



PUBLIC NOTICE

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COMMENT SOUGHT ON DATA PORTABILITY AND ITS RELATIONSHIP TO BROADBAND

NBP Public Notice #21

PLEADING CYCLE ESTABLISHED

GN Docket Nos. 09-47, 09-51, 09-137

Comment Date: December 9, 2009

In the course of compiling the record for the Commission's development of the National Broadband Plan,¹ the Commission has invited comment on "how digital technologies ... can improve civic engagement, government at all levels, and the lives and welfare of residents and businesses."² The Commission received comments regarding the importance of data and data accessibility in relation to many different topic areas.³ Information and data are considered valuable assets.⁴ As broadband access and adoption increase and the world becomes increasingly interconnected, the flow of data across these networks is important to study.

Accordingly, the Commission seeks tailored comment on broadband and portability of data and their relation to cloud computing,⁵ transparency, identity, and privacy.

1. **Government data transparency.** Data transparency refers to making data public and easily accessible over the Internet. There are many pieces of legislation requiring the publication of Federal government information.⁶ This legislation typically requires the publication of data on an agency's website. One recent initiative seeks to establish a central repository of government data.⁷ We seek comment on the potential benefits and pitfalls of increased data transparency.
 - a. What efficiencies can be gained through easing accessibility to public government information?

¹ See American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009) (Recovery Act).

² See *Comment Sought on the Contribution of Federal, State, Tribal, and Local Government to Broadband* NBP Public Notice #7, GN Docket Nos. 09-47, 09-51, 09-137, DA 09-2122 (rel. Sept. 25, 2009).

³ See e.g., Civic Engagement and Open Government Workshop, August 6, 2009 (www.broadband.gov/ws_egov.html) last visited November 18, 2009).

⁴ See Memorandum for the Heads of Executive Departments and Agencies on Transparency and Open Government (January 21, 2009), 74 Fed Reg. 4685, (January 26, 2009).

⁵ A popular example of cloud computing is access to email over the Internet using a web interface (such as Yahoo Mail, Gmail, or Hotmail), rather than using a software-based application on one's computer.

⁶ See Federal Funding Accountability and Transparency Act of 2006, Pub. L. No. 109-282, 120 Stat. 1186 (2006); *Recovery Act*

⁷ See Data.gov (www.Data.gov) last visited November 18, 2009).

- b. Are there examples of innovative products or services provided by the private sector that rely upon the use of easily accessible government information?
 - c. Federal government data are available in many formats. In what formats should this data be made available over the Internet? How should open data standards inform policy for data transparency?
 - d. How does data transparency relate to application development? Are there potential efficiencies to be gained through an increase in government data transparency?
 - e. To what extent would increased data transparency affect intra-agency processes, intergovernmental coordination, and civic participation?
 - f. To what extent do existing regulations inhibit or promote government data transparency?
 - g. What impact do developments in data transparency have with respect to broadband deployment, adoption, and use?
 - h. What are the potential benefits to making data more accessible?
 - i. What potential pitfalls exist when increasing data transparency?
 - j. What privacy and confidentiality concerns might arise due to an increase in data transparency and what, if any, privacy safeguards are needed to protect against the misuse of personal information?
 - k. What types of personal information should be protected from disclosure?
2. **Cloud computing.** When considering the portability of data, we also consider the processes through which data are moved. In this context, we seek comment on how to identify and understand cloud computing as a model for technology provisioning.
- a. The National Institute of Standards and Technology defines cloud computing as “a model for enabling convenient, on-demand network access to a shared pool of configurable computing resources (e.g., networks, servers, storage, applications, and services) that can be rapidly provisioned and released with minimal management effort or service provider interaction.”⁸ Does this definition accurately capture the concept of cloud computing?
 - b. What types of cloud computing exist (e.g., public, hybrid, and internal) and what are the legal and regulatory implications of their use?
 - c. Can present broadband network configurations handle a large-scale shift in bandwidth usage that a rapid adoption of cloud computing might cause?
 - d. How does cloud computing affect the reliability, scalability, security, and sustainability of information and data?
 - e. To what extent can the federal government leverage cloud solutions to improve intra-agency processes, intergovernmental coordination, and civic participation?
 - f. What impact do developments in cloud computing have with respect to broadband deployment, adoption, and use?
 - g. How can various parties leverage cloud computing to obtain economic or social efficiencies? Is it possible to quantify the efficiencies gained?
 - h. To what extent are consumers protected by industry self-regulation (e.g., the Cloud Computing Manifesto⁹), and to what extent might additional protections be needed?
 - i. What specific privacy concerns are there with user data and cloud computing?
 - j. What precautions should government agencies take to prevent disclosure of personal information when providing data?
 - k. Is the use of cloud computing a net positive to the environment? Are there specific studies that quantify the environmental impact of cloud computing?

⁸ See CDT Comments at 13.

⁹ Cloud Computing Manifesto, http://wiki.cloudcommunity.org/wiki/Cloud_Computing_Manifesto (last visited Aug. 20, 2009).

3. **Identity Management and Government Service Delivery.**¹⁰ Data held by the government may be personally sensitive or confidential. In this context, we seek comment on identity management as it relates to the provision of services where individuals either provide data to the government or access data that are personally sensitive or confidential.
- a. What is the current state of identity management in the federal, state, local and Tribal government?
 - b. What is the spectrum of online identity credentialing required for access to online services from the government and non-governmental entities?
 - c. What identity management technologies currently exist and what are their applications?
 - d. How have HSPD-12 implementation efforts affected the efficiency of the federal government?¹¹
 - e. What identity management technologies are available in the private sector? What are their applications?
 - f. What impact do developments in identity management, such as Open ID,¹² have with respect to broadband deployment, adoption, and use?
 - g. What are the potential benefits of a coordinated nationwide identity management schema?
 - h. What are the potential pitfalls of a coordinated nationwide identity management strategy?
 - i. What specific privacy concerns are there with identity management strategies?
 - j. What types of personal information should be protected from disclosure?

This matter shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules. See 47 C.F.R. §§ 1.1200, 1.1206. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented generally is required. See 47 C.F.R. § 1.1206(b). Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in section 1.1206(b) of the Commission’s rules, 47 C.F.R. § 1.1206(b).

All comments should refer to GN Docket Nos. 09-47, 09-51, and 09-137. Please title comments responsive to this Notice as “Comments – NBP Public Notice #21.” Further, we strongly encourage parties to develop responses to this Notice that adhere to the organization and structure of the questions in this Notice.

Comments may be filed using (1) the Commission’s Electronic Comment Filing System (ECFS), (2) the Federal Government’s eRulemaking Portal, or (3) by filing paper copies.¹³ Comments can be filed through the Commission’s ECFS filing interface located at the following Internet address: <http://www.fcc.gov/cgb/ecfs/>. Comments can also be filed via the Federal eRulemaking Portal: <http://www.regulations.gov/>.¹⁴ Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties who choose to file by paper must file an original and four copies of each filing.

¹⁰ By identity management, we refer to electronic identity credentialing. See IDManagement.gov for more details.

¹¹ See Homeland Security Presidential Directive-12: Policy for a Common Identification Standard for Federal Employees and Contractors (http://www.dhs.gov/xabout/laws/ge_1217616624097.shtm last visited November 18, 2009).

¹² See [IDManagement.gov](http://idmanagement.gov/). (<http://idmanagement.gov/> last visited November 18, 2009).

¹³ See Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24121 (1998).

¹⁴ Filers should follow the instructions provided on the Federal eRulemaking Portal Website for submitting comments.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, S.W., Washington, D.C. 20554.

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For further information about this Public Notice, please contact Randy Clarke at (202) 418-1500.

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