



Robert W. Quinn, Jr.
Senior Vice President
Federal Regulatory

AT&T Services, Inc.
1120 20th St., NW, Suite 1000
Washington, DC 20036
T: 202.457.3851
F: 832.213.0243

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Robert M. McDowell
Commissioner
Federal Communications Commission
445 12th Street, S.W., 8th Floor
Washington, DC 20554

Re: Ex Parte Statement – Broadband Industry Practices
WC Docket No. 07-52

Dear Commissioner McDowell:

At Monday's *en banc* hearing on Broadband and the Digital Future, in response to a question you posed, I promised to provide further information on AT&T's policies and practices with respect to the use of peer-to-peer ("P2P") applications by AT&T's mobile wireless broadband customers. This letter is intended to supplement my initial answer.

As I indicated on Monday, AT&T does not use network management tools to block the use of P2P applications by its mobile wireless broadband customers. However, AT&T's terms of service for mobile wireless broadband customers prohibit all uses that may cause extreme network capacity issues, and explicitly identify P2P file sharing applications as such a use. Under these terms of service, which are similar to those of other wireless providers, use of a P2P file sharing application would constitute a material breach of contract for which the user's service could be terminated.¹ Since the vast majority of our customers abide by their contractual commitments, AT&T has not yet found it necessary to terminate anyone's service for such a use.

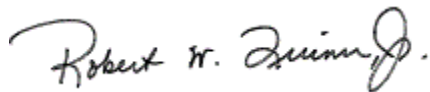
As I noted in my written testimony, mobile wireless broadband services rely on shared network resources at every point in the network including shared spectrum in the "last mile." I further

¹ See, e.g., Verizon Wireless Terms and Conditions, NationalAccess/BroadbandAccess and GlobalAccess, (prohibiting "peer-to-peer (P2P) file-sharing applications that are broadcast to multiple servers"); Sprint Terms and Conditions, Important Service/Product Specific Terms (prohibiting "use in connection with server devices or host computer applications [and] other systems that drive continuous heavy traffic or data sessions"); AllTel Wireless Legal Notices (prohibiting "peer-to-peer applications"). See also T-Mobile, Terms and Conditions (prohibiting conduct that "interferes with our operations, network, reputation, or ability to provide quality service"). NCTA recently represented to the Commission that AT&T's mobile wireless terms of service prohibit the use of VoIP. See Letter from Daniel Brenner, NCTA, to Marlene Dortch, FCC, WC Docket No. 07-52 (July 24, 2008). NCTA's claim is erroneous. The text quoted by NCTA is substantially out of date, and neither AT&T's terms of service nor the webpage cited by NCTA contain such a prohibition.

stated that, “[w]ith any shared network, some limitations on the uses individual subscribers make of their service are inherently necessary to ensure that *all* customers collectively receive an acceptable level of service.” AT&T’s policy on the use of P2P file sharing applications illustrates this principle. Today’s P2P file sharing applications are inappropriate for AT&T’s mobile wireless broadband network, which is optimized to efficiently support high data rates for multiple users that send and receive intermittent or “bursty” traffic generated by activities such as browsing the Internet and sending email. Because P2P file sharing applications typically engage in continuous (rather than bursty) transmissions at high data rates, a small number of users of P2P file sharing applications served by a particular cell site could severely degrade the service quality enjoyed by all customers served by that site. Moreover, unlike wired broadband networks where the maximum number of potential simultaneous users in a given neighborhood is known in advance, the maximum number of potential mobile wireless broadband users that may simultaneously seek to access a given cell site at any particular time – and thus the collective service experience for all users at that site, for both data and voice services – is far less predictable due to the inherently nomadic nature of mobile wireless users. Accordingly, AT&T’s terms of service prohibit the use of P2P applications to safeguard service quality for the benefit of all customers.

Thank you again for the opportunity to testify on this important subject. Please feel free to contact me at any time if you have additional questions.

Sincerely,



Robert W. Quinn, Jr.
Senior Vice President-Federal Regulatory

CC: Chairman Kevin Martin
Commissioner Michael Copps
Commissioner Jonathan Adelstein
Commissioner Deborah Tate
Daniel Gonzalez
Amy Bender
Scott Deutchman
Scott Bergmann
Nicholas Alexander
Greg Orlando
Dana Shaffer