



Federal Communications Commission
Washington, D.C. 20554

May 22, 2012

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: Consumer Information and Disclosure Public Notice CG Docket No. 09-158, CC Docket No. 98-170,
WC Docket No. 04-36,

Dear Ms. Dortch:

On May 16, 2012, broadband providers and representatives of other organizations and companies met with members of the Commission to discuss issues associated with the Commission's 2012 broadband measurement and performance program. The meeting focused on a discussion of the status of data collection efforts, SamKnows further analysis of March 2012 data and preliminary analysis of April 2012 data, a draft NDA responding to a request by M-Lab to access March 2012 data, a draft project page for the SamKnows website, and continued discussion of treatment of data from March 2012 and review of a draft disclaimer. Circulated materials and a full list of meeting attendees are attached to this filing.¹

Alex Salter of SamKnows reported April data collection was now complete and analysis of April 2012 results was proceeding smoothly. The proposed timeline was discussed for report drafting and delivery of April data and analysis. Sam Crawford of SamKnows presented further analysis of March 2012 data, and emphasized that SamKnows' analysis demonstrates data gathered in April 2012 was sound and shows no evidence of server issues observed in March 2012 at select M-Lab nodes in New York and Los Angeles.

Mr. Salter presented proposed text for a new web page on the SamKnows website that will describe key features of SamKnows' support of the Measuring Broadband America Program. The page would include details about collaboration between consumers, the Commission, carriers, and academics. The page would provide a technical overview of the measurement platform, and describe the open-data release policy for the program. The page would convey that the program's data releases are consistent with best practices within the U.S. federal government, and consistent and highly supportive of the M-Lab data release policy. The page would highlight that the principal goal of the program is the public release of the broadband performance data produced by the program and data's ability to encourage data-driven decision making by the Commission, academia, industry, and consumers.

M-Lab representatives discussed plans for a report on the platform anomalies experienced in March, and the desire to execute a Non-Disclosure Agreement (NDA) to gain access to March data needed to complete a detailed analysis. James Miller of the Office of Engineering and Technology reviewed a draft NDA document and asked that any comment or proposed edits to the draft be completed by Friday, May 25, 2012, after which M-Lab may execute the NDA with SamKnows. M-Lab representatives discussed that it would enforce procedures limiting access to data on a need to know basis, and that each research would be required to sign the NDA. M-Lab would maintain and provide a record of all researchers with access to the data.

¹ SamKnows' presentation is attached in Appendix A, and the SamKnows Project Page, M-Lab NDA, and March 2012 Data Disclaimer drafts are attached in Appendices B-D, respectively.

Steve Morris of NCTA expressed the view that no data gathered during the 2012 Program prior to April should be released publicly. Mr. Morris argued that because data gathered prior to April, when new procedures were deployed on the M-Lab platform, was subject to measurement errors but might still be abused by parties to make inaccurate comparisons of carriers' performance. Mr. Johnston and Mr. Miller explained the staff's view that the Commission's commitment to open data and transparency would be compromised if the data were not released, and M-Lab data release policy also would require release of the data. M-Lab and other participants argued that the data would be valuable for a variety of purposes other than for comparison of carrier performance and these benefits weighed in favor of releasing the data. Participants discussed the need for appropriate disclaimers that would acknowledge the deficiencies of the data disclaim use of the data for comparative purposes. Mr. Miller circulated and invited comment on draft language that would appear with March data proposed to be released on the Commission's website. That text would explain that the data was flawed and that the Commission would not use the data for comparative purposes in the 2012 Report; and disclaim use of the data for comparing carriers' performance.

The meeting concluded with discussion of logistical issues for a future meeting to be held in three weeks to review the progress on the drafting of the first report and data analysis.

Sincerely,

A handwritten signature in black ink, appearing to read "Johnston for Walter Johnston". The signature is fluid and cursive, with a long horizontal stroke extending to the left.

Walter Johnston, Chief
Electromagnetic Compatibility Division/OET

Attendees

Name	Organization
Jim Smith	ATT
Mike Pfau	ATT
Tom Anschutz	ATT
Ken Koh	Adtran
Paul Jamieson	Cablevision
Jeb Benedict	Centurylink
Mary Retka	Centurylink
Michael Bugenhagen	Centurylink
Paul Diamond	Centurylink
Crystal Tully	Charter
Dave Rodrian	Charter
Dave Rodrian	Charter
Jeanne Cooper	Charter
Jeanne Cooper	Charter
Russ Gyurek	Cisco
Chae Chung	Comcast
David Don	Comcast
Mary McManus	Comcast
John Jay	Corning
Anita Dear	Cox
Paul Cain	Cox
James Miller	FCC
Walter Johnston	FCC
Mike Saperstein	Frontier
Meredith Whittaker	Google/M-Lab
David Horne	Intel
Dave Rerko	JDSU
Thomas Cohen	Kelley Drye & Warren
Steve Bauer	MIT
Powell M. Bedgood	Mediacom
Jim Partridge	NCTA
Steve Morris	NCTA
Thomas Gideon	New America/M-Lab
Ariela Fish	SamKnows
Neil Campell	SamKnows
Sam Crawford	SamKnows
Jason Weil	Timewarner Cable
Terri Natoli	Timewarner Cable
Chris Stengrim	Timewarner Cable
Chris Martin	Verizon
David Young	Verizon

Donna Epps
Kitty O'Hara
Mark Montano
Jennie Chandra

Verizon
Verizon
Verizon
Windstream

Appendix A

Appendix B

Appendix C

17

Appendix D