



November 13, 2014

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Ex Parte

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

Re: Interpretation of the Terms “Multichannel Video Programming Distributor” and “Channel” as Raised in Pending Program Access Complaint Proceeding; MB Docket No. 12-83

Dear Ms. Dortch:

On November 13, Will Johnson and I met with Commissioner O’Rielly and his Legal Advisor, Erin McGrath, to discuss the above-referenced proceeding. On November 12, we met separately with Maria Kirby, Legal Advisor to Chairman Wheeler, and Clint Odom, Policy Director to Commissioner Rosenworcel. In addition, on November 10, we met separately with Matthew Berry, Chief of Staff, and Max Hsu, law clerk, to Commissioner Pai, and with Adonis Hoffman, Chief of Staff and Senior Legal Advisor to Commissioner Clyburn.

We discussed Verizon’s interest in providing an over-the-top (OTT) video service and the potential effects of Commission regulation of such services. We noted the possible benefits of a Commission determination that OTT video providers are multichannel video programming distributors (MVPDs), including with respect to program access and retransmission consent. At the same time, we cautioned that OTT providers and services should not be subject to cable regulation. Legacy cable regulation could be fatal to OTT video services, and the Commission should be clear that such regulation does not apply.

In addition, the FCC should not extend navigation device regulations or other technology mandates to OTT video services or related equipment. OTT video services are in a nascent stage of development and will be subject to competition. To promote these emerging competitive services, the Commission should give OTT video providers the flexibility to adopt various technologies for providing their services rather than imposing legacy technology mandates.

Finally, we discussed the practice of bundling by some programmers and how this practice may make it more difficult for OTT video providers to create smaller, targeted packages of programming for consumers. When programmers sell their programming to video distributors, they often bundle popular channels with less viewed channels, forcing distributors to purchase more programming, or distribute that programming more broadly, than they may want to meet their consumers’ demand. This practice results in higher prices for consumers and less flexibility for distributors as they seek to craft attractive new service offerings for consumers.

Ms. Marlene H. Dortch
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Pursuant to Section 1.1206(b), Verizon is submitting this *ex parte* notice to the Commission's Electronic Comment Filing System.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon H. Hertz". The signature is written in a cursive style with a prominent initial "J".

cc: (by email)
Commissioner O'Rielly
Erin McGrath
Maria Kirby
Clint Odom
Matthew Berry
Adonis Hoffman