

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

<b>In the Matter of E-mail Address Portability</b>	)	
	)	<b>RM No. 11391</b>
	)	
	)	

**VERIZON’S OPPOSITION TO MS. MORTENSON’S PETITION FOR  
RULEMAKING<sup>1</sup>**

Ms. Mortenson’s Petition<sup>2</sup> asks the Commission to initiate a rulemaking to require Internet service providers (ISPs) to provide email portability. Because the Commission has consistently disclaimed regulation of email, and indeed lacks jurisdiction to do so, the Commission cannot lawfully grant the relief Ms. Mortenson requests. Moreover, the market already addresses many of Ms. Mortenson’s concerns because numerous email forwarding services, permanent email addresses, and non ISP-based email accounts currently exist. However, while these workaround options exist, the proposed mandate is impractical because of technical limitations unique to ISPs and email accounts and the sheer magnitude of customers whose email would have to be forwarded. Accordingly, the Commission should deny the Petition.

**I. The Commission Has Previously Adopted a Deregulatory Regime for Email and Other Information Services.**

The Commission has long recognized that email is an information service and not covered under Title II of the Communications Act, and that email should be generally

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<sup>1</sup> The Verizon companies (“Verizon”) participating in this filing are the regulated, wholly-owned affiliates of Verizon Communications Inc.

<sup>2</sup> Gail M. Mortenson Petition for Rulemaking, *E-mail Address Portability*, RM No. 11391 (Jul. 20, 2007)(hereafter “Petition”).

free from government regulation.<sup>3</sup> Federal policy also seeks to “preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal or State regulation.” 47 U.S.C. § 230(b)(2). Reliance on the market rather than regulation created favorable conditions that led to the exponential growth of email and the Internet. Former Chairman William E. Kennard, reflecting on the tremendous growth of the Internet, previously noted that “the best decision government ever made with respect to the Internet was the decision that the FCC made 15 years ago NOT to impose regulation on it.”<sup>4</sup> As an illustration of the growth of email, in 2001, approximately 3.2 million emails were sent daily—by 2006, just five years later, 100 billion emails were sent daily.<sup>5</sup> This explosive growth trend demonstrates that the market is clearly working, and thus, regulatory mandates are not warranted regardless of whether the Commission has the authority to impose the proposed rule (it does not).

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<sup>3</sup> See, e.g., Report to Congress, *Federal-State Joint Board on Universal Service*, Report to Congress, 13 FCC Rcd 11501 ¶¶ 78, 79-80 (1998)(rejecting the argument that e-mail constitutes a telecommunications service and concluding that e-mail “offers users the ‘capability for . . . acquiring, storing, transforming, processing, retrieving, utilizing, or making available information through telecommunications.’”)

<sup>4</sup> Remarks of William E. Kennard, Chairman, Federal Communications Commission, before the National Cable Television Association, Chicago, Illinois, *The Road Not Taken: Building a Broadband Future for America*, <http://www.fcc.gov/Speeches/Kennard/spwek921.html> at 4 (June 15, 1999).

<sup>5</sup> Tim Shinkle, *Time for a New Look at Email Management-Internet/Web/Online Service Information*, <http://www.thefreelibrary.com/Time+For+A+New+Look+At+Email+Management-a077610596> (Computer Technology Review, June 2001); *Cloudmark Launches Comprehensive “Zombie” Prevention Strategy for Service Providers*, [http://www.redorbit.com/news/technology/695791/cloudmark\\_launches\\_comprehensive\\_zombie\\_prevention\\_strategy\\_for\\_service\\_providers/index.html](http://www.redorbit.com/news/technology/695791/cloudmark_launches_comprehensive_zombie_prevention_strategy_for_service_providers/index.html) (October 17, 2006).

Despite Ms. Mortenson's assertion to the contrary, common carrier type regulation is inconsistent with Title I of the Communications Act. Although Title I grants the Commission general jurisdiction over interstate or foreign communications by wire, this jurisdiction can only be asserted if it is "reasonably ancillary to the effective performance of [the Commission's] various responsibilities."<sup>6</sup> This requirement is not satisfied here because email address portability is not mandated by any statutory provision. Further, the proposed regulation is inconsistent with the deregulatory regime that Congress has mandated for the Internet and Commission has adopted for information services.

Because the requirements for asserting jurisdiction under Title I are not present here, the proposed rule is not analogous to extending number portability requirements to Commercial Mobile Radio Service (CMRS) carriers. Section 251(b)(2) imposes number portability requirements only on Local Exchange Carriers (LECs), and the definition of LECs specifically excludes CMRS providers. 47 U.S.C. §§ 251(b)(2), 153(26). In extending number portability requirements to CMRS providers, the Commission declined to decide whether § 251(b)(2) imposed number portability requirements on CMRS providers, and instead chose to exercise its ancillary jurisdiction under Title I.<sup>7</sup> Because an efficient and uniform numbering system is "essential to the efficient delivery of interstate and international telecommunications," extending number portability requirements to CMRS carriers is ancillary to the Commission's statutory responsibility to make available "a rapid, efficient, Nation-wide, and world-wide wire and radio

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<sup>6</sup> Report and Order and Further Notice of Proposed Rulemaking, *Digital Broadcast Content Protection*, 18 FCC Rcd. 23,550, ¶ 29 (2003).

<sup>7</sup> First Report and Order and Further Notice of Proposed Rulemaking *Telephone Number Portability*, 11 FCC Rcd 8352, ¶ 152 (1996)(declining to determine whether CMRS providers must provide number portability as local exchange carriers because the Commission had an independent basis of jurisdiction over those providers).

communication service.” *Id.* ¶ 153. By contrast, here, there is no statutory mandate requiring email address portability.

Similarly, although the Petition asserts otherwise, the proposed regulation is not analogous to the extension of the Communications Assistance for Law Enforcement Act (CALEA), E-911, disability access, Customer Proprietary Network Information (CPNI), and universal service fund requirements to interconnected Voice over Internet Protocol (VoIP) providers. Petition at 5. The Commission has independent statutory authority to extend most of the above emergency-related requirements on interconnected VoIP providers.<sup>8</sup> Moreover, the Commission’s decision to extend those requirements to interconnected VoIP providers was driven largely by public safety<sup>9</sup> and the concern that VoIP services and analog voice services “are virtually indistinguishable” to consumers

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<sup>8</sup> See, e.g., First Report and Order and Notice of Proposed Rulemaking, *IP-Enabled Services; E911 Requirements for IP-Enabled Services*, 20 FCC Rcd 10,245, ¶ 33 (2005) (“*VoIP 911 Order*”)(relying on § 251(e) of the Communications Act as an “additional and separate source of authority” for imposing 911 requirements on interconnected VoIP providers); Report and Order and Notice of Proposed Rulemaking, *Universal Service Contribution Methodology*, 21 FCC Rcd 7518, ¶¶ 38-45 (2006) (relying on its permissive authority under § 254(d) to impose universal service obligations on interconnected VoIP providers); Report and Order and Further Notice of Proposed Rulemaking, *Implementation of the Telecommunications Act of 1996: Telecommunications Carriers’ Use of Customer Proprietary Network Information and Other Customer Information*, 22 FCC Rcd 6927, ¶ 59 (2007)(“*CPNI Order*”)(relying upon § 222 of the Act to impose CPNI requirements on interconnected VoIP providers), *appeal docketed sub nom., Nat’l Cable & Telecomm’s Ass’n v. FCC*, No. 07-1312 (D.C. Cir. Aug. 7, 2007).

<sup>9</sup> See, e.g., Report and Order and Further Notice of Proposed Rulemaking, *Communications Assistance for Law Enforcement Act and Broadband Access and Services*, 20 FCC Rcd 14989, ¶ 44 (2005)(“*CALEA Order*”)(finding that “the protection of public safety and national security compels us to apply CALEA to interconnected VoIP service providers.”), *aff’d, American Council on Education v. FCC*, 451 F.3d 226 (D.C. Cir. 2006); *VoIP 911 Order* ¶ 3 (finding that the imposition of 911 requirements on interconnected VoIP providers is a “critical step[ in] advanc[ing] the goal of public safety.”)

making phone calls.<sup>10</sup> Here, however, there is no independent statutory authority for the proposed regulation, no public safety concern, and the analogy to voice services does not apply.

## **II. The Market Currently Addresses Many of Ms. Mortenson's Concerns.**

Not surprisingly, the exponential growth of email and the Internet has resulted in a competitive market for services to address consumers' email-related needs, including many of Ms. Mortenson's concerns. Many companies currently offer inexpensive and free services that can forward emails from one active email account to another active email account.<sup>11</sup> Verizon and other ISPs have also responded to these concerns by partnering with True Switch, a company that provides email forwarding services and transfers stored data from one active email account to another active email account.<sup>12</sup> Additionally, many websites and universities currently provide free and inexpensive permanent email addresses that forward email to active email account(s) and can also be set as return email addresses.<sup>13</sup> These market-based solutions address many of Ms. Mortenson's concerns and provide an additional reason not to impose the proposed rule.

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<sup>10</sup> CPNI Order ¶ 56.

<sup>11</sup> See, e.g., <http://www2.verizon.com/content/consumerdsl/faqs/all+faqs.html> (Verizon) (offering new DSL subscribers free subscriptions to True Switch, an email forwarding service); <http://mail.google.com/support/bin/answer.py?answer=10957&topic=1565> (Gmail) (offering Gmail subscribers free automatic email forwarding from Gmail accounts to other accounts); and <http://www.mail.com> (Mail.com) (offering subscribers email forwarding service from Mail.com accounts to other email accounts for as little as \$3.95 per month). Copies of the relevant web pages are attached as Exhibit A.

<sup>12</sup> See <http://www.trueswitch.com> (offering free email forwarding and copying of personal data for customers switching to Verizon and True Switch's other ISP partners and the same services for \$19.95 for other customers). Copy of relevant web page is attached as Exhibit B.

<sup>13</sup> See, e.g., <http://www.pobox.com> (PoBox) (offering forwarding email addresses that can forward email to multiple email accounts for as little as \$20 a year);

The Petition also suggests that the Commission should require ISPs to permit consumers to continue using ISP-based email addresses even after they terminate service with an ISP. Petition at 2, and 4-5. Even if the Commission had the authority to impose such a requirement (and it does not), this requirement is not warranted because workaround options currently address this concern. Indeed, several companies currently offer free and inexpensive web-based email services and accounts that can be used with any ISP.<sup>14</sup> These innovative web-based options may not have emerged if email was not free from regulatory mandates, and would be undermined if one were imposed now.

### **III. The Proposed Regulation is Impractical Because of Technical Limitations.**

While the market has produced workarounds that address many of Ms. Mortenson's concerns, even if the Commission had the authority to impose the proposed requirements (it does not), a regulatory mandate would run into technical limitations unique to email accounts and ISPs. While services dedicated to forwarding emails can and do exist, these services generally cater to a smaller customer base, for which email forwarding is manageable, albeit inefficient. However, a mandate requiring *all* ISPs to forward emails for *all* former customers, would involve substantially more customers which would make email forwarding unmanageable.

To prevent data loss when an email is forwarded, Verizon and other ISPs temporarily store the email to be forwarded on their email server and then route the email to another email server. By contrast, when a telephone number is ported, it is completely

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<http://alumni.clemson.edu/programs/email.html> (Clemson University) (offering alumni free, permanent email addresses); <http://www.aggienetwork.com/email> (Texas A&M)(same); <http://alumni.umich.edu/online-services/forwarding.php> (University of Michigan)(same). Copies of the relevant web pages are attached as Exhibit C.

<sup>14</sup> See, e.g., <http://www.hotmail.com> (offering free web based email accounts); <http://www.yahoo.com> (offering free web based email accounts); <http://www.msn.com>.

transferred to the customer's new carrier. Accordingly, calls to that number are sent *directly* to that number and do not have to pass through the former carrier's network. Similarly, forwarded postal mail is delivered *directly* to the customer's forwarding address and not to the customer's former address—the customer *does not* get to keep his or her former postal address.

Under the existing process for forwarding emails, the proposed rule would require ISPs to serve as an intermediary and to (1) temporarily store emails sent to former customers who no longer have mailboxes for storage, and (2) route those emails to former customers' designated email addresses. Even assuming that ISPs retain mailboxes for former customers (they do not), if the final destination is busy or otherwise unable to receive forwarded messages, the email to be forwarded may be undeliverable. Moreover, because the forwarding ISP would have to serve as an intermediary, the forwarding ISP would be susceptible to outages on another ISP or network. Thus, this delivery system is inefficient and introduces more ways for delivery to fail. Requiring *all* ISPs to forward emails for *all* former customers would make this system even more inefficient and introduce more opportunities for delivery failure.

The Petition also suggests that ISPs should allow former consumers to use ISP-based email accounts even after a customer leaves an ISP. Petition at 2, 4-5. Technical limitations also make this proposed requirement impractical. Unlike local telephone numbers, which can generally function on any carrier's network, the majority of ISP-based email accounts and services cannot be accessed or operated from another ISP or web browser. Moreover, because *all* email addresses end in specific domains (*e.g.* @verizon.net), even assuming email addresses could be transferred between email

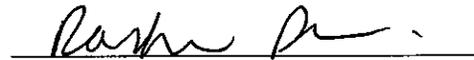
service providers, the transfer could not be completed without changing the domain at the end of the email address being transferred. Thus, jane.doe@hotmail.com would have to be changed to jane.doe@verizon.net, undermining the intent of the proposed regulation. If an existing customer at the new domain was already using jane.doe@verizon.net as an email address, the new email address could not be transferred to that domain without some modification, which would also undermine the intent of the proposed regulation.

### CONCLUSION

For the foregoing reasons, the Commission should deny Ms. Mortenson's Petition.

Michael E. Glover  
*Of Counsel*

Respectfully Submitted,



Edward Shakin  
Rashann R. Duvall  
VERIZON  
1515 North Courthouse Road  
Suite 500  
Arlington, VA 22201

Bennett Ross  
Catherine M. Hilke  
WILEY REIN LLP  
1776 K Street, N.W.  
Washington, DC 20006

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*Attorneys for Verizon*

# **EXHIBIT A**

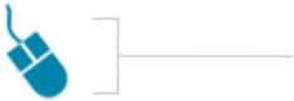


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## FAQs

High Speed Internet

# We're here for you – 24/7.

▶ See all questions and answers

- ▶ Technology
- ▶ Availability
- ▶ Installation
- ▼ Features
  - ▶ Can I host a Web page?
  - ▶ Can I hook up more than one computer with a single connection?
  - ▶ Can I access the Internet if I'm traveling?

Check Availability

Can I get it?

What happens to my current email account when I switch to Verizon High Speed Internet?

- Your broadband service from Verizon includes a free subscription to TrueSwitch software which can forward all of your emails from your old account to your new account for up to 30 days. It even copies over all your old emails and contacts.\*

TrueSwitch lets your friends and family know you've moved by sending out email messages informing them of your new email address.

\*Accounts may be copied from the following ISPs using the TrueSwitch ISP migration services, furnished by Esaya, Inc: AOL, ATT Worldnet, AT&T yahoo, Charter, Comcast, Compuserve, Cox, EarthLink, Gmail, Juno, Mac.com, MSN/Hotmail, Netscape, OptOnline, PeoplePC, Yahoo email accounts; TrueSwitch is subject to Esaya's Terms of Service and other conditions. Available to Windows PC users only; see additional service and account restrictions when you sign up.

● Online Services

● Billing and Account Info

- Does Verizon High Speed Internet include unlimited Internet access or will I be charged according to my usage?

How do I know that prices won't change in the future or that I won't be charged for features that are currently included?

Do I have to purchase a modem and pay an activation fee?

Are Verizon High Speed Internet charges in addition to my current monthly phone bill charges?

Is there a money-back guarantee?

What type of technical support is available?

I'm already a Verizon High Speed Internet customer and am moving. How can I keep my service?



## Help Center

[Google Help](#) > [Gmail Help](#) > [Reading & Receiving Mail](#)

Change Language: English (US)

[Gmail Help](#)

[What's New](#)

[Take the Gmail Tour](#)

[Switching to Gmail](#)

[Gmail Blog](#)

[For Organizations](#)

## How do I forward my mail to another email account automatically?

Gmail lets you automatically forward incoming mail to another address, if you'd like.

Here's how to forward messages automatically:

1. Log in to your Gmail account.
2. Click **Settings** at the top of any Gmail page.
3. Click **Forwarding and POP/IMAP** along the top of the **Settings** box.
4. Enter the email address to which you'd like your messages forwarded.
5. Select the action you'd like your messages to take from the drop-down menu. You can choose to keep Gmail's copy of the message in your inbox, or you can send it automatically to **All Mail** or **Trash**.
6. Click **Save Changes**.

You also can set up [filters](#) to forward messages that meet specific criteria. You can create 20 filters that forward to other addresses. You can maximize your filtered forwarding by [combining filters](#) that send to the same address.

updated 10/13/2007

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# **EXHIBIT B**



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## Ensure a successful move to your new Internet account

**Copy**  
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**Forward**  
your mail to  
the new address



**Cancel**  
your old account



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# **EXHIBIT C**



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## Simple and reliable — You'll love your lifetime address

With **email forwarding**, mail is sent to Pobox, and we send it on to you. We include **tons of extra features**, top-notch spam blocking and great customer support, starting at only \$20/year.



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### Customer Login

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## Why Forward Email?

 Change addresses without worrying about losing mail. Keep a backup mailbox at Yahoo, just in case. Get out of that bad email relationship you stay in because you're afraid to change your address. ➔

## Superior Spam Protection

 Whether you want to turn it up or turn it off, our customizable Spam Protection lets you go back to enjoying email free from spam, without worry. Spam Protection offers **Cloudmark's spam, virus, and phishing filters** for all Pobox accounts. Pobox Spam Protection learns from changes you make, so it's getting better all the time. ➔

## Frequently Asked Questions

- [How is Pobox different from my current email address?](#)
- [I have my own domain. Can I use Pobox?](#)
- [Can I forward mail to more than one address?](#)
- [How does email forwarding work?](#)
- [Can I send mail through Pobox?](#)
- [More Questions](#) ➔

## Use Your Own Domain

 Tired of having a long, generic email address? Becoming you@yourdomain.com is easy with Pobox. ➔

## Upgrade to Webmail & POP/IMAP

 Let us do it all. Upgrade to Mailstore, and get your Inbox from the company that's all about email. ➔



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● **My CU Connections**

● **Giving to Clemson**

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● **Events & Awards**

● **Merchandise**

● **Lifetime Email**

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## Programs & Services

### Lifetime Email Forwarding

You can get a free, permanent email address that you'll always remember!

If you change jobs, or internet service providers, you'll never have to worry about losing email or having to tell all your friends about an email address change.

### Register!

It's simple, when you give us some basic information, you will be confirmed as a Clemson student or alumni. This will also automatically register you for **MY CU Connections** (for alumni online giving, job postings, directory searching, etc.)

Then after that manual confirmation you can set up your new email address at alumni.clemson.edu. All email sent there will get forwarded to your current mailbox.

You could make your account look like this or whatever you choose: Your.Name@alumni.clemson.edu

Once your new forwarding address is set up, just give out your alumni.clemson.edu address instead of your work, or home email address. Should you change employers, or internet service providers, just revisit My CU Connections.

**\*Already a Confirmed Member of My CU Connections? Update your forward to email.**



> [Return to Questions](#)

## How does email forwarding work?

You first create an **@AggieNetwork.com** email address and designate an address hosted by an email provider (i.e. Hotmail, Yahoo, Gmail, etc.) to receive your **@AggieNetwork.com** emails. For example, if you create **Rock@AggieNetwork.com** as your address, you could have it forward email to **oldarmy@hotmail.com**. All emails sent to **Rock@AggieNetwork.com** would appear in your **oldarmy@hotmail.com** email address inbox. If you then decided to change your email service provider a few years later, all you would need to do is update your online profile on **AggieNetwork.com** with your new forwarding email address.

Each user on **AggieNetwork.com** will be able to select up to five unique email forwarding addresses. You can use all five addresses for yourself or share them with your family.

For more information on this service and instructions on how to sign up for an **@AggieNetwork.com** email address or how to obtain a free account to host your email, visit [www.AggieNetwork.com/email](http://www.AggieNetwork.com/email).

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## Online Services

Stay Connected with E-Services

### Email Forwarding

*Your Permanent "umich.edu" Address*

Email forwarding is a service that re-routes email messages sent to "you@umich.edu" to your "real" email account. When you change email providers, you simply change the email address you've listed in the University's electronic directory, and future messages will be forwarded to your new email account. This feature allows you to demonstrate your pride in being a U-M alumnus/a while taking advantage of the convenience of a constant email address.

To use the email forwarding feature, you must have access to the Internet, maintain an email account (e.g. through a commercial provider, your employer, etc.) and have a U-M uniqname and password. All U-M alumni can take advantage of free email forwarding.

**Reduce spam to "@umich.edu" addresses** U-M has a new Do Not Spam List that can help reduce spam sent to "@umich.edu" accounts. For details, visit [click here](#).

To sign up for email forwarding, visit the [ITCS Web site](#). You will be asked for your [University-assigned uniqname and password](#).

#### Frequently Asked Questions:

**Q. How often do I need to update my destination address?**

A. As often as it changes. In addition we may periodically ask you to verify that you are still using the service.

**Q. In the future how will I update my destination address?**

A. Using the same steps you used here.

**Q. How long does it take for a new forwarding address to become active?**

A. The destination address you enter becomes active immediately.

If you have further questions, please contact the Information Technology Division at [itd.accounts@umich.edu](mailto:itd.accounts@umich.edu) or 734.764.8000.

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