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**February 19, 2015**

**VIA ELECTRONIC FILING**

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

**Re: *Open Internet Remand Proceeding, GN Docket No. 14-28; Framework for Broadband Internet Service, GN Docket No. 10-127***

Dear Ms. Dortch:

The Fact Sheet recently released by Chairman Wheeler says that “reasonable network management” practices should be “tailored to achieving a legitimate network management,” while “tak[ing] into account the particular engineering attributes of the technology involved.” It also noted that reasonable network management cannot be used to “justify renege[ing]” on a provider’s representations to its customers, including when those customers are on “unlimited” plans. We agree on both accounts. Verizon’s network management practices comply with these standards. They are carefully tailored to provide high quality service across our customer base and are fully disclosed to affected customers.

One such practice that received attention several months ago was “network optimization.” This practice, which has been in effect on our 3G wireless network for more than three years, uses sophisticated techniques to minimize the effects of congestion and ensure the equitable use of finite spectrum resources across our customer basis. (Although Verizon had announced plans to employ network optimization on our 4G network, we later decided not to do so.)

This practice is narrowly tailored to apply (1) only at particular cell sites experiencing unusually high demand; (2) only for the duration of that high demand; and (3) only to a very small percentage of 3G customers who are heavy data users and are on plans that do not limit the amount of data they may use during the month without incurring added data charges (and otherwise have no incentive to limit usage during times of unusually high demand). Unlike throttling, which slows traffic to some pre-determined maximum speed, Verizon’s network

optimization practice simply assigns proportionally fewer network resources to handle the traffic of the customers who are subject to network optimization when those customers are connected to a congested cell site.<sup>1</sup> This can result in the data traffic of those customers queuing up, thus slowing speeds to some extent. The length of the queue, and the degree to which speeds will be slowed, will depend on how congested the cell site is at the moment, how many customers who are subject to network optimization are connected to the cell site at that time, and the data demands of those customers at that time. In this way, Verizon's policy is designed to ensure an equitable distribution of finite resources during times of unusually high demand.

Our goal with network optimization was to manage the shared and finite network resources in a manner that best serves all of our customers. Thus, we implemented this policy as a form of reasonable network management consistent with the Commission's 2010 Open Internet rules. As the Commission has previously noted, "broadband providers may need to take reasonable steps to ensure that heavy users do not crowd out others .... For example, if cable modem subscribers in a particular neighborhood are experiencing congestion, it may be reasonable for a broadband provider to temporarily limit the bandwidth available to individual end users in that neighborhood who are using a substantially disproportionate amount of bandwidth."<sup>2</sup> Our network optimization practice was designed to track the Commission's suggested approach.

The vast majority of our subscribers – including those on unlimited plans – are not affected by this practice, except to the extent that their services may work better than they otherwise might during times of high demand. Those who are affected are solely the small subset of customers who are on plans that do not provide any incentive to curtail usage, use disproportionately large amounts of data, and who are connected to a cell site that is currently experiencing high levels of demand, and only for the duration of that demand. And even when affected by the policy during these times of heavy demand, these users can continue to access the network and use their service.

Our policy is thus a measured and fair step to ensure that this small group of customers does not disadvantage all others in the sharing of network resources during times of high demand. With network optimization, our customers remain free to use the applications, services, and devices of their choice. They are free to go where they want on the Internet. And the vast majority of them will never be affected by the policy, except that they will benefit from not having a few heavy users monopolize the capacity during times of high demand.

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<sup>1</sup> Compare, e.g., Letter from Jacquelyne Flemming, AT&T Services, to Marlene Dortch, FCC, *Preserving the Open Internet*, GN Docket No. 09-191; *Broadband Industry Practices*, WC Docket No. 07-52; *A National Broadband Plan for Our Future*, GN Docket No. 09-51; *Protecting and Promoting the Open Internet*, GN Docket No. 14-28, at attachment (Feb. 13, 2015).

<sup>2</sup> *Preserving the Open Internet; Broadband Industry Practices*, Report and Order, 25 FCC Rcd 17905, ¶ 91 (2010) ("*Open Internet Order*").

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Moreover, as Verizon has explained previously, our network optimization practice was fully and widely disclosed to our customers and the public at large. For potentially affected customers, we disclose our practice in multiple ways prior to their being affected. Customers who would potentially be affected by network optimization received information about the practice through an insert included with their confirmation letters, through the Your Guide service brochure that is made available to new and renewing customers, on Verizon Wireless' website, and/or in bill messages. In response to our disclosure, an official from Free Press was quoted as saying that his "first reaction is that it does not appear to be a form of discrimination that would trigger the rules," while Media Access Project similarly acknowledged that the practice was consistent with the rules.<sup>3</sup>

As the Commission considers any new rules that address network management, it should continue to allow flexibility for these types of tailored approaches that benefit consumers.

Sincerely,

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

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<sup>3</sup> "Verizon Wireless: Heavy Data Users Subject to Reduced Throughput," TR Daily. Feb. 4, 2011.