



Telephone Companies Have More than Ample Resources to Fully Defend Themselves in Pending Cases without Bearing Undue Burdens

Proponents of full retroactive telephone company immunity argue unabashedly that — notwithstanding the companies' apparent complicity in wholesale illegal domestic surveillance over almost six years — Congress should take the extraordinary step of depriving millions of Americans of redress in court in order to shield telephone companies from what is described as the “crushing burden” of litigation. Whether viewed from the perspective of telephone companies' human or financial resources, this argument is completely unsupportable.

Human Resources

The enormous corporations presently defending in the pending suits all possess proportionately large (and no doubt qualified) in-house legal departments. As has been publicly reported:

- AT&T has “one of the largest in-house legal departments in the country, with a head count of approximately 638 staff;”
- BellSouth, now part of AT&T, has “one of the largest legal departments in [Atlanta], with about 90 lawyers and a total staff of about 180;” and
- “Verizon has a 172-lawyer team,” while its new subsidiary MCI “has the larger legal team – 185 lawyers.”

In addition, the telecommunications company defendants not only enjoy the able representation of numerous premier private law firms, but the Department of Justice has intervened in the litigation — performing significant legal work in an effort to have the pending cases dismissed.

By contrast, the Electronic Frontier Foundation — a non-profit, member-supported organization serving as co-lead counsel in all 38 pending cases — has a total staff of 27 people, including just 10 paid lawyers. In 2006, EFF's total budget (including tea bags, paper towels and phone bills) was under \$2.8 million: barely 82% of the compensation received that year by AT&T's General Counsel alone! EFF is not claiming, however, that the pending litigation represents an unsustainable or otherwise unfair burden upon it requiring Congressional relief.

Financial Resources

EFF has prepared a separate analysis of the tremendous financial resources of the telephone company defendants in the pending cases. Suffice it to say in this context that, if Congress “capped” total damages at \$25 million, as some have proposed, that sum would represent literally a fraction of 1% of the over \$3 billion in net income that AT&T alone realized in just the third quarter of 2007. In 2006, AT&T, Verizon and Sprint realized combined net income of \$15.6 billion and — during the years in which the defendant telephone companies were knowingly diverting millions of American's domestic communications wholesale to the NSA — just these three companies reported combined net income of **over \$72 billion**. Matched against these resources, \$25 million fails to warrant an asterisk.

From another important perspective, if \$25 million in total damages are divided among all plaintiffs in the pending actions, Congress will effectively have valued each affected American's egregious statutory and Constitutional privacy violations at less than cost of a \$0.41 stamp. Literally, mailing in a single form to join the class of affected plaintiffs would leave each plaintiff in the red ... *after* “damages” were paid!

**Telecom Company Net Income, 2001 to 2006
(in millions)**

