



October 24, 2022

VIA ELECTRONIC FILING

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
45 L Street NE
Washington, DC 20554

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

Dear Ms. Dortch:

On October 20, 2022, Joshua Stager of Free Press, Jonathan Schwantes of Consumer Reports, Ryan Johnston of Next Century Cities, and Jonathan Walter of Common Cause (“Public Interest Advocates”) met with Chairwoman Rosenworcel’s chief legal advisor, Priscilla Delgado Argeris, to discuss the broadband consumer label proceeding. During the meeting, the public interest advocates reiterated their strong support for the broadband consumer label, as mandated by the Infrastructure Investment and Jobs Act¹ and endorsed in a presidential executive order,² and urged the Commission to adopt a robust label that makes internet pricing more transparent and helps consumers better understand what they are paying for.

¹ The Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, 135 Stat. 429, 1244, § 60504 (2021).

² Executive Order on Promoting Competition in the American Economy, The White House (July 9, 2021).

First, the public interest advocates emphasized the need for strong display rules. As many commenters have noted, the label will not achieve its purpose if consumers cannot find or see it.³ ISPs are adept at hiding key billing information amid poor website design or other means, such as when the Commission fined Comcast \$800,000 for hiding a mandatory affordable broadband plan.⁴ Given this history, the Commission must adopt a rule that requires prominent display of the label. It has to be more than just a hyperlink, pop-up window, or briefly-disclosed screenshot when a consumer signs up for service. ISP ordering systems were recently described as “infuriating” by journalist Jon Brodtkin,⁵ a sentiment that the public interest advocates share. Provider websites often hide the basic terms of the plan until the final step of the purchasing process, after a consumer has entered their payment information. The label must not perpetuate this misleading, anti-consumer practice.

To satisfy the statute and meaningfully help consumers, the Commission must require the label’s display on the consumer’s monthly bill. This is the most visible place that consumers interact with their provider, where they can identify unexpected fees, and where they are most in need of a clear, simple explanation of the terms of their plan. Without this requirement, the Commission risks merely replicating the status quo wherein consumers must navigate fine print, poorly designed websites, and byzantine hyperlinks.

The public interest advocates noted that recent comments from industry suggesting the label is meant *only* for comparison-shopping and not for monthly billing have no basis in the legislative record. Comparison-shopping certainly is one helpful purpose of the label—for those rare consumers who are fortunate enough to have more than one choice in internet provider—but the label is also intended to hold ISPs accountable and help consumers avoid hidden fees that often pop up on their monthly bill. That purpose can only be achieved with a label that is displayed *after* the point of sale, when so many hidden fees often emerge.

Moreover, the label should serve everyone. The Commission must require a non-digital means for consumers to access the label. An online-only label would not serve the millions of people who lack connectivity or struggle with digital literacy. The label needs to serve these people, too, especially as they try to sign up for internet service for the first time. Moreover, the label should be accessible to non-English speakers. Consumers who are more proficient in other languages already face higher barriers to internet adoption and would benefit from a label that

³ See, e.g., Comments of New America’s Open Technology Institute, CG Docket No. 22-2 (March 9, 2022) at 8; Comments of Consumer Reports, Public Knowledge, and Common Sense Media, CG Docket No. 22-2 (March 9, 2022); Reply Comments of Next Century Cities, CG Docket No. 22-2 (March 24, 2022); Comments of Asian Americans Advancing Justice - AAJC, Benton Institute for Broadband & Society, Common Cause, Consumer Reports, MediaJustice, National Consumer Law Center, National Hispanic Media Coalition, New America’s Open Technology Institute, Public Knowledge, United Church of Christ Media Justice Ministry, CG Docket No. 22-2 (April 27, 2022).

⁴ “FCC Resolves Investigation of Comcast-NBCU Broadband-Related Conditions; Ensures Consumer Access to Reasonably Priced Broadband Internet Service,” News Release (June 27, 2012).

⁵ Jon Brodtkin, “US finally prohibits ISPs from charging for routers they don’t provide,” Ars Technica (Jan. 7, 2020).

meets them where they are. The Commission should also learn from its recent struggles with non-English translations in the Emergency Broadband Benefit and ensure the label considers unique dialects or terms.⁶

The advocates also urged the Commission to make the label machine-readable. This requirement would greatly facilitate research, consumer education, and tools for comparison shopping. Importantly, a machine-readable format would enable third parties to conduct research on broadband affordability. For example, *The Markup*'s recent investigation of internet pricing in low-income neighborhoods and communities of color relied on ISP advertising⁷—a time-consuming and laborious process that many organizations are unable to undertake. Machine-readable data would make this research far less time-consuming and could open up a new world of pricing research that helps consumers and policymakers. For example, machine-readable data could support the Commission's ongoing proceeding to study and combat digital discrimination in the broadband market.⁸

Lastly, the advocates encouraged the Commission to take an iterative approach to the label. Much like the forthcoming broadband availability maps, the initial version of the label is likely to contain errors. The Commission should anticipate and facilitate consumer challenges to identify and correct these errors, as well as update the label as needed based on consumer feedback once the label is public. In addition, Congress gave the Commission new authority to create and enforce the label, and that enforcement authority will likely be needed for years to come to ensure the label is best serving consumer needs and fulfilling the statutory mandate.

Respectfully submitted,

/s/

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⁶ Letter from the American Civil Liberties Union, Benton Institute for Broadband & Society, Common Cause, Free Press, Joint Center for Political and Economic Studies, MediaJustice, National Hispanic Media Coalition, New America's Open Technology Institute, Public Knowledge, and UnidosUS on the Emergency Broadband Benefit Program, WC Docket No. 20-445 (Feb. 26, 2021).

⁷ Leon Yin and Aaron Sankin, "Dollars to Megabits, You May Be Paying 400 Times As Much As Your Neighbor for Internet Service," *The Markup* (Oct. 19, 2022).

⁸ *Implementation of the Infrastructure Investment and Jobs Act: Prevention and Elimination of Digital Discrimination*, GN Docket No. 22-69.