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Ex Parte

****PUBLIC VERSION****

Marlene H. Dortch
Secretary
Federal Communications Commission
45 L Street, N.E.
Washington, D.C. 20554

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

Dear Ms. Dortch:

As discussed in the ex parte notice filed May 1, 2023, on April 27, 2023, representatives from AT&T (Christopher Heimann and I), along with representatives of Verizon and Lumen, met with Consumer and Governmental Affairs Bureau staff to discuss the Commission's broadband label requirements and, in particular, its Paperwork Reduction Act (PRA) analysis of the costs and burdens associated with those requirements. AT&T voiced strong support for Commission efforts to ensure that broadband labels provide consumers the information they need in a readily and easily accessible format to make informed decisions when shopping for broadband services, without imposing undue burdens on providers. At the same time, AT&T expressed concern that certain aspects of the label requirements (particularly those relating to fees imposed by state and local governments and documenting disclosures through alternative sales channels) were unclear, unnecessarily burdensome, or both, and therefore encouraged the Commission to grant the Joint Petition for Clarification or, in the Alternative, Reconsideration filed by the industry in January.¹ AT&T also expressed concern that the Commission's PRA analysis significantly understated the costs and burdens imposed by the broadband label requirements or (in the case of the requirement to document disclosures through alternative sales channels) failed to identify, much less analyze, any of the costs and burdens imposed.² AT&T provided some examples of the ways in which the draft PRA analysis understated the burdens imposed by the broadband label requirements (for example, AT&T estimated that it will need to produce approximately 570 labels, not five, to comply) and committed to provide more granular data regarding its anticipated compliance costs, which are set forth below.

As we discussed, AT&T is well on its way in developing the systems and processes necessary to create, update and maintain Consumer Broadband Labels consistent with the label requirements. To that end, AT&T has assembled an interdepartmental team of engineers, technical analysts, project managers, attorneys, and IT professionals that has met multiple times a week since the

¹ Joint Petition for Clarification or, in the Alternative, Reconsideration filed by ACA Connects, NTCA, CTIA, USTelecom, and NCTA, CG Docket No. 22-2 (filed Jan. 17, 2023) ("Joint Petition").

² AT&T observed in this regard that, under the PRA, a regulated entity cannot be penalized for failing to comply with an information collection requirement that has not been approved by OMB, as would be the case here if the Commission's PRA analysis fails to include an assessment of the costs and burdens of the alternative sales channel disclosure requirements.

order was adopted to identify, define, and implement the actions necessary to meet the Commission's requirements. Just in the last six months the teams have spent approximately **[[BEGIN CONFIDENTIAL]]** **[[END CONFIDENTIAL]]** on conference calls working out the implementation plans that include label content, systems requirements, testing requirements, training development and delivery, and regulatory compliance reviews. AT&T further estimates that, to date, the team has spent approximately **[[BEGIN CONFIDENTIAL]]**

[[END CONFIDENTIAL]]. These numbers do not include the number of hours for the actual work of creating label mock-ups, doing the systems work, or training employees, all of which will be necessary to comply with the label requirements. In the end, we expect these costs and burdens to more than double to fully implement the label requirements, assuming the Commission grants the Joint Petition. If it does not, these numbers will increase drastically, as discussed below. During this process the team has continued to tackle many challenging problems. Creating labels requires more than a simple fill-in-the-blank process. For example, unlike Food Nutrition Labels that simply list the ingredients in a product, the Broadband Labels need to reflect the myriad of options available to customers. Unlike food products (which may offer a handful of choices, such as regular, low-salt, and/or low-fat options), consumers can choose from amongst a variety of options to select a mobility plan that meets the needs of each individual user on their accounts – for example, with one user having a basic plan with a lower price point and a small amount of hotspot data and another on the same account having a plan with a higher price point, a larger amount of hotspot access and 4k streaming. Determining how to present these options in a clear and readily comprehensible manner that is consistent with the label requirements has posed a considerable challenge, requiring input from professionals across the enterprise. Adding to the complexity is the requirement to list on the labels each non-mandatory state and local fee service providers pass through to their customers, which will drastically increase the costs and burdens imposed on service providers to implement the broadband label requirements. AT&T estimates that, upon implementation, it will need to create approximately 570 labels for pre-paid wireless, post-paid wireless, consumer wireline, small business wireline, and small business post-paid plans – many in both English and Spanish. To complete this work, AT&T estimates it will incur **[[BEGIN CONFIDENTIAL]]**

[[END CONFIDENTIAL]], which does not include the annual costs and burdens AT&T expects it will incur to ensure the label remain up to date. These will include on-going systems maintenance, testing, implementation, quality control, communication of changes to each customer facing employee, and time for each customer facing employee to review the changes, which we expect will amount to **[[BEGIN CONFIDENTIAL]]**

[[END CONFIDENTIAL]]. These estimates assume the FCC grants the Joint Petition and allows providers to display the maximum state and local fees a customer might incur rather than separately listing all non-mandatory fees imposed by state and local governments passed through to consumers

If the Commission does not grant the Joint Petition in this regard, AT&T would be forced either to list all state and local fees from across the country on each label (which plainly would be overwhelming and confusing to consumers) or to create separate labels to disclose such fees on a state-by-state or locality-by-locality basis. If AT&T were required to create separate labels for each state, it would have to create over 29,000 separate labels, and that would not account for the innumerable fees assessed by local governments. We expect that AT&T would have to modify

each of these labels an average of **[[BEGIN CONFIDENTIAL]]** **[[END CONFIDENTIAL]]** due to changes in fees and to update network performance data, which would increase the number of labels we would have to create each year to approximately **[[BEGIN CONFIDENTIAL]]** **[[END CONFIDENTIAL]]**. The only practical way to produce that number of labels would be to create an automated way of populating fee information on bespoke labels for every locality in the country. AT&T estimates that doing so would require it to completely overhaul many of its back-office systems at an additional cost of approximately **[[BEGIN CONFIDENTIAL]]** **[[END CONFIDENTIAL]]**. In addition, implementing such a solution would increase our annual system maintenance and other burdens to **[[BEGIN CONFIDENTIAL]]** **[[END CONFIDENTIAL]]**.

We understand that the primary purpose of including the pass-through fees on the label is to ensure full transparency so consumers can compare plans among providers. But, as explained in the Joint Petition, this readily could be accomplished by including one line under monthly fees to present the maximum amount that could be included on the monthly bill charged. For this reason, the Commission should promptly grant the Joint Petition's request to clarify, or in the alternative reconsider, the requirement to list all non-mandatory state and local fees on consumer labels.

An additional area of complexity is the requirement that service providers "document each instance when it directs a consumer to a label at an alternative sales channel and retain such documentation for two years." As an initial matter, it is entirely unclear what the service provider should document – a tally of the instances, the customer's name, the name and address. Nor is it clear when such documentation is required. Would it be required if a customer calls and asks a service representative to read the label or if a customer walks into a store and asks for a label? The Commission's Broadband Labels Order provides no guidance on these issues, nor does the PRA analysis – as one might expect in order to provide a reasonable estimate of the costs and burdens associated with alternative channel documentation requirement, as required by the Paperwork Reduction Act. Indeed, the PRA analysis does not even mention this requirement. But even if the Broadband Labels Order or the PRA analysis answered those questions, the Commission still has not identified what purpose this requirement is intended to serve, and how the potentially enormous burdens associated with its implementation could be justified. In this regard, AT&T notes that it has **[[BEGIN CONFIDENTIAL]]** **[[END CONFIDENTIAL]]**

[[END CONFIDENTIAL]] employees that would need to be trained initially and every time the labels are updated. The development of a tracking mechanism alone would **[[BEGIN CONFIDENTIAL]]** -- **[[END CONFIDENTIAL]]**.

To put the magnitude of the burden in context, AT&T notes that in the past year there were **[[BEGIN CONFIDENTIAL]]** **[[END CONFIDENTIAL]]** visits to AT&T stores. Plainly, creating a system to track and document each instance in which a consumer is directed to a label at an alternative sales channel would be a monumental undertaking. If the purpose of this requirement is to ensure that service providers have a process in place to provide consumers access to the labels, the Commission could put service providers on notice that they must make their methods and procedures for doing so available to the Commission upon request in a timely manner. Accordingly, the Commission should promptly grant the Joint Petition's request to clarify or reconsider the alternative channel documentation requirement. This letter is being filed

electronically in the above-referenced docket pursuant to Section 1.1206 of the Commission's rules. The confidential version of this letter and a corresponding request for confidential treatment are being filed under separate cover pursuant to section 0.457 and 0.459 of the Commission's rules. Please contact the undersigned with any questions.

Sincerely,

A handwritten signature in black ink, reading "Linda Vandeloop". The signature is written in a cursive style with a large, stylized "L" and "V".

Linda Vandeloop

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