

**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.

Civil Action No. 1:17-cv-02511 (RJL)

**PLAINTIFF’S RESPONSE TO MOTION FOR LEAVE BY RCN ET AL. TO FILE A
BRIEF AS AMICI CURIAE IN SUPPORT OF NEITHER PARTY**

As the United States stated previously in response to the motions for leave to file amicus briefs submitted by Dr. Carter Page and The Protect Democracy Project, Inc., the Court has broad discretion to determine the participation of *amici curiae*. Dkt. Nos. 39, 74; *see 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

Although the United States disagrees with RCN/ACA’s contention regarding the appropriateness of behavioral relief in light of the record in this case, *see* Post-Trial Br. of United States at 24-25, the United States takes no position on whether the proposed RCN/ACA brief would be helpful to the Court at this time.

¹ The proposed *amici curie* requested the United States’ position with respect to the proposed filing of their brief but did not discuss the substance of their brief with the United States before filing.

Unlike the two prior motions for leave to file amicus briefs, which the Court denied, the proposed RCN/ACA filing does appear to be relevant to the issues to this case, as the Court requested input with respect to alternative remedies. *See* LCvR 7(o). AT&T's opposition to RCN/ACA's filing (Dkt. No. 130) runs contrary to the Court's request, just as AT&T's post-trial brief disregarded the Court's request for such briefing.

Dated: May 16, 2018

Respectfully submitted,

/s/ Craig Conrath
Craig Conrath

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CERTIFICATE OF SERVICE

I hereby certify that on May 16, 2018, I caused a true and correct copy of 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 jwilson@kelleydrye.com.

Dated: May 16, 2018

Respectfully submitted,

/s/ Craig Conrath
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