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

RE: WC Docket No. 07-244
MB Docket No. 07-29
MB Docket No. 07-198

Dear Ms Dortch:

I am writing in response to Verizon's letter of April 22, 2008, filed in the above-referenced dockets.¹ Responding to press reports that the Commission is considering adopting its 2007 tentative conclusion that the public would benefit from a shorter porting interval on wireline and intermodal number porting requests,² Verizon's letter suggests that a shorter porting interval will not benefit consumers and that the Commission should not make any changes to the porting rules unless it also addresses unrelated issues dealing with retention marketing for video services and the applicability of program access rules for regional sports programming.

Verizon's feeble objections to shortening the porting interval stand in stark contrast to the overwhelming support for such Commission action – not just from cable operators, but from members of Congress, wireless carriers, consumer advocates, and state commissions. Even AT&T, the largest ILEC in the country, has recognized that a shorter interval is in the public interest.³ Verizon stands alone in trying to delay action in the local number portability docket with unrelated concerns and the Commission should see this for the 11th hour ploy that it is. The Commission has been considering this issue for years and the time has come to move forward.

¹ See Letter from Susanne Guyer, Senior Vice President, Verizon, to Michael J. Copps, Acting Chairman, Federal Communications Commission, WC Docket No. 07-244, *et al.* (filed Apr. 22, 2009) (Verizon Letter).

² *Local Number Portability Porting Interval and Validation Requirements, et al.*, WC Docket Nos. 07-244, *et al.*, Report and Order, Declaratory Ruling, Order on Remand, and Notice of Proposed Rulemaking, FCC 07-188 (rel. Nov. 8, 2007) (*Order and NPRM*).

³ See Letter from Mike Tan, Director – Federal Regulatory, AT&T, to Marlene Dortch, WC Docket No. 07-244 (filed Apr. 21, 2009).

A Shorter Porting Interval Unquestionably Benefits Consumers

Verizon's argument that consumers won't really benefit from a shorter porting interval is one that it has made many times before, but repetition has not made it any more convincing. The basic principle that shorter ports are beneficial for consumers is endorsed by a wide range of parties that goes well beyond Verizon's competitors and includes consumer advocates, state commissions and elected officials. As Congressman Rick Boucher, Chairman of the House Subcommittee on Communications, Technology, and the Internet wrote just last week, "[e]nsuring that consumers can exercise that choice [of voice service providers] by seamlessly switching voice service providers is critical and makes a shorter porting interval a necessity."⁴ Consumers Union and Public Knowledge have likewise explained that "[w]hen consumers can take their numbers with them without undue inconvenience or expense, the result is better quality and lower prices for phone service. But when the porting interval is unnecessarily long – as is presently the case – the process can be gamed by incumbent phone companies to hobble competition and discourage innovation."⁵

Verizon asserts that any benefit to consumers from a shorter interval is only theoretical because cable operators and other providers routinely request porting dates that are longer than the four day interval.⁶ As NCTA has explained previously, this argument is nonsensical.⁷ The porting interval dictates the earliest date that can be offered to a new customer. Given the busy lives of most Americans, it is neither surprising nor significant that most consumers do not choose to get service installed on the first day it is offered. That said, common sense suggests that, on average, the earlier the date the provider can offer to begin service, the earlier the date a customer is likely to choose for the installation. Some customers undoubtedly will choose to take advantage of earlier installation dates and there is no benefit whatsoever associated with subjecting those customers to a longer waiting period before the change is processed. Moreover, Verizon's assertions ignore the trend toward consumer self-installation of voice service. Consumers who purchase a self-installation kit for voice service do not expect that they will have to wait for four days before they can begin to use the new service, particularly those consumers that already have had the experience of porting their number from one wireless provider to another in a matter of a few hours.

⁴ Letter from Hon. Rick Boucher to Michael J. Copps, Acting Chairman, Federal Communications Commission, WC Docket No. 07-244 (filed Apr. 20, 2009).

⁵ Letter from Chris Murray, Senior Counsel, Consumers Union and Gigi Sohn, President, Public Knowledge, to Michael J. Copps, Acting Chairman, Federal Communications Commission, WC Docket No. 07-244 (filed Apr. 17, 2009).

⁶ Verizon Letter at 2.

⁷ Reply Comments of the National Cable & Telecommunications Association, WC Docket No. 07-244 (filed Apr. 21, 2008) at 4.

There Are Sound Reasons For Treating Video And Voice Differently

An underlying theme in Verizon's letter is the assertion that cable operators somehow enjoy certain advantages under the existing rules. The notion that the Commission must intervene to correct some sort of regulatory disparity, however, is mistaken. With respect to marketing and porting, cable operators and telephone companies are subject to the same regulatory regimes in connection with each of the triple play services. Thus, all voice providers must comply with the same marketing rules – including, in particular, the retention marketing prohibition – just as all video providers must comply with the same marketing rules.

Verizon concedes, as it must, that the same rules apply to both types of companies,⁸ but it suggests that this situation nevertheless is unfair because those rules purportedly have a more burdensome effect on Verizon and other ILECs. The solution, according to Verizon, is to subject video services to the same type of rules as voice services. In particular, Verizon reiterates its request from last year that the Commission adopt rules to govern the termination of service by video customers.

Putting aside the fact that video marketing rules are wholly outside the scope of the local number portability proceeding, Verizon again misses the mark. As NCTA explained last year, Verizon's request for "video porting" rules is unnecessary and unproductive.⁹ On the voice side, it is indisputable that competition could not exist without rules to facilitate the porting of a customer's existing phone number to the new provider, whereas on the video side, over 30 million customers have signed up for service from cable's competitors without the need for any rules governing cancellation procedures. Verizon itself already has become one of the largest multichannel video providers in the country and just this week it reported "continued strong growth" of its FiOS TV service.¹⁰

Verizon focuses on the supposed advantage that an incumbent video provider enjoys in comparison to a voice provider, since only the former gets an opportunity to engage in retention marketing to a departing customer. According to Verizon, the source of this unfairness is the fact that the new voice provider may call the incumbent on behalf of the departing customer to cancel service from the incumbent and arrange for the porting of the customer's telephone

⁸ Verizon Letter at 3.

⁹ See Letter from Kyle McSlarrow, National Cable & Telecommunications Association, to Kevin Martin, Chairman, Federal Communications Commission, WC Docket No. 07-244 (filed Apr. 24, 2008) at 1 ("Verizon's basic premise – that it is too burdensome for customers to call their video provider and cancel service – is patently ridiculous. Ordering service from a new provider and separately cancelling service from the old provider, without regulatory oversight, is the norm for almost all consumer services, e.g., newspapers, magazines, lawn service, alarm service – even broadband service.").

¹⁰ See Verizon Q1 Investor Quarterly (Apr. 27, 2009) at 5, available at <http://investor.verizon.com/financial/quarterly/vz/1Q2009/1Q09Bulletin.pdf?t=633766172256617061>.

number, while no comparable process exists for video service.¹¹ This argument fails for a number of reasons. First, it ignores the central feature of the local number portability regime – the new voice provider must give the old provider *advance* notice that the customer wants to change carriers.¹² There is no parallel notice required in the video world because cancellation involves a single phone call from the customer, not a days-long process, and consumers are free to start the new video service before they even cancel the old one,¹³ something that is not possible for voice services when a number is ported.¹⁴

Second, it is worth noting that, in important respects, voice and video providers are subject to the same marketing rules. Both types of providers are entitled to conduct retention marketing to customers who directly cancel their service and in both contexts winback marketing is entirely permissible. This additional form of parity further negates any need to entertain Verizon's requests for change regarding video marketing.

Verizon's Program Access Concerns Should Be Rejected

In its final attempt to distract the Commission from proceeding with pro-consumer changes to the number portability rules, Verizon rehashes a variety of old arguments about access to regional sports programming. Not only are these arguments utterly irrelevant to the issue of number portability, but also the Commission has made clear on numerous occasions that the "plain language" of the program access provisions of Sections 628(b) and 628(c) only covers

¹¹ Verizon Letter at 3. We note that this supposed competitive advantage, if it exists at all, is substantially diminished when a departing voice customer also switches his or her broadband service from Verizon's DSL to cable modem service. Because broadband cancellation procedures are unregulated, customers that drop Verizon's voice and DSL services so that they can switch to voice and data services provided by a cable operator must still call Verizon and cancel DSL service – thereby creating a retention opportunity for Verizon – even if the cable operator submits a port request that serves to cancel the voice service. Verizon fails to mention this scenario in any of its submissions, nor has it offered to accept DSL cancellations that are submitted by cable operators. Similarly, if a departing customer previously placed a PIC freeze on his or her account, Verizon will have a retention marketing opportunity when the customer calls to lift the freeze.

¹² *See Verizon California, Inc. v. FCC*, Case No. 08-1234 (D.C. Cir. Feb. 10, 2009), slip op. at 4 (“[T]he information that a competitor has just won the customer over, which is vital to the timing of Verizon's retention marketing, is proprietary information that the competitor discloses only because it must do so in order to effect the number port.”).

¹³ Indeed, Verizon has two television commercials that provide a humorous portrayal of this situation. In one, the cable technician arrives at an apartment to disconnect cable service and runs into the Verizon technician, who has just completed an installation of Verizon's FiOS service at the same apartment. In the other, the Verizon technician is installing video service in the home when the cable technician arrives with a winback offer for the customer. The key point is that in both scenarios Verizon is able to – and often does – install video service without providing notice to, or seeking approval from, the cable operator.

¹⁴ In the context of multi-dwelling units (MDUs), of course, coordination between competing service providers may be required to ensure that consumers' communications services are not disrupted. *See, e.g.*, Letter from Alexandra M. Wilson, Vice President of Public Policy and Regulatory Affairs, Cox Enterprises, to Marlene H. Dortch, Secretary, Federal Communications Commission, MB Docket No. 07-51 (filed Oct. 24, 2007).

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programming that is delivered by satellite.¹⁵ Verizon's attempt to tie these issues to the number portability proceeding should be rejected.

Conclusion

There is widespread agreement that a shorter porting interval will benefit consumers and nothing in Verizon's letter should discourage the Commission from making such a change expeditiously.

Respectfully submitted,

/s/ Neal M. Goldberg

Neal M. Goldberg

¹⁵ See *AT&T Services, Inc. v. CoxCom, Inc.*, CSR-8066-P, DA 09-530 (Med. Bur. Mar. 9, 2009) at ¶ 14, quoting *Implementation of the Cable Television Consumer Protection and Competition Act of 1992*, 22 FCC Rcd 17798, 17861, ¶ 116 (2007).