

Advocacy Recommends FCC Give Small Broadband Providers Flexibility to Comply with Privacy Rules

On June 27, 2016, the Office of Advocacy submitted reply comments to the Federal Communications Commission (FCC), asking the FCC to further analyze the small business impact of its proposed rules regarding broadband internet access service (BIAS) providers' obligations to protect consumer proprietary information (PI). The FCC specifically sought comment on "several regulations that could affect small providers, including (1) the provision of meaningful notice of privacy policies; (2) customer approval requirements for the use and disclosure of customer proprietary information PI; (3) the use and disclosure of aggregate customer PI; (4) the security of customer proprietary information; (5) data breach notification; (6) other practices implicating privacy; and (7) dispute resolution."¹

The FCC published an Initial Regulatory Flexibility Analysis (IRFA) with its proposal, but did not quantify or describe the impact that the rule would have on small BIAS providers. Small BIAS providers and their representatives expressed concerns to the FCC and Advocacy regarding the disproportionate impact that the proposed regulations will have on their operations. They described heavy compliance burdens and offered a number of suggestions to the FCC that would ease the compliance burden on small BIAS providers, such as: delayed compliance schedules for small entities, small business exemptions from specific provisions, safe harbor provisions, grandfathering of customer consent, and best practices to give small entities more certainty in the compliance process.

In comments, Advocacy noted:

- The FCC's proposal would have a significantly disproportionate impact on small BIAS providers that must be analyzed under the RFA.
- Given the significant impact of the proposal on small entities, the FCC should analyze the extent to which any regulatory alternatives to the proposal can mitigate those costs.
- Specifically, Advocacy requested that the FCC adopt extended compliance schedules for small BIAS providers, as well as any appropriate exemptions.
- Advocacy also asked that the FCC incorporate a discussion of its rationale for either adopting or rejecting any alternatives suggested by small business stakeholders in its Final Regulatory Flexibility Analysis.
- Advocacy highlighted numerous comments in the docket that provide factual and legal support for a decision to give small BIAS providers regulatory flexibility.

You can view Advocacy's comments online [here](#). For additional information, please contact Assistant Chief Counsel Jamie Saloom at 202/205-6890, or Jamie.Saloom@sba.gov.

¹ *Protecting the Privacy of Customers of Broadband and Other Telecommunications Services*, WC Docket No. 16-106, Notice of Proposed Rulemaking (Rel. Apr. 1, 2016) [Hereinafter NPRM], at 128.