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May 7, 2009

**Ex Parte**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> 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); Petition of Verizon New England Inc. for Forbearance Pursuant to 47 U.S.C. § 160(c) in Rhode Island (WC Docket No. 08-24); Petition of the Verizon Telephone Companies for Forbearance Pursuant to 47 U.S.C. § 160(c) in Cox's Service Territory in the Virginia Beach Metropolitan Statistical Area (WC Docket No. 08-49)**

Dear Ms. Dortch:

On May 6, Susanne Guyer and Michael Glover of Verizon met with Acting Chairman Michael Copps, Jennifer Schneider, Legal Advisors to Chairman Copps, and William Dever of the Wireline Competition Bureau to discuss number porting intervals, marketing to customers, and access to "must have" regional sports programming (including the HD format of that programming)." Verizon also discussed the above-referenced forbearance petitions.

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.

Secondly, Verizon expressed that it is critical that all providers of bundled services have the same rules with respect to marketing. In particular, Verizon explained that when a customer of Verizon's voice telephone service decides to switch to a cable company's competing telephone service, the new provider is able to submit the disconnect order on the customer's behalf. But when a customer of a cable company's *video* service decides to switch to Verizon's competing video service, there is no parallel process for Verizon to submit the disconnect order on the customer's behalf. This is both a parity issue, and an issue of customer choice and convenience. Moreover, 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, the Commission should put Verizon's Petition for Declaratory Ruling on video service cancellations out for comment (and ultimately declare that the same requirements apply in both scenarios).

Verizon also 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.

In addition, Verizon emphasized the importance of considering wireless competition in the forbearance analysis. Verizon also emphasized that several prior Commission orders considered wireless cut-the-cord competition, and that nothing has changed that would support the exclusion of wireless competition from the Commission's analysis in the above-captioned proceedings. Indeed, since the time of the meeting, the CDC released its latest figures on the number of households that have cut the cord and are wireless only. According to the CDC, that figure topped 20 percent for the first time in the second half of 2008, and the rate of growth in the number of households that have cut the cord accelerated to its highest level yet during that same period.

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Finally, Verizon discussed the need for a consistent/predictable standard or test under which unbundling obligations can be reduced. The Act's unbundling requirements were imposed as a transition mechanism until it is possible for facilities based entry to occur. Where that objective has been achieved, and where facilities based competition is firmly established as it is in the areas at issue here, there has to be some mechanism to remove those requirements.

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 style with a large, stylized initial "A".

cc: Jennifer Schneider  
William Dever