



sizes, including regional fiber providers; transit and backbone providers that carry broadband and internet traffic; online video distributors, which offer video programming over BIAS to consumers, in addition to other online content, such as social media, streaming, cloud services, and voice services.

INCOMPAS and its members fully support the Commission's goal of bringing affordable high-speed internet access to more families across the U.S. through the ACP. In fact, the White House recently highlighted the work of INCOMPAS members that are offering ACP-eligible households at least one high-speed plan for \$30/month or less with no additional fees or data caps.<sup>3</sup> As such, INCOMPAS recognizes the importance of Congress' mandate in the Infrastructure Act for the Commission to conduct an annual collection of data relating to the price and subscription rates of each internet service offering of a participating ACP provider as well as the FCC's proposal to use this data to evaluate the performance of the ACP and its impact on reducing the digital divide for low-income consumers, promoting awareness and participation in the ACP, and ensuring the ACP's efficient and effective administration.<sup>4</sup>

In these reply comments, INCOMPAS recommends that the Commission create the following rules for the ACP data collection: (1) collect aggregated price and subscription rate information at the state level in order to protect the privacy of subscribers and proprietary information of competitive providers; (2) streamline other relevant data collection efforts, such as the broadband transparency labels; and (3) provide training and educational opportunities for

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<sup>3</sup> See Press Release, *FACT SHEET: President Biden and Vice President Harris Reduce High-Speed Internet Costs for Millions of Americans*, The White House (May 9, 2022) (highlighting INCOMPAS members IdeaTek and Starry), available at <https://www.whitehouse.gov/briefing-room/statements-releases/2022/05/09/fact-sheet-president-biden-and-vice-president-harris-reduce-high-speed-internet-costs-for-millions-of-americans/>.

<sup>4</sup> See *NPRM*, at ¶¶ 3, 12.

providers to better understand the data collection rules and processes in order to further promote participation and compliance in the ACP.

## **II. THE FCC SHOULD COLLECT AGGREGATED PRICE AND SUBSCRIPTION RATE DATA AT THE STATE LEVEL IN ORDER TO PROTECT THE PRIVATE INFORMATION OF SUBSCRIBERS AS WELL AS THE PROPRIETARY INFORMATION OF PARTICIPATING PROVIDERS.**

In the *NPRM*, the Commission seeks comment on whether it should collect subscriber-level or aggregated data as well as the level at which the aggregation should occur.<sup>5</sup> INCOMPAS recommends that the FCC collect aggregated data at the state level. Subscriber-level data, if ever breached, could reveal subscribers' private information as well as the proprietary information of competitive providers. Collecting aggregated data at the state level will strike the right balance between collecting the relevant data regarding the ACP that Congress mandated while also protecting sensitive subscriber and provider information, especially in the event of an inadvertent data leak or breach. The privacy risks and concerns here are significant to INCOMPAS' members because being a competitive provider so often includes a dedication and trust to protecting subscribers' data and privacy.<sup>6</sup>

In addition, when creating the final data collection rules for the ACP, it is important for the FCC to be mindful of any additional burdens placed on participating providers, especially since these providers are voluntarily participating in the program. Collecting aggregated information at the state level would be the least burdensome option for providers and, as a result, would help encourage continuous participation in the ACP. Should the Commission adopt a

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<sup>5</sup> See *NPRM*, at ¶¶ 14, 20.

<sup>6</sup> See, e.g., Sonic, *Sonic tops EFF privacy scorecard* (July 25, 2017), available at <https://corp.sonic.net/ceo/category/privacy/>; Starry, *Starry Privacy Notice* (last updated Jan. 2, 2020), available at <https://starry.com/legal/privacy>.

requirement to collect data at the census tract or census block level, preparing such granular information would unnecessarily burden competitive providers who do not have the size and resources that incumbents typically enjoy. For example, collecting aggregated data avoids requiring providers to request and receive additional subscriber consent to share subscriber-level data with the FCC, which also raises questions of how providers would manage the obligation if ACP subscribers do not provide this consent.

Moreover, there is overwhelming support in the record among providers and industry for the FCC to collect aggregated data at the state level regarding prices and subscription rates of ACP offerings. For example:

- According to ACA Connects: “The Commission should adopt an annual, aggregate collection of state-level data . . . [p]roviders already track ACP household enrollment by State, so they could compile information at that level with relative ease.”<sup>7</sup>
- According to Altice, “providers will need to devote hundreds of hours to successfully contact and obtain additional consents from millions of current ACP subscribers if required to report data at the subscriber level.”<sup>8</sup>
- According to CTIA, “collecting subscriber-level data is unwise on policy grounds. It would impose significant burdens that are unnecessary to achieve the objectives of the collection, could raise privacy concerns for consumers, and could delay timely publication of important program data.”<sup>9</sup>
- According to NCTA, “the Commission can conduct these analyses with aggregated data for each Internet service offering at the state-level without creating risks to personal information and consumer privacy.”<sup>10</sup>

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<sup>7</sup> ACA Comments, *Affordable Connectivity Program*, WC Docket No. 21-450 (filed July 25, 2022), at 3, 9. All comments cited hereafter have been filed in the above-mentioned docket as well.

<sup>8</sup> Altice Comments, at 6.

<sup>9</sup> CTIA Comments, at 2.

<sup>10</sup> NCTA Comments, at 11.

- According to the National Lifeline Association (NaLA), “[g]iven that ACP subscribers have not necessarily consented to providers sharing their price and plan data with USAC and the Commission, NaLA suggests that the Commission rely on an aggregate report for its initial annual collection of data relating to the price and subscription rates of each internet service offering.”<sup>11</sup>
- According to T-Mobile, “any purported benefits associated with collection of detailed, subscriber-level data are outweighed by the costs of such collection.”<sup>12</sup>
- According to USTelecom, “data should be reported annually during a set filing window and aggregated at the state level. Doing so will provide adequate granularity to track trends and draw meaningful conclusions while safeguarding individual privacy interests and preventing onerous enrollment and consent processes.”<sup>13</sup>
- According to WISPA, “the collection of pricing and subscription rates on an aggregated basis would fulfill the Infrastructure Act’s requirements and provide the Commission with sufficiently detailed information about the ACP.”<sup>14</sup>

### **III. THE FCC SHOULD STREAMLINE DATA COLLECTION EFFORTS IN ORDER TO MINIMIZE BURDENS ON PROVIDERS THAT ARE VOLUNTARILY PARTICIPATING IN THE ACP.**

In the *NPRM*, the Commission seeks comment on the interplay between the ACP transparency data collection and broadband consumer labels and specifically whether the redundancy avoidance language in the Infrastructure Act could be interpreted to mean that the Commission could rely on price information contained in consumer broadband labels.<sup>15</sup> INCOMPAS supports the FCC taking the appropriate steps to streamline relevant data collection activities in order to avoid redundant efforts, including by relying on price information from the broadband transparency labels. Providers are voluntarily participating in the ACP, and it is

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<sup>11</sup> National Lifeline Association Comments, at 11.

<sup>12</sup> T-Mobile Comments, at 7.

<sup>13</sup> USTelecom Comments, at 1-2.

<sup>14</sup> WISPA Comments, at 7.

<sup>15</sup> See *NPRM*, at ¶¶ 10-12.

important for the FCC to minimize burdens on these providers wherever possible in order to promote and encourage participation from providers.

Furthermore, there is abundant support in the record for the FCC leveraging the information it obtains through the broadband transparency labels. For example:

- According to Altice, the Commission “should seek ways to streamline the collection process and standardize the information collected as part of the present effort . . . [a] logical way to do this would be to leverage the broadband consumer labels currently under development.”<sup>16</sup>
- According to JSI, the Commission “should adopt a more cost-effective and less burdensome approach to collect the required price and subscription rate information from providers by instead obtaining the information from the ACP providers’ broadband consumer labels.”<sup>17</sup>
- According to NaLa, “[i]mposing unnecessary regulatory obligations on ACP providers, and especially on providers that are small businesses, could negatively impact their ability to provide affordable broadband service to low-income households.” Moreover, the FCC “should recognize that it could rely on NLAD and broadband label information to obtain details about each plan.”<sup>18</sup>
- According to NCTA, “the Commission should leverage price information from the broadband labels that providers will make available pursuant to the forthcoming broadband labels rules.”<sup>19</sup>
- According to T-Mobile, “[u]se of the broadband consumer labels satisfies the requirement to collect price information . . . Congress’s direction to rely on the broadband consumer labels was to avoid duplicative data collections.”<sup>20</sup>
- According to WISPA, the Commission should “heed Congress’ call to avoid redundancy in data requests and to rely on Broadband Data Collection and broadband label standards,

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<sup>16</sup> Altice Comments, at 2.

<sup>17</sup> JSI Comments, at 5.

<sup>18</sup> NaLA Comments, at 1-2, 7.

<sup>19</sup> NCTA Comments, at 20.

<sup>20</sup> T-Mobile Comments, at 4.

definitions, and collection efforts, wherever possible.”<sup>21</sup>

#### **IV. COMMISSION-INITIATED TRAINING AND EDUCATIONAL OPPORTUNITIES FOR PROVIDERS CAN HELP PROMOTE PARTICIPATION AND COMPLIANCE IN THE ACP.**

In the *NPRM*, the Commission seeks comment on how best to provide “training, support and guidance” on ACP transparency data collection requirements.<sup>22</sup> In its comments, WISPA recommends that the FCC take efforts to promote awareness and guidance on its collection requirements and that the Commission “provide such support and guidance through recorded webinars, technical guides, detailed form instructions, and published frequently asked questions to encourage compliance.”<sup>23</sup> INCOMPAS supports this recommendation as a way in which the FCC can help promote participation and compliance in the ACP.

Recently, INCOMPAS has participated in various educational webinars held by government agencies and the information gathered from them has been tremendously helpful in educating and answering specific questions from our member companies. For example, the FCC’s webinar for its Broadband Data Collection has informed broadband internet access service providers how to submit their information in order to comply with the Commission’s new mapping requirements.<sup>24</sup> Similarly, NTIA has held several webinars that cover the new infrastructure programs, specifically regarding the *Notice of Funding Opportunity* for both the

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<sup>21</sup> WISPA Comments, at 1.

<sup>22</sup> See *NPRM*, at ¶ 42.

<sup>23</sup> WISPA Comments, at 8-9.

<sup>24</sup> See FCC, *Webinar on Using the Broadband Data Collection System* (June 29, 2022), available at <https://www.fcc.gov/news-events/events/2022/06/webinar-using-broadband-data-collection-system>.

BEAD and Middle Mile Programs.<sup>25</sup> These NTIA technical assistance webinars were organized by NTIA staff to help applicants understand the Infrastructure Act’s broadband grant programs and to assist applicants in preparing high quality grant applications. These webinars have been important and valuable resources for sharing information to the public. NTIA also has a Frequently Asked Questions link on its website about the BEAD Program,<sup>26</sup> and all of the new NTIA programs along with the relevant FAQs are featured on the Biden Administration’s “Internet for All” website,<sup>27</sup> which are all very helpful public resources. Offering similar training webinars and educational materials on the Commission’s website can help providers better understand the FCC’s final ACP data collection rules and processes.

## **V. CONCLUSION**

For the reasons stated herein, INCOMPAS appreciates the opportunity to respond to comments filed in the record and to encourage the Commission to balance the interests of collecting relevant and helpful information without compromising privacy, proprietary information, or burdening participating ACP providers as well as to help educate providers regarding the final data collection process and rules.

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<sup>25</sup> See, e.g., NTIA, *Pre-NOFO Technical Assistance Webinar: Broadband Technology and Economics Primer Webinar* (March 9, 2022), available at <https://broadbandusa.ntia.doc.gov/events/latest-events/pre-nofo-technical-assistance-webinar-broadband-technology-and-economics>; NTIA, *Pre-NOFO Technical Assistance Webinar: Supply Chains and Workforce Development* (May 11, 2022), available at <https://broadbandusa.ntia.doc.gov/events/latest-events/pre-nofo-technical-assistance-webinar-supply-chains-and-workforce-development>.

<sup>26</sup> See NTIA, *BEAD FAQs*, available at <https://broadbandusa.ntia.gov/sites/default/files/2022-06/BEAD-FAQs.pdf>.

<sup>27</sup> See Internet For All, *Programs: Overview*, available at <https://www.internetforall.gov/programs>.



Respectfully submitted,

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