
UPDATE
December 8, 2022

FCC Adopts Broadband Consumer Label Requirement

Last month, the FCC released a [Report and Order and Further Notice of Proposed Rulemaking](#) adopting rules that will require fixed and mobile Internet service providers (“ISPs”) to publish standardized “nutrition labels” informing subscribers and potential customers of specific information at the point of sale about their broadband offerings.

The new rules are subject to Office of Management and Budget (“OMB”) approval (likely to occur 1st quarter of 2023). Larger providers (those with more than 100,000 broadband subscribers) will then have six months to comply. Smaller providers will have one year from the date of OMB approval. Despite the six month or one year runway, **all ISPs should study the new requirements and begin work on their broadband labels in advance of the projected compliance dates.**

Background. In 2021, President Biden signed into law the Infrastructure Investment and Jobs Act. Among other things, this Act directed the FCC to require ISPs to display, in label format, certain information regarding their broadband Internet access service plans. The law further provided that the labels must make clear whether the offered price is an introductory rate and, if so, what the consumer must pay after the introductory period ends.

Accordingly, the FCC embarked on a rulemaking to fulfill its directive from Congress.

Summary. In its Report and Order, the FCC adopted rules requiring ISPs to display, at the point of sale, labels that disclose certain information about broadband prices, introductory rates, data allowances, and broadband speeds. Also, the FCC adopted rules to require ISPs to include links to information about their network management practices, privacy policies, and the FCC’s Affordable Connectivity Program. The FCC further adopted requirements for label format and display location to ensure consumers can easily compare a provider’s services and services among different providers. The new requirements are modeled on labels the FCC approved for voluntary display several years ago.

Label Requirements. The new broadband labels are designed similarly, as were the previous, voluntary labels, on the nutrition information labels one sees printed on food products. The labels must include:

- The provider’s base monthly price and a list of each non-tax additional one-time or recurring fee (including early termination fees).
- Whether the provider’s offered price is a promotional rate and, if so, the length or expiration date of the promotion and the subsequent, non-promotional rate.
- Whether the provider requires a term commitment and, if so, a link to the terms of service.
- Links to information about options to receive discounts by bundling broadband with other services.

- The amount of data included in the plan and any charges for exceeding the data allowance.
- The provider's typical download and upload speeds and latency figures for each plan.
- Links to the provider's network management disclosures and privacy policy.
- Information about the FCC's Affordable Connectivity Program and whether the provider participates in the program.
- The provider's customer support contact information.
- A link to the FCC Consumer Resource Center.
- A unique identifier for each plan using an FCC-prescribed formula.

All broadband providers must keep these labels up-to-date and retain evidence sufficient to support their accuracy for two years.

The label format can be found here: <https://www.fcc.gov/files/broadbandlabel.png>.

Label Locations. The labels must be prominently displayed at every "point of sale" (defined as the moment a consumer begins to investigate and compare broadband service plans available to them at their location). This includes displaying the labels on a provider's website(s), in retail stores, and on phone calls (by, for example, directing the consumer to the specific web page on which the label appears by or orally providing the information). In terms of a provider's website, providers must display the actual label – not simply an icon or link – after the consumer enters any required location information. Once the consumer has done so, the label must appear on the provider's primary advertising web page that identifies the plans available to the consumer in close proximity to an associated plan advertisement.

Accessibility Requirements. The FCC's Order also imposed numerous accessibility and readability requirements. First, all providers must support machine-readability of all English version of the labels by providing the information separately in a spreadsheet file (e.g., a CSV file) on the provider's website via a dedicated URL linked to the provider's network management disclosure.

Second, all providers must ensure that the labels are accessible to people with disabilities. And finally, the FCC's rules require providers to make the labels available in any other labels in which the provider markets its services.

If you have questions about the new broadband labels, network management disclosures, Internet privacy or broadband regulation, please contact Scott Friedman at (314) 462-9000 or sfriedman@cinnamonmueller.com or Bruce Beard at (314) 394-1535 or bbeard@cinnamonmueller.com.

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