



VIA ELECTRONIC AND U.S. MAIL

July 13, 2011

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 Twelfth Street, SW
Washington, D.C. 20554

Re: Complaint of Free Press Against Cellco Partnership d/b/a Verizon Wireless for Violating Conditions Imposed on C Block of Upper 700 MHz Spectrum, filed June 6, 2011

Dear Chairman Genachowski:

The undersigned public interest groups write to ask the Commission to reclassify Free Press' recent complaint against Verizon Wireless as a permit-but-disclose proceeding. Given the significance of the issue, as well as the vast number of stakeholders implicated in any potential decision, the Commission should allow broad public input through permit-but-disclose classification.

According to the Free Press Complaint, Verizon Wireless requested that Google disable access to applications on its Android Market which allow users to "tether" their Android phones to computers and use their phones as a wireless modems or mobile hotspots. These applications provide consumers with a low-cost and innovative method of accessing wireless broadband networks, and represent an immensely valuable tool in the development of wireless Internet access. Free Press alleges that Verizon's behavior, if true, violates the "open access" rules for the Upper 700 MHz Spectrum "C Block." The Bureau designated the proceeding as "restricted," effectively prohibiting participation by the millions of subscribers, developers, and others impacted by the outcome of the complaint. Because this case raises important issues not merely for tethering, but for the entire "open access" regime, the Commission should redesignate this complaint proceeding as a "permit-but-disclose" proceeding.

The ability of consumers to tether their devices, as a critical step in the future of telecommunications, is an issue of substantial concern. Aside from technological significance, the claims at issue implicate the interests of numerous stakeholders outside of the two named parties. The scope of its impact is even greater when considering Verizon's substantial consumer base and the proliferation of application developers on Google's Android platform. The complaint raises considerable issues of network openness and fairness, and will substantially benefit from a broad public discussion.

The Commission explicitly intended licensing of C Block spectrum to "promote the provision of innovative services to consumers."¹ If Verizon is able to use its market power to influence developers, it will drive the market in the exact opposite direction, away from flexible

¹ 22 FCC Rcd 15289 (2007) at ¶154.

development and innovative services and toward a locked-in model which stifles innovation and limits consumer choice.

Redesignating the proceeding as permit-but-disclose would allow the Commission to form a clearer understanding of the issues at stake, and allow needed participation by external stakeholders and the public.

Respectfully submitted,

Center for Media Justice
Common Frequency
Consumers Union
Future of Music Coalition
Media Access Project
Media Alliance
Mountain Area Information Network
The National Alliance for Media, Arts and
Culture
New America Foundation's Open
Technology Initiative
People's Production House
Public Knowledge
Reclaim the Media
The Transmission Project
U.S. PIRG

CC:
Austin Schlick
Rick Kaplan
Michele Ellison
Matt Wood