

*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**  
**NOVEMBER 25, 2019**

**TABLE OF CONTENTS**

<b>INTRODUCTION .....</b>	<b>2</b>
<b>EXECUTIVE SUMMARY .....</b>	<b>4</b>
<b>METHODOLOGY .....</b>	<b>6</b>
<b>APPROACH TO OBSERVATIONS AND RECOMMENDATIONS .....</b>	<b>9</b>
<b>AT&amp;T COOPERATION WITH THE ICO .....</b>	<b>10</b>
<b>OBSERVATIONS ON AT&amp;T’S COMPLIANCE WITH MERGER CONDITIONS .....</b>	<b>10</b>
1A. FTTTP Condition .....	10
1B. E-RATE CONDITION .....	10
<b>NON-DISCRIMINATORY USAGE-BASED PRACTICES CONDITION .....</b>	<b>16</b>
<b>DISCOUNTED BROADBAND SERVICES PROGRAM CONDITION .....</b>	<b>25</b>
<b>OBSERVATIONS: COMPLAINT REPORTING PROCESS .....</b>	<b>45</b>
<b>CONCLUSION .....</b>	<b>52</b>

## **INTRODUCTION**

On July 24, 2015, the Federal Communications Commission (“FCC” or the “Commission”) issued an order (the “Merger Order”)<sup>1</sup> 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.<sup>2</sup> 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.<sup>3</sup> 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 to the FCC addressing the Company’s compliance with the Merger Conditions.<sup>4</sup>

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<sup>1</sup> *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).

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

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

<sup>4</sup> 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.

This is the Eighth ICO Report to the FCC.<sup>5</sup> By agreement between the FCC staff and AT&T,<sup>6</sup> AT&T's Eighth Report was filed on September 24, 2019, covering the Fiber-to-the-Premises ("FTTP"), E-Rate, Non-Discriminatory Usage-Based Practices, and Discounted Broadband Services conditions for the period of January 1, 2019 – July 24, 2019. The ICO's report covering E-rate, Non-Discriminatory Usage-Based Practices, and Discounted Broadband Service must be filed on or before November 25, 2019. The ICO's report covering FTTP must be filed on or before March 25, 2020. In this Eighth 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:<sup>7</sup>

1. The offer of 1 Gbps 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

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<sup>5</sup> 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 and filed the Fourth ICO Report on October 23, 2017. The ICO received the Company's Fifth Report on February 26, 2018 and filed the Fifth ICO Report on April 27, 2018. The ICO received the Company's Sixth Report on August 24, 2018 and filed the Sixth ICO report on October 23, 2018. The ICO received AT&T's Seventh Report on February 25, 2019 and filed the Seventh ICO report on April 26, 2019.

<sup>6</sup> *Memorandum from Maureen R. Jeffreys to Marlene H. Dortch, Secretary, FCC* (Oct. 3, 2018):

- AT&T's compliance report, covering FTTP deployment, the provision of gigabit FTTP service to covered E-rate eligible schools and libraries ("E-rate"), Non-discriminatory usage-based practices, and the discounted broadband service program for the period of January 1, 2019 through July 24, 2019, will be filed on September 24, 2019. The ICO's compliance report covering E-rate, non-discriminatory usage-based practices, and discounted broadband service program will be filed on November 25, 2019. The ICO's compliance report covering FTTP will be filed on March 25, 2020.
- AT&T's compliance report, covering the discounted broadband program condition for the period of July 25, 2019 through December 31, 2019, will be filed on February 24, 2020. The ICO's compliance report will be filed on April 24, 2020.
- AT&T's final compliance report, covering the discounted broadband program condition for the period of January 1, 2020 through April 22, 2020, will be filed on June 1, 2020. The ICO's final compliance report will be filed on July 31, 2020.

<sup>7</sup> For purposes of the ICO's reporting, the ICO is not required to report on AT&T's compliance with the Condition related to internet interconnection disclosure; that requirement is the subject of a separate analysis by an "Independent Measurement Expert." *See* App. B § V.2. The ICO can confirm that AT&T has regularly filed interconnection agreements with the FCC, copies of which AT&T has provided to the ICO.

“E-rate Condition”). App. B § III.2.(d).

2. 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.
3. 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 eighth reporting period, and a presentation, organized by Condition, of the ICO’s observations. Where useful, the ICO points out specific plans for ongoing verification of the Company’s activities under the DBS Merger Condition.<sup>8</sup>

### **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 reports. 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 has established through its processes and controls 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. AT&T has engaged in affirmative and adequate outreach to promote its service offerings to E-rate eligible schools and libraries.
- 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

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<sup>8</sup> 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 Company changes to address any perceived deficiencies in the Plan. Any such recommendations shall be included in the Independent Compliance Officer’s Compliance Reports.”).

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-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. The ICO also reviewed complaints forwarded by AT&T relating to the Merger Conditions and the ICO reviewed relevant websites for public comment or complaints relating to NDUP compliance. We did not identify any comments or complaints addressing NDUP concerns in those materials or sites.

- 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 (*Access from AT&T*) at the speeds and pricing specified by the DBS Condition. The ICO continues to receive reports that eligible applicants end up acquiring services outside the *Access* program contrary to their expectation of acquiring *Access* services. Once identified, AT&T is taking appropriate steps to correct the situation. AT&T has provided additional training to its call agents on the process for routing and handling *Access* customers. AT&T has refined its systems and controls to reduce the occurrence of *Access* customers receiving inappropriate equipment or service charges. AT&T is actively marketing the *Access* program and is on track to promote 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 train the Company's Customer Service Representatives. As discussed below, **[BEGIN CONFIDENTIAL INFORMATION]**

**[END CONFIDENTIAL INFORMATION].**

AT&T has accurately described its compliance activities to date. 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 continued to examine under the E-rate Condition the process for identifying

covered schools and libraries and reviewed AT&T responses to Form 470 requests. Additionally, the ICO has reviewed AT&T's efforts to engage in affirmative and adequate outreach to make eligible entities aware of the opportunity to purchase 1 Gbps FTTP Service.

- The ICO has continued to examine 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 Conditions.
- The ICO evaluated and tested AT&T's DBS Program against Merger Conditions, focusing extensively on AT&T's efforts to promote the program, training for personnel associated with the program (including personnel at AT&T's contracted call centers), the operations of the call centers responsible for assisting consumers with the application process, and AT&T's billing practices relating to its *Access from AT&T*.

### **METHODOLOGY**

After completing the review described in the first seven ICO Reports, the ICO has continued to follow the work plan designed to track AT&T's compliance with each Condition, and the ICO has developed a process for verifying MDU deployments under the process negotiated between the FCC and AT&T. Our efforts, ongoing since the beginning of the ICO's engagement, rely 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 AT&T's Project Management Team, as well as representatives from the Company's business lines, to review the processes the Company has established to meet the Conditions, and results under each Condition to date;
- Question and answer exchanges with the FCC, as well as discussions to promote consensus and clarity in the ICO's approach, methodology, and conclusions;
- Document review, data analysis, and related testing and verification;
- Extensive FTTP field work; and
- Other site visits, which included presentations, interviews, and focus groups.

### **Requests for Information and Detailed Informational Meetings**

We have found the process for exchanging information with AT&T sufficient to support our efforts to verify AT&T's compliance with the Conditions. We have also 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 with appropriate AT&T business staff and officers, representatives of the operational compliance and legal functions, and outside legal 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 FTTP verification; and affording in each case adequate time for the ICO to ask follow-up questions to gain a fuller understanding of the Company's response.<sup>9</sup> 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 Conditions and for compiling the data needed for semiannual reporting.

As it relates specifically to this reporting period, the ICO submitted a comprehensive Request for Information to AT&T on May 31, 2019, posing questions and requests for documents relating to each of the Conditions. The ICO had several follow up meetings, calls, and exchanges with AT&T to clarify the information requests and to receive responsive information. AT&T responded to the Request for Information with materials and detailed briefings that addressed the matters raised by the ICO.

The ICO's DBS team met with AT&T's DBS program management personnel, legal representatives, and other AT&T representatives on July 23, 2019 to discuss responses to the ICO's May

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<sup>9</sup> The Company continues to provide copies of requested materials, making them electronically available to the ICO through outside counsel's extranet portal.



2019 Request for Information. That discussion addressed the *Access from AT&T* application process, outreach, media spend, equipment billing issues, quality assurance questions, operations, and communications with *Access* customers.

Separately, the ICO's FTTP Team (including those with E-rate responsibilities) held video conferences with representatives from AT&T's FTTP Team, along with representatives from AT&T's Legal, Compliance, and Program Management offices on August 23 and October 18, 2019. The FTTP discussions focused on AT&T's compliance efforts and developments relating to AT&T's FTTP processes, including reporting MDU deployments.

For each of these sessions, AT&T ensured it had assembled appropriate AT&T representatives to address the matters on the agenda. As has been true since this oversight process was implemented, these meetings have been instrumental in helping the ICO understand the substantive and procedural aspects of AT&T's compliance efforts which has allowed us to test and validate these activities.

### **Document Review, Field Visits and Data Analysis**

The ICO reviewed all materials provided with AT&T's Eighth Report, as well as those 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 throughout the reporting period, the ICO submitted multiple formal and informal requests for documents and information. In each case, the Company provided documents that met the ICO's needs (both existing business records and materials prepared specifically to respond to requests that help illustrate trends, demonstrate coverage, and display system/business relationships). The ICO reviewed these materials

and followed up with appropriate AT&T team members to seek clarification and to pose additional questions to gain additional insight into AT&T's efforts.

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 and to examine a critical element of the Company's internal controls.

AT&T reports it has responded to all FCC Form 470s submitted from covered schools and libraries for services required under the E-rate Condition. The ICO took appropriate steps to verify and validate AT&T's efforts to identify and respond to requests from eligible entities within its fiber footprint. The ICO also took steps to ensure AT&T was engaging in affirmative and adequate outreach to covered entities.

The ICO 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, reviewing ad purchases by AT&T to promote the *Access from AT&T* program, and conducting a site visit to a call center in [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] operated by AT&T's call center contractor responsible for providing customer support relating to *Access from AT&T*.

#### **APPROACH TO OBSERVATIONS AND RECOMMENDATIONS**

This Eighth ICO Report contains the ICO's observations relating to AT&T's compliance with

the E-rate, NDUP, and DBS Conditions. The ICO relates its observations, suggestions, and recommendations with the acknowledgment that this marks the eighth round of reports for both the Company and the ICO, and 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 regarding (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 [RESERVED -- TO BE REPORTED MARCH 25, 2020.]**

**1B. E-RATE CONDITION**

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

The ICO has reviewed the Eighth Report and Exhibits 2.a, 2.b, 3 and 4 to address the reporting

requirements set forth in Appendix B for E-rate. AT&T reports that it is complying with the E-rate condition by “(1) identifying covered schools and libraries located where AT&T plans to have deployed FTTP services by the end of the first half of 2019 . . .; (2) responding to all Form 470s seeking bids for 1 Gigabit FTTP Service to any covered school or library; (3) deploying as requested 1 Gigabit FTTP service to any bid awarded for that service by a covered school or library; and (4) conducting affirmative and adequate outreach to make covered schools and libraries aware of the opportunity to purchase 1 Gigabit FTTP Services.” Eighth Report, pp. 16-17. AT&T’s Eighth Report summarizes the methodology the Company uses to identify covered schools and libraries where AT&T plans to have deployed FTTP services. The report includes a list of covered schools and libraries to which AT&T has submitted a bid to provide FTTP service (Exhibit 2.a), and copies of an equivalent version of the Form 470s associated with each bid prepared by Funds for Learning (Exhibit 2.a. includes a link to each Form 470).<sup>10</sup> The report also includes a list of **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]**

**[END HIGHLY CONFIDENTIAL INFORMATION]** covered entities to which AT&T has deployed 1 Gigabit Service. Exhibit 2.b.

AT&T’s Eighth Report includes a description of outreach activities, including AT&T’s efforts to promote awareness of the opportunity for covered schools and libraries to secure for 1 Gigabit FTTP Service and a copy of AT&T’s 1 Gigabit Service notice used to raise awareness with covered entities (Exhibit 4). In summary, AT&T 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.

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<sup>10</sup> 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.

**FTTP E-rate Observation 2: AT&T has followed the same mapping process as it used previously for identifying covered schools and libraries.**

In AT&T's Eighth Report, the Company explained that it applied the same methodology for identifying covered schools and libraries as it applied in its Seventh Report. Eighth Report, p. 18. AT&T explained the methodology as follows:

Specifically, AT&T compiled a list of fiber routes that include PSAs where AT&T had deployed FTTP-based service or planned to deploy FTTP by the beginning of the new E-rate funding year. Using the most recently available Universal Service Administrative Company ("USAC") data, 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.

Eighth Report, p. 18 (footnote omitted). The ICO confirmed that the methodology used for AT&T's Seventh Report is the same as for AT&T's Seventh Report.<sup>11</sup>

**Methods for Identifying Covered Schools and Libraries**

In the ICO's Fifth Report, we noted 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. AT&T's process has remained unchanged for its Sixth, Seventh and Eighth Reports. AT&T's process is detailed in the *Determination of Intersection Between E-rate Locations & AT&T Internet with FTTP Build Plan Routes* (Rev. Aug. 17, 2017). This document details the data sources, applications, and processes by which AT&T determines which school and library locations fall within

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<sup>11</sup> 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. AT&T 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.

or are contiguous to the AT&T FTTP build plan. The document identifies data sources and descriptions necessary for the mapping process, including **[BEGIN CONFIDENTIAL INFORMATION]**

**[END CONFIDENTIAL INFORMATION]** For each of the data sources, the document identifies the relevant source/location (internal and external addresses, as appropriate), data format, and description of the data. The ICO finds that AT&T has established and maintained a reasonably effective process for identifying all covered schools and libraries under the Condition.

#### **Method for Identifying Fiber Route**

As explained in the ICO's Fourth Report, as of December 2016, AT&T has used its Wire Center Route Map methodology for capturing the boundaries of FTTP deployments within a PSA. ICO Fourth Report, pp. 28 – 29. This process is also captured in the *Determination of Intersection Between E-rate Locations & AT&T Internet with FTTP Build Plan Routes*, discussed above. The ICO finds AT&T's approach reasonable and consistently applied.

#### **FTTP E-rate Observation 3: AT&T reports using the same process for tracking and responding to Form 470s as used in previous reports.**

For the ICO's Eighth Report, we confirmed the process described by AT&T for tracking and responding to Form 470s is identical to that used by AT&T in the Seventh reports. The process is documented as the *DTV I.B. Merger Requirement Processes* (Rev. Aug. 13, 2018) and provides a

detailed step-by-step for the AT&T E-rate team to follow for identifying E-rate sales opportunities and for complying with the Merger Condition.

**AT&T Responded to [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION] Form 470s**

According to AT&T's Eighth Report, p. 20, AT&T provided a bid in response to [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION] Form 470s from covered schools or libraries for 1 Gigabit FTTP Services from January 1, 2019 to July 24, 2019. Exhibit 2.a provides a listing of all covered entities to whom AT&T submitted a bid for 1 Gigabit Service; the list provides electronic links to the related Form 470s at Exhibit 3 for each of the bids. Exhibit 3 includes copies of forms prepared by Funds for Learning that capture the information required on properly populated Form 470 documents.

**AT&T Deployed 1 Gigabit Service to [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION] Covered Entities**

AT&T had [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION] deployments of 1Gigabit Service to [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION] covered entities during the period of January 1, 2019 through July 24, 2019. Those [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION] entities, along with the data required by Merger Condition III.2.d, are presented in Exhibit 2.b. The ICO selected [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION] entities and confirmed deployments of 1Gigabit service through Form 470 and Form 471 data located on the *USAC.org* website.

**FTTP E-rate Observation 4: AT&T has engaged in affirmative and adequate outreach to make all covered schools and libraries aware of the opportunity to purchase its 1 Gigabit FTTP Service.**

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.

AT&T conducted two email campaigns during the prior reporting period for the 2019 E-rate Funding Year to representatives of approximately [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION] schools and libraries in its wireline footprint. Eighth Report, pp. 22-23. We have been able to confirm AT&T's outreach efforts as described above through a review of the Company's promotional materials used to promote AT&T's offerings to eligible schools and libraries. *See AT&T – DirecTV Merger Conditions, 3/31/19 E-rate RFI Response.*

**FTTP E-rate Observation 5: Schools and libraries often buy service from state agencies or government consortia.**

As discussed in the ICOs Sixth Report, pages 37-38, AT&T competes to provide the covered services with other commercial providers. Additionally, 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.

AT&T explained in its Sixth Report:

[W]hile 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 reportable deployments of 1 Gigabit FTTP Service during a reporting period. For example, in several states within AT&T's 21-state wireline service area, there are state institutions



that procure an internet backbone designed to deliver broadband service to anchor institutions, including schools and libraries, which reduces the number of schools and libraries seeking to purchase commercial ISP services. In addition, schools and libraries often seek bids for a range of speeds. Thus, AT&T may be chosen as the internet access provider for a Form 470 which it reported as being covered by the Condition, but the institution may choose to utilize service at a speed either above or below 1 Gigabit, which service deployment would not be reportable under the Condition. And even if the covered school or library purchases internet access service from AT&T and elects to install 1 Gigabit FTTP Service, the customer may require that service to be delivered at a location or locations that are not within or contiguous to AT&T's FTTP deployment, which again would not be reportable under the Condition. Finally, AT&T faces competition from other private internet access service providers and may not have been chosen as the internet access provider.

Sixth Report, pp. 20-21 (footnotes omitted). The ICO has again confirmed this information through a review of Form 471s and other USAC documentation, as well as through searches of publicly available documents.

## **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 AT&T's Eighth Report and Exhibit 5 regarding the requirements set forth in Appendix B, Section IV. As required by the Condition, AT&T's Eighth 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. Eighth Report, pp. 24-29; Ex. 5. Exhibit 5 contains a variety of information related to AT&T's Fixed Broadband Internet Access Service, including: applicable *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; and relevant Myatt screenshots. The descriptions and supporting materials presented by AT&T in its Eighth 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.**

AT&T's Eighth 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. Eighth Report, p. 25. The information available to the ICO confirms that AT&T's retail terms and conditions, including the application of usage-based allowances,<sup>12</sup> 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.<sup>13</sup>

As in prior reports, 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

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<sup>12</sup> AT&T Mobility, LLC, agreed to pay \$60 million to settle litigation with the Federal Trade Commission over allegations that the wireless provider misled its smartphone customers by charging them for "unlimited" data plans while reducing their data speeds. This settlement did not involve matters relating to the fixed broadband services covered by the Conditions.

<sup>13</sup> 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.

discriminated against unaffiliated online video distribution services or favored AT&T's offerings. 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.

"To help keep customers informed about [its] mass market broadband Internet access services, the AT&T website ([www.att.com](http://www.att.com)) describes the mass market wireless and wired broadband Internet access services [it] offer[s]." *Broadband Information* (<http://about.att.com/sites/broadband>, last viewed Oct. 31, 2019). The available information includes all product and service offerings for its Fixed Broadband Internet Access Service (<https://www.att.com/internet/>, last viewed Oct. 30, 2019), internet terms and conditions (<https://www.att.com/legal/terms.internetAttTermsofService.html>, last viewed Oct. 30, 2019), and associated usage-based allowances relating to those offerings (<http://www.att.com/internet-usage>, last viewed Oct. 31, 2019). AT&T's Internet Terms of Service states that among the basic principles underlying its internet service is that: "If AT&T makes a change that would have a material impact on your service, AT&T will endeavor to provide you with reasonable notice of any such changes." <https://www.att.com/legal/terms.internetAttTermsofService.html> and Ex. 5.a.i.

The ICO reviewed the relevant offerings, including AT&T's terms and conditions and usage-based allowances, published at or linked to <https://about.att.com/sites/broadband/terms> (last viewed Nov. 1, 2019) and <https://www.att.com/help/internet/usage.html> (last viewed Oct. 30, 2019). AT&T's Home Internet Usage page includes or links to Data Usage Basics; Data Allowances and Usage Information; Internet and DSL Terms of Service; and additional links to Internet Data Calculator, Manage Internet Data Usage, Data Usage Notifications, and Data Usage Details.

<https://www.att.com/help/internet/usage.html> (last viewed Oct. 30, 2019). The site provided AT&T contact information and options, including an on-line community page. *Id.* The ICO also reviewed the promotions and product offerings under the Bundles Page (<http://www.att.com/bundles/u-verse/>, last viewed Nov. 1, 2019) and the Internet Page (<http://www.att.com/internet/>, last viewed Nov. 1, 2019). The ICO did not find evidence of discriminatory intent or effect in these information resources. Rather, the published resources adequately inform the customer of the available services, the terms and conditions associated with the available services, and the many tools available for helping customers manage data usage.

AT&T expressly states in its Broadband *Network Practices*:

**Does AT&T favor certain website or internet applications by blocking, throttling, or modifying particular protocols on its broadband internet access service?**

No, AT&T does not favor certain websites or internet applications by blocking or throttling lawful internet traffic on the basis of content, application, service, user, or use of nonharmful devices on its broadband internet access services.

**Does AT&T directly or indirectly favor some traffic over other traffic (such as through prioritization, resource reservation, or traffic shaping) in its provision of broadband Internet access service either (1) in exchange for consideration (monetary or otherwise) from a third party, or (2) to benefit an affiliate?**

No, in its provision of broadband internet access services, AT&T does not directly or indirectly favor some traffic over other traffic in exchange for consideration from a third party or to benefit an affiliate . . . .

<http://about.att.com/sites/broadband/network> (last viewed Nov. 1, 2019); Ex. 5.b.

Likewise, AT&T's esupport site provides:

**What do you mean by data usage?**

Usage includes all the data you receive (download) or send (upload). If you access the internet through your home network, wired or Wi-Fi, using any device (including smartphones), that will be included in your data usage.

**Will using DIRECTV count toward my data usage?**

Some DIRECTV features will count towards your data usage. These include:

- Pay Per View
- OnDemand
- 4K programming

**If I stream DIRECTV on my devices over my home Wi-Fi, will this count toward my data usage?**

If you stream DIRECTV on your mobile device over your home internet service Wi-Fi connection, usage will count towards your home internet monthly data usage.

**Will using DIRECTV NOW count towards my data usage?**

DIRECTV NOW is an over-the-top streaming service. All streaming over your home internet, wired or Wi-Fi, will count towards your home internet monthly data usage.

<https://www.att.com/esupport/article.html#!/u-verse-high-speed-internet/KM1010099?gsi=2y9>  
(last viewed Nov. 1, 2019); Ex. 5.d.

AT&T explains in its *Broadband Information, Network Practice* that it may adopt reasonable network management practices. <http://about.att.com/sites/broadband/network> (last viewed Nov. 1, 2019). 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 as necessary to manage internet traffic. *Id.* AT&T further explains, however, that it will provide customers with notice when it adopts network management practices that materially affect the customer's service. *Id.*

The ICO compared the documents submitted as part of AT&T's Eighth Report 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. (We identified in some cases very minor differences in the wording that did not affect the point being communicated).

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

To expand our oversight efforts, the ICO looks for other sources of information/complaints that may touch on the NDUP condition. We conducted regular 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 alerts over the reporting period, the ICO did not identify any complaints alleging a violation of the NDUP Condition. Most of the alerts received concerned articles about AT&T’s new product offerings and promotions, and 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. In the past, Consumer Union and Consumer Affairs has published complaints about AT&T, mostly concerning the quality of the Company’s services, the cost of the services, and zero-rating. Some of the complaints involved AT&T’s data allowances, but the complaints have not raised genuine concerns relating to the Condition. Rather, the complaints took issue with the fact that AT&T imposed data caps or that AT&T wireless customers who subscribed to DirecTV could watch DirecTV on their mobile devices without it counting toward their AT&T wireless data cap. While some complaints still focus on quality of the Company’s services, the focus has shifted to other AT&T business deals and relationships unrelated to the DirecTV merger conditions. The ICO has not identified any complaints

presenting facts or information that AT&T used data caps to discriminate against unaffiliated video distribution services regarding the Company's Fixed Broadband Internet Access Service.

We continued to observe complaints made on consumer forums 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 service (AT&T's fiber connection) is rated 6<sup>th</sup> on the list of United States internet service providers.<sup>14</sup> Thus, these complaints did not raise concerns that AT&T was engaging in discriminatory usage-based practices through its fixed broadband internet access services that favored affiliated content over unaffiliated content.

The ICO also searched websites where non-profit groups like The Free State Foundation, Free Press, and Public Knowledge posted complaints or discussions relating to AT&T's internet services.<sup>15</sup> As mentioned earlier, there were some concerns expressed regarding AT&T's live streaming service DirecTV Now, however, the ICO did not find any complaints to constitute a violation of the NDUP Condition.

Additionally, the ICO reviewed the complaint summaries provided by AT&T. AT&T collects complaints from various sources, including complaints made directly to AT&T, to the FCC, to the Better Business Bureau, and to state attorneys general offices. AT&T did not report any complaints that indicated AT&T had engaged in discriminatory usage-based practices. We have included a section at

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<sup>14</sup> <https://ispspeedindex.netflix.com/country/us> (last visited Oct. 31, 2019). 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 downloads, and fewer interruptions.

<sup>15</sup> <http://freestatefoundation.blogspot.com> (last visited Oct. 31, 2019); <https://www.freepress.net/> (last visited Oct. 31, 2019); <https://www.publicknowledge.org/> (last visited Oct. 31, 2019).

the end of the report further describing 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. AT&T has not changed this approach during the reporting period.

**Training and Process Controls**

Throughout the course of the ICO's engagement, AT&T reports that it has maintained a process to ensure management secures legal approval for all new product offers and pricing before those offerings are made available to the public. Additionally, AT&T has trained appropriate employees on the requirements of the Merger Conditions and the approval process required for new product and service offerings. 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 previously provided the ICO with copies of both forms. AT&T has 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.

In 2017, AT&T responded to the ICO's Request for Information with the following summary:

AT&T has implemented robust processes with respect to compliance with the NDUP condition. As described in our Semi-Annual Compliance Reports, AT&T's focus has been on integrating compliance into its day-to-day business processes. This is done through training, administered proactively to key personnel to ensure that compliance with the NDUP condition is considered in the planning stages for any proposed new products or offerings, and advice and counsel sought before any key decisions are made. Additional mechanisms and review screens exist in the early stages of product development to ensure that the terms and conditions of new products and offers comply with the NDUP condition.

As a result, potential issues which might present compliance concerns are raised for consideration by counsel and are resolved on that basis before the projects or offerings are formalized and submitted for decision at the business level.

Generally, advice and counsel is sought and addressed before a project or offering is assessed for financial or operational viability.

AT&T considers the legal advice and counsel provided with respect to compliance questions related to any particular proposal to be Attorney-Client Privileged communications and hereby asserts that privilege.

*AT&T-DirectTV Merger Conditions, 12/6/17 NDUP RFI Response.* AT&T's position regarding the privileged nature of this information has not changed during the current reporting period. The parties have been 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 remains satisfied 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 NDUP 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 Eighth Report again addresses fully the requirements imposed by Appendix B § VI.2. and delivered a report that satisfies subsection VI.2.i including:

1. The total number of households participating in the AT&T DBS Program [**BEGIN CONFIDENTIAL INFORMATION**]  
[**END CONFIDENTIAL INFORMATION**];
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.

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. A Request for Information was sent by the ICO to AT&T on May 31, 2019, seeking current documentation, information and data about AT&T's implementation and management efforts as they pertain to several conditions, including the Discount Broadband Service requirements. Relative to the DBS, the Request for Information addressed:

- Program marketing via partner organizations, EveryoneOn and Connected Nation;
- Promotional efforts including advertising and public service announcements;
- Lists of individuals within school districts who were sent information about the *Access from AT&T* program;
- Internal quality improvement measures;
- Performance metrics for call center agents;
- Training logs and/or other documentation of training for *Access from AT&T* call center agents;
- AT&T's ongoing efforts to identify and refund any *Access from AT&T* customers who were erroneously charged for equipment or installation;
- Efforts to address reported concerns and complaints that customers erroneously believed they were enrolled in the *Access from AT&T* program by non-*Access* AT&T representatives; and
- Any information or actions taken in response to reports that potential *Access from AT&T* customers did not receive applications after a request.

In response to the RFI, ICO received information from AT&T, including:

- Information about AT&T's media promotions, including spending on radio and television spots:

- Information about AT&T's outreach activities to promote the program, including
  - o Work with Connected Nation and EveryoneOn;
  - o Direct mail and email communication to school districts
  - o Participation in community organization and other partnership outreach events.
- Internal Key Performance Indicators and metrics showing **[BEGIN CONFIDENTIAL INFORMATION]**

**[END CONFIDENTIAL INFORMATION];**

- Records and materials verifying training provided to staff working on the *Access* program; and
- Details of the most recent audit of customers improperly charged installation or equipment fees and related account adjustments.

*Discounted Broadband Program May 31, 2019 RFI Response* (presented July 23, 2019). In some instances, AT&T advised the ICO that responsive information to the RFI would be included in AT&T's report filed September 24, 2019, and the ICO confirmed the information was, in fact, provided. As in the past, AT&T's DBS Team made itself available to the ICO to answer follow-up questions. The DBS Team from AT&T and the ICO DBS Team met in Washington D.C. on July 23, 2019, to discuss AT&T's response to the Request for Information and to discuss additional requests for information by the ICO.

On September 19, 2019, three members of the ICO DBS Team made a site visit to the **[BEGIN CONFIDENTIAL INFORMATION]**

**[END CONFIDENTIAL INFORMATION]** with whom AT&T contracts to handle customer service and support for various AT&T and DirecTV programs, including the *Access from AT&T* program. During this reporting period, **[BEGIN CONFIDENTIAL INFORMATION]**

**[END CONFIDENTIAL INFORMATION]** The ICO

observed processes and procedures at the [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] call center; interviewed [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] managers; conducted focus groups with customer service agents who answer calls about *Access from AT&T* applications, eligibility, and installations; toured the facility; and observed training of customer service agents. The ICO utilized the services of an interpreter for Spanish-speaking [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] staff in focus groups and to assist bilingual staff when necessary.

These efforts and others detailed below allowed the ICO to validate the accuracy of the information presented by AT&T in its Eighth Report.

**DBS Observation 2: AT&T's DBS Program, established on April 22, 2016, continues to operate well and enrollment continues to grow.**

AT&T established its DBS Program, *Access from AT&T*, on April 22, 2016. Based on the observations presented below, the ICO is satisfied the *Access from AT&T* program continues to be well resourced and the program receives management support.

Figures provided in AT&T's Eighth Report indicate that enrollment in the *Access from AT&T* program totaled [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION] households as of July 24, 2019, distributed among all 21 states in the Company's wireline footprint. Eighth Report, p. 38. [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION]

[END

CONFIDENTIAL INFORMATION] [BEGIN HIGHLY CONFIDENTIAL INFORMATION]

[END HIGHLY CONFIDENTIAL INFORMATION] [BEGIN CONFIDENTIAL INFORMATION]

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

[END CONFIDENTIAL INFORMATION]

AT&T's Eighth Report indicates the following:

- AT&T is offering *Access from AT&T* service plans for wireline Broadband Internet Access Service at the download speeds and prices specified in the Condition.
- AT&T is offering *Access from AT&T* to qualifying households in areas with connection speeds lower than 3 Mbps at a rate of \$5 per month, going beyond the requirements of the Conditions.

Eighth Report, p. 34.

The ICO has verified these representations through its monitoring activities including call recording review, review of customer billing statements, and details of the program offerings advertised on AT&T's *Access* website.

AT&T has maintained established protocols and processes described in the ICO's previous reports for determining whether *Access from AT&T* applicants meet requirements regarding SNAP eligibility (or SSI in California):

- Applicants are required to provide evidence of participation in SNAP (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 *Access* application.

Eighth Report, pp. 35-36.

As described in previous reports, AT&T **[BEGIN CONFIDENTIAL INFORMATION]** **[END CONFIDENTIAL INFORMATION]** for applicants to the *Access from AT&T* program, so that all qualifying prospective participants may obtain broadband service. Eighth Report, p. 36-37. As noted in prior reports, the ICO team observed during its visit to the **[BEGIN CONFIDENTIAL INFORMATION]** **[END CONFIDENTIAL INFORMATION]** application processing site that **[BEGIN CONFIDENTIAL INFORMATION]** **[END CONFIDENTIAL INFORMATION]** did not factor applicants' credit information into *Access* eligibility determinations. The call agents at the **[BEGIN CONFIDENTIAL INFORMATION]** **[END CONFIDENTIAL INFORMATION]** visited during this reporting period did not report any instance when applicants' credit histories factored into the application or order process. The ICO's active and passive monitoring of complaints (regular searches of the Internet for *Access*-related complaints and receipt of complaints reported to the ICO by AT&T), has not revealed any issues pertaining to denial due to poor credit history. Likewise, in the ICO's monitoring of call recordings the ICO heard no instances in which the credit history was a bar to receiving service through the *Access from AT&T* program, even where the credit check process required additional steps to verify an applicant's identity. During this reporting period the ICO heard call center agents routinely advise callers that their credit history would not affect their approval or ability to receive services through the *Access from AT&T* program.

AT&T has continued to improve the application experience for *Access from AT&T* applicants. We noted in our Seventh Report that AT&T revised its written guidance to applicants to make it more user-friendly and implemented an automated calling system to notify applicants that their application had been received and is in process, or that an application has been denied and a new application has been sent. Seventh Report, p. 55-56. Applicants may also monitor the status of their application online, and the ICO routinely heard agents advise callers of this service. This period AT&T informed the ICO that it was **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]**

**[END HIGHLY CONFIDENTIAL INFORMATION]**. The ICO will explore and report on implementation of this system during our next and final reports.

The ICO continues to receive billing statements for three *Access* customers from each of the 21 states in AT&T's wireline footprint per quarter (for a total of 63 customers per quarter) using the same random selection process described in our prior reports. *See, e.g.*, ICO's Seventh Report, p. 55. The ICO received and reviewed a total of 369 bills for the 1st Quarter of 2019 and another 369 bills for the 2nd Quarter of 2019. As with the previous review, the ICO did not identify areas of concern with any of the bills. All bills reviewed reflected the rate plan, a data limit statement and customer data usage, along with the total charges including permissible fees (*e.g.*, late payment fees), utilizing the standardized format instituted during the previous program year, described by the ICO in its Seventh Report. ICO Seventh Report p. 56.

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 DBS 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's *Access from AT&T* website has been operational since April 22, 2016, and it continues to be a resource for potential new enrollees. <https://www.att.com/shop/internet/access/#/> (last reviewed October 15, 2019). As required, a link to this site is provided on the AT&T consumer-facing homepage, [www.att.com](http://www.att.com) under the "Home Services" heading. The ICO has continued to monitor periodically the AT&T consumer website, as well as the linked *Access from AT&T* website, and found it to be operational and accessible from both desktop and mobile devices for the full reporting period. The site provides key program information, including eligibility details, cost, speeds available, contacts, FAQ's, and other resources. The online application is available in English and Spanish, and there is one phone number to call for assistance in English, another for assistance in Spanish. <https://accessatt.solixcs.com/#/home> (last viewed, October 15, 2019). The ICO heard potential *Access* customers on call recordings who expressed an interest in applying online and had pulled up the website on devices while on the phone with an agent who provided assistance.

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 continues to provide training to its Customer Service Representatives regarding the DBS Program.**

As noted in previous reports, the Condition required AT&T to educate Customer Service Representatives on the *Access* program "prior to commencement of the program." The numbers listed

below (included in previous reports), which were reported by AT&T and which tracked with the lists of trained individuals sent to the ICO, indicate that the goal of adequate pre-launch training was met.

- 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.

Although AT&T previously fulfilled the Condition to train its Customer Service Representatives “prior to commencement of the program,” the ICO has continued to assess the ongoing training of call center agents as there is turnover of agents at established call centers, as well as changes to the call centers used by the third party vendors [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION], including changes during this reporting period.

- AT&T provided the ICO with documentation of training of individual newly hired employees of its third-party call center vendors, [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION], who received training in the *Access from AT&T* program website for the first six calendar months of 2019.

- The training efforts include slide presentations, hand-outs, interactive sessions, problem-solving, call scenarios, and hands-on side-by-side training with experienced agents.
- Average training time for new call center agents at [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] is [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] and the *Access from AT&T* program is covered in those training sessions.
- Some existing call center employees working on other AT&T products who transferred to a position working with *Access* callers reported receiving a [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] specific to the *Access* program upon transferring.

Since commencement of the program AT&T no longer uses [BEGIN CONFIDENTIAL INFORMATION] INFORMATION]

[END CONFIDENTIAL INFORMATION] was discontinued in June 2019. The site in [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION] AT&T first provided the ICO with Spanish call recordings from [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION]

As the ICO has previously reported, we have heard in call recordings many examples of well-trained agents problem-solving with customers to facilitate the application or order process. We also heard instances in which some agents may have discouraged applicants or prevented otherwise qualified applicants from receiving services under the *Access* program by dispensing incorrect information, or

where agents [BEGIN CONFIDENTIAL INFORMATION]  
[END CONFIDENTIAL INFORMATION] or who had accents that were difficult for American callers to understand may have frustrated potential customers. Both scenarios were again observed during this reporting period. In particular, the earliest English language calls to the [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] center were not of the quality observed by the ICO at other centers. Call agents in [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION], who are bilingual and have passed an English proficiency exam, acknowledged this language challenge to the ICO during the site visit. AT&T first provided the ICO with a single sample of an English language call from the [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] which the ICO evaluated as of poor overall quality. As the utilization of the [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION], the ICO requested a full range of calls – consistent with that provided for other centers – however AT&T requested that these calls not be provided until the call center had more experience handling such calls. The ICO received two English-language and two Spanish-language calls from [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] The ICO will review and provide further observations in our next report regarding the effectiveness of training at the [BEGIN CONFIDENTIAL

**INFORMATION]** **[END CONFIDENTIAL INFORMATION]** center and any observations relative to the need for supplemental training.

To evaluate the training of the call center agents to date, in this reporting period the ICO:

- Sent three DBS team members to **[BEGIN CONFIDENTIAL INFORMATION]** **[END CONFIDENTIAL INFORMATION]** on September 19, 2019, to the site of the third-party vendor, **[BEGIN CONFIDENTIAL INFORMATION]** **[END CONFIDENTIAL INFORMATION]**, to interview managers and team leaders, observe training, and conduct focus groups with customer service agents; and
- Reviewed recordings of 130 call-center interactions (described in more detail below).

Managers interviewed during the ICO's **[BEGIN CONFIDENTIAL INFORMATION]**

**[END CONFIDENTIAL INFORMATION]** monitoring visit were knowledgeable of the practical aspects of the DBS Program. **[BEGIN CONFIDENTIAL INFORMATION]**

**[END CONFIDENTIAL INFORMATION]**

The call agents who participated in the focus groups during the **[BEGIN CONFIDENTIAL INFORMATION]** **[END CONFIDENTIAL INFORMATION]** visit told the ICO representatives that their training was good but, as with other centers, “going live” and handling calls was a challenge in the beginning. They noted the challenge of initially handling English language calls in **[BEGIN CONFIDENTIAL INFORMATION]** **[END CONFIDENTIAL INFORMATION]** but reported feeling more comfortable as of the date of the ICO visit in September. As we found at other call centers, agents reported that, in addition to their initial training, they experienced ongoing training in the form of updates to their “flow” process, side-by-side observations, personal coaching, and group

“huddles.” Agents in [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] described more frequent, often daily, huddles with their team leads. Overall the ICO found ongoing training efforts at the [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] center to be appropriate and adequate. Despite the initial concerns based on the earliest English-language call at the [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] center heard by the ICO, our observations and interviews during the September 2019 visit give us confidence that the agents there will be able to provide effective services to applicants, approved customers, and others interested in services from the *Access from AT&T* program. The ICO will continue to monitor the improvement of [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] agents for our next report.

The ICO reviewed recordings provided by AT&T of 130 calls made to AT&T’s third-party call center agents in Canton, OH; Windsor, Ontario; Kingston, Jamaica; and [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] from the period of April-August 2019. Nine calls were in Spanish. AT&T redacted from the recordings all personal identifiable information, consistent with FCC requirements.

We commented in our most recent report that Kingston-based agents expressed an awareness that U.S. callers [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION] The ICO specifically

found significant improvement in the calls handled by Kingston agents as reflected in the call recordings. We also observed improved confidence of Kingston agents when **[BEGIN CONFIDENTIAL INFORMATION]**

**[END CONFIDENTIAL INFORMATION].**

Issues reported in the ICO's previous report continue regarding **[BEGIN CONFIDENTIAL INFORMATION]**

**[END CONFIDENTIAL INFORMATION].** As with the Canton and Kingston call center agents, the **[BEGIN CONFIDENTIAL INFORMATION]** **[END CONFIDENTIAL INFORMATION]** agents acknowledged handling calls regarding this issue. The ICO also reviewed the customer complaints received by AT&T relative to this concern from January through June 2019. The ICO has observed a continued, though limited, number of complaints from **[BEGIN CONFIDENTIAL INFORMATION]**

**[END CONFIDENTIAL INFORMATION].** In the most recent quarter for which the ICO reviewed customer complaints, April-June 2019, the ICO identified **[BEGIN CONFIDENTIAL INFORMATION]** **[END CONFIDENTIAL INFORMATION]** such occurrences. In each of these cases, AT&T offered appropriate account credits **[BEGIN**

**CONFIDENTIAL INFORMATION]**

**[END CONFIDENTIAL INFORMATION].**

The Company provided the ICO with training materials and records provided to non-*Access* customer service agents, including **[BEGIN CONFIDENTIAL INFORMATION]**

**[END CONFIDENTIAL INFORMATION]**

AT&T has continued to identify for the ICO changes to its call scripts used by agents in “real time” exchanges (*i.e.*, when agents are engaged with a caller), so the call review process can more accurately assess if agents are acting in accordance with their training. The ICO has continued to request that the ICO team be informed of other program or program policy changes that may not specifically be reflected in the script. Knowing this information enables the ICO team to better assess the agents’ accuracy in exchanges with callers. AT&T has been responsive to the ICO’s requests.

**RECOMMENDATION 1: Continue training or supplemental coaching for agents, to continue improvement observed at the Kingston center and at the [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] center.**

**RECOMMENDATION 2: Continue efforts to ensure that agents on non-*Access* programs appropriately identify and refer customers interested in the *Access from AT&T* program to the appropriate call centers.**

**RECOMMENDATION 3: Continue to monitor complaints and refund requests from callers who [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] to identify any sources or trends related to this issue.**



**DBS Observation 5: AT&T met and/or exceeded the general marketing and targeted outreach required under Condition VI for the current reporting period.**

AT&T has reported that it is promoting the *Access from AT&T* program through activities that include public service announcements valued at the required \$15 million threshold value. Eighth Report, p. 42. AT&T tracks the \$15 million expenditure value on an annual program basis; the third year of the *Access* program concluded on April 21, 2019. AT&T provided the ICO information indicating that from April 22, 2018 through April 21, 2019, the Company spent **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]** **[END HIGHLY CONFIDENTIAL INFORMATION]** for advertising including spot television, spot radio, network radio, Hispanic spot television, and Hispanic spot radio. *AT&T – DirecTV Merger Conditions, 5/31/19 Discounted Broadband RFI Response*, Slide 7 (July 23, 2019). AT&T also provided the ICO with follow-up information, as requested, breaking out the details of media buys reflected on several invoices. ICO Team members observed a number of television advertisements for the *Access from AT&T* program run live on local television on multiple occasions during that period, including in Chicago and Southern California.

AT&T also reported that they again conducted an advertising campaign for the *Access from AT&T* program to customers at Dollar General and Family Dollar stores from July 1 through September 29, 2019. Customers who utilized an Electronic Benefits Transfer (EBT) card associated with the SNAP program in stores in the 21-state wireline footprint area received promotional information about the *Access from AT&T* program printed on their receipts. Eighth Report p. 42, with sample materials in Exhibit 7.

**DBS Observation 6: AT&T continues to exceed 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 continues to use the outreach organizations Connected Nation and EveryoneOn to promote the *Access* program. AT&T and its outreach organizations have reached out to more than 1,000 local and national organizations which have, in turn, agreed to promote *Access from AT&T* to the populations they serve. Organizations used by AT&T serve a variety of low-income households including those in minority communities, immigrant and non-English speaking communities, U.S. military veterans, the elderly, and households with children. Eighth Report, p. 42-43 & Exhibit 6. AT&T continues to offer *Access from AT&T* program materials to interested organizations through AT&T's online partner portal and via a print portal, including fliers, FAQ's, checklists of materials needed to complete the application, email templates, a poster, a promotional video, and the program launch press release and social media verbiage. Eighth Report, Exhibit 7. Materials are available in seven languages. *Id.* AT&T described its activities to the ICO at the joint meeting in Washington, D.C. on July 23, 2019 and provided detailed descriptions of activities in its report. Eighth Report pp. 42-50. The ICO has further confirmed this outreach effort through mid-year reports prepared by Connected Nation and EveryoneOn detailing efforts through July 24, 2019 and provided to the ICO in response to its RFI. ICO representatives also listened to a webinar conducted by EveryoneOn for interested organizations on October 16, 2019.

**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 in August 2019 the Company sent letters and emails to an updated list of public-school districts within the 21-state wireline footprint with information about the *Access from AT&T* program, asking that the information be placed in the National School Lunch Program packets, including a program flyer and giving examples of how a district could help promote the DBS program. Eighth Report, p. 51. In this reporting period, AT&T provided, and the ICO team reviewed, distribution lists for emails sent to the school districts.

**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 continues to maintain both English language and Spanish language numbers dedicated to the *Access from AT&T* program. English-speakers can call (855) 220- 5211 and Spanish-speaking callers can call (855) 220-5225. The call centers are managed by [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] as described more fully in DBS Observations 1 and 4 above. If a caller speaks another language, the call agents are instructed to bring into the call a translator through AT&T's language assistance program. As noted above, the ICO has continued its established process of reviewing 26 calls per month made to the dedicated lines. In this review period, the ICO reviewed 121 calls in English and nine in Spanish. As in prior reporting periods, the ICO found that call agents in this review period were generally knowledgeable and helpful about the program.

During the visit to the [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION], the ICO DBS team conducted

interviews with [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] managers and focus groups with call agents. The ICO team found the [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] staff interviewed were familiar with the *Access from AT&T* program. The program-dedicated team members had knowledge and training, and support from their team leaders. As described above in DBS Observation 4, the agents acknowledged some of the challenges the ICO identified in listening to call recordings and reported ongoing efforts to improve the quality of customer interaction including continued coaching and training on “soft skills” of listening to the customer and continued efforts to improve bilingual agents’ skill in handling English language calls.

**DBS Observation 9: AT&T’s internal monitoring and quality assurance process has detected and allowed for correction of issues pertaining to *Access from AT&T*.**

In the ICO’s prior reports, we commented on issues with [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION]. ICO Fifth Report, pp. 72-75. In our subsequent Sixth and Seventh Reports, we described ongoing processes implemented by AT&T to regularly and systematically review *Access* bills from AT&T customers and address irregularities when they were identified. ICO Sixth Report p. 74 and ICO Seventh Report, p. 67-68. In its response to the ICO’s Request for Information dated May 31, 2019, AT&T provided the [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL

**INFORMATION]**. *AT&T – DirecTV Merger Conditions, 5/31/19 Discounted Broadband RFI Response*, Slide 13 (July 23, 2019). The ICO remains satisfied with AT&T’s ongoing efforts to address this concern.

**DBS Observation 10:** AT&T reviewed and responded appropriately to DBS-related complaints from customers signed up for AT&T’s [BEGIN CONFIDENTIAL INFORMATION]  
[END CONFIDENTIAL INFORMATION]

As reported above, the ICO acknowledges AT&T’s ongoing efforts to address concerns, reflected in some complaints, that AT&T [BEGIN CONFIDENTIAL INFORMATION]

[END

**CONFIDENTIAL INFORMATION]**. This observation is discussed in the section below, Complaint Reporting Process Observation 3 (p. 44), and above in DBS Observation 4 (p. 34). In each of these cases, AT&T offered appropriate account credits [BEGIN CONFIDENTIAL INFORMATION]

[END

**CONFIDENTIAL INFORMATION]**. We find AT&T’s efforts to be reasonable and appropriate.

\* \* \*

The ICO again notes that AT&T’s DBS team is 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 DBS Condition.

**OBSERVATIONS: COMPLAINT REPORTING PROCESS**

The ICO's complaint review process consists of two distinct efforts. One approach involves reviewing complaints received by AT&T that raise concerns relating to the Merger Conditions through a process established by AT&T and the ICO in the early stages of this engagement. The other effort involves the ICO team reviewing publicly available information for complaints relating to the Merger Conditions.

**Complaints Received by AT&T Relating to the Merger Conditions**

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 verify 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 Merger Condition violations and the Company's remediation efforts, if appropriate.

The complaint reporting process provides the ICO with adequate information and insight into complaints to permit the ICO to identify 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 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 includes, among other information, how the complaint was resolved or, if pending, its status.

AT&T also provides the ICO with a summary of all complaints received during the reporting period, or a summary listing samples of complaints received if there are more than 20 complaints falling in the category, 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 summaries include, 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 makes available to the ICO copies of the actual written complaints (with appropriate redactions, if needed) upon request. The ICO has, on occasion, reviewed the actual complaints and other materials requested of AT&T to verify the summaries provided by AT&T are accurate. To date, the ICO has found AT&T's complaint summaries to be accurate. The ICO, however, has taken issue in the past with AT&T's characterization of whether a particular complaint alleges a violation of the Merger Conditions. We have raised those concerns in the ICO's reports along with related recommendations. *See, e.g.*, ICO Sixth Report, pp. 81-82. We concluded that AT&T properly characterized the nature of the complaints reviewed and addressed during the current reporting period.

### **Publicly Available Information**

The ICO regularly searches the internet and social media platforms for any indicators of a Merger Condition violation. The ICO 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," "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 ICO conducts the searches twice per

week. To facilitate the timely consideration of new information, the searches are conducted at the beginning and the end of each week.

Additionally, the ICO specifically reviews and searches online locations where cable and internet consumers frequently discuss, report, or alert others about cable or internet provider performance issues, 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 Union,” a policy and action division of Consumer Reports that advocates for consumer protection laws; “Free Press,” a site focused on promoting the open internet, protect press freedom, and ensure diverse voices are represented in the media; and major online news sources.

**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 identified complaints relating to the Merger Conditions, particularly complaints aimed at the *Access from AT&T* program, through online search efforts. However, the ICO concluded that none of the Complaints presented evidence of a violation of the Merger Conditions.

**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. Some of the key components of the AT&T process are described below.

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 routinely receive complaints directly or from the escalation 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 steps:

- **[BEGIN CONFIDENTIAL INFORMATION]**

**[END CONFIDENTIAL INFORMATION]**

- 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 would 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, AT&T was required to submit its report covering the period October 1 – December 31 to the ICO not later than February 15. Additionally, AT&T agreed to notify the ICO promptly of any allegations, lawsuits, or regulatory filings, which credibly and directly relate to the Merger Conditions.

**Complaint Reporting Process Observation 3: Results from the AT&T 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. The quarterly summary logs contained a listing of [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] complaints received during the reporting period that were referred to the Project Management Team under the reporting process identified above, but the team concluded the complaints did *not* allege a violation of a Merger Condition. After review, the ICO concurs with AT&T's determination that the [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] complaints do not constitute violations of the Merger Conditions. All [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] complaints were related to the *Access from AT&T* program. The reported complaints were made up of incomplete applications, outstanding balances, and difficulties with installation. Of the three that had [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION] two were reported as having been resolved with the customer receiving Access service and the third customer never called back to reschedule an Access installation.

AT&T also provided [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] complaints to the ICO during the reporting period that the Project Management Team determined *alleged a Merger Condition violation* (either directly or indirectly). All [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] allegations were *Access* related. Of the [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] allegations, [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] were billing related concerns or complaints. Examples of the billing concerns or complaints include charges for late fees, installation fees, restoral fees for overdue payments, and customers who claimed they were approved for *Access*, but were not receiving the *Access* discount.

The remaining [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION] complaints arose from *Access* customers signing up or placing orders for *Access* services with non-*Access* AT&T agents and/or [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION]<sup>16</sup> (collectively “non-*Access* AT&T agents”). Complaints that arose from non-*Access* AT&T agents involved [BEGIN CONFIDENTIAL INFORMATION]

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<sup>16</sup> AT&T has defined [BEGIN CONFIDENTIAL INFORMATION]

[END CONFIDENTIAL INFORMATION] *Summary Log of Sample of October, November & December 2018 OOP Complaints Referred to Merger Compliance Team that Allege Merger Condition Violation*, [BEGIN CONFIDENTIAL INFORMATION] [END CONFIDENTIAL INFORMATION]

**[END CONFIDENTIAL INFORMATION].**

Overall, AT&T reported in their complaint summaries that it addressed, or is in the process of addressing, all the reported complaints. **[BEGIN CONFIDENTIAL INFORMATION]**

**[END CONFIDENTIAL INFORMATION].**

The ICO continues to have concerns regarding the **[BEGIN CONFIDENTIAL INFORMATION]** **[END CONFIDENTIAL INFORMATION]** complaints related to the non-*Access* AT&T agents. The Discounted Broadband Services Program condition requires AT&T to “offer wireline Broadband Internet Access Service . . . where technically available, to qualifying households in the Company’s wireline footprint . . . .” Merger Order, App. B, § VI.2.a. Additionally, “[q]ualifying

households shall not be required to pay any installation or modem charges or fees in order to participate in the Discounted Broadband Services Program.” *Id.*, § VI.2.e. To the extent non-*Access* AT&T agents are placing orders for customers that qualify for *Access* services and **[BEGIN CONFIDENTIAL INFORMATION]**

**[END CONFIDENTIAL INFORMATION]**, the Company is falling short of the requirements imposed by the Merger Order. We have discussed this concern with AT&T. AT&T understands the problem and has committed to taking appropriate corrective steps. AT&T informed the ICO that **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]**

**[END HIGHLY CONFIDENTIAL INFORMATION]**. As in the previous report, the ICO continues to recommend that AT&T take additional steps to train non-*Access* AT&T agents on the specifics of the Discounted Broadband Services Program. We will continue to monitor AT&T’s efforts.

Overall, we conclude that the complaint reporting process appears designed to help ensure that complaints within the Company’s knowledge that raise substantive Merger Condition-related issues, as well as billing coding errors, are brought to the attention of appropriate Company officials for review and resolution.

**RECOMMENDATION: AT&T should consider taking additional steps to train non-*Access* agents on the specifics of the Discounted Broadband Services Program.**

### **CONCLUSION**

As noted at the outset, AT&T has submitted a report that complies with the Conditions of the Merger Order. Moreover, AT&T has provided adequate evidence to the ICO that we have used to verify

and validate through oversight efforts and independent testing the information the company has reported to the FCC. We are satisfied the Company has met the Conditions of the Merger Order for the Eighth Reporting period. This report concludes the ICO's reporting on the E-rate Condition and NDUP Condition. Please let us know if you have questions or if there are areas of the report you would like to discuss.