- Cingular maintains sales and service organizations that operate independently of AT&T and BellSouth;
- Cingular maintains corporate operations such as human resources, legal, IT, and administrative staffs which operate independently of AT&T and BellSouth;
- Cingular maintains a product development organization that operates separately from AT&T and BellSouth.

147. The decision by AT&T and BellSouth to operate Cingular independently of its parents has contributed to Cingular's success. As discussed in our initial Declaration, it is widely recognized that conflict between joint venture partners can lead to the instability and dissolution of joint ventures.[119] Such conflicts are often attributable to the fact that actions that maximize the value of the joint venture may not maximize the value of each of its parents. Cingular's success to date indicates that its parents have successfully avoided many of these conflicts.

148. However, Cingular's independence also reduces the likelihood that cost savings expected to result from the merger could be realized in its absence. For example, closer integration between Cingular's network operations with that of one of the joint venture partners would have been likely to raise concerns by the other partner that Cingular's network was not being designed or operated in a manner fully consistent with the joint venture's interest. Similarly, closer integration between Cingular's marketing operations with those of AT&T or BellSouth could raise similar concerns that marketing efforts benefited one parent at the expense of the joint venture.

---

119. Carlton/Sider Declaration, ¶¶ 42-48.

149. In sum, Cingular's operational independence from its parents has contributed to its success but also has interfered with its ability to realize potential cost savings. As discussed above, AT&T estimates that merger-related cost savings from integrating Cingular's operations are large. If these savings could have been achieved without unduly disrupting Cingular's operations, AT&T and BellSouth would have been expected to pursue them in the absence of the transaction. That is, the estimated cost savings are appropriately considered to be merger-specific because it is unlikely that they could be achieved in the merger's absence.

4. Cost savings from the proposed transaction will benefit consumers.

150. As noted above, various respondents claim that cost savings expected from the proposed transaction will not benefit from consumers. As a preliminary matter, it is important to note that respondents' claim is inconsistent with the DOJ's opinions in the SBC/AT&T and Verizon/MCI mergers, in which it noted that these transactions are expected to generate "exceptionally large merger-specific efficiencies."[120] The FCC concluded that the transaction generated "benefits, which are likely to flow to consumers [including] efficiencies related to vertical integration, economies of scope and scale, and cost savings."[121] As described above, the cost savings expected from the AT&T/BellSouth transaction are similar in magnitude and nature to those expected from the merger of SBC/AT&T.

151. The AT&T/BellSouth merger will result in reductions in both fixed and variable costs. As is widely recognized, reductions in "variable costs" typically provide

---

120. Department of Justice Press Release, 10/27/05, http://www.justice.gov/atr/public/press_releases/2005/212407.htm.
121. SBC/AT&T Order, ¶ 2.

an immediate incentive for firms to reduce price and thus such cost reductions play an important role in analyzing the competitive effects of a merger on consumers. However, reductions in "fixed costs," which do not change with short-run changes in output, also are relevant to merger evaluation and can benefit consumers.

152. Reductions in fixed costs reflect real resource savings to society and thus are appropriately considered in evaluating the welfare impact of a proposed transaction. More generally, many costs that are fixed in the short run vary with changes in output over the medium and longer term as firms adjust to changes in the scale of their operation. Reductions in anticipated fixed costs affect investment and pricing decisions because all costs are variable ex ante. That is, reductions in expected fixed costs can result in lower costs associated with undertaking new projects and thus increase the merged firm's incentive to undertake investments in providing new services. These increased incentives to invest in the development and deployment of new services benefit consumers.

153. The effect of reductions in the costs of undertaking new projects is likely to be of particular importance in the telecommunications industry. This is due to the fact that competition in the telecommunications industry often takes the form of large investments to deploy new network facilities or services over broad geographic areas. The reduction in "fixed costs" such as network capital costs and certain operating expenses would be expected to reduce the fixed costs of deploying new services that make use of network backbone and infrastructure. As this implies, the reduction in expected "fixed" network capital costs and operating costs will make the merged firm a more efficient provider of new services, encourage investments in new services and

benefit consumers. Therefore, the significant savings in both fixed and variable costs resulting from the proposed transaction are likely to benefit consumers and competition.

D. THE PROPOSED TRANSACTION WILL ENABLE THE MERGED FIRM TO BE A MORE EFFECTIVE SUPPLIER OF WIRELESS SERVICES.

154. While the Cingular joint venture has been highly successful, the proposed transaction will enable it respond more effectively to a variety of changes in the telecommunications industry. While respondents such as Access Point assume that any coordination problems relating to Cingular can be solved through contract, this section shows that the merger is a superior mechanism for resolving such issues. As a result, the proposed transaction (i) will make Cingular a more effective supplier to enterprise customers; and (ii) will enable Cingular to better respond to the technological convergence between wireless and wireline services.

1. The proposed transaction will make Cingular a more effective supplier of wireless services to enterprise customers.

155. As discussed in our initial declaration, AT&T is a leading national provider of services to business and enterprise customers while BellSouth has a more limited and regional base of enterprise customers. AT&T, like legacy SBC, hopes to more effectively integrate wireless services in the bundles of services provided to enterprise customers.

156. Cingular's operational independence limits AT&T's ability to achieve this goal. More specifically, AT&T plans to include wireless services in existing package discount programs to enterprise customers that set discount levels based on the customer's aggregate spending. In addition, AT&T plans to provide enterprise customers with a single brand name (AT&T) and a single point of contact with respect to billing and

service issues. Prior to the SBC/AT&T merger, SBC had expressed similar goals after announcing its intent to expand sales to enterprise customers.

157. ***[Begin Confidential]***

[122] ***[End Confidential]***

158. This example illustrates the current difficulty of coordinating and balancing the interests of AT&T and BellSouth in providing wireless services to enterprise customers. It is likely that the interests of AT&T and BellSouth with respect to enterprise customers would diverge given the differences in each company's customer mix.

159. The deployment of new wireless services also expands the potential for disagreements between AT&T and BellSouth with respect to enterprise customers. For example, Cingular is currently deploying wireless broadband services that provide laptop computers, smartphones, PDAs and handsets with broadband services including Internet

---

122. ***[Begin Confidential]***

[End Confidential]

access.[123] Businesses are expected to be the principal customers of these services and the number of subscribers to these services is expected to grow rapidly. [124]

160. The views of AT&T and BellSouth with respect to provision of wireless broadband services to enterprise customers are likely to diverge due to differences between the two firms in how they perceive the importance of serving enterprise customers, especially on a national basis, and in the attractiveness of mobile broadband services.

161. The proposed transaction eliminates these potential sources of conflict and thus creates a more effective provider of wireless services to enterprise customers.

2. The merged firm will be a more effective provider of "converged" services.

162. As discussed in the Declaration of Christopher Rice, technological changes are blurring the operational distinction between wireless and wireline services. This development creates potential for conflict between AT&T and BellSouth with respect to the development and marketing of new services. The proposed transaction eliminates this potential source of conflict.

163. A variety of firms are in the process of developing and deploying "dual-mode" phones which use WiFi connections when available to access VoIP services and access cellular/PCS networks when such WiFi connections are not available. Such "integrated" services promise to improve the quality of wireless services and to lower the cost to carriers of providing service.

---

123. http://www.cingular.com/midtolarge/network
124. Wachovia Securities, "AT&T Inc.," April 19, 2006, p. 2.

164. ***[Begin Confidential]***

[End Confidential]

- T-Mobile announced that it would launch its dual-mode service in the second half of 2006. This service would access a VoIP network through T-Mobile hot spots and in-home wireless networks.[125]
- Sprint entered into a joint venture with cable companies to provide dual-mode services to consumers.[126] Sprint and its cable company partners are expected to deploy this service on a trial basis in seven metropolitan areas in the second half of 2006.

165. By their nature, dual-mode services create potential conflicts between wireless and landline service providers since different entities are responsible for different portions of the service. These potential conflicts relate to, among other things, selecting which technology to utilize, establishing priorities for deployment of new services, determining which party acts as the customer's point of contact, determining which party has responsibility for service problems, and establishing transfer pricing mechanisms.

166. The proposed merger would streamline the decision-making process relating to the deployment of new services. As noted above, Cingular's current structure

---

125. Analyst presentation by Robert Dotson (CEO of T-Mobile USA), January 9, 2006, p. 11.

126. Sprint Press Release November 2, 2005, http://www2.sprint.com/mr/news_dtl.do?id=8961, and Dailywireless.org, "Sprint's Cable Deal", November 2, 2005, http://dailywireless.org/modules.php?name=News&file=article&sid=4885.

requires that new services be approved by both AT&T and BellSouth. This procedure can lead to incomplete coordination and delays in decision making.[127]

167. The simplification of the decision-making process resulting from the proposed transaction promises to accelerate the deployment of next-generation features for dual-mode phones. We understand that the next-generation of Cingular dual-mode phones will include the following types of features:

- Network-based address book: Currently, address books maintained on wireless handsets cannot be readily accessed from landline phones. Future versions of dual-mode phones and other IMS-based services will enable subscribers to maintain a single address book that includes contacts for voice calls, email, instant messages, push-to-talk calls, etc.
- Desktop Communications Manager (DCM): The DCM will enable subscribers to manage the next generation of dual-mode phones and other IMS-based services through a web-based graphical user interface. This lets subscribers administer service features such as call routing, call forwarding, call/voice-mail alerting, messaging, call logs, etc.
- In addition, Cingular anticipates that integrated services and dual-mode handsets will enable consumers to access video content through WiFi, mobile broadband services and broadband line connections, and will allow for video sharing between handsets, PCs and IPTV.

---

127. The Declaration of Christopher Rice describes the incomplete coordination between Cingular and its parents with respect to deployment of IMS network architecture.

168. In sum, with respect to Cingular, the proposed transaction avoids potential conflicts that can arise by streamlining decision making. As a result, the deployment of new services would be expected to accelerate.

E. ACCELERATION OF THE DEPLOYMENT OF IPTV SERVICES AS A RESULT OF THE PROPOSED MERGER IS LIKELY TO GENERATE SIGNIFICANT CONSUMER BENEFITS.

1. Acceleration of the deployment of IPTV services is a merger-specific efficiency.

169. In addressing efficiency claims relating to IPTV, Access Point states that "... all of these benefits could be achieved by BellSouth's provision of video programming even if it remains independent of AT&T. Therefore, the generalized discussion of the benefits of video competition are not merger-specific."[128]

170. Access Points' statement reflects a misunderstanding of the concept of merger-specific efficiencies. An efficiency is merger-specific if it results in a benefit that would not exist in the absence of the transaction.[129] Thus, if the proposed merger accelerates the deployment of IPTV relative to the timing expected in the absence of the proposed merger, the benefit derived from acceleration of the deployment is properly considered to be a merger-specific benefit, even if the service would have been deployed at a later date in the absence of the transaction.

171. Available information indicates that the proposed transaction will accelerate the deployment of IPTV service. As discussed in the Supplemental

128. Access Point Comments, p. 48.
129. Revised Section 4 Horizontal Merger Guidelines issued by the U.S. Department of Justice and the Federal Trade Commission, April 8, 1997 defines merger-specific efficiencies as those "likely to be accomplished with the proposed merger and unlikely to be accomplished in the absence of either the proposed merger or another means having comparable anticompetitive effects."

Declaration of William Smith (May 31, 2006), BellSouth has made the decision to pursue video opportunities in only a small number of newly constructed, multi-family communities. He notes that this limited approach will not require the significant investment required for a broad commercial rollout of IPTV. He also states that BellSouth has not decided to make the investment required for such a broad rollout.

172. As discussed in the declaration of James Kahan, AT&T has made a commitment to deploying IPTV service and has already made substantial investments in network design and testing as well as substantial effort in obtaining programming services.[130] AT&T has publicly committed to initial deployment of services later this year.[131] Access Point and other commenters do not appear to dispute that, among other things, the merger would be likely to enable AT&T to (i) utilize a more efficient network design covering the expanded geographic area of the merged firm, and (ii) realize lower costs of programming, set top boxes and network equipment as the result of the larger expected subscriber base and network footprint.

173. While it is not possible to say with precision the extent to which the proposed transaction will accelerate deployment of IPTV services in BellSouth's region, it is useful to note that AT&T has been working for 18 months negotiating to acquire content and this work is ongoing.[132] We understand that BellSouth to date has not negotiated contracts to provide content over IPTV systems on a broad-scale commercial

---

130. Kahan Declaration, ¶ 36. William Smith's May 31, 2006 declaration (¶ 17) explains that BellSouth has begun to negotiate carriage agreements to support its decision to provide video in a limited number of new developments. He explains that the terms of these agreements may not support a generally available commercial offering of IPTV.

131. http://att.sbc.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=21874

132. Kahan Declaration, ¶ 36.

basis and that this process would only begin if and when BellSouth were to decide to deploy IPTV.[133]

2. There is no basis to respondents' claims that deployment of IPTV services will not benefit consumers.

174. Access Point also claims that "there is no reason to believe that video competition from AT&T will produce lower prices to consumers."[134] Indeed, there is every reason to expect just that result.

175. Our March 2006 FCC declaration noted that: [135]

- A recent survey by Bank of America found that incumbent cable companies were offering price cuts of 28 to 42 percent in areas where Verizon was rolling out its fiber-to-the-home IPTV service.
- A 2005 FCC study found that monthly cable rates were 16 percent lower in areas where cable operators faced competition from a wireline overbuilder.

176. Since that time, we have identified additional studies that confirm our rather unsurprising conclusion.

- The American Consumer Institute conducted a survey of three Texas communities in which Verizon had deployed IPTV service. They estimate that entry resulted in declines in cable television prices of

---

133. Smith Declaration, ¶¶ 17-19.
134. Access Point Comments, p. 48.
135. Carlton/Sider Declaration, ¶¶ 58-59.

roughly $19 per month.[136] This is roughly one-third of the monthly fee for cable television services.[137]

- The General Accounting Office, in its most recent "Cable-Satellite Econometric Model," estimates that the presence of a non-satellite competitive provider of MVPD services reduced cable prices by 16.9 percent and increased available channels by 8.1 percent.[138]
- Verizon has reported that cable prices in Keller, Texas have dropped "by about 20 percent" since Verizon entered, and that "cable incumbents have cut prices sharply in each market where we've introduced FiOS TV."[139]

3. Illustrative calculation of consumer welfare gains from acceleration of the rollout of IPTV service in BellSouth's region.

177. This section presents illustrative calculations of the impact of the acceleration of deployment of IPTV on consumer welfare. These consumer welfare gains accrue to consumers in the BellSouth region that subscribe to either IPTV or cable service since both groups would benefit from price reductions due to increased competition.

178. We need to make various assumptions for our calculations. Although these assumptions are only (conservative) approximations, they serve to illustrate that consumers are likely to realize sizeable benefits from the proposed transaction. These

---

136. The American Consumer Institute, "Does Cable Competition Really Work? A Survey of Cable TV Subscribers in Texas," March 2, 2006, p. 3.
137. These FCC data are discussed in Section VI.E.3.b below.
138. GAO, "Telecommunications: Direct Broadcast Satellite Subscribership Has Grown Rapidly, but Varies across Different Types of Markets," GAO-05-27, April 2005, p. 31.
139. Ivan Seidenberg, Chairman and Chief Executive Officer, Verizon Communications, testimony before the Senate Commerce Committee, "Creating Consumer Choice and Competition in the TV Marketplace," January 31, 2005.

calculations indicate that acceleration in the deployment of IPTV by even one year would be expected to result in more than $1 billion in benefits to consumers in BellSouth's territory.

179. Our calculation of the gains in consumer welfare resulting from acceleration in the deployment of IPTV services in the BellSouth region are made as follows:

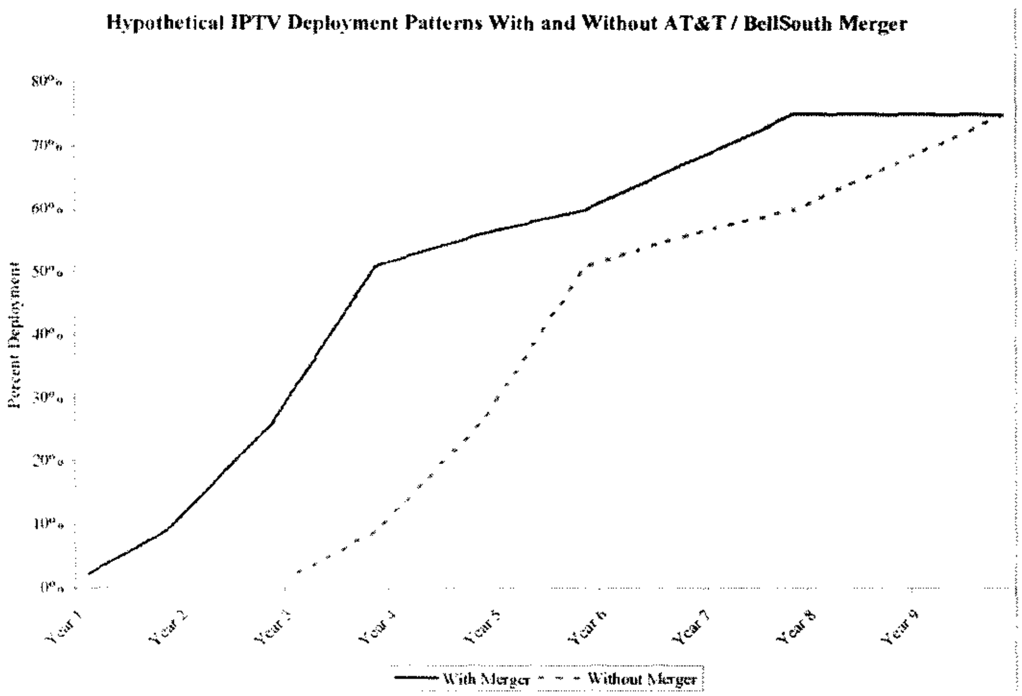
a. Assumed IPTV deployment pattern with and without merger

- We assume that AT&T/BellSouth would begin to deploy IPTV services in BellSouth's 9-state region following completion of the merger. We assume that in the absence of the merger BellSouth would have started to deploy IPTV services either 12 or 24 months later than the start date that would be realized following approval of the merger.
- We assume that, with the exception of the initial deployment date, the subsequent timing of the service rollout would not be affected by the merger. This assumption is likely to be quite conservative because in the absence of the merger, BellSouth would not have the benefit of AT&T's experience in deploying services.
- We assume that, following the start date, the timing of the deployment in BellSouth' region would follow JP Morgan's estimate of the expected time pattern of AT&T's IPTV deployment.[140] JP Morgan projects that AT&T will offer service to 9 percent of customers in the legacy SBC region within one year of initial deployment, to 26 percent of area

140. Telecom Services / Wireline, AT&T vs. Verizon: A Pro Forma Comparison, JPMorgan, March 6th, 2006, p. 25.

subscribers after two years, to 51 percent of customers after three years and to 60 percent after five years.[141] Figure 6.1 compares expected deployment patterns assuming that the proposed merger accelerates deployment of IPTV services by 24 months.

Figure 6.1



b. *Impact of entry on price*

- We assume that AT&T's entry would result in price cuts for both IPTV and cable customers in the areas where IPTV is offered. Based on the evidence summarized above, we alternatively assume that prices to both IPTV and cable customers would fall by 20 percent and 15 percent.

---

141. Our calculation extrapolates this trend and assumes that the merged company would make IPTV service available to 75 percent of customers in the BellSouth states within seven years. BellSouth currently anticipates that its current fiber upgrade will eventually be available to 75 percent of its in-region households. (Declaration of William L. Smith, March 28, 2006, ¶ 8.)

- The pre-merger price level is calculated based on FCC data which indicate the average cable household spends $58 per month for video programming.[142]

c. ***Impact of price decline on output***

- The decline in the price of MVPD services would be expected to result in an increase in the number of subscribers to such services. We use existing estimates of the elasticity of demand for cable services to estimate the impact of the price reduction on the expansion in output.
- We assume a price elasticity of demand of -1.5. This elasticity reflects the percentage change in output expected based on a one percent change in price. The elasticity of -1.5 is used by George Ford and Thomas Koutsky in a closely related study that is discussed in more detail below.[143] We also calculate the welfare gain assuming no increase in the number of MVPD subscribers resulting from the expected price reduction (e.g. an assumed elasticity of zero) to provide a benchmark for the calculation.[144]

---

142. FCC, "In the Matter of Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming," FCC 06-11, March 3, 2006, Table 4. This $58 figures includes fees for basic and premium tiers, video on demand, digital video recorder services and additional miscellaneous expenses. The figure excludes fees for high speed Internet services and telephony services (circuit switched and VoIP).
143. George S. Ford and Thomas M. Koutsky, "In Delay There Is No Plenty: The Consumer Welfare Cost of Franchise Reform Delay," Phoenix Center Policy Bulletin No. 13, January 2006, p. 13.
144. In evaluating the welfare gain from output expansion, we assume that consumers attracted to the industry due to the lower price realize a welfare gain of half of that realized by other consumers. This assumption is consistent with a linear demand curve and reflects the fact that benefits realized by customers attracted by lower prices reflect only the difference between the price and the amount they were willing to pay, which is less than the pre-merger price.

d. Other elements of calculation

- We assume that there are 12.7 million households in BellSouth's territory that subscribe to video services. This is based on National Cable Television Association (NCTA) estimates of the number of households in the United States that subscribe to a video service[145] and BellSouth's share of telephone subscribers in the United States.[146] We assume that the number of cable subscribers will grow by 1.7 percent annually.[147]

180. The results are summarized in Table 6.3 and indicate that acceleration of the IPTV rollout will result in substantial gains in consumer welfare in the BellSouth region. As the table indicates, if the proposed merger accelerates the IPTV rollout by 12 months and results in a 20 percent price decline, then the sum of the consumer benefits over time would be \$1.5 billion (assuming a demand elasticity of 1.5).[148] Even if we ignore the output enhancing impact of the price decline, then benefits to existing consumers are \$1.3 billion. Consumer welfare gains are roughly twice as large if we assume that the transaction accelerates the deployment of IPTV by two years instead of one.

---

145. http://www.ncta.com/ContentView.aspx?contendId=54&model=print.
146. FCC, Trends in Telephone Service, April 2005, Table 7.3.
147. This is the growth rate assumed in the related study by Ford and Koutsky described below.
148. These calculations in Table 6.3 are not expressed in present value terms. If we use a real discount rate of 5.25 (the rate used by Ford and Koutsky), the present value of benefits from a one year acceleration in the deployment of IPTV assuming a 20 percent price decline and price elasticity of demand of -1.5 would be \$1.3 billion.

Table 6.3

Gain in Consumer Surplus Due to Acceleration in IPTV Rollout in BellSouth Region

($ Billions)

Price Decline	Price Elasticity of Demand	Acceleration in IPTV Rollout 12 Months	Acceleration in IPTV Rollout 24 Months
20%	-1.5	$1.5	$2.9
	0	$1.3	$2.5
15%	-1.5	$1.1	$2.1
	0	$1.0	$1.9

181. The calculations are likely to understate the consumer welfare benefits of the acceleration of IPTV services. For example, we have not attempted to estimate the additional welfare gain that would be realized by consumers that prefer IPTV services to existing cable services. We also do not attempt to estimate the consumer welfare impact of the increased number of cable channels that might be provided due to increased competition. As noted above, GAO has estimated that eight percent more channels are available in areas in which there are two wireline MVPD services.

182. As a check on our estimates, we have adapted the model reported by George Ford & Thomas Koutsky to estimate the consumer welfare gain from acceleration of IPTV deployment in BellSouth's territory. The Ford and Koutsky model addresses the closely related question of estimating the consumer welfare loss resulting from delays in the deployment of IPTV service resulting from local franchise requirements. Calculations based on this model yield results that are similar in magnitude to those reported above. The results of this analysis are reported in Appendix 3.

CONCLUSION -- EFFICIENCIES

183. Respondents incorrectly claim that the cited efficiencies are speculative and are not merger-specific. Instead, available evidence indicates that projected cost saving are large, credible, merger-specific and will benefit consumers. We also explained that the proposed transaction will enable the merged firm to be a more effective supplier of wireless and "converged" services. And we explained that the expected acceleration of the deployment of IPTV services would be likely to generate significant benefits to consumers in BellSouth's region.

I declare under penalty of perjury that the foregoing is true and correct to the best of my information and belief.

Signature: Dennis W Carlton
Dennis W. Carlton

Date: 6/19/06

I declare under penalty of perjury that the foregoing is true and correct to the best of my information and belief.

Signature: Hal Sider

Hal S. Sider

Date: June 14, 2006

Appendix 1

SUMMARY OF RESPONDENTS' CLAIMS REGARDING HARM TO COMPETITION IN THE PROVISION OF SERVICES

Section II: RESPONDENTS' SPECIAL ACCESS SERVICES CLAIMS

Sprint Nextel[1]

1. Sprint Nextel (Sprint) claims that the proposed merger will reduce competition in the provision of Type I special access and will result in increased discrimination by AT&T against downstream rivals.

- Sprint claims that the merger will harm competition by "...reducing competitive alternatives to BellSouth's services and shrinking the market of potential purchasers of competitive services."[2]
- Sprint claims that the merger will increase "the incentive to harm national competitors"[3] and will increase the merged firm's "incentive to use its special access pricing flexibility to benefit Cingular."[4]

2. Sprint cites ARMIS data to support its claim that a remedy is required.

- Sprint claims that "AT&T and BellSouth recently reported returns on special access investment in 2005 of 92 and 98 percent, respectively, the highest returns among the Regional Bell Operating Companies."[5]

3. Sprint requests that the merger be approved not only subject to conditions similar to those imposed in the SBC/AT&T transaction, including divestitures of IRUs to

1. Comments of Sprint Nextel Corporation, June 5, 2006 (hereafter Sprint Comments).
2. Sprint Comments, p. ii.
3. Sprint Comments, p. ii.
4. Sprint Comments, p. ii.
5. Sprint Comments, p. 2; Sprint Comments, p. 14, footnote 25.

selected buildings, but also that additional restrictions on AT&T's marketing and pricing of special access services be imposed.[6]

Cbeyond[7]

4. Cbeyond claims that the merger will harm competition in the provision of Type I and Type II special access services.

- Cbeyond claims that the transaction will result in the "elimination of one of the largest non-incumbent LEC wholesalers (or potential wholesalers) of local transmission capacity in the [BellSouth] region..."[8]
- Cbeyond claims that "the elimination of AT&T as a reseller of BellSouth local transmission inputs would itself likely seriously harm competition in the provision of local transmission wholesale inputs."[9]
- Cbeyond argues that approval of the proposed merger should be conditioned on price regulation of special access rates, and the divestiture of all of AT&T's local facilities in the BellSouth region.[10]

Time Warner Telecom[11]

5. Time Warner Telecom argues that the merger will harm competition in the provision of Type I special access services and will result in increased discrimination by AT&T against its downstream rivals.

---

6. Sprint Comments, p. iii-iv.
7. Comments of Cbeyond Communications Grande Communications, New Edge Networks, NuVox Communications, Supra Telecom, Talk America Inc., XO Communications Inc., and Xspedius Communications, June 5, 2006 (hereafter Cbeyond Comments).
8. Cbeyond Comments, p. 65.
9. Cbeyond Comments, p. 66.
10. Cbeyond Comments, pp. 106-9
11. Petition to Deny of Time Warner Telecom (hereafter, TWTC Comments).

- Time Warner Telecom claims that the proposed transaction will harm competition in the provision of Type I services by "(1) eliminating AT&T as a significant actual competitor in certain geographic areas and as one of the two (along with Verizon) most significant potential competitors in other geographic areas and (2) eliminating BellSouth as a potential competitor in the AT&T ILEC region."[12]
- Time Warner Telecom further claims that the "ILECs can exploit their market power either by raising the price of or degrading the quality of necessary inputs needed by TWTC and other competitors to provide retail service to business customers."[13]

6. Time Warner Telecom uses special access' rate of return to argue that ILECs have market power in the provision of special access services.

- Time Warner Telecom cites a study that found that "while special access provided only a 7.4% rate of return to the ILECs in 1996, this had climbed to 37.1% in 2003."[14]

Paetec[15]

7. Paetec Communications requests the divestiture of special access services.

- Paetec claims that the merging firms shall divest "those transport facilities [...] which are necessary to reach to those central offices or wire

---

12. TWTC Comments, p. 7.
13. TWTC Comments, p. 33.
14. TWTC Comments, p. 12.
15. Comments of Paetec Communications, Inc, June 4, 2006. (hereafter Paetec Comments).

centers where AT&T is the only competitive LEC that has a direct wireline connection".[16]

Consumer Federation of America et. al.

8. Mark Cooper and Trevor Roycroft, in their declaration on behalf of the Consumer Federation of America et. al.[17] claim that rates of return calculated from the ARMIS data indicate that there is "inadequate competition" in the provision of special access services.[18]

Section III: RESPONDENTS' BROADBAND WIRELESS SERVICES CLAIMS

Clearwire[19]

9. Clearwire claims that the merged firm will "warehouse" unused spectrum.

- Clearwire claims that AT&T "will have the incentive to warehouse or otherwise use spectrum at 2.5 GHz to avoid losing business in the services that would ride on competing independent broadband platforms."[20]
- Clearwire claims that AT&T's post-transaction control of 2.5 GHz BRS spectrum in the southeast would allow AT&T to "impede competitors like Clearwire from becoming *national* providers in competition with the merged company's enhanced broadband platforms."[21]

---

16. Paetec Comments, Appendix 1, p. 3.
17. Joint Declaration of Mark N. Cooper and Trevor Roycroft on behalf of Consumer Federation of America, Consumers Union, Free Press, and USPIRG, June 5, 2006. (hereafter Cooper/Roycroft Declaration)
18. Cooper/Roycroft Declaration, pp. 42-44.
19. Clearwire Corporation Petition to Deny, or in the Alternative Condition Consent, June 5, 2006 (hereafter Clearwire Comments).
20. Clearwire Comments, p. iii.
21. Clearwire Comments, p. 8.

- Clearwire requests that the transaction be conditioned on the divestiture of the combined firm's 2.5 GHz spectrum.[22]

Consumer Federation of America et. al.

10. Mark Cooper and Trevor Roycroft, in their declaration on behalf of the Consumer Federation of America et. al., claim that the merger will reduce competition for wireless and broadband markets.

- Cooper/Roycroft Declaration claim that "[t]he control of this spectrum by a post-merger AT&T would diminish the possibility for competition both for competition in the wireless and broadband markets."[23]
- They argue that approval of the proposed transaction should be conditioned on divestiture of the firms' 2.3 WCS and 2.5 BRS spectrum, because this "would create the possibility for entry of a third, broadband platform into the market that is currently dominated by a duopoly."[24]

Cbeyond

- Cbeyond argues that the Commission should require the divestiture of BellSouth's "wireless assets, including licenses, in the 2.5Ghz band".[25]

Center for Digital Democracy[26]

- Center for Digital Democracy stressed "the importance of requiring the divestiture of Cingular, as well as all licenses that AT&T and BellSouth hold in the 2.3Ghz and 2.5 Ghz bands".[27]

---

22. Clearwire Comments, pp. 17-18.
23. Cooper/Roycroft Declaration, p. 25.
24. Cooper/Roycroft Declaration, p. 67.
25 Cbeyond Comments, pp. 109-110
26. Center for Digital Democracy Petition to Deny, June 5, 2006 (hereafter Center for Digital Democracy Comments).