

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

AT&T INC., DIRECTV GROUP
HOLDINGS, LLC, and
TIME WARNER INC.,

Defendants.

Case No. 1:17-cv-02511-RJL

PLAINTIFF’S RESPONSE TO DEFENDANTS’ MOTION TO SET TRIAL DATE

Defendants, after controlling the timing of the investigation process,¹ attempt to rush this important matter to trial to meet an artificial April 22 deadline. Indeed, when asked about this date at a conference held in New York on November 9, AT&T’s CEO stated that “April 22nd doesn’t even matter.” Declaration of Lauren G.S. Riker (Dec. 5, 2017) (Ex. A). Defendants’ proposed schedule should be rejected. A process that leads to an orderly and complete airing of the facts and expert opinions, as set out in the United States’ schedule, will protect competition and the American consumer.

¹ At all points up to the filing the Complaint, Defendants have been in control of timing. They chose the date for the initial filing, for their provision of documents and data, and they entered a timing agreement with the Division. Def. Motion Ex. C. Defendants chose to let this timing agreement expire 251 days after the transaction was announced. *Id.* And Defendants chose to enter a subsequent timing agreement—not listed in their Timeline—that empowered AT&T and Time Warner to give the Division 21-days’ notice of their intention to close their proposed merger. Defendants did not choose to exercise this option until November 6, 2017, 380 days after they announced the transaction. This fact should not prejudice the United States’ request for a reasonable period for fact and expert discovery.

Defendants’ motion also misleadingly asserts that the “median time from complaint to trial” in Government merger challenges is less than 75 days. Def. Motion 3. Defendants primarily rely on preliminary injunction cases brought by the Federal Trade Commission. Def. Motion 3 fn. 1. Preliminary injunction cases, of course, involve different legal and evidentiary standards than a full trial, and therefore the time between an FTC complaint and the preliminary injunction hearing (not to mention the length of the hearing itself) would be less than that involved in a full trial on the merits—such as we have here.

Dated: December 5, 2017

Respectfully submitted,

/s/ Craig Conrath

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CERTIFICATE OF SERVICE

I hereby certify that on December 5, 2017, I caused a true and correct copy of the foregoing to be served upon the parties of record via the Court's CM/ECF system.

/s/ Craig Conrath

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