



March 11, 2011

Marlene Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, DC 20554

Re: Notice of *Ex Parte* Presentation  
CG Docket No. 09-158 (Consumer Information and Disclosure)  
WT Docket No. 05-194 (Early Termination Fees)  
CC Docket No. 98-170 (Truth-in-Billing and Billing Format)

Dear Ms. Dortch:

On March 10, 2011, the undersigned, of New America Foundation's Open Technology Initiative (NAF), attended a meeting with Mark Stone; Kurt Schroeder, Rebecca Hirselj, William Freedman, John B. Adams, Lynn Ratnavale, and Arthur Scrutchins, all of Consumer and Governmental Affairs Bureau; Joel Taubenblatt of the Wireless Telecommunications Bureau; and Matthew Warner of the Wireline Competition Bureau.

During the meeting, I presented NAF's views on a number of issues raised in the above-captioned dockets, including "bill shock" alerts, truth-in-billing and truth-in labeling requirements, and early termination fees ("ETFs").<sup>1</sup> As part of that presentation, and in response to questions from the Commission attendees, I focused particularly on NAF's "truth-in-broadband" label presented in comments and other submissions filed by NAF and jointly with other organizations in the Consumer Information and Disclosure (CG Docket No. 09-158) and A National Broadband Plan for our Future (GN Docket 09-51) proceedings and also attached hereto, which provides an example of how essential information could be presented to consumers.

Throughout the discussion, I reiterated NAF's position that the Commission should adopt standardized disclosure requirements and other baseline consumer protections across all communication and broadband services (both wired and wireless), with rules made applicable to materials provided at point-of-sale, on websites, on bills, and in other interactions with customers. Such measures would ensure that wireless and wireline communications companies provide their customers with more reliable information about service prices, terms and conditions, performance, limitations, contract length, and billing procedures.

Commission oversight in disclosure should entail at minimum the adoption of standardized performance metrics, pricing information, and presentation formats that allow end-users to compare competing service offerings on an apples to apples basis among different service plans and providers. I further stressed the importance of the Commission to lean towards more information disclosure than less. Though consumers are likely to have different levels of technical literacy or understanding, more

in-depth information will be invaluable to organizations such as Consumer Reports and other similar entities to analyze and provide consumer's with tools and resources to determine what service will most fit their needs and pocketbooks.

With respect to NAF's "truth-in-broadband" label (hereinafter referred to as the "label"), I discussed the various components of the label and in particular the use of a guaranteed minimum speed as a critical point of consumer information and disclosure. Similar to minimum performance guarantees for uptime and latency standard in service level agreements (SLA's) for commercial business broadband users, the guaranteed minimum speed would be determined by the broadband provider as a floor for what consumers would receive from the service. It would provide an incentive for providers to better reflect the capacity and limitations of their broadband technology or network than the current industry standard of "up to" speeds. In particular, for broadband technologies and networks that rely on high contention ratios in relation to network capacity as a result of network architecture or business decisions, the guaranteed minimum would serve as a way for consumers to better assess this limitation without necessarily understanding for example the technological differences between cable modem, DSL, FTTH, WiMAX, HSPA+, LTE and other broadband technologies that can impact the actual performance of a broadband service.

I further noted the need for consumers and the Commission to be able to verify that a service provider is meeting its guaranteed minimum speed. The verification process would require the use of broadband measurement tools such as Network Diagnostic Tool (NDT), hosted by Measurement Lab and utilized by the Commission for its Consumer Broadband Test, that would allow consumers to verify the actual performance of a broadband service. NAF has filed extensive comments on broadband measurement in CG Docket No. 09-158 and GN Docket 09-51 proceedings and also attached hereto.

I also stressed the importance of the label including accurate and comprehensive pricing information, any and all additional fees associated with the service including early termination fees, and any service limits such as bandwidth or usage caps on the service. Service limit disclosures should also include any traffic management techniques utilized by the network provider that would affect the bandwidth/speed available to a user's connection once they have reached a certain usage limit or any other discriminatory treatment of certain kinds of network traffic, applications, and content. These disclosures can be brief on any standardized format but should direct consumers to resources with more in-depth information.

With respect to Bill Shock, I reiterated NAF's support for strong bill shock protections and mandatory alerts set forth in the comments and reply comments jointly filed with the Center for Media Justice, Consumer Action, Consumer Federation of America, Consumers Union, Free Press, Media Access Project, National Consumers League, and National Hispanic Media Coalition in in the Consumer Information and Disclosure (CG Docket No. 09-158) and Empowering Consumers to Avoid Bill Shock ( CG Docket No. 10-207) proceedings. I also added the need for similar bill shock alerts for any communication and broadband service including wired that utilize metered billing or impose usage caps. Consumers should be made aware if they are about to reach a usage cap, if they have exceeded the cap and any fees associated with exceeding the cap, as well as any 'throttling' of their traffic that may occur.

Finally, I noted NAF's opposition to ETFs that have no basis in carrier's costs, and serve only to lock-in customers and generate revenues for wireless and wireline broadband service bundles. Programs that fairly subsidize devices and service are acceptable, but companies imposing ETFs should be required to disclose fully and openly the amount, terms, and prorated amount (if any) of such fees,

along with the terms of other potential add-ons, restocking, or other fees that could increase the total cost of service incurred by subscribers. Moreover, ETF's should also be clearly disclosed on a customer's monthly bill along with the remaining term length of their contract.

NAF submits this letter to the Secretary's office today pursuant to Section 1.1206(b) of the Commission's rules, 47 C.F.R. §1.1206(b). Please contact the undersigned should you have any questions regarding this submission.

Respectfully submitted,

/s/

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