

FCC Enforcement Advisory: Open Internet Transparency Rule

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On July 23rd, the FCC issued an important Enforcement Advisory about compliance with the Open Internet Transparency Rule, which sets forth the information broadband Internet access service providers must disclose. If you provide fixed or mobile broadband Internet access service -- which is defined as service to mass market retail customers, including small businesses and schools/libraries - - you should make sure the information you are disclosing is complete, accurate, and up to date. You can expect the FCC will be examining compliance closely and enforcing it rigorously. If you are in violation, the Commission may impose penalties, including monetary penalties.

The Transparency Rule requires the public disclosure of network management practices, network performance characteristics, and terms and conditions of service. These disclosures need to be “sufficient for consumers to make informed choices regarding use” of the broadband Internet access service as well as sufficient for content, application, service, and device providers to “develop, market, and maintain Internet offerings.” In the Enforcement Advisory, the Commission emphasized that disclosures must be accurate. In addition, a broadband Internet access service provider cannot make assertions about its service, including in its advertisements or public statements, that “are inconsistent with the provider’s disclosure statement, or are misleading or deceptive.” A provider that makes such “inconsistent” assertions will not be absolved of a violation by citing an accurate disclosure in some other public location.

You can access the FCC’s Enforcement Advisory by clicking [here](#).

If you have any questions regarding this client advisory, please contact [Thomas Cohen](#), [Chip Yorkgitis](#), or your usual Kelley Drye attorney in the [Telecommunications Practice Group](#).