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EX PARTE

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

Re: In the Matter of Implementation of Section 304 of the Telecommunications Act of 1996, Commercial Availability of Navigation Devices, Compatibility Between Cable Systems and Consumer Electronics Equipment, CS Docket No. 97-80, PP Docket No. 00-67

Dear Ms. Dortch:

Verizon is pleased that the National Cable & Telecommunications Association (NCTA) is “in agreement with much of Verizon’s [July 31, 2008] ex parte” concerning the recently announced Memorandum of Understanding (MOU) between the six largest cable incumbents and certain consumer electronics (CE) manufacturers that may permit the creation of two-way devices that work on the networks of traditional cable operators.¹ In particular, we are encouraged by NCTA’s recognition of the significant consumer benefits of an “all-provider” plug-and-play solution that would facilitate two-way functionality for video providers of all types, as well as NCTA’s concession that its tru2way approach is not such an “all-provider” solution. We also appreciate NCTA’s acknowledgement that our suggestion that “all DTVs include an RJ45 Ethernet input port is worth exploring with CE manufacturers.” We write to clarify a couple of points from our previous filing that were apparently the source of some confusion on the part of NCTA.

First, tru2way is “incompatible” with Verizon’s – and other competitive providers’ – services in the sense that a television set with tru2way would still require a set-top box from these providers in order to have two-way functionality, but not in the case of the cable incumbents. NCTA notes, correctly, that a television set including tru2way technology would not be “incompatible” with Verizon’s FiOS TV service in the sense that the television set would cease to function for FiOS TV subscribers when attached to a “Verizon set-top.” *NCTA Ex Parte* at 2. We never intended to suggest otherwise. But this type of “compatibility” misses the point in the context of two-way plug-and-play standards. One of the principle benefits to consumers of a two-way plug-and-play solution is precisely that it will facilitate interactive services *without*

¹ Letter from Kyle McSlarrow to Marlene H. Dortch, CS Docket No. 97-80 (Aug. 13, 2008) (“*NCTA Ex Parte*”) (discussing Letter from Dee May to Marlene H. Dortch, CS Docket No. 97-80, PP Docket No. 00-67 (July 31, 2008) (“*Verizon Ex Parte*”).

the need for a set-top box. So a two-way solution that permits interactivity only in conjunction with a provider's unique set-top box – particularly when the traditional cable incumbents would not need a set-top box for the same level of functionality – is no solution at all. And to the extent that CE manufacturers include tru2way into their television sets but do not include other approaches to two-way interactivity that work for other types of video providers, the likely result will be consumer confusion and frustration. Consumers would likely purchase televisions with tru2way only to later be frustrated when they discover that they still need a set-top box for competitive providers using technological approaches that differ from the cable incumbents. This could undermine emerging video competition and inhibit innovation by discouraging consumers from switching to competitive providers who do not rely on traditional cable technology.

Second, NCTA suggests that the tru2way approach somehow ceases to be a proprietary standard, simply because CableLabs (after developing the cable-centric standard) may be willing to allow other providers to sign licensing agreements and use it. Here too, NCTA's suggestion misses the mark. Tru2way was developed in a closed setting designed to serve the interests of cable incumbents, and relies on a cable-centric technological approach. Given the technical differences between the network and services of video providers not using traditional cable technology (e.g., IPTV or satellite) and those of the traditional cable providers, tru2way is simply not an option for achieving two-way interactivity without a set-top box. Therefore, any offer to Verizon or other competitive providers to use the tru2way standards are an empty gesture. In contrast, the work underway at ATIS is open to providers employing different technological approaches – including the cable incumbents – while the standards and interfaces are still being developed, thus facilitating the creation of standards that serve more than the interests of a single subset of video providers. Indeed, many cable incumbents have long been members of ATIS, and even CableLabs has now joined ATIS as an affiliate member. Conversely, providers like Verizon are not permitted to join CableLabs or participate in their development of standards like tru2way.

Verizon reiterates its support for *industry-created* standards for bidirectional navigation devices. The Commission should further the public interest by encouraging all interested stakeholders to develop and support two-way standards that facilitate consumers' interactivity with the services of *all* providers, regardless of platform or technology. We will continue to work actively through open industry bodies to make such standards a reality – as Verizon has for nearly three years now.

Sincerely,



cc: Chairman Kevin J. Martin
Commissioner Michael J. Copps
Commissioner Jonathan S. Adelstein
Commissioner Deborah Taylor Tate
Commissioner Robert M. McDowell
Amy Bender

Amy Blankenship
Rudy Brioché
Rick Chessen
Christina Chou Pauzé
Monica Desai