

# OMB Approves Enhanced Transparency Requirements for Open Internet Rules as the Small Provider Exemption Expires; Rules Will Go Into Effect January 17, 2017

December 16, 2016

According to a [Public Notice](#) the Federal Communications Commission (FCC) released today, on December 15, 2016, the Office of Management and Budget (OMB), has completed its review of the enhanced transparency rule from the [2015 Open Internet Order](#).

In the 2015 Order, the FCC adopted enhancements to the transparency rule, which covers both content and format of disclosures by providers of broadband Internet access service. However, OMB had been reviewing the enhanced transparency rule, after receiving complaints that the rule violated the Paperwork Reduction Act (PRA). The Commission made clear that it would announce an effective date for the enhanced transparency rule in the *Federal Register* in wake of OMB approval.

Now that OMB approval is complete, the FCC has sent a notice for publication to the *Federal Register*, and clarified that the enhanced transparency rule goes into effect **January 17, 2017**.

## **The End of the Small Provider Exemption:**

The completion of OMB review coincides with the end of a temporary exemption for small Broadband Internet access service (BIAS) providers from the enhanced transparency rule.

The 2015 Open Internet Order expanded the transparency rule from the 2010 Open Internet Order by creating new obligations, requiring providers to disclose promotional rates; all fees and/or surcharges; all data caps and allowances; and additional network performance metrics (e.g., packet loss).

The 2015 Open Internet order exempted small providers (i.e., those with 100,000 or fewer broadband connections) from these new transparency obligations.

Initially, on December 15, 2015, the Federal Communications Commission's (FCC's) Consumer and Governmental Affairs Bureau (CGB or the Bureau) issued a Report and Order extending the exemption for one year. The FCC could have opted to make this exemption permanent, but did not take that course of action.

For additional information regarding the enhanced transparency rule, the small provider exemption or the 2015 Open Internet Order, please contact a member of Kelley Drye's Communications Practice.