



May 20, 2022

Marlene Dortch
Federal Communications Commission
45 L Street, NE
Washington, DC 20554

**Re: Empowering Broadband Consumers Through Transparency
Docket No. 22-2**

Dear Ms. Dortch:

On May 18, 2022, the undersigned and Jeff Smith of Vantage Point Solutions met with Mark Stone, Zac Champ, Aaron Garza, Erica McMahon, Mika Savir, and Kristi Thornton of the Consumer and Governmental Affairs Bureau via videoconference to discuss the above-captioned docket.

In this meeting, NTCA reiterated its support for the clear conveyance of useful and relevant information to prospective customers at the point of sale. NTCA explained that customers, and the goals of the instant Commission inquiry, are best served by focusing on information that is of most interest and use to consumers. NTCA explained, as well, the imperative to consider the needs of small providers in this proceeding.

NTCA supports efforts aimed at increasing broadband adoption and engagement with online resources, including those that support agriculture, education, economic development, healthcare, and other vital services. NTCA is particularly sensitive to the benefits accruing from the “distance conquering” character of broadband for rural spaces. Toward these ends, the presentation of clear and straightforward information about broadband offerings can play a key role in enhancing accessibility. At the same time, it is important to ensure that “point of sale” labels align with information typically requested by prospective subscribers.

NTCA members report that the typical consumer is interested in two qualities: price and performance. These include (i) the monthly subscription rate that may include an estimate of other monthly fees and charges and (ii) the service “speed,” which may include latency, but which typically does not extend to packet loss or jitter. The essential elements of price and performance are information that can be conveyed clearly and effectively in a broadband label and which are consistent with the original intent of the Consumer Advisory Committee,

specifically, “a disclosure format that should be clear and easy to read – similar to a nutrition label – to allow consumers to easily compare the services of different providers” (*see, Protecting and Promoting the Open Internet: Report and Order on Remand, Declaratory Ruling, and Order*, Docket No. 14-28, FCC Rcd 5601, 5881, at para. 585 (2015)). In initial comments in this proceeding, NTCA and its joint commenter Wireless Internet Service Providers Association cautioned the Commission against “infobesity,” the result of undermining the ability of “consumers to easily compare” service offerings by overloading the label with extraneous information that is of neither interest nor use to most consumers. In yesterday’s meeting, NTCA expanded on this theme, addressing not only the *content* of the proposed labels but also the *form and place* in which these labels would be provided.

Regarding content, NTCA reiterated that packet loss is not a useful metric for consumers. Moreover, and as explained in its filed comments, the very design of TCP/IP protocol stack *depends* on packet loss and its ability to direct traffic effectively. Packet loss is not degradation or error but rather a tool to ensure that data maintains effective rates of transmission. Rules that would have the effect of encouraging providers to aim for packet loss rates closest to zero would slow traffic in order to capture all packets – including those that could be lost without any meaningful adverse impact. NTCA shared that of member companies discussing the instant proceeding, none could recall a customer inquiring about packet loss.* Overall, a requirement to report a metric in which customers are not interested could have the effect of degrading the quality of service that they value. In similar vein, labels should not include information about consumer-triggered network management practices. Here, as well, the goal of the label is best fulfilled by focusing on basic information that enables the user to “readily observe and comprehend” information about the product (*see*, Nutrition Labeling and Education Act of 1990, H.R. 3562 (101 Cong. 1989-1990)).

NTCA also addressed proposals that labels be produced in foreign languages. NTCA explained that such a requirement would impose significant costs and burdens on providers. To begin, such a requirement would implicate a process to determine into *which* language a label must be translated, including defining and then identifying sources and thresholds that would trigger translation requirements. Moreover, such a requirement would implicate, *inter alia*, costs of hiring translation experts; additional formatting for foreign languages, including added costs for languages that are not written in Roman characters; possible ongoing obligations to monitor community demographics to determine whether new languages must be accommodated; and experts in foreign language idiomatic expression to reflect technical and other “terms of art.” While some companies may identify opportunities to create certain non-English marketing or promotional materials, those products are voluntary and focused to respond to specifically identified local market demands. That is an approach and outcome wholly different from a universally applicable requirement to publish labels (or other materials) in foreign languages. It is notable that while the instant inquiry draws heavily from nutrition labels, there is no foreign language requirement there.

*The providers also noted that comparatively few customers, mostly “gamers,” inquire as to latency.

NTCA recommended against requirements to include labels in monthly bills, or to require printed copies at points of sale. In the first instance, the Commission's Truth in Billing protocols serve to ensure the conveyance of proper and accurate information to users. Second, a mandate to include labels in bills implicates higher production, printing, and mailing costs for providers. Third, the various multiple service packages offered by providers could create an overly burdensome requirement to produce, print, and maintain inventory of hard copies that would be discourage providers' ability to respond rapidly to market pricing needs, or be rendered useless when providers do act nimbly. The ability of consumers to access labels electronically via a web portal or with a device at brick-and-mortar point of sale meets the goals of the label proposal efficiently and effectively. Suggestions that providers must provide portable documents reach beyond the basic aim of the label requirement, specifically, to provide information at the point of sale. NTCA is confident that providers, large and small, who are interested in cementing a customer relationship will extend themselves on relevant case-by-case bases to provide prospective customers with individual printouts of service options when requested. A mandate to invest in large volumes of printed materials that must be delivered to every potential point of sale should be rejected. NTCA members have worked concertedly over the past decades to encourage their customers into the digital age by enhancing online platforms and creating digital portals for service ordering, services, and account management. Suggestions to focus on costly and inefficient print requirements stands inapposite the general policy interests of encouraging greater digital engagement.

NTCA support for labels that include clear information on speed and pricing is aimed at providing customers with information that is useful to the typical consumer. Accordingly, labels should not encompass additional obligation to capture periodic rate reductions, mandated discounts, or other information (*e.g.*, Lifeline and Affordable Connectivity Program) that providers are either required and/or have incentives to publicize elsewhere. NTCA also urges the Commission to reject recommendations that companies produce labels for services that are no longer offered. Those proposals strain the bounds of rational regulation by implicating a supposed need to inform customers of services that are not for sale.

Finally, NTCA urged the Commission to recognize the unique needs of small providers and to accordingly allow an extended period of implementation for small providers. On average, NTCA members have 35 employees. Many small providers do not have dedicated marketing design or similar staff who would be able to update websites and other electronic media as rapidly as larger firms with deeper professional resources.

Marlene Dortch
Federal Communications Commission

May 20, 2022
Page 4 of 4

Thank you for your attention to this correspondence. Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed with ECFS.

Respectfully submitted,

/s/ Joshua Seidemann
Joshua Seidemann
Vice President of Policy

cc: Mark Stone
Zac Champ
Aaron Garza
Erica McMahon
Mika Savir
Kristi Thornton