

KELLEY DRYE & WARREN LLP

A LIMITED LIABILITY PARTNERSHIP

3050 K STREET, N.W.

SUITE 400

WASHINGTON, D.C. 20007

(202) 342-8400

FACSIMILE

(202) 342-8451

www.kelleydrye.com

DIRECT LINE: (202) 342-8544

EMAIL: jheitmann@kelleydrye.com

NEW YORK, NY  
TYSONS CORNER, VA  
CHICAGO, IL  
STAMFORD, CT  
PARSIPPANY, NJ  
BRUSSELS, BELGIUM  
AFFILIATE OFFICES  
MUMBAI, INDIA

July 19, 2006

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

Re: ***Ex Parte Notice: AT&T Inc. and BellSouth Corporation Applications for Approval of Transfer of Control, WC Docket No. 06-74***

Dear Ms. Dortch:

On June 20, 2006, ScanSource, Inc. ("ScanSource") filed reply comments in the above-captioned docket opposing and asking the Commission to reject the proposed merger of AT&T and BellSouth. In its opposition, ScanSource, as a major BellSouth enterprise customer and a former AT&T enterprise customer, informed the Commission that it opposes the merger of AT&T and BellSouth because it will eliminate actual and potential competition in the enterprise telecommunications marketplace. As set forth in its opposition and in the Declaration of K. Todd Graham appended thereto, ScanSource demonstrated that the result of the proposed merger will be that enterprise customers will have fewer choices, pay higher prices, and have less robust options to ensure that their business is adequately protected in the event of a disaster or other network outage.

On June 26, 2006, AT&T responded to ScanSource's opposition by stating that ScanSource's claims were "wholly unsupported". Evidently, AT&T retrieved an incomplete copy of the opposition, as the claims made by ScanSource were fully supported by the Declaration of K. Todd Graham. Mr. Graham is ScanSource's Director of Telecommunications. In that position, he is charged with securing all telecommunications services and support for ScanSource. Mr. Graham is not an economist for hire nor is he an artist that draws fiber routes over city maps (that, in any event, likely would miss the location of ScanSource and many other enterprise customers). Mr. Graham actually makes telecommunications purchasing decisions for ScanSource. In so doing, Mr. Graham deals with real facts and real challenges in securing the telecommunications services ScanSource needs to support its Fortune 1000 business. Based on his daily experience in securing vendors and services to support ScanSource's enterprise-level

Marlene Dortch, Secretary  
July 19, 2006  
Page Two

needs, Mr. Graham concludes that the proposed merger will be quite harmful to ScanSource (as it will be other enterprise customers). Notably, AT&T's does not challenge Mr. Graham's conclusion that prices will rise, if the merger is consummated. Despite AT&T's best attempts to spin, Mr. Graham's conclusion is also supported by comments made by AT&T's Chairman and CEO to investors subject to standards established by the Securities and Exchange Commission.

As Mr. Graham explained in his Declaration and in face-to-face meetings with the Department of Justice and numerous FCC offices, the proposed merger will have a real and negative impact on competition in the enterprise market – especially in the markets for local and long distance/toll-free services. ScanSource demonstrated that the list of potential bidders (carriers claiming or having current capability to serve ScanSource's enterprise-level needs near term in various geographic and product markets) actually is quite limited and that the list of potentially viable bidders (potential bidders that might actually succeed in winning a bid to provide such services) is even smaller. If the proposed merger between AT&T and BellSouth were allowed to proceed, ScanSource explained that the list of potential bidders for its enterprise-level product needs in the local market within the BellSouth operating territory will be reduced from 4 to 3 and that the list of *potentially* viable bidders will be reduced from 3 to 2. ScanSource also demonstrated that, if the proposed merger between AT&T and BellSouth were allowed to proceed, the list of potential bidders for its needs in the long distance/toll-free market would be similarly reduced.

Notably, ScanSource also informed the Commission that, contrary to AT&T's claims, the Applicants can and do compete with each other for enterprise customers like ScanSource. ScanSource explained that AT&T had indeed expressed interest in competing for ScanSource's local business within the BellSouth operating territory. And BellSouth similarly had expressed interest in competing for ScanSource's local and other telecommunications needs outside of its traditional operating territory. Since the merger announcement, ScanSource has received no similar overtures from either Applicant. AT&T's lack of response to these facts is telling.

Rather than respond, AT&T relies on tired rhetoric about "failed" SBC and BellSouth plans to compete out of region. But the rhetoric is unconvincing. The Applicants are telecommunications giants, better positioned to compete in and outside their legacy operating territories than almost anyone. Statements made by AT&T in its *ex parte* and by BellSouth in its SEC filings regarding out-of-region competition simply do not match.

AT&T's second line of attack, in which claims that ScanSource's assertions "are contradicted by its own filing", is equally unsuccessful. The primary reason why AT&T fails to succeed here is that it obviously misunderstands the facts.

Marlene Dortch, Secretary  
July 19, 2006  
Page Three

On pages 1-2 of its ex parte, AT&T states "ScanSource states that it currently uses *five* providers...for its telecommunications needs, and that each competes for all aspects of ScanSource's business." That is not accurate. One of the carriers listed provides disaster recovery services to ScanSource. Accordingly, ScanSource limits its ability to compete for other services which would render meaningless its primary role as a redundant back-up network provider. Another of the carriers listed does not bid for other services and ScanSource's limited relationship with that carrier shortly will be terminated. That leaves three carriers that aim to compete and the ability of each to put together a viable bid for various services varies significantly. With an independent BellSouth replaced by an already bloated AT&T, ScanSource is looking at two or at most three (depending on the product market) carriers capable of making a viable bid. Notably, in the key market for local services, including the mission critical products on which ScanSource's long distance/toll-free calls and data transmissions terminate, the number of companies capable of putting together a viable post-merger bid is in ScanSource's view at most two. ScanSource's experience is that competition limited to two providers produces unsatisfactory results. Thus, despite any conclusions that Commission may have made in the past regarding the enterprise market at that time, the same conclusion cannot be made at this time in the context of the current proposed merger regarding the geographic and product markets relevant to ScanSource.

AT&T also argues that because ScanSource does not currently use AT&T as a provider, the combination of AT&T and BellSouth does not diminish its current list of providers and therefore "will have no adverse impact on ScanSource whatsoever." AT&T Letter at 2. AT&T's premise is both true and irrelevant; its conclusion is flatly wrong. ScanSource does not currently use AT&T. But it has used AT&T in the past and may (perhaps not by choice) use AT&T in the future. It is the ability of independent AT&T and BellSouth entities to compete now and in the future that is relevant – and the merger will ensure that one of them is removed permanently from the list of potential service providers. As ScanSource explained in its opposition and in its meetings with the government, maintaining the participation of independent AT&T and BellSouth entities in the bidding process for local and long distance/toll-free services is critical to ensuring effective price and product competition in the enterprise space. Without effective and robust competition for its local and long distance/toll-free services, ScanSource will be facing higher prices and stagnation in innovation – to its own detriment and to the detriment of consumers (and voters) downstream. Thus, AT&T's claim that the merger "will have no adverse impact on ScanSource whatsoever" is baseless.

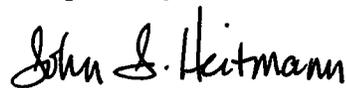
Finally, AT&T also makes too much of the inclusion of a "CLEC" and a cable company on ScanSource's list of providers. ScanSource's use of Level 3 as a service provider is limited and will soon end. To date, Level 3 has not expressed interest in nor demonstrated an ability to compete for ScanSource's local and long distance/toll free telecommunications services needs. As explained previously, ScanSource uses Charter in a limited but critical capacity. If ScanSource were to begin to rely on Charter for its primary local and long distance/toll free

Marlene Dortch, Secretary  
July 19, 2006  
Page Four

telecommunications services needs, then Charter's role in assuring continuity of service in the event of a natural or man-made disaster or other network failure would be compromised. ScanSource – and many other enterprise customers – simply cannot compromise network redundancy needed to ensure continuity of service. One choice is never enough – and two fails to result in any meaningful competition.

It is time for the Commission to say no to AT&T. Statements made in the past about robust competition were made one enormous merger ago and they cannot change the fact that the proposed merger will severely constrain competition in the market for enterprise level local and long distance/toll-free services in BellSouth's legacy operating territory. The merger promises higher prices and slower innovation. These costs, which will weigh heavily on the economy and consumers, are not outweighed by Applicants' promise to give consumers a third or fourth choice in video programming (sooner rather than later). If the Commission cannot draw the line here, ScanSource respectfully submits that the Commission should endeavor to adopt a "robust" list of conditions designed to mitigate the harms done to competition and consumers by eliminating yet another viable player in the markets for enterprise level local and long distance telecommunications services.

Respectfully submitted,



John J. Heitmann