

**Testimony of Susan Lerner, Executive Director of Common Cause/New York
before the Franchise and Concession Review Committee
regarding the Cable Franchise Agreement by and between The City of New York and
Verizon New York Inc.**

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Good afternoon. My name is Susan Lerner. I am the Executive Director of Common Cause/New York. Common Cause is a non-partisan, non-profit citizens' lobby and a leading force in the battle for honest and accountable government. In the past three decades, by fighting together we have helped bring about real change on issues such as government transparency and campaign finance reform and will continue to do so in New York and nationally.

I thank you for this opportunity to address the Commission today. This franchise agreement is a valuable opportunity for New Yorkers to gain improved services and greatly expanded access to government information. Common Cause/New York strongly supports the idea of this contract, but, as with any negotiated contract, the devil is in the details. Instead, Common Cause/New York is concerned that it seems to be a \$70 billion sweetheart deal, drawn up behind closed doors, that does not adequately protect ordinary New Yorkers. The very manner in which today's hearing was noticed illustrates the issues. How anomalous that a hearing on a technology advance is difficult to find on the city's website!

As an advocate for transparency in government, Common Cause/New York is greatly concerned that the circumstance surrounding this contract's negotiation and announcement is a model for how NOT to let the public into the process. The issuance of a Request for Proposals on April 11 followed by the public announcement that an agreement had been reached with Verizon on April 29 make it all too easy to regard the contract as a sweetheart deal. There has been little time to fully analyze a contract as significant as this one.

We urge the FCRC to extend the date of approval from next week's scheduled meeting by a full 120 days to mid-September 2008. Such an extension would afford the public an opportunity to fully review the agreement and make important suggestions.

While Common Cause/New York and some of our colleagues feel we have not had adequate time to properly and appropriately review the agreement in detail, I would like to take this

opportunity to share with you some of our initial suggestions regarding the franchise agreement.

We urge the FCRC not to approve the agreement with Verizon until the following issues are addressed:

1. *All government and educational programming should be made available through Video on Demand technology, greatly increasing the access everyday New Yorkers have to their government. These channels should be made available in high definition and not be treated as second tier resources.*
2. *The Technology and Education Fund should be dramatically increased, from its current pittance of \$4 million for 5 boroughs over seven years.*
3. *Verizon's requirement to build-out services to lower-income communities must be dramatically improved. Simple language changes in the agreement could amount to dramatic improvements.*
4. *NYC should establish a Cable Franchise Oversight Committee, as has been done in many municipalities throughout the country.*
5. *The modified contract must include enforceable penalties built into the contract to insure adequate incentive for timely performance and incentive to correct problem. Strong default provisions in Section 11 appear to be undercut by other provisions in that section.*
6. *Consumer protections should be strengthened, including requirements related to Significant Outages, poor customer service, and missed service or installation appointments.*
7. *Affirmative representations that Verizon will respect 'net neutrality.'*

I would now like to take this opportunity to briefly discuss each of these issues in greater detail.

1. *All government and educational programming should be made available through Video on Demand technology, greatly increasing the access everyday New Yorkers have to their government. These channels should be made available in high definition and not be treated as second tier resources.*

A great deal of the government's business is conducted during the traditional working day, between 9am and 5pm. This greatly impedes public participation, but technologies already at-hand can help bridge this gap of limited access to government information.

By making coverage on government channels available through Video On Demand technology, New Yorkers would have broader access to and greater familiarity with their municipal and state government. This would directly encourage civic and democratic participation at the local and state level.

This hearing is, itself, a pertinent example of why the content on government access channels should be made available through Video on Demand technology. A daytime hearing during the week limits the ability of New Yorkers to participate by offering direct testimony. Expanding the availability to watch the hearing through Video on demand would greatly increase public participation in and understanding of this agreement.

2. *The Technology and Education Fund should be dramatically increased, from its current pittance of \$4 million for 5 boroughs over seven years.*

There should be additional public discussion about how the money in the Technology and Education Fund should be spent, as well as a dramatic increase in the total funds. A number of organizations throughout the city are well positioned to offer expert advice on how these funds could be spent effectively.

3. *Verizon’s requirement to build-out services to lower-income communities must be dramatically improved. Simple language changes in the agreement could amount to dramatic improvements.*

Section 5.1.4 currently reads, in part: “... at each Checkpoint described above, the estimated median household income of all homes passed shall not be greater than the average household income of all households in New York City.”

We view this language, to put it simply, as a disingenuous slight of hand. The average household income in New York City in 2006 was \$71,000 while the median household income was only \$46,500. This \$25,000 difference is not insignificant and skews the buildout schedule and the pace of Checkpoints. See Table 1 below for an understanding of what this slight of hand looks like at the borough-level.

Section 5.1.4 should be changed to read, in part: “... at each Checkpoint described above, the estimated median household income of all homes passed shall not be greater than the median household income of all households in New York City.”

Table 1: Comparison of Median and Mean Household in New York City

	Median Household Income	Mean Household Income	Difference between Median and Mean
Manhattan	60,017	111,677	\$51,660
Bronx	31,494	42,899	\$11,405
Kings	40,393	56,482	\$16,089
Richmond	68,620	82,473	\$13,853
Queens	51,190	63,568	\$12,378
New York City	\$46,480	\$71,060	\$24,580

IN 2006 INFLATION-ADJUSTED DOLLARS

Source: 2006 American Community Survey, Data Profile

4. *NYC should establish a Cable Franchise Oversight Committee, as has been done in many municipalities throughout the country.*

A Cable Franchise Oversight Committee would go a long way to overseeing not just this franchise agreement, but future cable franchise agreements. This is another arena where there are great many organizations throughout the city that are well positioned to offer expertise

regarding the establishment and development of such a Committee.

5. *The modified contract must include enforceable penalties built into the contract to insure adequate incentive for timely performance and incentive to correct problems.*

The current agreement, as we understand it through this limited time for review, does not contain enforceable penalties to incentivize Verizon to meet its requirements. For example, when reviewing Section 6.6 of Appendix A in light of Section 15.4 of the Agreement, the franchisee is required to submit a “Plan of Correction” regarding Significant Outages while there is no timeframe set for when Verizon would default for not following through with its Plan of Correction. In effect, a “Plan of Correction” could be submitted over and over again without such a plan ever being implemented or the problem ever being corrected.

6. *Consumer protections should be strengthened, including requirements related to Significant Outages, poor customer service, and missed service or installation appointments.*

As we just noted in issue 5 of our testimony, the “Plan of Correction” for Significant Outages are woefully inadequate. We agree with others that have suggested consumer complaints be mapped in order to track possible disparities in customer service response rates and quality.

Also of note, the contract offers broad differences between the current protections offered to customers regarding missed service or installation appointments and missed installation appointments currently mean the customer receives free installation and one month of free service. Missed service requests currently provide for one month of free service. The agreement states that these problems would now be remedied through a \$25 credit applied to the customer’s account. These existing protections offered to New Yorkers are greatly valued and should not be weakened.

7. *Affirmative representations that Verizon will respect ‘net neutrality.’*

In September 2007, Verizon’s Wireless arm blocked the communications of a not-for-profit advocacy organization because Verizon considered the content of the message “controversial or unsavory.” Common Cause nationally, Common Cause/New York, and many organizations throughout the country were given great pause by this act of censorship by Verizon.

The current franchise agreement will allow Verizon to offer television service, in addition to internet and phone service. New York City should require that Verizon makes affirmative representations that it will not partake in any such acts of censorship, and will respect what is commonly referred to as ‘net neutrality.’ Common Cause believes net neutrality is critical to the democratic underpinnings of the internet.

I would understand if federalism issues are running through your mind right now. Common Cause would be glad to speak with members of this committee regarding any such federalism issues.

Thank you again for this opportunity to testify. We hope the FCRC will extend the public review period in order to allow for a greater number of organizations to participate in this process and review this agreement.