

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

In the Matter of
Empowering Broadband Consumers Through
Transparency
CG Docket No. 22-2

REPORT AND ORDER AND FURTHER NOTICE OF PROPOSED RULEMAKING

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By the Commission: Chairwoman Rosenworcel and Commissioner Starks issuing separate statements.

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I. INTRODUCTION

1. Consumer access to clear, easy-to-understand, and accurate information is central to a well-functioning marketplace that encourages competition, innovation, low prices, and high-quality services. The same information empowers consumers to choose services that best meet their needs and match their budgets and ensures that they are not surprised by unexpected charges or service quality that falls short of their expectations.

2. In 2021, the President signed into law the Infrastructure Investment and Jobs Act (Infrastructure Act).¹ Among other things, the Infrastructure Act directs the Commission to require broadband Internet service providers (ISPs or providers)² to display, in the form of labels, certain information regarding their broadband Internet access service plans.³ The law further provides that the labels shall make clear whether the offered price is an introductory rate and, if so, what the consumer must pay after the introductory period ends.⁴

3. In this Report and Order (Order), we adopt rules requiring ISPs to display, at the point of sale, labels that disclose certain information about broadband prices, introductory rates, data allowances, and broadband speeds, and to include links to information about their network management practices, privacy policies, and the Commission's Affordable Connectivity Program (ACP). We also adopt requirements for label format and display location to ensure consumers can easily compare a provider's services and services among different providers. Modeled on labels the Commission approved for voluntary display several years ago, we believe the label contains the key information consumers need to make smart choices without overwhelming them with information or unnecessarily burdening providers.

4. We also seek comment on further steps we can take to ensure that consumers have the information they need to make informed broadband service purchasing decisions. Specifically, in the Further Notice of Proposed Rulemaking (Further Notice), we seek comment on issues related to more comprehensive pricing information, bundled plans, label accessibility, performance characteristics, service reliability, cybersecurity, network management and privacy issues, the availability of labels in multiple languages, and whether the labels should be interactive or otherwise formatted differently so the information contained in them is clearer and conveyed more effectively.

II. BACKGROUND

5. The Infrastructure Act, in relevant part, directs the Commission “[n]ot later than 1 year after the date of enactment of th[e] Act, to promulgate regulations to require the display of broadband consumer labels, as described in the Public Notice of the Commission issued on April 4, 2016 (DA 16–357), to disclose to consumers information regarding broadband internet access service plans.”⁵ Further,

¹ The Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, 135 Stat. 429, § 60504(a) (2021) (Infrastructure Act).

² Commission rules define broadband Internet access service as “a mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up internet access service. This term also encompasses any service that the Commission finds to be providing a functional equivalent of the service described in the previous sentence or that is used to evade the protections set forth in this part.” See 47 CFR § 8.1(b).

³ Infrastructure Act § 60504(a). See also *Consumer and Governmental Affairs, Wireline Competition, and Wireless Telecommunications Bureaus Approve Open Internet Broadband Consumer Labels*, GN Docket No. 14-28, Public Notice, 31 FCC Rcd 3358 (CGB/WCB/WTB 2016) (2016 Public Notice).

⁴ Infrastructure Act § 60504(b)(1).

⁵ *Id.* § 60504(a). Before enactment of the Infrastructure Act, the President issued Executive Order 14036, which, in relevant part, encouraged the Commission to consider “initiating a rulemaking that requires broadband service providers to display a broadband consumer label, such as that described in the [2016 Public Notice] so as to give

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the Infrastructure Act requires that the label “include information regarding whether the offered price is an introductory rate and, if so, the price the consumer will be required to pay following the introductory period.”⁶

6. The Infrastructure Act also directed the Commission to conduct a series of public hearings to assess: 1) how consumers evaluate broadband Internet access service plans; and 2) whether disclosures to consumers of information regarding broadband Internet access service plans, including the disclosures required under 47 CFR § 8.1, are available, effective, and sufficient.⁷

7. On January 27, 2022, the Commission released a Notice of Proposed Rulemaking initiating a proceeding to implement section 60504 of the Infrastructure Act.⁸ Specifically, the Commission proposed to require that ISPs display, at the point of sale, labels that disclose to consumers certain information about prices, introductory rates, data allowances, broadband speeds, and management practices, among other things.⁹

8. Consistent with the Infrastructure Act’s mandate, the Commission proposed to require the display of labels that it had allowed ISPs to use as a safe harbor from enforcement of the broadband transparency requirements in 2016. Those 2016 labels were largely the product of recommendations by the Commission’s Consumer Advisory Committee (CAC).¹⁰ The CAC proposed and the Commission approved two versions of the label—one for fixed broadband service and one for mobile broadband service.¹¹ In the *NPRM*, the Commission sought comment on whether broadband service offerings and consumers’ use of broadband services have changed sufficiently since 2016 to necessitate modifications to the labels’ content and/or format, or whether there were any other reasons to change the content or format of the labels.¹² The Commission also sought comment on where the labels should be displayed to best inform consumers.¹³

9. As directed by Congress, the Commission conducted three public hearings to solicit input from various stakeholders on the content, format, and location of the labels. The hearings brought together consumers, consumer advocates, industry, and academics to address the effectiveness of the existing transparency rule and whether consumers need more information; how to make the broadband labels useful, with an emphasis on what specific information consumers need; lessons learned from other well-known labels (such as nutrition labels); and accessibility for people with disabilities.¹⁴

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consumers clear, concise, and accurate information regarding provider prices and fees, performance, and network practices.” See Executive Order No. 14036, Promoting Competition in the American Economy, 86 FR 36987 (July 9, 2021).

⁶ Infrastructure Act § 60504(b)(1).

⁷ See *id.* § 60504(c).

⁸ See *Empowering Broadband Consumers Through Transparency*, CG Docket No. 22-2, Notice of Proposed Rulemaking, FCC 22-7 (rel. Jan. 27, 2022) (*Broadband Label NPRM* or *NPRM*).

⁹ *Broadband Label NPRM*, para. 14.

¹⁰ See *2016 Public Notice*.

¹¹ See FCC Consumer Advisory Committee Recommendation, Broadband Consumer Disclosures (Oct. 26, 2015) at <https://docs.fcc.gov/public/attachments/DOC-336136A1.pdf> (2015 CAC Recommendation). See also *2016 Public Notice; Protecting and Promoting the Open Internet*, GN Docket No. 14-28, Report and Order on Remand, Declaratory Ruling, and Order, 30 FCC Rcd 5601, 5881, para. 585 (2015) (*2015 Open Internet Order*).

¹² *Broadband Label NPRM*, para 14.

¹³ *Id.*

¹⁴ See FCC, Broadband Consumer Labels, *Public Hearings on Broadband Labels* (Mar. 11, 2022, Apr. 7, 2022, and May 25, 2022), <https://www.fcc.gov/broadbandlabels>.

10. Finally, building on the CAC's extensive work in 2015 and 2016, the Chief of the Consumer and Governmental Affairs Bureau (CGB) sought the CAC's recommendations on how the Commission should define "point of sale" for purposes of the label requirement and on how introductory rates impact a consumer's decision to purchase broadband service. CGB also asked whether the type or form of disclosure should vary depending on the nature of the consumer's interaction with the service provider, e.g., on a website, in-store face-to-face with a sales representative, at a kiosk, or over the phone.¹⁵ The CAC submitted its recommendations on April 26, 2022.¹⁶

11. We received comments and *ex parte* filings from more than seventy individuals, consumer advocates, industry members, trade associations, and academics.¹⁷ The record generally revealed that consumers are often confused by the complexity of broadband service offerings, terminology, and pricing.¹⁸ Most of the commenters and hearing participants agree that labels are a simple and clear means to disclose information about broadband services and to ensure that consumers have the information they need to make educated decisions about purchasing broadband Internet access service.¹⁹ They argue that the content and format of the 2016 labels approved by the Commission generally provide consumers with an improved way to identify broadband services that meet their needs; however, most commenters urge the Commission to modify the labels to better assist consumers in their purchasing decisions.²⁰

III. DISCUSSION

12. In this Order, we adopt a new broadband label to help consumers comparison shop among broadband services, thereby implementing section 60504 of the Infrastructure Act.²¹ Specifically, we require ISPs to display, at the point of sale, a broadband consumer label containing critical information about the provider's service offerings, including information about pricing, introductory rates, data allowances, performance metrics, and whether the provider participates in the ACP.²² We

¹⁵ See Letter from Alejandro Roark, Chief, Consumer and Governmental Affairs Bureau, FCC, to Steve Pociask and Debra Berlyn, CAC, at 1 (Feb. 24, 2022).

¹⁶ See FCC Consumer Advisory Committee, Recommendation Regarding Consumer Broadband Labels (Apr. 26, 2022), <https://www.fcc.gov/ecfs/search/search-filings/filing/10427730121601> (2022 CAC Broadband Label Recommendation).

¹⁷ See Appendix D for a list of the comments and *ex parte* filings.

¹⁸ See, e.g., FCC, Broadband Consumer Labels, *Public Hearings on Broadband Labels* (Apr. 7, 2022), <https://www.fcc.gov/broadbandlabels> (testimony from Adero Allison, Jacqui Georgi, Chet Mehta, Alan Patten, and Alan Smith).

¹⁹ See, e.g., ADTRAN Comments at 1; AT&T Comments at 2-8; Broadband Access Ohio Comments at 2; CT State Broadband Leaders Comments at 1; INCOMPAS Comments at 3; OhioTT Comments at 1-2; OTI Comments at 4; Planet Comments at 1.

²⁰ See, e.g., AARP Comments at 6-19; ACA Connects Comments at 2; AT&T Comments at 8-15; CCA Comments at 6; Chakrabarti, Yi, and Passananti Comments at 1; Consumer Reports Comments at 7-9; CTIA Comments at 12-14; FBA Comments at 3-5 (suggesting that the label include the type of technology offered); Fields and Miller Comments at 1-2; Hudgins and Shehabuddin Comments at 1-4 (recommending the labels include verified broadband coverage map information); Li and Yoshikoshi Comments at 2-3; Lumen Comments at 6; NCTA Comments at 13-15; USTelecom Comments at 6; Verizon Comments at 9.

²¹ Infrastructure Act § 60504(b)(1).

²² In the Infrastructure Act, Congress appropriated \$14.2 billion to transform the Emergency Broadband Benefit Program into the Affordable Connectivity Program (ACP), which provides eligible low-income households discounted Internet service and a one-time discount on a connected device. See *Affordable Connectivity Program, Emergency Broadband Benefit Program*, WC Docket Nos. 21-450 and 20-445, Report and Order and Further Notice of Proposed Rulemaking, FCC 22-2 (Jan. 21, 2022) (*ACP Order*). The ACP provides a monthly discount of up to

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require that ISPs display the label for each stand-alone broadband Internet access service they currently offer for purchase, and that the label link to other important information such as network management practices, privacy policies, and other educational materials.²³

13. Consistent with the Infrastructure Act, the label we adopt today for fixed and mobile broadband Internet access service is similar to the two labels the Commission approved in 2016, with certain modifications described below. As we discussed in the *NPRM*, access to clear, easy-to-understand, and accurate information about broadband Internet access services helps consumers make informed choices and is central to a well-functioning marketplace that encourages competition, innovation, low prices, and high-quality service.²⁴ Commenters agree that a label associated with stand-alone broadband service will provide important information to consumers when selecting a provider and plan.²⁵

14. In addition to label content, we adopt requirements for the label's format and display location to ensure consumers can make side-by-side comparisons of various service offerings from an individual provider or from alternative providers—something essential for making informed decisions.²⁶ In this way, the label resembles the well-known nutrition labels that consumers have come to rely on when shopping for food products. We also require that the label be accessible for people with disabilities and for non-English speakers. Finally, we enable third parties to easily analyze information and help consumers with their purchase decisions by requiring providers to make the label content available in a machine-readable format.²⁷

15. Below is the label template we require ISPs to display at the point of sale. This label establishes the formatting and content of all requirements adopted in this Order.²⁸

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\$30 for broadband service and up to \$75 a month for households on qualifying Tribal lands. *See* 47 CFR § 54.1803(a).

²³ As discussed in detail below, most providers will have six months to comply with the new label requirements, while smaller providers will have a year to come into compliance. *See infra*, section III.G. (Implementation Timelines).

²⁴ *Broadband Label NPRM*, para. 1.

²⁵ *See, e.g.*, AARP Comments at 4; AT&T Comments at 1-2.

²⁶ *See* AARP Comments at 3.

²⁷ *See* NDIA Comments at 3 (Internet providers' widespread practice of withholding and/or obscuring basic facts about their pricing and service makes it hard for ordinary consumers to make informed comparisons among providers and plans and inhibits the efforts of digital inclusion practitioners to assist lower-income consumers in finding their best broadband options).

²⁸ The red text in the label template is explanatory and simply instructs providers as to the content they must provide in the label. We expect that, once the provider completes the required fields, it will post, or otherwise provide, the entire label in black text. Accessible materials, including the label template contained in this Order, will be available on the Commission's website.

Broadband Facts

Provider Name

Service Plan Name and/or Speed Tier

Fixed or Mobile Broadband Consumer Disclosure

Monthly Price **[\$]**

This Monthly Price [is/is not] an introductory rate. [if introductory rate is applicable, identify length of introductory period and the rate that will apply after introductory period concludes]

This Monthly Price [does not] require[s] a [x year/x month] contract. [only required if applicable; if so, provide link to terms of contract]

Additional Charges & Terms

Provider Monthly Fees	[\$]
[Itemize each fee]	
One-time Fees at the Time of Purchase	[\$]
[Itemize each fee]	
Early Termination Fee	[\$]
Government Taxes	Varies by Location

Discounts & Bundles

[Click Here](#) for available billing discounts and pricing options for broadband service bundled with other services like video, phone, and wireless service, and use of your own equipment like modems and routers. [Any links to such discounts and pricing options on the provider’s website must be provided in this section.]

Affordable Connectivity Program (ACP)

The ACP is a government program to help lower the monthly cost of internet service. To learn more about the ACP, including to find out whether you qualify, visit affordableconnectivity.gov.

Participates in the ACP **[Yes/No]**

Speeds Provided with Plan

Typical Download Speed	[] Mbps
Typical Upload Speed	[] Mbps
Typical Latency	[] Ms

Data Included with Monthly Price	[] GB
Charges for Additional Data Usage	[\$/GB]

Network Management [Read our Policy](#)
Privacy [Read our Policy](#)

Customer Support

Contact Us: example.com/support / (555) 555-5555

Learn more about the terms used on this label by visiting the Federal Communications Commission’s Consumer Resource Center.

fcc.gov/consumer

[Unique Plan Identifier Ex. F0005937974123ABC456EMC789]

A. Broadband Service Subject to the Label Requirement

16. At the outset, we make clear that the label requirement applies to “broadband Internet access service plans” because the Infrastructure Act directs us to require the display of labels that disclose information regarding “broadband Internet access service plans.”²⁹ For purposes of section 60504 of the Infrastructure Act, “broadband Internet access service” is defined as having the meaning specified in section 8.1(b) of our rules, “or any successor regulation.”³⁰ Broadband Internet access service is currently defined in section 8.1(b) of our rules as “a mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up internet access service.”³¹ The definition also “encompasses any service that the Commission finds to be providing a functional equivalent of the service” defined in the rules or that is used to evade the protections set forth in the rules.³² No commenter proposes modifying that definition for purposes of these broadband label rules.

17. We agree with INCOMPAS that enterprise service offerings or special access services are not “mass-market retail services,” and therefore, not covered by our label requirement. INCOMPAS asks the Commission to clarify that “providers or resellers whose customers are larger businesses or governments—entities that typically negotiate the terms of their service contracts”—should not be required to display the labels.³³ INCOMPAS argues that “it would be extremely difficult, confusing, and unnecessary for the wholesaler or the reseller to create a label for hundreds of different plans if they are not providing a standardized, mass-market service to residential and business customers.”³⁴ INCOMPAS, however, does not point to any specific evidence that it would be difficult for wholesalers and resellers to create labels for their larger customers or that the labels would be confusing for the customers themselves. Nevertheless, in both the *2015 Open Internet Order* and the *2017 Restoring Internet Freedom Order*, the Commission determined that “mass-market retail services” do not include enterprise service offerings or special access services, which are typically offered to larger organizations through customized or individually negotiated arrangements.³⁵ Nothing has changed to alter our view regarding service offerings to large customers (or other entities) that are not mass-market retail services; these services are not covered by the disclosure requirements here.

18. We disagree with INCOMPAS that we should interpret the definition in section 8.1(b) to exclude ISPs participating in the E-Rate and Rural Health Care (RHC) programs from the label requirements simply because the labels might be viewed as “redundant” to the competitive bidding process, during which time customers define the services that they need and providers put forward bids.³⁶

²⁹ Infrastructure Act § 60504(a).

³⁰ *Id.* § 60501(1) (adopting that definition for purposes of Title V of the Infrastructure Act, which includes section 60504).

³¹ 47 CFR § 8.1(b).

³² *Id.*

³³ INCOMPAS Comments at 4, 5, 7.

³⁴ *Id.* at 8.

³⁵ See *2015 Open Internet Order*, 30 FCC Rcd at 5683-84, para. 189; *Restoring Internet Freedom*, WC Docket No. 17-108, Declaratory Ruling, Report and Order, and Order, 33 FCC Rcd 311, 318-319, para. 21 n.58 (2017) (*2017 Restoring Internet Freedom Order*).

³⁶ INCOMPAS Comments at 3, 8-10; Letter from Lindsay Stern, INCOMPAS, to Marlene H. Dortch, Secretary, FCC, at 3 (Apr. 13, 2022) (INCOMPAS *ex parte*). INCOMPAS does not expressly ask the Commission to modify the definition in section 8.1(b) of the rules, so we think its request is properly understood as seeking a particular interpretation of the definition in that rule, rather than a change in that rule. We require E-Rate and RHC providers

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First, we see nothing in the text of the Infrastructure Act to suggest Congress intended that the Commission exclude services subject to the E-Rate and RHC bidding processes (or the providers of those services), and the regulatory history suggests the contrary. The Infrastructure Act expressly defines “broadband Internet access service” by reference to the definition in section 8.1(b) of our rules, and the Commission previously has interpreted that rule to include E-Rate and RHC services.³⁷ Indeed, the Infrastructure Act’s label requirement drew upon the Commission’s broadband label efforts associated with the *2015 Open Internet Order*,³⁸ and that prior broadband label effort relied on a definition of broadband Internet access service from the *2015 Open Internet Order* that included E-Rate and RHC services within the universe of mass-market retail services encompassed by that definition. We find it reasonable to interpret “broadband Internet access service” as currently defined in section 8.1(b) in light of that historical understanding that formed the regulatory backdrop for Congress’ action here.

19. Second, as a policy matter, we see no reason why the bidding process means that the E-Rate and RHC consumers would not benefit from the label. Most relevant to the purposes of the Infrastructure Act, the label might help schools, libraries, and health care providers to compare the offers being made in the competitive bidding process with other alternatives in the marketplace. Further, the labels could provide benefits in terms of enforcing E-Rate or RHC rules, such as requirements to offer rates and terms that are comparable to the best available offer to non-Universal Service Fund (USF) recipients,³⁹ or for purposes of making comparisons between rural and urban rates, or the like.

20. Finally, we clarify (as the Commission did in 2017) that, to the extent that coffee shops, bookstores, airlines, private end-user networks such as libraries and universities, and other businesses acquire broadband Internet access service from an ISP to enable patrons to access the Internet from their establishments, provision of such service by the premises operator is not itself broadband Internet access service unless offered to patrons as a mass-market retail service, as we define it here.⁴⁰ Thus, these businesses need not create and display labels associated with those services.⁴¹

B. Broadband Consumer Label (Fixed and Mobile)

21. We adopt one label requiring the same information and in the same format for both fixed and mobile broadband service offerings. The content that commenters identify as most important to assist consumers in making informed decisions at the point of sale is the same whether consumers are shopping for fixed or mobile broadband service.⁴² Based on the record, we conclude that two distinct labels are

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to provide a label along with any competitive bids submitted pursuant to the E-Rate or RHC competitive bidding processes, whether or not such provider defines their offered service as an “enterprise” service.

³⁷ See, e.g., *2015 Open Internet Order*, 30 FCC Rcd at 5683-84, para. 189. The Commission stated that mass-market retail service also includes any broadband Internet access service offered using networks supported by the Connect America Fund. See *2017 Restoring Internet Freedom Order*, 33 FCC Rcd at 318-19, para. 21 n.58.

³⁸ Infrastructure Act § 60504(a).

³⁹ See 47 U.S.C. § 254(h)(1)(B).

⁴⁰ See *2017 Restoring Internet Freedom Order*, 33 FCC Rcd at 320, para. 25. See also *2015 Open Internet Order*, 30 FCC Rcd at 5685, para. 191. The Commission nevertheless has encouraged premises operators to disclose relevant restrictions on broadband service they make available to their patrons. See *id.* at 5685, para. 191.

⁴¹ See Panasonic Avionics Comments at 4-5 (requesting that the Commission confirm that broadband Internet access services offered onboard an aircraft continue to be out of scope of the label requirements).

⁴² See, e.g., Boston Joint Commenters Reply at 9 (supporting a uniform label to afford consumers the ability to compare ISPs’ offerings across all delivery formats, as “two distinct formats for fixed vers[us] mobile broadband delivery may be unnecessary so long as the standard label provides customers needed insights into the performance and capabilities of the various delivery services”); AARP Comments at 16 (stating that, unlike the 2016 labels, the same service provider instructions on government taxes should be provided to both fixed and mobile broadband customers).

unnecessary and may confuse consumers and be more burdensome for providers to implement. Thus, all broadband Internet access service providers are required to display the same label format as described below.

1. Content

a. Pricing

22. *Service Plan Name.* As with the 2016 labels, we require providers to identify the name of the service plan at the top of the label. Broadband service providers generally offer many different plans with different rates, contract terms, speeds, and data allowances to meet customers' needs. For labels to be effective, consumers must be able to differentiate each plan a provider offers; only then can a consumer compare plans for that provider and across competing providers. The instruction in the 2016 fixed broadband label directed a provider to identify its plan by speed tier. While providers may continue to identify their plans by speed (e.g., "300 Mbps," "500 Mbps"), they may also differentiate their plans using terminology of their choice (e.g., "Gigabit Connection," "Performance Pro," or "Blast Internet").⁴³ Or, in the case of mobile broadband providers, "4G" or "5G." Because we require providers to display critical information about each plan elsewhere on the label, including speed metrics, the plan itself need not be identified by speed tier.⁴⁴ We believe this will minimize confusion by allowing consumers to more easily match the label to the associated advertised plan.

23. *Monthly Price.* Consistent with the 2016 labels, a provider must display on the label, at a minimum, the base monthly price for the stand-alone broadband service offering (i.e., an offering that is not bundled with other services such as multichannel video or voice). We believe consumers are accustomed to seeing base monthly prices, without additional taxes and fees, when shopping for goods and services and thus, the presentation of the base price should enable easy comparison shopping.⁴⁵

24. We disagree with commenters that recommend ISPs aggregate the monthly price identified on the label with any other discretionary fees and government taxes—creating an "all-in" price.⁴⁶ Although this approach may have some benefit, we agree with providers that it may be difficult to implement.⁴⁷ For example, government taxes vary according to the consumer's geographic location.⁴⁸ And a consumer's election to rent or purchase equipment may increase their upfront or monthly charges. Installation fees may vary according to the consumer's location and dwelling (e.g., apartment, single-family home) as well. Thus, requiring display of a single, "all-in" price on a label may be difficult for ISPs and potentially misleading for consumers. Further, we believe requiring that the labels clearly

⁴³ AT&T suggests, for example, that its label might have a grid showing the per-line price and associated terms for its most popular unlimited data mobile plans, i.e., Unlimited Starter, Unlimited Extra, and Unlimited Elite plans (with links to additional offers). AT&T Reply at 6.

⁴⁴ We note, however, that if a provider identifies the plan name by speed tier, the speed tier must be accurate and consistent with the speed metrics identified elsewhere in the label.

⁴⁵ See, e.g., Letter From Lorrie Faith Cranor, Carnegie Mellon University, Security and Privacy Institute, to Marlene H. Dortch, Secretary, FCC, at slide 12 (Aug. 18, 2022) (Cranor 8/18/22 *ex parte*) (proposing that the cost section separates out base monthly price from optional monthly charges, activation fees, and other fees).

⁴⁶ OTI Comments at 7; SpaceX Comments at 2-3.

⁴⁷ See, e.g., TechFreedom Reply at 5 (noting that, with all the variables that would need to go into the "all-in cost" number, it may not be possible to come up with a single equation that delivers a true "apples-to-apples" number); NTCA and WISPA Reply at 10 (arguing that it would be functionally impossible for providers to convey an "all in" cost beyond basic rate information because the actual total monthly cost is often beyond the administration of the provider).

⁴⁸ NCTA Reply at 8.

itemize any additional discretionary fees and state that additional government taxes will apply to each plan will better provide consumers with a complete understanding of their bill.⁴⁹

25. *Introductory Rates.* Based on the record, we conclude that if a provider displays an introductory rate in the label, it must also display the rate that applies following the introductory period.⁵⁰ This approach implements the Infrastructure Act’s requirement that the label “include information regarding whether the offered price is an introductory rate and, if so, the price the consumer will be required to pay following the introductory period.”⁵¹ As our label template shows, ISPs must prominently indicate whether the monthly price is an introductory offer along with the post-introductory period rate so that consumers can compare both.⁵² We agree with those commenters that argue that the label should also clearly disclose either the length of the introductory period or the date on which the introductory period will end.⁵³

26. We reject the assertion that providers should merely link to introductory rates.⁵⁴ Relegating the introductory rate or post-introductory rate to a location elsewhere on the provider’s website deprives the consumer of immediate access to information critical to the consumer’s purchase decision. Providers may give more details about their non-introductory pricing through a link on the label, but the text of the statute indicates that Congress viewed introductory and post-introductory rates to be significant enough to disclose them on the label itself. Further, even if Congress had not provided that the label specify whether the offered price is an introductory rate, we find that, based on the record, this approach strikes the appropriate balance between ensuring that consumers have the information necessary to select the broadband services that meet their needs and avoiding a label that is unnecessarily complex and unclear for them.⁵⁵

27. *Billing and Other Discounts.* In the interest of simplicity and based on the record, at this time we require providers to display only the “retail” monthly broadband price, by which we mean the price a provider offers broadband to consumers before applying any discounts such as those for paperless billing, automatic payment (autopay), or any other discounts.⁵⁶ The provider may instead link from the

⁴⁹ A provider that opts to combine all of its monthly discretionary fees with its base monthly price may do so and list that total price. In that case, the provider need not separately itemize those fees in the label.

⁵⁰ See, e.g., AT&T Reply at 6-7 (arguing that, “if the price the provider chooses to show on the label is an introductory rate, then the provider must indicate that it is an introductory rate and say what the permanent rate will be when the introductory period expires (as well as how long the introductory period will last)” (emphasis in original)); AARP Reply at 8; CT State Broadband Leaders Comments at 1; NCTA Comments at 9-10; SCDCA Comments at 2.

⁵¹ Infrastructure Act § 60504(b)(1).

⁵² If the listed monthly price is non-promotional, the provider must simply state that it is a non-introductory rate, and no further disclosures are required on the label. The provider may still include a link to promotional pricing options elsewhere on its website. See *supra*, paras. 23-24 (discussing the requirement to display the non-introductory base monthly price).

⁵³ See, e.g., ACA Connects Comments at 10; CCA Comments at 3; Consumer Reports Comments at 8.

⁵⁴ See, e.g., CCA Comments at 3; NCTA Comments at 10-11 (arguing that a link on the label to available promotions is the most practicable way to disclose such information to consumers, “given the dynamic nature of competition and promotions”); USTelecom Comments at 4; Verizon Comments at 11.

⁵⁵ See AARP Comments at 8 (stating that “introductory rates and promotions may be overlapping concepts and the language in the provider instructions should be changed to be consistent with the language of the Infrastructure Act”).

⁵⁶ Our use of “retail” is specific to this Order and we do not intend it to apply in other contexts where the Commission might use the term.

label to a webpage explaining such discounts.⁵⁷ Providers may also separately inform consumers about discounts as part of their marketing materials. Our conclusion is consistent with most commenters' views that providers must be clear about the conditions for discounts.⁵⁸ We believe this approach will make the label a quick reference tool for consumers as they begin their broadband shopping experience.

28. Nevertheless, we recognize that the price that any one consumer will pay for broadband service is the product of many variables, including bundling, discounts, and location-specific taxes and that a principal goal of the label is to give consumers a reliable idea of what they will pay each month that incorporates these pricing variables, and does so in a way that is uniform among providers thus enabling easy comparison shopping. While we lack the record at this time on the best way to balance informing consumers about the potentially large number of pricing options available for any one service against overwhelming them with so many labels and pricing information to effectively render comparison shopping impossible, with the accompanying burden on providers of producing those labels, we ask questions in the accompanying Further Notice on how we can address that balance in the future.

29. *Contract Plans.* Similar to our approach to introductory rates, we conclude that ISPs that offer a discount for consumers who commit to a contract term must display the length of that term on the label.⁵⁹ Our determination is consistent with the 2016 fixed broadband label that required providers to “identify [the] length of available long-term contracts” and to “provide . . . [the] price of stand-alone broadband service available under each long-term contract option.”

30. We believe it is critical that consumers know whether the price identified on the label requires the consumer to commit to service for a specified period of time and that if the consumer decides to switch to another provider or terminate service altogether, they may be subject to an early termination fee. No commenter disputes that information about contract terms is important to consumers making decisions about broadband service. As discussed below, the provider must also disclose any applicable early termination fees if the consumer cancels the service before the end of the contract.⁶⁰

31. *Bundled Plans.* In this Order, we require providers to display a label for their standalone broadband services.⁶¹ Consistent with our conclusion above, providers offering broadband Internet access service bundled with other services may note that via a link in the “click here” section of the label where they describe other discounts. Our approach is supported by commenters and will enable apples-to-apples comparisons of broadband Internet access services.⁶² And providers are free to describe in their marketing materials the value of bundling, including the discounts associated with bundling various services. We seek comment in the accompanying Further Notice whether we should, in the future, require labels for bundles that include broadband service.

32. *Additional Monthly Charges and One-Time Fees.* The label must display recurring monthly charges the provider imposes on top of the base price we describe above, along with any one-time fees the consumer must pay at the time of purchase.

⁵⁷ *Broadband Label NPRM*, para. 20.

⁵⁸ See, e.g., AARP Comments at 8; Consumer Reports Comments at 7; NYC Comments at 2; SCDCA Comments at 2; NCTA Comments at 11-12 (arguing that, if the monthly price is not contingent on the consumer agreeing to such options, no further disclosure is necessary).

⁵⁹ See AARP Comments at 9; CT State Broadband Leaders Comments at 1.

⁶⁰ See *infra*, para. 34.

⁶¹ In the E-Rate and RHC context, the label will be for the broadband Internet access service submitted pursuant to the bidding process, regardless of whether such service is combined with other services.

⁶² See, e.g., Consumer Reports Comments at 7-8 (stating the label should focus only on the features of Internet service, although it might be tempting to add more information to the label about a bundled service plan); CTIA Comments at 11; Lumen Comments at 5; NTCA and WISPA Comments at 13-14.

33. First, under “Additional Charges & Terms,” providers must list all recurring monthly fees. These fees include all charges that providers impose at their discretion, i.e., charges not mandated by a government.⁶³ Providers must give each fee a simple, accurate, easy-to-understand name, thus enabling consumers to understand which charges are part of the provider’s rate structure, and which derive from government assessments or programs.⁶⁴ Further, the requirement will allow consumers to more meaningfully compare providers’ rates and service packages, and to make more informed decisions when purchasing broadband services. Providers must list fees such as monthly charges associated with regulatory programs and fees for the rental or leasing of modem and other network connection equipment.⁶⁵

34. Next, the “Additional Charges & Terms” section of the label must include the name and cost of each one-time fee assessed by the provider when the consumer signs up for service. This section will identify one-time fees such as a charge for purchasing a modem, gateway, or router; an activation fee; a deposit; an installation fee; or a charge for late payment. The provider must also identify any one-time fees the provider will impose if the customer cancels their broadband service before the end of a contract term (e.g., an early termination fee) and provide a link to a full explanation of when such fee is triggered.⁶⁶

35. Finally, providers must disclose any charges or reductions in service for any data used in excess of the amount included in the plan. They must also identify the increment of additional data, e.g., “each additional 50GB,” if applicable, and disclose any additional charges once the consumer exceeds the monthly data allowance. We agree with commenters that limits on data usage is critical information for consumers, along with any additional charges the provider may assess once a consumer exceeds such a cap.⁶⁷ And the Commission has required disclosure of “any data caps or allowances that are a part of the plan the consumer is purchasing, as well as the consequences of exceeding the cap or allowance (e.g., additional charges, loss of service for the remainder of the billing cycle).”⁶⁸ However, as several commenters note, it is important to keep the label information as simple as possible for consumers and to require providers to comply by including links to their websites for more detailed information about data allowances.⁶⁹

⁶³ These discretionary charges include those the provider collects to recoup from consumers its costs associated with government programs but where the government has not mandated such collection, e.g., USF contributions.

⁶⁴ See *Truth-in-Billing and Billing Format*, CC Docket No. 98-170, Report and Order and Further Notice of Proposed Rulemaking, 14 FCC Rcd 7492, 7501, para. 14 (1999) (*First Truth-in-Billing Order*).

⁶⁵ Other monthly charges that must be listed might include network access charges and USF charges. This list is not exhaustive.

⁶⁶ If the provider’s early termination fee is prorated based on the time the consumer cancels service, the provider may note that in the label, along with the maximum early termination fee, and include a link to more details about its early termination policies.

⁶⁷ See, e.g., National Broadband Mapping Coalition Comments at 4; Vander Werf Comments at 1; AARP Comments at 10; see also FCC, Broadband Consumer Labels, *Public Hearings on Broadband Labels* (May 25, 2022), <https://www.fcc.gov/broadbandlabels> (testimony from Magdalena Wittenzellner, Digital Navigator, East Hartford Public Library, noting that consumers are often surprised by additional charges when they exceed the applicable data allowances).

⁶⁸ See *2017 Restoring Internet Freedom Order*, 33 FCC Rcd at 617, para. 164.

⁶⁹ This would include providing information about any reductions in service or speeds once the consumer exceeds his data allowance. See, e.g., Lumen Comments at 10-11; MDTC Comments at 4. As discussed below, providers must also disclose their network management practices through a link to such information elsewhere on their websites. See *infra*, paras. 47-49.

36. *Taxes.* Consistent with the 2016 labels, we require ISPs to state under “Additional Charges & Terms” that taxes will apply and that they may vary depending on location.⁷⁰ The 2016 labels included information about government taxes and fees.⁷¹ As discussed above,⁷² we agree with those commenters that argue that applicable taxes often vary according to the consumer’s geographic location,⁷³ so either including them in the total monthly price or itemizing them on the label may be difficult and potentially confusing for consumers. As consumers are accustomed to seeing prices without additional tax when shopping, we believe this simple disclosure should be sufficient for consumers to comparison shop among providers and plans.⁷⁴

b. Performance Information

37. *Speed and Latency.* We require providers to disclose in the labels speed and latency metrics associated with their broadband services. Specifically, we require providers to display their typical upload and download speeds and typical latency, consistent with their current obligations under the existing transparency rule and the *2011 Advisory Guidance*.⁷⁵ We agree with many commenters that urge us to include the same information in the label about speed and latency as appeared in the 2016 labels.⁷⁶ USTelecom, for example, argues that the Commission “should maintain its existing requirements for disclosing speed and latency” and “continue to permit fixed ISPs that participate in the Measuring Broadband America (MBA) program to disclose their speed and latency results as a sufficient barometer for performance customers can expect to experience.”⁷⁷ ACA Connects similarly states that there is no need for the Commission to revisit “its well-established guidelines” for reporting speeds and latency by fixed broadband providers.⁷⁸ Commenters generally are not opposed to disclosing speed and

⁷⁰ See AARP Comments at 16 (supporting disclosure of taxes in the label and arguing that the service provider instructions in the 2016 fixed label should be required for both fixed and mobile labels).

⁷¹ The label for fixed service identified these charges under the heading: “Government Taxes and Other Government-Related Fees May Apply. Varies by location.” The instruction associated with the information directed providers to “[provide this disclaimer using this language to notify consumers that additional taxes and fees mandated by, or attributable to, government programs will be imposed – specific taxes and fees need not be identified].” The label for mobile service identified such charges under the heading: “Government Taxes and Fees, and Other Carrier Surcharges May Also Apply: Varies by location.”

⁷² See *supra*, para 24.

⁷³ NCTA Reply at 8.

⁷⁴ See Verizon Comments at 4 (explaining that, currently, its customers receive a summary by email or text, which includes all financial information including actual taxes, and links for more details about the service plan).

⁷⁵ See 47 CFR § 8.1(a); *2017 Restoring Internet Freedom Order*, 33 FCC Rcd at 441, para. 222 & n.818; *FCC Enforcement Bureau and Office of General Counsel Issue Advisory Guidance for Compliance with Open Internet Transparency Rule*, GN Docket No. 09-191, WC Docket No. 09-191, Public Notice, 26 FCC Rcd 9411, 9411 (EB/OGC 2011) (*2011 Advisory Guidance*).

⁷⁶ See, e.g., AARP Comments at 11 (also recommending that the descriptors for the performance metrics include brief explanatory language); National Broadband Mapping Coalition Comments at 3 (recommending that the labels describe network performance during peak usage times); Cranor 8/18/22 *ex parte* at slide 10 (survey participants wanted to know typical speeds and speeds when performance is poor).

⁷⁷ USTelecom Comments at 7 (also stating that, for ISPs that do not participate in the MBA program, the Commission should continue to permit use of the methodology from the MBA program or actual performance based on internal testing or other relevant reliable data for disclosure of speed and latency); CTIA Comments at 10.

⁷⁸ ACA Connects Reply at 5.

latency metrics in the label; they do, however, offer a number of alternative ways to measure and display speed⁷⁹ and latency information.⁸⁰

38. Download and upload speeds were included in the 2016 labels, and no commenter argues for eliminating speed metrics from the label entirely. Further, speed has historically been one of the most important agreed-upon metrics for Internet performance.⁸¹ As the Commission stated in its Eleventh MBA Report, “[s]peed (both download and upload) performance continues to be one of the key metrics reported by the MBA,” and “remains the network performance metric of greatest interest to the consumer.”⁸²

39. Thus, for purposes of satisfying this requirement, fixed broadband service providers that choose to participate in the MBA program may disclose their results as a sufficient representation of the actual performance their customers can expect to experience for the relevant speed tier.⁸³ Fixed broadband service providers that do not participate may use the methodology from the MBA program to measure actual performance, or may disclose actual performance based on internal testing, consumer speed test data, or other data regarding network performance, including reliable, relevant data from third-party sources.⁸⁴

40. Mobile broadband service providers that have access to reliable information on network performance may disclose the results of their own or third-party testing. Those mobile broadband service

⁷⁹ See, e.g., Feamster Comments at 2 (suggesting using percentiles instead of “typical”); Jordan Comments at 7, 11 (suggesting that for fixed broadband service, the labels should display peak usage period median download speed and peak usage period median upload speed and for mobile broadband, that the labels identify the range from the peak usage period 25th percentile download speed to the peak usage period 75th percentile download speed, and the range from the peak usage period 25th percentile upload speed to the peak usage period 75th percentile upload speed); Letter from Henning Schulzrinne, Columbia University, Walter Johnston, Danu Consulting, and Andreas Carlos Freund, Columbia University, to Marlene H. Dortch, Secretary, FCC, at 1-2 (Apr. 11, 2022) (Schulzrinne, Johnston, Freund 4/11/22 *ex parte*) (proposing that the Commission require ISPs to include their 95th percentile downstream and upstream speeds and contending that this metric better captures the range of service consistency consumers can reasonably expect); OTI Comments at 7 (suggesting we require providers to display median speeds for fixed and standardized range for mobile speed); AT&T Comments at 12 & Reply at 8 (urging us to require mobile providers to report the 25th and 75th percentile speeds based on 24-hour averages and stating that speed ranges are the most appropriate and useful way to inform consumers of what typical speeds they can expect); ASSIA Comments at 8 (proposing that the labels include broadband throughput, i.e., speed, measured as the average throughput for upstream and downstream in Mbps).

⁸⁰ See, e.g., Connected Nation Comments at 4 (proposing that latency measures be defined between two defined points on a network, such as between a user’s interface device and the ISP’s network core or between the user interface device and the nearest internet exchange point where the ISP exchanges traffic with other networks); Feamster Comments at 1-2 (proposing latency under use or latency under load); Jordan Comments at 7 (suggesting that for fixed broadband, changing this requirement from “identify typical peak usage period latency” to “identify the peak usage period median latency”); M-Lab Comments at 4 (recommending that the definition of latency be one that represents “latency under load” or “working latency” such that the metric exposes the effects of potential bottlenecks that affect end-user experiences).

⁸¹ See M-Lab Comments at 3.

⁸² See *Eleventh Measuring Broadband America, Fixed Broadband Report, Federal Communications Commission, Office of Engineering and Technology* at 8, 10 (Dec. 31, 2021) (Eleventh MBA Report), <https://data.fcc.gov/download/measuring-broadband-america/2021/2021-Fixed-Measuring-Broadband-America-Report.pdf>.

⁸³ We note that nothing in this Order supplants any providers’ existing obligations to provide data consistent with prior Commission guidance in complying with the current transparency rule. See 47 CFR § 8.1.

⁸⁴ *2017 Restoring Internet Freedom Order*, 33 FCC Rcd at 441 n.818 (citing *2011 Advisory Guidance*, 26 FCC Rcd at 9414-15).

providers that do not have reasonable access to such network performance data may disclose a Typical Speed Range (TSR) representing the range of speeds and latency that most of their consumers can expect, for each technology and service tier offered.⁸⁵

41. We also agree with those commenters that believe that low delay or latency is important to any application involving users interacting with each other, a device, or an application.⁸⁶ Persons who utilize video conferencing—including persons with disabilities—may find latency metric information to be especially useful when selecting a broadband provider and plan.⁸⁷ We therefore require providers to display their typical latency for that particular speed tier, either based on MBA methodology or other relevant testing data.

42. We do not believe the current record supports commenters' proposed deviations from this approach, especially where such changes could mean potentially material changes to how providers track and collect speed and latency data. We do, however, seek additional comment in the Further Notice below on alternative speed and latency measurements for the label going forward. And providers may give prospective customers more information about their broadband speeds and latency in their advertising materials or elsewhere on their websites.

43. *Peak Usage Data.* We decline to adopt a requirement that providers tie their actual speed reporting to “peak usage periods,” as we had proposed in the *NPRM* and as the CAC recommended for the 2016 labels. First, we agree with AT&T that “peak usage” periods in mobile networks vary substantially from location to location, e.g., downtown areas may have one peak usage time and residential areas another, and all of this may have changed during the COVID-19 pandemic.⁸⁸ And, as AT&T has explained, it might be burdensome for mobile providers to determine what the peak usage times are for any given area because providers would have to undertake studies of every geographic area to determine peak usage times for each area, and then perform drive testing to collect sufficient information to develop average speed and latency during those times.⁸⁹

44. Nor does the record reflect that deviating from the current transparency rule requirements to require peak period disclosures for fixed providers outweigh the potential costs of gathering and reporting that data.⁹⁰ Some commenters offer various definitions of peak usage,⁹¹ and others recommend

⁸⁵ *Id.* at 441 n.818 (citing *2011 Advisory Guidance*, 26 FCC Rcd at 9415-16).

⁸⁶ BITAG Report at 7; Letter from Ryan Johnston and Brian Donaghue, Next Century Cities, to Marlene H. Dortch, Secretary, FCC, at 2 (Apr. 7, 2022) (NCC 4/7/22 *ex parte*) (stating that including information on latency to determine network performance is a meaningful indicator of how well consumers will be able to interact with each other online); SpaceX Comments at 10 (observing that high latency can affect the perceived quality of consumer experience, especially as to interactive services like Internet-based phone calls, video calls and conferencing, and online entertainment like gaming); USTelecom Comments at 7 (supporting maintaining the existing requirements for disclosing latency).

⁸⁷ *See, e.g.*, Report of the State of the Lifeline Marketplace, Wireline Competition Bureau, WC Docket Nos. 09-197, 11-42, 20-437 at 17 n.100 (June 2021), <https://www.fcc.gov/document/bureau-releases-report-state-lifeline-marketplace> (citing TDI et al. Comments at 7, which noted “that people who are deaf, deafblind, hard of hearing, or have speech disabilities often rely on broadband video conferencing for purposes of learning, working, obtaining healthcare, and communicating in general”).

⁸⁸ AT&T Reply at 9-10.

⁸⁹ AT&T Reply at 10; *see also* Verizon Comments at 13 (explaining that ISPs that are not currently collecting such granular data would need to take costly measures to develop the capability, and such efforts would produce little value because consumer needs also have not changed; peak-usage metrics may have little relevance to the customer's typical experience).

⁹⁰ We nevertheless note that fixed broadband participants in the MBA program who choose to use MBA results and providers who choose to use the MBA methodology are required to disclose data by speed tier showing mean upload

(continued....)

against using peak usage as a metric on the label.⁹² We find there is no consensus on how to define peak at this point and we recognize that today, with many working from home, peak usage hours may vary for fixed and mobile broadband. We also find that the use of a single label for both fixed and broadband, without the nuance of peak usage for one and not the other, promotes ease of understanding for consumers.

45. *Packet Loss.* We decline to require providers to include information on packet loss in the label.⁹³ The 2016 labels instructed ISPs to provide the typical packet loss associated with the offered broadband service. In the *NPRM*, the Commission proposed to include packet loss information as part of the performance disclosures in the new broadband labels, although we also asked whether any information on the proposed label was no longer necessary to serve the goals of the Infrastructure Act.⁹⁴ The *NPRM* noted that in 2016, the Office of Management and Budget (OMB) concluded that packet loss would not be a required performance metric for the mobile broadband label.⁹⁵

46. The vast majority of commenters observe that consumers have little understanding of what packet loss involves and argue that such information should not be included in the label as it provides little benefit to the average consumer shopping for broadband service.⁹⁶ We agree that, although this metric may provide useful information to certain consumers, packet loss is less important than upload and download speeds and latency, and may actually lead to more confusion for most consumers. We therefore do not require packet loss measurements in the new label at this time.⁹⁷ We do, however, seek additional comment in the Further Notice below about whether there are other service characteristics, beyond speed and latency, that ISPs should display on the label.

c. Network Management Practices

47. We require that ISPs include in the label a link to their network management practices. The 2016 labels required providers to disclose their “application-specific network management practices” and their “subscriber-triggered network management practices” with “yes” or “no” answers, and to provide links to more details about such practices.⁹⁸

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and download speeds in megabits per second during the “busy hour.” *See 2011 Advisory Guidance*, 26 FCC Rcd 9414-15. Nothing here should be construed to alter MBA requirements.

⁹¹ *See, e.g.*, MDTC Comments at 6-7; Jordan Comments at 6-8.

⁹² *See, e.g.*, AT&T Comments at 11-12; Verizon Comments at 13.

⁹³ Packet loss is generally defined to mean occurrences when packets of data traveling over the Internet fail to reach their intended destination.

⁹⁴ *NPRM*, paras. 16-17.

⁹⁵ *Id.*, para. 17 n.29.

⁹⁶ *See, e.g.*, Verizon Comments at 12. AT&T Comments at 13 & Reply at 10; CCA Comments at 4; NCTA Comments at 13; Lumen Comments at 9-10; CTIA Comments at 11 & Reply at 6; T-Mobile Reply at 8; Starry Reply at 6; TechFreedom Reply at 4; ACA Connects Reply at 6-7; Letter from Diana Eisner, Vice President Policy and Advocacy, USTelecom–The Broadband Association, to Marlene H. Dortch, Secretary, FCC, at 1 (Apr. 21, 2022) (USTelecom 4/21/22 *ex parte*). *But see* Jordan Reply at 3-4 (arguing that packet loss is a useful measure for consumers who use real-time applications); Taylor Comments at 1 (contending that packet loss is a key component to which educated consumers can make educated ISP decisions, and reporting packet loss on the label will enable ISPs to compete more effectively by publicly disclosing an important metric about ISP network quality).

⁹⁷ As ASSIA observes, the concept of packet loss, though an important technical measure of performance, is not necessarily meaningful to consumers. ASSIA Comments at 4.

⁹⁸ *See NPRM*, Appendices B and C.

48. We are not persuaded that the label should include detailed information about network management practices, specifically those related to blocking, throttling, and paid prioritization.⁹⁹ We agree with those commenters that contend such information may be confusing for the average consumer when shopping for broadband service while using a tool like a label, which is designed to enable simple comparisons of key information.¹⁰⁰ NTCA and WISPA, for instance, state that “[d]etailed explanations of how a provider manages congestion or how often certain network management practices may be triggered are beyond the typical metrics that consumers would expect in a simple label.”¹⁰¹ TechFreedom similarly contends that network management practices do not lend themselves to a simple label and doubts that the Commission can “bumper sticker” categories of network management practices into concise statements that ISPs can use.¹⁰² We disagree with those commenters that maintain that the Commission should require more detailed network management disclosures on the label, and we decline at this time to add content to the label about network management practices such as tables that identify when a particular practice is triggered and the likely effect of the practice on network performance.¹⁰³

49. After reviewing the record, we conclude that a link to an ISP’s network management practices is sufficient and that any more detailed information in the label is unlikely to benefit consumers comparing broadband Internet access service offerings. Including such information on the face of the label may overwhelm consumers during the purchasing process and might impose additional costs on providers. We agree that, at this time, requiring a link to the broadband service provider’s website as a source for more information on its network management practices, rather than expanding the label to address network management practices in detail, best meets the needs of consumers and fulfills Congress’ directive in requiring the Commission to mandate display of a label.¹⁰⁴ Providers must, however, either include necessary information on their websites about blocking, throttling, and paid prioritization or transmit such information to the Commission to comply with the current transparency rule requirements.¹⁰⁵

50. We also seek comment in the Further Notice on whether, in the future, the label should include more granular data about a provider’s network management practices and additional specifics about how such information should be conveyed to the public in the label or the provider’s website.

d. Affordable Connectivity Program

51. The Infrastructure Act recognizes that the Commission and participating providers, among other stakeholders, have an important role in promoting the ACP.¹⁰⁶ For example, the Infrastructure Act requires providers to notify consumers about the existence of the ACP and how to enroll in the program “when a customer subscribes to, or renews a subscription to, an internet service

⁹⁹ See, e.g., AARP Comments at 11 & Reply at 9; Consumer Reports Comments at 7; NYC Comments at 2; Cloudflare Comments at 10-11; Jordan Comments at 20 & Reply at 9; T-Mobile Reply at 9-10; ADTRAN Comments at 7-8 & Reply at 2-3.

¹⁰⁰ See, e.g., ADTRAN Comments at 8; T-Mobile Reply at 9-10; TechFreedom Reply at 4-5; ACA Connects Comments at 13-14.

¹⁰¹ NTCA and WISPA Comments at 12.

¹⁰² TechFreedom Reply at 4-5.

¹⁰³ See Jordan Comments at 20; OTI Comments at 7-8; Cloudflare Comments at 10-11; Cranor 8/18/22 *ex parte* at slide 12 (recommending that the label include network management practices information, not simply links to the information).

¹⁰⁴ ADTRAN Comments at 7-8 & Reply at 2-3; T-Mobile Reply at 9-10.

¹⁰⁵ 47 CFR § 8.1(a); see also *2017 Restoring Internet Freedom Order*, 33 FCC Rcd at 440, para. 220 (requiring ISPs to disclose information about their blocking, throttling, affiliation prioritization, paid prioritization, congestion management, application-specific behavior, device attachment rules, and security).

¹⁰⁶ 47 U.S.C. § 1752(b)(10); *ACP Order* at 89, para. 190.

offering of a participating provider.”¹⁰⁷ To ensure that we are using every tool available to promote the availability of the ACP, we require all providers to include a link in their labels to information about the ACP and to indicate whether the provider is participating in the ACP.

52. Many commenters believe the broadband label is an appropriate vehicle for educating potential broadband customers about the existence of, and eligibility for participation in, the ACP.¹⁰⁸ We agree that including information about the ACP in the label will help increase awareness of the program’s existence¹⁰⁹ by further expanding the reach of information about the program to eligible consumers. This expanded outreach about the ACP to eligible consumers, including people of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality can promote advances in diversity, equity, and inclusion.¹¹⁰ We therefore conclude that, throughout the duration of the ACP, at a minimum, the label should highlight the ACP and provide a link to additional qualification requirements.

53. We are cognizant of concerns raised by some commenters that including too much detail about the ACP in the label could overshadow the key information consumers need to make broadband service purchasing decisions.¹¹¹ Yet we also believe strongly that the ACP is a valuable program to help consumers afford the broadband they need for work, school, and healthcare, and that information about the ACP may be a relevant factor in a consumer’s decision to purchase a particular broadband service. The Infrastructure Act does not require this information to be included on the label, but we agree with CTIA and other commenters that including a link in the broadband label to more detailed information about the ACP and how to qualify for the program is appropriate and sufficient.¹¹²

54. Thus, each provider must disclose in its labels whether it participates in the ACP and include the following statement: “The Affordable Connectivity Program (ACP) is a government program to help lower the monthly cost of internet service. To learn more about the ACP, including to find out whether you qualify, visit www.affordableconnectivity.gov.” The text of the web address www.affordableconnectivity.gov must be an active link to the ACP webpage, www.affordableconnectivity.gov.¹¹³ We emphasize that the requirements we establish in this Order do not impact an ACP provider’s obligation to comply with the Commission’s ACP rules, including any

¹⁰⁷ 47 U.S.C. § 1752(b)(10)(A). The Infrastructure Act does not, however, stipulate that the broadband consumer labels must contain information on the ACP.

¹⁰⁸ See, e.g., AAAJ Comments at 2; AARP Comments at 10; ADTRAN Comments at 15; Hughes Comments at 4-5; NDIA Comments at 6; NYC Comments at 2; NYSPSC Comments at 2-3; Mei and Smith Comments at 2; OTI Comments at 5; SCDCA Comments at 2; Letter from Asian Americans Advancing Justice – AAJC; Benton Institute for Broadband & Society; Common Cause; Consumer Reports; MediaJustice; National Consumer Law Center, on behalf of its low-income clients; National Hispanic Media Coalition; New America’s Open Technology Institute; Public Knowledge; United Church of Christ Media Justice Ministry, to Jessica Rosenworcel, Chairwoman, FCC, at 1-2 (Apr. 27, 2022) (AAAJ *ex parte*).

¹⁰⁹ SCDCA Comments at 2.

¹¹⁰ See ADTRAN Comments at 15.

¹¹¹ See e.g., CTIA Comments at 10; Starry Reply at 5-6.

¹¹² CTIA Comments at 10. Other commenters also oppose providing information about ACP on the label and agree that there should be a link to further information. See, e.g., AT&T Comments at 15-16; NTCA and WISPA Comments at 15; SCDCA Comments at 2; USTelecom Comments at 7-8; AARP Reply at 8-9; Boston Joint Commenters Reply at 7; Starry Reply at 5-6. CCA contends that the label is a poor fit for ACP information, but if we do require disclosures, the information should be in a link. CCA Comments at 5.

¹¹³ AARP Comments at 16. On www.affordableconnectivity.gov, consumers can learn more about the benefit, find out how to qualify, complete the ACP application, and find ACP providers serving their area. See FCC, Affordable Connectivity Program, <https://www.affordableconnectivity.gov> (last visited Sept. 27, 2022).

requirements related to advertisement, promotion, and notification to subscribers of the ACP.¹¹⁴

55. We also recognize that because the ACP has not been made permanent by Congress, the ACP may end when the appropriated funding is exhausted. Including language on the labels directing consumers to learn about the ACP in the event that the ACP has ended or is no longer accepting new enrollments could cause customer confusion and frustration. We therefore direct the Wireline Competition Bureau and CGB to ensure that any wind-down procedures for the ACP developed as directed by the *ACP Order* address the need for providers to remove or modify the ACP-specific language on the broadband label.¹¹⁵

e. Privacy Policy

56. Consistent with the 2016 labels, we require providers to include a link in the label to the service provider's privacy policy on its website. We conclude that a link to such a policy is appropriate and that more detailed information in the label would likely overwhelm consumers and not benefit them at the point of sale. We agree with those commenters opposed to including expansive privacy disclosures in the label and point to the limitations of a label to adequately disclose privacy information to consumers in a meaningful way.¹¹⁶ RDR argues, for example, that "privacy policies are long, difficult to understand, [and] confusing, and most consumers do not read them."¹¹⁷ We are persuaded that privacy policies are often complicated and that requiring providers to disclose granular, detailed information on privacy practices on the face of the label would likely make the label unwieldy.

57. We nevertheless recognize that privacy policies and practices, such as whether a provider discloses data to third parties, whether providers collect and retain data about consumers that may not be essential to providing the consumer with broadband service (e.g., the websites the consumer visits), and whether customers can opt out of each data practice, are important.¹¹⁸ We therefore require providers to include a link in the label to their privacy policies, but determine that such information is more accurately and completely explained elsewhere on the provider's website rather than in the limited space on the label.¹¹⁹ We also believe that, without going beyond the scope of the charge given to us by Congress in section 60504 of the Infrastructure Act and considering in depth the type of privacy information that is most valuable to consumers at the point of sale for stand-alone broadband service and other services, it is premature to revise the 2016 labels' privacy disclosure.¹²⁰

58. We do, however, seek additional comment on issues related to privacy disclosures in the Further Notice below. A more informed record is essential to determining what, if any, additional privacy

¹¹⁴ See 47 CFR § 54.1804.

¹¹⁵ *ACP Order* at 108-10, paras. 230-233.

¹¹⁶ See, e.g., NCTA Reply at 14; CTIA Reply at 8; ACA Connects Reply at 15; T-Mobile Reply at 8-9; USTelecom Reply at 3.

¹¹⁷ RDR Comments at 2-3. Nevertheless, RDR supports requiring more explicit and easy-to-understand information about an ISP's privacy and data-related practices in the updated label, arguing that doing so "would go far toward rectifying th[e] identified shortcomings" of a link on a label. RDR Comments at 4.

¹¹⁸ See EPIC Comments at 4; see also Alex Comments at 1; Cloudflare Comments at 9; CDT Reply at 4-6; Galliant Comments at 1 (the labels should include information to give the consumer a reference for what, if any, data is being sold to data brokers with pricing structures that reflect the difference); OTI Comments at 7 (should add disclosures about user data collection, retention, and tracking); RDR Comments at 6 (proposes requiring detailed privacy information including each type of information collected and shared and the purposes for which the information is collected); Smith Comments at 1; Venne Reply at 1.

¹¹⁹ See, e.g., AARP Comments at 12, 17; USTelecom Reply at 3; CTIA Reply at 8; NCTA Reply at 14; T-Mobile Reply at 8-9; ACA Connects Reply at 15.

¹²⁰ See, e.g., ACA Connects Reply at 15; ADTRAN Reply at 3-4.

information should be included in the label.¹²¹ We also emphasize that providers must continue to comply with the Commission’s current directives regarding privacy policy disclosures.¹²²

f. Consumer Education/FCC Glossary

59. We require that providers include at the bottom of all broadband labels a link to the Commission’s website, where CGB will post a web page with a glossary of terms used on the label.

60. The 2016 labels included a link to the Commission’s website with information about specific terms used on the labels and other relevant information about broadband service.¹²³ No commenter opposed including such a link in the label to a “glossary” of relevant terms, and several commenters from both industry and consumer groups agree that it may be beneficial to have a glossary on our website.¹²⁴ The Massachusetts Department of Telecommunications and Cable, for example, proposes that the Commission host a web page describing the label and how to interpret it, “much in the same way that the U.S. Food and Drug Administration . . . does,” and suggests the webpage include not only a glossary of terms, but also explanatory information beyond definitions, including terms that may be especially difficult to understand, such as those associated with performance metrics.¹²⁵ Consumer Reports also supports an easy-to-understand “frequently asked questions” page regarding broadband service, pricing, and fees, along with eligibility requirements for the ACP.¹²⁶

61. We agree that a glossary would be helpful for both consumers and providers and therefore require that the label include a link to the Commission’s website, where such information will be maintained. We direct CGB, in consultation with other relevant FCC bureaus and offices, to add content to the website, to update the page as necessary, and to ensure that the information is accessible and understandable for consumers.¹²⁷ We also direct CGB to make available on the website resources to guide the creation of a uniform label, including templates and other examples.¹²⁸ We believe such

¹²¹ ADTRAN Reply at 3-4 (arguing that “because of the importance of privacy issues, the complexities surrounding Commission regulation of privacy[,] and the absence of any substantive discussion of privacy in the 2016 Public Notice or the NPRM, the Commission should address privacy disclosure obligations in a separate proceeding or a further notice of proposed rulemaking in this proceeding”); *see also* AARP Reply at 14-15 (the Commission should address the format and content of ISP privacy policies, including opt-out provisions, in a separate rulemaking).

¹²² The Commission has stated that “[i]n addition, per the current rule, disclosures of commercial terms shall also include the provider’s privacy policies (‘[f]or example, whether network management practices entail inspection of network traffic, and whether traffic information is stored, provided to third parties, or used by the carrier for non-network management purposes’) and redress options (‘practices for resolving end-user and edge provider complaints and questions’).” *See 2017 Restoring Internet Freedom Order*, 33 FCC Rcd at 617, para. 164.

¹²³ *See NPRM*, Appendices B and C.

¹²⁴ *See, e.g.*, INCOMPAS Comments at 12; MDTC Comments at 2-3; CT State Broadband Leaders Comments at 2; Consumer Reports Comments at 9; SCDC Comments at 2; Starry Comments at 7; Jordan Comments at 22; ILSR Reply at 5; NCC Reply at 3; AAAJ *ex parte* at 3; INCOMPAS *ex parte* at 4; Lorrie Faith Cranor, Jon M. Peha, et al, Carnegie Mellon University, CyLab Security and Privacy Institute, Making Broadband Internet Labels Useful and Usable: Preliminary Report on Consumer-Driven Broadband Label Design, at 37 (Oct. 24, 2022) (Cranor 10/24/22 *ex parte*).

¹²⁵ MDTC Comments at 2-3.

¹²⁶ Consumer Reports Comments at 9; *see also* Starry Comments at 7 (suggesting that a centralized repository of explanations for elements of the broadband label and their relevance will give consumers appropriate context in which to process the information); Cranor 8/18/22 *ex parte* at slide 16 (recommending the use of standard definitions and a glossary of terms); FCC, Broadband Consumer Labels, *Public Hearings on Broadband Labels* (May 25, 2022), <https://www.fcc.gov/broadbandlabels> (the EPA includes a Quick Response (QR) code on its fuel economy labels that directs consumers to further information about cars’ fuel economy estimates).

¹²⁷ *See infra*, para. 81.

¹²⁸ ACA Connects Comments at 17-18.

templates will reduce any burdens on providers, particularly smaller providers, of creating labels, and will facilitate their displaying them within the implementation timelines discussed below. CGB should complete work on the initial website no later than thirty days before the label display requirement becomes effective so that providers can include the appropriate FCC link in their labels and use the templates if desired.

62. Some commenters urge the Commission to require providers to explain in the label itself what broadband speeds consumers will need to perform certain tasks.¹²⁹ We conclude that requiring providers to display such information in the label is outside the scope of what the Infrastructure Act requires. Nevertheless, we believe some providers currently do so, and we agree that such information may be useful to certain consumers. Thus, the Commission will consider, as part of its consumer education materials, providing examples of what speeds of service are normally required for typical activities such as web surfing, streaming, messaging, and video conferencing to assist consumers in understanding broadband service offerings.¹³⁰

g. Additional Content

63. We decline at this time to require providers to include additional content in the label. In the *NPRM*, the Commission asked whether there is additional content to consider, given changes in the broadband marketplace, that providers were not required to include in the 2016 labels.¹³¹ Several commenters suggest that we include information about service reliability in the broadband label.¹³² INCOMPAS specifically asks that providers have the option to include in the label information about symmetrical speeds and guarantees of reliability.¹³³ New York City supports including information on an ISP's network resiliency, the ability to substantially withstand disaster conditions, the prevalence and scope of service disruptions, and the time to restore service in areas affected by disruptions.¹³⁴ We decline to adopt additional requirements at this time because commenters did not identify a reliability metric that was uniformly applicable across ISPs or that was readily comprehensible for consumers. In the Further Notice, however, we seek comment on whether to include a reliability metric in the label that is uniformly applicable and easily comprehensible, and we seek comment on the details of its implementation.

2. Format of Labels

64. We adopt the Commission's proposed format of the 2016 labels so that they resemble the well-known food nutrition label. In adopting the 2016 labels, the Commission consulted with the Consumer Financial Protection Bureau (CFPB) because of its expertise in consumer disclosures in the

¹²⁹ See, e.g., SCDCA Comments at 2; Cheong and Sulkin Comments at 1-2; Kaye and Smith-Salzberg Comments at 3 (proposing an interactive label); Dale Smith Comments at 1 (same). Starry notes that the Commission already provides information of this type for broadband speeds in its Household Broadband Guide and Broadband Speed Guide. Starry Comments at 7. See also FCC Consumer Guides, Getting Broadband Q and A, <https://www.fcc.gov/consumers/guides/getting-broadband-qa> (last visited Apr. 18, 2022). We note that the webpage will also include information for consumers on filing complaints with the Commission, which we are not requiring on the label itself.

¹³⁰ See Cheong and Sulkin Comments at 1-2; see also FCC Broadband Speed Guide, <https://www.fcc.gov/consumers/guides/broadband-speed-guide>.

¹³¹ *NPRM*, para. 20.

¹³² See, e.g., INCOMPAS Comments at 11; AARP Reply at 13-14 (suggesting requiring standardized reliability measures); National Broadband Mapping Coalition Comments at 4 (recommending that data on reliability be included in the label); Cranor 8/18/22 *ex parte* at slide 12 (recommending the addition of a reliability section to the label); Cranor 10/24/22 *ex parte* at 21, 31, 41-47.

¹³³ INCOMPAS Comments at 11; INCOMPAS *ex parte* at 3.

¹³⁴ NYC Comments at 2-3.

financial industry (e.g., credit cards, mortgages, prepaid cards).¹³⁵ The labels incorporated CFPB recommendations on typeface, font size, and ample white space.

65. As those labels have shown, uniform formats best enable consumers to compare services and products.¹³⁶ Commenters support this approach. As many note, requiring providers to display information about their service offerings in a uniform format will best assist consumers in comparing pricing, fees, performance characteristics, and data allowances across different providers.¹³⁷

66. We thus disagree with commenters that argue providers should be able to customize the label. We believe such customization undermines the central function of the label—to facilitate comparison shopping between providers and services. Nor are we persuaded by arguments that a standard format will be burdensome for providers.¹³⁸ Commenters fail to specify the burdens on providers of following a standard format, making bare assertions along the lines that “rigid design requirements for broadband labels may impede a provider’s ability to communicate important information to its customers.”¹³⁹

67. Our conclusion does not mean we think the labels should be static. Government agencies such as the U.S. Food and Drug Administration (FDA) and U.S. Environmental Protection Agency (EPA) have adjusted their label formats over time to respond to consumer feedback and changing consumer needs. The FDA is seeking information from consumers about the online grocery shopping experience and how food nutrition information is presented online.¹⁴⁰ The EPA has similarly redesigned its fuel economy labels over the years to reflect changes in how vehicles are purchased and changes in consumer driving experiences and preferences.¹⁴¹ We therefore seek comment in the Further Notice below on whether we should consider any updates to the label format to ensure that information about broadband

¹³⁵ *NPRM*, para. 23. For example, pursuant to the 1988 Fair Credit and Credit Card Disclosure Act amending the 1968 Truth-in-Lending Act, credit card companies must list, on all solicitations, long-term interest rates in at least 18-point type and all other rates, terms, and conditions in at least 12-point type. All credit card companies use the same format, making it easier for consumers to compare rates offered by various companies. See Fair Credit and Credit Card Disclosure Act, Pub. L. 100-583, 102 Stat. 2960, amending the 1968 Truth-in-Lending Act, 15 U.S.C. § 1601-1677(f). Congress also amended the Truth-in-Lending Act to require enhanced consumer disclosures on credit card billing statements. See Credit Card Accountability Responsibility and Disclosure Act of 2009, Pub. L. 111-24, 123 Stat. 1743-47. Similarly, the Automobile Information Disclosure Act requires automobile manufacturers to disclose on a label affixed to the car safety ratings information, including “information describing the nature and meaning of the crash test data presented” as well as a “graphic depiction” of the safety rating. The information must be presented in a “legible, visible, and prominent fashion” constituting at least 8% of the total area of the label, or other specified dimensions. See Automobile Information Disclosure Act, 15 U.S.C. § 1232(g); Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, Pub. L. 109-59, 119 Stat. 1941-42.

¹³⁶ See Smith Comments at 1 (stating that nutrition facts labeling (as implemented by the FDA) is a tried, true, and trusted format for how to inform consumers, helping them to make good point-of-sale choices).

¹³⁷ See, e.g., AARP Comments at 18; OTI Comments at 6; Consumer Reports Comments at 6; ILSR Reply at 6; NYPSC Comments at 2 (development of a single and simple label format on all broadband service offerings will enhance the public’s ability to understand and make informed decisions) (emphasis in original).

¹³⁸ See, e.g., Lumen Comments at 6 (providers should have significant discretion as to how they display required content); CCA Comments at 6; Verizon Comments at 9-11 (noting that the label format should be sufficiently flexible to include pre-paid and other broadband products); CTIA Comments at 12-14; Starry Comments at 8-9 (ISPs should have flexibility in how they present information); T-Mobile Reply at 5.

¹³⁹ Verizon Comments at 14.

¹⁴⁰ See FCC, Broadband Consumer Labels, *Public Hearings on Broadband Labels* (May 25, 2022), <https://www.fcc.gov/broadbandlabels> (testimony from Pedro A. Cruz, FDA).

¹⁴¹ See FCC, Broadband Consumer Labels, *Public Hearings on Broadband Labels* (May 25, 2022), <https://www.fcc.gov/broadbandlabels> (testimony from Brittany McCoy, EPA).

service offerings is conveyed effectively.

68. *Machine-Readable Format.* We require providers to make the information included in the label available to the public in machine-readable format.¹⁴² By “machine readable,” we mean providing “data in a format that can be easily processed by a computer without human intervention while ensuring no semantic meaning is lost.”¹⁴³ Providers should make each label’s information available by providing the information separately in a spreadsheet file format such as .csv. These files should be made available on a provider’s website via a dedicated URL that contains all of a provider’s given labels. We require providers to publicize the URL with the label data in the transparency disclosures required under 47 CFR § 8.1(a). These machine-readable files must provide the same categories of information as those presented in each label, including the unique identifier described below. We direct CGB, in consultation with other relevant bureaus, to make available on the Commission’s website resources that may help providers satisfy the machine-readability requirement, such as sample machine-readable spreadsheet files.¹⁴⁴ Further, given the importance of this requirement, we will monitor providers’ implementation of machine readability to ensure providers’ implementation of this requirement is useful to third parties and the Commission in its data collection efforts.

69. Although section 60504 of the Infrastructure Act does not expressly address the format requirements for broadband labels, implementing broadband labels with a machine-readability requirement advances the statutory objective of providing consumers with sufficient key information needed to evaluate broadband Internet access service plans in a manner that is available when they need it and most effective for them.¹⁴⁵ We agree with commenters that making the label information machine readable will yield a number of benefits to consumers. For example, machine readability will enable third parties to more easily collect and aggregate data for the purpose of creating comparison-shopping tools for consumers.¹⁴⁶ These tools may include browser add-ons or websites that compare plans offered by different providers.¹⁴⁷ Making the information machine readable also helps ensure that the data third parties use is both accurate and up to date. Because providers often “adjust . . . [their] business offerings,” we believe it may be simpler for them to “re-enter the new information and re-upload [their] labels” in a machine-readable format.¹⁴⁸

70. Machine readability also promotes both competition as well as transparency and accountability. Consumers may use the data collected in this manner to compare typical speeds reported

¹⁴² We require that this information be provided in a machine-readable format beginning one year after OMB completes its review of this new information collection.

¹⁴³ See 44 U.S.C. § 3502(18).

¹⁴⁴ AARP Reply at 9-11 (stating that machine-readable data requires a consistent structured data format, which could be enabled by the Commission providing an API for inputting data, or by providing a template in Excel format, to allow the creation of information in both .csv and .xml formats and the machine-readable format requirement should impose no significant burden on the ISP).

¹⁴⁵ Infrastructure Act § 60504. We thus find Lumen’s statutory assertions unavailing. See Lumen Comments at 13 (arguing that making label information machine readable “is clearly not something the Infrastructure Act mandates”). Although we impose a machine-readability requirement and require that providers associate their plans with a unique identifier, we do not address issues related to any information collection required under sec. 60502(c) of the Infrastructure Act. Such issues remain pending in WC Docket No. 21-450. See *Affordable Connectivity Program*, WC Docket No. 21-450, Notice of Proposed Rulemaking, FCC 22-44 (rel. June 8, 2022).

¹⁴⁶ See, e.g., AARP Comments at 4, 18; Cloudflare Comments at 11; Consumer Reports Comments at 6; NYC Comments at 3; OTI Comments at 11-12; NCC 4/7/22 *ex parte* at 2; Cranor 8/18/22 *ex parte* at slide 16.

¹⁴⁷ OTI Comments at 11; see also Consumer Reports Comments at 6 (observing that machine readability would simplify the task of third parties to “compare service plans and their cost[s]”).

¹⁴⁸ ILSR Comments at 7; Consumer Reports Comments at 6; see also NCTA Comments at 16-17.

by subscribers versus those reported on a broadband label.¹⁴⁹ And, as AARP explains, the generation of shopping tools like these helps promote “digital equity” for groups lacking the necessary expertise to parse what is often complicated language contained in service agreements.¹⁵⁰ These tools can assist such groups, including older Americans, to more easily obtain the information they need to select the service plan that best meets their needs.¹⁵¹

71. Further, requiring ISPs to post machine-readable label information will allow the Commission to more easily collect data about broadband markets.¹⁵² Information collected via machine-readable labels may also make monitoring for compliance with Commission rules and enforcement more efficient as well.¹⁵³ A machine-readable label could, for instance, help determine if “a provider has published [a] properly formatted label . . . online.”¹⁵⁴

72. While each of the foregoing benefits would be sufficient to persuade us to adopt this requirement, we further observe that a machine-readability requirement will make data more easily available for research as well.¹⁵⁵ As New America’s Open Institute of Technology explains, broadband affordability research that is reliant on manual review of existing provider advertising can be a “time-consuming and laborious process that many organizations are unable to undertake.”¹⁵⁶ The Institute for Local Self-Reliance, which itself has “been forced to abandon research projects because of the industry’s information gaps,” observes that the broadband consumer label provides “an excellent opportunity to facilitate research efforts” by “allow[ing] researchers to aggregate data at a large scale and analyze this data.”¹⁵⁷ Such research can serve industry, policymakers, consumers, and advocacy groups by providing a clearer picture of the marketplace.¹⁵⁸

73. The record shows that these benefits can be achieved at a low cost to providers, with no commenters providing cost data to suggest otherwise.¹⁵⁹ We agree with AARP that making the broadband consumer label data machine readable does not impose a high burden or require special technical expertise.¹⁶⁰ We find ACA Connect’s argument that such a requirement would “tax the resources of small providers with limited in-house technical resources” unpersuasive, as they fail to elaborate why or substantiate their claim with any evidence.¹⁶¹ Further, we do not believe that publishing the label information in a spreadsheet file would impose a high technical burden. And as noted above, the

¹⁴⁹ ILSR Comments at 7; *see also* Cloudflare Comments at 11 (arguing that machine readability would “help ensure transparency of . . . measurement” by enabling third parties to collect such data).

¹⁵⁰ *See* AARP Comments at 21.

¹⁵¹ AARP Comments at 18.

¹⁵² *See* Consumer Reports Comments at 6; ILSR Comments at 7.

¹⁵³ ILSR Comments at 7; Boston Joint Commenters Reply at 8-9; *see also* Consumer Reports Comments at 6 (observing that doing so would facilitate the Commission’s collection of broadband pricing data).

¹⁵⁴ ILSR Comments at 6.

¹⁵⁵ *See* AARP Comments at 3, 18; Cloudflare Comments at 11; Consumer Reports Comments at 6; OTI Comments at 11-12.

¹⁵⁶ OTI Comments at 11-12.

¹⁵⁷ ILSR Comments at 8.

¹⁵⁸ AARP Comments at 21; Cloudflare Comments at 11; ILSR Comments at 8.

¹⁵⁹ *See* AARP Reply at 10 (observing that use of a template in a “ubiquitous Excel format,” such as .csv and .xml, “should impose no significant burden on the ISP”).

¹⁶⁰ AARP Reply at 10 (arguing that the creation of information in a machine-readable format does not “require[] any exceptional effort”).

¹⁶¹ *See* ACA Connects Comments at 11-12.

Commission will offer resources to ease compliance with this requirement.

74. We disagree with commenters that argue that requiring the label to be machine readable creates difficulties for providers because of “information on the label [that] cannot be boiled down to a binary response.”¹⁶² First, commenters opposed to machine readability fail to describe what kind of information is lost and how that may impact consumer choice.¹⁶³ NCTA only cites descriptions of one-time fees as an example where oversimplification may be required.¹⁶⁴ However, NCTA does not explain how “semantic meaning is lost” or what inaccuracies might be introduced.¹⁶⁵ To the extent that providers request “flexibility” to provide additional information in the label not required by the Commission,¹⁶⁶ information that may not be easily reducible to binary responses, we note that this is not the label’s purpose. Indeed, to the extent that machine readability promotes “apples-to-apples” comparisons that do not reflect every nuance that differentiates plans,¹⁶⁷ we agree with AARP that this does not necessarily represent a flaw.¹⁶⁸ One of the goals of the broadband consumer label is to simplify the process of comparison shopping and make the most critical information readily available to consumers.¹⁶⁹ Thus, we agree with AARP that conveying the type of information opponents argue may not be picked up by a program “is secondary to label data needed to make apples-to-apples comparisons.”¹⁷⁰ We also agree with commenters that the benefits outlined above outweigh these concerns over flexibility.¹⁷¹

75. NTCA and WISPA’s invocation of the nutrition label model, which they argue “is not designed to serve as [an] on-ramp to electronic comparison shopping,”¹⁷² to oppose a machine-readability requirement also proves unconvincing. Nothing about a machine-readability requirement undermines the broadband consumer label’s ability to provide “rapid and comprehensible comparison among products.”¹⁷³ Simultaneously, shopping for broadband is a more involved process than purchasing a food product. It involves selection of a service that normally requires ongoing, periodic payments, that may involve a contract, and that impacts various facets of an individual’s life.¹⁷⁴ Such a choice reasonably

¹⁶² NCTA Comments at 17; *see also* CCA Comments at 6 (“machine[] readability across labels from different providers risks creating the misimpression that consumers can simply make an apples-to-apples comparison based solely on the information on the labels”); AT&T Reply at 22-23 (arguing that machine readability “could fatally compromise providers’ ability to maintain the flexibility they need to convey accurate information on the labels”).

¹⁶³ While we acknowledge that information obtained by consumers, such as from third-party price aggregators, may not fully reflect all the costs and benefits of a given plan, this wider criticism applies to the use of a broadband consumer label generally and is not specific to a machine-readability requirement.

¹⁶⁴ NCTA Comments at 17.

¹⁶⁵ *Id.*

¹⁶⁶ *See* AT&T Comments at 22; NCTA Comments at 17.

¹⁶⁷ CCA Comments at 6.

¹⁶⁸ AARP Reply at 10.

¹⁶⁹ *See NPRM*, para. 1 (stating the need for “access to accurate, simple-to-understand information about Internet access services helps consumers make informed choices and is central to a well-functioning marketplace” and “enabl[es] consumers to comparison shop when choosing broadband services and providers that best meet their needs and match their budgets”).

¹⁷⁰ AARP Reply at 10.

¹⁷¹ *See, e.g.*, Boston Joint Commenters Reply at 8-9.

¹⁷² NTCA and WISPA Comments at 15-16.

¹⁷³ *Id.* at 16.

¹⁷⁴ The Commission, for example, has recognized how, since the start of the COVID-19 pandemic, individuals have increasingly relied on broadband Internet for “telework, remote learning, telehealth, and other online applications to meet our personal and professional needs.” *Improving Competitive Broadband Access to Multiple Tenant*

(continued....)

takes more time and research than that spent in a food aisle, making NTCA and WISPA's comparison in this regard inapt.

76. We also disagree with AT&T's assertion that machine readability is not "designed to help the consumer at the point of sale but rather to facilitate third parties' desire to conduct various forms of research or analysis," which AT&T claims is "not the purpose of the labels."¹⁷⁵ As described above, machine readability enhances the point-of-sale experience in a variety of ways, including in the form of third-party shopping comparison tools. While AT&T claims that machine readability "could fatally compromise broadband providers' ability to . . . convey accurate information on the labels,"¹⁷⁶ AT&T does not elaborate as to how. To the extent that machine readability fails to capture all the benefits of a given plan, we agree with Consumer Reports that the Commission can expect "the creativity of ISPs" will lead to solutions for "further explain[ing] the details of their service offerings to appeal to a wide range of audiences."¹⁷⁷

77. We recognize, however, that the Commission did not include a machine-readability requirement in 2016 and that this will take some additional effort. We therefore delay compliance with this requirement until one year after the Office of Management and Budget completes its review of this new information collection.

78. *Unique Plan Identifiers.* We require ISPs to develop unique identifiers for each of their plans and attach them to the broadband label. The unique identifier should consist of a unique ID for fixed plan or mobile plan ("F" for fixed plans and "M" for mobile plans), followed by the broadband provider's FCC Registration Number,¹⁷⁸ and ending with a provider-chosen string of precisely 15 alphanumeric characters uniquely identifying the specific plan within the broadband provider's offerings. The Unique Plan Identifier shall not include special characters such as, &, *, and %. For example, AT&T could specify a fixed broadband offering as F + 0005937974 + 123ABC456DEF789. This would appear on the label as F0005937974123ABC456DEF789. Unique identifiers should be sufficiently distinctive so that third parties and the Commission can identify the specific plan identified by the unique identifier.¹⁷⁹ Additionally, reuse of identifiers must not occur; even if a given plan is no longer offered, its string should not be repurposed for a new or different plan.

79. Unique identifiers are useful for a variety of purposes. For example, use of a unique identifier would enable ISPs, which often change their plan offerings, to reuse a given plan's name without creating confusion. While NCTA argues that unique identifiers are unnecessary for this purpose, they do not describe the "significant burdens" they claim would be imposed.¹⁸⁰ USTelecom notes that requiring provider-created unique identifiers would not "creat[e] undue burden on providers or increas[e]

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Environments, GN Docket No. 17-142, Report and Order and Declaratory Ruling, FCC 22-12, para. 1 (rel. Feb. 15, 2022).

¹⁷⁵ AT&T Reply at 22-23; *see also* NCTA Comments at 17 (arguing that machine readability is unnecessary for the purpose of comparison shopping); Letter from Brian Hurley, Vice President of Regulatory Affairs, ACA Connects, to Marlene H. Dortch, Secretary, FCC, CG Docket 22-2, at 3 (July 1, 2022) (*ACA Connects 7/1/22 ex parte*) (arguing that machine readability is not "directly related to the core purpose of the labels—providing timely information to consumers to inform shopping decisions").

¹⁷⁶ AT&T Reply at 22.

¹⁷⁷ Consumer Reports Comments at 6.

¹⁷⁸ Providers must use the FCC Registration Number that is used when submitting data to the Broadband Data Collection.

¹⁷⁹ ISPs might consider use of other indicators, such as a ZIP Code of where the plan is offered, to set their identifiers apart. *See* Fields and Miller Comments at 1-2.

¹⁸⁰ NCTA Comments at 17.

administrative costs.”¹⁸¹

80. Additionally, unique identifiers may be helpful in reducing ambiguity in other contexts as well. Third-party shopping tools might benefit from ISPs’ use of unique identifiers. And researchers may find it helpful having a shared, consistent means of identifying ISPs’ plans as opposed to use of descriptive language that could result in confusion about which plan is being discussed.

81. *Accessibility for People with Disabilities.* We require that the label be accessible to people with disabilities at all points of sale. In so doing, we emphasize our continued commitment to ensuring that broadband networks are accessible to and usable by individuals with disabilities.¹⁸² As we noted in the *NPRM*, in proposing the 2016 labels, the CAC determined that ISPs could best ensure accessibility to printed and online broadband information by relying on well-established legal requirements included in the Americans with Disabilities Act (ADA) and by following the guidance developed by the Web Accessibility Initiative.¹⁸³

82. Based on the record, we strongly encourage ISPs to comply with the well-established legal requirements included in the ADA and the Web Content Accessibility Guidelines (WCAG).¹⁸⁴ The WCAG are routinely updated; therefore, providers’ websites would be modified over time consistent with such updates. When providing the labels, ISPs must follow the ADA and associated guidance provided by the Department of Justice, including giving primary consideration to the individual’s choice of alternate format, including “qualified readers, taped texts, audio recordings, braille materials, large print materials, or other effective methods of making visually delivered materials available to individuals with visual impairments.”¹⁸⁵ We agree with the CAC and ACB that relying on current accessibility technologies provides an ISP the best likelihood of ensuring that consumers with disabilities have equivalent access to information about, and the opportunity to compare, broadband services.¹⁸⁶

83. Some commenters advocate for additional requirements. In the Further Notice below, we seek comment on ACB’s proposal that direct video assistance be provided for broadband labelling.¹⁸⁷ NYC proposes that we require Braille or a QR code with a tactile indicator for blind or visually impaired consumers at the point of sale.¹⁸⁸ We also seek comment on the WCAG 2.1 standard that suggests providing text alternatives for any non-text content so that it can be changed into other forms people need, such as large print, Braille, speech, symbols, or more simple language.

¹⁸¹ USTelecom Comments at 2.

¹⁸² *NPRM*, para. 27.

¹⁸³ See 2015 CAC Broadband Label Recommendation at 7, https://apps.fcc.gov/edocs_public/attachmatch/DOC-336136A1.pdf; WC3 Web Accessibility Initiative, Web Content Accessibility Guidelines (WCAG) 2.1, <https://www.w3.org/TR/WCAG21/> (last visited Apr. 29, 2022).

¹⁸⁴ See, e.g., NYC Comments at 4; CTIA Comments at 15-16; ACB Comments at 2.

¹⁸⁵ See 28 CFR § 36.303, <http://www.ada.gov/reg3a.html>. The American Printing House for the Blind’s (APH) print guidelines are the most concise and relevant set of recommendations for readable design: <http://www.aph.org/research/design-guidelines/>. The APH Guidelines cover the effective usage of whitespace, heading elements, tables, and more.

¹⁸⁶ ACB notes additional, available technologies and solutions that provide accessibility to people who are blind, low-vision, and deafblind. ACB Comments at 2. These accessibility solutions include assistive technologies, including screen readers and refreshable Braille displays. *Id.* Services include American Sign Language interpretation and providing paper copies of labels in large print or in Braille. *Id.* Commission rules also provide guidance on accessibility performance objectives for documentation. 47 CFR § 6.3(1) (requiring that “individuals with disabilities have access to . . . documentation for the product, including instructions”); 47 CFR § 7.3(1) (same); 47 CFR § 14.21(c) (same).

¹⁸⁷ ACB Comments at 2.

¹⁸⁸ NYC Comments at 4.

84. *Display in Languages Other Than English.* We require that providers display online and printed labels in English. We also require providers to make labels available in any other languages in which the ISP markets its services in the United States. For example, if the ISP's marketing materials on its website are available in Spanish, the Spanish version of the website must display the associated broadband labels in Spanish as well.¹⁸⁹ We note that AT&T provides Internet materials in English and Spanish because those are the languages in which it advertises.¹⁹⁰ Under our labeling requirements, AT&T, and any other provider advertising in Spanish, must include a Spanish version of the broadband label. We agree with commenters that believe it is critical that the broadband label be accessible to all consumers, including those whose primary language is not English,¹⁹¹ and we applaud those providers who currently make information available on their websites in multiple languages.¹⁹² We also encourage providers to reach out to trade associations and other organizations for assistance in translating the label into other languages if doing so would assist certain consumers in shopping for broadband service.

85. We agree with the many commenters that argue that this requirement promotes digital equity.¹⁹³ Some members of Congress observe that, out of the 53 million Hispanic people living in the United States, or 17% of the population, more than 38 million people speak Spanish as a primary language at home, and that Asian Americans are among the fastest-growing ethnic population in the United States, estimated to reach 46 million by 2060.¹⁹⁴ They point out that the nearly 22 million Asian Americans represent over 48 different subethnicities that include a diverse and rich spectrum of spoken languages and dialects.¹⁹⁵ They explain that it is therefore important to ensure that consumer-friendly labels "leave no one feeling lost or uninformed because of a language barrier."¹⁹⁶ We also note OTI's point that translations are particularly important for historically marginalized communities that already face higher barriers to Internet adoption and may be more proficient in other languages.¹⁹⁷

86. We recognize that the need for multi-language accessibility goes beyond translating labels directly from English. We therefore encourage providers to review their translations for context and vernacular language by native-level speakers who work directly with community members to ensure the language is not only accurate, but also easily accessible and understandable to target audiences.¹⁹⁸

¹⁸⁹ This requirement does not apply to the provider's machine-readable spreadsheet files, which should also be displayed in English.

¹⁹⁰ AT&T Reply at 21.

¹⁹¹ See, e.g., Letter from The Honorable Marc Veasey, Grace Meng, Raul Ruiz, M.D., Karen Bass, Sanford D. Bishop, Jr., Tony Cárdenas, Troy A. Carter, Sr., Ed Case, Judy Chu, Adriano Espaillat, Ruben Gallego, Jimmy Gomez, Raúl M. Grijalua, Steven Horsford, Mondaire Jones, Ro Khanna, Susie Lee, Ted W. Lieu, Alan Lowenthal, Gwen Moore, Eleanor Holmes Norton, Jamie Raskin, Adam Smith, Darren Soto, Marilyn Strickland, Thomas Suozzi, Dina Titus, Richie Torres, Nydia Velázquez to Jessica Rosenworcel, Chairwoman, FCC, at 2 (Feb. 23, 2022) (Feb. 23 Congressional Letter); AAAJ Comments at 2-3; MDTC Comments at 4; NYC Comments at 3; OTI Comments at 11; AAAJ *ex parte* at 3.

¹⁹² See, e.g., T-Mobile Home Internet, <https://www.t-mobile.com/isp> (last visited Aug. 15, 2022); Verizon Fios, <https://www.verizon.com/home/fios/> (last visited Aug. 15, 2022).

¹⁹³ AAAJ *ex parte* at 3.

¹⁹⁴ Feb. 23 Congressional Letter at 1.

¹⁹⁵ *Id.* at 1.

¹⁹⁶ *Id.* at 2.

¹⁹⁷ OTI Comments at 11; see also NYC Comments at 3 (concluding that, to ensure equitable access to such information by all consumers, the Commission should consider requiring options for viewing the broadband labels in languages other than English); Boston Joint Commenters Reply at 10-11 (should require labels in languages other than English).

¹⁹⁸ See AAAJ *ex parte* at 3; OTI Comments at 11.

87. At the same time, we do not have a sufficient record on which to require providers to display labels in languages in which they do not market their services. In this regard, we note that some commenters oppose such requirements, asserting that it would be extremely cumbersome and expensive for ISPs to do so.¹⁹⁹ We therefore seek comment to build a more detailed record on additional language requirements in the accompanying Further Notice.

3. Point of Sale and Label Display Location

88. We require ISPs to display the label at the “point of sale,” which we define in the revised rule both in terms of time and location. As for time, we define point of sale as the moment a consumer begins to investigate and compare broadband service plans available to them at their location. As for location, we define “point of sale” as both ISP websites and any other channels through which their service is sold, including ISP-owned retail locations, third-party owned retail locations, and over the phone.

89. The rule we adopt today builds on the CAC’s point of sale recommendation;²⁰⁰ however, we refine the CAC’s definition of point of sale to make clear that the time the consumer seeks to determine the best broadband Internet access service product for their needs is the time at which the consumer views specific broadband plans available to them at their service location (often after the consumer enters address information on the provider’s website or conveys it to a sales representative).²⁰¹ Broadband labels do not need to be included on mass marketing channels or prior to customers specifying their service location. We believe this approach avoids saddling ISPs with the burden of displaying a potentially unwieldy number of labels, most of which would not be of value to the consumer if they cannot receive the particular service at their location.

90. *Websites.* We agree with the majority of commenters that support requiring ISPs to display labels on their websites.²⁰² As discussed above, providers must display the labels after the consumer enters any required location information. Once the consumer has done so, the label must appear on the provider’s primary advertising web page that identifies the plans available to the consumer.²⁰³ We consider such primary web page to be the point of sale—where consumers begin to shop for and compare broadband service offerings available at their location.²⁰⁴

¹⁹⁹ See AT&T Reply at 21-22; NTCA and WISPA Reply at 11 (“The Commission should reject squarely such recommendations as to publish in multiple languages. Providers have every incentive to increase their market share and can be expected *on their own accord* to publish relevant sales and promotional information *outside the confines of the label* as they may determine best for building their subscriber base given the communities they serve.” (emphasis in original)).

²⁰⁰ See *supra*, para 8.

²⁰¹ See NCTA Comments at 18 (stating that, consistent with what the CAC found in 2015, consumers may need to input an address on a provider’s website or convey it to a customer service representative in order to verify service availability and actual price offerings at their location).

²⁰² See, e.g., OTI Comments at 8; Hughes Comments at 6; Starry Reply at 7; Verizon Comments at 14-15; AT&T Comments at 20-21; ACA Connects Comments at 11; NCTA Comments at 18; NYC Comments at 3; AAAJ *ex parte* at 2-3; NCC 4/7/22 *ex parte* at 1.

²⁰³ Location information may be necessary to determine if the service or particular plan is offered in the consumer’s location. Other than providing location information, the labels must be readily available to all consumers without requiring them to create an account or log into an existing account. See Cranor 8/18/22 *ex parte* at slide 16 (asserting that consumers should not be required to log into their account with the service provider to access the label information); see also *supra* note 36 (discussing label requirements for E-Rate and RHC providers).

²⁰⁴ In addition to this requirement to display the label at the time the consumer views the specific plans available to them, providers may also display the label on their website’s homepage or elsewhere on the website during the shopping period.

91. Providers must display the actual label—not simply an icon or a link to the label—in close proximity to the associated plan advertisement. By requiring providers to place the label close to their advertising, we expect consumers will more easily be able to make a side-by-side comparison of the advertised plan’s cost and features with the information required in the label.

92. Our approach contrasts with allowing providers to merely display an icon or link to the label from their main website in that it connects the consumer to the relevant label and better meets Congress’ goal of ensuring that consumers have easy access to vital information about the advertised plan. We agree with OTI that “[p]roviders must be required to prominently display the label . . . [t]his means it has to be more than just a hyperlink to a separate page or pop-up window.”²⁰⁵ Consumers should not be forced to further navigate a provider’s website to find the label or toggle back and forth to compare the advertisement with the label. We believe all the information a consumer needs to make a purchase decision should be visible to the consumer when they are interacting with the provider’s marketing materials.²⁰⁶ Such information should be presented in one location to simplify the comparison shopping process and should be readily available. As with the FDA’s nutrition label, consumers should have access to broadband label information at the same time the product is offered for sale. For similar reasons, we conclude that displaying the label via an icon that must be opened or expanded does not afford consumers the opportunity to easily view the label alongside the provider’s advertisement.²⁰⁷ While some commenters assert that displaying the actual label may lead to a crowded web page, we believe that providers can design their websites in ways that permit them to display their marketing information in close proximity to the label information.²⁰⁸

93. We nevertheless aim to give providers flexibility in how they display labels, e.g., we do not require any particular font size for the label information at this time; however, providers should ensure that the labels are prominently displayed on any device on which the consumer accesses and views the labels, including mobile devices.²⁰⁹ In the accompanying Further Notice, we seek comment on whether compliance tools such as style guides might be useful to providers in creating their labels and ensuring they are prominently displayed and easily accessible to consumers at all points of sale.

94. We thus disagree with commenters that advocate for a web link to the label and find that such commenters do not articulate any particular challenges in displaying the actual label alongside a provider’s marketing materials.²¹⁰ We conclude that the benefits of a label displayed prominently and

²⁰⁵ OTI Comments at 8; *see also* AAAJ *ex parte* at 2-3. *But see* USTelecom 11/8/22 *ex parte* at 1 (proposing that the Commission give providers the option to display the broadband consumer label via a machine-readable icon that, when clicked, would open the label in full on the offer page).

²⁰⁶ As noted above, consumers may have to provide location information to determine if the service or particular plan is available to them. *See supra*, note 203.

²⁰⁷ *See* USTelecom 11/8/22 *ex parte* at 1; USTelecom 11/9/22 *ex parte* at 1-2. We also note that the record is unclear about whether the icon as proposed by commenters would be fully accessible to persons with disabilities.

²⁰⁸ *See, e.g.*, USTelecom 11/8/22 *ex parte* at 1; Consumer Reports Comments at 6 (supporting the creativity of ISPs to further explain the details of their service offerings to appeal to a wide range of audiences but arguing the required label must be prominently displayed next to the advertised service offering).

²⁰⁹ *See* amended 47 CFR § 8.1(a)(1) in Appendix A (requiring that the label be “prominently displayed, publicly available, and easily accessible to consumers, including consumers with disabilities, at the point of sale with the content and in the format prescribed by the Commission”).

²¹⁰ AT&T Comments at 20 (stating only that the label will be larger and contain more detail than a typical FDA nutrition label, and is thus best accessed through a link); ACA Connects Comments at 11 (Commission should apply the same guidance as the 2011 Enforcement Guidance which directs providers to “prominently display or provide links to disclosures on a publicly available, easily accessible website”); NCTA Comments at 19 (providers should be permitted to include links to label information on their websites where consumers can view available service options based on their address).

immediately when the consumer accesses the provider's broadband offerings available to them outweigh any potential additional costs to providers.

95. *Alternate Sales Channels.* Based on the record, we also require ISPs that use alternate sales channels (e.g., company retail locations, third-party owned retail locations, or over the phone) to make the label available to consumers at each point of sale. In such situations, we agree with those commenters that contend that providers should not necessarily be required to provide a hard copy of the label.²¹¹ We find that requiring providers to make the label available in hard copy may be unnecessarily burdensome to some providers.²¹² If, however, the provider cannot ensure the consumer will be able to access the label either with an Internet connection at home or in the retail location, it must make the label available in hard copy. Thus, in the case of alternate sales channels, while a provider may satisfy the label requirement by providing a hard copy of the label, we find it may do so through other means. This could include directing the consumer to the specific web page on which the label appears by, for example, providing Internet access in the retail location or giving the customer a card with the printed URL or a QR code,²¹³ or orally providing information from the label to the consumer over the phone.²¹⁴ Providers shall document each instance when it directs a consumer to a label at an alternate sales channel and retain such documentation for two years.

96. *E-Rate and Rural Health Care Providers.* We find that "point of sale" for purposes of the E-Rate and RHC programs is the time when a service provider submits its bid to a program participant. Thus, we require E-Rate and RHC providers to provide a label along with any competitive bids submitted pursuant to the E-Rate or RHC Program competitive bidding process.²¹⁵ In the limited instances in which a service provider provides services without submitting a bid and has not yet provided a label to the E-Rate or RHC applicant, it must provide the label with the first invoice it submits to the applicant.

97. *Label Display on Customer Online Accounts.* We require ISPs that offer online account portals to their customers to make each customer's label easily accessible to the customer in such portals,²¹⁶ and conclude that doing so will benefit consumers following the conclusion of their initial shopping experience.²¹⁷ After purchasing broadband service, consumers should be able to easily access

²¹¹ See AT&T Comments at 20; NCTA Comments at 19. *But see* NCC Comments at 2-3 (arguing that a paper option guarantees that consumers who do not have access to an Internet connection can still compare service offerings); ILSR Comments at 4 (label should be presented to the consumer either in link or hard copy form).

²¹² See NCTA Comments at 19-20 (maintaining that providers would need to re-print and re-distribute the labels any time a relevant change is made to a service offering).

²¹³ If, however, the consumer does not have Internet access at home or elsewhere, the ISP must ensure that the consumer can use the printed URL or QR code in its retail location.

²¹⁴ In such circumstances, the provider must read the entire label to the consumer over the phone.

²¹⁵ Whether the service actually falls under the standards for enterprise services and special access services addressed in paragraph 17 above, and not the service provider's name for the service, will determine whether the labeling exemption for enterprise services and special access services applies.

²¹⁶ Generally, online account portals are websites where customers of a specific business can access their account information, current and previous billing statements, specific service offers, account notifications, etc. Customers can often pay their bill or communicate with customer service through a business' account portal.

²¹⁷ OTI Comments at 8 (asserting that the label must be visible to the consumer when they are interacting with the provider's marketing materials and billing system); Free Press 10/20/22 *ex parte* at 2 (arguing that the label is also intended to hold ISPs accountable and help consumers avoid hidden fees that often pop up on their monthly bill and that such purpose can only be achieved with a label that is displayed after the point of sale); Letter from Access Humboldt, Asian Americans Advancing Justice-AAJC, Benton Institute for Broadband & Society, Common Cause, Common Sense, Consumer Reports, Demand Progress Education Fund, Electronic Frontier Foundation, Free Press, Future of Music Coalition, Greenlining Institute, Institute for Local Self-Reliance, Massachusetts Law Reform

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and review the terms of their existing plans to ensure they are receiving the services and price they agreed to at the time of purchase.²¹⁸ By being accessible at the consumer's online account page, the label also assists consumers in identifying billing inaccuracies and unexpected fees.²¹⁹ Additionally, this requirement furthers our goal of assisting consumers with comparison shopping by allowing consumers to more easily compare their current plans to alternative plans when shopping for broadband service in the future. Finally, we believe that associating a label that is already displayed on a provider's primary advertising web page with a customer's online account should not be overly burdensome, and that the benefits to consumers far outweigh any costs to providers. In order to allow ISPs sufficient time to make any necessary system changes, we set compliance with this requirement at one year after the Office of Management and Budget completes its review of this new information collection.

98. We decline, however, to require ISPs to display the label on a consumer's monthly bill.²²⁰ We are cognizant of providers' concerns that adding a graphic, or photo file such as a jpeg, of the label to printed bills or enclosing an insert of the label with billing statements may be costly and potentially burdensome.²²¹ Providers also assert that any necessary changes to billing systems could take months for ISPs to complete.²²² We believe that adopting a requirement that the broadband label be made easily accessible to consumers in their online account portal best balances our consumer transparency goals while minimizing the burden to providers. We therefore conclude that, at this time, the burdens on ISPs of a requirement to display the label on a consumer's monthly bill outweigh the benefits to consumers who can access the labels in alternative ways.

99. We emphasize that consumers have multiple avenues with which to access and review the label information associated with their existing plans after purchasing service. As discussed in detail

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Institute, Measurement Lab, MediaJustice, mohuman, National Broadband Mapping Coalition, National Consumer Law Center, on behalf of its low-income clients, National Consumers League, National Digital Inclusion Alliance, Next Century Cities, New America's Open Technology Institute, NTEN, OpenCape Corporation, OpenMedia, Professor Jon M. Peha, Carnegie Mellon University, former FCC Chief Technologist, Public Knowledge, Public Utility Law Project of New York, Ranking Digital Rights, United Church of Christ Media Justice Ministry, XLab, to Jessica Rosenworcel, Chairwoman, FCC, at 1 (Nov. 1, 2022) (arguing that the Commission should reject proposals to limit the label's display to the point of sale) (*Access Humboldt ex parte*).

²¹⁸ See Consumer Reports Comments at 3 (arguing that, unless consumers regularly encounter the broadband label, what is and what is not displayed in it, or what format the label takes will not matter); OTI Comments at 9 (stating that the label should also be displayed after final purchase to help customers remember what they signed up for, promote accountability, and provide a means of notifying the customer if the provider changes any of the label's contents); USTelecom 8/30/22 *ex parte* (noting that "existing customers should be able to easily find information about their current service on a paper bill (e.g., the price they are paying) or on an online account page and they can visit the provider's website to find the current label corresponding to their plan and compare their price with the provider's current, in-market price"); Starry Reply at 7 (stating that, as long as the labels are persistently available and easily locatable on ISPs' websites, consumers will be able to find them when they want to review them).

²¹⁹ See *Access Humboldt ex parte* at 1 (arguing that, if the label only appears at the point of sale, it cannot help consumers avoid "junk fees").

²²⁰ See Consumer Reports Comments at 4-5 (advocating for the label to be displayed on customers' monthly bills); OTI Comments at 9 (the label should be displayed after final purchase on the customer's monthly bill); Free Press 10/27/22 *ex parte* at 1-2 (stating that including the labels with monthly bills will provide a clear explanation of the terms of the consumer's plan and assist consumers with avoiding hidden fees on their bills).

²²¹ AT&T Reply at 19; Starry Reply at 7; ACA Connects Reply at 13-14; USTelecom 8/30/22 *ex parte* at 2 (asserting that the estimated costs to develop new billing systems and processes range from \$1,000,000 to \$6,000,000, and that the annual costs of including the label with the monthly bill is estimated in the range of \$2,000,000 to \$6,000,000); WISPA 11/4/22 *ex parte* at 2 (stating that in some cases customers are not billed on a monthly basis, so that requiring monthly delivery of the broadband label would add costs).

²²² AT&T Reply at 19.

above, labels for current offerings must be prominently displayed and readily available on ISP websites, at alternate sales channels, and in customers' online account pages.²²³ In addition, as discussed below, providers will be required to archive all labels for two years once a plan is no longer available for purchase by new customers. They must also provide the archived labels to existing customers, upon request, within 30 days.²²⁴ Thus, we find that the rules we adopt today provide consumers with accessible means of obtaining the broadband label after purchase. While we conclude at this time that the burdens associated with displaying or enclosing the broadband label on monthly billing statements outweigh the associated benefit to consumers, we will continue to monitor the effectiveness of our current display requirements.

C. Grandfathered Plans and Archive of Labels

100. We require that ISPs display labels for plans currently offered to new customers, but decline to require that they create and display labels for services used by current customers that are no longer available to new customers. We also require ISPs to archive all labels for two years, as discussed below.²²⁵

101. We are persuaded that the broadband labels displayed at the point of sale should be only for services that are currently offered to new customers.²²⁶ A principal goal of the label is to allow consumers to comparison shop among services. Requiring such labeling for services no longer available to new customers has a substantially diminished benefit for purposes of comparison shopping. And such labels may even confuse consumers if those plans are not actually available to them. Further, ISPs persuade us that the burden of creating labels for grandfathered plans is substantial. For example, AT&T notes that "approximately half of [the company's] hundreds of grandfathered fixed broadband plans have ten or fewer customers."²²⁷ In addition, "AT&T has thousands of mobile broadband plans that have been grandfathered for years, and of those old plans, there are more than 5,000 plans that have a combined total of approximately 19,000 customers remaining (i.e., approximately four customers per plan)."²²⁸ We thus see a potential significant burden to displaying labels for such plans without a countervailing benefit. Therefore, in balancing these disadvantages against any potential consumer benefit, we decline to require labels for grandfathered plans.

102. While we reject requiring ISPs to create labels for older plans or to continue to display labels for plans no longer available to new customers,²²⁹ we are persuaded that they should maintain an archive of all labels that have been removed from their websites or alternate sales channels.²³⁰ We require ISPs to archive labels for at least two years after the service plan is no longer offered to new customers

²²³ See *supra*, paras. 92, 97.

²²⁴ See *infra*, para. 102.

²²⁵ We note that providers participating in the Affordable Connectivity Program may be subject to different reporting and retention requirements for plans where subscribers are receiving an ACP benefit.

²²⁶ See, e.g., AT&T Comments at 16-18 (contending that consumers do not need information about service plans they can no longer purchase); ACA Connects Comments at 8; CCA Comments at 5; Lumen Comments at 4; NCTA Comments at 7-8; USTelecom Comments at 4 & Reply at 5; CTIA Comments at 13-14; TechFreedom Reply at 6; NTCA and WISPA Reply at 8; T-Mobile Reply at 12.

²²⁷ AT&T Comments at 17 n.37.

²²⁸ *Id.*

²²⁹ See, e.g., EPIC Comments at 12 (contending that the Commission should require providers to display a label for any plan to which a customer subscribes, even if it is a legacy plan); see also Consumer Reports Comments at 4 (suggesting that providers display all plans, with past plans on a separate webpage, "within a reasonable backwards-looking timeframe").

²³⁰ See, e.g., AARP Comments at 5; Consumer Reports Comments at 4; EPIC Comments at 12.

and the label is no longer displayed at the point of sale. The provider must provide any archived label to the Commission, upon request, within thirty days. It must similarly provide any archived label to an existing customer whose service plan is associated with the particular label, upon request and within thirty days.²³¹ In other contexts, the Commission similarly requires regulated entities to retain documentation for a two-year period and to provide such information upon request.²³² This requirement will aid enforcement of labeling requirements, which might arise if consumers file informal complaints or if the Commission or any state public service commission requires access to the archived labels to investigate potential inaccuracies in the labels.²³³

103. ISPs must therefore archive all labels required by this Order. This includes evidence sufficient to support the accuracy of the labels' content, such as the data that supported the performance information that appeared on the label, along with any links to relevant network management practices and privacy policies. Such information will assist the Commission in any enforcement action. We expect that providers already keep such information in the event they are asked to support their marketing and transparency rule disclosures, and that this will therefore not represent a significant incremental burden.

104. Providers are not required to make the archived labels available to the general public, but as discussed above, they must provide any archived label to the Commission or a current customer upon request.²³⁴ Specifically, a provider must allow an existing customer to request and obtain a copy of the archived label for the plan to which they currently subscribe once the label is no longer displayed at the point of sale. This will assist consumers in determining whether they are getting the service expected based on the price and quality that was offered. It will also give consumers the information they need to complain to the provider or to cancel service or switch to another provider if necessary. Further, we conclude that, without such an archive of older labels, the Commission would be unable to fully investigate consumer complaints alleging, for example, that a service provider failed to comply with the broadband label requirements or that a particular label was inaccurate.

D. Direct Notification of Changes to Terms

105. We decline to adopt a requirement that ISPs directly notify consumers about changes to the terms and conditions in the displayed labels.²³⁵ Most commenters that addressed the issue urge the Commission not to adopt such a requirement, arguing that such notification is unnecessary.²³⁶ As CTIA

²³¹ If the label is available on the ISP's website, the ISP may instead direct the customer to the website to obtain the label.

²³² For instance, under the Commission's slamming rules, carriers must maintain and preserve records of verification of subscriber authorization for a minimum of two years after obtaining such verification. *See* 47 CFR § 64.1120(a)(1)(ii). *See also, e.g.*, 47 U.S.C. § 415 (two-year statute of limitations for recovery of damages and overcharges). Similarly, Commission practice has established 30 days as the standard period for carrier responses to informal consumer complaints. *See* 47 CFR § 1.717 ("The carrier will, within such time as may be prescribed, advise the Commission in writing, with a copy to the complainant, of its satisfaction of the complaint or of its refusal or inability to do so.").

²³³ The archive would include each label for no less than two years from the time the label is removed from the provider's website or alternate sales channel and, thus, no longer displayed at the point of sale.

²³⁴ As an alternative to providing the actual label, the ISP could provide a URL or QR code if that was how the customer accessed the label at the time of purchase.

²³⁵ *NPRM*, para. 22.

²³⁶ *See, e.g.*, Lumen Comments at 12; AT&T Comments at 19 (AT&T already notifies customers of material adverse changes in their service, including changes in coverage and pricing); NCTA Comments at 8-9; NTCA and WISPA Comments at 14-15; ADTRAN Comments at 10-11; ACA Connects Comments at 10; USTelecom Comments at 5; Verizon Comments at 13-15 (post-sale obligations go beyond ensuring an informed choice at the point of sale that the disclosure rules, such as consumer labels, were meant to provide). *But see* NYC Comments at 2; AARP

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states, the labels are intended to inform consumers at the time of purchase and that we should not expand the disclosure requirements beyond a point-of-sale tool to one used for other purposes.²³⁷ USTelecom also observes that sending updates of broadband labels would be unnecessary because providers already notify their customers of changes to rates, other terms, and conditions in the usual course of business.²³⁸ And Lumen argues that requiring providers to notify existing customers of changes in label information, which might involve “some mailing or other notice process,” would impose a “staggering burden.”²³⁹

106. After considering all the record evidence, we conclude that requiring providers to notify enrolled consumers each time a service offering displayed in a label changes could be burdensome for providers with minimal benefits for consumers. Consumers who already are notified about rate changes or speed upgrades through their bills or other mailings will likely be overwhelmed or even confused by additional notices about changes in label information.²⁴⁰ And while the record is unclear as to how many providers routinely notify their customers of changes to rates and other terms, we believe the labels are primarily intended to educate consumers at the time of purchase. Further, the Infrastructure Act does not seem to contemplate such notifications, and therefore we decline to adopt them at this time. This finding, however, does not relieve an ISP from any other related consumer notification requirement agreed to in its terms of service, or compliance with other rules or regulations.

E. Interplay of New Label Requirement with Transparency Rule

107. We emphasize that where this Order does not modify or eliminate a transparency rule requirement which we have previously established, that requirement is still in place.²⁴¹ While the new label requirement and our existing broadband transparency rule are interrelated, an ISP’s display of the label alone will not satisfy its transparency rule obligations under 47 CFR § 8.1(a) to publicly disclose certain information on its website or through transmittal to the Commission.²⁴² Although there is overlap between the purpose of broadband labels and that of the transparency rule, those purposes are not identical. The fact that the two requirements are not coextensive should come as no surprise given the different—albeit overlapping—purposes served by the two requirements. For example, helping consumers make informed choices regarding broadband Internet access service plans is a goal of both

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Comments at 17 (along with notification of any changes in terms, consumers should be presented with the initial label and the updated label and an opportunity to change providers).

²³⁷ CTIA Comments at 7-8.

²³⁸ USTelecom Comments at 5.

²³⁹ Lumen Comments at 12 (also asserting that it would not contribute to the core policy goals at stake—to enable easier product comparison for customers onboarding to new products).

²⁴⁰ *See, e.g.*, AT&T Comments at 19 (maintaining that, if broadband providers are required to send such direct notifications and a new label just because the speed or latency averages have changed, such mid-course notifications are much more likely to cause customer confusion or unnecessary concerns than they are to be helpful); NTCA and WISPA Comments at 14-15; Starry Comments at 8; ACA Connects Comments at 10; USTelecom Comments at 5.

²⁴¹ *See generally* 2017 *Restoring Internet Freedom Order*, 33 FCC Rcd 311; *Preserving the Open Internet; Broadband Industry Practices*, GN Docket No. 09-191, WC Docket No. 07-52, Report and Order, 25 FCC Rcd 17905 (2010) (2010 *Open Internet Order*).

²⁴² Since 2018, the transparency rule has required that “[a]ny person providing broadband internet access service shall publicly disclose accurate information regarding the network management practices, performance characteristics, and commercial terms of its broadband internet access services sufficient to enable consumers to make informed choices regarding the purchase and use of such services and entrepreneurs and other small businesses to develop, market, and maintain internet offerings. Such disclosure shall be made via a publicly available, easily accessible website or through transmittal to the Commission.” *See* 47 CFR § 8.1(a); *see also* 2017 *Restoring Internet Freedom Order*, 33 FCC Rcd at 440-442, paras. 222-23; 2010 *Open Internet Order*, 25 FCC Rcd at 17938-39, para. 56 (explaining in detail the disclosures required by ISPs of their network management practices, performance characteristics, and commercial terms).

broadband labels and the transparency rule.²⁴³ Broadband labels, however, are designed to play a unique role in that regard by providing a quick reference tool enabling easy comparisons among different service plans at the time of purchase. By contrast, the transparency rule seeks to enable a deeper dive into details of broadband Internet service offerings, which could be relevant not only for consumers as a whole, but also for consumers with particularized interests or needs, as well as a broader range of participants in the Internet community—notably including the Commission itself.²⁴⁴

108. ISPs argue that we should eliminate the requirements in section 8.1(a), maintaining that the problems of a potentially burdensome broadband label would be compounded if the Commission also retained the requirements in the current transparency rule.²⁴⁵ They contend that it would be duplicative and unnecessary to require, going forward, that providers maintain transparency disclosures that include information reported separately in broadband labels.²⁴⁶

109. We conclude that compliance with the transparency rule does not satisfy the label’s content, format, and display location requirements. For example, the transparency rule does not require disclosures about the ACP; the label, on the other hand, must identify whether the provider participates in the ACP and display a link to information about the ACP. Similarly, the transparency rule does not require specific information about introductory and post-introductory rates and introductory periods. We note, however, that compliance with the broadband label requirements may satisfy a provider’s obligations under section 8.1 with respect to specific sections of the transparency rule that are also incorporated into the label.²⁴⁷

110. We also conclude that displaying a compliant label cannot by itself satisfy the transparency rule. For example, the link in the label to certain information about a provider’s network management practices alone may not satisfy the transparency rule requirement. The provider’s transparency rule disclosures via its website or transmittal to the Commission must still disclose all information required by the rule. Similarly, the label does not include the transparency rule’s requirement to disclose packet loss information. Providers must therefore take steps to comply with the labeling and transparency rules independently to the extent that the details of the requirements diverge. Accordingly, compliance with the labeling requirements is not a safe harbor from compliance with the transparency rule.

F. Enforcement Issues and Consumer Complaints

111. Aside from the issues discussed below, we decline to adopt new rules, practices, or procedures specifically for enforcement of the label we adopt in this Order. Based on the record, we find that our existing enforcement mechanisms should enable us to enforce our new label requirements, including the accuracy of the label’s content and the sufficiency of its format and display location. We thus will use the identical procedures to enforce the broadband label requirements adopted here.²⁴⁸

²⁴³ See, e.g., Infrastructure Act § 60504(a); *2017 Restoring Internet Freedom Order*, 33 FCC Rcd at 435, para. 209.

²⁴⁴ See, e.g., *2017 Restoring Internet Freedom Order*, 33 FCC Rcd at 435, 438, paras. 209-10, 216.

²⁴⁵ See NTCA and WISPA Comments at 18 (arguing that it would be burdensome if the Commission required broadband providers to display both a label *and* a narrative statement along the lines compelled by the enhanced transparency rules the Commission adopted in 2017).

²⁴⁶ ACA Connects Comments at 14.

²⁴⁷ We note that providers may satisfy their transparency rule obligations by either posting disclosures on a publicly available website or through transmittal to the Commission. See 47 CFR § 8.1(a).

²⁴⁸ Although, as discussed below, some commenters advocate different enforcement approaches as a policy matter, no commenter contends that we lack legal authority to adopt this approach to enforcement of the broadband label requirements, and we thus see no reason to question the adequacy of our authority in that regard. See *infra*, section III.H (Legal Authority). Indeed, given Congress’ directive that “the Commission shall promulgate regulations to

(continued....)

112. We are persuaded that the Commission’s current transparency enforcement procedures are appropriate, and that the Commission’s existing forfeiture authority and other remedies are sufficient to deter noncompliance and to hold accountable those providers that do not comply with the label requirements.²⁴⁹ In addition, as discussed above, we are requiring providers to archive all labels that they display, which will allow us to obtain labels and investigate the accuracy of the labels faster and more efficiently.²⁵⁰

113. Finally, we reject calls for a type of “education” period during which we put on hold any enforcement related to the label.²⁵¹ We believe providers will have sufficient time during the implementation periods discussed below to create and display complete and accurate labels for all of their offered plans. In addition, we intend to develop resources for providers and consumers about the new disclosure requirements, including education on broadband terminology, compliance guides, and label templates.²⁵²

114. We thus disagree with commenters that advocate for unique enforcement of the broadband label and dedicating specific agency resources toward enforcing the label requirements, rather than relying on the Commission’s existing enforcement procedures.²⁵³ We intend to process and serve informal consumer complaints regarding broadband labels as vigorously as we do other informal complaints, and we are confident that the existing processes are sufficient for that purpose.²⁵⁴

G. Implementation Timelines

115. We require that all ISPs comply with the rules we adopt today within six-month and one-year compliance periods (following publication in the Federal Register of notice that OMB has completed review of the adopted rules). In the *NPRM*, the Commission sought comment on the best ways for providers to implement the proposed labels, including the timelines within which they should implement

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require the display of broadband consumer labels,” it only makes sense that we would be able to enforce those rules. Infrastructure Act § 60504(a); *see also, e.g.*, 47 U.S.C. § 154(i) (granting the Commission certain authority “as may be necessary in the execution of its functions”).

²⁴⁹ ADTRAN Comments at 14; NCTA Comments at 20; NYC Comments at 4 (penalties and remedies must be sufficient to deter noncompliance and not so de minimis as to constitute a cost of doing business for providers). We adopt a rule codifying our enforcement approach in new 47 CFR § 8.1(a)(6).

²⁵⁰ *See* EPIC Comments at 14.

²⁵¹ *See* NTCA and WISPA Comments at 19-20; NRECA Reply at 5; *see also* Letter from Brian Hurley, Vice President of Regulatory Affairs, ACA Connects--America’s Communications Association, to Marlene H. Dortch, Secretary, FCC, at 4 (Apr. 27, 2022) (ACA Connects 4/27/22 *ex parte*) (proposing that the Commission take a “restrained approach” to broadband label enforcement initially and instead focus on helping providers rectify any shortcomings with their labels, reserving penalties for serious or repeat offenders).

²⁵² *See* discussion of Consumer Education/FCC Glossary, *supra*, paras. 59-62; *see also* AARP Comments at 20 (stating that the Commission could directly educate the public regarding the labels to help shape consumer expectations regarding what consumers should be seeing in the labels and when and where they should be presented with the labels by ISPs).

²⁵³ *See* AARP Comments at 20 (suggesting that the Commission “evaluate labels directly” and restructure the FCC consumer complaint page to encourage consumer submission of information regarding broadband labels and ISP practices associated with displaying the labels); *see also* NDIA Comments at 3; ILSR Comments at 5; OTI Comments at 13; CT State Broadband Leaders Comments at 3-4 (expecting a significant volume of concerns related to labels, and therefore arguing that state-level assistance is essential in effectuating the purpose of the labels and assuring that the labels are designed and employed in the manner the Commission will prescribe). *But see* T-Mobile Reply at 14-15 (additional state enforcement authority would create a complicated and burdensome patchwork of regulation and undermine consumer benefits).

²⁵⁴ As discussed above, we note that the required link to an FCC Glossary page will contain information for consumers on filing complaints with the Commission. *See supra*, note 129.

them.²⁵⁵ The Commission proposed to make the rules effective six months following publication in the Federal Register of OMB's approval of the adopted rules, asking whether this would allow sufficient time for providers to comply with the new requirements.²⁵⁶ The Commission asked whether it should consider a different implementation timeline or temporary exemption for smaller providers to allow them more time to come into compliance with the label requirements.²⁵⁷

116. Based on the record, we decline to adopt an exemption from the label requirements for smaller providers.²⁵⁸ We agree with OTI that we must ensure that *every* consumer benefits from the labels, not just those who are served by the largest providers. Rural Americans, who often receive their broadband service from smaller ISPs, also deserve transparency about broadband services and to be given access to information necessary to shop for such services. Moreover, as some commenters point out, the Infrastructure Act directs the Commission to adopt labels for all ISPs and does not distinguish between larger and smaller providers.²⁵⁹ We also believe it is critical that labels across all providers be uniform in content and format and that they be accurate. Thus, we decline to limit the amount of information smaller providers must display on the labels or to, for example, exclude such providers from the Commission's informal complaint processes.²⁶⁰

117. We nevertheless recognize that implementing the label requirements may require some additional time, and we therefore establish a six-month period for most providers to come into compliance before the new requirements take effect. We agree with those commenters that argue that allowing providers an additional six months following announcement in the Federal Register that OMB has completed its review of the rules will ensure that most ISPs can implement necessary changes in a cost-effective way that makes sense for their individual business models and potential customers.²⁶¹ Commenters that advocate for a longer implementation period do not specify why an additional three or six months beyond the proposed six-month period is necessary for most providers to create and display the required labels. And we believe consumers should not have to wait for as long as a year before they enjoy the benefits the labels will provide. We therefore find that six months represents a reasonable timeframe for most providers to take steps to ensure that labels are adequately displayed on websites, that links to additional information are effective, and that the required information is provided in accessible formats.

118. We do, however, adopt a one-year implementation period for providers with 100,000 or fewer subscriber lines. Some commenters contend that affording smaller providers at least one year to

²⁵⁵ *Broadband Label NPRM*, para. 32.

²⁵⁶ *Id.*

²⁵⁷ *Id.*

²⁵⁸ *See* ACA Connects Comments at 15-17.

²⁵⁹ OTI Comments at 14.

²⁶⁰ *See* NTCA and WISPA Comments at 21 (urging the Commission to exempt small broadband providers from the formal complaint process); ACA Connects Comments at 17-18 (supporting ways other than additional time for compliance to ease burdens for small providers). We note that the formal complaint process does not apply in this context given the current classification of broadband Internet access service.

²⁶¹ *See, e.g.*, Planet Comments at 1; AARP Comments at 20; Morristown Reply at 2; NCTA Comments at 20 (at least six months is necessary for providers to comply with any new requirements); ADTRAN Comments at 13 (a six-month implementation timeline is appropriate if the Commission limits the placement of the labels to the service provider's websites and "bricks and mortar" stores). *But see* Lumen Comments at 14 (a minimum of nine months is likely to be needed); AT&T Comments at 22 (maintaining that even large providers need a year to implement the rules to update training materials, marketing documents, and websites); ACA Connects Reply at 16 (urging the Commission to establish an effective date for its broadband label requirements of at least one year).

comply allows them to budget for any additional expenses associated with the labels.²⁶² We are persuaded that implementing broadband labels may require providers to complete certain tasks, including compiling the information that must be presented in the label; incorporating the information into the label format; posting labels on their websites; developing and implementing procedures for making any necessary changes to the labels, including website updates; and training customer service representatives, sales agents, and other personnel.²⁶³ Such tasks may require more time for providers that are less likely to have in-house attorneys and compliance departments to assist in preparing their broadband labels, and thus will need to engage outside legal resources to implement several proposed requirements. Commenters generally did not challenge allowing some additional time for such providers to come into compliance.

119. The record provided little information on how best to define which providers should benefit from any longer implementation period. In similar contexts, the Commission has defined the relevant entities in various ways. For instance, in its *2013 Rural Call Completion Order*, the Commission excepted providers with 100,000 or fewer subscriber lines, aggregated across all affiliates, from certain recordkeeping, retention, and reporting rules.²⁶⁴ The Commission subsequently adopted this definition for purposes of the temporary exemption from the enhanced transparency rule.²⁶⁵ Accordingly, we similarly adopt an implementation period of one year (from the announcement that OMB has completed its review of the new rules) for those providers of broadband Internet access service (whether fixed or mobile) with 100,000 or fewer broadband subscribers as per their most recent Form 477, aggregated over all the provider's affiliates. We believe the additional six months will allow these providers the necessary time to comply with the label requirements.²⁶⁶

H. Legal Authority

120. As the Commission explained in the *NPRM*, we believe the Infrastructure Act grants us authority to adopt the label requirements for ISPs. No commenter disagrees with this conclusion. In addition, we also explain above how displaying the required broadband label enables providers to satisfy aspects of their disclosure obligations under the transparency rule.²⁶⁷ We thus also find that the authority the Commission historically has invoked in support of a transparency rule for broadband Internet access service providers—in particular, sections 13 and 257 of the Act and the Commission's Title III licensing authority in the case of mobile broadband providers—provides additional authority for our broadband label requirements.²⁶⁸ Further, the required broadband labels will serve as a source of information

²⁶² NTCA and WISPA Comments at 22; AARP Reply at 13. In its recommendation on where providers should display the labels, the CAC indicated that the Commission should consider allowing smaller providers additional time to comply with the requirements. See 2022 CAC Broadband Label Recommendation at 3.

²⁶³ ACA Connects Comments at 15-17.

²⁶⁴ See *Rural Call Completion*, Report and Order and Notice of Proposed Rulemaking, 28 FCC Rcd 16154, 16164-65, para. 20 (2013) (*2013 Rural Call Completion Order*) (The Commission concluded that the rules should apply to providers of long-distance voice service that make the initial long-distance call path choice for more than 100,000 domestic retail subscriber lines, regardless of whether those providers are facilities-based. The 100,000-subscriber-line figure included the total of all of a provider's business and residential fixed subscriber lines and mobile phones, aggregated over all of the provider's affiliates).

²⁶⁵ See *2015 Open Internet Order*, 30 FCC Rcd at 5678, paras. 173-74.

²⁶⁶ These providers must still comply with the requirement to make the contents of the labels machine readable within one year of OMB's completion of review of the new information collection.

²⁶⁷ See *supra*, section III.E (Interplay of New Label Requirement with Transparency Rule).

²⁶⁸ In the *2017 Restoring Internet Freedom Order*, the Commission relied on section 257 of the Act as authority for the transparency rule. *2017 Restoring Internet Freedom Order*, 33 FCC Rcd at 445-47, paras. 232-34. Although section 257 subsequently was amended to shift aspects of that provision to the new reporting requirement enacted in section 13 of the Act, "it was not altered in any material respect for purposes of the Commission's authority in this

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required to be collected under the ACP program.²⁶⁹ We thus find our broadband label requirements further supported by our ACP authority.²⁷⁰ Similarly, insofar as the broadband labels will be tools to advance our E-Rate and Rural Health Care universal service programs, authority for the broadband label requirements comes from section 254 as well.²⁷¹

121. Similarly, the majority of commenters either do not raise any First Amendment concerns or argue that mandatory broadband labels similar to those approved in 2016 would not violate providers' First Amendment rights.²⁷² Some commenters, however, argue that the proposed label requirements could raise First Amendment concerns,²⁷³ and we address those arguments now.

122. We conclude that the rules we adopt today are disclosure rules implicating commercial speech, and that they do not unconstitutionally burden broadband Internet service provider speech.²⁷⁴ As shown below, we believe that the more lenient *Zauderer* standard, rather than the intermediate *Central Hudson* standard, applies to the rules adopted herein. However, even assuming *arguendo* that the *Central Hudson* standard applied, we conclude our rules would satisfy that standard as well.

123. The Supreme Court has long recognized that the government “has substantial leeway in determining appropriate information disclosure requirements for business corporations.”²⁷⁵ Thus, “regulations that compel ‘purely factual and uncontroversial’ commercial speech are subject to more lenient review than regulations that restrict accurate commercial speech.”²⁷⁶ That latitude stems from the

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regard.” *Mozilla Corp. v. FCC*, 940 F.3d 1, 47 (D.C. Cir. 2019). In addition, the *2015 Open Internet Order* relied on Title III licensing authority over mobile broadband providers for authority for its rules in that respect, including the transparency rule. *2015 Open Internet Order*, 30 FCC Rcd at 5725, paras. 285-87. Although the *2017 Restoring Internet Freedom Order* explained that it chose not to rely on that Title III authority for conduct rules governing mobile providers insofar as it did not find sufficient authority for conduct rules governing other providers, that *Order* did not provide reasons not to rely on Title III authority for the transparency rule adopted there (or for disclosure requirements like the broadband label requirements adopted here). See, e.g., *2017 Restoring Internet Freedom Order*, 33 FCC Rcd at 485, para. 292 (acknowledging that the Commission “could rely on Title III licensing authority to support conduct rules as it has in the past,” but declining to do so insofar as it would yield rules that imposed disparate requirements on different categories of ISPs). Since the broadband label requirements will apply to all ISPs, we thus find no reason to forgo relying on Title III authority for the broadband label requirement for mobile broadband providers here.

²⁶⁹ Infrastructure Act § 60504(b)(2).

²⁷⁰ Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, 134 Stat. 1182 § 904 (2020), as amended by the Infrastructure Act § 60502.

²⁷¹ 47 U.S.C. § 254.

²⁷² See, e.g., AARP Reply at 15-16; CT State Broadband Leaders Comments at 5; CDT Reply at 8.

²⁷³ See, e.g., AT&T Comments at 7; Lumen Comments at 16; U.S. Chamber of Commerce Reply at 3; CTIA Reply at 8-9; NCTA Reply at 6.

²⁷⁴ See, e.g., *Empowering Consumers to Prevent and Detect Billing for Unauthorized Charges (“Cramming”), Consumer Information and Disclosure, Truth-in-Billing, and Billing Format*, CG Docket Nos. 11-116, 09-158, CC Docket No. 98-170, Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 4436, 4482-84, paras. 129-35 (2012) (*2012 Cramming Order*) (applying *Zauderer v. Office of Disciplinary Counsel*, 471 U.S. 626 (1985) (*Zauderer*) to cramming rules adopted there before going on to find that the rules also satisfy *Cent. Hudson Gas & Elec. Corp. v. Pub. Serv. Comm’n of New York*, 447 U.S. 557 (1980) (*Central Hudson*), to the extent that standard applied); *2017 Restoring Internet Freedom Order*, 33 FCC Rcd at 448-50, paras. 235-38 (concluding that the Commission need not resolve whether *Zauderer* or *Central Hudson* applied because the transparency rule satisfied even the *Central Hudson* standard).

²⁷⁵ *Pac. Gas & Elec. Co. v. Pub. Util. Comm’n of Calif.*, 475 U.S. 1, 15 n.12 (1986).

²⁷⁶ See, e.g., *New York State Rest. Ass’n. v. New York City Bd. of Health*, 556 F.3d 114, 132 (2nd Cir. 2009) (*NY State Rest. Ass’n.*) (upholding New York City health code requiring restaurants to post calorie content information

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“material differences between disclosure requirements and outright prohibitions on speech.”²⁷⁷ Disclosure requirements, unlike speech bans, are not designed to prevent anyone from “conveying information.”²⁷⁸ Instead, those requirements “only require [persons] to provide somewhat more information than they might otherwise be inclined to present.”²⁷⁹ Where the required disclosure involves “only factual and uncontroversial information,”²⁸⁰ the required disclosure “does not offend the core First Amendment values of promoting efficient exchange of information or protecting individual liberty interests.”²⁸¹ To the contrary, because “the extension of First Amendment protection to commercial speech is justified principally by the value to consumers of the information such speech provides,” a person’s “constitutionally protected interest in *not* providing any particular [noncontroversial] factual information . . . is minimal.”²⁸² The Supreme Court thus has held that the *Zauderer* standard, and not the intermediate *Central Hudson* standard, applies to the required disclosure of purely factual, non-controversial information that does not suppress speech.²⁸³

124. A few commenters suggest that label requirements might not satisfy the *Zauderer* standard if they “forc[e] providers to publish specified information in pre-determined formats.”²⁸⁴ We disagree. The new rules requiring ISPs to display, at the point of sale, labels containing factual information about their service options are, on their face, a disclosure requirement. Although there is a specific format for the label, the purpose and effect of rules requiring providers to identify their prices, performance metrics, data allowances, and links to their privacy policies amount to the disclosure of broadband service offerings. All the disclosures compelled by the rules involve “only factual and uncontroversial information.”²⁸⁵

125. We find that the rules we adopt today easily satisfy the *Zauderer* standard. The purpose of the rules is to ensure that consumers have the information necessary to understand the broadband services offered by providers, to easily determine the prices for those services, and to comparison shop among different providers. As explained elsewhere in this Order, the means directed by Congress to achieve that objective, i.e., labels at the point of sale, simply enhances consumers’ ability to purchase services that meet their needs and budgets. By giving consumers an easier way to shop for and purchase the broadband services they need, the rules are “reasonably related to the [governmental] interest”²⁸⁶ in making sure consumers have the information they need to make informed choices in the broadband marketplace. The First Amendment is satisfied, therefore, because there is a “rational connection”

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on their menus and menu boards, *citing Zauderer*, 471 U.S. at 637); *Nat’l. Elec. Mfrs. Ass’n v. Sorrell*, 272 F.3d 104, 113 (2d Cir. 2001) (*Nat’l Elec.*) (upholding Vermont statute prescribing labeling requirements on mercury-containing lamps).

²⁷⁷ *Zauderer*, 471 U.S. at 650. See *Int’l Dairy Foods Ass’n v. Boggs*, 622 F.3d 628, 641 (6th Cir. 2010).

²⁷⁸ *Zauderer*, 471 U.S. at 650 (“In requiring attorneys who advertise their willingness to represent clients on a contingent-fee basis to state that the client may have to bear certain expenses even if he loses, Ohio has not attempted to prevent attorneys from conveying information to the public; it has only required them to provide somewhat more information than they might otherwise be inclined to present.”).

²⁷⁹ *Id.*

²⁸⁰ *Id.*

²⁸¹ *Nat’l Elec.*, 272 F.3d at 113. *NY State Rest. Ass’n.*, 556 F.3d at 132.

²⁸² *Zauderer*, 471 U.S. at 651 (emphasis in original). See *Milavetz, Gallop, & Milavetz v. U.S.*, 130 S.Ct. 1324, 1339-40 (2010) (*Milavetz*).

²⁸³ *Milavetz*, 130 S.Ct. at 1339.

²⁸⁴ AT&T Comments at 8; CTIA Reply at 8-9.

²⁸⁵ *Zauderer*, 471 U.S. at 650.

²⁸⁶ *Id.* at 651.

between the purpose of these commercial disclosure requirements and “the means employed to realize that purpose.”²⁸⁷

126. Even if the intermediate three-part *Central Hudson* standard applies, however, we find that the rules pass constitutional muster. *Central Hudson* sets forth an intermediate scrutiny standard that provides that a regulation of commercial speech will be found compatible with the First Amendment if: (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.²⁸⁸ As the Commission previously concluded in the *Truth-in-Billing First Report and Order*, the government has a substantial interest in ensuring that consumers are able to make intelligent and well-informed commercial decisions.²⁸⁹ The *2017 Restoring Internet Freedom Order* similarly identified a substantial government interest in “encouraging competition and innovation.”²⁹⁰

127. The Infrastructure Act directs the Commission to promulgate rules to require the display of broadband consumer labels tailored in a manner designed to effectively provide consumers information they need to evaluate broadband Internet access service plans through the tool of broadband labels.²⁹¹ And the Commission’s other statutory obligations include promoting the justness, reasonableness, and affordability for consumers of service charges and practices and promoting marketplace competition.²⁹² We believe the regulations we adopt today are designed to directly advance the government’s substantial interest by providing consumers with the basic tools necessary to understand the broadband services they are purchasing and the prices for those services through broadband labels carefully calibrated to include certain essential information presented in a manner that makes it most likely to be usable and useful. In addition, they are designed to protect consumers from contracting for service where the terms of service are either unexplained or presented in a confusing manner.

128. Under the first part of the *Central Hudson* test, we find that we have a substantial interest in assisting consumers in making informed decisions when purchasing broadband service, and in encouraging competition and innovation. The record is clear that point-of-sale labels support the objective of helping consumers make informed choices based on accurate disclosures about broadband Internet service offerings tailored to focus on the information likely to be key to comparisons using those labels. Commenters overwhelmingly support a label that provides key information in an accessible and understandable format, with flexibility to provide additional information, such as links to other resources. In an effort to increase accessibility to broadband service for Americans, Congress also concluded that

²⁸⁷ See *Nat’l Elec.*, 272 F.3d at 114–15; *Zauderer*, 471 U.S. at 651.

²⁸⁸ *Central Hudson*, 447 U.S. at 566. Commercial speech that is potentially misleading has less First Amendment protection, and misleading commercial speech is not protected at all and may be prohibited. *Id.* at 563-64.

²⁸⁹ *First Truth-in-Billing Order*, 14 FCC Rcd at 7531, para. 61.

²⁹⁰ *2017 Restoring Internet Freedom Order*, 33 FCC Rcd at 448-49, para. 236.

²⁹¹ Infrastructure Act § 60504.

²⁹² See, e.g., 47 U.S.C. § 151 (a purpose of the Commission is to make available communications services “at reasonable charges”); *id.*, § 254(b)(1), (3) (among the policies guiding universal service are that “[q]uality services should be available at just, reasonable, and affordable rates” and that “[c]onsumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas”); Telecommunications Act of 1996, Pub. L. 104-104, 110 Stat. 56, preamble (1996) (enacting the 1996 act “[t]o promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies”); *2017 Restoring Internet Freedom Order*, 33 FCC Rcd at 448-49, para. 236 (discussing statutory bases for finding “substantial government interests in encouraging competition and innovation”).

consumers needed better access to information about available services, i.e., simpler and easy to understand.

129. We find that the rules we adopt today also satisfy *Central Hudson*'s second prong by advancing the government's substantial interest. The Commission, through the Truth-in-Billing regulations, has a longstanding practice of regulating the format and organization of carrier invoices in order to "aid customers in understanding their telecommunications bills."²⁹³ As discussed above, the record persuades us that these new rules, i.e., requiring ISPs to disclose information about their services in a consistent format at the point of sale, are needed to advance our interest in assisting consumers in fully understanding the available broadband offerings and to make informed decisions about what services to purchase. If consumers can readily identify and understand key information about the specific services offered by each provider, they can take action using those broadband labels to compare different offerings and avoid purchasing services that do not serve their needs. Similarly, labels that include the same information in a conspicuous location and that are presented in the same format across providers will enable consumers to hold those providers accountable by making inquiries and filing complaints should the services they receive or the prices they pay not match what ISPs display in the labels. Tailored disclosures promise to provide a metric against which these customers can judge whether their broadband services satisfy the speeds, data usage, and other terms advertised by broadband providers. That these new rules advance our stated interest is further confirmed by information in the record that consumers have difficulty understanding the broadband services available to them, what those services will allow them to do, and the prices they will ultimately pay. And given the interplay between the broadband label requirements and the transparency rule, it also advances the governmental interest in encouraging competition and innovation consistent with the analysis of the *2017 Restoring Internet Freedom Order*.²⁹⁴

130. With respect to the third prong of *Central Hudson*, the rules we adopt today are no broader than necessary to serve our substantial interests. To satisfy this prong of the test, we do not have to demonstrate that we have adopted the least restrictive means of achieving our objective, that our rules perfectly fit our stated interest, or that we have adopted the best of all conceivable means for achieving our objective.²⁹⁵ Instead, this prong of the *Central Hudson* test requires only that our rules be proportionate to the substantial interest we intend to advance.²⁹⁶ Given the magnitude of the problem reflected in the record, the rules we adopt today represent an incremental, moderate approach to giving consumers critical information about broadband services. For example, our requirement to identify the monthly price, performance information, and terms and conditions for broadband services in a format that consumers are familiar with—a nutrition-like label—is less intrusive than the alternative of, for example, requiring that all the information be listed in a consumer's bill for service or prohibiting the use of any line items that describe the fees that make up the monthly price. And the rules still permit providers to advertise their services independent of the information they must present in the labels. Our rules are narrowly crafted so that they are no more extensive than necessary to further our objective of enhancing the ability of consumers to make informed decisions when purchasing broadband service, and thus they satisfy the third prong of *Central Hudson*.

IV. FURTHER NOTICE OF PROPOSED RULEMAKING

131. In the Order, we require ISPs to provide, at the point of sale, a label for fixed and mobile broadband services that contains information regarding price, introductory rates, data allowances, broadband speeds, and participation in the ACP, and to provide links to other information about

²⁹³ 47 CFR § 64.2400(a).

²⁹⁴ *2017 Restoring Internet Freedom Order*, 33 FCC Rcd at 448-49, para. 236.

²⁹⁵ *Bd. of Trs. of State Univ. of New York v. Fox*, 492 U.S. 469, 477 (1989); *Nat'l Cable & Telecomms. Ass'n v. FCC*, 555 F.3d 996, 1002 (D.C. Cir. 2009) (*Nat'l Cable*).

²⁹⁶ *Nat'l Cable*, 555 F.3d at 1002.

broadband service on their websites and the Commission's website. Commenters offered certain suggestions for the labels that we do not adopt because the record requires additional development on such issues. We therefore seek further comment on issues related to accessibility and languages, performance characteristics, service reliability, cybersecurity, network management and privacy, formatting, and whether ISPs should submit label information to the Commission.

A. Accessibility and Languages

132. As discussed above, all consumers, including those with disabilities, need broadband service for access to emergency services, telehealth services, and video conferencing, as well as to news and entertainment. Several commenters suggested additional ways to improve accessibility of the broadband label. For example, ACB proposed that video relay service and video calling service be made available to provide customer service in ASL for broadband labelling information, irrespective of whether the broadband label information is provided in hard copy or digitally.²⁹⁷ Commenter NYC proposes that we require Braille or a QR code with a tactile indicator for blind or visually impaired consumers.²⁹⁸

133. In the Order, we require ISPs to post information on their websites in an accessible format, and we strongly encourage them to use the most current version of the Web Content Accessibility Guidelines (WCAG). We did not specify which WCAG sections would be relevant to the broadband label in the Order. We seek comment on whether we should adopt specific criteria, based on the WCAG standard.²⁹⁹ For example, the WCAG 2.1 suggests providing text alternatives for any non-text content so that it can be changed into other forms people need, such as large print, Braille, speech, symbols, or simpler language.³⁰⁰ The WCAG also suggests providing definitions of words or phrases used in an unusual or restricted way, including idioms and jargon and abbreviations.³⁰¹ We seek comment on whether we should mandate specific WCAG suggestions for the broadband label. Commenters should cite to the specific WCAG sections they propose we adopt.

134. In the Order, we require ISPs to make the labels available in English and any other languages in which they market their services in the United States. We seek further comment on whether ISPs should be required to make the label available in languages other than those in which they market their services, such as Spanish, Simplified Chinese, Traditional Chinese, Korean, Vietnamese, and Tagalog.³⁰² Should ISPs base the languages available on the consumer or network location? For example, should a provider offering services in an area with a significant Spanish-speaking population be required to provide a label in Spanish even if it does not provide its marketing materials in Spanish, while a provider serving a region with a significant Vietnamese population be required to provide the label in Vietnamese? Should the languages available comport with the Census Bureau's American Community Survey data or another identifiable metric? Should providers be required to translate their labels into other languages upon the request of any consumer considering purchase of the provider's service? Or would providing information on the Commission's planned glossary webpage in additional languages, including translated label templates, resolve any language barrier problems? What are the burdens, if any, associated with requiring providers to make the label available in languages in which they do not market their services?

²⁹⁷ ACB Comments at 2.

²⁹⁸ NYC Comments at 4.

²⁹⁹ In paragraph 82 above, we noted that WCAG is routinely updated and therefore providers' websites should be modified over time consistent with such updates.

³⁰⁰ WCAG 2.1., section 1.1 Text Alternatives.

³⁰¹ WCAG 2.1., sections 3.13 Unusual Words, 3.14 Abbreviations.

³⁰² See, e.g., Feb. 23 Congressional Letter at 2; AAAJ Comments at 2-3; MDTC Comments at 4; NYC Comments at 3; OTI Comments at 11; AAAJ *ex parte* at 3.

B. Price Information

135. In the Order, we adopt a requirement that labels display the base monthly “retail” price for standalone broadband, i.e., the price a provider offers broadband to consumers before applying any discounts such as those for paperless billing, autopay, or any other discounts, along with one-time and recurring monthly fees. We did not require providers to display additional information that affects the bottom line price consumers pay each month, such as discounts for paperless billing and for bundling broadband with other services. We seek comment on whether we should require providers to display these discounts and other variables (such as location-specific taxes) in future versions of the label. Should such a requirement include all potential discounts and other price variables, or just those that reflect most consumer purchases or providers’ most popular packages? If we were to adopt a more comprehensive set of labels, how can we best ensure that additional point-of-sale labels do not overwhelm consumers with too much information, thus rendering comparison shopping too difficult for the average consumer?

136. We seek specific comment on pricing information for bundles. Would a label requirement for bundled services, with a single price for the entire bundle, help consumers? Do so many consumers purchase broadband in a bundle that requiring labels for bundles makes sense? If the Commission were to adopt such a requirement, would the Commission need to define “bundled services” for these purposes? If yes, we propose to use the definition that the Commission adopted for purposes of the *ACP Data Collection Order* and seek comment on that approach.³⁰³ Are there any specific services that should be included or excluded from such a requirement? We seek comment on these and any other issues relevant to bundled services.

C. Performance Information

137. *Speed.* Broadband speed is measured in megabits per second, or Mbps; generally, the higher the speed, the faster a user can download and upload files and stream videos. In the Order, we adopt a typical usage measurement requirement, explaining that, at a minimum, ISPs must list on the label the typical download and upload speeds for fixed and mobile broadband services. We also note that many providers describe their mobile service offerings in standards-based and marketing terms such as LTE, 4G, 5G, 5G UC, or 5G UWB service (instead of providing the typical speeds associated with the offer).

138. We recognize that the speed a customer will experience can vary depending on the consumer’s equipment, how many devices are operating in the household, network congestion, network usage of nearby customers, and the distance to a cell site (for wireless broadband).³⁰⁴ Given these variables, we seek comment on whether there are more appropriate ways to measure speed and latency other than “typical” for purposes of the label disclosure such as average or peak speed and latency. Should we require providers to add another speed metric to the label in addition to typical speed? As discussed above, some commenters offer alternatives to typical speed measurements.³⁰⁵ We seek comment on whether any of these proposals, or another metric, would be more useful, and on any burdens on providers of implementing such proposals.

³⁰³ See *Affordable Connectivity Program*, WC Docket No. 21-450, Fourth Report and Order and Further Notice of Proposed Rulemaking, FCC 22-87 (2022).

³⁰⁴ Commenters Li and Yoshikoshi observe that other variables that can impact performance are the user’s device, home Wi-Fi network, or network interconnections. Li and Yoshikoshi Comments at 2-3.

³⁰⁵ See, e.g., Feamster Comments at 2 (percentiles); National Broadband Mapping Coalition Comments at 3 (peak); Jordan Comments at 7, 11 (for fixed broadband service, peak, and for mobile broadband, the range from the peak usage period 25th percentile download speed to the peak usage period 75th percentile download speed, and the range from the peak usage period 25th percentile upload speed to the peak usage period 75th percentile upload speed); Schulzrinne, Johnston, Freund 4/11/22 *ex parte* at 1-2 (95th percentile); OTI Comments at 7 (median speeds for fixed and standardized range for mobile); AT&T Comments at 12 & Reply at 8 (25th and 75th percentile speeds); ASSIA Comments at 8 (average throughput for upstream and downstream).

139. Commenters should discuss alternative methodologies that would be useful for consumers. As we explain in the Order, it is important that providers measure and disclose speeds consistently in order to ensure that consumers can compare options when selecting a service provider or a service offering.

140. *Reliability.* Service reliability is an additional performance measure that is extremely difficult for consumers to discern when shopping for a broadband service, yet can factor greatly into their purchase decisions. Service reliability has taken on increased importance in light of increased reliance on consumer broadband services to support telework and virtual schooling. The record in this proceeding evidences support for providing service reliability information to consumers.³⁰⁶

141. To what extent would adding a reliability measure to the label improve the availability of that information to consumers? How would this information assist consumers with their purchasing decisions? If we required a reliability measure to be provided to consumers, how should reliability be represented on a broadband label? Would a metric such as “Network availability = XX.XX% (Y minutes unavailable per month)” be appropriate? We anticipate that a metric such as this would be easily comprehensible and uniformly applicable across fixed and mobile broadband networks. In addition, it should be relatively straightforward for ISPs to measure availability in terms of the percentage of time/minutes per month that their service is “hard-down” (meaning that service quality is not simply degraded but unavailable) and is likely already captured at peering points. We seek comment on this metric, as well as on any alternatives that would be easy for consumers to understand and compare when shopping for broadband service. If this metric is adopted, how should it be calculated to ensure that it can be compared across service providers? For example, would a reliability metric need to be expressed in a way that is specific to a geographic area or specific to certain networks within a service package? Should calculation of a reliability metric account for conditions that might be considered as outside of the provider’s control (e.g., customer power outages, mobile devices outside of the service provider’s geographic coverage area with/out roaming), and if so, how should it account for them?

142. Would including the FCC SpeedTest app through a link on the label assist consumers in determining whether “they are getting what they paid for” (i.e., whether their service is available in a particular instance)? Should the Commission take steps to confirm the accuracy of information on reliability, and if so, what steps should the Commission take?

143. *Cybersecurity.* Consumers may find it relevant when comparison shopping whether the broadband service that they are considering is reasonably secure. Should ISPs be required to disclose at the point of sale information about their cybersecurity practices? What standards or best practices should be used to benchmark a broadband service’s security posture? How should broadband labels describe or depict the security of a broadband service to make that information as easy as possible for consumers to understand? Should broadband labels warn consumers if an ISP has left certain cyber risks unmitigated by reasonable security measures? If this information is to be made available to consumers, would including a link on the label to direct consumers to the provider’s website be sufficient?

144. *Other Service Characteristics.* We seek comment on whether there are other service characteristics, beyond speed and latency, and possibly reliability and cybersecurity, that ISPs should display on the label. For any such performance characteristics, do ISPs currently measure them and, if so, do they measure them in a reasonably uniform way? As we consider additions to the label, we seek to balance the consumer benefits against the costs to ISPs.

D. Network Management and Privacy

145. *Network Management Practices.* In the Order, we adopt a requirement that the broadband label link to the ISP’s website for more information on network management practices, rather than including such practices in detail on the label. We seek further comment on whether a link to the

³⁰⁶ See *supra*, notes 132-133.

network management practices is sufficient or if the label should include more specific disclosures about whether the provider engages in blocking, throttling, and paid prioritization. We note that, under the *2017 Restoring Internet Freedom Order*, ISPs are required to disclose any blocking, throttling, affiliated prioritization, paid prioritization, or security practices in which they engage.³⁰⁷ Commenters should discuss whether these disclosures should be added to the label or whether a link to the provider's network management practices is sufficient. Additionally, we seek comment on whether network management practices, either in the label or linked, should be written in a way that is clear and understandable for non-technical audiences.

146. *Privacy Policies.* We observe in the Order that several commenters discuss issues related to privacy, such as whether an ISP discloses consumer data to third parties and whether ISPs collect and retain data about consumers (e.g., the websites the consumer visits).³⁰⁸ These commenters urge the Commission to add certain privacy elements to the new label, such as disclosures about user data collection, retention, and tracking.³⁰⁹ Other commenters argue that, due to the limitations on the amount of information that may be included in a concise label, expansive privacy disclosures on a label are impractical.³¹⁰

147. We seek comment on whether we should continue to include a link to the service provider's current privacy policy in the label instead of including any detailed privacy information in the label itself. Commenters should discuss whether we should require providers to affirmatively state, in addition to providing their privacy policy, whether the provider collects or uses consumer data for reasons other than providing broadband service, and if this is shared with third parties.

E. Format Issues

148. *Interactive Labels and Drop-Down Menus.* The broadband label we adopt does not include interactive options or expanded labels with additional information. Consumers may, however, find an interactive label helpful.³¹¹ For example, customers may be able to input their household Internet activity and see additional information that would estimate their Internet experience under each plan. Alternatively, interactive labels can also be used to reveal additional information that may be important to a small subset of consumers but might be confusing to the average consumer. We seek comment on whether we should require ISPs to provide additional information in an interactive label.

149. An interactive label could also include an "expand" option that would provide more detailed information on specific categories of information, such as pricing.³¹² For example, such a tool could provide monthly pricing totals for the options a consumer selects. Alternatively, ISPs could provide this additional information in a chart or table on their websites to assist consumers in determining what services will best meet their needs. Further, we seek comment on how to provide this same information in dissimilar sales contexts such as in-store and over-the-phone settings. Commenters should discuss these options and any burdens associated with implementing these proposals. Commenters should also address how proposed interactive labels must be machine readable as well as accessible and translated as proposed in Section IV.A (Accessibility and Languages) above.

³⁰⁷ *2017 Restoring Internet Freedom Order*, 33 FCC Rcd at 437-41, paras. 215-23.

³⁰⁸ See, e.g., EPIC Comments at 4; Dale Smith Comments at 1; Cloudflare Comments at 9; Galliant Comments at 1; OTI Comments at 7; RDR Comments at 6; CDT Reply at 4-6.

³⁰⁹ See, e.g., AARP Comments at 12; USTelecom Reply at 3; CTIA Reply at 8; NCTA Reply at 14; T-Mobile Reply at 8-9; ACA Connects Reply at 15.

³¹⁰ See, e.g., NCTA Reply at 14; CTIA Reply at 8; ACA Connects Reply at 15; T-Mobile Reply at 8-9; USTelecom Reply at 3.

³¹¹ See Kaye and Smith-Salzberg Comments at 3.

³¹² See, e.g., Cranor 10/24/22 *ex parte* at 43-44 (suggesting an expanded layered design).

150. *Focus Groups and Surveys.* We note that, in both initially drafting and then updating its fuel economy labels, the EPA used consumer feedback from surveys and focus groups.³¹³ We seek comment on whether it would be useful for the Commission to similarly employ focus groups, surveys, or subject-matter experts to provide feedback on future refinements to the broadband labels.

151. *Style Guides and Implementation Tools.* The broadband label we adopt is a tool for comparison shopping and works best when it is standardized across the industry. The record shows that other federal agencies, namely the EPA and FDA, have published compliance tools for entities that must comply with their fuel economy and nutrition labels. For example, the FDA published a style guide showcasing how a label should appear in various settings; it included an annotated template that assisted a product's design team with the creation of the label.³¹⁴ Everything from font size, kerning, line width, and color was explained in detail. We seek comment on whether a similar set of tools would be appropriate to ease the burden on providers of creating labels and to enhance consistency in the marketplace, or whether having templates in the form of fillable PDFs on the Commission's website serves that purpose. If an additional style guide would be helpful, we seek comment on what should be included in it, with particular attention to accessibility concerns and point-of-sale scenarios both online and in retail storefront situations.

F. Labels Submitted to the Commission

152. In the Order, we require ISPs to provide broadband labels at the point of sale and to archive their labels for two years.³¹⁵ Several commenters proposed that the Commission give ISPs the option of submitting labels directly to the Commission instead.³¹⁶ We seek comment on whether the Commission should allow ISPs to do so and whether we should maintain a database of labels and post them on the Commission's website. Alternatively, should we allow providers to seek a hardship waiver from the requirement to display labels on their websites, and only if such waiver is granted, permit them to submit their labels to the Commission? In either case, how long should the labels remain on the Commission's website? Commenters should discuss whether the entire label should be submitted to the Commission or whether only the data disclosed in the label, such as the pricing information and typical speeds, should be provided to the Commission in spreadsheet form. In addition, commenters should address any burdens on ISPs of providing labels to the Commission, and any concerns about the possible burdens on consumers with this proposed approach.

V. PROCEDURAL MATTERS

153. *Paperwork Reduction Act of 1995 Analysis.* This document contains new information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. It will be submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C.

³¹³ See FCC, Broadband Consumer Labels, *Public Hearings on Broadband Labels* (May 25, 2022), <https://www.fcc.gov/broadbandlabels> (testimony of Brittany McCoy, EPA).

³¹⁴ See U.S. Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition, "A Food Labeling Guide," <https://www.fda.gov/files/food/published/Food-Labeling-Guide-%28PDF%29.pdf> (last visited Aug. 15, 2022).

³¹⁵ As noted above (*see supra* note 225), providers participating in the Affordable Connectivity Program may be subject to different reporting and retention requirements for plans where subscribers are receiving an ACP benefit.

³¹⁶ See, e.g., ACA Connects Comments at 12 (contending that would be particularly beneficial for very small broadband providers with little or no online presence); USTelecom Comments at 8 (the Commission should collect broadband label data from providers by allowing providers to submit all broadband labels for plans provided each year).

3506(c)(4), we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees, and we received no comment.

154. The Further Notice also contains proposed new or modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and OMB to comment on the information collection requirements contained in the Further Notice, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

155. *Regulatory Flexibility Act.* The Regulatory Flexibility Act of 1980, as amended (RFA),³¹⁷ requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.”³¹⁸ Accordingly, we have prepared a Final Regulatory Flexibility Analysis (FRFA) concerning the impact of the rule changes contained in the Report and Order on small entities. The FRFA is set forth in Appendix B. We have also prepared an Initial Regulatory Flexibility Analysis (IRFA) concerning the possible impact of the rule changes contained in the Further Notice on small entities. The IRFA is set forth in Appendix C.

156. *Congressional Review Act.* The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget concurs, that this rule is “non-major” under the Congressional Review Act, 5 U.S.C. § 804(2). The Commission will send a copy of this Report & Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. § 801(a)(1)(A).

157. *Ex Parte Rules.* The proceeding shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.³¹⁹ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with section 1.1206(b) of the Commission’s rules. In proceedings governed by section 1.49(f) of the Commission’s rules or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in

³¹⁷ *See* 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. § 601, *et seq.*, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 847 (1996). The SBREFA was enacted as Title II of the Contract with America Advancement Act of 1996 (CWAAA).

³¹⁸ *Id.* § 605(b).

³¹⁹ 47 CFR §§ 1.1200 *et seq.*

this proceeding should familiarize themselves with the Commission's *ex parte* rules.³²⁰

158. *Filing of Comments and Reply Comments.* Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://apps.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy, Public Notice, DA 20-304 (March 19, 2020). <https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy>.

159. *People with Disabilities.* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice).

160. *Availability of Documents.* Comments, reply comments, *ex parte* submissions, and the Report and Order and Further Notice will be available via ECFS. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat. When the FCC Headquarters reopens to the public, documents will also be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 45 L Street NE, Washington, D.C. 20554.

161. *Additional Information.* For additional information on this proceeding, contact Erica H. McMahon, Erica.McMahon@fcc.gov or (202) 418-0346, of the Consumer and Governmental Affairs Bureau, Consumer Policy Division.

VI. ORDERING CLAUSES

162. Accordingly, **IT IS ORDERED**, pursuant to sections 4(i), 4(j), 13, 201(b), 254, 257, 301, 303, 316, and 332 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 163, 201(b), 254, 257, 301, 303, 316, 332, section 60504 of the Infrastructure Investment and Jobs Act, Pub. L. 117-58, 135 Stat. 429 (2021), and section 904 of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, 134 Stat. 1182 (2020), as amended, that this Report and Order and Further Notice of Proposed Rulemaking is hereby **ADOPTED**, and that Part 8 of the Commission's rules, 47 CFR Part 8, is amended as set forth in Appendix A.

³²⁰ 47 CFR § 1.49(f).

163. **IT IS FURTHER ORDERED** that, pursuant to applicable procedures set forth in sections 1.415 and 1.419 of the Commission's Rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments on the Further Notice of Proposed Rulemaking on or before 30 days after publication in the Federal Register, and reply comments on or before 60 days after publication in the Federal Register.

164. **IT IS FURTHER ORDERED** that the Report and Order **SHALL BE EFFECTIVE** 30 days after publication in the Federal Register. Compliance with 47 CFR § 8.1(a)(1), (a)(2) and (a)(4) through (a)(6) will not be required until one year after OMB completes its review of any requirements the Consumer and Governmental Affairs Bureau determines are subject to the Paperwork Reduction Act for providers with 100,000 or fewer subscribers and six months after OMB completes its review of any requirements the Consumer and Governmental Affairs Bureau determines are subject to the Paperwork Reduction Act for all other providers. Compliance with the requirement in 47 CFR § 8.1(a)(2) to make labels accessible in online account portals will not be required for all providers until one year after OMB completes its review of such requirement. Compliance with 47 CFR § 8.1(a)(3) will not be required until one year after OMB completes its review of any requirements the Consumer and Governmental Affairs Bureau determines are subject to the Paperwork Reduction Act. The Commission directs the Consumer and Governmental Affairs Bureau to announce compliance dates by subsequent Public Notice and to cause 47 CFR § 8.1 to be revised accordingly.

165. **IT IS FURTHER ORDERED** that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, **SHALL SEND** a copy of this Report and Order and Further Notice of Proposed Rulemaking, including the Initial and Final Regulatory Flexibility Analyses, to the Chief Counsel for Advocacy of the Small Business Administration.

166. **IT IS FURTHER ORDERED** that the Office of the Managing Director, Performance Evaluation and Records Management, **SHALL SEND** a copy of this Report and Order in a report to be sent to Congress and to the Governmental Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. § 801(a)(1)(A).

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX A
Final Rules

The Federal Communications Commission amends Part 8 of Title 47 of the Code of Federal Regulations as follows:

PART 8 – INTERNET FREEDOM

1. The Authority citation for Part 8 is amended to read as follows:

AUTHORITY: 47 U.S.C. 154, 201(b), 257, 303(r), and the Infrastructure Investment and Jobs Act, Pub. L. 117-58, 135 Stat. 429 (2021).

2. Section 8.1(a) is amended by adding paragraphs (a)(1) through (a)(6) as follows:

(a) Any person providing broadband internet access service shall publicly disclose accurate information regarding the network management practices, performance characteristics, and commercial terms of its broadband internet access services sufficient to enable consumers to make informed choices regarding the purchase and use of such services and entrepreneurs and other small businesses to develop, market, and maintain internet offerings. Such disclosure shall be made via a publicly available, easily accessible website or through transmittal to the Commission.

(1) Any person providing broadband internet access service shall create and display an accurate broadband consumer label for each stand-alone broadband internet access service it currently offers for purchase. The label must be prominently displayed, publicly available, and easily accessible to consumers, including consumers with disabilities, at the point of sale with the content and in the format prescribed by the Commission in “[Fixed or Mobile] Broadband Consumer Disclosure,” [include label template in CFR]

(2) Broadband internet access service providers shall display the label required under section 8.1(a)(1) at each point of sale. “Point of sale” is defined to mean a provider’s website and any alternate sales channels through which the provider’s broadband internet access service is sold, including a provider-owned retail location, third-party retail location, and over the phone. For labels displayed on provider websites, the label must be displayed in close proximity to the associated advertised service plan. “Point of sale” also means the time a consumer begins investigating and comparing broadband service offerings available to them at their location. “Point of sale” for purposes of the E-Rate and Rural Health Care programs is defined as the time a service provider submits its bid to a program participant. Providers participating in the E-Rate and Rural Health Care programs must provide their labels to program participants when they submit their bids to participants. Broadband internet access service providers that offer online account portals to their customers shall also make each customer’s label easily accessible to the customer in such portals.

(3) The content of the label required under section 8.1(a)(1) must be displayed on the broadband internet access service provider’s website in a machine-readable format. Broadband internet access service providers must provide the information in any label separately in a spreadsheet file format on their websites via a dedicated URL that contains all of their labels. Providers must publicize the URL with the label data in the transparency disclosures required under 47 CFR § 8.1(a).

(4) The label required under section 8.1(a)(1) must be provided in English and in any other languages in which the broadband internet access service provider markets its services in the United States.

(5) Broadband internet access service providers shall maintain an archive of all labels required under section 8.1(a)(1) for a period of no less than two years from the time the service plan reflected in the label is no longer available for purchase by a new subscriber and the provider has removed the label from its website or alternate sales channels. Providers must provide any archived label to the Commission, upon request, within thirty days. Providers must provide an archived label, upon request and within thirty days, to an existing customer whose service plan is associated with the particular label. A provider is not required to display a label once the associated service plan is no longer offered to new subscribers.

(6) Broadband consumer label requirements and the transparency rule in section 8.1(a) are subject to enforcement using the same processes and procedures. The label required under section 8.1(a)(1) is not a safe harbor from the transparency rule or any other requirements established by the Commission.

(7) Compliance date: Paragraphs (a)(1) through (a)(6) of this section may contain an information-collection and/or recordkeeping requirement. Compliance with paragraphs (a)(1) through (a)(6) of this section will not be required until this paragraph (a)(7) is removed or contains a compliance date, which will not occur until after the Office of Management and Budget completes review of such requirements pursuant to the Paperwork Reduction Act or until after the Consumer and Governmental Affairs Bureau determines that such review is not required. The compliance date will be one year after the removal or amendment of this paragraph for providers with 100,000 or fewer subscriber lines and six months after the removal or amendment of this paragraph for all other providers, except that the compliance date for paragraph (a)(3) of this section will be one year after the removal or amendment of this paragraph for all providers. The compliance date for the requirement in paragraph (a)(2) to make labels accessible in online account portals will be one year after the removal or amendment of this paragraph for all providers. The Commission directs the Consumer and Governmental Affairs Bureau to announce compliance dates for paragraphs (a)(1) through (a)(6) of this section by subsequent Public Notice and to cause this section to be revised accordingly.

(b) * * *

(c) * * *

APPENDIX B

Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),¹ an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the Notice of Proposed Rulemaking released in January 2022 in this proceeding.² The Commission sought written public comment on the proposals in the *NPRM*, including comment on the IRFA. Comments filed addressing the IRFA are discussed in section B. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.³

A. Need for, and Objectives of, the Rules

2. The *Report and Order* adopts rules to implement section 60504 of the Infrastructure Investment and Jobs Act (Infrastructure Act),⁴ to ensure that consumers have an easy way to understand broadband Internet access service providers' (ISPs' or providers') prices, data allowances, and performance in a simple-to-understand format that does not overwhelm consumers with too much information. The ability to make side-by-side comparisons of various broadband service offerings of an individual provider or the service offerings of alternative providers is essential for consumers to make informed decisions.

3. The Infrastructure Act directs the Commission "to promulgate regulations to require the display of broadband consumer labels, as described in the Public Notice of the Commission issued on April 4, 2016 (DA 16-357), to disclose to consumers information regarding broadband Internet access service plans."⁵ Further, the Infrastructure Act requires that any broadband consumer label adopted by the Commission "shall include information regarding whether the offered price is an introductory rate and, if so, the price the consumer will be required to pay following the introductory period."⁶

4. In the *Report and Order*, the Commission adopts rules to meet its statutory obligations under section 60504 of the Infrastructure Act. Specifically, the *Report and Order* requires ISPs to display, at the point of sale, broadband consumer labels with critical information about their service offerings, including about pricing, introductory rates, data allowances, performance metrics, and the Affordable Connectivity Program (ACP). For each of their current broadband service offerings, ISPs must display at the point of sale a label disclosing the charges and terms for the service and the broadband speeds associated with each plan, along with links to information about the ACP, network management practices, privacy policies, and other educational materials.

5. The *Report and Order* approves the overall format of the Commission's 2016 voluntary labels. The labels must be provided in a clear and simple-to-read uniform format—much like a nutrition label required on food products—that will enable consumers to easily compare the services of alternative providers. In addition, the information contained in the labels must be provided in a machine-readable

¹ 5 U.S.C. § 603. The RFA, 5 U.S.C. §§ 601-612, has been amended by the Contract With America Advancement Act of 1996, Public Law No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

² See *Empowering Broadband Consumers Through Transparency*, CG Docket No. 22-2, Notice of Proposed Rulemaking, FCC 22-7, App. D (rel. Jan. 27, 2022) (*NPRM*).

³ See 5 U.S.C. § 604.

⁴ The Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, 135 Stat. 429, § 60504(a) (2021) (Infrastructure Act).

⁵ *Id.* § 60504(a). See also *Consumer and Governmental Affairs, Wireline Competition, and Wireless Telecommunications Bureaus Approve Open Internet Broadband Consumer Labels*, Public Notice, DA 16-357, GN Docket No. 14-28, 31 FCC Rcd 3358 (CGB/WCB/WTB 2016) (2016 Public Notice).

⁶ Infrastructure Act § 60504(b)(1).

format, and the labels must include unique plan identifiers and must be accessible to all consumers, including people with disabilities. The labels are designed to assist consumers specifically during the shopping period—the time when consumers are comparing different service offerings and selecting a provider and plan that best meet their needs. Thus, ISPs must display the labels at the point of sale, both online and through alternate sales channels (e.g., company retail locations, retail seller locations, or over the phone). On the provider’s website, the label must be displayed in close proximity to the advertised service plan that is available to the consumer at their location. In addition, ISPs that offer online account portals to their customers must make each customer’s label easily accessible to the customer in such portals. Finally, ISPs must archive labels that have been removed from their websites and alternate sales channels for a period of two years and must provide such labels to the Commission or to an existing customer, upon request.

6. In taking these actions, the *Report and Order* implements the requirements of the Infrastructure Act and, at the same time, minimizes any compliance burdens for both small and large entities.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

7. In the *NPRM*, the Commission solicited comments on how to minimize the economic impact of the new rules on small businesses.⁷ One commenter specifically addressed the RFA requirements, arguing that “government agencies must consider the effects of their regulatory actions on small entities and mitigate them where possible.”⁸ To minimize the burdens and economic impact of the proposed broadband labels on smaller providers, NTCA urges the Commission to exempt small broadband providers from the Commission’s formal complaint process. NTCA says that complying with onerous and time-consuming complaint, discovery and hearing processes will seriously disrupt a small provider’s ability to serve its customers, maintain its network, and expand to new service areas.⁹

8. Several other commenters argued that smaller entities would face similar challenges in complying with the proposed label requirements given their small staffs and limited resources.¹⁰ They propose certain measures such as an exemption for smaller providers from the label requirements or, in the alternative, granting smaller providers an extended implementation timeframe, e.g., one additional year, to achieve compliance with the label requirements. They assert the additional time will allow smaller providers to compile the information that must be presented in the label; incorporate the information into the label format; post the labels on their websites; and train customer service representatives, sales agents, and other personnel.

9. In addition, some commenters urged the Commission to assist smaller providers by developing and making available to them broadband label templates in the form of “fillable pdfs.”¹¹ Others argue that the Commission should not require providers to develop and maintain labels that are “machine readable,” asserting that such a requirement will tax the resources of smaller providers with limited in-house technical resources. They also state that the Commission should not require providers to

⁷ *NPRM*, para. 33.

⁸ NTCA and WISPA Comments at 6.

⁹ NTCA and WISPA Comments at 21; *see also* ACA Connects Comments at 18 (arguing that the Commission should allow a reasonable grace period for providers to correct relatively minor deficiencies and should reserve enforcement action for serious or repeat offenders).

¹⁰ *See* ACA Connects Comments at 17-18; TechFreedom Reply at 6-7; NRECA Reply at 5.

¹¹ ACA Connects Comments at 17-18.

submit broadband labels “via an application programming interface (API)” and should instead provide alternative submission options that are less complicated to implement.¹²

C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

10. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments.¹³ The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

D. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

11. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the rules adopted herein.¹⁴ The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”¹⁵ In addition, the term “small business” has the same meaning as the term “small-business concern” under the Small Business Act.¹⁶ A “small-business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.¹⁷

1. Total Small Entities

12. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe, at the outset, three broad groups of small entities that could be directly affected herein.¹⁸ First, there are industry-specific size standards for small businesses that are used in the regulatory context. These types of small businesses represent 99.9% of all businesses in the United States, which translates to flexibility analysis, according to data from the Small Business Administration’s (SBA) Office of Advocacy. In general, a small business is an independent business having fewer than 500 employees.¹⁹ There are 30.7 million such businesses.²⁰

¹² ACA Connects Comments at 17-18; Lumen Comments at 13; NCTA Comments at 17-18; USTelecom Comments at 8.

¹³ 5 U.S.C. § 604(a)(3).

¹⁴ See 5 U.S.C. § 603(b)(3).

¹⁵ See *id.* § 601(6).

¹⁶ See *id.* § 601(3) (incorporating by reference the definition of “small-business concern” in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.”

¹⁷ See 15 U.S.C. § 632.

¹⁸ See 5 U.S.C. § 601(3)-(6).

¹⁹ See SBA, Office of Advocacy, “What’s New With Small Business?”, <https://cdn.advocacy.sba.gov/wp-content/uploads/2019/09/23172859/Whats-New-With-Small-Business-2019.pdf> (Sept 2019).

²⁰ *Id.*

13. Next, the type of small entity described as a “small organization” is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.”²¹ The Internal Revenue Service (IRS) uses a revenue benchmark of \$50,000 or less to delineate its annual electronic filing requirements for small exempt organizations.²² Nationwide, for tax year 2018, there were approximately 571,709 small exempt organizations in the U.S. reporting revenues of \$50,000 or less according to the registration and tax data for exempt organizations available from the IRS.²³

14. Finally, the small entity described as a “small governmental jurisdiction” is defined generally as “governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.”²⁴ U.S. Census Bureau data from the 2017 Census of Governments²⁵ indicate there were 90,075 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States.²⁶ Of this number there were 36,931 general purpose governments (county,²⁷ municipal, and town or township²⁸) with populations of less than 50,000 and 12,040 special purpose governments - independent school districts²⁹ with enrollment

²¹ 5 U.S.C. § 601(4).

²² The IRS benchmark is similar to the population of less than 50,000 benchmark in 5 U.S.C § 601(5) that is used to define a small governmental jurisdiction. Therefore, the IRS benchmark has been used to estimate the number of small organizations in this small entity description. See Annual Electronic Filing Requirement for Small Exempt Organizations - Form 990-N (e-Postcard), “Who must file,” <https://www.irs.gov/charities-non-profits/annual-electronic-filing-requirement-for-small-exempt-organizations-form-990-n-e-postcard>. We note that the IRS data does not provide information on whether a small exempt organization is independently owned and operated or dominant in its field.

²³ See Exempt Organizations Business Master File Extract (EO BMF), “CSV Files by Region,” <https://www.irs.gov/charities-non-profits/exempt-organizations-business-master-file-extract-eo-bmf>. The IRS Exempt Organization Business Master File (EO BMF) Extract provides information on all registered tax-exempt/non-profit organizations. The data utilized for purposes of this description was extracted from the IRS EO BMF data for Region 1-Northeast Area (76,886), Region 2-Mid-Atlantic and Great Lakes Areas (221,121), and Region 3-Gulf Coast and Pacific Coast Areas (273,702) which includes the continental U.S., Alaska, and Hawaii. This data does not include information for Puerto Rico.

²⁴ 5 U.S.C. § 601(5).

²⁵ See 13 U.S.C. § 161. The Census of Governments survey is conducted every five years, compiling data for years ending with “2” and “7.” See also Census of Governments, <https://www.census.gov/programs-surveys/cog/about.html>.

²⁶ See U.S. Census Bureau, 2017 Census of Governments – Organization Table 2. Local Governments by Type and State: 2017 [CG1700ORG02]. <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. Local governmental jurisdictions are made up of general purpose governments (county, municipal, and town or township) and special purpose governments (special districts and independent school districts). See also Table 2. CG1700ORG02 Table Notes Local Governments by Type and State_2017.

²⁷ See *id.* at Table 5. County Governments by Population-Size Group and State: 2017 [CG1700ORG05]. <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. There were 2,105 county governments with populations less than 50,000. This category does not include subcounty (municipal and township) governments.

²⁸ See *id.* at Table 6. Subcounty General-Purpose Governments by Population-Size Group and State: 2017 [CG1700ORG06]. <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. There were 18,729 municipal and 16,097 town and township governments with populations less than 50,000.

²⁹ See *id.* at Table 10. Elementary and Secondary School Systems by Enrollment-Size Group and State: 2017 [CG1700ORG10]. <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. There were 12,040 independent school districts with enrollment populations less than 50,000. See also Table 4. Special-Purpose Local Governments by State Census Years 1942 to 2017 [CG1700ORG04], CG1700ORG04 Table Notes Special Purpose Local Governments by State Census Years 1942 to 2017.

populations of less than 50,000.³⁰ Accordingly, based on the 2017 U.S. Census of Governments data, we estimate that at least 48,971 entities fall into the category of “small governmental jurisdictions.”³¹

2. Broadband Internet Access Service Providers

15. Broadband Internet access service providers, including wired (e.g., cable, DSL) and VoIP service providers using their own operated wired telecommunications infrastructure, fall in the category of Wired Telecommunication Carriers.³² Wired Telecommunications Carriers are comprised of establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies.³³ The SBA size standard for this category classifies a business as small if it has 1,500 or fewer employees.³⁴ U.S. Census Bureau data for 2012 show that there were 3,117 firms that operated that year.³⁵ Of this total, 3,083 operated with fewer than 1,000 employees.³⁶ Consequently, under this size standard the majority of firms in this industry can be considered small.

3. Wireline Providers

16. *Incumbent Local Exchange Carriers (Incumbent LECs)*. Neither the Commission nor the SBA have developed a small business size standard specifically for incumbent local exchange carriers. Wired Telecommunications Carriers³⁷ is the closest industry with a SBA small business size standard.³⁸ The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.³⁹ U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year.⁴⁰ Of this number, 2,964 firms operated with fewer than

³⁰ While the special purpose governments category also includes local special district governments, the 2017 Census of Governments data does not provide data aggregated based on population size for the special purpose governments category. Therefore, only data from independent school districts is included in the special purpose governments category.

³¹ This total is derived from the sum of the number of general purpose governments (county, municipal, and town or township) with populations of less than 50,000 (36,931) and the number of special purpose governments - independent school districts with enrollment populations of less than 50,000 (12,040), from the 2017 Census of Governments - Organizations Tables 5, 6, and 10.

³² See U.S. Census Bureau, *2017 NAICS Definition, “517311 Wired Telecommunications Carriers,”* <https://www.census.gov/naics/?input=517311&year=2017&details=517311>.

³³ *Id.*

³⁴ See 13 CFR § 121.201, NAICS Code 517311 (previously 517110).

³⁵ See U.S. Census Bureau, *2012 Economic Census of the United States, Table ID: EC1251SSSZ5, Information: Subject Series - Estab & Firm Size: Employment Size of Firms for the U.S.: 2012*, NAICS Code 517110, <https://data.census.gov/cedsci/table?text=EC1251SSSZ5&n=517110&tid=ECNSIZE2012.EC1251SSSZ5&hidePreview=false>.

³⁶ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

³⁷ See U.S. Census Bureau, *2017 NAICS Definition, “517311 Wired Telecommunications Carriers,”* <https://www.census.gov/naics/?input=517311&year=2017&details=517311>.

³⁸ See 13 CFR § 121.201, NAICS Code 517311.

³⁹ *Id.*

⁴⁰ See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPfirm, NAICS Code 517311, <https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPfirm&hidePreview=false>.

250 employees.⁴¹ Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 1,227 providers that reported they were incumbent local exchange service providers.⁴² Of these providers, the Commission estimates that 929 providers have 1,500 or fewer employees.⁴³ Consequently, using the SBA's small business size standard, the Commission estimates that the majority of incumbent local exchange carriers can be considered small entities.

17. *Competitive Local Exchange Carriers (LECs)*. Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. Providers of these services include several types of competitive local exchange service providers.⁴⁴ Wired Telecommunications Carriers⁴⁵ is the closest industry with a SBA small business size standard. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.⁴⁶ U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.⁴⁷ Of this number, 2,964 firms operated with fewer than 250 employees.⁴⁸ Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 3,956 providers that reported they were competitive local exchange service providers.⁴⁹ Of these providers, the Commission estimates that 3,808 providers have 1,500 or fewer employees.⁵⁰ Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

18. *Interexchange Carriers (IXCs)*. Neither the Commission nor the SBA have developed a small business size standard specifically for Interexchange Carriers. Wired Telecommunications Carriers⁵¹ is the closest industry with a SBA small business size standard.⁵² The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as

⁴¹ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

⁴² Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/public/attachments/DOC-379181A1.pdf>.

⁴³ *Id.*

⁴⁴ Competitive Local Exchange Service Providers include the following types of providers: Competitive Access Providers (CAPs) and Competitive Local Exchange Carriers (CLECs), Cable/Coax CLECs, Interconnected VOIP Providers, Non-Interconnected VOIP Providers, Shared-Tenant Service Providers, Audio Bridge Service Providers, Local Resellers, and Other Local Service Providers.

⁴⁵ See U.S. Census Bureau, *2017 NAICS Definition*, "517311 Wired Telecommunications Carriers," <https://www.census.gov/naics/?input=517311&year=2017&details=517311>.

⁴⁶ See 13 CFR § 121.201, NAICS Code 517311.

⁴⁷ See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFFIRM, NAICS Code 517311, <https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFFIRM&hidePreview=false>.

⁴⁸ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

⁴⁹ Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/pubId.lic/attachments/DOC-379181A1.pdf>.

⁵⁰ *Id.*

⁵¹ See U.S. Census Bureau, *2017 NAICS Definition*, "517311 Wired Telecommunications Carriers," <https://www.census.gov/naics/?input=517311&year=2017&details=517311>.

⁵² See 13 CFR § 121.201, NAICS Code 517311.

small.⁵³ U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.⁵⁴ Of this number, 2,964 firms operated with fewer than 250 employees.⁵⁵ Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 151 providers that reported they were engaged in the provision of interexchange services. Of these providers, the Commission estimates that 131 providers have 1,500 or fewer employees.⁵⁶ Consequently, using the SBA's small business size standard, the Commission estimates that the majority of providers in this industry can be considered small entities.

19. *Operator Service Providers (OSPs)*. Neither the Commission nor the SBA has developed a small business size standard specifically for operator service providers. The closest applicable industry with a SBA small business size standard is Wired Telecommunications Carriers.⁵⁷ The SBA small business size standard classifies a business as small if it has 1,500 or fewer employees.⁵⁸ U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year.⁵⁹ Of this number, 2,964 firms operated with fewer than 250 employees.⁶⁰ Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 32 providers that reported they were engaged in the provision of operator services.⁶¹ Of these providers, the Commission estimates that all 32 providers have 1,500 or fewer employees.⁶² Consequently, using the SBA's small business size standard, all of these providers can be considered small entities.

20. *Local Resellers*. Neither the Commission nor the SBA have developed a small business size standard specifically for Local Resellers. Telecommunications Resellers is the closest industry with a SBA small business size standard.⁶³ The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households.⁶⁴ Establishments in this industry resell telecommunications; they

⁵³ *Id.*

⁵⁴ See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFI, NAICS Code 517311, <https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFI&hidePreview=false>.

⁵⁵ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

⁵⁶ Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/public/attachments/DOC-379181A1.pdf>.

⁵⁷ See U.S. Census Bureau, *2017 NAICS Definition*, "517311 Wired Telecommunications Carriers," <https://www.census.gov/naics/?input=517311&year=2017&details=517311>.

⁵⁸ See 13 CFR § 121.201, NAICS Code 517311.

⁵⁹ See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFI, NAICS Code 517311, <https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFI&hidePreview=false>.

⁶⁰ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

⁶¹ Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/public/attachments/DOC-379181A1.pdf>.

⁶² *Id.*

⁶³ See U.S. Census Bureau, *2017 NAICS Definition*, "517911 Telecommunications Resellers," <https://www.census.gov/naics/?input=517911&year=2017&details=517911>.

⁶⁴ *Id.*

do not operate transmission facilities and infrastructure.⁶⁵ Mobile virtual network operators (MVNOs) are included in this industry.⁶⁶ The SBA small business size standard for Telecommunications Resellers classifies a business as small if it has 1,500 or fewer employees.⁶⁷ U.S. Census Bureau data for 2017 show that 1,386 firms in this industry provided resale services for the entire year.⁶⁸ Of that number, 1,375 firms operated with fewer than 250 employees.⁶⁹ Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 293 providers that reported they were engaged in the provision of local resale services.⁷⁰ Of these providers, the Commission estimates that 289 providers have 1,500 or fewer employees.⁷¹ Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

21. *Toll Resellers.* Neither the Commission nor the SBA have developed a small business size standard specifically for Toll Resellers. Telecommunications Resellers⁷² is the closest industry with a SBA small business size standard. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure.⁷³ Mobile virtual network operators (MVNOs) are included in this industry.⁷⁴ The SBA small business size standard for Telecommunications Resellers classifies a business as small if it has 1,500 or fewer employees.⁷⁵ U.S. Census Bureau data for 2017 show that 1,386 firms in this industry provided resale services for the entire year.⁷⁶ Of that number, 1,375 firms operated with fewer than 250 employees.⁷⁷ Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 518 providers that reported they were engaged in the provision of toll services.⁷⁸ Of these providers, the Commission estimates that

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ See 13 CFR § 121.201, NAICS Code 517911.

⁶⁸ See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFIEM, NAICS Code 517911, <https://data.census.gov/cedsci/table?y=2017&n=517911&tid=ECNSIZE2017.EC1700SIZEEMPFIEM&hidePreview=false>.

⁶⁹ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

⁷⁰ Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/pub/Id.lic/attachments/DOC-379181A1.pdf>.

⁷¹ *Id.*

⁷² See U.S. Census Bureau, *2017 NAICS Definition*, “517911 Telecommunications Resellers,” <https://www.census.gov/naics/?input=517911&year=2017&details=517911>.

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ See 13 CFR § 121.201, NAICS Code 517911.

⁷⁶ See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFIEM, NAICS Code 517911, <https://data.census.gov/cedsci/table?y=2017&n=517911&tid=ECNSIZE2017.EC1700SIZEEMPFIEM&hidePreview=false>.

⁷⁷ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

⁷⁸ Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021),

(continued...)

495 providers have 1,500 or fewer employees.⁷⁹ Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

4. Wireless Carriers and Service Providers

22. *Wireless Telecommunications Carriers (except Satellite)*. This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves.⁸⁰ Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services.⁸¹ The SBA size standard for this industry classifies a business as small if it has 1,500 or fewer employees.⁸² U.S. Census Bureau data for 2017 show that there were 2,893 firms in this industry that operated for the entire year.⁸³ Of that number, 2,837 firms employed fewer than 250 employees.⁸⁴ Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 797 providers that reported they were engaged in the provision of wireless services.⁸⁵ Of these providers, the Commission estimates that 715 providers have 1,500 or fewer employees.⁸⁶ Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

23. *Satellite Telecommunications*. This industry comprises firms "primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications."⁸⁷ Satellite telecommunications service providers include satellite and earth station operators. The SBA small business size standard for this industry classifies a business with \$35 million or less in annual receipts as small.⁸⁸ U.S. Census Bureau data for 2017 show that 275 firms in this industry operated for the entire year.⁸⁹ Of this number, 242 firms had revenue of less than

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<https://docs.fcc.gov/pubId.lic/attachments/DOC-379181A1.pdf>.

⁷⁹ *Id.*

⁸⁰ See U.S. Census Bureau, *2017 NAICS Definition, "517312 Wireless Telecommunications Carriers (except Satellite),"* <https://www.census.gov/naics/?input=517312&year=2017&details=517312>.

⁸¹ *Id.*

⁸² See 13 CFR § 121.201, NAICS Code 517312.

⁸³ See U.S. Census Bureau, *2017 Economic Census of the United States, Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPfirm, NAICS Code 517312, <https://data.census.gov/cedsci/table?y=2017&n=517312&tid=ECNSIZE2017.EC1700SIZEEMPfirm&hidePreview=false>.

⁸⁴ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

⁸⁵ Federal-State Joint Board on Universal Service, *Universal Service Monitoring Report at 26, Table 1.12 (2021)*, <https://docs.fcc.gov/pubId.lic/attachments/DOC-379181A1.pdf>.

⁸⁶ *Id.*

⁸⁷ See U.S. Census Bureau, *2017 NAICS Definition, "517410 Satellite Telecommunications,"* <https://www.census.gov/naics/?input=517410&year=2017&details=517410>.

⁸⁸ See 13 CFR § 121.201, NAICS Code 517410.

⁸⁹ See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFirm, NAICS Code 517410, <https://data.census.gov/cedsci/table?y=2017&n=517410&tid=ECNSIZE2017.EC1700SIZEREVFirm&hidePreview=false>.

\$25 million.⁹⁰ Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 71 providers that reported they were engaged in the provision of satellite telecommunications services.⁹¹ Of these providers, the Commission estimates that approximately 48 providers have 1,500 or fewer employees.⁹² Consequently using the SBA's small business size standard, a little more than of these providers can be considered small entities.

24. *Paging Services.* Paging services encompass spectrum in the lower paging bands (35-36 MHz, 43-44 MHz, 152-159 MHz, 454-460 MHz) and in the upper paging bands (929-931 MHz), and includes services provided by both private and common carriers. These services fall in the Wireless Telecommunications Carriers (*except* Satellite) industry.⁹³ Illustrative examples of services in this industry include paging services, *except* satellite; two-way paging communications carriers, *except* satellite; and radio paging services communications carriers.⁹⁴ The SBA small business size standard classifies a business in this industry as small if it has 1,500 or fewer employees.⁹⁵ U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year.⁹⁶ Of this number, 2,837 firms employed fewer than 250 employees.⁹⁷ Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 90 providers that reported they were engaged in the provision of paging and messaging services.⁹⁸ Of these providers, the Commission estimates that all 90 providers have 1,500 or fewer employees.⁹⁹ Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

25. *Wireless Telephony.* Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. The closest applicable industry with a SBA small business size standard is Wireless Telecommunications Carriers (*except* Satellite).¹⁰⁰ The size standard for this industry under SBA rules is that a business is small if it has 1,500 or fewer employees.¹⁰¹ For this industry, U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated for the

⁹⁰ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see https://www.census.gov/glossary/#term_ReceiptsRevenueServices.

⁹¹ Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/pubId.lic/attachments/DOC-379181A1.pdf>.

⁹² *Id.*

⁹³ See U.S. Census Bureau, *2017 NAICS Definition*, "517312 Wireless Telecommunications Carriers (*except* Satellite)," <https://www.census.gov/naics/?input=517312&year=2017&details=517312>.

⁹⁴ *Id.*

⁹⁵ See 13 CFR § 121.201, NAICS Code 517312.

⁹⁶ See U.S. Census Bureau, *2017 Economic Census of the United States, Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFIEM, NAICS Code 517312, <https://data.census.gov/cedsci/table?y=2017&n=517312&tid=ECNSIZE2017.EC1700SIZEEMPFIEM&hidePreview=false>.

⁹⁷ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

⁹⁸ Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/pubId.lic/attachments/DOC-379181A1.pdf>.

⁹⁹ *Id.*

¹⁰⁰ See U.S. Census Bureau, *2017 NAICS Definition*, "517312 Wireless Telecommunications Carriers (*except* Satellite)," <https://www.census.gov/naics/?input=517312&year=2017&details=517312>.

¹⁰¹ See 13 CFR § 121.201, NAICS Code 517312.

entire year.¹⁰² Of this number, 2,837 firms employed fewer than 250 employees.¹⁰³ Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 407 providers that reported they were engaged in the provision of cellular, personal communications services, and specialized mobile radio services.¹⁰⁴ Of these providers, the Commission estimates that 333 providers have 1,500 or fewer employees.¹⁰⁵ Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

26. *All Other Telecommunications.* This industry is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation.¹⁰⁶ This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems.¹⁰⁷ Providers of Internet services (e.g. dial-up ISPs) or voice over Internet protocol (VoIP) services, via client-supplied telecommunications connections are also included in this industry.¹⁰⁸ The SBA small business size standard for this industry classifies firms with annual receipts of \$35 million or less as small.¹⁰⁹ U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year.¹¹⁰ Of those firms, 1,039 had revenue of less than \$25 million.¹¹¹ Based on this data, the Commission estimates that the majority of "All Other Telecommunications" firms can be considered small.

E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

27. As indicated above, the *Report and Order* adopts rules requiring all ISPs to display, at the point of sale, labels that disclose to consumers certain information about their broadband service offerings including pricing, introductory rates, data allowances, and broadband speeds, and include links to other information on their websites about network management practices, privacy policies, the ACP, and other educational materials.

¹⁰² See U.S. Census Bureau, *2017 Economic Census of the United States, Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFIRM, NAICS Code 517312, <https://data.census.gov/cedsci/table?y=2017&n=517312&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false>.

¹⁰³ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

¹⁰⁴ Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/pub/Id.lic/attachments/DOC-379181A1.pdf>.

¹⁰⁵ *Id.*

¹⁰⁶ See U.S. Census Bureau, *2017 NAICS Definition, "517919 All Other Telecommunications,"* <https://www.census.gov/naics/?input=517919&year=2017&details=517919>.

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ See 13 CFR § 121.201, NAICS Code 517919.

¹¹⁰ See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 517919, <https://data.census.gov/cedsci/table?y=2017&n=517919&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.

¹¹¹ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see https://www.census.gov/glossary/#term_ReceiptsRevenueServices.

28. To meet the label requirements, ISPs must create a label for each of their stand-alone broadband service offerings in the format described and displayed in the *Report and Order*—one resembling the format adopted by the FDA for nutrition labels on food products. Most of the required information that ISPs must compile and display (price, performance, speed and latency, and data allowances) should already be included as part of any ISP’s advertising materials or readily available to them from the broadband data they maintain internally. In addition, ISPs must take steps to ensure that the information contained in the labels is publicly available via a dedicated URL in a machine-readable format, and that the labels include a unique identification code to assist third parties and researchers in compiling broadband data to help consumers compare service offerings amongst providers.

29. ISPs are required to display the labels at each point of sale. For purposes of displaying the required broadband labels, “point of sale” is defined as the time a consumer begins investigating and comparing broadband service offerings available at their location. Thus, the rules require ISPs to display the labels both online and through alternate sales channels (e.g., company retail locations, retail seller locations, or over the phone) and to make the labels available to consumers at each point of sale. On the provider’s website, providers must display the actual label in close proximity to the associated advertised service plan.

30. The provider must also make the label available at alternate sales channels. This could include directing the consumer to the specific website on which the label appears by, for example, providing Internet access in the retail location or giving the customer a card with the printed URL or a QR code,¹¹² or orally providing information from the label to the consumer over the phone.¹¹³ If the consumer is shopping for broadband service on the phone, the provider must read the label in its entirety to the consumer on the phone. If the consumer does not have Internet access at home or elsewhere, the provider must provide a hard copy of the label. The provider shall document each instance when it directs a consumer to a label at an alternate sales channel and retain such documentation for two years. ISPs must also ensure that the required labels are accessible to all consumers, including people with disabilities. In addition, ISPs that offer online account portals to their customers must make each customer’s label easily accessible to the customer in such portals.

31. The rules also require ISPs to maintain an archive for a period of two years of all labels in the event consumers file complaints related to the information displayed in the labels or if the Commission or other state/local regulatory authority needs to access the archived labels for other enforcement purposes.¹¹⁴ This archive must include all labels that are no longer available on the provider’s website and alternate sales channels. The archive must also include any information that evidences the accuracy of the labels’ content, such as pricing and performance data. Providers are not required to make the archived labels available to the public, but they must provide any label to the Commission or to a current customer upon request, within thirty days.

F. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

32. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small

¹¹² If, however, the consumer does not have Internet access at home or elsewhere, the ISP must ensure that the consumer can use the printed URL or QR code in its retail location.

¹¹³ In such circumstances, the provider must read the entire label to the consumer over the phone.

¹¹⁴ The archive would include each label for no less than two years from the time the label was first provided to consumers.

entities.¹¹⁵

33. The Commission considered feedback from commenters about how to minimize burdens on smaller ISPs when implementing the Infrastructure Act. Some commenters recommended that ISPs be required to aggregate the monthly cost identified on the label with any other discretionary fees and government taxes—creating an “all-in” price. The Commission considered this option and determined that providing an “all-in” cost may be difficult for ISPs because applicable government taxes often vary according to the consumer’s geographic location, and equipment rentals and installation charges may also vary. Thus, the Commission rejected an all-in cost requirement, stating that permitting ISPs to display the monthly price without taxes and other fees may lessen their administrative burdens.

34. In addition, the Commission evaluated all of the content displayed on the 2016 voluntary labels and determined that certain information either did not benefit consumers at the point of sale or could be burdensome for providers to include in the labels. The 2016 fixed broadband labels, for instance, required providers to disclose speed, latency and packet loss metrics. In the *Report and Order*, the Commission determined alternatively to eliminate the requirement to display packet loss measurements.

35. Several commenters supported requiring providers to disclose in the labels specific information related to blocking, throttling, and paid prioritization. Some argued that the network management disclosures in the 2016 labels were inadequate and urged the Commission to add content related to blocking, throttling, and paid prioritization. The Commission concluded alternatively that requiring a link to the broadband service provider’s website as a source for more information on its practices, rather than expanding the labels to address network management practices in detail, is the best approach. Similarly, some commenters asserted that the labels should include more detailed information about ISPs’ privacy practices than the 2016 labels did. The Commission determined instead that it was appropriate to adopt the 2016 label language regarding privacy and to simply require a link on the label to the service provider’s privacy policy.

36. In the *Report and Order*, the Commission considered whether the labels should be available in languages other than English. Several commenters opposed requiring providers to make labels available in multiple languages, asserting that it would be extremely cumbersome and expensive, particularly for smaller providers. While emphasizing the importance that the labels be accessible to all consumers, the Commission recognized the potential burdens on providers of translating labels into multiple languages at this time. Thus, it required providers to alternatively post the labels on websites and in any printed materials in English, as well as in any other languages in which they market their services.

37. Some commenters asked that the Commission make “fillable” PDF templates of the label available to providers to minimize the burdens on smaller providers in particular. The Commission determined to make label templates available to providers on its website and directed the Consumer and Governmental Affairs Bureau to complete work on the initial website no later than thirty days before the new label requirement becomes effective. Other commenters asked that small providers not be subject to any requirement that the label be machine readable. The record showed that the benefits of requiring that the label content be machine readable can be achieved at a low cost to providers, with no commenters providing cost data to suggest otherwise. Nevertheless, to address such concerns, the Commission determined that allowing providers to use spreadsheets to make the information available in a machine-readable format greatly minimizes any burden that a small provider might have to bear, and will be lessened even further by the fact that the Commission will provide a template of the label. The Commission also determined that the machine-readable requirement should not become effective until one year after OMB completes its review of the new information collection requirements.

¹¹⁵ 5 U.S.C. § 603(c).

38. In addition, the Commission considered whether to require ISPs to display the labels on their customers' monthly bills. It declined to do so, however, noting that the burdens on ISPs of doing so appear to outweigh the benefits to consumers. Instead, the Commission determined to require ISPs to display labels on customers' online account portals, finding that associating a label that is already displayed on the provider's primary advertising web page would not be overly burdensome. The Commission nevertheless determined that in order to allow ISPs sufficient time to make any necessary system changes, the customer online account requirement should not become effective for all providers until one year after OMB completes its review of the new information collection.

39. Finally, the Commission considered whether to exempt smaller providers from the label requirements. While it rejected such an exemption, stating that it was important to ensure that *every* consumer benefits from the labels, not just those who are served by the largest providers, it did adopt a different implementation period for providers with 100,000 or fewer subscriber lines, which will likely include substantially all small entities. Specifically, the Commission determined that these providers should have a longer time within which to come into compliance with the new label requirements and adopted a one-year implementation period for these providers. The Commission was persuaded that implementing broadband labels may require providers to complete certain tasks such as compiling the information that must be presented in the label and posting labels on their websites. Thus, the Commission concluded that additional time was warranted for these providers that are less likely to have in-house attorneys and compliance departments to assist in preparing their broadband labels and will need to engage outside legal resources to implement several proposed requirements. Finally, one commenter asked that the Commission exempt small broadband providers from the Commission's formal complaint process. The Commission stated that the formal complaint process does not apply in this context given the current classification of broadband Internet access service.

G. Report to Congress

40. The Commission will send a copy of the *Report and Order*, including this FRFA, in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act.¹¹⁶ In addition, the Commission will send a copy of the *Report and Order*, including this FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the *Report and Order* (or summaries thereof) will also be published in the Federal Register.¹¹⁷

¹¹⁶ 5 U.S.C. § 801(a)(1)(A).

¹¹⁷ *See id.* § 604(b).

APPENDIX C

Initial Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),¹ the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this Further Notice of Proposed Rulemaking (*Further Notice*). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *Further Notice* provided on the first page of this document. The Commission will send a copy of the *Further Notice*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.² In addition, the *Further Notice* and IRFA (or summaries thereof) will be published in the Federal Register.³

A. Need for, and Objectives of, the Proposed Rules

2. In the *Report and Order*, the Commission requires broadband Internet service providers (ISPs) to provide, at the point of sale, labels for fixed and mobile broadband services that contain information about prices, introductory rates, data allowances, and broadband speeds, and to provide links to other information about broadband services on their websites. The broadband labels are required by the Infrastructure Investment and Jobs Act (Infrastructure Act).⁴ The Infrastructure Act directs the Commission to require ISPs to display, in the form of labels, certain information regarding their broadband Internet access service plans, and it further provides that the labels shall make clear whether the offered price for service is an introductory rate and if so, what the consumer must pay after the introductory period ends.⁵

3. In the *Further Notice*, the Commission seeks comment on additional issues based on commenters' feedback and suggestions in response to the *NPRM*. Specifically, the *Further Notice* seeks comment on issues related to: (i) accessibility and languages, (ii) performance characteristics, including reliability and cybersecurity; (iii) network management and privacy, (iv) formatting, and (v) whether ISPs should submit label information to the Commission.

4. In order to improve and enhance accessibility for people with disabilities, the *Further Notice* seeks comment on whether the Commission should require broadband label information to be provided in Braille, large print, audibly, and in American Sign Language, as well as other formats. The *Further Notice* seeks comment on whether we should adopt specific criteria, based on the Web Content Accessibility Guidelines (WCAG), section 2.1. This section suggests providing text alternatives for any non-text content so that it can be changed into other forms people need, such as large print, braille, speech, symbols or simpler language.⁶ The WCAG also suggests providing definitions of words or phrases used in an unusual or restricted way, including idioms and jargon and abbreviations.⁷

¹ 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. § 601-612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

² 5 U.S.C. § 603(a).

³ *Id.*

⁴ The Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, 135 Stat. 429, § 60504(a) (2021) (Infrastructure Act).

⁵ Infrastructure Act § 60504(b)(1).

⁶ WCAG 2.1., section 1.1 Text Alternatives.

⁷ WCAG 2.1., sections 3.13 Unusual Words, 3.14 Abbreviations.

5. The *Report and Order* requires that the labels be provided in English and in other languages in which the provider markets its services. The *Further Notice* seeks comment on whether ISPs should be required to make the labels available in other languages, such as Spanish, Simplified Chinese, Traditional Chinese, Korean, Vietnamese, and Tagalog, or whether they should be required to translate the labels into other languages upon a consumer's request.

6. The *Report and Order* requires ISPs to disclose in the labels their typical download and upload speed measurements for each broadband service offering. The *Further Notice* seeks comment on whether the Commission should use a different metric, such as average speed, or require ISPs to disclose speeds for certain time periods. The *Further Notice* also seeks comment on additional performance characteristics that the Commission should consider requiring in the label.

7. In the *Report and Order*, the Commission adopts a requirement that ISPs include a link in their broadband labels to additional information about their network management practices. In the *Further Notice*, the Commission seeks comment on whether a link to the network management practices is sufficient or if the labels should include more specific disclosures about whether the provider engages in blocking, throttling, and paid prioritization. The *Further Notice* also seeks comment on whether the Commission should continue to require that the labels contain a link to the service provider's current privacy policy or whether they should include more detailed privacy information in the label itself. The *Further Notice* also requests that commenters address whether the label should state if the provider collects or uses consumer data for reasons other than providing broadband service, and if such information is shared with third parties.

8. In addition, the *Further Notice* seeks comment on whether the Commission should require ISPs to provide an interactive label or a drop-down menu, with more detailed information about their service offerings. The *Further Notice* also seeks comment on whether the Commission should employ focus groups, surveys, or subject experts to provide feedback on further refinements to the broadband labels. In addition, the *Further Notice* seeks comment on whether the Commission should create and post a style guide to assist providers with compliance and if so, what should be included in a style guide. The *Further Notice* also seeks comment on whether the Commission should require ISPs to provide labels for their bundled service offerings. Finally, the *Further Notice* seeks comment on whether the Commission should permit providers to submit their labels to the Commission, and whether the Commission should maintain a database of all required broadband labels, and post them on the Commission's website.

B. Legal Basis

9. The proposed rules are authorized under sections 4(i), 4(j), 13, 201(b), 254, 257, 301, 303, 316, and 332 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 163, 201(b), 254, 257, 301, 303, 316, 332, section 60504 of the Infrastructure Investment and Jobs Act, Pub. L. 117-58, 135 Stat. 429 (2021), and section 904 of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, 134 Stat. 1182 (2020).

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

10. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the rules adopted herein.⁸ The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."⁹ In addition, the term "small business" has the same meaning as

⁸ See 5 U.S.C. § 603(b)(3).

⁹ See *id.* § 601(6).

the term “small-business concern” under the Small Business Act.¹⁰ A “small-business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.¹¹

1. Total Small Entities

11. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three broad groups of small entities that could be directly affected herein.¹² First, there are industry-specific size standards for small businesses that are used in the regulatory context. These types of small businesses represent 99.9% of all businesses in the United States, which translates to flexibility analysis, according to data from the Small Business Administration’s (SBA) Office of Advocacy. In general, a small business is an independent business having fewer than 500 employees.¹³ There are 30.7 million such businesses.¹⁴

12. Next, the type of small entity described as a “small organization” is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.”¹⁵ The Internal Revenue Service (IRS) uses a revenue benchmark of \$50,000 or less to delineate its annual electronic filing requirements for small exempt organizations.¹⁶ Nationwide, for tax year 2018, there were approximately 571,709 small exempt organizations in the U.S. reporting revenues of \$50,000 or less according to the registration and tax data for exempt organizations available from the IRS.¹⁷

13. Finally, the small entity described as a “small governmental jurisdiction” is defined generally as “governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.”¹⁸ U.S. Census Bureau data from the 2017 Census

¹⁰ See *id.* § 601(3) (incorporating by reference the definition of “small-business concern” in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.”

¹¹ See 15 U.S.C. § 632.

¹² See 5 U.S.C. § 601(3)-(6).

¹³ See SBA, Office of Advocacy, “What’s New With Small Business?”, <https://cdn.advocacy.sba.gov/wp-content/uploads/2019/09/23172859/Whats-New-With-Small-Business-2019.pdf> (Sept 2019).

¹⁴ *Id.*

¹⁵ 5 U.S.C. § 601(4).

¹⁶ The IRS benchmark is similar to the population of less than 50,000 benchmark in 5 U.S.C § 601(5) that is used to define a small governmental jurisdiction. Therefore, the IRS benchmark has been used to estimate the number of small organizations in this small entity description. See Annual Electronic Filing Requirement for Small Exempt Organizations — Form 990-N (e-Postcard), “Who must file,” <https://www.irs.gov/charities-non-profits/annual-electronic-filing-requirement-for-small-exempt-organizations-form-990-n-e-postcard>. We note the IRS data does not provide information on whether a small exempt organization is independently owned and operated or dominant in its field.

¹⁷ See Exempt Organizations Business Master File Extract (EO BMF), “CSV Files by Region,” <https://www.irs.gov/charities-non-profits/exempt-organizations-business-master-file-extract-eo-bmf>. The IRS Exempt Organization Business Master File (EO BMF) Extract provides information on all registered tax-exempt/non-profit organizations. The data utilized for purposes of this description was extracted from the IRS EO BMF data for Region 1-Northeast Area (76,886), Region 2-Mid-Atlantic and Great Lakes Areas (221,121), and Region 3-Gulf Coast and Pacific Coast Areas (273,702) which includes the continental U.S., Alaska, and Hawaii. This data does not include information for Puerto Rico.

¹⁸ 5 U.S.C. § 601(5).

of Governments¹⁹ indicate that there were 90,075 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States.²⁰ Of this number there were 36,931 general purpose governments (county,²¹ municipal, and town or township²²) with populations of less than 50,000 and 12,040 special purpose governments - independent school districts²³ with enrollment populations of less than 50,000.²⁴ Accordingly, based on the 2017 U.S. Census of Governments data, we estimate that at least 48,971 entities fall into the category of “small governmental jurisdictions.”²⁵

2. Broadband Internet Access Service Providers

14. Broadband Internet access service providers, including wired (e.g., cable, DSL) and VoIP service providers using their own operated wired telecommunications infrastructure, fall in the category of Wired Telecommunication Carriers.²⁶ Wired Telecommunications Carriers are comprised of establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies.²⁷ The SBA size standard for this category classifies a business as small if it has 1,500 or fewer employees.²⁸ U.S. Census Bureau data for 2012 show that there were 3,117 firms that

¹⁹ See 13 U.S.C. § 161. The Census of Governments survey is conducted every five years, compiling data for years ending with “2” and “7.” See also Census of Governments, <https://www.census.gov/programs-surveys/cog/about.html>.

²⁰ See U.S. Census Bureau, 2017 Census of Governments – Organization Table 2. Local Governments by Type and State: 2017 [CG1700ORG02]. <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. Local governmental jurisdictions are made up of general purpose governments (county, municipal, and town or township) and special purpose governments (special districts and independent school districts). See also Table 2. CG1700ORG02 Table Notes Local Governments by Type and State_2017.

²¹ See *id.* at Table 5. County Governments by Population-Size Group and State: 2017 [CG1700ORG05]. <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. There were 2,105 county governments with populations less than 50,000. This category does not include subcounty (municipal and township) governments.

²² See *id.* at Table 6. Subcounty General-Purpose Governments by Population-Size Group and State: 2017 [CG1700ORG06]. <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. There were 18,729 municipal and 16,097 town and township governments with populations less than 50,000.

²³ See *id.* at Table 10. Elementary and Secondary School Systems by Enrollment-Size Group and State: 2017 [CG1700ORG10]. <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. There were 12,040 independent school districts with enrollment populations less than 50,000. See also Table 4. Special-Purpose Local Governments by State Census Years 1942 to 2017 [CG1700ORG04], CG1700ORG04 Table Notes Special Purpose Local Governments by State Census Years 1942 to 2017.

²⁴ While the special purpose governments category also includes local special district governments, the 2017 Census of Governments data does not provide data aggregated based on population size for the special purpose governments category. Therefore, only data from independent school districts is included in the special purpose governments category.

²⁵ This total is derived from the sum of the number of general purpose governments (county, municipal, and town or township) with populations of less than 50,000 (36,931) and the number of special purpose governments – independent school districts with enrollment populations of less than 50,000 (12,040), from the 2017 Census of Governments – Organizations Tables 5, 6, and 10.

²⁶ See U.S. Census Bureau, 2017 NAICS Definition, “517311 Wired Telecommunications Carriers,” <https://www.census.gov/naics/?input=517311&year=2017&details=517311>.

²⁷ *Id.*

²⁸ See 13 CFR § 121.201, NAICS Code 517311 (previously 517110).

operated that year.²⁹ Of this total, 3,083 operated with fewer than 1,000 employees.³⁰ Consequently, under this size standard the majority of firms in this industry can be considered small.

3. Wireline Providers

15. *Incumbent Local Exchange Carriers (Incumbent LECs).* Neither the Commission nor the SBA have developed a small business size standard specifically for incumbent local exchange carriers. Wired Telecommunications Carriers³¹ is the closest industry with a SBA small business size standard.³² The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.³³ U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year.³⁴ Of this number, 2,964 firms operated with fewer than 250 employees.³⁵ Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 1,227 providers that reported they were incumbent local exchange service providers.³⁶ Of these providers, the Commission estimates that 929 providers have 1,500 or fewer employees.³⁷ Consequently, using the SBA's small business size standard, the Commission estimates that the majority of incumbent local exchange carriers can be considered small entities.

16. *Competitive Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. Providers of these services include several types of competitive local exchange service providers.³⁸ Wired Telecommunications Carriers³⁹ is the closest industry with a SBA small business size standard. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having

²⁹ See U.S. Census Bureau, *2012 Economic Census of the United States*, Table ID: EC1251SSSZ5, *Information: Subject Series - Estab & Firm Size: Employment Size of Firms for the U.S.: 2012*, NAICS Code 517110, <https://data.census.gov/cedsci/table?text=EC1251SSSZ5&n=517110&tid=ECNSIZE2012.EC1251SSSZ5&hidePreview=false>.

³⁰ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

³¹ See U.S. Census Bureau, *2017 NAICS Definition*, "517311 Wired Telecommunications Carriers," <https://www.census.gov/naics/?input=517311&year=2017&details=517311>.

³² See 13 CFR § 121.201, NAICS Code 517311.

³³ *Id.*

³⁴ See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFI, NAICS Code 517311, <https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFI&hidePreview=false>.

³⁵ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

³⁶ Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/public/attachments/DOC-379181A1.pdf>.

³⁷ *Id.*

³⁸ Competitive Local Exchange Service Providers include the following types of providers: Competitive Access Providers (CAPs) and Competitive Local Exchange Carriers (CLECs), Cable/Coax CLECs, Interconnected VOIP Providers, Non-Interconnected VOIP Providers, Shared-Tenant Service Providers, Audio Bridge Service Providers, Local Resellers, and Other Local Service Providers.

³⁹ See U.S. Census Bureau, *2017 NAICS Definition*, "517311 Wired Telecommunications Carriers," <https://www.census.gov/naics/?input=517311&year=2017&details=517311>.

1,500 or fewer employees as small.⁴⁰ U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.⁴¹ Of this number, 2,964 firms operated with fewer than 250 employees.⁴² Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 3,956 providers that reported they were competitive local exchange service providers.⁴³ Of these providers, the Commission estimates that 3,808 providers have 1,500 or fewer employees.⁴⁴ Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

17. *Interexchange Carriers (IXCs)*. Neither the Commission nor the SBA have developed a small business size standard specifically for Interexchange Carriers. Wired Telecommunications Carriers⁴⁵ is the closest industry with a SBA small business size standard.⁴⁶ The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.⁴⁷ U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.⁴⁸ Of this number, 2,964 firms operated with fewer than 250 employees.⁴⁹ Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 151 providers that reported they were engaged in the provision of interexchange services. Of these providers, the Commission estimates that 131 providers have 1,500 or fewer employees.⁵⁰ Consequently, using the SBA's small business size standard, the Commission estimates that the majority of providers in this industry can be considered small entities.

18. *Operator Service Providers (OSPs)*. Neither the Commission nor the SBA has developed a small business size standard specifically for operator service providers. The closest applicable industry with a SBA small business size standard is Wired Telecommunications Carriers.⁵¹ The SBA small business size standard classifies a business as small if it has 1,500 or fewer employees.⁵² U.S. Census

⁴⁰ See 13 CFR § 121.201, NAICS Code 517311.

⁴¹ See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFIEM, NAICS Code 517311, <https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIEM&hidePreview=false>.

⁴² *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

⁴³ Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/public/attachments/DOC-379181A1.pdf>.

⁴⁴ *Id.*

⁴⁵ See U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* <https://www.census.gov/naics/?input=517311&year=2017&details=517311>.

⁴⁶ See 13 CFR § 121.201, NAICS Code 517311.

⁴⁷ *Id.*

⁴⁸ See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFIEM, NAICS Code 517311, <https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIEM&hidePreview=false>.

⁴⁹ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

⁵⁰ Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/public/attachments/DOC-379181A1.pdf>.

⁵¹ See U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* <https://www.census.gov/naics/?input=517311&year=2017&details=517311>.

⁵² See 13 CFR § 121.201, NAICS Code 517311.

Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year.⁵³ Of this number, 2,964 firms operated with fewer than 250 employees.⁵⁴ Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 32 providers that reported they were engaged in the provision of operator services.⁵⁵ Of these providers, the Commission estimates that all 32 providers have 1,500 or fewer employees.⁵⁶ Consequently, using the SBA's small business size standard, all of these providers can be considered small entities.

19. *Local Resellers.* Neither the Commission nor the SBA have developed a small business size standard specifically for Local Resellers. Telecommunications Resellers is the closest industry with a SBA small business size standard.⁵⁷ The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households.⁵⁸ Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure.⁵⁹ Mobile virtual network operators (MVNOs) are included in this industry.⁶⁰ The SBA small business size standard for Telecommunications Resellers classifies a business as small if it has 1,500 or fewer employees.⁶¹ U.S. Census Bureau data for 2017 show that 1,386 firms in this industry provided resale services for the entire year.⁶² Of that number, 1,375 firms operated with fewer than 250 employees.⁶³ Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 293 providers that reported they were engaged in the provision of local resale services.⁶⁴ Of these providers, the Commission estimates that 289 providers have 1,500 or fewer employees.⁶⁵ Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

⁵³ See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFIEM, NAICS Code 517311, <https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIEM&hidePreview=false>.

⁵⁴ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

⁵⁵ Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/pubId.lic/attachments/DOC-379181A1.pdf>.

⁵⁶ *Id.*

⁵⁷ See U.S. Census Bureau, *2017 NAICS Definition*, "517911 Telecommunications Resellers," <https://www.census.gov/naics/?input=517911&year=2017&details=517911>.

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ See 13 CFR § 121.201, NAICS Code 517911.

⁶² See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFIEM, NAICS Code 517911, <https://data.census.gov/cedsci/table?y=2017&n=517911&tid=ECNSIZE2017.EC1700SIZEEMPFIEM&hidePreview=false>.

⁶³ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

⁶⁴ Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/pubId.lic/attachments/DOC-379181A1.pdf>.

⁶⁵ *Id.*

20. *Toll Resellers.* Neither the Commission nor the SBA have developed a small business size standard specifically for Toll Resellers. Telecommunications Resellers⁶⁶ is the closest industry with a SBA small business size standard. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure.⁶⁷ Mobile virtual network operators (MVNOs) are included in this industry.⁶⁸ The SBA small business size standard for Telecommunications Resellers classifies a business as small if it has 1,500 or fewer employees.⁶⁹ U.S. Census Bureau data for 2017 show that 1,386 firms in this industry provided resale services for the entire year.⁷⁰ Of that number, 1,375 firms operated with fewer than 250 employees.⁷¹ Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 518 providers that reported they were engaged in the provision of toll services.⁷² Of these providers, the Commission estimates that 495 providers have 1,500 or fewer employees.⁷³ Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

4. Wireless Carriers and Service Providers

21. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves.⁷⁴ Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services.⁷⁵ The SBA size standard for this industry classifies a business as small if it has 1,500 or fewer employees.⁷⁶ U.S. Census Bureau data for 2017 show that there were 2,893 firms in this industry that operated for the entire year.⁷⁷ Of that number, 2,837 firms employed fewer than 250

⁶⁶ See U.S. Census Bureau, *2017 NAICS Definition*, “517911 Telecommunications Resellers,” <https://www.census.gov/naics/?input=517911&year=2017&details=517911>.

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ See 13 CFR § 121.201, NAICS Code 517911.

⁷⁰ See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPfirm, NAICS Code 517911, <https://data.census.gov/cedsci/table?y=2017&n=517911&tid=ECNSIZE2017.EC1700SIZEEMPfirm&hidePrevious=false>.

⁷¹ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

⁷² Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/pubId.lic/attachments/DOC-379181A1.pdf>.

⁷³ *Id.*

⁷⁴ See U.S. Census Bureau, *2017 NAICS Definition*, “517312 Wireless Telecommunications Carriers (except Satellite),” <https://www.census.gov/naics/?input=517312&year=2017&details=517312>.

⁷⁵ *Id.*

⁷⁶ See 13 CFR § 121.201, NAICS Code 517312.

⁷⁷ See U.S. Census Bureau, *2017 Economic Census of the United States, Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPfirm, NAICS Code 517312, <https://data.census.gov/cedsci/table?y=2017&n=517312&tid=ECNSIZE2017.EC1700SIZEEMPfirm&hidePrevious=false>.

employees.⁷⁸ Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 797 providers that reported they were engaged in the provision of wireless services.⁷⁹ Of these providers, the Commission estimates that 715 providers have 1,500 or fewer employees.⁸⁰ Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

22. *Satellite Telecommunications.* This industry comprises firms “primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.”⁸¹ Satellite telecommunications service providers include satellite and earth station operators. The SBA small business size standard for this industry classifies a business with \$35 million or less in annual receipts as small.⁸² U.S. Census Bureau data for 2017 show that 275 firms in this industry operated for the entire year.⁸³ Of this number, 242 firms had revenue of less than \$25 million.⁸⁴ Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 71 providers that reported they were engaged in the provision of satellite telecommunications services.⁸⁵ Of these providers, the Commission estimates that approximately 48 providers have 1,500 or fewer employees.⁸⁶ Consequently using the SBA's small business size standard, a little more than of these providers can be considered small entities.

23. *Paging Services.* Paging services encompass spectrum in the lower paging bands (35-36 MHz, 43-44 MHz, 152-159 MHz, 454-460 MHz) and in the upper paging bands (929-931 MHz), and includes services provided by both private and common carriers. These services fall in the Wireless Telecommunications Carriers (*except* Satellite) industry.⁸⁷ Illustrative examples of services in this industry include paging services, except satellite; two-way paging communications carriers, except satellite; and radio paging services communications carriers.⁸⁸ The SBA small business size standard classifies a business in this industry as small if it has 1,500 or fewer employees.⁸⁹ U.S. Census Bureau

⁷⁸ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

⁷⁹ Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/pubId.lic/attachments/DOC-379181A1.pdf>.

⁸⁰ *Id.*

⁸¹ See U.S. Census Bureau, 2017 NAICS Definition, “517410 Satellite Telecommunications,” <https://www.census.gov/naics/?input=517410&year=2017&details=517410>.

⁸² See 13 CFR § 121.201, NAICS Code 517410.

⁸³ See U.S. Census Bureau, 2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017, Table ID: EC1700SIZEREVFIRM, NAICS Code 517410, <https://data.census.gov/cedsci/table?y=2017&n=517410&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.

⁸⁴ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see https://www.census.gov/glossary/#term_ReceiptsRevenueServices.

⁸⁵ Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/pubId.lic/attachments/DOC-379181A1.pdf>.

⁸⁶ *Id.*

⁸⁷ See U.S. Census Bureau, 2017 NAICS Definition, “517312 Wireless Telecommunications Carriers (*except* Satellite),” <https://www.census.gov/naics/?input=517312&year=2017&details=517312>.

⁸⁸ *Id.*

⁸⁹ See 13 CFR § 121.201, NAICS Code 517312.

data for 2017 show that there were 2,893 firms that operated in this industry for the entire year.⁹⁰ Of this number, 2,837 firms employed fewer than 250 employees.⁹¹ Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 90 providers that reported they were engaged in the provision of paging and messaging services.⁹² Of these providers, the Commission estimates that all 90 providers have 1,500 or fewer employees.⁹³ Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

24. *Wireless Telephony.* Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. The closest applicable industry with a SBA small business size standard is Wireless Telecommunications Carriers (except Satellite).⁹⁴ The size standard for this industry under SBA rules is that a business is small if it has 1,500 or fewer employees.⁹⁵ For this industry, U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated for the entire year.⁹⁶ Of this number, 2,837 firms employed fewer than 250 employees.⁹⁷ Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 407 providers that reported they were engaged in the provision of cellular, personal communications services, and specialized mobile radio services.⁹⁸ Of these providers, the Commission estimates that 333 providers have 1,500 or fewer employees.⁹⁹ Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

25. *All Other Telecommunications.* This industry is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation.¹⁰⁰ This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems.¹⁰¹ Providers of Internet services (e.g., dial-up ISPs) or voice over Internet protocol

⁹⁰ See U.S. Census Bureau, *2017 Economic Census of the United States, Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFIEM, NAICS Code 517312, <https://data.census.gov/cedsci/table?y=2017&n=517312&tid=ECNSIZE2017.EC1700SIZEEMPFIEM&hidePreview=false>.

⁹¹ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

⁹² Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/pubId.lic/attachments/DOC-379181A1.pdf>.

⁹³ *Id.*

⁹⁴ See U.S. Census Bureau, *2017 NAICS Definition*, “517312 Wireless Telecommunications Carriers (except Satellite),” <https://www.census.gov/naics/?input=517312&year=2017&details=517312>.

⁹⁵ See 13 CFR § 121.201, NAICS Code 517312.

⁹⁶ See U.S. Census Bureau, *2017 Economic Census of the United States, Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFIEM, NAICS Code 517312, <https://data.census.gov/cedsci/table?y=2017&n=517312&tid=ECNSIZE2017.EC1700SIZEEMPFIEM&hidePreview=false>.

⁹⁷ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

⁹⁸ Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/pubId.lic/attachments/DOC-379181A1.pdf>.

⁹⁹ *Id.*

¹⁰⁰ See U.S. Census Bureau, *2017 NAICS Definition*, “517919 All Other Telecommunications,” <https://www.census.gov/naics/?input=517919&year=2017&details=517919>.

¹⁰¹ *Id.*

(VoIP) services, via client-supplied telecommunications connections are also included in this industry.¹⁰² The SBA small business size standard for this industry classifies firms with annual receipts of \$35 million or less as small.¹⁰³ U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year.¹⁰⁴ Of those firms, 1,039 had revenue of less than \$25 million.¹⁰⁵ Based on this data, the Commission estimates that the majority of “All Other Telecommunications” firms can be considered small.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

26. The *Further Notice* seeks comment on specific proposals to refine the broadband labels adopted in the *Report and Order*. These proposals could result in additional reporting and compliance requirements for ISPs.

27. The *Further Notice* seeks comment on whether to require that broadband label information be provided in Braille, large print, audibly, and in American Sign Language, as well as other formats in order to make the labels more accessible to people with disabilities.¹⁰⁶ The *Further Notice* also seeks comment on whether ISPs should be required to provide the labels in languages other than those in which they market their services, such as Spanish, Simplified Chinese, Traditional Chinese, Korean, Vietnamese, and Tagalog. In addition the *Further Notice* seeks comment on whether to require providers to translate the labels into other languages upon a consumer’s request. If additional language requirements are adopted, ISPs would be required to make the labels available in those languages.

28. The *Further Notice* seeks comment on whether there are more appropriate ways to measure speed and latency other than “typical” for purposes of the label disclosure such as average or peak speed and latency. The Commission asks whether it should require providers to add another speed metric to the label in addition to typical speed. During the proceeding, some commenters offered alternatives to typical speed measurements.¹⁰⁷ The *Further Notice* seeks comment on whether any of these proposals, or another metric, would be more useful, and on any burdens on providers of implementing such proposals. In addition, in the *Further Notice*, the Commission considers requiring additional information in the label on service reliability and cybersecurity practices. If adopted, these proposals would alter the metrics ISPs would be required to report on the broadband labels and will result in alternative recordkeeping requirements.

¹⁰² *Id.*

¹⁰³ See 13 CFR § 121.201, NAICS Code 517919.

¹⁰⁴ See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 517919, <https://data.census.gov/cedsci/table?y=2017&n=517919&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.

¹⁰⁵ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see https://www.census.gov/glossary/#term_ReceiptsRevenueServices.

¹⁰⁶ See, e.g., WCAG 2.1., section 1.1 Text Alternatives; WCAG 2.1., sections 3.13 Unusual Words, 3.14 Abbreviations.

¹⁰⁷ See, e.g., Feamster Comments at 2 (percentiles); National Broadband Mapping Coalition Comments at 3 (peak); Jordan Comments at 7, 11 (for fixed broadband service, peak, and for mobile broadband, the range from the peak usage period 25th percentile download speed to the peak usage period 75th percentile download speed, and the range from the peak usage period 25th percentile upload speed to the peak usage period 75th percentile upload speed); Schulzrinne, Johnston, Freund 4/11/22 *ex parte* at 1-2 (95th percentile); OTI Comments at 7 (median speeds for fixed and standardized range for mobile); AT&T Comments at 12 & Reply at 8 (25th and 75th percentile speeds); ASSIA Comments at 8 (average throughput for upstream and downstream).

29. In the *Further Notice*, the Commission seeks comment on whether a link to the network management practices is sufficient or if the labels should include more specific disclosures about whether the provider engages in blocking, throttling, and paid prioritization. The Commission also seeks comment on whether network management practices, either in the label or linked, should be written in a way that is clear and understandable for non-technical audiences. If the Commission adopts requirements for disclosing network management and privacy policies beyond links to the ISP's website (as is required in the *Report and Order*), ISPs will be required to display additional information in the labels, resulting in alternative reporting requirements.

30. In addition, the *Further Notice* seeks comment on whether to require ISPs to provide additional information in an interactive label, which could also include an expand option that would provide more detailed information on specific categories of information, such as pricing. Alternatively, the *Further Notice* seeks comment on whether ISPs should provide this additional information in a chart or table on their websites to assist consumers in determining what services will best meet their needs. Further, we seek comment on how to provide this same information in dissimilar sales contexts such as in-store and over-the-phone settings. If adopted, these proposals would require ISPs to comply with additional label requirements.

31. The *Further Notice* also seeks comment on whether the Commission should require ISPs to display discounts and other variables in the labels. In addition, the *Further Notice* seeks comment on whether the Commission should require ISPs to provide labels for their bundled service offerings that include broadband Internet access services. If adopted, this would require ISPs to display labels in addition to the ones required for the stand-alone broadband Internet access service.

32. Finally, several commenters proposed that the Commission give ISPs the option of submitting labels directly to the Commission instead of displaying them at the point of sale.¹⁰⁸ The Commission seeks comment on whether to allow ISPs to do so and whether to maintain a database of labels and post them on the Commission's website. Alternatively, the Commission considers whether to allow providers to seek a hardship waiver from the requirement to display labels on their websites, and only if such waiver is granted, permit them to submit their labels to the Commission. Allowing providers to submit labels to the Commission may result in some additional reporting requirements for those providers who opt to do so.

E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

33. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.¹⁰⁹

34. The Commission will evaluate the economic impact on small entities, as identified in comments filed in response to the *Further Notice* and this IRFA, in reaching its final conclusions and taking action in this proceeding.

¹⁰⁸ See, e.g., ACA Connects Comments at 12 (contending that would be particularly beneficial for very small broadband providers with little or no online presence); USTelecom Comments at 8 (the Commission should collect broadband label data from providers by allowing providers to submit all broadband labels for plans provided each year).

¹⁰⁹ 5 U.S.C. § 603(c).

F. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules

35. None.

APPENDIX D
List of Commenters
Initial Comments

Commenter	Abbreviated Name	Date Filed
AARP	AARP	3/9/22
ACA Connects—America’s Communications Association	ACA Connects	3/9/22
Adaptive Spectrum and Signal Alignment, Incorporated	ASSIA	3/4/22
ADTRAN, Inc.	ADTRAN	3/9/22
Alex (individual consumer)	Alex	1/31/22
American Council of the Blind	ACB	3/9/22
Asian Americans Advancing Justice, OCA - Asian Pacific American Advocates, and the National Council of Asian Pacific Americans	AAAJ	3/9/22
AT&T Services, Inc.	AT&T	3/9/22
Broadband Access Ohio	BAO	3/9/22
Broadband Internet Technical Advisory Group	BITAG	2/25/22
Oishee Chakrabarti, Sean Yi, and Josephine Passananti (Univ of Chicago students)	Chakrabarti, Yi, and Passananti	3/9/22
Benjamin Cheong and Yael Sulkin	Cheong and Sulkin	3/9/22
City of New York	NYC	3/9/22
David Clark and Sara Wedeman (MIT)	Clark and Wedeman	3/9/22
Cloudflare	Cloudflare	3/9/22
Competitive Carriers Association	CCA	3/9/22
Connected Nation, Inc.	Connected Nation	3/9/22
The Connecticut Office of State Broadband together with the Office of Telecommunications and Broadband within the Department of Energy and Environmental Protection's Bureau of Energy and Technology Policy	CT State Broadband Leaders	3/9/22
Consumer Reports, Public Knowledge, and Common Sense Media	Consumer Reports	3/9/22

CTIA—The Wireless Association ®	CTIA	3/9/22
Electronic Privacy Information Center	EPIC	3/9/22
Nick Feamster (Univ of Chicago professor)	Feamster	3/9/22
Fiber Broadband Association	FBA	3/9/22
Anna Claire Fields and Alex Miller	Fields and Miller	3/9/22
Galliar, Christopher	Galliar	3/15/22
Justin Hudgins and Arif Shehabuddin	Hudgins and Shehabuddin	3/9/22
Hughes Network Systems, LLC	Hughes	3/9/22
INCOMPAS	INCOMPAS	3/9/22
Institute for Local Self Reliance	ILSR	3/9/22
Jonah Kaye and Bayle Smith-Salzberg (Univ of Chicago students)	Kaye and Smith-Salzberg	3/9/22
Scott Jordan (Univ of CA professor)	Jordan	3/9/22
Brenda Li and Fumi Yoshikoshi (Univ of Chicago students)	Li and Yoshikoshi	3/9/22
Lines, Harold	Lines	1/31/22
Lumen	Lumen	3/9/22
Massachusetts Department of Telecommunications and Cable	MDTC	3/9/22
Measurement Lab	M-Lab	3/9/22
Austin Mei and Adam Leader-Smith (Univ of Chicago students)	Mei and Smith	3/9/22
National Broadband Mapping Coalition	National Broadband Mapping Coalition	3/9/22
National Digital Inclusion Alliance	NDIA	3/9/22
NCTA – The Internet & Television Association	NCTA	3/9/22
NetForecast, Inc.	NetForecast	3/8/22
New America’s Open Technology Institute	OTI	3/9/22
New York State Public Service Commission	NYPSC	3/9/22
NTCA—The Rural Broadband Association and the Wireless Internet Service Providers Association	NTCA and WISPA	3/9/22

Ohio Transparent Telecom	OhioTT	3/9/22
Panasonic Avionics Corporation	Panasonic Avionics	3/9/22
Planet Networks, Sonic, XMission, Cruzio, SandyNet, FairlawnGig, UTOPIA Fiber	Planet	3/9/22
Ranking Digital Rights	RDR	3/9/22
Smith, Dale	Smith	3/9/22
South Carolina Department of Consumer Affairs	SCDCA	3/9/22
Space Exploration Technology Corporation	SpaceX	3/9/22
Starry, Inc.	Starry	3/9/22
Taylor, Paul	Taylor	3/14/22
USTelecom –The Broadband Association	USTelecom	3/9/22
Vander Werf, Matt	Vander Werf	1/31/22
Veasey, Marc, Rep. et al	Feb. 23 Congressional Letter	2/23/22
Verizon Communications, Inc.	Verizon	3/9/22
Viasat, Inc.	Viasat	3/9/22
Williams, David	Williams	2/4/22

Reply Comments

Commenter	Abbreviated Name	Date Filed
AARP	AARP	3/24/22
ACA Connects – America’s Communications Association	ACA Connects	3/24/22
ADTRAN, Inc.	ADTRAN	3/24/22
AT&T	AT&T	3/24/22
Center for Democracy and Technology	CDT	3/24/22
CTIA – The Wireless Association	CTIA	3/24/22
The City Of Boston, Massachusetts, Texas Coalition Of Cities For Utility Issues And National Association Of Telecommunications Officers And Advisors	Boston Joint Comments	3/24/22
Fiber Broadband Association	FBA	3/24/22
Institute for Local Self Reliance	ILSR	3/24/22

Jordan, Scott	Jordan	3/24/22
Morristown Utilities Commission, Planet Networks, Sonic, XMission, Cruzio, SandyNet, FairlawnGig, UTOPIA Fiber	Morristown	3/24/22
National Rural Electric Cooperative Association	NRECA	3/24/22
NCTA – The Internet and Television Association	NCTA	3/24/22
Next Century Cities	NCC	3/24/22
NTCA – The Rural Broadband Association, Wireless Service Providers Association	NTCA and WISPA	3/24/22
Henning Schulzrinne, Walter Johnston, Andreas Freund	Schulzrinne, Johnston, Freund	3/24/22
Starry, Inc.	Starry	3/24/22
TechFreedom	TechFreedom	3/24/22
T-Mobile USA, Inc.	T-Mobile	3/24/22
U.S. Chamber of Commerce	U.S. Chamber of Commerce	3/24/22
USTelecom –The Broadband Association	USTelecom	3/24/22
Venne, Alexander Ryan	Venne	3/31/22

Ex Parte filings

Commenter	Abbreviated Name	Date Filed
Access Humboldt et al	Access Humboldt <i>ex parte</i>	11/1/22
Asian Americans Advancing Justice – AAJC; Benton Institute for Broadband & Society; Common Cause; Consumer Reports; MediaJustice; National Consumer Law Center, on behalf of its low-income clients; National Hispanic Media Coalition; New America’s Open Technology Institute; Public Knowledge; United Church of Christ Media Justice Ministry	AAAJ <i>ex parte</i>	4/27/22
ACA Connects – America’s Communications Association	ACA Connects 3/1/22 <i>ex parte</i> ACA Connects 3/29/22 <i>ex parte</i> ACA Connects 4/27/22 <i>ex parte</i> ACA Connects 5/2/22 <i>ex parte</i> ACA Connects 6/29/22 <i>ex parte</i> ACA Connects 8/19/22 <i>ex parte</i>	3/1/22 3/29/22 4/27/22 5/2/22 7/5/22 8/23/22

	ACA Connects 8/23/22 <i>ex parte</i> ACA Connects 10/11/22 <i>ex parte</i> ACA Connects 10/14/22 <i>ex parte</i>	8/23/22 10/14/22 10/18/22
Altice USA	Altice <i>ex parte</i>	8/23/22
Carnegie Mellon University/Lorrie Cranor	Cranor 8/18/22 <i>ex parte</i> Cranor 10/24/22 <i>ex parte</i>	8/22/22 10/24/22
Free Press, Consumer Reports, Next Century Cities, Common Cause	Free Press 10/25/22 <i>ex parte</i>	10/25/22
Free Press	Free Press 10/27/22 <i>ex parte</i>	10/31/22
Henning Schulzrinne, Walter Johnston, Andreas Freund	Schulzrinne, Johnston, Freund 4/11/22 <i>ex parte</i> Schulzrinne, Johnston, Freund 4/18/22 <i>ex parte</i>	4/11/22 4/18/22
INCOMPAS	INCOMPAS <i>ex parte</i>	4/13/22
NCTA – The Internet & Television Association	NCTA 1/20/22 <i>ex parte</i> NCTA 5/26/22 <i>ex parte</i> NCTA 6/16/22 <i>ex parte</i> NCTA 6/21/22 <i>ex parte</i> NCTA 9/6/22 <i>ex parte</i>	1/20/22 5/26/22 6/16/22 6/21/22 9/9/22
NTCA – The Rural Broadband Association	NTCA 5/18/22 <i>ex parte</i> NTCA 11/8/22 <i>ex parte</i> NTCA 11/9/22 <i>ex parte</i>	5/18/22 11/14/22 11/14/22
Next Century Cities, et al	NCC 4/7/22 <i>ex parte</i> NCC 5/9/22 <i>ex parte</i> NCC 6/22/22 <i>ex parte</i> NCC 8/10/22 <i>ex parte</i>	4/7/22 5/9/22 6/22/22 8/12/22
Scott Jordan	Jordan 5/10/22 <i>ex parte</i> Jordan 9/15/22 <i>ex parte</i>	5/10/22 9/16/22
Space Explorations Technologies Corp.	SpaceX 6/6/22 <i>ex parte</i> SpaceX 11/8/22 <i>ex parte</i>	6/6/22 11/8/22
USTelecom–The Broadband Association	USTelecom 4/21/22 <i>ex parte</i> USTelecom 5/25/22 <i>ex parte</i> USTelecom 6/2/22 <i>ex parte</i> USTelecom 8/16/22 <i>ex parte</i> USTelecom 8/24/22 <i>ex parte</i> USTelecom 8/30/22 <i>ex parte</i> USTelecom 8/30/22 <i>ex parte</i>	4/21/22 5/25/22 6/2/22 8/18/22 8/26/22 9/1/22 9/6/22
USTelecom–The Broadband Association, CTIA, NCTA	USTelecom 11/8/22 <i>ex parte</i> USTelecom 11/9/22 <i>ex parte</i>	11/8/22 11/14/22
WISPA – Broadband Without Boundaries	WISPA 11/2/22 <i>ex parte</i> WISPA 11/4/22 <i>ex parte</i> WISPA 11/8/22 <i>ex parte</i> (2)	11/2/22 11/7/22 11/9/22

**STATEMENT OF
CHAIRWOMAN JESSICA ROSENWORCEL**

Re: *Empowering Broadband Consumers Through Transparency*, CG Docket No. 22-2, Report and Order and Further Notice of Proposed Rulemaking (November 14, 2022)

If you walk into a grocery store and pull boxes of cereal from the shelves, you can easily compare calories and carbohydrates. That's because the black and white nutrition labels that have been on food products for decades are simple to read and easy to understand. These labels are not just iconic. They are extraordinarily useful because they help consumers make good choices.

Earlier this year at the Federal Communications Commission, we proposed to do the same thing with broadband. That's because broadband is now an essential service—for everyone, everywhere. Today, with the support of Congress in the Bipartisan Infrastructure Law, we adopt rules that, for the first time, require internet service providers to display broadband nutrition labels for both wireless and wired services.

We are borrowing the model from food products because we want to make basic information about internet service easy to understand. Going forward, our rules will require that broadband nutrition labels are fully displayed when a consumer is making a purchasing decision. That means consumers will have simple, easy-to-read facts about price, speed, data allowances, and other aspects of high-speed internet service up front. Plus, by requiring that providers display introductory rates clearly, we are seeking to end the kind of unexpected fees and junk costs that can get buried in long and mind-numbingly confusing statements of terms and conditions.

While what is on the label itself is important, it is just as critical to understand where and how these broadband labels will be available. We are requiring them to be fully displayed on the main purchasing pages that providers have online. That means they cannot be buried in multiple clicks or reduced to a link or icon that a consumer might miss. We are also making these labels accessible after a consumer makes a choice and subscribes to broadband. We require these labels to be accessible on a consumer's online account, which means they have consistent access to them when they pay their bill or engage in any other account activity online. On top of that, we are requiring these labels to be machine-readable. All of this means information about your internet service will be easy to find at any time. It will also make it easier to shop around and compare if you want to switch services.

This is important because you shouldn't have to be a lawyer to know just what is in your internet service plan or an engineer to understand just how your provider is treating your data. Broadband nutrition labels are designed to make it simpler for consumers to know what they are getting, hold providers to their promises, and benefit from greater competition—which means better service and prices for everyone.

We are now at work on the next steps to make sure these labels reach the broadband marketplace. Doing that requires review by the Office of Management and Budget under the Paperwork Reduction Act. But carriers can take a look at these requirements and get started early. Because over time, we want to refine and improve our broadband nutrition labels. That's why the agency also kicks off a further rulemaking today that asks about how to incorporate more pricing and discount data on the label itself, how to measure service reliability, and how to make broadband nutrition labels even more accessible. In the end our goal is to make the purchasing of broadband service more simple and more competitive for consumers everywhere.

**STATEMENT OF
COMMISSIONER GEOFFREY STARKS**

Re: *Empowering Broadband Consumers Through Transparency*, CG Docket No. 22-2, Report and Order and Further Notice of Proposed Rulemaking (November 14, 2022)

A consumer's ability to access clear, comprehensible, and accurate information regarding his or her broadband internet access service plan is necessary to ensure a competitive and innovative marketplace. This Order will provide consumers the transparency they need and deserve as they consider broadband options.

Our action today fulfills our statutory obligation under the Infrastructure Investment and Jobs Act (Infrastructure Act). But, the labels are a byproduct of a longer period of collaborative work between industry, public interest advocates, and the Commission—specifically the 2016 recommendation of the Commission's Consumer Advisory Committee. I want to thank all of the stakeholders that have led to the label we create today. I strongly feel that some of our best outcomes come from proceedings where different advocates work together in pursuit of the same goal.

I am excited that consumers will have an easy-to-read label with the information they need. Instead of legalese, consumers will have clear, straightforward information about a provider's service offerings, including pricing, introductory rate information, other fees, data allowances, performance metrics, and ACP participation available at the point of sale. Consumers will better understand their broadband offering, and will be empowered to more easily comparison shop when competing options exist. I fully expect that this transparency will increase competition and hopefully result in lower prices for consumers. Further, the information provided in these labels will be included as part of our Affordable Connectivity Program Transparency Data Collection, which means our action today will help broadband consumers as a whole.

And when I say consumers as a whole, I do mean everyone. I strongly support the decision to make the labels accessible for individuals with disabilities, and machine-readable. It is imperative that all Americans have access to this important information. Similarly, I am glad that when an Internet Service Provider markets service in a different language, a label in that language will be available for those consumers. And, I agree with the decision to require ISPs to offer online account portals to their customers so that a customer's label is available online on-demand.

But, this is just the first step, and we shouldn't rest on our laurels. We must continue to listen to the record to improve the labels, if necessary. So I'm glad we ask additional questions in the Further Notice. In today's world, consumers care about more than just speed. And, I continue to emphasize every chance that I can that our broadband networks must be secure. So, I look forward to seeing how the record develops regarding adding cybersecurity information to the broadband label. Publishing high-level information about cybersecurity practices as part of the label could be very valuable to consumers so they can make an individual risk assessment when selecting their broadband provider. And it can push ISPs to compete on network security, as well as speed, to the benefit of the nation.

I appreciate the work done by the many individuals, consumer advocates, industry members, trade associations, and academics, who came together to see the goals of this item through. And, I especially want to highlight and thank the fantastic Commission staff who worked diligently on this item to complete it within our statutory deadline. It has my support.