Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
"Need for Speed" Information for Consumers of Broadband Services	)	CG Docket No. 09-158
	)	
	)	

REPLY COMMENTS OF VERIZON AND VERIZON WIRELESS

As the vast majority of commenters made clear, the Commission should avoid prescriptive or heavy-handed regulations that would limit the flexibility of providers to respond to consumers' changing needs.[1] The rapidly evolving nature of both wireless and wireline broadband service requires providers to continually assess the performance information that consumers may need. Commission-mandated performance testing and/or disclosures could not keep pace with these changes and could result in meaningless or incomparable broadband performance disclosures that could ultimately confuse consumers.

Given the fluctuation in service and technology, it would be premature to establish a specific standard, even through voluntary, industry consensus.[2] As numerous commenters point out, the Commission's own survey results reflect that over 90% of consumers are satisfied with the speed of their broadband service.[3] This high level of

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[1] *See, e.g.*, AT&T Comments at 6; CenturyLink Comments at 1; CTIA Comments at 10; National Cable & Telecommunications Association (NCTA) Comments at 1-3.

[2] As an alternative to regulation, some commenters suggest that the Commission encourage the development of best practices. *See* NCTA Comments at 9; Time Warner Cable Comments at 11.

[3] *See* AT&T Comments at 2, 5 (citing "Broadband Satisfaction: What Consumers Report About Their Broadband Internet Provider," FCC Working Paper (Dec. 6, 2010));

consumer satisfaction is not surprising, particularly when there is no evidence that broadband providers' advertised speed tiers are materially different from measured performance – in which case the advertised speed tiers would provide consumers with sufficient information. Nor have application providers provided any evidence that a significant number of customers cannot use an application they purchased because the application requires faster throughput than the tier to which the customer subscribes.[4]

Likewise, it would be premature to conclude how providers should best present performance metrics.[5] The collaborative group of wireline broadband providers that worked so well in developing and refining the testing methodology utilized by SamKnows has yet to begin the process of determining an appropriate presentation format for the results of those tests. Such efforts cannot effectively start until all the testing data collected by SamKnows has been publicly released and analyzed.

Finally, the Commission should reject Level 3's attempt to shoehorn a commercial dispute between broadband access and backbone providers into a consumer-oriented docket. Level 3's suggestion that broadband providers be required to disclose various details regarding any IP-interconnection arrangements they have with backbone

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CenturyLink Comments at 4-5; NCTA Comments at 4; Time Warner Cable Comments at 7.

[4] Indeed, no application providers filed comments in this proceeding. This may suggest that application providers would prefer to determine for themselves how best to disclose an application's requirements to consumers. While that sentiment is understandable, the Commission could have a role in educating consumers regarding the practices of certain content and application providers, such as rate-limiting, that could reduce the throughput that consumers could achieve when using those websites or applications.

[5] *See* CenturyLink Comments at 3-4; *cf.* American Cable Association Comments at 4-5 (discussing the merits of a food pyramid-type presentation compared to a nutrition label).

providers to consumers[6] would do nothing to aid in consumers' understanding of the broadband access provider's performance and would likely result in substantial confusion. As such, the Commission should disregard Level 3's thinly-veiled attempt to obtain an unwarranted bargaining chip in its commercial negotiations with interconnecting broadband providers.[7]

Respectfully submitted,

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[6] *See* Level 3 Comments at 4-5.

[7] Level 3 admits as much when it characterizes its proposal as "polic[ing]" broadband providers' "bad behavior." *Id*. at 4.