

August 18, 2022

Marlene Dortch
Secretary
Federal Communications Commission
45 L Street NE
Washington, D.C. 20554

Re: Notice of Ex Parte Presentation
Empowering Broadband Consumers Through Transparency; CG Docket No. 22-2

Dear Ms. Dortch:

On August 16, 2022, Scott Bergmann of CTIA, Joshua Seidemann of NTCA—The Rural Broadband Association, Steve Morris of NCTA—The Cable & Television Association and the undersigned of USTelecom – The Broadband Association (collectively, the “Industry Coalition”) met virtually with Alejandro Roark, Zac Champ, Aaron Garza, Jesse Goodwin, Erica McMahon, Mika Savir, and Kristi Thornton of the Consumer and Governmental Affairs Bureau. During the meeting, the Industry Coalition discussed its extensive participation in the development of broadband consumer labels and expressed its strong support for the Commission’s important work to ensure consumers can make informed decisions when purchasing broadband.

Specifically, the Industry Coalition discussed the importance of ensuring the labels are tailored to meet their purpose: facilitating comparison shopping. To that end, we expressed our concerns with proposals in the record to require providers to include a copy of the label on every monthly bill, as doing so would be burdensome and costly to providers without any real benefit to consumers. The Infrastructure Investment and Jobs Act¹ (“Infrastructure Act”) makes clear that the sole purpose of the labeling requirement is to ensure that this information – already available elsewhere to existing and prospective customers² – is also now gathered together in a short and concise new form for one narrow purpose – to enable easier comparison shopping for new customers.

Requiring that the label be provided with each monthly bill would be impractical and unhelpful—existing customers should be able to easily find information about their current service on the bill (*e.g.*, the price they are paying) or on an online account page and they can visit the provider’s website to find the current label corresponding to their plan and compare their price with the provider’s current, in-market price. Current customers also have access to each

¹ Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, 135 Stat. 429, <https://www.govinfo.gov/content/pkg/BILLS-117hr3684enr/pdf/BILLS-117hr3684enr.pdf> at § 60504.

² See 47 CFR § 8.1(a) (“Any person providing broadband internet access service shall publicly disclose accurate information regarding the network management practices, performance characteristics, and commercial terms of its broadband internet access services sufficient to enable consumers to make informed choices regarding the purchase and use of such services and entrepreneurs and other small businesses to develop, market, and maintain internet offerings. Such disclosure shall be made via a publicly available, easily accessible website or through transmittal to the Commission.”).

provider's Open Internet transparency disclosure that provides detailed information regarding their provider's network management practices, performance characteristics for their service, and pricing and other terms and conditions and a variety of other information. In other words, the very information at issue is already made available to existing customers. The label requirement is not intended to create duplicative disclosures of information already available to existing customers. Indeed, the Infrastructure Act expressly states that the Commission is to weigh what other requirements already accomplish in shaping the scope of the new label rules.³

Moreover, changes to provider billing systems are also expensive and time consuming. There is an added challenge here because billing systems are designed to pull in information from other provider databases in text format. In contrast, including a label on the monthly bill may require the insertion of a photo file, such as a jpeg, to create a graphically-rendered label. Incorporating a separate graphic file for each customer (since each bill would necessitate the inclusion of the specific label tied to their plan) would be expensive, time consuming, and require a significant amount of additional coding and development. Such a requirement could be especially burdensome for providers that offer "mix and match family plans" that could necessitate the inclusion of several different labels on a single bill. Thus, any mandate for providers to match specific plans to individual customers on their bills or accounts would be especially complex and difficult, requiring new systems, new system interdependencies, and significant new development and testing. Moreover, if the Commission adopts the Consumer Advisory Committee ("CAC") proposal to display the nonpromotional rate on the label,⁴ that rate may not correspond to the rate on a consumer's bill, creating unwarranted confusion for consumers.

Importantly, there is no proven benefit to consumers by attaching the label to the bill and there is no data in the record establishing it is necessary. Given the expense and burden to providers if the Commission were to require the label be provided with the monthly bill without any clear countervailing consumer benefit, there is not a sufficient basis to justify the expense and burden sufficient to satisfy the Paperwork Reduction Act.⁵ To satisfy the Paperwork Reduction Act, the Commission would need to specifically seek data on the time and expense to providers to comply with such a requirement and weigh it against a clear benefit to consumers. But the record does not support any such benefit or necessity.

Finally, we emphasized the importance of limiting the labels to essential, basic information that enables comparison shopping among currently offered, in market plans. Requiring labels for grandfathered or legacy plans does not further the purpose of the labels: comparison shopping. It will also be extremely burdensome for providers given that larger providers can have thousands of grandfathered or legacy plans.

Please contact the undersigned if you have any questions.

Sincerely,

³ Infrastructure Act, § 60504(c).

⁴ See CAC Consumer Broadband Label Recommendation, Docket No. 22-2 (Apr. 27, 2021).

⁵ Paperwork Reduction Act of 1995, Public Law 104-13.

/s/ Diana Eisner/
Diana Eisner
Vice President, Policy & Advocacy

cc: Alejandro Roark
Zac Champ
Aaron Garza
Jesse Goodwin
Erica McMahon
Mika Savir
Kristi Thornton