

William B. Wilhelm
Direct Phone: +1.202.373.6027
Direct Fax: +1.202.373.6001
william.wilhelm@bingham.com

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Via Electronic Filing

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: GN Docket No. 09-191, Preserving the Open Internet; WC Docket No. 07-52, Broadband Industry Practices; WC Docket No. 05-75, Verizon-MCI Transfer of Control; GN Docket No. 10-127, Framework for Broadband Internet Service; WC Docket No. 03-251, Line Sharing Order and NOI, and WT Docket No. 12-4, Verizon-SpectrumCo-Cox License Assignment

Dear Ms. Dortch:

On July 10, 2012, Vonage Holdings Corp's ("Vonage") Brendan Kasper, Senior Regulatory Counsel, and the undersigned counsel met with Paul Murray, Acting Legal Advisor for Wireless Issues to Commissioner Jessica Rosenworcel.

Vonage discussed issues consistent with its previously filed comments in the above-referenced proceedings regarding the Commission's net neutrality order and the importance of prohibiting discrimination by network operators who have the incentive and capability to engage in anticompetitive practices, especially in light of recent changes in the wireless and wireline broadband industry.

Specifically, Vonage expressed its concern that the joint operating entity ("JOE") agreement between Verizon Wireless ("Verizon") and Comcast Corp., Time Warner Cable Inc., Bright House Networks, LLC, and Cox TMI Wireless LLC ("CableCos") may allow for the development of wireless/wireline integrated products that could discriminate against over-the-top apps and services by increasing the ability of those parties to control the wireless access to the wireless/wireline broadband interface. Vonage is particularly concerned about potential discriminatory routing practices that increase latency and result in a qualitative degradation of its voice and text messaging services stemming from (1) the use of public versus private peering points for the exchange of data traffic carrying Vonage's services, (2) the "scenic routing" of data traffic over nodes with increased latency or by selecting routes that utilize a greater number of nodes, and (3) the removal of Quality of Service tags that could alter the priority levels of Vonage's traffic.

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Washington

Bingham McCutchen LLP
2020 K Street NW
Washington, DC
20006-1806

T +1.202.373.6000
F +1.202.373.6001
bingham.com

A/75022385.3

Furthermore, Vonage contends that Verizon and the CableCos could relegate traffic from competing over-the-top services to broadband data plans subject to data caps or implement other use-restrictions, while at the same time classifying their collective services and associated traffic as “managed services” that are not subject to such restrictions. The result of such discrimination would be that the “cost” to a consumer to use a Vonage service would be greater than that of a competing Verizon or CableCo service. Vonage asserts that such potential misuse of the managed service exception would run counter to the Commission’s net neutrality rules and principals. Accordingly, Vonage requests that the Commission unify its provisions with respect to wireless and wireline providers given the potential for discriminatory conduct based on the current differences between those obligations.

Vonage also asserts that JOE-developed products could discriminate against Vonage services by preventing the transition (*i.e.*, hand-off) of Vonage associated traffic from the Verizon wireless broadband network to an integrated WiFi/wireline broadband network. The impact of inhibiting such a “handoff” would be that Vonage’s services could be dropped or that Vonage traffic would continue to ride over a wireless broadband network subject to wireless broadband data caps or restrictions. Vonage anticipates that neither Verizon’s nor the CableCos’ services would be treated in a similar fashion. Accordingly, Vonage urges the Commission to ensure that over-the-top apps riding on wireless broadband services are not unreasonably discriminated against.

Vonage notes that its concerns discussed during its meeting with Mr. Murray are consistent with a July 10, 2012 letter filed by ITTA,¹ the Independent Telephone & Telecommunications Alliance, with the Commission in WT Docket 12-4. As such, Vonage strongly supports ITTA’s recommendation that given the integral relationship between joint marketing and joint product development agreements with the pending spectrum transfer between Verizon and the CableCos, “open review of the Commercial Agreements by the Commission is required before ruling on the pending license assignment applications, and appropriate conditions should be imposed on the Applicants to protect competition and the public interest.”² Accordingly, Vonage requests that the Commission fully consider the positions expressed by ITTA and others³ regarding the impact of those agreements on consumers and the relevant markets.

Vonage also discussed Verizon Communications, Inc.’s announcement to eliminate standalone DSL service and the decreasing availability of standalone DSL or alternative standalone wireline broadband services to U.S. consumers. Vonage encouraged the Commission to reexamine the need for instituting a global requirement for the provision

¹ Letter from Genny Morelli, President, ITTA, to Marlene H. Dortch, Secretary, FCC, WT Dkt. No. 12-4 (July 10, 2012).

² *Id.* at 1.

³ Comment of The Consumer Federation of America, *Application of Cellco Partnership d/b/a Verizon Wireless and SpectrumCo, LLC for Consent to Assign Licenses; Application of Cellco Partnership d/b/a Verizon Wireless and Cox TMI Wireless, LLC for Consent to Assign Licenses*, WT Dkt. No. 12-4 (filed July 9, 2012).

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of such service so as to continue to promote competition in the provision of voice and other over-the-top services.

In order to militate against these anticompetitive effects, Vonage proposes that the Commission institute the following conditions in the pending license transfer proceeding from the CableCos:

1. Impose the Commission's existing net neutrality provisions on Verizon Wireless and the CableCos.
2. Extend all of the Commission's existing wireline net neutrality provisions to wireless broadband services offered by the Verizon Wireless and the CableCos.
3. Expressly prohibit classification by Verizon Wireless and the CableCos of their services as "managed services" under the exception to the Commission's existing net neutrality provisions.
4. Require that JOE-developed products not be used to unreasonably discriminate against a consumer's ability to obtain access to or use broadband facilities. Moreover, any WiFi technologies or protocols developed by the JOE must be made available to all third-parties at nondiscriminatory rates, terms, and conditions.
5. Prohibit Verizon Wireless and the CableCos from conditioning their provision of broadband service on the purchase of any other service, including, but not limited to, voice telephony service.

Respectfully submitted,

/s/
William B. Wilhelm
Frank G. Lamancusa

Counsel for Vonage Holdings Corp.

cc: Paul Murray