

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Applications of AT&T Inc. and)	MB Docket No. 14-90
DIRECTV to Transfer Control of)	
FCC Licenses and Other Authorizations)	
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**Comments of
Communications Workers of America**

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I. INTRODUCTION AND EXECUTIVE SUMMARY

The Communications Workers of America (“CWA”) submits these comments in support of the proposed merger between AT&T Inc. (“AT&T”) and DIRECTV (collectively, the “Applicants”).¹ CWA is a labor organization, representing 700,000 workers in communications, media, airlines, manufacturing and public service. CWA represents 110,000 employees at AT&T in its wireline, broadband, and wireless lines of business. The proposed transaction impacts CWA members as workers and as consumers.

The proposed AT&T/DIRECTV combination provides substantial public interest benefits for consumers, workers, and the U.S. economy. *First*, the proposed AT&T/DIRECTV merger will provide a stronger competitor in the video and broadband markets, giving consumers an alternative to the dominant cable company, creating pressure to constrain prices and improve service. *Second*, the AT&T/DIRECTV transaction will improve the economics of broadband expansion, increasing AT&T’s investment in truly high-speed broadband to more communities. High-capacity broadband is essential to the economic, social, and civic health of our nation, yet, as Chairman Wheeler recently acknowledged, too few communities have meaningful choice for truly high-capacity broadband and all too many rural areas are being left behind. As a more formidable video and broadband competitor, a merged AT&T/DIRECTV will have the economic incentives to make greater investment in high-speed digital networks. *Third*, the proposed AT&T/DIRECTV merger will expand high-road labor standards and good, career jobs for employees. AT&T has the largest full-time union labor force of any company in the United

¹ FCC Public Notice, Commission Seeks Comment on Applications of AT&T Inc. and DIRECTV to Transfer Control of FCC Licenses and Other Authorizations, MB Docket No. 14-90, Aug. 7, 2014.

States. It respects the collective bargaining process. And, as guaranteed by CWA's collective bargaining agreements with AT&T, AT&T's labor relations that support collective bargaining will extend to DIRECTV's non-management workforce after the transaction. *Fourth*, AT&T has made voluntary commitments to abide by the Commission's open Internet rules, expand high-speed broadband, and offer standalone retail video and broadband services for the next three years, commitments that we are confident the Commission will secure as part of its regulatory review.

In addition, the AT&T/DIRECTV merger poses few, if any, anti-trust concerns. AT&T and DIRECTV primarily serve different market segments. AT&T is largely a broadband and wireless carrier, whereas DIRECTV is a satellite video provider. AT&T is a new entrant in the video market, serving 5.8 million customers. DIRECTV's 20 million satellite video customers are dispersed throughout the nation. In local markets, DIRECTV competes against the dominant incumbent cable operators who offer bundled video/broadband packages. DIRECTV does not provide wireless or broadband services over its own network.

In light of these substantial public interest benefits, CWA urges the Commission to move forward expeditiously to approve the proposed transaction and to affirm the Applicants' public interest commitments.

II. STANDARD OF REVIEW AND PUBLIC INTEREST FRAMEWORK

Pursuant to sections 214(a) and 310(d) of the Communications Act, the Commission must determine whether the Applicants have demonstrated that the proposed transfer of control of DIRECTV's licenses and authorizations to AT&T will serve the public interest, convenience,

and necessity.² The public interest standards of sections 214(a) and 310(d) involve a balancing process that weighs the potential public interest harms of the proposed transaction against the potential public interest benefits.³ The Commission's public interest evaluation encompasses the

² 47 U.S.C. §§ 214(a), 310(d).

³ See, e.g. *Applications Filed for the Transfer of Control of Embarq Corporation to CenturyTel, Inc.*, Memorandum Opinion and Order, WC Docket No. 08-238, June 25, 2009 (rel) (“*CenturyTel/Embarq Order*”); *Applications Filed by Frontier Communications Corporation and Verizon Communications Inc. for Assignment or Transfer of Control*, Memorandum Opinion and Order, WC Docket No.09-95, May 21, 2010 (rel) (“*Verizon/Frontier Order*”); *AT&T Inc. and BellSouth Corporation Application for Transfer of Control*, WC Docket No. 06-74, Memorandum Opinion and Order, March 26, 2007, para.19 (March 26, 2007 rel)(“*AT&T/BellSouth Order*”); *SBC Communications, Inc. and AT&T Corp. Applications for Approval of Transfer of Control*, WC Docket No. 05-65, Memorandum Opinion and Order, 20 FCC Rcd 18300, para 16 (2005) (“*SBC/AT&T Order*”), *Verizon Communications, Inc. and MCI, Inc. Applications for Approval of Transfer of Control*, WC Docket No. 05-75, Memorandum Opinion and Order, 20 FCC Rcd 18443, para. 16 (2005) (“*Verizon/MCI Order*”), *Applications of AT&T Wireless Services, Inc. and Cingular Wireless Corporation For Consent to Transfer Control of Licenses and Authorizations*, WT Docket 04-70, *Memorandum Opinion and Order*, para. 40, Oct. 26, 2004 (rel) (“*Cingular-AT&T Order*”); *Applications for Consent to the Assignment of Licenses Pursuant to Section 310(d) of the Communications Act from NextWave Personal Communications, Inc., Debtor-in-Possession, and NextWave Power Partners, Inc., Debtor-in Possession, to Subsidiaries of Cingular Wireless LLC*, WT Docket 03-217, *Memorandum Opinion and Order*, 19 FCC Rcd. At 2580-81 para. 24 (2004) (“*Cingular-NextWave Order*”); *General Motors Corporation and Hughes Electronics Corporation, Transferors, and The News Corporation Limited, Transferee*, MB Docket No. 03-124, *Memorandum Opinion and Order*, 19 FCC Rcd. at 483 para. 15 (2004) (“*GM-News Corp. Order*”); *WorldCom, Inc. and Its Subsidiaries (Debtors-in-Possession), Transferor, and MCI, Inc., Transferee*, WC Docket No. 02-215, *Memorandum Opinion and Order*, 18 FCC Rcd. 26,484, 26,492 para. 12 (2003) (“*WorldCom-MCI Order*”); *Applications for Consent to the Transfer of Control of Licenses from Comcast Corporation and AT&T Corp., Transferors, to AT&T Comcast Corporation, Transferee*, MB Docket No.02-70, *Memorandum Opinion and Order*, 17 FCC Rcd. 23,246, 23,255 para. 26 (2002) (“*AT&T-Comcast Order*”); *Application of EchoStar Communications Corporation (A Nevada Corporation), General Motors Corporation, and Hughes Electronics Corporation (Transferors) and EchoStar Communications Corporation (A Delaware Corporation) (Transferee)*, CS Docket No. 01-348, *Hearing Designation Order*, 17 FCC Rcd. at 20,574 para. 25 (2002) (“*EchoStar-DirecTV HDO*”); *VoiceStream Wireless Corporation, PowerTel, Inc., Transferors, and Deutsche Telekom AG, Transferee*, IB Docket No. 00-187, *Memorandum Opinion and Order*, 16 FCC Rcd. 9779, 9789 para. 17 (2001) (“*Deutsche Telekom-VoiceStream Order*”); *GTE Corporation, Transferor, and Bell Atlantic Corporation, Transferee*, CC Docket No. 98-184, *Memorandum Opinion and Order*, 15 FCC Rcd. at 14,045, 14,046 paras. 20, 22 (2002) (“*Bell Atlantic-GTE Order*”); *Applications of VoiceStream Wireless Corporation or Omnipoint Corporation, Transferors, and VoiceStream Wireless Holding Company, Cook Inlet/VS GSM II PCS, LLC, or Cook Inlet/VS GSM III PCS, LLC, Transferees*, *Memorandum Opinion and Order*, 15 FCC Rcd. 3347 para. 12 (2000) (“*VoiceStream-Omnipoint Order*”); *AT&T Corp., British Telecommunications, PLC, VLT Co. L.L.C, Violet License Co. LLC, and TNV [Bahamas] Limited Applications*, IB Docket No. 98-212, *Memorandum Opinion and Order*, 14 FCC Rcd. at 19,150 para. 20 (1999) (“*AT&T Corp.-British Telecom. Order*”); *Application of WorldCom, Inc. and MCI Communications Corporation for Transfer of Control of MCI Communications Corporation to WorldCom, Inc.*, CC Docket No. 97-211, *Memorandum Opinion and Order*, 13 FCC Rcd. At 18,031 para. 10 (1998) (“*WorldCom-MCI Order*”); *Applications to Assign Wireless Licenses from WorldCom Inc. (Debtor-in-Possession) to Nextel Spectrum Acquisition Corp.*, WT Docket No. 03-203, *Memorandum Opinion and Order*, 19 FCC Rcd. at 6241-42 para. 23 (WTB, MB 2004) (“*Nextel-WorldCom Order*”); *Applications of SBC Communications Inc. and BellSouth Corporation*, WT Docket No. 00-81, *Memorandum Opinion and Order*, 15 FCC Rcd. at 25,464, 25,467 paras. 13, 18 (WTB, IB 2000) (“*SBC-BellSouth*

“broad aims of the Communications Act”⁴ which include, among other things, the preservation and advancement of universal service, the accelerated deployment of advanced services, and whether the merger will affect the quality of communication services.⁵

The impact of a merger on U.S. employment is part of the FCC’s public interest analysis.⁶ Indeed, the FCC has repeatedly confirmed that commitments to grow jobs in the U.S. represent a public interest benefit to be taken into account in the review of proposed mergers.⁷ The FCC

Order”); Vodafone AirTouch, PLC, and Bell Atlantic Corporation, *Memorandum Opinion and Order*, 15 FCC Rcd. 16,512, 16,517 paras. 13, 25 (WTB, IB 2000) (“*Bell Atlantic-Vodafone Order*”).

⁴ See *Cingular-AT&T Order*, at para. 41; *GM-News Corp. Order*, 19 FCC Rcd. at 483 para. 16; *AT&T-Comcast Order*, 17 FCC Rcd. at 23,255 para. 27; *EchoStar-DirecTV HDO*, 17 FCC Rcd. at 20,575 para. 26; Applications for Consent to the Transfer of Control of Licenses and Section 214 Authorizations from MediaOne Group, Inc., Transferor, to AT&T Corp., Transferee, CS Docket No. 99-251, *Memorandum Opinion and Order*, 15 FCC Rcd. 9816, 9821 para. 11 (2000) (“*AT&T-MediaOne Order*”); *VoiceStream-Omnipoint Order*, 15 FCC Rcd. at 3346-47 para. 11; *AT&T Corp.-British Telecom. Order*, 14 FCC Rcd. at 19,146 para. 14; *WorldCom-MCI Order*, 13 FCC Rcd. at 18,030 para. 9.

⁵ See *AT&T/BellSouth Order*, para. 20; *SBC/AT&T Order*, 20 FCC Rcd at 18301, para. 17; *Verizon/MCI Order*, 20 FCC Rcd at 18443-44, para. 17; *Cingular-AT&T Order*, at 19 FCC Rcd at 21544, para. 41; *AT&T-Comcast Order*, 17 FCC Rcd. at 23,255 para. 27; *AT&T-MediaOne Order*, 15 FCC Rcd. at 9821-22 para. 11; *WorldCom-MCI Order*, 13 FCC Rcd. at 18,031 para. 9.

⁶ See, e.g., *Applications of AT&T and Deutsche Telekom AG*, WT Docket No. 11-65, Order and Staff Analysis and Findings, 26 FCC Rcd 16184, 16293, ¶ 259 (2011) (“AT&T/T-Mobile Staff Analysis and Findings”) (“As part of its public interest analysis, the Commission historically has considered employment-related issues such as job creation . . .”); *Applications of Comcast Corporation, General Electric Company, and NBC Universal, Inc. for Consent to Assign Licenses and Transfer Control of Licenses*, MB Docket No. 10-56, Memorandum Opinion and Order, 26 FCC Rcd 4238, 4330, ¶ 224 (2011) (“We also note the Applicants’ representations that additional investment and innovation that will result from the transaction will in turn promote job creation and preservation.”); *Applications of Nextel Communications, Inc. and Sprint Corporation for Consent to Transfer Control of Licenses and Authorizations*, WT Docket No. 05-63, Memorandum Opinion and Order, 20 FCC Rcd 13967, 14029-30, ¶¶ 168-69 (2005) (“Sprint/Nextel Order”) (considering job growth claims as part of FCC analysis); *Applications of Puerto Rico Telephone Authority and GTE Holdings (Puerto Rico) LLC for Consent to Transfer Control of Licenses and Authorization*, File No. 03373-03384-CL-TC-98, Memorandum Opinion and Order, 14 FCC Rcd 3122, 3148, ¶¶ 57-58 (1999) (finding that GTE’s pledge not to make any involuntary terminations, except for cause, of PRTC workers employed as of a certain date would benefit the public interest); *Applications of Deutsche Telekom AG, T-Mobile USA Inc., and MetroPCS Inc. for Consent to Transfer Control of Licenses and Authorizations*, WT Docket No. 12-310, Memorandum Opinion and Order at para. 80, March 12, 2013 (rel) (considering T-Mobile’s job claims as part of FCC analysis).

⁷ See, e.g., *AT&T Inc. and BellSouth Corporation Application for Transfer of Control*, WC Docket No. 06-74, Memorandum and Opinion and Order, 22 FCC Rcd 5662, Appendix F (2007) (“AT&T/BellSouth Order”) (finding that a commitment to provide high quality employment opportunities in the U.S. by repatriating jobs previously

also has considered a merger's impact on service quality as part of its public interest analysis, finding that job cuts resulting in reductions in service quality are not in the public interest.⁸

In this instant proceeding, the Applicants have demonstrated that the proposed merger will result in substantial public interest benefits by advancing the deployment of advanced services, strengthening competition in the video and broadband markets, and promoting collective bargaining.

III. THE AT&T/DIRECTV MERGER WILL PROVIDE A STRONGER COMPETITOR TO DOMINANT CABLE IN THE VIDEO AND BROADBAND MARKETS

A combined AT&T/DIRECTV will be a stronger competitor to dominant cable in the video and broadband markets. As the Commission has recognized, consumers increasingly purchase their video and broadband as a bundled package.⁹ A full 78 percent of basic subscribers of the six largest cable operators take at least a double-play of services, predominantly video and broadband.¹⁰ AT&T states that more than 97 percent of its U-Verse video customers subscribe to

outsourced outside the U.S. would serve the public interest).

⁸ See AT&T/T-Mobile Staff Analysis and Findings at ¶ 231 (lowering the number of representatives per customer and reducing the level of service that customers would experience “are, of course, not a public benefit . . .”); *Applications of Ameritech Corp. and SBC Communications, Inc. for Consent to Transfer Control of Corporations Holding Commission Licenses and Lines*, CC Docket No. 98-141, Memorandum and Order, 14 FCC Rcd 14712, 14947, ¶ 567(1999) (“Ameritech/SBC Order”) (“Evidence in the record reveals that SBC has increased its commitments to improving service quality by hiring more employees . . .”).

⁹ FCC, *Fifteenth Video Competition Report*, MB Docket No. 12-203, para 93 (“The major cable and telephone MVPDs [multi-channel video programming distributors] focus their marketing on bundles. Their emphasis usually is that bundles offer better prices for consumers, relative to individual offerings.”); *Review of the Commission’s Program Access Rules and Examination of Programming Tying Arrangements*, First Report and Order, 25 FCC Rcd 765 para 29 n.106 (2010) (there is a “shift from competition between standalone services to that between service bundles.”) (“2010 Program Access Order”).

¹⁰ Tony Lenoir, “Cable’s Triple-Play Penetration of Basic Video Subs Doubled in the last 5 Years”, SNL Kagan, Sept. 12, 2013 (citation in *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, MB Docket No. 14-16, Comments of DIRECTV, LLC at 21-22, March 21, 2014).

more than one service and that it has only 138,000 stand-alone video customers, representing only two percent of its video customers.¹¹ The Commission has also recognized that “broadband deployment and entry into the MVPD (multi-channel video programming distributor) business are ‘inextricably linked.’”¹² The revenue stream from video is an important component of the return on investment that justifies deployment of high-speed broadband infrastructure.¹³ Most significantly, the ability to compete with a video service is inextricably linked to scale.¹⁴ Larger video providers are able to negotiate volume discounts with programmers. AT&T estimates that programming represents about 60 percent of its video subscriber revenues, and the ability to leverage scale economies to negotiate lower programming fees will significantly improve the return on investment in high-speed digital networks.¹⁵

AT&T and DIRECTV each face challenges competing against cable’s video/broadband bundle.¹⁶ DIRECTV, as a satellite provider, does not have a broadband product of its own, and

¹¹ See *Applications of AT&T Inc. and DIRECTV for Consent to Assign or Transfer Control of Licenses and Authorizations*, MB Docket No. 14-90, June 11, 2014, p. 47 (“AT&T/DIRECTV Application”) and Declaration of Lori M. Lee, Senior Executive Vice President – Home Solutions, AT&T, Inc., pp.5-6 (“Lee Declaration”) (stating that “...more than 97 percent of U-verse *video* subscribers purchase video as part of a bundle...In contrast, we have only 138,000 standalone video customers. Approximately 66 percent of our U-Verse video subscribers take bundles of three or four services...”).

¹² *Exclusive Service Contracts for Provision of Video Services in Multiple Dwelling Units and Other Real Estate Developments*, Report and Order and Further Notice of Proposed Rulemaking, 22 FCD Rcd 20, 235 para 20, 2007 (“MDU Order”).

¹³ 2010 Program Access Order, 746, 722 at para 36 (“The Commission has previously concluded that a wireline firm’s decision to deploy broadband is linked to its ability to offer video.”)

¹⁴ *Fifteenth Video Competition Report*, p.34 (citing SNL Kagan report stating “compared to the smaller and mid-sized MSOs, Comcast, Time Warner Cable, and Charter can better leverage their scale in programming cost negotiations.” See SNL Kagan, “Cable TV and Investor: Deals & Finance,” July 31, 2013, pp 12-13.)

¹⁵ AT&T/DIRECT TV Application, p. 22; Lee Declaration, para 18.

¹⁶ See Press Release, J.D. Power & Associates, 2013 Digital Lifestyle Study, Aug. 21, 2013 (available at

according to its own statements, sale of its “synthetic” bundle combining DIRECTV’s video service with another company’s broadband service, has not met with significant success in the market.¹⁷ AT&T, with only 5.8 million video customers,¹⁸ lacks the scale to negotiate prices for programming that are competitive with the larger cable companies, especially Comcast and Time Warner.

A combined AT&T/DIRECTV, with a customer base more than four times the size of AT&T’s subscriber base today, will have the scale to negotiate lower, competitive prices for video programming.¹⁹ AT&T anticipates that this greater scale will allow the merged entity to save 20 percent per-subscriber on content costs compared to what AT&T pays today as a stand-alone company.²⁰ With lower outlays for programming and the ability to offer DIRECTV’s video subscribers a video/broadband bundle provided by one company, a merged AT&T/DIRECTV will be a more formidable competitor to the dominant, incumbent cable provider, with the potential to benefit consumers with lower prices and service improvements.²¹

<http://www.jdpower.com/press-releases/2013-digital-lifestyle-study>).

¹⁷ AT&T/DIRECTV Application, pp. 26-27; Declaration of Paul Guyardo, Executive Vice President and Chief Revenue and Marketing officer, DIRECTV, pp. 20-21, 38. *See also* Comments of DIRECTV, *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, MB Docket No. 14-16, March 21, 2014, p. 25 (“*Sixteenth Video Competition Report*”).

¹⁸ AT&T’s most recent SEC Form 10-Q lists 5.8 million U-Verse video subscribers as of June 30, 2014. *See* AT&T SEC Form 10-Q filed Aug. 1, 2014 for the period ending June 30, 2014. AT&T’s Application lists 5.7 million U-Verse video subscribers as of the date the application was filed on Jun 11, 2014. *See Applications of AT&T Inc. and DIRECTV for Consent to Assign or Transfer Control of Licenses and Authorizations*, MB Docket No. 14-90, June 11, 2014, p. 2 (“AT&T/DIRECTV Application”).

¹⁹ AT&T has 5.8 million video subscribers and DIRECTV has 20 million video subscribers in the United States for a combined video subscriber base of 25.8 million. AT&T SEC Form 10-U, Aug. 1, 2014 and AT&T/DIRECTV Application, p. 13.

²⁰ AT&T/DIRECTV Application, p.36; Declaration of Rick L. Moore, Senior Vice President, AT&T Inc., p. 16.

²¹ *See* Testimony of Larry Downes Georgetown University, Center for Business and Public Policy, Hearing on “The

Cable companies dominate the video and video/broadband market. Cable companies have 72 percent of high-speed broadband subscribers at speeds greater than 10 Mbps downstream²² and approximately 57 percent of MVPD video subscribers.²³ With little competitive price pressure, cable prices continue to skyrocket. According to the Commission's most recent *Report on Cable Prices*, basic cable prices increased by 6.5 percent and expanded cable prices increased 5.1 percent for the 12 month period ending January 1, 2013, more than three times the rate of general inflation for the same period.²⁴ However, the *Report on Cable Prices* found that one group of video providers' did not experience the same escalating cable rate trajectory: that is, the "wireline rivals of incumbents," which includes AT&T's U-Verse and Verizon's FiOS. While basic cable TV bills rose at an overall average rate of 6.5 percent, the rate increase for these wireline competitors rose only one percentage point. Moreover, price per-channel at wireline competitors actually dropped 8.3 percent.²⁵

AT&T/DIRECTV Merger: Impact on Competition in the Video Marketplace and Beyond," Before the U.S. Senate, Subcommittee of Anti-Trust, Competition, and Consumer Rights, June 24, 2014, p.11 ("With a native broadband offering, DIRECTV will remain a viable competitor, enforcing market discipline on cable-based, satellite, and other MVPDs. With a greatly expanded customer base, AT&T will be able to negotiate more equally with programming providers and spread the programming costs of its U-Verse offering over a larger base. The result should be more competitive pressure, both within the supply chain and in the market as a whole.").

²² Petition to Deny of Free Press, *In the Matter of Applications of Comcast, Corp. and Time Warner Cable, Inc. for Consent to Assign or Transfer Control of Licenses and Authorizations*, MB Docket No. 14-57, Aug. 25, 2014, Figure 1, p.18. The Free Press analysis is based on company reports, FCC High Speed Internet reports, and data collected by SNL Kagan. Figures reflect market shares as of June 30, 2014 and include residential and business lines, but exclude mobile wireless, fixed wireless, and satellite connections.

²³ *Fifteenth Video Competition Report*, Table 7, p.61.

²⁴ The general rate of inflation (CPI) for the same period was 1.6 percent. See U.S. Bureau of Labor Statistics, "Consumer Price Index – January 2013," Feb. 21, 2013 (available at http://www.bls.gov/news.release/archives/cpi_02212013.pdf).

²⁵ FCC, *Report on Cable Industry Prices*, MM Docket No. 92-266, May 16, 2014 (rel).

By creating a more formidable video and broadband competitor to the dominant cable companies, the proposed AT&T/DIRECTV merger will benefit consumers by exerting pressure to constrain rate increases and offer new and better services.

IV. THE AT&T/DIRECTV MERGER WILL IMPROVE THE ECONOMICS OF BROADBAND EXPANSION

High-speed broadband is the critical infrastructure of the 21st century. Residential consumers, businesses, and community institutions depend upon truly high-capacity Internet for economic development, job creation, improvements in education, health care, environmental protection, public safety, and civic participation.²⁶ Yet, too many Americans lack access to high-speed broadband. And as FCC Chairman Tom Wheeler recently lamented, for most Americans “meaningful competition for high-speed wired broadband is lacking and Americans need more competitive choices for faster and better Internet connections, both to take advantage of today’s new services, and to incentivize the development of tomorrow’s innovations.”²⁷ The facts tell the story:

- Broadband Gaps in Rural America: 22 percent of households lack access to broadband at today’s definitional 4 Mbps downstream/1 Mbps upstream (“4/1 Mbps) speed, and two-thirds (67 percent) lack access to broadband at the Commission’s proposed 10 Mbps downstream/1 Mbps upstream speeds (“10/1 Mbps”).²⁸

²⁶ Federal Communications Commission, *Connecting America: The National Broadband Plan*, 2010.

²⁷ See Prepared Remarks of FCC Chairman Tom Wheeler, “The Facts and Future of Broadband Competition,” Sept. 4, 2014 (available at http://transition.fcc.gov/Daily_Releases/Daily_Business/2014/db0904/DOC-329161A1.pdf) (“Wheeler Broadband Competition Speech”); “See also Prepared Remarks of Chairman Tom Wheeler, Silicon Flatirons Conference, Feb. 10, 2014 (available at https://apps.fcc.gov/edocs_public/attachmatch/DOC-325531A1.pdf).

²⁸ Federal Communications Commission, *Tenth Broadband Progress Notice of Inquiry*, In the Matter of Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act, GN Docket No. 14-126, Aug. 5, 2014 (rel), para 40 (“Tenth Broadband NOI”).

- Lack of High-Speed Broadband Choice across Urban, Suburban, and Rural America: 39 percent of Americans have only one choice for a broadband provider that offers 10/1 Mbps speed, and only one-quarter (25 percent) have more than one choice for a broadband provider that offers 25 Mbps download speed.²⁹

Cable companies dominate the high-speed broadband market. Cable MSOs have 72 percent of broadband subscribers at 10 Mbps or greater speeds, 83 percent at 25 Mbps or greater speeds, and 86 percent at 50 Mbps or greater speeds. The only meaningful competition to the cable MSOs' broadband at greater than 10 Mbps downstream speed comes from Verizon's FiOS all-fiber service (9 percent of subscribers), AT&T's U-Verse fiber-to-the-node service (11 percent of subscribers) or CenturyLink VDSL (4 percent of subscribers).³⁰ In places in which AT&T has deployed and is marketing its U-Verse service, AT&T competes successfully with the incumbent cable company, having achieved 38.5 percent Internet and 20 percent video penetration rates.³¹

As we already discussed, video is the major driver of broadband expansion, producing the revenue stream to support investment in higher-speed networks. As a more formidable video

²⁹ Wheeler Broadband Competition Speech, Sept. 4, 2014.

³⁰ See Petition to Deny of Free Press, In the Matter of Applications of Comcast, Corp. and Time Warner Cable, Inc. for Consent to Assign or Transfer Control of Licenses and Authorizations, MB Docket No. 14-57, Aug. 25, 2014, Figure 1, p.18. The Free Press analysis is based on company reports, FCC High Speed Internet reports, and data collected by SNL Kagan. Figures reflect market shares as of June 30, 2014 and include residential and business lines, but exclude mobile wireless, fixed wireless, and satellite connections.

³¹ AT&T SEC Form 10-K for the year ending Dec. 31, 2013 filed Feb. 21, 2014. As of Dec. 31, 2013, AT&T was marketing U-Verse in 27 million customer locations, with 10.7 million U-Verse high-speed Internet and video subscribers and 5.5 million video subscribers. (Note that elsewhere in these comments we cite the updated number of U-Verse video provided in AT&T's most recent SEC Form 10-Q of 5.8 million subscribers as of June 30, 2013.) Verizon's FiOS is also successfully competing with cable MSOs' broadband offerings, with 40 percent FiOS Internet and 35 percent FiOS video penetration. Verizon SEC Form 10-Q for the period ending June 30, 2014 filed July 29, 2014.

competitor, a merged AT&T/DIRECTV will have the economic incentives to increase investment in the high-capacity broadband networks that are so essential to drive economic growth, jobs, and the social benefits enabled by high-speed digital networks.³²

Two years ago, AT&T announced plans to expand U-Verse deployment to 57 million customer locations, or 75 percent of all customer locations in its 21 state wireline service area.³³ Of these 57 million customer locations, AT&T plans to deploy its fiber-to-the-node (FTTN) or fiber-to-the-premise (FTTP) U-Verse network to 33 million customer locations at speeds up to 45 Mbps and to deliver its IPDSLAM at speeds up to 18 Mbps to approximately 24 million customer locations.³⁴

In April of this year, AT&T announced plans to build all-fiber Gigapower networks in up to 21 major metropolitan areas.³⁵ Since that date, AT&T has made almost weekly announcements of new cities where it plans or is beginning Gigapower deployments, including Miami FL, Jacksonville FL, Dallas-Fort Worth, TX, San Antonio TX, Austin TX, Nashville TN, Raleigh-

³² See Opening Statement of Chair Amy Klobuchar, Senate Judiciary Subcommittee on Antitrust, Competition Policy and Consumer Rights, Hearing on “The AT&T/DirecTV Merger: The Impact on Competition and Consumers in the Video Market and Beyond,” June 24, 2014 (“The scale of DirecTV gives AT&T the profit margins to expand broadband.”)

³³ Upon approval of the proposed sale of AT&T’s properties in Connecticut, AT&T will provide local wireline service in 21 states (OH, MI, WI, IL, IN, TX, ARK, MO, OK, KS, CA, NV, NC, SC, TN, KY, GA, FL, MS, AL, LA). See In the Matter of AT&T, Inc. and Frontier Communications Corp. Applications for Consent to Transfer of Control of Domestic and International Authorizations Pursuant to Section 214 of the Communications Act of 1934, As Amended, and Associated Wireless Licenses, WC Docket No. 14-22, Jan. 31, 2014.

³⁴ AT&T/DIRECTV Application, pp. 10-12 and AT&T Press Release, “AT&T to Invest \$14 Billion to Significantly Expand Wireless and Wireline Broadband networks, Support Future IP Data Growth and New Services,” Nov. 7, 2012.

³⁵ AT&T/DIRECTV Application, pp. 11-12 and AT&T Press Release, “AT&T Eyes 100 U.S. Cities and Municipalities for its Ultra-Fast Fiber Network,” April 21, 2014. The list of 21 candidate metropolitan areas include: Atlanta, Augusta, Charlotte, Chicago, Cleveland, Fort Worth, Fort Lauderdale, Greensboro, Houston, Jacksonville, Kansas City, Los Angeles, Miami, Nashville, Oakland, Orlando, San Antonio, San Diego, St. Louis, San Francisco, and San Jose.

Durham NC, Winston-Salem NC, Chapel Hill NC, Greensboro NC, Charlotte NC, St Louis MO, Cupertino CA, and Overland Park KS.³⁶

As a result of the economies of scale and synergies that AT&T anticipates it will achieve with the AT&T/DIRECTV combination, AT&T has made a commitment to expand its Gigapower all-fiber network to an additional two million more customer locations. In its Public Interest Statement, the Applicants state that this commitment represents “two million more customer locations than what could be economically justified absent the merger synergies.” The Applicants commit to complete this deployment within four years after closing.³⁷ In addition, the Applicants commit to deploy fixed wireless local loop (“WLL”) technology to bring high-speed broadband to approximately 13 million largely rural customer locations at advertised speeds of 15-20 Mbps within four years after closing. This fixed WLL deployment will include areas outside AT&T’s wireline footprint.³⁸

In summary, the proposed AT&T/DIRECTV merger will improve the economics driving AT&T’s high-speed broadband expansion, bringing the benefits of truly high-speed Internet to millions more Americans in communities throughout the United States. The post-merger AT&T/DIRECTV will have the scale to compete in more communities with the dominant cable company’s video and broadband service, providing millions more Americans with a competitive

³⁶ AT&T Press Releases, dated June 10, 2014 (Winston-Salem NC); June 12, 2014 (Durham NC); June 18, 2014 (Raleigh NC); June 24, 2014 (Chapel Hill NC); July 24, 2014 (Dallas-Fort Worth TX); July 28, 2014 (Nashville, TN); July 29, 2014 (San Antonio TX); July 30, 2014 (Charlotte NC); Aug. 4, 2014 (Overland Park KS); Aug. 4, 2014 (Houston TX); Aug. 6, 2014 (Greensboro NC); Aug. 12, 2014 (Miami FL); Aug. 14, 2014 (Launch in Dallas Fort Worth TX); Aug. 19, 2014 (Jacksonville FL); Aug. 20, 2014 (Cupertino CA); Sept. 3, 2014 (St. Louis MO). AT&T Press Releases are available at <http://about.att.com/allpostpage.html>.

³⁷ AT&T/DIRECTV Application, pp. 5 and 41.

choice for video and broadband, with the potential to constrain price increases and promote service improvements and innovations.

V. THE AT&T/DIRECTV MERGER IS GOOD FOR EMPLOYEES AND GOOD CAREER U.S. JOBS

The proposed AT&T/DIRECTV merger is good for employees and good, career jobs. AT&T has the largest full-time union labor force of any company in the United States. CWA represents more than 110,000 employees in AT&T's wireline, wireless, and broadband lines of business. AT&T's collective bargaining agreements define pay and benefits, rights, protections, and fair treatment for its non-management workforce.³⁹

Moreover, AT&T respects the right of employees to make their own choice about union representation. And, as guaranteed by CWA's collective bargaining agreements with AT&T, AT&T's progressive labor relations will extend to DIRECTV's non-management workforce after the transaction, providing these employees the opportunity to select union representation free from management intimidation.⁴⁰ This has the potential to transform employee labor relations in the pay TV/cable industry, which has a long history of employer interference with employees' rights of free association and union representation. With expanded collective bargaining coverage in the pay TV/cable industry, workers will have the ability to negotiate pay and benefits, rights,

³⁸ *Id.*

³⁹ In the Public Interest Statement, the Applicants reaffirm their commitment to respect workers' rights at the combined entity. AT&T/DIRECTV Application, p.9 ("AT&T also will continue its practice of working responsibly with the unions representing its workforce.").

⁴⁰ DIRECTV has 16,000 U.S. employees, of whom an estimated 8,000 to 10,000 are non-management employees. *See* DIRECTV SEC Form 10-K for the period ending Dec. 31, 2013 filed Feb. 24, 2014.

fair treatment, protections and the career jobs that benefit their families, communities, and consumers with the quality service provided by a skilled, trained, career workforce.

VI. THE AT&T/DIRECTV MERGER RAISES FEW ANTI-TRUST CONCERNS

The proposed AT&T/DIRECTV merger will have multiple public interest benefits, with few, if any, harms to competition. The proposed transaction raises few anti-trust concerns. AT&T and DIRECTV primarily serve different markets. AT&T is largely a broadband and wireless carrier, whereas DIRECTV is a “pure-play” satellite video provider. As already discussed, DIRECTV has no broadband or voice service of its own, but offers synthetic video/broadband bundles provided by other companies’ partners, and these synthetic video/broadband bundles have met with only limited success in the market.⁴¹

In local markets, AT&T and DIRECTV compete with the dominant cable company. AT&T is a new entrant in the video market, serving 5.8 million U-verse video customers, or less than six percent of MVPD subscribers.⁴² Upon completion of AT&T’s planned U-Verse expansion, AT&T will offer U-Verse video to 33 million customer locations in 21 states, less than one-third of potential customer locations across the nation. DIRECTV’s 20 million satellite video customers are dispersed throughout the nation, and without a broadband offering of its own, DIRECTV cannot compete in the broadband and broadband/video bundled service market. To alleviate any potential concerns, the Applicants have made a voluntary commitment to continue

⁴¹ AT&T/DIRECTV Application, pp.10-15.

⁴² AT&T’s most recent SEC Form 10-Q lists 5.8 million U-Verse video subscribers as of June 30, 2014. *See* AT&T SEC Form 10-Q filed Aug. 1, 2014 for the period ending June 30, 2014. AT&T’s Application lists 5.7 million U-Verse video subscribers as of the date the application was filed on Jun 11, 2014. *See* AT&T/DIRECTV Application, p. 2. According to the FCC’s most recent Video Competition Report, there were 100.8 million MVPD subscribers at the end of June 2012. *See* Fifteenth Video Competition Report , Table 7, p.61.

to offer stand-alone DIRECTV satellite video service at comparable nationwide prices and stand-alone retail Internet access of at least 6 Mbps for three years after closing.⁴³

In summary, the AT&T/DIRECTV merger raises few, if any, anti-trust concerns. Rather, the AT&T/DIRECTV transaction will promote competition in video, broadband, and the video/broadband bundled service markets, enhancing consumer choice and competition over price, service, and innovation.

VII. THE APPLICANTS' OPEN INTERNET COMMITMENTS

Protecting an open Internet is essential to ensure that digital communications remain a source of free speech for all Americans, and to promote the virtuous cycle of investment and innovation by broadband infrastructure, application, and content companies.⁴⁴ However, as a result of the D.C. Circuit Court of Appeals ruling earlier this year, the Commission must now rewrite its rules to protect an open Internet.⁴⁵ Whatever the outcome of that proceeding, the Applicants have made a commitment to abide by the Commission's 2010 Open Internet rules for three years after closing.⁴⁶ Those rules prohibit wireline Internet Service Providers from blocking users' access to any lawful Internet content, service, application or non-harmful device and from unreasonable discrimination on the Internet. The 2010 Open Internet rules also prohibit wireless broadband providers from blocking access to lawful websites and applications that compete with the

⁴³ AT&T/DIRECTV Application, pp. 8-9, 79-80, 82.

⁴⁴ See *Preserving the Open Internet*, GN Docket No. 09-191, WC Docket No. 07-52, Report and Order, FCC Rcd, 2010 ("Open Internet Order"); CWA and NAACP Comments, *In the Matter of Protecting an Open Internet*, GN Docket No. 14-28, July 15, 2014.

⁴⁵ See *Verizon v FCC*, 740 F.3d 623 (D.C. Cir.2014); Notice of Proposed Rulemaking, *In the Matter of Protecting an Open Internet*, GN Docket No. 14-28, May 15, 2014 (rel).

⁴⁶ AT&T/DIRECTV Application, p. 8.

providers' voice or video telephone services, subject to network management.⁴⁷ AT&T's commitment to abide by the 2010 Open Internet rules for three years after closing provides another merger-related public interest benefit.

VIII. CONCLUSION

The proposed AT&T/DIRECTV transaction will result in multiple public interest benefits with little, if any, public interest harm. The combined AT&T/DIRECTV will be a stronger competitor to cable companies' dominance in the video, broadband, and video/broadband bundled service markets, enhancing consumer choice, spurring innovation, and exerting pressure to constrain prices and improve service. A merged AT&T/DIRECTV will have the scale to negotiate lower video programming costs, creating a stronger business case driving high-speed broadband deployment to more communities to benefit Americans in rural, urban, and suburban communities across the United States. AT&T's labor policies supporting collective bargaining will extend to DIRECTV's non-management employees, expanding good career jobs. A merged AT&T/DIRECTV has made voluntary commitments to expand high-speed broadband, maintain stand-alone satellite video and retail Internet access service, and abide by the Commission's 2010 Open Internet rules for three years after closing. The proposed AT&T/DIRECTV merger serves the public interest. The Commission should expeditiously approve the proposed AT&T/DIRECTV merger and affirm the Applicants' voluntary commitments.

⁴⁷ Open Internet Order, Sections 8.3, 8.5, and 8.5. The D.C. Circuit upheld the disclosure requirements in the Open

Respectfully Submitted,

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Internet Order.