Leora Hochstein
Executive Director
Federal Regulatory and Legal Affairs

1300 I Street, NW, Suite 400 West
Washington, DC 20005
Phone 202.515.2535
Fax 202.336.7922
leora.l.hochstein@verizon.com

September 21, 2016

Ex Parte

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

Re: Expanding Consumers' Video Navigation Choices, MB Docket No. 16-42; Commercial Availability of Navigation Devices, CS Docket No. 97-80

Dear Ms. Dortch:

On September 19, 2016, Jack Gallagher, Will Johnson, Tamara Preiss, and Leora Hochstein of Verizon met with the following Commission staff: Gigi Sohn, Counselor to the Chairman, Jessica Almond, Legal Advisor to the Chairman and Stephen Klein, intern to the Chairman; Scott Jordan, Chief Technologist (by telephone); Eric Feigenbaum, Office of Media Relations; and John Williams, Office of General Counsel.

As a competitive MVPD, Verizon seeks to empower its customers to access content when and where they want it and on the devices they choose. An apps-based approach can be an effective way to ensure that consumers have additional choices in how they view their video services. In fact, Verizon has worked closely with content providers and device platform owners, such as iOS, Android and Amazon, to develop Fios apps that deliver content to our subscribers on a variety of devices.

While an apps-based approach has the potential to benefit consumers and enhance device competition, we discussed several issues that the Commission should address to avoid unintended consequences or unreasonable burdens from an apps-based model. First, the Commission should ensure that MVPDs are not required to build native apps for an unreasonably large number of platforms or devices. We understand that MVPDs will be required to provide apps to "widely deployed" platforms. Developing customized apps for device platforms can be costly and resource intensive, requiring expert personnel to work closely with device makers to ensure a high quality customer experience. We have every incentive to make our content accessible on popular devices that our customers want to use, but MVPDs cannot be expected to build apps for an indeterminate number of platforms or devices. The FCC should limit to a reasonable number the device platforms MVPDs will have to support, and it should make clear that MVPDs are not required to maintain or provide ongoing support for apps on less popular platforms or build or support different apps for multiple generations of devices.

Second, we noted that any requirement for "parity" between a provider's apps and its set-top boxes should take into account potential technical limitations of third-party devices, recognize that the features and functionalities even within the provider's range of set-top boxes will vary, and should not discourage a provider's innovations with its own devices. For example, in the context of the recording capability that an app would have to support, we expressed concern that a strict parity obligation could prove difficult or problematic, particularly for devices that may lack the necessary storage capacity or protections to secure recorded content. In addition, the FCC should give MVPDs a reasonable period of time to upgrade apps after adding new features to set-top boxes.

Third, we reiterated our opposition to "app taxes." MVPDs should not be required to provide apps to third parties if the result would be fees on MVPDs or their customers imposed by the platform provider. The Commission should be clear that it will not directly or indirectly mandate MVPD revenue-sharing with device makers or platform providers. Entities that seek such fees should not be permitted to take advantage of the FCC's framework to obtain an MVPD's app.

Fourth, the Commission should ensure that any requirements to share entitlement information or other data to enable search should encourage true universal search without disadvantaging MVPD services or denying consumers the full benefit of their MVPD's service. For example, particularly in the case of third parties seeking to avail themselves of the Commission's rules who may offer competing video services, any obligation to share data should be reciprocal and enable the MVPD likewise to provide its customers the ability to search that third-party content. This mutual exchange of information will further true universal search, encourage innovation, and spur competition in the development of search functions and features to benefit consumers. Moreover, third parties seeking the benefit of the Commission's new rules should not be permitted to suppress or disadvantage MVPD services in their search results.

Sincerely,

cc: (via e-mail)
Gigi Sohn
Jessica Almond
Scott Jordan
John Williams
Eric Feigenbaum
Stephen Klein