

## SUPPORTING STATEMENT

### **Part A. Justification:**

1. *Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.*

On April 30, 2010, Office of Management approved, the Commission request for emergency processing under 5 C.F.R. § 1320.13 for this collection of information critical to the National Broadband Plan (Broadband Plan) required under the American Reinvestment and Recovery Act of 2009 (ARRA), Pub. L. No. 111-5, 123 Stat 115 (2009).

The Broadband Data Improvement Act of 2008, Pub. L. No. 110-385, Stat 4096 § 103(c)(1) directs the Commission to collect information on the type of technology used to provide broadband to consumers, the price of such services, actual transmission speeds, and the reasons for non-adoption of broadband service.

This collection of information was necessary to complete research done for the Broadband Plan on key consumer issues including transparency and actual speeds and performance of broadband service. These issues are central to a number of the Broadband Plan's purposes, including “ensur[ing] that all people of the United States have access to broadband capability[;] . . . analy[zing] . . . the most effective and efficient mechanisms for ensuring broadband access by all people of the United States;” developing “a detailed strategy for achieving affordability of such service and maximum utilization of broadband infrastructure and service by the public;” and “evaluat[ing] . . . the status of deployment of broadband service, including progress of projects supported by the grants made pursuant to this section.” ARRA § 6001(k)(2).

This information collection is being revised (Revised Collection) to respond to new requirements that were initially unforeseen. Recent surveys demonstrate a majority of consumers are not able to accurately report the broadband service information approved in the First Collection. In recent discussions, broadband internet service providers (ISPs) have also noted that certain technical characteristics of broadband service may vary region to region and such information may not be available from the consumer. Relevant ISPs (ISP Partners) have offered to partner with the FCC in the testing and measurement trial by verifying certain customer information collected by SamKnows and by providing associated data not directly

available from the consumer. This information is crucial for good sample selection and analysis of results. Emergency approval of this revised collection request facilitating ISP Partners' participation will ensure that the information collected from consumers is accurate, addressing a serious data quality concern and otherwise contribute to the success of the program. This revised request is also critical to implement the programs of the National Broadband Plan (Broadband Plan) required under the American Reinvestment and Recovery Act of 2009 (ARRA), Pub. L. No. 111-5, 123 Stat 115 (2009). The Broadband Data Improvement Act of 2008, Pub. L. No. 110-385, Stat 4096 § 103(c)(1) directs the Commission to collect information on the type of technology used to provide broadband to consumers, the price of such services, actual transmission speeds, and the reasons for non-adoption of broadband service.

This revised collection of information is necessary to complete a program begun in response to keen consumer interest concerning the testing and measurement of the actual speed and performance of consumers' residential fixed broadband services. Information requested is necessary to ensure that a valid set of consumer panelists is selected and emergency approval is requested to ensure that ISP Partners' contributions are integrated in a timely fashion to maximize the collection of data originally requested. This revised collection will allow ISP Partners to support the statistical soundness of the testing and measurement methodologies and criteria used in the program. ISP Partners will confirm information about subscribers to their broadband services who are participating in the program as well as other technical and market information about the services they offer. In addition, ISP Partners will also directly support the testing operations of the program. This participation will address specific shortcoming identified by ISP Partners in recent discussions begun as part of this effort in the testing and measurement methodology and process, and improve the statistical quality of the gathering and processing of information associated with this study. Issues related to the statistical quality of the information produced by this program are central to a number of the Broadband Plan's purposes, including "ensur[ing] that all people of the United States have access to broadband capability[;] . . . analy[zing] . . . the most effective and efficient mechanisms for ensuring broadband access by all people of the United States;" developing "a detailed strategy for achieving affordability of such service and maximum utilization of broadband infrastructure and service by the public;" and "evaluat[ing] . . . the status of deployment of broadband service, including progress of projects supported by the grants made pursuant to this section." ARRA § 6001(k)(2).

As noted on the OMB Form 83i, this information collection affects individuals or households. However, the collection of personally identifiable information (PII) is not being collected, made available or accessible by the Commission but instead by third parties including SamKnows, a third party contractor, and ISP Partners.

In the initial submission to OMB, SamKnows collected PII from individuals who choose to participate in this broadband performance study. SamKnows prepared a privacy statement that describes the PII that is being collected and the privacy protections that it has established to guard the collection, uses, and disclosure of this information. The privacy and PRA disclosure statement set forth below has been modified to reflect ISP Partners' participation in the data gathering and processing of the program, and to confirm information already gathered and provide other technical and market information related to the broadband services that they offer.

### **Privacy Statement**

SamKnows, on behalf of the FCC, is collecting and storing broadband performance information, including various PII such as the street addresses, email addresses, online usage patterns, and broadband performance information from those individuals who are participating voluntarily in this test. PII not necessary to conduct this study will not be collected. Certain information provided by or collected from volunteers will be confirmed with a third party, including their ISP, to ensure a representative study and otherwise shared with third parties as necessary to conduct the program. SamKnows will not release, disclose to the public, or share any PII with any outside entities, including the FCC, except as is consistent with the SamKnows privacy policy or the terms of this agreement. See <http://www.samknows.com/broadband/privacy.php>. The broadband performance information that is made available to the public and the FCC will be in an aggregated form and with all PII removed. For more information, see the Privacy Act of 1974, as amended (5 U.S.C. § 552a), and the SamKnows privacy policy.

We have estimated that each volunteer participating in this study will assume a one hour time burden over the course of the study. Our estimate includes the time to sign-up online, connect the hardware device in the home, and periodic validation of the hardware.

2. *Indicate how, by whom and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.*

The Commission's Office of Engineering and Technology, Office of Strategic Planning and Policy Analysis (OSPPA), Consumer and Governmental Affairs Bureau (CGB) and other Commission entities will use information collected under this study to assess what actual broadband speeds and performance consumers are currently receiving from providers. Our purpose is to measure the speed of broadband services provided by ISPs across service packages and geographies, rather than assess the differences in broadband performance received by demographics. This assessment will help the Commission create

standards for broadband measurements, assess the validity of ISP performance claims, and inform future steps to increasing transparency and consumer awareness of broadband service.

3. *Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical or other technological techniques or other forms of information technology, e.g., permitting electronic submissions of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.*

The speed and performance monitoring will involve the placement of hardware devices in consumers' homes, to accurately measure the performance of fixed line broadband connections based on real-world usage. These hardware devices are controlled by a cluster of servers, which host the test scheduler and reporting database. The data is collated on the reporting platform and accessed via a reporting interface and secure FTP. In this case, information technology is used extensively to reduce burden on the panelists and ISP Partners, as all data collection will be automated after the initial installation of the hardware.

4. *Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in item 2 above.*

To our knowledge, no similar effort to collect consumer information exists in the United States, though other countries have conducted similar projects. In addition, external Internet experts have also confirmed that this information is both unique and of value to the public interest. This study seeks to collect information on actual speeds and performance of broadband connections delivered to residential customers by ISPs.

There are existing software-based tools and online tools that test consumer's broadband connections, including a set of consumer tools recently launched by the FCC in conjunction with the National Broadband Plan. However, these tools track speeds experienced by consumers, rather than speeds delivered to a residence by an ISP. This is an important distinction, as ISPs advertise speeds delivered rather than speeds experienced, which suffer from degradation outside of an ISP's control. No other dedicated panel of hardware-test meters exists today in the country.

The collection effort proposed also has specific elements focused on further network performance statistics, time of day parameters, and other elements affecting consumers' broadband experience that are not tracked elsewhere. The information to be confirmed by ISP Partners about their subscribers or technical and market data regarding the broadband services they provide is

unavailable from other sources. The information to be requested is attached to this request.

5. *If the collection of information impacts small businesses or other small entities (item 5 of OMB Form 831), describe any methods used to minimize the burden.*

Not applicable. This survey collection affects individual consumers and ISP Partners that are not small businesses or small entities.

6. *Describe the consequences to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing the burden.*

The Commission's other data collection efforts are insufficient to fully determine the extent and nature of the impact of consumers' speeds and performance characteristics.

If the information from ISP Partners under this revised collection request cannot be secured, the statistical soundness of the testing and measurement methodologies could be substantially impacted. As stated above, the need for verification information from the ISPs was not originally foreseen.

Substantial work has been done to get ready to implement the testing and measurement trial, and it is almost ready to begin. Without emergency approval of the Revised Collection request, , the delay of ISP Partners participation will seriously degrade the potential benefits of ISP's contributions, greatly lessen the amount of data that may be collected and subject the program to significant negative scrutiny.

7. *Explain any special circumstances that would cause an information collection in a manner inconsistent with the guidelines in 5 C.F.R. § 1320.5(d)(2).*

There are no special circumstances that would cause an information collection in a manner inconsistent with the guidelines in 5 C.F.R. § 1320.5(d)(2).

8. *If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 C.F.R. § 1320.5(d), soliciting comments on the information prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to those comments. Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.*

This is an emergency request. The Commission is requesting a waiver of the 60 day Federal Register notice requirement under 5 CFR § 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Upon OMB approval of this emergency request, the Commission will seek public comment while conducting all the PRA requirements for seeking a regular three-year OMB clearance.

The Commission has conducted several public meetings and actively engaged all stakeholders to incorporate broad viewpoints on the issues related to this program and the collection issues related to ISP Partner participation. *Ex parte* records of these meetings are available in the record of the related proceedings and reflect broad support from the relevant ISPs for the collaborative approach described in this revised collection request. Stakeholders to the program have agreed to be mutually bound code of conduct. The *ex parte* documents are attached to this request.

9. *Explain any decision to provide any payment or gift to respondents, other than enumeration of contractors or grantees.*

The contractor, SamKnows, developed a recruitment strategy to acquire the testing panel, based on its previous experience with the UK Government Regulator. This strategy was originally developed in conjunction with statistical experts and third party panel recruitment specialists and was approved as a methodology by FCC. This revised request will address various deficiencies raised by ISP Partners and improve the quality of the program.

SamKnows proposes to attract volunteers through a combination of:

- o The Whitebox (hardware appliance) itself being worth \$100 (being a fully functioning Netgear wireless router)
- o Free access to a consumer's own broadband performance data
- o Free access to aggregated panel data in a simplified form (once privacy considerations are addressed)

ISP Partners will receive Whitebox equipment for testing purpose, and limited support for testing facilities they provide, but will not receive payment in exchange for participation in this study, including the confirmation of subscriber information or providing of technical and market information about the services they provide.

There will be no payments in exchange for participation in this study.

10. *Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.*

No personally identifying information (PII) will be transmitted to the Commission from the contractor as a matter of vendor policy. SamKnows

maintains a series of administrative, technical, and physical safeguards to protect against the transmission of personally identifying information. At point of registrations, individuals will be given full disclosure in a “privacy statement” (as explained in Question 1 above), highlighting what information will be collected. SamKnows will also explain what information will not be collected. ISP Partners will receive personally identifying information about volunteers to confirm the validity of the information against their subscription records, but will be bound by a non-disclosure agreement that will maintain various administrative, technical, and physical safeguards to protect the information and limit its use. ISP Partners providing support to the testing program will likewise be bound to the same series of administrative, technical, and physical safeguards developed by SamKnows. In addition all third parties supporting the program directly will be bound by a “Code of Conduct” to ensure all participate and act in good faith. A current draft of the document is attached to this request.

11. *Provide additional justification for any questions of a sensitive nature.*

This information collection does not address any private matters of a sensitive nature; and as noted in Questions 1 and 10, SamKnows has prepared a privacy statement to explain the various safeguards to be used in collecting and using the PII that is collected.

12. *Provide estimates of the hour burden of the collection of information. The statement should: indicate the number of respondents, frequency of responses, annual hour burden, and an explanation of how the burden was estimated. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of the estimated hour burden, and explain the reasons for the variance.*

The total time burden for the survey is estimated at 11,000 respondents (**11,000 respondents x 1 hour per response for all participation activities = 11,000 total annual burden hours.**)

This estimate is based a 10 minute initial sign-up for the panel, 30 minutes to connect and install the hardware appliance, and two 10 minute validation contacts to be conducted by the vendor over the course of the study period.

The additional respondents include the total time burden for ISP Partners participating in the survey is estimated at 3,200 respondents (**16 potential ISP Partners x 200 hours per partner for all participation activities = 3,200 total annual burden hours.**)

This estimate is based on an estimated 160 hour processing time by a respective ISP Partner including any manual or automated processing required plus 40 hour processing time for installation and planning of optional test

nodes that may be implemented by ISP Partners. In discussions with ISP partners, it has been indicated that confirmation of consumer data can be done on a batch basis with standard data analysis techniques.

**Total Estimated Respondents: 11,016.**

**Total Estimated Responses: 11,016.**

**Total Annual Burden: 14,200 hours.**

Respondent Time Burden				
11,000 Hardware Appliances Installed in Respondent Homes/16 ISPs				
		Total minutes	Total hours	Mean minutes / person
<b>Minutes for initial sign-up</b>				
11,000	Online sign-up process	110,000	1,833	10
<b>Minutes for hardware installation</b>				
11,000	Time to connect hardware in home	330,000	5,500	30
<b>Minutes for quarterly validation</b>				
11,000	Validation of hardware on ongoing basis	220,000	3,667	20
<b>Total Time Burden</b>				
11,000	Total time for panel participants	660,000	11,000	60

13. *Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information. Do not include the cost of any hour burden shown in items 12 and 14.*

This information collection is based on a hardware appliance installed in the home to collect broadband performance information in an automated fashion. It will impose no cost burden on the participants or ISP Partners. There is no cost to the respondents.

14. *Provide estimates of annualized costs to the Federal government. Also provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff).*

An outside party administers this collection. Specifically, the Commission employs the services of SamKnows Limited to construct the respondent panel, deliver the hardware to participants, collect results, coordinate with ISP Partners, and provide statistical analysis. The total cost of the SamKnows contract which includes the original contract plus a six month extension is \$1,048,260. The Commission does not anticipate any additional costs to the Commission as a result of this collection.

15. *Explain the reasons for any program changes or adjustments reported.*

This is a revised collection supplementing the existing approval necessitated by the participation of ISP Partners resulting in a program change increase of 3,200 total annual burden hours. Therefore, the total annual burden is now estimated at 14,200 total annual hours.

16. *For collections of information whose results will be published, outline plans for tabulation and publication.*

The results of the study will be made available as part of a “US State of Broadband” report, to be delivered at the completion of the contract.

Furthermore, SamKnows will make available a public version of the real-time reporting website, which will contain summary reports of actual service coverage by region and provider. Bulk anonymized traffic data will be available for ongoing research purposes either by the Commission or outside researchers.

Information regarding ISP Partners participation in the program is discussed in various public documents including ex parte communications filed in the record for the CG Docket No. 09-158, CC Docket No. 98-170, WC Docket No. 04-36 docketed proceedings.

17. *If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reason that a display would be inappropriate.*

The Commission is not seeking continued OMB approval to not display the OMB expiration date for OMB approval of the information collection. The Commission publishes a list of all OMB-approved information collections including the OMB control numbers, OMB expiration dates and titles in 47 C.F.R. § 0.408.

18. *Explain any exceptions to the statement certifying compliance with 5 C.F.R. § 1320.9(d) and the related provisions of § 1320.8(b)(3). There are exceptions to item 19 of OMB 83i. This is an emergency request. The Commission did not publish a 60 day notice in the Federal Register due to the emergency*

nature of this request. However, the Commission will publish a 30 day notice in the Federal Register soliciting public comment on the emergency. The Commission has requested a September 30, 2010 approval, thereby allowing enough time for public comment.