



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

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October 23, 2015

SENT VIA OVERNIGHT MAIL AND FAX TO 212 962 1687

Keefe B. Clemons
General Counsel – Regulatory Affairs, Northeast Region
Verizon Communications Inc.
140 West Street, 6th Floor
New York, NY 10007-2109

Re: New York Office of Attorney General Inquiry Concerning Broadband Internet Speeds

Dear Mr. Silliman:

Through its DSL and FiOS programs, Verizon Communications Inc. (“Verizon”) advertises Internet plans to New York customers at upload and download speeds of up to a specified rate (*e.g.*, 50 Mbps). It also advertises various premium options, such as the 100 or 200 Mbps service where for a higher monthly fee, the consumer is promised even higher speeds and better performance. For example, the 150 Mbps FiOS Internet product promises customers the ability to “[u]pload large files to the cloud, perform quicker back-ups and play competitive multi-player gaming,” is described as “great for 8 devices,” and promises to provide “faster speed and less lag while you’re working or at home.”¹ The Verizon DSL 1 Mbps - 500 kbps/384 kbps product promises to provide customers a “direct connection to our central office that’s 100% yours, 100% of the time” and promises the ability to download a 5 MB photo in 40 seconds.²

¹ Verizon, *Pick Your Plan*, <http://www.verizon.com/home/fios-fastest-internet/> (last visited Oct. 23, 2015).

² Verizon, *High Speed Internet*, <http://www.verizon.com/home/highspeedinternet/> (last visited Oct. 23, 2015).

This Office is concerned that, for reasons substantially within Verizon's control, consumers may not be experiencing the speeds advertised. In particular, we are concerned that those paying for premium options, for various reasons mainly related to interconnection arrangements, may not be experiencing proportional increases in experienced speeds. Our concern is that the impact of technical and business decisions made at the point of interconnection between Verizon and other networks may affect end-to-end throughput. In this respect, we are specifically concerned about disruptions to the consumer experience caused by interconnection disputes, and also the possibility that interconnection arrangements may in some instances render irrelevant any benefit of paying for a "premium" option.

Pursuant to New York Executive Law § 63(12) and General Business Law Article 22-A, the Attorney General has the authority to commence legal action to enjoin deceptive, fraudulent or illegal business practices, and to obtain restitution, penalties and costs whenever a business is engaged in deception, fraud or illegality. The Attorney General is also authorized to issue subpoenas to assist him in investigating any activity that may be deceptive, fraudulent or illegal. Consequently, we are gathering information to enable us to make a determination of what action, if any, is warranted.

In connection with our inquiry into this matter, we request your cooperation in providing written responses to the requests below, as well as any supporting or specifically requested documents, by November 8, 2015. Following review of your responses and documents, we will invite you to our offices for a meeting to discuss Verizon's marketing practices and services in connection with broadband speed.

Unless otherwise stated, the relevant time period for the requests listed below is from January 1, 2011 to the present.

Requests

A. General

1. On a month-by-month basis, how many New York FiOS and DSL broadband customers has Verizon had from January 1, 2011 to the present, broken down by levels of service (50 Mbps, 100 Mbps, etc.)?
2. Provide representative copies of all disclosures made to actual or potential Verizon broadband customers concerning actual or expected Internet speeds since January 1, 2013.
3. For every broadband Internet plan offered by Verizon, provide all substantiation for your claims that customers who purchase any broadband Internet plan will, in practice, experience the advertised download/upload Internet speeds. For example, for customers who purchase Verizon's FiOS 100 Mbps service, provide all substantiation for your claim that such customers will experience download/upload speeds of "100/100 Mbps." Include a discussion of the effect of

interconnection agreements and technologies on these claims.

4. Provide copies of all documents related to Verizon broadband customer complaints related to discrepancies or perceived discrepancies between expected and actual Internet speeds, including but not limited to Verizon's responses to the complaints.
5. Provide all documents related to any analysis, study, survey, testing, or review of quality of experience, quality of service, or Internet speeds actually experienced by Verizon broadband customers.
6. Provide all documents related to any training of Verizon's employees, customer service representatives, spokespersons, or other agents with respect to representations and/or advertising regarding Verizon's Internet speeds.

B. Last Mile

1. Provide documents sufficient to show last-mile broadband speeds experienced by Verizon's New York State FiOS and DSL broadband customers, divided by classes of customer, including but not limited to documents sufficient to show the speeds experienced by broadband customers during various times of the day, and documents sufficient to show last-mile broadband speeds experienced by Verizon's New York State broadband customers expressed as a percentage of the maximum advertised speeds for the rate plan subscribed to by such customers.
2. Explain how Verizon provisions or manages differently the last-mile bandwidth made available to differing levels of customers (such as 100 Mbps versus a 200 Mbps customer) with respect to bandwidth, latency, or packet loss, or other performance characteristics. Provide any documents related to internal technical or business policies related to the last-mile difference between classes of customers.

C. Interconnection

1. Provide a list and produce a copy of all Internet interconnection agreements (and amendments), formal or informal, that Verizon has entered into with any person (including content delivery networks, application providers, broadband Internet access service providers and Internet backbone service providers) that are currently in effect or were implemented at any time. Indicate which arrangements are settlement-free, and which are paid.
2. Identify each instance, since January 1, 2013, when an interconnection partner requested augmentation of interconnection capacity that you did not implement within ninety days; and describe why you did not augment capacity.
3. For each week since January 1, 2013, for your twenty-five largest interconnection partners, provide total throughput capacity, utilization metrics, packet loss

records, and total traffic volume. Provide any measures of actual throughput speeds experienced by users through these partners.

4. Explain whether Verizon's interconnection policies or agreements might differentially affect the experienced performance of different types of customers (50 Mbps, 100 Mbps, etc.).
5. Describe and provide all documents sufficient to show the company's policies with respect to upgrading, declining to upgrade, or downgrading interconnections between the company and any person.

Please contact me at (212) 416-8262 if you have any questions. We look forward to hearing from you.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim Wu". The signature is stylized and cursive.

Tim Wu
Senior Enforcement Counsel