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Top News

Kennedy, Democrats File Bill

FCC Focusing on Set Incentive Fees for Licensees to Give Up C-Band Licenses

The FCC is pressing satellite operators in the C band to accept a compromise, under which they would be compensated for leaving the spectrum, but with a fixed fee, regardless of how much money comes in through an auction. Staff for Chairman Ajit Pai presented that scenario to the operators last week and reportedly held briefings for Capitol Hill's Appropriations and Commerce committees, said industry officials close to the proceeding. The FCC didn't comment. Industry officials told us the incentive fee is expected to be only \$5 billion total to be split among licensees. A trio of senators meanwhile bowed new C-band legislation Tuesday.

Senate Appropriations Financial Services Subcommittee Chairman John Kennedy, R-La., Senate Communications Subcommittee ranking member Brian Schatz, D-Hawaii, and Senate Commerce Committee ranking member Maria Cantwell, D-Wash., [filed](#) their Spectrum Management And Reallocation for Taxpayers (Smart) Act in a bid to designate C-band sales proceeds. The bill would set aside all but \$11 billion of the money for telecom projects (see [2001280041](#)). House Communications Subcommittee Chairman Mike Doyle, D-Pa., plans to use a Wednesday hearing on broadband access and digital equity issues to pin down Republicans' position on C-band auction proceeds allocations (see [2001280003](#)).

The Smart Act would allocate \$5 billion in C-band spectrum sales to fund incumbents' relocation, \$1 billion in incentive payments to satellite companies and \$5 billion to the U.S. Treasury for deficit reduction. It would set aside any remaining proceeds for rural broadband and next-generation 911 projects. The bill would also bar entities that the FCC, Congress, the Commerce Department or other federal agencies determine pose "a national security risk" from participating in the C-band auction.

The senators' bill would designate 33 percent of the project-focused proceeds for a NG-911 Trust Fund, with a cap of \$12.5 billion. A separate Digital Divide Trust Fund would be used to disburse "any remaining amounts" for funding broadband projects in "underserved or unserved" areas and to support "other technologies, including telehealth, telemedicine, e-government, and educational opportunities at home." The measure appears to draw some of its language from the Kennedy-sponsored Clearing Broad Airwaves for New Deployment (C-Band) Act ([HR-4855/S-2921](#)) and the Investing in America's Digital Infrastructure Act ([S-2956](#)), which Schatz and Cantwell led (see [1911210056](#)).

"What's the goal here?" the C-Band Alliance said in a statement responding to the Smart Act: "To ensure that America gets 5G quickly, unlocking hundreds of billions of dollars in economic development and the benefits of leading the next wave of global tech innovation. To do this, satellite operators need to be incentivized to clear the spectrum quickly. But we also need to protect the incredibly valuable American video distribution system which serves 120 million American homes—many in rural areas that are virtually impossible to fiber."

"Given that the CBA members are public companies, we are obligated under our fiduciary responsibility to our investors ... to receive fair compensation for our assets," CBA said: "That is our ask—to be treated fairly for the value we bring to achieving the objective—nothing more and nothing less. We think there should be a path that allows for fair treatment so that the greater goal—5G and its benefits—can be realized."

Kennedy told us before the Smart Act's introduction he's continuing to eye holding additional C-band-focused hearings once the chamber completes its trial on impeachment charges against President Donald Trump (see [2001090021](#)). "I want my friends at the FCC to share with me their thoughts about the costs" of an auction "and who will pay" C-band incumbents to migrate off the frequency, Kennedy said. He also wants officials to explain the "advantages and disadvantages" of the different auction models, including an incentive auction.

"Some of my colleagues still think gobs and gobs of money should be given to the satellite companies and I don't agree with that," Kennedy said. He's talking with Wicker and others about ways to reach a legislative compromise, but "we're not there yet."

Helpful to FCC

"The bipartisan Senate bill introduced today is needed to ensure the FCC is not held hostage to the demands of foreign satellite companies seeking an unjustified windfall at taxpayer expense," said New America Open Technology Institute's Wireless Future Project Director Michael Calabrese. "The American public owns the airwaves," he said: "This bill mandates an early auction and provides a generous incentive payment to satellite incumbents, but it also redirects \$15 billion or more in auction revenue to fund major investments in rural broadband, digital inclusion programs and to modernize public safety infrastructure."

Pai would have to circulate a C band item next week to be on the agenda for the Feb. 28 commissioners' meeting. Many questions remain about the details of the likely approach, industry officials said Tuesday.

“The question is how much is the FCC offering,” said Roger Entner, analyst at Recon Analytics: “It is completely unclear who will end up with the better bargain in that case. Most folks who throw around a \$50 billion for the C-band auction haven’t shown anyone how they see this being funded.”

If the T-Mobile/Sprint deal goes through only three major bidders are likely—AT&T, Verizon and Dish Network, Entner said: “AT&T said it has to fund any future auction through organic means, which is code for not much,” he said: “Verizon has probably a sizable war chest and then you have Dish. They had a lot more available funds when everyone thought they were going to flip spectrum. As an operator, their funding needs have increased exponentially. They will participate, but we can only speculate on how much.”

CBA

Clearing 300 MHz of C band in the lower 48 states will have a \$3.3 billion price tag, the CBA said in docket 18-122 submission posted Tuesday. The single biggest expense will be procuring and launching eight to 10 satellites at \$160 million each, plus an estimated \$500 million in compression and modulation equipment, the alliance said. Other costs include \$300 million for filter installation and antenna seeding, \$100 million for equipment like integrated filters or switchable filters/low-noise block downconverter assemblies for certain customers, and \$300 million for consolidating 14 telemetry, tracking and command and gateway sites into four, necessitating 36-48 new antennas and possibly real estate. CBA also estimated \$500 million in lost revenue from compressed capacity meaning less bandwidth being sold.

CBA also filed economic analyses by NERA Economic Consulting and Evercore that pegged the value 280 MHz of C-band spectrum at \$43 billion to \$77 billion. It said its satellite members “are ready [to] execute” on clearing 300 MHz of the band for terrestrial 5G use but “simply do not have the flexibility to proceed” without receiving fair value for efforts in expediting the clearing of this spectrum and making it available quickly.

The three-page CBA letter accompanying the two analyses used “fair,” “fairly” or “fairness” 10 times. NERA said the \$43 billion-\$77 billion estimate came from looking at international auction prices and

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then adjusting for U.S.-specific industry and license issues. Eutelsat separately submitted a white paper laying out what it said were legal justifications for doing a single forward auction, having an independent transition facilitator, and requiring a transition surcharge that would cover relocation and premium payments to incumbents as a condition for receiving a terrestrial license. It said satellite and earth station authorizations don't rise to property rights that are subject to the takings clause.

The FCC appears to want to do “something innovative with incentive payments tied to not just the amount of spectrum but also the timing of making spectrum available,” said Information Technology and Innovation Foundation Broadband and Spectrum Policy Director Doug Brake. “You don't necessarily have the same dynamic as in the [TV] incentive auction where you actually need to price broadcast participation,” he said: “Demand played a key function in determining broadcaster's incentive to give up their business. Here it's certainly reasonable to have a large enough incentive such that CBA is not dragging its heels or crying foul, but in theory it doesn't need to be directly tied to proceeds. In any event you have to have some sort of cost-based compensation for the transition, costs vary so much depending on a ton of factors.”

Brake is skeptical of any legislation that tries to cap compensation more generally. “It's too complicated for the Hill to estimate these numbers well,” he said: “We should want the FCC focused on a successful, quick transition, not goosing revenue. If the FCC gives in to micromanaging from appropriators this thing will be a disaster.”

“Using a fixed fee, rather than payments that are more closely tied to incentives that replicate the market value of the spectrum, makes more sense, and would be more consistent with a market-oriented approach,” said Free State Foundation President Randolph May. “It's possible that a fixed fee, depending on what it is, might coincidentally provide sufficient incentives that match what would be market-clearing incentives. But, given the pressing need to get the C-band spectrum cleared, I'd want the FCC to err on the side of ensuring sufficient clearing incentives.” — *Howard Buskirk, Jimm Phillips, and Matt Daneman*

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Whither Dems' Infrastructure Proposal?

Doyle Aims to Address C-Band Auction Proceeds Ideas During House Digital Equity Hearing

The House Communications Subcommittee's Wednesday hearing on broadband access and digital equity is expected to be an opportunity for Chairman Mike Doyle, D-Pa., and others to highlight their proposal for allocating proceeds from the FCC's coming auction of spectrum on the 3.7-4.2 GHz C band. The panel will also help Democrats showcase broadband issues before the expected rollout of their new infrastructure proposal, lobbyists told us. House Speaker Nancy Pelosi, D-Calif., indicated the infrastructure plan would come out this week (see [2001160063](#)). House Communications' hearing begins at 10:30 a.m. in 2123 Rayburn.

Doyle told us he wants to use the hearing to showcase his support for using C-band proceeds to fund broadband and other telecom infrastructure projects, “stake that position out a little clearer and see where the Republican support is for that.” Doyle is among lawmakers who back the Clearing Broad Airwaves for New Deployment (C-Band) Act ([HR-4855/S-2921](#)), which favors allocating proceeds from the coming auction of spectrum on the 3.7-4.2 GHz C band for rural broadband and other telecom priorities (see [2001090021](#)). S-2921 lead sponsor Senate Appropriations Financial Services Subcommittee Chairman John

Kennedy, R-La., and two Senate Commerce Committee Democratic leaders filed their own C-band proceeds bill Tuesday (see [2001280063](#)).

There's "been some pushback to how much we want" to allocate from C-band auction proceeds for broadband and other projects, so it's important House Communications "get those questions answered" Wednesday, Doyle said. He has been at odds with Senate Commerce Committee Chairman Roger Wicker, R-Miss., and others who back proposals to allocate a lower percentage of sales for telecom projects and provide a larger incentive payment to C-band incumbents. Wicker backs the 5G Spectrum Act ([S-2881](#)), which would set a graduated scale for amounts the FCC would be required to return to the Treasury from C-band proceeds, beginning with "not less than 50 percent" of the first \$40 billion. Wicker unsuccessfully attempted to attach language from S-2881 to an FY 2020 appropriations law passed last year (see [1912160061](#)).

"The reason we want" to maximize the amount of money returned to the federal government from a C-band auction is "so that we have a pay-for to do broadband deployment" in both unserved and underserved areas of the U.S., Doyle said. "Some have indicated they ... only want to do one" and "we want to get a better idea of where everyone stands on that." Talks with Wicker and others have "been an ongoing process back and forth of where we can come to an agreement" on what percentages of sales would be allocated for incentive payments, infrastructure projects and other costs, Doyle said. "It's a fluid situation. I think everyone wants to get it done, we just have to find the right combination. This is a tremendous opportunity that we're not going to have again."

Congress needs to "act now" on C-band legislation if it wants to have a role in deciding auction proceeds allocations because "the FCC is preparing to act and is ready to act quickly" given the need to ensure the U.S. plays a leadership role in 5G development, Wicker emphasized Tuesday during a speech at the State of the Net conference. Winning "the race to 5G" will help the U.S. advance in a range of technologies, including telehealth, precision agriculture, artificial intelligence and quantum computing, he said. It "will require a dedicated and coordinated effort at all levels of" the federal government.

Doyle was unsure how much House Democrats' pending infrastructure proposal would factor into the Communications hearing discussions since it had yet to go public Tuesday afternoon. Lobbyists told us they now expect the proposal to be a "framework" or "statement of principles" rather than a fully fledged bill, as had earlier been expected (see [2001240001](#)). The proposal is still expected to draw from a range of existing broadband measures, including the Broadband Infrastructure Finance and Innovation Act ([HR-4127](#)) and the Digital Equity Act ([HR-4486/S-1167](#)). The lobbyists noted House Commerce previously planned to hold the digital equity hearing at a later date but decided to move it earlier in the schedule because of Democrats' planned rollout of their infrastructure plan.

Wicker urged the House Tuesday to pass the Senate-cleared version (see [1912190068](#)) of the Broadband Deployment Accuracy and Technological Availability (Broadband Data) Act ([S-1822](#)). Wicker said he would like swift passage of S-1822 so President Donald Trump can sign the measure "early this year." S-1822 would require the FCC to collect more "granular" broadband coverage data and create a "user-friendly challenge process" (see [1906130029](#)). S-1822's House-passed companion ([HR-4229](#)) was expanded into a larger broadband mapping legislative package (see [1912160052](#)).

Testimony

Several of the five witnesses set to appear at the House Communications hearing highlight in their prepared testimony the need to address broadband costs to achieve digital equity in their written testimony.

North Carolina Department of Information Technology Broadband Infrastructure Office Director Jeffrey Sural [says](#) costs are a “main barrier to adoption among households with access,” especially in low-income households. “Where market forces are not working, successful evidence-based solutions include grants, subsidies, tax credits, and partnerships,” Sural says. “Grants to [ISPs] have been shown to lower the capital expenditures for deployment and affordable services.” Subsidies “to customers make services affordable, while tax credits incentivize good corporate citizenship by” ISPs, he says.

Georgetown Law Institute for Technology & Policy’s Gigi Sohn says the U.S. should “develop a multi-pronged strategy” to address broadband affordability with a goal of providing service “at about \$10 per month.” Congress and the FCC “should consider as a requirement for funding for broadband deployment the provision of 50/50” Mbps upload and download speeds “for \$10 per month to eligible recipients,” Sohn [says](#). She urges Congress to “halt the war” on the Lifeline USF program and “consider enlarging the scope” of program eligibility. Policymakers should “consider whether an additional subsidy should be provided so that Lifeline recipients can purchase robust fixed broadband service,” Sohn says. She also wants Congress to “mandate that the FCC require broadband providers to submit non-promotional pricing information and should require public disclosure of added fees and equipment costs.”

City of Detroit Director-Digital Inclusion Joshua Edmonds cites the city government’s development of “public-private partnerships without any government funding” to help address broadband access and digital equity, but it’s “an unsustainable model. We need federal resources to continue our work. If we were to receive additional funding, we could do more robust outreach, and incentivize more localized funding from philanthropic organizations.” There’s “widespread agreement that investing in digital equity initiatives would help arm our children with the necessary footing needed to excel in the classroom by providing home-based support,” he [says](#).

American Enterprise Institute visiting scholar Roslyn Layton questions the need for federal intervention on broadband prices. “As an economic matter, broadband takes up a decreasing share of people’s income, so it makes little sense to reduce the cost of broadband versus addressing the other areas that take up a greater portion of income” like “housing, transportation, education, food, clothing, and even discretionary travel,” she [says](#). “One area where Congress must act is spectrum, and only Congress has the power to the solve the problem.” Only Congress “can authorize auctions, appropriate audit funds, and enable the agency reforms needed” so the U.S. is on “the same page to win the global 5G race,” Layton says. The “window of opportunity for the [U.S.] is closing on this front, and it is critical that this committee encourage the FCC to conduct a speedy” public C-band auction.

Sohn and National Digital Inclusion Alliance Executive Director Angela Siefer urge Congress to pass HR-4486/S-1167. That bill would allocate federal funding for digital inclusion via two \$120 million

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grant programs (see [1909200047](#)). “These funds ... will incentivize more states and localities to develop their own digital inclusion programs and will provide sorely needed funds to the small community-based nonprofits that are doing the hard work of connecting their communities on the ground,” Sohn says. Siefer [calls](#) HR-4486/S-1167 a “good first start” to addressing “digital equity planning at the state level” and “financial support for that planning.” — *Jimm Phillips*

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'Listing Options'

CSMAC in Early Stages of Looking at Potential Big Changes to How Spectrum Is Regulated

Commerce Spectrum Management Advisory Committee members stressed Tuesday that the Spectrum Strategy Governance Subcommittee’s work on potential major changes to federal oversight of spectrum is very preliminary (see [2001270046](#)). The subcommittee updated CSMAC at the group’s quarterly meeting.

“In the absence of a final national spectrum strategy, we put forward our best ideas for improving spectrum governance,” said subcommittee co-Chair Jennifer Manner, EchoStar senior vice president-regulatory affairs. The initial report looks at domestic governance, but CSMAC also needs to explore international governance, she said. The group has been meeting since September, she said.

“At this point we’re just listing options,” said co-Chair Mary Brown, Cisco senior director-technology and spectrum policy. “The committee has not evaluated these options in the sense of discussing pros and cons at this point. Many of you will probably have opinions.” In the next stage, the subcommittee will offer more of an evaluation of each option, she said. Much work remains to flesh out how the proposals would be implemented, Brown said. Options include creating a new spectrum agency, giving either the FCC or NTIA more authority, or an enhanced memorandum of understanding between NTIA and FCC.

“We may have to reevaluate this at the point at which the national spectrum strategy is reached,” Brown said: “We need to make sure what we’re doing here is relevant, but that’s sort of our next phase of work.”

Manner started the presentation by acknowledging that “our country’s current approach for managing the use of spectrum is no longer effectively serving the needs of the entire stakeholder community and would benefit from reform.”

CSMAC co-Chair Jennifer Warren, Lockheed Martin vice president-technology, policy and regulation, said there has already been lots of discussion, with many CSMAC members participating. “People brought in a lot of passion and ideas and thoughts to this,” she said. “These are just ideas. These are not recommendations.”

Charles Cooper, associate administrator of the NTIA Office of Spectrum Management, told CSMAC the launch of commercial operations (see [2001270025](#)) in the citizens broadband radio service band is important for the future of mid-band spectrum and will advance the understanding of sharing with federal systems. “NTIA has been working closely with the FCC throughout the past year,” he said. “The process is essentially complete and the way is clear for commercial rollout and an eventual FCC auction in June of the priority access licenses.”

Cooper said DOD still hopes to be reimbursed for its costs for the transition to sharing. The FCC denied the band is subject to Commercial Spectrum Enhancement Act reimbursement requirements (see [1909270059](#)). DOD submitted a transition plan that the Technical Committee OK'd late last year, he noted. NTIA will soon post the plan, Cooper said. Cooper and the NTIA declined further comment.

NTIA is also still reviewing the 3100-3550 MHz band, Cooper said. “We are reviewing the entire band, which is a critical band for DOD radars that are in turn critical for national defense,” he said. “High-powered defense radar systems operate on broad-based, shipborne and airborne platforms, making this band pretty complex in terms of sharing analysis.”

The use of the band is also widespread, Cooper said. NTIA released a preliminary report on the band's top part Monday (see [2001270049](#)). Cooper said that part offers the most promise for sharing. A report to Congress on the entire band is “presently under internal review” at NTIA, he said. — **Howard Buskirk**

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Job Not Done

New York Makes Full-Court Press for RDOF Inclusion Ahead of Vote

Receiving FCC funding previously is no reason to exclude New York state from the Rural Digital Opportunity Fund, state government and others from New York said in interviews. New York's state broadband office, congressional delegation and telecom companies continue to sound the alarm before the FCC's Thursday vote on the proposed \$16 billion program. FCC Commissioner Jessica Rosenworcel echoed New York concerns, in Monday tweets.

New York and Alaska “are not eligible for RDOF because of previously established programs to fund rural broadband in these states,” the FCC [said](#) Jan. 14. Defending the FCC proposal last week, the commission noted that one of Chairman Ajit Pai's first actions was to provide New York up to \$170 million from the Connect America Fund (see [2001220017](#)). The state combined that with state funding for its New NY Broadband Program. The New York State Broadband Program Office (NYS BPO) estimates about 98 percent of the state population has broadband access, up from 70 percent when the program started in 2015.

Some areas lack access despite the state program greatly expanding high-speed broadband, emailed a NYS BPO spokesperson. “We're extremely grateful for past FCC support for the Program, but we strongly feel that support shouldn't preclude further federal funding to expand broadband access for New Yorkers—other RDOF-eligible states have also received past FCC support.” The commission didn't comment Tuesday.

New York should be able to get federal dollars to “finish the job,” said New York Public Utility Law Project (PULP) Executive Director Richard Berkley in an interview. New York's broadband office was “very measured” and understated concerns in its Jan. 21 [filing](#) at the FCC, said Berkley. “New York is being overlooked for this money and on purpose.” People in Washington and elsewhere in the country think of New York as the city “and a little sidewalk around it and not much else, but New York is an intensely rural state.”

The CAF \$170 million “was in concert with New York providing \$500 million,” Hudson Valley Wireless General Manager Jason Guzzo said. “That certainly connected a lot of homes that didn't have access to adequate services but ... there's still more work to be done and additional subsidies should be avail-

able for that.” It’s unfair to “categorically exclude” New York when the state provided so much money for broadband, said Guzzo, who [wrote](#) the FCC Jan. 21 about concerns but hasn’t heard back.

The WISP could use RDOF money to expand its footprint in rural New York beyond the 3,000 square miles it now serves around the New York capital region, Guzzo said. The fixed-wireless ISP sells 100 Mbps service through a mix of private equity and state funding. “What we wanted to do is edge out into certain regions.” RDOF “is a tremendous opportunity to get high-speed internet to some of the areas that lack access to affordable broadband services.”

The FCC “plans to exclude rural homes and businesses in one state entirely—and that’s New York,” Rosenworcel [tweeted](#) Monday. “This isn’t right and it needs a fix.” She highlighted recent congressional letters to the FCC from the state’s two [senators](#) and from Rep. Antonio Delgado (D) and 21 [House](#) members. Sen. Kirsten Gillibrand (D) [tweeted](#) Monday that the FCC should “immediately abandon this proposal.” Delgado [tweeted](#) Tuesday that he’s “deeply disappointed” and will “continue to urge FCC leadership to reconsider before the final vote.” Verizon supports including New York (see [2001240066](#)).

“New York’s Congressional delegation has been a critical advocate for RDOF funding,” said the NYS BPO spokesperson. If the delegation pushes hard and Gov. Andrew Cuomo (D) weighs in, “that might be enough to get this mistake corrected,” said PULP’s Berkley, though he noted that Senate Minority Leader Chuck Schumer (D) “is a little bit distracted right now” by the Senate’s impeachment trial of President Donald Trump.

Guzzo hopes the push by Congress and the state broadband office sways the FCC to find a compromise, but he wouldn’t predict the result. There may be another opportunity to participate in RDOF phase two, but “that’s going to be a while down the road,” he said. “We’re New Yorkers—we’re not that patient.” — *Adam Bender*

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Free Handsets Defended

FCC, USAC Urged to Encourage Lifeline Participation, Not Create New Barriers to Adoption

Foster participation rather than create new obstacles to adoption for the USF Lifeline program that subsidizes low-income telecom users, industry, public interest and consumer groups pressed the FCC in comments posted through Tuesday in docket 17-287. The FCC is considering sweeping changes in attempts to curb waste, fraud and abuse, but stakeholders fear the agency is overstepping (see [1911210035](#)).

“Excessive claims of waste, fraud and abuse in the Lifeline program should not be used to police low-income consumers,” the National Hispanic Media Coalition [said](#). Some FCC Lifeline program proposals “unfairly target Lifeline recipients instead of bad actor providers,” National Urban League [said](#).

The agency should honor its mandate to advance access for Lifeline’s intended users, and any new rules should avoid undermining “the preservations and advancements of access to services or their affordability for all low-income consumers,” CTIA [said](#). It wants the FCC to “assess the effects of recent reforms,” including the national verifier (NV) for eligibility, “before determining whether additional reforms are necessary.”

Proposed integrity requirements “would impose additional burdens and costs on [eligible telecommunications carriers] with little to no concomitant benefit to the program,” the National Lifeline Association (NaLA) [said](#). Lifeline providers should no longer collect and record the type of proof an applicant uses to demonstrate eligibility now that the NV does so, it said.

USTelecom “has concerns about the number of touchpoints for the gathering of consumer data that could potentially put low income individuals at risk for identity theft due to the sensitive nature of the personal information that is already gathered by state agencies, carriers and [Universal Service Administrative Co.] personnel and maintained for Lifeline eligibility and audit purposes,” the group [said](#). USTelecom also called “impractical at best” a proposal to require Lifeline subscribers to contact USAC periodically to verify provider claims that they’re using their service on an ongoing basis.

“Surveillance systems established to defend against fraud in government benefit programs have instead become instruments to exert control over economically disadvantaged individuals,” the Electronic Privacy Information Center [said](#).

Residents of tribal lands “tend to have a distrust of government institutions and would be reluctant to make contact by phone,” Smith Bagley [said](#). The same distrust of government “should also rule out the proposed approach of requiring subscribers to use an app that requires them to confirm continued usage,” it said.

The risk of a subscriber abandoning Lifeline service without notifying its ETC is lower among those making regular payments than those with prepaid accounts, GCI Communications [said](#).

'Skin in the Game'

Stakeholders overwhelming opposed requiring ETCs to charge at least a small equipment fee rather than offer free handsets to new subscribers. “This is the latest incarnation of the ‘skin in the game’ proposals, which mistakenly assume that subscribers only value their Lifeline service to the extent they must pay something to receive it,” NaLA said. Such a requirement would make service unaffordable and inaccessible for many, it added.

“Even with a \$9.25 monthly service subsidy, the prospect of having to pay out of pocket several hundreds of dollars or more for a [broadband internet access service]-capable smartphone is an entry barrier that makes broadband service an unaffordable luxury to many low-income households,” Tracfone Wireless [said](#). Smartphone acquisition costs are lower for providers than consumers because they buy in bulk, it added.

Proposed handset fees “are another unjustified part of a larger war on the poor by the current administration,” Free Press [said](#) in its comments. A mandatory handset fee “is contrary to the central purpose of universal service,” it said.

The FCC “must not adopt reforms that discourage participation” in the Lifeline program, New America’s Open Technology Institute [said](#) in joint comments with Public Knowledge. A proposal to ask potential subscribers “a litany of questions regarding their financial priorities” should be rejected, they said, because such questions are both intrusive to applicants and unnecessary to administering the program.

“Step back from these proposals and instead allow the Lifeline program some breathing room to settle into the recent dramatic changes to the Lifeline program,” the National Consumer Law Center [said](#) in joint comments with other low-income consumer advocates.

Since 2017, FCC policies “have strangled Lifeline broadband, once a promising and serious strategy to support low income Internet access, in its cradle,” the National Urban League [said](#).

NTCA responded to an FCC inquiry on whether the Lifeline program should treat fixed and mobile broadband services differently. It said the FCC should adopt Lifeline goals “of a broadband connection that meets every low-income consumer’s individual needs.” For example, where “a mobile broadband service is not sufficient to meet a low-income consumer’s needs for accessing telemedicine, educational opportunities, or for remote work, the commission should not settle for ‘good enough’ and declare victory,” NTCA [said](#).

Replies are due to the FCC Feb. 25. — *Monica Hogan*

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Rodgers: Privacy Talks Continue

Rep. Schakowsky Exploring Section 230-Related Bill for Election Misinformation

The office of Rep. Jan Schakowsky, D-Ill., is exploring Section 230-related legislation dealing with election misinformation, she said Tuesday at the State of the Net internet policy conference. “It’s very, very early right now, but I absolutely want to do something, even if it’s narrow on 230” of the Communications Decency Act, Schakowsky told reporters. “If we can craft something, there will definitely be some more hearings, no question about that.” Throughout her talk, she cited blatant lies hosted by Facebook.

Her office isn’t yet drafting language, only “exploring,” she told reporters. It needs to be narrow enough to attract broad support, she said, suggesting specific limits for social media platforms regarding election material. She plans to speak with DOJ, which has expressed interest in reviewing Section 230. She also expects to talk further with House Speaker Nancy Pelosi, D-Calif., about Section 230 concerns.

House Consumer Protection Subcommittee ranking member Cathy McMorris Rodgers, R-Wash., told reporters privacy talks are “going to continue” with Schakowsky. Experts said legislators are making progress, but compromise could be far off.

The subcommittee’s bipartisan staff draft (see [2001080072](#)) was the “first attempt” at moving legislation forward without a private right of action, Rodgers said, noting she doesn’t support a consumer right to sue companies. She referenced other efforts that have “fallen apart” this Congress without directly mentioning the Senate Commerce Committee’s turbulent privacy negotiations, which was reduced from a group negotiation to bilateral talks between Chairman Roger Wicker, R-Miss., and ranking member Maria Cantwell, D-Wash., (see [1912040045](#)). Wicker said during his appearance he’s continuing to work with members of both parties to introduce a bill, citing drafts from both him and Cantwell. Both drafts are stronger than California’s privacy law, Wicker told reporters. Pre-emption doesn’t mean making standards weaker than California, he said.

Schakowsky said a private right of action, pre-emption and FTC rulemaking aren’t all-or-nothing issues. However, she voiced support for FTC enforcement to allow room for right of action. It doesn’t make sense to have concern about rulemaking authority being too broad but also wanting to preclude a right of action, she said.

The goal is a strong bill, stronger than California’s and one people can support, said Rodgers. With California’s, Washington’s and dozens of other state privacy laws, a patchwork is quickly developing that

will have state laws conflicting with one another and creating confusion for the consumer and businesses, she said.

Rodgers also referenced China's theft of American intellectual property, saying it's how China rose to an economic power. If "China wants to steal our secrets and continue to sell our IP, we should steal their engineers and scientists," said Rep. Will Hurd, R-Texas. The U.S. can't risk losing its lead with tech, he said.

It's possible to have a private right of action without monetary damages in a privacy law, said Center for Democracy & Technology Vice President-Policy Chris Calabrese. Wicker has said he's open to limited injunctive relief in a bill.

Congress should grant the FTC targeted Administrative Procedure Act rulemaking authority, said former Consumer Protection Bureau Chief Jessica Rich, now Consumer Reports vice president-consumer policy and mobilization. She argued Cantwell's draft bill includes many rulemaking requirements, which industry groups don't support.

The prominent draft privacy bills have more in common than differences, which spurs optimism, said Internet Association General Counsel Elizabeth Banker. Legislators putting their names on draft bills is a sign Congress is getting closer to a bill, said Calabrese.

Three prominent tech experts representing a wide spectrum raised concerns about chipping away at Section 230, specifically the impact of 2018 anti-sex trafficking legislation (see [1912310035](#)). Section 230 is a foundational law that allows the stability to innovate, said Public Knowledge Senior Vice President Harold Feld. When you chip away at that without thinking about what will support the rest of the edifice, you will have a lot of unintended cracks and breakdowns, he said.

Attorney Cathy Gellis noted the chilling speech issues from the 2018 law. Craigslist took down certain advertisements to avoid liability, which for example, had a devastating impact on the livelihood of a massage therapist, as detailed in a federal court case (see [2001240018](#)). Craigslist isn't the only website that ended up censoring content, she said. If Congress messes with Section 230, it better make sure the fix is narrowly tailored to what it's addressing, she said.

Senate Judiciary Committee Chairman Lindsey Graham, R-S.C., and Sen. Richard Blumenthal, D-Conn., are considering legislation that would affect website liability for child exploitation (see [1912190079](#)). Blaming the tool, Section 230, is far easier than holding the perpetrators accountable, said Stand Together Vice President-Technology and Innovation Jesse Blumenthal. — *Karl Herchenroeder*

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Comm Daily® Notebook

FCC OIG Advises on Lifeline Usage Rule for Sprint, Other ETCs

The FCC's Office of Inspector General suspects widespread noncompliance regarding the Lifeline service's eligible telecom carriers usage rule, [said](#) an advisory Tuesday. Lifeline ETCs "shall only receive universal service support reimbursement for Lifeline service provided to subscribers who have used the ser-

vice within the last 30 days, or who have cured their non-usage in accordance with the commission's rules," it said. OIG said it's investigating large and small ETCs for significant potential violations. "Neither willful violations nor failed management practices are acceptable," it said. FCC Chairman Ajit Pai announced last year that Sprint "sought tens of millions of dollars in Lifeline subsidies for consumers who should have been de-enrolled from the program for non-usage," OIG said (see [1909240023](#)). FCC posted comments on Lifeline program waste, fraud and abuse proposals through Tuesday in docket 17-287 (see [2001280005](#)).

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At-Home VRS Call Handling Pilot Demonstrates Benefits to USF, Providers, Workers

An advocate for the deaf and hard of hearing "very much" supports a draft item up for an FCC vote Thursday that would make permanent a pilot allowing at-home call handling for video relay services (see [2001090025](#)). Claude Stout, executive director for Telecommunications for the Deaf and Hard of Hearing, told us the trial went well, and the FCC had the needed safeguards. TDI isn't seeking changes to the item's language: "We think it's fine as written," Stout said. The draft order in dockets 03-123 and 10-51 simplifies safeguards, but Stout said it retains important ones, such as requirements that home workstations have locked doors so children can't interrupt a call. Proposed requirements also include sound proofing to protect callers' confidentiality, and a virtual private network connection to a provider's system. Proposed rules don't require a separate home broadband connection dedicated solely to VRS call handling. Home communications assistants would be subject to unannounced home inspections, the draft said. The pilot began in 2017 (see [1711010015](#)), and participants ZVRS and Purple Communications received extensions (see [1910310034](#)). Stout said he expects additional VRS providers to participate in the at-home calling program. The program benefits all, Stout suggested: The FCC's telecommunication relay services fund should have reduced outlays because interpreters would spend less time at call centers and thus be subject to less reimbursement; VRS providers wouldn't need to expand call center operations as often if more employees worked from home; and part-time workers experienced in American Sign Language wouldn't need to commute to call centers, freeing up time to use their signing skills elsewhere in the community such as at schools or churches. Allowing VRS calling assistants to work from home also offers much-needed network redundancy during power outages or other emergencies at a VRS call center, Stout said. Workers at home could take overflow calls if events caused unexpected demand for VRS calls, he added. The program also allows VRS providers to attract skilled interpreters for whom working at a call center isn't a practical option, Stout said. —*MH*

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Ergen Talked Dish Wireless Partnership Timing in Closed Session at SDNY Trial, Transcript Shows

Dish Network won't sign any strategic partnerships for its potential wireless business until after a decision by U.S. District Court for the Southern District of New York on states' challenge of T-Mobile's Sprint buy, said Dish Chairman Charlie Ergen in closed-door testimony Dec. 18. Dish had been talking to some of the potential partners for several years, but the deal was "a catalyst for them to engage in more serious and timely discussions," he testified, according to a redacted [transcript](#) (in Pacer) released Tuesday. Dish expects to be "a little larger than Sprint" by 2025, including prepaid and postpaid subscribers but not wholesale customers, he said. Dish's model shows it could be competitive and generate enough profit and cash flow to grow the business, he said. Plaintiff states in Jan. 15 closing arguments sought to

cast doubt on Ergen's "rosy" predictions in the business model he presented in the closed-door testimony (see [2001150077](#)).

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Rosenworcel Warns of Potential Future Presidential Abuse of Telecom Act Section 706

FCC Commissioner Jessica Rosenworcel said lawmakers should amend 1996 Telecom Act Section 706 to prevent potential future abuse of language that "allows the president to shut down or take control of 'any facility or station for wire communication' if he proclaims 'that there exists a state or threat of war involving the United States.'" Current law allows suspension of wireless service "not only in a 'war or threat of war' but merely if there is a presidential proclamation of a 'state of public peril' or simply a 'disaster or other national emergency,'" Rosenworcel said during a Tuesday [speech](#) at the State of the Net conference. "There is no requirement in the law for the president to provide any advance notice to Congress." The Section 706 language "is undeniably broad," she said. "If a sitting president wants to shut down the internet or selectively cut off a service, all it takes is an opinion from his attorney general that Section 706 gives him the authority to do so. That's alarming. Because if you believe there are unspoken norms that would prevent us from using Section 706 this way, let me submit to you that past practice may no longer be the best guide for future behavior. Norms are being broken all the time in Washington and relying on them ... is not the best way to go." DOJ didn't immediately comment.

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Capitol Hill

UK to Allow Huawei on 'Non-Core' Parts of Infrastructure, Drawing US Lawmakers' Ire

The U.K. government said it will allow equipment from Huawei on "non-core" parts of the country's communications infrastructure but will bar it from "sensitive locations" like military bases. The UK's National Security Council didn't mention Huawei by name in its Tuesday [announcement](#), instead saying it's allowing a "high risk vendor" into some parts of the country's infrastructure because the government believes the risks the company poses can be "safely managed." The government also said it will cap Huawei's share of the U.K. market at 35 percent. Huawei "is reassured by the UK government's confirmation that we can continue working with our customers to keep the 5G roll-out on track," said Vice President Victor Zhang in a statement. "This evidence-based decision will result in a more advanced, more secure and more cost-effective telecoms infrastructure that is fit for the future." Prime Minister Boris Johnson spoke with President Donald Trump after the announcement about "working together to ensure the security of our telecommunications networks," a White House spokesperson said. The U.K.'s decision drew the ire of many U.S. lawmakers, some of whom recently filed legislation to bar the U.S. from sharing intelligence "with any country that permits operation within its national borders" of Huawei-produced 5G equipment (see [2001080002](#)). "Allowing Huawei to build the UK's 5G networks today is like allowing the KGB to build its telephone network during the Cold War," [tweeted](#) Sen. Tom Cotton, R-Ark. "The short-term savings aren't worth the long-term costs," Cotton said. He and two other Senate Republicans—John Cornyn of Texas and Marco Rubio of Florida—[wrote](#) Johnson Monday urging the country to fully ban Huawei from that country's infrastructure. "Seeking to limit Huawei to 'non-core' infrastructure, as today's decision attempts, will not succeed in limiting Huawei's ability to conduct espionage, interfere with critical infra-

structure or mobilization, or even access more sensitive nodes in the telecom network,” [said](#) Sen. Ted Cruz, R-Texas. “America has never been weaker” and has “never had less influence,” [tweeted](#) Sen. Chris Murphy, D-Conn. “Not even our closest ally Britain, with a Trump soulmate in Downing Street, listens to us any-more.” Johnson “has chosen the surveillance state over the special relationship” between the UK and U.S., [tweeted](#) House Republican Conference Chair Rep. Liz Cheney of Wyoming. It’s “tragic to see our closest ally, a nation [former President] Ronald Reagan once called “incandescent with courage,” turn away from our alliance and the cause of freedom.” —*JP*

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Wireline

ACA Backs Viya on Scoring of Buried Coax in US Virgin Islands, Puerto Rico Rebuild

America’s Communications Association supports Virgin Islands Telephone, doing business as Viya, asking the FCC to clarify or reconsider how it will score buried coaxial cable in evaluating fixed network support under the Uniendo a Puerto Rico and Connect USVI funds, said reply comments [posted](#) Tuesday in docket 18-143. ACA shares Viya’s concern that the proposed scoring framework “could be implemented in a manner that downplays the resiliency of buried coaxial cable relative to other deployment types.” Viya [wants](#) buried fiber and buried coax cable scored equally (see [1912100043](#)).

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Wireless

Reply Comments Seek FCC Action on Spectrum for Drones

Commenters again stressed the importance of commercial spectrum to safe operation of unmanned aerial systems, in replies this week in docket 19-356. The replies, due Monday, follow initial comments in December (see [1912270039](#)). The FCC sought comment on the use of the 960-1164 MHz and 5030-5091 MHz bands by drones. “New use cases and deployment scenarios for UAS are developing every day, and safe and secure UAS activities will require ample spectrum” and the two bands won’t be available for years, CTIA said. “The record demonstrates that licensed commercial wireless spectrum is an ideal alternative that is readily available today,” CTIA [said](#): “Stakeholders deploying this reliable and secure communications platform are now exploring ways to minimize interference to other users and developing technological solutions that will enable even more advanced drone operations, including for safety-of-life services and higher-altitude flights.” Verizon [said](#) the record shows overwhelming support for “continued application of the Commission’s flexible use policies to encourage using commercial mobile spectrum for UAS.” Commenters agree “on the importance of ensuring the safe operation of UAS, and mobile network operators have proven that they are best positioned to ensure that commercial mobile spectrum can be leveraged safely and without interference,” the carrier said. Spectrum Financial Partners said 5G and other cellular networks “with modern dynamic tilt control, low latency,” support for massive IoT and machine-to-machine communications and shared spectrum approaches are well suited to providing spectrum for drones. “The UAS industry is still very much in its infancy and its needs and applications are rapidly evolving and commercial cellular networks are best equipped, deployed and competitively managed to ensure that UAS

communications needs are immediately and responsively addressed in a spectrally efficient and cost-effective way,” the company [said](#). The National Public Safety Telecommunications Council [said](#) it joins initial commenters “in noting the need for the Commission to move forward to define spectrum allocations and related regulations for UAS.” NPSTC supports “commenters’ recommendations for the Commission, the FAA and NTIA to work cooperatively and expeditiously together to provide regulatory certainty for UAS operations,” the group said: “The needs of public safety, in addition to those of other critical functions, as well as those of commercial wireless providers, should be part of this discussion.”

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PTC Already Widely Deployed by Major Railroads, AAR Says

At the end of 2019, positive train control was in operation across 98.5 percent of required Class I route miles, the Association of American Railroads said Tuesday. “The nation’s largest railroads remain on track to meet the final deadline for full implementation of the critical safety technology, ... with several railroads already operating the technology across their entire required PTC footprint,” AAR [said](#). The deadline is Dec. 31. “For the remainder of this year, the Class I railroads will continue to focus on testing to ensure that PTC systems are fully interoperable and work seamlessly across operations as railroads regularly run across each other’s tracks,” the group said. Class I railroads have invested \$11.47 billion in PTC, now covering 53,001 miles of track, AAR said.

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700 MHz Guard Band Licensees, 220 MHz Band Managers Face March 2 Report Deadline

The FCC Wireless Bureau reminded 700 MHz guard band licensees and 220 MHz band managers they must file annual reports on or before March 2 or face an enforcement action. “In the annual reports, Licensees must provide information about the manner in which the spectrum in each of their markets is being utilized,” the bureau [said](#) Tuesday: “The information provided should accurately convey the current level of service being offered in each licensed area, including information regarding coverage provided by Licensees’ operations and any spectrum lease agreements.”

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Internet

MyDevices Panic Button for Hotels Said to Eliminate Dead Zones

MyDevices announced technology designed to improve panic buttons used in hotels by eliminating dead zones, it said Tuesday. Its No Dead Zone panic button technology combines cellular, Wi-Fi, Bluetooth and LoRaWAN protocols to provide full coverage across a property “no matter how challenging the physical environment,” it [said](#). The company cited a workplace safety initiative announced by the American Hotel & Lodging Association two years ago designed to provide emergency communications and location-based services for employees in the hospitality industry. “While 4G LTE signals from all carriers freely propagate in open areas, inside buildings, it’s severely limited by heavy building material that blocks,

absorbs, reflects, and degrades cell and Wi-Fi signals,” said the company. That limits coverage and creates dead zones, which can “lead to catastrophic outcomes if a panic button fails to connect.” Integrating LoRaWAN technology into a panic button makes it possible to send long-range, low-power and low-data bandwidth transmissions from hard-to-reach locations like underground, in concrete or dense urban environments, it said. MyDevices’ said its technology is highly secure, affordable and installs in less than a day. It provides floor- and room-level accuracy plus outdoor GPS tracking on the property, and doesn’t require the use of a mobile phone to request assistance in an emergency, it said. It wasn’t clear whether a consumer version would be made available. The company didn’t respond to questions.

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Background Check Provider Settles With FTC Over Privacy Shield Claims

The FTC unanimously finalized a settlement with a background check security company over allegations it falsely claimed certification under the EU-U.S. Privacy Shield framework (see [1909030063](#)), the agency said Thursday. The FTC alleged T&M Protection Resources didn’t have PS certification, as claimed. The company is prohibited from misrepresenting itself and faces monetary penalties for future infractions. The company didn’t comment.

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FTC Increases M&A Reporting Threshold From \$90M to \$94M in 2020

The transaction threshold for “reporting proposed mergers and acquisitions” under Section 7A of the Clayton Act will increase from \$90 million to \$94 million in 2020, the FTC [said](#) Tuesday. The revised thresholds, effective 30 days after *Federal Register* publication, are based on gross national product fluctuation.

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State Telecom

NARUC to Weigh Resolution on States’ 5G Fund Concerns

NARUC plans to vote next month on a resolution about the FCC’s 5G Fund that would ask the commission to require current and accurate wireless coverage maps before awarding any support from the replacement for Mobility Fund Phase II. Areas without at least 5 Mbps speeds should be prioritized, said the draft resolution released Tuesday. The item for NARUC’s Feb. 9-12 winter meeting in Washington is sponsored by state Commissioners Chris Nelson, South Dakota; Randy Christmann, North Dakota; Sarah Freeman, Indiana; and Tim Schram, Nebraska. States that spent time and money challenging MF-II coverage maps voiced frustration about the FCC last month announcing the program’s termination (see [1912060010](#)). The draft says “there has been little indication regarding what areas the 5G Fund would target and there is concern that without current and accurate mapping these dollars may end up exacerbating the digital divide rather than solving the mobile wireless access problems that currently exist in rural America.” The FCC declined comment.

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Frontier Gets Oregon OK for Northwest Fiber Deal

The Oregon Public Utility Commission cleared Frontier Communications' transfer of its northwestern states telecom assets to Northwest Fiber. Chair Megan Decker and Commissioners Letha Tawney and Mark Thompson adopted a settlement reached by the two companies, commission staff, the Oregon Citizens' Utility Board and Charter Communications, said a Monday [order](#) in docket UM-2028. The pact includes 75 conditions on "consumer protections, maintenance of services, financial conditions, oversight, and broadband investment proposed to benefit Frontier's existing customers and the people of Oregon," the PUC said. The Montana Public Service Commission said OK earlier this month; the Washington Utilities and Transportation Commission held hearings Monday and is the last state whose OK needed (see [2001070031](#)).

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International Telecom

O'Rielly Agrees With Trump on Changes to US Trade Policy

FCC Commissioner Mike O'Rielly said he agrees broadly with calls by President Donald Trump at the World Economic Forum in Davos, Switzerland, last week, for changes in the U.S. relationship with organizations like the World Trade Organization. The same could apply to the ITU and the World Radiocommunication Conference, O'Rielly said. "I defer on trade policy, but @realDonaldTrump & Admin is 100% right that U.S. must demand much, much more out international organizations," O'Rielly [tweeted](#) Tuesday: "My views on the WRC & @ITU are exactly in line with this: WRC/ITU must dramatically improve or U.S. should find new structure." O'Rielly said he views last year's WRC as mixed for U.S. interests (see [1912180045](#)).

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Telecom Notes

TruConnect Asks FCC to Reconsider Lifeline Agent Commission Rules

TruConnect asked the FCC to reconsider a decision to prohibit eligible telecom carriers from paying commissions to Lifeline enrollment representatives and rescind the new rules before they take effect Feb. 25, in an expedited [petition](#) posted Tuesday in docket 17-287. Alternatively, TruConnect requests a nine-month waiver of the rules or a nine-month extension until the rules take effect. Sprint also requested reconsideration or waiver. Such rules "will significantly limit outreach to eligible individuals and thereby substantially curtail access to the Lifeline program," the carrier [said](#). The FCC declined to comment.

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DOJ Files Restraining Orders Against Robocallers

DOJ filed civil actions for temporary restraining orders against five companies and three individuals in two cases, [alleging](#) Tuesday they carried out hundreds of millions of fraudulent robocalls to Americans.

Defendants in one case are Ecommerce National d/b/a TollFreeDeals.com, SIP Retail d/b/a sipretail.com, and their owners Nicholas Palumbo and Natasha Palumbo of Scottsdale, Arizona. Defendants in the other case are Global Voicecom, Global Telecommunication Services, KAT Telecom (aka IP Dish) and their owner Jon Kahen of Great Neck, New York. Calls originating in India “led to massive financial losses to elderly and vulnerable victims” across the U.S., DOJ said.

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USTelecom's Robocall Industry Traceback Group Adds Members

One hundred companies participated in efforts to investigate illegal robocalls, and more “are explicitly requiring traceback cooperation as a condition of their contracts with other carriers,” USTelecom [said](#) Tuesday, releasing the Industry Traceback Group’s first progress [report](#). ITG added Twilio, U.S. Cellular, XCast Labs and Voxology.

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Consumer Electronics

Lower Priced 5G Models Seen Reversing Smartphone Sales Slide in 2020: Gartner

The global smartphone market will return to growth in 2020, after a 2019 sales decline of 2 percent, said Gartner Tuesday. Worldwide sales of smartphones to end users are on track to reach 1.57 billion units this year, up 3 percent from 2019, on continued rollout of 5G service and regional growth in the Middle East and North Africa (5.9 percent), Asia-Pacific (5.7 percent) and Greater China (5.1 percent), it said. Oversupply in the high-end smartphone segment and longer replacement cycles led to a challenging year in 2019, but broader 5G network coverage this year should lure users who delayed a smartphone purchase hoping for lower prices, said the research firm. 5G phone sales are forecast to total 221 million this year—12 percent of overall mobile phone sales—and then more than double next year to 489 million units. With sub-\$300 5G phones announced, sales growth of the category is expected to top that of 4G phones over 12 months, said analyst Annette Zimmermann. Strong demand, including expectations of Apple’s first 5G iPhone, will boost overall smartphone demand, particularly in Asia-Pacific and Greater China, where sales are predicted to reach 432.3 million and 376.8 million handsets. At next month’s Mobile World Congress in Barcelona, the spotlight will be on 5G devices at either end of the price scale, with pre-show announcements expected, said the analyst. “The key focus for vendors will be access to 5G and enhancement of the camera technology within devices.”

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Intellectual Property

CTA's NEXTGEN TV Logo Application to Be Published for Opposition Feb. 25

CTA’s application to register NEXTGEN TV as a certification mark for ATSC 3.0-compliant consumer goods (see [1909190066](#)) is scheduled for Feb. 25 [Trademark Official Gazette](#) publication, a Patent

and Trademark Office status [page](#) shows. Opposition parties would have 30 days from that date to try to block the registration. A notice of allowance (NOA) would follow if the application clears the opposition period, giving CTA six months to file a statement of use (SOU), one of the last stages before the logo would proceed to a registration certificate. CTA, when it files the SOU, will provide “a copy of the standards governing the use of the certification mark” on 3.0-compliant goods that “have been evaluated to meet certain use and performance” metrics, said the association’s Sept. 25 [application](#). A “potential bar” in PTO’s approval of the NEXTGEN TV logo was lifted this month when Sharp let lapse at the Jan. 4 deadline for filing its SOU on a NXT-GEN consumer TV trademark and logo it applied for in December 2018 (see [2001140030](#)). The application had progressed to the NOA stage in June, but PTO declared it dead Jan. 6. “With the pause in our efforts to re-enter the US consumer TV market,” Sharp was “not able to show usage on a product in the time period required to continue the trademark application so we had to give it up,” emailed Sharp Home Electronics President Jim Sanduski. —*PG*

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Antitrust Authorities Clear Accenture's Symantec Cybersecurity Buy From Broadcom

Antitrust authorities cleared the way for Accenture to buy Symantec’s cybersecurity services business from Broadcom. Financial terms of the deal [announced](#) during CES week weren’t disclosed. It’s expected to close in March. An FTC early termination [notice](#) dated Monday and released Tuesday ended the transaction’s Hart-Scott-Rodino waiting period.

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Broadcast

Starks Concerned About FCC Diversity Information, ATSC 3.0 Data Privacy

FCC Commissioner Geoffrey Starks’ chief concerns with the shift to ATSC 3.0 are the data privacy and security implications, he [told](#) the NAB joint board annual meeting Monday. NEXTGEN TV’s features rely on consumer data collected by broadcasters and device makers, he said. “How will that data be kept secure? How will it be stored, anonymized, or sold? How will consumers be fully aware of what data are being collected and how it is being used?” There’s “an ever growing mountain” of evidence on the negative outcomes from artificial intelligence systems using algorithms to sift data and exhibiting biases for certain demographics, Starks said. “Widen your aperture to be aware of and conscientiously think through complex issues involving data and privacy that are going to dominate our shared future,” he told NAB. Starks also focused on FCC data collection, calling the FCC’s data collection on broadcast ownership diversity “stale.” It’s “still not clear to me how, for nearly 20 years, the FCC ignored Congress’ will by not collecting” equal employment opportunity workforce diversity data, Starks said. “That means we have had zero visibility into the diversity of station management and news and production teams. I will continue to work to re-open this issue going forward,” he said. Starks disagreed that collecting EEO data or diversity policies would be vulnerable to constitutional challenges. “Collecting and analyzing data is a ministerial function that is necessary for the FCC, as an expert agency, to have a better understanding of the industries that we regulate,” Starks said. “We have a direct order from the 3rd Circuit Court to implement a data program that would help understand the impact of our regulatory efforts on the ability of women and people of color to own stations.” Broadcasters should work to im-

prove diversity in broadcasting, he said. “Hold yourselves accountable—this is an annual meeting of the NAB board, so make sure that one year from now, the numbers are better.”

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Salem to Pay \$50,000 Penalty for 'Live' Show With Deceased Host

Salem Media will pay a \$50,000 civil penalty for repeatedly broadcasting a sponsored call-in show in 2017 that was identified on-air as live but was prerecorded, said an [order and consent decree](#) in Tuesday's *Daily Digest*. *HealthLine Live* host Robert Marshall died in April 2017, but the show aired until December 2017, including portions in which the taped Marshall repeatedly described the show as live and urged viewers to call in, according to Salem's [response](#) to an Enforcement Bureau letter of inquiry. “Any taped, filmed, or recorded program material in which time is of special significance, or by which an affirmative attempt is made to create the impression that it is occurring simultaneously with the broadcast, must be identified by broadcast licensees as taped, filmed, or recorded,” said the order. “Doing otherwise may mislead the public.” Along with the \$50,000 payment, Salem must implement a compliance plan and file compliance reports with the FCC for three years.

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Cable

O’Rielly Urges Revisions in Program Carriage Complaint Process

The FCC should institute a “program carriage statute of limitations” that starts ticking when the program carriage offense allegedly occurs, bringing such rules in line with the time limits the agency puts on related matters like good faith requirements in the retransmission consent context and program access complaints, Commissioner Mike O’Rielly [blogged](#) Tuesday. He also urged an automatic stay of an administrative law judge’s program carriage complaint initial decision to give the cable operator that loses a chance to appeal the decision to the full commission. O’Rielly recommended axing the requirement cable operators keep records of their attributable interests in video programming services and carriage of those vertically integrated video programming services on their cable systems.

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Media Notes

MGM Could Be Tough Deal for Either Netflix or Apple to Make Happen, Analyst Says

MGM—[reportedly](#) in talks with Netflix and Apple about being acquired—might be a bad fit for either, nScreenMedia analyst Colin Dixon [blogged](#) Monday. MGM’s content library and production experience would be big assets for either buyer, but a deal could be a financial stretch for Netflix, and Apple/MGM could mean culture clashes between tech management and Hollywood moguls, he said.

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Satellite

Amazon's Kuiper Urges FCC OK, Says Criticisms Off Base

Regulatory hurdles proposed for Amazon's proposed Kuiper satellite constellation by non-geostationary orbit (NGSO) processing round participants and others (see [1910300003](#)) are unwarranted and would frustrate broadband deployment and hurt future satellite investment and innovation, Amazon said in an FCC International Bureau [posting](#) Monday. It said Kuiper poses “a minimal and manageable risk of interference with good-faith coordination” and focusing on the number of Kuiper satellites without regard to system architecture and operational characteristics isn't a sensible way of evaluating interference likelihood. It said SpaceX is exaggerating the percentage of earth station links that might require coordination because its model involves only part of the planned SpaceX constellation, limiting satellite diversity. It said SpaceX in its interference simulations also assumes NGSO processing round participants won't engage in good-faith coordination, contrary to FCC rules. It said waiver of processing round rules is warranted since Kuiper can co-exist with other authorized systems and its operation won't foreclose future access to the Ka band. SpaceX didn't comment Tuesday.

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Iridium, Amazon Partner on Cloud-Based IoT Applications Service

Iridium's and Amazon Web Services' joint Iridium CloudConnect cloud-based global coverage for IoT applications is live, Iridium [said](#) Tuesday.

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Communications Personals

Debevoise & Plimpton announces **Avi Gesser**, ex-Davis Polk, as partner-cybersecurity and data privacy ... Davis Polk adds **Suzanne Munck af Rosenschold**, ex-FTC, as counsel-antitrust and competition ... **Carmi Zlotnik** resigning as Starz president-programming at month's end, continues consulting to aid with transition.

Vimeo taps **Narayan Menon**, ex-Prezi, as chief financial officer ... Bdex names **Tara Maitra**, ex-Tivo, chief revenue officer ... **Sue Gordon**, ex-Office of the Director of National Intelligence, becomes Microsoft consultant on security, national security and leadership topics.

President Donald Trump nominates **John Chase Johnson**, Covington & Burling, as FCC inspector general; nominating **Hock Tan**, Broadcom, and **Brian Truskowski**, IBM, to National Security Telecommunications Advisory Committee, and **Theresa Mayer**, Purdue University, and **Hussein Tawbi**, University of Texas MD Anderson Cancer Center, to Council of Advisors on Science and Technology ... Cisco appoints **Lisa Su**, AMD, to board.

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