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September 29, 2003

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

**Ex Parte: CC Dockets No. 02-33, 95-20, 98-10, and CS Docket No. 02-52**

Dear Ms. Dortch:

On September 29, 2003, the attached letter from Susanne A. Guyer, Senior Vice President - Public Policy and External Affairs was delivered to Chairman Michael K. Powell. Please associate the letter and this notification with the record in the proceedings indicated above. If you have any questions regarding this matter, please call me at (202) 515-2530.

Sincerely,

A handwritten signature in black ink that reads "W. Scott Randolph".

W. Scott Randolph

Attachment

**Susanne Guyer**  
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September 29, 2003

Chairman Michael K. Powell  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

**Re: In the Matter of Appropriate Framework for Broadband Access to the Internet over Wireline Facilities, CC Docket No. 02-33; Universal Service Obligations of Broadband Providers, CC Docket No. 02-33; Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services; 1998 Biennial Regulatory Review – Review of Computer III and ONA Safeguards and Requirements, CC Dockets Nos. 95-20, 98-10; Appropriate Regulatory Treatment for Broadband Access to the Internet over Cable Facilities, CS Docket No. 02-52**

Dear Chairman Powell:

In this proceeding, Verizon and others have demonstrated the benefits that American businesses and consumers will enjoy if the Commission permits local telephone companies to offer broadband services on market-based terms under Title I. The evidence in the record also shows that this action by the Commission will stimulate investment, create job growth and benefit the American economy generally. The sooner the Commission takes this action, the greater the benefits that will result.

The High Tech Broadband Coalition (HTBC), in its letter addressed to you of September 25, 2003, recognizes these basic facts and endorses classifying *all* broadband services under Title I – *including both broadband Internet access services and stand-alone broadband transport services*. This endorsement, from a group that includes high tech equipment makers, ISPs and other content and application providers, underscores the benefits that deregulation of broadband will provide, not just for a small segment of the industry, but for the economy as a whole.

The HTBC also has offered a set of “connectivity principles” and has asked the Commission to endorse them in these proceedings, but at the same time has recognized that it would be premature to embody those principles in Commission rules. Instead, it urges the Commission to monitor marketplace developments to determine whether the general principles it lays out are fulfilled. These principles would apply equally to all providers of broadband services — telephone companies, cable operators and others. The HTBC also proposes a limited set of transition rules that would allow the Commission to *immediately* classify all broadband services under Title I, subject only to certain limited requirements to facilitate the transition to Title I private carriage arrangements. These transition rules would expire after two years.

The HTBC proposal strikes a reasonable balance by providing much-needed regulatory relief to spur investment and innovation while establishing limited transition rules that apply for a finite period. The proposal balances the need for a reasonable transition of definite duration that will provide assurance to all market participants with the need to assure that the market and not regulators shall determine the success or failure of broadband investment. By doing so, the proposal also holds the promise of igniting a new round of investment and competition in the market for all types of broadband services. In the end, American businesses and consumers will be the winners.

For the reasons stated in HTBC's letter, the Commission needs to move expeditiously to conclude its broadband proceedings. Developments in the broadband market and the introduction of advanced technologies are moving at break-neck speed. Telephone companies sorely need the flexibility to design and quickly introduce new services and applications that their competitors already enjoy if residential and business consumers are to truly benefit from real competition in the broadband market. As HTBC points out, the U.S. economy is in desperate need of an infusion of new investment and jobs, which the telecom sector has the unique potential to provide. The framework proposed by the HTBC will help achieve the core goal articulated by the Commission in this proceeding – to encourage increased investment in competing broadband facilities to the benefit of American businesses and consumers generally.

The HTBC plan will achieve these goals and objectives in the following respects:

First, by allowing providers to offer all broadband services under Title I, including stand-alone broadband transmission offerings, the Commission will give local telephone companies the same flexibility to develop their networks and services as their major competitors have today. As Verizon has shown, current rules that were developed for the narrowband world severely restrict its ability to invest efficiently and to accommodate the needs of both end user customers and other service providers who interconnect with its network. Under a Title I framework, Verizon has the incentive to encourage use of its broadband facilities and services by all content and other service providers, including current ISPs, on voluntarily negotiated market-based terms. And a Title I framework provides the flexibility needed to negotiate unique arrangements that are mutually beneficial to both Verizon and the providers of content and other services.

Second, the Broadband Connectivity Principles endorsed by HTBC recognize that consumers should be able to reach the lawful services of their choice over the Internet, and that their ability to do so should not be artificially restricted by any provider whose services they use to access materials through broadband connections to the Internet. Providing consumers with that choice is also good business. Indeed, the reality is that Verizon has no incentive to impede a consumer's use of the Internet, because doing so would risk losing the customer to competing broadband platforms. Consequently, we concur that the general principles HTBC lays out should not be converted into Commission rules and instead the Commission should articulate its expectation that, as the broadband industry evolves, users will get service consistent with these principles. While the Commission can continue to observe the development of the market, it should be wary of interjecting the hand of regulation into a market that is still evolving.

Finally, as a transitional measure, the HTBC proposes that telephone companies should honor existing transport agreements (whether tariffed or contractual) under a new contractual agreement, and offer to other ISPs the same basic broadband transmission service on the same terms and conditions that telephone companies provide to affiliated ISPs, for a two-year period. Of course, the parties would be free to negotiate different terms as well. This would allow the Commission to immediately classify all broadband services under Title I, while also providing a measure of certainty during the transition to a market-oriented environment for broadband access. At the same time, it is absolutely essential that broadband platform providers, such as Verizon, know both what the rules are, and what they are going to

be. If the Commission is to encourage significant investment in broadband facilities, such as deep fiber deployment, carriers need clear regulatory rules to allow them to assess how best to approach the marketplace. The HTBC's definite two-year sunset for these transition measures is critical to providing the necessary certainty to justify large-scale investments in broadband infrastructure and services. And by making it clear that any rules that apply after that date must treat cable and telephone services the same, the HTBC proposal would ensure that telephone companies do not remain at a disadvantage to competing broadband providers as a result of one-sided regulatory burdens. Indeed, as Verizon has previously demonstrated, the Commission should treat *all* broadband providers the same.

In sum, the HTBC plan represents a fair and balanced approach to classifying broadband services under Title I that should be endorsed by the Commission. We welcome the opportunity to address any questions that you or your staff might have.

Respectfully submitted,



cc: Commissioner Kathleen Q. Abernathy  
Commissioner Jonathan S. Adelstein  
Commissioner Michael J. Copps  
Commissioner Kevin J. Martin  
Kenneth Ferree, Chief Mass Media Bureau  
William Maher, Chief Wireline Competition Bureau  
Robert Pepper, Office of Strategic Plans and Policy  
Scott Bergmann  
Mathew Brill  
Michelle Carey  
Jonathan Cody  
Kyle Dixon  
Barbara Esbin  
Daniel Gonzalez  
Christopher Libertelli  
Carol Matthey  
Brent Olson  
Jessica Rosenworcel  
Bryan Tramont  
Sheryl Wilkerson  
Simon Wilkie  
Lisa Zaina