

**FCC Consumer Advisory Committee  
Recommendation  
Broadband Consumer Disclosures**

**Section I. Background**

On March 12, 2015, the Commission released an order Protecting and Promoting the Open Internet, Report and Order on Remand, Declaratory Ruling, and Order, 30 FCC Rcd 5601 (2015), as published in the Federal Register 80 FR 19737 (April 13, 2015) (hereinafter the “OIO”).

In the OIO Paragraph #156, the FCC, in order to enhance the existing transparency rules, adopted a voluntary safe harbor for a standalone disclosure format that broadband providers may use in meeting the existing requirement to disclose information that meets the needs of end users.

In Paragraph #179, the OIO states it is establishing a voluntary safe harbor for the format and nature of the required disclosure to consumers.

To take advantage of the safe harbor, a broadband provider must provide a consumer-focused, standalone disclosure.

The OIO did not mandate the exact format for the disclosures, but rather sought the advice of the Commission’s Consumer Advisory Committee (CAC) composed of both industry and consumer interests, including those representing people with disabilities.

*“We {the Commission} find(s) that the Committee’s experience with consumer disclosure issues makes it an ideal body to recommend a disclosure format that should be clear and easy to read—similar to a nutrition label—to allow consumers to easily compare the services of different providers. We believe the CAC is uniquely able to recommend a disclosure format that both anticipates and addresses provider compliance burdens while ensuring the utility of the disclosures for consumers.”*

In Paragraph #180 of the OIO, the FCC directed the CAC to formulate and submit to the Commission a proposed consumer facing disclosure format, based on input from a broad range of stakeholders, within six months of the time that its new membership is reconstituted, but, in any event, no later than October 31, 2015. The disclosure format must be accessible to persons with disabilities and finally, the CAC was to consider whether to propose the same or different formats for fixed and mobile broadband providers.

**Section II. CAC Established**

Immediately following the appointment of the new members to the CAC, a Task Force was established to work on the Broadband Consumer Disclosure (BCD) formats. The

CAC Chair appointed ten members to the Disclosure Task Force from within the CAC Membership, representing a broad range of stakeholders (fixed and wireless providers, cable providers, consumer group representatives, and a disability group representative.).

The Task Force initiated meetings in May, and met at least once a week or more for 90 minutes per meeting, for a total of about 22 meetings. All meetings were open to any member of the CAC and a call-in line was provided for every meeting with advance notice to allow for maximum participation. FCC staff members also were welcome to attend Task Force meetings, and served as valuable resources at various points during the discussions on technical matters related to the OIO.

The Task Force received an early briefing and PowerPoint on the details of the OIO and the BCD format requirements.

### **Section III. Recommended Broadband Consumer Disclosure Formats**

The CAC recommends two distinct disclosure formats for consumers of broadband services.

- 1) Fixed Broadband Consumer Disclosure
- 2) Mobile Broadband Consumer Disclosure

Consistent with the Commission's delegation to the CAC, the CAC adopted two versions of a recommended disclosure format, one for providers of fixed broadband service and one for providers of mobile broadband service.

Both the fixed and mobile disclosures provide consumers information for broadband services offered by providers. The OIO rules govern broadband, and therefore it makes sense for the disclosures to provide information about broadband services, rather than a host of other products, services and bundles.

Following the language delegating responsibility to the CAC to develop a "clear and easy to read" format that would enable "consumers to easily compare the services of different providers," the CAC focused its attention on creating a format that would be helpful to consumers during the purchasing process. While there also are disclosure-related issues that may arise after a customer makes a purchase decision, the CAC concluded that focusing on the shopping period was most faithful to the responsibility that was delegated.

The Open Internet Order requires service providers to disclose a wealth of information about their services. The CAC focused on identifying the most critical pieces of information for consumers to know and how to present them in a "clear and easy to read" style as requested by the Commission. This disclosure does not negate any other disclosure requirements included in the OIO.

At a high level, the recommended BCD formats track the three main types of information the Commission requires broadband providers to disclose: Price and Commercial Terms; Performance; and Network Management.

### Price and Commercial Terms

*Fixed BCD elements include:*

**Pricing:** The BCD must include the non-promotional, month-to-month price for stand-alone broadband service (i.e., not bundled with other services such as multichannel video or voice). Additionally a participating provider may include monthly prices offered in conjunction with a contract or commitment and show the term associated. Focusing on broadband standalone pricing makes comparison between providers easier and adds much needed transparency to broadband pricing. Currently it can be difficult for consumers to find broadband only pricing, as over the top services continue to proliferate clarity in broadband pricing will benefit consumers in the marketplace. Each service or speed tier may have its own BCD, however a provider may choose to include multiple service offerings on a single form.

For broadband services only offered in conjunction with a separate required service the monthly price shown must be inclusive of all required costs. For example, if a consumer must purchase phone service to get DSL service the price shown must include both service charges.

A link may be provided to promotions and bundled service offerings.

**Monthly Data Allowance:** If applicable, usage allowances should be identified

**Overage Charges:** If applicable, additional charges or consequences for exceeding the usage allowance must be shown. Monetary costs or service experience changes may be listed. For example, \$10 per additional GB or “Speeds may be reduced.”

**Equipment Fees:** Identify any equipment rental or purchase charges. The disclosure should include a link to the provider’s policy for customers that choose to use their own equipment and permitted equipment.

**Other Monthly Fees:** All recurring fees associated with the service should be identified other than taxes and other fees associated with government programs. Examples could include any negative option fees a carrier may charge for insurance plans, administrative fees or regulatory recovery fees.

**One Time Fees:** All non-recurring fees the provider charges in connection with the purchase of broadband service, e.g., installation fees or activation fees.

**Early Termination Fees:** (or cancel/disconnect fee) Any fees a provider charges to cancel or end service should be disclosed, if applicable.

*Mobile BCD elements include:*

**Pricing:** The Mobile BCD must include price offerings based on the data allowance of a single line smartphone service plan; this could either be a speed tier based allowance or more traditional usage allowance. Providers may include multiple data allowance offerings on a single BCD. The Mobile BCD may also be used for multiline plan offerings.

A link may be provided to promotions and other service offerings.

**When You Exceed Data Allowance:** This should provide information about what happens if a consumer goes over their allowance. If applicable, additional charges or consequences for exceeding the usage allowance. Monetary costs or service experience changes may be listed. For example, \$10 per additional GB or “Speeds may be reduced.”

**Other Included Services/Features:** Since mobile broadband access is almost exclusively sold with the inclusion of minutes, texts and other elements this space allows those inclusions to be highlighted. Examples might be: Unlimited talk and text, 500 minutes and 500 texts per month, unlimited music streaming, tethering, etc.

**Other Monthly Fees:** All recurring fees associated with the service should be identified other than taxes and other fees associated with government programs. Examples could include any negative option fees a carrier may charge for insurance plans, administrative fees or regulatory recovery fees.

**One Time Fees:** All non-recurring fees the provider charges in connection with the purchase of broadband service, e.g., installation fees or activation fees.

**Service Contract term:** If applicable, the length of the agreement will be shown

**Early Termination Fees:** (or cancel/disconnect fee) Any fees a provider charges to cancel or end service should be disclosed, if applicable

**Bring Your Own Device:** Answer yes or no with a link to the policy applicable to consumers that provide their own device and device compatibility requirements.

A link to the provider’s customer agreement may also be included

### Performance

*Fixed BCD elements include:*

- **Average Speed – Downstream and Upstream**
- **Average Latency**
- **Average Packet loss**

The information provided is intended to represent actual average performance of the service during peak usage periods. Companies that participate in the Measuring Broadband America (MBA) program may include information derived from their MBA results. Providers that do not participate in the MBA program may develop estimates using any method consistent with the 2011 OGC/EB Advisory or other guidance issued by the Commission, but the provider must include numbers for each of the four categories and may not simply provide a link to an online speed test. DSL providers should include a statement indicating that distance from the central office may affect performance.

**Other Services on Network:** If applicable, providers also should include a statement explaining that the use of non-BIAS data services could impact broadband performance and a link to additional details.

*Mobile BCD elements include:*

**Typical Speed:** Downstream and upstream speed should be shown for the primary network technology (e.g. LTE, 4G) as well as other technologies that the plan operates on. Consistent with the 2011 OGC/EB Advisory and any other guidance issued by the Commission, providers should identify typical peak period download and upload speeds based on results from the Measuring Broadband America program, internal testing, or any other measurement of past performance for this network technology that is consistent with FCC guidance.

**Typical Latency:** Latency information should be provided for all network technologies included on the BCD. Consistent with the 2011 OGC/EB Advisory and any other guidance issued by the Commission, providers should identify typical peak period latency based on results from the Measuring Broadband America program, internal testing, or any other measurement of past performance for this network technology that is consistent with FCC guidance.

A link to the providers coverage map should be included.

**Other Services on Network:** If applicable, mobile providers also should include a statement explaining that the use of non-BIAS data services could impact broadband performance and a link to additional details.

### Network Management

*Fixed and Mobile BCD elements include:*

**Application-specific Network Management Practices:** Answer yes or no and provide a link to a full explanation of those practices, if applicable.

**Subscriber-triggered Network Management Practices:** Answer yes or no and provide a link to a full explanation of those practices, if applicable.

A link to the provider's detailed disclosure of network practices

**Privacy Policy:** Links should be provided to the provider's privacy policy

**Complaint/Inquiries:** Links and phone numbers for the provider's customer service center and the FCC's complaint center.

Link to the FCC site providing definitions for terms on the BCDs and other relevant open Internet information.

#### **Section IV. Design of the Disclosures**

In addition to identifying specific information that should be included to qualify for the safe harbor, the Task Force also discussed how such information should be presented to consumers. The primary focus of these discussions was how such disclosures should be presented on company websites because that is the primary means by which consumers are likely to compare competing offerings. Hard copies should be made available in retail and other consumer facing locations. The Task Force also consulted with representatives of the Consumer Financial Protection Bureau with expertise in the presentation of consumer disclosures in the financial industry (e.g., credit cards, mortgages, prepaid cards) to gain insight into issues such as formatting and text size. In the attached disclosure documents, we incorporated recommendations from the CFPB, including use of a simple typeface, legible font size, and ample white space. While we do not prescribe specific format requirements, we expect participating providers to follow these general principles in designing the Broadband Consumer Disclosure.

#### **Section V. Disability Access**

To be eligible for the safe harbor, the OIO requires the Broadband Consumer Disclosure to be accessible to people with disabilities. Participating providers can best ensure accessibility to printed and online information by relying on well-established legal requirements included in the Americans with Disabilities Act and by following the guidance developed by the  Web Accessibility Initiative, as described below. Relying on these approaches provides the best likelihood of ensuring that consumers with disabilities will be able to access the information about broadband services.

For information distributed in print:

The Americans with Disabilities Act (ADA) requires public accommodations to provide auxiliary aids and services when necessary to ensure effective communication. When providing the Broadband Consumer Disclosure in print form at retail locations, participating broadband providers are expected to 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, Brailled materials, large print materials, or other effective methods of making visually delivered materials available to individuals with visual impairments." 28 CFR Sec. 36.303, at <http://www.ada.gov/reg3a.html>. A provider may deliver printed materials to a consumer by e-mail if such an approach is acceptable to the consumer.

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.

The National Federation of the Blind has helpful information about preparing documents in braille at <https://nfb.org/braille-resources>

#### For Web-based Information:

The World Wide Web Consortium (W3C) has established the Web Content Accessibility Guidelines (WCAG 2.0). These guidelines are intended to serve as a standard for web content accessibility that meets the needs of individuals, organizations, and governments internationally. Participating providers are strongly encouraged to consult WCAG 2.0 for guidance on presentation of the Broadband Consumer Disclosure on their web sites.

For non-interactive content, the most relevant guidelines fall under the principles 1. Perceivable and 2. Operable. The WCAG overview is found here: <http://www.w3.org/TR/WCAG20/>

The following guidelines are specifically relevant in roughly descending priority:

Guideline 1.1 Text Alternatives: Provide 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.

Guideline 1.4 Distinguishable: Make it easier for users to see and hear content including separating foreground from background.

Guideline 2.4 Navigable: Provide ways to help users navigate, find content, and determine where they are.

Specific guidance, success criteria, and advisory techniques can be located under the heading for those top-level guidelines.

## **Section VI. Additional Recommendations**

The CAC further recommends that the FCC create a website that contains clear definitions of terms used in the disclosure formats. Consumers will be able to link to the terms on the disclosures for more information to help them understand some complicated broadband terminology that would take too much space on the forms to explain (for example, latency).

The CAC recommends that the FCC maintain neutral information about average data sizes for movies, TV shows, emails and other items. This information would empower consumers to better evaluate their monthly data usage needs. This could be included on the above recommended definitions page or in a more interactive stand alone page that would be linked to from the definitions page.

The CAC recommends that the FCC conduct a periodic review, no less than every two years, of the disclosure formats. In conducting these reviews, we recommend that the FCC first seek the advice of the existing CAC for an initial review of the disclosure, to make any initial recommendations for updates to the FCC within a reasonable amount of time (to be determined by the FCC).

The CAC recommends that the FCC consult with an expert in graphic design to make sure the Broadband Consumer Disclosures are as consumer friendly as possible.

## **Conclusion**

Developing a disclosure format that provides consumers with relevant information sufficient to compare offerings across different broadband providers is a challenging task given the significant variation in company offerings and practices. Based on the thorough review undertaken by the Task Force, the CAC believes the disclosure formats we are recommending offer consumers meaningful information to enable a comparison of providers without imposing significant new burdens on broadband providers.

Unanimously adopted, October 26, 2015

Respectfully Submitted:

Debra R. Berlyn, Chairperson

FCC Consumer Advisory Committee

### **Attachments:**

Fixed Broadband Consumer Disclosure – Sample

Fixed Broadband Consumer Disclosure – Instructions  
Fixed Broadband Consumer Disclosure – Blank  
Mobile Broadband Consumer Disclosure – Sample  
Mobile Broadband Consumer Disclosure – Instructions  
Mobile Broadband Consumer Disclosure – Blank  
Questions and Answers About the Disclosure