

VPS Consulting Memo

Broadband Label Order Effective January 17, 2023

FCC SEEKS FURTHER COMMENTS BY JANUARY 17, 2023;
UPCOMING OFFICE OF MANAGEMENT AND BUDGET APPROVAL
WILL START COMPLIANCE COUNTDOWN

Summary

Overview

With Friday's publication in the Federal Register of the Federal Communications Commission's (FCC) recent Report and Order and Further Notice of Proposed Rulemaking (the Order), the cycle for further comments on additional information to be included on the broadband label begins. Importantly, Internet service providers (ISP) must comply with the final rules within either six months or one year after Office of Management and Budget (OMB) approval. After approval, the official compliance dates will be published in the Federal Register.

Background

On November 17, 2022, the FCC released its Empowering Broadband Consumers Through Transparency Report and Order, requiring ISPs to make available to consumers at all points of sale broadband labels that disclose specified information about their broadband services such as prices, rates, speeds, and certain policies. The Order includes rules on disclosing pricing, bundled plans, label accessibility, network management disclosures, service performance information, reliability, language accessibility, interactive labels, and consumer privacy policies. The Order has now been published in the Federal Register, with an effective date of January 17, 2023.

What Does Publication Mean

Comments Due January 17, 2023

There are a number of outstanding items that the FCC is seeking comment on by January 17th, with Reply Comments due on or before February 14, 2023. The FCC is seeking comments to further define numerous requirements, including the number of mandatory languages the broadband label must be made available in, extent to which bundle price information should be presented on the label, whether “typical” speed and latency is sufficient to inform the consumer, and whether additional information should be included on the labels such as reliability, cybersecurity practices, network management disclosure links, and other service characteristics. Additional items up for further comment include whether ISPs should offer interactive labels and whether ISPs should be required to submit their label to the FCC. Vantage Point is currently preparing comments to file in this proceeding.

Compliance Time Period

The time period for ISPs to be in compliance with the Order is pending while awaiting OMB approval and will be included in a future publication in the Federal Register. The Order established two compliance periods based on size of the ISP in question. Generally, ISPs must comply with the new rules within six months of OMB review and approval. However, smaller providers with 100,000 or fewer subscribers were granted an automatic extension which allows them one year to comply with the new rules.

In Vantage Point’s November 30th webinar, questions were posed concerning the language in the Order’s paragraph 31 and whether the labeling requirement is limited to standalone broadband services, due to the current language in the Order not being clear in that regard. On December 19th, VPS confirmed with FCC Bureau staff for this initial implementation period: if only bundled services for broadband Internet access service are offered, the broadband label requirement is not triggered. VPS will continue to monitor this going forward.

Additional Information

The link to the Federal Register publication is here:

<https://www.govinfo.gov/content/pkg/FR-2022-12-16/pdf/2022-26853.pdf>

For information on this issue or if you would like VPS guidance, please contact these members of the Vantage Point Solutions consulting team:

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