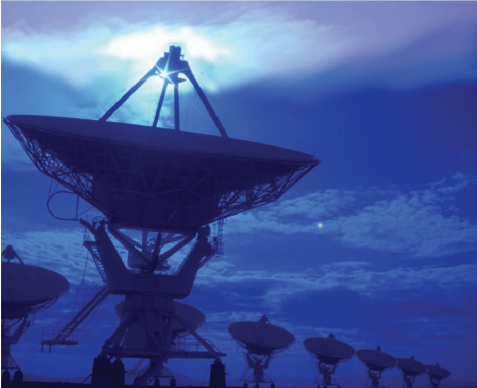


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## Wireless Carriers to Cooperate with FCC, Law Enforcement on Cell Phone Theft

To combat the escalating problem of smart phone theft, the four national U.S. wireless carriers joined forces this week with the FCC and law enforcement agencies in committing to establish a new, centralized database that will help identify stolen cell phones and render such devices incapable of use. The voluntary initiative, announced at a Washington, D.C. press conference on Tuesday, follows up on a resolution, published in February by the Major Cities Chiefs Association (MCCA), which advised the FCC to require wireless carriers to disable stolen devices through the implementation of specialized network technologies. (The MCCA is a representative body of police chiefs from major metropolitan areas throughout the U.S. and Canada.) Since the advent of the iPhone in 2007, thefts of smart phones and other wireless broadband devices have surged in major cities throughout the U.S. Statistics compiled by the New York City police department demonstrate that, out of the 26,000 incidents of electronics theft reported in New York City during the first ten months of 2011, 81% involved mobile phones. Similarly, incidents of cell phone theft reported to the metropolitan Washington, D.C. police jumped by 54% between 2007 and 2011. Although exact details of the database initiative have yet to be developed, AT&T, Verizon Wireless, Sprint Nextel and T-Mobile USA have agreed to list stolen wireless devices, according to unique serial numbers, in individual carrier databases within the next six months. Devices listed in these databases will be blocked from accessing carrier networks for voice and data services. In the twelve-month period to follow, participating carriers will integrate their respective databases into a unified national database. Regional wireless carriers are expected to join the initiative over the next two years, and the four national carriers have further pledged to launch programs to encourage subscribers to set passwords on their devices that would deter theft. In accordance with their agreement with the FCC, the carriers will also make their databases interoperable with similar anti-theft databases that are already in use throughout Europe. Observing that “new technologies create new risks,” FCC Chairman Julius Genachowski explained to reporters: “we wanted to find a way to reduce the value of stolen smart phones.”

## Facebook to Pay \$1 Billion for Instagram Mobile Photo App

Signaling the importance of mobile smart phone applications among key players in the Internet world, online social networking giant Facebook agreed on Monday to purchase Instagram, a popular mobile photo sharing service, for \$1 billion in cash and stock. Since its debut in October 2010, Instagram has surged in popularity among iPhone users, who use the Instagram application to customize and share photos taken with their smart phones. Instagram currently boasts more than 30 million registered users and last week

released an application for Android smart phones that has already brought in millions more users. Although Instagram has only a dozen employees and has yet to record any revenues, the company has exploded in value over the past year from approximately \$30 million in February 2011 to more than \$500 million as of last week. Recalling Google's 2006 acquisition of YouTube in a \$1.6 billion deal that placed the online search giant at the forefront of the online video industry, observers anticipate that the Facebook Instagram deal will provide Facebook and its 845 million worldwide users with a key platform for expanding photo sharing and other popular Facebook functions into the wireless realm. The deal is also expected to lend even greater significance to the Facebook name as the company prepares for its initial public offering. Describing the deal as a "milestone," Facebook CEO Mark Zuckerberg told reporters: "providing the best photo sharing experience is one reason why so many people love Facebook, and we knew it would be worth bringing these two companies together."

## TV "White Space" Rules Relaxed by FCC

In response to several petitions for reconsideration, the FCC late last week approved modifications to its TV "white space" rules, which were first promulgated in 2010 to afford users greater flexibility to deploy unlicensed fixed and wireless broadband devices in the white space bands. The rule changes, proclaimed the FCC, "will result in decreased operating costs for fixed TVBDs (unlicensed TV bands devices) and allow them to provide greater coverage, thus increasing the availability of wireless broadband services in rural and underserved areas without increasing the risk of interference to incumbent services." Under the order, fixed device antennas in the white space bands will be permitted to operate at a maximum height above average terrain (HAAT) of 250 meters while maintaining the current antenna height limit of 30 meters. Noting that its previous rule limited fixed white space antennas to sites where the ground HAAT does not exceed 76 meters, the FCC predicted that the relaxed rule will allow for "the use of sites that were previously precluded by the rules . . . permitting greater coverage from each site." The FCC stipulated, however, that the combined site elevation above average terrain and antenna height for any transmitting device may not exceed 250 meters. Among other things, the order also increases the maximum power spectral density limit for each TVBD category to allow a TVBD "to operate at the maximum permissible power in a bandwidth of 5.5 MHz instead of 6 MHz." Asserting that "the FCC's reasoned approach balances the rights of incumbent TV stations with the interests of rural consumers that lack affordable access to broadband," an official of the Wireless Internet Service Providers Association said that the agency's order "will enable wireless ISPs to provide fixed broadband services to larger areas with less infrastructure."

## Grassley Maintains Hold on FCC Nominees

The nominations of Jessica Rosenworcel and Ajit Pai to the FCC continued to languish in legislative limbo this week, as a spokeswoman for the office of Senator Charles Grassley (R-IA) said on Monday that Grassley will maintain his hold on the nominations despite receiving access to more than 13,000 pages of FCC documents previously requested. Although Rosenworcel, a Democrat, and Pai, a Republican, were well received by Senate panelists at confirmation hearings late last year, Grassley has put a hold on both nominations in protest against the FCC's refusal to supply his office with internal agency documents as part of an investigation into the FCC's handling of particular matters. Refusing Grassley, FCC officials emphasized that the agency is only obligated to produce documents at the request of the Senate Commerce and House Energy and Commerce committees which have oversight over the FCC. In response to a request last February from the House Energy and Commerce Committee, the FCC submitted thousands of pages of documents to the committee, and sources confirm that those documents were shared with Grassley on April 6. Charging, however, that the committee did not receive all of the documents it asked for and that the documents in question "all have been previously released through the Freedom of Information Act," a spokeswoman for Grassley asserted that the hold on the Rosenworcel-Pai nominations "will continue until the FCC demonstrates its commitment to comply with the House Committee's request and produce new documents." In reply, an official of the FCC countered that the documents submitted to the committee "contain confidential information that is not in the public domain" as he stressed that the agency has "responded to [the committee's] request."

## FCC Reinstates Basic Cable Rate Regulation in Boston

Comcast vowed this week to seek reconsideration of a decision of the FCC's Media Bureau to reinstate basic cable rate regulation in the city of Boston, asserting that Comcast "faces real competition every day in Boston from DirectTV, DISH Network and RCN." Monday's Bureau's ruling responds to a petition, filed by the City of Boston, in which the city's government pointed to the failure of local exchange carrier (LEC) RCN to expand sufficiently its multichannel video service coverage in the Boston area to satisfy FCC rules. In 2001, Comcast's predecessor in Boston was found by the FCC to face effective competition—and was thus exempted from local cable rate regulation—on grounds that RCN would eventually satisfy a "substantial overlap" requirement. In its order granting the city's request, however, the Bureau observed that, "due to a lack of capital, RCN's buildout halted," resulting in coverage of only 32.1% of Boston's video households. Pointing to RCN's current one-third coverage of Comcast's cable franchise area, "combined with the impossibility of the LEC expanding," the Bureau thus decreed that the evidence "[amounts] to a clear showing that the reasons for the earlier revocation of the City's authority are no longer valid." Objecting to the Bureau's action, Comcast argued that RCN's current video subscriber base, consisting of 15% of Boston's households, when combined with the Boston area customers of DISH Network and DirectTV, is sufficient for Comcast to be exempt from local rate regulation under the tenets of the FCC's "competing provider" test. While promising to seek review "as soon as possible," a Comcast official further stressed that "Boston cannot re-regulate until the Commission acts on" his company's petition for reconsideration.

## T-Mobile, Leap Wireless Agree to Spectrum Swap

T-Mobile USA and regional wireless operator Leap Wireless took steps to improve their long term evolution (LTE) network coverage by agreeing on Monday to exchange wireless spectrum assets in various markets throughout the U.S. The deal, which requires the approval of the FCC, will enable T-Mobile to add further to its LTE assets beyond the 7 MHz of LTE spectrum it is due to acquire from AT&T as a result of the termination of the companies' merger agreement in December. T-Mobile—the only national U.S. wireless carrier to lack the iPhone—is expected to begin offering fourth-generation LTE services to its customers next year. Monday's pact, for which financial details were not disclosed, also includes spectrum assets held by Cook Inlet/VS GSM VII PCS and Savary Island Wireless, joint ventures in which T-Mobile and Leap hold respective, non-controlling majority stakes. Through the transaction, Leap would acquire spectrum currently held by T-Mobile in Phoenix, Arizona and in various Texas markets, while T-Mobile would acquire Leap spectrum in St. Louis, Missouri and in various markets in Minnesota, Illinois and Alabama. At the same time, T-Mobile, Leap (and/or Cook Inlet or Savary) would exchange spectrum assets in various Texas and New Mexico markets as well as in Philadelphia, Pennsylvania, Wilmington, Delaware, and Atlantic City, New Jersey. Emphasizing that the transactions "will allow us to re-align spectrum in key markets into contiguous channels, thereby optimizing our delivery of wireless services," Leap CEO Doug Hutcheson applauded the agreement as one that "[provides] us longer term flexibility to offer a larger LTE channel."

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