

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

In the Matter of:)

Applications of AT&T Inc. and Deutsche)
Telekom AG for Consent to Assign or)
Transfer Control of Licenses and)
Authorizations)

WT Docket No. 11-65

**AMICUS COMMENTS OF THE MINORITY MEDIA AND TELECOMMUNICATIONS
COUNCIL IN SUPPORT OF THE AT&T / T-MOBILE MERGER**

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INTRODUCTION AND SUMMARY

The Minority Media and Telecommunications Council (“MMTC”), as *amicus curiae* and after extensive due diligence, wishes to express our support for the proposed AT&T / T-Mobile merger.¹

MMTC has fought hard over the years to secure equal opportunity for minorities in the media and telecommunications spaces. It is through this prism that we approach the proposed merger and respond to the FCC’s public notice.² Since our founding 25 years ago, MMTC has not endorsed a merger. We have been, and continue to be, a leading opponent of ownership

¹ Several other leading civil rights and labor organizations have endorsed the merger. See, e.g., Communications Workers of America, *AT&T/T-Mobile Deal Will Benefit Workers and Build Out Broadband* (Mar. 24, 2011), available at http://www.cwa-union.org/news/entry/att_t-mobile_deal_will_benefit_workers_and_build_out_broadband (last visited May 27, 2011); Statement by AFL-CIO President Richard Trumka on Announced Acquisition of T-Mobile USA by AT&T (Mar. 21, 2011) (“AFL-CIO Mar. 21 Statement”), available at <http://www.aflcio.org/mediacenter/prsptm/pr03212011.cfm> (last visited May 27, 2011); Letter from Hillary O. Shelton, NAACP, to Marlene H. Dortch, FCC, WT Docket No. 11-65 (Apr. 18, 2011) (“NAACP Apr. 18 Letter”), available at <http://fjallfoss.fcc.gov/ecfs/document/view?id=7021240062> (last visited May 27, 2011); Letter from Hector Barreto, The Latino Coalition, to Marlene H. Dortch, WT Docket No. 11-65 (Apr. 27, 2011) (“Latino Coalition Apr. 27 Letter”), available at <http://fjallfoss.fcc.gov/ecfs/document/view?id=7021341135> (last visited May 27, 2011); The Hispanic Institute, *The Hispanic Institute Announces Support for Proposed Merger of AT&T and T-Mobile* (Mar. 21, 2011), available at <http://www.thehispanicinstitute.net/node/3690> (last visited May 27, 2011).

² See FCC, Public Notice, *AT&T Inc. and Deutsche Telekom AG Seek FCC Consent to the Transfer of Control of the Licenses and Authorizations Held by T-Mobile USA, Inc. and Its Subsidiaries to AT&T Inc.*, DA 11-799 (Apr. 28, 2011). While MMTC does not traditionally or formally participate in merger review proceedings, it submits these comments as an *amicus curiae* friend of the Commission in order to assist the Commission in finding the best public interest justification for its decision. The Commission has long accepted *amicus* filings that would assist the agency in its deliberations. See, e.g., *Peninsula Communications*, 20 FCC Rcd 11408, 11410 (2005).

consolidation.³ Mergers often contain risks of loss of diversity and innovation. And therefore for MMTC to endorse one, the case for the merger must be truly compelling.

As MMTC conducted its thorough due diligence on the issue, we have identified significant public interest benefits that would flow from the merger. MMTC will continue to monitor the evidence filed in this docket and we reserve the right to modify our position if the central premises set out herein prove incorrect as the record is developed. But at the outset, we take this opportunity to highlight three main points about the merger that are relevant to minority communities.

First and fundamentally, the merger will benefit minority broadband consumers by allowing AT&T to address capacity constraints and deploy advanced LTE service to more than 97% of consumers. To date, wireless broadband has been a genuine success story for minority communities and has played a key role in helping to narrow the digital divide. However, this progress is threatened by the looming spectrum crunch and the potential for capacity constraints to drive up prices for consumers and drive down broadband adoption, particularly among price-sensitive minority communities. *We cannot let this happen.* As a democratic society, the nation simply cannot afford to guess wrong and see the digital divide widen – especially at a time when minorities are poised to become the nation’s majority. In today’s digital age, access to high-speed Internet is no longer a luxury—it is a necessary predicate of first-class citizenship, and thus it is a fundamental right for all Americans. By easing capacity constraints, the merger will help avert the spectrum crunch – especially in very large majority-minority markets – and thus alleviate the pressures that could drive prices up, drive down minority adoption, and widen the digital divide. In this way, the merger would buy the nation the time it needs to implement a

³ Brief of Intervenors Minority Media and Telecommunications Council *et al.* *Prometheus*

long-term cure for the spectrum crunch through such mechanisms as spectrum incentive auctions and repurposing of some government spectrum.

In addition, the merger will benefit minority telecommunications workers because AT&T has an extraordinary track record of minority hiring and promotion, diversity best practices, and neutrality towards unionization. Indeed AT&T stands at the top of American industry in its service to minority communities and commitment to diversity best practices. Numerous organizations, including DiversityInc, have consistently ranked AT&T among the very best of all Fortune 500 corporations for its commitment to diversity. Because of AT&T's policies and practices, organizations including the NAACP, AFL-CIO, and the Communications Workers of America have all expressed support for the merger. These organizations have noted that AT&T's acquisition of T-Mobile will allow the company to extend its commitments and best practices to even more telecommunications workers. Whenever AT&T has purchased another company, it has extended these policies and practices to the acquired company and AT&T has stated that it will do so again in this instance. Given AT&T's diversity *bonafides*, minority consumers, telecom workers, and entrepreneurs all stand to benefit from the merger.

Finally, the merger will benefit minority entrepreneurs because AT&T has the strongest minority procurement program in the wireless industry. Last year alone AT&T spent over \$9 billion with minority, women, and disabled veterans business enterprises. The merger promises to extend AT&T's outstanding diversity and procurement record to the T-Mobile assets, and it will create extensive opportunities for diverse businesses to participate in AT&T's buildout of the nationwide LTE network made possible by the merger.

Radio Project v. F.C.C., 373 F.3d 372 (3d Cir. 2004).

By averting the spectrum crunch and thus enabling the nation to continue to close the digital divide, and by enhancing opportunities for minority participation in broadband as employees and entrepreneurs, the merger deserves approval.

I. THE MERGER WILL BENEFIT MINORITY BROADBAND CONSUMERS BY ALLEVIATING THE SPECTRUM CRUNCH AND HELPING TO NARROW THE DIGITAL DIVIDE

The nation is in the midst of one of the most critical transitions we have faced – the historic transformation from the industrial era to a new broadband age.⁴ In this time, affordable, ubiquitous, and universal access to broadband offerings is no longer a privilege—it is a vital prerequisite to first-class citizenship. A central principle of the Commission’s National Broadband Plan is that high-speed Internet access is key to everything from civic and political engagement to education, health care, and employment.⁵ As the Commission aptly put it, “[u]ntil recently, not having broadband was an inconvenience. Now, broadband is essential to opportunity and citizenship.”⁶ “The costs of digital exclusion are high and growing.”⁷

⁴ See *Preserving the Open Internet*, Comments of the National Organizations at 2-3, GN Docket No. 09-191 (Jan. 14, 2010) (“National Organizations’ Net Neutrality Comments”) (discussing the current transition to a digital economy and drawing lessons from the nation’s last major transition from an agriculture to an industrial society); see also David Honig, *The State of Social Justice in Media, Telecom and Broadband* (MMTC 2010) (“State of Social Justice 2010”), available at <http://mmtconline.org/lp-pdf/DHonig%20State%20of%20BBSJ%20AS%20DELIVERED%20071910.pdf> (last visited May 27, 2011).

⁵ See FCC, *Connecting America: The National Broadband Plan* (rel. March 17, 2010) (“National Broadband Plan”); see also *Further Inquiry Into Two Under-Developed Issues In The Open Internet Proceeding*, Comments of the National Organizations at 6, GN Docket No. 09-191 (Oct. 12, 2010) (discussing the National Broadband Plan).

⁶ See National Broadband Plan at 5.

⁷ *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*, Seventh Broadband Progress Report and Order on

The NAACP’s National Board of Directors captured the fundamental nature of broadband in a unanimous 2009 resolution advancing the concept of Digital Equal Opportunity.⁸ The NAACP Board found that without access to broadband “people will be relegated to lives of separate and unequal status as compared to those with access to advanced communication technologies[.]”⁹ By imparting digital citizenship, the resolution stated, “we can avoid yet another generation of second-class citizenship . . . so that we can better educate future generations and close the achievement gap, make healthcare more accessible and affordable for the millions of Americans who lack access to essential medical services, provide new job opportunities for those who previously could not hope for equal opportunities in the workplace, and ensure full voting rights and civic participation.”¹⁰ Concluding, the resolution provided that “broadband Internet access to low-income households, particularly including public housing facilities, is an essential infrastructure item akin to the provision of gas, water or electricity.”¹¹

Despite the fundamental importance of broadband, broadband adoption varies significantly across demographic groups, leaving minority and other socially and economically disadvantaged groups disproportionately on the wrong side of the divide.¹² The digital divide in

Reconsideration, GN Docket N. 10-159, FCC 11-78 (¶4) (rel. May 20, 2011) (“Seventh Broadband Progress Report”).

⁸ NAACP, Resolution to Advance Digital Equal Opportunity (adopted unanimously by the NAACP National Board of Directors, December 17, 2009) (available from MMTC).

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *See, e.g., Preserving the Open Internet*, 24 FCC Rcd 13064, 13098 (¶82) (2009) (“Net Neutrality NPRM”) (discussing the disparity in broadband adoption rates between African Americans and other minority groups on the one hand and the national average on the other); *see also* FCC, News Release, *Broadband Task Force Delivers Status Report On Feb. 17 National Broadband Plan* (rel. Sept. 29, 2009) (stating that “large segments of the population have much lower penetration rates, and adoption varies across demographic groups”).

home broadband adoption is vast: African American broadband adoption stands at only 49%, and Hispanic broadband adoption stands at only 48%, compared to 68% for Whites.¹³ As the FCC stated just two weeks ago, “African-Americans and Hispanics continue to trail Whites in reported adoption of broadband at home by ten and twenty percentage points, respectively.”¹⁴

On the other hand, the wireless sector has been an oasis of opportunity for minorities. Numerous studies show that minority use of wireless broadband outpaces that of White Americans.¹⁵ According to the Pew Internet & American Life Project, while 33 percent of white Americans access the Internet over their cell phones, 46 percent of African Americans and 51 percent of English-speaking Hispanic Americans do so.¹⁶ The Joint Center for Political and Economic Studies reports similar statistics, finding that 50 percent of African Americans and 42 percent of Hispanic Americans access the Internet over cell phones, compared with 30 percent of white Americans.¹⁷ Likewise, 33% percent of African American mobile users and 45% of

¹³ U.S. Department of Commerce, *Exploring The Digital Nation: Home Broadband Internet Adoption In The United States* at 7 (Nov. 2010). A similar study cited by the FCC found that while 63% of all adult Americans have adopted broadband at home, only 46% of African Americans and a mere 40% of Hispanic Americans have broadband at home. See FCC Open Meeting Presentation on the Status of the Commission’s Processes for Development of a National Broadband Plan, at 82 (Sept. 29, 2009) (citing Pew Internet & American Life Project, Home Broadband Adoption (June 2009)).

¹⁴ Seventh Broadband Progress Report at ¶58 n.199.

¹⁵ See, e.g., National Organizations’ Net Neutrality Comments at 10-12 (collecting authorities).

¹⁶ See Aaron Smith, Pew Internet & American Life Project, *Mobile Access 2010* at 16 (July 7, 2010) (available at http://www.pewinternet.org/~media/Files/Reports/2010/PIP_Mobile_Access_2010.pdf (last visited October 11, 2010)).

¹⁷ See Jon P. Gant, et al., Joint Center for Political and Economic Studies, *National Minority Broadband Adoption: Comparative Trends in Adoption, Acceptance and Use* at 36 (Feb. 2010) (“Joint Center Broadband Adoption Study”), available at http://jointcenter.org/publications_recent_publications/media_and_technology/national_minority_broadband_adoption (last visited May 27, 2011).

Hispanic mobile users have adopted smart phones, compared to 27% of White mobile users.¹⁸ These statistics are especially significant given that due to financial and other considerations, minority households are more likely than others to have only a single, wireless on-ramp to the Internet.¹⁹

While wireless is helping minority communities make a significant leap towards closing the digital divide, minorities' reliance on wireless broadband is threatened by the impending spectrum crunch and the potential for capacity constraints to drive up prices for consumers and drive down broadband adoption. Chairman Genachowski recently addressed these very critical issues. He warned that the "explosion in demand for mobile services places unsustainable demands on our invisible infrastructure—spectrum."²⁰ The Chairman explained that "[i]f we do nothing in the face of the looming spectrum crunch, many consumers will face higher prices—as the market is forced to respond to supply and demand—and frustrating service—connections that drop, apps that run unreliably or too slowly. The result will be downward pressure on consumer use of wireless service, and a slowing down of innovation and investment in the space."²¹ All of this, the Chairman emphasized, "would . . . have a disproportionate impact on minority and low-income groups who are more likely than the average American to access the Internet through a mobile device."²² The Chairman's statement should serve as a clarion call to the minority community.

¹⁸ See Don Kellogg, *Among Mobile Phone Users, Hispanics, Asians are Most-Likely Smartphone Owners in the U.S.*, NielsenWire (Feb. 1, 2011), available at <http://blog.nielsen.com/nielsenwire/?p=25901> (last visited May 27, 2011).

¹⁹ See, e.g., National Organizations' Net Neutrality Comments at 11, 18.

²⁰ *CTIA Wireless 2011*, Remarks of FCC Chairman Julius Genachowski at 9 (Mar. 22, 2011) ("Chairman Genachowski CTIA Remarks").

²¹ *Id.*

²² *Id.*

Industry analysts also recognize the potential impact that the spectrum crunch will have on consumers. In the largest U.S. markets, the spectrum crunch is already so serious that, unavoidably, price (through data caps) is being used to bridge the gap between rising demand and limited supply.²³ The prospect that a spectrum crunch may force carriers to use price to suppress demand presents a considerable danger to the minority community because affordability remains a key impediment to minorities' adoption and use of broadband owing to the deep and persistent racial wealth gap and to deep racial disparities in income and unemployment status.²⁴

The National Broadband Plan recognizes that there is a spectrum shortage for wireless services and calls for identifying 500 MHz of additional spectrum for wireless broadband.²⁵ In response, the Commission is seeking Congressional authority to conduct incentive auctions to free up and reallocate broadcast spectrum for wireless broadband applications.²⁶ Under this proposal, which MMTC has enthusiastically endorsed,²⁷ Congress would grant the FCC the

²³ See Craig Moffett, U.S. Wireless: Picking Winners and Losers in the Wake of the Deal," Bernstein Research (April 5, 2011), p. 7 (available from MMTC) ("We are arguably witnessing the leading edge of scarcity pricing").

²⁴ See Seventh Broadband Progress Report at ¶65, 70-71 ("identifying] cost as a major obstacle to broadband adoption"); Joint Center Broadband Adoption Study at 29 (identifying affordability as a main barrier to increased broadband adoption among minority groups); see also National Organizations' Net Neutrality Comments at 14; National Broadband Plan at 171-72 (recognizing that affordability is a major barrier to adoption).

²⁵ National Broadband Plan at 10.

²⁶ See, e.g., Statement of Julius P. Knapp, Chief, OET, FCC, Hearing on Using Spectrum to Advance Public Safety, Promote Broadband, Create Jobs, and Reduce the Deficit, Before the Subcommittee on Communications and Technology, Committee on Energy and Commerce, U.S. House of Representatives (April 12, 2011); see also National Broadband Plan at 75 ("Congress should consider expressly expanding the FCC's authority to enable it to conduct incentive auctions").

²⁷ See Comments of the Minority Media and Telecommunications Council, Innovation in Broadcast Television Bands, Allocations, Channel Sharing and Improvements to VHF, ET Docket No. 10-235 (March 18, 2011), available at <http://mmtconline.org/lp->

authority to run two-sided, voluntary spectrum auctions, in which current licensees would voluntarily contribute spectrum and would in return receive a portion of the proceeds of the auction.

Spectrum incentive auctions would solve the spectrum crunch, but they will be a long time in coming. Therefore, wireless providers are looking to private solutions to solve the looming spectrum shortage. This merger is one such initiative and promises to make available additional spectrum in the short term to postpone the severe adverse impact on broadband affordability and adoption that would accompany a spectrum shortage.

The proposed merger will provide a market-based approach to the spectrum crunch that will free up additional spectrum and makes more efficient use of existing spectrum. By easing the spectrum crunch, especially in large majority-minority or nearly majority-minority markets such as New York, Los Angeles, Chicago, and Dallas-Ft. Worth in which AT&T is acquiring T-Mobile spectrum, the merger will avoid triggering the affordability disincentive to minority adoption (which Chairman Genachowski has warned about) and thus avoid a widening of the digital divide. Further, the merger will leverage minorities' adoption of wireless to access the Internet by facilitating AT&T's initiative to deploy LTE to more than 97% of the population,²⁸ a goal closely congruent with the President Obama's broadband deployment objectives.²⁹

[pdf/MMTC%20Spectrum%20Comments%20031811.pdf](#) (last visited May 27, 2011). *See also* Comments of LPTV Entrepreneurs, Amendment of Parts 73 and 74 of the Commission's Rules et al., MB Docket No. 03-185 (Dec. 17, 2010), available at <http://mmtconline.org/lp-pdf/LPTV%20Comments%20121710.pdf> (last visited May 27, 2011).

²⁸ *See Applications of AT&T Inc. and Deutsche Telekom AG for Consent to Assign or Transfer Control of Licenses and Authorizations*, AT&T's Description of Transaction, Public Interest Showing, and Related Demonstrations at 54, 59 (Apr. 21, 2011) ("AT&T Public Interest Showing") (stating that the merger will allow AT&T to deploy LTE to more than 97% of Americans and thereby help close the digital divide).

²⁹ *See, e.g.*, President Barack Obama, *State of the Union Address* (Jan. 25, 2011).

Although some merger opponents have expressed concern about the impact of the merger on competition and, thus, on wireless prices, such concerns run contrary to the available evidence. The GAO has found that between 1999 and 2009, a period that saw several wireless combinations, wireless prices declined by 50% while network investment increased and consumers' usage of mobile broadband increased dramatically.³⁰ The presence of Sprint and several large regional competitors—MetroPCS, LEAP, U.S. Cellular, and Cellular South—has a strong competitive impact on price. New competitors such as Lightsquared and Clearwire have also come onto the scene, as have prepaid companies like TracFone. Skype (which is being acquired by Microsoft) and Google are similarly providing competition in the voice market. Indeed, the FCC has found that nearly three-quarters of consumers have a choice of five or more wireless providers in the local markets where customers purchase and use wireless services.³¹

The merger will benefit minority broadband consumers in additional ways. Many minorities have hesitated to adopt broadband because they are concerned about the security of their personal information.³² Indeed, owing to racial profiling and the history of poor police-community relations in many minority communities, minorities have every reason to be especially concerned about privacy and security.³³ Notably, AT&T has been an industry leader

³⁰ GAO, *Telecommunications: Enhanced Data Collection Could Help FCC Better Monitor Competition in the Wireless Industry* at 24 (July 2010).

³¹ *Implementation of Section 6002(B) of the Omnibus Budget Reconciliation Act of 1993*, Fourteenth Report, 25 FCC Rcd 11407, 11447-49 (¶¶42-45) (2010).

³² See Seventh Broadband Progress Report at ¶¶65, 75 (stating that “[k]ey barriers include . . . consumers’ lack of trust in broadband and Internet content and services, including concerns about inadequate privacy protections”); Joint Center Broadband Adoption Study at 11; see also The Advanced Communications Law & Policy Institute, New York Law School, *Barriers to Broadband Adoption: A Report to the Federal Communications Commission* (Oct. 2009) (identifying privacy concerns as a barrier to adoption and use).

³³ See, e.g., Barry C. Scheck, *Practicing Law Institute: Section 1983 Civil Rights Symposium: Criminal Prosecution and Section 1983*, 16 *Touro L. Rev.* 895, 896 (Spring 2000).

in network security and in protecting the privacy of consumers' personal information. Last year, AT&T was named one of the Most Trusted Companies in Privacy by the Ponemon Institute, which conducts independent research on privacy, data protection, and information security policy.³⁴ AT&T has also found innovative ways to provide clear, easy-to-read information about its privacy commitments and policy.³⁵

Finally, AT&T has a long track record of advocacy and resource commitment to promote broadband adoption. AT&T has joined forces with the nation's civil rights organizations to urge the Obama Administration to make universal broadband adoption the nation's highest broadband policy priority. AT&T will continue to promote broadband adoption attendant to its rollout of 4G technology,³⁶ and it will offer T-Mobile's low price plans.³⁷ AT&T's plans to promote broadband adoption heighten the important public interest benefits the merger would bring to minority broadband consumers.

II. THE MERGER WILL BENEFIT MINORITY TELECOM WORKERS BY EXTENDING AT&T'S DIVERSITY HIRING PRACTICES AND NEUTRALITY TOWARDS UNIONIZATION.

MMTC also supports the merger because it will benefit thousands of minority telecommunications workers. AT&T has an extraordinary record of minority hiring and promotion, diversity best practices, and neutrality towards unionization. Merging with T-Mobile will allow AT&T to extend these commitments and best practices to even more telecommunications workers.

³⁴ See Ponemon Institute, *Ponemon Survey Names Twenty Most Trusted Companies for Privacy* (2010), available at <http://www.ponemon.org/news-2/26> (last visited May 27, 2011).

³⁵ See AT&T, *AT&T Privacy Policy* (2011), available at <http://www.att.com/gen/privacy-policy?pid=2506> (last visited May 27, 2011).

³⁶ See AT&T Public Interest Showing, pp. 59-61.

AT&T has a strong commitment to diversity and inclusion at all levels of the company, including key leadership roles. The company's workforce is currently 41% female and 39% people of color.³⁸ While the top 50 companies for diversity boast a 13% African American employee base on average, AT&T has a 20% base.³⁹ As the NAACP recently stated, "AT&T has scored among the highest ranked in the telecommunications industry for its commitment to diversity in terms of . . . promotion and hiring."⁴⁰ The NAACP noted that "[o]ther industry authorities such as *Diversity Magazine*, *Black Enterprise*, and *Fortune Magazine* have also given the company impressive marks."⁴¹ Moreover, AT&T has a 12% Hispanic/Latino workforce, which is greater than the 10% average across the top 50 companies for diversity.⁴² AT&T also employs more than 13,000 Asian Americans, representing 5% of the company's workforce.⁴³

DiversityInc, which aggregates data across hundreds of U.S. companies, consistently ranks AT&T at the top of its list for diversity.⁴⁴ DiversityInc ranks AT&T No. 3 in its Top 10 Companies for Recruitment & Retention, No. 1 in its Top 10 Companies for African Americans,

³⁷ See AT&T Public Interest Showing at 9 ("[A]s in AT&T's prior acquisitions, consumers will have the option to keep their current T-Mobile USA pricing plans for existing services.").

³⁸ See AT&T, *Workforce Inclusion* (2011) ("Workforce Inclusion 2011"), available at <http://www.att.com/gen/corporate-citizenship?pid=17725> (last visited May 27, 2011).

³⁹ See DiversityInc, *The DiversityInc Top 50 Companies for Diversity, AT&T* (2011) ("DiversityInc 2011"), available at http://diversityinc.com/cgi-bin/cms/DI_Top50.cgi?mode=view&id=8312/ (last visited May 27, 2011); see also DiversityInc Top 10 Companies for Blacks, available at <http://diversityinc.com/article/8353/The-DiversityInc-Top-10-Companies-for-Blacks/> (last visited May 27, 2011); see also *Workforce Inclusion 2011*.

⁴⁰ NAACP Apr. 18 Letter at 1.

⁴¹ NAACP Apr. 18 Letter at Attachment.

⁴² See DiversityInc 2011; see also *Workforce Inclusion 2011*.

⁴³ *Id.*

⁴⁴ See DiversityInc 2011.

and No. 6 in its Top 10 Companies for Latinos.⁴⁵ Other organizations have similarly recognized AT&T's commitment to diversity. The Council of Urban Professionals awarded AT&T its Corporate Diversity & Inclusion Leadership Award, and AT&T was recognized by *Profiles in Diversity Journal* with the Diversity Leader Award.

AT&T also takes deliberate steps to identify and recruit a diverse workgroup. In 2010, for example, AT&T sponsored diversity conferences and recruiting events across the country, including events at the National Society of Black Engineers, National Black MBA, Thurgood Marshall Leadership Institute & Career Fair, National Hispanic Business Association, National Hispanic Professional Association, National Asian MBA Leadership Conference & Expo, Asian Career & Entrepreneur Fair and LEAP Summit, among many others. Recognizing its efforts, DiversityInc has noted that "AT&T University, a remarkable learning center at the company's Dallas headquarters, is used for leadership development and to address vital diversity issues."⁴⁶

Through its work with organizations like the National Urban League, NAACP and the Latino Coalition, and with historically Black colleges and universities, AT&T is one of the telecom industry's leading sponsors of high tech training programs operated by minority institutions. These programs are urgently needed in light of the extremely low and declining level of African American and Hispanic workforce participation in the high tech sector. Indeed, an analysis conducted by the San Jose Mercury News showed that Hispanics comprised only 4.7% of the employees in Silicon Valley's computer-related occupations and African Americans accounted for an even more abysmal percentage—only 1.5%.⁴⁷

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ Mike Swift, *Blacks, Latinos And Women Lose Ground At Silicon Valley Tech Companies*, San Jose Mercury News (May 27, 2010); see also David Honig, *FCC Chief's Proposal Disregards What Congress and America Want*, Roll Call (June 15, 2010) (discussing the

Minority telecom workers will not only benefit from AT&T's diversity best practices as a result of the merger, but from its neutrality on unionization as well. As the Communications Workers of America explained in expressing strong support for the merger, AT&T's acquisition of T-Mobile "presents a real opportunity to . . . expand worker's rights in the wireless industry."⁴⁸ AT&T's ability to bring union wages and benefits to T-Mobile workers is a key reason why the AFL-CIO has also voiced support for the merger. AFL-CIO President Richard Trumka has stated that the merger will "offer[] tens of thousands of T-Mobile USA employees the opportunity to make their jobs good jobs by benefitting from the pro-worker policies of AT&T, one of the only unionized U.S. wireless companies."⁴⁹ The NAACP has similarly emphasized the benefits that the proposed merger will have on telecom workers, expressing "optimi[sm] that AT&T's proven record . . . will truly benefit the acquired company's . . . workers."⁵⁰ Unionization of the T-Mobile workforce, combined with AT&T's unionized workforce, will drive wages up and improve working conditions throughout the industry.⁵¹

problem of minorities and women being shut out of employment opportunities in Silicon-Valley based firms); *see also The Future of Media and Information Needs of Communities in a Digital Age*, GN Docket No. 10-25, Comments of the Minority Media and Telecommunications Council at 4-5 (May 7, 2010) (discussing reports about the unacceptable minority hiring practices of certain Silicon Valley firms).

⁴⁸ See Communications Workers of America, *The AT&T / T-Mobile Merger: Benefits for Consumers and Workers* at 1 (April 2011), available at <https://prodnet.www.neca.org/publicationsdocs/wwpdf/52011cwa.pdf> (last visited May 27, 2011).

⁴⁹ See AFL-CIO Mar. 21 Statement.

⁵⁰ See NAACP Apr. 18 Letter at 1 and Attachment.

⁵¹ See Oral Testimony of Larry Cohen, President, Communications Workers of America, Before the Senate Committee on the Judiciary, Subcommittee on Antitrust, Competition Policy, and Consumer Rights, p. 11-15 (May 11, 2011) (explaining the opportunities the merger will enable for telecommunications workers as AT&T, the only wireless company that allows unions, extends its reach), available at http://files.cwa-union.org/national/issues/PolicyIssues/Telecom/Larry_Cohen_Senate_Full_Testimony_05_11_11.pdf (last visited May 27, 2011).

These are substantial benefits for minority telecommunications workers, and benefits that MMTC stands firmly behind.

III. BECAUSE AT&T IS AN INDUSTRY LEADER IN PROCUREMENT, THE MERGER WILL BENEFIT MINORITY BROADBAND ENTREPRENEURS.

As the nation transitions from the industrial to the digital age, it is vital that people of color participate in the economy as producers as well as consumers.⁵² Yet the state of minority entrepreneurship in technology is abysmal. Research shows that only 1% of new high tech venture capital is invested with African American entrepreneurs.⁵³

AT&T represents a rare exception to this trend. There is no stronger minority procurement program in the wireless industry than AT&T's. In 2010, AT&T spent \$9.2 billion with minority, women and disabled veterans business enterprises.⁵⁴ Civil rights advocates have applauded AT&T's outstanding record in this regard. For example, the NAACP stated that "AT&T has scored among the highest ranked in the telecommunications industry for its commitment to diversity in terms of procurement."⁵⁵ DiversityInc ranks AT&T No. 2 in its Top 10 Companies for Supplier Diversity.⁵⁶ The Latino Coalition has stated that "AT&T has an outstanding record of teaming with minority-operated businesses and has worked with [the Latino Coalition] in the past years in its B2B Procurement Matchmaking program."⁵⁷ Likewise, the Cuban American National Council stated that "AT&T has long had a reputation of being a

⁵² See State of Social Justice 2010.

⁵³ See CB Insights, *Venture Capital, Human Capital Report: Jan to June 2010*, p. 5-6 (available from MMTC).

⁵⁴ AT&T, *Supplier Diversity* (2011), available at <http://www.att.com/gen/corporate-citizenship?pid=17724> (last visited May 27, 2011).

⁵⁵ NAACP Apr. 18 Letter at 1.

⁵⁶ See DiversityInc 2011.

⁵⁷ Latino Coalition Apr. 27 Letter at Attachment.

committed partner and a responsible corporate citizen to the Latino community. . . . AT&T has proven time and again, that it has a rock-solid commitment to the Latino community.”⁵⁸

Recognizing AT&T’s inclusion of minority enterprises throughout its supply chain, the National Minority Suppliers Development Council named AT&T the 2010 Corporation of the year.

AT&T is also a member of the Billion Dollar Roundtable, a supplier diversity think tank of corporations that spend more than \$1 billion annually with diverse companies. Only a handful of companies qualify for that distinction.

The merger promises to extend AT&T’s outstanding diversity and procurement record to the T-Mobile assets, and it will create extensive new contracting opportunities as AT&T builds out the nationwide LTE network made possible by the merger.⁵⁹ This provides a strong additional basis for concluding that the merger is in the best interest of minority entrepreneurs.

CONCLUSION

By alleviating the spectrum crunch, the merger will help ensure that minorities are not left on the wrong side of the digital divide as the nation completes its transition to the broadband era. The full participation of all Americans in our nation’s most important industries is too critical to democracy to be left to chance. We cannot risk getting this wrong. By easing the spectrum crunch, the merger will give the nation the time it needs to implement a long-term cure for the spectrum crunch through incentive auctions and repurposing of government spectrum.

⁵⁸ See Letter from Guarione M. Diaz, President and CEO, Cuban American National Council, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 11-65 (May 17, 2011).

⁵⁹ AT&T Public Interest Showing, p. 57.

Further, AT&T's leadership in employment and entrepreneurial diversity and its neutrality on unionization add considerable value to the public interest case for approval of the merger. Its acquisition of T-Mobile will allow AT&T to extend these policies and practices to a greater number of minority consumers, telecommunications workers, and entrepreneurs.

As an *amicus curiae*, MMTC respectfully requests the Commission to afford these factors great weight among the public interest priorities it considers in evaluating the merger application.

Respectfully submitted,



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