

## **FHH Telecom Law May 2002**

### **FCC to Relax Broadband Rules**

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A series of recent FCC orders and notices adds up to a "hands-off" approach toward broadband services.

The FCC recently determined that cable modem access to the Internet is not subject to regulation as a standard telecommunications service, but rather as an information service. Selection of the latter category -- based in part on a finding that consumers are paying not for basic raw telecommunications services, but rather for interactive access to the Internet -- affords cable modem service providers greater latitude and fewer regulatory burdens. The FCC seeks further comment regarding cable modem service provider contributions to universal service, subscriber privacy, pole attachments, and application of state and local regulations.

The FCC also opened parallel rulemaking proceedings to determine how to classify DSL wireline Internet access services, and what regulatory treatment to impose. The initial conclusions reached by the FCC, as well as the general tone of its questions, suggest a desire to deregulate. Indeed, some Commissioners noted that the FCC seemed far from impartial in seeking comment on these issues.

Two other broadband-related proceedings address analyses of current regulations affecting telephone companies, including some that benefit ISPs, as well unbundling requirements for certain telephone company service elements.

Taken together, these proceedings reinforce the FCC's apparent intention to remove itself from involvement with broadband Internet access, in the belief that a free market approach may better serve its policy goals of encouraging ubiquitous availability. Final decisions will not be available for at least several months.