

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

In the Matter of)	
Consumer Information and Disclosure)	CG Docket No. 09-158
“Need for Speed” Information)	DA 11-661
for Consumers of Broadband Services)	

REPLY COMMENTS OF T-MOBILE USA, INC.

T-Mobile USA, Inc. (“T-Mobile”) replies to comments filed in response to the above-captioned Public Notice issued by the Consumer and Governmental Affairs Bureau regarding the types of information that are most useful to consumers in assessing broadband services and how that information is best conveyed to consumers.¹

T-Mobile respectfully submits that the record demonstrates the marketplace is addressing consumers’ needs for broadband performance information faster and more effectively than any regulation could, however well-intentioned. Consequently, mandatory descriptions or disclosures are unnecessary and instead could needlessly cause customer confusion. If the Commission, however, determines that further action is needed regarding broadband service descriptions by service providers, it should first work with industry members and other interested parties to facilitate industry development of voluntary “best practices.” In all events, to best serve the public interest and ensure consumers receive effective and useful information about broadband services, the Commission should only act in ways that will ensure that operators have

¹ *Consumer and Governmental Affairs Bureau Seeks Comment on “Need for Speed” Information for Consumers of Broadband Services*, Public Notice, 26 FCC Rcd 5847 (CGB 2011) (“Public Notice”).

the flexibility to adapt to consumer needs and the ever-changing competitive and innovative broadband marketplace.

I. THE COMMISSION SHOULD NOT REQUIRE BROADBAND SERVICE PROVIDERS TO PROVIDE A GENERAL DESCRIPTION OF BROADBAND SERVICE CHARACTERISTICS AS THE FCC OUTLINED IN ITS PUBLIC NOTICE

The Commission should not require broadband service providers to have a general description of broadband characteristics that is modeled after the exhibit included in the Public Notice from a National Broadband Plan technical paper (the “NBP Chart”),² the “Food Pyramid” developed by the United States Department of Agriculture (“USDA”),³ or other similar consumer guide. The record demonstrates that no single “correct” or “best” way exists to present general information to consumers about broadband performance,⁴ and that there is no need to impose burdensome new rules in this area. The record is replete with examples of how operators, content and application providers, and other third parties use various methods to efficiently and effectively inform consumers about relevant broadband performance characteristics.⁵ Disclosures will need to continue to evolve as service offerings and customer needs evolve, however, and rigid regulations only will prevent operators from being responsive to these changing conditions.

² *See id.* at 5849, 5852.

³ *See* Comments of the American Cable Association (“ACA Comments”) at 3-5. Unless otherwise indicated, all comments cited herein were filed in CG Docket No. 09-158 on or around May 26, 2011.

⁴ *See* Comments of William Lehr, David Clark, and Steve Bauer (“MIT Comments”) at 3 (“Our work has taught us that there is no single best way to measure or report broadband speeds that is appropriate for all contexts.”).

⁵ *See, e.g.,* Comments of AT&T Inc. (“AT&T Comments”) at 3-5; Comments of CenturyLink (“CenturyLink Comments”) at 1-2, 8-9; Comments of CTIA – The Wireless Association (“CTIA Comments”) at 3-6; Comments of the National Cable & Telecommunications Association (“NCTA Comments”) at 5-6; Comments of Time Warner Cable Inc. (“TWC Comments”) at 3-6.

According to a FCC survey, 91 percent of home broadband users are very or somewhat satisfied with the speed of their broadband services, even though they do not know the actual speed of those services.⁶ T-Mobile’s experience is consistent with these results and the experiences of other service providers discussed in the record.⁷ Consumers are more interested in the capabilities of their individual broadband service – the service that is available to them at any given time and place – than general technical information regarding data speeds and other network performance metrics. For example, T-Mobile has found through interactions with customers that most consumers are *not* interested in technical facts and figures about broadband performance.⁸ Rather, consumers are more interested in the coverage area of *their* particular service; whether that service will allow them to text, send emails, browse the Internet, and download or stream video; and whether the service includes limits on data usage.

Moreover, T-Mobile agrees with other commenters that detailed descriptions or information about latency, jitter, and peak hours and other technical service characteristics will not help consumers better understand their broadband options in a meaningful way or improve their broadband experiences.⁹ Requiring service providers to describe broadband performance in these technical terms would be unnecessary and, in fact, confuse consumers.

⁶ See John Horrigan and Ellen Satterwhite, FCC, *Americans’ Perspectives on Online Connection Speeds for Home and Mobile Devices*, at 1 (rel. June 1, 2010), available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-298516A1.pdf.

⁷ See, e.g., AT&T Comments at 6; CenturyLink Comments at 4-5; CTIA Comments at 9; NCTA Comments at 4; TWC Comments at 6-7.

⁸ See, e.g., Ryan Kim, Gigaom, *Consumers Not Quite Clear on What 4G Means*, Jan. 6, 2011, available at <http://gigaom.com/2011/01/06/consumers-not-quite-clear-on-what-4g-means/> (noting that “speed is nice,” but carriers should address “the way consumers use their devices”).

⁹ See, e.g., Comments of the National Association of the Deaf, et al. (“NAD Comments”) at 2-3; Comments of the National Telecommunications Cooperative Ass’n, et al. (“NTCA Comments”) at 2-3; Comments of Pioneer Communications, Inc. (“Pioneer Comments”) at 2; TWC Comments at 12-13.

Requiring operators to display the kind of information in the NBP Chart or a standardized chart similar to the USDA's Food Pyramid would provide consumers with little useful information and could cause confusion regarding the broadband speeds that consumers theoretically might need for certain content and applications versus the performance of their individual broadband services. Providing information in a general, standardized format cannot reflect accurately the varying technical characteristics that impact the wide variety of services, applications and content consumers may want to access. In fact, it could be difficult to even obtain standardized information and measures from service providers in light of the different operations, systems and measurement tools used by operators.

Furthermore, parts of the NBP Chart are overly technical and likely irrelevant. In particular, the meaning and significance of notations such as "speed impacts down/up time and render" and "symm." are likely unclear to most consumers. Identifying specific "example" application/content providers (such as in the second column of the NBP Chart) also is problematic. Consumers may not be familiar with the listed entities, and those entities may periodically change names or change the applications or services they offer. Identifying "example" entities also may give the erroneous impression to consumers that they are preferred or recommended by the Commission or the broadband industry.

Instead, broadband service providers should be permitted to continue to use, and further develop, a wide variety of mechanisms to provide information relating to broadband usage, such as through service descriptions on websites and in sales materials, and via applications on user devices. The format of these descriptions also should be permitted to vary to include written or interactive narratives, graphics, videos, or similar applications. This flexibility will allow service providers to efficiently and effectively inform consumers about the broadband characteristics that are most relevant to them as the broadband marketplace and consumer needs evolve.

II. MOBILE BROADBAND PROVIDERS SHOULD NOT BE REQUIRED TO PROVIDE A STANDARDIZED DESCRIPTION OR SERVICE GUARANTEE FOR EACH OF THEIR BROADBAND SERVICES

A. Standardized Disclosures Cannot Reflect Accurately the Multitude of Factors That Affect Mobile Broadband Services or Effectively Keep Pace with Market Developments

The Commission should reject proposals that call for broadband service providers to publish a standardized disclosure – like nutritional labels or gas mileage labels – that describes performance data or that acts as a service guarantee for individual service offerings.¹⁰ These proposals fail to take into account the fact that broadband services are affected by a wide range of technical and environmental factors at any given time. In particular, mobile wireless broadband inherently differs from fixed broadband services, making it significantly more difficult to measure the performance of mobile wireless broadband services. In this regard, it has been well documented by the mobile industry and the Commission that providing consumers with useable information regarding actual speed and other mobile broadband performance metrics is difficult, if not impossible, given the wide variety of constantly changing factors that affect wireless broadband operations.¹¹ Mobility, geographic location, terrain, weather conditions, intervening obstacles and structures, the number of users in surrounding areas, and the capabilities of a consumer’s device are just some of the aspects of mobile broadband service

¹⁰ See, e.g., Comments of New America Foundation (“NAF Comments”) at 4-8 and Figure 1; Comments of the Broadband Alliance of Mendocino County at 1; Comments of the Communications Workers of America at 4.

¹¹ See, e.g., *Connect America Fund A National Broadband Plan for Our Future High-Cost Universal Service Support*, Notice of Inquiry and Notice of Proposed Rulemaking, 25 FCC Rcd 6657, 6794 (2010) (App. C – The Broadband Availability Gap, Omnibus Broadband Initiative Technical Paper 1); Comments of T-Mobile USA, Inc., CG Docket No. 09-158 et al., at 4-5 (July 8, 2010) (“T-Mobile Broadband Measurement Comments”); Comments of T-Mobile USA, Inc., WC Docket No. 11-10 et al., at 10-13 (Mar. 30, 2011); Reply Comments of T-Mobile USA, Inc., WC Docket No. 11-10 et al., at 3-4 (Apr. 14, 2011); Comments of CTIA – The Wireless Association, CG Docket No. 09-158 et al., at 15-17 (July 8, 2010); Comments of CTIA – The Wireless Association, WC Docket No. 11-10 et al., at 12-14 (Mar. 30, 2011).

that can affect speed, jitter, packet loss, latency, and other service characteristics at any given time.¹²

Moreover, as other parties explain, static regulation cannot effectively keep pace with the dynamic evolution of the broadband marketplace.¹³ Significantly, unlike nutritional and gas mileage information, performance characteristics of broadband services and related content and applications change rapidly. Mobile broadband networks and services, in particular, are still new to the marketplace. The public interest would be far better served if operators have the flexibility to adapt their broadband descriptions and related disclosures to reflect ever-changing services, technologies and consumer demands.¹⁴

B. Operators Provide Consumers with Information Relevant to Their Mobile Broadband Experiences

As the record shows, despite the difficulties discussed above that counsel against regulation in this area, mobile broadband operators are responding to consumers by providing information that is relevant to their broadband experiences.¹⁵ In fact, companies like T-Mobile can effectively compete only if they supply consumers with the information necessary to help them make informed decisions about T-Mobile's products and services, and T-Mobile updates that information regularly. For example, T-Mobile's Personal Coverage Check ("PCC") provides consumers with street-level coverage and service information, and includes a useful comparative description of mobile broadband speeds that a customer might expect in a particular

¹² See, e.g., T-Mobile Broadband Measurement Comments at 4-5; CTIA Comments at 6-9.

¹³ See, e.g., Comments of Verizon and Verizon Wireless ("Verizon Comments") at 2; Comments of ViaSat, Inc. at 9.

¹⁴ The Commission adopted sufficient disclosure requirements in the *Open Internet Order*, and need not adopt more specific requirements here. See *Preserving the Open Internet*, Report and Order, 25 FCC Rcd 17905, 17938-39 (2010).

¹⁵ See *supra* n.5.

area on T-Mobile's network.¹⁶ The PCC's detailed description notes areas in which customers can expect to "access the Internet on speeds comparable to a high speed home computer," "send and receive email, access the Internet, pictures and large files," or "send and receive text messages and pictures, and large files load slowly." The PCC also describes where customers can expect strong signal strengths inside homes and buildings, cars and/or outdoors. T-Mobile also provides average expected speeds for data services on T-Mobile's network and discloses clearly to consumers that services could be affected by numerous factors and conditions.¹⁷ Thus, T-Mobile presents customers with an overview of the customer's likely broadband experience, subject to signal strength, individual device, and other factors.

Importantly, T-Mobile already provides consumers with useful information about where and when consumers can expect to be able to send text messages and emails, browse the Internet, download or stream video, or access other types of content based upon their individual service plans and devices. In contrast, standardized forms, such as that proposed by the New America Foundation,¹⁸ focus on technical aspects that do little to inform consumers about the tangible broadband experiences they can expect from a service provider. Establishing such rigid disclosure requirements limits the ability of operators to modify their practices as new services and capabilities are introduced and as consumer needs and demands change.

¹⁶ See T-Mobile Personal Coverage Check, available at <http://www.t-mobile.com/coverage/pcc.aspx> (last visited June 10, 2011) ("PCC"). Other mobile providers offer similar tools for customers.

¹⁷ See, e.g., T-Mobile, 3G FAQs, available at <http://support.t-mobile.com/doc/tm23715.xml> (last visited June 10, 2011); T-Mobile Coverage – Network Speed, available at <http://t-mobile-coverage.t-mobile.com/hspa-mobile-broadband> (last visited June 10, 2011); T-Mobile Network Technology, available at <http://t-mobile-coverage.t-mobile.com/4g-wireless-technology> (last visited June 10, 2011); PCC ("Within coverage areas, network changes, traffic volume, outages, technical limitations, signal strength, your equipment, obstructions, weather and other conditions may interfere with service quality and availability.").

¹⁸ See NAF Comments at 6.

T-Mobile also opposes the imposition of mandatory service guarantees or standardized disclosures that could give consumers the erroneous impression that the reported speeds and other operating characteristics are guaranteed levels of service.¹⁹ As noted above, broadband speeds are affected by a wide range of factors at any given point in time, making such guarantees practically impossible to implement.

C. It is Important to T-Mobile to Meet the Information Needs of Consumers with Disabilities

T-Mobile also is committed to ensuring the accessibility of its products and services for all consumers, including supporting materials such as information on broadband performance needs. T-Mobile already has made significant efforts to ensure that its website and consumer information regarding products and services are accessible for people with disabilities, and will continue to do so.²⁰ In addition, T-Mobile understands that consumers who are deaf or hard of hearing are increasingly using online video services to communicate²¹ and identifies on its website the services and devices that are best for mobile video chat services.²² T-Mobile also is an active participant in various industry forums concerning wireless users with disabilities.²³ Together with these groups, T-Mobile works diligently to facilitate and enhance the experience

¹⁹ See, e.g., NCTA Comments at 7-8; TWC Comments at 16-19.

²⁰ Of course, several provisions of the Communications Act of 1934, as amended, specifically address accessibility issues. See, e.g., 47 U.S.C. §§ 255, 716-718.

²¹ See NAD Comments at 2. The NAD also argues that broadband operators should provide information on the technical capabilities needed for different types of video relay services (“VRS”), but VRS providers are better positioned to provide that information. *Id.* at 3-4.

²² See, e.g., T-Mobile, Dell™ Streak™ 7, available at <http://www.t-mobile.com/shop/Phones/cell-phone-detail.aspx?cell-phone=Dell-Streak-7>.

²³ For instance, T-Mobile currently serves on the FCC Emergency Access Advisory Committee, established pursuant to the Twenty-First Century Communications and Video Accessibility Act of 2010, Pub. L. No. 111-260, 124 Stat. 2751 (2010). In addition, T-Mobile co-chairs both the ATIS Interim Non-Voice Emergency Services Incubator and the ATIS Hearing Aid Compatibility Incubator. Information regarding each of the ATIS Incubators is available at <http://www.atis.org/ines/mission.asp> and <http://www.atis.org/hac/index.asp>.

of customers with special needs who use T-Mobile products and services. T-Mobile looks forward to continuing to work with the accessibility community to ensure the information needs of consumers with disabilities are met.

III. IF THE COMMISSION DETERMINES THAT FURTHER STEPS ARE NEEDED, IT SHOULD WORK WITH THE INDUSTRY TO DEVELOP “BEST PRACTICES”

Given the rapid development and changing nature of the broadband marketplace, T-Mobile agrees with several parties that if the Commission believes further action in this area is necessary, it should collaborate with industry members and other interested parties to develop voluntary best practices rather than specific mandates.²⁴ Developing general descriptions of the broadband speeds needed for various applications should include not only broadband service operators, but also content and application developers and providers. Moreover, consumers are in the early stages of discovering what kind of information they might find useful when considering mobile broadband services, and what might be effective and convenient ways of receiving that information. Indeed, formulating effective means of providing such information is an ongoing collaborative process between operators and consumers that often involves experimenting with different methods of meeting consumers’ information needs.

To the extent the Commission believes some further steps are needed, participating in industry discussions to determine whether voluntary best practices regarding general and specific broadband service descriptions should be developed may help interested parties explore if and how existing disclosures may be improved.²⁵ For example, Commission staff could

²⁴ See, e.g., ACA Comments at 5-6; CenturyLink Comments at 3-4; CTIA Comments at 10; NCTA Comments at 9; NTCA Comments at 2-4; Pioneer Comments at 3-4; TWC Comments at 11; Verizon Comments at 3.

²⁵ See MIT Comments at 4 (“[W]e do not believe that broadband service is yet sufficiently commoditized or stable a service that we can determine how best to measure broadband performance. We expect that metrics will need to evolve. Some measures which we may think

participate in or convene advisory panels and/or workshops and other forums where operators, content and application providers, consumer groups, and disability access advocates could work together on these issues.

IV. CONCLUSION

T-Mobile respectfully submits that the record demonstrates the marketplace is addressing consumers' needs for broadband performance information faster and more effectively than any regulation could, however well-intentioned. Consequently, mandatory descriptions or disclosures are unnecessary and instead could needlessly cause customer confusion. If the Commission determines that further action is needed, however, it should work with industry members and other interested parties to develop voluntary "best practices" rather than ineffective and harmful mandatory disclosure requirements.

Respectfully submitted,

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are important today, may be much less interesting in the future; while other measures we are not collecting today, will be needed in the future.”).