

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)
)
Applications for Authority Pursuant to Section) WC Docket No. 15-135
214 of the Communications Act of 1934, as)
Amended, to Transfer Control of)
Authorizations from Cequel Corporation to)
Altice S.A.)

APPLICANTS' JOINT REPLY COMMENTS

Altice N.V. (“Altice”), and Cequel Corporation (“Cequel,” and together with Altice, the “Applicants”) respectfully submit these reply comments in support of their applications pursuant to sections 214 and 310(d) of the Communications Act of 1934, as amended,¹ seeking approval of the transfer of control of Cequel and its subsidiaries to Altice (the “Transaction”).²

Only two parties filed comments in this proceeding,³ neither of which raises any transaction-specific concerns regarding the Transaction. Rather, these comments ask the Commission to impose conditions related to the commenters’ own policy goals or to address

¹ 47 U.S.C. §§ 214, 310(d).

² Applications for Authority Pursuant to Section 214 of the Communications Act of 1934, as Amended, to Transfer Control of Authorizations from Cequel Corporation to Altice S.A., WC Docket No. 15-135 (filed June 3, 2015) (“Application”). As is further described in a letter Applicants are filing concurrently in this docket, Altice S.A. completed a *pro forma* reorganization on August 9, 2015, unrelated to the Application, pursuant to which Altice S.A. was replaced by Altice N.V., a Dutch public company, as the top-level corporate parent. All Altice S.A. shareholders received *pro rata* shares of Altice N.V., meaning that Altice’s ultimate ownership interests are the same as were described in the Application with respect to Altice S.A. Applicants respectfully request that the Commission approve the transfer of control of Cequel to Altice N.V. in place of Altice S.A.

³ Comments of the California Emerging Technology Fund, WC Docket No. 15-135 (filed July 24, 2015) (“CETF Comments”); Letter from Estelle Fennell, Chair, Humboldt County Board of Supervisors, to Chairman Wheeler and Commissioners, WC Docket 15-135 (filed July 21, 2015) (“Humboldt Letter”).

private disputes unrelated to the Transaction. The Commission has made abundantly clear that such issues are not appropriate for consideration in a transfer of control proceeding.

Accordingly, for the reasons set forth herein and in the Application, the Commission should approve the Transaction promptly upon the completion of Team Telecom’s review.

The California Emerging Technology Fund (“CETF”) urges the Commission to use any telecommunications merger or transfer applications that come before it — including the Transaction — as an opportunity to impose a wish list of highly prescriptive broadband expansion conditions on the applicants,⁴ even though CETF’s requested conditions have (by its own admission) no specific connection to the Transaction. Among other things, CETF asks the Commission to require Altice to offer a standalone wireline broadband plan to certain underserved communities for \$9.95 a month,⁵ to continue that offer “until 80% of the eligible persons in the targeted underserved communities are connected to broadband,”⁶ to submit to “[a]n independent oversight committee ... to monitor Altice’s progress on this effort,” to “collaborate with state utility commissions ... to draft a specific strategic plan to close the Digital Divide,”⁷ to divert money to “an independently-managed fund ... charged with engaging experienced Community-Based Organizations (CBOs) in broadband adoption” — presumably including CETF — “to perform outreach and obtain actual broadband sign-ups,”⁸ and to

⁴ CETF Comments at 2-4.

⁵ *Id.* at 9.

⁶ *Id.* at 7.

⁷ *Id.* at 10.

⁸ *Id.* at 11.

participate in an otherwise-voluntary broadband deployment program established by the California Public Utilities Commission.⁹

CETF does not argue that the Transaction raises any concerns relating to broadband deployment or adoption that could justify such micromanagement of Applicants' broadband business following consummation of the Transaction. Indeed, CETF explicitly asks the Commission to use *any* merger or transfer proceeding involving broadband providers as an opportunity "to require as a public benefit the offer of affordable broadband rates to the underrepresented communities and to require upgrades of broadband infrastructure to rural residents in affected service areas."¹⁰ In asking the Commission to use *any* merger to advance its policy goals CETF is implicitly acknowledging that it has not identified any transaction-specific facts arising from this Transaction which support its proposal. Further, CETF asserts that its broadband adoption goals "cannot be met without significant, focused programs funded by all Internet Service Providers, the FCC, state and local governments, and aided by CBOs to achieve broadband adoption for underserved communities."¹¹ Applicants agree that broadband adoption is an important issue. But the Commission already is taking concrete steps to promote broadband deployment and adoption through appropriate industry-wide proceedings.¹² CETF

⁹ *Id.* at 12-13.

¹⁰ *Id.* at 8. CETF also notes that it "has similarly commented on the Comcast-Time Warner Cable, AT&T-DirecTV, and Frontier-Verizon applications that have come before this Commission," *id.* at 4, further demonstrating that CETF's comments have no specific nexus to the Transaction (which, unlike those other proceedings, does not propose any merger or consolidation of existing U.S. providers).

¹¹ *Id.* at 6.

¹² See *Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42 *et al.*, Second FNPRM, Order on Recon., Second R&O, and Mem. Op. & Order, FCC 15-71 (June 22, 2015); *Wireline Competition Bureau Announces Connect America Phase II Support Amounts Offered To Price Cap Carriers to Expand Rural Broadband*, WC Docket No. 10-90, Public Notice, DA 15-509 (April 29, 2015).

errs in suggesting that the Commission should disregard industry-wide proceedings and instead impose company-specific obligations on an entity that serves a very small percentage of the nation's broadband customers because that entity happens to be undergoing a change in ownership.

The Commission has repeatedly rejected requests to impose conditions on applicants in particular transactions solely to serve broad-based policy goals.¹³ Indeed, “the Commission has held that it will impose conditions only to remedy harms that arise from the transaction (i.e., transaction-specific harms) and that are related to the Commission’s responsibilities under the Communications Act and related statutes,” and thus “generally will not impose conditions to remedy pre-existing harms or harms that are unrelated to the transaction.”¹⁴ In the recently approved merger of AT&T and DIRECTV, the Commission imposed fiber-deployment and broadband-discount obligations on the combined company only because it found, on the basis of facts in the record of that proceeding, that “the transaction creates, at least

¹³ See, e.g., *Applications of Softbank Corp., Starburst II, Inc., Sprint Nextel Corp., & Clearwire Corp.*, Mem. Op. & Order, Declaratory Ruling, and Order on Recon., 28 FCC Rcd 9642, 9674 (2013) (“We find that the record does not demonstrate that it is necessary or appropriate to revisit open Internet issues or impose open Internet conditions in the context of the proposed transactions” where “we have addressed issues concerning net neutrality in the context of a recent (and still open) industry-wide proceeding, and we see no reason to use this party-specific transaction to modify the decisions that we have made there.”) (footnote omitted) (“*Softbank Order*”).

¹⁴ *Applications of Cellco P’ship d/b/a Verizon Wireless & Atlantis Holdings LLC*, Mem. Op. & Order and Declaratory Ruling, 23 FCC Rcd 17444, 17463 (2008) (footnote omitted); see also *Domestic Section 214 Application Filed for the Transfer of Control of Hawaiian Telcom, Inc. & Hawaiian Telcom Servs. Co., Inc., Debtors-in-Possession*, Public Notice, 25 FCC Rcd 13149, 13151 (WCB 2010) (“The Commission generally will not impose conditions to remedy pre-existing harms or harms that are unrelated to the transaction at issue.”) (“*Hawaiian Telcom Order*”); *Applications for Consent to the Assignment &/or Transfer of Control of Licenses Time Warner Inc., & its Subsidiaries*, 24 FCC Rcd 879, 887 (MB, WCB, WTB & IB 2009) (“[T]he Commission has held that it will impose conditions only to remedy harms that arise from the transaction (i.e., transaction-specific harms) and that are reasonably related to the Commission’s responsibilities under the Communications Act and related statutes.”) (footnote omitted) (“*TWC Order*”).

in the short term, a disincentive to deploy faster broadband because an FTTP buildout would potentially ‘cannibalize’ profits from AT&T’s newly acquired DIRECTV subscribers and revenue,”¹⁵ and that AT&T and DIRECTV’s “efforts to expand consumer choice for bundles might prove to be an obstacle for low-income populations who desire standalone broadband.”¹⁶ No such concerns are raised by the instant transaction, which seeks a transfer of control without any merger or consolidation of existing providers, and there is no evidence in the record of this proceeding that the Transaction would alter Applicants’ strong existing incentives to deploy broadband or offer affordable broadband service to potential new subscribers. Accordingly, the Transaction poses no transaction-specific harms that would justify any such conditions.

The Applicants note that Cequel already is voluntarily engaged in several initiatives to expand broadband deployment and close the digital divide. For example, Cequel is participating in President Obama’s “ConnectHome” initiative pilot program, which will “expand high speed broadband to more families across the country.”¹⁷ In select communities of the Choctaw Tribal Nation Cequel’s operating subsidiaries (doing business as “Suddenlink Communications”) will work to ensure that over 425 of the Choctaw Tribal Nation’s public housing residents have access to low-cost, high-speed Internet. In addition, Cequel also participates in the Connect2Compete program, which provides affordable Internet service and

¹⁵ *Applications of AT&T Inc. and DIRECTV*, MB Docket No. 14-90, Mem. Op. & Order, FCC 15-94, at ¶ 6 (July 28, 2015) (“*AT&T/DTV Order*”).

¹⁶ *Id.* at ¶ 8.

¹⁷ See *ConnectHome: Coming Together to Ensure Digital Opportunity for All Americans* (rel. July 15, 2015); available at <https://www.whitehouse.gov/the-press-office/2015/07/15/fact-sheet-connecthome-coming-together-ensure-digital-opportunity-all>.

devices to students and families that qualify for the National School Lunch Program.¹⁸ These efforts align with the federal government’s ongoing, broad-based broadband initiatives.

For its part, the only point raised by the Humboldt County Board of Supervisors (“Humboldt Board”) specific to the Applicants relates to an ongoing dispute regarding the PEG access fees Cequel’s cable subsidiaries pay to certain local jurisdictions, including Humboldt County.¹⁹ To be clear, Cequel today is actively supporting PEG access in Humboldt County — carrying multiple PEG access channels and providing substantial financial support. At issue here is simply a legal dispute as to the appropriate amount of PEG access fees. Cequel is working diligently to resolve this dispute and will continue to do so, but the matter has no bearing on the Transaction, and the Humboldt Board offers no evidence to the contrary.

The Humboldt Board’s other purported concerns — such as expanding broadband infrastructure and maintaining “strong net neutrality requirements” — all relate to industry-wide issues that the Commission has addressed, and continues to address, in industry-wide proceedings, which are the proper forums in which to consider these matters.²⁰ It identifies no particular concern in this context with Cequel or the pending Transaction. As explained above, the Commission has made abundantly clear that neither broad-based policy arguments nor

¹⁸ Connect2Compete is the flagship program of a public-private partnership operated by the non-profit organization EveryoneOn. *See* <http://everyoneon.org/about/c2c/>.

¹⁹ *See* Humboldt Letter at 1.

²⁰ *See Softbank Order*, 28 FCC Rcd at 9674 (rejecting as unnecessary request to impose party-specific Open Internet conditions beyond generally applicable rules). Furthermore, to the extent the Humboldt Board asserts it is “against the public interest” to transfer ownership of telecommunications companies to “distant owners,” the Commission has definitively concluded the opposite. *See Review of Foreign Ownership Policies for Common Carrier and Aeronautical Radio Licensees under Section 310(b)(4) of the Communications Act of 1934, as Amended*, 28 FCC Rcd 5741, 5744 (2013) (“[F]oreign investment has been and will continue to be an important source of financing for U.S. telecommunications companies, fostering technical innovation, economic growth, and job creation.”) (footnote omitted). In any case, Cequel already is majority foreign-owned. *See* Application at Attachment A.

private disputes unrelated to a transaction are relevant to the Commission’s analysis of specific transactions.²¹

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As described in the Application, the Transaction will serve the public interest by affording Cequel access to Altice’s operational expertise, scale and resources.²² Neither CETF nor the Humboldt Board offer any justification for imposing conditions on the Transaction, nor does any such justification exist. Accordingly, Applicants ask that the Commission approve the Transaction promptly.

Respectfully submitted,

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²¹ See n.14, *supra*. For instance, in the *Hawaiian Telcom Order*, the Commission found that matters such as “allegations concerning past discriminatory conduct by parties to a transaction with respect to pole attachments, access to remote terminals, and unbundled loop requests” are “pre-existing harms” that are “more appropriately addressed in other proceedings.” 24 FCC Rcd at 887. The same is true of Cequel’s dispute with the Humboldt Board over PEG fees.

²² Application at 6-7.

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