

### **136.602 Definitions for KRS 136.600 to 136.660.**

As used in KRS 136.600 to 136.660:

- (1) "Cable service" means the provision of video, audio, or other programming service to purchasers, and the purchaser interaction, if any, required for the selection or use of the video or other programming service, regardless of whether the programming is transmitted over facilities owned or operated by the provider or by one (1) or more other communications service providers. Included in this definition are basic, extended, and premium service, pay-per-view service, digital or other music services, and other similar services;
- (2) "Communications service" means the provision, transmission, conveyance, or routing, for consideration, of voice, data, video, or any other information signals of the purchaser's choosing to a point or between or among points specified by the purchaser, by or through any electronic, radio, light, fiber-optic, or similar medium or method now in existence or later devised.
  - (a) "Communications service" includes but is not limited to:
    1. Local and long-distance telephone services;
    2. Telegraph and teletypewriter services;
    3. Prepaid calling services, and postpaid calling services;
    4. Private communications services involving a direct channel specifically dedicated to a customer's use between specific points;
    5. Channel services involving a path of communications between two (2) or more points;
    6. Data transport services involving the movement of encoded information between points by means of any electronic, radio, or other medium or method;
    7. Caller ID services, ring tones, voice mail and other electronic messaging services;
    8. Mobile telecommunications service as defined in 4 U.S.C. sec. 124(7); and
    9. Voice over Internet Protocol (VOIP);
  - (b) "Communications services" does not include information services or multichannel video programming service;
- (3) "Department" means the Department of Revenue;
- (4) "End user" means the person who utilized the multichannel video programming service. In the case of an entity, "end user" means the individual who used the service on behalf of the entity;
- (5) "Engaged in business" means:
  - (a) Having any employee, representative, agent, salesman, canvasser, or solicitor operating in this state, under the authority of the provider, its subsidiary, or related entity, for the purpose of selling, delivering, taking orders, or performing any activities that help establish or maintain a marketplace for the

provider;

- (b) Maintaining, occupying, or using permanently or temporarily, directly or indirectly, or through a subsidiary or any other related entity, agent or representative, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business;
  - (c) Having real or tangible personal property in this state;
  - (d) Providing communications service by or through a customer's facilities located in this state;
  - (e) Soliciting orders from residents of this state on a continuous, regular, or systematic basis in which the solicitation of the order, placement of the order by the customer or payment of the order utilizes the services of any financial institution, communications system, radio or television station, cable service, direct broadcast satellite or wireless cable service, print media, or other facility or service located in this state; or
  - (f) Soliciting orders from residents of this state on a continuous regular, systematic basis if the provider benefits from an agent or representative operating in this state under the authority of the provider to repair or service tangible personal property sold by the retailer;
- (6) "Gross revenues" means all amounts received in money, credits, property, or other money's worth in any form, by a provider for furnishing multichannel video programming service or communications service in this state excluding amounts received from:
- (a) Charges for Internet access as defined in 47 U.S.C. sec. 151; and
  - (b) Any excise tax, sales tax, or similar tax, fee, or assessment levied by the United States or any state or local political subdivision upon the purchase, sale, use, or other consumption of communications services or multichannel video programming services that is permitted or required to be added to the sales price of the communications service or multichannel video programming service. This exclusion does not include any amount that the provider has retained as a reimbursement for collecting and remitting the tax to the appropriate taxing jurisdiction in a timely manner;
- (7) "In this state" means within the exterior limits of the Commonwealth of Kentucky and includes all territory within these limits owned by or ceded to the United States of America;
- (8) "Multichannel video programming service" means programming provided by or generally considered comparable to programming provided by a television broadcast station and shall include but not be limited to:
- (a) Cable service;
  - (b) Satellite broadcast and wireless cable service; and
  - (c) Internet protocol television provided through wireline facilities without regard to delivery technology;

- (9) "Person" means and includes any individual, firm, corporation, joint venture, association, social club, fraternal organization, general partnership, limited partnership, limited liability partnership, limited liability company, nonprofit entity, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, governmental unit or agency, or any other group or combination acting as a unit;
- (10) "Place of primary use" means the street address where the end user's use of the multichannel video programming service primarily occurs;
- (11) "Political subdivision" means a city, county, urban-county government, consolidated local government, or charter county government;
- (12) "Provider" means any person receiving gross revenues for the provision of multichannel video programming service or communications service in this state;
- (13) "Purchaser" means the person paying for multichannel video programming service;
- (14) "Resale" means the purchase of a multichannel video programming service by a provider required to collect the tax levied by KRS 136.604 for sale, or incorporation into a multichannel video programming service for sale, including but not limited to:
  - (a) Charges paid by multichannel video programming service providers for transmission of video or other programming by another provider over facilities owned or operated by the other provider; and
  - (b) Charges for use of facilities for providing or receiving multichannel video programming services;
- (15) "Retail purchase" means any purchase of a multichannel video programming service for any purpose other than resale;
- (16) "Ring tones" means digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication;
- (17) "Sale" means the furnishing of a multichannel video programming service for consideration;
- (18) (a) "Sales price" means the total amount billed by or on behalf of a provider for the sale of multichannel video programming services in this state valued in money, whether paid in money or otherwise, without any deduction on account of the following:
  - 1. Any charge attributable to the connection, movement, change, or termination of a multichannel video programming service; or
  - 2. Any charge for detail billing;
- (b) "Sales price" does not include any of the following:
  - 1. Charges for installation, reinstallation, or maintenance of wiring or equipment on a customer's premises;
  - 2. Charges for the sale or rental of tangible personal property;
  - 3. Charges for billing and collection services provided to another multichannel video programming service provider;
  - 4. Bad check charges;

5. Late payment charges;
  6. Any excise tax, sales tax, or similar tax, fee, or assessment levied by the United States or any state or local political subdivision, upon the purchase, sale, use, or consumption of any multichannel video programming service, that is permitted or required to be added to the sales price of the multichannel video programming service; or
  7. Internet access as defined in 47 U.S.C. sec. 151;
- (19) "Satellite broadcast and wireless cable service" means point-to-point or point-to-multipoint distribution services that include but are not limited to direct broadcast satellite service and multichannel multipoint distribution services, with programming or voice transmitted or broadcast by satellite, microwave, or any other equipment directly to the purchaser. Included in this definition are basic, extended, and premium service, pay-per-view service, digital or other music services, two (2) way service, and other similar services;
- (20) "School district" means a school district as defined in KRS 160.010 and 160.020; and
- (21) "Special district" means a special district as defined in KRS 65.005(1)(a) that currently levies on any provider or its customers the public service corporation property tax under KRS 136.120.

**Effective:** July 1, 2009

**History:** Amended 2009 Ky. Acts ch. 99, sec. 1, effective July 1, 2009. -- Amended 2007 Ky. Acts ch. 141, sec. 13, effective July 1, 2007. -- Amended 2006 Ky. Acts ch. 6, sec. 3, effective March 6, 2006. -- Created 2005 Ky. Acts ch. 168, sec. 89, effective January 1, 2006.

**Legislative Research Commission Note** (3/6/2006). 2006 Ky. Acts ch. 6, sec. 26, provides that this section applies retroactively to January 1, 2006.

**Legislative Research Commission Note** (1/1/2006). 2005 Ky. Acts chs. 11, 85, 95, 97, 98, 99, 123, and 181 instruct the Reviser of Statutes to correct statutory references to agencies and officers whose names have been changed in 2005 legislation confirming the reorganization of the executive branch. Such a correction has been made in this section.