

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

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

Appellants,

v.

FEDERAL COMMUNICATIONS  
COMMISSION

Appellee.

No. \_\_\_\_\_

**NOTICE OF APPEAL**

Pursuant to 47 U.S.C. §§ 402(b)(6), 402(c), 28 U.S.C. §2343, and Federal Rule of Appellate Procedure 15(a), Consumers Union, Consumer Federation of America, and Center for Digital Democracy (“Appellants”), hereby appeal a November 14, 2002 order of the Federal Communications Commission (“Commission”) approving the transfer of licenses from AT&T Corporation to Comcast, Corporation. *Report & Order, Applications for Consent to the Transfer of Control of Licenses from Comcast Corporation and AT&T Corp., Transferors, to AT&T, Transferee*, MB Docket 02-70, FCC 02-310 (rel. Nov. 14, 2002) (“*AT&T/Comcast Merger Order*”). A copy of this order is attached.

Appellants appeal the Commission’s *AT&T/Comcast Merger Order* on the grounds that:

- 1) the Commission excluded from the record that it did consider and/or failed to consider evidence necessary to fulfill its obligation under law; 2) arbitrarily and capriciously violated its own precedent

without explanation as to the appropriate levels of media concentration and appropriate markets for review in mergers in the cable industry; and 3) the Commission's decision is otherwise arbitrary and capricious and contrary to law.

Appellants request that this Court hold unlawful, vacate, enjoin, and set aside the Commission's *AT&T/Comcast Merger Order* and order 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 15<sup>th</sup> day of November, 2002, I caused copies of the foregoing *Notice of Appeal* to be served upon the parties listed below by first class mail:

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Appellees.

No. \_\_\_\_\_

**PROVISIONAL CERTIFICATE AS TO PARTIES, RULINGS AND RELATED CASES**

Pursuant to D.C. Circuit Rule 28(a)(1), Appellants Consumer Federation of America, Consumers Union and Center for Digital Democracy certify as follows:

**A. Parties**

Appellants in this case are Consumer Federation of America, Consumers Union and Center for Digital Democracy. Appellee in this case is the Federal Communications Commission (“FCC”).

**B. Rulings Under Review**

Appellants appeal the FCC’s decision granting various applications for transfer of control of licenses and authorizations from seek review of several decisions in FCC Docket MB 02-70. *In re Applications for Consent to the Transfer of Control of Licenses and Section 214 Authorizations from Comcast Corporation and AT&T Corp., Transferors, to AT&T Comcast Corporation, Transferee*, FCC 02-XX, \_\_\_ FCC Rcd \_\_\_ (rel. Nov. XX, 2002).

**C. Related Cases**

This case is related to *Consumer Federation of America v. FCC*, Docket No. 02-1337, filed

on November 7, 2002. In that newly-filed case, the same parties have petitioned for review of another FCC order arising from the same transaction which gave rise to the under appeal here. All of the issues of fact and law in No. 02-1337 arise in this appeal, although it also presents a number of additional issues of fact and law. Appellants have on this date filed a *Motion to Consolidate* these two cases.

Respectfully submitted,

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November 12, 2002