

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
Empowering Broadband Consumers Through) CG Docket No. 22-2
Transparency)

**REPLY COMMENTS
OF
WTA – ADVOCATES FOR RURAL BROADBAND**

WTA – Advocates for Rural Broadband (“WTA”) hereby files its reply comments with respect to the Commission’s *Report and Order and Further Notice of Proposed Rulemaking* (Empowering Broadband Consumers Through Transparency), CG Docket No. 22-2, FCC 22-86, released November 17, 2022 (“*Order*” and “*FNPRM*”).

Review of the initial comments in this proceeding indicates divergence of opinion on the following two issues: (1) whether the Commission should adopt additional broadband labelling requirements before those initially adopted in the *Order* are fully implemented and tested in the marketplace; and (2) what amount and detail of information best serves the purpose of broadband labels and their usefulness to consumers.

WTA reiterates that it will be much more efficient and effective to implement the initial broadband labelling requirements (as finalized on reconsideration¹) and to monitor and assess their impact and usefulness before considering or adopting additional labelling provisions. Moreover, the firsthand experience of WTA members with their rural customers has convinced them that the primary benefit of labels – the presentation of critical basic service and price information to customers in an easily and quickly readable and comparable format – will be lost if too many

¹WTA is aware that there are pending petitions for reconsideration and/or clarification of the *Order* that may result in changes to certain broadband consumer label requirements.

separate labels are required or if too much detail is required per label. Those customers and prospective customers who want more detailed information about broadband services and service providers can readily obtain it from non-label sources such as websites, service contracts, service provider sales and customer service representatives, and other local customers.

WTA notes that the broadband label format set forth in Figure 1 to Section 8.1(a)(1) of the Commission's Rules is sufficient to meet the initial assessment and comparative shopping needs of prospective broadband customers. In addition, WTA is aware that entities on the Internet are developing broadband label formats substantially similar to the Commission's initial requirements that can be readily completed by service providers and used by their customers. See, *e.g.*, <https://bblmaker.com>.

Additional Languages

WTA opposes requirements that broadband labels be made available in additional languages other than English and any further languages (most frequently, Spanish) in which a service provider actually markets its services. To date, WTA members have encountered no perceptible language problems in the marketing or provision of their telecommunications and information services.

Some entities claim that broadband labels need to be provided in multiple additional languages in order not to exclude "large numbers"² or "large portions"³ of individuals that rely on other languages. However, they provide no evidence to substantiate their inference that "large" numbers of people are being denied access to broadband Internet access service ("BIAS") due to language barriers, nor any indication as to the service areas or regions where such language issues

²Comments of New America's Open Technology Institute, CG Docket No. 22-2 (February 16, 2023) at p. 2 ("OTI Comments").

³ Comments of Next Century Cities & Consumer Reports, CG Docket No. 22-2 (February 16, 2023) at p. 3 ("NCC/CR Comments").

are a problem. WTA notes that broadband service is purchased by households rather than individuals, and that there are virtually no households in the rural service areas of its members that have been unable to obtain BIAS due to language barriers. Moreover, it appears that some of the language issues raised by OTI and NCC/CR pertain to post-purchase website usage (*e.g.*, OTI Comments, p. 2) rather than to the decisions regarding initial purchase and comparison of alternatives that are intended to be addressed by labels.

In any event, there is a readily available technical solution to any actual language issues – one that does not require BIAS providers to prepare multiple versions of broadband labels in a cumbersome and confusing variety of languages other than those in which they market their services. Specifically, virtually all fixed and mobile personal computing devices (including desktop computers, laptop computers, tablets and smartphones) have access to Google Translate or equivalent applications that enable a user to convert a broadband label written in English into one of a large variety of common and not-so-common languages that such user can read. This is a far more efficient, effective and universally applicable approach than requiring providers to prepare labels in a potentially indeterminate number of languages.

Price Information

The broadband label format adopted in the *Order* contains substantial itemized information regarding monthly and one-time fees plus general references to available discounts and bundled service options. WTA members believe that their customers and prospective customers will find that this information hits the appropriate “sufficient and useful” spot between the extremes of “too little” and “too much” label information.

WTA agrees with the Greenlining Institute that customers need access to the information required to make informed decisions on the likely total cost of a particular broadband service and

to compare it with alternative offerings.⁴ However, the point is that such cost components and likely total monthly costs cannot be detailed in an accurate and usable manner on a label without creating the “inundated with information” problems that GLI seeks to avoid. For example, many BIAS providers offer multiple discounts that are subject to a variety of conditions that need to be spelled out clearly to avoid customer confusion and complaints. They also may offer multiple service bundles that include a variety of service combinations, conditions and options that need to be described clearly to customers. Finally, many service providers serve multiple taxing jurisdictions (states, counties, cities, townships, towns, etc.) that may assess differing taxes and tax rates that not only would be very difficult to fit accurately on a label but that also are likely to change frequently.

The experience of WTA members convinces them that the crowding of detailed price, discount, bundled packages and tax information on broadband labels would render them too cumbersome and time-consuming for customers to read, much less to use for the intended overview and comparative purposes. Rather, the more customer-friendly approach is to provide labels containing basic service and price information that allows prospective customers to determine their tentative preferred service provider, and then to request from that provider the more detailed pricing, discount, bundle, tax and other information they need to determine their estimated monthly cost for the service and to make their subscribe or not-subscribe decision.

Performance Information

The current broadband label format for each broadband service plan or tier requires the listing of the “typical” download speed, the “typical” upload speed and the “typical” latency.⁵

⁴ Opening Comments of the Greenlining Institute, CG Docket No. 22-2 (February 16, 2023) at p. 3 (“GLI Comments”).

⁵WTA members believe that most customers do not understand “latency” beyond their personal perceptions as to whether their service is fast or slow. Inclusion of “typical latency” on a broadband label is more likely to be confusing than helpful for many customers.

These are the most reasonable metrics that can be included efficiently on a label for use by customers to get a quick and relatively accurate approximation of the normal speeds of the services they are considering.

Whereas the National Digital Inclusion Alliance complains that the term “typical” lacks precision,⁶ the fact is that actual broadband speeds vary so much from time to time and from location to location due to a multiplicity of factors that there is no accurate or reliable alternative summary or description that can be accommodated on broadband labels. Rather, the speed and latency section of the current broadband label format will meet the initial evaluation and comparative shopping needs of most prospective customers. To the extent that a BIAS provider finds that it has a significant number of existing or prospective customers that request more detailed information regarding variations in their actual service speeds and how to upgrade their household equipment to improve their service, it can provide additional information on its website.

Reliability

WTA agrees that service reliability is an important performance factor, but believes that summarizing a BIAS provider’s record of reliability accurately and fairly in a broadband label metric poses significant complexities and difficulties that can lead to erroneous impressions and other unintended consequences. For example, outages are often unplanned incidents occurring at irregular intervals such that a metric like “Network availability = XX.XX% (Y minutes unavailable per month)” can be readily slanted to create an unwarranted impression by manipulating the number of months or years selected as the measurement period. Moreover, outages can be caused by a variety of factors, ranging from unpredictable and difficult-to-prevent line cuts by animals or construction crews to somewhat predicable seasonal weather conditions to inadequate or negligent

⁶ Comments of National Digital Inclusion Alliance, CG Docket No. 22-2 (February 15, 2023) at p. 4 (“*NDIA Comments*”).

network maintenance or operation. These and other divergent outage reasons are likely to be evaluated differently by various potential customers but are unlikely to be able to be clearly distinguished on a broadband label. Third, it will be very difficult to define and measure “outages” for broadband label purposes when they affect only some portions of a BIAS provider’s network but not others. Finally, these and other complexities and differences create a significant danger that certain less scrupulous providers will be tempted to mislead potential customers by manipulating reliability metrics so as to create erroneous impressions that their services are much more reliable than they actually are.

WTA believes that carriers providing a reliable broadband service should be permitted and encouraged to advertise such reliability via accurate statistics and descriptions of their performance record. However, it is so difficult and complicated to include accurate reliability representations in summary fashion on a broadband label that a reliability labelling requirement is more likely to mislead customers than to improve their decision process.

Cybersecurity

WTA reiterates that its members are monitoring and improving their cybersecurity procedures and complying with applicable federal and state reporting requirements, but that they should not be required to warn consumers – on a broadband label or other publicly available source – if they have “left certain cyber risks unmitigated by reasonable security measures.” Unfortunately, any publicly available disclosure of cybersecurity procedures or weaknesses would be much more likely to give criminal and amateur hackers a convenient road map for breaking into BIAS provider databases than to assist potential customers in comparing various providers and services. Such a disclosure requirement would also adversely impact the availability and cost of

cybersecurity insurance policies. WTA presumes that broadband cybersecurity procedures, defenses and weaknesses will remain confidential for customer and public safety purposes.

Conclusion

WTA urges the Commission to allow the broadband label requirements adopted in the *Order* (and as modified in response to pending reconsideration/clarification petitions) to be fully implemented and monitored for their impact and usefulness before proceeding to consider or add further labelling requirements. Moreover, the particular additional information listed in the *FNPRM* – non-marketing languages, discounts and bundling options, local taxes, speed and latency variations, outage and reliability records, and cybersecurity practices and weaknesses – entail substantial complexities and volatility that is very difficult to summarize accurately and that will undercut the value of labels as a quick and readily accessible overview and comparative shopping tool for consumers. Rather, they are more likely to confuse at least some customers with too many labels and/or too much information, and mislead others with changing, outdated or manipulated information.

Respectfully submitted,
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