

FCC Releases Order Extending Discontinuance of Service Requirements to Providers of Interconnected VoIP Service

On May 13, 2009, the Federal Communications Commission (“FCC” or “Commission”) released an order that, once effective, will require providers of interconnected Voice over Internet Protocol (“VoIP”) service to comply with the FCC’s discontinuance of service obligations currently applicable to domestic non-dominant telecommunications carriers under Section 214 of the Communications Act of 1934, as amended (the “Act”).

Importantly, the Commission discussed the scope of the applicability of the discontinuance requirements to providers of interconnected VoIP service and shed light on the general requirements in the process. The FCC stated that providers of facilities-based interconnected VoIP service and “over-the-top” interconnected VoIP service are subject to the discontinuance rules and clarified that all interconnected VoIP providers are affected, not simply those that own their own facilities and regardless of whether the VoIP provider may be a small business. However, the Commission declined to extend the applicability of the rules to interconnected VoIP services that are “mobile services” under the Act, explaining that mobile services are more akin to Commercial Mobile Radio Services (“CMRS”) than to traditional wireline service. The Commission also declined to make any further determination as to the

classification of interconnected VoIP as a telecommunications service or information service.

In the context of the extension of the discontinuance rules to providers of interconnected VoIP service, the FCC elaborated on the specific requirements of the discontinuance rules, including what constitutes a discontinuance and the appropriate means of notifying customers. Specifically, the Commission found that a “discontinuance, reduction or impairment of service” would include, but not be limited to, the conversion of an interconnected VoIP service to one that permits only inbound, but not outbound, calls to the public switched telephone network (“PSTN”), or one that permits only outbound, but not inbound, calls to the PSTN. Further, although written notice by postal mail to the customer’s billing address typically satisfies the FCC’s customer notice requirement, the FCC noted that because of the potentially portable nature of some interconnected VoIP services, it would be willing to authorize alternative means of providing the required customer notice upon request and for good cause.

The discontinuance of service requirements adopted in the order as applicable to providers of interconnected VoIP service will become effective upon receipt of Office of Management and Budget approval. For more information regarding this client advisory, please contact your usual Kelley Drye attorney or any member of the Telecommunications practice group. For more information on the Telecommunications practice group, please [click here](#).