

Federal Court Enjoins AT&T From Enforcing Its Restrictions on Payment of Promotions to Local Resellers

December 9, 2009

A federal district court in Dallas, Texas has issued a preliminary injunction ordering AT&T to cease reducing amounts it pays to local Resellers when it gives promotions offered to AT&T's own retail customers, [Budget Prepay et al v. AT&T Inc.](#) The AT&T ILECs often promote new local services by offering a \$50 bill credit to new retail customers. Effective September 1, AT&T initiated a new policy which gave Resellers only about \$4 (the actual amount varies by state) for their new sign-ups on the AT&T local networks. The Resellers filed suit against AT&T, seeking an injunction against the new policy. On November 30, the Court granted a Preliminary Injunction and instructed AT&T not to apply the new, reduced promotional policy until it has received approval from each affected state PUC. The Court reasoned that the FCC's rules require any "restriction on resale" to be approved by a PUC before it is implemented. Since AT&T admitted in open court that it had never sought nor received permission for the new reduced promotions payments, it is in violation of the FCC's rules. The court concluded that the FCC requirement that AT&T get prior approval is turned upside down if AT&T is allowed to simply change its policies, thus reversing the obligation and forcing the Resellers to go to the PUCs to seek revocation of the new AT&T policy. AT&T has appealed the ruling to the U.S. Court of Appeals for the Fifth Circuit and has received an expedited schedule from that court, with oral argument to be held in February.