

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

In the Matter of	)	
	)	
Improving the Resiliency of Mobile Wireless Communications Networks	)	PS Docket No. 13-239
	)	
Reliability and Continuity of Communications Networks, Including Broadband Technologies	)	PS Docket No. 11-60
	)	

**Reply Comments of AARP**

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## **Introduction**

AARP is pleased to provide the Commission with these reply comments which address issues raised by various parties in opening comments. As noted in opening comments, AARP believes that the availability and distribution of accurate information from reliable sources is an important means to empower consumers. However, as the transition to next-generation broadband networks unfolds, AARP believes that standards for wireless and wireline broadband network performance are needed to deliver foundational levels of service, and that smart disclosure can complement the standards that the Commission establishes, similar to the experience in other industries.<sup>1</sup>

AARP will keep these reply comments brief. AARP's review of the opening comments does not reveal any compelling arguments as to why this commission should not move forward with both a broad-based smart disclosure regime and the implementation of standards. As the Commission considers the comments and reply comments in this proceeding, AARP urges the Commission to continue to focus on developing standards that will ensure the resiliency and reliability of fixed and mobile broadband networks, and to empower consumers to make informed choices by collecting and publishing a broad set of information in a manner consistent with smart disclosure principles. To the extent that these reply comments do not address specific issues raised by a party, this should not be taken as a concession of the issue by AARP.

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<sup>1</sup> AARP Comments, pp. 13-14.

## The Need for Standards

In opening comments, AARP discussed the need for wireless service quality standards.<sup>2</sup> AARP stressed that disclosure and standards work hand-in-hand, and pointed to examples of the airline and automobile industries, which reflect the combined standards and disclosure approach.<sup>3</sup>

Other parties also called for the imposition of standards. Consumers' Union, who had previously called for wireless service quality standards, reasserts the appropriateness of that approach:

In our May 13, 2013 letter to the Commission, we suggested that the Commission could use the proposed disclosures to help set a schedule for phasing in performance standards. We continue to believe that more direction from the Commission would be beneficial. We fully support the proposed rule's approach of using public disclosure as a means of informing consumer choice and incentivizing wireless service providers. But the increasingly critical importance of reliable wireless networks for public safety – not only in the disaster situations covered by the proposed rule, but also more broadly – warrants the Commission taking all appropriate steps to promote improved network performance. *We urge the Commission to consider supplementing the disclosure required under the proposed rule with appropriately phased-in performance standards.*<sup>4</sup>

Similarly, the Association of Public Safety Officials International (APCO) states:

[T]he NPRM asks whether mobile wireless service providers should be required to report and disclose information about the practices they have implemented to promote the reliability of their networks. *This could have significant value, though it should be coupled with some level of minimum standards or best practices. . . .*<sup>5</sup>

The California Public Utilities Commission also raises the complementary nature of reporting and standards in the context of backup power:

Indeed, the Commission asks about battery backup requirements as a complementary or alternative measure in this rulemaking. The CPUC is on record supporting battery backup standards at multiple levels of the network. *Meaningful battery back-up standards are a useful complement to disaster and network outage reporting.*<sup>6</sup>

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<sup>2</sup> AARP Comments, p. 21.

<sup>3</sup> AARP Comments, pp. 23-26.

<sup>4</sup> Consumers Union Comments, pp. 3-4, emphasis added.

<sup>5</sup> APCO Comments, p. 3, emphasis added.

<sup>6</sup> CPUC Comments, pp. 8-9, emphasis added.

Utilities Telecom Council (UTC) points to the general problem of unreliable networks, and the adverse effects of that unreliability on utilities' ability to rely on commercial wireless networks.<sup>7</sup>

UTC goes on to discuss the appropriateness of standards, among other enhancements, to improving wireless carrier performance.

[T]he Commission is considering alternative information disclosures, the interplay of the Commission's Mobile Measuring Broadband America (Mobile MBA) program, *the imposition of performance standards*, or the use of voluntary industry measures as ways to improve reliability and continuity of commercial networks. In response, UTC believes that these other measures address various aspects of the potential shortcomings of the Commission's proposal for reporting the percentage of cell site outages.<sup>8</sup>

Finally, the City of New York points to the need for standards:

In addition, the City urges the Commission to pursue measures for improving wireless network resiliency, beyond expanded information sharing. Infrastructure can be designed to improve the capacity and hardening of networks to withstand disasters and decrease service disruptions to consumers. This is particularly true for facilities and system components within the FEMA identified floodplain. The experience of Hurricane Sandy indicates that reliance entirely on expanded information sharing is insufficient, and that enhanced infrastructure resiliency mandates are necessary.

*Therefore, the Commission should consider implementing minimum performance standards for wireless carriers for voice and text messaging services during disasters and other high-volume call times.*<sup>9</sup>

The record in this proceeding supports the imposition of standards. As noted by AARP in opening Comments, developing quality standards for wireless broadband networks, as well as developing a comprehensive smart disclosure regime, will contribute to higher levels of network performance, and provide widespread economic and social benefits.<sup>10</sup>

## **The Appropriateness of Backup Power Requirements**

The NPRM raised the issue of standards associated with backup power:

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<sup>7</sup> Utilities Telecom Council Comments, fourth unnumbered page.

<sup>8</sup> UTC Comments, sixth unnumbered page, emphasis added.

<sup>9</sup> City of New York Comments, p. 6, emphasis added.

<sup>10</sup> AARP Comments, pp. 21-27.

If we should consider performance standards as a possible alternative, we seek comment on what form such standards should take. For example, should we consider emergency back-up power requirements similar to the requirements the Commission previously adopted for mobile wireless networks but never made effective?<sup>11</sup>

AARP's opening comments addressed the issue of backup power, and pointed to the appropriateness of backup power standards. For the same reason that the Commission recently found that backup power is needed at high priority central offices,<sup>12</sup> it is also needed at the points in the network that feed calls to those central offices, including cell sites and "non-critical" central offices.<sup>13</sup> Other parties also point to the appropriateness of backup power requirements. UTC explains the distinction between private utility network and commercial wireless networks based, in part, on the role of backup power:

Utilities need ubiquitous coverage all across their service territories, including remote areas that end to be underserved or unserved by commercial carriers. They also need communications systems that do not become unavailable due to traffic congestion, particularly during emergency scenarios when utilities need reliable communications the most. *Finally, their networks need to be able to survive natural and manmade disasters; so they have extended power back-up and they are built to withstand high winds and heavy ice.* As such, utility networks are built for reliability; which sets them apart from commercial systems that are designed for capacity.<sup>14</sup>

The California Public Utilities Commission notes that it "supported the now-vacated Commission order for cell site battery backup requirements, and backup requirements for central offices."<sup>15</sup> Adding:

Indeed, the Commission asks about battery backup requirements as a complementary or alternative measure in this rulemaking. The CPUC is on record supporting battery back-up standards at multiple levels of the network. Meaningful battery back-up standards are a useful complement to disaster and network outage reporting.<sup>16</sup>

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<sup>11</sup> NPRM, ¶62.

<sup>12</sup> *In the Matter of Improving 911 Reliability; Reliability and Continuity of Communications Networks, Including Broadband Technologies*, PS Docket No. 13-75, PS Docket No. 11-60, Report and Order, December 12, 2013, ¶107. (Hereinafter, "911 Reliability Order.")

<sup>13</sup> AARP Comments, p. 22.

<sup>14</sup> UTC Comments, second unnumbered page, emphasis added.

<sup>15</sup> CPUC Comments, p. 8, footnote 32.

<sup>16</sup> CPUC Comments, pp. 8-9.

APCO states:

APCO supports the concept of requiring wireless service providers to report detailed information about their provisioning of back-up power as well as available supplementary deployments.<sup>17</sup>

The City of New York states:

Also, the City responds in the affirmative to the Commission's question raised in the second sentence of Paragraph 62 of the NPRM: "...should we consider emergency back-up power requirements similar to the requirements the Commission previously adopted for mobile wireless networks but never made effective?" Even well before Sandy, the Commission had found in 2007, after wide-ranging study, the need for new emergency back-up power standards for mobile wireless networks. The City acknowledges the backup power requirements in the Commission's recent 911 Reliability Order dated December 12, 2013 but the experience of Hurricane Sandy suggests to the City a compelling basis for the Commission to also re-examine and adopt a version of the conclusions and standards it reached in 2007 regarding backup power for wireless networks.<sup>18</sup>

These comments point to the urgency of establishing backup power standards for current and next-generation networks.

On the other hand, industry representatives are adamantly opposed to backup power requirements. For example, PICA states:

Wireless service and infrastructure providers deal with a wide variety of cell site locations and technologies across the country. While backup power generators or batteries can provide improved resiliency, not all locations or technologies can effectively utilize backup power solutions. The flexibility currently permitted under the rules allows the wireless industry to capitalize on backup power options where practical and develop alternative resiliency strategies where it is not.<sup>19</sup>

Verizon, CTIA, Sprint, and AT&T make similar statements.<sup>20</sup> Of course, the flexibility permitted under current rules allow strategies that include the provision of *no backup power*

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<sup>17</sup> APCO Comments, p. 3.

<sup>18</sup> City of New York Comments, pp. 6-7.

<sup>19</sup> PICA Comments, p. 2.

<sup>20</sup> Verizon Comments, pp. 7-8; CTIA Comments, p. 12; AT&T Comments, p. 13; Sprint Comments, p. 10.

*whatsoever for cell sites*, thus imposing costs and risks on wireless users, first responders, and public safety, which is an unacceptable outcome.

### **Sprint's Comments Illustrate Lower Costs and Higher Benefits of Backup Power Standards for Macrocells**

Sprint discusses the evolution of wireless network planning, and explains that networks now include traditional macrocells that generally serve a larger geographic footprint from free-standing towers, as well as smaller cells.<sup>21</sup> In higher density areas, cell sizes are decreased, with the smaller sites served from antennas that are placed on a wide variety of structures, resulting in an overlay of antenna networks. The consequence of this architecture is summarized by Sprint as follows:

Macrocells often have overlapping coverage areas to increase capacity, so there is also ability for macrocells to handle emergency CMRS calls from locations that would normally be served by a different macrocell or a small cell.<sup>22</sup>

AARP believes that Sprint's comments suggest a much higher level of benefits associated with the provision of backup power at macrocell sites. Thus, if the Commission will not reimpose the standard enumerated in the 2007 *Order on Reconsideration*,<sup>23</sup> as recommended by AARP, AARP believes that in the alternative the Commission should issue backup power rules that require 24-hour backup power for macrocells—defined as antenna systems that are mounted on any ground-based tower—tripod, monopole, guyed, or otherwise. In addition, the Commission should require 24 hours of backup power at central offices serving macrocell sites. As Sprint

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<sup>21</sup> Sprint Comments, p. 7; CTIA Comments, pp. 14-15.

<sup>22</sup> Sprint Comments, p. 7.

<sup>23</sup> *In the Matter of Recommendations of the Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks*, EB Docket No. 06-119, WC Docket No. 06-63, Order on Reconsideration, October 4, 2007 (Reconsideration Order).

notes, there are substantial cost economies associated with the provision of backup power at macrocell sites:

Many cell towers support multiple carriers, and the Commission rules should encourage the carriers sharing that tower—whether owned by one of the carriers or a third party—to have common backup power resources. This lessens the impact on the site because only one generator and fuel storage tank would be needed rather than separate facilities for each carrier. Backup power solutions can be difficult to deploy, can pose environmental risks and are infrequently utilized. Rather than creating a system that would encourage redundant deployment of backup power solutions by multiple carriers at the same location, the Commission should seek to stimulate cooperation among all parties.

Most telecommunication providers own less than 10 percent of their sites—and one national carrier recently announced its intention to sell a substantial portion of its owned sites. Stand-alone cell towers are primarily owned by companies referred to as tower aggregators and many towers support multiple wireless carriers. *When all carriers at multi-tenant sites can tie into a diesel generator provisioned by the tower aggregator, it becomes the most effective and environmentally friendly way to make the telecommunications infrastructure more reliable. Rather than each carrier providing its own extended backup power source, a tower aggregator or other landlord can provide a fixed generator that carriers can access at a reasonable monthly charge. Rather than each carrier needing its own space—and space issues are becoming increasingly more difficult for each subsequent arriving carrier—a single generator model achieves efficiencies. Additionally, installing a single generator rather than multiple generators for all carriers can help avoid additional environmental, noise, space and other concerns.* The Commission could help in achieving this superior solution by focusing its efforts on encouraging the use of common backup power solutions and promoting industry cooperation for the use of limited assets when needed.<sup>24</sup>

AARP finds merit in Sprint’s observations regarding the cost effectiveness of backup power at cell towers and the economies of sharing. Furthermore, the benefits associated with the deployment of backup power at macrocell sites—because they cover broad areas—are considerably higher than the benefits associated with some microcell sites, as microcell and DAS systems are often providing a localized overlay, with the wireless user still able to receive a signal from the nearest macrocell site, in the event that power is out at the microcell.<sup>25</sup> The result of backup power rules for macrocells would be an improvement in overall wireless network

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<sup>24</sup> Sprint Comments, pp. 10-11, emphasis added.

<sup>25</sup> See, Ex Parte Letter from PCIA to Marlene H. Dortch in PS Docket No. 11-60, August 5, 2013, p. 2.

reliability, with a core wireless network delivering robust service in the event of grid power outages. To complement this alternative approach, the Commission could also develop a set of voluntary standards associated with non-macrocell sited antenna and combine these with the smart disclosure approach to encourage carriers to improve backup power deployment.<sup>26</sup>

### **Considering the Impact of Backhaul on Standards or Disclosure**

In the NPRM the Commission noted:

Since loss of backhaul service (i.e., the connectivity between a site and the rest of the network) is also a major cause of cell site unavailability during emergencies, should the Commission consider adoption of performance standards to promote more redundant backhaul provisioning and what should those standards include?<sup>27</sup>

Several parties addressed the backhaul issue. Competitive Carriers Association and NTCA, as well as PICA, Sprint, and Utilities Telecom Council, point to backhaul problems as potentially adding unfairness to the NPRM’s proposed metric of cell site outages because wireless carriers do not directly provide backhaul service.<sup>28</sup> However, CPUC correctly states that backhaul should be included within the set of parameters for which wireless network performance is established:

“Operational” should thus be defined from the perspective of the consumer, which is the stated purpose of the proposal in the NPRM. Wireless networks’ cell sites are engineered for a specific capacity – for spectrum, *backhaul*, signaling, and a host of other parameters – that enables a number of devices to simultaneously make telephone calls, send texts, send and receive pictures and videos, and other communications. It is this threshold that should define operational: the functioning capacity for which the cell site was engineered and built. *If the cell site is delivering less than the designed capacity during or after a*

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<sup>26</sup> While it may be true that backup power is more difficult to provide at some cell sites, those difficulties should not result in a blanket abandonment of the objective of a robust and reliable wireless infrastructure. AARP questions claims that backup power is impossible to provision for microcells. For example, while carriers point to the difficulty in placing backup generators on the roofs of certain buildings to serve antenna systems, it is likely that some of the buildings in question have building-wide backup power that could be utilized by the wireless carrier.

<sup>27</sup> NPRM, ¶62.

<sup>28</sup> Competitive Carriers Association and NTCA Comments, p. 9; PICA Comments, p. 6; Sprint Comments, p. 7; Utilities Telecom Council, fifth unnumbered page.

*major disaster, or with regularity during normal operation, these are material facts driving consumer choice and should be made available.*<sup>29</sup>

AARP agrees with CPUC regarding the importance of the publication of information regarding the operational performance of wireless networks.

While it may be true that backhaul is not provided by a wireless carrier, that lack of direct provisioning does not mean that the performance of backhaul circuits is outside of wireless carrier's ability to influence. It is common practice in the telecommunications industry for circuits to be provisioned in accordance with service level agreements. Wireless carriers should be given incentives to specify highly reliable backhaul circuits. This incentive can be provided both through performance standards for wireless networks, and through the disclosure of information regarding the performance of wireless networks.

### **Commenting Parties Generally Ignore the Commission's Smart Disclosure Approach**

The NPRM pointed to the benefits of the "smart disclosure" approach.<sup>30</sup> AARP appears to be the only party that addressed the specifics of a smart disclosure approach. In opening comments, AARP provided an extensive discussion of the potential benefits of smart disclosure, and pointed to the narrow perspective associated with the DIRS-outage reporting as a potential limitation to the Commission achieving its objective of improving overall resiliency of wireless networks.<sup>31</sup>

As AARP noted in opening comments, a smart disclosure regime requires a more comprehensive set of information to enable informed choice, thus improving the incentive structure facing carriers.<sup>32</sup>

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<sup>29</sup> CPUC Comments, p. 17, emphasis added.

<sup>30</sup> NPRM, ¶21.

<sup>31</sup> AARP Comments, pp. 7-16.

<sup>32</sup> AARP Comments, p. 26.

Verizon, on the other hand, states that “Wireless consumers are acutely aware of whether and for how long they experienced blocked or incomplete wireless calls during and after a disaster (whether or not the event triggered a DIRS activation), and can already ‘vote with their checkbook’ based on their own and their family’s and community’s experiences.”<sup>33</sup> AT&T similarly states “Carriers are not in a position to deceive consumers about their performance because consumers are fully capable of judging the quality of that service on their own.”<sup>34</sup> These perspectives overlook the fact that for consumers to meaningfully “vote with their checkbook,” they must have information regarding the relative performance of *the alternative carriers*, in addition to their own carrier. While a consumer may be aware that their service performed poorly during disaster (or normal) conditions, without accurate and comprehensive information regarding the performance of other carriers, the ability to make a meaningful choice is hindered.

Alliance for Telecommunications Industry Solutions, CTIA, and Verizon point to the availability of data from sources such as *Consumer Reports*, JD Power and Associates, and Rootmetrics as providing all the information that consumers need.<sup>35</sup> These parties overlook the fact that *Consumers Union*, the policy and advocacy arm of *Consumer Reports*, was the party that requested that the Commission gather and publish more detailed information regarding carrier network performance during outages. This suggests that Consumers Union does not believe that the *status quo* information set is sufficient. Furthermore, the level of detail provided by entities such as JD Power, based on broad multi-state geographic regions (like “mid-Atlantic” or “Southwest”), does not provide sufficient detail for consumers to make informed choices among carriers in their *specific area*. Alternatively, as discussed by AARP in opening comments,

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<sup>33</sup> Verizon and Verizon Wireless Comments, p. 3.

<sup>34</sup> AT&T Comments, p. 9.

<sup>35</sup> Alliance for Telecommunications Industry Solutions Comments, p. 2; CTIA Comments, p. 3; Verizon and Verizon Wireless Comments, p. 4.

Rootmetrics, based on crowd sourced reporting, has widely varying coverage representations, with less populated areas and smaller carriers having far fewer reports.<sup>36</sup> Thus, while consumers may be able to find piecemeal information regarding carrier performance, this information is not sufficient to enable the benefits of a smart disclosure regime.

### **DIRS-Outage Reporting Alone Is Insufficient**

While other parties did not specifically address smart disclosure, several parties commented on the narrow focus of the NPRM's proposal for reporting to be limited to DIRS outages alone. For example, PICA—the Wireless Infrastructure Association states that “Network reliability should not be over-simplified into a single reporting metric.”<sup>37</sup>

Consumers Union states:

We note that the proposed rule addresses only a narrow aspect of wireless network performance: the extent and duration of network outages in hurricanes and other events during which DIRS is activated. It thus does not cover even all network outages, let alone all useful measures of network performance. We would support better access for consumers of network performance information on a broader scale.<sup>38</sup>

Consistent with AARP's discussion of the usefulness of smart disclosure principles in the airline industry,<sup>39</sup> Sprint notes that the DIRS-outage reporting alone does not offer as useful information:

The Commission's analogy in the NPRM to public reporting of airlines' delay and cancellation rates misses the mark. Every day, tens of thousands of commercial flights take off all across the nation, generating a huge data set. Conclusions from this data set are meaningful and a fair way to compare different airlines on-time reliability. In stark contrast, comparisons among one or two reports each year affecting a small fraction of the population provide no such robust data set that can support reliable conclusions for consumers nationwide to choose a wireless provider.<sup>40</sup>

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<sup>36</sup> AARP Comments, p. 9, footnote 16.

<sup>37</sup> PICA Comments, p. 6.

<sup>38</sup> Consumers Union Comments, p. 3.

<sup>39</sup> AARP Comments, pp. 10-13.

<sup>40</sup> Sprint Comments, p. 5.

AARP agrees with the value of more comprehensive data, and pointed to the comprehensive reporting practices associated with the airline industry as a model for the Commission to consider.<sup>41</sup>

Competitive Carriers Association and NTCA state:

If the Commission's intent for this exercise is to provide consumers with information on the resiliency and reliability of individual carrier networks, then a report of this nature would be misleading at best, and flatly disingenuous at worst.<sup>42</sup>

CTIA states that "the reports required of wireless carriers would mislead, rather than educate, consumers and would produce data sets too small to be meaningful."<sup>43</sup> Indeed, the limited data set that would emerge from the DIRS-outage reporting will not provide as broad a foundation to educate consumers. The Commission can improve upon this deficiency by collecting more comprehensive information regarding carrier performance, and making that information available in a manner consistent with smart disclosure principles.<sup>44</sup> Consumers need an expansive and rich set of data.<sup>45</sup> DIRS-outage reporting could be one component of a broad set of data.

## **Incentives for Cooperation**

Several parties raise issues with the Commission's proposal associated with potential incentives that would diminish collaboration among carriers precisely during times of emergency.<sup>46</sup> Given evidence of carrier collaboration during previous emergencies,<sup>47</sup> the Commission should take

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<sup>41</sup> AARP Comments, pp. 10-14.

<sup>42</sup> NTCA Comments, p. 13.

<sup>43</sup> CTIA Comments, p. 18.

<sup>44</sup> AARP Comments, p. 14.

<sup>45</sup> AARP Comments, p. 8.

<sup>46</sup> Alliance for Telecommunications Industry Solutions Comments, p. 6. AT&T Comments, p. 6. California Public Utilities Commission Comments, p. 22. Competitive Carriers and NTCA Comments, p. 13. Sprint Comments, p. 10. T-Mobile Comments, p. 9.

<sup>47</sup> T-Mobile Comments, p. 9.

care as to not develop a scheme that penalizes carriers for cooperating during times of emergency. AARP also believes that an approach that required broad reporting of network performance during “normal” operating conditions would not diminish carrier cooperation efforts during emergency conditions. And, it is reasonable to expect that the improvement of performance associated with general non-emergency operations will also contribute to a more robust and reliable network during emergency conditions.

### **First Amendment Rights of Carriers**

As the NPRM points out, the First Amendment rights of carriers to “refrain from speech” may be limited:

In general, government regulation of commercial speech will be found compatible with the First Amendment if it meets the criteria laid out in *Central Hudson*: (1) there is a substantial government interest; (2) the regulation directly advances the substantial government interest; and (3) the proposed regulation is not more extensive than necessary to serve that interest.<sup>48</sup>

CTIA offers an extensive argument that attempts to nullify the Commission’s reliance on the *Central Hudson* standard. CTIA’s arguments, however, are simply not persuasive. As noted by the California Public Utilities Commission:

Regarding the potential First Amendment claims of carriers, the CPUC considers these to be specious. It is long established that reasonable consumer disclosures do not violate a vendor’s First Amendment rights. Indeed, the question can be asked whether requiring an accurate description of services sold in the marketplace should be viewed as regulation of speech or as regulation of a commercial transaction. In any event, the required disclosures easily pass the intermediate scrutiny *Central Hudson* test, as there is a substantial government interest “in ensuring that consumers are able to make intelligent and well-informed commercial decisions.” Disclosure requirements necessary for consumer protection face an even lower hurdle, and pass First Amendment muster more easily, than speech prohibitions. Here, the Commission also has a substantial interest in ensuring “the safety of the public through the use of radio communications.” Finally, consumers themselves have a First Amendment right to receive information about

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<sup>48</sup> NPRM, ¶68.

services and products in the marketplace. This is particularly true regarding the public communications network, which is vital for public safety.<sup>49</sup>

AARP agrees with CPUC on the matter of First Amendment protection. The Commission's statutory mandate regarding public safety establishes the necessary substantial interest in the information. As noted in the NPRM, there is a direct connection between wireless network performance and public safety:

The Nation's 911 system is part of its critical communications infrastructure, and the Commission plays a key role ensuring that the communications networks, including those of mobile wireless service providers, promote public safety, especially on matters involving national security and emergency preparedness of the United States. Indeed, Congress established the Commission in part to promote the "safety of life and property." Consequently, the Commission also enjoys "broad public safety and 9-1-1 authority." With mobile wireless service subscribers originating an increasing share of the nation's 911 calls—already the great majority and measured at as high as 75 percent in some areas—the resiliency of mobile wireless networks is becoming ever more critical to the reliable provision of 911 service.<sup>50</sup>

In addition to the immediate concern regarding the performance of emergency systems, the Commission's statutory mandate also specifies that the Commission has been created:

For the purpose of regulating interstate and foreign commerce in communication by wire and radio so as to make available, so far as possible, to all the people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex, a rapid, *efficient, Nationwide, and world-wide wire and radio communication service with adequate facilities at reasonable charges.* . .

Thus, the statutory foundation establishes a substantial government interest in the performance of wireless networks in both non-emergency and emergency conditions.

Given that the Commission has, to date, elected to allow market forces to regulate the prices and service quality of wireless providers, it is clear that the availability of accurate information regarding the quality of those services is part and parcel of the regulatory mechanism. If

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<sup>49</sup> California Public Utilities Commission Comments, pp. 21-22, citations omitted.

<sup>50</sup> NPRM, ¶67.

consumers' rights to receive information are unreasonably infringed, the regulatory mechanism will not perform adequately. The Commission certainly has an interest in ensuring that sufficient information is available to empower consumer evaluation of alternative wireless offerings.

AARP believes that the Commission should give no weight to CTIA's First Amendment arguments.

### **Conclusion**

The Commission's foundational mission of promoting safety of life and property through the use of wire and radio communication must persist during the transition to next-generation networks. Given the expansive and growing role of mobility and fixed broadband networks in economic and social activities, failure to ensure that networks are reliable will undermine the benefits of broadband, and limit the economic development potential of these technologies. The record in this proceeding supports the role of "smart disclosure" in empowering consumers, as well as Commission-established standards for network reliability. Given the critical role that telecommunications services play, and the networked nature of these services, where all connected users may be negatively affected by weak links in the system, the Commission must establish foundational levels of network performance by imposing performance standards, thus ensuring that its statutory responsibilities are successfully carried out.