

August 13, 2010

## Verizon, Google Offer Plan For Open Internet

Two former adversaries on the subject of net neutrality—Verizon Communications and Google—have joined forces by offering the FCC and lawmakers their own proposed framework for an open Internet that would prohibit wireline broadband operators from selectively blocking or delaying web transmissions while exempting mobile broadband carriers from net neutrality rules. Released on Monday, the companies' proposal came as the FCC called off closed-door negotiations with representatives of AT&T, Verizon, Google, Skype, the National Cable & Telecommunications Association and other industry participants toward a compromise regulatory roadmap that would achieve the FCC's goal of preserving an open Internet. (In response to the D.C. Circuit Court's ruling last April in the Comcast-BitTorrent case, the FCC adopted a Notice of Inquiry in June to consider classifying the transmission component of broadband Internet services under Title II of the Communications Act.) Commenting on the industry negotiations, an FCC official acknowledged last week that the discussions did not result in a "robust framework" to preserve Internet openness. Meanwhile, the plan offered by Verizon and Google would apply net neutrality principles to "traditional" Internet services offered by cable and other fixed-line broadband carriers. According to Google, such providers "would not be able to discriminate against or prioritize lawful Internet content applications," and that principle would also apply to "paid prioritization." However, new applications that go beyond traditional offerings, such as web-based health care monitoring services and advanced gaming and educational services, would be exempt from net neutrality policies. With respect to such applications, Google and Verizon stressed that they would have to be "distinguishable from traditional broadband Internet access services and . . . not designed to circumvent the rules." Verizon CEO Ivan Seidenberg also confirmed that wireless mobile broadband services would be exempt as he voiced his concerns "about the imposition of too many rules up front that would not allow us to optimize this [wireless] network in a fashion that would supercharge the growth we've seen in the past." Although both companies have pledged their adherence to the plan, Public Knowledge president Gigi Sohn lamented that proposed exemption of wireless Internet traffic "sacrifices the future of the mobile wireless Internet as this platform becomes more central to the lives of all Americans." Free Press also warned that the exemption of non-traditional content "would transform the free and open Internet into a closed platform like cable." While declining direct comment on the Verizon-Google proposal, FCC Chairman Julius Genachowski emphasized that "any outcome, any deal that doesn't preserve the freedom and openness of the Internet for consumers and entrepreneurs will be unacceptable."

### IN THIS ISSUE:

- **Verizon, Google Offer Plan For Open Internet** [read more](#)
- **Rockefeller Introduces Bill To Mandate Reallocation Of 700 MHz D-Block** [read more](#)
- **Inmarsat To Deploy \$1.2 Billion Global Broadband Network** [read more](#)
- **AT&T Addresses End Of iPhone Exclusivity In SEC Filing** [read more](#)
- **Australian Opposition Party Proposes Scaled-Back Version Of NBN** [read more](#)
- **Senator Stevens Remembered As A Champion Of Rural Telecom** [read more](#)

©2010 Paul, Weiss, Rifkind, Wharton & Garrison LLP.  
 In some jurisdictions, this brochure may be considered  
 attorney advertising. Past representations are no  
 guarantee of future outcomes.

## Rockefeller Introduces Bill To Mandate Reallocation Of 700 MHz D-Block

Fulfilling an earlier promise, Senate Commerce Committee Chairman Jay Rockefeller introduced legislation last Friday that would require the FCC to assign the 700 MHz D-block directly to public safety entities while authorizing the agency to conduct incentive auctions of spectrum surrendered voluntarily by TV broadcasters and other licensees who would receive a portion of the auction proceeds. Known as the Public Safety Spectrum and Wireless Innovation Act, Rockefeller's measure parallels similar bills introduced previously by Senate Homeland Security Chairman Jay Lieberman (I-CT) and by Rep. Peter King (R-NY) that would also mandate reallocation of D-block spectrum to public safety. (The FCC, meanwhile, is expected to delay a vote on proposed rules to auction the D-block to a commercial wireless carrier that would use that spectrum to build a nationwide wireless broadband network to be shared with public safety entities.) Like the Lieberman bill, Rockefeller's legislation would direct additional incentive auction proceeds toward deployment of the D-block public safety network for which \$11 billion in appropriations would be authorized. Additionally, the Rockefeller bill would (1) require the National Telecommunications & Information Administration (NTIA) to identify at least 25 MHz of spectrum in the 1675-1710 MHz band for allocation to the wireless industry, (2) direct the FCC to auction advanced wireless service licenses in the 2155-2180 MHz band by January 2013, (3) require the FCC to establish technical, licensing, and operating rules as well as "rural build-out targets" for the D-block public safety network, and (4) grant commercial wireless and other non-public safety entities preemptible secondary access to the D-block public safety network. Unveiling the bill, Rockefeller explained that "we need forward-thinking spectrum policy that promotes smart use of our airwaves and provides public safety officials with the wireless resources they need to keep us safe." As New York City Police Department deputy chief Charles Dowd praised the bill as "an excellent piece of legislation," a spokesman for Verizon Wireless observed that the measure "combines the best from previous proposals in the House and Senate and will provide the comprehensive wireless communications support our nation's first responders need to protect us."

## Inmarsat To Deploy \$1.2 Billion Global Broadband Network

British mobile satellite service (MSS) provider Inmarsat unveiled plans last Friday to launch a new mobile broadband network, known as Global Xpress, that was lauded by company CEO Andrew Sukawaty as the first-ever wireless broadband service to be "offered on a seamless, global, end-to-end basis with high quality." Intended as a compliment to Inmarsat's current L-band MSS service, Global Xpress will be supported by a new constellation of three 703HP Ka-band satellites to be built by Boeing. Under a separate agreement, Boeing will also act as a distribution partner for current L-band services and future Ka-band services provided by Inmarsat and will also purchase capacity representing more than 10% of Inmarsat's target Ka-band revenues in the five years following the launch of Global Xpress service in 2014. Inmarsat is one of two providers (the other being the Solaris Mobile venture operated by SES Astra and Eutelsat) that is authorized by the European Commission to deliver satellite-based broadband services to customers throughout Europe. Inmarsat also plans to spend U.S. \$1.2 billion over the next four-and-a-half years on the new network that is expected to offer download speeds in excess of 50 Mbps.

## AT&T Addresses End Of iPhone Exclusivity In SEC Filing

In its first official pronouncement about the expiration of its exclusive contract to distribute the iPhone, AT&T told the Security & Exchange Commission (SEC) in documents filed last Friday that it did not expect to suffer any "material negative impact" from the termination of its arrangement with Apple, Inc. or with other advanced handset providers with which it has an exclusive deal. AT&T's revelation comes amidst continued speculation concerning an end to AT&T's distribution deal with Apple later this year that could enable Verizon Wireless to offer the iPhone to its customers early next year. While acknowledging that "the expiration of any of our current exclusivity arrangements could increase churn," AT&T said it anticipates the impact of any such contract expiration to be minimal as most iPhone and other advanced handset customers would remain committed to their two-year contracts. Adding that it carries a variety of smart phones that reduces its dependence upon any one model such as the iPhone, AT&T further noted that

exclusive distribution agreements “may not provide a competitive advantage over time, as the industry continues to introduce new devices and services.” Observers also predict that that recent elimination of unlimited data plans by AT&T and the carrier’s decision to increase early termination fees will further reduce subscriber defections when AT&T’s exclusivity arrangement with Apple expires.

## Australian Opposition Party Proposes Scaled-Back Version Of NBN

With national elections a little more than one week away, Australia’s opposition Liberal-National coalition said this week that it would scrap current government plans to build a A\$43 billion (US\$39 billion) national broadband network (NBN) in favor of an alternative proposal that carries a dramatically lower price tag of US\$5.8 billion. The coalition is poised to square off against Australia’s incumbent Labor government in an August 21 election contest that many expect will be close. Detailing the coalition’s agenda after an election win, communications spokesman Tony Smith indicated the coalition government would spend US\$2.46 billion to fund construction of a national fiber-to-the-curb backbone that would bring broadband services with minimum speeds of 12 Mbps to 97% of Australia’s population by 2017. (By contrast, the NBN envisioned by the governing Labor party would reach beyond the curb directly to subscriber homes and businesses and would offer speeds of up to 100 Mbps to 93% of the population.) Industry would be expected to contribute another US\$672 million to the effort. The coalition would also spend US\$1.79 billion on the deployment of wireless broadband infrastructure and an additional US\$896 million to upgrade existing copper networks. While arguing that the coalition’s less-costly alternative “will stimulate a vibrant, private sector-based broadband market with government involved to encourage competition,” Smith quipped: “we make no apology for not spending A\$43 billion of taxpayers’ money running fiber down every street.” Communications Minister Steven Conroy countered, however, that the coalition’s plan lacks a vision for extending broadband connections from the curb to the home, as he warned that the plan would “consign Australia to the digital dark ages.”

## Senator Stevens Remembered As A Champion Of Rural Telecom

Past and present leaders of the FCC and top lawmakers mourned the passing of former Senate Commerce Committee Chairman Ted Stevens (R-AK) who was tragically killed Monday night in a plane crash in Alaska. Stevens, 86, was among five fatalities that also included an executive of Anchorage-based telecom provider GCI. A staunch advocate of rural telecom causes, Stevens fought vigorously for universal service reform and for expanded access to basic and advanced telecom services for rural Americans. Stevens also earned the honor as the longest-serving Republican member of the Senate during a 40-year tenure that ended with a lost reelection bid in 2008. As FCC Chairman Julius Genachowski praised Stevens as “an important advocate for building our 21st century communications infrastructure,” Commissioner Robert McDowell observed: “from strengthening our armed forces . . . to helping connect rural America to the rest of the world through his tireless support of the universal service program, the beneficial effects of Senator Stevens’ bold efforts have long been felt beyond the borders of his beloved Alaska.” Former FCC Chairman Reed Hundt also recalled Stevens as “a great friend” and “tremendous protector of the public interest,” as current Senate Commerce Committee Chairman Jay Rockefeller (D-WV) noted that Stevens “always fought for equal access for rural Americans—from equal access to communications, to equal access to transportation and infrastructure.” Remembering Stevens as “a towering figure,” National Association of Broadcasters CEO (and former U.S. senator) Gordon Smith declared: “broadcasters have lost a friend.”

\* \* \*

For information about any of these matters, please contact Patrick S. Campbell (e-mail: [pcampbell@paulweiss.com](mailto:pcampbell@paulweiss.com)) in the Paul, Weiss Washington office. To request e-mail delivery of this newsletter, please send your name and e-mail address to [telecom@paulweiss.com](mailto:telecom@paulweiss.com).

(No. 2010-32)