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May 3, 2012

Ex Parte via Electronic Filing

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: *Consumer Information and Disclosure*, CG Docket No. 09-158; *Truth-in-Billing and Billing Format*, CC Docket No. 98-170; *IP-enabled Services*, WC Docket No. 04-36, *Broadband Industry Practices*, WC Docket No. 07-52.

Dear Ms. Dortch:

On April 26, 2011, representatives from different organizations met to discuss the collaboration between SamKnows and the FCC in the Broadband Measurement Program.

Attendees were Walter Johnston, FCC; Alex Salter, SamKnows; Thomas Gideon, OTI/M-Lab; and Meredith Whittaker, Google/M-Lab.

The meeting convened to discuss SamKnows' compliance with M-Lab's data-release policies, and specifically SamKnows' progress in documenting this compliance on their publicly facing web site.

Also discussed were changes requested by Vint Cerf to the End User License Agreement (EULA) governing the relationship between volunteers and SamKnows in the context of the FCC Broadband Measurement Program study. To provide a complete record, the changes requested by Dr. Cerf, copied from his original email, are included below. The intent of this request was to bring the language of the EULA into line with the data-release commitments made by SamKnows and the FCC, pursuant of M-Lab's data-release requirements.

Discussion during the meeting focused on the need to ensure that communication to volunteers, and those who contract with SamKnows, reflects SamKnows' use of M-Lab, and SamKnows' concomitant commitment to M-Lab policies, namely M-Lab's data-release policies. Ms. Whittaker pointed out that the current documentation on

SamKnows' site doesn't clearly reflect SamKnows' compliance with M-Lab's data-release policies, and requested changes to on-site Privacy Policy and the on-site Code of Conduct.

Mr. Johnston stated that any documentation related to the FCC study that SamKnows is contracted to conduct must be approved by the Broadband Measurement Program Collaborative. (The data being collected by SamKnows on the M-Lab platform is being used in the FCC's study.) As such it was agreed that SamKnows would create a sub-page, branching from its site, that would clearly lay out SamKnows' compliance with M-Lab's policies. This page would relate solely to the FCC Broadband Measurement Program study. Mr. Salter requested that Ms. Whittaker and Mr. Gideon draft a clear list of policies that could be represented on this sub-page, and agreed to add these to the page once Ms. Whittaker and Mr. Gideon sent him the list. This page would then be reviewed by the Broadband Measurement Program Collaborative.

Mr. Johnston further clarified that any changes to the language relating to the FCC study, on this sub-page or otherwise, would need to be submitted to the Broadband Measurement Program Collaborative. Changes to the broader SamKnows site, not specific to the FCC study, would need to be taken up with SamKnows individually.

The meeting then addressed the topic of Dr. Cerf's requested changes to the EULA. Mr. Johnston reiterated that IP addresses are not considered personally identifiable information, and that the FCC and SamKnows have committed to release data bi-annually from the start date of the study. Dr. Cerf's concerns centered on language in the EULA that would seem to preclude release of data, including IP addresses, as required by M-Lab's policies and as committed to by SamKnows and the Broadband Measurement Collaborative.

Mr. Johnston recounted his reaction to the request, in which he brought Dr. Cerf's concerns to James Miller, and the FCC Office of the General Counsel (OGC). Mr. Miller and the General Counsel's office reached the conclusion that the requested changes were stylistic, not substantive, and that while it may appear that the EULA's terms preclude data release, in fact, in legal terms, it allows this data release. Ms. Whittaker and Mr. Gideon committed to bringing these conclusions back to M-Lab and determining whether there were any differing views.

Mr. Johnston concluded by saying that the EULA will not be changed, but that in the future when there is a window for change, these proposals could be revisited.

I have included a copy of Dr. Cerf's e-mail to Mr. Salter as an attachment to this letter for inclusion in the record.

Please contact the undersigned if there are questions about this filing.

Respectfully submitted,

/s/ Aparna Sridhar

Aparna Sridhar
Telecom Policy Counsel
Google Inc.

Enclosure

cc: Walter Johnston