

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

In the Matter of	)		
	)		
Applications of	)	File Nos.	SAT-T/C-20210322-00037
V Opco LLC, <sup>1</sup> AT&T Inc.,	)		SAT-T/C-20210322-00038
and DIRECTV	)		SES-T/C-20210322-00546
Enterprises, LLC	)		SES-T/C-20210322-00547
	)		ULS File No. 0009450204
For Consent to Transfer	)		
Licenses and Authorizations	)		

**JOINT RESPONSE OF AT&T INC. AND TPG CAPITAL**

AT&T Inc. and TPG Capital (collectively, the “Applicants”) have demonstrated that the creation of New DIRECTV will serve the public interest, convenience, and necessity. The only public comments on the applications – from the Affiliates Associations<sup>2</sup> and Rural Media Group Inc. (“RMG”)<sup>3</sup> – do not challenge the Applicants’ showing, but instead attempt to convert this license transfer proceeding into a forum to debate issues that are not specific to the transaction. In prior license transfer proceedings, the Commission has repeatedly rejected requests to impose conditions to remedy alleged harms or achieve regulatory goals that are unrelated to the transaction.<sup>4</sup> The Commission should do the same here and promptly grant the applications without conditions.

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<sup>1</sup> V OpCo LLC has changed its name to DIRECTV Entertainment Holdings LLC. *See* FCC Application for Space and Earth Station: MOD or AMD - Main Form, IBFS File Nos. SAT-AMD-20210422-00053, -00054, SES-AMD-20210428-00741, -00742 (filed Apr. 22, 2021).

<sup>2</sup> Joint Comments of the ABC Television Affiliates Association, CBS Television Network Affiliates Association, FBC Television Affiliates Association, and NBC Television Affiliates (May 3, 2021) (“Affiliates Associations Comments”).

<sup>3</sup> Comments of Rural Media Group, Inc. (“RMG Comments”) (May 7, 2021).

<sup>4</sup> The FCC “will not impose conditions to remedy pre-existing harms or harms that are unrelated to the transaction.” *Applications of Level 3 Communications, Inc. and CenturyLink, Inc. For Consent to Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 32 FCC Rcd 9581, 9597 ¶ 34 (2017); *Application of Cellco Partnership d/b/a Verizon Wireless and Atlantis Holdings LLC For Consent To Transfer Control of Licenses, Authorizations, and Spectrum Manager and De Facto Transfer Leasing Arrangements and Petition for Declaratory Ruling That the Transaction Is Consistent*

*Affiliates Associations.* The Commission has rejected prior requests to require DIRECTV to provide universal local-into-local service as a condition for approving license transfers, finding that the issue was not transaction-specific.<sup>5</sup> The Affiliates Associations falsely claim the transaction will “remove DIRECTV from the control structure of AT&T” and thus create an ownership structure that will have no “presence in or commitment to local television markets.”<sup>6</sup> In fact, AT&T will have a 70% common equity interest as well as jointly govern New DIRECTV, and New DIRECTV will continue to do business in every local television market.<sup>7</sup>

The economic and regulatory factors that prevent DIRECTV from offering local-into-local service in all DMAs are well known to the Commission, and the transaction does nothing to change them. Of the 210 DMAs in the United States, DIRECTV provides local channels through its satellites in 198 of those markets, and in the remaining 12 DMAs, DIRECTV makes available antennas and a local channel connector to its customers so that they may view local

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*with Section 310(b)(4) of the Communications Act, Memorandum Opinion and Order and Declaratory Ruling, 23 FCC Rcd 17444, 17463 ¶ 29 (2008) (“Despite this broad authority, the Commission has held that it will impose conditions only to remedy harms that arise from the transaction (i.e., transaction-specific harms) and that are related to the Commission’s responsibilities under the Communications Act and related statutes. Thus, we generally will not impose conditions to remedy pre-existing harms or harms that are unrelated to the transaction.”).*

<sup>5</sup> *Applications of AT&T Inc. and DIRECTV, Memorandum Opinion and Order, 30 FCC Rcd 9131, 9227 ¶ 248 (2015) (“AT&T/DIRECTV Order”)* (“We do not find that the proposed transaction gives rise to a harm that would require us to expand DIRECTV’s local television signal carriage obligations. We agree with the Applicants that nothing in the record indicates that the transaction would affect DIRECTV’s incentives or capability to carry local broadcast channels.”); *Applications of News Corp., DIRECTV Inc., and Liberty Media Corp., Memorandum Opinion and Order, 23 FCC Rcd 3265, 3330 ¶ 137 (2008)* (“We decline to impose a universal local-into-local condition here. There is no evidence in the record that such a condition is necessary to remedy a transaction-specific harm.”).

<sup>6</sup> Affiliates Associations Comments at 3-4.

<sup>7</sup> Application for Satellite Space and Earth Station Authorizations for Transfer of Control or Assignment, IBFS File Nos. SAT-T/C-20210322-00037, -00038, SES-T/C-20210322-00546, -00547, Exh. A at 1, 4 (filed Mar. 22, 2021).

channels over-the-air where available. This is because the cost to launch local channels on its satellites in those 12 markets is prohibitively high, due to a broken retransmission consent regime and loopholes in regulations that have allowed a single broadcaster to own two or three network affiliates in a market. Instead of subjecting customers in these DMAs to the higher fees and increased blackouts that result from this market dynamic, DIRECTV chose to provide its customers in these DMAs an over-the-air antenna solution that is integrated into the DIRECTV platform and free from the threat of broadcaster blackouts. Both Congress and the Commission are well familiar with this problem and DIRECTV's solution. Indeed, when the local broadcasters made these same tired arguments to Congress during the 2019 debate over reauthorization of STELA, Congress chose not to require satellite providers to provide local-into-local DBS service in all 210 DMAs.<sup>8</sup>

Post-closing, New DIRECTV will continue to work to reform the retransmission consent regime. However, this transaction and the many public interest benefits that it will bring should not be held hostage while Congress and the Commission work through these unrelated matters.

**RMG.** RMG does not even suggest that its concerns about program carriage are transaction-specific.<sup>9</sup> RMG merely alleges, without any factual basis, that DIRECTV has been, and New DIRECTV will be, indifferent towards rural customers. In fact, New DIRECTV, like its predecessor, is committed to providing its customers a broad range of programming that is of interest to rural

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<sup>8</sup> Congress instead chose to narrow significantly the scope of customers who qualify for the statutory distant signal license and condition its availability only to DBS providers that provided local-in-local in all 210 DMAs. *See* 17 U.S.C. § 119(a), as amended by the Satellite Television Community Protection and Promotion Act of 2019, Pub. L. 116-94, § 1102.

<sup>9</sup> Indeed, the absence of any transaction-specific connection between RMG's concerns and the pending applications is revealed by RMG's own acknowledgement that the decisions made by DIRECTV regarding carriage of RMG-affiliated programming are comparable to the market-driven carriage decisions made by other MVPDs. *See* RMG Comments at 4.

communities and intends to continue to offer a best-in-class programming lineup throughout the country.

RMG raised a similar concern in a prior DIRECTV transaction,<sup>10</sup> and the Commission found that the existing program carriage rules addressed any potential harms.<sup>11</sup> The outcome should be no different here. The cases that RMG cites in which the FCC imposed program carriage commitments<sup>12</sup> were mergers that changed industry structure and players in ways that arguably could have impacted program carriage incentives. This is an entirely different type of transaction in which a pre-existing combination of businesses are being placed in a new structure that will provide flexibility and dedicated management focus, and a new partner with no attributable programming interests will contribute capital, expertise, and resources to help those businesses run more effectively.<sup>13</sup>

Attending to the interests of rural customers does not require the imposition of a unique regulatory mandate on parties to a transaction. Instead, the Commission can and should continue to rely on today's intensely competitive marketplace for video services as the best means of ensuring

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<sup>10</sup> See Reply Comments of RFD-TV, MB Docket No. 14-90 (Jan. 7, 2015).

<sup>11</sup> *AT&T/DIRECTV Order*, 30 FCC Rcd at 9223 ¶ 238 (“We do not find based on the record before us that the Commission should impose company-specific program carriage conditions. The program carriage rules prohibit an MVPD from exerting its leverage as a distributor to require a financial interest in, or exclusive rights to, any program service as a condition for carriage. The program carriage rules also proscribe an MVPD from engaging in conduct that unreasonably restrains the ability of unaffiliated video programming providers to compete by discriminating in the distribution of programming based on the programmer’s affiliation or non-affiliation with the MVPD.”).

<sup>12</sup> *Applications for Comcast Corporation, General Electric Company and NBC Universal, Inc. For Consent to Assign Licenses and Transfer Control of Licensees*, Memorandum Opinion and Order, 26 FCC Rcd 4238, 4316-17 ¶ 188 (2011); *Applications of Charter Communications, Inc., Time Warner Cable Inc., and Advance/Newhouse Partnership for Consent to Assign or Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 31 FCC Rcd 6327, 6530-31 ¶ 459 (2016).

<sup>13</sup> TPG has no interest in any programming network, other than a less than five percent interest in Vice Media.

that New DIRECTV offers its customers programming packages that optimally balance breadth, value, and cost.

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The Commission should conclude that the proposed transaction serves the public interest, convenience, and necessity and should expeditiously and unconditionally approve the applications.

Respectfully submitted,

/s/ Maureen R. Jeffreys

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