

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

**Re: Applications of AT&T Inc. and DIRECTV for Consent to Assign or Transfer  
Control of Licenses and Authorizations, MB Docket No. 14-90**

**Comment of MFRConsulting**

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**AT&T and DirecTV – Causes for Alarm, Skepticism, & Rejection**

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**Summary**

In the aftermath of Comcast’s abandonment of its proposed acquisition of Time Warner Cable, a growing wave of opinion has arisen that the acquisition of DirecTV by AT&T is, or should be, on a path to approval. The basis for this opinion is that the potential anti-competitive consequences of this proposed merger and the harm to consumers are less serious than those of the now abandoned merger of the two largest cable operators, because, for example, DirecTV is not a competitor in the broadband access market.

Furthermore, according to AT&T, the merged company will be in a stronger position to expand its high speed broadband coverage for the benefit of consumers and broadband competition in some areas in the US, because the resulting enlarged presence of the merged entity in the video market will free resources, and achieve savings, that can be applied to increase broadband investment.

This document argues that, to the contrary, this merger, like the Comcast/TWC deal, will also have significant anti-competitive consequences and will not benefit consumers for three reasons:

1. AT&T's long record, and continuing behavior and actions, demonstrate that it cannot be trusted to keep any commitments it makes about increased investments, or adhere to conditions that it agrees to, in order to secure approval of the DirecTV transaction;
2. AT&T's strong position in the mobile market ensures that the repercussions of this transaction, if approved, will, unlike the Comcast/TWC deal, adversely impact the wireless or mobile market, in addition to the fixed broadband and video markets, especially in rural regions – moreover, it will send a signal that AT&T's continued flouting of existing FCC rules, such as those embedded in the 2011 Data Roaming Order, do not have any negative consequences for how this powerful operator is viewed and treated in adjudicating controversial regulatory issues and disputes;
3. Approval of this transaction will encourage AT&T to pursue its relentless campaign in which it is employing unsubstantiated, and even demonstrably false, claims and arguments in its bid to remove any effective regulation of its business practices (i.e., leave it free to operate in one of its favorite phrases at its "sole discretion"), with the aim of establishing an environment in which it is effectively unregulated, and free from the obligations that traditionally accompany privileged access to, and use of, scarce public resources, such as it has enjoyed for decades.

It is time for AT&T to prove by its actions, not just words that it then ignores, that it is prepared to be trustworthy and has changed the character and drivers of its decisions that have a substantial impact on competition in the markets in which it operates, and the customers it serves. These actions should reflect a reasonable balance between the priorities and needs of AT&T's shareholders, employees, customers, and the public interest, in contrast to objectives that have been, and remain today, severely skewed towards meeting the narrowly defined goals of a small subset of its stakeholders.

**Meanwhile, for the reasons outlined above the AT&T/DirecTV transaction should be rejected in its entirety.**

### **AT&T's (and its Predecessors') Record of Failing to Meet Commitments**

There is a long and impressive – and depressing – record of AT&T's failure to meet its commitments about allegedly transaction-dependent increases in investments that it will undertake if its proposed transactions are approved, and/or its recommendations are accepted. This record has been amply documented, as a few examples demonstrate<sup>1</sup>. It is a standard operating practice for AT&T - and the

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<sup>1</sup> <http://www.teletruth.org/docs/SBCMergerharms.pdf>; [http://www.huffingtonpost.com/bruce-kushnick/atts-14-billion-dollar-br\\_b\\_2104100.html](http://www.huffingtonpost.com/bruce-kushnick/atts-14-billion-dollar-br_b_2104100.html); "The Impact of Title II Regulation of Internet Providers on Their Capital Investments," Kevin A. Hassett and Robert J. Shapiro, [http://www.sonecon.com/docs/studies/Impact\\_of\\_Title\\_II\\_Reg\\_on\\_Investment-Hassett-Shapiro-Nov-14-2014.pdf](http://www.sonecon.com/docs/studies/Impact_of_Title_II_Reg_on_Investment-Hassett-Shapiro-Nov-14-2014.pdf) (the misuse of statistics and the biased and sloppy thinking on which the finding of

experts it funds to support its assertions - to claim that if AT&T does not get its way with the regulators network investments will be reduced, while if its initiatives are approved and its recommendations accepted, they will be increased.

Moreover, during the nine year period from 2006-2014 AT&T spent a total of \$46.5 billion on stock repurchases and returned \$83.1 billion in dividends to its shareholders (i.e. almost \$130 billion combined), compared to total capital expenditures of \$163 billion.<sup>2</sup> The first two categories of expenditures make no contribution to improving the quality and coverage of the services AT&T provides to its customers, although they do substantially benefit the company's senior executives whose compensation is strongly linked to the performance of AT&T's stock (over 55% in the case of the CEO).

In light of these financial facts, the company's typical claim that the money it needs to make the additional investments it promises to undertake if a transaction is approved, are transaction-dependent, is unsustainable. If AT&T were pursuing a balanced and responsible strategy that took account of the needs of all its stakeholders, it would have no difficulty in finding the financial resources it needs to boost its broadband investments, even though it claims yet again as part of its standard playbook that increased investment in broadband will be a beneficial outcome of acquiring DirecTV<sup>3</sup> that will not be possible if the transaction is rejected<sup>4</sup>.

AT&T's record of misrepresentations in support of its proposed transactions is not confined to investments. When AT&T's proposed transaction to acquire T-Mobile USA was under review, it argued that T-Mobile had no future as an independent company. This claim was rebutted on the basis of information available at that time and events since then have proved it to be false<sup>5</sup>.

**There are solid grounds for expecting that true to its long established form AT&T will not honor the commitments it undertakes if its acquisition of DirecTV is approved and implemented. Hence AT&T's claims of the benefits**

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this report funded by AT&T is based have been exposed in MFRConsulting, "Spurious Correlations and Broadband Investment," <http://apps.fcc.gov/ecfs/document/view?id=60001044394> )

<sup>2</sup> Source: MFRConsulting analysis of AT&T's Annual Reports

<sup>3</sup> See AT&T's redacted filing at <http://apps.fcc.gov/ecfs/document/view?id=60001044286>; the amounts involved over a four year period in making these investments would amount to a fraction of AT&T's run rate of stock repurchases and dividend payouts.

<sup>4</sup> Remarkably at the time of the ultimately abandoned attempt to acquire T-Mobile USA in 2011 AT&T also claimed that one outcome would be an increase in its US investments, even though if this deal had been consummated AT&T would have sent \$25 billion in cash to Deutsche Telekom in Germany.

<sup>5</sup> "T-Mobile USA: A Better Future without AT&T," BNA Daily Report for Executives, Oct. 6, 2011;

[http://news.yahoo.com/t-mobile-first-quarter-revenue-rises-beats-estimates-120343142--finance.html;\\_ylt=A0LEVvElpz9VxlMA7UEnnlQ](http://news.yahoo.com/t-mobile-first-quarter-revenue-rises-beats-estimates-120343142--finance.html;_ylt=A0LEVvElpz9VxlMA7UEnnlQ) ;

<http://www.rcrwireless.com/20150428/carriers/t-mobile-us-pressures-sprint-for-no-3-posts-industry-leading-q1-growth-tag2>

**that consumers will enjoy as an outcome of this transaction should be dismissed.**

### **Competitive Impact of AT&T's Acquisition of DirecTV**

The competitive impact of AT&T's acquisition of DirecTV, that is part of the review of this proposed transaction to identify potential harm as well as benefits to competition and consumers, varies by geography. An important source of variation is by location depending on whether an area is served by AT&T's wireline facilities or not, and if served, whether AT&T offers or intends to offer, FTTN (fiber to the node)- or FTTP (fiber to the premise)-based U-verse TV and broadband service, or only DSL-based and generally video-incapable service. A significant competitive impact will be felt in the areas where AT&T has a wireline franchise. In total AT&T had about 75 million wireline locations including consumers and small business in 22 states as of 2012.<sup>6</sup> As of 2015, after selling its wireline business in Connecticut in 2014, the number is probably slightly lower but perhaps around 73 million locations in 21 states, in other words a significant proportion of US customers for fixed telecommunications services.

In locations where AT&T offers and plans to offer terrestrial video services, its acquisition of DirecTV will reduce the number of independently competing video providers by one, from four to perhaps three (e.g. AT&T, Dish, and a cable operator). The effect of such a reduction in the number of video providers available to consumers could be significant.

In contrast, in areas where AT&T either does not have a wireline franchise or only offers low speed, video-incapable DSL service, the competitive impact of AT&T's acquisition of DirecTV is most likely to be felt by small mobile-only operators. This impact will add to the difficulties these mobile operators are encountering as a result of AT&T's intransigence in refusing to offer them reasonable roaming terms and conditions so that despite being geographically limited (in terms of their own licenses and hence facilities) they can provide competitive national coverage to their customers. By owning DirecTV AT&T will be in a position in these locations to deliver bundles of mobile and video services that can be particularly attractive to customers, especially in rural regions not served by cable. To the extent that customers prefer these bundles in contrast to separate providers of video and mobile services, their combination with the unattractive wholesale roaming services AT&T offers will further erode, and even destroy, the viability of independent small mobile-only operators that have traditionally been focused on the specific needs of rural customers.

It can be argued that mobile/video bundles such as a merged AT&T/DirecTV can provide will deliver benefits to customers, at least in the short term. Nevertheless the question arises of what is likely to happen if the effect is to foster the elimination

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<sup>6</sup> <http://www.att.com/gen/press-room?pid=23506&cdvn=news&newsarticleid=35661>

of small, independent mobile operators from an area, and what AT&T is subsequently likely to do that will not be in the medium- and long-term interest of consumers once this competition is eliminated.

### AT&T's Strategy of Eliminating and Circumventing Regulations

One of AT&T's favorite phrases inserted as often as it can into agreements it reaches is "*at its (AT&T's) sole discretion.*" This phrase betrays the key goal of AT&T's regulatory strategy, namely to free itself from any effective constraints on its actions and behavior. In pursuit of this goal the company propagates a number of claims that fall outside the boundaries of responsible judgments and opinions about which people of good faith can reasonably differ, or of honest endeavors to shed light on complex issues. AT&T's claims stray into the murky territory of evidence-averse or even evidence-rejecting propaganda. In the worst cases they involve dismissal of engineering knowledge and expertise and acceptance of mathematical impossibilities.

Examples of AT&T's use of fabricated facts and neglect of evidence that invalidates the positions the positions it advocates and the claims it makes include:

- **AT&T's funding of the discredited Hassett/Shapiro report and its finding that Title II reclassification of broadband will lead to a substantial reduction (up to over 30% and perhaps even more) in broadband investment**, and the filing of this report with the FCC by the industry association USTelecom, of which it is the largest member<sup>7</sup>
- **AT&T's persistent argument that the relative paucity of low frequency spectrum in T-Mobile USA's and other operators' license portfolios does not constitute a competitive disadvantage for them**, since allegedly the total costs to achieve national coverage including rural or coverage-limited areas are frequency-independent<sup>8</sup>. This argument is discussed in more detail below.
- **The industry association CTIA's repeated citing of a spurious metric of spectrum efficiency** as the basis for a claim that Verizon and AT&T are the two most efficient users of spectrum in the US, and indeed the world. Hence the CTIA and AT&T argue that in order to maximize the value created by and based on spectrum-based services these Big Two wireless operators should be allowed to acquire all the spectrum they wish without any attempt to ensure that other operators have access to enough spectrum to be able to

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<sup>7</sup> The USTelecom filing of the Hassett/Shapiro report is at [http://ustelecom.org/sites/default/files/documents/ExParte\\_TitleII\\_Study\\_11.19.14\\_pb.pdf](http://ustelecom.org/sites/default/files/documents/ExParte_TitleII_Study_11.19.14_pb.pdf). As of April 28<sup>th</sup> 2015 no response has been forthcoming to the rebuttal of this report also filed with the FCC originally in mid-December 2014 and more comprehensively on April 22<sup>nd</sup> 2015, and communicated directly with its lead author.

<sup>8</sup> Michael L. Katz, Philip A. Haile, Mark A. Israel, and Andres V. Lerner, "Comment On The Submission Of The U.S. Department Of Justice Regarding Auction Participation Restrictions," <http://apps.fcc.gov/ecfs/document/view?id=7022425481>

compete (China Mobile is actually about three times more efficient than either US operator according to this metric, a calculation delivered to the CTIA to demonstrate the bogus nature of its metric that it has ignored).<sup>9</sup>

- **The CTIA's propagation of an easily misunderstood and disingenuously labeled statistic, namely "wireless-only" households** (the latest figure being over 40% of US households) whereas in reality many of these "wireless-only" households (that in effect refers to non-POTS (Plain Old Telephone Service) households) use wired connections for fixed broadband Internet access and IP (Internet Protocol)-based fixed telephone service. CTIA fails to clarify this point and its implications, leaving the impression generated by this statistic that wireless services can be an effective substitute for fixed services, which is untrue for broadband for most customers, although it is valid for voice for a growing number of consumers. This implication supports the false claim that the entire broadband market is vigorously competitive thanks to the presence of four or sometimes more mobile broadband operators in most locations in the US, whereas in reality fixed broadband services for which mobile broadband is not an alternative are supplied by a monopoly or duopoly in many locations<sup>10</sup>.

Economists hired by AT&T have produced the following astounding argument as to why an operator that holds only high frequencies in its portfolio of licenses (i.e. in practice near and above 2GHz in contrast to sub 1 GHz frequencies) is not at a significant economic and hence competitive disadvantage in achieving national coverage with its own facilities including rural and coverage-limited areas. They contend that<sup>11</sup>:

*"A fundamental lesson of economics is that market forces generally will equate the costs of substitutes. Here, this means that prices of different types of spectrum will adjust to equate the total costs of providing equivalent service (i.e., the rights for spectrum requiring greater facilities investment will tend to sell for less than rights to spectrum requiring less facilities investment)."*

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<sup>9</sup> AT&T is the largest operator – and second largest wireless operator – that is a member of the CTIA and hence has substantial influence over its positions and the information it publishes. Although the specious nature of this spectrum efficiency metric has been publicized and communicated directly and on several occasions with the CTIA for over three years no acknowledgment or rebuttal of its discrediting has been forthcoming as of end April, 2015. See for example, "The Mystery of the Spurious Spectrum Efficiency Metric: Why Are America's Wireless Leaders Promoting a Meaningless Measure?" BNA Daily Report for Executives, May 31<sup>st</sup>, 2013; "A Flawed Metric of Spectrum Efficiency," <http://apps.fcc.gov/ecfs/document/view?id=7022418674>, and <http://apps.fcc.gov/ecfs/document/view?id=7022312454>

<sup>10</sup> "The Top Ten Myths Major Broadband Providers Use Against Net Neutrality," Bloomberg BNA Daily Report for Executives, July 30, 2014 (see Myth No. 6). Also the data caps and price per GB (gigabyte) of the mobile data services offered by AT&T (and Verizon) make them impractical to use (especially for multi-user households) for video streaming and downloads that constitute the majority of Internet traffic.

<sup>11</sup> Michael Katz et al., *ibid*.

This assertion is not only **not** a fundamental lesson of economics, but directly contradicts the value and histories of a wealth of innovations over time in which new substitutes have been introduced and succeeded because they could provide the same value at lower cost, and/or even superior or additional value at equal or lower cost. Moreover it is refuted by ample evidence of the actual differences in prices paid to acquire low and high frequency spectrum that fail by large margins to compensate for the higher numbers and hence greater costs of deployment of more numerous base stations needed to cover rural areas at high as compared to generally more expensive low (sub-1 GHz) frequencies.

The alleged “fundamental lesson of economics” just cited, which is refuted by elementary calculations using actual prices paid for spectrum licenses and engineering costs of base station installations, is used to justify AT&T’s position that it is not reasonable to reserve some portion of the 600 MHz frequencies in the planned Incentive Auction for operators other than the current dominant holders of sub 1 GHz spectrum, i.e. AT&T and Verizon. Yet this lesson is neither fundamental nor does it represent a principle that can be derived from observations of the working of the economy. Besides readily available evidence proves that it is nonsense when applied to spectrum in different bands used in the deployment of mobile networks<sup>12</sup>.

**AT&T has persistently relied on fabricated evidence and/or ignored substantial evidence brought to its attention, if not known already, that contradicts its findings, claims and the regulatory policies it advocates.**

**How many of its representations in favor of approving the acquisition of DirecTV are similarly fatally flawed and not credible?**

Other elements in AT&T’s current practices, behavior and statements that give rise to justifiable concern and skepticism about the company’s motivations and intentions, its attention to the interests of customers, and its willingness to establish commercially reasonable relationships with competitors and partners (especially those who inescapably depend on access to its facilities), include:

1. AT&T’s intransigent continued flouting of the FCC’s Data Roaming Order of 2011, in which it considers that that it is reasonable to extract wholesale prices from its roaming partners several times higher than the retail rate they can competitively charge their customers, so they will lose money on all these customers’ roaming, which can be significant for operators whose licenses cover only limited geographic areas<sup>13</sup>;

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<sup>12</sup> Jonathan Baker, <http://apps.fcc.gov/ecfs/document/view?id=7520935909> ; Information Age Economics, <http://apps.fcc.gov/ecfs/document/view?id=7520926985>

<sup>13</sup> A considerable amount of evidence of AT&T’s behavior and practices regarding roaming both prior and subsequent to the promulgation of the Data Roaming Order is published in FCC Docket WT 05-265; reference to an ongoing complaint about AT&T’s roaming practices is at <http://apps.fcc.gov/ecfs/document/view?id=7521782211>

2. AT&T's unilateral introduction of non-interoperability within the Lower 700 MHz band after completion of the 2008 Auction of 700 MHz frequencies that left small operators unable in practice to find equipment and devices they could use to exploit their Lower Band Block A frequencies on behalf of their customers<sup>14</sup>. Achievement of interoperability is still a work-in-progress, more than seven years after the Auction<sup>15</sup>;
3. The language and attitudes expressed in multiple statements by AT&T and in its 2014 Annual Report about its reactions and intentions to overturn the FCC's Open Internet Order confirm its goal of eliminating any significant, or external sector-specific regulation of its activities<sup>16</sup>. AT&T is arguing in effect that any significant regulations cannot work *in practice*, and are not needed to achieve but will frustrate the desired outcome of enabling and sustaining effective competition and innovation and ensuring that customers' interests are served and protected. According to AT&T this outcome will instead be assured by following the *theory* of market forces to which AT&T is allegedly responsive as long as it is left to its own unregulated devices;
4. AT&T has a record of making contradictory and mutually conflicting statements and trying to have its cake and eat it too depending on the audience it is addressing – it is admittedly difficult for AT&T to keep track of and coordinate all the misrepresentations it makes at various times and in different forums to try to ensure that they are at least internally consistent even if incorrect or unsubstantiated<sup>17</sup>.

A few illustrative but not exhaustive and revealing examples of AT&T's contradictions of its own positions and attempts to have it both ways, i.e., exploit rights but ignore accompanying obligations are:

- **Broadband investment:** As noted above AT&T endorses the claim that Title II reclassification of broadband will lead to significant reductions in network

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<sup>14</sup> There is an extensive and lengthy body of evidence of the competitive harm caused by non-interoperability in FCC Docket WT 12-69; see also Information Age Economics, *ibid*.

<sup>15</sup> Second Progress Report on AT&T Commitments, March 2015, <http://apps.fcc.gov/ecfs/document/view?id=60001040090>

<sup>16</sup> For example AT&T states in its 2014 Annual Report that the broadband market is "vigorously competitive" and reiterates the canards (p.5) that the FCC's Open Internet Order is antiquated and suitable only to the era of the rotary telephone, and is intended to "regulate the entire Internet." It confirms its intention to act aggressively to overturn this Order, including through the courts, although it has "endorsed the principles of net neutrality." We are all supposedly to take it entirely on trust that AT&T will adhere to these principles in the event that the Open Internet Order is overturned.

<sup>17</sup> Consistency may be the last refuge of the unimaginative (or non-innovative) and opinions and findings may and sometimes should change, as new or better information is uncovered. However the number, frequency and timing of AT&T's inconsistencies are not evidence of its attention to changing circumstances and new facts and ideas, but of its willingness to say whatever seems most appropriate and will resonate best with each audience it is addressing, whether investors, the FCC, influential politicians, and other multiple interest groups, independently of the verifiable facts that are pertinent to the issues at stake.

investment, yet assures us that Title II will not deter it from investments it is promising to undertake.<sup>18</sup>

- **Value of low frequencies (sub-1 GHz):** As noted above AT&T has argued that it does not matter economically and hence competitively whether a mobile operator has no or little sub-1 GHz spectrum in its portfolio of licenses, yet it argues in support of its acquisition of Plateau Wireless that it will gain a significant performance and cost benefit by being able to deploy systems in wider 700 MHz channels after this acquisition.<sup>19</sup>
- **Impact of Title II:** AT&T has presented Title II reclassification of broadband as being an unmitigated mistake and a source of widespread potential harm beyond its alleged adverse effect on network investment.<sup>20</sup> Yet AT&T has always maintained that its IPTV U-verse service is not and should not be classified as a cable service<sup>21</sup>, and hence is not subject to cable franchise fees. Therefore the facilities over which U-verse services are delivered (the same facilities also deliver broadband access) fall under traditional rules for the placement and installation of telephone company networks, such as rights-of-way, that are part of Title II and incur lower fees. Furthermore in Austin, Texas, AT&T stated (revealing its attitude toward Title II and what it

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<sup>18</sup> <http://apps.fcc.gov/ecfs/document/view?id=60001044286> -

*“FTTP facilitates a better, more compelling set of products, and AT&T expects FTTP to have a longer economic lifespan than FTTN and other prior wireline network technologies. Accordingly, as described in the record, AT&T concluded that it needs to invest in FTTP, where it is economically feasible to do so, to meet customer demand and compete with Cable DOCSIS 3.1 and Google Fiber. While the Commission’s recent Title II order has added a level of uncertainty to the equation, this transaction does not in any way call AT&T’s decision into question. To the contrary, the transaction furthers AT&T’s FTTP strategy by making it possible to extend fiber to millions of additional customer locations. That is why AT&T has made it clear that it continues to stand behind each of the broadband commitments made at the time of the announcement of this transaction, even with the added uncertainty of the Commission’s recent Title II order. AT&T has no plans to reevaluate FTTN for broader deployment post-merger.”*

<sup>19</sup> <http://apps.fcc.gov/ecfs/document/view?id=60000871593> - *“A 10x10 MHz deployment of contiguous Lower 700 MHz B and C Block spectrum is more spectrally efficient than a deployment of two noncontiguous 5x5 MHz blocks. As discussed below, the 10x10 MHz deployment’s wider bandwidth provides greater trunking efficiencies. Additionally, a 10x10 MHz contiguous block also benefits from signaling efficiency as many of the control overhead/messages (such as Physical Broadcast Control Channel, Shared Channel, etc.) need to be transmitted only once instead of twice, as would be the case for two non-contiguous 5x5 MHz blocks. These efficiency improvements result in higher system capacity and spectral efficiency and a better user throughput experience than is possible over two separate 5x5 MHz blocks.”*

<sup>20</sup> AT&T 2014 Annual Report: *“But key policymakers in the administration and at the FCC are now going well beyond any previous concept of net neutrality. They are attempting to regulate the entire Internet under an arcane law called Title II that was written in 1934 to regulate the rotary dial telephone. We feel this antiquated approach will damage investment and damage the Internet itself. I won’t belabor the point here, but you will see us continue to aggressively make the case to policymakers – and, if necessary, to the courts – that the FCC’s proposed Title II regulation of the entire Internet is at best a solution in search of a problem and at worst a threat to the United States’ continued global leadership in technology and innovation.”* (Randall Stephenson, CEO)

<sup>21</sup> <http://apps.fcc.gov/ecfs/document/view?id=60001042103>, an AT&T fling with the FCC dated (ironically) April 1<sup>st</sup>. 2015

considers to be legitimate practices with respect to competitors), that it did not have to provide Google Fiber with access to the poles (20% of the total in the city) that it owns. Austin's City Council, which owns the remaining 80%, drafted an ordinance to make AT&T open up the poles<sup>22</sup>.

It is also noteworthy that in its Public Interest showing<sup>23</sup> AT&T argues that it needs to acquire DirecTV in order to be able to compete in the video market against the scale of a combined Comcast/Time Warner cable business that will not now come to pass. **In other words while maintaining that its U-verse TV service is not a cable service, AT&T is also acknowledging that it is competing directly against the major cable operators in this market.**

The preceding observations illustrate that AT&T is waging a relentless campaign against any attempts by the FCC such as the Open Internet and Data Roaming Orders to formulate, and once formulated enforce rules of behavior that are pro-competitive and protect the interests of consumers and legitimate competitors against the immense market power that AT&T enjoys and is capable, if unchecked, of abusing. In this campaign facts, evidence and even engineering realities and the proper use of mathematical techniques are ignored and/or distorted by AT&T and the experts it funds if they conflict with the claims and assertions that AT&T decides to propagate to win support for its positions and the initiatives it decides to pursue.

**AT&T's campaigns against the FCC are based on a combination of unsubstantiated and in some cases demonstrably false claims that it is constantly reiterating while ignoring substantial contradictory evidence that is publicly available and independently verifiable.**

## Conclusion

AT&T is a large and indispensable network operator with tentacles that extend throughout, and affect, our entire society and economy. Its contributions to the development and improvement of broadband networks in the US are, and will be, critical and even irreplaceable under any foreseeable circumstances. The company possesses and deploys immense financial, technical, engineering and other resources. Everybody can and should benefit from a healthy AT&T.

However, AT&T's current and embedded or traditional business practices that, as demonstrated above, have followed a consistent and widespread pattern over several decades, and are, if anything, being intensified today, are harmful to competition, innovation, and to significant numbers of consumers. AT&T is not fulfilling its obligations as a privileged steward of scarce public resources.

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<sup>22</sup> <http://www.fiercetelecom.com/story/att-says-it-can-block-google-fiber-poles-austin-city-begs-differ/2013-12-17>

<sup>23</sup> <http://apps.fcc.gov/ecfs/document/view?id=7521303307>

In this context approval of AT&T's proposed acquisition of DirecTV would be a mistake. Approval will only encourage and confirm the company in pursuit of its ongoing anti-competitive and customer-hostile initiatives that reject, and are aimed at overturning, the principles and frustrating the pro-competitive and pro-customer goals of the regulator from which it is seeking authorization for this transaction. AT&T is arguing like a football team that would promise to play according to the rules of the game, while denying that there is a need for referees to make sure that the rules are respected and possess the authority to enforce these rules, and impose penalties if they determine that a rule has been violated.

In contrast, rejection of the DirecTV deal would be one step (although far from decisive) along the way to transforming AT&T's culture, and the priorities that influence the decisions it takes about its investments and operations, and its relations with customers, competitors and partners. As a major network operator that has been awarded privileged access to, and use of, scarce public resources AT&T is unlike companies in other sectors of the economy that do not involve, or require, the exploitation of government-awarded franchises and licenses with specific rights that largely insulate them from competition.

AT&T must be obliged to act, and will not do so voluntarily, on the basis of a balanced consideration of the legitimate goals and needs of all stakeholders.

**On the basis of the evidence and analyses presented in this document the AT&T/DirecTV transaction should be rejected in its entirety.**