

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Consumer Information and Disclosure)	CG Docket No. 09-158
)	
Truth-in-Billing and Billing Format)	CC Docket No. 98-170
)	
IP-Enabled Services)	WC Docket No. 04-36
)	

**COMMENTS OF THE OPEN INTERNET COALITION – CONSUMER
INFORMATION AND DISCLOSURE PN, DA 10-670**

INTRODUCTION

The Open Internet Coalition (“OIC”)¹ hereby responds to the Federal Communication Commission’s “Consumer Information and Disclosure Public Notice,” (“Public Notice”)² seeking comment on the broadband measurement methodology proposed by SamKnows Limited for the Commission to obtain accurate and comprehensive data measuring actual performance of broadband services in the United States. The OIC strongly supports the Commission’s efforts to obtain accurate and transparent broadband performance data for the American consumers, in furtherance of the National Broadband Plan’s goals.

Markets rely on information in order to function properly. As the National Broadband Plan notes, “[i]f customers make well-informed choices, companies will likely invest in new products, services and business models to compete more aggressively

¹ See www.openinternetcoalition.org

² See *Comment Sought on Residential Fixed Broadband Services Testing and Measurement Solution, Public Notice, DA 10-670 (Apr. 20, 2010).*

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and offer greater value.”³ Currently, despite broadband’s importance to our nation, there is a lack of reliable, up-to-date, and readily-accessible information about the actual performance of broadband service offerings available in the marketplace today.⁴

Broadband measurement is an essential tool for filling this information gap. Along with empowering users, broadband measurement is critical for advancing network research and facilitating the continuing evolution and development of the Internet. Broadband measurement is a critically important input into the policymaking process and, consistent with the FCC’s obligation under Section 706(b) of the 1996 Act, the data developed here can assist the Commission in evaluating the robustness of advanced services that currently are being delivered to the American public.⁵

The OIC strongly supports the Commission’s efforts to take additional concrete steps to foster the development and adoption of measurement tools and other technologies that ensure the accuracy of service providers’ disclosures regarding broadband performance, as well as the Commission’s commitment to make all collected performance data publicly available. All parties, including many of the largest broadband ISPs in the country, agree that the American consumers should have transparent and

³ Federal Communications Commission, *Connecting America: The National Broadband Plan*, GN Dkt. 09-51, at 44 (rel. Mar. 16, 2010).

⁴ For instance, very little robust data are available about actual – as opposed to advertised – broadband speeds. *See, e.g., id.* (“Fixed broadband consumers, however, have little information about the actual speed and performance of the service they purchase.”).

⁵ Section 706(b) of the Telecommunications Act of 1996 requires the Commission to regularly examine and report on the “availability of advanced telecommunications capabilities to all Americans” 47 U.S.C. § 1302(b).

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accurate information concerning their broadband services.⁶ The Commission and consumers will benefit from the use of multiple complementary methodologies that together will develop a clearer picture of the performance of broadband services.⁷

OIC believes that the particular approach proposed in the Public Notice will provide significant benefits. First, OIC believes that the SamKnows methodological process outlined in the Public Notice is well-accepted, scientifically rigorous, and likely to yield valuable and accurate data. Second, OIC believes that it is essential to maximize the openness of both the data the FCC collects and the measurement tools on which the Commission relies, in order to allow users, researchers, policymakers, and service providers to verify the accuracy of the data. Significantly, the proposed approach relies on an open measurement platform and will make all data publicly available for re-use.

DISCUSSION

I. The Proposed Approach Is Rigorous and Likely To Yield Valuable and Accurate Data

OIC agrees generally with the process described in Section 1 of the Public Notice for the development and recruitment of the panel of broadband users who will function as respondents for purposes of the testing. The panel of users, of course, should be sufficiently large and diverse to provide a high degree of accuracy. This concern seems

⁶ See, e.g., Comments of AT&T – NBP Public Notice # 24 at 1, GN Dkt. 09-51 (filed Dec. 14, 2009) (“As AT&T has emphasized in past filings, for communications markets to function efficiently, consumers must have complete information regarding the providers, platforms, and services available to them.”).

⁷ For a discussion of several different methodologies, see Comments of the New America Foundation, NBP Public Notice # 24, GN Docket No. 09-47, et al., at 14-20 (Dec. 14, 2009).

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to be addressed by a panel that “is representative of the ‘broadband population.’” Due to lowered adoption rates among systematically underserved communities, particular attention should be paid to these constituencies.

The proposed testing approach can help control for various confounding variables. By collecting data at regular intervals over time and through a hardware device behind the consumer’s modem, the SamKnows approach can control for factors such as other traffic on the user’s network or limitations of the user’s personal computer hardware.

Based on the proposed measurement metrics, the data collected are likely to provide powerful and useful insights into broadband services offered to the American public. For example, the difference between “advertised speed” and actual speed is a well-known gap in understanding broadband networks’ performance. SamKnows proposes to measure actual speed as well as a number of other useful metrics. OIC believes that collection of additional metrics would prove useful in the future, including measurements to understand the effect of broadband Internet access providers’ network management practices on application and content performance. This extensibility should be a core component of any broadband measurement platform.⁸

II. The FCC Should Maximize The Transparency and Benefits of the Methodology and Data Collected

OIC strongly supports maximizing the openness of the data the FCC collects and the measurement tools on which it relies, consistent with the SamKnows analysis and

⁸ Section 5 of the Public Notice suggests that the SamKnows framework allows for such additional tests to be added over time. Public Notice, at 6.

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presentation outlined in Section 4 of the Public Notice. The FCC only should accept maximally open measurement processes, which allow for independent verification of methodology and third-party elaboration on resulting data while protecting user privacy.

As the New America Foundation explained in its comments,

... openness and publicly available ‘raw’ data is key to maximizing the benefits of active measurements for consumers, researchers, policymakers, innovators, and even service providers. The extent to which active measurements can be utilized for assessing the performance of a broadband service and collecting accurate data is dependent upon the validity of the measurement tool. Users, researchers, policymakers and service providers must be able to verify the accuracy of the measurement. Open sourcing allows for all parties to truly understand the test methodology of a particular measurement tool and encourages continued refinement and improvement.... The usefulness of measurements of broadband connections and the Internet to improve research, innovation, and public policy is also substantially tied to open and accessible data ...It is critical that any data collected through an FCC-led effort, be open and publicly available to encourage robust research, analysis and independent verification.⁹

The SamKnows proposal fulfills these best practices in key ways. As the Public Notice states, “SamKnows will also make the raw data available to researchers on a periodic basis.”¹⁰ Furthermore, SamKnows plans to use Measurement Lab (“M-Lab”) – an open, distributed server platform that allows researchers to deploy Internet measurement tools -- as the server back-end for its tests.¹¹ The M-Lab server’s technical specifications are publicly accessible and were developed by researchers to allow for

⁹ Comments of the New America Foundation, NBP Public Notice # 24, GN Docket No. 09-47, et al., at 19-20 (Dec. 14, 2009).

¹⁰ Public Notice, at 6.

¹¹ The M-Lab project is a collaborative effort led by academic researchers, with the support of New America Foundation, Google, Amazon Web Services, BitTorrent Inc., Voxel, Hellenic Telecommunications and Post Commission (EETT), and the Greek Research and Technology Network (GRnet). For additional information regarding M-Lab, see <http://www.measurementlab.net>.

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robust measurement.¹² As with all M-Lab tools, the source code of the SamKnows tools running on M-Lab will be published for review by third-parties, and M-Lab makes all measurement results available for the public to re-use.¹³

The Commission also should make the data easily accessible. Thus, while Section 4 of the Public Notice explains that a “dashboard” feature will be available for participating panelists,¹⁴ the FCC also should make every effort to provide all consumers with a functional web-based “dashboard” by which they can evaluate and compare ISP offerings and make better-informed decisions.

In response to Section 3 of the Public Notice, OIC also believes that the processes described to ensure the security and confidentiality of the panelists’ personally identifiable information, and the fact that the panel participants volunteered for the measurement testing, provide adequate protection to individual participants’ personal information and reasonably address privacy concerns.

CONCLUSION

OIC believes that the availability of clear and accurate information about the performance of broadband Internet access service offerings is essential for a free and

¹² See *Measurement Lab Working Document*, Version 1 (Jan. 28, 2009), available at http://measurementlab.net/sites/default/files/discussion_document_mlab_10.pdf.

¹³ To be clear, M-Lab only collects and releases the results of measurement tests. While SamKnows will collect personal information from users (e.g., name, contact information), this information is not collected or released by M-Lab. Data from two of M-Lab’s tools are already publicly available via Amazon Web Services, allowing anyone to make use of this information without restriction, under a "no rights reserved" Creative Commons Zero waiver. See *Calling all researchers - M-Lab data now available on Amazon EC2*, available at <http://www.measurementlab.net/news/2009/dec/10/calling-all-researchers-m-lab-data-now-available-amazon-ec2>.

¹⁴ Public Notice, at 5.

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open Internet. Therefore, OIC urges the Commission to engage in measurement techniques that will enable it to study the performance of broadband service offerings and to supply consumers and other users with information necessary to make intelligent broadband choices.

Respectfully submitted,

/s/

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