



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

May 8, 2017

The Honorable Sheila Jackson Lee  
U.S. House of Representatives  
2187 Rayburn House Office Building  
Washington, D.C. 20515

Dear Congresswoman Jackson Lee:

Thank you for your letter concerning the Communications Assistance for Law Enforcement Act (CALEA).

CALEA requires that a telecommunications carrier ensure that its equipment, facilities, or services are capable of expeditiously isolating the content, or information identifying the origin and destination of targeted communications, and transmitting such information to law enforcement agencies, pursuant to a lawful authorization. Such actions must be conducted unobtrusively, so that targets are not made aware of the interception, and in a manner that does not compromise the privacy and security of other communications.

Although CALEA requires carriers to ensure that only information subject to a court order or other lawful authorization may be made available for collection by the government, it does not provide the Commission any authority to review the sufficiency of such order or authorities. Communications providers must determine their obligations when presented with such orders and authorities. Ultimately, the judiciary is responsible for determining the validity of orders or other legal authorizations used by law enforcement to compel carriers to assist the government with surveillance. These determinations can be and have been challenged in civil suits.<sup>1</sup>

With respect to your concerns regarding the AT&T-DIRECTV merger, the Commission concluded in its order approving the transaction that the privacy-related allegations were not related to the transaction under review and did not provide a basis for questioning AT&T's character qualifications.<sup>2</sup>

I appreciate your interest in this matter and would welcome the opportunity to discuss it with you or to have my staff brief your staff on the issue. Please let me know if I can be of any further assistance.

Sincerely,

Ajit V. Pai

P.S. Congresswoman, thanks again for your letter! I look forward to working with you.

<sup>1</sup> See, e.g., *In re Nat'l Sec. Agency Telecoms. Records Litig. (Hepting v. AT&T Corp.)*, 671 F.3d 881 (9th Cir. 2011), cert. denied, *Hepting v. AT&T Corp.*, 113 S. Ct. 421 (2012); *Jewel v. NSA*, 673 F.3d 902 (9th Cir. 2011); *Obama v. Klayman*, 800 F.3d 559 (D.C. Cir. 2015).

<sup>2</sup> *Applications of AT&T Inc. and DIRECTV for Consent to Assign or Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 30 FCC Rcd 9131, 9149-50, paras. 41-44 (2015) (AT&T-DIRECTV Order).