

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Protecting and Promoting the Open Internet)	GN Docket No. 14-28
)	
Information Collection Being Submitted for)	OMB 3060-1158
Review and Approval to the)	
Office of Management and Budget)	
)	

**COMMENTS OF
THE UNITED STATES TELECOM ASSOCIATION**

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September 12, 2016

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Summary

Despite detailed opposition to the Federal Communications Commission's initial information collection burden estimates, its 'revised' burden estimates continue to fall well short of what broadband Internet access service providers will have to do to comply with them. The Commission's Modified Proposal largely ignores comments submitted by interested parties in the initial proceeding, and the Commission's explanations fall far short of substantively addressing the underlying concerns.

For example, the Commission's Modified Proposal continues to ignore its obligation 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 and technology to collect, validate, and verify the requested information; to process and maintain the required information; and to make the required information available to customers. Even assuming that only 25 broadband providers will ultimately be subject to these rules, the Commission's claims continue to substantially underestimate the burdens associated with these obligations. 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 addition, the Commission continues to ignore concerns regarding the vagueness of its "on occasion reporting requirement." In fact, rather than provide much-needed clarity regarding its vague timing standard, the Commission instead intersperses its explanation in the Modified Proposal with phrasing that only further adds to the confusion. Moreover, the Commission provides no analysis or explanation in its Modified Proposal as to why the adoption of an annual or quarterly requirement for disclosure would be unsuitable as previously recommended by USTelecom.

The Modified Proposal largely ignores concerns raised by USTelecom and others regarding the Commission's requirement that additional information about price and related terms "always be disclosed." The Commission makes only passing reference to these concerns by noting – incorrectly – that they were addressed in the 2016 Guidance PN. The 2016 Guidance PN provides no such clarification, nor does the Modified Proposal acknowledge the substantial burdens associated with these expanded requirements. The Commission's expanded disclosure obligations regarding commercial terms and policies will require broadband providers to, at a minimum, 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.

The 2016 Guidance PN also radically expanded the obligations of providers participating in the Measuring Broadband America (MBA) program. Despite the fact that the Open Internet order established a safe harbor for participants in the MBA program, the 2016 Guidance PN, however, "clarified" that the safe harbor only applied "for each service for which the program provides network performance metrics." Thus, suddenly and absent an opportunity for notice and comment, participants in the MBA program were required to implement an expansive testing regime for – in the case of many USTelecom members – tens of additional speed tiers in areas nationwide.

The Commission also continues to understate the substantial costs and burdens associated with the expanded requirements for disclosure of network performance metrics. The Commission's addition of a mere 2.5 hours to its previously proposed burden hours does not adequately address the substantial concerns raised by stakeholders regarding the costs and burdens associated with the expanded reporting obligations, and ignores the established record in this proceeding. USTelecom continues to believe that the Commission's Modified Proposal fails to take into account the magnitude of the enhanced burden of measuring and disclosing speed, latency, and packet loss, where applicable.

Despite the extensive record in this PRA proceeding, the Commission once again avoids any substantive discussion in its Modified Proposal explaining the complete absence of any cost-benefit analysis for its enhanced transparency obligations. Similarly, the Commission avoids any mention whatsoever of any practical utility that its information collection will provide to the Commission and/or the public. Nor does the Commission discuss the benefits of radically expanding the Measuring Broadband America safe harbor with its *2016 Guidance PN*.

Finally, should the proposed information collection withstand PRA review, the Commission should extend permanently the small business exemption so that smaller broadband providers are not unduly and unnecessarily burdened. As previously noted by USTelecom, the burdens and costs associated with the Commission's enhanced transparency obligations will overwhelm small broadband providers.

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**COMMENTS OF
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The United States Telecom Association (USTelecom)¹ submits these comments in response to the notice² released by the Federal Communications Commission (Commission or FCC) seeking comment pursuant to the Paperwork Reduction Act (PRA) of 1995³ (PRA Notice) on the modified information collection (Modified Proposal)⁴ associated with its enhanced transparency rule adopted in the *2015 Open Internet Order*.⁵ Despite the detailed opposition to the Commission’s initial information collection burden estimates, its ‘revised’ burden estimates

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 Notice and Request for Comments, *Information Collection Being Reviewed by the Federal Communications Commission*, 81 FR 53145 (August 11, 2016).

³ Paperwork Reduction Act of 1995, Pub. L.104-13, 109 Stat. 163 (1995), *codified at* 44 U.S.C. 3501 *et seq.*

⁴ See, FCC Supporting Statement, OMB 3060-1158, (submitted August 10, 2016) (available at: <http://www.reginfo.gov/public/do/DownloadDocument?objectID=67156900>) (visited September 12, 2016) (*Modified Proposal*).

⁵ Report and Order on Remand, Declaratory Ruling, and Order, *Protecting and Promoting the Open Internet*, 30 FCC Rcd 5601 (2015) (*2015 Open Internet Order*).

continue to 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,"⁶ 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 also has done nothing to demonstrate that the benefits of this collection will outweigh the substantial burden that small broadband providers will face to comply, and therefore the information collection should not be applicable to these businesses. The Commission therefore should conduct a cost-benefit analysis, and then modify both the burden estimates and the scope of the information collection to better reflect the PRA's goals and requirements.

I. THE COMMISSION'S MODIFIED PROPOSAL IS FLAWED AND LARGELY IGNORES LEGITIMATE CONCERNS RAISED BY STAKEHOLDERS.

In its Modified Proposal, the Commission purports to address the substantial concerns raised by industry⁷ regarding the proposed information collection. The Commission specifically explains that in submitting its Modified Proposal, it has "revis[ed] upward" its estimates of the burden associated with this information collection, and asserts that its new estimates "reflect full consideration of the comments filed" in response to its initial proposal.⁸ The Modified Proposal,

⁶ 5 C.F.R. § 1320.1.

⁷ See, Comments of USTelecom, July 20, 2015 (*USTelecom Comments*); Comments of AT&T, July 20, 2015 (*AT&T Comments*); *Comments of the Wireless Internet Service Providers Association*, July 20, 2015 (*WISPA Comments*); Comments of Mobile Future, July 20, 2015 (*Mobile Future Comments*); Comments of CTIA - The Wireless Association, July 20, 2015 (*CTIA Comments*); Comments of the American Cable Association, July 20, 2015 (comments available at: http://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201608-3060-005) (visited September 12, 2016).

⁸ See, Notice and Request for Comments, *Information Collection Being Reviewed by the Federal Communications Commission*, 80 FR 29000 (May 20, 2015).

however, largely ignores comments submitted by interested parties in the initial proceeding, and the Commission's explanations fall far short of substantively addressing the underlying concerns.

A. The Modified Proposal Continues to Underestimate the Burdens and Costs Associated with its Enhanced Transparency Obligations.

In its Modified Proposal, the Commission continues to ignore its obligation 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 and technology to collect, validate, and verify the requested information; to process and maintain the required information; and to make the required information available to customers.⁹ While acknowledging the significant opposition from multiple commenters that the Commission's initial estimates of the time and cost involved are grossly unrealistic, the Commission nevertheless retains its cost estimate of \$200 per respondent, explaining that such concerns are misplaced, since "only 25 of the 3,188 respondents would incur these costs."¹⁰ It does modify the time estimate by increasing it from 28.9 hours to 31.2 hours, but that increase still misses the mark by a considerable margin, as explained below.

Even assuming that only 25 broadband providers will ultimately be subject to these rules, the Commission continues to substantially underestimate the burdens associated with these obligations. 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

⁹ 5 C.F.R. § 1320.3(b)(1).

¹⁰ *Modified Proposal*, p. 7.

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 31.2 hours and \$200 per respondent as estimated by the Commission. USTelecom companies have already expended several times this in preparing for these vastly expanded obligations.

B. In Seeking to Clarify Concerns Surrounding the Frequency of Reporting, the Commission has Introduced Greater Ambiguity and Uncertainty.

The Modified Proposal effectively disregards the issues raised by USTelecom regarding the vagueness of the Commission’s “on occasion reporting requirement.”¹¹ Indeed, rather than provide much-needed clarity regarding its vague timing standard, the Commission instead intersperses its explanation in the Modified Proposal with phrasing that only further adds to the confusion. For example, it states that broadband providers must update their disclosures “whenever” a “material change” arises to the information being disclosed.¹² The Commission does not even attempt to define what constitutes a “material” change, but broadband providers are nevertheless under an obligation to update their disclosures “whenever” such an undefined change occurs.

Similarly, the Commission declines to quantify the “exact frequency of updates,” stating that such occurrences will “depend largely” on a variety of instances that are “likely” to “significantly” affect consumers’ use of the service.¹³ This too is ambiguous and subject to different interpretations, and broadband providers will need to determine what exactly constitutes a “significant” impact to consumers, each of whom has different tolerance thresholds regarding

¹¹ *Modified Proposal*, p. 7. *USTelecom Comments*, pp. 5 - 6.

¹² *Modified Proposal*, p. 7.

¹³ *Id.*

what they deem affects their use of the service. Exacerbating the frequency of updates, some broadband providers – out of an abundance of caution – may choose to file far more frequently than is necessary, thereby significantly (and unnecessarily) increasing their burden.

Another clear example of the Commission’s failure to clarify or address issues raised in comments to the initial information collection estimates is its “on occasion” reporting mandate. Specifically, in discussing the annual burden hours of its enhanced transparency rule, the Commission states that each of the 3,188 respondents will be required to provide one notification to consumers per year.¹⁴ This measure does not even attempt to quantify any burden resulting from the Commission’s open-ended requirement to update disclosures *as necessary*, which will almost certainly result in multiple filings by multiple broadband providers in a single year.¹⁵ The failure to explain how this once-per-year annual filing burden estimate squares with the requirement to make updates as necessary demonstrates the significant flaws in the Commission’s estimates.

Moreover, the Commission provides no analysis or explanation in its Modified Proposal as to why the adoption of an annual or quarterly requirement for disclosure would be unsuitable as previously recommended by USTelecom.¹⁶ The Commission merely counters that its “on occasion” standard is both accurate and a “commonly used description,”¹⁷ instead leaving 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. The only support the

¹⁴ *Modified Proposal*, p. 14.

¹⁵ *See e.g., Mobile Future Comments*, p. 4 (stating that the Commission’s annual submission estimate “suggests a one-time annual effort which is highly unrealistic for most companies that will be required to constantly monitor whether any new business practices represent a material change that requires an update to consumer disclosures.”).

¹⁶ *USTelecom Comments*, pp. 5 - 6.

¹⁷ *Modified Proposal*, p. 7.

Commission points to for this assertion is its nearly identical open internet information collection proposals from 2011 and 2014, which does not adequately explain why the standard is appropriate in this context.

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

The Modified Proposal largely ignores concerns raised by USTelecom and others regarding the Commission’s requirement that additional information about price and related terms “always be disclosed.”¹⁸ The Commission makes only passing reference to these concerns by noting – incorrectly – that they were addressed in the 2016 Guidance PN.¹⁹ The 2016 Guidance PN provides no such clarification, nor does the Modified Proposal acknowledge the substantial burdens associated with these expanded requirements.

As previously noted by USTelecom, the Commission’s expanded disclosure obligations regarding commercial terms and policies will require broadband providers to, at a minimum, 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

¹⁸ This information includes, 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. *See 2015 Open Internet Order* at para. 164.

¹⁹ *See*, Supplemental Information, p. 6 (stating that “the 2016 Guidance PN addresses concerns regarding disclosure of commercial terms and network performance characteristics to consumers at the point of sale and clarifies that the 2015 *Open Internet Order* made no changes to the Transparency Rule’s point of sale requirement.”)

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.

Similarly, the Modified Proposal completely ignores the burdens associated with broadband providers' obligation to develop the new procedures for protecting customer privacy arising from the Commission's *2015 Open Internet Order*.²⁰ In its previous comments, USTelecom noted that in light of the Commission's 2015 Enforcement Advisory, BIAS providers would need to implement such procedures, and that any revisions to their privacy policies resulting from these new procedures must be disclosed under the transparency rule.²¹ The Modified Proposal makes no reference whatsoever to these concerns, and accordingly the Commission's estimate fails to account for their accompanying burden on broadband providers. Given this glaring omission, the Commission must therefore include in its burden estimates the projected costs and time commitments necessary to comply with this disclosure requirement.

D. The 2016 Guidance PN Radically Expanded the Burdens on Participants in the Measuring Broadband America Program, and the Modified Proposal Does Not Adequately Account for These Expanded Obligations.

The *2016 Guidance PN* radically expanded the obligations of providers participating in the Measuring Broadband America Program. Under the *Open Internet Order*, the Commission had unambiguously explained that “[p]articipation in the Measuring Broadband America (MBA) program continues to be a safe harbor for fixed broadband providers in meeting the requirement to disclose actual network performance.”²² In other words, the Commission, together with its consultant SamKnows, selected the most popular tiers (tiers with 5% or more of a carriers’

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

²¹ See, *USTelecom Comments*, p. 7.

²² *2015 Open Internet Order* ¶ 166 n.411.

subscribers) of the largest Internet providers, and the largest providers were then entitled to a safe harbor for purposes of performance disclosures if they accurately disclosed these results. The *2016 Guidance PN*, however, “clarified” that the safe harbor only applied “for each service for which the program provides network performance metrics.”²³ Thus, suddenly and absent an opportunity for notice and comment, participants in the Measuring Broadband America program were required to implement an expansive testing regime for – in the case of many USTelecom members – tens of additional speed tiers in areas nationwide.

Far from addressing these increased costs imposed by the *2016 Guidance PN*, the FCC simply cites a press release from the American Cable Association, which indicated that the “*2016 Guidance PN* addresses [the American Cable Association’s] concerns about the enhancements to the Transparency Rule.”²⁴ Of course, the American Cable Association and its members do not participate in the Measuring Broadband America program. Whatever the merits of any clarification for the American Cable Association and its member, the *2016 Guidance PN* radically expanded reporting obligations for USTelecom and its members, and the Modified Proposal simply does not account for these vastly expanded costs.

While the Modified Proposal does provide some estimates for the implementation of testing regimes across the industry with total annualized capital, operation, and maintenance costs of \$640,000, this estimate is much closer to the costs for a single provider rather than industry wide costs. Oddly, the Commission does not cite specifically to its contract to SamKnows and the costs and hours involved for the Measuring Broadband America program. To take just a few examples, the Modified Proposal’s \$65 per measurement device cost appears

²³ *2016 Guidance PN* at 5.

²⁴ *FR Notice* at 2 (citing American Cable Association, *ACA Commends FCC on Open Internet Transparency Rule Guidance*, (May 20, 2016) (available at: <http://www.americancable.org/node/5721>) (visited September 12, 2016) (*ACA Press Release*)).

to be roughly 25% – 40% lower than the roughly \$80 – \$100 plus \$15 – \$25 shipping and handling per box cost quoted to Measuring Broadband America program participants. Similarly, the FCC could provide the sample cost of SamKnows providing the service to a single participant – likely running in the hundreds of thousands of dollars, and multiply that across the industry. Even discussion of the FCC’s costs – although it is a single, consolidated nationwide testing platform and does not include the costs put on providers or the costs of having to replicate the same testing regime across many providers – would be very instructive for an estimate of the costs involved.

Finally and inexplicably, the FCC apparently expects carriers to be able to implement this regime in approximately 30 hours, in addition to all the website updates required by the enhanced transparency rule. This underestimates compliance time by a factor of 10-100 or more. Of course, Measuring Broadband America carriers already spend more than 30 hours a year participating in the SamKnows program. Implementing new testing regimes – as the FCC knows in its own experience – requires hundreds of hours. So too does the new website disclosures required by the FCC’s enhanced transparency rules. Ultimately, these shortcomings related to implementing testing regimes require the FCC to revisit its cost estimate again.

E. The Commission Continues to Understate the Substantial Costs and Burdens Associated with the Expanded Requirements for Disclosure of Network Performance Metrics.

The Commission’s addition of a mere 2.5 hours to its previously proposed burden hours does not adequately address the substantial concerns raised by stakeholders regarding the costs and burdens associated with the expanded reporting obligations, and ignores the established

record in this proceeding.²⁵ USTelecom continues to believe that the Commission's Modified Proposal fails to take into account the magnitude of the enhanced burden of measuring and disclosing speed, latency, and packet loss, where applicable. Perhaps most alarming is the Modified Proposal's failure to address/account for comments comparing these enhanced open internet transparency obligations to similar reporting obligations under the Connect America Fund (CAF) program. As USTelecom demonstrated in its earlier comments, the Commission's own estimates under an MBA-like approach to CAF measurement obligations far exceed the estimates contained in its Modified Proposal.²⁶ And with the vast expansion of the required testing regimes following the *2016 Guidance PN*, the CAF measurement obligations may actually be more simple – CAF measurements only apply to a limited subset of speed tiers in very specific locations.

Moreover, only 14 of the 3,188 broadband providers identified as respondents in the PRA Notice participate in the MBA program,²⁷ which the Commission has said may be used to comply with the network performance disclosure obligations.²⁸ The remaining 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

²⁵ See, *Modified Proposal*, pp. 7 – 8. See e.g., *Mobile Future Comments*, pp. 3 – 7; *WISPA Comments*, pp 3 – 7; *AT&T Comments*, pp. 7 – 31.

²⁶ *USTelecom Comments*, pp. 7 – 10.

²⁷ 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>).

²⁸ 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.

broadband offerings.²⁹ 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 estimates in its Modified Proposal fail to take these significant costs into account.

II. THE COMMISSION'S MODIFIED PROPOSAL LACKS A COST-BENEFIT ANALYSIS OR ANY DISCUSSION OF THE PRACTICAL UTILITY OF THE INFORMATION COLLECTION TO THE COMMISSION AND THE PUBLIC.

The Commission once again fails to explain the complete absence of any cost-benefit analysis for its enhanced transparency obligations. Similarly, the Commission avoids any mention whatsoever of any practical utility that its information collection will provide to the Commission and/or the public. Nor does the Commission discuss the benefits of radically expanding the Measuring Broadband America safe harbor with its *2016 Guidance PN*.

Despite the imposition of substantial costs on broadband providers as a result of these expanded transparency obligations, neither the *2015 Open Internet Order* nor the Modified Proposal contains any analysis or discussion of whether these additional costs outweigh the burden that providers will face if required to implement these additional measures. In its comments to the Commission's initial PRA approval request, USTelecom and others addressed this administrative deficiency at length.³⁰ Contrary to the Commission's assertion that its expanded transparency obligations are "modest increments,"³¹ we and other commenters have demonstrated that the costs associated with these expanded rules are substantial, and thus warrant

²⁹ See, Public Notice, *Enforcement Bureau Issues Advisory Guidance Regarding Compliance with Open Internet Transparency Rule*, DA 11-1148, GN Docket No. 09-191, WC Docket No. 07-52 (June 30, 2011).

³⁰ *USTelecom Comments*, pp. 11 - 12.

³¹ *Modified Proposal*, p. 8; see also, *2015 Open Internet Order*, ¶¶ 109, 172.

an appropriate cost-benefit analysis by the Commission, consistent with statutory requirements and Commission precedent.³²

Similarly, nothing in the Modified Proposal demonstrates that the information that broadband providers are expected to collect will have any practical utility to the Commission and the public. The PRA defines “practical utility” as “the ability of an agency to use information, particularly the capability to process such information in a timely and useful fashion.”³³ OMB’s rules clarify that “practical utility means the actual, not merely the theoretical or potential, usefulness of information.”³⁴ The rules also require that an agency establish a “plan for the efficient and effective management and use of the information to be collected.”³⁵

Despite repeated instances in which OMB has disapproved of information collections because the agency failed to demonstrate the “practical utility” of the collection in question, the Commission’s Modified Proposal fails to address these concerns.³⁶ The Modified Proposal lacks

³² For example, when the Commission last considered costs associated with its customer proprietary network information (CPNI) obligations in 1998, it specifically considered costs associated with their implementation. *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-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). Among other things, 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.

³³ 44 U.S.C. § 3502(11).

³⁴ 5 C.F.R. § 1320.3(l).

³⁵ 5 C.F.R. § 1320.8(a)(7).

³⁶ 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.” *See, Notice of Office of*

any substantive discussion as to how the Commission's proposed information collection will have any practical utility that justifies the immense burden it will impose on broadband providers. Absent such an analysis, the Commission's proposed information collection should not withstand scrutiny under the PRA.

III. THE COMMISSION SHOULD MAKE THE SMALL PROVIDER EXEMPTION PERMANENT.

Finally, should the proposed information collection withstand PRA review, the Commission should extend permanently the small business exemption so that smaller broadband providers are not unduly and unnecessarily burdened. As previously noted by USTelecom,³⁷ the burdens and costs associated with the Commission's enhanced transparency obligations will overwhelm small broadband providers. The burdens that small companies will face in attempting to comply with these enhanced requirements are significant, especially in light of the fact 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 therefore should extend permanently the small business exemption so that smaller broadband providers are not unduly and unnecessarily burdened.

Management and Budget Action, ICR Reference Number 200802-3060-019, at 1 (Nov. 28, 2008) (citing 44 U.S.C. § 3506(c)(3)(H)).

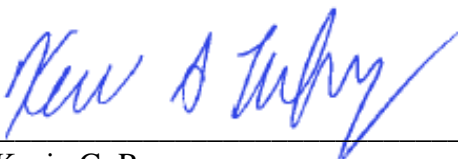
³⁷ See, Comments of USTelecom, GN Docket No. 14-28 (submitted August 5, 2015) (available at: <http://www.ustelecom.org/sites/default/files/documents/USTelecom%20Small%20Business%20Exemption%20Comments%20080515.pdf>) (visited September 12, 2016).

IV. 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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