

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC**

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

**REPLY COMMENTS OF THE FIBER BROADBAND ASSOCIATION**

The Fiber Broadband Association (“FBA”)<sup>1</sup> hereby submits this reply to comments in response to the Notice of Proposed Rulemaking (“NPRM”) issued by the Federal Communications Commission (“Commission”) in the above-captioned proceeding.<sup>2</sup> The NPRM seeks to implement Section 60504(a) of the Infrastructure Investment and Jobs Act, which directs the Commission to adopt regulations requiring the display of broadband consumer labels.<sup>3</sup>

**I. INTRODUCTION**

FBA’s initial comments were directed solely to one issue: expanding the content of the label to include the type of network technology over which the broadband Internet access

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<sup>1</sup> FBA is a not for profit trade association with more than 350 members, including telecommunications, computing, networking, system integration, engineering, and content-provider companies, as well as traditional service providers, utilities, and municipalities. Its mission is to accelerate deployment of all-fiber access networks to ensure digital equity and enable every community to leverage economic and societal benefits that only fiber can deliver. A complete list of FBA members can be found on the organization’s website: <https://www.fiberbroadband.org/>.

<sup>2</sup> *Empowering Broadband Consumers Through Transparency*, CG Docket No. 22-2, Notice of Proposed Rulemaking (rel. Jan. 27, 2022).

<sup>3</sup> The Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, 135 Stat. 429, § 60504(a) (2021) (“Infrastructure Act”).

(“broadband”) service is provided. Consumers choose a broadband service provider, in part, based on whether the network technology is all-optical fiber, hybrid fiber/coaxial cable, fixed wireless, xDSL, or satellite. The Commission too recognizes that the type of network technology is important to consumers and relevant to the provision of broadband service. The Commission, for instance, requires that providers identify their network technology when collecting and reporting their broadband availability data.<sup>4</sup> In these reply comments, we focus on the need for a clear, understandable broadband consumer label, and the importance of including network technology in that label.

## **II. THE COMMISSION HAS SUFFICIENT AUTHORITY TO AMEND THE 2016 BROADBAND CONSUMER LABEL AND SHOULD USE THIS AUTHORITY TO PROVIDE A CLEAR, UNDERSTANDABLE, AND USEFUL LABEL**

Most commenters agree that freezing the content of the labels as they were approved in 2016 would run counter to the aim of the statute to provide consumers with sufficient information to make educated decisions about choosing a broadband service because the provision of broadband service is not static.<sup>5</sup> Additionally, the statute’s use of the term “as

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<sup>4</sup> See e.g., *Technology Codes Used in Fixed Broadband Deployment Data*, FEDERAL COMMUNICATIONS COMMISSION, available at <https://www.fcc.gov/general/technology-codes-used-fixed-broadband-deployment-data>; *Establishing the Digital Opportunity Data Collection et al.*, WC Docket No. 191-95 *et al.*, Second Report and Order and Third Further Notice of Proposed Rulemaking, 35 FCC Rcd 7460, 7465-7473 paras. 12-31 (2020), in which the Commission sets forth different broadband availability reporting requirements based on different technologies.

<sup>5</sup> See, e.g., Comments of CTIA, CG Docket No. 22-2 at 7 (Mar. 9, 2022) (“CTIA Comments”); Comments of Lumen, CG Docket No. 22-2, at 3 (Mar. 9, 2022) (“While it is not required to adopt that template verbatim, the requirements adopted by the Commission here should not exceed its scope.”); Comments of Consumer Reports *et. al.*, CG Docket No. 22-2 at 3 (Mar. 9, 2022) (“Consumer Reports Comments”); Open Technology Institute Comments, CG Docket No. 22-2 at 6 (Mar. 9, 2022) (“We support the Commission’s proposal to use the 2016 label as a baseline for the new label. However, consumer behavior and the market have changed over the past six years in ways that necessitate content changes . . . Additionally, the infrastructure law makes the

described” in the 2016 Public Notice<sup>6</sup> gives the Commission sufficient authority to adjust the content of the label.

The Commission should exercise this authority to provide the most relevant information to consumers in a clear and understandable manner. In its comments, Consumer Reports highlighted that “Consumers will benefit greatly from the kind of common-sense transparency . . . that this label will offer.”<sup>7</sup> Similarly, the Open Technology Institute argued that the label should “help consumers understand what they are paying for” and enable them to “comparison-shop.”<sup>8</sup> Providing information regarding the network technology – whether it is all-fiber, hybrid fiber-coax, fixed wireless, DSL, or satellite – is relatively easy to accomplish, is consistent with the need to keep the label simple for consumers to comprehend,<sup>9</sup> and is the type of transparency and clarity from which consumers would benefit in considering which provider to select.

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label mandatory—an important change from 2016, when the label was voluntary.”)  
 (“OTI Comments”).

<sup>6</sup> *Consumer and Government Affairs, Wireline Competition, and Wireless Telecommunications Bureaus Approve Open Internet Broadband Consumer Labels*, Public Notice, GN Docket No. 14-28, DA 16-357 (Apr. 4, 2016) (noting that the Commission has sufficient flexibility to adjust the content of the labels so long as any change is consistent with the statutory directive to disclose information regarding broadband service plans and with the overall format and appearance of the labels).

<sup>7</sup> Consumer Reports Comments, at 3.

<sup>8</sup> OTI Comments at 4.

<sup>9</sup> See CTIA Comments at 2 (“Simplicity is critical. Consumers deserve access to the information necessary to make an informed decision, but overwhelming people with too much information will make the labels less useful and result in customer confusion.”); see also Comments of Starry, Inc., CG Docket No. 22-2, at 6 (Mar. 9, 2022) (“Limiting the information in ISPs’ broadband labels to the information that is directly pertinent to the average consumers’ purchasing decision will make it easy for consumers to obtain and review the pertinent information about available broadband service offerings, which increases the likelihood that consumers will review their options and ultimately subscribe to a broadband service offering that meets their needs. Simplicity is important.”) (“Starry Comments”).

### III. BECAUSE CONSUMERS VALUE KNOWING THE BROADBAND NETWORK TECHNOLOGY, THE COMMISSION SHOULD INCLUDE THAT INFORMATION IN THE BROADBAND CONSUMER LABEL

FBA renews its recommendation that the Commission should add a single line about “Network Technology,” which should reflect the Technology Codes it uses to collect and report data for Form 477 and Digital Opportunity Data Collection.<sup>10</sup> Our proposal is based on substantial evidence that consumers rely upon information about network technology in selecting a broadband service.<sup>11</sup> In addition to the evidence we presented in our initial comments, we note that a 2021 Consumer Reports buying guide,<sup>12</sup> a well-known and relied upon resource, provided comparisons of broadband service based on technologies available in the United States. Moreover, a Fierce Telecom article discussing “top” broadband providers emphasized the network technology over which each provider’s service was offered,<sup>13</sup> as did CableTV.com’s

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<sup>10</sup> Comments of the Fiber Broadband Association, CG Docket No. 22-2, at 3 (Mar. 9, 2022).

<sup>11</sup> *Id.* at 4-5 (Mar. 9, 2022); *see also*, Starry Comments at 2. Starry argues that the Commission should “Focus the content on the types of information that today’s average consumer reasonably considers when selecting a broadband service offering.” FBA notes that in another proceeding, *Report on the Future of the Universal Service Fund*, Hughes Network Systems, LLC claimed, “Consumers are not concerned about which technology they are using, only that they receive affordable, reliable high-speed broadband services,” and it cited a study it commissioned, which benchmarked speeds at only 100/20 Mbps, as support. (Comments of Hughes Network Systems, LLC, WC Docket No. 21-476, at 8 (Feb. 17, 2022).) Rather than rely solely on commissioned study analyzing limited parameters, FBA relies on the evidence from the market and urges the Commission to base its decision on the fact that consumers’ demands for service are demonstrably based in part on the network technology used to transmit it and that broadband providers recognize this reality in building networks.

<sup>12</sup> See *Telecom Service Buying Guide*, CONSUMER REPORTS (Sept. 17, 2021) <https://www.consumerreports.org/cro/telecom-services/buying-guide/index.htm> (comparing cable, fiber, DSL, and satellite technologies).

<sup>13</sup> Diana Goovaerts, *You’d be surprised who the top ISPs in the U.S. are, according to FCC data*, FIERCE TELECOM (Aug. 13, 2021, 10:46 AM), available at <https://www.fiercetelecom.com/operators/you-d-be-surprised-who-top-isps-u-s-are-according-to-fcc-data>. The article, for instance, mentioned, “But Google Fiber was near

recent ranking of providers.<sup>14</sup> Finally, as further testament to importance of identifying the network technology, a group of Representatives from the House Energy and Commerce Committee, in a letter to the National Telecommunications and Information Administration, asked that the agency prioritize funding for “fiber networks and other technologies that can be scalable to meet the speeds that consumers demand in the future.”<sup>15</sup> In sum, knowing which network technology is used to deliver broadband service counts, and the broadband consumer label should reflect that reality.

#### IV. CONCLUSION

Ultimately, when selecting a broadband provider, consumers recognize that there are differences in network technologies delivering broadband service and use that information in their decision-making. FBA urges the Commission to include specific network technology information in its broadband consumer label.

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the top in terms of what percentage of an operator’s footprint is covered with fiber, with 92.7%. It was beaten only by WideOpenWest (WOW!), which covered 96.4% of its footprint with fiber, though WOW! told CNET it needed to verify the accuracy of that data. Behind Google Fiber was Verizon with 64.3%. Fiber service was available to about half of Ziply’s footprint, and roughly a third of the service areas of CenturyLink (38.3%), Frontier (33.1%) and AT&T (30.2%).”

<sup>14</sup> Rachel Oaks, *Five Best Internet Providers 2022*, CABLETV.COM (Mar. 17, 2022) (“We always recommend getting fiber internet if it’s in your neighborhood because you’ll get the best internet performance and it’ll be much better than cable or DSL internet.”) available at <https://www.cabletv.com/blog/best-internet-providers>.

<sup>15</sup> Letter from Frank Pallone, Jr, Chairman, House Energy and Commerce Committee, Mike Doyle, Chairman, Subcommittee on Communications and Technology, et al., to the Honorable Alan Davidson, Assistant Secretary of Commerce for Communications and Information, National Telecommunications and Information Administration, (Mar. 21, 2022) available at <https://energycommerce.house.gov/newsroom/press-releases/ec-democrats-outline-priorities-on-implementation-of-bipartisan>.

Respectfully Submitted,



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March 24, 2022