



October 25, 2006

Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

In The Matter of Application For Consent To Transfer Of Control Filed By AT&T Inc. And Bellsouth Corporation, Proposals Submitted By AT&T Inc. and Bellsouth Corporation (Docket WB 06-74)

Dear Secretary:

AAPD resubmits Comments from the Disability Coalition in regard to this matter.

An additional disability organization signed on to the Coalition's Comments, and a typographical error was corrected.

Thank you for your acceptance and consideration.

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Before the
Federal Communications Commission
Washington, D.C. 20554

In The Matter of)
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Application For Consent To Transfer Of Control)
Filed By AT&T Inc. and Bellsouth Corporation) Docket WB 06-74
)
Proposals Submitted By AT&T Inc. and)
Bellsouth Corporation)

Comments of the Disability Coalition on the AT&T Inc./BellSouth Merger

I. Introduction

The Disability Coalition hereby submits comments and recommendations in response to the proposals submitted for the merger of AT&T Inc. and the BellSouth Corporation.¹ The Coalition consists of the American Association of People with Disabilities, American Council of the Blind, American Foundation for the Blind, California Coalition of Agencies Serving the Deaf and Hard of Hearing, Inc., Communication Service for the Deaf , Deaf and Hard of Hearing Consumer Advocacy Network, Hearing Loss Association of America, National Association of the Deaf, Telecommunications for the Deaf and Hard of Hearing, Inc., and World Institute on Disability. The Coalition’s chief interest is in maintaining and ensuring greater accessibility and usability for persons with disabilities in the services of the new provider.

II. The Merged Corporation Should be Required to Meet the Accessibility Needs of People with Disabilities

¹ The FCC recently requested comments on this merger in: “Application of Consent to Transfer of Control Filed by AT&T Inc. and BellSouth Corporation, Commission Seeks Comment on Proposals Submitted by AT&T Inc. and BellSouth Corporation,” Public Notice, WC Dkt. No. 06-74, DA 06-2035 (October 13, 2006).

The AT&T Inc./BellSouth merger is likely to result in the convergence of technologies that foster new and improved features and functions across various services. This may include television delivered by companies that were previously known as voice telephone providers, messaging services integrated across various technology platforms, enhancement and expansion of current services, and other services that are delivered using the integrated assets of the new entity. In order to ensure that these various features and functions are accessible to and usable by people with disabilities, the Disability Coalition urges the Commission to impose the following three disability-specific conditions on the merged entity:

1. Television Services

Testimony delivered in response to pending federal broadband legislation suggests that the proposed merger is likely to foster the growth of an Internet-enabled television service. The Commission should require any such IP video programming services that are delivered by the new entity to comply with the closed captioning requirements of Section 613 of the Communications Act and its implementing regulations, found at 47 C.F.R. Part 79. The Coalition specifically draws the Commission’s attention to the “closed captioning pass through requirement” found at 47 C.F.R. §79.1(c), *i.e.*, the obligation for all distributors of video programming to “deliver all programming received from the video programming owner or other origination source containing closed captioning to receiving television households with the original closed captioning data intact in a format that can be recovered and displayed.” Although these rules are presently linked to decoder standards contained at Part 15 of the agency’s rules, Congress has made plain its intent for closed captioning services to continue to be

available to consumers as new video technologies are developed.² Unfortunately, to date, it appears that most programming that originates on television with captions is exhibited *without* those captions when re-shown using Internet protocols. In addition to requiring the merged provider to pass through captions wherever these are otherwise required on the video programming that they distribute, the FCC should make any revisions to its rules that are needed to ensure the receipt and display of these captions.

2. IP-Enabled Voice Services

It is also clear that voice over Internet protocol (VoIP) services, as well as other IP-enabled services, are likely to further proliferate as a result of this merger. To ensure the accessibility of these services, the Coalition urges the Commission to require any VoIP service or other IP-enabled service that functions like a telephone service and is delivered by the new entity, to comply with the requirements of Sections 225, 251, 255, and 710 of the Communications Act. Although the Commission has already extended other social obligations to interconnected VoIP providers – including obligations to handle emergency calls, permit electronic surveillance, and contribute to the Universal Service Fund³ – it has stopped short of similarly extending its disability mandates to these (and other) providers. Extending these safeguards as part of this merger proceeding would be a first step to ensuring that the needs of persons with hearing, vision, and other

² 47 U.S.C. §330(b) states: “As new video technology is developed, the Commission shall take such action as the Commission determines appropriate to ensure that closed-captioning service continues to be available to consumers.”

³ Authority for these obligations can be found in the following FCC orders: *In the Matter of IP-Enabled Services and E911 requirements for IP Enabled Service Providers*, WC Dkt. Nos. 04-36; 05-196, FCC 05-116 (June 3, 2005); *In the Matter of Communications Assistance for Law Enforcement Act and Broadband Access and Services*, First Report and Order and Further Notice of Proposed Rulemaking, ET Dkt. No. 04-295, FCC 05-153 (September 23, 2005). This ruling also applies to facilities-based broadband Internet access providers, and was upheld by the U.S. Court of Appeals for the D.C. Circuit in June of 2006, as a “reasonable policy choice” under the Commission’s Congressionally delegated authority. *American Council on Education v. FCC*, No. 05-1404, 2006 U.S. App. LEXIS 14174 (D.C. Cir. June 9, 2006); *In the Matter of Universal Service Contribution Methodology*, Report and Order and Notice of Proposed Rulemaking, CC Dkt. No. 90-571, FCC 06-94 (June 27, 2006).

disabilities are not forgotten, left out, or otherwise overlooked as this new and emerging technology becomes increasingly necessary as a means of delivering voice services.

When VoIP services that are provided by the new entity interconnect with wireless and wireline networks, they may create technical connection problems and other barriers for customers with disabilities who have specialized needs. Experience has shown that in most cases, competitive market forces will *not* prevent these barriers from occurring.

Indeed, although there are an estimated 51 million Americans with one or more disabilities – collectively comprising a significant portion of the American marketplace – in the past, when divided by disability, it has been difficult for any one disability group to create enough pressure to influence market trends. It is for this reason that the Commission has established clear disability safeguards even where it has otherwise sought to apply a light regulatory touch to foster competition and innovation.⁴

Although currently, wireless and wireline carriers are required to comply with the requirements in Sections 225, 251, 255, and 710 of the Communications Act, these sections do not explicitly address IP-enabled voice services. As new Internet technologies change the way our nation communicates and receives information, people with disabilities will be presented with new opportunities to enhance their independence and productivity, but only if safeguards are put into place to ensure that these individuals are able to access these technologies to the same extent as people without disabilities.

⁴ For example, when the Commission dramatically reduced its oversight of telephone equipment under Part 68 in November of 2000, it maintained those provisions that created mandates for hearing aid compatibility and volume control, explaining that these were still needed to “ensure that individuals with hearing and speech disabilities have access to telecommunications services in a manner functionally equivalent to someone without such disabilities.” *In the Matter of 2000 Biennial Review of Part 68 of the Commission’s Rules and Regulations*, Report and Order, CC Dkt. No. 99-216, FCC 00-400 (November 9, 2000) at ¶66.

The Commission should require specifically the merged entity to incorporate accessibility features into its services and products as required by Section 255, to make VoIP and other IP-enabled telephone-like devices hearing aid compatible consistent with Section 710, and to ensure interconnection with and provision of telecommunications relay services (TRS) by contributing to the Interstate TRS fund, consistent with Section 225. There is every reason to ensure that the needs of persons with disabilities pass through to the new entity in its provision of IP-enabled voice service. If access features are incorporated into the company's new products and services at the development stage, the associated costs will become a mere fraction of the overall costs of production and distribution, and the resulting access will be far more effective. In addition, the costs to society of producing accessible products and services – in terms of greater employment, independence, and integration for those with disabilities – will far exceed any costs that may be associated with making these innovations accessible from the start.

3. Customer Service and Standards

The FCC should require that the companies involved in the merger maintain or raise their standards for customer service and support for people with disabilities both during and following the merger. It has been our experience that typically when companies merge, there may be significant staff turnover and turmoil within the merging entities, as customer support and technical support services in call centers and service centers are integrated. As these transitions take place, customers of the merging entities often find it difficult to resolve service or other issues. The Disability Coalition is concerned specifically about the effect that the AT&T, Inc./BellSouth transition will have

on current and potential customers with disabilities who need assistance in resolving their billing, technical or service concerns.

To prevent disruption in handling of requests by consumers with disabilities, the Coalition urges the FCC to require each of the merging companies to maintain their Section 255 points of contact, as required by 47 C.F.R. §§6.18 and 7.18, during the transition and for a period of at least 12 months *after* the effective date of the merger. To the extent that this is not possible, the FCC should require the merged company to make arrangements to enable consumers who access those points of contact to automatically be transferred to new points of contact that have been set up for the purpose of handling disability inquiries and concerns. We also urge that, to the extent new points of contact are established, the FCC direct the merged company to immediately and effectively train new individuals responsible for handling disability concerns about the company's disability obligations.

III. Conclusion

The Disability Coalition appreciates this opportunity to comment on the proposed merger of AT&T, Inc. and BellSouth. Historically these companies have done much to provide accessible and usable services to persons with disabilities. We ask the Commission to require that this legacy continue and to guarantee, as new services and technologies created by the merged company evolve, that the new company will provide accessible services that effectively address the needs of persons with disabilities

Respectfully submitted,

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