

Federal Communications Commission Adopts Additional Reporting Requirements for Collecting Broadband Data

On Thursday June 12, 2008, the Federal Communications Commission (“FCC” or “Commission”) released an order on reconsideration, a report and order (Form 477 Order), and a further notice of proposed rulemaking addressing Form 477 and how the FCC collects broadband data.

Specifically, the Commission adopted additional reporting requirements for all facilities-based providers of wired, terrestrial wireless, and satellite broadband services, including interconnected VoIP services. In the *Form 477 Order*, the FCC:

- Required all facilities-based broadband service providers, regardless of their size, to report the number of connections they have in service on a Census Tract level for residential and enterprise services. However, upon a showing of hardship an entity may report a list of service addresses or GIS coordinates of service, along with the speed and technology of service, rather than producing data by Census Tract.
- Revised Form 477 to adopt eight broadband speed tiers based on download and upload speeds.
- Revised Form 477 to require mobile wireless broadband providers to report the number of subscribers whose devices and subscriptions permit them to access the lawful Internet content of their choice.

- Required interconnected VoIP providers to report:
 1. The number of subscribers they serve;
 2. The percentage of residential users;
 3. Whether the service is provided over a broadband connection provided by the filer or by the filer’s affiliate; and
 4. Whether the service is fixed or nomadic VoIP.

The *Form 477 Order* will become effective thirty (30) days after publication in the Federal Register, subject to approval by the Office of Management and Budget. We predict that the new reporting requirements will be approved prior to the March 1, 2009 deadline to file Form 477.

In the *Further Notice*, the Commission sought comment on:

- Whether to adopt a national broadband mapping program to create a highly detailed map of broadband availability similar to the ConnectKentucky project, which developed broadband mapping at the street level for the state of Kentucky. The Commission tentatively concluded that it should collect service availability information on an address-by-address basis;
- How the Commission might require service providers to report information on the actual data speeds experienced by subscribers rather than theoretical maximums;

- Whether the Commission should require broadband providers to report, for each state or Census Tract, the monthly price for standalone broadband service in each of the speed tiers used for Form 477 reporting;
- Ways the Commission can preserve confidentiality when sharing the information collected on Form 477, the voluntary registry, and other sources with agencies such as the Department of Agriculture's Rural Utilities Service and public-private partnerships such as ConnectKentucky; and
- Whether the Commission should conduct and publish periodic surveys of broadband customers to obtain information on the price, technology, and speed of their connections and to obtain information about the applications and services that they use over the connections.

The due dates for comments and reply comments will be determined once the *Further Notice* is published in the Federal Register. Interested parties wishing to participate in the proceeding should contact Kelley Drye for further discussion.

Please do not hesitate to contact the undersigned, or any of the attorneys in the Telecommunications Practice Group, if you have any questions or concerns.

**For more information about this
Client Advisory, please contact:**

TODD D. DAUBERT

(202) 342-8602

tdaubert@kelleydrye.com