

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

In the Matter of:

Comments -- Consumer Information  
Disclosure PN, DA 10-670

CG Docket No. 09-158

CC Docket No. 98-170

WC Docket No. 04-36

**COMMENTS OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION  
AND THE PEOPLE OF THE STATE OF CALIFORNIA**

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May 5, 2010

The California Public Utilities Commission and the People of the State of California (California or CPUC) submit these comments in response to the Public Notice issued by the Federal Communications Commission (FCC or Commission) on April 20, 2010. In the Public Notice, the FCC is seeking comments on the methodology proposed by SamKnows Limited (SamKnows) to collect, measure, and publish data on actual performance of fixed broadband services.<sup>1</sup> The CPUC's comments address the manner in which SamKnows proposes to disclose this data to the FCC and to the public. The CPUC recommends that all data available to the FCC, using the proposed methodology, also be made available to certain state entities that need access to these data in order to carry out important state and federal purposes.

## **I. DISCUSSION**

It is imperative for states performing tasks necessary to complete the National Broadband Plan and the State Broadband Data and Development Grant Program (SBDD) to have access to the very type of data addressed in the SamKnows proposal. California acknowledges that the data should be made available only to those entities which have signed confidentiality agreements with the FCC or are otherwise subject to strict confidentiality requirements.<sup>2</sup> In particular, SBDD State Grantees and state commissions

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<sup>1</sup> *Comment Sought on Residential Fixed Broadband Service Testing and Measurement Solution*, Consumer Information and Disclosure Public Notice, CG Docket No. 09-158, CC Docket No. 98-170, WC Docket No. 04-36 (rel. April 20, 2010) (Notice).

<sup>2</sup> For example, some state commissions are subject to state statutory confidentiality requirements.

should have access to the same raw data for their individual state that the FCC receives.<sup>3</sup> The CPUC therefore urges the FCC to clarify the methodology proposed by SamKnows in several ways, as noted below.

**A. Project Data Supplied to the FCC Should Also be Shared with State Grantees and PUCs**

SamKnows' proposed methodology purports to deliver panelist-specific Project Data to the FCC on a quarterly basis.<sup>4</sup> These Project Data include a number of variables in which State Grantees and state commissions are interested, including the specific ISP the panelists subscribe to, the access technology, and speed.<sup>5</sup> This information, delivered quarterly on a state-specific basis, would supplement data collected by these entities in other capacities.

For example, access to ISP, speed, and technology information would help State Grantees carry out the necessary data verification tasks required under the SBDD.<sup>6</sup> Further, this information would assist state commissions in developing more comprehensive broadband programs to improve broadband availability and adoption. Once such example is the California Advanced Services Fund (CASF), which provides capital subsidies for the construction of broadband facilities in California in unserved

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<sup>3</sup> "State Grantees" are those entities designated to be the sole recipients of funding under the SBDD for each State. The CPUC has been designated as the State Grantee for California. *See State Broadband Data and Development Grant Program, Notice of Funds Availability and Solicitation of Applications*, 74 Fed. Reg. 32,545 (July 8, 2009) (NOFA), at p. 32550.

<sup>4</sup> *Id.*, at p. 6.

<sup>5</sup> *Id.*

<sup>6</sup> NOFA, at p. 32553.

areas, and areas served at speeds below 3 Mbps down/1 Mbps up.<sup>7</sup> Having information about actual, delivered speeds would help the state better direct these funds.

**B. The Term “Researchers” Should Be Defined to include State Grantees and State Commissions**

SamKnows proposes to “make raw data available to researchers on a periodic basis, with all PII [Personally Identifiable Information] removed.”<sup>8</sup> The CPUC supports making these data available but urges the FCC to clarify what entities are included in the term “researchers” for the purposes of accessing this information. More specifically, for purposes of having access to this data, the CPUC recommends that State Grantees and state commissions, for the reasons stated above, be considered “researchers” in order to utilize these raw data.

**C. The FCC Should Define the Term “Periodic Basis” for Purposes of Making the Data Available**

SamKnows proposes to make raw data available on a “periodic basis.”<sup>9</sup> SamKnows, however, has not suggested a definition of “periodic basis” in its proposal. The CPUC urges the FCC to require SamKnows to disclose these data as quickly as possible in order to assure that State Grantees and state commissions have access to up-to-date information about broadband speed in their states. State commissions which have signed confidentiality agreements with the FCC are granted access to Form 477 broadband data. Currently, however, these data are not available until many months after

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<sup>7</sup> *Order Instituting Rulemaking into the Review of the California High Cost Fund B Program*, Decision 07-12-054, *Interim Opinion Implementing California Advanced Services Fund* (Cal. P.U.C. June 29, 2006). Senate Bill 1193 (2008), codifying the California Advanced Services Fund.

<sup>8</sup> Notice, at p. 6.

<sup>9</sup> *Id.*

the FCC has collected it,<sup>10</sup> by which time these data no longer reflect current market conditions. The broadband market place is changing very quickly, and states must have access to the most accurate and timely broadband data available in order to create meaningful broadband policies and programs. Therefore, the CPUC urges the FCC to require SamKnows to amend its proposed methodology to define “periodic basis” in a way that assures rapid availability of raw data. Specifically, we recommend that SamKnows make these data available on a quarterly basis, updated within 30 days of the end of each quarter. This interval will assure that timely data is available to State Grantees and state commissions for relevant state and federal purposes, while affording SamKnows adequate time to collect these data and remove all PII.

### **III. CONCLUSION**

The CPUC recommends that State Grantees and state commissions be granted access to as much, and as timely, broadband data as possible in order to facilitate their roles in carrying out the purposes of the SBDD and the National Broadband Plan.

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<sup>10</sup> Form 477 data current as of June 30, 2009 was just received by the CPUC on April 14, 2010, nine and a half months after it was collected.

Respectfully submitted,

By: /s/ HELEN M. MICKIEWICZ

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