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July 27, 2007

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20005

Re: Notice of Exempt *Ex Parte* Presentation, WT Docket No. 06-150

Dear Ms. Dortch:

Yesterday, at the request of Commissioner Robert M. McDowell, John Scott and Michael Senkowski, representing Verizon Wireless, met with the Commissioner and with Angela Giancarlo of his Staff. Commissioner McDowell asked that Verizon Wireless discuss its opposition to "open access" requirements on the 700 MHz spectrum licenses.

We reiterated our opposition, as set forth in our prior filings in this proceeding, to the "open access" rules proposed by Google and other parties, as well as to the rules that we understand are being considered by the Commission. Those rules, if adopted, would be unsupported by the record, would squarely conflict with recent Commission decisions on wireless and other broadband services, and would raise very serious legal issues.¹ The Commissioner was informed that press reports that Verizon Wireless no longer opposed such proposals were incorrect.

We also reiterated the harms and other unintended negative consequences these rules would have on consumers. Again, these were discussed in our prior filings. We stated that because customer-supplied devices can harm other users, the Commission should not adopt any rules that would in any way degrade carriers' right to fully protect their customers and the reliability of their networks.

In response to Commissioner McDowell's inquiry as to whether Verizon Wireless had suggestions for how to minimize such risks, and his invitation to submit those suggestions, we stated that the company continues to believe that imposing open access

¹ See, e.g., Letter from John T. Scott III, Verizon Wireless, to Marlene Dortch, July 24, 2007, explaining why open access rules such as those advanced by Google, and as described as under consideration by the Commission, would violate in multiple respects the Administrative Procedure Act, the First Amendment, and the Communications Act.

requirements on any segment of the 700 MHz spectrum is entirely unwarranted, and that the rules that are being considered would be both harmful and unlawful. However, if the Commission nonetheless chooses to use the auction process to impose some form of new regulation, the following principles must apply to limit the potential downside to consumers:

1. Any such rules should be limited to the E Block in the lower 700 MHz band, as Google originally proposed, or to another block of spectrum such as the 2155-2175 MHz band, for which many entities have expressed interest and service rules have not been finalized. In addition, any such rules should be limited in duration (three years, for example), to allow the Commission an opportunity to gauge the impact on consumers.

2. With respect to devices that subscribers obtain from the licensee or its agents, resellers and distributors, any such rules should not interfere with the right of subscribers to select among the same service plans and devices and benefit from the same customer service experience from the licensee that they currently receive. Nor should any such rules interfere with or limit the licensee's right to configure the devices, services and applications it provides or otherwise allows.

3. Any such rules should be limited to two specific situations: *First*, the licensee in the specified spectrum band would be prevented from locking or programming a device in a way that would prevent the user from activating the device on another licensee's network. *Second*, the licensee would be prevented from blocking a subscriber from accessing its network with a device that was not provided to the subscriber by the licensee or its agents, resellers or distributors. The licensee's obligation to accept non-carrier supplied devices would be limited as follows:

- The Commission must have certificated such a device under Parts 2 and 15 of its Rules for operation in the specified band.
- The licensee must have determined that the device complies with the licensee's technical specifications. The specifications would be available to any entity designing a device.
- The Commission should not adopt pricing rules for service plans that the licensee offers to customers who choose to bring non-licensee supplied devices, just as it has, wisely, rejected pricing rules for wireless services generally.
- Given the importance of ensuring that licensees can continue to provide network reliability and security, the obligations of the licensee to comply with the above requirements would be subject to the licensee's right to fully protect all its other customers and the reliability of its network. The licensee would also be able to stop service to a subscriber-supplied device if its use degrades or harms the network or the ability of other subscribers to use the network, or if the device is used in violation of the applicable subscriber agreement.
- The licensee would not be obligated to ensure that a subscriber-supplied device complies with the Commission's rules or be responsible for service or repair of such a device. Similarly, the licensee would not be liable for claims

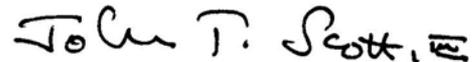
or liabilities that arise out of the use or failure of subscriber-supplied devices, including any claims or liabilities arising from applications that are used on or downloaded to such devices, just as a cable provider or landline telephone carrier is not accountable for the operation or failure of a customer-supplied computer or telephone.

Finally, in response to Commissioner McDowell's question as to the impact of open access rules such as those the Commission is considering on the auction, we stated that any regulatory encumbrances on spectrum are likely to have a negative impact on spectrum valuation.

Nothing herein should be deemed to constitute an express or implied waiver of any of the positions set forth in our *ex parte* letter dated July 24, 2007.

Pursuant to Sections 1.1204(a)(10) and 1.1206(b) of the Commission's Rules, a copy of this letter is being filed in the above-referenced docket through the Commission's Electronic Comment Filing System.

Sincerely,

A handwritten signature in black ink that reads "John T. Scott, III". The signature is written in a cursive style with a horizontal line at the end.

John T. Scott, III

cc: Commissioner Robert M. McDowell
Angela Giancarlo