

In the
**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

CONSUMER FEDERATION OF AMERICA,
CONSUMERS UNION, AND CENTER FOR DIGITAL
DEMOCRACY

Petitioners,

v.

FEDERAL COMMUNICATIONS
COMMISSION

and

UNITED STATES OF AMERICA,

Respondents.

No. 02-1337

CONSUMER FEDERATION OF AMERICA,
CONSUMERS UNION, AND CENTER FOR DIGITAL
DEMOCRACY,

Appellants,

v.

FEDERAL COMMUNICATIONS COMMISSION

Appellee.

No. _____

MOTION TO CONSOLIDATE

Appellants/Petitioners Consumer Federation of America, Consumers Union and Center for Digital Democracy respectfully ask this the Court to consolidate the two above-captioned cases.

These two cases are related within the meaning of Circuit Rule 28(a)(1)(C). They arise from the same agency proceeding, involve the same parties and the same issues.

Each of the cases arises from the FCC's consideration of the transfer of control of various instruments held by AT&T Corp. to a new entity controlled by applicant Comcast Corporation, effectively permitting the third largest cable television operator, Comcast, to acquire the cable and broadband assets of AT&T, the largest cable operator. Docket No. 02-1337, filed on November 7, 2002,

is a petition for review of an FCC order which denied the Petitioners' motion asking that the agency direct the applicants to file a contract relating to the terms under which the second largest cable operator, AOL/Time Warner, may provide high speed internet service to customers of the newly-merged company. In the second case, filed simultaneously with this motion, the same parties appeal the FCC's decision granting the merger in chief, notwithstanding its failure to require submission of the AOL/Time Warner contract.

Because of the identity of parties and the overlap of issues, consolidation will promote the interests of judicial economy. Accordingly, this Court's customary practice of consolidating related cases is wholly appropriate here.

Wherefore, Appellants/Petitioners ask that the two cases be consolidated, and that this Court grant all such other relief as may be just and proper.

Respectfully submitted,

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November 15, 2002

CERTIFICATE OF SERVICE

I, Harold Feld, hereby certify that, on this 15th day of November, 2002, I caused copies of the foregoing *Motion to Consolidate* to be served upon the parties listed below by first class mail:

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