

FCC Initiates Proceeding to Develop a National Broadband Plan

April 9, 2009

On April 8, 2009, the Federal Communications Commission (Commission) took the first step toward developing a national broadband plan by adopting a notice of inquiry (NOI) requesting comments on how to structure the plan. Under the American Recovery and Reinvestment Act of 2009 (Recovery Act), Congress directed the Commission to create a national broadband plan and deliver it to Congress by February 17, 2010. The purpose of the plan is to provide a national strategy to ensure that all Americans can benefit from access to broadband capability.

In the notice, the Commission requested comment from consumers, private industry, non-profits, the disabilities community, state and local governments, and other interested parties on various issues relevant to the plan, including:

- How to define broadband and whether the Commission should adopt a **unified broadband definition** encompassing the concepts of "advanced telecommunications" and "high speed Internet";
- The most effective and efficient ways to ensure broadband access for all Americans and how to define "access" to broadband;
- How the **universal service** mechanisms can play a role in the national broadband plan;
- How to promote **wireless broadband** services through new or modified approaches to spectrum allocation, assignment, management, and use, and how access to spectrum acts as a constraint on broadband access and development;
- The current state of broadband infrastructure and service competition, **interconnection**, nondiscrimination, and openness;
- The value of **open networks**, whether the private sector has sufficiently produced open networks, and the impact they have on investment, innovation, entrepreneurship, content, competition, and the affordability of broadband;
- Whether the definition of "open networks" should include access, interconnection, nondiscrimination, or **infrastructure sharing principles**;
- Whether "nondiscrimination" should be added to the Commission's existing four **Internet policy principles**;
- How **competition** between various broadband network providers, application and service providers, and content providers plays a role in a national broadband plan, and whether subsidizing more than one provider in areas with a low population density can benefit

broadband deployment;

- Strategies for achieving affordability and maximum utilization of broadband infrastructure and services;
- How the increased consumer use of broadband for everyday tasks affects **privacy**, including how it changes consumer expectations for privacy and how the Commission should address issues such as deep packet inspection and behavioral advertising;
- How to evaluate the status of broadband deployment, including the progress of Recovery Act **grant programs** run by National Telecommunications and Information Administration (NTIA) and the Rural Utilities Service (RUS); and
- How to use broadband to advance consumer welfare, civic participation, public safety and homeland security, community development, healthcare delivery, energy independence and efficiency, education, worker training, private sector investment, entrepreneurial activity, job creation, economic growth, and other national purposes.

Comments and reply comments are due June 8 and July 7, 2009, respectively. Kelley Drye will monitor developments in this proceeding and will be happy to assist those interested in filing comments or other submissions.

Please feel free to contact one of the attorneys in the [Communications Practice Group](#) if you have any questions or would like assistance in filing comments or other submissions.