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## FCC Expands Probe Into Wireless Early Termination Fees

One month after questioning Verizon Wireless on its decision to hike early termination fees (ETFs) for subscriber contracts that cover smart phones, the FCC on Tuesday expanded its probe into ETFs with the delivery of letters to AT&T, T-Mobile USA, Sprint-Nextel, and Verizon that request details on the ETF practices of each company. The letters form part of a broader agency inquiry into ETFs that was launched last year. Last November, the ETF issue came to a head with Verizon's controversial decision to double ETFs on advanced services contracts from \$175 to \$350. That move spurred the introduction of Senate legislation that would limit the imposition of wireless ETFs. Google—which disclosed that Nexus One handset users who sign up for services with T-Mobile would be charged an “equipment recovery fee” of \$350 in addition to T-Mobile's ETF of \$200 when canceling contracts early in the two-year term—also received a letter from the FCC, which noted that “consumers have been surprised by this policy and by its financial impact.” Recognizing that “wireless carriers may have various rationales for ETFs,” the FCC told each of the letter recipients that its intention is to determine whether consumers “are adequately informed” about ETFs, particularly as “these fees are substantial (and in some cases are increasing) and have an important impact on consumers' ability to switch carriers.” Declaring it “essential that consumers fully understand what they are signing up for,” the FCC asked each carrier to explain (1) how ETFs are disclosed to customers, (2) the plans associated with ETFs, (3) the amounts charged, (4) whether (and how much) ETFs are pro-rated over the life of the contract, and (5) whether higher ETFs are charged for certain devices. Each carrier is required to respond by February 23. Although FCC Consumer and Governmental Affairs Bureau Chief Joel Gurin stressed that the FCC's goal “is to make the practice of imposing [ETFs] clear, understandable and transparent,” an official of wireless association CTIA said, “we hope that there is a recognition by the FCC that these fees are part of the rate and rate structure that allows wireless carriers to . . . subsidize phone purchases.” The official added that “consumers of all of the carriers that received letters from the FCC have multiple options when it comes to choosing plans and devices without [ETFs].”

## FCC Opens Inquiry Into Media Trends In The Digital Age

Late last week, the FCC launched its “Future of Media” project with a public notice that solicits comment on the current and future media market and its role in fulfilling the information needs of citizens in the digital age. The inquiry is being spearheaded by Steven Waldman, who is a senior advisor to FCC Chairman Julius Genachowski, and who was given the task of leading “an agency-wide initiative to assess the state of media in these challenging economic times.” Noting that information gathered through the project will form the basis of a report that will assist the development of FCC policy on media ownership, broadband, and net neutrality, Genachowski said, “the FCC commits to fully understanding the fundamental changes underway in the media marketplace.”

Specifically, the FCC's notice seeks input, among other things, on (1) the role of the Internet in meeting the information needs of communities, (2) the potential impact of open Internet, net neutrality or universal broadband policies on the delivery of news online, and (3) the role of mobile communications in meeting information needs. While requesting comment on the decline of traditional print media and the impact of that decline on "the ability of broadcast radio and television, cable, satellite and other electronic media to serve communities," the FCC's notice also asks whether the public interest obligations of broadcasters should be "strengthened, relaxed, or otherwise re-conceptualized in this digital era." Terming the FCC's inquiry as a top priority, FCC Commissioner Michael Copps asserted that, "five-to-ten years more of the present journalistic decline is not an option America can afford." Warning, "we must be wary of any attempts to let the government foxes into the henhouses of the press," Commissioner Meredith Baker said, "I am hopeful we will address the concerns of parties that our current rules—based on a far different media landscape—inhibit innovative and new forms of journalism and newsgathering."

## House Subcommittee Adopts Spectrum Inventory Bill

Members of the House Communications, Technology and Internet subcommittee late last week approved an amended version of a bill that would require the FCC and the National Telecommunications and Information Administration (NTIA) to complete an inventory of spectrum that could be reallocated to (or shared by) wireless broadband service providers or assigned to incumbent government users that relocate their operations to new channels. Introduced last July by House Commerce Committee Chairman Henry Waxman (D-CA), the Radio Spectrum Inventory Act (HR-3125) seeks to identify unused or underused frequency bands that could meet the needs of the U.S. wireless market, where demand for mobile broadband is expected to surge. Simultaneously, the subcommittee adopted a related companion bill (HR-3019) that proposes to streamline the process by which federal government users relocate to new spectrum when surrendering their current channels to commercial wireless providers. By voice vote, subcommittee members approved an amendment to HR-3125, submitted by subcommittee chairman Rick Boucher (D-VA), that would extend the FCC and NTIA's timetable for completing the inventory from six months to one year. The amendment would also reduce the upper limit of spectrum to be inventoried to 10 GHz to correspond more closely with a similar Senate bill that proposes an inventory of spectrum between 300 MHz and 3.5 GHz. Among other things, the amended legislation also expands upon provisions that would enable both government and non-government users to withhold spectrum from the inventory for reasons related to national security or public safety. Describing the passage of spectrum legislation as "priority number one," Boucher said both bills are likely to pass the House next month as both measures are "necessary" and enjoy bipartisan support. While praising both bills as "positive steps," ranking subcommittee member Cliff Stearns (R-FL) reminded the FCC not to "forget there is spectrum we need to address in the short term," as he urged policymakers to "figure out how to effectively deploy spectrum . . . already in the pipeline" that includes the 700 MHz D-block.

## DBS Industry Files Suit Against Massachusetts Satellite Tax

Charging that sales taxes levied on satellite TV services by the State of Massachusetts are discriminatory, direct broadcast satellite (DBS) service providers DISH Network and DirecTV filed a legal complaint with the Massachusetts Superior Court that seeks injunctive relief and a declaratory ruling that the tax violates the commerce and equal protection clauses of the U.S. Constitution. Filed on Tuesday, the lawsuit targets the decision of Massachusetts lawmakers last summer to impose a 5% sales tax on DBS offerings as part of the state's 2010 budget plan. Complaining that DBS services are now subject to the tax when no equivalent tax is imposed on cable subscribers, the companies told the court that the state's decision to tax DBS services made no sense when cable operators "[impose] far greater demands on the state." While warning that the tax could induce upwards of 275,000 Massachusetts DBS subscribers to switch to cable, the DBS operators argued that the state's failure to subject cable operators to the same tax "deprives the public of state tax revenues" for such services. Cable officials point out, however, that their industry is subject to state regulatory and franchise fees that DBS operators are not required to pay. Observing that "the legislature ended a special tax exemption for satellite companies that were being subsidized by Massachusetts taxpayers," New England Cable & Telecommunications Association President Paul Cianelli predicted that "the state court will uphold the law."

## Apple Introduces Tablet Computer

Aiming to seize upon the success of the iPhone, Apple, Inc. on Wednesday unveiled its long-anticipated tablet computer, dubbed the iPad, that the company hopes will raise the competitive ante in the fast-growing market for wireless broadband devices. Presented by Apple CEO Steve Jobs at a packed media event in San Francisco, the iPad is the fruit of a decade's worth of labor by Apple, which held off on introducing the iPad until advances in technology made it possible to design and market a practical mobile device that boasts an extensive battery life. Weighing 1.5 pounds, the half-inch thick iPad features a 9.7-inch touch screen and boasts up to ten hours of battery life. The iPad will run most of the 140,000 applications designed for the iPhone as well as Apple's new iBooks store that will enable users to purchase and download books from major publishers for as little as \$4.99. The basic version of the iPad, which provides 16 gigabytes of storage as well as Wi-Fi and Bluetooth capabilities, will be offered at \$499. Priced at \$829, the top-of-the-line model comes equipped with 64 gigabytes of storage and a wireless router that connects to the AT&T wireless network at a monthly subscription rate of \$30 for unlimited data. Jobs told reporters that the iPad will debut in the U.S. within 60 days and internationally by June or July. Proclaiming that the iPad "is so much more intimate than a laptop, and it's so much more capable than a smart phone," Jobs told his audience: "it's phenomenal to hold the Internet in your hands."

## Liberty Global Sells Japanese Cable Stake To KDDI

Liberty Global (LG) confirmed plans to sell its 37.8% stake in Jupiter Telecommunications—Japan's largest cable operator—to KDDI Corp. in a US \$4 billion transaction that is intended to facilitate LG's shift in strategic focus towards Europe. Announced on Monday, the deal ends a 15-year foray in Japan for LG, whose predecessor-in-interest, Liberty Media, joined forces with Sumitomo Corp. to form Jupiter in 1995. (LG assumed Liberty's stake in Jupiter after LG was spun off from Liberty in 2005.) In addition to its video offerings, Jupiter provides mobile telephony and broadband Internet services that would enable KDDI, Japan's second largest wireless operator and a key provider of fixed line services in that country, to compete more effectively against market leader NTT. KDDI's cable unit, Japan Cablenet, is the second largest cable operator in Japan, and KDDI president Tadashi Onodera indicated that the Jupiter deal will give KDDI access to additional cable infrastructure that may enable KDDI to gain independence from access points owned by NTT. Coming on the heels of LG's \$3.7 billion purchase of German broadband provider Unitymedia, the Jupiter pact would free up \$3 billion in capital (following the repayment of US \$836.8 million in debt) that LG would apply towards its cable assets in Europe. The purchase price of ¥140,000 (US \$1,564) per share represents a 65% premium over Jupiter's closing share price as of Friday. Noting that, upon completion of the Jupiter and Unitymedia deals, cable operations in Europe will constitute 85% of LG's business, LG CEO Michael Fries said, "this transaction gives us further liquidity and capital to repurchase our stock and consolidate in our core markets."

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