



DIVISION OF  
CORPORATION FINANCE

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

March 17, 2022

Jeffrey D. Karpf  
Cleary Gottlieb Steen & Hamilton LLP

Re: Verizon Communications Inc. (the "Company")  
Incoming letter dated January 7, 2022

Dear Mr. Karpf:

This letter is in response to your correspondence concerning the shareholder proposal (the "Proposal") submitted to the Company by the National Center for Public Policy Research for inclusion in the Company's proxy materials for its upcoming annual meeting of security holders.

The Proposal, in relevant part, asks the board to publish annually the written and oral content of diversity, inclusion, equity or related employee-training materials offered to the Company's employees by the Company or with its consent, as well as any such materials that were sponsored by the Company in whole or part.

There appears to be some basis for your view that the Company may exclude the Proposal under Rule 14a-8(i)(7). In our view, the Proposal micromanages the Company by probing too deeply into matters of a complex nature by seeking disclosure of intricate details regarding the Company's employment and training practices. Accordingly, we will not recommend enforcement action to the Commission if the Company omits the Proposal from its proxy materials in reliance on Rule 14a-8(i)(7). In reaching this position, we have not found it necessary to address the alternative bases for omission upon which the Company relies.

Copies of all of the correspondence on which this response is based will be made available on our website at <https://www.sec.gov/corpfin/2021-2022-shareholder-proposals-no-action>.

Sincerely,

Rule 14a-8 Review Team

cc: Scott Shepard  
National Center for Public Policy Research

# CLEARY GOTTlieb STEEN & HAMILTON LLP

One Liberty Plaza  
New York, NY 10006-1470

T: +1 212 225 2000

F: +1 212 225 3999

clearygottlieb.com

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DAVID W.S. YUDIN  
RESIDENT COUNSEL

LOUISE M. PARENT  
OF COUNSEL

January 7, 2022

VIA ELECTRONIC MAIL ([shareholderproposals@sec.gov](mailto:shareholderproposals@sec.gov))

U.S. Securities and Exchange Commission  
Division of Corporation Finance  
Office of Chief Counsel  
100 F Street, NE  
Washington, DC 20549

**Re: Verizon Communications Inc.  
Exclusion of Shareholder Proposal Submitted by the National Center for Public Policy Research**

Ladies and Gentlemen:

Pursuant to Rule 14a-8(j) under the Securities Exchange Act of 1934 (as amended, the “Exchange Act”), we are writing to respectfully notify the U.S. Securities and Exchange Commission (the “Commission”) that our client, Verizon Communications Inc., a Delaware corporation (the “Company”), intends to exclude from its proxy materials (the “2022 Proxy Materials”) for its 2022 annual meeting of shareholders (the “2022 Annual Meeting”) a shareholder proposal (the “Proposal”) submitted to the Company by the National Center for Public Policy Research (the “Proponent”) under cover of letter dated November 23, 2021 and received by the Company on November 29, 2021.

We request confirmation that the staff of the Division of Corporation Finance (the “Staff”) of the Commission will not recommend to the Commission that any enforcement action be taken against the Company if the Company excludes the Proposal from its 2022 Proxy Materials pursuant to (1) Rules 14a-8(c) and (f) because the Proposal violates the regulatory limit of no more than one proposal per shareholder for a particular meeting of shareholders; (2) Rule 14a-8(i)(3) because the Proposal is impermissibly vague, indefinite and susceptible to various interpretations so as to be inherently misleading in violation of the proxy rules; and (3) Rule 14a-8(i)(7) because the Proposal deals with matters relating to the Company’s ordinary business operations and impermissibly seeks to micromanage the Company.

Pursuant to Rule 14a-8(j), we are submitting electronically to the Commission this letter and a copy of the Proposal, together with the supporting statement included in the Proposal (the “Supporting”

Statement”), attached as Exhibit A hereto, on behalf of the Company, and are concurrently sending a copy to the Proponent no later than eighty (80) calendar days before the Company intends to file its definitive 2022 Proxy Materials with the Commission.

Rule 14a-8(k) and *SEC Staff Legal Bulletin No. 14D* (November 7, 2008) (“SLB 14D”) provide that shareholder proponents are required to send companies a copy of any correspondence that the proponents elect to submit to the Commission or the Staff. Accordingly, we are taking this opportunity to inform the Proponent that if the Proponent elects to submit additional correspondence to the Commission or the Staff with respect to the Proposal, a copy of that correspondence should be furnished concurrently to us and the Company pursuant to Rule 14a-8(k) and SLB 14D.

### **THE PROPOSAL AND PROCEDURAL BACKGROUND**

On November 29, 2021, the Company received the Proposal, entitled “Employee Training Disclosure,” from the Proponent, for inclusion in the 2022 Proxy Materials. The resolution included in the Proposal provides as follows:

**Resolved:** We, shareholders of Verizon, ask the Board of Directors to publish annually, without incurring excessive costs or disclosing genuinely confidential or proprietary information, the written and oral content of diversity, inclusion, equity or related employee-training materials offered to the company’s employees by the company or with its consent, as well as any such materials that were sponsored by the company in whole or part. In the alternative we request the Board commission a workplace non-discrimination audit analyzing the company’s impacts, including the impacts arising from company-sponsored or -promoted employee training, on civil rights and non-discrimination in the workplace, and the impacts of those issues on the company’s business. In the latter instance, a report on the audit, prepared at reasonable cost and omitting confidential or proprietary information, should be publicly disclosed on the company’s website.

The Supporting Statement expresses the Proponent’s view that the diversity, equity and inclusion and non-discrimination training materials provided by many companies, including the Company, “stigmatize white employees and white culture as uniquely malignant, while implicitly robbing other groups of personal responsibility and authority.” A copy of the Proposal and the accompanying Supporting Statement is attached to this letter as Exhibit A.

On December 9, 2021, within fourteen (14) days of the Company’s receipt of the Proposal, the Company sent to the Proponent via email a notification of eligibility and procedural deficiencies with respect to the Proposal (the “Deficiency Letter”). The Deficiency Letter:

- informed the Proponent of the relevant eligibility and procedural requirements of Rule 14a-8;
- requested that the Proponent “provide a written statement from the record holder of the Proponent’s shares (usually a bank or broker) verifying that, as of the date the Proposal was submitted (November 23, 2021), the Proponent continuously held the requisite amount of Verizon common stock for a period of time sufficient to satisfy” one of the ownership requirements set forth in Rule 14a-8;
- notified the Proponent that the submission violated Rule 14a-8(c) because it presented two separate and distinct proposals in the form of the two alternatives outlined in the resolution;

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- advised the Proponent that a response remedying the procedural and eligibility issues raised in the Deficiency Letter had to be postmarked or transmitted electronically to the Company within 14 days from the day the Proponent received the Deficiency Notice; and
- included a copy of Rule 14a-8, as suggested in Section G.3 of *SEC Staff Legal Bulletin No. 14* (July 13, 2001) relating to eligibility and procedural issues.

The Proponent acknowledged receipt of the Deficiency Letter on December 9, 2021 by email and provided the written statement relating to stock ownership in response to the Deficiency Letter on December 10, 2021. To date, the Proponent has not revised the Proposal to address the violation of Rule 14a-8(c) identified in the Deficiency Letter. Copies of the Deficiency Letter and all relevant correspondence with the Proponent are attached hereto as Exhibit B.

#### **BASES FOR EXCLUSION**

The Company hereby respectfully requests that the Staff concur with the Company's view that the Proposal may be excluded from the 2022 Proxy Materials in reliance on the following:

- A. Rule 14a-8(c), because the Proposal violates the regulatory limit of no more than one (1) proposal per shareholder for a particular meeting of shareholders;
- B. Rule 14a-8(i)(3), because the Proposal is impermissibly vague, indefinite and susceptible to various interpretations so as to be inherently misleading in violation of the proxy rules; and
- C. Rule 14a-8(i)(7), because the Proposal deals with matters relating to the Company's ordinary business operations and impermissibly seeks to micromanage the Company.

#### **ANALYSIS**

##### **A. THE PROPOSAL MAY BE EXCLUDED UNDER RULE 14A-8(C) BECAUSE IT VIOLATES THE REGULATORY LIMIT OF NO MORE THAN ONE (1) PROPOSAL PER SHAREHOLDER FOR A PARTICULAR MEETING OF SHAREHOLDERS.**

Rule 14a-8(c) provides that a shareholder may submit no more than one proposal, directly or indirectly, for a particular shareholder meeting. Relying on this rule, the Staff has consistently held that a company may exclude a shareholder proposal when a shareholder submits more than one proposal and does not timely reduce the number of submitted proposals to one. As discussed below, the one-proposal limitation applies not only to proponents who submit multiple proposals as separate submissions, but also to proponents who combine multiple separate and distinct requests into a single submission.

The Staff has routinely permitted the exclusion of proposals with multiple separate and distinct components which lack a single, well-defined unifying concept, even if the components relate to the same general subject matter. For example, in *Bank of America* (March 7, 2012), the Staff concurred in the omission of a proxy access proposal, noting that one paragraph of seven in the resolution related to a separate and distinct matter; namely, events that would not be considered a change of control. Similarly, in *Parker-Hannifin Corporation* (September 4, 2009), the Staff concurred with the omission of a proposal with three separate elements of a "Triennial Executive Pay Vote program," where the company had argued that while the first two parts were clearly interconnected, implementation of the third part would require completely distinct and separate actions. The Staff has also concurred that proposals that require a variety of corporate actions may be excluded. See, for example, *PG&E Corporation* (March 11, 2010) (permitting

exclusion of a proposal relating to a license renewal that involved separate and distinct actions relating to mitigating risks and limiting production levels) and *Morgan Stanley* (February 4, 2009) (permitting exclusion of a proposal requesting stock ownership guidelines for director candidates, new conflict of interest disclosures for director nominees, and new limits on compensation of directors and nominees).

Here, the Proposal presents two (2) separate and distinct requests: (i) that the Board publish employee training materials that it uses or sponsors, and (ii) that the Board commission a workplace non-discrimination audit and publish the results. In fact, the Proponent recently submitted each request as a separate proposal to two (2) different companies. The first was sent to Deere & Company on September 2, 2021 requesting that the Board publish all employee training materials, and the second was sent to The Walt Disney Company on September 17, 2021 requesting that the Board commission a workplace non-discrimination audit. This is reflective of the fact that even the Proponent considers each of these requests as a distinct proposal on its own. By presenting the two (2) requests in the alternative here, the Proponent has provided two (2) separate and distinct recommendations of action for the Board, and therefore two (2) proposals as defined under Rule 14a-8(a). Despite the Proponent's attempt to circumvent the one-proposal limitation by framing the two (2) requested actions in the alternative, the Proposal nonetheless constitutes a violation of Rule 14a-8(c).

The Company believes that the two alternatives set forth in the resolution constitute separate and distinct matters that require separate corporate actions, and, consistent with precedents discussed above, should be considered separate proposals for purposes of Rule 14a-8(c). The Company notified the Proponent of such deficiency and the Proponent had ample opportunity to revise the Proposal to address the violation of Rule 14a-8(c) but did not do so. Accordingly, the Proposal may be omitted under Rule 14a-8(f) because it violates Rule 14a-8(c).

**B. THE PROPOSAL MAY BE EXCLUDED UNDER RULE 14A-8(I)(3) BECAUSE IT IS IMPERMISSIBLY VAGUE, INDEFINITE AND SUSCEPTIBLE TO VARIOUS INTERPRETATIONS SO AS TO BE INHERENTLY MISLEADING IN VIOLATION OF THE PROXY RULES.**

**1. Rule 14a-8(i)(3) Background.**

Pursuant to Rule 14a-8(i)(3), the Company may exclude a shareholder proposal from its proxy materials "if the proposal or supporting statement is contrary to any of the Commission's proxy rules [...] which prohibits materially false or misleading statements in proxy soliciting materials." The Staff has interpreted Rule 14a-8(i)(3) to include shareholder proposals that are vague and indefinite, and the Staff has consistently concurred with exclusion of shareholder proposals on the basis that "neither the stockholders voting on the proposal, nor the company in implementing the proposal (if adopted), would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires." *SEC Staff Legal Bulletin No. 14B* (September 15, 2004). Ambiguities in a proposal may render the proposal materially misleading, because "any action ultimately taken by the [c]ompany upon implementation could be significantly different from the actions envisioned by shareholders voting on the proposal." *Fuqua Industries, Inc.* (March 12, 1991).

**2. The Proposal is Inherently Vague, Indefinite and Susceptible to Various Interpretations so as to be Inherently Misleading in Violation of the Proxy Rules.**

The Proposal presents two (2) separate and distinct requests: (i) that the Board publish employee training materials that it uses or sponsors, or, alternatively, (ii) that the Board commission a workplace non-discrimination audit and publish the results. The construction of the Proposal as two alternative requests makes it *ipso facto* misleading in violation of Rule 14a-9. Shareholders voting on the Proposal cannot

possibly know whether they are in fact voting for or against the publication of the Company's employee training materials or for or against a non-discrimination audit. Shareholders of the Company voting on the Proposal do not have the ability to rank choice their votes with respect to the two options or for that matter indicate a different vote (for or against) with respect to each option. They may be in favor of one option but not the other, but since the Proposal is a single voting item on the ballot, their vote could result in an outcome that they did not want. Similarly, if the Proposal is adopted, the Board will not be able to determine with any reasonable certainty which option to implement to reflect the will of the shareholders. Accordingly, the Proposal is inherently vague, indefinite and susceptible to various interpretations so as to be inherently misleading in violation of the proxy rules, and therefore may be excluded under Rule 14a-8(i)(3).

**C. THE PROPOSAL MAY BE EXCLUDED UNDER RULE 14A-8(I)(7) BECAUSE IT DEALS WITH MATTERS RELATING TO THE COMPANY'S ORDINARY BUSINESS OPERATIONS AND IMPERMISSIBLY SEEKS TO MICROMANAGE THE COMPANY.**

**1. Rule 14a-8(i)(7) Background.**

Pursuant to Rule 14a-8(i)(7), a company is permitted to exclude a shareholder proposal from its proxy materials if it "deals with a matter relating to the company's ordinary business operations." According to the Commission's prior guidance, the term "ordinary business" refers to matters that are not necessarily "ordinary" in the common meaning of the word, but instead the term "is rooted in the corporate law concept [of] providing management with flexibility in directing certain core matters involving the company's business and operations." See Exchange Act Release No. 34-40018 (May 21, 1998) (the "1998 Release").

In the 1998 Release, the Commission explained that the underlying policy of the ordinary business exclusion is "to confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide how to solve such problems at an annual shareholders meeting." The Commission identified two (2) central considerations that underlie this policy. The first is that "[c]ertain tasks are so fundamental to management's ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight." The Commission enumerates a few examples of this central consideration, including "the management of the workforce." The second consideration relates to "the degree to which the proposal seeks to 'micro-manage' the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment."

Where a shareholder proposal requests the issuance of a report or disclosure, as is the case with the Proposal, the Staff has stated that it will look to whether the underlying subject matter of the report or disclosure concerns an ordinary business issue of the company. *SEC Staff Legal Bulletin No. 14E* (October 27, 2009).

**2. The Proposal may be Excluded Because it Impermissibly Seeks to Micromanage the Company.**

The Proposal may be excluded under Rule 14a-8(i)(7) because it seeks to micromanage the Company "by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment." See 1998 Release. In *SEC Staff Legal Bulletin No. 14L* (November 3, 2021) ("SLB 14L"), the Staff clarified that in evaluating companies' micromanagement arguments, it will "focus on the level of granularity sought in the proposal and whether and to what extent it inappropriately limits discretion of the board or management." The Staff further noted that this approach is "consistent with the Commission's views on the ordinary business exclusion, which is

designed to preserve management's discretion on ordinary business matters but not prevent shareholders from providing *high-level direction on large strategic corporate matters*" (emphasis added).

The Proposal here attempts to probe too deeply into the judgment of management and the Company's Board of Directors (the "Board") by questioning the Company's employment training policies and practices, specifically, how management and the Board trains employees on matters related to diversity, equity and inclusion ("DEI"). The design and implementation of the Company's employee training policies and programs are a multi-faceted endeavor guided by numerous factors, including but not limited to legal and regulatory requirements, business considerations and the Company's focus on its DEI efforts, which are discussed in its annual ESG Report. All of these considerations are complicated and outside the knowledge and expertise of shareholders, and require management and the Board to have the discretion to exercise their independent judgment in making determinations appropriate for the Company and its employees. In requesting that the Company publish all written and oral content of DEI or related employee training materials made available to the Company's employees, the Proposal is seeking precisely the level of granularity that the Staff highlighted in SLB 14L.

The Staff recently concurred with the exclusion under Rule 14a-8(i)(7) of a proposal submitted by the Proponent to Deere & Company that is very similar to the first prong of the Proposal, noting that "the Proposal micromanages the Company by probing too deeply into matters of a complex nature by seeking disclosure of intricate details regarding the Company's employment and training practices." *Deere & Company* (January 3, 2022). Like the Deere proposal, the Proposal attempts to supplant the judgment of management and the Board by imposing a specific method for addressing a complex matter: publishing all written and oral content on DEI or related employee-training materials used in training programs or made available to employees, whether created or sponsored by the Company, so that shareholders can step into the shoes of management and oversee the "reputational, legal and financial" risks to the Company. However, decisions concerning promoting DEI throughout a large workforce and what type of training to provide employees in order to comply with myriad applicable non-discrimination laws are multi-faceted and are based on a range of factors outside of the knowledge and expertise of shareholders, and therefore inappropriate for such oversight and vote. The Proposal thus prescribes specific actions that the Company's management must undertake without affording management sufficient flexibility or discretion to address and implement its policy regarding the complex and multi-faceted matters of DEI and the appropriate training of employees in order to comply with myriad applicable laws. The Proposal thus unduly limits the ability of management and the Board to manage complex matters with a level of flexibility to fulfill their fiduciary duties to the Company's shareholders and is excludable under Rule 14a-8(i)(7) as seeking to micromanage the Company.

### **3. The Proposal may be Excluded Because it Relates to the Management of the Company's Workforce.**

The Proposal relates to how the Company manages its workforce and, specifically, how it trains its employees. As of December 31, 2020, the Company employed more than 130,000 individuals around the world. These individuals perform diverse and complex corporate, customer service and engineering functions. The Company's training programs seek to provide employees not only with the tools they need to perform their work, but also materials to understand and learn about the Company's values and culture and materials to mitigate certain compliance risks to the Company. Therefore, the Company's training programs, which are tailored to different geographic regions and job functions, include among many other topics, the Company's diverse, equitable and inclusive culture, compliance with the Company's code of business conduct, the Company's policies regarding non-discrimination and workplace harassment, pay equity and equal employment opportunity and unconscious bias. In 2020, the Company invested over \$200 million in learning and development initiatives for its employees.

The Company's decisions with respect to the topics, content and form of its employee training programs are fundamental to the management of the Company's business and inherently implicate the day-to-day operations of the Company. It is well established that matters relating to the Company's workforce are ordinary business matters generally excludable under Rule 14a-8(i)(7). In *United Technologies Co.* (February 19, 1993), the Staff explained that "[a]s a general rule, the [S]taff views proposals directed at a company's employment policies and practices with respect to its non-executive workforce to be uniquely matters relating to the conduct of the company's ordinary business operations. Examples of the categories of proposals that have been deemed to be excludable on this basis are: . . . employment hiring and firing . . . and *employment training and motivation*" (emphasis added). Subsequently, in the 1998 Release, the Staff stated that "the management of the workforce" is "fundamental to management's ability to run a company on a day-to-day basis." In *Merck & Co., Inc.* (February 16, 2016), the Staff reiterated that "Proposals concerning a company's management of its workforce are generally excludable under rule 14a-8(i)(7)." Consistent with this standard, the Staff has permitted exclusion of proposals under Rule 14a-8(i)(7) addressing such matters as the establishment of employee training programs relating to HIV/AIDS (*AT&T, Inc.* (December 28, 2015)), employee training based on U.S. citizenship (*Starwood Hotels & Resorts Worldwide, Inc.* (February 14, 2012)), employee leaves of absence (*Walmart Inc.* (April 8, 2019)), employee retirement plans (*FedEx Corp.* (July 7, 2016)) and employee compensation (*Baxter International, Inc.* (January 6, 2016)). Similar to the proposals addressed in the Staff letters cited above, the Proposal relates to the conduct of the Company's day-to-day management activities, i.e., training of its employees, and may be excluded under Rule 14a-8(i)(7).

#### **4. The Proposal may be Excluded Because it Relates to the Company's Legal Compliance Program.**

The Proposal relates to the Company's legal compliance program, which is an integral part of the Company's day-to-day management of its business. The Company routinely prepares and delivers training materials to its employees in order to ensure the Company's compliance with the myriad of laws and regulations that apply to its business operations, including employment laws and regulations. The Company is subject to federal and state laws and regulations relating to non-discrimination and equal opportunity in the hiring, promotion and termination of employees. Providing ongoing and up-to-date training to the employees who are responsible for these activities to ensure the Company's compliance with applicable employment laws and regulations is a task so fundamental to management's ability to run the Company on a day-to-day basis that it cannot, as a practical matter, be subject to direct shareholder oversight. The Staff has long identified a company's compliance with laws and regulation as a matter of ordinary business. In *Navient Corporation* (March 26, 2015), the Staff permitted exclusion of a proposal requesting a report on its internal controls over its student loan servicing operations, including a discussion of the actions taken to ensure compliance with applicable law, noting that "proposals that concern a legal compliance program are generally excludable under Rule 14a-8(i)(7)." See, also, *JPMorgan Chase & Co.* (March 13, 2014), *Raytheon Co.* (March 25, 2013), *FedEx Corp.* (July 14, 2009), *Verizon Communications Inc.* (January 7, 2008), *The AES Corp.* (January 9, 2007) and *H&R Block, Inc.* (August 1, 2006).

#### **5. The Proposal Does Not Transcend the Company's Ordinary Business Operations.**

The Company is committed to creating a collaborative, inclusive, equitable and diverse environment within the Company, with its customers and among its business partners and suppliers. In its 2020 ESG Report, the Company explains that it views this commitment as a business imperative and a competitive advantage and describes the policies, trainings and partnerships that it has put in place to foster DEI. The Company also recognizes that investors' interest in issues of employee DEI, and issuers' disclosures, including the Company's, on DEI topics, have greatly expanded over the past decade. However, that does not mean that every proposal that touches on the topic of DEI raises a significant policy issue that transcends a company's ordinary business.



While the Staff reiterated in the recently published SLB 14L that proposals that otherwise concern ordinary business matters may nonetheless be appropriate for a shareholder vote if the proposal raises a policy issue that is sufficiently significant to transcend day-to-day business matters, prior Staff letters have also made clear that the mere fact that a proposal is framed to invoke issues that, in different contexts, have been found to implicate significant policy issues is not sufficient to transform a proposal that is otherwise about ordinary business issues. Consistent with the 1998 Release, the Staff routinely concurs with the exclusion of proposals that relate to ordinary business decisions *even* where the proposal may reference a significant social policy issue. For example, in *The Walt Disney Co.* (January 8, 2021), the proposal requested that the company produce a report “assessing how and whether [the company] ensures [its] advertising policies are not contributing to violations of civil or human rights.” Despite concerns expressed in the proposal that the company’s policies were “contributing to the spread of racism, hate speech, and disinformation,” the Staff concurred that the proposal was excludable under Rule 14a-8(i)(7) as relating to ordinary business matters. In *Amazon.com, Inc.* (March 28, 2019), the Staff allowed the exclusion of a proposal requesting that the board annually report to shareholders “its analysis of the community impacts of [the company’s] operations, considering near- and long-term local economic and social outcomes.” In its no-action request, the company successfully argued that “[e]ven if some of [the] issues that would be addressed in the report requested by the [p]roposal could touch upon significant policy issues within the meaning of the Staff’s interpretation, the [p]roposal is not focused on those issues, but instead encompasses a wide range of issues implicating the [c]ompany’s ordinary business operations within the meaning of Rule 14a-8(i)(7).” See also, *Walmart Inc.* (April 8, 2019) (concurring with the exclusion of a proposal requesting that the board prepare a report evaluating the risk of discrimination that may result from the company’s policies and practices for hourly workers taking absences from work for personal or family illness because it related to the company’s ordinary business operations, *i.e.*, the company’s management of its workforce, and “[did] not focus on an issue that transcends ordinary business matters”); *Foot Locker, Inc.* (March 3, 2017) (concurring with the exclusion of a proposal that recited overseas abuses of overseas subcontractors and requested a report regarding how the company monitors the use of subcontractors by the company’s overseas apparel suppliers); *JPMorgan Chase & Co.* (March 9, 2015) (concurring with the exclusion of a proposal requesting the company amend its human rights-related policies “to address the right to take part in one’s own government free from retribution” because the proposal related to “[the company’s] policies concerning its employees”). Similar to the proposals addressed in these precedents, this Proposal, while purporting to concern “civil rights and non-discrimination in the workplace,” nonetheless focuses primarily on the ordinary business matter of the Company’s relationship and interaction with its employees and, specifically, the type of training that it provides employees.

Although the second prong of the Proposal presents a workplace non-discrimination audit as an alternative to publication of training materials, it is evident from the Proposal and the accompanying Supporting Statement that the Proponent’s true focus is on the contents of the Company’s employee training materials relating to DEI in hiring, promotion or professional development. Such focus demonstrates that the Proposal and both prongs of its proposed resolution relate to the Company’s ordinary business operations and may be excluded under Rule 14a-8(i)(7).

Finally, even if the Staff were to view the non-discrimination audit prong of the Proposal as raising a significant policy issue, the Proposal may be excluded from its proxy materials because the first prong of the Proposal clearly relates to the Company’s ordinary business operations. There is no-action precedent under Rule 14a-8(i)(7) to support the exclusion of a shareholder proposal in its entirety where only a portion of the proposal relates to ordinary business operations. In *CA, Inc.* (May 3, 2012), the Staff permitted exclusion of a proposal that addressed the issue of auditor independence (a significant policy issue), but also requested information about the company’s policies and practices around the selection of the audit firm and management of the engagement, noting that these additional matters are “generally excludable under

U.S. Securities and Exchange Commission, p. 9

rule 14a-8(i)(7).” See also, *Dell Inc.* (May 3, 2012) (permitting exclusion of a proposal requesting a report on auditor independence, but also requesting information about the company’s policies and practices around the selection of the audit firm and management of the engagement); *Kmart Corporation* (March 12, 1999) (permitting exclusion of a proposal requesting a report on the company’s actions to ensure it does not purchase from suppliers who manufacture items using forced labor, convict labor, child labor or who fail to comply with laws protecting employees’ rights and describing other matters to be included in the report, and specifically noting that “although the proposal appears to address matters outside the scope of ordinary business, paragraph 3 of the description of matters to be included in the report relates to ordinary business operations”).

*[Remainder of Page Intentionally Left Blank.]*

**CONCLUSION**

For the foregoing reasons, we respectfully request, on behalf of the Company, that the Staff confirm that it will not recommend to the Commission that enforcement action be taken against the Company if it excludes the Proposal from its 2022 Proxy Materials.

If you have any questions concerning any aspect of this matter or require any additional information, please do not hesitate to contact the undersigned at +1 212 225 2864 or [jkarpf@cgsh.com](mailto:jkarpf@cgsh.com). If the Staff is unable to agree with our conclusions without additional information or discussions, we respectfully request the opportunity to confer with members of the Staff prior to issuance of any written response to this letter.

Sincerely,

A handwritten signature in black ink, appearing to read 'JKarpf', with a long horizontal flourish extending to the right.

Jeffrey D. Karpf  
Partner  
Cleary Gottlieb Steen & Hamilton LLP

Enclosures

cc: Brandon N. Egren (*Verizon Communications Inc.*)  
Scott Shepard (*National Center for Public Policy Research*)

**EXHIBIT A**  
**PROPOSAL AND SUPPORTING STATEMENT**

*[See Attached.]*

## Employee Training Disclosure Proposal

**Resolved:** We, shareholders of Verizon Communications, Inc. (“the company”), ask the Board of Directors to publish annually, without incurring excessive costs or disclosing genuinely confidential or proprietary information, the written and oral content of diversity, inclusion, equity or related employee-training materials offered to the company’s employees by the company or with its consent, as well as any such materials that were sponsored by the company in whole or part. In the alternative we request the Board commission a workplace non-discrimination audit analyzing the company’s impacts, including the impacts arising from company-sponsored or-promoted employee training, on civil rights and non-discrimination in the workplace, and the impacts of those issues on the company’s business. In the latter instance, a report on the audit, prepared at reasonable cost and omitting confidential or proprietary information, should be publicly disclosed on the company’s website.

**Supporting Statement:** Tremendous public attention has focused recently on workplace practices and employee training. All agree that employee success should be fostered and that no employees should face discrimination, but there is much disagreement about what non-discrimination means.

Concern stretches across the ideological spectrum. Some have pressured companies to adopt “anti-racism” programs that seek to establish “racial equity,” which appears to mean the distribution of pay and authority on the basis of race, sex, orientation and ethnic categories rather than by merit.<sup>1</sup> Where adopted, however, such programs raise significant objection, including concern that the “anti-racist” programs are themselves deeply racist and otherwise discriminatory.<sup>2</sup>

Many companies have been found to sponsor and promote overtly and implicitly discriminatory employee-training programs, including Bank of America, American Express, Pfizer, CVS and AT&T.<sup>3</sup>

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<sup>1</sup> <https://www.sec.gov/Archives/edgar/data/1048911/000120677421002182/fdx3894361-def14a.htm#StockholderProposals88>; <https://www.sec.gov/divisions/corpfin/cf-noaction/14a-8/2021/asyouownike051421-14a8-incoming.pdf>; <https://www.sec.gov/divisions/corpfin/cf-noaction/14a-8/2021/nyscrfamazon012521-14a8-incoming.pdf>; [https://www.sec.gov/Archives/edgar/data/1666700/000119312521079533/d108785ddef14a.htm#rom108785\\_58](https://www.sec.gov/Archives/edgar/data/1666700/000119312521079533/d108785ddef14a.htm#rom108785_58)

<sup>2</sup> <https://www.americanexperiment.org/survey-says-americans-oppose-critical-race-theory/>; <https://www.newsweek.com/majority-americans-hold-negative-view-critical-race-theory-amid-controversy-1601337>; <https://www.newsweek.com/coca-cola-facing-backlash-says-less-white-learning-plan-was-about-workplace-inclusion-1570875>; <https://nypost.com/2021/08/11/american-express-tells-its-workers-capitalism-is-racist/>; <https://www.city-journal.org/verizon-critical-race-theory-training>

<sup>3</sup> <https://www.city-journal.org/bank-of-america-racial-reeducation-program>; <https://nypost.com/2021/08/11/american-express-tells-its-workers-capitalism-is-racist/>; <https://www.foxbusiness.com/politics/cvs-inclusion-training-critical-race-theory>; <https://www.msn.com/en-us/money/other/pfizer-sets-race-based-hiring-goals-in-the-name-of-fighting-systemic-racism-gender-equity-challenges/ar-AAOiSw>; <https://www.city-journal.org/att-racial-reeducation-program>; [https://www.city-journal.org/american-express-company-critical-race-theory-training-program?mc\\_cid=3cc339c189&mc\\_eid=c991125bb7](https://www.city-journal.org/american-express-company-critical-race-theory-training-program?mc_cid=3cc339c189&mc_eid=c991125bb7)

Verizon has itself been caught producing and distributing to employees facially discriminatory training that encourages some employees, on the basis of race, sex, sexual orientation and ethnicity, to defer to other employees of different groups. In particular it stigmatizes white employees and white culture as uniquely malignant, while implicitly robbing other groups of personal responsibility and authority.<sup>4</sup>

This concern, disagreement and controversy creates massive reputational, legal and financial risk. Companies should disclose to shareholders the materials that they use in employee-training programs so that shareholders can appropriately gauge executives' responses to and management of those risks. Training materials that are too controversial or toxic to release to shareholders are necessarily inappropriate for use with employees, so that publication will increase executive thoughtfulness and decrease overall company risk, to the benefit of all stakeholders.

Should the Board elect to perform an audit and render a report, it is encouraged to assess whether Company employee-training programs treat any employees or class of employees as inferior to any others, as by indications that some employees will receive non-merit-related preferential treatment in hiring, promotion or professional development; that some employees are encouraged to speak about their lived experiences and feelings - including their impressions of the employee-training itself - while others are constrained; or otherwise.

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<sup>4</sup> <https://www.city-journal.org/verizon-critical-race-theory-training>

**EXHIBIT B**  
**DEFICIENCY LETTER AND RELATED CORRESPONDENCE**

*[See Attached.]*



One Verizon Way  
Mail Code VC54S  
Basking Ridge, NJ 07920

Brandon N. Egren  
Associate General Counsel &  
Assistant Secretary

December 9, 2021

By FedEx and Email

Mr. Scott Shepard  
Director, Free Enterprise Project  
National Center for Public Policy Research  
20 F Street, NW  
Suite 700  
Washington, DC 20001

Dear Mr. Shepard:

I am writing to acknowledge receipt of your letter submitting a shareholder proposal (the "Submission") on behalf of the National Center for Public Policy Research (the "Proponent") for inclusion in Verizon Communications Inc.'s proxy statement for the 2022 annual meeting of shareholders, which was submitted on November 23, 2021 (the date of the mailing label) and received Verizon on November 29, 2021.

Under the Securities and Exchange Commission's (SEC) proxy rules, in order to be eligible to submit a proposal for the 2022 annual meeting, a proponent must have continuously held:

- at least \$2,000 in market value of Verizon's common stock for at least three years prior to the submission date;
- at least \$15,000 in market value of Verizon's common stock for at least two years prior to the submission date;
- at least \$25,000 in market value of Verizon's common stock for at least one year prior to the submission date; or
- at least \$2,000 of Verizon's common stock for at least one year as of January 4, 2021, so long as the proponent continuously maintained a minimum investment of at least \$2,000 of such Verizon common stock from January 4, 2021 through the submission date (each an "Ownership Requirement," and collectively, the "Ownership Requirements").

Our records indicate that the Proponent is not a registered holder of Verizon common stock. The Submission stated that a proof of ownership letter would be forthcoming and delivered to Verizon, but to date, we have not received such proof of ownership. Please provide a written statement from the record holder of the Proponent's shares (usually a bank or broker) verifying that, as of the date the proposal was submitted (November 23, 2021), the Proponent continuously held



Mr. Scott Shepard  
National Center for Public Policy Research  
December 9, 2021  
Page 2

the requisite amount of Verizon common stock for a period of time sufficient to satisfy at least one of the Ownership Requirements above. Please note that some banks or brokers are not considered to be "record holders" under the SEC proxy rules because they do not hold custody of client funds and securities. Only DTC participants are viewed as "record holders" of securities for purposes of providing this written statement. You can confirm whether a particular broker or bank is a DTC participant by checking DTC's participant list, which is currently available on the Internet at <http://www.dtcc.com/client-center/dtc-directories>. If the Proponent's bank or broker is not a DTC participant, the bank or broker should be able to provide you with a contact at the DTC participant that has custody of its securities.

The Submission contains a resolution, entitled "Employee Training Disclosure Proposal," which requests that Verizon's Board of Directors either (a) publish annually, without incurring excessive costs or disclosing genuinely confidential or proprietary information, the written and oral content of diversity, inclusion, equity or related employee-training materials offered to Verizon's employees by Verizon or with its consent, as well as any such materials that were sponsored by Verizon in whole or part, or (b) commission a workplace non-discrimination audit analyzing Verizon's impacts, including the impacts arising from company-sponsored or promoted employee training, on civil rights and non-discrimination in the workplace, and the impacts of those issues on Verizon's business. The SEC's proxy rules allow each person to submit no more than one proposal, directly or indirectly, to a company for a particular shareholders' meeting. We believe the Submission presents two separate and distinct proposals in the form of the two alternatives outlined in the resolution. For your reference, I have attached a copy of the SEC's proxy rules relating to shareholder proposals.

The SEC rules require that your response remedying the eligibility issues raised in this letter be postmarked or transmitted electronically to us no later than 14 days from the day you receive this letter. Please direct your response to my attention using the contact information above. If possible, we would appreciate receiving your response, or a copy of your response, by email. Once we receive your response, we will be in a position to determine whether the Submission is eligible for inclusion in the proxy statement for the Verizon 2022 annual meeting.

Please do not hesitate to contact me if you have any questions.

Very truly yours,



Brandon N. Egren

Attachment

Cc: William L. Horton, Jr.

#### **§240.14a-8 Shareholder proposals.**

This section addresses when a company must include a shareholder's proposal in its proxy statement and identify the proposal in its form of proxy when the company holds an annual or special meeting of shareholders. In summary, in order to have your shareholder proposal included on a company's proxy card, and included along with any supporting statement in its proxy statement, you must be eligible and follow certain procedures. Under a few specific circumstances, the company is permitted to exclude your proposal, but only after submitting its reasons to the Commission. We structured this section in a question-and-answer format so that it is easier to understand. The references to "you" are to a shareholder seeking to submit the proposal.

(a) *Question 1: What is a proposal?* A shareholder proposal is your recommendation or requirement that the company and/or its board of directors take action, which you intend to present at a meeting of the company's shareholders. Your proposal should state as clearly as possible the course of action that you believe the company should follow. If your proposal is placed on the company's proxy card, the company must also provide in the form of proxy means for shareholders to specify by boxes a choice between approval or disapproval, or abstention. Unless otherwise indicated, the word "proposal" as used in this section refers both to your proposal, and to your corresponding statement in support of your proposal (if any).

(b) *Question 2: Who is eligible to submit a proposal, and how do I demonstrate to the company that I am eligible?* (1) To be eligible to submit a proposal, you must satisfy the following requirements:

(i) You must have continuously held:

(A) At least \$2,000 in market value of the company's securities entitled to vote on the proposal for at least three years; or

(B) At least \$15,000 in market value of the company's securities entitled to vote on the proposal for at least two years; or

(C) At least \$25,000 in market value of the company's securities entitled to vote on the proposal for at least one year; or

(D) The amounts specified in paragraph (b)(3) of this section. This paragraph (b)(1)(i)(D) will expire on the same date that §240.14a-8(b)(3) expires; and

(ii) You must provide the company with a written statement that you intend to continue to hold the requisite amount of securities, determined in accordance with paragraph (b)(1)(i)(A) through (C) of this section, through the date of the shareholders' meeting for which the proposal is submitted; and

(iii) You must provide the company with a written statement that you are able to meet with the company in person or via teleconference no less than 10 calendar days, nor more than 30 calendar days, after submission of the shareholder proposal. You must include your contact information as well as business days and specific times that you are available to discuss the proposal with the company. You must identify times that are within the regular business hours of the company's principal executive offices. If these hours are not disclosed in the company's proxy statement for the prior year's annual meeting, you must identify times that are between 9 a.m. and 5:30 p.m. in the time zone of the company's principal executive offices. If you elect to co-file a proposal, all co-filers must either:

(A) Agree to the same dates and times of availability, or

(B) Identify a single lead filer who will provide dates and times of the lead filer's availability to engage on behalf of all co-filers; and

(iv) If you use a representative to submit a shareholder proposal on your behalf, you must provide the company with written documentation that:

(A) Identifies the company to which the proposal is directed;

(B) Identifies the annual or special meeting for which the proposal is submitted;

(C) Identifies you as the proponent and identifies the person acting on your behalf as your representative;

(D) Includes your statement authorizing the designated representative to submit the proposal and otherwise act on your behalf;

(E) Identifies the specific topic of the proposal to be submitted;

(F) Includes your statement supporting the proposal; and

(G) Is signed and dated by you.

(v) The requirements of paragraph (b)(1)(iv) of this section shall not apply to shareholders that are entities so long as the representative's authority to act on the shareholder's behalf is apparent and self-evident such that a reasonable person would understand that the agent has authority to submit the proposal and otherwise act on the shareholder's behalf.

(vi) For purposes of paragraph (b)(1)(i) of this section, you may not aggregate your holdings with those of another shareholder or group of shareholders to meet the requisite amount of securities necessary to be eligible to submit a proposal.

(2) One of the following methods must be used to demonstrate your eligibility to submit a proposal:

(i) If you are the registered holder of your securities, which means that your name appears in the company's records as a shareholder, the company can verify your eligibility on its own, although you will still have to provide the company with a written statement that you intend to continue to hold the requisite amount of securities, determined in accordance with paragraph (b)(1)(i)(A) through (C) of this section, through the date of the meeting of shareholders.

(ii) If, like many shareholders, you are not a registered holder, the company likely does not know that you are a shareholder, or how many shares you own. In this case, at the time you submit your proposal, you must prove your eligibility to the company in one of two ways:

(A) The first way is to submit to the company a written statement from the "record" holder of your securities (usually a broker or bank) verifying that, at the time you submitted your proposal, you continuously held at least \$2,000, \$15,000, or \$25,000 in market value of the company's securities entitled to vote on the proposal for at least three years, two years, or one year, respectively. You must also include your own written statement that you intend to continue to hold the requisite amount of securities, determined in accordance with paragraph (b)(1)(i)(A) through (C) of this section, through the date of the shareholders' meeting for which the proposal is submitted; or

(B) The second way to prove ownership applies only if you were required to file, and filed, a Schedule 13D (§240.13d-101), Schedule 13G (§240.13d-102), Form 3 (§249.103 of this chapter), Form 4 (§249.104 of this chapter), and/or Form 5 (§249.105 of this chapter), or amendments to those documents or updated forms, demonstrating that you meet at least one of the share ownership requirements under paragraph (b)(1)(i)(A) through (C) of this section. If you have filed one or more of these documents with the SEC, you may demonstrate your eligibility to submit a proposal by submitting to the company:

(1) A copy of the schedule(s) and/or form(s), and any subsequent amendments reporting a change in your ownership level;

(2) Your written statement that you continuously held at least \$2,000, \$15,000, or \$25,000 in market value of the company's securities entitled to vote on the proposal for at least three years, two years, or one year, respectively; and

(3) Your written statement that you intend to continue to hold the requisite amount of securities, determined in accordance with paragraph (b)(1)(i)(A) through (C) of this section, through the date of the company's annual or special meeting.

(3) If you continuously held at least \$2,000 of a company's securities entitled to vote on the proposal for at least one year as of January 4, 2021, and you have continuously maintained a minimum investment of at least \$2,000 of such securities from January 4, 2021 through the date the proposal is submitted to the company, you will be eligible to submit a proposal to such company for an annual or special meeting to be held prior to January 1, 2023. If you rely on this provision, you must provide the company with your written statement that you intend to continue to hold at least \$2,000 of such securities through the date of the shareholders' meeting for which the proposal is submitted. You must also follow the procedures set forth in paragraph (b)(2) of this section to demonstrate that:

(i) You continuously held at least \$2,000 of the company's securities entitled to vote on the proposal for at least one year as of January 4, 2021; and

(ii) You have continuously maintained a minimum investment of at least \$2,000 of such securities from January 4, 2021 through the date the proposal is submitted to the company.

(iii) This paragraph (b)(3) will expire on January 1, 2023.

(c) *Question 3: How many proposals may I submit?* Each person may submit no more than one proposal, directly or indirectly, to a company for a particular shareholders' meeting. A person may not rely on the securities holdings of another person for the purpose of meeting the eligibility requirements and submitting multiple proposals for a particular shareholders' meeting.

(d) *Question 4: How long can my proposal be?* The proposal, including any accompanying supporting statement, may not exceed 500 words.

(e) *Question 5: What is the deadline for submitting a proposal?* (1) If you are submitting your proposal for the company's annual meeting, you can in most cases find the deadline in last year's proxy statement. However, if the company did not hold an annual meeting last year, or has changed the date of its meeting for this year more than 30 days from last year's meeting, you can usually find the deadline in one of the company's quarterly reports on Form 10-Q (§249.308a of this chapter), or in shareholder reports of investment companies under §270.30d-1 of this chapter of the Investment Company Act of 1940. In order to avoid controversy, shareholders should submit their proposals by means, including electronic means, that permit them to prove the date of delivery.

(2) The deadline is calculated in the following manner if the proposal is submitted for a regularly scheduled annual meeting. The proposal must be received at the company's principal executive offices not less than 120 calendar days before the date of the company's proxy statement released to shareholders in connection with the previous year's annual meeting. However, if the company did not hold an annual meeting the previous year, or if the date of this year's annual meeting has been changed by more than 30 days from the date of the previous year's meeting, then the deadline is a reasonable time before the company begins to print and send its proxy materials.

(3) If you are submitting your proposal for a meeting of shareholders other than a regularly scheduled annual meeting, the deadline is a reasonable time before the company begins to print and send its proxy materials.

(f) *Question 6: What if I fail to follow one of the eligibility or procedural requirements explained in answers to Questions 1 through 4 of this section?* (1) The company may exclude your proposal, but only after it has notified you of the problem, and you have failed adequately to correct it. Within 14 calendar days of receiving your proposal, the company must notify you in writing of any procedural or eligibility deficiencies, as well as of the time frame for your response. Your response must be postmarked, or transmitted electronically, no later than 14 days from the date you received the company's notification. A company need not provide you such notice of a deficiency if the deficiency cannot be remedied, such as if you fail to submit a proposal by the company's properly determined deadline. If the company intends to exclude the proposal, it will later have to make a submission under §240.14a-8 and provide you with a copy under Question 10 below, §240.14a-8(j).

(2) If you fail in your promise to hold the required number of securities through the date of the meeting of shareholders, then the company will be permitted to exclude all of your proposals from its proxy materials for any meeting held in the following two calendar years.

(g) *Question 7: Who has the burden of persuading the Commission or its staff that my proposal can be excluded?* Except as otherwise noted, the burden is on the company to demonstrate that it is entitled to exclude a proposal.

(h) *Question 8: Must I appear personally at the shareholders' meeting to present the proposal?* (1) Either you, or your representative who is qualified under state law to present the proposal on your behalf, must attend the meeting to present the proposal. Whether you attend the meeting yourself or send a qualified representative to the meeting in your place, you should make sure that you, or your representative, follow the proper state law procedures for attending the meeting and/or presenting your proposal.

(2) If the company holds its shareholder meeting in whole or in part via electronic media, and the company permits you or your representative to present your proposal via such media, then you may appear through electronic media rather than traveling to the meeting to appear in person.

(3) If you or your qualified representative fail to appear and present the proposal, without good cause, the company will be permitted to exclude all of your proposals from its proxy materials for any meetings held in the following two calendar years.

(i) *Question 9: If I have complied with the procedural requirements, on what other bases may a company rely to exclude my proposal?* (1) Improper under state law: If the proposal is not a proper subject for action by shareholders under the laws of the jurisdiction of the company's organization;

NOTE TO PARAGRAPH (i)(1): Depending on the subject matter, some proposals are not considered proper under state law if they would be binding on the company if approved by shareholders. In our experience, most proposals that are cast as recommendations or requests that the board of directors take specified action are proper under state law. Accordingly, we will assume that a proposal drafted as a recommendation or suggestion is proper unless the company demonstrates otherwise.

(2) *Violation of law*: If the proposal would, if implemented, cause the company to violate any state, federal, or foreign law to which it is subject;

NOTE TO PARAGRAPH (i)(2): We will not apply this basis for exclusion to permit exclusion of a proposal on grounds that it would violate foreign law if compliance with the foreign law would result in a violation of any state or federal law.

(3) *Violation of proxy rules*: If the proposal or supporting statement is contrary to any of the Commission's proxy rules, including §240.14a-9, which prohibits materially false or misleading statements in proxy soliciting materials;

(4) *Personal grievance; special interest*: If the proposal relates to the redress of a personal claim or grievance against the company or any other person, or if it is designed to result in a benefit to you, or to further a personal interest, which is not shared by the other shareholders at large;

(5) *Relevance*: If the proposal relates to operations which account for less than 5 percent of the company's total assets at the end of its most recent fiscal year, and for less than 5 percent of its net earnings and gross sales for its most recent fiscal year, and is not otherwise significantly related to the company's business;

(6) *Absence of power/authority*: If the company would lack the power or authority to implement the proposal;

(7) *Management functions*: If the proposal deals with a matter relating to the company's ordinary business operations;

(8) *Director elections*: If the proposal:

(i) Would disqualify a nominee who is standing for election;

(ii) Would remove a director from office before his or her term expired;

(iii) Questions the competence, business judgment, or character of one or more nominees or directors;

(iv) Seeks to include a specific individual in the company's proxy materials for election to the board of directors; or

(v) Otherwise could affect the outcome of the upcoming election of directors.

(9) *Conflicts with company's proposal*: If the proposal directly conflicts with one of the company's own proposals to be submitted to shareholders at the same meeting;

NOTE TO PARAGRAPH (i)(9): A company's submission to the Commission under this section should specify the points of conflict with the company's proposal.

(10) *Substantially implemented*: If the company has already substantially implemented the proposal;

NOTE TO PARAGRAPH (i)(10): A company may exclude a shareholder proposal that would provide an advisory vote or seek future advisory votes to approve the compensation of executives as disclosed pursuant to Item 402 of Regulation S-K (§229.402 of this chapter) or any successor to Item 402 (a "say-on-pay vote") or that relates to the frequency of say-on-pay votes, provided that in the most recent shareholder vote required by §240.14a-21(b) of this chapter a single year (*i.e.*, one, two, or three years) received approval of a majority of votes cast on the matter and the company has adopted a policy on the frequency of say-on-pay votes that is consistent with the choice of the majority of votes cast in the most recent shareholder vote required by §240.14a-21(b) of this chapter.

(11) *Duplication*: If the proposal substantially duplicates another proposal previously submitted to the company by another proponent that will be included in the company's proxy materials for the same meeting;

(12) *Resubmissions*. If the proposal addresses substantially the same subject matter as a proposal, or proposals, previously included in the company's proxy materials within the preceding five calendar years if the most recent vote occurred within the preceding three calendar years and the most recent vote was:

- (i) Less than 5 percent of the votes cast if previously voted on once;
- (ii) Less than 15 percent of the votes cast if previously voted on twice; or
- (iii) Less than 25 percent of the votes cast if previously voted on three or more times.

(13) *Specific amount of dividends*: If the proposal relates to specific amounts of cash or stock dividends.

(j) *Question 10: What procedures must the company follow if it intends to exclude my proposal?* (1) If the company intends to exclude a proposal from its proxy materials, it must file its reasons with the Commission no later than 80 calendar days before it files its definitive proxy statement and form of proxy with the Commission. The company must simultaneously provide you with a copy of its submission. The Commission staff may permit the company to make its submission later than 80 days before the company files its definitive proxy statement and form of proxy, if the company demonstrates good cause for missing the deadline.

(2) The company must file six paper copies of the following:

- (i) The proposal;
- (ii) An explanation of why the company believes that it may exclude the proposal, which should, if possible, refer to the most recent applicable authority, such as prior Division letters issued under the rule; and
- (iii) A supporting opinion of counsel when such reasons are based on matters of state or foreign law.

(k) *Question 11: May I submit my own statement to the Commission responding to the company's arguments?*

Yes, you may submit a response, but it is not required. You should try to submit any response to us, with a copy to the company, as soon as possible after the company makes its submission. This way, the Commission staff will have time to consider fully your submission before it issues its response. You should submit six paper copies of your response.

(l) *Question 12:* If the company includes my shareholder proposal in its proxy materials, what information about me must it include along with the proposal itself?

(1) The company's proxy statement must include your name and address, as well as the number of the company's voting securities that you hold. However, instead of providing that information, the company may instead include a statement that it will provide the information to shareholders promptly upon receiving an oral or written request.

(2) The company is not responsible for the contents of your proposal or supporting statement.

(m) *Question 13:* What can I do if the company includes in its proxy statement reasons why it believes shareholders should not vote in favor of my proposal, and I disagree with some of its statements?

(1) The company may elect to include in its proxy statement reasons why it believes shareholders should vote against your proposal. The company is allowed to make arguments reflecting its own point of view, just as you may express your own point of view in your proposal's supporting statement.

(2) However, if you believe that the company's opposition to your proposal contains materially false or misleading statements that may violate our anti-fraud rule, §240.14a-9, you should promptly send to the Commission staff and the company a letter explaining the reasons for your view, along with a copy of the company's statements opposing your proposal. To the extent possible, your letter should include specific factual information demonstrating the inaccuracy of the company's claims. Time permitting, you may wish to try to work out your differences with the company by yourself before contacting the Commission staff.

(3) We require the company to send you a copy of its statements opposing your proposal before it sends its proxy materials, so that you may bring to our attention any materially false or misleading statements, under the following timeframes:

(i) If our no-action response requires that you make revisions to your proposal or supporting statement as a condition to requiring the company to include it in its proxy materials, then the company must provide you with a copy of its opposition statements no later than 5 calendar days after the company receives a copy of your revised proposal; or

(ii) In all other cases, the company must provide you with a copy of its opposition statements no later than 30 calendar days before its files definitive copies of its proxy statement and form of proxy under §240.14a-6.

[63 FR 29119, May 28, 1998; 63 FR 50622, 50623, Sept. 22, 1998, as amended at 72 FR 4168, Jan. 29, 2007; 72 FR 70456, Dec. 11, 2007; 73 FR 977, Jan. 4, 2008; 76 FR 6045, Feb. 2, 2011; 75 FR 56782, Sept. 16, 2010; 85 FR 70294, Nov. 4, 2020]

EFFECTIVE DATE NOTE: At 85 FR 70294, Nov. 4, 2020, §240.14a-8 was amended by adding paragraph (b)(3), effective Jan. 4, 2021 through Jan. 1, 2023.





Egren, Brandon Norman [REDACTED]

**Re: [E] Re: Verizon Communications Inc. Shareholder Proposal**

1 message

**Egren, Brandon Norman** [REDACTED]

Fri, Dec 10, 2021 at 2:15 PM

To: Scott Shepard [REDACTED]

Cc: Karen M Shipman [REDACTED]

Received, thank you.

**Brandon N. Egren**Associate General Counsel &  
Assistant SecretaryO  
M [REDACTED]

On Fri, Dec 10, 2021 at 2:12 PM Scott Shepard [REDACTED] wrote:  
Mr. Egren & Ms. Shipman,

Here's the letter. Please confirm receipt at your convenience. Have a lovely weekend.

Very best,

Scott

On Thu, Dec 9, 2021 at 3:30 PM Scott Shepard [REDACTED] wrote:

Thanks so much, Mr. Egren. We've ordered the ownership letter, and will have it to you presently.

Very best,

Scott

On Thu, Dec 9, 2021 at 3:22 PM Egren, Brandon Norman [REDACTED] wrote:

Dear Mr. Shepard:

Please see the attached letter regarding the shareholder proposal submitted to Verizon Communications Inc. on behalf of the National Center for Public Policy Research.

Kind regards,  
Brandon Egren**Brandon N. Egren**Associate General Counsel &  
Assistant SecretaryO  
M [REDACTED]--  
Scott Shepard

12/10/21, 2:54 PM

Verizon Mail - Re: [E] Re: Verizon Communications Inc. Shareholder Proposal

Director  
Free Enterprise Project  
National Center for Public Policy Research

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Scott Shepard  
Director  
Free Enterprise Project  
National Center for Public Policy Research



February 2, 2022

**Via email: [shareholderproposals@sec.gov](mailto:shareholderproposals@sec.gov)**

Office of Chief Counsel  
Division of Corporation Finance  
U.S. Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549

**RE: Stockholder Proposal of the National Center for Public Policy Research, Securities Exchange Act of 1934 – Rule 14a-8**

Ladies and Gentlemen,

This correspondence is in response to the letter of Jeffrey D. Karpf on behalf of Verizon Communications Inc. (the “Company”) dated January 7, 2022, requesting that your office (the “Commission” or “Staff”) take no action if the Company omits our Shareholder Proposal (the “Proposal”) from its 2022 proxy materials for its 2022 annual shareholder meeting.

#### **RESPONSE TO VERIZON COMMUNICATIONS INC.’S CLAIMS**

Our Proposal asks the Board of Directors to:

publish annually, without incurring excessive costs or disclosing genuinely confidential or proprietary information, the written and oral content of diversity, inclusion, equity or related employee-training materials offered to the company’s employees by the company or with its consent, as well as any such materials that were sponsored by the company in whole or part. In the alternative we request the Board commission a workplace non-discrimination audit analyzing the company’s impacts, including the impacts arising from company-sponsored or-promoted employee training, on civil rights and non-discrimination in the workplace, and the impacts of those issues on the company’s business. In the latter instance, a report

on the audit, prepared at reasonable cost and omitting confidential or proprietary information, should be publicly disclosed on the company's website.

The Company seeks to exclude this Proposal pursuant to Rule 14a-8(c), claiming the Proposal violates the regulatory limit of no more than one proposal per shareholder for a particular meeting of shareholders; Rule 14a-8(i)(3), claiming the Proposal is impermissibly vague, indefinite and susceptible to various interpretations so as to be inherently misleading in violation of the proxy rules; and Rule 14a-8(i)(7), claiming that the Proposal deals with matters relating to the ordinary business operations of the Company and impermissibly seeks to micromanage the Company.

Under Rule 14a-8(g), the Company bears the burden of persuading the Staff that it may omit our Proposal. The Company has failed to meet that burden.

## Analysis

***Part I. The non-omissibility of our Proposal is established by the Staff's decision in Amazon.com, Inc. (avail. April 7, 2021) and The Walt Disney Co. (avail. January 19, 2022).***

Our Proposal is essentially the same, for Staff-review purposes, as the proposals that were found non-omissible in *Amazon.com, Inc.* (Apr. 7, 2021) and *The Walt Disney Co.* (Jan. 19, 2022). The resolution of our Proposal was modeled on and is materially indistinguishable from the proposal at issue in *Amazon.com* and constitutes only a minor reworking of the proposal that we successfully submitted in *Disney Co.* The supporting statements of each proposal cover, again, materially indistinguishable territory in explaining the very similar concerns that animated submission of the proposals. The only relevant distinction between our Proposal and the ones submitted in *Amazon.com* and *Disney Co.* is that in addition to the results sought by the *Amazon.com* and the *Disney Co.* proposals, ours gives the Board an alternative *option* of publishing relevant employee-training materials instead.

### ***A. Amazon.com, Inc. (Apr. 7, 2021)***

The audit option in our Proposal would commission a workplace non-discrimination audit looking into concerns about discrimination against groups that the relevant company has not honored with the label "diverse," while the *Amazon.com* proposal sought the same products looking into concerns about discrimination against groups that the proponent had honored with that label. But the Staff may not permit or deny omission of proposals on the grounds of the Staff's personal attitude toward the focus of otherwise identical proposals. As a result, *Amazon.com* is determinative in this case.

As we have noted, the resolution of our Proposal asks the Company's Board of Directors to:

publish annually, without incurring excessive costs or disclosing genuinely confidential or proprietary information, the written and oral content of diversity, inclusion, equity or related employee-training materials offered to the company's employees by the company or with its consent, as well as any such materials that were sponsored by the company in whole or part. In the alternative we request the Board commission a workplace non-discrimination audit analyzing the company's impacts, including the impacts arising from company-sponsored or-promoted employee training, on civil rights and non-discrimination in the workplace, and the impacts of those issues on the company's business. In the latter instance, a report on the audit, prepared at reasonable cost and omitting confidential or proprietary information, should be publicly disclosed on the company's website.

The proposal in *Amazon.com* asked that Amazon:

commission a racial equity audit analyzing the Company's impacts on civil rights, equity, diversity and inclusion, and the impacts of those issues on the Company's business. The audit may, in the board's discretion, be conducted by an independent third party with input from civil rights organizations, employees, communities in which the Company operates and other stakeholders. A report on the audit, prepared at reasonable cost and omitting confidential or proprietary information, should be publicly disclosed on the Company's website.

Although our Proposal contains an *option* to instead publish diversity, inclusion, equity or related employee-training materials rather than commissioning the audit, when it comes to that audit the proposals are otherwise effectively identical. Each raises issues of workplace discrimination on protected grounds. Each implicates *the very same* issues of substantial social policy that transcend ordinary business. The *Amazon.com* proposal having been found non-omissible, so must our Proposal be.

Additionally, each supporting statement explains the concerns that motivate the proposal in materially equivalent ways. Like our Proposal, the *Amazon.com* proposal cited potential illegalities arising from company conduct. Like our Proposal, the *Amazon.com* proposal cited specific problematic company behaviors and activities. And like our Proposal, the *Amazon.com* proposal provided guidance about how a proper audit and report should be conducted. Yet none of this content was deemed in that proceeding to have intruded into ordinary business operations in a way that rendered the proposal inadmissible. And nor can it in this proceeding.

***B. The Walt Disney Co. (Jan. 19, 2022)***

The proposal we introduced in *Disney Co.* uses identical audit language and is similarly controlling in this proceeding. The proposal in *Disney Co.* asked the company to:

commission a workplace non-discrimination audit analyzing Disney's impacts, including the impacts arising from Disney-sponsored or -promoted employee training, on civil rights and non-discrimination in the workplace, and the impacts of those issues on Disney's business. A report on the audit, prepared at reasonable cost and omitting confidential or proprietary information, should be publicly disclosed on Disney's website.

Our proposal is nearly identical to the proposal in *Disney Co.*, except that our Proposal also includes an *option* to instead publish diversity, inclusion, equity or related employee-training materials rather than commissioning the audit. Each raises issues of workplace discrimination on protected grounds. Each implicates the very same issues of substantial social policy that transcend ordinary business. The *Disney Co.* proposal having been found non-omissible (Staff found that the materially indistinguishable *Disney Co.* proposal transcends ordinary business matters and does not seek to micromanage the Company), so must our Proposal be in the proceeding at hand.

***Part II. The Proposal contains a single, unified proposal.***

***A. Rule 14a-8(c).***

Under Rule 14a-8(c), “a person may submit no more than one proposal, directly or indirectly, to a company for a particular shareholders’ meeting.”<sup>1</sup> Staff does not consider a single proposal with multiple components to constitute more than one proposal for purposes of Rule 14a-8(c) unless the components fail to be “closely related and essential to a single well-defined unifying concept.”<sup>2</sup> Moreover, the Staff has never suggested that offering a single proposal with an *alternative* of choices rather than a *succession* of separate instructions *more than one of which* are to be required of the company to constitute “more than one proposal.”

***B. Offering an alternative does not constitute a plural proposal.***

As evidence that our Proposal constitutes two separate proposals, the Company notes that our Proposal's components were submitted as singular proposals to two different companies. First the Company cites a proposal we sent to Deere & Company requesting the Board publish employee-training materials; then the Company cites a proposal we sent to the Walt Disney Company requesting the Board commission a workplace non-discrimination audit.

This is irrelevant. In raising this argument, the Company incorrectly conflates the inclusion of an alternative with a proposal that would require a company to do two separate things. By providing the Board with an option—the alternative to commission a workplace non-discrimination audit or to publish employee-training materials—the Proposal is clearly disjunctive rather than conjunctive. There is only ever one outcome resulting from our Proposal—either publication of

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<sup>1</sup> 17 C.F.R. § 240.14a-8(c).

<sup>2</sup> See SEC Release No. 34-12999 (Nov. 22, 1976).

employee-training materials *or* in the Board’s discretion, a workplace non-discrimination audit—not both.

Precedent cited by the Company further underscores the flaws in its argument here by focusing on cases that require multiple, unrelated actions take place. For instance, the Company relies on precedent in *PG&E Corp.* (avail. Mar. 11, 2010). The proposal in that proceeding recommended:

that Board of Directors adopt and implement a new policy that pending PG&E’s completion of all Diablo Canyon studies required and recommended by the State of California, PG&E will mitigate all potential risks encompassed by those studies, will defer any request for or expenditure of public or corporate funds for license renewal, and will not increase production of high level radioactive wastes at Diablo beyond the current capacity of existing spent-fuel pools and approved on-site storage.

In finding some basis for PG&E’s exclusion of the proposal under rule 14a-8(c), the Staff “note[d] that the proposal relating to license renewal involves a separate and distinct matter from the proposals relating to mitigating risks and production levels.” Indeed, that proposal included requests for the Board to execute three separate and distinct tasks: 1) mitigate potential risks; 2) defer license renewals; *and* 3) refuse to increase production levels.

Our Proposal just doesn’t do that at all. Rather than asking for A, B *and* C, we ask for A *or* B, just one, at the discretion of the Board. This isn’t a composite request, it’s a single request that allows the Board a choice between two options in order to do one, single, discrete thing.

Additional precedent cited by the Company further underscores the flaws in its argument, as that precedent refers to proposals with separate and distinct components whereas our Proposal has a single unifying concept. For example, the Company also cites *Bank of America Corp.* (avail. Mar. 7, 2012). In that proceeding, six paragraphs of the proposal related to the inclusion of shareholder nominations for the board of directors, while one paragraph dealt with changes in control of the company. In finding some basis for excluding the proposal under Rule 14a-8(c), Staff concluded that the paragraph relating to a change in control of the company constituted a “separate and distinct matter” from the proposal relating to the inclusion of shareholder nominations for director in Bank of America’s proxy materials.

However, as the whole of our Proposal makes clear, the issue of diversity, inclusion, equity or related employee-training is far from separate and distinct from a workplace non-discrimination audit. Indeed, unlike the Bank of America proposal, which conflates the shareholder nomination process with the additional issue of overall control of the company, the single well-defined unifying concept our Proposal seeks to address is discrimination in the workplace. As demonstrated by our Supporting Statement:

Tremendous public attention has focused recently on workplace practices and employee training. All agree that employee success should be fostered and that no

employees should face discrimination, but there is much disagreement about what non-discrimination means...Some have pressured companies to adopt ‘anti-racism’ programs that seek to establish ‘racial equity,’ which appears to mean the distribution of pay and authority on the basis of race, sex, orientation and ethnic categories rather than by merit. Where adopted, however, such programs raise significant objection, including concern that the ‘anti-racist’ programs are themselves deeply racist and otherwise discriminatory.

Both components of the Proposal — publication of diversity, inclusion, equity or related employee-training materials *or* the alternative of commissioning a workplace non-discrimination audit — aim at pushing the Company to explore and respond to a single, well-defined, unifying concept: addressing demonstrated workplace discrimination at the Company.

And, again, the option of publication rather than the commissioning of an audit and report creates an *alternative* means of satisfying our Proposal, not two separate directives both required by a single proposal.

Accordingly, the Company is incorrect in its claim that our Proposal constitutes more than one proposal in violation of Rule 14a-8(c).

***Part III. The Proposal is not impermissibly vague, indefinite and susceptible to various interpretations so as to be inherently misleading.***

***A. Rule 14a-8(i)(3).***

Under Rule 14a-8(i)(3), a company may exclude a shareholder proposal in its entirety “if the language of the proposal or the supporting statement render the proposal so vague and indefinite that neither the stockholders voting on the proposal, nor the company in implementing the proposal (if adopted), would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires.”<sup>3</sup> When only portions of a proposal merit exclusion for causing vagueness or other difficulties, companies are only permitted “to exclude portions of the supporting statement, even if the balance of the proposal and the supporting statement may not be excluded.”<sup>4</sup>

***B. Providing an option does not make the Proposal inherently vague, indefinite and susceptible to various interpretations so as to be inherently misleading.***

The Company alleges that the Proposal is so inherently vague, indefinite and susceptible to various interpretations as to be inherently misleading due to its construction permitting two alternatives. The option between two alternatives, however, does not make the Proposal *ipso facto* misleading under Rule 14a-8(i)(3) as claimed by the Company.

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<sup>3</sup> See Staff Legal Bulletin No. 14B (September 15, 2004) (“SLB 14B”) (emphasis added).

<sup>4</sup> *Id.*



In support of its allegation, the Company claims that shareholders “cannot possibly know” whether they are voting for or against one of the alternatives and worries that shareholders may be in favor of one alternative but not the other. But this suggests that the Company thinks that its shareholders do not know what “or” means, or what it means to authorize or require someone to pick from two possible options. In deciding how to vote on this measure, shareholders will have to decide if they are willing, or not, to allow the Company to decide between these two alternatives. If they are willing, they will vote for it; if they are unwilling, for whatever reason, they will vote against it. That’s hardly complicated.

The Company further claims that should the Proposal be adopted, the Board will not be able to determine with any reasonable certainty which option to implement to reflect the will of the shareholders. But this is also absurd. We presume that the Board of Directors – all of whom the Company has assured us are appropriate candidates for re-election this year – are able to understand simple language and basic propositions. They will understand that should shareholders vote for this proposal, they will have instructed the Board to pick one of two options, and have given the Directors discretion about which of the two to pick.

If the Directors cannot understand this intensely simple proposition, then the Company fails in its duty of care by recommending that they be re-elected to their positions. (And if the Company and its counsel really were unable to understand such propositions, they would have been unable to craft the very no-action letter to which we now reply.)

At all events, the Supporting Statement of our Proposal puts confusion wholly beyond the bounds of possibility, as it states unambiguously that the Board does indeed have a choice. It reads, “[s]hould the Board elect to perform an audit and render a report....” (emphasis added). It is therefore clear that the Board does have the ability to choose between the two alternatives presented, making claims to the contrary incompatible with the language of our Proposal as a whole.

Accordingly, the Proposal is not impermissibly vague, indefinite and susceptible to various interpretations so as to be inherently misleading in violation of Rule 14a-8(i)(3).

***Part IV. The Proposal does not relate to the Company’s ordinary business operations.***

***A. Rule 14a-8(i)(7).***

The Company also seeks permission to omit our Proposal on the ground of Rule 14a-8(i)(7), the ordinary business exception. The exception, in its entirety, permits exclusion of a proposal “[i]f the proposal deals with a matter relating to the company’s ordinary business operations.”<sup>5</sup>

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<sup>5</sup> 17 C.F.R. § 240.14a-8(i)(7).

The initial rule does not flesh out this provision at all. It has, though, been amended. One of those amendments, made in 1998, was restated and explained in a Staff Legal Bulletin (SLB) in 2002. There the Staff explained that:

[t]he fact that a proposal relates to ordinary business matters does not conclusively establish that a company may exclude the proposal from its proxy materials. ...[P]roposals that relate to ordinary business matters but that focus on ‘sufficiently significant social policy issues ... would not be considered to be excludable because the proposals would transcend the day-to-day business matters.’<sup>6</sup>

As the amendment itself explained, in detail particularly relevant to our considerations here:

The policy underlying the ordinary business exclusion rests on two central considerations. The first relates to the subject matter of the proposal. Certain tasks are so fundamental to management’s ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight. Examples include the management of the workforce, such as the hiring, promotion, and termination of employees, decisions on production quality and quantity, and the retention of suppliers. **However, proposals relating to such matters but focusing on sufficiently significant social policy issues (e.g., significant discrimination matters) generally would not be considered to be excludable, because the proposals would transcend the day-to-day business matters and raise policy issues so significant that it would be appropriate for a shareholder vote.**<sup>7</sup>

These matters stood until 2017. That fall, Staff issued a bulletin (“SLB 14I”) recognizing that corporate boards would likely have some insight into whether issues raised in shareholder proposals were of sufficiently substantial importance to transcend the category of ordinary business operations.<sup>8</sup> It therefore invited corporations, in arguing for an ordinary business exception, to include in support of their claims details of their boards’ analyses of the shareholder proposals and the underlying policy significance of those proposals.<sup>9</sup> Staff expanded

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<sup>6</sup> *Staff Legal Bulletin* No. 14A (July 12, 2002) (quoting *Amendments to Rules on Shareholder Proposals, Exchange Act Release* No. 40018 (May 21, 1998), available at <https://www.sec.gov/rules/final/34-40018.htm>) (last accessed Jan. 3, 2022).

<sup>7</sup> *Amendments to Rules on Shareholder Proposals, Exchange Act Release* No. 40018 (May 21, 1998) (emphasis added), available at <https://www.sec.gov/rules/final/34-40018.htm> (last accessed Jan. 3, 2022).

<sup>8</sup> *See Staff Legal Bulletin* No. 14I (Nov. 17, 2017), available at <https://www.sec.gov/interp/legal/cfslb14i.htm> (Feb. 20, 2020) (“A board acting in this capacity and with the knowledge of the company’s business and the implications for a particular proposal on that company’s business is well situated to analyze, determine and explain whether a particular issue is sufficiently significant because the matter transcends ordinary business and would be appropriate for a shareholder vote.”).

<sup>9</sup> *See id.* (“Accordingly, going forward, we would expect a company’s no-action request to include a discussion that reflects the board’s analysis of the particular policy issue raised and its significance. That explanation would be most helpful if it detailed the specific processes employed by the board to ensure that its conclusions are well-informed and well-reasoned.”).

this guidance further in 2018 (“SLB 14J”) and suggested that in demonstrating its board’s analysis of the substantiality of an issue, a company should be expansive in its communications with the Staff.<sup>10</sup> In doing so, Staff welcomed details about particulars such whether the company had already addressed the issue in some manner, including the difference – or the delta – between the proposal’s specific request and the actions the company has already taken, and an analysis of whether the delta presented a significant policy issue for the company.<sup>11</sup> Additional Staff guidance appeared again in the fall of 2019 (“SLB 14K”), wherein Staff underscored the value of the 2018 “delta analysis.”<sup>12</sup>

Then most recently, on November 3, 2021, Staff reverted to the aforementioned 1998 guidance by rescinding SLB 14I, SLB 14J, and SLB 14K following “a review of staff experience applying the guidance in them.”<sup>13</sup> Relevantly, of the rescinded bulletins, Staff said an “undue emphasis was placed on evaluating the significance of a policy issue to a particular company at the expense of whether the proposal focuses on a significant social policy....” Staff went on to explain that it was prospectively realigning its “approach for determining whether a proposal relates to ‘ordinary business’ with the standard the Commission initially articulated in 1976, which provided an exception for certain proposals that raise significant social policy issues, and which the Commission subsequently reaffirmed in the 1998 Release.”<sup>14</sup> The Staff explained that it:

will no longer focus on determining the nexus between a policy issue and the company, but will instead focus on the social policy significance of the issue that is the subject of the shareholder proposal. In making this determination, the staff will consider whether the proposal raises issues with a broad societal impact, such that they transcend the ordinary business of the company.<sup>15</sup>

The staff in particular emphasized that “proposals squarely raising human capital management issues with a broad societal impact would not be subject to exclusion solely because the proponent did not demonstrate that the human capital management issue was significant to the company.”<sup>16</sup> Our proposal raises exactly such an issue: whether current Company policies and practices raise risks as a result of a racially or otherwise discriminatory workplace.

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<sup>10</sup> See *Staff Legal Bulletin* No. 14J (Oct. 23, 2018), available at <https://www.sec.gov/corpfin/staff-legal-bulletin-14j-shareholder-proposals> (last accessed Jan. 3, 2022).

<sup>11</sup> *Id.*

<sup>12</sup> See *Staff Legal Bulletin* No. 14K (Oct. 16, 2019), available at <https://www.sec.gov/corpfin/staff-legal-bulletin-14k-shareholder-proposals> (last accessed Jan. 3, 2022).

<sup>13</sup> See *Staff Legal Bulletin* No. 14L (Nov. 3, 2021), available at <https://www.sec.gov/corpfin/staff-legal-bulletin-14l-shareholder-proposals> (last accessed Jan. 3, 2022).

<sup>14</sup> *Id.*

<sup>15</sup> See *Staff Legal Bulletin* No. 14L (Nov. 3, 2021), available at <https://www.sec.gov/corpfin/staff-legal-bulletin-14l-shareholder-proposals> (last accessed Jan. 3, 2022).

<sup>16</sup> *Id.*

***B. SLB 14L revises the Staff’s micromanagement analysis, which even under the prior rules did not provide no-action grounds in this proceeding.***

The Company claims that because Staff recently concurred with the exclusion of a proposal that we submitted to the John Deere Company regarding publication of employee-training materials on the grounds of Rule 14a-8(i)(7) (micromanagement), that our Proposal here should also be deemed omissible. That proposal, however, is distinct from the one presented to the Company in this proceeding. The proposal we introduced in *Deere & Co.* (avail. Jan. 3, 2022) was less carefully drawn, requesting the publication of “any” employee-training materials, whereas our Proposal to the Company only requests employee training materials as they relate to “diversity, inclusion, equity or related employee-training.” If the *Deere & Co.* decision was based on this failure of artfulness in drafting, which has been corrected in our Proposal in this proceeding, then *Deere & Co.* does not pertain.

But even if Staff were to agree with the Company that *Deere & Co.* is controlling when it comes to our offer that it might publish relevant training materials for shareholder review as an *optional* means of wholly satisfying our Proposal, this would mean that that option – but only that option – has been found omissible. But such a decision does not have any final bearing on whether our Proposal will survive Staff review in this proceeding, because the other option, the audit, has not been and cannot be found omissible under controlling Staff precedent in *Amazon.com, Inc.* (Apr. 7, 2021) and *The Walt Disney Co.* (Jan. 19, 2022).

As noted already, the audit option in our Proposal is materially identical to the proposal we successfully submitted in *Disney Co.* In that proceeding, Staff did not concur in Disney’s view that it may exclude the proposal under Rule 14a-8(i)(7), stating that “In our view, the Proposal transcends ordinary business matters and *does not seek to micromanage the Company.*” (emphasis added). Therefore, just as the proposals in *Amazon.com* – and *Disney Co.* in particular – were found non-omissible, ours must be as well.

***C. The Proposal does not relate to the management of the Company’s workforce.***

Our Proposal requests the Company publish “the written and oral content of diversity, inclusion, equity or related employee-training materials ... [or] commission a workplace non-discrimination audit analyzing the company’s impacts ... on civil rights and non-discrimination in the workplace, and the impacts of those issues on the company’s business.” Nowhere, despite the Company’s claims to the contrary, does the Proposal seek to manage the Company’s workforce by instructing how it must conduct its employee training (or anything else). If following the commission of an audit the Company elects to change certain practices, that is a wholly separate matter left up to the Company. The mere practice of ascertaining information on the impact of the Company’s actions on civil rights and non-discrimination does not seek to direct business operations themselves, but rather seeks a review of the impacts or effects thereof. Our Proposal simply asks the company to publish or report on what it is already doing, and the potential risks and effects associated with that behavior.

In arguing that our Proposal implicates the day-to-day management of the Company's workforce, the Company relies on *United Technologies Corp.* (avail. Feb. 19, 1993), but that proceeding is irrelevant. The proposal in *United* contained a laundry list of "nine MacBride Principles" that the Board would have had to either implement or increase activity on. These "principles" included very specific management dictates such as "[i]ncreasing the representation of individuals from underrepresented religious groups in the workforce...banning of provocative religious or political emblems from the workplace...[and] the development of training programs that will prepare substantial numbers of current minority employees for skilled jobs...." Upon reviewing the proposal and arguments presented in *United*, Staff set forth the view that "proposals directed at a company's employment policies and practices with respect to its non-executive workforce [are] uniquely matters related to the conduct of the company's ordinary business operations." Then Staff proceeded to list several examples of such ordinary business categories (e.g., employee health benefits, management of the workplace, and employee training and motivation, to name a few). Our Proposal, however, does not seek to interfere with nor institute any employment policy or practice; it merely seeks, in the Board's discretion, publication of the Company's already established employee-training materials *or* an audit of the impact of actions already taken by the Company.

Moreover, the Staff decision in *United Technologies Corp.* is contravened by SLB 14L when it comes to the question of social policy significance. Staff in that case took the now-defunct position that social policy concerns cannot override the ordinary business exception and instead determined that the employment-based nature of the proposal is alone controlling. The Staff decision in that case reads:

[T]he Division has determined that the fact that a shareholder proposal concerning a company's employment policies and practices for the general workforce is tied to a social issue will no longer be viewed as removing the proposal from the realm of ordinary business operations of the registrant. Rather, determinations with respect to any such proposals are properly governed by the employment based nature of the proposal.

The conclusion reached in *United Technologies Corp.*, therefore, is inapplicable to the Proposal at hand, as it has been abrogated by the plain language of SLB 14L – as well as the 1998 Amendments that SLB 14L is premised upon. Similarly, the additional precedent cited by the Company — *Merck & Co., Inc.* (avail. Feb. 16, 2016); *Starwood Hotels & Resorts Worldwide, Inc.* (avail. Feb. 12, 2012); *Walmart, Inc.* (avail. Apr. 8, 2019); *FedEx Corp.* (avail. July 7, 2016); and *Baxter International, Inc.* (avail. Jan. 6, 2016) — were likewise issued before the substantial changes instituted by SLB 14L, changes which significantly privilege proposals that seek to address concerns of workforce management and potential discrimination such as those raised in our Proposal.

Moreover, several of the additional proceedings cited by the Company would have required very specific training or employment-related dictates, further making them wholly distinguishable from – and inapplicable to – our Proposal. For instance, the proposal in *Merck & Co.* (Feb. 16,

2016), would have assigned only new employees to entry-level positions and only long-time employees to higher-level research and management positions. And the proposal in *Starwood Hotels & Resorts Worldwide, Inc.* (Feb. 12, 2012) would have required verified U.S. citizenship for employees, effectively banning future foreign workers from the company. The proposals in these proceedings are therefore nothing like our Proposal. Neither option in our Proposal tells the Company who it can hire nor instructs it on a particular training program; it merely seeks disclosures on how it is already doing these things.

***D. The Proposal has nothing to do with the Company's legal compliance program.***

The Company further seeks to exclude the Proposal because it alleges the Proposal relates to the Company's legal compliance program and therefore relates to the ordinary business matters of the Company. But this, too, is incorrect. While our Proposal notes that some of the Company's policies may raise legal-liability risks, it does not seek a legal analysis of the Company's practices. Rather, it appropriately seeks a risk analysis of those practices – which sort of analysis is routinely found appropriate by the Staff.

In this way, as in all others, our Proposal is materially indistinguishable from the proposal in *Amazon.com*. That proposal pointed out company activities that had led to lawsuits and presented litigation risk, just as ours flags similar litigation risks. But this provision of evidence did not and does not provide grounds for finding the proposal omissible.

In support of its contention the Company once again cites inapplicable precedent. For instance, the Company cites to *Navient Corp.* (avail. Mar. 26, 2015), in which a proposal recommended that the Navient Corporation “prepare a report on the Company's internal controls over its student loan servicing operations, *including a discussion of the actions taken to ensure compliance with applicable federal and state laws.*” (emphasis added). In making this recommendation, the supporting statement referenced a legal settlement agreement between Navient and the federal government in the amount of \$97 million the company was to pay out, and further alluded to several state and federal investigations of the company's loan servicing practices. Given the express language of the proposal seeking a discussion of actions taken by the company to *ensure compliance* with federal and state laws, particularly on the heels of a settlement agreement with the federal government, it is unsurprising the Staff found the proposal excludable under Rule 14a-8(i)(7) as relating to the company's legal compliance program. Our Proposal, however, does nothing of the sort. Unlike the proposal in *Navient*, ours does not require a discussion demonstrating how the Company is complying with federal and state laws nor any other discussion pertaining to the Company's efforts to do so.

The Company's reliance in *JPMorgan Chase & Co.* (avail. Mar. 13, 2014) is similarly misguided. In that proceeding, a proposal requested that “the board of directors prepare a policy review...evaluating opportunities for clarifying and enhancing implementation of Board members' and officers' fiduciary, moral *and legal obligations* to shareholders and other stakeholders.” (emphasis added). In doing so, the proponent of that proposal expressly sought an evaluation of “legal obligations” by the board of directors. Our Proposal does no such thing.

While our Supporting Statement notes concern that some of the Company's activities may be illegal, the Proposal does not require preparation of an analysis of legal obligations by the Company. Likewise, additional cases cited by the Company – *Raytheon Co.* (avail. Mar. 25, 2013), *Verizon Communications, Inc.* (avail. Jan. 7, 2008), and *The AES Corp.* (avail. Jan. 9, 2007) – all concern requests for express compliance reviews (except for decisions in *FedEx Corp.* (avail. July 14, 2009) and *H&R Block Inc.* (avail. Aug. 1, 2006), in which Staff do not expressly list legal compliance as grounds for omission at all).

The decisions relied upon by the Company are therefore irrelevant to this proceeding. Our Proposal merely seeks to ascertain the impacts of – and therefore the potential risks and effects associated with – the Company's actions. Our Proposal has nothing to do with the Company's internal legal compliance program, as it does not seek an accounting of affirmative actions taken to ensure compliance with certain laws or otherwise seek to ensure compliance where there has already been previously established violations. While an audit stemming from the Proposal may provide insight into potential risks and liabilities that the Company's lawyers may (or may not) want to consider, unlike the precedent cited by the Company, our Proposal seeks no compliance review of specific laws.

***E. The Proposal Transcends Ordinary Business Operations.***

Despite the Company's claims to the contrary, our Proposal transcends ordinary business operations and therefore must be found omissible under Rule 14a-8(i)(7). As previously discussed, our Proposal is essentially the same, for Staff-review purposes, as the proposal that was found non-omissible in *Amazon.com* and *Disney Co.* The only relevant distinction between our Proposal and the ones submitted in *Amazon.com* and *Disney Co.* is that in addition to the audit results sought by the *Amazon.com* and *Disney Co.* proposals, ours gives the Board an alternative *option* of publishing relevant employee-training materials instead. Indeed, when it comes to *Disney Co.*, the audit language in our Proposal is identical to the language in that proposal and in that proceeding, Staff expressly stated that “the Proposal transcends ordinary business matters....” Accordingly, under the precedent in *Amazon.com* and *Disney Co.*, when it comes to the audit option presented in our Proposal, it cannot and must not be found omissible.

The Company goes on to argue that even if the Staff finds the audit option of our Proposal to transcend ordinary business operations, the Proposal should nonetheless be excluded because the option to publish diversity, inclusion, equity or employee-training materials does not transcend ordinary business operations. But that does not follow. Our Proposal offers the Company two options. If one of those options is non-omissible, then the Proposal must be non-omissible. The fact that the other options might be omissible changes nothing. The Company can choose the non-omissible option, or it can choose the omissible option – because there's nothing about a determination of omissibility that renders an option somehow inappropriate. So long as there is one non-omissible option available, as there surely is here, then the Company has been presented with a Proposal that it may not dispose of. The fact that there is another option available to the Company, whether omissible or not, simply gives the Company more options; it does not invalidate the whole proposal.

### Conclusion

Despite claims by the Company to the contrary, the structure of the Proposal providing the Board the ability to decide between two alternatives does not render it in violation of proxy rules, as all aspects of the Proposal concern a unitary concept and the Company erroneously conflates the inclusion of an alternative with a separate proposal altogether.

Furthermore, the Proposal is not impermissibly vague, indefinite and susceptible to various interpretations so as to be inherently misleading in violation of proxy rules as alleged by the Company. Providing a clear option between two alternatives does not make a proposal inherently misleading; rather, if the Directors truly cannot understand this simple proposal, then the Company has violated its duty of care in recommending their re-election.

Finally, given the precedent in *Amazon.com* and *Disney Co.*, as well as the new guidance offered by SLB 14L, the Company's proposed grounds for exclusion on the basis of the ordinary business exception fall short. Our Proposal seeks only disclosures, not in any way the management of the Company, and it does so about matters that the Staff has already declared of significant social policy interest.

As such, the Company has failed to meet its burden that it may exclude our Proposal under Rule 14a-8(g). Therefore, based upon the analysis set forth above, we respectfully request that the Staff reject the Company's request for a no-action letter concerning our Proposal.

A copy of this correspondence has been timely provided to the Company. If I can provide additional materials to address any queries the Commission may have with respect to this letter, please do not hesitate to call me at (202) 507-6398 or email me at [srehberg@nationalcenter.org](mailto:srehberg@nationalcenter.org).

Sincerely,



Sarah Rehberg  
National Center for Public Policy Research

cc: Scott Shepard ([sshepard@nationalcenter.org](mailto:sshepard@nationalcenter.org))  
Jeffrey D. Karpf ([jkarpf@cgsh.com](mailto:jkarpf@cgsh.com))





February 16, 2022

**Via email: [shareholderproposals@sec.gov](mailto:shareholderproposals@sec.gov)**

Office of Chief Counsel  
Division of Corporation Finance  
U.S. Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549

**RE: Stockholder Proposal of the National Center for Public Policy Research, Securities Exchange Act of 1934 – Rule 14a-8**

Ladies and Gentlemen,

This letter is in supplement to our no-action reply of February 2, 2022. That no-action reply was in response to the letter of Jeffrey D. Karpf on behalf of Verizon Communications Inc. (the “Company”) dated January 7, 2022, requesting that your office (the “Commission” or “Staff”) take no action if the Company omits our Shareholder Proposal (the “Proposal”) from its 2022 proxy materials for its 2022 annual shareholder meeting.

#### **SUPPLEMENTAL RESPONSE TO VERIZON COMMUNICATIONS INC.’S CLAIMS**

In addition to the *Amazon.com, Inc.* (avail. Apr. 7, 2021) and *The Walt Disney Co.* (avail. Jan. 19, 2022) precedent cited in our initial no-action reply of February 2, 2022, the recent Staff decision in *Levi Strauss & Co.* (avail. Feb. 10, 2022) further establishes the non-omissibility of our Proposal.

Our Proposal here is essentially the same, for Staff-review purposes, as the proposal in that proceeding. The resolution of our Proposal is materially indistinguishable from the *Levi Strauss* resolution. And the supporting statements of each proposal cover similar territory in explaining the very similar concerns that animated submission of the proposals. Indeed, both of the supporting statements frame the issues of concern to us – discrimination, particularly against groups that the companies do not honor with the label “diverse.” In each proposal we set up the

background concern about such discrimination, and provided evidence that it is occurring throughout corporate America. Then we made reference to the Company's own facially discriminatory behavior. The only relevant distinction between our Proposal and the proposal submitted in *Levi Strauss* is that in addition to the results sought by the *Levi Strauss* proposal, ours gives the Board an alternative *option* of publishing relevant employee-training materials instead. As such, the decision in *Levi Strauss* further establishes the non-omissibility of our Proposal.

Our Proposal is materially identical to the proposal we introduced in *Levi Strauss*. The *Levi Strauss* proposal requested that the Board:

commission a racial-equity audit analyzing the Company's impacts on civil rights and non-discrimination, and the impacts of those issues on the Company's business. The audit may, in the Board's discretion, be conducted by an independent and unbiased third party with input from civil rights organizations, public-interest litigation groups, employees, communities in which the Company operates and other stakeholders, of all viewpoints and perspectives. A report on the audit, prepared at reasonable cost and omitting confidential or proprietary information, should be publicly disclosed on the Company's website.

Our Proposal asks the Board to:

publish annually, without incurring excessive costs or disclosing genuinely confidential or proprietary information, the written and oral content of diversity, inclusion, equity or related employee-training materials offered to the company's employees by the company or with its consent, as well as any such materials that were sponsored by the company in whole or part. In the alternative we request the Board *commission a workplace non-discrimination audit analyzing the company's impacts, including the impacts arising from company-sponsored or-promoted employee training, on civil rights and non-discrimination in the workplace, and the impacts of those issues on the company's business. In the latter instance, a report on the audit, prepared at reasonable cost and omitting confidential or proprietary information, should be publicly disclosed on the company's website.* (emphasis added).

The proposal in *Levi Strauss* is therefore indistinguishable in both language and spirit to our Proposal. The two are nearly identical except that our Proposal also includes an *option* to instead publish diversity, inclusion, equity or related employee-training materials rather than commissioning the audit. On February 10, 2022, Staff determined that when it comes to *Levi Strauss* "[w]e are unable to concur in your view that the Company may exclude the Proposal under Rule 14a-8(i)(7). In our view, the Proposal transcends ordinary business matters." Therefore, just as Staff found our proposal in *Levi Strauss* to be non-omissible, it must similarly find our Proposal to be non-omissible.

Office of the Chief Counsel  
Division of Corporation Finance  
February 16, 2022  
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Accordingly, the Proposal may not be omitted under Rule 14a-8(i)(7) as it does not relate to the ordinary business operations of the Company and otherwise deals with an issue of social policy significance that the Staff has previously found non-omissible in the three prior proceedings cited herein: *Amazon.com*, *Disney Co.*, and *Levi Strauss*.

A copy of this correspondence has been timely provided to the Company. If I can provide additional materials to address any queries the Commission may have with respect to this letter, please do not hesitate to call me at (202) 507-6398 or email me at [srehberg@nationalcenter.org](mailto:srehberg@nationalcenter.org).

Sincerely,

A handwritten signature in black ink, appearing to read "Sarah Rehberg". The signature is fluid and cursive, with a long horizontal stroke at the end.

Sarah Rehberg  
National Center for Public Policy Research

cc: Scott Shepard ([sshepard@nationalcenter.org](mailto:sshepard@nationalcenter.org))  
Jeffrey D. Karpf ([jkarpf@cgsh.com](mailto:jkarpf@cgsh.com))