



U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

06-74

OFFICE OF THE NATIONAL OMBUDSMAN

October 20, 2006

FILED/ACCEPTED

OCT 20 2006

Federal Communications Commission
Office of the Secretary

Mr. Eric Malinen
Senior Legal Advisor
Office of Communications Business Opportunities
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Subject: Comment from Ross Buntrock, Womble Carlyle Sandridge & Rice PLLC

Dear Mr. Malinen:

The Office of the National Ombudsman received a comment from Mr. Ross Buntrock of Womble Carlyle Sandridge & Rice PLLC, regarding the request of Fones4All for Federal Communications Commission to condition the approval of the AT&T/BellSouth merger. AT&T/BellSouth merger.

The Office of the National Ombudsman was created by Congress under the Small Business Regulatory Enforcement Fairness Act (SBREFA) to receive comments from small businesses on the regulatory enforcement activities of Federal agencies.

Fones4All, a small telecommunications provider, is requesting the FCC to impose the following condition upon any merger approval:

Promoting Universal Service for Lifeline Consumers

AT&T/BellSouth in all states where the merged entity operates as an incumbent LEC shall provide a revenue-neutral wholesale UNE-P replacement product to allow requesting carriers to serve single line residential end users who are eligible for participation in the Lifeline program. This condition will ensure that the public interest benefits of the merger extend to all consumers, including low income consumers. This condition also will further the Commission's goal of increased participation in the Lifeline program from the one third of eligible households who do so today.

We recognize the importance of this issue to small business, and therefore, are referring this matter to you for review and consideration. Also, I will refer this issue to Small Business Administration's Office of Advocacy as well as Federal Communications Commission Chairman, Kevin Martin for review and a response. Attached you will find a copy of Mr. Buntrock's correspondence. I would appreciate a response to my office regarding this matter within thirty (30) days of receipt of this letter.

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FOSTERING A MORE BUSINESS FRIENDLY REGULATORY ENFORCEMENT ENVIRONMENT.

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If you have any questions or concerns, please contact my office by telephone at (202) 205-2417, fax at (202) 481-5719 or e-mail at ombudsman@sba.gov.

Mr. Malinen, thank you for your attention to this matter.

Sincerely yours,



Nicholas N. Owens
National Ombudsman

Enclosures

cc: The Honorable Kevin Martin, Chairman
Federal Communications Commission,

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Subject: FW: Fones4All Corp.: AT&T/BellSouth Merger

-----Original Message-----

From: Buntrock, Ross [mailto:RBuntrock@wcsr.com]**Sent:** Friday, October 20, 2006 4:40 PM**To:** nicholas.owens@sba.gov**Cc:** bettina@fones4all.com**Subject:** Fones4All Corp.: AT&T/BellSouth Merger

Mr. Owens,

It was a pleasure speaking with you today. As we discussed, Fones4All is asking the FCC to condition the approval of the AT&T/BellSouth merger (currently pending in docket WC 06-74 and scheduled for an FCC vote on Nov. 3, 2006). Below is some background regarding the necessity of this condition.

- Fones4All, founded in 1999, is a small competitive local exchange carrier (CLEC) based in Los Angeles that focuses on serving low income, largely minority subscribers who qualify for the government's Lifeline program, which offers highly subsidized basic telephone service to people who meet the income criteria.
- Fones4All currently provides service to approximately 85,000 end users.
- Section 254 of the Communications Act of 1934 Congress mandated that consumers in all regions of the Nation, including low income consumers, should have access to telecommunicatins and information services.
- However, the FCC's latest subscribership data show that the percentage of householed that subscribe to telephone service hit its lowest point in over 15 years in 2005, even taking into account substitution of wireless and VoIP services.
- In addition, only 1/3 of the people eligible to participate in the government's Lifeline Universal Service program are actually enrolled because they are not aware of the program's existence.
- With the consolidation of the telecommunications industry and changes in the FCC's rules regarding competitor access to the network elements of incumbents the ability of small telephone companies to provide service to low income residential subscribers has been almost eliminated.
- Without access to the network of the incumbents, small businesses such as Fones4All will be precluded from offering a competitive telecommunications choice to low income consumers because it is not economically feasible for Fones4All to build its own network to serve those customers.
- Therefore, Fones4All is asking the the FCC to impose the following condition upon any merger approval:

Promoting Universal Service for Lifeline Consumers

AT&T/BellSouth in all states where the merged entity operates as an incumbent LEC shall provide a revenue-neutral wholesale UNE-P replacement product to allow requesting carriers to serve single line residential end users who are eligible for participation in the Lifeline program. This condition will ensure that the public interest benefits of the merger extend to all consumers, including low income consumers. This condition also will further the Commission's goal of increased participation in the Lifeline program from the one third of eligible households who do so today.

If you have any questions or need any additional information please contact me at (202) 669-0495 or Bettina Cardona at (818) 615-0100 ext 101.

Regards,

Ross Buntrock

Womble Carlyle Sandridge & Rice PLLC

1401 Eye Street NW

Washington, DC 20005

DID: 202.857.4479

10/20/2006

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10/20/2006