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April 29, 2009

Ex Parte

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

Re: Local Number Portability Porting Interval and Validation Requirements (WC Docket No. 07-244); Implementation of the Cable Television Consumer Protection and Competition Act of 1992 (MB Docket No. 07-29); Review of the Commission's Program Access Rules and Examination of Programming Tying Arrangements (MB Docket No. 07-198)

Dear Ms. Dortch:

On April 28, Susanne Guyer and Michael Glover of Verizon met with Commissioner Robert McDowell, Rosemary Harold and Nick Alexander, Legal Advisors to Commissioner McDowell to discuss number porting intervals, marketing to customers, and access to "must have" regional sports programming (including the HD format of that programming)."

First, Verizon urged the Commission, as it considers shortening the standard interval, to ensure that parity exists in the porting process. Parity has two aspects here – (i) the same rules must apply to all providers and (ii) the same rules must apply to all three steps of the process by which customers change providers. For example, there are no rules governing the first step of the process, the pre-ordering phase, which dictates when the porting interval can begin. Some carriers, such as Cavalier, require new providers to include specific information on the port requests they submit that is usually only available from a Customer Service Record (CSR). When the new providers request the CSR from those carriers, the return of the CSR can take up to five business days. This lengthy delay is unreasonable, and all providers should be required to return a CSR within 24 hours. For the second step of the porting process – the return of the Firm Order Confirmation (FOC) – today's standard interval requires the FOC to be returned in 24 hours. However, some providers, including Sprint, have business rules that purportedly allow them two days to return the FOC. Regardless of whether the Commission changes the length of this interval, the same FOC return interval must apply to all providers.

In addition, Verizon expressed that it is critical that all providers of bundled services have the same rules with respect to marketing. While Verizon believes that all consumers benefit from unrestricted access to information from providers regarding the services they offer and their prices, the current rules with respect to marketing to customers who are changing service

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providers provide a distinct competitive advantage to cable incumbents. To address this disparity, the Commission should put Verizon's Petition for Declaratory Ruling on video service cancellations out for comment.

Finally, Verizon explained that access to "must have" regional sports programming is critical to a provider's ability to compete for video customers. There is no substitute for this programming because customers want to see their favorite sports teams, and likewise want to see them in HD. Yet cable incumbents who often own or control such programming have refused to provide access to that programming, typically arguing either that the programming or a particular format of the programming is not satellite delivered. As an example, Cablevision has refused to provide Verizon with access to its HD regional sports programming in the New York City area and in Buffalo. Such conduct violates § 628's prohibition of "unfair methods of competition or unfair or deceptive acts or practices, the purpose or effect of which is to hinder significantly or to prevent" a competitive video provider from offering its services to "subscribers or consumers." The reason for this is straightforward. If a customer considers the regional sports programming as a necessary component of a video service, he or she will not subscribe to a competing alternative that lacks that programming. And if the customer will not subscribe to the competing service for that reason, then denying access to the regional sports programming, even if it is delivered terrestrially, necessarily inhibits Verizon's ability to provide all forms of programming – including satellite delivered programming – to those consumers.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Anne D. Burk". The signature is written in a cursive, flowing style.

cc: Nick Alexander
Rosemary Harold