

1 AN ACT relating to telecommunications.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 278.5461 is amended to read as follows:

4 In addition to the definitions in KRS 278.010 and KRS 278.516(2), for KRS 278.546 to  
5 278.5462, the following definitions shall apply:

6 (1) "Broadband" means any service that is used to deliver video or to provide access to  
7 the Internet and that consists of the offering of the capability to transmit information  
8 at a rate that is generally not less than two hundred (200) kilobits per second in at  
9 least one direction; or any service that combines computer processing, information  
10 storage, and protocol conversion to enable users to access Internet content and  
11 services. Nothing in this definition shall be construed to include any intrastate  
12 service, other than digital subscriber line service, tariffed at the commission as of  
13 July 15, 2004;~~;~~

14 (2) "Local exchange carrier" means any company certified by the commission to  
15 provide local exchange telecommunications service in the Commonwealth on or  
16 before June 30, 1995; and

17 **(3) "Personally identifiable information" means data capable of being associated**  
18 **with a particular customer through one (1) or more identifiers, including but not**  
19 **limited to a customer's name, address, geographical location, telephone number,**  
20 **electronic mail address, Internet passwords, Internet browsing history,**  
21 **fingerprints, photographs or computerized image, Social Security number,**  
22 **passport number, driver identification number, personal identification card**  
23 **number or code, date of birth, medical information, financial information, tax**  
24 **information, and disability information.**

25 ➔Section 2. KRS 278.5462 is amended to read as follows:

26 (1) The provision of broadband services shall be market-based and not subject to state  
27 administrative regulation. Notwithstanding any other provision of law to the

1 contrary except as provided in subsections (3), ~~and~~ (4), **and (5)** of this section, no  
2 agency of the state shall impose or implement any requirement upon a broadband  
3 service provider with respect to the following:

4 (a) The availability of facilities or equipment used to provide broadband services;  
5 or

6 (b) The rates, terms or conditions for, or entry into, the provision of broadband  
7 service.

8 (2) Any requirement imposed upon broadband service in existence as of July 15, 2004,  
9 is hereby voided upon enactment of KRS 278.546 to 278.5462. The provisions of  
10 this section do not limit or modify the duties of a local exchange carrier or an  
11 affiliate of a local exchange carrier to provide unbundled access to network  
12 elements or the commission's authority to arbitrate and enforce interconnection  
13 agreements, including provisions related to remote terminals and central office  
14 facilities, to the extent required under 47 U.S.C. secs. 251 and 252, and any  
15 regulations issued by the Federal Communications Commission at rates determined  
16 in accordance with the standards established by the Federal Communications  
17 Commission pursuant to 47 C.F.R. secs. 51.503 to 51.513, inclusive of any  
18 successor regulations. Nothing contained in KRS 278.546 to 278.5462 shall be  
19 construed to preclude the application of access or other lawful rates and charges to  
20 broadband providers. Nothing contained in KRS 278.546 to 278.5462 shall  
21 preclude, with respect to broadband services, access for those service providers that  
22 use or make use of the publicly switched network.

23 (3) The commission may assist in the resolution of consumer service complaints.

24 (4) No telephone utility shall refuse to provide wholesale digital subscriber line service  
25 to competing local exchange carriers on the same terms and conditions, filed in  
26 tariff with the Federal Communications Commission, that it provides to Internet  
27 service providers.

1 (5) No telecommunications or Internet service provider shall collect personally  
2 identifiable information from a customer resulting from the customer's use of the  
3 telecommunications or Internet services without express written approval from  
4 the customer. Any personally identifiable information collected without the  
5 approval of the customer prior to the effective date of this Act shall be deleted  
6 within ninety (90) days after the effective date of this Act. No telecommunications  
7 or Internet service provider shall refuse to provide its services or charge a  
8 premium to a customer because the customer refuses to approve the collection of  
9 the customer's personal information. A telecommunications or Internet service  
10 provider who violates this subsection shall be subject to a fine of not less than five  
11 hundred dollars (\$500) or more than one thousand dollars (\$1,000) for each  
12 violation.