its consumer-facing homepage dedicated to the *Access from AT&T* (DBS) Program.

AT&T has established a dedicated website devoted to the *Access from AT&T* program; a link to this page is provided on the AT&T consumer-facing homepage. The ICO has monitored the *Access from AT&T* program website in the desktop and mobile applications during the

reporting period for coverage and accessibility, among other conditions. Random navigation of the website has been conducted at least bi-monthly. The *Access from AT&T* program website provides key program information, including eligibility details, cost, speeds available, contacts and resources. Desktop and mobile versions of the *Access from AT&T* program website are available in English and Spanish. The ICO has found the site to be operational, with one exception. During our May 2017 monitoring of the website, we noticed the link to the *Access from AT&T* program website was not on the homepage and we promptly notified AT&T. We reported this matter to AT&T. AT&T investigated and found the link had been removed in error during a routine update to the AT&T homepage. The company restored the link immediately.

The ICO notes that AT&T continues to make it easier to reach the *Access from AT&T* website. As described in our last report, if a user did not know the program was called *Access from AT&T*, but entered the terms “discount broadband,” “discount internet,” or “low cost internet” into the AT&T search engine, the *Access from AT&T* program comes up within the first five listings. A search of “SNAP program” brings up the *Access from AT&T* program as the first two listings.

AT&T has a fully accessible, fully functioning website to describe the *Access from AT&T* DBS Program, give information to possible participants, and begin the application process. AT&T is satisfying the requirement to provide on its consumer-facing homepage a link to a website devoted to describing the DBS Program.

DBS Observation 4: AT&T reports that, in addition to training its Customer Service Representatives prior to commencement of the DBS Program, it continues to provide ongoing training regarding Condition requirements.

AT&T has reported that internal training and awareness programs were and are in place for customer service and other representatives who may have interactions with customers about the DBS Program. Training programs describe program benefits, restrictions, application processes, and other Condition requirements. Copies of training materials were made available to the ICO. Specifics reported to the ICO by AT&T include:

- As of July 12, 2016:
 - [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION] individuals, representing [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION] of Inbound Call Center staff who were likely to have such interactions, completed such training;
 - [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION] individuals, representing [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION] staff who were likely to have such interactions, completed such training; and
 - [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION] of the employees working on the *Access from AT&T* program matter for [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] the third-party vendor engaged by AT&T to handle the application review process, completed such training.
- The ICO reviewed the lists of trained individuals provided by AT&T. The percentages tracked with the numbers of listed trainees.
- Dedicated DBS Program Customer Service Centers – All customer service agents associated with the *Access from AT&T* program, including third-party vendor representatives, were trained prior to program launch on April 22, 2016 and ongoing training programs remain in place for new hires.
 - AT&T provided the names of the individual employees of [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] who received training in the *Access from AT&T* program website.

- The company also provided copies of the training materials.
- As reported by AT&T, training is currently conducted and provided through various methods, including: web-based programs and webinars, leader-led trainings, workshops, and weekly meetings.

The ICO conducted the following activities relative to the Condition that AT&T train its customer service representatives:

- Reviewed the training materials provided by AT&T. Although we noticed some minor differences in materials intended for different groups, we found the materials addressed the DBS Program offerings, pricing, and other FCC terms and conditions;
- Sent a team of five people to [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] to spend a day at the site of the third-party vendor, [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] to interview managers and team leaders, conduct a focus group with service agents, and observe the processing of applications; and
- Reviewed recordings of 150 call-center interactions.

In addition, in response to the ICO's request, AT&T provided the hardcopy version of the online course provided to new hires to familiarize them with the *Access from AT&T* program, as well as the following additional *Access from AT&T* program training documents: Updated [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION]

We found the original training, as described, and the ongoing training, as partially observed and reported in the last ICO report, provided customer service representatives and others with accurate and adequate information about the DBS Program.

- Average training time for call center agents at [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] and the *Access from AT&T* program is covered during that time.
- Training comprises slides, hand-outs, interactive sessions, problem-solving, and call scenarios.

- The trainer observed by ICO staff was knowledgeable, engaging and professional.
- **[BEGIN CONFIDENTIAL INFORMATION]** **[END CONFIDENTIAL INFORMATION]** tracks quality metrics, as does AT&T's quality assurance team, **[BEGIN CONFIDENTIAL INFORMATION]**

[END

CONFIDENTIAL INFORMATION]

We found through interviews during the ICO monitoring visit on July 13, 2017, that the **[BEGIN CONFIDENTIAL INFORMATION]** **[END CONFIDENTIAL INFORMATION]** managers understood the basics of the DBS Program, as did the processing agents who participated in the focus group.

In five of the six months in this reporting period, the ICO listened to a sample of 25 calls that were made to **[BEGIN CONFIDENTIAL INFORMATION]** **[END CONFIDENTIAL INFORMATION]** call center agents; in the sixth month, we listened to 23 calls. From these recordings, all personal, identifiable information was redacted by AT&T, consistent with FCC requirements. As a means of determining whether the training of the call agents, who are in the role of customer service representatives on behalf of AT&T, the ICO DBS Team evaluated whether the agents' explanations of program eligibility requirements and restrictions were good, fair or poor. The IRO defined "good" to mean the agent met or exceeded expectations, "fair" to mean the agent met some or most of the expectations, and "poor" to mean the agent met few or none of the expectations. The expectations were based on the call center representative's ability to accurately describe how the customer can obtain the DBS Program discount, the DBS Program eligibility requirements, the restrictions, and the certification and recertification process, as well as the representative's general knowledge of the *Access from AT&T* program. Not all calls reviewed involved discussion of program eligibility and program

restrictions; the agents often mentioned the *Access from AT&T* program during calls to resolve other customer concerns, such as transferring service due to a move or a billing question. In this sample set, five call interactions were deemed to be poor:

	Number of calls reviewed	Callers asked about the Program or wanted to activate their account	There was an explanation of eligibility	There was an explanation of restrictions
February 2017	25	18	12 - good or fair 1* - poor	19 - good or fair 3*- poor
March 2017	25	14	7 - good or fair	7 - good or fair
April 2017	25	15	11 - good or fair	13 - good or fair 1 - poor
May 2017	25	16	7 - good or fair 1 - poor	14 - good or fair
June 2017	25	17	13 - good or fair	13 - good or fair
July 2017	23**	17	9 - good or fair	11 - good or fair

* One call involved both a poor explanation of eligibility and of restrictions.

** Two calls in the July 2017 sample were largely inaudible.

In this sample set, five calls in total were deemed to be poor. Below is a summary of the findings relative to the calls deemed to be poor.

1. [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION]

As in previous reporting periods, the ICO shared the findings of its reviews of recorded calls with AT&T and we have observed that overall call quality has improved since February of 2017.

The ICO has requested that AT&T provide a summary of changes made to the call-handling process along with the monthly sample of calls; these steps will expedite the accurate review of the call center agents' interactions. For example, if AT&T makes a change to the names-matching process, the ICO DBS Team would like to learn of such a change in the month of implementation to determine whether the agents are up-to-date on their knowledge and accurate in their explanation of processes to applicants. AT&T and the ICO are working together to facilitate this request. We will provide more details in following reports.

DBS Observation 5: AT&T is on target to meet or exceed the general marketing and targeted outreach required under Condition VI for the current reporting period.

AT&T has reported that the required \$15 million threshold value related to promotional activities, including public service announcements, was met and exceeded for the first year of the program. The ICO understands that AT&T is tracking the \$15 million expenditure value on an

annual basis which coincides with the compliance conditions. That is, the expenditures for the first such year concluded on April 21, 2017. AT&T has provided detailed information indicating that as of April 21, 2017, the company spent [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION] in specific media areas, such as spot television, spot radio, network radio, newspaper, social media, Hispanic spot television, Hispanic spot radio, DirecTV Ad Value, and out-of-home media. A portion of the spot television component comprised advertising purchases on DirecTV, which AT&T stated they purchased at current market rates. The ICO received copies of internal invoices, and spreadsheets detailing check numbers, dates and amounts through December 2016 and those numbers correspond appropriately with the figures in AT&T's most recent report. The ICO will continue to evaluate the monetary value of AT&T DBS promotions, with a focus on reviewing invoices and equivalent records.

DBS Observation 6: AT&T has exceeded the requirement to distribute DBS Program marketing information to at least 20 organizations that work with low-income communities on a national and local level.

AT&T reports that, in conjunction with Connected Nation and Everyone On, it has contacted more than 700 local and national organizations. Fourth Report, p. 40 & Ex. 10. The ICO understands that many of the local and national organizations which have agreed to disseminate information about the DBS Program are doing so through "low-tech" means such as signs, fliers, and hand-outs. However, many are also sharing the news about the program on their websites, in their electronic newsletters, and on their social media pages (*e.g.*, Facebook). AT&T launched its Dollar General and Family Dollar store receipt campaign again beginning on June 26, 2017, as mentioned in their Fourth Report. Fourth Report, p. 51. The ICO verified this program last year

by reviewing a receipt from the Dollar General and intends to verify both the Dollar General and Family Dollar receipts for the next reporting period.

For purposes of confirming the 20-organization requirement was met, the ICO assumed that organizations which were promoting the program online received such marketing information from AT&T, Connected Nation, or EveryoneOn (another organization working with AT&T, primarily for outreach to schools and school districts). The ICO did an Internet search for key terms such as, “Access from AT&T,” “partner organization,” “Facebook” and “low cost Internet.” We found live links to more than 20 organizations that were promoting the program. Among the sites confirmed by the ICO, were several headquartered in the following states: California, Illinois, Kansas, Kentucky, Mississippi, North Carolina, and Texas, as well as one in Washington, DC. We also found links and information posted by national organizations, including Housing and Urban Development (HUD), the National Coalition on Black Civic Participation (NCBCP), the League of United Latin American Citizens (LULAC), and the United Way, as well as references in many technology and money-saver blogs. This limited list is intended only to confirm that AT&T met the threshold, and not in any way to call into question the figures put forth by AT&T.

AT&T has reported attending many state and national industry events across a broad spectrum of their footprint in states such as Ohio, Texas, Illinois, Mississippi, Florida, Kentucky and North Carolina during the current reporting period, providing attendees with an opportunity to learn about the DBS Program in 2017. AT&T provided the ICO with a list of 23 industry conferences for the calendar year 2017, 12 of which have already been conducted with 11 more to be attended by December 1, 2017. The ICO has verified that AT&T is affiliated with each of the industry conferences either completed or upcoming.

AT&T provided the ICO with copies of collateral materials describing the *Access from AT&T* program in a range of languages. The materials we received were available in Arabic, Chinese, English, Haitian Creole, Korean, Spanish and Vietnamese.

Although the outreach to many more organizations than required by the Condition is impressive, AT&T has also worked with Connected Nation to survey the partnering organizations about what materials they have used, what kind of outreach they have done, and whether they will continue to disseminate the AT&T DBS Program information in the coming year. The information which AT&T has received via the survey is being factored into the ongoing quality assurance process. The ICO will seek information on whether and how any subsequent adaptations to AT&T's materials affects its outreach efforts.

DBS Observation 7: AT&T met and continues to meet its requirements to provide information and collateral materials to and through the schools and school professionals in the wireline footprint.

AT&T reports that it contacted, and provided promotional/collateral materials to, public school districts within the AT&T wireline footprint and requested materials be included in the National Student Lunch Program mailings. AT&T's partner/vendor, EveryoneOn, was responsible for communicating with all school districts within the AT&T wireline footprint regarding the NSLP program. AT&T provided the ICO with a list of the individuals, institutions, and districts contacted through this initiative. Through EveryoneOn, AT&T reported that it has reached out to [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] individual principals, teachers, counselors and others at a total of [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] educational institutions, from [BEGIN CONFIDENTIAL INFORMATION] [END

CONFIDENTIAL INFORMATION] school districts. **[BEGIN CONFIDENTIAL INFORMATION]** **[END CONFIDENTIAL INFORMATION]**

AT&T reports that EveryoneOn outreach specialists contacted about 1700 schools and school districts by phone, and followed up the initial contact with emailed information materials. Fourth Report, p. 46. The ICO reviewed the collateral materials that were sent to school professionals. The materials are clear and accurate. As described in the previous report, they are available in any of the seven languages listed above, the electronic versions have links to facilitate next steps, and the message of the materials is getting students online. The collateral materials appear to be appropriately informative.

AT&T has provided and will continue to provide education programs for school professionals about the *Access from AT&T* program. The ICO will work with AT&T for future events to determine if there is a way to confirm that they are successfully executed. AT&T indicates it will host 30 program and enrollment events in 2017 for families and organizations. The ICO will ask AT&T to provide it with copies of promotional materials about these events and/or media coverage of them so the ICO can validate these as well. As reported above, relative to its work with national organizations, AT&T is leveraging its relationships with groups such as the National PTA, the American School Counselor Association, and the American Counseling Association as another way to spread information about the *Access from AT&T* program. Lastly, the ICO does not know of any request by the FCC for AT&T to adjust its outreach efforts.

DBS Observation 8: AT&T has maintained a dedicated phone number and process to verify DBS Program eligibility, and qualifying callers are transferred to a centralized order-entry center.

AT&T has two numbers dedicated to the *Access from AT&T* program: (855) 220- 5211 for English-speaking callers, and (855) 220-5225 for Spanish-speaking callers. The call centers are managed by [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] If someone calls who speaks another language, the call agents patch in a translator through AT&T's language assistance program. As noted above in DBS Observation 4, the ICO established a process to review 20 calls per month made to the dedicated line. To receive 20 relevant calls per month (accounting for the fact that some are only tangentially related or may be partially inaudible), the ICO has asked for recordings of 25 calls, selected at random by AT&T and redacted of all personal, identifiable information, then posted on the secure, external website.

In this review period, the ICO reviewed 9 of the 10 calls received in Spanish and 138 calls in English. The ICO found that call agents in this review period were knowledgeable and more comfortable with the process than in the previous review period. Everyone was courteous. There was very little variation in responses to questions.

[BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] (AT&T's in-house quality assurance team) are tracking metrics related to the call centers and implementing changes based on their findings on an ongoing basis. The ICO DBS Team conferred with members of AT&T's [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] Team and its DBS Team via conference call on March 2, 2017. During that call, the AT&T representatives described several quality improvement changes to the process, including:

- Communication with applicants via email regarding the status of their applications, which has a) reduced the lag between the determination and the notice (approval emails are sent out immediately), and b) reduced the follow-up calls in this area. AT&T plans to incorporate the use email for denial letters as soon as technology allows (there can be more than one reason for denial and the goal is to incorporate the denial reason into the notice); and
- On-line chat sessions between [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] (the application-processing vendor), giving call agents real-time information about customer status, reasons for denials, and related information.

[BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL

INFORMATION] also explained that they started a special study of calls to be sure that the call agents provide good customer service and appropriately communicate the program requirements.

[BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION]

The eligibility verification process, managed through [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] remains in place. As described in the First ICO Report, AT&T has a detailed Application Review matrix that outlines requirements for the application, how eligibility is evaluated and determined, and general disposition handling, from the onset of contact with AT&T through installation and enrollment in the DBS Program. AT&T indicates it has established a [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION]

For *Access from AT&T* program application denials, AT&T has established a protocol for attempting to resolve discrepancies. As mentioned in the last report, AT&T has reviewed the metrics related to application denials and made changes to its processes to facilitate the application process. For example, AT&T has:

- Expanded the list of documents that are acceptable to demonstrate SNAP participation (or SSI in California), as well as some minor variations from its original standards. For example, ATT now accepts letters from SNAP in addition to/instead of SNAP cards, and allows variations of applicants' names, such as "Bill" for "William."
- Permitted applications to remain "open" indefinitely (rather than the original 30-day deadline), so applicants have sufficient time to collect and submit appropriate materials.
- Collected email addresses of applicants and communicated about the application status in this manner. For some applicants, this method is easier for getting and sending information than U.S. Mail communications (although these are also sent).
- Reviewed and responded to messages sent to the "Do Not Reply to this Email" address.

DBS Observation 9: AT&T has a robust, internal monitoring and quality assurance process dedicated to the DBS Program (*Access from AT&T*).

AT&T has implemented a detailed quality assurance process for the DBS Program. The AT&T DBS Team reports that it [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION] AT&T's DBS Team reports that its new email notification initiative has decreased the customer enrollment time from [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION] (measuring the period from AT&T's receipt of the application to the date the customer calls to set up their account). AT&T's DBS Team has observed that some approved applications do not result in requests for installations and the company has continued its outreach of contacting these applicants

by telephone to encourage completion of the process and/or to determine if there are additional complications preventing such completion. As discussed above, AT&T's **[BEGIN CONFIDENTIAL INFORMATION]**

[END CONFIDENTIAL INFORMATION] Teams shared their Key Performance Indicators with the ICO and explained how the quality improvement initiatives instituted (and explained in depth in the "Analysis of Effectiveness of Program" section of the February 24, 2017 ICO Report) tracked with various upticks in their quality data. The ICO is satisfied that AT&T is using the information it gathers through the quality assurance process to continue to improve the DBS processes.

[BEGIN CONFIDENTIAL INFORMATION] **[END CONFIDENTIAL INFORMATION]** both have their own quality assurance processes, including collection and analysis of key performance indicators, which they discuss with AT&T and use to improve their systems. The ICO discussed the **[BEGIN CONFIDENTIAL INFORMATION]** **[END CONFIDENTIAL INFORMATION]** quality assurance processes during the interviews and focus group at the June 20, 2017, monitoring visit as well as their methods for communicating findings with AT&T. We found a smooth information flow to and from both parties.

The available information establishes that AT&T is not only analyzing the effectiveness of the DBS Program, but also making timely and effective changes to channel its analysis into the ongoing improvement of the initiative.

ICO OBSERVATION 10: AT&T reviewed and responded appropriately to DBS-related complaints.

From January through June 2017, AT&T forwarded [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] complaints to the ICO, of which [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] were related to the *Access from AT&T* program. Based on the ICO's analysis, the [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] complaints involved: application issues [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION], billing charges [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION], delays in installation [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION], delays in the approval process [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION], general eligibility [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION], equipment fees [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION], and late fees [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION]. Some complaints were counted more than once if they involved more than one issue.

[BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION]

The ICO attributes these cases to human error on the part of the submitter.

As in the previous reporting period, all the billing complaints related to higher bills than the customers expected. There were charges incurred for late payments or restoral fees which were appropriate; however, AT&T identified two instances in which there were mistaken equipment charges applied. AT&T reported on its follow-up efforts for each complaint. In the instances where there were erroneous equipment charges, AT&T reported that it either removed the charges or credited the erroneous amounts back to the customer accounts.

Delays in installation were identified as a new sub-category for this reporting period. Of the [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] complaints received in this area, most were the result of customers either not knowing that they needed to initiate the installation process or not knowing how to do so. The ICO is hopeful that AT&T's improved process of reaching out to individuals post-approval who have not scheduled an installation will further limit the number of complaints of this nature.

Customer complaints regarding delays in approval dropped from [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] of Access-related complaints to [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION]. This change seems to indicate that the improved communication with applicants, especially the email initiative, is getting information out in a timely manner. It seems likely that the recently added ability for chat sessions between [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION], which gives call agents real-time information about customer status and reasons for denials, will reduce customer frustration by providing timely information and assistance to applicants.

The ICO found that AT&T again reported appropriate responses to DBS Program complaints. Responses included calls from managers to customers; personalized explanations of bills, billing cycles and late fees; and waiving of fees for goodwill. It does not appear the DBS-related complaints represented a systemic violation of the Merger Conditions, especially because we did not see evidence of improper billing for equipment in the course of the ICO's billing statement reviews. Nonetheless, even the small number of DBS-related complaints involving erroneous billing for equipment seem to warrant additional attention.

RECOMMENDATION: The ICO recommends that AT&T incorporate review of DBS equipment billing as part of its quality assurance program to see if there is a potential weakness in the set-up process that allows these types of errors to occur.

* * *

The ICO has found AT&T's DBS Team to be well organized, cooperative, responsive to questions, and committed to the success of the DBS Program. Based on the reports we have received and our independent assessment of the actions taken by AT&T, the ICO finds that AT&T is in compliance with the Conditions pertaining to the Discount Broadband Services Program.

OBSERVATIONS: AT&T'S COMPLAINT REPORTING PROCESS

The ICO approached the review of AT&T's complaint tracking process with two objectives. The first was to assess the sufficiency of the process established by the Company to ensure that AT&T adequately investigated and addressed complaints received through various channels that relate to possible violations of the Merger Conditions. The second was to give the ICO greater visibility into potential violations and the Company's remediation efforts, if required.

An additional level of complaint monitoring by the Project Management Team, on behalf of the ICO, is the regular search of the internet for any indication of a Merger Condition violation. The Project Management Team conducts keyword searches that aim to find any information related to the AT&T/DirecTV merger. Keyword searches include AT&T or DirecTV, as well as several combinations of merger condition terms. Merger condition terms include, but are not limited to: “FTTP expansion,” “discrimination,” “net neutrality,” “Snap,” “Access,” “low income cable/internet,” “E-Rate,” and “schools and libraries.” The results often yield news articles, online consumer forums, and various online publications relating to AT&T’s business activities. The Project Management Team conducts the searches twice per week and reports any possible violations to the ICO. To facilitate the timely consideration of new information, the searches are conducted at the beginning and the end of each week.

Second, the ICO focused on online locations where cable and internet consumers frequently go to discuss, report, or alert others about cable or internet provider misconduct and other significant activities. The ICO has identified several online sites, groups, and news centers that consumers often use to report concerns. For example, the ICO regularly searches “Consumer Watchdog,” a non-profit consumer education and advocacy organization; “Public Knowledge,” a site that reports on and promotes freedom of expression, an open internet, and access to affordable communications tools; “Consumer Reports Web Watch” a consumer-focused internet policy and governance site; “Consumer Union” a policy and action division of Consumer Reports that advocates for consumer protection laws; “Free Press” a site focused on fighting to save the open internet, protect press freedom, and ensure diverse voices are represented in the media; and major online news sources. The purpose of the online searches is to assure that the ICO is aware of any

potential violations. Should the ICO become aware of a potential merger violation, the ICO project team takes appropriate steps to gather relevant facts to assess the accuracy and credibility of the reported information.

Complaint Reporting Process Observation 1: Online searches revealed complaints related to the Merger Conditions; none were found to be a violation of the Conditions.

The ICO Project Management Team identified complaints relating to the Merger Conditions, particularly complaints aimed at the *Access from AT&T* program. However, the ICO did not find that of any of the Complaints presented evidence of a violation of the Merger Conditions.²²

Complaint Reporting Process Observation 2: AT&T has established a reasonable process to screen and identify complaints potentially relating to Merger Condition violations.

During the second reporting period, the ICO requested that AT&T develop and share a process to identify complaints that come to the Company from various sources to determine whether any of those complaints allege, directly or indirectly, a possible violation of any of the Merger Conditions. The ICO commented on an initial draft, after which the Company provided a process outline in early June. Some of the key components of the process are described below.

Identifying and Resolving Complaints Alleging a Merger Condition Violation

Multiple offices within AT&T can receive complaints from a variety of sources. The AT&T Office of the President (OOP), External Affairs (EA), and AT&T's Legal Group all

²² Through this process the ICO became aware of a complaint filed with the FCC on August 24, 2017, alleging that AT&T has been discriminating against low-income Cleveland neighborhoods because it only upgraded wealthier neighborhoods to high-speed fixed broadband. *In the Matter of Joanne Elkins, Hattie Lanfair, and Rachelle Lee v. AT&T Corp.* After evaluating the complaint, the report forming the basis for the complaint, and related correspondence, AMI concluded the complaint does not implicate the Merger Conditions. Moreover, the FCC is in the best position to determine whether the matter implicates the Merger Conditions. The ICO invites input or direction from the FCC concerning this matter.

routinely receive complaints from escalations of customer issues. Other sources include FCC formal and informal complaints, FCC Enforcement Bureau inquiries, and complaints lodged in federal district court. AT&T's process for screening complaints involves the following actions:

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- During the third reporting period AT&T and the ICO agreed that for complaints identified as Merger-related by OOP/EA but found by the Project Management Team not to allege a violation, AT&T will provide a sample log of such complaints to the ICO. If 20 or fewer such complaints are identified, AT&T will provide a summary log of all those complaints. If 21 or more such complaints are identified, AT&T will provide a sample of 20 complaints using a statistically valid sampling technique.
- As initially structured, AT&T was providing to the ICO monthly complaint reports. AT&T and the ICO agreed to alter the reporting period to quarterly reports submitted 45 days after the close of each quarter, still using the parameters set forth above. For example, the AT&T submitted its report covering the period 1 April – 30 June to the ICO not later than August 15. The reporting frequency was altered with the understanding that AT&T would promptly notify the ICO of any allegations, lawsuits, or regulatory filings, which credibly and directly relate to the Merger Conditions.

Providing Information About Complaints to the ICO

The AT&T complaint reporting process as written provides the ICO with sufficient information and insight into complaints to permit the ICO to identify any substantive issues relating to the Merger Conditions that might arise in the form of complaints. Specifically, the process calls for AT&T to provide the ICO with a summary log of all complaints received during the reporting period that AT&T has determined to allege, either directly or indirectly, a Merger Condition violation. The summary log will include, among other things, how the complaint was resolved or, if pending, its current status.

AT&T also provides the ICO with a summary log of a sample of complaints received during the reporting period that were referred to the Merger Conditions Project Management Team under AT&T's internal reporting process, where the Project Management Team concluded the complaint did not allege a violation of a Merger Condition. The summary log includes, among other things, the nature of the complaint and the basis for the Project Management Team's determination that the complaint did not allege a Merger Condition violation. AT&T has agreed to make available to the ICO copies of the actual written complaints (with appropriate redactions, if needed) upon request.

Complaint Reporting Process Observation 3: Results from the complaint reporting process establish Merger Condition violations that AT&T promptly corrected.

AT&T provided the complaint information to the ICO in accordance with the process set forth above. As anticipated by the process outline, one summary log contained a sample of the complaints received during the reporting that were referred to the Project Management Team under the reporting process identified above, but that the team concluded did not allege a violation of a Merger Condition. A second summary log described all complaints received during the reporting

period that the Project Management Team determined did, in fact, allege a Merger Condition violation (either directly or indirectly). The actual written complaints contained in the summary logs were also posted (with necessary redactions) to the extranet site of AT&T's outside counsel.

Upon reviewing the information AT&T provided, the ICO generally concurs with the Company's conclusions regarding the complaints received during this reporting period. There were [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] complaints (involving [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] AT&T case numbers) received that alleged a "Merger Condition violation" [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION] The ICO is satisfied that these complaints do not allege genuine violations of the Merger Conditions.

As it relates to the set of complaints provided by AT&T that did not expressly invoke a violation of the Merger Conditions, the ICO notes the following observations:

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The ICO notes the complaint reporting process appears designed to help ensure that complaints within the Company's knowledge that raise substantive Merger Condition-related issues are brought to the attention of appropriate Company officials for review and, if necessary, resolution, and the ICO's attention.

RECOMMENDATIONS:

- 1. For purposes of providing quarterly summaries of complaints that do not allege a violation of the Merger Conditions, AT&T should inform the ICO of the total number of complaints received that fall into the non-condition category.**
- 2. AT&T should base criteria for assessing whether a complaint directly or indirectly alleges a violation of a Merger Condition on the express requirements set forth in the Merger Order (*e.g.*, Qualifying households shall not be required to pay any installation or modem charges or fees in order to participate in the Discounted Broadband Services Program. Merger Order, App. B.VI.2.(e)).**

3. **AT&T should take appropriate steps to review its processes, systems, and controls based on information received through the complaint process to improve compliance with the Merger Conditions.**