
Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)
)
Whether the Commission's Rules Concern-) ET Docket No. 04-35
ing Disruptions to Communications Should) WC Docket No. 05-271
Apply to Broadband Internet Service Pro-) GN Docket Nos. 09-47, 09-51, 09-137
viders and Interconnected Voice over In-)
ternet Protocol Service Providers) DA 10-1245

To: Chief, Public Safety and Homeland Security Bureau

**COMMENTS OF
THE UNITED STATES INTERNET
SERVICE PROVIDER ASSOCIATION**

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The United States Internet Service Provider Association (“US ISPA”) hereby offers its comments in response to the July 2 Public Notice of the Public Safety and Homeland Security Bureau (“Bureau”) concerning whether the Commission’s rules on disruptions to communications should apply to broadband Internet service providers (“ISPs”) and interconnected voice over Internet protocol service providers.¹

Founded in 2002, US ISPA is an association of businesses that operate Internet networks and/or provide Internet services. Its members include ISPs, network operators, and providers of Internet portals and other online services.

¹ Public Notice, *Public Safety and Homeland Security Bureau Seeks Comment on Whether the Commission’s Rules Concerning Disruptions to Communications Should Apply to Broadband Internet Service Providers and Interconnected Voice over Internet Protocol Service Providers*, DA 10–1245 (July 2, 2010) (“Notice”).

The Notice asks if there should be requirements for broadband ISPs to report major outages that significantly affect customers.² There should not.

Significantly, the Internet access services provided by ISPs differ from those provided by basic telecommunications networks. As the Notice acknowledges, the failure modes in IP networks and traditional telecommunications networks are different.³ It is far from clear what would be appropriate ways to define outages and disruptions in IP networks. In addition to failures of telecommunications circuits, service could be impaired by router problems or by the usage patterns of third parties, ranging from denial of service attacks to computer-based anomalies, such as viruses and bot-net activity that impact performance, to heavy demand on third-party servers for streamed video. Moreover, users may perceive a disruption that occurs not because of any incident within the ISP's control, or even its backbone providers' networks, but instead due to capacity constraints or malfunctions at an Internet destination — a search engine, content provider, or website. Such cases may adversely affect users' Internet experiences just as much as (or more than) a fiber or cable cut or failed router in the ISP's own network. In fact, ISPs often have the ability to route around congested, constrained or damaged segments of their own networks or those upstream, causing any outage or disruption to be largely invisible to their customers, but they will not be able to do so for problems occurring at content distribution points or cloud computing centers.

² Notice at 3.

³ *Id.* at 3.

To the extent the Commission wishes to have a broad overview of the state of the Internet, there are many sources of information readily available that make ISP outage reporting unnecessary. For example, many leading ISPs collaborate in Arbor Networks' ATLAS (Active Threat Level Analysis System) to collectively monitor network conditions, including malicious traffic that may lead to service disruptions,⁴ and summary information about cumulative threats is made available publicly at <http://atlas.arbor.net/>. There is also public information made available regarding network conditions through sites such as Internet Traffic Report, at <http://www.internettrafficreport.com>, which provides statistics regarding response time and packet loss on a variety of networks worldwide, including dozens of points in North America, through the voluntary participation of the networks, and UCLA's similar service, the Internet Weather Report, at <http://www.noc.ucla.edu/weather.html>.

Moreover, there are numerous bodies, both within the government and in the private sector, that are working to ensure that network operators employ the best practices for dealing with challenges. The Commission's own Communications Security, Reliability, and Interoperability Council ("CSRIC") is an advisory committee that develops recommendations for the Commission regarding the survivability of both the nation's telecommunications infrastructure and the service providers and media that rely on that infrastructure, including the development of best practices.⁵ In the private sector, a variety of groups work to develop practical solutions to issues such as Internet outages. For

⁴ See <http://www.arbornetworks.com/en/atlas.html>.

⁵ See CSRIC Charter, available at <http://www.fcc.gov/pshs/docs/advisory/csric/csric-charter-final.pdf>.

example, the Alliance for Telecommunications Industry Solutions (“ATIS”) develops industry standards and best practices for the telecommunications, information, and entertainment industries.⁶

An outage reporting requirement would be complex, given the architecture of the Internet. The Internet is a network of networks that are interconnected at many points, such that there are almost always multiple routes between two points. An outage or disruption on one route will automatically cause traffic to be routed via an alternate route. Most of the time, this occurs imperceptibly to the user.

An ISP outage reporting requirement would disserve the public interest by diverting critical resources away from investment, innovation, and broadband deployment. ISPs are currently building out networks with ever-more-advanced technology, increasing broadband user speeds through the use of gigabyte passive optical network (“GPON”), DOCSIS 3, 3G and 4G wireless, and other cutting-edge technologies. Likewise, they are making broadband Internet access service available to more and more customers across the nation.

Many believe the nation is currently on track to meet the National Broadband Plan’s “goal no. 1” — making 100 Mb/s Internet access affordably available to 100 million homes by 2020.⁷ Increasing ISPs’ costs and layering additional responsibilities upon them cannot help them in their efforts to achieve this goal. Additional recordkeeping and re-

⁶ See ATIS website, <http://www.atis.org/>.

⁷ See FCC, CONNECTING AMERICA : THE NATIONAL BROADBAND PLAN, at 25 (2010), available at <http://download.broadband.gov/plan/national-broadband-plan.pdf> (“NBP”).

porting responsibilities will divert critical funds and personnel away from maximizing the reach and speed of the Internet.

Finally, the Notice acknowledges that there are limits on the Commission's authority. Accordingly, it asks whether the data collection and reporting requirements it is considering fall within its authority of the Communications Act.⁸ The Commission must articulate a well-reasoned, sustainable legal theory before it can adopt any rules.

Thank you for the opportunity to comment. We look forward to working with the staff on this and other issues that might come before the Bureau.

Respectfully submitted,

**UNITED STATES INTERNET
SERVICE PROVIDER ASSOCIATION**

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⁸ Notice at 4.