United States Senate, Committee on the Judiciary, Subcommittee on Antitrust, Competition Policy and Consumer Rights Hearing: "The AT&T/Time Warner Merger" – Questions for the Record Submitted by Judiciary Chairman Senator Grassley for Randall Stephenson

1. **You've testified that the AT&T-Time Warner deal will result in more choice and other benefits for consumers. I'm interested in learning more about what the impact will be for consumers in rural areas, and in particular for Iowans. How will this merger benefit consumers in rural America, and specifically my Iowa constituents?**

Response: AT&T has been and remains committed to serving consumers in rural America, and this transaction will enhance our ability to do so. The benefits of innovation and robust and more-focused product offerings will all benefit rural consumers. Live-streaming services carried over mobile platforms also benefit rural communities, particularly those that may not have access to cable-TV service, providing them an important and otherwise unavailable competitive video alternative. As more consumers in rural America take advantage of these innovative services it will create a greater market for video and online content focused on rural interests. This increased demand will create additional opportunities for rural and independent content providers to reach these constituencies.

2. **Media, entertainment, information and telecommunications markets are rapidly evolving, with internet and technology firms challenging traditional telecom companies. In your opinion, how should the Justice Department be looking at this market? Do you believe traditional merger analysis methods work in the context of the AT&T-Time Warner merger?**

Response: We believe that traditional antitrust principles are appropriate and should be applied to this merger. These long-standing antitrust principles – designed to protect competition -- have provided consistency and predictability in varied markets, most of which are constantly changing with advances in technology and customer preferences. These traditional antitrust principles are pro-consumer and critical to the most efficient delivery of services that give consumers the best quality at the best value.

Your question does raise an important point concerning changes in the current video market. Netflix has nearly as many subscribers as AT&T and Comcast combined. Twitter, Facebook and Snapchat are hosting live events (e.g., NFL and presidential debates) that have traditionally been considered the "last bastion" of linear TV. Netflix and Amazon are leading content creators, Facebook is expanding into original content and Google/YouTube is launching a web TV service. In fact, the combined AT&T/Time Warner would be competing in an on-line content and distribution market with some of today's largest Internet companies that are nearly twice the size.

3. **How do you respond to concerns that a merged AT&T-Time Warner will be able to use its power to discriminate against other networks or exclude diverse content?**

Response: We do not believe there is a choice between carrying Time Warner networks and unaffiliated networks. We can do and will do both. As a distributor of video services, AT&T

must offer programming its customers want, regardless of whether or not AT&T owns the programming. If we didn't do that, we would diminish the value of our video distribution services, including our substantial investment in DIRECTV. In other words, we would lose DIRECTV customers that demand highly-desired unaffiliated programming. Moreover, AT&T has and will continue to conduct its programming negotiations in accordance with the FCC programming carriage rules that protect unaffiliated programmers.

AT&T has a strong history of carrying independent and diverse programming. Combined, AT&T and DIRECTV carry over 500 channels delivered by over 300 different programmers, a large portion of which are independent programmers that provide programming geared toward diverse audiences. We are committed to providing our customers the content they desire. Nothing about this transaction changes these incentives.

United States Senate, Committee on the Judiciary, Subcommittee on Antitrust, Competition Policy and Consumer Rights Hearing: "The AT&T/Time Warner Merger" – Questions for the Record Submitted by Senator Feinstein for Randall Stephenson

1. **Why do you believe this merger is necessary in order for Time Warner and AT&T to compete in today's consumer market? Please explain why, with specifics.**

Response: This merger is about responding to consumer demand for more video options that they can watch anytime and anywhere. Currently, our ability to bring customers more of what they want has been constrained because we own very little of our own programming and cannot unilaterally determine what content we offer and how consumers may access it. Instead we have to negotiate those matters with third-party content owners, and in a fast-changing marketplace like video, it has proven difficult to reach such agreements with sufficiently broad and flexible content rights to deliver true innovation. As a result, pay-TV consumers are not getting the full suite of innovative features and functionality that they want.

This transaction will help us break out of that box and reshape the competitive landscape. It will provide AT&T with a stable of content from Time Warner that will serve as a "launching pad" to support a broad array of video offerings, including ones designed for mobile. By owning Time Warner content, we will be able to innovate more quickly, experiment more readily, tweak our offerings as we gauge customer response, and bring consumers the options they seek.

2. **What assurances can your company give this committee that the merged company will not use its substantial video content assets and transmission network to unfairly disadvantage rivals? I am particularly concerned about independent programmers, minority programmers, and other content owners.**

Response: We do not believe there is a choice between carrying Time Warner networks and unaffiliated networks. We can do and will do both. As a distributor of video services, AT&T must offer programming its customers want, regardless of whether or not AT&T owns the programming. If we didn't do that, we would diminish the value of our video distribution services, including our substantial investment in DIRECTV. In other words, we would lose DIRECTV customers that demand highly-desired unaffiliated programming. Moreover, AT&T has and will continue to conduct its programming negotiations in accordance with the FCC programming carriage rules that protect unaffiliated programmers.

AT&T has a strong history of carrying independent and diverse programming. Combined, AT&T and DIRECTV carry over 500 channels delivered by over 300 different programmers, a large portion of which are independent programmers that provide programming geared toward diverse audiences. We are committed to providing our customers the content they desire. Nothing about this transaction changes these incentives.

3. **Assuming the merger goes forward, are you willing to accept conditions on the merged company to ensure it does not unfairly compete with its rivals?**

Response: We intend to put all the facts on the table and explain to the Department of Justice (DOJ) why the merger does not raise antitrust concerns. We understand that the DOJ will carefully review the transaction and we look forward to a productive dialogue with the agency regarding any concerns they have and how we can address them.

United States Senate, Committee on the Judiciary, Subcommittee on Antitrust, Competition Policy and Consumer Rights Hearing: "The AT&T/Time Warner Merger" – Questions for the Record Submitted by Senator Hatch for Randall Stephenson and Jeff Bewkes

1. **A number of prominent antitrust scholars, including Robert Bork, have argued that vertical mergers are—as a general matter—less concerning than horizontal mergers because they do not directly reduce the number of competitors in a given market. Yours would be a vertical merger. Can you explain to the committee why you believe the vertical nature of the deal means the sorts of competitive concerns we see with horizontal mergers don't apply?**

Response: As your question suggests, vertical mergers are widely viewed as being pro-competitive because they produce efficiencies and other consumer benefits. And that is certainly the case here. This transaction involves two firms operating in separate markets – AT&T in content distribution and Time Warner in content production. The transaction will not decrease the number of competitors or increase anyone's market share in any market (in media or telecom). The two companies' businesses complement each other, and those complementary businesses, when combined, will naturally result in consumer and competitive benefits, including: providing consumers new and innovative content and packaging options, increased competition with cable, and additional incentive for AT&T to build-out its 5G network deeper and faster.

Vertical mergers also rarely raise antitrust concerns – i.e., only where the combined company would have a dominant market share position at some level of the supply chain that allows it to harm rivals companies' ability to compete. Neither AT&T, nor Time Warner, has a dominant market share position in any of their separate and non-overlapping lines of business. While Time Warner produces great TV shows and movies, and has some popular networks, its share of video programming is too small to raise antitrust concerns and represents a small fraction of video watched by consumers. AT&T competes in an intensely competitive wireless business, and it is an insurgent in both broadband and multi-channel video distribution, where incumbent cable companies generally hold stronger market positions. For all of these reasons, this vertical merger does not raise antitrust concerns.

2. **A number of commentators have analogized your merger to the 2011 Comcast-NBC Universal merger, which similarly brought broadband and content together under a single roof. Many of these same commentators have criticized the Comcast-NBC Universal merger on the ground that the conditions the FCC imposed on that merger were ineffective and failed to allay the merger's anticompetitive effects. How do your respond to those critics? Is your merger like the Comcast-NBC Universal merger, or is it different? And if it is like the Comcast-NBC Universal merger, how can we be sure that conditions regulators impose will be effective?**

Response: No, we don't see there being competitive concerns with this merger like those addressed in the Comcast/NBCU merger. That was a different transaction, involving players with different market positions, and the industry is nothing like what it was when that deal occurred. As noted above, AT&T competes in an intensely competitive wireless business, and it is an insurgent in both broadband and multi-channel video distribution, where incumbent cable companies generally hold stronger market positions. In addition, Netflix now has nearly as many subscribers as Comcast and DIRECTV combined and content creators are becoming distributors (e.g., CBS All Access), and distributors are becoming creators (e.g., Netflix, Amazon Originals, Hulu). We believe this transaction will disrupt the cable, pay-TV model, not further perpetuate it.

In terms of potential conditions, while we do not believe conditions are necessary, AT&T has a strong record of complying with merger conditions At AT&T we take our legal obligations seriously. We have a dedicated compliance organization headed by a Chief Compliance Officer, who is a direct report to the CEO. In the last decade, AT&T has concluded a number of mergers, which the DOJ and FCC have approved with conditions. We have a strong track record of complying with those merger conditions. In fact, the FCC-approved Independent Compliance Officer (ICO) overseeing compliance with the AT&T/DIRECTV merger conditions recently described AT&T as "demonstrate[ing] by its words and actions a commitment in meeting the Conditions and assisting the ICO in discharging its duties." We are proud of our compliance record, which is second to none.

United States Senate, Committee on the Judiciary, Subcommittee on Antitrust, Competition Policy and Consumer Rights Hearing: "The AT&T/Time Warner Merger" – Questions for the Record Submitted by Senator Hatch for Randall Stephenson

1. **With the acquisition of Time Warner comes HBO and its popular HBO GO app. What assurances can you give us that consumers' choices will not be negatively impacted? Specifically, how do you respond to concerns that some viewers will be discouraged from using competitor apps on their TVs because of so-called throttling at interconnection points or because those competitors haven't paid to have their content zero-rated on AT&T's network?**

Response: This merger is about enhancing customer choice and we have no incentive to limit our customers' ability to access the content they want.

As to your question on whether we would find ways (like throttling at interconnection points) to discourage our customers from getting the content they want, it would make no business sense for us to do that. We face fierce competition for broadband Internet customeers. Making it difficult for customers to access the content they want will only drive customers away. We also note that AT&T adheres to the three "bright line" net neutrality principles: no blocking, no throttling, and no paid prioritization.

In terms of our zero-rating program, we reference our response to Senator Perdue's question on sponsored data (Senator Perdue Question 4), which asked AT&T to provide its response to the FCC Wireless Telecommunications' Bureau's preliminary findings concerning AT&T's sponsored data program. It should be emphasized that even non-subscribing content providers benefit from sponsored data because free data for consumers means more of their data allowance will be available for use of non-subscribing content providers' services.

In addition, it is important to remember that while AT&T's sponsored data program allows customers to stream content (for free) over AT&T Mobility's *mobile* network, customers can stream content in a number of other ways that avoid consuming wireless data allowances – e.g., by using wifi, wireline broadband, or traditional linear TV.

Finally, providers in this highly competitive video market have a variety of means of differentiating themselves. Cable has advantages in Internet access that it bundles with its video, for example. Sponsored data is just one way a video provider can appeal to consumers.

2. **If this merger is approved, AT&T will acquire ownership of CNN. I've received troubling reports that AT&T has altered its negotiating position with other news channels since announcing the merger. In particular, I've been told that AT&T has advised at least one competitor news network that it will no longer guarantee placement of the network alongside CNN in AT&T's channel lineup and that the network must agree to waive any future request for a license fee from AT&T as a condition of carriage. I'm told that both of these stipulations are new since AT&T announced its merger with Time Warner. Two questions:**

a. **First, are these reports true? <u>Has</u> AT&T altered its negotiating position with other news channels since announcing its merger with Time Warner? If yes, how do you justify these changes in position?**
b. **What assurances can you provide that AT&T will not seek to undermine competitor news networks' market positions by, for example, imposing burdensome contract conditions, demanding lower carriage fees, or mandating programming restrictions that don't apply to CNN?**

<u>Response:</u> No, AT&T has not altered its negotiating position with other news channels as a result of the proposed merger. As was the case prior the merger announcement, and regardless of the proposed transaction, AT&T will continue to make our carriage decisions independently, legally and after negotiations with the content owner to ensure the most value for our subscribers. We continue to stand ready to engage programmers in good-faith negotiations in a professional manner, consistent with industry practice and respecting the privacy and confidentiality of those discussions.

Of course, there are also FCC program carriage rules that protect unaffiliated programmers – but those have not been needed because it does not make economic sense to discriminate against programmers your customers want to have.

United States Senate, Committee on the Judiciary, Subcommittee on Antitrust, Competition Policy and Consumer Rights Hearing: "The AT&T/Time Warner Merger" – Questions for the Record Submitted by Senator Cornyn for Randall Stephenson

1. **Mr. Stephenson, there has been a lot of talk about the ostensible impact of the proposed transaction on your *competitors*. But the purpose of antitrust law, and my concern is about the impact on *consumers*. Would you please elaborate on the likely effect of the acquisition on U.S. consumers?**

Response: The benefits to consumers are straightforward and substantial. By combining AT&T nationwide distribution with Time Warner content, we will reduce negotiating friction that has delayed and limited AT&T from providing customers the full suite of innovative video choices for which they are clamoring. This transaction will help us break out of that box and reshape the competitive landscape. In particular, the transaction will provide customers more video options at attractive prices. This will include packages with less programming that can be watched over any device. AT&T's DIRECTV NOW product is a great start -- providing customers access to over 120 live channels. Our programming packages start as low as $35/month, streamed to popular devices -- but this transaction will enable us to give consumers more of what they want, and do it faster. We anticipate introducing cutting edge and integrated video services, such an interactive video programming with a social interaction component so that customers can share bits of their favorite shows with friends. We expect to deliver mobile-optimized content and services, and ad-supported services that shift more costs to advertisers. It will allow us to use Time Warner content in new and creative ways without worrying about how to allocate the risks in a long-term agreement in an uncertain market. In short, we want to provide the most content, to the most people at attractive prices, all to the benefit of consumers. We also believe that our competitors will have no choice but to respond in kind or with innovations of their own. The big winners will be consumers, who will enjoy video options that they've never experienced before.

2. **Innovation in the wireless industry is very important to consumers. You have said that when the deal with Time Warner goes through, AT&T will have access to content, which will differentiate the company from its wireless competitors, leading to further investment and innovation. Can you tell us more about what effect the merger would have on AT&T's incentive to innovate?**

Response: This merger will enhance AT&T's incentive and ability to lead innovation in the video market. AT&T has been the vanguard of bringing changes to the marketplace and shaking up the status quo, as evidenced by our recent offering of the live-streaming service DIRECTV NOW. But that is only the first step. By combining ownership of distribution with content, AT&T will be able to unleash innovations to better compete against cable. We expect to provide a broader range of programming options at attractive prices. We anticipate introducing cutting edge interactive and integrated video services, such as programming with a social media interaction component so that customers can share bits of their favorite shows with friends. We also expect to deliver mobile-optimized content and services, and ad-supported services that shift more costs from consumers to advertisers. In short, this transaction will allow us to quickly go where customers are driving us.

3. **Mr. Stephenson, domestic infrastructure investment is a priority for both the incoming Administration and Congress next year. You have testified that combination of Time Warner's content with AT&T's network distribution assets will allow the new company to expand distribution by more quickly deploying ultra-fast 5G wireless technology throughout the nation. How does that work and could you explain what it will mean for investment, jobs, and economic growth?**

Response: 5G networks will be important infrastructure for our economy moving forward, providing a powerful platform for investment, jobs and economic growth. With speeds exceeding 1Gbps, low latency and expanded capacity, 5G will support the exploding Internet of Things and associated real-time mobile applications. 5G networks will benefit consumers in numerous ways – e.g., enabling safer automobiles, connected homes, wearable devices, remote surgery and augmented reality video.

AT&T is committed to being at the forefront of 5G deployment, but 5G networks require a substantial investment. The combined company will be able to optimize Time Warner content for the mobile video environment, in turn driving demand for, and enhancing the revenue to support, deeper and faster 5G deployment. Just as the iPhone accelerated the industry's move from 2G, to 3G, and then 4G networks (resulting in billions of dollars in investment in a few short years), we expect that quicker mobile/video innovations resulting from this merger will naturally accelerate deployment of 5G, not just for AT&T, but for the entire industry.

4. **American consumers are demanding more and more high-quality TV content on-line through wireless devices. Can you assure us that popular Time Warner content will continue to be widely available to your competitors and their customers, as it is today?**

Response: Yes, the short answer is that we intend to broadly distribute Time Warner's content because it makes business sense to do that. AT&T has paid $85 billion for Time Warner (with debt over $100 billion) based upon a vision of more, not less, distribution of that content. Time Warner's business model is based on pushing distribution out to a broad audience on many platforms. Its success in doing just that is what has made Time Warner successful to date and attracted creative talent to it, and as a result we will continue to distribute Time Warner content widely.

United States Senate, Committee on the Judiciary, Subcommittee on Antitrust, Competition Policy and Consumer Rights Hearing: "The AT&T/Time Warner Merger" – Questions for the Record Submitted by Senator Franken for Randall Stephenson

1. **Mr. Stephenson, do you still think the concern over ensuring net neutrality has largely been resolved? Are you going to urge President-elect Trump to enforce the Open Internet Order and ask the Republicans in Congress to halt their plans for legislation repealing the Order in order to get the deal approved? If not, and in the absence of strong net neutrality rules, why should American consumers trust you to not prioritize your own content over that of other creators?**

Response: To be clear, AT&T's principal disagreement with the FCC's *Open Internet Order* was its decision to reclassify broadband Internet access under Title II rules designed for monopoly-era telephone service. We have appealed that decision and we continue to believe that reclassification decision was wrong, both as a matter of law and policy.

As for net neutrality, AT&T has supported the three "bright line" net neutrality principles: no blocking, no throttling, and no paid prioritization. AT&T adhered to these principles even before the FCC adopted its net neutrality rules. Finally, the idea that we would prevent our customers from getting the content they want would make no business sense and would drive customers away from our wireline and wireless broadband service.

United States Senate, Committee on the Judiciary, Subcommittee on Antitrust, Competition Policy and Consumer Rights Hearing: "The AT&T/Time Warner Merger" – Questions for the Record Submitted by Senator Perdue for Randall Stephenson

1. **You recently said that a combined AT&T and Time Warner will be able to more effectively compete with today's cable companies. Can you explain in detail how, by owning Time Warner content, AT&T can challenge the existing pay-TV business model and better compete with cable?**

Response: The transaction will enable us to compete more effectively against cable incumbents by facilitating and accelerating our ability to offer customers innovative video content and package options, particularly over mobile. We plan to offer robust *and* skinnier bundles with greater program packaging flexibility, at attractive prices, delivered over satellite, broadband and mobile, with great consumer interfaces, on-demand content, and interactive features. AT&T's DIRECTV NOW product is a great start -- providing customers access to over 120 live channels. Our programming packages start as low as $35/month, streamed to popular devices -- but this transaction will enable us to give consumers more of what they want, and do it faster. By owning Time Warner content, we will be able to innovate more quickly, experiment more readily, tweak our offerings as we gauge customer response, and bring customers the video options they desire. In the end, consumers will benefit from new options, better value and more power to choose.

2. **Can you explain why a vertical integration of this size does not raise antitrust concerns of competitive or consumer harms?**

Response: This transaction is a classic "vertical" merger that does not result in any loss of a competitor in any market – either in media or in telecom. AT&T and Time Warner are not competitors. Time Warner creates content. AT&T distributes content. Vertical mergers only rarely raise antitrust concerns – i.e., only where the combined company would have a dominant market share position at some level of the supply chain that allows it to harm rivals companies' ability to compete. Neither AT&T, nor Time Warner, has a dominant market share position in any of their separate and non-overlapping lines of business. While Time Warner produces great TV shows and movies, and has some popular networks, its share of video programming is too small to raise antitrust concerns and represents a small fraction of video watched by consumers. AT&T competes in an intensely competitive wireless business, and it is an insurgent in both broadband and multi-channel video distribution, where incumbent cable companies generally hold stronger market positions.

Vertical mergers are widely viewed as being pro-competitive because they typically produce efficiencies and other consumer benefits. And that is certainly the case here. This deal will bring significant consumer and competitive benefits, including: providing consumers new and innovative content and packaging options; increased competition with cable; and accelerated 5G deployment.

3. **Domestic infrastructure investment is a priority for both the incoming Administration and Congress next year. One of the arguments in favor of this**

merger is that the combination of Time Warner's content with AT&T's network distribution assets would allow the new company to expand distribution by more quickly deploying ultra-fast 5G wireless technology throughout the nation. Can you explain why the merger might have this affect and what that could mean for investment, jobs and economic growth?

Response: 5G networks will be important infrastructure for our economy moving forward, providing a powerful platform for investment, jobs and economic growth. With speeds exceeding 1Gbps, low latency and expanded capacity, 5G will support the exploding Internet of Things and associated real-time mobile applications. 5G networks will benefit consumers in numerous ways – e.g., enabling safer automobiles, connected homes, wearable devices, remote surgery and augmented reality video.

AT&T is committed to being at the forefront of 5G deployment, but 5G networks require a substantial investment. The combined company will be able to optimize Time Warner content for the mobile video environment, in turn driving demand for, and enhancing the revenue to support, deeper and faster 5G deployment. Just as the iPhone accelerated the industry's move from 2G, to 3G, and then 4G networks (resulting in billions of dollars in investment in a few short years), we expect that quicker mobile/video innovations resulting from this merger will naturally accelerate deployment of 5G, not just for AT&T, but for the entire industry.

4. **The FCC Wireless Telecommunications Bureau recently wrote AT&T a letter which reached a "preliminary conclusion" that your sponsored data practices inhibit competition and harm consumers. What is your response to the FCC's preliminary finding that your sponsored data program is harmful to competition and consumers?**

Response: We strongly disagree with the Bureau's preliminary conclusions regarding AT&T's sponsored data offering. To begin with, these "preliminary conclusions" are those of an FCC staff member, not the Commission. Two Commissioners have weighed in, and they have both criticized the staff's attack on this program. Moreover, as we explained in our public response, staff's "preliminary conclusions" make no economic sense. At bottom, staff is criticizing AT&T for making its services so attractive to consumers that some competitors will have to lower their prices or improve their own services to keep up. That approach violates the most basic principle of U.S. competition policy in that it elevates the interests of individual *competitors* over the interests of *competition* and *consumers*.

Like similar programs offered by other carriers, AT&T's sponsored data program closely resembles free shipping for online commerce or 1-800-number toll-free dialing. Just as Holiday Inn covers toll charges when customers dial 1-800-HOLIDAY, participants in AT&T Sponsored Data cover data charges for the customers who consume their content on AT&T's mobile network.

Now that DIRECTV participates in this program, AT&T is using sponsored data to disrupt the traditional pay-TV model. DIRECTV NOW provides customers access to over 120 live channels streamed to popular devices, with no data charges when using the service on AT&T's

cellular network. Consumers have enthusiastically embraced this program, called "Data Free TV." That is no surprise: the program is economically similar to discount arrangements that anyone would consider pro-consumer, such as a bundled rebate program in which DIRECTV sends consumers a monthly check to cover the retail rates they pay AT&T Mobility for the mobile usage attributable to DIRECTV streaming. And competitors have reacted with their own consumer-friendly offerings, like T-Mobile's offer of a free year of DIRECTV NOW if a customer switches to T-Mobile. This is the type of virtuous competitive circle that innovative offers can bring to the industry, all to the benefit of consumers.

In addition, AT&T's sponsored data program is open to other providers and nondiscriminatory by design. AT&T Mobility offers sponsored data at the same rate to any content provider, regardless of how they use it. This includes DIRECTV, which gets no additional discount. The rate is a market-based wholesale rate paid by wireless resellers, with significant volume discounts built in no matter how much or little data a content provider chooses to sponsor. And if a video provider does not like our rate or service, it can always choose to partner with another mobile carrier.

5. **Do you think AT&T would look to include Time Warner streaming services in its sponsored Data Free TV program?**

Response: Because the merger has not closed, these types of decisions about the combined companies' services have not been made. That said, Time Warner networks, along with 120 plus other unaffiliated channels, are carried on DIRECTV NOW. AT&T Mobility customers with DIRECTV NOW can stream any of these channels without it counting against their data caps. This benefits not only consumers, but *all* the channels offered over DIRECTV NOW, including the independent channels included in that offering.

6. **If AT&T were to charge Time Warner streaming services for broadband access, would it result in a price increase for *all* Time Warner streaming service customers equally or just for those customers who are not zero rated while using an AT&T connection?**

Response: Because the merger has not closed, decisions about the combined companies' services have not been made. However, it is important to emphasize that AT&T offers sponsored data on a nondiscriminatory basis to all providers. AT&T Mobility offers sponsored data at the same rate to any content provider, regardless of how they use it and how much data they sponsor. This includes DIRECTV, which gets no discount. The rate is a market-based wholesale rate paid by wireless resellers, with significant volume discounts built in.

AT&T further refers to its answer to the following question from Senator Perdue, which explains why there is no real connection between sponsored data and the merger.

7. **How do you respond to the argument from detractors of this merger that AT&T will have the ability to charge its competitors for the zero-rating service AT&T is providing its customers which could, in turn, end up raising competitors' costs?**

<u>Response:</u> Sponsored data offers substantial benefits to consumers and content providers alike, just as toll-free calling benefits both consumers and the businesses that offer 1-800 numbers. In particular, content providers gain a valuable tool for promoting their services and encouraging customers to use them. For example, sponsored data could be used by a university to sponsor virtual classrooms, or by a filmmaker that wants to get her film viewed. A business could sponsor data for anyone viewing its online advertisement. And certainly, a competing video distributor could also sponsor data, thereby increasing its customers' use of its services to the benefit of its business. In fact, other wireless carriers offer their own sponsored data programs that unaffiliated video providers can and do use.

Of course, sponsored data is but one of many ways a content provider may seek to differentiate themselves in the market; numerous other options are available to them. For example, cable companies bundle their video services with their Internet access services. Other video distributors focus on other strategies, like developing their own content. This is the competitive process at work.

Moreover, any objection to sponsored data is simply irrelevant to this merger. DIRECTV chose to purchase sponsored data independent of the merger because DIRECTV wants to disrupt the entrenched cable-TV model with a user-friendly streaming video service. And DIRECTV already carries Time Warner programming as part of its sponsored online service, along with over one hundred other channels.

8. **When Comcast acquired NBC Universal, the Department of Justice imposed conditions preventing Comcast from applying data caps in a way that distorts competition among streaming services. Do you envision issues like this arising in DOJ's review of this merger?**

<u>Response:</u> No, we do not see there being competitive concerns with this merger like those addressed in the Comcast/NBCU merger. That was a different transaction, involving players with different market positions, and the industry is nothing like what it was when that deal occurred. AT&T competes in an intensely competitive wireless business, and it is an insurgent in both broadband and multi-channel video distribution, where incumbent cable companies (like Comcast) generally hold stronger market positions. In addition, Netflix now nearly has as many subscribers as Comcast and DIRECTV combined and content creators are becoming distributors (e.g., CBS All Access), and distributors are becoming creators (e.g., Netflix, Amazon Originals, Hulu). We believe this transaction will enhance (not limit) streaming video options. That said, we understand that the DOJ will carefully review the transaction and we look forward to a productive dialogue with the agency regarding any concerns they have and how we can address them.

United States Senate, Committee on the Judiciary, Subcommittee on Antitrust, Competition Policy and Consumer Rights Hearing: "The AT&T/Time Warner Merger" – Questions for the Record Submitted by Senator Blumenthal for Randall Stephenson

1. **Mr. Stephenson and Mr. Bewkes, it has been reported that AT&T and Time Warner were planning to structure this merger to avoid scrutiny by the Federal Communications Commission under the Communication Act's public interest standard. Apparently, AT&T suggested that doing so would be as simple as choosing not to transfer the FCC license of a single Atlanta television station. In reality, as I understand it, Time Warner would have to engage in some pretty advanced regulatory gymnastics to avoid the scrutiny large telecommunications mergers are intended to receive under the law. Your company would have to fail to transfer dozens of so-called "Earth station licenses" that Time Warner uses for sending video to satellites.**

a. **Can you commit that you will not structure this deal to avoid FCC scrutiny?**
b. **Is there any reason Time Warner would not transfer all of its FCC licenses to AT&T as part of this transaction, other than to avoid FCC scrutiny?**
c. **Please explain why not selling the licenses would be in the interests of your shareholders?**

Response: The merger was not structured to avoid FCC review. The FCC's review of the merger is triggered by the transfer of licenses from Time Warner to AT&T. Where there are no licenses being transferred to AT&T, there is no FCC review.

As is standard practice in a transaction where the parties hold FCC licenses, Time Warner conducted a review of its FCC licenses to determine which, if any, should be transferred to AT&T as part of the combination of the two companies. While subject to change, it is currently anticipated that Time Warner will not need to transfer any of its FCC licenses to AT&T in order to continue to conduct its business operations after the closing of the transaction.

We expect the Department of Justice to conduct a thorough and detailed review of all competitive issues raised by the transaction.