

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
FUSE, LLC,)	
and)	
FM NETWORKS, LLC,)	MB Docket No. 20-426
Complainants,)	File No. CSR-8995-P
)	
v.)	
)	
AT&T INC.,)	
DIRECTV, LLC)	
and)	
AT&T SERVICES, INC.,)	
Defendants.)	

**Comments of
Communications Workers of America**

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Pursuant to 47 C.F.R. § 76.7(b)(1), the Communications Workers of America (“CWA”) submits these comments in support of the Program Carriage Complaint of Fuse, LLC and FM Networks, LLC (together, “Fuse Media”).¹ CWA represents private and public sector employees who work in telecommunications and information technology, the airline industry, news media, broadcast and cable television, education, health care and public service, manufacturing, and other fields. The National Association of Broadcast Employees and Technicians – Communications Workers of America (NABET-CWA), a CWA affiliate, represents more than 10,000 workers in broadcasting and related industries. CWA has a long history of promoting media ownership diversity,² and our members have an interest in the above-captioned complaint as consumers and workers in the industry. Indeed, NABET-CWA is a party in *Federal Communications Commission v. Prometheus Radio Project*, a case currently before the U.S. Supreme Court that addresses the important question of whether the FCC properly concluded that media consolidation would not harm its longstanding public interest goal of promoting ownership by women and people of color in broadcasting. Fuse Media’s complaint against AT&T demonstrates the threat media consolidation poses to diverse media ownership. In addition, AT&T’s discriminatory activity against Fuse Media threatens an estimated one hundred jobs. As the voice of workers in the broadcast industry, CWA has reason to intervene to protect these workers’ jobs.

¹ 47 C.F.R. § 76.7(b)(1); see Special Relief and Show Cause Petitions, *Public Notice*, Report No. 0496 (Dec. 16, 2020) (treating Fuse Media’s complaint a cable special relief petition under Section 76.7 of the FCC’s rules).

² See, e.g., Petition to Deny of Communications Workers of America, NABET-CWA, TNG-CWA, MB Docket 17-179 (filed June 28, 2018).

A commitment to promoting diverse media ownership is a fundamental component of the nation’s communications policy. The Commission’s obligation to promote media diversity is set forth in the Communications Act of 1934, as amended by the Telecommunications Act of 1996, requiring “a rapid, efficient, nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges” [...] “to all of the people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex.”³ Section 257 of the Communications Act also speaks to the importance of diversity.⁴ Despite these directives, media ownership diversity remains dismal. As of 2017, in the Full Power TV service, to take just one example, women comprise 5.3 percent of licensees, Latinx owners comprise 4.2 percent of licensees, and Black owners comprise just 0.9 percent of licensees.⁵

Diverse media, which preserves the free flow of ideas and information, is essential to democracy. CWA stands for diversity—diversity in the work environment as well as diversity in the content available to video consumers. CWA also stands for a thriving ecosystem of independent programmers. More independent programmers mean more jobs, and more independent and diverse programmers mean more diverse jobs. These principles are at risk when a vertically integrated distributor discriminates against an independent programmer and in favor of its own programming affiliates. And there is more at stake: Fuse Media’s grievance has

³ 47 U.S.C. § 153.

⁴ 47 U.S.C. § 257: “The Commission shall seek to promote the policies and purposes of this Act favoring diversity of media voices, vigorous economic competition, technological advancement, and promotion of the public interest, convenience and necessity.”

⁵ The Leadership Conference for Civil and Human Rights, “Summary of Federal Communications Commission Biennial Commercial Broadcast Ownership Data, 2009-2017” (Dec. 2020). Available at: <http://civilrightsdocs.info/pdf/FCC-v-Prometheus-Charts.pdf>

a reason due to the narrow view of self-interest on the part of the integrated media giant that AT&T has become, a view seemingly dictated by the bottom line of AT&T's affiliated programmers.

While financial terms are redacted in its publicly filed Program Carriage Complaint, Fuse Media presents a strong case in favor of its contention that AT&T has violated 47 C.F.R. § 76.1301(c) and the Commission should enjoin AT&T from further program carriage discrimination. We hope the Commission will embark on a full proceeding to investigate the facts and, if they bear out Fuse's position, order AT&T to carry Fuse and FM on equitable terms that do not unreasonably restrict Fuse and FM's ability to compete fairly, as determined by the Media Bureau.

Fuse Media is not alone in being inflicted by the same cause. CWA itself has experienced improper conduct in the hands of AT&T, conduct that is likewise inspired by the same misguided focus on Time Warner Media's bottom line. And as with Fuse Media, this treatment is a stark departure from AT&T's conduct toward CWA prior to its acquisition of Time Warner.

CWA supported AT&T's acquisition of Time Warner, with the expectation that it would lead to the creation and protection of good jobs in the United States, especially jobs that enable working people to negotiate a fair return on their work, as well as increased investment in our communities through improved services and benefits for consumers.⁶ AT&T has failed to respect the agreement it made with CWA to ensure the organizing rights of employees at acquisitions like Time Warner. The reason for this appears simple: like how it apparently views

⁶ *CWA Statement on Approval of AT&T's Acquisition of Time Warner*, Communications Workers of America (June 12, 2018), <https://cwa-union.org/news/releases/cwa-statement-on-approval-of-atts-acquisition-of-time-warner>.

independent programmers that compete against the Turner networks for advertisers and viewers, AT&T apparently views union jobs at these holdings as a threat to AT&T's bottom line.

This pattern of conduct has a direct implication for this proceeding. AT&T should be met with a huge dose of skepticism if it claims that Fuse programming is not valuable to AT&T, and that its treatment of Fuse has nothing to do with its interest in making its affiliated programmers more profitable. Any such claims should not be credited on AT&T's say-so, and should be tested by discovery in the adversarial process of a fact-finding proceeding, as contemplated by the program carriage rules.⁷

AT&T's poor treatment of Fuse Media and CWA has the perverse effect of stifling diverse representation. Fuse Media is a vibrant voice speaking to, and for, the multiethnic, multicultural community, especially Latinos, Afro-Latinos, and African Americans. Fuse Media likewise promotes diversity of content, management, and workforce. In addition, unions promote and protect diversity by ensuring underrepresented portions of the population are treated fairly. CWA regularly negotiates agreements that protect against discriminatory employment actions based on race, ethnicity, and gender. As to both CWA and Fuse Media, AT&T's actions strike at diversity.

Respectfully submitted,



Brian Thorn
Communications Workers of America

December 22, 2020

⁷ See 47 C.F.R. §§ 76.1302(i)(1)(ii) & (i)(2) (allowing for the conduct of discovery under the auspices of the Media Bureau itself or an administrative law judge).

CERTIFICATE OF SERVICE

I, Brian Thorn, hereby certify that on December 22, 2020, I caused a copy of the foregoing Comments of the Communications Workers of America, electronically filed with the Federal Communications Commission on this day, to be served by electronic mail upon:

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