

# Open Internet Rules Hit the Federal Register, Triggering Effective Dates and Appeal Deadlines

Chip Yorkgitis

April 13, 2015



On April 13, 2015, a notice and summary of the Federal Communications Commission's (FCC's) seminal [Open Internet Order](#) (the Order) was published in the Federal Register. As we explained in an earlier [blog post](#) and [client advisory](#), the Order includes new and modified open Internet rules; reclassifies broadband Internet access service (BIAS) as a "telecommunications service" under Title II of the Communications Act of 1934, as amended; and imposes several provisions of Title II on BIAS providers (e.g., consumer protection, privacy, and disabilities access requirements), while forbearing from others.

Most of the provisions of the Order become effective on June 12, 2015, but others require approval from the Office of Management and Budget (OMB) before becoming effective. Specifically, the requirements adopted as part of the Commission's enhanced transparency rule will only become effective upon the completion of the OMB review and a subsequent FCC public notice in the Federal Register. These requirements include enhancements to the current transparency disclosures that must be made by fixed and mobile broadband Internet access providers, such as additional disclosures related to commercial terms, performance characteristics, and network practices, as well as safe harbors related to the form of such disclosures.

The Order's temporary exemption from the enhanced transparency rule obligations otherwise applicable to smaller providers (with 100,000 or fewer subscribers) is also delayed pending OMB approval. (For a complete list of paragraphs in the Order requiring OMB approval, see ¶¶164, 166, 167, 169, 173, 174, 179, 180, and 181.) While OMB approval is pending, the transparency rule pre-dating the recent Order remains in full effect for all fixed and mobile providers.

Today's publication in the Federal Register triggers the 60-day deadline for appeals and the 30-day deadline for petitions for reconsideration. At present, no entities have filed a petition for reconsideration or clarification with the FCC itself, but the United States Telecom Association (USTelecom) and Alamo Broadband had already filed appeals in two different federal appellate courts. After a circuit court lottery, the United States Court of Appeals for the D.C. Circuit was

selected as the court that will hear these open Internet appeals. USTelecom re-filed its petition for review with the upon the Federal Register publication today. We expect other trade associations, such as CTIA-The Wireless Association, also to appeal by the June 12, 2015, deadline.

Should you have any questions about the Order and its implications for your organization or the broadband industry in general, feel free to contact any one of the attorneys in the Kelley Drye Communications practice.