



# PUBLIC NOTICE

Federal Communications Commission  
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## NEW DOCKET ESTABLISHED TO ADDRESS OPEN INTERNET REMAND

### GN Docket No. 14-28

On January 14, 2014, the United States Court of Appeals for the District of Columbia Circuit vacated and remanded parts of the Commission's Open Internet rules.<sup>1</sup> With this Public Notice, we establish a new docket within which to consider how the Commission should proceed in light of the court's guidance in the *Verizon v. FCC* opinion.

On December 23, 2010, the Commission released the *Open Internet Order*, which established high-level rules requiring transparency and prohibiting blocking and unreasonable discrimination.<sup>2</sup> In its *Verizon v. FCC* opinion, the D.C. Circuit affirmed the Commission's authority to regulate broadband Internet access service and upheld the transparency rule, but vacated the no-blocking and no-unreasonable-discrimination rules as impermissible common carrier regulation of an information service.<sup>3</sup>

We stress that under the transparency rule, which remains in full force and effect, broadband Internet access service providers must continue to disclose the network management practices, performance characteristics, and terms and conditions of their broadband services.<sup>4</sup> The transparency rule helps consumers make informed choices about their broadband service, and it gives edge providers technical information that helps them develop their business plans and assess risks.<sup>5</sup> Parties may continue to submit either formal or informal complaints to the Commission regarding violations of the transparency rule, as described in the *Open Internet Order*.<sup>6</sup> Informal complaints may be filed through the Commission's web site;<sup>7</sup> instructions for filing formal complaints may be found in the Commission's rules.<sup>8</sup> Recognizing "the need to resolve alleged violations swiftly," the *Open Internet Order* allows

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<sup>1</sup> *Preserving the Open Internet*, GN Docket No. 09-191, WC Docket No. 07-52, Report and Order, 25 FCC Rcd 17905 (2010) (*Open Internet Order*), *aff'd in part, vacated and remanded in part sub nom. Verizon v. FCC*, No. 11-1355 (D.C. Cir. Jan. 14, 2014).

<sup>2</sup> *Id.* at 17931-51, paras. 43-79. The nondiscrimination rule applied only to providers of fixed broadband Internet access service. *Id.* at 17944, para. 68.

<sup>3</sup> *Verizon v. FCC*, No. 11-1355, slip op. at 17, 63.

<sup>4</sup> *Open Internet Order*, 25 FCC Rcd at 17936-41, paras. 53-61.

<sup>5</sup> *Id.* at 17936, para. 53.

<sup>6</sup> *Id.* at 17986-89, paras. 153-159.

<sup>7</sup> Filing an Informal Complaint Guide, <http://www.fcc.gov/guides/filing-informal-complaint> (last visited Feb. 10, 2014).

<sup>8</sup> 47 C.F.R. §§ 8.12-17.

parties filing formal complaints to request expedited treatment under the Enforcement Bureau's Accelerated Docket procedures.<sup>9</sup>

The court remanded the *Open Internet Order* to the Commission for further proceedings consistent with its opinion.<sup>10</sup> Accordingly, we establish a new docket in which to consider the court's decision and what actions the Commission should take, consistent with our authority under section 706 and all other available sources of Commission authority, in light of the court's decision.

We welcome comments from interested parties. Comments filed within the next thirty days will be especially helpful. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12<sup>th</sup> St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12<sup>th</sup> Street, SW, Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

The proceeding this Public Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.<sup>11</sup> Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies).

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<sup>9</sup> *Id.* at 17988, para. 158; 47 C.F.R. § 1.730.

<sup>10</sup> *Verizon v. FCC*, No. 11-1355, slip op. at 63.

<sup>11</sup> 47 C.F.R. §§ 1.1200-1216.

Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

For further information regarding this proceeding, contact Carol Simpson, Wireline Competition Bureau, at (202) 418-2391.

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