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(Original Signature of Member)

112TH CONGRESS
1ST SESSION

H. R. _____

To require accurate disclosures to consumers of the terms and conditions of 4G service and other advanced wireless mobile broadband service.

IN THE HOUSE OF REPRESENTATIVES

Ms. ESHOO introduced the following bill; which was referred to the Committee on _____

A BILL

To require accurate disclosures to consumers of the terms and conditions of 4G service and other advanced wireless mobile broadband service.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Next Generation Wire-
5 less Disclosure Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) In 2011, the President set a goal of bring-
2 ing next generation wireless broadband Internet ac-
3 cess service to at least 98 percent of Americans
4 within 5 years.

5 (2) The Federal Communications Commission's
6 National Broadband Plan sets a minimum target of
7 delivering universal, affordable broadband Internet
8 access service with actual download speeds of at
9 least 4 megabits per second and actual upload
10 speeds of at least 1 megabit per second.

11 (3) The 4 largest wireless service providers ad-
12 vertise 4G service using different wireless mobile
13 broadband technologies, including LTE (Long Term
14 Evolution), WiMAX (Worldwide Interoperability for
15 Microwave Access), and HSPA+ (Evolved High
16 Speed Packet Access).

17 (4) Although the International Telecommuni-
18 cation Union has expanded its definition of 4G serv-
19 ice to include these technologies, theoretical peak
20 speeds and actual speeds experienced by consumers
21 vary widely across technologies and service pro-
22 viders.

23 (5) In 2010, the United States wireless indus-
24 try generated almost \$160 billion in revenue, with

1 approximately \$50 billion of this total derived from
2 wireless data.

3 (6) Consumers need accurate information be-
4 fore selecting a provider of wireless mobile
5 broadband service.

6 (7) Providers and other sellers of advanced
7 wireless mobile broadband service should be required
8 to make accurate and reasonable disclosures of the
9 terms and conditions of such service in order to give
10 consumers the necessary information to make in-
11 formed decisions about such service and to promote
12 greater transparency in the market.

13 **SEC. 3. REQUIRED DISCLOSURES OF TERMS AND CONDI-**
14 **TIONS OF ADVANCED WIRELESS MOBILE**
15 **BROADBAND SERVICE.**

16 (a) SALE TO CONSUMERS.—

17 (1) IN GENERAL.—A person who sells advanced
18 wireless mobile broadband service directly to a con-
19 sumer shall accurately disclose the terms and condi-
20 tions of such service by displaying such terms and
21 conditions consistently, clearly, and prominently in
22 all marketing materials for such service, at the point
23 of sale of such service, and (in the case of postpaid
24 advanced wireless mobile broadband service) in all
25 bills for such service. The terms and conditions dis-

1 closed shall include the information described in sub-
2 section (c).

3 (2) SPECIAL RULES FOR PREPAID SERVICE.—

4 (A) OFF-THE-SHELF TRANSACTIONS.—

5 Paragraph (1) does not apply in the case of a
6 transaction in which both—

7 (i) the consumer receives a device that
8 allows the consumer to access a specified
9 quantity of prepaid advanced wireless mo-
10 bile broadband service; and

11 (ii) the consumer's interaction with
12 the agents of the person from whom the
13 consumer makes the purchase is such that
14 the average consumer would not expect
15 such agents to have expertise regarding the
16 terms and conditions of such service.

17 (B) PACKAGERS OF PREPAID SERVICE.—A

18 person who packages prepaid advanced wireless
19 mobile broadband service for ultimate sale to a
20 consumer in a transaction described in subpara-
21 graph (A) shall accurately disclose the terms
22 and conditions of such service by displaying
23 such terms and conditions consistently, clearly,
24 and prominently in all marketing materials for
25 such service and on the packaging of the device

1 described in clause (i) of such subparagraph.

2 The terms and conditions disclosed shall include
3 the information described in subsection (c).

4 (b) SALE TO RESELLERS.—A person who sells ad-
5 vanced wireless mobile broadband service wholesale to an-
6 other person for ultimate sale to consumers shall disclose
7 to such other person the information necessary to permit
8 such other person to comply with subsection (a).

9 (c) INFORMATION DESCRIBED.—The information de-
10 scribed in this subsection is the following:

11 (1) The guaranteed minimum transmit and re-
12 ceive data rates for Internet protocol packets to and
13 from on-network hosts for the service, expressed in
14 megabits per second. For purposes of the preceding
15 sentence, a minimum data rate is not guaranteed
16 unless it is available for a percentage of the time in
17 a calendar month to be established by the Commis-
18 sion.

19 (2) The reliability rating of the service. The
20 Commission shall establish a standard method that
21 shall be used to calculate the reliability rating of the
22 service, which shall be based on the data session
23 start success percentage (network accessibility) and
24 the data session completion success percentage (net-
25 work retainability) of the service.

1 (3) The price of the service stated in terms of—

2 (A) in the case of service that is priced
3 based on the volume of data sent or received,
4 the price per unit of data sent or received; or

5 (B) in the case of service for which a flat
6 rate is charged for service over a given time pe-
7 riod—

8 (i) the flat rate; and

9 (ii) a detailed description of any limits
10 on the use of such service over such time
11 period, by volume of data sent or received
12 or otherwise.

13 (4) Any other charges that the consumer of the
14 service will incur that are not included in the price
15 as stated pursuant to paragraph (3).

16 (5) The network management policies of the
17 service with respect to Internet protocol packets to
18 and from on-network hosts, including the following:

19 (A) Any business practices or technical
20 mechanisms employed by the service provider,
21 other than standard best-effort delivery, that al-
22 locate capacity or prioritize traffic differently on
23 the basis of the source of the applications, con-
24 tent, or services.

1 (B) Any limits or prohibitions on the use
2 of certain applications or services.

3 (C) Any traffic shaping or throttling mech-
4 anisms that affect the service as a result of ex-
5 ceeding certain usage limits.

6 (6) The technology used to provide the service,
7 such as LTE (Long Term Evolution), WiMAX
8 (Worldwide Interoperability for Microwave Access),
9 or HSPA+ (Evolved High Speed Packet Access).

10 (7) The uniform resource locator of a website
11 (together with a brief description of the contents of
12 the website) on which is located the following:

13 (A) The complete terms of service, accept-
14 able use policy, and any other documentation
15 related to the network management policies of
16 the service provider.

17 (B) A map of the coverage area of the
18 service. If different technologies are used to
19 provide the service in different geographic
20 areas, the map shall indicate the technology
21 used in each area.

22 (d) MANNER AND FORM OF DISCLOSURES.—The
23 Commission may prescribe the manner and form of the
24 disclosures required by this section.

1 (e) REGULATIONS.—Not later than 180 days after
2 the date of the enactment of this Act, the Commission
3 shall promulgate regulations implementing this section.

4 (f) ENFORCEMENT.—The Commission shall enforce
5 this section as if this section were a part of the Commu-
6 nications Act of 1934 (47 U.S.C. 151 et seq.). A violation
7 of this section or a regulation promulgated under this sec-
8 tion shall be considered to be a violation such Act or a
9 regulation promulgated under such Act, respectively.

10 (g) COVERAGE AREA DEFINED.—In this section, the
11 term “coverage area” shall have the meaning given such
12 term by the Commission. The Commission shall set min-
13 imum signal strength and data rate requirements in order
14 for a location to be considered to be within the coverage
15 area of an advanced wireless mobile broadband service.

16 **SEC. 4. STUDY BY FEDERAL COMMUNICATIONS COMMIS-**
17 **SION.**

18 (a) STUDY.—Not later than 1 year after the date of
19 the enactment of this Act, and annually thereafter, the
20 Commission shall complete a study evaluating the speed
21 and pricing of advanced wireless mobile broadband service
22 offered in the United States by the 10 largest providers
23 of such service, as measured by the number of consumers
24 to whom a provider provides such service in coverage areas
25 that include any part of the United States.

1 (b) INITIAL REPORT TO CONGRESS.—Not later than
2 10 days after completing the initial study required by sub-
3 section (a), the Commission shall submit to Congress a
4 report on the results of such study.

5 (c) INCLUSION IN ANNUAL CMRS COMPETITION RE-
6 PORTS.—The Commission shall include the results of each
7 study conducted under subsection (a) in the next report
8 on the findings of the review required by section
9 332(c)(1)(C) of the Communications Act of 1934 (47
10 U.S.C. 332(c)(1)(C)) that is adopted after the completion
11 of such study.

12 **SEC. 5. DEFINITIONS.**

13 In this Act:

14 (1) 4G SERVICE.—The term “4G service” in-
15 cludes wireless mobile broadband service that utilizes
16 technologies that fulfill the requirements set forth in
17 the International Mobile Telecommunications Ad-
18 vanced standard promulgated by the International
19 Telecommunication Union, any forerunner tech-
20 nologies for which the designation “4G” has been
21 approved by the International Telecommunication
22 Union, and any technologies that are broadly mar-
23 keted as “4G” service.

24 (2) ADVANCED WIRELESS MOBILE BROADBAND
25 SERVICE.—The term “advanced wireless mobile

1 broadband service” means 4G service or any wireless
2 mobile broadband service that utilizes a successor
3 technology to 4G technology.

4 (3) BEST-EFFORT DELIVERY.—The term “best-
5 effort delivery” means the common Internet protocol
6 network model in which a network service routes
7 Internet protocol packets on a first-in, first-out basis
8 and does not distinguish based on the source, type,
9 or other unique characteristics of the Internet pro-
10 tocol packets for the purpose of establishing dif-
11 ferent levels of delivery priority.

12 (4) COMMISSION.—The term “Commission”
13 means the Federal Communications Commission.

14 (5) ON-NETWORK HOST.—The term “on-net-
15 work host” means any networking routing equip-
16 ment owned, operated, or within the control of a
17 wireless mobile broadband service provider that
18 transmits or receives Internet protocol packets or
19 any points in a network before a subscriber’s data
20 traffic travels to a centralized routing facility that
21 interconnects at an exchange point with broadband
22 service providers that are not affiliated with such
23 wireless mobile broadband service provider.

1 (6) POSTPAID.—The term “postpaid” means,
2 with respect to advanced wireless mobile broadband
3 service, that the service is not prepaid.

4 (7) PREPAID.—The term “prepaid” means,
5 with respect to advanced wireless mobile broadband
6 service, that the consumer of such service pays for
7 a specified quantity of service (whether measured by
8 volume of data transferred, amount of time the serv-
9 ice is in use, or otherwise) before gaining access to
10 such service and must affirmatively purchase any
11 additional quantities of service before gaining access
12 to such additional quantities.