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House, Senate Leaders Postpone Action On Online Piracy Bills

In the wake of widespread web protests last week, Senate Majority Leader Harry Reid (D-NV) and House Judiciary Committee Chairman Lamar Smith (R-TX) postponed further action last Friday on two controversial online piracy bills, hoping to allow further discussion to resolve the concerns of affected stakeholders. The Stop Online Piracy Act (SOPA), introduced in the House by Smith, and its Senate counterpart, the PROTECT IP Act (PIPA), would authorize the Justice Department to shut down, via court order, U.S. financial support to foreign websites that sell pirated movies, music and other goods. Among other things, both measures would also authorize law enforcement officials to force ISPs to use domain name server (DNS) filtering to block access to websites that infringe upon U.S. copyrights. Last Wednesday, Wikipedia and as many as 10,000 other websites shut down in protest to publicize their claim that both bills would mandate censorship, chill freedom of speech and unjustly penalize legitimate websites that are not known to traffic in pirated material. Following Wednesday's protests, Smith and Senate Judiciary Committee Chairman Patrick Leahy (D-VT), the author of PIPA, pledged to revise or remove the DNS blocking provision in SOPA that is at the heart of opponent concerns. However, as a multitude of SOPA co-sponsors continued to withdraw their support for the bill, Smith acknowledged last Friday that a SOPA mark-up session scheduled next month would be shelved indefinitely. At the same time, Reid canceled plans to conduct a long-delayed floor vote on PIPA, which had passed the Senate Judiciary Committee last summer. Voicing admiration for "the work that Chairman Leahy has put into this bill," Reid encouraged Leahy "to continue engaging with all stakeholders to forge a balance between protecting Americans' intellectual property and maintaining openness and innovation on the Internet." Taking "seriously" the concerns raised by opponents, Smith admitted: "it is clear that we need to revisit the approach on how best to address the problem of foreign thieves that steal and sell American . . . products." Public Knowledge Legal Director Harold Feld praised last week's web blackouts for demonstrating "that people all across the country and around the world, are watching and engaged in what is going on in Washington."

AT&T Seeks FCC Approval To Transfer Advanced Wireless Spectrum To T-Mobile

On Monday, AT&T fulfilled a key tenet of its break-up agreement with former merger partner T-Mobile USA, as it filed a request seeking FCC consent to the transfer of its advanced wireless service (AWS) spectrum to T-Mobile. Valued at \$1 billion, the assets included in the transaction include 20 full and 27 partial AWS-1 licenses. The licenses in question cover major cities such as Chicago, Boston, Miami and Washington, D.C. as well as various smaller markets. In addition to transferring its AWS licenses to T-Mobile, AT&T is also required under its break-up agreement to surrender \$3 billion in

cash to T-Mobile. (AT&T and T-Mobile canceled their merger agreement last month after FCC Chairman Julius Genachowski indicated that the \$39 billion transaction would be designated for hearing before an administrative law judge.) In a public interest exhibit accompanying its request, AT&T told the FCC that the proposed license transfer “will help T-Mobile . . . address its spectrum needs in the subject markets to enable it to better address the growing demands of consumers for wireless data and content.” Agreeing that “this additional spectrum will help meet the growing demand for wireless broadband services by T-Mobile customers in key markets around the country,” T-Mobile senior vice president Tom Sugrue voiced optimism that “the FCC will move swiftly to approve the license assignments.”

Waxman Urges House Lawmakers To Revisit Spectrum-Related Provisions Of Tax Relief Bill

During a conference committee session, ranking House Energy & Commerce Committee member Henry Waxman (D-CA) urged his colleagues to “clean up” spectrum-related provisions of the Middle Class Tax Relief and Job Creation Act (H.R. 3630) that prohibit the FCC from imposing eligibility restrictions on bidders for spectrum reclaimed through the incentive auction process. Tuesday’s conference committee meeting is the first of several sessions at which lawmakers will attempt to iron out differences in separate tax relief bills passed by the House and Senate. As with the Senate bill, the spectrum portion of the House bill would reallocate the 700 MHz D-block directly to public safety entities and mandate incentive auctions of television broadcast spectrum to be reclaimed for wireless broadband use. In addition to barring imposition of bidder eligibility restrictions, however, the House bill would also prohibit the FCC from reserving any spectrum reclaimed through the incentive auction process for unlicensed use. Describing the aforementioned provisions as “objectionable in their current form,” Waxman charged that the provisions in question “appear to be designed to benefit AT&T and Verizon at the expense of market competition” and also “stymie innovation by limiting the authority of the FCC to allocate . . . broadcast spectrum for Super Wi-Fi and other unlicensed uses.” As Waxman maintained that he is “prepared to negotiate in good faith with Republican conferees,” House communications subcommittee chairman Greg Walden (R-OR) played up the economic benefits of the bill, arguing that spectrum freed up for wireless use through the incentive auction process could add between \$73 billion and \$151 billion to the gross domestic product over the next five years. Walden noted further that he has been engaged in “many hours of discussion” with Waxman and Anna Eshoo (D-CA), the subcommittee’s ranking member, in an attempt to “find common ground on spectrum.” Commenting on the House bill, an official of T-Mobile USA warned that the bidder eligibility provision “could discourage participation by bidders other than the largest carriers, ironically driving down auction revenues and potentially undermining the . . . economic development Congress hopes to gain through its legislation.”

Wireless Broadband At Top Of U.S. Priority List For WRC-12

U.S. officials gathered for the opening of the International Telecommunications Union’s World Radiocommunications Conference (WRC-12) on Tuesday placed mobile broadband at the top of their agenda, as Decker Anstrom, the head of the U.S. delegation, told reporters that the U.S. objective “is to ensure that . . . studies will move forward over the next four years to look at all possible options and that no bands are excluded.” Convened in Geneva, Switzerland, WRC-12 will continue through February 17. More than 3,000 participants from 150 ITU member countries will consider 33 agenda items at WRC-12 that range from satellite network management to digital maritime communications to space research services in the 22-23 GHz band. Among the agenda items of greatest interest to the U.S. delegation is Item 8.2, which concerns the study of spectrum to be identified for mobile broadband offerings at WRC-2015. Stressing that as many stakeholders as possible should participate in discussions between now and 2105 that pertain to spectrum allocations for wireless broadband, National Telecommunications and Information Administration (NTIA) director Larry Strickling echoed Anstrom’s call for a “broad approach.” As part of that approach, Strickling also emphasized the need for “careful study to develop innovative spectrum sharing arrangements” as “we’re reaching the point where the idea of actually clearing bands of existing users and then making them available for the exclusive use of the commercial industry is becoming less and less of an option.” Backing Strickling and Anstrom, FCC Chairman Julius Genachowski cited projections of five billion mobile broadband users

worldwide by 2015 as he noted that the average smart phone uses 24 times the amount of data as regular cell phones and that tablet PCs—which did not even exist at the time of the previous WRC in 2007—consume 120 times that data. Anstrom also told reporters that the U.S. will focus on satellite-related issues that include reform of the ITU satellite registration process and improvements to “the quality and transparency of the master satellite registry.”

News Corp. To Launch New Spanish Language Network

Reaching for a significant share of the U.S. market for Spanish broadcasting, News Corp. announced plans on Monday to launch a new Spanish language network this fall that will compete against Univision—the current U.S. market leader in Spanish broadcasting—and NBC Universal’s Telemundo. Dubbed MundoFox, the fledgling network is the fruit of a joint venture between News Corp.’s Fox International Channels (FIC) subsidiary and Columbian broadcaster RCN Television Group. Programming for MundoFox will be provided by FIC, RCN, and Shine Group, a British production company that was purchased by News Corp. last February. Programming from Fox Deportes, a popular Spanish-language sports channel owned by News Corp., will also be carried on the MundoFox network. RCN has also agreed to provide its program content exclusively to MundoFox once current RCN agreements with other networks expire. MundoFox, which is seeking affiliate agreements with independent stations that already broadcast in Spanish, will be launched in Los Angeles, Miami, New York and other major markets in September or October, and officials hope to expand the network to stations that cover at least 75% of U.S. households. Comparing the launch of MundoFox to Fox’s network debut against NBC, ABC, and CBS 25 years ago, FIC President Hernan Lopez predicted that “much of the content that we will create will have the same effect on Spanish viewers.”

Vodafone Not Liable For Taxes On Essar Purchase, Says India Supreme Court

A long-running battle between British wireless giant Vodafone and India’s tax authority ended in victory for Vodafone, as India’s Supreme Court decreed that Vodafone does not owe US\$4.4 billion in taxes and penalties accruing from its \$10.9 billion acquisition of Hutchison Essar in 2007. Handed down last Friday, the decision was well received by foreign investors who had feared that an adverse ruling against Vodafone would potentially expose them to unforeseen tax liabilities. In all, Vodafone has invested more than \$15 billion to build Essar into India’s third-largest mobile phone carrier by subscribership. Sources also say that India—one of the fastest growing wireless markets in the world—represents the largest segment of Vodafone’s business in emerging international markets. Because the Essar acquisition took place between offshore subsidiaries of Vodafone and Hong Kong-based Hutchison, Vodafone has long claimed that the deal is not subject to capital gains taxes imposed on buyers involved in domestic Indian transactions. Nevertheless, tax authorities in India continued to press for payment of the tax, and the Mumbai high court concluded in September 2010 that the Essar deal was taxable because it involved the indirect transfer of assets that accrue revenue in India’s domestic market. Overturning the Mumbai court ruling, the Supreme Court sided with Vodafone in affirming that the Essar deal took place between two foreign entities and was therefore not taxable. The court also ordered the tax department to return to Vodafone, with interest, a \$496 million deposit that Vodafone paid on the tax bill in November 2010. Welcoming the court’s decision, Vodafone CEO Vittorio Colao promised, “we will continue to grow our Indian business—including making significant investments in rural areas and in 3G network coverage—for the benefit of Indian consumers.”

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