

VPS Consulting Memo

Court Upholds Majority of Restoring Internet Freedom Order

BROADBAND INTERNET ACCESS SERVICE RECLASSIFIED AS
“INFORMATION SERVICE.” TRANSPARENCY DISCLOSURES MUST BE
UPDATED AND ACCURATE.

Background

On October 1, 2019, in the case of *Mozilla Corporation v. Federal Communications Commission et al.*, the U.S. Court of Appeals (“the Court”) confirmed a majority of the FCC rule changes included in the 2017 Restoring Internet Freedom Order (“RIF Order”) which overturned the prior FCC’s 2015 Open Internet Order (“OIO”).¹ Two key aspects upheld by the RIF Order include the FCC’s transparency rule as well as the FCC’s decision to return broadband Internet access service (“BIAS”) to a Title 1 classification as an “information service.”

Reclassification

While reclassifying BIAS as an “information service,” the RIF Order also repealed the no-blocking, no-throttling, and no paid prioritization rules and eliminated much of the regulation imposed by the previous OIO.

¹ *Mozilla Corporation v. Federal Communications Commission et al*, No. 18-1051 (D.C. Cir.). The link to the full decision is [here](#).

What the transparency rule requirement means for ISPs

The FCC transparency rule requires Internet Service Providers (“ISPs”) to disclose any blocking, throttling, and affiliated or paid prioritization. ISPs must also publicly provide up-to-date information on their network management policies, service performance, and pricing and privacy terms. These transparency disclosures must be easily accessible to consumers through a website or through the FCC’s Consumer and Government Affairs Bureau database.

With all the appeals over and the transparency rule now defined, all ISPs should review and update their acceptable use and transparency policies to ensure they are in compliance with the affirmed RIF Order requirements.

If you have any questions or need assistance with reviewing or updating your Transparency Disclosures, please contact the following VPS staff members:

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