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November 27, 2020

By email to shareholderproposals@sec.gov

U.S. Securities and Exchange Commission
Division of Corporation Finance
Office of Chief Counsel
100 F Street N.E.
Washington, DC 20549

Re: AT&T Inc. – Request to Exclude Shareholder Proposal Submitted by National Center for Public Policy Research

Ladies and Gentlemen:

Pursuant to Exchange Act Rule 14a-8(j), AT&T Inc., a Delaware corporation (“AT&T” or the “Company”), hereby notifies the Division of Corporation Finance (the “Staff”) of the Securities and Exchange Commission (the “Commission”) of AT&T’s intention to exclude a shareholder proposal (the “Proposal”) submitted by National Center for Public Policy Research (the “Proponent”) from AT&T’s proxy materials for its 2021 Annual Meeting of Shareholders (the “2021 Proxy Materials”), for the reasons stated below.

This letter, together with the Proposal and the related correspondence, are being submitted to the Staff via email in lieu of mailing paper copies. A copy of this letter and the attachments are being sent on this date to the Proponent. We respectfully remind the Proponent that if it elects to submit additional correspondence to the Commission or the Staff with respect to the Proposal, a copy of that correspondence should be furnished concurrently to the undersigned pursuant to Rule 14a-8(k).

The Proposal

The Proposal sets forth the following resolution to be included in the 2021 Proxy Materials:

“Charitable Giving Reporting

Be it RESOLVED that shareholders of AT&T, Inc. (the “Company”) request that the Company prepare and annually update a report to shareholders, at reasonable expense and excluding proprietary information, listing and analyzing charitable contributions during the prior year. The report should

1. Identify organizational or individual recipients of donations, whether cash or in-kind, in excess of \$500 and aggregate smaller contributions by categories

- of recipients such as community organizations, schools, medical groups, churches, political or social activism organizations, and the like;
2. Identify for donations not yet spent or used: the purposes to which the donations are to be put, any restrictions on the use of the donations, and any mechanisms by which the restrictions on donations will be monitored and enforced;
 3. Identify for donations already spent or used: the purposes to which the donations were to be put, the purposes to which the donations were actually put, the method by which the use of the donations was monitored and ascertained, and an evaluation of the efficacy of the donation and the Company's intention with regard to future donations to the organization;
 4. Include management's analysis of any risks to the Company's brand, reputation, or shareholder value posed by all public controversies associated with the donations, including an explanation of the objective and consistent standards by which such controversies were discovered and their effect on the Company gauged; and
 5. Identify, if and as appropriate, philanthropic areas or initiatives considered most germane to corporate values while posing less risk to Company reputation; or in the alternative, any decision to scale back without replacement risky or misused donations.

Supporting Statement

The Securities & Exchange Commission has long and consistently stated that charitable contributions by corporations are “generally found to involve a matter of corporate policy which is extraordinary in nature and beyond a company's ordinary business operations,”¹ and so is amenable, without omission, to shareholder proposals to require reporting about them and about potential or realized risks and controversies arising from them, so long as the proposal relates to the corporation's “charitable contributions generally,” rather than merely to some segment of the corporation's charitable contributions.²

The need for such reporting has grown particularly acute in this shareholder season. Many corporations, including the Company, have committed to making significant charitable contributions in recent months.³ The political and social events which triggered these commitments are potentially highly divisive, and carry with them significant potential for misapplication of well-intentioned contributions to activities fraught with risk to the Company's reputation.⁴ It has therefore become more important than ever for corporations, and for Company specifically, to monitor carefully, and to report to shareholders, the content

¹ <https://www.sec.gov/divisions/corpfin/cf-noaction/14a-8/2010/humanlife021910-14a8.pdf>

² <https://www.sec.gov/divisions/corpfin/cf-noaction/14a-8/2017/johnharrington022817-14a8>

³ <https://www.forbes.com/sites/ashoka/2020/10/07/on-call-can-atts-employees-teach-the-company-a-new-form-of-public-responsibility/?sh=572d335a70b3>; <https://www.cnet.com/news/at-t-ceo-randall-stephenson-defends-black-lives-matter/>

⁴ <https://www.cnet.com/news/at-t-ceo-randall-stephenson-defends-black-lives-matter/>;
<https://www.breitbart.com/politics/2020/06/02/silent-majority-poll-shows-american-voters-support-use-of-military-national-guard-in-riots/>

of, intentions for, actual use of and lessons learned from its charitable contributions.”

A copy of the Proposal and related correspondence with the Proponent is attached to this letter as Exhibit A.

Analysis

I. The Proposal May Be Excluded Pursuant to 14a-8(i)(7) Because the Proposal Deals with Matters Relating to the Company’s Ordinary Business Operations.

A. Background

Under Rule 14a-8(i)(7), a shareholder proposal may be excluded from a company’s proxy materials if the proposal “deals with matters relating to the company’s ordinary business operations.” The purpose of the ordinary business exclusion is “to confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide how to solve such problems at an annual shareholders meeting.”⁵ As explained by the Commission, the term “ordinary business” in this context refers to “matters that are not necessarily ‘ordinary’ in the common meaning of the word, and is rooted in the corporate law concept providing management with flexibility in directing certain core matters involving the company’s business and operations.”⁶

The ordinary business exclusion is based on two central considerations. First, the Commission notes that “[c]ertain tasks are so fundamental to management’s ability to run a company on a day-to-day basis” that they are not proper subjects for shareholder proposals.⁷ The second consideration “relates to the degree to which the proposal seeks to ‘micro-manage’ the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment.”⁸ The Staff indicates that this second consideration “may come into play in a number of circumstances, such as where the proposal involves intricate detail, or seeks to impose specific time-frames or methods for implementing complex policies.” In Staff Legal Bulletin No. 14J (Oct. 23, 2018) (“SLB 14J”), the Staff elaborated on this by explaining that “a proposal that seeks an intricately detailed study or report” may be excluded on micromanagement grounds. SLB 14J also emphasizes that a proposal that may not be excludable on the basis of its subject matter may nevertheless be excludable on the basis of micromanagement: “it is the manner in which a proposal seeks to address an issue that results in exclusion on micromanagement grounds.”

In Staff Legal Bulletin No. 14K (Oct. 16, 2019) (“SLB 14K”), the Staff clarified that “where we concurred with a company’s micromanagement argument, it was not because we viewed the proposal as presenting issues that are too complex for shareholders to understand.

⁵ See Release No. 34-40018 (May 21, 1998) (the “1998 Release”).

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

Rather, it was based on our assessment of the level of prescriptiveness of the proposal. When a proposal prescribes specific actions that the company's management or the board must undertake without affording them sufficient flexibility or discretion in addressing the complex matter presented by the proposal, the proposal may micromanage the company to such a degree that exclusion of the proposal would be warranted."

B. The Proposal seeks to micromanage the Company because it would require an intricately detailed report, and therefore may be omitted under Rule 14a-8(i)(7).

The report requested by the Proposal would require that the Company identify any recipient of a donation (whether cash or in-kind) "in excess of \$500" and "aggregate smaller contributions by categories of recipients." Once the donations are made: for donations actually "spent or used" by the recipient, the report would need to identify (1) the "purposes to which the donations were to be put," (2) the "purposes to which the donations were actually put," (3) the "method by which the use of the donations was monitored and ascertained," (4) an "evaluation of the efficacy of the donation" and (5) the "Company's intention with regard to future donations to the organization" (emphasis added). For donations "not yet spent or used" by the recipient, the report would need to identify (1) the "purposes to which the donations are to be put," (2) "any restrictions on the use of the donations" and (3) any "mechanisms by which the restrictions on donations will be monitored and enforced."

The report would also need to include management's analysis of "any risks to the Company's brand reputation or shareholder value posed by all public controversies associated with the donations," which analysis would also need to explain the "objective and consistent standards by which such controversies were discovered and their effect on the Company gauged" (emphasis added). Finally, the report would need to "identify, if and as appropriate, philanthropic areas or initiatives considered most germane to corporate values while posing less risk to Company reputation" or, in the alternative, "any decision to scale back without replacement risky or misused donations."

Setting aside the question as to whether this information could even be collected – after all, cash is cash, and once pooled with other donations, it would be extremely difficult to "trace" the Company's donation to its actual "use" – the report requested by the Proposal is clearly, and, it should be noted, purposefully burdensome and would require the Company to expend significant administrative and due diligence efforts in following through on every donation above \$500. In 2019, the Company made approximately 13,000 donations that were each greater than \$500.

However, it is the Proposal's level of prescriptiveness that merits and warrants its exclusion under the micromanagement prong of Rule 14a-8(i)(7), as explained further by SLB 14K: the Proposal affords management no "flexibility or discretion in addressing the complex matter presented by the proposal." The Proposal would require extensive disclosure for any recipient who receives more than \$500, which is a small amount for a company of AT&T's size. For each such recipient, the Proposal would require the Company to evaluate the "efficacy" of the donation. Evaluating the "efficacy" of a donation as small as \$501 is at once self-evident and

unnecessary. And yet, the Proposal would require it for each and every donation above \$500. In contrast, while the Company does require reports of impact from the organizations we fund, it does so only if our contribution is greater than a certain amount – and where the Company sets that amount depends on the facts and circumstances of the donation and the recipient. For example, a first-time recipient may be asked to submit a report of impact with respect to a relatively small donation whereas a long-time recipient receiving that same amount may not be asked to submit a report of impact. The report requested by the Proposal would also require management to analyze “any risks” to the Company posed by “all public controversies associated with the donations,” regardless of the nature and materiality of the risk or the controversy. Moreover, any such “controversies” would need to be identified and disclosed using “objective and consistent standards.”

In its excessive prescriptiveness, the Proposal seeks to dictate both the contents of the report and the manner in which the Company evaluates the recipients of its charitable contributions, with no flexibility or discretion to weigh costs and benefits or to exercise judgment to act in the best interests of the corporation. Because of the micromanagement manner in which the Proposal seeks to address the issue of corporate charitable giving, exclusion of the Proposal is warranted under Rule 14a-8(i)(7).

The Staff has in the past concurred that proposals seeking reports with high levels of requested detail, such as the report requested in the Proposal, may be omitted in reliance on Rule 14-8(i)(7). *See, e.g., PayPal Holdings, Inc.* (Mar. 6, 2018) (concurring in the omission of a proposal requesting that the company prepare a report evaluating the feasibility of the company of achieving “net zero” emissions by 2030); *Ford Motor Co.* (Mar. 2, 2004) (concurring in the omission of a proposal seeking to dictate “the specific method of preparation and the specific information to be included in a highly detailed report”).

C. The Proposal relates to charitable contributions that are made to specific types of organizations, and therefore may be omitted under Rule 14a-8(i)(7).

The Company also believes that the Proposal may be excluded in reliance on Rule 14a-8(i)(7) because it relates to charitable contributions to specific types of organizations, which is a component of “ordinary business.” The Proposal, read together with the Supporting Statement and the Supporting Statement’s footnotes, does not have a general objective. Instead, it is directed at specific organizations that support a particular movement to which the Proponent is apparently opposed: Black Lives Matter (“BLM”).

When applying Rule 14a-8(i)(7), the Staff evaluates the “underlying subject matter” of the proposal, regardless of how the proposal is framed. *See Release No. 34-20091* (Aug. 16, 1983); *Staff Legal Bulletin No. 14H* (Oct. 22, 2015). Here, the “underlying subject matter” of the Proposal is made clear by the Supporting Statement, which in part states that the Company has committed to “making significant charitable contributions in recent months” and that such commitments were “triggered” by political and social events that “are potentially highly divisive, and carry with them significant potential for misapplication of well-intentioned contributions to activities fraught with risk to the Company’s reputation.” The reference to “activities fraught with risk” is not generic. Rather, Proponent provides context and support for these statements by

providing footnotes with links to an article describing the Company's support for the BLM movement, an article describing the Company's CEO's support for the BLM movement, and to an article describing recent protests in connection with BLM. The Proposal, when read in conjunction with the accompanying Supporting Statement and its footnotes, plainly seeks to limit the Company's charitable contributions only with respect to organizations supporting BLM.⁹ The Proposal does not refer to any other public controversy associated with the Company's donations. Accordingly, the Proposal relates directly to an ordinary business matter – namely, a company's decision about the nonprofit organizations to which it should or should not make charitable contributions.

In contrast to shareholder proposals that relate to a company's charitable contributions generally, which are typically not excludable under Rule 14a-8(i)(7), the Staff has consistently granted no-action relief under Rule 14a-8(i)(7) where the proposal requests that charitable contributions be made, or not made, to specific organizations or specific types of organizations. In *The Walt Disney Co.* (Nov. 20, 2014), the Staff permitted exclusion under Rule 14a-8(i)(7) of a proposal urging the company to “preserve the policy of acknowledging the Boy Scouts of America as a charitable organization to receive matching contributions (grants)” after the company decided it would no longer provide the organization with funding. *See also PepsiCo, Inc.* (Feb. 24, 2010) (concurring in the exclusion of a proposal requesting that the company specifically prohibit financial or other support of any “organization or philosophy which either rejects or supports homosexuality,” noting that “[p]roposals that concern charitable contributions directed to specific types of organizations are generally excludable under rule 14a-8(i)(7)”; *Target Corporation* (Mar. 31, 2010) (concurring in the exclusion of a proposal requesting a report on charitable donations and a feasibility study of policy changes, “including minimizing donations to charities that fund animal experiments,” on the basis that it related to the company's ordinary business operations in that it concerned “charitable contributions directed to specific types of organizations”).


The fact that the Proposal's resolution is facially neutral does not change the analysis. The Staff has concurred with the exclusion of proposals where the language of the resolution does not target specific charities or types of charities but where the supporting statement makes clear that the proposal in fact would serve as a shareholder referendum on corporate contributions to a particular charity or type of charity, as is the case with the Proposal. For example, in *JPMorgan Chase & Co.* (Feb. 28, 2018), the Staff concurred in the exclusion of a proposal requesting that the board issue a report disclosing the company's standards for choosing organizations that receive charitable contributions, where the supporting statement focused on the company's contributions to Planned Parenthood and the Southern Poverty Law Center. The Staff agreed that this proposal related to “contributions to specific types of organizations”. *See also Starbucks Corp.* (Jan. 4, 2018) (concurring in the exclusion of a facially neutral proposal in which the supporting statement criticized Planned Parenthood for “being the subject of much controversy”).

⁹ The Proponent's website clearly demonstrates its aversion to the BLM movement. For example, there is a petition on the website that demands that “Amazon cease all funding to Black Lives Matter” and claims that Black Lives Matter advocates extreme positions. *See* <https://nationalcenter.org/tell-amazon-to-stop-funding-black-lives-matter/>.

* * *

Based upon the foregoing analysis, we respectfully request that the Staff concur that the Proposal may properly be omitted from the Company's 2021 Proxy Materials on the basis of Rule 14a-8(i)(7). We would be happy to provide you with any additional information and answer any questions that you may have regarding this subject. Correspondence regarding this letter should be sent to me at ww0118@att.com. If I can be of any further assistance in this matter, please do not hesitate to contact me at (214) 757-3344.

Sincerely,



Wayne Wirtz

Attachment: Exhibit A

cc: Justin Danhof, Esq., National Center for Public Policy Research
(JDanhof@nationalcenter.com)

EXHIBIT A



November 5, 2020

Via FedEx to

David R. McAtee II
Senior Vice President, Assistant General Counsel & Secretary
AT&T, Inc.
208 S. Akard Street
Suite 2954
Dallas, Texas 75202

Dear Mr. McAtee,

I hereby submit the enclosed shareholder proposal ("Proposal") for inclusion in the AT&T Inc. (the "Company") proxy statement to be circulated to Company shareholders in conjunction with the next annual meeting of shareholders. The Proposal is submitted under Rule 14(a)-8 (Proposals of Security Holders) of the United States Securities and Exchange Commission's proxy regulations.

I submit the Proposal as the Deputy Director of the Free Enterprise Project of the National Center for Public Policy Research, which has continuously owned Company stock with a value exceeding \$2,000 for a year prior to and including the date of this Proposal and which intends to hold these shares through the date of the Company's 2021 annual meeting of shareholders. A Proof of Ownership letter is forthcoming and will be delivered to the Company.

Copies of correspondence or a request for a "no-action" letter should be forwarded to Justin Danhof, Esq, General Counsel, National Center for Public Policy Research, 20 F Street, NW, Suite 700, Washington, DC 20001 and emailed to JDanhof@nationalcenter.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Shepard", is written over a light blue horizontal line.

Scott Shepard

Enclosure: Shareholder Proposal

Charitable Giving Reporting

Be it RESOLVED that shareholders of AT&T, Inc. (the “Company”) request that the Company prepare and annually update a report to shareholders, at reasonable expense and excluding proprietary information, listing and analyzing charitable contributions during the prior year. The report should

1. Identify organizational or individual recipients of donations, whether cash or in-kind, in excess of \$500 and aggregate smaller contributions by categories of recipients such as community organizations, schools, medical groups, churches, political or social activism organizations, and the like;
2. Identify for donations not yet spent or used: the purposes to which the donations are to be put, any restrictions on the use of the donations, and any mechanisms by which the restrictions on donations will be monitored and enforced;
3. Identify for donations already spent or used: the purposes to which the donations were to be put, the purposes to which the donations were actually put, the method by which the use of the donations was monitored and ascertained, and an evaluation of the efficacy of the donation and the Company’s intention with regard to future donations to the organization;
4. Include management’s analysis of any risks to the Company’s brand, reputation, or shareholder value posed by all public controversies associated with the donations, including an explanation of the objective and consistent standards by which such controversies were discovered and their effect on the Company gauged; and
5. Identify, if and as appropriate, philanthropic areas or initiatives considered most germane to corporate values while posing less risk to Company reputation; or in the alternative, any decision to scale back without replacement risky or misused donations.

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The need for such reporting has grown particularly acute in this shareholder season. Many corporations, including the Company, have committed to making significant charitable contributions in recent months.³ The political and social events which triggered these

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³ <https://www.forbes.com/sites/ashoka/2020/10/07/on-call-can-atts-employees-teach-the-company-a-new-form-of-public-responsibility/?sh=572d335a70b3>; <https://www.cnet.com/news/at-t-ceo-randall-stephenson-defends-black-lives-matter/>

commitments are potentially highly divisive, and carry with them significant potential for misapplication of well-intentioned contributions to activities fraught with risk to the Company's reputation.⁴ It has therefore become more important than ever for corporations, and for Company specifically, to monitor carefully, and to report to shareholders, the content of, intentions for, actual use of and lessons learned from its charitable contributions.

⁴ <https://www.cnet.com/news/at-t-ceo-randall-stephenson-defends-black-lives-matter/>;
<https://www.breitbart.com/politics/2020/06/02/silent-majority-poll-shows-american-voters-support-use-of-military-national-guard-in-riots/>

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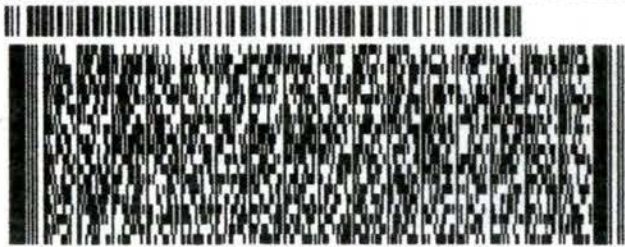
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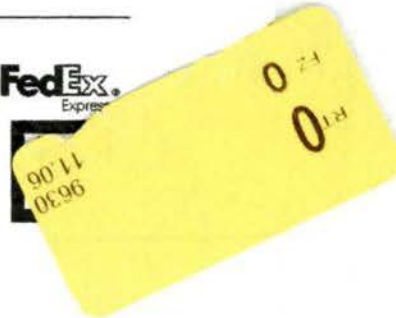
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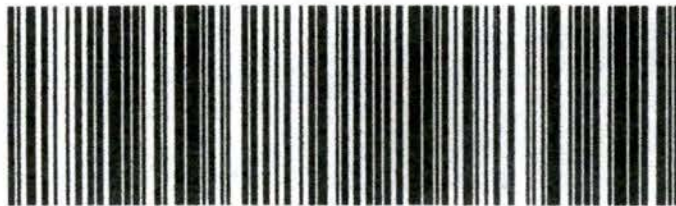
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