

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

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Complainant,

v.

CELLCO PARTNERSHIP &
AFFILIATED ENTITIES d/b/a
VERIZON WIRELESS

Defendant.

Proceeding No. 16-242
File No. EB-16-MD-003

REPLY TO DEFENDANT'S FIRST SET OF INTERROGATORIES

Pursuant to Section 1.729 of the Commission's rules, I, Alex Nguyen, hereby serve my Reply to the First Set of Interrogatories, as modified by Enforcement Bureau Staff's March 2, 2017 letter, from Cellco Partnership & Affiliated Entities d/b/a Verizon Wireless ("Verizon").

INTERROGATORY NO. 1: Confirm that you have used or attempted to use the following devices on the Verizon Network: a non-Verizon Nexus 6, a non-Verizon Microsoft Surface 3, a Verizon iPad mini, a Verizon iPhone 5, and a non-Verizon iPhone 6. Further identify any other devices that you have used or attempted to use on the Verizon Network. Describe in detail how and when you used, or attempted to use, the devices identified in response to this interrogatory on Verizon's network.

Reply: Attached is the payment history (available from Verizon's Web site) for a Verizon Wireless account on which I have a line. Although Verizon's records span ten years (back to 2008), I believe the account started at least as early as 2004.

I attempted to use a Motorola Nexus 6 sold by Motorola to start a Verizon "MORE Everything" plan on March 12, 2015, the first date Verizon started selling the same XT1103 model Motorola had made and sold since November 6, 2014. While Verizon was promoting sales at its own stores, Verizon refused to provision SIM cards if customers bought devices from Motorola, Google, other carriers, or resellers unaffiliated with Verizon. On May 20, 2015, I gave up trying to get a SIM card for my Nexus 6 and started a new plan with an Apple iPhone 5 sold by Verizon instead. I used a Nexus 6 on the Verizon Wireless network for the first time between July and August 2015.

I've attempted to use a Microsoft Surface 3 sold by Microsoft on the Verizon Wireless network since December 2015. On November 12, 2015, Verizon started selling the same 1657 model Microsoft had made and sold since September 19, 2015, but as of March 10, 2017, Verizon still won't let me order a SIM card for my Surface 3. (Of the devices referenced in Paragraph 58 of the Complaint, I currently possess the one with IMEI 014376005306285 but not

the one with IMEI 01437600005551.)

I used an Apple iPad mini sold by Verizon on the Verizon Wireless network for the first time in October 2015. I attempted to use an Apple iPad mini sold by Sprint (the same A1455 model Verizon sold) on the Verizon Wireless network in October 2015, but Verizon wouldn't let me order a SIM card for it.

I used an Apple iPhone 5 sold by Verizon on the Verizon Wireless network for the first time in July 2013. I attempted to use an Apple iPhone 5 sold by NorthwestCell (an LTE in Rural America partner with Verizon) on the Verizon Wireless network between July and August 2015, but Verizon wouldn't let me order a SIM card for it.

I attempted to use an Apple iPhone 6 sold by T-Mobile (the same A1549 model Verizon sold) on the Verizon Wireless network between July and August 2015. (Apple released the iPhone 6 in September 2014—almost 47 weeks earlier—but Verizon was still promoting sales at its own stores.) Verizon increased the effective “line access charge” on my line by 60% (from \$25.00 to \$40.00/month).

I used an HTC One M8 and One M9 on the Verizon Wireless network in April 2016 and confirmed Verizon blocked FM radio capabilities HTC built into its devices.¹

I used an LG G4 and G5 on the Verizon Wireless network in April 2016 and confirmed Verizon disabled the FM radio capabilities LG built into its devices.

I used a Samsung Galaxy S4 on the Verizon Wireless network in December 2015 and

1 NAB Labs. *Research Shows Increased Diversity in FM Radio on Smartphones*. <http://www.nab.org/xert/sciTech/2015/RD05182015.pdf> (May 15, 2015) [“It has recently been determined that the newly released successor model, the HTC One M9, is being shipped by Verizon with a different software load, which purposefully blocks the user accessing the device's FM radio capability via a downloaded app.”]

confirmed Verizon blocked Samsung from enabling Blocking Mode.²

I used a Samsung Galaxy S5 on the Verizon Wireless network in December 2015 and confirmed Verizon blocked Samsung from preloading Pay with PayPal.

I used a Samsung Galaxy S6 on the Verizon Wireless network in October 2015 and confirmed Verizon blocked Samsung from preloading Microsoft OneDrive and outright blocked Samsung Pay (over “economics”³).

I used a Samsung Galaxy S7 on the Verizon Wireless network in March 2016 and confirmed Verizon blocked Samsung from preloading Samsung Internet, Samsung Pay, and Whitepages.⁴

I used a Samsung Galaxy Note7 on the Verizon Wireless network in August 2016 and confirmed Verizon blocked Samsung from preloading Samsung Backup and Samsung Pay.⁵

2 Complaint, Section VI.B.

3 Jason Del Rey. *Samsung Pay Eliminates Big Hurdle by Snagging Verizon as Partner*. <https://recode.net/2015/10/21/samsung-pay-eliminates-big-hurdle-by-snagging-verizon-as-partner/> [A Samsung Pay executive said this summer at a press briefing that the holdup with Verizon was over “economics,” but declined to comment further.]

4 Walt Mossberg. *Mossberg: Samsung’s New Galaxy S7 Phones Are Beautiful*. <https://recode.net/2016/03/08/mossberg-samsungs-new-galaxy-s7-phones-are-beautiful/> [“Samsung says Verizon barred including Samsung’s browser and Samsung Pay out of the box.”]

5 Kellen Barranger. *Verizon’s Galaxy Note 7 Another Example of Carriers Interfering for No Good Reason*. <http://www.droid-life.com/2016/08/22/verizons-galaxy-note-7-another-example-carriers-interfering-no-good-reason/> [Instead, Verizon has replaced this new service with their own Verizon Cloud that only offers 5GB of storage for free.... Outside of some of those UI changes, Verizon once again has made it clear that they want you using Android Pay instead of Samsung Pay. I say that because the Note 7 from Big Red, even as a Samsung device that features MST and all of the technology needed to support Samsung Pay, doesn’t include Samsung Pay out of the box.... Otherwise, Android Pay is pre-loaded as the default payment system (I wonder why?).... And remember, when Samsung Pay launched last year, Verizon kept it from us all as long as they could, offering up a garbage excuse about them “evaluating” it longer than anyone else on the planet needed to. To see it not included out of the box here isn’t surprising in the sense that this is how Verizon works, it’s just surprising that Samsung still lacks power to go to bat for their own features.]

I attempted to use a Moto G4 on the Verizon Wireless network in October 2016, but even though it had been tested and carrier-certified to work on the Verizon Wireless network,⁶ Verizon wouldn't let me order a SIM card for it.

See the reply to Interrogatory No. 2 regarding the devices identified in that interrogatory.

⁶ Motorola. Check carrier compatibility. <https://www.motorola.com/us/carrier-compatibility> (October 2, 2016) ["Device has been tested and carrier-certified to work on this network."]

INTERROGATORY NO. 2: Confirm that You have never used or attempted to use the following devices on the Verizon Network: Motorola v710, Palm Treo 700w, Apple iPad 4th Generation, Motorola Nexus 6, Asus Nexus 7, Apple iPhone 5c, Apple iPhone 5s, Apple iPad Air, Apple iPad mini 2, Apple iPhone 6 Plus, Apple iPad Air 2, Apple iPad mini 3, Microsoft Surface 3, Apple iPad mini 4, Apple iPhone 6s, Apple iPhone 6s Plus, LG Nexus 5X, Huawei Nexus 6P, Apple 12.9-inch iPad Pro, Apple iPhone SE, and Apple 9.7-inch iPad Pro. To the extent You believe You have used or attempted to use any of the foregoing devices on the Verizon Network, identify the device and the date(s) of your attempted or actual use. Describe in detail how and when you used, or attempted to use, the devices identified in response to this interrogatory on Verizon's network.

Reply: Attached is the payment history (available from Verizon's Web site) for a Verizon Wireless account on which I have a line. Although Verizon's records span ten years (back to 2008), I believe the account started at least as early as 2004. I've used or attempted to use all the devices in Table 1 (on Page 23) of the Complaint.

I don't recall whether or not I've used a Motorola v710 on the Verizon Wireless network.

I don't recall whether or not I've used a Palm Treo 700w on the Verizon Wireless network.

I attempted to use an Apple iPad, 4th Generation sold by Sprint (the same A1460 model sold by Verizon) on the Verizon Wireless network between July and August 2015, but Verizon wouldn't provision a SIM card for it.

See the reply to Interrogatory No. 1 regarding the Motorola Nexus 6.

See Paragraph 45 of the Reply regarding the Asus Nexus 7.

I used an Apple iPhone 5c on the Verizon Wireless network for the first time between

July and August 2015.

I attempted to use an Apple iPhone 5s sold by Sprint on the Verizon Wireless network for the first time between July and August 2015, but Verizon wouldn't let me order a SIM card for it. (I currently possess the device with IMEI 357993055204882 referenced in Paragraph 58 of the Complaint.)

I attempted to use an Apple iPad Air sold by Sprint (the same A1475 model sold by Verizon) on the Verizon Wireless network between July and August 2015, but Verizon wouldn't let me order a SIM card for it.

I attempted to use an Apple iPad mini 2 sold by Sprint (the same A1490 model sold by Verizon) on the Verizon Wireless network between July and August 2015, but Verizon wouldn't let me order a SIM card for it.

I attempted to use an Apple iPhone 6 Plus sold by T-Mobile (the same A1522 model sold by Verizon) on the Verizon Wireless network between July and August 2015, but Verizon wouldn't let me order a SIM card for it.

I attempted to use an Apple iPad Air 2 sold by Sprint (the sole A1567 model) on the Verizon Wireless network between July and August 2015, but Verizon wouldn't let me order a SIM card for it.

I attempted to use an Apple iPad mini 3 sold by Sprint (the same A1600 model sold by Verizon) on the Verizon Wireless network between July and August 2015, but Verizon wouldn't let me order a SIM card for it.

See the reply to Interrogatory No. 1 regarding the Microsoft Surface 3.

I used an Apple iPad mini 4 on the Verizon Wireless network in November 2015.

I used an Apple iPhone 6s and iPhone 6s Plus on the Verizon Wireless network in November 2015.

I used an LG Nexus 5X and Huawei Nexus 6P on the Verizon Wireless network in November 2015.

I attempted to use an Apple iPad Pro 12.9” sold by AT&T (the sole A1652 model) on the Verizon Wireless network in April 2016. (I don't currently possess the device with IMEI 353305070973850 referenced in Paragraph 58 of the Complaint.)

I used an Apple iPhone SE on the Verizon Wireless network for the first time in April 2016.

I used an Apple iPad Pro 9.7” sold by Verizon on the Verizon Wireless network in April 2016 and confirmed Verizon disabled the Apple SIM embedded in the tablet.⁷

⁷ Ina Fried. *Latest iPad Pro Makes It Even Easier to Switch Wireless Carriers.* <http://www.recode.net/2016/3/22/11587182/latest-ipad-pro-makes-it-even-easier-to-switch-wireless-carriers> [“Once again, though, while Apple is trying to give users easy built-in options, not all service providers are keen on the notion. T-Mobile and Sprint are fully supporting the built-in Apple SIM feature. AT&T, however, will tie the Apple SIM to its network if you buy your iPad at one of its retail stores. Verizon, meanwhile, will require a separate SIM card and disable the built-in embedded Apple SIM on the iPads it sells.”]

INTERROGATORY NO. 3: Confirm that You have never been charged a fee to tether any second device to Your Verizon device via Verizon’s Mobile Hotspot or Mobile Broadband Connect tethering service. To the extent You believe You have been charged a fee to tether a second device to Your Verizon device via Verizon’s Mobile Hotspot tethering service, describe the basis for Your belief, including an identification of the devices involved, the fee(s) charged, and the date(s) of such charge(s).

Reply: Attached is the My Devices page available from Verizon's Web site confirming I have a line on a Verizon “Nationwide” plan. I confirm what I stated in Section VI.A of the Complaint: For customers on its “Nationwide” and earlier plans, Verizon charges a \$20.00/month ransom to re-enable the built-in tethering features it disables. I don't recall whether I paid Verizon's ransom between July 2014 and August 2015 to re-enable the built-in tethering features it disabled. (The oldest bill available from Verizon's Web site covers August 22 to September 21, 2015.) However, I do recall that from July 2014 to the present, for the months I didn't pay Verizon's ransom, the built-in tethering features of an Apple iPhone 5, iPhone 5c, iPhone 5s, iPhone 6, iPhone 6s, iPhone SE, and Motorola Nexus 6 (both on my line and also on the other lines associated with the same service plan) were disabled. As Paragraphs 15–19 of the Reply state, Verizon's claim that it offers its own “tethering service”⁸ is verifiably false: Just as Verizon had compelled Google to block third-party tethering applications,⁹ Verizon continues to compel Google, Apple, and other device providers to restrict the tethering features they (not Verizon) build into their devices.¹⁰

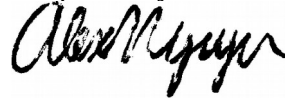
8 Answer ¶ 15–19 [“Verizon does offer its own tethering *service* (Mobile Hotspot/Mobile Broadband Connect) in connection with certain (older) data plans, for which Verizon charged a fee.”]

9 Complaint ¶ 15–19.

10 Shawn De Cesari. *[The Stark Contrast] Nexus 6 On Sprint And T-Mobile Vs. AT&T.*

The basis for this reply is my personal experience, a sworn declaration by Worldcall Interconnect CEO Lowell Feldman,¹¹ and Google's source code repository for the Android operating system.¹²

Respectfully submitted,



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<http://www.androidpolice.com/2014/11/24/the-stark-contrast-nexus-6-on-sprint-and-t-mobile-vs-att/> [“In addition to a SIM lock, branding galore, and the company's suite of ringtones, AT&T (and Verizon apparently) also managed to talk Google and/or Motorola into [baking a subscription check into the ROM](#) at AOSP-level as a prerequisite for enabling tethering.”]

11 *Worldcall Interconnect, Inc. v. AT&T Mobility LLC.*, Proceeding No. 16-242, File No. EB-16-MD-003, Reply Declaration of Lowell Feldman at 84 [AT&T and Verizon, for their own internal reasons, will not allow a Hotspot Function from the Nexus 7. But because Google promised an “open” device, it would not make a unique version version for just AT&T or Verizon. So what was the Google/AT&T/Verizon joint solution? They built into the framework of all the Nexus 7 devices a hidden disabling function for the Nexus 7 Hotspot function.]

12 Reply ¶ 15–19.