FCC Task Force Issues Recommendations To Address Broadband Coverage Gaps

Reporting on the status of the national broadband plan, members of the FCC’s broadband team offered a list of recommendations on Wednesday for addressing gaps in the availability, adoption, and usage of broadband services. The interim report, presented at final FCC open meeting of 2009, is intended to lay the framework for the finalization of the broadband plan that the FCC is required to submit to Congress in February. At the next FCC open meeting scheduled on January 20, broadband team members are expected to deliver a similar report on options for expanding the role of broadband in advancing “national purposes” that are specified in the American Recovery and Reinvestment Act (ARRA), such as education and health care. Although some of the proposals outlined by the team, such as the assignment of TV broadcast spectrum for wireless broadband use and the allocation of high-cost universal service funds for broadband support, came as no surprise, the staff offered a range of new options. Included among these are proposals to (1) permit low-income households to use Lifeline funds for broadband, (2) institute a “dig once” policy that would cut broadband deployment costs by requiring the coordination of provider efforts to install infrastructure, and (3) enable municipalities “to create broadband options where circumstances warrant.” With respect to improving spectrum access, the team urged resolution of pending FCC proceedings that involve advanced wireless services, television white spaces and the 700 MHz D-block as well as the allocation of government-use and mobile satellite spectrum for terrestrial broadband services. Acknowledging that opportunities for public funding are limited, Blair Levin, the director of the FCC’s Omnibus Broadband Initiative, stressed that private sector investment will be “essential” in achieving broadband goals. Levin also said that “better utilization of existing assets” should rank as the first choice for many of the policy options to be presented in the broadband plan.

Wireless Spectrum Shortage Discussed At House Hearing

At a hearing conducted by the House Communications, Technology and Internet Subcommittee, the leader of wireless association CTIA stressed the need for quick FCC and congressional action to address a looming shortage of spectrum needed for mobile broadband and other advanced wireless services. Meanwhile, National Association of Broadcasters (NAB) president Gordon Smith reiterated his industry’s concerns with proposals that envision the reassignment of broadcast television frequencies for wireless use, as he told lawmakers, “our national priorities should recognize the value that free over-the-air broadcasting brings to every American.” Tuesday’s hearing was convened to consider two pieces of pending legislation: (1) the Radio Spectrum Inventory Act (HR-3125), which would require the FCC and the National Telecommunications and Information Administration (NTIA) to inventory spectrum between 225 MHz and 10 GHz and recommend what spectrum (if any) should be reallocated, and (2) the Spectrum
Relocation Improvement Act (HR-3019), which is intended to improve the process for relocating federal government spectrum users from bands reallocated for commercial use. While citing estimates that the U.S. wireless industry needs an additional 150 MHz of spectrum “to simply keep up with the explosion in wireless data usage,” House Energy and Commerce Committee Chairman Henry Waxman (D-CA), a sponsor of HR-3125, announced, “before we can start identifying bands of spectrum that might be made available . . . we need to understand how existing spectrum is allocated and utilized.” As Waxman added that HR-3125 “represents a critical first step in developing a forward-looking spectrum policy,” CTIA President Steve Largent—who has said the wireless industry needs an additional 800 MHz of spectrum within the next six years to keep pace with subscriber demand—termed both pending bills as “much-needed bookends” that could bolster spectrum goals. Pointing out that a government-mandated inventory means “looking at all users and uses,” Largent also called for quick action, declaring that the industry “simply can’t wait until 2020 or beyond” for a solution to the spectrum shortage. While agreeing that “a comprehensive, objective examination of spectrum allocation and usage is a worthy endeavor,” Smith warned against plans that contemplate the use of channels currently allocated to broadcasters, as he derided the prioritization of wireless broadband services over broadcast television as a “false choice.”

**SES Wins Auction For Protostar 2, As Intelsat Selects Orbital Sciences To Build Satellite**

At a bankruptcy auction conducted on Wednesday, European satellite services company SES won the bidding for the Protostar 2 satellite, posting a cash offer of $185 million for the spacecraft, which was launched last spring. SES’s auction win follows on Intelsat’s successful bid of $210 million last month for Protostar 1 (formerly Chinasat-8), which is currently positioned at 98.5° East Longitude. Wednesday’s auction completes the sale of the in-orbit assets of Protostar, a Bermuda-based start-up firm that filed for Chapter 11 bankruptcy protection earlier this year. Carrying 22 Ku-band and 10 S-band transponders, the Boeing-built Protostar 2 satellite was launched to the 107.7° East Longitude orbital slot in May. SES is expected to use its newly-acquired satellite to boost capacity over Asia. Meanwhile, Orbital Sciences Corporation announced on Wednesday that it had been selected by Intelsat to build and deliver the Intelsat 23 (IS-23) satellite that is scheduled for launch in 2011. Slated for deployment to 53° West Longitude, IS-23 will carry 15 Ku-band and 24 C-band transponders, and will provide coverage over the Americas, Europe and Africa. The spacecraft will be designed on Orbital’s STAR-2 platform and will also generate 4.8 kilowatts of payload power.

**Appeals Court Upholds USF Interim Cap**

Wireless competitive eligible telecommunications carriers (CETCs) were dealt a blow last Friday by the D.C. Circuit Court of Appeals, which rejected an appeal of an FCC order that capped universal service fund (USF) high-cost payments to CETCs. The appeal, brought by the Rural Cellular Association (RCA) and other parties, concerns a May 2008 decision by the FCC that froze annual USF support payments for CETCs at March 2008 levels in accordance with the recommendations of the Federal-Joint Board on Universal Service. In so doing, the FCC cited a surge in USF high-cost payments from $1.5 million in 2000 to more than $1 billion in 2007—an increase attributable largely to the explosive growth of wireless CETCs. Incumbent local exchange carriers (ILECs) that include Verizon and AT&T and mid-size rural fixed-line carriers have voiced concerns that the proliferation of CETCs threatens to deplete the USF high-cost fund. On appeal, RCA and the other petitioners argued that the FCC’s ruling (1) violated the agency’s principles on competitive neutrality, (2) was based on incorrect estimates of future CETC high-cost support provided to the Federal-State Joint Board, (3) violated statutory requirements that rural and urban phone rates be comparable, and (4) drew “unreasonable conclusions about the sustainability of the” USF high-cost fund. Rejecting the first argument, the three-judge panel concluded that CETCs “enjoy a significant advantage over ILECs under the current support system.” The court also decreed that the FCC “enjoys broad discretion” in balancing the sustainability of the fund against the need for universal service high-cost support, as it added that the petitioners “failed to demonstrate their high-cost support would actually be insufficient under the interim cap.”
Court Dismisses Suit Alleging Wireless Pricing Collusion

In another legal development that concerns the U.S. wireless industry, a U.S. district court judge dismissed for lack of evidence a series of antitrust class-action suits that accused the four national wireless carriers of conspiring to raise text message rates in tandem over a two-year period. The class-action complaints were filed with the U.S. District Court for the Northern District of Illinois in the wake of a 2008 letter from Senate Antitrust Subcommittee Chairman Herb Kohl (D-WI) to Verizon Wireless, AT&T, Sprint Nextel and T-Mobile USA that questioned identical text message rate increases among all four carriers from 10-cents to 20-cents per message between 2006 and 2008. Although the plaintiffs argued that the rate increases were indicative of an illegal price-fixing conspiracy involving the four carriers, Judge Matthew Kennelly granted the defendants’ motion for dismissal, declaring that “taken together, plaintiffs’ factual allegations do not give rise to more than the ‘mere possibility’ of an agreement, which is insufficient to state a claim for conspiracy.” Specifically, Kennelly noted that the plaintiffs “make no allegations about particular meetings at which they contend any of the defendants reached an agreement,” as he observed that the plaintiffs “offer no statements by any of the defendants suggesting the presence of an agreement.” While acknowledging that the carriers’ behavior “possibly could result from an agreement,” Kennelly determined that the complainants fell short in proving “that defendants’ conduct was anything other than merely parallel conduct that could just as well be independent action.”

Egyptian-Owned Carrier Allowed Entry Into Canadian Wireless Market

Globalive, a start-up mobile phone firm owned indirectly by Orascom of Egypt, was authorized to enter the Canadian wireless market after members of Canada’s federal cabinet determined that Globalive’s ownership structure does not contravene rules against foreign control of Canadian telecom firms. Announced on Friday, the decision introduces a fourth national wireless carrier in Canada that will compete against established mobile operators BCE, Telus Corp. and Rogers Communications. The cabinet’s action also reverses an October ruling by the Canadian Radio-television and Telecommunications Commission, which denied Globalive’s request for market entry on grounds that Orascom—the largest wireless carrier in the Middle East—holds effective control of Globalive. The parent of Globalive is owned 65% by Orascom, although Canadians hold voting control of Globalive’s stock. Sources also indicate that Globalive receives financial support from Orascom CEO Naguib Sawiris, who has lent most of the money that Globalive is using to deploy its Canadian network. Explaining the reversal, Industry Minister Tony Clement told reporters, “we came to the conclusion that [while] the lender had influence over the company which is perfectly acceptable under our legislation, it did not have control over the company.” While Clement stressed that the government “is not removing, reducing, bending or creating an exception to Canadian ownership and control requirements,” a spokeswoman for BCE promised that her company would be taking “a close look at the reasoning behind this decision.” Rogers, meanwhile, welcomed Globalive’s entry, asserting: “we’ve always thrived in a competitive environment, and we’re ready to meet the competition head on.”

Teliasonera Rolls Out World’s First LTE Service

Nordic operator TeliaSonera achieved a key wireless industry milestone on Monday as it became the first wireless operator in the world to launch mobile network services based on fourth-generation (4G) long term evolution (LTE) technology. The debut of Telia’s LTE service brings network speeds to customers that are up to ten times faster than third-generation (3G) services currently offered by Telia. (Next year, Verizon Wireless is expected to become the first U.S. carrier to launch LTE, with AT&T to follow in 2011.) Although LTE handsets and applications designed specifically for the technology are said to be months or even years off, one U.K-based analyst observed that the new LTE network promises a “killer user experience” that is especially well-suited for video and advanced applications that include gaming. Initially, Telia will offer LTE exclusively in Stockholm and Oslo, although the company is working to expand the service to 25 additional cities in Sweden and three cities in Norway by the end of next year. Because no 4G handset is currently available, subscribers will need a 4G modem manufactured by Samsung to access the LTE network. (Also, because the Samsung modem is not compatible with 3G networks, customers will need to acquire a 3G modem as well.) Telia will offer both
modems free-of-charge through July 1, and the company expects to market a combined 3G-4G modem during the second quarter of 2010. TeliaSonera mobile services chief Kenneth Karlberg also indicated that the first 4G mobile handsets capable of operating on his company’s LTE would be sold to customers in 2011.

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For information about any of these matters, please contact Patrick S. Campbell (e-mail: 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.

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