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Federal Regulatory and Legal Affairs

May 4, 2023

VIA OVERNIGHT DELIVERY AND ELECTRONIC MAIL

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
45 L Street, N.E.
Washington, DC 20554

ATTN: Zac Champ
Consumer and Governmental Affairs Bureau
Federal Communications Commission
45 L Street, N.E.
Washington, DC 20554

Re: Verizon Confidentiality Request – *Empowering Broadband Consumers Through Transparency*, CG Docket No. 22-2

Dear Ms. Dortch:

Verizon, by its attorneys, requests that operational details regarding Verizon’s internal business systems and store and telephone customer interactions (the “Confidential Materials”) submitted as part of a written ex parte letter (“Verizon Letter”) be withheld from public disclosure pursuant to sections 0.457 and 0.459 of the Commission’s Rules.¹

The Confidential Materials represent highly sensitive commercial information that should be withheld from public disclosure under section 552(b)(4) of the Freedom of Information Act (“FOIA Exemption 4”), which permits an agency to withhold from public disclosure any information that qualifies as “trade secrets and commercial or financial information obtained from a person and privileged or confidential.”² Pursuant to section 0.457(d)(2) of the

¹ See 47 C.F.R. §§ 0.457, 0.459.

² 5 U.S.C. § 552(b)(4).

Commission's Rules, any party that seeks confidential treatment of materials submitted to the Commission must submit a request for non-disclosure pursuant to section 0.459.³

In light of the above, Verizon respectfully requests that the Commission withhold the Confidential Materials from public disclosure. Information in support of this request for confidential treatment and in response to Section 0.459(b) of the Commission's rules, 47 C.F.R. § 0.459(b), is provided below.

1. **Specific information for which confidential treatment is sought, 47 C.F.R. § 0.459(b)(1).** Verizon requests confidential treatment for the following commercial information.
 - (1) Estimate of the Number of Internal Systems Requiring Changes to Comply with the Rules.
 - (2) Estimates of Store and Telephone Customer Service Interactions.
2. **Circumstances giving rise to this submission, 47 C.F.R. § 0.459(b)(2).** Verizon is supplementing the record in response to a pending petition for clarification or, in the alternative, reconsideration of broadband label rules adopted in CG Docket No. 22-2 and in response to a pending review of the adopted rules under the Paperwork Reduction Act. *See Petitions for Reconsideration of Action in Proceeding*, Public Notice, Report No. 3191 (Jan. 23, 2023); *Information Collection Being Reviewed by the Federal Communications Commission*, 88 Fed Reg 7973 (2023).
3. **Degree to which the information is commercial or financial, or contains trade secrets or is privileged, 47 C.F.R. § 0.459(b)(3).** As discussed below and in (5), the data contained in the Verizon Letter is sensitive commercial information that should be withheld from public disclosure pursuant to FOIA Exemption 4. 5 U.S.C. § 552(b)(4). The information is "confidential" in that it "would customarily not be released to the public." *Critical Mass Energy Project v. NRC*, 975 F.2d 871, 873 (D.C. Cir. 1992); *Nat'l Parks and Conservation Ass'n v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974) (noting that material is "confidential" if it would "cause substantial harm to the competitive position of the person from whom the information was obtained."). And as the Supreme Court detailed in its *Argus Leader* decision, agencies should apply the ordinary meaning of the term "confidential" that "[a]t least" applies to "commercial or financial information [that] is both customarily and actually treated as private by its owner and provided to the government under an assurance of privacy." *Food Marketing Institute v Argus Leader*, 139 S. Ct. 2356, 2363 (2019). We enumerate below specific points about each element of the Verizon Letter for which we seek confidential treatment.
 - (1) *Estimate of the Number of Internal Systems Requiring Changes to Comply with the Rules.* Verizon does not customarily disclose the numbers, types, functionalities, or other attributes about its internal billing and customer

³ See 47 C.F.R. § 0.457(d)(2).

support systems. Specific knowledge of our internal systems and systems design could be used by competitors to gain previously unavailable insights into the means by which Verizon's back-end systems are used to serve its customers. Accordingly, this data is competitively sensitive and should not be disclosed.

(2) *Estimates of Store and Telephone Customer Service Interactions.* Verizon does not customarily disclose details about its call volumes or store visits. These are particularly sensitive metrics in a competitive environment where retail sales and customer service details are key factors that can affect investment decisions in our publicly traded company.

4. **Degree to which the information concerns a service that is subject to competition, 47 C.F.R. § 0.459(b)(4).** Broadband services are undisputedly subject to actual and potential competition from multiple competitors over a variety of platforms. *See 2020 Communications Marketplace Report*, 36 FCC Rcd 2945 (2020). Indeed, the very essence of this proceeding is to better inform customers as they comparison shop among competing broadband offerings in the competitive marketplace. *See, e.g., Empowering Broadband Consumers Through Transparency*, Report and Order and Further Notice of Proposed Rulemaking, CG Docket No. 22-2, FCC 22-86, ¶¶ 1-11, 22 (Nov. 17, 2022).
5. **How disclosure of the information could result in substantial competitive harm, 47 C.F.R. § 0.459(b)(5).** Confidential treatment is warranted where release of information would raise “the likelihood of substantial competitive injury” in a competitive market. *Public Citizen Health Research Group v. F.D.A.*, 704 F.2d 1280, 1291 (D.C. Cir. 1983) (quoting *Gulf & Western Industries v. U.S.*, 615 F.2d 527, 530 (D.C. Cir. 1979)).
 - (1) *Estimate of the Number of Internal Systems Requiring Changes to Comply with the Rules.* Verizon does not customarily disclose the numbers, types, functionalities, or other attributes about its internal billing and customer management systems. Because competitors might gain increased understanding of the means by which Verizon serves its customers, this data is competitively sensitive and should not be disclosed.
 - (2) *Estimates of Store and Telephone Customer Service Interactions.* Verizon does not customarily disclose details about its call volumes or store visits. These are particularly sensitive metrics in a competitive environment where retail sales and customer service details are key factors that can affect investment decisions in our publicly traded company.
6. **Measures taken to prevent unauthorized disclosure, 47 C.F.R. § 0.459(b)(6).** The specified information in the Verizon Letter will be redacted from any public version of the letter. Verizon maintains, but protects as sensitive and confidential, details like those included in the Verizon Letter. Verizon represents that this is sensitive


commercial information that is of a type that it does not customarily release to the public and has not released to the public.

7. **Whether the information submitted is available to the public and the extent of any previous disclosure of the information to third parties, 47 C.F.R. § 0.459(b)(7).** As is discussed above, the information covered by this request is not generally made available, and has not been made available, to the public. Verizon does not disclose information like this to third parties.
8. **Period during which the submitted material should not be available for public disclosure, 47 C.F.R. § 0.459(b)(8).** Given the competitively sensitive nature of the information provided in the Verizon Letter, Verizon requests that confidential treatment apply indefinitely. This period of time is necessary to prevent an unfair competitive advantage for Verizon's competitors.
9. **Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted.** None.

Therefore, for the reasons above, the Commission should withhold from public inspection the information described above in the Verizon Letter. Verizon additionally requests that these elements of its letter not be included in any publication while this request is pending.

If you have any questions concerning this matter, please do not hesitate to contact me.

Yours sincerely,

A handwritten signature in dark ink, appearing to read "Ian Dillner". The signature is written in a cursive, slightly slanted style.

Ian Dillner



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May 4, 2023

****REDACTED VERSION ****

Ex Parte

Marlene H. Dortch
Secretary
Federal Communications Commission
45 L Street, N.E.
Washington, DC 20554

Re: Empowering Broadband Consumers Through Transparency, CG Docket No. 22-2

Dear Ms. Dortch:

Consistent with AT&T, Verizon, and Lumen's joint meeting last week with staff from the Consumer and Governmental Affairs Bureau,¹ Verizon is providing additional data in support of our request that the Commission reconsider its Paperwork Reduction Act (PRA) burden estimate² and grant the multi-association petition for reconsideration.³ As previously discussed, the Commission's PRA burden estimate greatly underestimates the cost and time it will take to comply with the label requirements.⁴ The Commission estimates that each respondent will have approximately five labels to produce, that each label will require approximately 30 minutes to 9 hours of respondents' time, and that the total annual cost of the project is \$0. With this submission, we hope to better inform the burden estimate and to guide the Commission toward less burdensome alternatives that would also meet its goals of providing clear information to broadband customers.

Similar to AT&T, Verizon projects it will have to create well over 500 labels for its service offerings, far in excess of the Commission's estimate of five labels per provider. And that is just

¹ Letter from Linda S. Vandeloop, AT&T, to Marlene H. Dortch, FCC, CG Docket No. 22-2 (filed May 1, 2023) ("May 1 Ex Parte").

² See *Information Collection Being Reviewed by the Federal Communications Commission*, 88 Fed. Reg. 7973 (2023) ("PRA Notice").

³ ACA Connects, et al., Joint Petition for Clarification or, in the Alternative, Reconsideration, CG Docket No. 22- 2 (Jan. 17, 2023) ("Petition").

⁴ See USTelecom – The Broadband Association, Paperwork Reduction Comments, CG Docket No. 22-2 (filed Apr. 10, 2023) and Comments of CTIA on Paperwork Reduction Act Notice and Request for Comments (filed Apr. 10, 2023) ("PRA Comments"); see also May 1 Ex Parte.

Marlene H. Dortch
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if we assume only one label is required for each service plan. But, as explained in the joint meeting, if we must create separate labels for each geographic political unit to account for every pass-through government-imposed state and local fee, this number will be exponentially higher. And if, alternatively, we list each state and local fee on each plan label, the labels will be extremely lengthy, greatly diminishing their utility to consumers and potentially causing substantial confusion as customers will be forced to figure out which fees apply to them. Instead, as proposed in the Petition, the Commission could treat these fees the same way it plans to treat taxes, or permit providers to list the maximum state and local fee a consumer would incur, which would both provide consumers the information they need to effectively compare provider plans and also accomplish the Commission's goal of ensuring the labels are simple and easy-to-understand. Furthermore, creating all of the labels will require the development and/or alteration of over [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] backend IT systems, so that the time, cost, and complexity of the project will greatly exceed Commission estimates.⁵

Another concern we previously raised is the burden and confusion of the alternate sales channel recordkeeping requirement described in only one sentence in paragraph 95 of the Order.⁶ It is unclear what exactly this requirement entails, but any tracking of retail store and telephone customer interactions each time a customer views a label in these sales channels would be extremely burdensome with seemingly no corresponding benefit. For example, last year Verizon's customer care team received [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] calls, and Verizon direct retail stores were visited by [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] people. Attempting to track and retain records consistent with this requirement would require the development of numerous backend systems and the training of thousands of employees, without any clear consumer benefit. Nor is it clear whether the information collected would have any "practical utility" to the Commission.⁷ A much more useful and less burdensome approach, as proposed in the Petition, would be for providers to establish business practices they will follow in distributing the label through these sales channels and to retain documentation of these practices and any associated training materials for two years.

Verizon appreciates the Commission's consideration of these points. To ensure that the labels' information collection meets PRA requirements, the Commission should substantially revise its burden estimates and grant the Petition.

This letter is being filed electronically in the above-referenced docket pursuant to Section 1.1206 of the Commission's rules. The confidential version of this letter and a corresponding request

⁵ See PRA Comments at 3.


⁶ See *Empowering Broadband Consumers Through Transparency*, Report and Order and Further Notice of Proposed Rulemaking, CG Docket No. 22-2, FCC 22-86, ¶ 95 (Nov. 17, 2022).

⁷ PRA Notice at 7973.

Marlene H. Dortch
May 4, 2023

for confidential treatment are being filed under separate cover pursuant to sections 0.457 and 0.459 of the Commission's rules.⁸ Please contact the undersigned with any questions.

Sincerely,

A handwritten signature in dark ink, appearing to read "Ian Dillner". The signature is written in a cursive, slightly slanted style.

Ian Dillner

cc: Zac Champ

⁸ 47 C.F.R. §§ 0.457, 0.459.