Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	**)**	
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Information Collection Being Reviewed by the	**)**	**OMB 3060–1158**
By the Federal Communications Commission	**)**	
	)	

COMMENTS OF THE UNITED STATES TELECOM ASSOCIATION

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The United States Telecom Association (USTelecom)[1] submits these comments in response to the notice released by the Federal Communications Commission (Commission or FCC) seeking comment pursuant to the Paperwork Reduction Act (PRA) of 1995[2] (PRA Notice)[3] on the new, enhanced transparency rule adopted in the *2015 Open Internet Order*.[4] The Commission's burden estimates for the new information collection requirements fall well short of what broadband Internet access service (BIAS or broadband) providers will have to do to comply with them. Moreover, contrary to the PRA's primary purpose "to reduce, minimize and control burdens and maximize the practical utility and public benefit," [5] the new requirements go beyond what is necessary for the Commission to ensure that broadband customers have sufficient information to make informed choices about their broadband services. The Commission

[1] USTelecom is the premier trade association representing service providers and suppliers for the telecom industry. Its diverse member base ranges from large publicly traded communications corporations to small companies and cooperatives – all providing advanced communications service to both urban and rural markets. USTelecom members provide a full array of services, including broadband, voice, data and video over wireline and wireless networks.

[2] Paperwork Reduction Act of 1995, Pub. L.104-13, 109 Stat. 163 (1995), *codified at* 44 U.S.C. 3501 *et seq.*

[3] Notice and Request for Comments, *Information Collection Being Reviewed by the Federal Communications Commission*, 80 FR 29000 (May 20, 2015) (*FR Notice*).

[4] *Protecting and Promoting the Open Internet*, GN Docket No. 14-28, Report and Order on Remand, Declaratory Ruling, and Order, FCC 15-24 (rel. Mar. 12, 2015) (*2015 Open Internet Order*).

[5] 5 C.F.R. § 1320.1.

therefore should modify both the burden estimates and the scope of the information collection to better reflect the PRA's goals and requirements.

I. Summary of the FCC's New Enhanced Transparency Obligations.

In its *Verizon v. FCC* opinion, the D.C. Circuit upheld the transparency rule adopted by the Commission in 2010,[6] which governs the content and format of disclosures that providers of broadband Internet access service must provide to end-user consumers, edge providers, and the Internet community at large.[7] Specifically, broadband providers are currently required to provide accurate "information, timely and prominently disclosed in plain language accessible to current and prospective end users and edge providers, the Commission, and third parties" regarding the network management practices, performance, and commercial terms of its broadband Internet access services.[8] It is significant that, rather than imposing strict content and format requirements in the *2010 Open Internet Order*, the Commission allowed flexibility in implementation of the transparency rule by providing guidance regarding effective disclosure models.[9] For example, the disclosure requirements are described in terms of expectations that "some or all" of the following types of information would be disclosed: network practices (congestion management, application-specific behavior, device attachment rules and security, if

[6] *See Preserving the Open Internet*, GN Docket No. 09-191, WC Docket No. 07-52, Report and Order, 25 FCC Rcd 17905, 17931-51, paras. 43-79 (2010) (*2010 Open Internet Order*), *aff'd in part, vacated and remanded in part sub nom. Verizon v. FCC*, No. 11-1355 (D.C. Cir. Jan. 14, 2014). However, the court vacated the no-blocking and no-unreasonable discrimination rules also adopted in that order as impermissible common carrier regulation of an information service. *See Verizon v. FCC*, No. 11-1355, slip op. at 4, 63.

[7] *See 2015 Open Internet Order* at paras. 154-181.

[8] *2010 Open Internet Order* at 17938, para 56. The 2010 transparency rule specifically requires broadband providers to "publicly disclose accurate information regarding the network management practices, performance, and commercial terms of its broadband Internet access services sufficient for consumers to make informed choices regarding use of such services and for content, application, service, and device providers to develop, market, and maintain Internet offerings." 47 C.F.R. § 8.3. The rule does not require disclosure of information that is competitively sensitive, or that would compromise network security or undermine the efficacy of reasonable network management practices. *2010 Open Internet Order* at 17937, para. 55.

[9] *See 2010 Open Internet Order* at 17938, para. 56.

applicable); performance characteristics (service description and impact of specialized services, if applicable); and commercial terms (pricing, privacy policies, and redress options).[10]

In 2011 and 2014, Commission staff provided guidance on interpreting the current transparency rule, clarifying, among other things, that point of sale disclosures could be accomplished by directing prospective customers to a web address containing the required disclosures rather than distributing hard copies of disclosure materials;[11] that disclosure of the information specifically identified in paragraphs 56 and 98 of the *2010 Open Internet Order* would suffice for compliance;[12] and that all statements regarding network management practices, performance, and commercial terms must be accurate wherever they appear – including "in mailings, on the sides of buses, on website banner ads, or in retail stores."[13]

In the *2015 Open Internet Order*, the Commission purported to "clarify" that all of the pieces of information described in paragraphs 56 and 98 of the *2010 Open Internet Order* were required to be disclosed under the existing transparency rule (and will continue to be required except for "typical frequency of congestion"), and that the accurate disclosures requirement includes the need to maintain the accuracy of these disclosures.[14] Other "clarifications" address disclosure by mobile broadband providers of performance information for each broadband service offered; disclosure of the impact of specialized services (now referred to as "non-BIAS

[10] *See id.* for full descriptions of the disclosure requirements.
[11] *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. 07-52, Public Notice, 26 FCC Rcd 9411, 9413-14 (2011) (*2011 Advisory Guidance*).
[12] *Id.* at 9416.
[13] *FCC Enforcement Advisory*, *Open Internet Transparency Rule: Broadband Providers Must Disclose Accurate Information to Protect Consumers*, Public Notice, 29 FCC Rcd 8606, 8607 (2014).
[14] *See 2015 Open Internet Order* at para. 161.

data"); and disclosure of network practices that apply to traffic associated with a particular user or user group.[15]

The Commission also "enhanced" the existing transparency rule, affecting both the content and format of required disclosures, as follows:

- Specific disclosures for commercial terms, prices, other fees (including all additional one time and/or recurring fees and/or surcharges the consumer may incur either to initiate, maintain, or discontinue service), and data caps and allowances.

- Disclosure of network performance characteristics, including disclosure of packet loss as a key measurement (in addition to speed and latency); an expectation that disclosures of actual network performance data be geographic-specific and that network performance will be measured in terms of average performance over a reasonable period of time and during times of peak usage.

- In addition to the existing requirements of prominent display of disclosures on a publicly available website and disclosure of relevant information at the point of sale, a mechanism for directly notifying end users if their individual use of a network will trigger a network practice, based on their demand prior to a period of congestion, that is likely to have a significant impact on the end user's use of the service.[16]

The Commission also established a temporary exemption for small businesses (broadband providers with 100,000 or fewer subscriber lines) from the enhancements to the transparency rule, with the potential for a permanent exemption if warranted, and created a voluntary safe harbor for the format and nature of the required disclosure to consumers.[17]

II. The FCC's PRA Estimate Grossly Underestimates the Burdens and Costs Associated with its New Enhanced Transparency Obligations.

In determining the burden associated with a particular information collection, the Commission is required to consider, among other things, the time, effort, and cost required to train personnel to be able to respond to the collection; to acquire, install, and develop systems

[15] *Id.* at paras. 166-69.

[16] *See 2015 Open Internet Order* at paras. 162-171.

[17] *See id.* at paras. 172-181. Additionally, there is guidance on how the Commission intends to enforce the enhanced transparency rule, including a reminder that providers may seek guidance in the form of advisory opinions from the Enforcement Bureau about any of the open Internet regulations. *Id.* at para. 185.

and technology to collect, validate, and verify the requested information; to process and maintain the required information; and to provide the required information.[18] The enhancements to the disclosure requirements as we interpret them are quite significant, and the Commission's estimates of the time and cost involved – an increase of just 28.9 hours over its existing rules and an additional $200 per respondent – does not appear to come close to reflecting the extent of that significance. The Commission therefore must revisit its review and employ a more realistic estimate of the burdens broadband providers will incur to comply with the new requirements.

As a general matter, broadband providers will be required to invest significant time, resources, and personnel to develop and implement programs to comply with the requirements of this new information collection. In order to implement these programs, broadband providers will need to engage a wide range of personnel – including engineers, network managers, regulatory advisors, in-house and outside counsel, technical writers, marketing, and other employees. These individuals will be required to evaluate what additional information must be compiled and disclosed – on top of the existing obligations – and how this new information should be formatted for public disclosure. All told, just *designing* these additional programs will take considerably longer than the 28.9 hours and $200 per respondent as estimated by the Commission.

Furthermore, the burdens associated with the proposed information collection are compounded by the estimated frequency of response requirement, which the Commission describes in the supplemental information of its Federal Register notice – without elaboration – as an "on occasion reporting requirement."[19] Instead of adopting an annual or quarterly requirement, for example, to measure and disclose network performance metrics, the

[18] 5 C.F.R. § 1320.3(b)(1).
[19] *FR Notice* at 29001.

Commission has left it up to broadband providers to figure out how often they must measure network performance, disclose the results of those measurements, and then repeat the process. At a minimum, the Commission should clarify how often providers who do not rely on their participation in the "Measuring Broadband America" (MBA) program to meet the new network performance disclosure requirements[20] will be expected to measure and disclose network performance metrics, and explain how its burden estimates accurately reflect those expectations.

A. Providers Will Have to Expend Significant Resources to Comply With the Expanded Requirements for Disclosure of Commercial Terms and Policies.

The Commission will now require that additional information about price and related terms "always be disclosed," including: full monthly service charge, noting any promotional rates and the duration of any promotional period, and the full monthly service charge after the promotional period; other one-time or recurring fees and surcharges such as modem rental fees, installation fees, service charges, and early termination fees; and plan data caps or allowances and any consequences of exceeding caps or allowances.[21]

To meet these expanded requirements, broadband providers, at a minimum, will have to invest significant time, resources, and personnel to design or redesign promotional materials to reflect the additional information and to explain how any fees, surcharges, data caps, or other charges will apply. This necessarily will include review of such materials by each broadband provider's legal staff and regulatory personnel, as well as members of the company's management team, to determine the accuracy and appropriateness of new promotional and informational materials, and to do so repeatedly, as necessary, and on an ongoing basis to ensure continuing accuracy as promotions may be changed or updated.

[20] *See infra* note 25, explaining that participation in the Commission's MBA program is a safe harbor for meeting the network performance disclosure requirements.
[21] *See 2015 Open Internet Order* at para. 164.

Broadband providers also must develop new procedures to protect customer privacy,[22] and any revisions to their privacy policies resulting from these new procedures must be disclosed under the transparency rule. The Commission therefore must include in its burden estimates the projected costs and time commitments necessary to comply with this disclosure requirement.

B. Providers Will Have to Expend Significant Resources to Comply With the Expanded Requirements for Disclosure of Network Performance Metrics

The *2015 Open Internet Order* contains data collection and disclosure requirements relating to performance metrics that may significantly expand the existing obligations. Among other things, the new data collection will potentially require broadband ISPs to disclose information relating to: 1) packet loss; 2) more geographic-specific and granular speed and latency; and 3) average estimates for speed, latency, and packet loss during peak periods. For each of these requirements, many broadband providers would incur substantial costs and expend many man-hours to develop new (or revise existing) systems, software and procedures to capture and analyze the new information associated with the increased transparency obligations.

As a general matter, we believe the Commission failed to take into account the magnitude of the enhanced burden of measuring and disclosing speed, latency, and packet loss, where applicable. For example, in seeking comment on how recipients of high-cost universal service support could test their broadband networks for compliance with reporting requirements under the Connect America Fund (CAF) program, the Commission estimates that the cost to deploy testing similar to the Commission's MBA program, which uses whiteboxes to perform periodic tests to determine the speed and latency of service at a particular location, would be $240 per

[22] *See FCC Enforcement Advisory, Open Internet Standard, Enforcement Bureau Guidance: Broadband Providers Should Take Reasonable, Good Faith Steps to Protect Consumer Privacy*, Public Notice, DA 15-603 (rel. May 20, 2015).

whitebox.[23] This estimate presumes a more cost-efficient purchase of a large number of whiteboxes (i.e., 5,000), which far exceeds the amount of equipment that would need to be purchased by smaller broadband providers. Additional first year expenses estimated by the Commission include $1.3 million in administrative costs and $1.7 million in the requisite core testing servers.

Only 14 of the 3,188 broadband providers identified as respondents in the PRA Notice participate in the MBA program,[24] which the Commission has said may be used to comply with the network performance disclosure obligations.[25] Other broadband providers that have not participated in the MBA program to date may use the MBA methodology, but must develop their own program to measure the actual performance of their broadband offerings.[26] Although the Commission is considering whether to exempt smaller providers from these information collection obligations, a substantial number of broadband ISPs exceeding the proposed threshold for an exemption would be subject to these additional costly and burdensome obligations, and the Commission's cost burden estimates appear to fail to take these significant costs into account.

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[23] *See Wireline Competition Bureau, Wireless Telecommunications Bureau, and the Office of Engineering and Technology Seek Comment on Proposed Methodology for Connect America High-Cost Universal Service Support Recipients to Measure and Report Speed and Latency Performance to Fixed Locations*, Public Notice, WC Docket No. 10-90, 29 FCC Rcd 12623, 12628 (2014). Using the Commission's estimate that the total cost for 5,000 white boxes under the CAF program is $1.2 million, we arrived at the $240 per location figure by dividing the number of white boxes (5,000) into the total estimated cost.

[24] *See 2014 Measuring Broadband America Fixed Broadband Report: A Report on Consumer Fixed Broadband Performance in the U.S.*, at 5 (2014) (available at: http://data.fcc.gov/download/measuring-broadband-america/2014/2014-Fixed-Measuring-Broadband-America-Report.pdf).

[25] The Commission states that participation in the MBA program is a safe harbor available to fixed broadband providers in meeting the network performance disclosure requirements. *2015 Open Internet Order*, at para. 166, n.411.

[26] *2011 Advisory Guidance*, 26 FCC Rcd at 9415.

Packet Loss. The Commission's *2015 Open Internet Order* adds disclosure of "packet loss" to the new requirements imposed under the new transparency rule.[27] In addition to the significant administrative burdens this may add, the collection and disclosure of packet loss information is of little practical use to consumers and lacks any true benefit.

The extreme burden that would fall on the majority of providers that do not participate in the MBA program is apparent, but even the few broadband providers that will rely on the MBA safe harbor may incur significant costs to analyze packet loss data to estimate statistically significant national packet loss metrics. The costs associated with analyzing these metrics are significant. Such analyses would need to be conducted by experienced engineers for the multiple locations; thus, the costs associated with the engineering time alone would far exceed the Commission's estimate of $200 per provider.

Increased Granularity and Peak Usage Data. Depending on the granularity[28] at which all of the additional network performance data would need to be analyzed – a determination yet to be made by the Commission – the total burden on such companies could increase substantially. Obtaining metrics for areas that are different or smaller than what a carrier already uses would be extremely burdensome and only serve to increase costs.

With regard to the new requirement to measure network performance during times of peak usage,[29] for example, systems for capturing this information will need to be developed and implemented by broadband providers not participating in the MBA program, and would be particularly burdensome for smaller carriers. To the extent such metrics must be computed for

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[27] *See 2015 Open Internet Order* at para. 166 (stating that "[t]he existing [2010] transparency rule requires disclosure of actual network performance. In adopting that requirement, the Commission mentioned speed and latency as two key measures. Today we include packet loss as a necessary part of the network performance disclosure.") (citations omitted).

[28] *See 2015 Open Internet Order* at para. 166.

[29] *See id*.

several geographic areas (as opposed to only a national figure), that would also increase the burden. Moreover, to the extent these data must be updated periodically, the burden will be incurred multiple times. For these reasons, the burden of collecting and disclosing these figures could be substantial.

C. Providers May Have to Expend Significant Resources to Comply With the New Point of Sale Obligations

In a potentially significant change from the FCC's existing rules, the agency's new point of sale obligations might be read to eliminate the option for broadband providers to provide point of sale disclosures directing prospective customers to a web address containing the required disclosures rather than distributing hard copies of disclosure materials. Specifically, the Commission requires that broadband providers "actually disclose information required for consumers to make an 'informed choice' regarding the purchase or use of broadband services at the point of sale," and further explains that it "is not sufficient for broadband providers simply to provide a link to their disclosures."[30] This new language could be interpreted to mean that broadband providers must now provide paper copies of all information required to be disclosed at each point of sale.[31] If that is intended, such a change would not only be antithetical to the PRA's core goal of eliminating reliance on paper, but is a departure from broader government-wide trends to rely less on paper and more on electronic access and transactions.[32]

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[30] *2015 Open Internet Order* at para. 171, n. 424.

[31] Although the Commission does not define "points of sale," we presume from context that it is intended to include all brick-and-mortar retail stores, sales kiosks, and every other sales channel, including, but not limited to, telephone contacts between customers and a broadband provider's customer service representatives. In that regard, it is not clear how actual disclosure over the telephone must be accomplished, but we note that the PRA's definition of the term "burden" includes "resources expended" for "transmitting, or otherwise disclosing the information." 44 U.S.C. § 3502(2)(F).

[32] *Cf., e.g.,* Electronic Signatures in Global and National Commerce Act (ESIGN Act), Pub. L. 106–229, 114 Stat. 464, (Jun. 30, 2000), *codified at*15 U.S.C. ch. 96. The ESIGN Act seeks to facilitate the use of electronic records and electronic signatures in interstate and foreign commerce by ensuring the validity and legal effect of contracts entered into electronically.

If broadband providers can no longer provide a link to website disclosures at the point of sale, the Commission's expanded obligations will require them to prepare and distribute paper materials at every point of sale location. That would be a massive undertaking. These materials also would need to be monitored and updated as appropriate, further increasing the associated burdens. Moreover, each employee involved in this multi-step process would need to be trained initially (and retrained periodically) to learn the substance of and be able to explain the information to customers to ensure ongoing compliance.[33] The notion that all of these additional activities could be accomplished in slightly more than 4.5 hours for merely $200 in additional costs is not remotely reasonable.

III. The Commission's Proposed Information Collection Lacks Any Cost-Benefit Analysis.

Despite the imposition of substantial costs on broadband providers as a result of the Commission's expanded transparency obligations, the *2015 Open Internet Order* contains no analysis or discussion whatsoever of whether these additional costs outweigh the burden that providers will face if required to implement these additional measures. Contrary to the Commission's assertion that its expanded transparency obligations are "modest in nature,"[34] the costs associated with these expanded rules are substantial, and warranted an appropriate analysis by the Commission. Such an analysis is consistent with Commission precedent, and would have identified the substantial costs associated with the Commission's expanded rules.

For example, when the Commission last considered costs associated with its customer proprietary network information (CPNI) obligations in 1998,[35] it specifically considered costs

[33] Under the PRA, the term "burden" includes "resources expended" for "reviewing instructions." 44 U.S.C. § 3502(2)(A).

[34] *2015 Open Internet Order* at paras. 109, 172.

[35] *See generally Implementation of the Telecommunications Act of 1996, Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information, Implementation of the Non-*

associated with their implementation. The Commission discussed various cost-related issues, including the costs and benefits of retaining certain CPNI requirements, and whether imposition of certain mechanical access systems should be mandated. The Commission also considered whether such a mandate would be too expensive to establish and to maintain, or might produce inefficiencies and dampen competition by increasing the costs of entry into telecommunications markets.

In stark contrast, however, the Commission's *2015 Open Internet Order* contains no *substantive* cost-benefit analysis whatsoever. The absence of any cost-benefit analysis in the *2015 Open Internet Order*, coupled with a lack of any such analysis in the *FR Notice*,[36] is even more glaring, given the Commission's recent application of CPNI-like obligations to broadband providers.[37] The substantial costs associated with the expanded transparency obligations discussed above make it imperative that the Commission conduct a thorough and detailed cost-benefit analysis that accurately assesses the actual costs associated with this information collection, and determines whether those costs are justified by the incremental benefit that the increased transparency obligations may provide. Absent such an analysis, the Commission's proposed information collection should not withstand scrutiny under the PRA.

IV. Elements of the Proposed Information Collection Will Have Little or no Practical Utility to the Commission and the Public.

In addition to the substantial burdens associated with the proposed information collection, the information that broadband providers are expected to collect will have little or no practical utility to the Commission and the public. The PRA defines "practical utility" as "the ability of

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Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as Amended, CC Docket Nos. 96-115 & 96-149, Second Report and Order and Further Notice of Proposed Rulemaking, 13 FCC Rcd 8061 (1998) (adopting CPNI rules and seeking comment on additional related requirements).

[36] *See supra* note 3.

[37] *See 2015 Open Internet Order* at paras. 463-64.

an agency to use information, particularly the capability to process such information in a timely and useful fashion."[38] OMB's rules clarify that "practical utility means the actual, not merely the theoretical or potential, usefulness of information."[39] The rules also require that an agency establish a "plan for the efficient and effective management and use of the information to be collected."[40]

The requirement that a proposed information collection have actual practical utility is not merely aspirational. In multiple decisions, OMB has disapproved of information collections because the agency failed to demonstrate the "practical utility" of the collection in question. For example, OMB disapproved of the Commission's information collection requirement that would have required wireline and wireless carriers to maintain emergency backup power for their communications networks. OMB concluded that the Commission failed to "demonstrate[], given the minimal staff assigned to analyze and process this information, that the collection ha[d] been developed by an office that ha[d] planned and allocated resources for the efficient and effective management and use of the information collected."[41] Further, OMB noted that the "non-standardized format"[42] of the collection and "lack of sufficient clari[ty] on how respondents are to satisfy compliance"[43] also limited the collection's practical utility. Similarly, OMB failed to approve an Environmental Protection Agency (EPA) information collection because the agency's "practical utility" showing was not commensurate with the burden of the collection. According

[38] 44 U.S.C. § 3502(11).
[39] 5 C.F.R. § 1320.3(l).
[40] 5 C.F.R. § 1320.8(a)(7).
[41] *See Notice of Office of Management and Budget Action*, ICR Reference Number 200802-3060-019, at 1 (Nov. 28, 2008) (citing 44 U.S.C. § 3506(c)(3)(H)).
[42] *Id*. (citing 44 U.S.C. § 3506(c)(3)(A); 5 C.F.R. § 1320(5)(d)(1)).
[43] *Id*. (citing 44 U.S.C. § 3506(c)(3)(C)).

to OMB, "[b]efore EPA undertakes such a large information collection (130,000 hours were requested for the screener survey alone), it must document the need for additional regulations."[44]

Here, the Commission has similarly failed to explain how its proposed information collection will have any practical utility that justifies the immense burden it will impose on broadband providers. For example, the Commission's *2015 Open Internet Order* provides no justification for why packet loss has been added as a necessary component of the network performance disclosures. The *2015 Open Internet Order* simply references comments from a handful of commenters "calling for inclusion of packet loss in disclosures."[45] None of these comments explain how packet loss would actually be useful to consumers or edge providers, and one comment simply states that such information "could" be useful to consumers.[46]

To the contrary, nothing in the record suggests that packet loss metrics would be useful to consumers or edge providers in evaluating service quality or comparing performance among available networks. Packet loss can be attributable to issues outside of a broadband provider's control, and sometimes packet loss can result in improved network performance since reducing packet loss sometimes slows the speed at which packets are delivered. Packet loss can vary according to things like high traffic demand that are not necessarily attributable to a particular broadband provider, and often reflect reasonable and necessary network management that the Commission has sanctioned as a permissible practice. Considering the cost to develop and implement methods to measure packet loss for all but a handful of broadband providers that already have such capability through their involvement in the MBA program, the Commission

[44] *See Notice of Office of Management and Budget Action*, ICR Reference No: 199805-2040-001, at 1 (Sep. 11, 1998).
[45] *2015 Open Internet Order* at para. 166, n.407.
[46] *See id*. (referencing AARP Comments at 48).

should reverse its decision to require packet loss measurement under the enhanced transparency rule.

Similarly, with respect to the expanded point of sale obligations requiring actual notice of mandatory disclosures that may be read to eliminate the option to provide a website link for such notice, there is nothing in the record to suggest that this is necessary or practical in all instances. Typical providers have multiple point of sale channels including store fronts (provider-owned and other retail outlets such as Best Buy and Wal-Mart), call centers, and website. To bar notice by a website link to customers who seek service via website or telephone, in particular, would add considerable layers and cost to the disclosure process. The record also lacks evidence that consumers oppose notification via a website link. Thus, there would be little or no offsetting benefits to customers. The flexible approach adopted by the Commission in the *2010 Open Internet Order* better takes into account the considerable expense involved with requiring actual, hard copy point of sale disclosures to all customers.

V. Conclusion.

For the reasons discussed herein, the Commission should revisit its review and employ a more realistic estimate of the burdens broadband providers will incur to comply with the new requirements.

Respectfully submitted,

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