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February 22, 2010

Ex Parte

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

Re: Preserving the Open Internet, GN Docket No. 09-191

Dear Ms. Dortch:

This letter provides notice that on February 19, Michael Glover of Verizon met with Austin Schlick, General Counsel of the FCC. During the course of that meeting, Mr. Glover and Mr. Schlick discussed certain issues currently pending before the Commission in the *Open Internet* proceeding relating to the Commission's legal authority to promulgate net neutrality regulations.

The views expressed by Mr. Glover during the course of that discussion were consistent with the arguments set out in Verizon's previously filed comments in this proceeding.¹ In particular, as Verizon explained in its comments, to the extent that some parties argue that the Commission could reclassify broadband Internet access service as a Title II telecommunications service, their arguments are misplaced. As an initial matter, the Commission previously has correctly concluded, and the Supreme Court affirmed, that retail broadband Internet access services provided to customers constitute integrated information service offerings under the express terms of the Act. Accordingly, broadband Internet access services are not, and could not be, classified as "telecommunications services" subject to Title II of the Communications Act. In addition, to the extent some parties argue that the Commission could require providers to unbundle their retail services to strip out and offer separately a stand-alone broadband transmission service subject to Title II, they are mistaken. That is not the way that Verizon offers its services today, nor would it generally choose to do so absent regulatory compulsion. In order to compel service providers to unbundle their retail services and to offer part of the service as a common carrier telecommunications service, the Commission would have

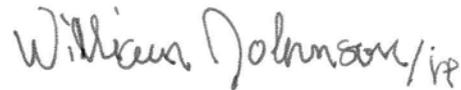
¹ See Comments of Verizon, Preserving the Open Internet, GN Docket No. 09-191 (Jan. 14, 2010).

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to both demonstrate that it has express statutory authority to compel such an offering, and, under established precedent, that the presence of market power justified such governmental action. *See, e.g., Virgin Islands Tel. Corp. vs. FCC*, 198 F.3d 921, 925-27 (D.C. Cir. 1999). As Verizon demonstrated in its comments, these conditions are not satisfied in the competitive broadband Internet access business of today, and any attempt to forcibly compel providers to unbundle their retail services and to impose common carrier requirements on the unbundled transmission component under Title II would fail.

Sincerely,

A handwritten signature in cursive script that reads "William H. Johnson" followed by a small mark that appears to be "jr".

William H. Johnson