

August 6, 2014

Kathleen Grillo
Senior Vice President, Federal Regulatory Affairs
Verizon Communications Inc.
1300 I St. NW, Suite 400 West
Washington, DC 20005

Re: Notification of Intent to File Formal Complaint Against Verizon
Communications Inc. for Violations of 47 C.F.R. § 8.3

Dear Ms. Grillo:

Pursuant to 47 C.F.R. § 8.13(c), this letter hereby notifies Verizon Communications Inc. of Public Knowledge’s intent to file a formal complaint under the Federal Communication Commission’s Open Internet rules. We intend to file this complaint in response to Verizon’s policy of throttling some subscribers to unlimited data plans when those subscribers are connected to congested cell sites.¹ Verizon’s failure to disclose specific information about what level of use makes a user eligible for throttling, as well as the failure to disclose which cell sites are being throttled at any given time, violates 47 C.F.R. § 8.3. This rule obligates Verizon to “publicly disclose accurate information regarding network management practices . . . sufficient for consumers to make informed choices regarding use of such services.”

If Verizon decides to continue with this throttling practice, Public Knowledge respectfully requests that Verizon take two steps in order to comply with the FCC’s Open Internet rules. Verizon has announced that subscribers to unlimited data plans who are in the top 5 percent of all data users may be throttled. While a “top 5 percent” threshold may be useful for Verizon, it is meaningless to consumers. Verizon’s first step should be to publish, in an open and accessible format, the specific data usage level that is equal to the current top 5 percent threshold. A specific data level will give all subscribers – even those who are not in the top 5 percent of users – an understanding of how close they may be to throttling.

Verizon has also announced that subscribers eligible for throttling will only be throttled when connected to cell sites that are experiencing peak usage. Verizon’s second step should be to publish, in an open and accessible format, real-time information about which of its cell sites are experiencing peak usage. This information may help subscribers subject to throttling avoid those congested areas. Publishing the information in open and accessible formats will allow third parties to build tools to facilitate this avoidance, and potentially provide users with additional guidance.

¹ Tom Pica, *Ensuring the Optimal Wireless Experience*, (July 25, 2014)
<https://www.verizonwireless.com/news/article/2014/07/network-optimization.html>.

Respectfully,

/s/ Michael Weinberg
Vice President
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