

December 22, 2023

**VIA INTERNET SUBMISSION**

Office of Chief Counsel  
Division of Corporation Finance  
Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549

Re: *AT&T Inc.*  
*Stockholder Proposal of National Center for Public Policy Research*  
*Securities Exchange Act of 1934—Rule 14a-8*

Ladies and Gentlemen:

This letter is to inform you that our client, AT&T Inc. (the “Company”), intends to omit from its proxy statement and form of proxy (collectively, the “2024 Proxy Materials”) for its 2024 Annual Meeting of Stockholders (the “2024 Annual Meeting”) a stockholder proposal (the “Proposal”) and statements in support thereof (the “Supporting Statement”) received from the National Center for Public Policy Research (the “Proponent”).

Pursuant to Rule 14a-8(j), we have:

- filed this letter with the Securities and Exchange Commission (the “Commission”) no later than eighty (80) calendar days before the Company intends to file its definitive 2024 Proxy Materials with the Commission; and
- concurrently sent copies of this correspondence to the Proponent.

Rule 14a-8(k) and Staff Legal Bulletin No. 14D (Nov. 7, 2008) (“SLB 14D”) provide that stockholder proponents are required to send companies a copy of any correspondence that the proponents elect to submit to the Commission or the staff of the Division of Corporation Finance (the “Staff”). Accordingly, we are taking this opportunity to inform the Proponent that if the Proponent 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 on behalf of the Company pursuant to Rule 14a-8(k) and SLB 14D.

## THE PROPOSAL

The Proposal states:

**Resolved:** Shareholders request the Board of Directors conduct an evaluation and issue a report within the next year, at reasonable cost and excluding proprietary information and disclosure of anything that would constitute an admission of pending litigation, evaluating how AT&T's policies and practices impact employees and prospective employees based on their religion (including religious views) or political, social and environmental view, and the risks those impacts present to Company's business.

The Proposal's Supporting Statement makes a number of allegedly factual statements, with citations to information posted on third-party websites, in an effort to demonstrate why stockholders should vote in favor of the Proposal. As discussed below, these statements are materially misleading. For example, the Supporting Statement asserts that the Company:

- “reserves the right to deny service to customers who express views opposed by AT&T executives”;
- “pressures stakeholders to discriminate as those executives wish”;
- “supports legislation that would roll back longstanding statutory protections of religious liberty”;
- “actively supports the ‘Equality Act,’ which would repeal viewpoint protections while forcing American life into alignment with fringe theories that harm, among others, women, girls and small children”;
- “has a proven record of discrimination on illegal grounds and of active campaigns against religious liberty.”

A copy of the Proposal and the Supporting Statement, as well as relevant correspondence with the Proponent, is attached to this letter as Exhibit A.

## BASIS FOR EXCLUSION

We believe that the Proposal may properly be excluded from the 2024 Proxy Materials pursuant to Rule 14a-8(i)(3) because the Proposal's Supporting Statement contains materially misleading assertions in violation of the proxy rules, including Rule 14a-9.

## ANALYSIS

**The Proposal Is Excludable Under Rule 14a-8(i)(3) Because Inflammatory Remarks In The Supporting Statement Are Materially Misleading In Violation Of Rule 14a-9.**

The Proposal properly may be excluded pursuant to Rule 14a-8(i)(3), which allows the exclusion of a stockholder proposal where the proposal or supporting statement is contrary to any of the

Commission's proxy rules and regulations, including Rule 14a-9, which prohibits materially false or misleading statements in proxy solicitation materials. The Note to Rule 14a-9 states that "misleading" materials include "[m]aterial which directly or indirectly impugns character, integrity or personal reputation, or directly or indirectly makes charges concerning improper, illegal or immoral conduct or associations, without factual foundation."

Under this standard, the Staff has consistently concurred with the exclusion of proposals that impugn the character and reputation of the company and contain irrelevant and inflammatory statements and unfounded innuendo. *See, e.g., General Magic, Inc.* (avail. May 1, 2000) (allowing exclusion of proposal to change company name to "The hell with shareholders" excludable under Rule 14a-8(i)(3)); *Philip Morris Cos. Inc.* (avail. Feb. 7, 1991) (proposal implying that company "advocates or encourages bigotry and hate" excludable under former Rule 14a-8(c)(3)); *Detroit Edison Co. (Ellison)* (avail. Mar. 4, 1983) (statements implying company engaged in improper "circumvention of . . . regulation" and "obstruction of justice" without factual foundation provided a basis for excluding the proposal under former Rule 14a-8(c)(3)); *Standard Brands, Inc.* (avail. Mar. 12, 1975) (proposal's references to a company engaging in "economic racism" violated Rule 14a-9). In *Philip Morris*, the Staff concurred with the exclusion of a proposal that implied that the company "encourage[d] bigotry and hate" by supporting certain politicians, individuals and organizations. In addition, the Staff has concurred with the exclusion of a proposal that suggested that the company engaged in wrongdoing without providing any factual support for such implication. *See ConocoPhillips* (avail. Mar. 13, 2012) (concurring in the exclusion of a proposal suggesting the company's Chairman participated in money laundering).

Here, the Supporting Statement makes similar allegations to the proposal in *Philip Morris* that directly impugn the character, integrity and reputation of the Company and its executives – all without factual foundation:

- The Supporting Statement alleges that the Company "reserves the right to deny service to customers who express views opposed by AT&T executives." The only citation provided for this false and inflammatory statement is a website address for a so-called viewpoint diversity index, titled the "Viewpoint Diversity Score Business Index." In this index's report for the Company, in the section titled "Respecting Customers' Freedom of Expression and Belief," the report gives a red exclamation mark rating to two factors, the "Terms of Use/Service Avoid Unclear or Imprecise Terms" factor and the "CSR/ESG Reporting Includes Freedom of Expression and Belief" factor. Specifically, the report notes that the AT&T Acceptable Use Policy provides that "AT&T reserves the right to decline to provide [web hosting] services if the content is determined by AT&T to be . . . hateful . . . or otherwise harmful to others"; and that there is "[n]o reference(s) to viewpoint diversity or synonymous term(s) found in CSR-ESG-related material."<sup>1</sup> On this basis, the Supporting Statement maligns the Company's executives by falsely

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<sup>1</sup> See <https://www.viewpointdiversityscore.org/company/att>.

asserting that they have reserved for themselves the right to engage in viewpoint discrimination.

- The Supporting Statement alleges that the Company “pressures stakeholders to discriminate as those executives wish.” The only citation provided for this false and inflammatory statement is the same index’s report, in the “Respecting Vendors’ Freedom of Expression and Belief” section, in which a red exclamation mark is given to the “Respects Vendor Freedom Concerning DE&I Practices” factor. Specifically, the report cites AT&T’s Supplier Diversity Programming, which is a program to “drive accountability by rewarding suppliers who demonstrate strong diversity and inclusion values,” as support for its statement that the “Company is known to require vendors, suppliers, contractors, or other equivalent third parties to adopt specific DE&I programming, policies, statements or affirmations.”<sup>2</sup> Building on the report’s misrepresentation – which transforms the Company’s program of providing incentives to suppliers to have a more diverse workforce into a requirement – the Supporting Statement further maligns and misrepresents the Company’s executives by asserting that the Company “pressures stakeholders to discriminate as those executives wish.”
- The Supporting Statement alleges that the Company “supports legislation that would roll back longstanding statutory protections of religious liberty.” As an example of this, it alleges that “AT&T actively supports the ‘Equality Act,’ which would repeal viewpoint protections while forcing American life into alignment with fringe theories that harm, among others, women, girls and small children.” The Company strongly supports the Equality Act, which, if passed, would amend the Civil Rights Act of 1964 to prohibit discrimination on the basis of sex, sexual orientation and gender identity in employment, housing, public accommodations, education, federally funded programs, credit, and jury service. To characterize the Equality Act – and, by extension, the Company for supporting the Equality Act – as repealing “viewpoint protections” and “forcing American life into alignment with fringe theories that harm, among others, women, girls and small children” is materially misleading and highly inflammatory, particularly the gratuitous reference to “girls and small children.” Those so-called “fringe theories” are nothing less than protection from discrimination.
- The Supporting Statement states that the Company “opposes common-sense voting-integrity provisions that most Americans of all surface-characteristic categories support.” In support of this outrageous statement, the Proponent cites an ABC News article describing how certain companies voiced concerns about a Texas voting bill that some voting rights advocates claimed would make it harder to vote in Texas. Not even the very article that the Proponent cites states that the Company opposed the bill. In fact, the Company never took a stand on the bill. The Proposal’s statement to the contrary is demonstrably false.

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<sup>2</sup> *Id.*

- The Supporting Statement concludes by making perhaps the most inflammatory of its unsubstantiated allegations, stating without proof that the Company has a “proven record of discrimination on illegal grounds.” The only citation the Proposal includes to support this inflammatory statement is an opinion-based article that discusses the Company’s initiatives, but makes no reference to any discrimination, let alone any “proven” or “illegal” discrimination.

In summary, not only do these allegations lack evidentiary support, they are also factually untrue. The Company takes an affirmative stance in support of equality and against discrimination. In fact, the Company’s belief in standing for equality is found on its public website,<sup>3</sup> and the Company releases an annual Diversity, Equity and Inclusion report.<sup>4</sup> Additionally, the Company’s official release regarding its support for the “Equality Act” expresses the Company’s commitment to diversity and to protecting individuals against discrimination.<sup>5</sup> The Supporting Statement’s unfounded and misleading allegations only serve to impugn the Company’s reputation.

*In Express Scripts Holding Co. v. Chevedden*, 2014 WL 631538, at \*4 (E.D. Mo. Feb. 18, 2014), the court ruled that, “when viewed in the context of soliciting votes in favor of a proposed corporate governance measure, statements in the proxy materials regarding the company’s existing corporate governance practices are important to the stockholder’s decision whether to vote in favor of the proposed measure” and therefore are material. Likewise here: when viewed in the context of soliciting votes in favor of a proposal calling for a report on “workforce civil liberties,” statements in the proxy materials regarding the Company’s current positions and actions on civil rights and civil liberties are important to the stockholder’s decision whether to vote in favor of the Proposal. As described in detail above, the offensive and false statements in the Supporting Statement are materially misleading because they are presented primarily to incite and inflame the reader and impugn the Company’s reputation by asserting, as fact, that the Company engages in viewpoint discrimination. Under *Express Scripts Holding*, the offensive statements in the Supporting Statement discussed above are material because stockholders would assume them to be true and would consider them in the context of determining how to vote on the Proposal. Therefore, the Proposal violates Rule 14a-9 and, consistent with *General Magic*, *Philip Morris* and other precedent cited above, the Proposal is properly excludable under Rule 14a-8(i)(3).

## CONCLUSION

Based upon the foregoing analysis, we respectfully request that the Staff concur that it will take no action if the Company excludes the Proposal from its 2024 Proxy Materials pursuant to Rule 14a-8(i)(3).

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<sup>3</sup> Available at <https://about.att.com/pages/values>.

<sup>4</sup> Available at <https://about.att.com/pages/diversity/dei-report>.

<sup>5</sup> See [https://about.att.com/story/2021/equality\\_act.html](https://about.att.com/story/2021/equality_act.html).

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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 [shareholderproposals@gibsondunn.com](mailto:shareholderproposals@gibsondunn.com). If we can be of any further assistance in this matter, please do not hesitate to call me at (202) 887-3550.

Sincerely,

/s/ Thomas J. Kim

Thomas J. Kim

Enclosures

cc: Bryan Hough, AT&T Inc.  
Moni DeWalt, AT&T Inc.  
Scott Shepard, National Center for Public Policy Research

# Exhibit A



November 30, 2023

**Via FedEx to**

Senior Vice President, Deputy General Counsel and Secretary of AT&T  
208 S. Akard Street  
Suite 2951  
Dallas, Texas 75202

Dear Sir/Madam,

I hereby submit the enclosed shareholder proposal (“Proposal”) for inclusion in the AT&T (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 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 at least 3 years prior to and including the date of this Proposal and which intends to hold these shares through the date of the Company’s 2024 annual meeting of shareholders. A Proof of Ownership letter is forthcoming and will be delivered to the Company.

Pursuant to interpretations of Rule 14(a)-8 by the Securities & Exchange Commission staff, I initially propose as a time for a telephone conference to discuss this proposal December 20, 2023 or December 21, 2023 from 2-5 p.m. eastern. If that proves inconvenient, I hope you will suggest some other times to talk. Please feel free to contact me at [REDACTED] so that we can determine the mode and method of that discussion.



Copies of correspondence or a request for a "no-action" letter should be emailed to me at [REDACTED] and sent by courier or certified mail to me at the National Center for Public Policy Research, [REDACTED].

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Shepard", with a long horizontal flourish extending to the right.

Scott Shepard  
FEP Director

Enclosures: Shareholder Proposal

## Report on Respecting Workforce Civil Liberties

### Supporting Statement:

AT&T (Company) employs more than 160,000 people.<sup>1</sup> It should respect its employees' speech rights and religious freedom. Company legally must comply with many laws prohibiting discrimination against employees on many grounds, including religion and sometimes political affiliation.

Respecting diverse views and beliefs allows Company to attract the most qualified talent, promote a healthy and innovative business culture, and contribute to a healthy economic market and marketplace of ideas.

Despite this, the Viewpoint Diversity Score Business Index (2023) (VDSBI)<sup>1</sup> found rampant corporate discrimination by religion, viewpoint and other characteristics, and that 78% of scored companies discriminated against religious nonprofits, and 63% supported legislation undermining fundamental First Amendment freedoms. AT&T scored only 10 percent on the VDSBI, in part because it reserves the right to deny service to customers who express views opposed by AT&T executives, pressures stakeholders to discriminate as those executives wish, and supports legislation that would roll back longstanding statutory protections of religious liberty.<sup>2</sup> AT&T actively supports the "Equality Act," which would repeal viewpoint protections while forcing American life into alignment with fringe theories that harm, among others, women, girls and small children.<sup>3</sup> Likewise, it opposed common-sense voting-integrity provisions that most Americans of all surface-characteristic categories support.<sup>4</sup> These unnecessary, divisive stances alienate many current and potential employees and other stakeholders.

The business dangers of viewpoint conformity are clear. Company bottom-lines, and thus shareholder value, decrease when ideological lockstep makes the risks of hyperpartisan behavior invisible. Bud Light revenue fell \$395 million in North America in a year because it took a hard partisan position on hot-button political and social issues.<sup>5</sup> Target's market cap fell over \$15 billion for parallel reasons.<sup>6</sup> And Disney stock fell 44 percent in 2022 – its worst performance in nearly 50 years – amid its decision to pursue extreme partisan agendas.<sup>7</sup>

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<sup>1</sup> <https://stockanalysis.com/stocks/t/employees/>

<sup>2</sup> <https://www.viewpointdiversityscore.org/company/att>

<sup>3</sup> <https://www.hrc.org/resources/business-coalition-for-equality>;

[https://www.realclearreligion.org/articles/2019/05/16/the\\_equality\\_act\\_will\\_hurt\\_religious\\_freedom\\_110219.html](https://www.realclearreligion.org/articles/2019/05/16/the_equality_act_will_hurt_religious_freedom_110219.html)

<sup>4</sup> <https://abcnews.go.com/Politics/dell-american-airlines-att-weigh-restrictive-voting-bills/story?id=76809993>; <https://news.yahoo.com/poll-majority-dems-non-white-194529851.html>

<sup>5</sup> <https://www.cnn.com/2023/08/03/business/anheuser-busch-revenue-bud-light-intl-hnk/index.html>;

<sup>6</sup> <https://www.foxbusiness.com/media/target-market-cap-losses-hit-15-7-billion-share-near-52-week-low-amid-woke-backlash>

<sup>7</sup> <https://www.washingtonexaminer.com/policy/economy/disney-has-lost-50-billion-in-value-since-war-with-florida-began>; <https://www.hollywoodreporter.com/business/business-news/disney-stock-2022-1235289239/>; <https://markets.businessinsider.com/news/stocks/disney-stock-price-decline-bob>

Meanwhile, companies' potential liability for discrimination was sharpened by the recent Supreme Court decisions in *Students for Fair Admission v. Harvard* and *Groff v DeJoy*. The Company must act now to assess and correct potential shortcomings. Corporations have recently lost such illegal discrimination actions, paying \$10 to \$25 million in damages, plus litigation costs. The risk of these suits is rising. AT&T has a proven record of discrimination on illegal grounds and of active campaigns against religious liberty.<sup>8</sup> With more than 160,000 employees, Company could face thousands of religious and other discrimination cases if it doesn't correct course, putting billions of shareholder assets at risk.

**Resolved:** Shareholders request the Board of Directors conduct an evaluation and issue a report within the next year, at reasonable cost and excluding proprietary information and disclosure of anything that would constitute an admission of pending litigation, evaluating how AT&T's policies and practices impact employees and prospective employees based on their religion (including religious views) or political, social and environmental view, and the risks those impacts present to Company's business.

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iger-pandemic-inflation-recession-streaming-2022-12; <https://www.foxnews.com/media/disneys-decline-shows-woke-focus-alienating-fans-wsj-column>

<sup>8</sup> <https://www.city-journal.org/article/white-people-you-are-the-problem>