

FOES OF AT&T MERGER WITH BELL SOUTH DETAIL CONCERNS
BY DAVID HATCH

Opponents of AT&T's planned merger with BellSouth urged regulators on Tuesday to block the deal, or at least impose substantial restrictions to rein in the market power of the mammoth company to be formed.

The FCC may conduct its review this fall but the timeframe for the Justice Department's review is uncertain. The \$67 billion transaction announced in March follows on the heels of the government's approval late last year of AT&T's acquisition of SBC Communications with limited divestitures and temporary conditions.

During a Tuesday conference call, Mark Cooper, research director at the Consumer Federation of America, asserted that the deal should be blocked because the former SBC has a history of anticompetitive conduct. "It was fined more than any other company over the past 10 years for violating its [regulatory] obligations," he said. "It is leading the charge for toll booths and tire shredders on the Internet."

Cooper said the merger gives AT&T "more leverage to play its anticompetitive dirty tricks, to use its market power to raise consumer prices and slow the flow of innovation." He said AT&T has indicated that it will not compete on price, but instead will push bundled offerings to encourage consumers to purchase more services.

"There are always those who'll try to use these proceedings to advance their own, narrow special interests. We're confident the FCC will recognize the significant public interest and consumer benefits of our merger," an AT&T spokeswoman said in a written statement. "And we look forward to a prompt review and speedy approval so we can begin delivering the benefits of innovative new services and increased competition to consumers," she added.

If the government permits the merger, competitive local phone providers should be granted access to the new entity's network, high-speed Internet access should be sold separately from other offerings and wholesale rates for business customers should to be capped, Cooper said. In addition, network neutrality conditions should be imposed on the new company to ensure it does not discriminate against competing Internet providers, he insisted.

Both Cooper and Andrew Schwartzman, president and CEO of the Media Access Project, a non-profit public interest law firm, also want any approval conditioned on the divestiture of spectrum held by both companies that could be used to offer high-speed wireless broadband service. That way, new competitors could enter the market and the merged entity would be unable to "warehouse" the frequencies, such as setting aside spectrum without using it.

BellSouth spokesman Bill McCloskey said his company is using some of the spectrum --particularly in New Orleans to help victims of Hurricane Katrina. Build-out requirements for the frequencies are "several years away," he said.

Schwartzman recommended that Cingular, a joint venture of AT&T and BellSouth and the nation's second-largest wireless carrier, also be divested. Under the venture, all three parties have incentives to compete to some degree against each other, he said. "Wrapping up Cingular into AT&T, along with BellSouth, takes away a very important potential form of competition in the wireless market," he warned.

Also opposing the merger during the call were the American Antitrust Institute; CompTel, whose members include many Bell competitors; the watchdog group Free Press and the National Association of State Utility Consumer Advocates.