

The Many Layered Flavors of Broadband – The FCC’s Proposed Broadband “Nutrition Labels”

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- The FCC recently adopted a notice of proposed rulemaking (NPRM) requiring Internet Service Providers (ISPs) to display consumer-friendly “nutrition labels” allowing consumers to comparison shop for broadband services;
- The FCC proposes that these nutrition labels display information about price, speed, data allowances, and other relevant aspects of the proposed broadband service; and
- Following-up on its first hearing on these potential nutritional labels, the FCC will conduct a second hearing on April 7, 2022.

In November 2021, President Biden signed the [Infrastructure Investment and Jobs Act](#) (Infrastructure Act). This legislation directed the FCC to propose regulations that track a [2016 Public Notice](#) where the FCC—implementing the “net neutrality” regulations adopted in the 2015 Open Internet Order—encouraged ISPs to use labels that are “similar to a nutrition label” in order to arm consumers with important, easily-digestible information when selecting a broadband provider.

In January 2022, the FCC adopted the [NPRM](#), seeking comment on its authority to adopt the nutrition labels described in the 2016 Public Notice—and potentially go even further. The NPRM proposes to largely adopt the nutrition labels described in the 2016 Public Notice, but seeks comment on several substantive aspects of the proposed nutrition labels, including content, formatting, display location, accessibility, and transparency. A high-level overview of these relevant categories is discussed below:

- **Content.** The content requirements of the proposed labels differ slightly for fixed and mobile broadband services.

- The fixed broadband service labels include pricing, data allowances, overage charges, equipment fees, other monthly fees, one-time fees, early termination fees, performance information such as speed and latency, and network management practices.
- The mobile broadband service labels include pricing, data allowances, other included services/features, other monthly fees, one-time fees, service contract terms, early termination fees, “bring your own device” information, and performance information. Both the fixed and mobile broadband labels will include a link to the provider’s privacy policy and a link explaining how to file complaints and inquiries. The FCC also seeks comment on whether the proposed nutrition labels satisfy the Infrastructure Act’s requirement that any label makes clear whether the price offered is an introductory rate and what the price will be when the introductory period ends.
- **Format.** The FCC proposes a nutrition label that is similar to the label described in the 2016 Public Notice, which tracks the kind of labels the U.S. Food and Drug Administration has created for food products and is generally consistent with guidance issued by the Consumer Financial Protection Bureau.
- **Display Location.** The FCC proposes to require ISPs to prominently display the labels in a manner that is easily accessible to consumers, including, at a minimum, prominently displaying the label on an ISP’s website when a consumer browses for service options.
- **Accessibility.** In the Open Internet Order, the FCC required ISPs wishing to rely on the “safe harbor” for the (now largely repealed) broadband transparency rules to ensure the nutrition labels were accessible to people with disabilities. Specifically, the FCC’s Consumer Advisory Committee—which developed the nutrition labels described in the 2016 Public Notice—found that the guidance released by the Web Accessibility Initiative (WAI) provides the “best likelihood of ensuring that consumers with disabilities will be able to access necessary information about broadband services.” The FCC seeks comment on the relevance of these guidelines and the interplay between the existing broadband transparency rule and the proposed nutrition labels.

The FCC also sought comment on other related issues, including potential enforcement and implementation mechanisms, and how the nutrition labels can be utilized to facilitate equal access to broadband. In a [statement](#) in connection with the adoption of the NPRM, Chairwoman Jessica Rosenworcel signaled the FCC’s ultimate aims in this proceeding, stating that the Commission “want[s] to make it easier for consumers to compare their options and understand just what they’re signing up for. We want to develop a consistent and straightforward way of providing accurate information about price, speed, data allowances, and other aspects of high-speed service.”

The first public [hearing](#) took place on March 11. The FCC has [announced](#) a second public hearing regarding these nutrition labels which will take place on April 7th. The second hearing will feature multiple panels comprised of consumers, experts from nonprofit organizations, and academics focusing on how to make the broadband labels useful, with an emphasis on what specific information consumers need.

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