

March 29, 2010

VIA ECFS

Ex Parte

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

**Re: Consumer Information and Disclosure CG Docket No. 09-158; CC
Docket No. 98-170; WC Docket No. 04-36**

Dear Ms. Dortch:

The United States Telecom Association (USTelecom) and the Telecommunications Industry Association (TIA) support the goal of providing consumers with useful and meaningful information about the performance of their broadband services. As detailed in comments filed by our various members in the *Consumer Information and Disclosure* proceeding, broadband providers today provide a wide range of information to consumers, including information relating to the speed of their broadband services and means by which consumers can test and verify such attributes. We are committed to working with the Commission and other interested parties to continue to improve the information provided to consumers. In an effort to obtain additional information, the Commission issued an RFQ on March 12, 2010 for a fixed broadband services testing and measurement solution. Due to the complex, technical issues involved in devising such a solution, we suggest the Commission put out for public comment the testing and measurement methodology *before testing begins*.

Both the Commission and the vendor could benefit from the wealth of technical expertise that academics, independent researchers, public interest groups, and network providers – all of whom have long focused on this issue – possess. To obtain this valuable input, the Commission could put out for comment the testing methodology of the selected vendor, or it could identify the top two bidders and put their methodologies out for comment.¹ Allowing the public to comment before the vendor is selected or begins testing would afford the Commission an opportunity to identify and remedy, if necessary, any concerns about the vendor's testing methodology in advance, and thereby maximize the benefits of the results.

¹ To the extent there may be concerns that the bids contain proprietary information, the Commission could put out a redacted version of the proposed methodology or issue a protective order. The Commission could also consider concealing the identities of the bidders.

For example, when developing a methodology, the Commission should ensure that the information collected and analyzed is accurate and statistically valid. This is particularly important since the public will perceive government-reported data as trustworthy and free from bias.

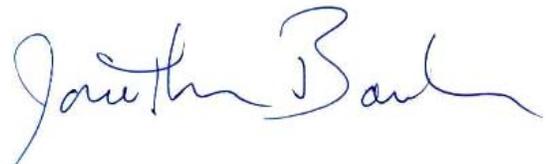
In addition, the Commission and its vendor should make certain that the testing architecture, methodology, and data-reporting are fair and comparable across broadband providers, networks, and technologies. Broadband providers use different broadband technology platforms, have different network architectures, employ various content delivery methods such as caching, content distribution networks, and peering, and penetrate into the in-home network to varying degrees. To obtain the most meaningful data, the vendor may be required to perform the challenging task of identifying the portion of the broadband network that each provider is responsible for and isolating testing to just that portion in a way that reasonably approximates the consumer experience – yet is fair and comparable across providers.

The Commission and its vendor should also implement the plan in a manner that does not interfere with the performance of the networks or introduce congestion into broadband networks. Due to the significant risks that certain types of testing could adversely impact network performance, it may be prudent for the vendor to engage with the provider to ensure that the scale of the proposed testing would not impact the network in a negative fashion. In addition, the vendor should be required to provide technical support to consumers participating in the test.

Obtaining feedback from the public before the Commission finalizes the methodology will help ensure the results of the testing and measurement plan are most useful to consumers. Please let us know if you have any questions or would like to discuss this with us further.



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