

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Data Practices, Computer III Further Remand)	
Proceedings: Bell Operating Company Provision)	CC Docket Nos. 95-20, 98-10
of Enhanced Services; 1998 Biennial Regulatory)	
Review – Review of Computer III and ONA)	
Safeguards and Requirements)	

COMMENTS OF VERIZON¹

The Commission in the *USTelecom Forbearance Order* correctly eliminated the outdated and meaningless reporting obligations associated with the *Computer Inquiry* requirements for comparably efficient interconnection (CEI) and open network architecture (ONA).² The Commission should now take the next logical steps: (1) adopt its proposal to eliminate the remaining substantive CEI requirements,³ and (2) eliminate the remaining substantive ONA requirements. These obligations — which apply only to narrowband services — have no utility whatsoever in the modern IP broadband marketplace.

The substantive CEI and ONA requirements — to which only certain local telephone companies and none of their competitors remain subject — are as outdated as were the reporting requirements. The Commission correctly notes that “CEI plans are not necessary to protect

¹ The Verizon companies participating in this filing (“Verizon”) are the regulated, wholly owned subsidiaries of Verizon Communications Inc.

² See *Petition of USTelecom for Forbearance Under 47 U.S.C. § 160(c) from Enforcement of Certain Legacy Telecommunications Regulations, et al.*, Memorandum Opinion and Order and Report and Order and Further Notice of Proposed Rulemaking and Second Further Notice of Proposed Rulemaking, 28 FCC Rcd 7627, ¶ 190 (2013).

³ See *id.*, ¶ 194.

against access discrimination” given the changed marketplace.⁴ And there is no reason to retain any of the ONA requirements either. The Commission should eliminate both in their entirety.

DISCUSSION

The ONA and CEI requirements impede competition and innovation. As the Commission determined when it eliminated these requirements for broadband services, ONA and CEI obligations impair providers’ ability to meet customer needs, and they impose costs on companies to the detriment of their customers. The Commission has stated its desire to reduce and eliminate regulatory requirements when “competition supplants the need for such requirements to protect consumers and competition.”⁵ The CEI and ONA requirements long ago reached that point.

1. The Commission’s ONA and CEI requirements derive from the *Computer Inquiry* proceedings, which began decades ago when the communications landscape looked nothing like today’s marketplace.⁶ At that time, the Commission explained that telephone networks were the “primary, if not sole, facilities-based platform available for the provision of ‘information services’ to consumers,”⁷ and the CEI and ONA requirements were based on the “implicit, if not

⁴ *Id.* ¶ 201.

⁵ *Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services, et al.*, Further Notice of Proposed Rulemaking, 13 FCC Rcd 6040, ¶ 7 (1998) (“*Computer III Further Notice*”).

⁶ *See Appropriate Framework for Broadband Access to the Internet over Wireline Facilities*, Report and Order and Notice of Proposed Rulemaking, 20 FCC Rcd 14853, ¶ 21 (2005) (“*Wireline Broadband Order*”), *aff’d*, *Time Warner Telecom, Inc. v. FCC*, 507 F.3d 205 (3d Cir. 2007); *see also Wireline Broadband Order*, ¶ 1 (“Those regulations were created over the past three decades under technological and marketplace conditions that differed greatly from those of today.”).

⁷ *Id.* ¶ 3.

explicit, assumption that the incumbent LEC wireline platform would remain the only network platform available to enhanced services providers.”⁸

It may be that, once upon a time, the only way for information service providers to reach their customers was over the local telephone network using traditional dial-up service. But today a wide array of providers — including wireline, wireless, IP, and other intermodal providers — using many separate and different technologies compete for the same residential and business customers. Yet only a small subset of competitors — the former BOCs and other facilities-based wireline telephone companies — remain subject to the last vestiges of the anachronistic CEI and ONA requirements.

The Commission has recognized that CEI and ONA requirements increase the costs of providing information services and inhibit innovation. For example, in eliminating the CEI and ONA requirements applicable to wireline broadband Internet access services, the Commission concluded that those requirements “impede the development and deployment of innovative wireline broadband Internet access technologies and services.”⁹ The Commission found that

⁸ *Id.* ¶ 43; *see also id.* ¶ 47 (the *Computer Inquiry* rules were premised on the presence of a “single platform capable of delivering [enhanced] services ... and only a single facilities-based provider of that platform.”); *Computer III Further Notice*, ¶ 43 (“The Commission’s goals in addressing BOC provision of information services have been both to promote innovation in the provision of information services and to prevent access discrimination and improper cost allocation”); *see also id.* ¶ 9 (“one of the Commission’s main objectives in the *Computer III* and ONA proceedings has been to ... prevent[] the BOCs from using their local exchange market power to engage in improper cost allocation and unlawful discrimination against” providers of information services). For an extended discussion of the ONA and CEI requirements, and the history of these rules, *see* Comments of Verizon, *Biennial Regulatory Review of Regulations Administered by the Wireline Competition Bureau*, WC Docket No. 08-183 (Oct. 8, 2008); *see also* Comments of Verizon, *Review of Wireline Competition Bureau Data Practices; Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services; 1998 Biennial Regulatory Review – Review of Computer III and ONA Safeguards and Requirements*, WC Docket No. 10-132; CC Docket Nos. 95-20 & 98-10 (Apr. 1, 2011).

⁹ *Wireline Broadband Order* ¶ 65.

“vendors do not create new technologies with the *Computer Inquiry* requirements in mind” and that broadband Internet access services “cannot be easily separated into discrete information service and telecommunications service components.”¹⁰ As a result, the CEI and ONA requirements compelled wireline carriers when deploying advanced network equipment either to “decide not to use all the equipment’s capabilities” or “defer deployment” while the equipment was re-engineered “to facilitate compliance with the *Computer Inquiry* rules” — which, according to the Commission, were “less-than-optimal” outcomes, because they reduced “operational efficiency” and created “unnecessary costs and service delays.”¹¹

The Commission reached similar conclusions in the context of enterprise broadband services when confronted with multiple petitions seeking forbearance from the application of *Computer Inquiry* requirements to those services. For example, in granting forbearance to AT&T, the Commission found that continued to apply the *Computer Inquiry* requirements to enterprise broadband services “constrains AT&T’s ability to respond to technological advances and customer needs in an efficient, effective, or timely manner” because enterprise customers have “individualized needs” that AT&T must be able to meet through “innovative service arrangements that make full use of its networks’ telecommunications and information service capabilities.”¹²

¹⁰ *Id.*

¹¹ *Id.*

¹² *Petition of AT&T Inc. for Forbearance Under 47 U.S.C. § 160(c) from Title II and Computer Inquiry Rules with Respect to Its Broadband Services, et al.*, Memorandum Opinion and Order, 22 FCC Rcd 18705, ¶¶ 54 & 56 (2007) (“*AT&T Forbearance Order*”); *see also Qwest Petition for Forbearance Under 47 U.S.C. § 160(c) from Title II and Computer Inquiry Rules with Respect to Broadband Services*, Memorandum Opinion and Order, 23 FCC Rcd 12260, ¶ 57 (2008) (“*Qwest Forbearance Order*”) (noting that eliminating the *Computer Inquiry* requirements “should benefit potential enterprise customers by giving them increased opportunities to obtain integrated service packages that meet their needs”).

The *Computer Inquiry* impediments to innovation are not limited to broadband services. Providers today offer advanced services that blur the line between “enhanced” and “basic” services. The additional time necessary for providers to determine what is enhanced versus basic and what functions must be offered separately under tariff consistent with the *Computer Inquiry* regime delays their ability to meet the needs of their customers and jeopardizes the potential viability of the services.¹³

The Commission’s decisions to stop applying CEI and ONA requirements to broadband services accomplished the Commission’s desired objectives: increased innovation and flourishing competition in the broadband marketplace.¹⁴ And, with continued innovation occurring primarily on the broadband platform — both at the broadband network level and in non-network broadband applications and equipment — no point is served by continuing to apply CEI and ONA requirements to narrowband services.¹⁵ As the Commission repeatedly has recognized, narrowband services are under competitive attack from IP-based services. In December 2011, there were 107 million traditional switched access lines in service and 37 million interconnected VoIP subscriptions nationwide.¹⁶ Interconnected VoIP subscriptions continued to increase, by 15 percent during 2011 (from 32 million to 37 million subscriptions).¹⁷

¹³ See *Wireline Broadband Order* ¶¶ 71-72; *AT&T Forbearance Order*, ¶ 54; *Qwest Forbearance Order*, ¶ 55.

¹⁴ See, e.g., *Internet Access Services: Status as of June 30, 2010*, Industry Analysis and Technology Division, Wireline Competition Bureau, at Table 7 (March 2011), http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-305296A1.pdf (showing growth in Internet access from 2006 to 2010 by technology).

¹⁵ See *Wireline Broadband Order* ¶ 70.

¹⁶ See *Local Telephone Competition: Status as of December 31, 2011*, Industry Analysis and Technology Division, Wireline Competition Bureau, at 1-4 (Jan. 2013), http://transition.fcc.gov/Daily_Releases/Daily_Business/2013/db0114/DOC-318397A1.pdf.

¹⁷ *Id.* at 2.

And traditional retail switched access lines continued their rapid decline, decreasing by another nine percent, from 118 million lines to 107 million lines (this follows an eight percent decline the previous year, similar to prior years).¹⁸ In December 2011 more than one-third of wireline residential connections were interconnected VoIP subscriptions (32.2 percent were non-ILEC interconnected VoIP subscriptions, and 5.0 percent were ILEC interconnected VoIP subscriptions).¹⁹ At the same time, wireless usage has skyrocketed. At the end of last year there were more than 325 million domestic wireless subscriber connections, and the wireless penetration rate stood at 102.2 percent of the total U.S. population.²⁰

2. Not only do the CEI and ONA requirements hamper innovation, they also impose burdens that harm competition. The Commission's ONA requirements "apply to enhanced services generally and impose more specific and comprehensive unbundling requirements on the former BOCs, not unlike section 251's facilities unbundling obligations."²¹ In addition, the Commission's ONA requirements obligate telephone companies, among other things, to specify the Operations Support Systems (OSS) they offer enhanced service providers (ESPs) and provide the same access to OSS services to its affiliated enhanced service operations that the telephone company alone provides to unaffiliated ESPs.²² A telephone company must file a CEI plan, in

¹⁸ *Id.*

¹⁹ *Id.* at 4.

²⁰ See CTIA—The Wireless Association®, *Wireless Quick Facts Year End Figures*, <http://www.ctia.org/advocacy/research/index.cfm/AID/10323> (last visited July 29, 2013).

²¹ *Review of Wireline Competition Bureau Data Practices; Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services; 1998 Biennial Regulatory Review – Review of Computer III and ONA Safeguards and Requirements*, Notice of Proposed Rulemaking, 26 FCC Rcd 1579, ¶ 4 (2011) (“ONA/CEI NPRM”); see also *Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services*, Notice of Proposed Rulemaking, 10 FCC Rcd 8360, ¶¶ 15-16 (1995).

²² See *Filing and Review of Open Network Architecture Plans, Phase I*, Memorandum Opinion and Order, 4 FCC Rcd 1, ¶¶ 4 & 17 (1988).

which it describes how it intends to comply with the “equal access” parameters for the specific enhanced or information service it intends to offer, which include: interface functionality; unbundling of basic services; resale; technical characteristics; installation, maintenance and repair; end user access; CEI availability; minimization of transport costs; and availability to all interested customers or ESPs.²³

Rather than promoting competition, the substantive ONA and CEI requirements increase providers’ costs of providing information services — costs that are not borne by other competitors. This regime undermines the competitive process, as the Commission recognized when eliminating the ONA and CEI requirements applicable to wireline broadband Internet access services.²⁴ This reasoning supports eliminating the remaining *Computer Inquiry* requirements.

²³ See *ONA/CEI NPRM* ¶ 3, n.9; see also *Bell Operating Companies Joint Petition for Waiver of Computer II Rules*, Order, 10 FCC Rcd 13758, ¶ 35 (1995).

²⁴ See *Wireline Broadband Order* ¶ 79 (“Requiring a single type of broadband platform provider (*i.e.*, wireline) to make available its transmission on a common carriage basis is neither necessary nor desirable to ensure that the statutory objectives are met”).

CONCLUSION

For these reasons, the Commission should eliminate all remaining CEI and ONA obligations.

Respectfully submitted,

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