

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

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

To: The Commission

**REPLY OF
THE WIRELESS INTERNET SERVICE PROVIDERS ASSOCIATION**

The Wireless Internet Service Providers Association (“WISPA”) hereby replies to the Joint Opposition of AT&T Inc. and DIRECTV to Petitions to Deny and Condition and Reply to Comments (“Opposition”) filed jointly by AT&T Inc. (“AT&T”) and DIRECTV on October 16, 2014.

Discussion

I. THE COMMISSION SHOULD SPECIFICALLY CONDITION ANY MERGER APPROVAL ON A REQUIREMENT THAT AT&T WILL NOT APPLY FOR OR ACCEPT CONNECT AMERICA FUNDS TO SUPPORT ITS PROPOSED FIXED WIRELESS BROADBAND DEPLOYMENT.

WISPA is pleased that AT&T has acknowledged its “plan” to avoid using Connect America Fund (“CAF”) subsidies to support its proposed fixed Wireless Local Loop (“WLL”) broadband deployment.¹ Notably, however, AT&T does not expressly agree to reject CAF subsidies as a condition of the merger, but instead states that its “internal investment models do not presume any such funding.”² Because “plans” and “investment models” may change, the

¹ Opposition at 27.

² *Id.*

Commission should, as WISPA recommended in its Comments,³ specifically condition any approval of the proposed merger on AT&T's binding commitment to not apply for or accept CAF support for its proposed WLL deployment.

II. AT&T RELIES ON FACTUAL MISSTATEMENTS TO OVERSTATE THE BENEFITS OF ITS PROPOSED WLL SERVICE.

In an effort to bolster its claim that its' proposed WLL service will increase options and competition for broadband service, the Opposition relies on factual inaccuracies concerning the viability and availability of existing fixed wireless broadband service. First, AT&T grossly mischaracterizes the availability of fixed wireless broadband services by stating that "WISPA members that offer fixed broadband services only *reach* a combined 3,000,000 people throughout the country."⁴ This statement is inherently misleading because it looks only to WISPA's members and not the universe of fixed wireless broadband providers throughout the country, many of which are members and many that are not. Moreover, WISPA has estimated in many Commission proceedings that all WISPs (not just WISPA members) *serve* 3,000,000 people – the "reach" (or coverage area) of service is actually much larger. As further evidence, the National Broadband Map shows that almost half of the U.S. population can obtain broadband service from a fixed wireless broadband provider.⁵

Second, AT&T cites four examples to support its statement that "many WISPA members appear to offer only slower fixed broadband speeds."⁶ Aside from the fact that four examples –

³ See Comments of WISPA, MB Docket No. 14-90 (filed Sept. 16, 2014), at 9.

⁴ Opposition at 26, n.76 (emphases added).

⁵ See National Broadband Map, Broadband Statistics Report, Broadband Availability in Urban vs. Rural Areas, at 4, available at <http://www.broadbandmap.gov/download/Broadband%20Availability%20in%20Rural%20vs%20Urban%20Areas.pdf> (last visited Oct. 29, 2014) (showing fixed terrestrial coverage of more than 50 percent in urban areas and 40 percent in rural areas). See also Remarks of Commissioner Ajit Pai at WISPAPALOOZA, Las Vegas, Nevada (Oct. 15, 2014), at 1 ("Almost half of all Americans, about 157 million people, can now access broadband using a WISP").

⁶ Opposition at 26, n.76.

one of which is not even true⁷ – are not “many,” there are a number of examples of WISPs that provide faster speeds.⁸ The Commission should not be misled into believing that all or even most existing fixed wireless broadband service providers are offering “slower” speeds.

In reviewing the information that AT&T has provided concerning the specific areas where AT&T plans to deploy its WLL service, the Commission must remain mindful of the facts, not the misleading statements that AT&T has proffered. The information that AT&T has submitted concerning the areas where it plans to deploy its new WLL service must be carefully considered alongside the data depicted on the National Broadband Map. WISPA and its members welcome competition from *unsubsidized* competitors that is founded on an accurate factual record, but not from subsidized competitors relying on a distorted record.

⁷ AT&T claims that Southwestern Wireless offers speeds of up to 5 Mbps download. *See id.* Its web site, however, clearly states that “Faster rates are available. For pricing, contact your local sales rep.” *See* Southwestern Wireless, Products, <http://www.southwesternwireless.com/products.html> (last visited Oct. 27, 2014).

⁸ *See, e.g.*, Wisper ISP, <http://www.wisperisp.com/internet> (last visited Oct. 27, 2014) (offering speeds of up to 20 Mbps downstream and 4 Mbps upstream); Skybeam, <http://www.skybeam.com/residential/pricing-plans-texas/> (last visited Oct. 27, 2014) (offering speeds of up to 15 Mbps downstream and 3 Mbps upstream); Aristotle Broadband, <http://www.aristotleisp.com/connectivity/broadband/pricing/> (last visited Oct. 27, 2014) (offering business broadband package of 12 Mbps downstream and 2 Mbps upstream); Intelliwave, http://www.intelliwave.com/?page_id=97 (last visited Oct. 27, 2014) (offering speeds of up to 10 Mbps downstream and 2 Mbps upstream).

Conclusion

If the Commission approves the merger, it should impose a specific condition that affirmatively precludes AT&T from accepting any CAF support to help subsidize its fixed wireless broadband deployment. Further, the Commission's analysis of AT&T's proposed fixed wireless broadband service should be predicated on facts that accurately describe the coverage and the service levels of existing fixed wireless broadband providers.

Respectfully submitted,

WIRELESS INTERNET SERVICE PROVIDERS ASSOCIATION

November 5, 2014

By: */s/ Chuck Hogg, President*
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