

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 MOTION FOR
LEAVE TO FILE *AMICUS CURIAE* BRIEF OF THE PROTECT DEMOCRACY
PROJECT, INC.**

As the United States stated previously in response to Dr. Carter Page's Motion to seek Leave to File an Amicus Brief, the Court has broad discretion to determine the participation of *amicus curiae*. *National Ass'n of Home Builders v. U.S. Army Corps of Engineers*, 519 F. Supp. 2d 89, 93 (D.D.C. 2007). As a general matter, the Antitrust Division does not oppose amicus briefs in the district courts.¹

The United States notes the Court's Minute Order from December 20, 2017 denying a previous motion for leave to file an amicus brief. *United States v. AT&T Inc., et al*, 17-cv-02511 (RJL). In addition, the United States notes that the proposed *amicus curiae* has filed a separate

¹ The proposed *amicus curiae* emailed Parties' counsel on March 6, 2018 seeking the Parties' position on the proposed amicus brief. The United States was not provided with the proposed brief. The United States sent a response to the proposed *amicus curiae* on March 8, 2016 consistent with this Response.

and ongoing action² related to a FOIA request. The subject of the FOIA request and subsequent litigation relates directly to the Memorandum Opinion and Order of this Court from February 20, 2018. Dkt. 68. Given this Court's Opinion on this issue, the proposed *amicus curiae* does not appear meaningfully to add to unresolved issues in the upcoming trial in the current case.

Finally, the United States notes the imminent trial and the Court's discretion as to whether movant's brief and positions therein are "desirable," "relevant" and "not adequately represented by a party." *See* LCvR 7(o). The United States takes no further position whether additional amicus briefing such as this would be helpful to the Court at this time.

² *The Protect Democracy Project, Inc. v. U.S. Dep't of Justice*, 17-cv-02409 (KBJ) (D.D.C.).

Dated: March 9, 2018

Respectfully submitted,

/s/ Eric D. Welsh

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CERTIFICATE OF SERVICE

I hereby certify that on March 9, 2018, I caused a true and correct copy of the foregoing document to be served upon the parties of record via the Court's CM/ECF system. In addition, a true and correct copy was emailed to the movant at ben.berwick@protectdemocracy.org.

_____/s/ Eric D. Welsh

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