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Current Telecom Developments

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House Members Voice Concern On Broadband Reclassification, TV Spectrum Reassignment At NBP Hearing

During a hearing on the National Broadband Plan (NBP), members of the House Communications, Technology & Internet subcommittee questioned FCC Chairman Julius Genachowski and his fellow commissioners on whether the FCC could ever reclassify broadband as a Title II service that is subject to common carrier and other regulations that apply to phone companies. Proposals by the FCC to reclaim television spectrum for wireless broadband were also spotlighted, as lawmakers stressed that any such plan would require congressional authorization. Delivered to Congress on March 16, the NBP cites broadband service reclassification as one of several suggestions proposed by outside parties for solidifying the FCC's authority to regulate broadband Internet access. The NBP does not, however, include Title II classification in its list of recommendations. Despite praising Genachowski and his colleagues for doing "about as good a job as can be done" in formulating the NBP, ranking House Energy and Commerce Committee member Joe Barton (R-TX) scoffed at Title II reclassification as "the worst idea I have heard in years." As Rep. Marsha Blackburn (R-TN) added that she had hoped for "stronger language . . . closing the door on reclassification," Rep. John Dingell (D-MI) joined Rep. Fred Upton (R-MI) took issue with NBP statements suggesting that bundling mandates be imposed on broadband providers as they questioned whether the FCC has the authority to enact such mandates. In reply, Commissioner Michael Copps asserted that the FCC possesses such authority. Both members of the FCC's Republican minority—Commissioners Robert McDowell and Meredith Baker—said it does not. With respect to reassignment of television spectrum, Dingell voiced concern about the effects of further potential channel losses by over-the-air broadcasters who "surrendered nearly a third of their spectrum to facilitate the recent transition to digital television." Boucher also confirmed that he is working with House Energy and Commerce Committee Chairman Henry Waxman (D-CA) on legislation that would authorize the FCC to share with broadcasters the proceeds of auctions conducted for TV channels that are surrendered voluntarily by broadcasters.

FCC Conditions On SkyTerra-Harbinger Merger Face Challenge

Conditions attached to an FCC order approving the acquisition of mobile satellite service (MSS) operator SkyTerra Communications by private equity concern Harbinger Capital Partners are being challenged at the FCC by AT&T and criticized by Verizon Wireless. Those carriers contend that the conditions will put them at a disadvantage in connection with obtaining wholesale access to L-band spectrum controlled by the merged entity. Issued last Friday, the FCC ruling will enable SkyTerra's new owners to proceed with plans to develop a nationwide long-term evolution (LTE) terrestrial wireless broadband network that is slated for commercial launch by the third quarter of 2011 and that is expected to serve all major U.S. markets by the second quarter of 2012. Known formerly as Mobile Satellite Ventures, SkyTerra has offered MSS services to the U.S. and Canada via two satellites since 1996 and has contracted with Boeing for the construction and launch of two spacecraft to support its next generation LTE network. Acting on National Broadband Plan recommendations that the FCC accelerate development of L-band MSS spectrum that can be used for terrestrial broadband services, the FCC issued a companion order alongside the merger ruling that grants SkyTerra greater flexibility in the operation of its previously authorized ancillary terrestrial component service. Although Paul de Sa, the chief of the FCC's Office of Strategic Planning and Policy Analysis, noted in a blog posting that the LTE network developed by the post-merger entity would open and would offer wholesale 4G services, the merger order requires SkyTerra to seek prior FCC consent "before leasing capacity to the largest or second-largest wireless provider," namely Verizon Wireless and AT&T. Charging the FCC with adopting "new regulatory restrictions that apply only to AT&T and Verizon and limit otherwise lawful secondary market spectrum and resale arrangements," AT&T called on the agency to rescind the conditions as "unlawful in multiple respects." Calling the restriction "troubling," a spokesman for Verizon confirmed, "we are reviewing for options."

Congress Extends Satellite Retransmission Rights Through April 30

Through a stand-alone bill approved by both chambers of Congress and signed by President Obama last Friday, DISH Network and DirecTV were given yet another extension of compulsory retransmission rights that were last granted to the DBS industry in 2004. Members of the Senate, meanwhile, approved by unanimous consent a satellite reauthorization bill that mirrors separate pending House legislation in nearly all respects except for a provision that provides a ten-year license term instead of five. Friday's action renews the provisions of the 2004 Satellite Home Viewer Extension and Reauthorization Act (SHVERA) through April 30 and constitutes the third extension of SHVERA since its originally scheduled expiration on December 31, 2009. Like previous temporary extensions, the bill enacted on Friday provides lawmakers with additional time to finalize legislation that would renew the compulsory license for a longer term. To that end, members of the House and Senate Judiciary and Commerce committees have endorsed the Satellite Television Extension and Localism Act of 2010 (STELA), which, in addition to renewing the compulsory license, (1) restores DISH Network's right to offer distant broadcast network signals in exchange for the company's commitment to expand local-into-local service to all television markets, (2) moves up deadlines for satellite delivery of non-commercial broadcast signals in HD format, and (3) corrects the problem of "phantom signals" that result in cable operators having to pay program carriage fees for subscribers who don't receive those signals. The five-year license term outlined in STELA, however, is holding up passage as the negative flow of license and copyright payments over the proposed five-year period runs counter to new congressional "pay-go" rules that require bills to be budget neutral. Committee sources indicate that the ten-year license term provided in the new Senate bill (also known as STELA) would enable a positive cash cycle of license and copyright payments to the government of up to $346 million. While admitting that the proposed ten-year term "is not my preferred course of action," Senate Judiciary Committee Chairman Patrick Leahy (D-VT) nevertheless called on House members "to enact STELA as swiftly as possible."

Verizon To Halt FiOS Network Expansion

Signaling that its six-year, $23 billion effort to convert its copper network lines to fiber is near completion, Verizon Communications confirmed late last week that it is no longer seeking new markets in which to deploy its FiOS fiber-optic TV and broadband Internet service. The disclosure in a letter to government franchising officials in the city of Alexandria, Virginia marks the end of FiOS network deployment by Verizon after making the service available to 70% of households in the company's eastern U.S. local exchange service area. The decision will also leave several large cities, such as Baltimore and downtown Boston, without access to FiOS service. While Verizon has never promised to expand FiOS to every household served by Verizon's legacy landline network, the company has rolled out FiOS service in 16 states and is on track to connect 18 million households by the end of this year. (By the end of 2009, Verizon had connected 15.4 million households to FiOS, which is the only high-speed service offered by any U.S. phone company to bring fiber optic lines beyond the curb and directly into subscriber homes.) Although FiOS has gained a competitive foothold against established cable and satellite TV providers in the markets where it is offered, sources indicate that growth in FiOS subscribership is slowing. Noting that Verizon will continue franchise negotiations with about a dozen localities and will continue to expand FiOS availability in existing markets, a Verizon spokesman said, “we’re fulfilling our original commitments.”

UK Proposes Steep Cuts In Mobile Termination Rates

To enable “cheaper calls to mobiles for the 32.7 million U.K. homes and businesses with a landline,” British telecom market regulator Ofcom unveiled proposals yesterday to slash caps on mobile termination rates from US$0.65 per minute to $0.08 per minute by 2015. The announcement came as Deutsche Telekom and France Telecom completed the merger of their respective mobile units in the U.K. to create the nation’s largest wireless operator with 28 million customers and a 37% share of the British market. Ofcom’s proposal also corresponds with similar actions by the European Commission last year to reduce termination fees that wireless carriers impose on wireless competitors and landline phone operators that complete calls on their networks. The proposed cuts would be implemented in stages starting next year and are expected to result in an average 88% reduction in U.K. wireless termination rates by 2015. In addition to lowering expenses for consumers and smaller competitors of the nation’s top wireless carriers, Ofcom said its plan is intended to spur investment in other areas by large mobile operators while giving both wireline and wireless operators “more flexibility in designing competitive call packages, promoting competition for the benefit of consumers.” Countering that “a cut of this magnitude deters future investment,” an official of Vodafone argued that Ofcom’s proposal “is at odds with the government’s vision of a digital Britain” and “makes it less likely that the U.K. will continue to lead in mobile communications.”

Ericsson Wins India, China Contracts Worth $3.1 Billion

The past week was a fruitful one for Swedish equipment supplier Ericsson, which was awarded rights to expand and/or upgrade the wireless networks of China Mobile, China Unicom and Bharti Airtel, India’s largest mobile phone carrier, in a trio of contracts valued at US$3.1 billion. The agreements solidify Ericsson’s position at the top of the global network equipment sector in which Ericsson increased its market share from 18.7% in 2008 to 20.8% last year in spite of losing several key European contracts to Huawei Technologies—the Chinese firm that recently overtook Nokia Siemens as the world’s second-largest supplier of telecom equipment. Ericsson’s $1.3 billion deal with Bharti Airtel covers expansion of the Indian carrier’s existing second-generation (2G) GSM wireless network and also includes network upgrades to prepare for the roll-out of third-generation (3G) wireless services. (Airtel is slated to bid in India’s auction of 3G wireless licenses that is scheduled to begin next week.) The contracts with China Mobile and China Unicom, valued at $1 billion and $800 million, respectively, also cover 2G and 3G technologies. According to an Ericsson spokesman, the deal with China Mobile covers deployments of TD-SDCMA technology and includes equipment intended to “dramatically boost” the carrier’s network capacity and “evolve it into an IP network.” Under its contract with Unicom, Ericsson will supply IP routers, fiber access and other equipment designed to boost 3G network speeds in support of Unicom’s broadband service offerings.

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