Ann D. Berkowitz
Director
Federal Regulatory Advocacy

1300 I Street, NW
Suite 400 West
Washington, DC 20005
(202) 515-2539
(202) 336-7922 (fax)
aberkowitz@verizon.com

April 30, 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:

Today, Susanne Guyer and Michael Glover of Verizon met with Commissioner Jonathan Adelstein and Mark Stone, Legal Advisor to Commissioner Adelstein, 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. The standard for all providers should be 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. The same FOC return interval also should apply to all providers.

Verizon also urged that, if the Commission shortens the standard interval for simple number ports, the interval should be set at two business days. To ensure that any change in the standard interval does not disrupt service to customers, Verizon also urged that providers be allowed a sufficient period of time to implement the change in a coordinated fashion. This implementation period should begin to run after providing the appropriate industry forum a short period of time to come to agreement on the resulting changes to the current process so that all concerned know what the changes are that they need to implement.

In addition, Verizon expressed that it is critical that all providers of bundled services have the same rules with respect to marketing. Today, if a customer of Verizon's telephone service decides to switch to a competing provider and take advantage of a cable company's bundled offering, the cable company is able to submit an order as the customer's agent to disconnect her or his existing service and the telephone company is generally barred from informing the customer of attractive competing bundles while the order is pending. But the same does not apply in reverse. If a customer of a cable company's video service decides to switch to a bundled offering from Verizon that includes its competing video service, Verizon cannot submit the disconnect order on the customer's behalf. Instead, the customer must incur the inconvenience of arranging the disconnection separately, and the cable company remains free to market its own competing offerings while the disconnection is pending. 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 providers provide a distinct competitive advantage to cable incumbents. To address this disparity, and to determine what the common rules are for all providers, 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.

Sincerely,

Ann D Berkowitz

cc: Mark Stone