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January 20, 2015

VIA ELECTRONIC DELIVERY

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

**Re: Protecting and Promoting the Open Internet, GN Docket 14-28; Framework for Broadband Internet Service, GN Docket No. 10-127**

Dear Ms. Dortch,

New Networks Institute's (NNI) so-called "Petition for Investigation" is frivolous, recycling old, baseless, and inaccurate claims that have been previously addressed and dismissed.<sup>1</sup> NNI suggests that Verizon has engaged in "massive deception" by opposing the radical shift to a Title II regulatory framework for broadband even as Verizon has previously noted its reliance on Title II for purpose of explaining in cable franchise applications the source of its authority to deploy its fiber network. But there is no "gotcha" here, just confusion on NNI's part.

Despite NNI's histrionics, it is no secret that Verizon offers a telecommunications service – namely, plain old telephone service (POTS) – over its fiber network. Those services are and always have been subject to Title II. Nor is it a secret that Verizon also offers other services over that same network, including FiOS TV and FiOS Internet, that have never been subject to Title II and that are instead covered by other parts of the Communications Act. For example,

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<sup>1</sup> New Networks Institute & Teletruth, Petition for Investigation, *Framework for Broadband Internet Service*, GN Docket No. 10-127; *Protecting and Promoting the Open Internet*, GN Docket 14-28 (Jan. 13, 2015) ("NNI Petition" or "Petition").

FiOS TV is subject to Title VI, and Verizon obtained the required cable franchises before offering that service. But NNI seeks to conflate these two undisputed facts into what it terms a “massively deceptive practice” warranting “an investigation.”<sup>2</sup> NNI is wrong and its request baseless. Offering POTS over the network – and relying on our traditional telephone franchise for purposes of deploying networks that are still used to offer traditional telephone services – is irrelevant to the question of the regulatory classification for broadband Internet access services or what the best regulatory framework is to encourage continued investment in broadband Internet access.

Verizon continues to provide interstate POTS services over its fiber facilities, at the same price and under the same terms and conditions as POTS over legacy copper facilities. Those services remain subject to the same Title II authority they have always been. But the fact that those interstate POTS services are subject to Title II authority does not somehow infect the fiber on which they are transmitted, nor does it cause the other services carried by that fiber to also become subject to Title II. There is no question, for example, that Verizon’s FiOS video service does not become transformed into a Title II service, merely because it is transmitted via Verizon’s FTTP network. Rather, the FiOS video service remains a Title VI service and subject to applicable cable laws and cable franchising agreements. Similarly, Verizon’s broadband access service is not transformed into a Title II service simply because it is carried by the same fiber.

That fact is reinforced by the same document NNI itself relies on.<sup>3</sup> In this document, as in Verizon’s standard Cable Franchise Agreement, the preamble to the agreement states that Verizon has “a Fiber to the Premise Telecommunications Network (“FTTP Network”) in the Franchise Area which transmits *Non-Cable Services* ....”<sup>4</sup> That same agreement expressly defines “Non-Cable Services” as “Any service that does not constitute the provision of Video Programming directly to multiple Subscribers in the Franchise Area *including, but not limited to, Information Services* and Telecommunications Services.”<sup>5</sup> Thus, the very document on which NNI rests its argument expressly notes that both Title II and non-Title II services are carried over Verizon’s fiber network.

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<sup>2</sup> NNI Petition, at 6, 17.

<sup>3</sup> See NNI Petition at 2 (quoting Cable Franchise Agreement by and between the Village of Camillus and Verizon New York Inc. (Nov. 6, 2013), at Attachment D, Exhibit 3-3, Verizon New York, Inc. Petition for Confirmation, NY PSC Matter No. 13-V-0523, <http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={6E9A2E9B-776D-4282-BC58-A3647F3037BA}> (“Cable Franchise Agreement”).

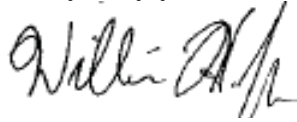
<sup>4</sup> *Id.* at 1 (emphasis added).

<sup>5</sup> *Id.* at 5 (emphasis added).

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Verizon's position is and has been consistent throughout the inception of its fiber deployment and NNI's frivolous Petition should be denied outright.

Very truly yours,

A handwritten signature in black ink, appearing to read "William H. Johnson". The signature is written in a cursive style with a prominent initial "W".

William H. Johnson