

ALERT

The FCC Adopts New Framework For Business Data Services Regulation

May 1, 2017

On April 28, 2017, the Federal Communications Commission (“FCC”) released a Report and Order (“Order”) adopting a new framework for regulating business data services (“BDS”), which provide dedicated connectivity for enterprise customers.

Based on evidence of strong competition in the BDS market, this new framework: (1) eliminates ex ante price regulation of packet-based BDS or on TDM-based services providing bandwidths in excess of a DS3; (2) eliminates ex ante price regulation of TDM transport and other transport (i.e., non-end user channel termination) special access services provided by price cap carriers; and (3) establishes a competitive market test that will preserve ex ante price regulation of DS1 and DS3 end user channel terminations in those areas where the FCC estimates there is a substantial likelihood that competition will fail to ensure just and reasonable rates. Carriers will no longer be allowed to tariff competitive business data services after a 36-month transition period that will begin on the effective date of the FCC’s order (60 days after Federal Register publication).

FCC Chairman Ajit Pai and Commissioner Michael O’Rielly voted in favor, while Commissioner Mignon Clyburn dissented.

A summary of the FCC’s Order is available [here](#).

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