

**STATEMENT OF  
COMMISSIONER MICHAEL J. COPPS  
IN RESPONSE TO COMMISSION INACTION ON  
VERIZON'S FORBEARANCE PETITION**

Re: *Petition of Verizon Telephone Companies for Forbearance under 47 U.S.C. § 160(c) from Title II and Computer Inquiry Rules with Respect to their Broadband Service*, WC Docket No. 04-440 (March 20, 2006)

I am deeply disappointed at the outcome of this proceeding. This is not the way to make environment-altering policy changes.

We all understand that technology has changed in ways that required this Commission to think anew and act anew in recent years. I have tried to participate constructively in our proceedings, dialogues and votes, even when the outcomes went beyond where I thought it wise for us to go. In those proceedings, generally, we started rulemaking proceedings, compiled a record, sifted through data and then crafted rules in an orderly fashion. It would have been far better to deny this petition and begin such a proceeding here. The Commission fails to take that course. Instead, this sweeping outcome is unaccompanied by any regulatory footsteps. Here we permit a forbearance petition go into effect that erases decades of communications policy in a single stroke. In effect, we provide industry the pen and give it the go-ahead to rewrite the law. Congress instructed this agency to implement the law; it did not tell us to delegate far-reaching policy changes to the companies that fall under our jurisdiction. It is end users, particularly small business consumers, who will suffer the consequences.

As a legal matter this approach is suspect. There is no appealable Order. There is no document, no stitch of analysis, no trace of discussion, nothing that a court can use to gauge where the Commission is coming from. And by failing to act through a normal proceeding, the Commission jeopardizes many Congressional policies that are at the core of its statutory duties. I find no basis to support an approach that puts so much at risk:

- *Homeland Security*: By failing to act, national and local law enforcement agencies charged with protecting the American people could find that key networks are no longer subject to the Communications Assistance for Law Enforcement Act (CALEA). At a time when all aspects of our security demand heightened attention, this is an area where the Commission should proceed with extreme caution. Anything else is a distinct disservice to those whose duty it is to protect us from harm.
- *Universal Service*: By failing to act, the contribution base for universal service could be put in jeopardy. Rural America relies on the universal service fund to ensure they have telecommunications on a par with the rest of the country. Without it, too many places would not have phone service, much less the possibility of broadband. By pulling a whole swath of services out of the obligation to contribute, universal service could be on newly shaky ground. This will only enhance the urban and rural divide

in communications, at a time when the Commission should be doing everything in its power to bridge the gap.

- *Privacy:* By failing to act, customers will no longer enjoy the privacy that Congress sought to give them under the Communications Act. That means hospitals, banks and other organizations that handle sensitive and life-threatening information are not given the assured protections of Section 222. In a day and age where identity theft is common and private cell phone records are bought and sold over the Internet, dumping the Commission's privacy protections is downright dangerous.
- *Disability Access:* By failing to act, the Commission could undermine the access for millions of Americans with disabilities that Congress required in Section 255. We have come too far in improving access for the disability community in this country to turn back the clock now.
- *Rate Increases:* By failing to act, the Commission flashes a green light for rate increases without any regulatory oversight. Services like special access are the backbone of business communications in this country. But customers could see special access rates skyrocket and competitors who rely on this input squeezed out of the enterprise market. This will raise the cost of doing business in this country for businesses both large and small.
- *Interconnection in Rural America:* By failing to act, interconnection in rural America may be needlessly endangered. Rural carriers tell us that where Verizon's access services to the IP backbone are the only option in remote areas, rural carriers will be subject to unchecked market power. This could mean higher rates for rural consumers whenever they want to interconnect with the rest of the country and the rest of the world.
- *Interconnection between Technologies:* By failing to act, the Commission relieves Verizon of any duty to interconnect with any other carrier. Discriminatory rates, terms and conditions for interconnection can now become the norm. Prices to interconnect can be set at rates designed to squeeze out competition from inter-modal providers. This could raise costs for unaffiliated wireless and cable providers. In the end, consumers will bear the burden of this mess with higher rates.
- *Enforcement Actions for Unlawful Behavior:* By failing to act, aggrieved parties lose their right to seek enforcement action against Verizon in front of the Commission. Carriers, individuals, municipal organizations and state commissions will be stripped of their Section 208 right to complain to the FCC about any discriminatory or unlawful practices Verizon may engage in. They will be told to take their grievances elsewhere, because the FCC has closed up shop on hearing public complaints.

There are other vitally important issues that may suffer from the impact of our failure to act. Longstanding policies—from pricing flexibility standards to accounting rules to notice required for service withdrawal—may all be in play now. No doubt in the

days and weeks ahead this Commission will be compelled to seek promises from the petitioner and issue follow-on Orders in a reactionary attempt to clean up the wreck. Such are the costs of this abdication of our responsibilities. It is unfortunate that consumers are the ones who will pay the price.