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Broadband Services Not Being Deployed On A Timely Basis, Says FCC

By a 3-2 vote divided along party lines, the FCC determined on Tuesday that broadband and other advanced telecommunications services are not being deployed to the U.S. population on a “reasonable and timely” basis. That finding forms the basis of the FCC’s sixth report to Congress on advanced services pursuant to Section 706 of the 1996 Telecommunications Act, under which the FCC is directed to assess whether broadband “is being deployed to all Americans in a reasonable and timely fashion.” In contrast to last year’s Section 706 report in which the FCC found that 95% of Americans have access to wired broadband infrastructure, the FCC concluded for the first time this year that the provision of broadband in the current market is neither reasonable nor timely as “between 14 and 24 million Americans still lack access to broadband, and the immediate prospects for deployment to them are bleak.” Noting that past Section 706 assessments were based on threshold speeds of 200 kilobits per second that were established more than a decade ago, the FCC said it had also taken the “long overdue” step of basing this year’s report on an updated standard of 4 Mbps downstream that was described by the agency as “the minimum speed generally required for using today’s video-rich broadband applications.” Adding that the report “underscores the need for comprehensive reform,” the FCC promised to “take immediate action to accelerate deployment of [advanced telecommunications] capability . . . in part by addressing the proposals for Commission action set forth in the National Broadband Plan.” Although FCC Commissioner Michael Copps cheered the release of a Section 706 report “where broadband is really broadband . . . and where the documented failure to connect millions upon millions of Americans disproves previous FCC findings,” both FCC Republicans—Commissioners Robert McDowell and Meredith Baker—voiced their opposition in dissenting statements. As McDowell complained that the report “emphasizes subscribership” and not “the ‘availability’ of broadband, which is what Congress requires,” Baker cited language in the National Broadband Plan indicating that “more than half of consumers that could purchase 4 Mbps . . . broadband have concluded that a slower offering is more than sufficient for their broadband needs.” Pointing to the FCC’s recently-launched inquiry on the reclassification of broadband transmission services under Title II of the 1934 Communications Act, McDowell also questioned “whether this report will be used to justify additional regulation, contrary to the Act’s goal of ‘removing barriers to infrastructure investment.’”

FCC Considers Rules To Boost Terrestrial Use Of Mobile Satellite Service Bands

Acting on recommendations laid out in the National Broadband Plan (NBP), the FCC voted unanimously to adopt a Notice of Proposed Rulemaking (NPRM) and Notice of Inquiry (NOI) on proposals to modify spectrum allocations in the mobile satellite service (MSS) bands to enable more flexible licensing of fixed and mobile terrestrial services that include wireless broadband. Targeting the 2 GHz S-, L-, and “Big LEO” bands, the NPRM and NOI seek to fulfill the NBP’s goal of providing MSS operators additional

flexibility to use their spectrum for terrestrial wireless services while freeing up 90 MHz of “prime” spectrum for wireless broadband use. To achieve that objective, the NBP laid out a three-prong approach that urges the FCC to (1) “work closely with L-band licensees and foreign governments to accelerate efforts to rationalize ancillary terrestrial component (ATC)-authorized spectrum to make it more useable for broadband ATC service,” (2) add a primary terrestrial mobile allocation to the S-band to permit licensees to offer stand-alone terrestrial wireless services using that spectrum, and (3) grant MSS licensees that already use the Big LEO bands for ATC services the flexibility “to make this spectrum permanently suitable for terrestrial broadband service.” While adding co-primary fixed and mobile terrestrial allocations in the S-band that correspond with the International Table of Allocations, the NPRM would expand the FCC’s existing secondary market rules to encompass transactions that involve the leasing of unused or underused MSS spectrum to terrestrial wireless providers. The NOI, meanwhile, seeks feedback on the creation of opportunities “for more expansive and efficient use of the 2 GHz band for stand-alone terrestrial uses” and on “ways to promote innovation and investment throughout all three of the MSS bands while also ensuring market-wide mobile satellite capability to serve important needs.” Officials of both the MSS and terrestrial wireless industries applauded the FCC’s vote, which, in the words of CTIA President Steve Largent, “advances the effort to make the spectrum promises of the [NBP] a reality.” As Jeffrey Epstein, the CEO of MSS provider TerreStar Networks, praised the agency “for its prompt follow-up on the [NBP] recommendation to eliminate some of the regulatory bottlenecks to unlock the MSS bands’ full potential,” FCC Commissioner Michael Copps observed that the proceeding “serves as a reminder of the critical role the [MSS] industry plays in our nation’s communications infrastructure.”

Harbinger Unveils 4G Terrestrial-Satellite Network Venture

In a second development that relates to the mobile satellite service (MSS) industry, Harbinger Capital Partners announced plans on Tuesday to deploy a nationwide, fourth-generation (4G) wireless broadband network that would offer both satellite and terrestrial coverage to 92% of the U.S population by 2015. Following on its acquisition of MSS provider SkyTerra Communications (and SkyTerra’s 59 MHz swath of nationwide spectrum) earlier this year, Harbinger has formed a new venture, known as LightSquared, which will construct a network of 40,000 base stations that will operate in tandem with two MSS satellites. Together, the base stations and satellites will provide wholesale customers at nearly any location within the U.S. with advanced wireless service capacity that is based on 4G long term evolution (LTE) technology. As such, LightSquared is slated to compete against the future LTE network of Verizon Communications (which is scheduled for launch later this year) as well as against the Sprint-Nextel Clearwire network that already offers WiMax 4G services in various markets nationwide. A contract to build and maintain the LightSquared network was also awarded this week to Nokia Siemens Networks (NSN) in an eight-year, \$7 billion deal that was described by NSN CEO Rajeev Suri as “the largest-ever outsourced deployment of a wireless network in the United States.” Sources also note that LightSquared has secured \$1.75 billion in debt and equity financing from Harbinger to fund network deployment. As Harbinger CEO Phillip Falcone termed the debut of LightSquared as “a significant milestone in the industry and for Harbinger,” Sanjiv Ahuja, the newly-installed chairman of LightSquared, predicted that the new network “will return our country to its rightful position as a leader in wireless broadband technology.”

Senate Leaders Introduce Bill To Reallocate D-Block To Public Safety

Notwithstanding support in the House for a planned FCC auction of a nationwide 700 MHz D-block license to a commercial wireless entity, two top Senate leaders—Senate Homeland Security Chairman Joseph Lieberman (I-CT) and former Senate Commerce Committee Chairman John McCain (R-AZ)—introduced legislation on Wednesday that would require the FCC to reallocate the D-block to the public safety community. Titled The First Responders Protection Act of 2010, the measure would also direct proceeds from the upcoming 1675-1710 MHz /2155-2180 MHz band auction and other FCC auctions toward construction of the D-block public safety network. The FCC would also be required to auction 1675-1710 MHz /2155-2180 MHz band licenses by January 2013 and report to Congress every five years on the efficient use of public safety spectrum. Senate Commerce Committee Chairman Jay Rockefeller (D-WV), meanwhile, announced plans to introduce his own bill “in the coming days” that would “provide public safety with an additional 10 MHz of spectrum to support a national, interoperable wireless broadband network” and “offer a revenue stream to assist public safety with the construction and development of their network.” To help free up the 500 MHz of additional spectrum that the National Broadband Plan says is needed to meet demand for wireless broadband services over the next decade, Rockefeller’s draft

bill would also authorize the FCC to conduct incentive auctions that would enable existing commercial users (including TV broadcasters) to surrender spectrum voluntarily in exchange for a portion of the auction proceeds. While downplaying the impact of the Senate bills on the FCC's plan to auction the 700 MHz D-block, an official of the FCC applauded the incentive auction provision as "a big win for America." That provision was also endorsed by AT&T as one "that will not only unleash new spectrum allocations for the wireless networks of the future, but will provide critical funding support" for a public safety network. Although Richard Mirgon, the president of the Association of Public-Safety Communications Officials-International, praised the bills as "a great milestone," a spokesman for D-block auction proponent T-Mobile voiced disappointment but declared: "we want to work constructively with Congress and continue our outreach to public safety."

Telefonica Withdraws Offer For Brazilian Wireless Stake

Efforts by Telefonica to gain control of Vivo—Brazil's largest wireless carrier—came up empty on Saturday, as officials of the Spanish telco acknowledged the withdrawal of their US\$9.24 billion offer for Portugal Telecom's (PT's) 50% stake in Brasilcel, the holding company that owns 60% of Vivo. The announcement caps a month of dramatic developments during which Telefonica won the support of 74% of PT's shareholders for its bid only to have the Portuguese government block the offer through the use of Portugal's "golden share" in PT. Although the European Court of Justice (ECJ) later ruled Portugal's golden share to be illegal, continued negotiations between Telefonica and PT proved fruitless, prompting Telefonica to declare the deal "extinguished" upon the expiration of its offer deadline on Saturday. Telefonica and PT are both said to be keen on retaining or expanding their presence in Brazil's fast-growing wireless sector, where mobile phone subscribership rose by 15% last year. Notwithstanding last month's ECJ ruling, Portuguese Prime Minister Jose Socrates continues to maintain the government's stance that retention of PT's indirect stake in Vivo is "strategic and fundamental for the development of [PT]." Although Telefonica has yet to announce its next move, company officials are reportedly considering legal action to dissolve Brasilcel, which would enable Telefonica to make a direct offer for outstanding shares in Vivo.

NTT Strikes \$3.2 Billion Deal For Dimension Data

Dominant Japanese fixed line carrier NTT took an important step beyond its national borders with an agreement to purchase Dimension Data—a key provider of computer and information technology services in Africa, South America, and the Middle East—for £2.1 billion (US\$3.2 billion) in cash. Listed in London and based in Johannesburg, South Africa, Dimension ranks as Africa's largest computer services company and boasts a network of 50 hosted data centers that span the U.S. and 30 countries throughout Asia and Europe. The deal ranks as NTT's largest foreign acquisition since NTT's DoCoMo wireless unit invested US\$2.7 billion for a 26% stake in Tata Teleservices of India in 2008. If completed, the transaction would more than double the overseas revenue of NTT, which, like many carriers in mature domestic telecom sectors, has been searching for new growth opportunities in developing international markets. Confirming that "global expansion is a crucial part of our growth strategy," NTT President Satoshi Miura told reporters that Dimension has been expanding its business in rapidly-growing regions of Africa, South America and the Middle East "where our service offering has been lacking." Sources indicate that a majority of Dimension's stockholders have agreed to the sale through which they would receive £1.20 (US\$1.82) per share in cash at a premium of 18% over Dimension's closing share price on July 14. The transaction is expected to close in October.

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