



# American Council of the Blind

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**Comments on behalf of  
The American Council of the Blind  
Submitted to the  
Federal Communications Commission  
Regarding:  
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 WC 06-74)**

Submitted by  
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October 31, 2006

Marlene Dortch  
Secretary  
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*The American Council of the Blind (ACB) is the leading national organization of and for people who are blind and visually impaired. ACB consists of tens of thousands of members and more than 70 affiliates across the United States. ACB is dedicated to improving the quality of life, equality of opportunity and independence of all people who have visual impairments. Its members and affiliated*

*organizations have a long history of commitment to the advancement of policies and programs which will enhance communications accessibility for all individuals who are blind and visually impaired.*

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The American Council of the Blind (ACB) would like to file a Late Comment into the Docket in response to the proposals for submitted for the merger of AT&T Inc. and the BellSouth Corporation<sup>1</sup> and apologizes for the delay in filing this. We would like to thank the Commission for its efforts to address the many concerns of people with visual impairments from across the nation as related to this matter and we are confident that with input from people with disabilities and organizations that represent people with disabilities, the Commission will have the information necessary to provide a response that will help facilitate the proposed merger of AT&T Inc. and the BellSouth Corporation and provide for the equality of access and opportunity for people with disabilities.

As a part of our comments, ACB would like to express our support for those statements made by other Disability Coalition members such as the American Association of People with Disabilities (AAPD) and Communication Service for the Deaf (CSD).

### **The Merged Corporation Should be Required to Meet the Accessibility Needs of People with Disabilities**

As has been stated by others, the AT&T Inc./BellSouth merger is perhaps one of the largest telecommunications mergers in history. This convergence would create a company that would have tremendous influence in all arenas of wireline, wireless and broadband communications and is likely to result in the convergence of technologies that result in 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. Considering the integral role that these services already play in our society, and considering the potential growth of these services in the future, it is imperative that these various features and functions are accessible to and usable by people with disabilities.

To again reiterate the statements of the Disability Coalition, ACB urges that the Commission impose the following four disability-specific requirements on the merged entity:

#### **1. Access to Television Services**

No one questions the central role that television and television programming plays in American society, but the delivery mechanisms available today vary significantly from the past, and keeping in mind the vast resources that would be available, the merger proposal is likely to foster the growth of an already much prophesized, and eagerly awaited Internet-enabled television service. The Commission should require any such IP video programming services that are delivered by the new entity to mass audiences 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.

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<sup>1</sup> 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).

Of particular interest is 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, Congress has made plain its intent for closed captioning services to continue to be available to consumers as new video technologies are developed.<sup>2</sup> Unfortunately, to date, it appears that most programming that originated on television with captions is re-shown 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 any make revisions to its rules that are needed to ensure the receipt and display of these captions.

The issue of access to television however, goes beyond closed captioning alone, but also includes the ancillary audio services that analog and digital video distributors are providing for people who are blind or visually impaired. These additional audio services, generally known as video description or descriptive video, are delivered to broadcast, cable and satellite TV consumers via the Secondary Audio Program (SAP) channel service or via a separate audio feed. When delivering video services to its clients, AT&T's new video service should assure ready availability of these audio services via a simple-to-use and accessible interface.

## **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 proliferate as a result of this merger. To ensure the accessibility of these already rapidly growing services, we ask the Commission to require that any VoIP service or other IP-enabled service that serves as a substitute for telephone service that is delivered by the new entity 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 Fund,<sup>3</sup> it has stopped short of similarly extending its disability mandates to these providers. Extending these safeguards as part of this merger proceeding would be a first step to ensuring that the needs of persons with hearing and vision and other disabilities excluded as this new and emerging technology becomes increasingly necessary as a means of delivering voice services. Additionally, 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.

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<sup>2</sup> 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.”

<sup>3</sup> 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).

Although currently, existing 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. The merged entity should specifically be required to incorporate accessibility features into their 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 the provision of telecommunications relay services (TRS) by contributing to the Interstate TRS fund, consistent with Section 225.

If access features are put into place while the company's new products and services are being designed, the associated costs will become a mere fraction of the overall costs of producing these for the general public, 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 – 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 the period of the merger and following completion of the merger. It has been our experience that typically when companies merge, there is significant staff turnover and turmoil within the merging entities, as back office and support services are integrated. As the transition takes place, customers of the merging entities often find it difficult to get their needs met. ACB is specifically concerned about the effect that this transition will have on current and potential customers with disabilities needing assistance in resolving billing, technical or service concerns.

To prevent a major disruption to the handling of requests by consumers with disabilities, we urge 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 Part 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, we urge that the merged company be required 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.

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Experience has shown that in most cases, competitive market forces alone will not adequately address the needs of people with disabilities. 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 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.<sup>4</sup>

Historically, both AT&T Inc. and BellSouth have done much to provide accessible and useable services to people not only who are blind and visually impaired, but with any disability. ACB asks the Commission to require that this legacy continue and to guarantee, as new services and technologies created and supported by the merged company evolve, that the new company will provide accessible services that effectively address the future needs of people who are blind and visually impaired, and indeed, all persons with disabilities.

Thank you for your time and consideration.

Respectfully Submitted,

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<sup>4</sup> 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 ¶166.