

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Empowering Broadband Consumers)	CG Docket No. 22-2
Through Transparency)	OMB 3060-XXXX
To: The Commission		

**COMMENTS OF
WISPA – *BROADBAND WITHOUT BOUNDARIES***

WISPA – *Broadband Without Boundaries* (“WISPA”), pursuant to Sections 1.415 and 1.419 of the Commission’s Rules¹ and Section 3507(c)(2) of the Paperwork Reduction Act of 1995 (“PRA”),² hereby comments in response to the Notice and Request for Comments (OMB 3060-XXXX; FR ID 126104) (“*PRA Notice*”)³ regarding the information collection estimates applicable to the broadband label requirements adopted in the *Broadband Label Order*.⁴ As described below, the *PRA Notice* is predicated on flawed assumptions that dramatically underestimate the information collection burdens and costs, especially for small broadband Internet access service providers. The Commission must not allow its unreliable calculations to be the basis for imposing on small providers the new broadband label requirements adopted in the *Broadband Label Order*. Instead, the Commission should update its estimates with more

¹ See 47 C.F.R. §§ 1.415 and 1.419.

² See Paperwork Reduction Act of 1995, Public Law 104-13, codified at 44 U.S.C §§3501-20, at §3507(c).

³ Information Collection Being Reviewed by the Federal Communications Commission, 88 Fed. Reg. 7973 (Feb. 7, 2023) (“*PRA Notice*”).

⁴ *Empowering Broadband Consumers Through Transparency*, Report and Order and Further Notice of Proposed Rulemaking, CG Docket No. 22-2, FCC 22-86 (rel. Nov. 17, 2022) (“*Broadband Label Order*”).

realistic projections and invite further comment upon issuance of a new notice and request for comment.

Introduction

WISPA is a trade organization that represents the interests of hundreds of small internet service providers that deliver broadband internet access services to approximately seven million consumers, businesses, first responders and community institutions, often in areas of the country where other providers have declined to invest. All of WISPA's operator members are "small business concerns" as defined in Section 3(a) of the Small Business Act.⁵ Many have fewer than 25 employees, and only a few have more than 500 employees or serve more than 100,000 customers. All but one of WISPA's operator members would be considered to be a "small entity" under the Small Business Act and the U.S. Small Business Administration's size standards as established by the North American Industry Classification System ("NAICS") codes for Wireless Telecommunications Carriers (except Satellite) Code 517311.⁶

In Joint Comments filed with the Commission in this proceeding, WISPA and NTCA noted their interest "in advocating for the interests of small, community-based broadband providers that seek to ensure that our respective members do not bear disproportionate regulatory burdens in meeting congressional and Commission transparency objectives."⁷ In large part, the rules adopted in the *Broadband Label Order* achieve the objective of a "simple-to-understand format describing the key factors consumers need to know when considering broadband

⁵ 5 U.S.C. § 601(3); 15 U.S.C. § 632.

⁶ 13 C.F.R. § 121.201.

⁷ Joint Comments of NTCA and WISPA, CG Docket No. 22-2 (filed March 9, 2022) ("NTCA/WISPA Joint Comments") at 3-4.

service.”⁸ WISPA also appreciates the Commission’s decision to allow providers with 100,000 or fewer broadband subscribers to have one year from the announcement that the Office of Management and Budget (“OMB”) has completed its review of the new rules to comply with the *Broadband Label Order* requirements.⁹

The *Broadband Label Order* requires broadband providers to display no less than 11 different components on each of their broadband labels, both in English and in any non-English languages in which they market their services.¹⁰ The *PRA Notice* estimates that the average time for providers to respond to the information collection for the broadband labels is between 30 minutes and nine hours and that the total annual cost burden is zero.¹¹ In a document the Commission apparently used to generate its burden estimates (“Worksheet”),¹² the Commission further estimates the total annual cost to be \$528.89, based on an hourly cost of \$61.98.¹³ It states that:

The Commission expects most, if not all, reporting requirements will be met by respondents’ “in-house” staff as described above. The Commission believes that respondents will have negligible additional capital costs to comply with the requirements. Any such costs will be related to updating existing software and equipment, rather than purchasing new equipment. Thus, the Commission estimates the following:

- (a) Total annualized capital/start-up costs for all respondents: **\$0**
- (b) Total annual costs (Operation & Maintenance) for all respondents: **\$0**

⁸ *Id.* at 3, ¶ 7.

⁹ *Broadband Label Order* at 39, ¶ 119.

¹⁰ *See id.*

¹¹ *PRA Notice* at 7974.

¹² The Worksheet is attached hereto as Appendix A.

¹³ *Id.* at 14.

**(c) Total Annual Capital, Operation, and Maintenance Costs Required for
All Respondents: \$0¹⁴**

But in the same Worksheet, the Commission acknowledges that “[t]he collection of information will impact ISPs that are small business entities.”¹⁵ Noting that the deferral of the implementation period for providers with 100,000 or fewer broadband subscribers “will likely include substantially all small entities,”¹⁶ the Worksheet nonetheless states that “the Commission concluded that additional time was warranted for these providers that are *less likely to have in-house attorneys and compliance departments to assist with their broadband labels and will need to engage outside legal resources to implement several proposed requirements.*”¹⁷

The *PRA Notice* seeks comment on, among other things, “the accuracy of the Commission’s burden estimates . . . and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.”¹⁸ As discussed below, the burden estimates cannot be accurate and, properly considered, will dramatically increase burdens on small providers. In particular, a small provider can be expected to spend substantially more than \$528.89 to comply with the new broadband label requirements. Accordingly, before OMB approves the broadband label information collection, the Commission should undertake a new burden estimate that more accurately calculates the burdens and costs of the information collection, especially for small providers, and invite comment on those updated estimates.

¹⁴ *Id.* at 14-15 (emphasis added).

¹⁵ *Id.* at 8.

¹⁶ *Id.*

¹⁷ *Id.* at 8-9 (emphasis added). This quotation repeats verbatim (and without attribution) a phrase that NTCA and WISPA included in their Joint Comments, and which was repeated, also without attribution, in the Broadband Label Order. *See* NTCA/WISPA Joint Comments at 22; *Broadband Label Order* at 39, ¶ 118.

¹⁸ *PRA Notice* at 7973.

Discussion

THE COMMISSION'S INACCURATE TIME AND COST ESTIMATES CANNOT BE A RELIABLE BASIS FOR APPROVAL OF THE BROADBAND LABEL INFORMATION COLLECTION

For each respondent provider, the *PRA Notice* estimates the time per response to be 30 minutes to nine hours and the total annual cost to be “no cost.”¹⁹ As an initial matter, the source for the lower range of 30 minutes is unclear from the *PRA Notice* and the Worksheet, which calculates various compliance tasks to arrive at a total of nine hours. Nowhere does the Worksheet suggest that providers can create and display the entirety of their broadband labels in just 30 minutes. Even if it could realistically take any broadband provider as little as 30 minutes to prepare a broadband consumer label that met the Commission’s current rules, 30 minutes of work cannot logically lead to a “no cost” estimate.

Moreover, the Commission attempts to support these estimates with the Worksheet calculations, which uses annual “in-house” costs to estimate an average hourly cost of \$61.98 and an average total cost of \$528.89.²⁰ These cost estimates are based on the assumption that providers will utilize the services of in-house personnel in developing and maintaining their broadband labels.²¹

The burden estimates are predicated on flawed assumptions and suffer from a lack of factual basis, making them entirely unreliable. First, WISPA believes that the Commission underestimates the amount of time it will take providers to develop and display their multiple compliant broadband labels. As one example, each provider must create a separate label for each

¹⁹ *Id.* at 7974.

²⁰ Worksheet at 14.

²¹ *Id.*

standalone broadband service plan that it offers.²² Some providers may have five or more plans, and those may vary by jurisdiction with respect to disclosure of taxes unique to a particular area. So even if the basic pricing for each service tier is static, the labels will need to be tailored to accommodate overall pricing differences across each service plan and in each jurisdiction, including local taxes that may vary even within a provider's network. The Worksheet does not appear to consider these variables that will inevitably add time to the provider's creation and display of labels.

Further, the Worksheet notes that its "estimate recognizes that a small number of respondents that advertise in languages other than English may need to translate the information on the label to meet the requirement that the label be displayed in the languages in which they market their services. The Commission anticipates that many respondents will automate this process and that the level of effort required will decrease over time either through automation or familiarity with the process."²³ While automation may be possible with languages such as Spanish, that may not be the case with respect to Native American or other less common languages. Moreover, the estimates do not appear to include the translation services that providers may need to contract for in order to meet the requirement to recite their labels' contents over the telephone.²⁴

Second, the Commission wrongly "expects that most, if not all, reporting requirements will be met by respondents' 'in-house' staff."²⁵ Indeed, this general conclusory statement is contradicted by the Commission's acknowledgement – in the same Worksheet – that small

²² *Broadband Label Order* at 5, ¶ 12; 47 C.F.R. § 8.1(a)(1).

²³ Worksheet at 10.

²⁴ *Broadband Label Order* at 31, ¶ 95 & n.214.

²⁵ Worksheet at 9.

providers “will need to engage outside legal resources to implement several proposed requirements.”²⁶ In addition to this internal inconsistency, the Worksheet makes no mention of additional external resources that small providers may need to engage, such as technical writers and engineers. Notably, the Commission’s cost estimates cover the “Total Annual Capital, Operation, and Maintenance Costs Required for *All* Respondents,”²⁷ lumping together large and small providers without making any accommodation for the Commission’s recognition that small providers lack internal resources to create, display and maintain the label.

For small broadband providers, the Worksheet’s estimates bear no relationship to reality. Only a handful of WISPA’s more than 600 operator members have in-house legal counsel, and most small broadband providers have few if any engineers, technical writers, staff administrators or web administrators on staff that are qualified to contribute to the labels’ content and design. They will need to hire outside legal counsel, engineers and consultants to comply, at substantially higher cost than the Commission assumes. To be sure, the costs to hire the necessary private sector resources are not comparable to the mid- to senior-level federal employee hourly rates on which the Commission relies. For example, it is extremely unlikely that a broadband provider will be able to hire a qualified outside lawyer at \$84.55 per hour to review the *Broadband Label Order*, understand and interpret the disclosure obligations and draft multiple compliant broadband labels that account for pricing differences and, potentially, non-English languages. In light of the underestimated time and underestimated hourly rates, it is inconceivable that a small business with little or no in-house resources would be able to hire the

²⁶ *Id.*

²⁷ Worksheet at 15 (emphasis added).

external support for creating and displaying multiple broadband labels for zero cost or, at most, only \$528.89.²⁸

Third, the Worksheet makes passing reference to the fact that the disclosures “may need to be updated on occasion.”²⁹ Surely, the disclosures must be updated from time to time as new service plans are introduced, service areas are expanded, taxes change and a variety of other variables. The Worksheet appears to not include any assumptions or estimates of these costs, which may or may not require small providers to enlist the services of outside attorneys, consultants and other specialists at rates higher than the GS rates on which the Commission premises its estimates.

The one-year implementation period for providers with 100,000 or fewer subscribers will afford small broadband providers with more time to comply, but it will not reduce the time or the cost necessary for each such provider to create and display compliant labels. As the Commission noted, the creation of the broadband labels “may require more time for providers that are less likely to have in-house attorneys and compliance departments to assist in preparing their broadband labels, and thus will need to engage outside legal resources to implement several proposed requirements.”³⁰ The longer implementation period is helpful, but has no bearing on the estimated burdens each small provider must bear.

Conclusion

As the Worksheet exposes, the *PRA Notice* is premised on flawed assumptions that render the information collection burden estimates totally unreliable. The Commission should revisit its estimates and more carefully consider the lack of in-house personnel, the high level of

²⁸ See Worksheet at 14.

²⁹ *Id.* at 10.

³⁰ *Broadband Label Order* at 39, ¶118.

expensive expertise and the significant time it will take for small businesses to create and display broadband labels and ensure their compliance with Commission rules. Once that process is completed and before the information collection is approved, the Commission should invite public comment on its updated estimates.

Respectfully submitted,

April 10, 2023

**WISPA –
*BROADBAND WITHOUT BOUNDARIES***

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APPENDIX A

Empowering Broadband Consumers Through Transparency, Report and Order and Further Notice of Proposed Rulemaking, CG Docket No. 22-2, FCC 22-86 (Broadband Consumer Label)

A. Justification

1. *Circumstances that Make the Information Collection Necessary.*

The Infrastructure Investment and Jobs Act (Infrastructure Act), in relevant part, directed the Federal Communications Commission (Commission or FCC) “[n]ot later than 1 year after the date of enactment of th[e] Act, to promulgate regulations to require the display of broadband consumer labels, as described in the Public Notice of the Commission issued on April 4, 2016 (DA 16–357), to disclose to consumers information regarding broadband Internet access service plans.”¹ Further, the Infrastructure Act required that the label “include information regarding whether the offered price is an introductory rate and, if so, the price the consumer will be required to pay following the introductory period.”² The Infrastructure Act also directed the Commission to conduct a series of public hearings to assess: 1) how consumers evaluate broadband Internet access service plans; and 2) whether disclosures to consumers of information regarding broadband Internet access service plans, including the disclosures required under 47 CFR § 8.1, are available, effective, and sufficient.³

On January 27, 2022, the Commission released a Notice of Proposed Rulemaking (*Broadband Label NPRM*) initiating a proceeding to implement section 60504 of the Infrastructure Act.⁴ Specifically, the Commission proposed to require that broadband Internet access service providers (ISPs or providers) display, at the point of sale, labels that disclose to consumers certain information about prices, introductory rates, data allowances, broadband speeds, and management practices, among other things.⁵

Consistent with the Infrastructure Act’s mandate, the Commission proposed to require the display of labels that it had allowed ISPs to use as a safe harbor from enforcement of the broadband transparency requirements in 2016. Those 2016 labels were largely the product of recommendations by the Commission’s Consumer Advisory Committee (CAC).⁶ In the *Broadband Label NPRM*, the Commission sought comment on whether broadband service offerings and consumers’ use of broadband services had changed sufficiently since 2016 to

¹ The Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, 135 Stat. 429, § 60504(a) (2021) (Infrastructure Act). *See also* *Consumer and Governmental Affairs, Wireline Competition, and Wireless Telecommunications Bureaus Approve Open Internet Broadband Consumer Labels*, GN Docket No. 14-28, Public Notice, 31 FCC Red 3358 (CGB/WCB/WTB 2016) (*2016 Public Notice*). Before enactment of the Infrastructure Act, the President issued Executive Order 14036, which, in relevant part, encouraged the Commission to consider “initiating a rulemaking that requires broadband service providers to display a broadband consumer label, such as that described in the [2016 Public Notice] so as to give consumers clear, concise, and accurate information regarding provider prices and fees, performance, and network practices.” *See* Executive Order No. 14036, Promoting Competition in the American Economy, 86 FR 36987 (July 9, 2021).

² Infrastructure Act § 60504(b)(1).

³ *See id.* § 60504(c).

⁴ *See Empowering Broadband Consumers Through Transparency*, CG Docket No. 22-2, Notice of Proposed Rulemaking, FCC 22-7 (rel. Jan. 27, 2022) (*Broadband Label NPRM*).

⁵ *Broadband Label NPRM*, para. 14.

⁶ *See 2016 Public Notice*; *see also* FCC Consumer Advisory Committee Recommendation, Broadband Consumer Disclosures (Oct. 26, 2015) at <https://docs.fcc.gov/public/attachments/DOC-336136A1.pdf>.

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necessitate modifications to the labels' content and/or format, or whether there were any other reasons to change the content or format of the labels.⁷ The Commission also sought comment on where the labels should be displayed to best inform consumers.⁸ In addition, the Commission conducted three public hearings to solicit input from various stakeholders on the content, format, and location of the labels.⁹

On November 14, 2022, the Commission adopted a Report and Order and Further Notice of Proposed Rulemaking (*Broadband Label Order*) requiring ISPs to display a new broadband label to help consumers comparison shop among broadband services, thereby implementing section 60504 of the Infrastructure Act.¹⁰ Specifically, the Commission required ISPs to display, at the point of sale, a broadband consumer label containing critical information about the provider's service offerings, including information about pricing, introductory rates, data allowances, performance metrics, and whether the provider participates in the Affordable Connectivity Program (ACP).¹¹ The Commission required that ISPs display the label for each stand-alone broadband Internet access service they currently offer for purchase, and that the label link to other important information such as network management practices, privacy policies, and other educational materials.

Consistent with the Infrastructure Act, the label adopted for fixed and mobile broadband Internet access service is similar to the two labels the Commission approved in 2016, with certain modifications. In addition to label content, the Commission adopted requirements for the label's format and display location to ensure consumers can make side-by-side comparisons of various service offerings from an individual provider or from alternative providers—something essential for making informed decisions. In this way, the label resembles the well-known nutrition labels that consumers have come to rely on when shopping for food products. The label must be accessible for people with disabilities and for non-English speakers. A customer's label must also be available via the provider's online account portal. In addition, third parties will be able to easily analyze information contained in the labels and help consumers with their purchase decisions, as providers are required to make the label content available in a machine-readable format on their websites. Finally, the Commission adopted a label template (shown below) that all ISPs are required to display at the point of sale. This label establishes the formatting and content of all requirements adopted in the *Broadband Label Order*:

⁷ *Broadband Label NPRM*, para 14.

⁸ *Id.*

⁹ See FCC, Broadband Consumer Labels, *Public Hearings on Broadband Labels* (Mar. 11, 2022, Apr. 7, 2022, and May 25, 2022), <https://www.fcc.gov/broadbandlabels>.

¹⁰ Infrastructure Act § 60504(a).

¹¹ In the Infrastructure Act, Congress appropriated \$14.2 billion to transform the Emergency Broadband Benefit Program into the Affordable Connectivity Program (ACP), which provides eligible low-income households discounted Internet service and a one-time discount on a connected device. See *Affordable Connectivity Program, Emergency Broadband Benefit Program*, WC Docket Nos. 21-450 and 20-445, Report and Order and Further Notice of Proposed Rulemaking, FCC 22-2 (Jan. 21, 2022) (*ACP Order*). The ACP provides a monthly discount of up to \$30 for broadband service and up to \$75 a month for households on qualifying Tribal lands. See 47 CFR § 54.1803(a).

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Broadband Facts

Provider Name**Service Plan Name and/or Speed Tier**

Fixed or Mobile Broadband Consumer Disclosure

Monthly Price

[\$]

This Monthly Price [is/is not] an introductory rate. [if introductory rate is applicable, identify length of introductory period and the rate that will apply after introductory period concludes]

This Monthly Price [does not] require[s] a [x year/x month] contract. [only required if applicable; if so, provide link to terms of contract]

Additional Charges & Terms

Provider Monthly Fees

[Itemize each fee]

[\$]

One-time Fees at the Time of Purchase

[Itemize each fee]

[\$]

Early Termination Fee

[\$]

Government Taxes

Varies by Location

Discounts & Bundles

[Click Here](#) for available billing discounts and pricing options for broadband service bundled with other services like video, phone, and wireless service, and use of your own equipment like modems and routers. [Any links to such discounts and pricing options on the provider's website must be provided in this section.]

Affordable Connectivity Program (ACP)

The ACP is a government program to help lower the monthly cost of internet service. To learn more about the ACP, including to find out whether you qualify, visit affordableconnectivity.gov.

Participates in the ACP

[Yes/No]

Speeds Provided with Plan

Typical Download Speed

[] Mbps

Typical Upload Speed

[] Mbps

Typical Latency

[] ms

Data Included with Monthly Price

[] GB

Charges for Additional Data Usage

[\$/GB]

Network Management[Read our Policy](#)**Privacy**[Read our Policy](#)**Customer Support**Contact Us: example.com/support / (555) 555-5555

Learn more about the terms used on this label by visiting the Federal Communications Commission's Consumer Resource Center.

fcc.gov/consumer

[Unique Plan Identifier Ex. F0005937974123ABC456EMC789]

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Information Collection Requirements:

- (a) Section 8.1(a)(1). Any person providing broadband Internet access service shall create and display an accurate broadband consumer label for each stand-alone broadband Internet access service it currently offers for purchase. The label must be prominently displayed, publicly available, and easily accessible to consumers, including consumers with disabilities, at the point of sale, with the content and in the format prescribed by the Commission in “[Fixed or Mobile] Broadband Consumer Disclosure.” See label template above.

The label must display the following:

- (i) Monthly price information (including introductory rate and contract plan information);
- (ii) Any additional provider discretionary monthly charges (e.g., equipment rentals) and one-time fees (e.g., activation fees);
- (iii) Government taxes will apply;
- (iv) Links to any available billing discounts and pricing options for bundled services;
- (v) Information about the Affordable Connectivity Program (ACP) and whether the provider participates in the ACP;
- (vi) Performance information (specifically download and upload speeds and latency measurements);
- (vii) The amount of data included with the monthly price and the charges for additional data that exceeds that allowance;
- (viii) Links to the provider’s network management policies (e.g., blocking, throttling, and paid prioritization) and privacy policies;
- (ix) Customer support contact information;
- (x) A link to the FCC’s website containing a glossary of terms used on the label and other related information; and
- (xi) A Unique Plan Identifier.

As noted above, the Commission provided a template of the required label in the *Broadband Label Order*, and explained that it will also post a sample template, along with terms used on the label, on the FCC’s website no later than 30 days before the label requirements become effective.

The Commission also notes that, for performance information, providers must display their typical upload and download speeds and typical latency, consistent with their current obligations under the existing transparency rule and the Commission’s *2011 Advisory Guidance*.¹² Thus, for purposes of satisfying this requirement, fixed broadband service providers that choose to participate in the Measuring Broadband America (MBA) program may disclose their results as a sufficient representation of the actual performance their customers can expect to experience for the relevant speed tier. Fixed broadband

¹² See 47 CFR § 8.1(a); *Restoring Internet Freedom*, WC Docket No. 17-108, Declaratory Ruling, Report and Order, and Order, 33 FCC Rcd 311, 441, para. 222 & n.818 (2017) (*2017 Restoring Internet Freedom Order*); *FCC Enforcement Bureau and Office of General Counsel Issue Advisory Guidance for Compliance with Open Internet Transparency Rule*, GN Docket No. 09-191, WC Docket No. 09-191, Public Notice, 26 FCC Rcd 9411, 9411 (EB/OGC 2011) (*2011 Advisory Guidance*).

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service providers that do not participate may use the methodology from the MBA program to measure actual performance, or may disclose actual performance based on internal testing, consumer speed test data, or other data regarding network performance, including reliable, relevant data from third-party sources.¹³ Mobile broadband service providers that have access to reliable information on network performance may disclose the results of their own or third-party testing. Those mobile broadband service providers that do not have reasonable access to such network performance data may disclose a Typical Speed Range (TSR) representing the range of speeds and latency that most of their consumers can expect, for each technology and service tier offered.¹⁴ The Commission does not anticipate that the new rules will require providers to gather any new performance information; rather, they will need only to display currently available performance information in the broadband label format.

- (b) Section 8.1(a)(2). Broadband Internet access service providers shall display the label required under section 8.1(a)(1) at each point of sale. “Point of sale” is defined to mean a provider’s website and any alternate sales channels through which the provider’s broadband Internet access service is sold, including a provider-owned retail location, third-party retail location, and over the phone.
- (i) Websites. For labels displayed on provider websites, the actual label must be displayed in close proximity to the associated advertised service plan. Providers are not required to display the label information in any particular font size; however, providers should ensure that the labels are prominently displayed on any device on which the consumer accesses and views the labels, including mobile devices. “Point of sale” also means the time a consumer begins investigating and comparing broadband service offerings available to them at their location. Thus, providers must display the labels only after the consumer enters any required location information. Once the consumer has done so, the label must appear on the provider’s primary advertising web page that identifies the plans available to the consumer.
- (ii) Alternate Sales Channels. If the provider has a provider-owned retail location or third-party retail location, it must make the label available to consumers at each point of sale. If the provider cannot ensure the consumer will be able to access the label either with an Internet connection at home or in the retail location, it must make the label available in hard copy. Thus, in the case of alternate sales channels, while a provider may satisfy the label requirement by providing a hard copy of the label, it may do so through other means. This could include directing the consumer to the specific web page on which the label appears by, for example, providing Internet access in the retail location or giving the customer a card with the printed URL or a Quick Response (QR) code, or orally providing information from the label to the consumer over the phone. In such circumstances, the provider must read the entire label to the consumer over the

¹³ 2017 *Restoring Internet Freedom Order*, 33 FCC Rcd at 441 n.818 (citing 2011 *Advisory Guidance*, 26 FCC Rcd at 9414-15).

¹⁴ *Id.* at 441 n.818 (citing 2011 *Advisory Guidance*, 26 FCC Rcd at 9415-16).

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phone. Providers shall document each instance when it directs a consumer to a label at an alternate sales channel and retain such documentation for two years.

- (iii) E-Rate and Rural Health Care Programs. “Point of sale” for purposes of the E-Rate and Rural Health Care programs is defined as the time a service provider submits its bid to a program participant. Providers participating in the E-Rate and Rural Health Care programs must provide their labels to program participants when they submit their bids to participants.
- (c) Section 8.1(a)(2). Online Account Portals. Broadband Internet access service providers that offer online account portals to their customers shall also make each customer’s label easily accessible to the customer in such portals.
- (d) Section 8.1(a)(3). Machine-Readable Format. The content of the label required under section 8.1(a)(1) must be displayed on the broadband Internet access service provider’s website in a machine-readable format. Broadband Internet access service providers must provide the information in any label separately in a spreadsheet file format on their websites via a dedicated URL that contains all of their labels. Providers must publicize the URL with the label data in the transparency disclosures required under 47 CFR § 8.1(a).
- (e) Section 8.1(a)(4). Languages. The label required under section 8.1(a)(1) must be provided in English and in any other languages in which the broadband Internet access service provider markets its services in the United States.
- (f) Section 8.1(a)(5). Archive of Labels. Broadband Internet access service providers shall maintain an archive of all labels required under section 8.1(a)(1) for a period of no less than two years from the time the service plan reflected in the label is no longer available for purchase by a new subscriber and the provider has removed the label from its website or alternate sales channels.

Providers must provide any archived label to the Commission, upon request, within thirty days. Providers must provide an archived label, upon request and within thirty days, to an existing customer whose service plan is associated with the particular label. A provider is not required to display a label once the associated service plan is no longer offered to new subscribers.

- (g) Section 8.1(a)(6). Broadband consumer label requirements and the transparency rule in section 8.1(a) are subject to enforcement using the same processes and procedures. The label required under section 8.1(a)(1) is not a safe harbor from the transparency rule or any other requirements established by the Commission. (Note: This rule does not involve a distinct information collection, but is being submitted to OMB as part of this overall information collection.)

Implementation Timelines. The Commission adopted several different implementation timelines to ensure providers have a reasonable amount of time to comply with the *Broadband Label Order* requirements:

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- 1) Apart from the exceptions explained below, the Commission established a six-month period for most providers to come into compliance with the new requirements to ensure they can implement necessary changes in a cost-effective way that makes sense for their individual business models and potential customers. This six-month period will begin with the announcement in the Federal Register that OMB has completed its review of the rules;
- 2) The Commission adopted a one-year implementation period for providers with 100,000 or fewer subscriber lines;
- 3) Compliance with the requirement to make labels accessible in customer online account portals will not be required for all providers until one year after OMB completes its review of such requirement; and
- 4) Compliance with the requirement to make label information available in a machine-readable format will not be required for all providers until one year after OMB completes its review of such requirement.

This collection does not affect individuals or households; thus, there are no impacts under the Privacy Act because it does not require the collection of personally identifiable information (PII) from individuals.

The statutory authority for the information collection requirements is contained in sections 4(i), 4(j), 13, 201(b), 254, 257, 301, 303, 316, and 332 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 163, 201(b), 254, 257, 301, 303, 316, 332, section 60504 of the Infrastructure Investment and Jobs Act, Pub. L. 117-58, 135 Stat. 429 (2021), and section 904 of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, 134 Stat. 1182 (2020), as amended.

2. *Use of Information.*

The information will be used to implement section 60504(a) of the Infrastructure Act. The Infrastructure Act, in relevant part, directs the Commission “[n]ot later than 1 year after the date of enactment of th[e] Act, to promulgate regulations to require the display of broadband consumer labels, as described in the Public Notice of the Commission issued on April 4, 2016 (DA 16-357), to disclose to consumers information regarding broadband Internet access service plans.”¹⁵ The information will help consumers easily compare a provider’s broadband service offerings and the services among different providers, and that they have the information necessary to make smart choices without overwhelming them with too much information or unnecessarily burdening providers.

3. *Technological Collection Techniques.*

The required label disclosures must be provided primarily over the Internet (i.e., on provider websites). Similarly, the label information that must be provided in machine-readable formats will be available on provider websites through dedicated URLs. Providers must also archive their

¹⁵ Infrastructure Act § 60504(a).

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labels electronically. Hard copies will be necessary only when the consumer cannot access the label with an Internet connection at home or in the provider's retail location.

4. *Efforts to Identify Duplication.*

The information collection requirements generally are not duplicative of any currently existing federal regulatory obligation.¹⁶ While the information that must be disclosed is likely already available to the public at various locations (on websites and retail locations), the information is not all currently and consistently available in a single location and format that would aid in a consumer's ability to comparison shop, which is the specific purpose of the Infrastructure Act.

In addition, the Commission noted in the *Broadband Label Order* that although there is overlap between the purpose of the new broadband labels and that of the existing transparency rule at 47 CFR § 8.1(a), those purposes are not identical. There are different—albeit overlapping—purposes served by the two requirements. For example, helping consumers make informed choices regarding broadband Internet access service plans is a goal of both broadband labels and the transparency rule.¹⁷ Broadband labels, however, are designed to play a unique role in that regard by providing a quick reference tool enabling easy comparisons among different service plans at the time of purchase. By contrast, the transparency rule seeks to enable a deeper dive into details of broadband Internet service offerings, which could be relevant not only for consumers as a whole, but also for consumers with particularized interests or needs, as well as a broader range of participants in the Internet community—notably including the Commission itself.¹⁸ Providers must therefore take steps to comply with the labeling and transparency rules independently to the extent that the details of the requirements diverge.

5. *Impact on Small Entities.*

The collection of information will impact ISPs that are small business entities. The Commission is committed to reducing the regulatory burdens on small businesses whenever possible, consistent with the Commission's other public interest responsibilities. Therefore, pursuant to the *Broadband Label Order*, the Commission's label requirements balance reducing these burdens and ensuring that consumers have the necessary information to make comparisons among broadband providers and select the services that best meet their budgets and needs. As discussed above, the Commission adopted a different implementation period for providers with 100,000 or fewer subscribers, which will likely include substantially all small entities. Specifically, the Commission determined that these providers should have more to comply with the new label requirements and adopted a one-year implementation period for these providers. The Commission was persuaded that implementing broadband labels may require providers to complete certain tasks such as compiling the information that must be presented in the label and posting labels on their websites. Thus, the Commission concluded that additional time was warranted for these providers that are less likely to have

¹⁶ OMB PRA Guide at 42.

¹⁷ See, e.g., Infrastructure Act § 60504(a); *2017 Restoring Internet Freedom Order*, 33 FCC Rcd at 435, para. 209.

¹⁸ See, e.g., *2017 Restoring Internet Freedom Order*, 33 FCC Rcd at 435, 438, paras. 209-10, 216.

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in-house attorneys and compliance departments to assist with their broadband labels and will need to engage outside legal resources to implement several proposed requirements.

6. *Consequences if Information is Not Collected.*

The information collection is required by section 60504(a) of the Infrastructure Act and is necessary to assist consumers with comparison shopping for broadband services. All broadband Internet access service providers are subject to enforcement action by the Commission's Enforcement Bureau if they do not meet the applicable requirements. In addition, members of the public may file informal or formal complaints against providers they believe have not complied with the label requirements.

7. *Special Circumstances.*

The collections are not being conducted in any manner inconsistent with the guideline of 5 CFR Section 1320.

8. *Federal Register Notice; Efforts to Consult with Persons Outside of the Commission.*

The Commission published a *Notice* in the *Federal Register*, as required by 5 CFR Section 1320.8(d), on February 7, 2023 at 88 FR 7973, seeking comments from the public on the information collection requirements contained in this supporting statement.¹⁹ [Insert either "The Commission did not receive any comments during the publication of this notice." OR To date, the Commission has received # comments in response to the *Notice*. Then identify and respond to such comments.]

9. *Payments or Gifts to Respondents.*

The Commission does not anticipate providing any payment or gift to respondents.

10. *Assurances of Confidentiality.*

The Commission is not requesting that respondents submit confidential information to the Commission.

11. *Questions of a Sensitive Nature.*

There are no questions of a sensitive nature with respect to the information collected.

¹⁹ See *Notice of Public Information Collection Being Reviewed by the Federal Communications Commission, Comments Requested*, 88 Fed. Reg. 7973 (Feb. 7, 2023) (*Notice*).

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12. Estimates of the Hour Burden for the Collection of Information.

The Commission currently has one approved information collection related to the Transparency Rule, OMB Control No. 3060-1158, which included *voluntary* broadband labels as a safe harbor from enforcement of the transparency rule, 47 CFR § 8.1(a). The Commission, however, is submitting this as a new information collection, as the collection stems from section 60504(a) of the Infrastructure Act, which requires that the Commission adopt broadband consumer labels. The disclosures required under this information collection may need to be updated on occasion. The details of the collection for which the Commission seeks approval are described below.

Annual Burden Hours Under the Broadband Consumer Label Requirements:

(a) Sections 8.1(a)(1), 8.1(a)(4) – Creation of Broadband Consumer Label (using label template)

The Commission believes that most broadband Internet access service providers already have and already disclose most, if not all, of the required label information in some manner, and that creating labels using the Commission’s label template will therefore not be a significant additional burden. The Commission also believes that the information is not all currently and consistently available at each point of sale location and in a form that serves the purposes of the Infrastructure Act and the *Broadband Label Order*. Thus, complying with the new label requirements will entail some implementation costs. In addition, this estimate recognizes that a small number of respondents that advertise in languages other than English may need to translate the information on the label to meet the requirement that the label be displayed in the languages in which they market their services. The Commission anticipates that many respondents will automate this process and that the level of effort required will decrease over time either through automation or familiarity with the process.

The Commission estimates that there are approximately 6,010 broadband Internet access service providers (respondents) that will be subject to the label requirements over a three-year period. While respondents may need to display numerous labels, the process to create the required labels will be done one time and will require approximately 3.5 hours to complete. Thus, one response does not necessarily equate to one label.

Annual Number of Respondents: 6,010

Annual Number of Responses: 1 per respondent (6,010 responses)

Annual Burden Hours: 3.5 per respondent

6,010 respondents x 1 response x 3.5 hours = **21,035 Total Burden Hours**

The Commission assumes that respondents use “in house” personnel whose pay is comparable to mid-to-senior level federal employees (GS-12/5, GS-14/5 and GS-15/5). As detailed below, the Commission estimates respondent’s average cost to be \$61.98 per hour to comply with the requirement to create a label associated with its broadband service offering:

<u>Staff</u>	<u>Hours</u>	<u>Hourly Cost</u>	<u>Total Cost</u>
GS-12/5 Technical Writer	0.5	\$51.15	\$25.58
GS-12/5 Staff Administrator	0.5	\$51.15	\$25.58

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GS-12/5 Web Administrator	1	\$51.15	\$51.15
GS-14/5 Engineer	1	\$71.88	\$71.88
GS-15/5 Attorney	0.5	\$84.55	\$42.28
Total Hours and Average Cost	3.5	\$61.98	\$216.47

Annual “In-House” Cost:

6,010 respondents x 1 response x 3.5 hours x \$61.98/hr = **\$1,303,749.30**

(b) Section 8.1(a)(2) – Display of Broadband Consumer Label at Each Point of Sale

As noted above, the Commission estimates that there are approximately 6,010 broadband Internet access service providers (respondents) that must comply with the requirement to display labels at each point of sale (on websites and at alternate sales channels). This process will be done “on occasion” and will require approximately 1.5 hours to comply with the requirement. This estimate contemplates that the effort to display the label at the point of sale should be minimal for the majority of respondents. Displaying the label at the point of sale may require more effort for a small number of respondents if they cannot ensure consumers have access to the Internet at home or at their retail locations and thus will need to print the label and keep a record documenting that they provided the physical record to the customer. This estimate therefore assumes that 25 respondents will also provide hard copy records (4 hours) and the remaining respondents will only need to provide the label electronically (1.5 hours), as detailed below:

Annual Number of Respondents: 6,010

Annual Number of Responses: 1 per respondent (6,010 responses)

Annual Burden Hours: 1.5 per respondent (4 for a small number of respondents)

- 1) Respondents that need only display labels on websites and on the Internet at alternate sales channels: 5,985

5,985 respondents x 1 response x 1.5 hours = **8,977.50 Burden Hours**

- 2) Respondents that must also provide hard copies of the labels: 25

25 respondents x 1 response x 4 hours = **100 Burden Hours**

8,977.50 + 100 = **9,078 Total Burden Hours (rounded)**

The Commission assumes that respondents use “in house” personnel whose pay is comparable to mid-to-senior level federal employees (GS-12/5 and GS-14/5). The Commission estimates respondent’s average cost to be \$56.33 per hour to comply with the point of sale requirements:

<u>Staff</u>	<u>Hours</u>	<u>Hourly Cost</u>	<u>Total Cost</u>
GS-12/5 Technical Writer	0.25	\$51.15	\$12.79
GS-12/5 Staff Administrator	0.25	\$51.15	\$12.79

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GS-12/5 Web Administrator	0.5	\$51.15	\$25.58
GS-14/5 Engineer	0.5	\$71.88	\$35.94
Total Hours and Average Cost	1.5	\$56.33	\$87.10

Annual “In-House” Cost:

6,010 respondents x 1 response x 1.5 hours x \$56.33/hr = **\$507,814.95**

(c) Section 8.1(a)(2) – Display of Broadband Consumer Label on Online Account Portals

The Commission estimates that there are approximately 6,010 broadband Internet access service providers (respondents) that must comply with the requirement to display labels on their customers’ online account portals. This process will be done “on occasion” and will require approximately 5 hours to comply with the requirement. This estimate contemplates that the initial setup of the system is likely to require significantly more effort than the effort to maintain it in the subsequent years. The 5-hour estimate reflects the average level of effort over a three-year period.

Annual Number of Respondents: 6,010

Annual Number of Responses: 1 per respondent (6,010 responses)

Annual Burden Hours: 5 per respondent

6,010 respondents x 1 response x 5 hours = **30,050 Total Burden Hours**

The Commission assumes that respondents use “in house” personnel whose pay is comparable to mid-to-senior level federal employees (GS-12/5, GS-14/5 and GS-15/5). The Commission estimates respondent’s average cost to be \$61.98 per hour to comply with online account portal requirements:

<u>Staff</u>	<u>Hours</u>	<u>Hourly Cost</u>	<u>Total Cost</u>
GS-12/5 Technical Writer	0.25	\$51.15	\$12.79
GS-12/5 Staff Administrator	0.5	\$51.15	\$25.58
GS-12/5 Web Administrator	2	\$51.15	\$102.30
GS-14/5 Engineer	2	\$71.88	\$143.76
GS-15/5 Attorney	0.25	\$84.55	\$21.14
Total Hours and Average Cost	5	\$61.98	\$305.57

Annual “In-House” Cost:

6,010 respondents x 1 notification x 5 hours x \$61.98/hr = **\$1,862,499**

(d) Section 8.1(a)(3) – Display of Label Contents in Machine-Readable Format

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The Commission estimates that there are approximately 6,010 broadband Internet access service providers (respondents) that must comply with the requirement to display the content of the broadband labels on their websites through a dedicated URL in a file format such as .csv. This process will be done “on occasion” and will require approximately 0.5 hours to comply with the requirement. The Commission believes doing so should be a straightforward technical task and that most respondents will likely automate the task. This estimate assumes that 25 respondents will not automate the task.

Annual Number of Respondents: 6,010

Annual Number of Responses: 1 per respondent (6,010 responses)

Annual Burden Hours: 0.5 per respondent (1 hour for respondents that do not automate process)

- 1) Respondents using automation to make information available in machine-readable format: 5,985

5,985 respondents x 1 response x 0.5 hours = **2,992.50 Burden Hours**

- 2) Respondents that will not use automation to make label information available in machine-readable format: 25

25 respondents x 1 response x 1 hour = **25 Burden Hours**

2,992.50 + 25 = **3,018 Total Burden Hours (rounded)**

The Commission assumes that respondents use “in house” personnel whose pay is comparable to mid-to-senior level federal employees (GS-12/5). The Commission estimates respondent’s average cost to be \$51.15 per hour to comply with the machine readability requirements:

<u>Staff</u>	<u>Hours</u>	<u>Hourly Cost</u>	<u>Total Cost</u>
GS-12/5 Staff Administrator	0.25	\$51.15	\$12.79
GS-12/5 Web Administrator	0.25	\$51.15	\$12.79
Total Hours and Average Cost	0.5	\$51.15	\$25.58

Annual “In-House” Cost:

6,010 respondents x 1 response x 0.5 hours x \$51.15/hr = **\$153,705.75**

(e) Section 8.1(a)(5) – Archive of Labels

The Commission estimates that there are approximately 6,010 broadband Internet access service providers (respondents) that must comply with the requirement to archive labels for two years from the time a service plan is no longer available for purchase and the label associated with the plan is not posted on any website or alternate sales channel. This estimate

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includes the effort required to archive the labels as well as the cost to retrieve the information upon the request of the Commission or a customer. Because each customer's label is available to the customer on their online account portal, we anticipate respondents will receive a small number of requests for historical data. We estimate that 10% of respondents may receive one request per week and the remaining respondents may receive one request per month. The process will be done “on occasion” and will require approximately 9 hours to comply with the requirements.

Annual Number of Respondents: 6,010

Annual Number of Responses: 1 per respondent (6,010 responses)

Annual Burden Hours: 9 per respondent

6,010 respondents x 1 response x 9 hours = **54,090 Total Burden Hours**

The Commission assumes that respondents use “in house” personnel whose pay is comparable to mid-to-senior level federal employees (GS-12/5, GS-14/5 and GS-15/5). The Commission estimates respondent’s average cost to be \$61.98 per hour to comply with label archiving and retrieval requirements:

<u>Staff</u>	<u>Hours</u>	<u>Hourly Cost</u>	<u>Total Cost</u>
GS-12/5 Technical Writer	0.5	\$51.15	\$25.58
GS-12/5 Staff Administrator	3	\$51.15	\$153.45
GS-12/5 Web Administrator	2.5	\$51.15	\$127.88
GS-14/5 Engineer	2.5	\$71.88	\$179.70
GS-15/5 Attorney	0.5	\$84.55	\$42.28
Total Hours and Average Cost	9	\$61.98	\$528.89

Annual “In-House” Cost:

6,010 respondents x 1 notification x 9 hours x \$61.98/hr = **\$3,352,498.20**

Cumulative Totals for the Information Collection:

Total Annual Number of Respondents: 6,010 respondents

Total Annual Number of Responses: 30,050 responses

Total Annual Burden Hours: 117,271 hours

Total Annual “In-House” Costs: \$7,180,267.20

13. *Estimates of the Cost Burden of the Collection to Respondents.*

The Commission expects most, if not all, reporting requirements will be met by respondents’ “in-house” staff as described above. The Commission believes that respondents will have negligible additional capital costs to comply with the requirements. Any such costs will be related to updating existing software and equipment, rather than purchasing new equipment. Thus, the Commission estimates the following:

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- (a) Total annualized capital/start-up costs for all respondents: **\$0**
- (b) Total annual costs (Operation & Maintenance) for all respondents: **\$0**
- (c) **Total Annual Capital, Operation, and Maintenance Costs Required for All Respondents: \$0**

14. *Estimates of the Cost Burden to the Commission.*

The Commission has determined there are no costs to the Federal Government for requiring respondents to comply with these requirements.

15. *Program Change or Adjustment.*

As this is a new information collection, there are program changes which will be added to OMB's inventory once approved as follows: 6,010 to the number of respondents, 30,050 to the number of annual responses, and 117,271 to the annual burden hours.

16. *Collection of Information Whose Results will be Published.*

There are no plans to publish the result of the collection of information.

17. *Display of Expiration Date of OMB Approval of Collection.*

The Commission is not seeking approval to not display the expiration date for OMB approval of the information collection.

18. *Exception to the Certification Statement for Paperwork Reduction Act Submissions.*

There are no exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods

The Commission does not anticipate that the collection of information will employ any statistical methods.



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