

**FCC INTERNATIONAL REPORTING DEADLINE APPROACHING FOR
SUBMARINE CABLE OPERATORS AND
INTERNATIONAL CIRCUIT CAPACITY HOLDERS**

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U.S. providers of international telecommunications services must file with the Federal Communications Commission (“FCC”) their annual international circuit capacity reports (“CC Reports”) no later than March 31 pursuant to the requirements of section 43.62(a) of the FCC’s rules. Submarine cable operators (regardless of whether they are regulated on a common-carrier or non-common-carrier basis) must report current and planned capacity on their systems. Common carriers who hold submarine cable capacity on an ownership, indefeasible rights of use (“IRU”), or lease basis must also report on their submarine cable capacity holdings. Failure to file reports as required may subject providers to enforcement actions. To assist providers with these new reporting requirements, the FCC has updated its filing manual covering these reports. Below, we describe briefly the requirements for the CC Reports.

- **Who must file.** The following categories of carriers and licensees must file annual CC Reports: (1) any U.S. international carrier that owned or leased bare capacity on a submarine cable or on a terrestrial or satellite facility between the United States and any foreign point as of December 31 of the reporting period; (2) any person or entity that held a submarine cable landing license on December 31 of the reporting period; (3) cable landing licensees (one licensee per system); and (4) any satellite licensee that is not a U.S. international carrier and that owns circuits between the United States and any foreign point as of December 31 of the reporting period.
- **Submarine Cable Information.** The FCC’s rules and filing manual require two kinds of reports with respect to submarine cable capacity:
 - The *Circuit Capacity Report for Submarine Cable Operators* provides the FCC with circuit capacity information for a whole cable system. The licensees of a submarine cable system extending between the United States and foreign points must select one licensee to report the available capacity of the cable (meaning all of the capacity available on the cable using equipment used on the cable as of December 31 of the reporting period) and the planned capacity of the cable (meaning the intended capacity of the cable two years out from December 31 of the reporting period based on the plans for upgrades to the technology used on the cable). The capacity data shall be reported in Gbps, rounded to one decimal place. The FCC has not stated clearly whether available capacity includes redundant circuits, as it has with satellite and terrestrial circuits. Note that any of the following could be licensees for a particular system: (1) any entity that owns or controls a cable landing station in the United States; and (2) all other entities owning or controlling a five percent (5%) or

* Not admitted in the District of Columbia. Practicing under the supervision of Patrick O’Donnell while D.C. bar application is pending.

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- greater interest in the cable system and using the U.S. points of the cable system, 47 C.F.R. § 1.767(h), but only one licensee per cable system must file.
- The *Circuit Capacity Report for Submarine Cable Capacity Holders* provides the FCC with circuit capacity information for individual licensees. Each individual international carrier—a person or entity in the United States that provides telecommunications services on a common-carrier basis between the United States and a foreign point—that owned or leased bare capacity on a submarine cable between the United States and any foreign point and each person or entity that held a submarine cable license on December 31 of the reporting period must provide information about the submarine cable capacity it holds individually. This includes owned capacity, IRU capacity, and inter-carrier leased capacity. Capacity data should be reported in STM-1 units, rounded to one decimal place, and should also be broken out by activated and non-activated capacity. The filing manual explains that activated capacity means capacity used for providing services or facilities to customers, capacity reserved for internal company use, capacity reserved for restoration services, and unused capacity that is available for immediate use. Non-activated capacity means unused capacity that is not available for immediate use.
 - ***Satellite Information.***
 - *Common Carriers.* Each individual facilities-based common carrier—a common carrier that holds an ownership, IRU, or leasehold interest in bare capacity in the U.S. end of an international facility—must report a world-total count of active (used or leased) international bearer circuits as of December 31 of the reporting period in any terrestrial or satellite transmission facility (reported separately) for the provision of service to an end-user or resale carrier. This includes active circuits used by the common carrier itself and its affiliates. Active circuits for these purposes include backup and redundant circuits. All circuits must be reported as 64 kbps equivalent circuits.
 - *Non-Common Carriers.* Non-common carrier satellite operators must report a world-total count of circuits sold or leased to any customer as of December 31 of the reporting period (other than circuits sold or leased to an international common carrier authorized by the Commission to provide U.S. international common carrier services). This includes circuits used by or leased to the non-common carrier itself and its affiliates. Active circuits for these purposes include backup and redundant circuits. All circuits must be reported as 64 kbps equivalent circuits.
 - ***Confidentiality.*** Filers can indicate on the Registration Form for the CC Reports that they request the FCC to keep the circuit capacity data submitted confidential. Filers should check the relevant boxes on the registration form with each filing in order to request non-disclosure and certify that the filed data are privileged and confidential and that public disclosure would likely cause substantial harm to the competitive position of the company. This certification must be made by the same company official who certifies the accuracy and completeness of the accompanying report. Should someone file a request to see a particular filer's data, the FCC shall notify the filer, and the filer would then need to justify its request for confidential treatment.

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- **Relevant Forms.** The CC Reports are completed using fillable forms or worksheets provided by the FCC. In addition to the fillable forms (which list most existing cable systems by region), filers must also complete the Registration Form.

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For more information regarding the FCC's reporting requirements for U.S. providers of international telecommunications services, please contact **Kent Bressie** at +1 202 730 1337 or kbressie@hwglaw.com.

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