

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

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

**COMMENTS OF CTIA ON PAPERWORK REDUCTION ACT  
NOTICE AND REQUEST FOR COMMENTS**

**I. INTRODUCTION AND SUMMARY.**

CTIA’s members endorse the broadband labels’ purpose of providing simple, clear, and accurate information to consumers to aid their broadband purchasing decisions. These comments in response to the Federal Communications Commission’s (“Commission” or “FCC”) Paperwork Reduction Act (“PRA”) notice, however, explain that certain aspects of the broadband label rules impose significant burdens that have not been adequately noticed, analyzed, or addressed by the Commission.<sup>1</sup>

CTIA supports the goal of providing consumers with well-designed broadband labels, consistent with the wireless industry’s long-time commitment to ensuring that consumers have access to important information about their service,<sup>2</sup> as CTIA has explained throughout this

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<sup>1</sup> See Information Collection Being Reviewed by the Federal Communications Comm’n, 88 Fed. Reg. 7973 (Feb. 7, 2023) (“*PRA Notice*”); *Empowering Broadband Consumers Through Transparency*, Report and Order and Further Notice of Proposed Rulemaking, FCC 22-86 (rel. Nov. 17, 2022) (“*Report & Order*”).

<sup>2</sup> See CTIA, *Consumer Code for Wireless Service* (2020), <https://api.ctia.org/wp-content/uploads/2020/03/CTIA-Consumer-Code-2020.pdf>.

proceeding.<sup>3</sup> These comments are focused on ensuring that the Commission makes an accurate assessment of the burden of the broadband label rules in order to avoid the imposition of onerous and unnecessary requirements that the Office of Management and Budget (“OMB”) cannot approve.

First, there are some requirements, particularly those associated with alternate sales channel recordkeeping and government-imposed fees, that impose extreme burdens with no clear consumer benefit. And more broadly, the Commission’s estimate of the burdens involved in complying with the *Report & Order*’s information collection as a whole—twenty hours per broadband provider and no cost—does not come close to capturing the real cost of compliance.

CTIA therefore asks that the Commission conduct a more rigorous assessment of the burden of the information collection associated with the label rules and reexamine requirements that impose substantial burdens without benefits to justify them. Ultimately, before OMB can approve the *Report & Order*’s information collection, the Commission must present a reasonable estimate of burden that fully accounts for what the Commission plans to require of broadband providers.

## **II. CERTAIN ASPECTS OF THE INFORMATION COLLECTION IMPOSED BY THE *REPORT & ORDER* ARE HIGHLY BURDENSOME AND DO NOT HELP CONSUMERS.**

### **A. The Information Collection Requirements Imposed in Connection with Alternate Sales Channels Are Extraordinarily Burdensome with No Consumer Benefit to Justify Them.**

The PRA requires the Commission to certify that the proposed information collection requirements in the broadband label rules are necessary for the proper performance of the

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<sup>3</sup> See, e.g., Comments of CTIA, CG Docket No. 22-2 (filed Mar. 9, 2022); Reply Comments of CTIA, CG Docket No. 22-2 (filed Mar. 24, 2022); Comments of CTIA, CG Docket No. 22-2 (filed Feb. 17, 2023); Reply Comments of CTIA, CG Docket No. 22-2 (filed Mar. 16, 2023).

functions of the Commission, and that the information will have practical utility.<sup>4</sup> The Commission must also demonstrate that it has taken “every reasonable step” to ensure that the information collection is the least burdensome necessary to achieve program objectives.<sup>5</sup> The information collection requirements relating to alternate sales channels, however, are neither necessary nor useful and would be highly burdensome.

The *Report & Order* requires that broadband providers that use alternate sales channels (e.g., company or third-party retail locations, or over the phone) make the label available to consumers at each point of sale.<sup>6</sup> The Commission allows some useful flexibility in making the label available through a variety of means other than hard copies, including by providing Internet access at the retail location or giving the customer a card with a printed URL or QR code. The *Report & Order* goes on, however, to impose an extremely onerous and vague requirement that each provider “document each instance when it directs a consumer to a label at an alternate sales channel and retain such documentation for two years.”<sup>7</sup> This latter obligation appeared for the first time in the *Report & Order* without the benefit of public comment on the concept or its costs.

In implementing the PRA, OMB has made clear that, when imposing an information collection, “it is critical that agencies describe the need for the information and how it will be used. Without a clear justification, OMB cannot approve the collection.”<sup>8</sup> Yet neither the

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<sup>4</sup> See 44 U.S.C. § 3506(c)(3)(A).

<sup>5</sup> 5 C.F.R. § 1320.5(d)(1)(i).

<sup>6</sup> *Report & Order* ¶ 95.

<sup>7</sup> *Id.*

<sup>8</sup> Office of Management & Budget, Office of Information & Regulatory Affairs, *Questions and Answers When Designing Surveys for Information Collections*, at 9 (Jan. 20, 2006), [https://www.esd.whs.mil/Portals/54/Documents/DD/info\\_collect/files\\_public/survey\\_collection\\_guidance.pdf?ver=2017-04-11-095255-297](https://www.esd.whs.mil/Portals/54/Documents/DD/info_collect/files_public/survey_collection_guidance.pdf?ver=2017-04-11-095255-297).

*Report & Order* nor the *PRA Notice* offers any explanation or justification for this extraordinary documentation and recordkeeping requirement. Nor can CTIA or other industry stakeholders conceive of any.<sup>9</sup> The purpose of the broadband labels is to help consumers comparison shop among broadband services by providing them with clear, easy-to-understand, and accurate information. Documenting each instance in which a consumer in a store or on the phone is directed to a label does nothing to advance that goal.

Exacerbating the burden on broadband providers, this “documentation” requirement does not meet the Commission’s obligation under the PRA to certify that any information collection “is written using plain, coherent, and unambiguous terminology.”<sup>10</sup> It is not at all clear what is required to “document each instance” in which a consumer is directed to a label. Is it a count of consumers who have been directed to the label? Does it require identification of each consumer? Is documentation required separately for each retail location? By day, or week, or month, or year? Must it include details on the methods offered or chosen? The alternate sales channel documentation requirement creates substantial uncertainty—again, without any indication of why such a burden is necessary or appropriate.

OMB could not, under its own rules and guidance, approve this aspect of the *Report & Order*’s information collection if it were presented to them, and CTIA recommends that the Commission abandon the requirement or clarify it as suggested in the Joint Petition. That is, the Commission could clarify that this obligation can be satisfied by establishing a set of business

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<sup>9</sup> See Joint Petition for Clarification or, in the Alternative, Reconsideration of ACA Connects – America’s Communications Ass’n et al., CG Docket No. 22-2, at 10-13 (Jan. 17, 2023) (“Joint Petition”).

<sup>10</sup> 44 U.S.C. § 3506(c)(3)(D); 5 C.F.R. § 1320.9(d).

practices to cover alternative sales channels, retaining documentation about those practices, and providing it upon request to the Commission.<sup>11</sup>

**B. The Information Collection Requirement to Display Fees Imposed by State and Local Governments Has the Potential to Add Unnecessary Complexity and Burden While Also Causing Significant Consumer Confusion.**

The information collection requirements related to the pass-through of fees imposed by state and local governments similarly cannot pass review under the PRA. Broadband providers are subject to numerous and varied government fees that they may (but are not required to) include in consumers' bills—for instance, contributions to state universal service funds, 911 surcharges, county line charges, and assessments for using public rights of way. These fees vary by location. The *Report & Order* requires providers to display on the labels all recurring monthly fees that they impose “at their discretion, *i.e.*, [ ] not mandated by a government.”<sup>12</sup> But displaying all such government fees on the label would be both confusing to consumers and burdensome for providers, contravening the fundamental PRA requirements that information collections be necessary, useful, and minimally burdensome.

These government fees are analogous to taxes, yet the *Report & Order* does not treat them in the same way. In addressing taxes that vary by location, the *Report & Order* recognized that itemizing those taxes on the label “may be difficult and potentially confusing for consumers,” and allowed providers to state simply that taxes will apply and may vary depending on location.<sup>13</sup> The same reasoning applies to state and local fees that vary by location, as itemizing those fees would be similarly difficult and potentially confusing for consumers.

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<sup>11</sup> See Joint Petition at 4.

<sup>12</sup> *Report & Order* ¶ 33.

<sup>13</sup> *Report & Order* ¶ 36.

Without explanation, however, the *Report & Order* diverges from its reasoning in the tax scenario and appears to require that these state and local fees be itemized.

To the extent that this is, in fact, what the Commission intended, the Commission cannot meet the requirement to certify that this information collection is necessary and useful, as discussed above, nor can it demonstrate that the information collection is the least burdensome method to achieve its objectives. As with taxes, attempting to itemize government-imposed fees would risk causing significant consumer confusion and would be tremendously burdensome, requiring either hundreds of labels to account for geographic variability or a very lengthy label for each plan, without any countervailing benefit for consumers who will receive the same information on their personalized monthly bills.

In light of these concerns, CTIA—along with ACA Connects, NCTA, NTCA, and USTelecom—petitioned the Commission to either clarify or reconsider this requirement so as to confirm that providers may use language similar to that used to disclose taxes or, alternatively, may identify generally the maximum dollar figure that will be passed through each month. Granting the petition would give consumers the information they need in a much more efficient and effective manner, in keeping with PRA principles. If the Commission does not clarify the requirement, however, it will not be able to make the required showings under the PRA, and OMB will not be able to approve the information collection.

### **III. THE COMMISSION’S BURDEN ESTIMATE CAPTURES ONLY A FRACTION OF THE BURDEN OF COMPLYING WITH THE NEW LABEL REQUIREMENTS.**

The PRA is intended to minimize burdens resulting from federal agencies’ information collections.<sup>14</sup> It can accomplish that purpose only if agencies imposing information collection

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<sup>14</sup> 44 U.S.C. § 3501(1).

obligations accurately assess the need for, and burden of, those requirements as the PRA requires. Here, however, the Commission's burden estimates are so implausible that they do not allow the Commission and OMB to carry out their responsibilities under the PRA.

As noted above, the PRA requires the Commission to provide "a specific, objectively supported estimate of burden"<sup>15</sup> and to demonstrate that it "has taken every reasonable step" to ensure that the information collection is the least burdensome necessary to achieve program objectives.<sup>16</sup> The PRA also requires OMB to consider whether the burden is justified by the practical utility.<sup>17</sup>

The *PRA Notice* states that compliance with the broadband labels information collection will require 6,010 respondents to provide 30,050 responses, at thirty minutes to nine hours per response, with a total annual burden of 117,271 hours. This amounts to only five responses per broadband provider averaging four hours of work each, or twenty hours per provider per year. And oddly, the Commission's *PRA Notice*, despite estimating a total annual burden of over one hundred thousand hours, states that there will be "No cost," which plainly cannot be correct.

OMB regulations make clear that the "burden" of an information collection encompasses "the total time, effort, or financial resources expended" to "generate, maintain, retain, or disclose or provide information."<sup>18</sup> That encompasses developing technology and systems to collect, validate, and verify information and to process, maintain, and provide that information, as well

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<sup>15</sup> 44 U.S.C. § 3506(c)(1)(A)(iv).

<sup>16</sup> 5 C.F.R. § 1320.5(d)(1).

<sup>17</sup> 5 C.F.R. § 1320.5(e); Office of Management & Budget, Office of Information & Regulatory Affairs, *Questions and Answers When Designing Surveys for Information Collections*, at 9 (Jan. 20, 2006), [https://www.esd.whs.mil/Portals/54/Documents/DD/info\\_collect/files\\_public/survey\\_collection\\_guidance.pdf?ver=2017-04-11-095255-297](https://www.esd.whs.mil/Portals/54/Documents/DD/info_collect/files_public/survey_collection_guidance.pdf?ver=2017-04-11-095255-297).

<sup>18</sup> 5 C.F.R. § 1320.3(b)(1).

as training personnel to respond to the collection and disclose the information.<sup>19</sup> With that in mind, the figures the Commission published are unreasonable both as to the number of responses required and the amount of time each will require. For instance:

- Five responses per company greatly underestimates the number of labels many providers will be required to create. As the *PRA Notice* explains, the *Report & Order* requires a label for each stand-alone broadband internet access service that a provider offers. Many providers have far more than five plans—some have *hundreds*. And if the Commission does not clarify or reconsider the information collection requirements regarding government-imposed fees, one provider estimates that the number of labels could grow to more than 30,000 and over 150,000 labels per year to maintain (accounting for quarterly fee changes).
- The impact of the internal systems, employees, and resources that will be needed to create labels for each of the relevant plans is not accounted for and far exceeds the Commission’s burden estimate. One provider has concluded, for instance, that more than 25 IT systems will be impacted by the new information collection, as well as multiple back-end systems for even a single product line. Every system affected must be carefully reviewed and tested to ensure that it works as intended, satisfies the new legal requirements, and delivers accurate, consumer-friendly information.
- Each label must be translated into every non-English language in which a provider markets service in the U.S. This is not simply a matter of running the label through an automated translation program. The *Report & Order* encourages providers “to review their translations for context and vernacular language by native-level speakers who work directly with community members to ensure the language is not only accurate, but also easily accessible and understandable to target audiences.”<sup>20</sup>
- Creating a label is not the end of the burden. Labels will need to be updated periodically. In addition, the *Report & Order* requires providers to make those labels available in multiple places and formats, such as on the provider’s website, by providing internet access or printed URLs or QR codes at retail locations, and via a customer’s online account portal. In some circumstances, providers will even have to read labels aloud in their entirety to consumers over the phone,<sup>21</sup> which would require providers to develop new processes and training for customer-facing employees and agents.

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<sup>19</sup> *Id.*

<sup>20</sup> *Report & Order* ¶ 86.

<sup>21</sup> *Id.* ¶ 95.



- Moreover, providers must maintain a two-year archive of labels for plans that are no longer available for purchase, including not only the label but also supporting information, and provide those labels upon request.<sup>22</sup>
- And the Commission's estimates cannot capture the significant burdens imposed by the requirements discussed in the previous section relating to alternate sales locations and state and local government fees. As to the impact of the alternate sales location requirements, for instance, large wireless providers' retail stores see hundreds of millions of consumers per year, while their customer care teams receive tens of millions of phone calls.

All of this *cannot be accomplished* in an average of twenty hours per provider per year, and certainly not at “No cost.” One large wireless provider estimates it would cost millions per year to implement. It is unclear how the Commission came up with these estimates, but the Commission must properly assess the burden of its information collection requirements to satisfy its PRA obligations and to ensure that it understands and factors in the impact of the label rules on broadband providers. OMB could not properly approve this information collection based on the information the Commission has provided in the *PRA Notice*.

#### IV. CONCLUSION.

CTIA supports the purpose of the broadband labels—to provide simple, clear, and accurate information to consumers to aid their broadband purchasing decisions. The Commission, however, must reasonably capture and estimate the burdens imposed by the *Report & Order*'s information collections to guard against unwarranted burdens that do not serve consumers. The current analysis is incomplete and insufficient. Even if one were to accept the Commission's estimated burden of 117,271 hours, its conclusion that such a burden would

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<sup>22</sup> *Id.* ¶ 102.

impose *zero costs* on broadband providers cannot withstand even the most deferential level of scrutiny. And that estimated burden is itself woefully understated.

The Commission must conduct a more rigorous assessment of the burden of information collections associated with the label rules and reexamine requirements that impose substantial burdens without corresponding benefits. By doing so, the Commission can help promote useful broadband label requirements while avoiding the imposition of onerous and unnecessary requirements.

Respectfully submitted,

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