

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Recommendation of the Advisory)	GN Docket No. 10-244
Committee on Diversity for)	
Communications in the Digital Age)	
for a New Auction Preference for)	
Overcoming Disadvantage)	

COMMENTS OF VERIZON WIRELESS

Verizon Wireless submits these comments in response to the Commission’s Public Notice seeking input on the Advisory Committee on Diversity for Communications in the Digital Age’s (“Diversity Advisory Committee”) recommendation that the Commission consider a new preference program in its competitive bidding process.¹ The Diversity Advisory Committee has recommended that the FCC initiate a rulemaking to consider a new spectrum auction preference program, under which persons or entities who have overcome substantial disadvantage would be eligible for a bidding credit.² While Verizon Wireless supports the Committee’s goal of encouraging wide participation by a variety of entities in the Commission’s auctions for wireless spectrum, the Recommendation is not an appropriate means of fulfilling this

¹ *Media and Wireless Telecommunications Bureaus Seek Comment on Recommendation of the Advisory Committee on Diversity for Communications in the Digital Age for a New Auction Preference for Overcoming Disadvantage*, GN Docket No. 10-244, Public Notice, DA 10-2259 (Dec. 2, 2010) (“Public Notice”).

² *Id.* at Attachment: Advisory Committee on Diversity for Communications in the Digital Age Recommendations to Federal Communications Commission, Preference for Overcoming Disadvantage, Oct. 14, 2010 (“Recommendation”).

goal. Instead, the Commission should use its pending rulemaking on the designated entity program to consider whether it can take other, more definitive and less subjective, actions to promote increased opportunities for all interested individuals, organizations and entities, to participate in spectrum auctions.

Verizon Wireless and its parent, Verizon Communications Inc., are strong proponents of diversity, which is not merely a concept, but is an integral part of their business. Diversity drives everything from work force development³ and supplier relationships⁴ to economic development, marketing,⁵ and philanthropy.⁶ Verizon has

³ Women and minorities make up 60 percent of Verizon's work force and hold substantial percentages of top management positions. Verizon, Workforce Development, at <http://newscenter.verizon.com/kit/diversity/workforce.html> (last visited Feb. 4, 2011).

⁴ Verizon annually spends more than a billion dollars with diverse suppliers. Verizon also encourages the growth of minority businesses in a variety of ways. Verizon forms strategic alliances with advocacy groups and chambers of commerce such as the National Minority Supplier Development Council, the United States Chamber of Commerce and the Women's Business Enterprise National Council. In addition, Verizon encourages primary suppliers to increase the use of diverse businesses as subcontractors. Verizon, Supplier Diversity, at <http://newscenter.verizon.com/kit/diversity/supplier.html> (last visited Feb. 4, 2011).

⁵ Verizon provides customer service support in six languages, including Chinese (Mandarin and Cantonese), Korean, Russian, Spanish and Vietnamese, in the areas that we serve. Today more than 1,000 employees staff 13 Verizon consumer multicultural sales and solution centers in various parts of the country, communicating with customers in their native languages. When possible, Verizon also joins in the festivities and sponsor events such as the Lunar New Year, Cinco de Mayo, Hispanic Heritage month, Black History month, Latin Grammys, the NAACP Image Awards, Hispanic and Asian film festivals and others. Verizon, Marketing to Diverse Communities, at <http://newscenter.verizon.com/kit/diversity/marketing.html> (last visited Feb. 4, 2011).

⁶ Verizon invests in its communities through its philanthropic arm, the Verizon Foundation. In 2009, the foundation contributed approximately \$35 million to minority communities. The foundation supports the advancement of literacy and K-12 education through its free educational website, Verizon Thinkfinity (www.thinkfinity.org), and fosters awareness and prevention of domestic violence. One example of Verizon's efforts to improve educational opportunities, for the 2009-2010 school year, Verizon awarded a total of \$495,000 in scholarships to 135 Hispanic students through 14 different nonprofit

been recognized time and again for its commitment to diversity.⁷ In the context of spectrum auctions, it has supported bidding credits for small businesses and other entities that can assist such entities in acquiring spectrum.

The Diversity Advisory Committee's Recommendation, however, does not appear to be an appropriate means of promoting increased diversity of ownership of wireless licenses, both because it would duplicate an existing preference program, and because implementing it would be exceedingly problematic. The Public Notice itself flags both of these concerns.

According to the Diversity Advisory Committee, the "new preference would enable otherwise-qualified persons or entities who have overcome substantial disadvantage to compete on comparable footing with other would-be applicants for FCC licenses . . . thereby expand[ing] the pool of well-qualified applicants for FCC licenses."⁸ The Committee, however, does not explain why the Commission's existing designated entity program is inadequate. Under that program, the Commission awards bidding

organizations. Verizon, *Diversity in Our Communities*, at <http://newscenter.verizon.com/kit/diversity/communities.html> (last visited Feb. 4, 2011).

⁷ See, e.g., Verizon Ranked No. 4 on Diversity MBA Magazine's List of Best Companies for Diverse Managers, News Release (Apr. 20, 2010), at <http://newscenter.verizon.com/press-releases/verizon/2010/verizon-ranked-no-4-on.html>; America's Top Organizations for Multicultural Business Opportunities – 2011, DiversityBusiness.com, at <http://www.diversitybusiness.com/Resources/DivLists/2011/DivTop50/2011Div50C.htm> (listing Verizon in the top 50 organizations); Verizon Again Named to Diversity Inc Magazine's List of Top 50 Companies for Diversity, News Release (Mar. 10, 2010), at <http://newscenter.verizon.com/press-releases/verizon/2010/verizon-again-named-to.html> (naming Verizon to its list of Top 50 Companies for Diversity for the tenth consecutive year).

⁸ Recommendation at 1.

credits to small business auction applicants.⁹ In addition, the Commission determines the small business size standards on a service-specific basis, taking into account the characteristics and capital requirements of that particular service.¹⁰ This program therefore already promotes auction participation by a wide variety of entities while ensuring auction winners have the necessary capital to deploy and offer services in the relevant band.

Moreover, individuals and entities that would qualify for the proposed disadvantage bidding credit would also qualify for a small business bidding credit under the Commission's existing designated entity program. And those that would qualify for the proposed disadvantage credit, but not the small business credit, would not need an additional incentive to participate in a wireless auction, because they already have the necessary resources. Indeed, the Recommendation contemplates that certain individuals and entities that have overcome disadvantage but who now have significant assets and wealth and/or ready access to capital would not qualify for the disadvantage credit as a "critical purpose of the program, after all, is to assist applicants who otherwise would be underrepresented and undervalued in the application process."¹¹ Thus, the proposed preference would not provide additional opportunities to individuals and entities that differ from those available under the Commission's existing bidding credit programs.¹²

⁹ See 47 C.F.R. § 1.2110.

¹⁰ *Id.*

¹¹ Recommendation at 6.

¹² See Public Notice at ¶ 3.

The Commission has a pending proceeding involving the preferences that are currently available to designated entities – which would include the types of individuals included in the Recommendation.¹³ Verizon Wireless would support the Commission’s examination of the current designated entity program to determine if the goals of the Advisory Committee may be addressed in that manner, rather than by creating an entirely new preference. For example, the Commission could review the criteria for qualifying as a small business to ensure it is promoting a wide range of applicants.

The Diversity Advisory Committee’s Recommendation also would be extremely difficult to implement. The Committee recommends that individuals or entities that have overcome the following types of disadvantages be eligible for a competitive bidding credit:

- Physical disabilities or psychological disorders that rendered professional or business advancement substantially more difficult than for most individuals;
- Physical or emotional trauma suffered in connection with military service;
- Unequal access to institutions of higher education;
- Unequal access to credit;
- Unequal treatment in hiring, promotions, and other aspects of professional advancement, pay and fringe benefits, and other terms and conditions of employment, or unequal treatment in other business opportunities;
- Exclusion without cause from business or professional organizations or from social and professional associations with students or teachers;
- Retaliatory or discriminatory behavior by an employer or an educational institution; or

¹³ *Implementation of the Commercial Spectrum Enhancement Act and Modernization of the Commission’s Competitive Bidding Rules and Procedures*, Second Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd. 4753 (2006).

- Social patterns or pressures which have discouraged the individual from pursuing education or business opportunities or which have made pursuing such opportunities more difficult.¹⁴

The Advisory Committee itself notes that this list is non-exhaustive.

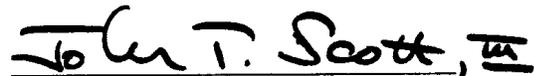
The proposed qualifications are inherently subjective, making the program difficult if not impossible to implement and apply to applicants on a neutral basis. There is no readily apparent way, for example, to define what particular “physical or emotional conditions” would be covered, and how the Commission would determine whether or not those conditions “rendered professional or business advancement substantially more difficult than for most individuals.” How would the applicant prove that he/she has actually been subjected to the disadvantage (*e.g.*, unequal access to education)? And, more importantly, what level of success does an applicant have to demonstrate that they have overcome or is overcoming the disadvantage? The seemingly simple question of what documentation an applicant would be required to provide to support its request for a preference alone creates sensitive privacy issues. Competing applicants would have a right to know the basis for an applicant to assert (and be granted) a preference, but public disclosure of those facts would be problematic. It would, more broadly, be very difficult to develop, up front, objective criteria that would define who is (and who is not) eligible for the preference. But attempting to conduct that determination after applications are filed would also be very difficult and would run considerable risk of being challenged, injecting unavoidable uncertainty into the auction process. The resources required to review and investigate applicants’ claims also would be extensive as support for these claims may not be publicly available. In contrast, the Commission worked to ensure that

¹⁴ Recommendation at 4.

its existing preferences, such as those for small businesses, could be publicly disclosed and objectively determined (*e.g.*, by imposing specific financial criteria).

For these reasons, while Verizon Wireless supports the Commission's goal of promoting broad participation in competitive bidding, it does not support the Diversity Advisory Committee's Recommendation to provide a bidding credit to individuals and entities that have overcome a substantial disadvantage. Instead, it urges the Commission to consider, in the context of its rulemaking to reexamine the designated entity program, whether changes should be made to that program to promote increased opportunities for diverse applicants to participate in spectrum auctions.

Respectfully submitted,

A handwritten signature in black ink that reads "John T. Scott, III". The signature is written in a cursive style and is underlined.

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