

June 26, 2015

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Applications of AT&T Inc. and DirecTV to Transfer Control of FCC Licenses and Other Authorizations, MB Docket No. 14-90

Dear Ms. Dortch:

On June 24th, Gene Kimmelman, Harold Feld, and John Bergmayer from Public Knowledge (PK) met with Commissioner Clyburn, along with Chanelle Hardy, Rebekah Goodheart, and Louis Peraertz from her staff, to discuss the AT&T/DirecTV transaction.

PK briefly reviewed its primary concerns with this merger: by acquiring a large MVPD, AT&T would gain the incentive to discriminate against competing video services through broadband practices, and the ability to do so through its buying power as a large MVPD and through the loss of a pay TV competitor in some markets. Thus, PK has recommended that the Commission, were it to approve this merger, adopt conditions designed to alleviate these harms, including: A requirement that AT&T abide by the terms of the 2015 Open Internet order, a prohibition on the discriminatory use of data caps or bandwidth metering to favor affiliated video services, a requirement that AT&T offer unbundled broadband, and measures designed to prohibit the discriminatory leverage of interconnection agreements.

In addition, throughout this docket PK has been critical of the vagueness of AT&T's primary public interest argument: That the post-merger firm would gain additional incentives to build out or upgrade new broadband. To that end PK discussed some conditions the Commission might consider to ensure that, if it grants this merger, it would service the public interest. For example, if AT&T has presented evidence that the post-merger company would have greater incentives to deploy broadband and a greater ability to compete with cable, this would indicate that it required fewer or no USF subsidies in that regard. Such subsidies could be directed to other carriers who could put them to better use.

PK also discussed the possibility of AT&T offering a low-cost, basic connectivity option. A low-cost connectivity option that was not means tested and was simply available for any customer who wants it could, under some circumstances, be a public interest benefit. This plan would be a benefit to cost-conscious or low-needs users—for example, to people who simply may not be home very often. Such a plan could also appeal to those users who do not yet see the value of in-home broadband. A plan designed for such users could benefit AT&T as well as the public interest, because some percentage of those users would later upgrade to a more comprehensive plan. Such a basic connectivity option must provide a user with enough throughput to accomplish basic tasks, such as web browsing, email, music and standard

definition video streaming, and media downloads. It should have bandwidth management practices that are in line with other Internet access plans, and should include in-home WiFi. The precise throughput of such a service would vary depending on which of AT&T's networks it was on (DSL, U-Verse, Gigapower, fixed LTE). PK believes that such an offering should be available for a substantially discounted monthly fee (including any equipment rental fees), and that free set-up and self-install options would help lower barriers to adoption. In general, such a basic connectivity option would not be considered "broadband," nor should such a low-cost, low-throughput option be considered as an alternative to programs designed to make true broadband more affordable, such as Lifeline. Rather, such an offering would be more similar to basic tier cable or "measured" local rate plans (though given the differences between Internet access and phone calling, it should not be a metered plan).

The Commission should further adopt measures both with the standalone broadband offering and the basic connectivity option to ensure that customers are aware of these offerings. Learning from past experience, AT&T's customer service representatives should be aware of all of AT&T's offerings and should present them to customers, and AT&T should note these options in its marketing materials (and not just in fine print).

Respectfully submitted,

/s/ John Bergmayer
Senior Staff Attorney
PUBLIC KNOWLEDGE