

Disclosure of Network Management Practices, Preserving the Open Internet and Broadband Industry Practices, Report and Order, GN Docket No. 09-191 and WC Docket No. 07-52

A. Justification

Background

1. In 2009, the Federal Communications Commission (“Commission”) released a Notice of Proposed Rulemaking (“NPRM”) to determine whether and what actions might be necessary to preserve the characteristics that have allowed the Internet to grow into an indispensable platform supporting our nation’s economy and civic life, and to foster continued innovation and investment in the Internet’s physical networks and the content, applications, services, and devices that rely on those networks. The NPRM specifically noted the proposed information collections and sought public comment thereon.¹ The comments filed in response to the NPRM included input from more than 100,000 individuals and organizations and several public workshops. On December 21, 2010 the Commission adopted the *Preserving the Open Internet and Broadband Industry Practices Report and Order* (“*Open Internet Order*”).² The Order will help ensure that continued Internet openness and provide greater certainty to consumers, innovators, investors, and broadband providers, including the flexibility providers need to manage their networks effectively. The *Open Internet Order* builds on the Internet Policy Statement the Commission adopted in 2005. It concludes that high-level protections to ensure the continued vitality of the Internet are needed in light of instances of broadband providers interfering with the Internet’s openness, and the incentives providers may face to exert gatekeeper control over Internet content, applications, and services.

New Information Collection Requirements:

Open Internet Order, 25 FCC Rcd at 17937, para. 54.

A person engaged in the provision of broadband Internet access service shall publicly disclose accurate information regarding the network management practices, performance, and commercial terms of its broadband Internet access services sufficient for consumers to make informed choices regarding use of such services and for content, application, service, and device providers to develop, market, and maintain Internet offerings.

The new information collection requirements for which OMB approval is sought come from the transparency rule adopted in the *Open Internet Order*, which requires all broadband providers to publicly disclose, with respect to their broadband services:

1. network management practices;
2. performance characteristics; and
3. commercial terms.

These three items from the rule, collectively referred to in the supporting statement here as “network management practices,” will help ensure transparency and continued Internet openness, while making clear that broadband providers can effectively manage their networks and respond to market demands.

¹ 74 Fed. Reg. 62638 (Nov. 30, 2009).

² *Preserving the Open Internet, Broadband Industry Practices, Report and Order*, 25 FCC Rcd 17905 (2010) (“*Open Internet Order*”).

Disclosure of Network Management Practices, Preserving the Open Internet and Broadband Industry Practices, Report and Order, GN Docket No. 09-191 and WC Docket No. 07-52

This collection does not affect individuals or households; thus there are no impacts under the Privacy Act because it does not require the collection of personally identifiable information (“PII”) from individuals.

The statutory authority for the information collection requirements is contained in 47 U.S.C. Sections 151, 152, 153, 154, 201, 218, 230, 251, 254, 256, 257, 301, 303, 304, 307, 309, 316, 332, 403, 503, 522, 536, 548, and 1302.

2. To fulfill their disclosure obligation, broadband providers must post their network management practices, as defined above, on their websites, and make that information available at their point-of-sale locations. This disclosure requirement serves the following purposes: (1) ensuring that consumers of broadband services can make informed choices regarding the purchase and use of the service; (2) building consumers’ and other users’ confidence in broadband services so as to increase investment in Internet infrastructure; (3) supporting innovation, investment, and competition by ensuring that edge providers³ have the technical information necessary to create and maintain online content, applications, services, and devices, and to assess the risks and benefits of embarking on new projects; (4) increasing the likelihood that broadband providers will abide by open Internet principles, and that the Internet community will identify problematic conduct and suggest voluntary fixes; and (5) enabling the Commission to collect information necessary to assess, report on, and enforce open Internet rules. The information collection does not contain PII on individuals.
3. The proposed information disclosures will be provided over the Internet, among other means. For the purposes of the transparency rule, the Commission is open to any disclosure methodology that reduces burdens on broadband providers and improves the quality and utility of the information provided to the public.
4. CTIA argues (at 20-21) that the information collection may be duplicative of information that is already publicly available. While certain elements of the information that must be disclosed may already be available to the public at scattered locations, the information is not all currently and consistently available in a form, and at a level of detail, that serves the purposes of the open Internet transparency rule. Thus, the proposed disclosure requirements are not duplicative within the meaning of the Paperwork Reduction Act (“PRA”) and Office of Management and Budget (“OMB”) regulations.⁴
5. The impact of this disclosure requirement on small businesses or other small entities is not expected to be significant. In the Final Regulatory Flexibility Analysis (“FRFA”) performed in connection with the *Open Internet Order*, the Commission determined that the burden of compliance by small businesses will be small.⁵ The FRFA also noted steps taken by the

³ “Edge providers” are defined in the *Open Internet Order* as providers of content, applications, services, and devices accessed over or connected to broadband Internet access service. *Id.* at 17907, para. 4 n.2.

⁴ OMB PRA Guide at 42.

⁵ *Open Internet Order*, Appendix D, Final Regulatory Flexibility Analysis, 25 FCC Rcd at 18020-21, 18036-37, paras. 13-14; 52.

Disclosure of Network Management Practices, Preserving the Open Internet and Broadband Industry Practices, Report and Order, GN Docket No. 09-191 and WC Docket No. 07-52

Commission to minimize the economic impact on small entities, and significant alternatives to the collection that were considered.⁶ Several provisions, in particular, limit compliance costs. First, the *Open Internet Order* requires only that providers post disclosures on their websites, and direct consumers to such websites at the point of sale. Second, the transparency rule gives broadband providers flexibility to determine what information to disclose and how to disclose it. Third, by setting the effective date of the rules 60 days after Federal Register notice of OMB's approval of the information collection requirements contained in the rules, the Commission gave broadband providers ample time to develop cost-effective methods of compliance. Thus, the transparency rule gives broadband providers—including small entities—sufficient time and flexibility to implement the rule in a cost-effective manner. Finally, this rule provides certainty and clarity that are beneficial to broadband providers and end users, including edge providers.

6. There are no statutory consequences if such information is not disclosed by broadband providers. All broadband providers, however, are potentially subject to enforcement action by the Federal Communications Commission's Enforcement Bureau if they do not meet the applicable requirements. In addition, members of the public may file informal, or formal, complaints against providers.
7. The collections are not being conducted in any manner inconsistent with the guideline of 5 CFR Section 1320.
8. The Commission published a notice in the *Federal Register* as required by 5 CFR Section 1320.8(d) seeking comments from the public on the information collection requirements contained in this supporting statement.⁷ To date the Commission has received six comments in response to the notice.⁸ The National Cable & Telecommunications Association (NCTA), the United States Telecom Association (USTA), the Independent Telephone and Telecommunications Alliance (ITTA), the American Cable Association (ACA), MetroPCS Communications, Inc. (MetroPCS), and CTIA – The Wireless Association (CTIA) argue that the Notice did not accurately describe the extent of the information collection burdens and underestimated the additional burden hours resulting from the *Open Internet Order*.

The Estimated Burden Requires Clarification and Modification.

⁶ *Id.* at 18037, paras. 53-54.

⁷ See *Notice of Public Information Collection Being Reviewed by the Federal Communications Commission, Comments Requested*, 76 Fed. Reg. 7207 (Feb. 9, 2011). The Commission also sought comment on the PRA implications of the proposed transparency rule when it issued the *Open Internet NPRM*. See 74 Fed. Reg. 62638, 62639 (2009).

⁸ See also Letter from Ross Lieberman, Vice President of Government Affairs, ACA, *et al.*, to Marlene Dortch, Secretary, FCC, GN Docket No. 09-191, WC Docket No. 07-52 (filed June 8, 2011) (“Lieberman Letter”).

Disclosure of Network Management Practices, Preserving the Open Internet and Broadband Industry Practices, Report and Order, GN Docket No. 09-191 and WC Docket No. 07-52

The new information collection requirements from the *Open Internet Order* consist of three types of information that broadband providers must publicly disclose, with respect to their broadband services:

1. network management practices;
2. performance characteristics; and
3. commercial terms.

To further elaborate, the *Open Internet Order* went on to suggest that effective disclosure of the three aforementioned types of information would likely include “some or all” of the following specific disclosures: (1) regarding network management practices: congestion management, application-specific behavior, device attachment rules, and security measures; (2) regarding performance characteristics: a general description of system performance and the effects of specialized services, if any, on available capacity; and (3) regarding commercial terms: pricing, privacy policies, and redress options.⁹ The Commission did not provide an exhaustive list of topics that should be included in disclosures.¹⁰ Rather, the Commission concluded that “the best approach is to allow flexibility in implementation of the transparency rule, while providing guidance regarding effective disclosure models.”¹¹ The Commission advised that “[b]roadband providers should examine their network management practices and current disclosures to determine what additional information, if any, should be disclosed to comply with the rule.”¹²

On June 30, 2011, the Commission’s Enforcement Bureau and Office of General Counsel released advisory guidance regarding compliance with the *Open Internet Order*’s transparency rule (“*Advisory Guidance*”).¹³ The *Advisory Guidance* offers initial guidance intended to help those broadband providers that may be seeking additional clarification regarding specific disclosure practices that will likely satisfy the rule. The guidance includes examples of approaches to disclosure that would satisfy the transparency rule at this time, including guidance with respect to point-of-sale disclosures; service description; the extent of required disclosures; disclosure to content, applications, service, and device providers; and disclosure of security measures.

The *Advisory Guidance* addresses a number of concerns and misunderstandings raised by the parties that filed PRA comments. Below the Commission addresses the specific issues raised by these commenters and explains why some elements of the estimated burden have been modified:

- ITTA (at 4-7), MetroPCS (at 3-4), ACA (at 7), USTA (at 2, 4), NCTA (at 4-5, 8-9), and CTIA (at 2, 4, 9-16) argue that the proposed information collection is overbroad because it provides a list of possible disclosure topics and data but does not provide specific guidance as to what forms of disclosure would satisfy the transparency requirement. These commenters contend that the estimate of 10.3 hours per year to comply with the disclosure requirement significantly understates the actual burden. In its comments, NCTA (at 8-9) suggests that clarifying the transparency rule would ease concerns regarding the annual disclosure burden,

⁹ *Id.* at 17938-39, para. 56.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Enforcement Bureau Issues Advisory Guidance Regarding Compliance with Open Internet Transparency Rule*, GN Docket No. 09-191, WC Docket No. 07-52 (June 30, 2011) (“*Advisory Guidance*”).

Disclosure of Network Management Practices, Preserving the Open Internet and Broadband Industry Practices, Report and Order, GN Docket No. 09-191 and WC Docket No. 07-52

while ITTA (at 4) and MetroPCS (at 4-5) state that one of the best ways to resolve this issue would be for the Commission to offer a safe harbor for compliance with the transparency rule. As noted, the recently issued *Advisory Guidance* offers initial guidance regarding specific methods of disclosure that will be considered compliant with the transparency rule, without foreclosing other approaches to disclosure. Considering the comments received on this issue and the new *Advisory Guidance*, we adjust upward the estimated average time that it would take a broadband provider to collect, review, and disclose the information required by the transparency rule over the next 3 years to 32 hours per year for each provider—recognizing that for the largest broadband providers the actual burden may be higher than this estimate, while for small broadband providers the actual burden may be lower than this estimate.

- CTIA (at 21-22), ITTA (at 5-6), and USTA (at 17-20) argue that the Commission has not demonstrated that it has an actual plan, or the resources, to use or review the disclosed information in a timely and effective fashion. CTIA (at 21) suggests that the volume of data collected would prohibit the Commission from effectively using this data, and CTIA (at 22) and USTA (at 18) argue that these alleged deficiencies are similar to those that led OMB to reject the information collection in the Commission’s “emergency backup power” proceeding.¹⁴ We disagree. As provided in 5 CFR Section 1320.3(1), in making a determination of practical utility, OMB “will take into account whether the agency demonstrates actual timely use for the information either to carry out its functions or make it available to third-parties or the public, either directly or by means of a third-party or public posting, notification, labeling, or similar disclosure requirement, for the use of persons who have an interest in entities or transactions over which the agency has jurisdiction.”¹⁵ The transparency rule is primarily a requirement for the benefit of consumers and innovators rather than a collection of information to be submitted to the Commission. For this reason, the comparison to the emergency backup power proceeding is inapt, as there the Commission was there requiring the submission of a report, and was found to have failed to meet the burden of showing what it would do with information that was being submitted directly to it.

- CTIA (at 3-4, 5-7) and ITTA (at 1-3) argue that the Commission failed to demonstrate the benefits of the proposed information collection consistent with Executive Order 13563, concerning regulation and regulatory review.¹⁶ Although that Executive Order does not apply to the Commission as an independent agency, FCC Chairman Genachowski has stated that he expects the Commission “to perform its responsibilities consistent with its principles,”¹⁷ and the Commission is satisfied that it has met the obligation to carefully consider regulatory burdens here. The *Open Internet Order* resulted from an extensive proceeding with hundreds of hours of *ex parte* meetings between stakeholders and Commission staff, and review of a record of filings made by thousands of parties that examined the costs and benefits of the proposed rules. The Commission has adopted rules that allow flexibility in compliance. Taking into account the flexibility built into the regulations and the broad public input that allowed detailed consideration of the costs and benefits of these rules, the Commission determined that the

¹⁴ See Notice of Office of Management and Budget Action, ICR Reference Number 200802-3060-019 (Nov. 28, 2008).

¹⁵ 5 C.F.R. § 1320.3(1).

¹⁶ *Improving Regulation and Regulatory Review*, Executive Order 13563 (Jan. 18, 2011).

¹⁷ Prepared Remarks of Chairman Julius Genachowski, Federal Communications Commission, Broadband Acceleration Conference, Washington, D.C. (Feb. 9, 2011) at 4, available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-304571A1.pdf.

Disclosure of Network Management Practices, Preserving the Open Internet and Broadband Industry Practices, Report and Order, GN Docket No. 09-191 and WC Docket No. 07-52

consumer benefits of transparency outweigh the burden of requiring providers to disclose their network management practices, performance characteristics, and commercial terms.¹⁸

- USTA (at 20-21), ACA (at 1 and 10), CTIA (at ii, 2, 23-24), and MetroPCS (at 2, 4-6) argue that the FCC failed to consider the time burden placed on small companies specifically, or to make any distinctions based on the provider's size. ACA has suggested that the two main areas of concern for small providers are the extent of disclosure obligations related to network performance and the nature of disclosure obligations at the point of sale.¹⁹ The record in the open Internet proceeding consisted of many comments from a variety of entities both large and small, and in formulating its rules, the Commission considered providers of all sizes when determining what types of requirements to establish.²⁰ Furthermore, the disclosure requirements are flexible²¹ so as to alleviate burdens on providers, including small providers. The *Advisory Guidance* also addresses the concerns raised regarding small providers. The *Advisory Guidance* clarifies that, pending further developments in the broadband performance measurement project and the *Consumer Disclosure and Information* proceeding,²² fixed broadband providers that have chosen not to participate in the Commission's broadband performance measurement project may use the methodology developed through the project to measure the actual performance of their broadband offerings, or alternatively 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 such as the broadband performance measurement project.²³ As clarified in the *Advisory Guidance*, mobile broadband providers that lack reasonable access to reliable information on their network performance metrics such as mean upload and download speeds may disclose a Typical Speed Range (TSR) representing the range of speeds and latency that can be expected by most of their customers, for each technology/service tier offered, along with a statement that such information is the best approximation available to the broadband provider of the actual speeds and latency experienced by its subscribers.²⁴ Regarding point-of-sale disclosure, the *Advisory Guidance* clarifies that directing consumers orally and/or in prominently in writing to a disclosure on a broadband provider's website can satisfy the point-of-sale transparency requirement.²⁵ These clarifications substantially address the burden concerns expressed by small providers.

- USTA (at 6-12), CTIA (at 13-15), and NCTA (at 5-6) argue that the requirement to disclose actual broadband speeds cannot be satisfied with the person-hours estimated in our initial PRA calculations. The *Advisory Guidance* explains how the initial results of and methodology developed through the Commission's broadband performance measurement project can facilitate fixed broadband providers' disclosure of actual performance information with limited burden, and alternatively provides that providers may disclose actual performance information based on internal testing; consumer speed test data; or other data regarding network performance, including reliable, relevant data from third-party sources such as the

¹⁸ See *Open Internet Order*, 25 FCC Rcd at 17909-10, para. 13.

¹⁹ See Lieberman Letter at 2.

²⁰ See generally *Open Internet Order*, Appendix D, 25 FCC Rcd at 18017-38.

²¹ See *id.* at 17940-41, para 59.

²² *Consumer Information and Disclosure*, Notice of Inquiry, 24 FCC Rcd 11380 (2009).

²³ *Advisory Guidance* at 4-5.

²⁴ *Id.* at 5-6.

²⁵ *Id.* at 3-4.

Disclosure of Network Management Practices, Preserving the Open Internet and Broadband Industry Practices, Report and Order, GN Docket No. 09-191 and WC Docket No. 07-52

broadband performance measurement project.²⁶ The *Advisory Guidance* clarifies that mobile broadband providers that lack reasonable access to reliable data on their network's performance metrics such as mean upload and download speeds may choose to disclose a TSR representing the range of speeds and latency that can be expected by most of their customers, for each technology/service tier offered, along with a statement that such information is the best approximation available to the broadband provider of the actual speeds and latency experienced by its subscribers.²⁷ Even after taking account of the limited burden for fixed and mobile providers contemplated by the *Advisory Guidance*, however, the Commission believes it is appropriate to adjust the estimate of the time required to disclose actual performance information. As such, the Commission is adding additional time to the PRA burden estimate herein.

- ACA (at 7-9) states that the transparency requirements are not unlike those required by the FCC when implementing its Customer Proprietary Network Information ("CPNI") rules.²⁸ ACA observes that the Commission included time to produce and transmit the disclosure notification to consumers as part of its burden calculation for the CPNI rules, but not as part of its burden calculation for the open Internet transparency rule. The Commission concurs that additional time should be included in the burden calculation to account for time providers need to disseminate the required disclosures, such as by posting on the Internet. The PRA burden estimate herein reflects that adjustment.
- ACA (at 7-9), ITTA (at 9), and USTA (at 5, 8-12) disagree with the Commission's assessment that there is "no external cost" in providing the open Internet disclosure materials. As stated in the original PRA calculation, the Commission anticipates that providers will generally utilize in-house personnel to fulfill their disclosure obligations, which would avoid the incurrence of external expenses. Specifically, the Commission has found that most broadband providers already disclose much of the information required to comply with the rule, even if this information is not all currently and consistently available in a form, and at a level of detail, that serves the purposes of the open Internet transparency rule. The information at issue should be available to providers either from their own operations or from available public sources such as the broadband performance measurement project results (which will be publicly available before the transparency rule becomes effective). Moreover, the commenters' concerns about requiring the assistance of outside counsel appear to be based largely on uncertainties that have been addressed by the intervening *Advisory Guidance*. The FCC nevertheless expects that a small number of providers may use external resources for performance measurement, and on this account the FCC has added some external costs to the burden estimate, which were averaged into the final calculation.
- NCTA (at 6-7) argues that the hours estimate to meet the disclosure requirements is not adequate to allow satisfaction of the point-of-sale disclosure requirement. The *Advisory Guidance* clarifies that the point-of-sale disclosure requirement can be satisfied by directing consumers to a website containing the necessary information.²⁹ The Commission has also added additional time to the burden estimate to account for technical writing, which will

²⁶ *Id.* at 4-5.

²⁷ *Id.* at 5-6.

²⁸ *Telecommunications Carriers' Use of Customer Proprietary Network Information (CPNI) and Other Customer Information*, Supporting Statement, CC Docket No. 96-115, OMB 3060-0715 (Mar. 2008), available at <http://www.reginfo.gov/public/do/DownloadDocument?documentID=75758&version=1> (2008) ("CPNI Supporting Statement") (last visited April 25, 2011)

²⁹ *Advisory Guidance* at 4.

Disclosure of Network Management Practices, Preserving the Open Internet and Broadband Industry Practices, Report and Order, GN Docket No. 09-191 and WC Docket No. 07-52

include translating the performance results into a consumer friendly disclosure; training and internal communication, which will include updating staff training materials; dissemination; and management and legal review, and this time has been included in the analysis below.

- CTIA (at 16) notes that the *Open Internet Order* exempts from disclosure any information that could be used to circumvent network security, but argues that in order to determine which security measures fall into that category, mobile providers will have to make a regular and burdensome assessment of each individual security measure as it is implemented. CTIA (*id.*), MetroPCS (at 4-5), and USTA (at 12-13) also express the broader concern that every time a broadband provider deploys a new security technique, it would be forced to determine whether this new technique must be disclosed. The *Advisory Guidance* addresses this issue, and explains that providers are not expected to disclose internal network security measures, such as routing security practices, that do not bear directly on a consumer's choices.³⁰ Rather, broadband providers are expected to disclose information on security measures likely to affect a consumer's ability to access the content, applications, services, and devices or his or her choice, for example, security measures intended to prevent the spread of viruses, malware, spam, or other threats to consumers that could also prevent end users from running a mail server or web server using their broadband connection. We accordingly do not believe any adjustment to the PRA burden analysis is warranted with respect to this issue.

- NCTA (at 7-8) argues that additional time should be allowed for consideration of how a provider will meet the accessibility requirement. We do not find this is necessary, as there are many publicly available resources that can aid providers in making their web pages accessible.³¹ Accordingly, no allowance for additional time is warranted.

9. The Commission does not anticipate providing any payment or gift to respondents.
10. The Commission is not requesting that respondents submit confidential information to the Commission.
11. There are no questions of a sensitive nature with respect to the information collected. In fact, the transparency rule is fashioned specifically to avoid a mandate that providers disclose sensitive security information.³²

12. Estimates of hour burden for the collection of information are as follows:

³⁰ *Advisory Guidance* at 8.

³¹ For example, the WC3 Web Accessibility Initiative, at <http://www.w3.org/WAI/intro/wcag.php>, has developed guidelines and techniques for making web content accessible for people with disabilities, and the National Center for Digital Media, at http://ncam.wgbh.org/invent_build/web_multimedia/tools-guidelines, provides links on its website to tools and guidelines for developing accessible web pages. See also WebAIM, at <http://webaim.org>.

³² See *Advisory Guidance* at 8.

Disclosure of Network Management Practices, Preserving the Open Internet and Broadband Industry Practices, Report and Order, GN Docket No. 09-191 and WC Docket No. 07-52

Information Collection Requirements:

The rules adopted in the *Open Internet Order* require all broadband providers to publicly disclose their network management practices on their websites and at the company's point of sale of services to the consumer.

Number of Respondents: 1,477

There are approximately 1,477 broadband providers that will be required to comply with the *Open Internet Order* transparency rule.

Annual Number of Responses: 1,477 Responses

1,477 respondents x 1 posting of information on website and at point of sale = **1,477 responses**

Annual Number of Burden Hours: 1,477 respondents x 1 posting of information on website and at point of sale/respondent x 32 hours/year = **47,264 hours**

The Commission believes that most broadband providers already disclose most, and in some cases all, of the information required to comply with the rule. As calculated below, the Commission therefore estimates that complying with the transparency requirement will require an average of approximately 46.4 hours in the first year of implementation. In year two, we expect respondents will expend an average of approximately 25.1 hours to update disclosures. We expect respondents will expend an average of approximately 24.4 hours to update disclosures in year three. Thus, over the course of three years, respondents will expend an average of approximately 32 hours per year ($46.4 + 25.1 + 24.4 = 95.9 \text{ hours} / 3 = 32 \text{ hours/year}$). This average incorporates estimates for the largest broadband providers, who may incur greater burdens than the average to ensure compliance with the rule, as well as for small broadband providers, who may incur lesser burdens than the average.

Annual "In House" Cost Per Respondent: \$2,221.34

The Commission believes that the respondents will generally use "in-house" personnel whose pay is comparable to mid- to senior-level federal employees (GS12/5, GS14/5, and GS15/5, plus 30% overhead). Therefore, the Commission estimates respondents' hourly costs to be about \$52.86 for technical writers, staff administrators, and web administrators; \$74.27 for engineers; and \$87.37 for attorneys to gather and post network management practices on a website.

Year 1

17.3 Engineer hrs x \$74.27/hr = **\$1,284.87**

4.2 Technical Writer hrs x \$52.86/hr = **\$222.01**

9.7 Staff Administrator hrs x \$52.86/hr = **\$512.74**

4.2 Web Administrator hrs x \$52.86/hr = **\$222.01**

11.0 Attorney hrs x \$87.37/hr = **\$961.07**

Total = **\$3,202.70**

Year 2

Disclosure of Network Management Practices, Preserving the Open Internet and Broadband Industry Practices, Report and Order, GN Docket No. 09-191 and WC Docket No. 07-52

9.6 Engineer hrs x \$74.27/hr = **\$712.99**

2.1 Technical Writer hrs x \$52.86/hr = **\$111.01**

4.8 Staff Administrator hrs x \$52.86/hr = **\$253.73**

2.1 Web Administrator hrs x \$52.86/hr = **\$111.01**

6.5 Attorney hrs x \$87.37/hr = **\$567.91**

Total = **\$1,756.65**

Year 3

8.9 Engineer hrs x \$74.27/hr = **\$661.00**

2.1 Technical Writer hrs x \$52.86/hr = **\$111.01**

4.8 Staff Administrator hrs x \$52.86/hr = **\$253.73**

2.1 Web Administrator hrs x \$52.86/hr = **\$111.01**

6.5 Attorney hrs x \$87.37/hr = **\$567.91**

Total = **\$1,704.66**

Average Annual Cost = (\$3,202.70 + \$1,756.65 + \$1,704.66) / 3 years = \$2,221.34

Total Annual Number of Respondents: 1,477 respondents

Total Annual Number of Annual Reponses: 1,477 responses

Total Annual Burden Hours: 47,264 hours

Total Annual "In-House" Costs Per Respondent: \$2,221.34

13. Although we expect most reporting requirements will be met by respondents' "in-house" staff, some of the larger respondents may have external costs for deploying their own performance measurement testing program. The Commission makes the following estimate for external costs for large wireline broadband providers, who the Commission expects may choose to deploy their own performance measurement testing program using techniques similar to those used in the Commission's recent broadband performance measurement project (and 13 of whom participated in the broadband performance measurement project and may, for some period of time, choose to use the results of that project for disclosure of their actual performance):

(a) Total annualized capital/start-up costs for all respondents who will have these costs: **\$50,000**

Disclosure of Network Management Practices, Preserving the Open Internet and Broadband Industry Practices, Report and Order, GN Docket No. 09-191 and WC Docket No. 07-52

The Commission estimates that some providers will invest in consumer premises testing equipment, such as home router measurement devices. (The Commission estimates that most respondents will not make such investments and will have no capital costs.)

400 measurement devices x \$25 per device = \$10,000 capital cost per respondent who will have this capital cost.

\$10,000 capital cost per respondent / 5 year lifespan of devices = \$2,000 in annualized costs per respondent who will have this capital cost.

\$2,000 capital costs per respondent x 25 respondents = \$50,000 in total annualized capital/start-up costs for all respondents who will have this capital cost.

(b) Total annual cost (Operation & Management) for all respondents who will have this annual cost: **\$421,600**

Year 1

\$14,400 server lease costs + \$6,000 consumer panel maintenance costs = \$20,400 annual costs per respondent who will have this annual cost

\$20,400 annual costs per respondent x 12 respondents = \$244,800

Year 2 & 3

\$14,400 server lease costs + \$6,000 consumer panel maintenance costs = \$20,400 annual costs per respondent who will have this annual cost

\$20,400 annual costs per respondent x 25 respondents = \$510,000

Average annual cost (Operation & Management) for all respondents who will have this annual cost:

$(\$244,800 + \$510,000 + \$510,000) / 3 = \$421,600$

(c) **Total Annual External Cost for All Respondents:** \$50,000 + \$421,600 = **\$471,600**

14. The Commission has determined there are no costs to the Federal Government for requiring respondents to comply with those requirements.

15. This is a new collection of information. The burden estimates are different from those originally calculated by the Commission in light of our review of those estimates after receiving public comments.

16. There are no plans to publish the result of the collection of information.

17. The Commission is not seeking approval to not display the expiration date for OMB approval of the information collection because the collection does not include a form number.

Disclosure of Network Management Practices, Preserving the Open Internet and Broadband Industry Practices, Report and Order, GN Docket No. 09-191 and WC Docket No. 07-52

18. The Commission published a notice in the Federal Register on February 9, 2011 (76 FR 7207) seeking comments for a 60-day time period on the information collection requirements that are contained in this supporting statement. The Commission estimated the following numbers in the notice: the number of respondents as 1,519; the number of responses as 1,519; the estimated time per response as 10.3 hours; the annual burden hours of 15,646; and no external costs. The Commission revises these figures with this submission to OMB. The revised estimated numbers are as follows: the number of respondents is 1,477; the number of responses is 1,477; the estimated time per response is 32 hours; the annual burden hours is 47,264; and the total external annual cost burden is \$471,600 for all respondents. There are no other exceptions to the Certification Statement in ROCIS.

B. Collections of Information Employing Statistical Methods

The Commission does not anticipate that the collection of information will employ any statistical methods.