Level(3) COMMUNICATIONS
Connecting and Protecting the Networked World℠

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VIA ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Protecting the Privacy of Customers of Broadband and Other Telecommunications Services, WC Docket No. 16-106

Dear Ms. Dortch:

On February 7, 2017, Nick Alexander of Level 3 Communications held a call with Amy Bender of Commissioner O'Rielly's office to discuss the above captioned proceeding.

I first discussed the petition for stay jointly filed by multiple trade associations and the petition for reconsideration filed by Level 3 of the rules adopted in the Broadband Privacy Order.[1] While several stakeholders have focused on the *Order's* changes to the privacy protections for mass-market broadband Internet access service ("BIAS") consumers, it is worth noting that the Order made some important improvements to the previous, telecommunications-specific privacy rules for business customers and carriers. In the Order, the Commission found that "[a]llowing sophisticated enterprise customers to negotiate their own privacy and data security protections with their carriers" would enable better tailored enterprise protections.[2] Thus, it exempted enterprise voice providers from the Commission's rules specifying how carriers must implement Section 222 with respect to an enterprise customer – i.e., the regulations in Subpart U – subject to the limitation that the customer's contract "specifically addresses the issues of transparency, choice, data security, and data breach and provides a mechanism for the customer to communicate with the carriers about privacy and data security concerns."[3]

I explained, as discussed in the Level 3 Petition for Reconsideration, that Level 3 believes that this exemption provides significant benefits to business customers of telecommunications services and are a significant improvement over the FCC's prior set of privacy rules. Level 3 further believes the objectives of the business customer exemption would be enhanced if the Commission were to exempt enterprise voice service providers from Subpart U by rule.[4] However, the business customer exemption as currently formulated is certainly better than no business customer exemption at all, and Level 3 and other carriers have started to act in reliance on the availability of the exception. I therefore strongly urged that the Commission exclude the business customer exemption from any grant of the Joint Stay Petition while it considers the petitions for reconsideration filed by Level 3 and others. I noted that the comments filed by the Voice on the Net Coalition (VON) also urged the Commission to exclude the business customer exemption from any grant of the Joint Stay Petition.

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[1] Protecting the Privacy of Customers of Broadband and Other Telecommunications Services, Report and Order, FCC 16-148 (rel. Nov. 2, 2016) (Broadband Privacy Order or Order); Joint Petition for Stay, American Cable Association et. al, WC Docket No. 16-106 (filed Jan. 27, 2017) (Joint Stay Petition); Petition for Reconsideration, Level 3 Communications, LLC, WC Docket No. 16-106 (filed Jan. 3, 2017) (Level 3 Petition for Reconsideration).
[2] Id. at para. 307.
[3] 47 C.F.R. § 64.2010.
[4] Level 3 Petition for Reconsideration at 2-7.

I also voiced Level 3's support for the position taken in the Joint Stay Request and in VON's comments that the Commission preserve its decision eliminating the recordkeeping and annual certification requirements formerly contained in the former section 64.2009 of the Commission's rules.[5] The regulatory burden imposed by those rules created a non-trivial compliance burden for carriers with no commensurate benefit.

Sincerely,

/s/ Nicholas G. Alexander
Nicholas G. Alexander

enclosures

cc: Amy Bender

[5] Joint Stay Petition at n. 8; VON Feb. 3 2017 Comments at 2-4.