

May 3, 2012

**Via ECFS**

Hon. Julius Genachowski  
Chairman  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

**Re: *Ex Parte Comments*  
WC Docket No. 05-75, Verizon-MCI Transfer of Control;  
GN Docket No. 09-191, Preserving the Open Internet;  
WC Docket No. 07-52, Broadband Industry Practices;  
GN Docket No. 10-127, Framework for Broadband Internet Service;  
WC Docket No. 03-251, Line Sharing Order and NOI**

Dear Chairman Genachowski:

The undersigned parties file this letter to express their concerns over Verizon's announced plans to discontinue the provision of retail standalone DSL services this coming Sunday, May 6, 2012. We request that the Commission work with Verizon to explore its planned discontinuance of standalone DSL and, if possible, to delay the implementation of a policy that would further reduce the affordability and availability of broadband services to consumers. As detailed further below, the practice of tying service offerings, like voice and broadband, is still under consideration by the Commission. To that end, the Commission should ensure that the *status quo* is maintained with respect to Verizon's standalone DSL offering until the Commission can complete its consideration of the impact of tying on consumers, the communications marketplace, and broadband deployment.

Verizon's plan affects hundreds of thousands of its own customers. *DSL Reports* obtained a copy of a Verizon email being sent to current standalone DSL users outlining the changes which are to become effective May 6, 2012.<sup>1</sup> That customer correspondence confirms that Verizon will no longer support standalone DSL for new customers after May 6, and that existing customers will lose their standalone DSL services if they make any changes to their Verizon services, or move their service to a new location after that date (*i.e.*, they will be forced to bundle such services with voice services). According to Verizon, this policy change will affect about 10% of the company's DSL customers.<sup>2</sup> For the year ending 2011 Verizon claimed to have 3,853,000 DSL (High Speed Internet or "HSI") connections.<sup>3</sup> Thus, approximately 385,000 Verizon customers will be directly impacted by Verizon's decision to discontinue retail standalone DSL services.

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<sup>1</sup> See Joan Engebretson, *Verizon to End Stand-Alone DSL Service*, Telecompetitor (Apr. 5, 2012), available at: <http://www.telecompetitor.com/verizon-to-end-stand-alone-dsl-service/>.

<sup>2</sup> See Stephen Lawson, *Verizon Will Stop Offering Standalone DSL*, PC World (Apr. 6, 2012), available at: [http://www.pcworld.com/businesscenter/article/253387/verizon\\_will\\_stop\\_offering\\_standalone\\_dsl.html](http://www.pcworld.com/businesscenter/article/253387/verizon_will_stop_offering_standalone_dsl.html).

<sup>3</sup> See Press Release, Verizon, *Verizon Reports Record Revenue Growth in 4Q, Fueled by Strong Demand for Wireless, FiOS and Strategic Services* (Jan. 24, 2012), available at: <http://www.prnewswire.com/news-releases/verizon-reports-record-revenue-growth-in-4q-fueled-by-strong-demand-for-wireless-fios-and-strategic-services-137951023.html>. These subscribers are reported separately from the company's FiOS Internet subscriptions.

The undersigned have concerns over the impact that Verizon's plan will have on Verizon's subscribers, as well as the impact on the broadband and Internet access market generally. The practice of tying broadband Internet access service with voice or other types of services merits careful consideration by the Commission to determine the impact on consumers and competition. As the FCC has previously found, the availability of standalone broadband service leads to significant benefits to consumers from competition in the market for voice services.<sup>4</sup> On the other hand, the practice of tying broadband service to other services prevents consumer choice, limits consumers from porting telephone numbers, and essentially forces consumers to purchase local services they do not want – either because they have a wireless option or because they prefer to use VoIP or other alternatives. The net effect is to act as a drag on the adoption of broadband and new IP technologies as well as alternative, competitive voice options by making other standalone services economically unattractive.

Standalone broadband service allows “over-the-top” providers to compete with traditional voice providers for customer's primary lines. Standalone broadband service also makes it feasible for customers to “cut the cord” and use only wireless service for their voice calling needs. The competition between over-the-top providers and traditional voice providers has resulted in significant direct and indirect cost savings for consumers.<sup>5</sup> Cutting the cord could also result in substantial cost savings for consumers.

Recognizing the inherent competitive and cost concerns with broadband tying schemes, the Commission released a notice of inquiry to examine “the competitive consequences when providers bundle their legacy services with new services, or ‘tie’ such services together such that the services are not available independent from one another to end users.”<sup>6</sup> The NOI also sought to address “whether competition is supplying sufficient incentives for providers to disaggregate bundles to maximize consumer choice,” and if “bundling behavior is harmful to competition, particularly unaffiliated providers of new services, such as voice over Internet protocol (VoIP).”<sup>7</sup> While the proceeding remains open, there has been no significant action in the docket since 2005. The Commission should use the occasion of Verizon's plans to discontinue retail standalone DSL service as a reason to finish its examination of tying voice and broadband services and to analyze the consumer and competitive impact of such practices.

Likewise, the Commission should consider how Verizon's discontinuance of standalone DSL service will impact number portability. Currently, when an alternative voice service provider “wins” a Verizon voice customer that also subscribes to Verizon DSL service, Verizon automatically converts the customer to a standalone DSL service and ports the voice number to the winning voice service provider. However, if Verizon ties DSL and voice services together, it is unclear how Verizon will handle porting requests in the future. If no stand-alone DSL option is available, Verizon may reject port requests.

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<sup>4</sup> *Verizon Communications Inc. and MCI, Inc. Applications for Approval of Transfer of Control*, Memorandum Opinion and Order, WC Docket No. 05-75, n.320 (rel. Nov. 17, 2005) (finding that Verizon's commitment to offer stand-alone DSL broadband service as a condition of its merger with MCI to be in the public interest); *see also SBC Communications Inc. and AT&T Corp. Applications for Approval of Transfer of Control*, Memorandum Opinion and Order, WC Docket No. 05-65, n.322 (rel. Nov. 17, 2005) (same).

<sup>5</sup> See *Consumer Benefits from Cable-Telco Competition*, MiCRA, at 15-16 (Nov. 2007), available at: [http://www.micradc.com/news/publications/pdfs/Updated\\_MiCRA\\_Report\\_FINAL.pdf](http://www.micradc.com/news/publications/pdfs/Updated_MiCRA_Report_FINAL.pdf) (providing economic analysis of the savings to residential consumers of new and emerging technologies, including VoIP).

<sup>6</sup> *BellSouth Telecommunications, Inc. Request for Declaratory Ruling that State Commissions May Not Regulate Broadband Internet Access Services by Requiring BellSouth to Provide Wholesale or Retail Broadband Services to Competitive LEC UNE Voice Customers*, Memorandum Opinion and Order and Notice of Inquiry, WC Docket No. 03-251, ¶37 (rel. March 25, 2005).

<sup>7</sup> *Id.*

Instead, it may force customers to call Verizon customer service to request or authorize the change, which would defeat the Commission's policy of streamlining the porting process for consumers. At the very least, customers will lose their broadband Internet access service and have to obtain such service from another provider at that time (which, of course, would significantly stifle their willingness to port the voice service in the first place). The Commission and the industry need to work out the porting process end state prior to Verizon's discontinuance of retail standalone DSL services.

Further, in 2008 the FCC adopted an order finding that Verizon violated section 222(b) of the Act by using, for customer retention marketing purposes, proprietary information of other carriers that it received during the number porting process.<sup>8</sup> According to that decision, Verizon used proprietary information gleaned from Local Service Requests to determine which customers were disconnecting Verizon voice services for purposes of engaging in retention marketing practices. The practice of tying voice and Internet access services may provide Verizon a means to circumvent its obligations under the *Retention Marketing Order* by using other forms of information (i.e., customer DSL-related information) to engage in retention marketing practices directed at voice services. As Commissioner McDowell noted in his statement accompanying the *Retention Marketing Order*, "American consumers deserve the benefits that come from robust competition, especially in the telecommunications marketplace. It is the FCC's mission to promote such consumer-friendly competition."<sup>9</sup> The Commission must ensure that Verizon's planned discontinuance of standalone DSL does not jeopardize the Commission's goal that "consumers in all areas of the country reap the benefits of competition in the form of lower prices, innovative services and more choice."<sup>10</sup>

Finally, important questions remain as to how Verizon's policy will affect the wholesale DSL market. If the company no longer supports retail stand-alone broadband, how far behind will its wholesale offerings be? The loss of wholesale Internet access options will only further reduce competitive broadband availability options, which is of particular concern to providers that do not offer their own facilities-based broadband services. The loss of wholesale DSL will further reduce competition to the detriment of consumers and reduce the number of market participants that can offer bundle services that compete with the cable and wireline duopoly in the broadband Internet access services marketplace.

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<sup>8</sup> See *Bright House Networks, LLC, et al., v. Verizon California, Inc., et al.*, Memorandum Opinion and Order, File No. EB-08-MD-002 (rel. June 23, 2008) ("*Retention Marketing Order*").

<sup>9</sup> *Id.*, at Statement of Commissioner Robert M. McDowell, 1.

<sup>10</sup> *Id.*

For the reasons set forth above, the undersigned parties respectfully request that the Commission work with Verizon to maintain the *status quo* until such time as issues pertaining to the consumer and competitive harms associated with tying, number portability, retention marketing, and the offering of wholesale DSL services can be explored by the Commission and the industry.

Respectfully submitted,

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