

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 3110

To improve consumer protection for purchasers of broadband services by requiring consistent use of broadband service terminology by providers, requiring clear and conspicuous disclosure to consumers about the actual broadband speed that may reasonably be expected, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MARCH 15, 2010

Ms. KLOBUCHAR (for herself, Mrs. GILLIBRAND, and Mr. BEGICH) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To improve consumer protection for purchasers of broadband services by requiring consistent use of broadband service terminology by providers, requiring clear and conspicuous disclosure to consumers about the actual broadband speed that may reasonably be expected, and for other purposes.

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 “Broadband Service  
5       Consumer Protection Act”.

1 **SEC. 2. FINDINGS.**

2 The Congress finds that—

3 (1) the rapid growth and future expansion of  
4 broadband services affects an increasingly large seg-  
5 ment of the economy and millions of consumers; and

6 (2) the lack of clear, consistent, and easily un-  
7 derstood industry-wide standards and terminology  
8 and the use of “up to” representations of broadband  
9 speed have hampered the ability of consumers—

10 (A) to make meaningful comparisons of  
11 competing plans and providers;

12 (B) to make informed decisions about the  
13 purchase of broadband services; and

14 (C) to determine whether they are receiv-  
15 ing the level of broadband service for which  
16 they are paying.

17 **SEC. 3. FEDERAL COMMUNICATIONS COMMISSION REGULA-**  
18 **TIONS.**

19 (a) **IN GENERAL.**—Within 180 days after the date  
20 of enactment of this Act, the Federal Communications  
21 Commission shall initiate a rulemaking proceeding—

22 (1) to assist consumers, before they purchase  
23 broadband service from a provider, in making real-  
24 istic assumptions about the actual speeds that may  
25 reasonably be expected and how those assumptions  
26 may be affected by the hardware used by the con-

1 consumer to connect to the Internet, peak service peri-  
2 ods, and other factors; and

3 (2) to assist consumers, after they purchase  
4 broadband service from a provider, in monitoring  
5 their usage and determining whether they are get-  
6 ting the level of broadband service for which they  
7 are paying.

8 (b) TERMINOLOGY.—In the regulations prescribed  
9 under subsection (a), the Commission shall—

10 (1) establish standard definitions for terms  
11 commonly used in the advertising and marketing of  
12 broadband service; and

13 (2) require that whenever terms for which the  
14 Commission has established a standard definition  
15 are used in such advertising and marketing, the  
16 terms are used in a manner that is consistent with  
17 those definitions.

18 (c) MEASUREMENT STANDARDS.—In the regulations  
19 prescribed under subsection (a), the Commission, in co-  
20 ordination with such other Federal agencies as the Com-  
21 mission finds appropriate, shall establish, and revise from  
22 time to time as necessary, technical standards for quanti-  
23 fying broadband service measures of performance and  
24 other features, particularly with respect to terms defined  
25 in the regulations prescribed under subsection (b), and re-

1 quire that broadband service providers apply those stand-  
2 ards with respect to measures of performance and other  
3 features of the broadband service provided.

4 (d) PRE-PURCHASE DISCLOSURE.—In the regula-  
5 tions prescribed under subsection (a), the Commission  
6 shall require, at a minimum, that any person selling, or  
7 offering for sale, broadband service to the public disclose  
8 the actual speeds of the broadband service that can rea-  
9 sonably be expected from the broadband service provider  
10 in a clear and conspicuous manner—

11 (1) in advertising or marketing materials asso-  
12 ciated with the sale, or offering for sale, of the serv-  
13 ice;

14 (2) in the service contract and other material  
15 associated with the purchase of the service; and

16 (3) at the point of sale, whether a physical loca-  
17 tion or on a website.

18 (e) BILLING.—In the regulations prescribed under  
19 subsection (a), the Commission shall require that—

20 (1) any invoice or periodic statement of account  
21 provided to a consumer by a broadband service pro-  
22 vider include a description or analysis of the service  
23 provided in such detail, and covering such param-  
24 eters of usage, for the period covered by the invoice

1 or statement as the Federal Communications Com-  
2 mission determines practicable; and

3 (2) the description or analysis be provided in an  
4 easily understood, clear and conspicuous, format.

5 **SEC. 4. NO PREEMPTION OF STATE LAW.**

6 Nothing in this Act, or any regulation prescribed  
7 under this Act, shall be construed to preempt the laws of  
8 any State or local government.

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