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National Broadband Plan To Propose Elimination Of USF Support For Voice-Only Services

By 2020, universal service fund (USF) high cost support for voice services would be cut off, and those funds would be channeled into a new Connect America (CA) fund that would support broadband deployment to seven million U.S. households that lack such access. These proposals are among the national broadband plan (NBP) recommendations disclosed by the FCC last Friday. The USF recommendations are the latest in a series of revelations during the past few weeks on the NBP, which will be fully disclosed to the public at an FCC open meeting next Tuesday and presented to Congress next Wednesday. During a press briefing, Carol Matthey, a senior FCC advisor and member of the agency's NBP team, noted that the NBP will also call for a Mobility Fund that would be earmarked for the expansion of third-generation wireless broadband services "in areas lagging behind the national average." Out of the seven million homes that lack broadband access, Matthey said one-third are served by small carriers that operate under rate-of-return regulation and the remaining two-thirds are served by larger price-cap carriers, with the bulk of current high-cost USF support going to the smaller carriers. The NBP will recommend that, if Congress wishes to expedite broadband deployment to unserved households, it should enact a \$9 billion appropriation for the CA fund at a rate of \$3 billion per year for three years. The NBP will also recommend shifting funds from the current USF high-cost mechanism to the CA and Mobility funds in three stages whereby the FCC would (1) first conduct rulemaking proceedings to implement and set parameters for USF recommendations outlined in the NBP, (2) enter a transitional period of phasing out high-cost USF payments to competitive eligible communications carriers and moving those funds into the CA/Mobility funds, and (3) migrate all remaining high-cost programs into CA/Mobility programs, upon which "all funding will cease for voice-only services." As part of the first stage rulemaking process, the FCC will consider, among other things, reforms to the current USF contribution mechanism and cost estimates for the expansion of broadband services developed through the NBP. Verizon Communications urged the FCC to move quickly on plans to "fix the broken contribution system," lamenting that the USF contribution factor "is rising every year and will hit a whopping 15.3% next quarter."

Cable, DBS Firms Seek New Rules On Retransmission Consent

In the wake of last weekend's retransmission standoff between Cablevision and the Walt Disney Company that left Cablevision viewers without access to the ABC network on the eve of the Oscars broadcast, a coalition of cable and direct broadcast satellite (DBS) providers asked the FCC on Tuesday to amend rules on retransmission consent. Coalition members lament that those rules are "broken and in need of repair." The group includes Cablevision, Time Warner Cable (TWC), Verizon Communications, DirecTV,

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DISH Network, Charter Communications, and Bright House Networks. Like other recent disputes that include TWC's New Year's Eve showdown with News Corp. over the carriage of Fox channels, the Cablevision-Disney spat is centered upon what multichannel video program distributors (MVPDs) assert are the increasingly exorbitant fees that broadcasters are demanding for carriage of networks and other programming on cable, DBS, and IPTV systems. After Cablevision refused Disney's request for an extra \$40 million per year for rights to carry ABC, Disney cut off the ABC channel feed to Cablevision viewers last Sunday. (In response to subscriber outcry, that signal was restored twenty minutes into the Oscars program, and the parties have agreed to maintain carriage under current terms as negotiations continue.) Fearing that disputes of this kind that leave viewers in the dark will become more commonplace, the coalition members asked the FCC in a petition to address "skyrocketing consumer costs by establishing a new framework for resolving retransmission consent disputes." That framework, according to the petitioners, should include mandatory arbitration or the establishment of an "expert tribunal" that would oversee carriage negotiations and that would also require the parties to continue carriage under current terms as long as the parties "negotiate in good faith." Asserting that current FCC rules "have repercussions for what Americans can view and how much they pay for it," Senate Communications Subcommittee Chairman John Kerry (D-MA) told FCC Chairman Julius Genachowski: "we need to fix the system." National Association of Broadcasters executive vice president Dennis Wharton warned, however, that a change in the FCC's rules could result in "the demise of local broadcasting."

Spectrum Inventory, Relocation Bills Pass House Commerce Committee

The House Energy and Commerce Committee adopted an amended version of a bill on Wednesday that would require the FCC and the NTIA to conduct an inventory of spectrum between 225 MHz -3.7 GHz for the purpose of identifying unused or underused frequencies that could be reassigned for wireless broadband use. At the same time, committee members approved a second measure that would facilitate the process by which incumbent government spectrum users relocate their operations to free up channels for commercial use. The amended version of the Radio Spectrum Inventory Act (HR-3125) further refines provisions adopted in January by members of the House Communications, Technology and Internet Subcommittee that permit federal agencies to withhold spectrum from the inventory for reasons related to national security. Unlike January's version of HR-3125, the amended bill would allow federal government users to withhold confidential information, not only on their own spectrum, but also on non-federal spectrum, if such disclosure is determined to be "detrimental to national security, homeland security, or public safety." The amended legislation would also (1) double from two years to four the length of time that the FCC and the NTIA will have to report to Congress on the inventory, with subsequent reports to be filed thereafter at four-year intervals, (2) require the FCC and NTIA to update the inventory every three months instead of at the time of a license assignment or transfer or auction, and (3) require both agencies to evaluate, starting with their third report to Congress, whether the burden of expanding the range of inventoried channels to the 10 GHz band "outweighs the benefit."

Illinois ALJ Recommends Blockage Of Verizon-Frontier Deal

Verizon Communications' plan to sell local exchange landlines in 14 states to Frontier Communications ran into a potential roadblock as an Illinois Commerce Commission (ICC) administrative law judge (ALJ) issued a ruling on Tuesday that recommends against ICC approval of the \$5.25 billion deal. Signed last May, Verizon's agreement to sell roughly 4.8 million access lines in Illinois, California, Ohio, South Carolina and ten other states to Frontier would nearly triple Frontier's size to boost the competitive wireline carrier to the rank of the nation's largest provider of voice, broadband and video services to rural areas. Drawing parallels to Verizon's March 2008 sale of New England landlines to Fairpoint Communications, a deal that ultimately forced the financially-strapped Fairpoint into bankruptcy, ALJ Lisa Tapia cited similar concerns with Frontier's financial condition in determining that the transaction "will adversely impact Frontier's ability to provide adequate, reliable, efficient, safe and least-cost utility service." Although ICC staff members last month recommended conditions that would require Frontier to adhere to certain service, quality, and regulatory standards, Tapia said the proposed conditions are inadequate as both Frontier and Verizon have experienced difficulties in meeting minimum standards on toll and directory assistance, service, and repair. As such, Tapia concluded, "it seems likely that Frontier will have a more difficult time meeting the minimum key standards . . . due to the replication process of the operation support systems, along with other

factors that come into play.” Tapia further warned: “if Frontier falls significantly short of its revenue and expense goals, it would likely come under severe pressure to reduce service-related spending, cut capital expenditures, and lower its dividend payments” to the detriment of customers and investors. The ICC is expected to issue its final ruling next month. Declaring that “the record developed in this case provides comprehensive evidence and assurances that the transaction with Frontier . . . is in the public interest,” a Verizon official said: “we believe the [ICC] should not adopt the [ALJ’s] recommendation but instead should issue an order that approves the transaction, as regulatory commissions in six other states have already done.”

Private Equity Firm Offers \$1.2 Billion For RCN

Cable system overbuilder RCN Corporation announced last Friday that it has agreed to be acquired by private equity concern ABRY Partners in a \$1.2 billion transaction that RCN CEO Peter Aquino described as “a good opportunity to give value to shareholders.” Based in Herndon, Virginia, RCN competes against established broadband cable and Internet service providers in major markets such as Washington, D.C., New York City, Boston and Chicago and also delivers fiber data transport services to large enterprise customers and telecommunications carriers. Despite restructuring under Chapter 11 bankruptcy protection in 2004, the company has struggled to achieve a profit. The sale to ABRY, a Boston-based private equity firm that specializes in media and information technology investments, encompasses \$730 million in RCN debt in addition to a cash offer of \$15 per share (totaling \$536 million) that represents a 22% premium over RCN’s closing stock price on March 4. The agreement also includes a clause that allows RCN to “solicit proposals from third parties for 40 days through April 14.” Provided no other bidder comes forth, and contingent upon shareholder, FCC and other required approvals, the transaction is slated to close during the second half of this year.

China Mobile Pays \$5.8 Billion For Pudong Bank Stake

China Mobile (CM) agreed to pay US \$5.8 billion for a 20% stake in Shanghai’s Pudong Development Bank. That investment will enable CM, the world’s largest wireless carrier by numbers of subscribers, to generate new revenue streams through the provision of mobile banking services. Wednesday’s pact follows on a spate of similar deals in South Korea and Japan that include SK Telecom’s US \$343 million agreement last year to acquire a 49% stake in the credit card unit of Hana Financial Group. The transaction will make CM the second-largest shareholder in Pudong, which will cooperate with CM on the development of mobile finance and e-commerce offerings. CM, which began offering a wireless bill paying service to a limited number of customers last year, will purchase 2.21 billion new shares of Pudong stock through CM’s Guangdong Mobile unit at a rate of 18.03 yuan (US \$2.64) per share, representing a discount of 13% off of Pudong’s last traded stock price as of February 25. (Trading in Pudong shares has been suspended since February 26.) The investment will also be subject to a 36-month lock-up period.

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