



**August 2008**

## **Don't Just Sit There –File A Report!**

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Concerned that the United States ranks a woeful Number 15 among the world's nations in access to broadband internet, the FCC has aggressively ordered broadband providers to submit more detailed reports regarding the services they provide. This bold and dramatic action will, of course, do nothing whatsoever to actually increase broadband access but will, perhaps, identify a few previously unreported service recipients so that the nation's numbers will look better vis-à-vis the rest of the civilized world.

There has been much hand-wringing of late at the FCC and on Capitol Hill about the lack of broadband access in this country. This pervasive angst is puzzling since the FCC's own reports show that 99% of all ZIP codes in the U.S. have some sort of broadband connection – a figure that actually rivals or exceeds the availability of telephones and indoor plumbing. Nevertheless, the Commission's mandate is to make it look like it's doing something about a problem – even when it's not clear that a problem exists. There are a limited number of weapons in an administrative agency's arsenal, and the easiest one to brandish is always making the industry file a report. That is the weapon of choice here.

Several years ago the FCC created Form 477 as a way of gathering some fairly basic information about broadband service and also mobile subscribership. Now the Commission has decided that it must have more detailed data about broadband service – greater “granularity” is the favored buzz term these days – so the Form 477 is being revamped to require the following additional information:

- Fixed broadband providers must now report their actual numbers of broadband subscribers on a census tract by census tract basis instead of simply identifying ZIP codes where they had a subscriber.
- The type of customer must be identified as either residential (not having a corporate, business or organizational address) or business.

- Mobile broadband providers must still report their numbers on a state-wide basis but must now tell the FCC which census tracts make up their service areas within the state.
- *Within each census tract*, fixed providers must break down their service categories into eight tiers ranked by upload and download speeds of the broadband service.
- Mobile broadband providers must indicate the number of subscribers who have unfettered access to lawful Internet content.
- Interconnected VoIP providers must provide this information although they are not actually telecommunications carriers. This is consistent with the FCC's recent practice of treating VoIP in virtually every respect as if it is telecommunications carriage while at the same time avoiding placing this service under full Title II common carrier regulation.

The FCC feels that the burdens which this new reporting regimen will entail – and they are considerable – are far outweighed by the increased understanding the FCC will have of broadband penetration. That's easy for them to say.

On the good side, the new report forms will probably not be approved by OMB for a few months, so the first report requiring the new information will be due in March, 2009. But on the bad side, the FCC also sought comment on whether in the future it should: (a) collect more information so that broadband availability can be mapped on an address-by-address basis (can room-by-room mapping be far behind?); (b) require reports of actual delivered speed of internet connections rather than nominal speeds; (c) collect broadband pricing information; and (d) take steps to preserve the privacy of people whose data is being gathered. None of this bodes well for the streamlining of Form 477 in the years to come. Interested parties may submit comments.