

# Communications Daily

The authoritative news source for communications regulation



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**Top News****'Pretty Sharp Ax'****'We Can't Wait' to Compete Against T-Mobile, Says Ergen; States Target His Credibility**

The assets Dish Network would gain through DOJ's "remedy" with T-Mobile/Sprint would be a "catalyst" to building out a 5G network "faster" than otherwise possible, testified Dish Chairman Charlie Ergen Wednesday at the T-Mobile/Sprint bench trial in U.S. District Court in lower Manhattan. "We're going to need 5G to compete against the big three incumbents," including AT&T, Verizon and the new T-Mobile, said Ergen. "We can't wait" to compete against T-Mobile, he said.

State plaintiffs spent more than an hour of cross-examination trying to damage Ergen's credibility as a would-be T-Mobile competitor by bringing up historical examples of allegedly bad Dish behavior or raising inconsistencies between his pretrial deposition and trial testimony. Asked why a bankruptcy court in the LightSquared case said Dish had a "troubling pattern of non-credible behavior," Ergen said it was because the court didn't believe Dish claims of LightSquared interference were credible. The evidence that since emerged "validated" Dish's position, he said. Also brought into evidence were statements from then-FCC commissioner, now Chairman Ajit Pai criticizing Dish for having made a "mockery" of the designated-entity process during the AWS-3 spectrum auction.

Ergen exchanged texts and emails in May and June with DOJ Antitrust Division Chief Makan Delrahim, first about Dish's concerns with T-Mobile/Sprint, later to discuss the possible remedy agreement, plaintiffs showed. Delrahim texted Ergen June 10, urging him to reach out to his "senator friends" so they could contact Pai and enlist his support for the department's remedy. Ergen testified he spoke to Sen. Cory Gardner, R-Colo., asking him to contact Pai. Ergen also spoke with Senate Majority Leader Mitch McConnell, R-Ky., but didn't ask him to contact the regulator, he said.

Asked for the purpose of enlisting Gardner to lobby for Pai's support, Ergen said the senator could be helpful because "he knows our company and he knows our plans." That didn't square with Ergen's deposition, said plaintiffs, when Ergen testified he contacted Gardner because 5G is complicated technology that's "not well understood" by the public or at the FCC, "not even by the chairman." Courtroom spectators erupted in laughter when Ergen was asked whether the suggestion was that Gardner could educate Pai on 5G. The executive didn't answer.

Plaintiffs appeared to probe Ergen about hints of possible DOJ improprieties. When Ergen was asked if Delrahim provided him with his personal email address, plus that of his DOJ account, he responded Delrahim had. But Ergen said he couldn't recall receiving any Delrahim emails from anything other than the DOJ account.

Ergen testified he grew "upset" June 22 when hearing "rumors" that T-Mobile went to the FCC to accuse his MVPD of acting in "bad faith" over the proposed DOJ remedy. The rumors said Ergen was demanding a \$1 billion payment from Sprint as a condition for proceeding with the deal. With Ergen's denial that he demanded such a payment, plaintiffs produced a June 27 email in which he asked for SoftBank's help in procuring a \$1 billion loan from JPMorgan.

There's a "major distinction" between a demand for \$1 billion cash and seeking help in procuring a \$1 billion interest-bearing loan, testified Ergen. Enlisting SoftBank's help for a JPMorgan loan "comes at a lower rate," said Ergen. "We wanted to be sure we had plenty of money to buy Boost and continue to operate our business," he said. "We had enough capital on our balance sheet, but we wanted margin." Under redirect examination, Ergen admitted it was "probably not normal" to seek JPMorgan funding through a SoftBank intermediary, but that Dish had done so with DOJ's knowledge and approval.

In using the T-Mobile network for seven years, Dish will pay T-Mobile unspecified cents on the dollar for each Boost broadband customer it signs up, said Ergen. That won't obviate each company's desire to want to put the other out of business, he said. "Outside of mischief, they'll be aggressive in the marketplace," and so will Dish, he said. Of potential subscribers, "if they pay their bill, we want them to be a Dish customer," said Ergen. "If they don't pay their bill, we want them to be a T-Mobile customer."

Asked by Judge Victor Marrero why Ergen originally opposed T-Mobile buying Sprint on "structure", Ergen responded he didn't want the market to go from four to three incumbents because it would "hamper" Dish's entry into broadband. "The status quo was OK," said Ergen. "Sprint was a bit stronger as a company 20 months ago." It since has grown "less enthusiastic about the business," having curtailed investment, and is laying off employees, he said.

On Dish's broadband network buildout, "we've been working on this for 10 years," said Ergen. He's reminded, he said, of the saying attributed to Abraham Lincoln that anyone planning to spend six hours chopping down a row of trees had better spend the first four hours sharpening the ax. "We've got a pretty sharp ax," Ergen said. "There's a chance we fail. It's a tough business out there, but we're a tough company too."

"Political intrigue that didn't quite land for the states," said New Street's Vivek Stalam of Ergen's text exchange with Delrahim about calling in senators. Ergen appeared strong on cross-examination by states in the face of tough evidence, the analyst wrote Wednesday after the executive finished testifying.

The judge remained focused on possible conflicts of interest between Dish and T-Mobile since they would compete while the first would rely on the second's network.

Carriers “made progress” this week arguing Dish would be better than Sprint as the No. 4 wireless carrier, New Street Research’s Blair Levin wrote Wednesday before states cross-examined Ergen. “Sprint executives largely held up regarding Sprint’s difficulties and DISH’s CEO did a strong job of articulating his own plan.” A “big unknown” is what Ergen meant Tuesday when he hinted at talks between Dish and some top companies about the wireless play, the analyst emailed investors.

Ergen’s buildout plan is “modestly negative” for the tower industry, emailed New Street’s Spencer Kurn Wednesday. “We had modeled Dish building to 30,000 sites by 2023; however, it now appears that building to only 15,000 sites by 2023 is the most likely scenario.” He lowered to \$300 million from \$700 million his estimate for how much revenue Dish would bring to the tower industry by 2023. — *Paul Gluckman and Adam Bender*

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## O’Rielly Seeks Changes

### Questions Remain After WRC That Some Call Qualified Success

The 2019 World Radiocommunication Conference was a mixed success for the U.S., FCC Commissioner Mike O’Rielly said, viewing WRC-19 as falling short. Other WRC watchers echoed O’Rielly’s concerns and said questions about ITU process aren’t going away. The conference ended last month after weeks of negotiations (see [1911220014](#)).

For the FCC, top goals were “safeguarding 24 GHz,” ensuring ability to offer broadband in 28 GHz, and preserving the 5 GHz band for sharing with unlicensed, O’Rielly [testified](#) Dec. 5. “The con-

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ference achieved some of these objectives in various, muddled forms.” The conference, like WRC-15, “raised some fundamental concerns that ultimately call into question the continued value” of the conference, O’Rielly said. “It was very evident that certain foreign delegations were sent with clear directions to oppose the United States and other forward-thinking nations.” The U.S. should consider working toward a “G7-like organization or loose coalition of leading wireless nations,” O’Rielly said. He’s critical of out-of-band-emission limits in the 24 GHz band aimed at protecting passive weather satellites in adjacent spectrum. The world now faces a limit of -33 dBW/200 MHz for 5G base stations until 2027, when it switches to -39 dBW, he said.

The process was “incredibly problematic,” O’Rielly said after last week’s FCC meeting: “The United States would be well within its rights to consider other alternatives.” The decision on the 24 GHz band was bad for 5G, he said. “We had a unified government position from the United States on -20,” he said. Eight years from now “you’re either going to have to redeploy or rip out what you have. That’s incredibly problematic to those who have bought licenses in our auction.” A few countries are “trying to use the WRC process to make it worse,” he said.

FCC Chairman Ajit Pai was still weighing how the WRC went last week. He’s “grateful” the U.S. presented a unified position on the 24 GHz band, he said in Q&A last week. “The end result that was reached is one that we believe will allow us to move the ball forward.” Some other countries “were looking to essentially slow down or even block the development of that band for purposes of 5G applications and services,” he said. The FCC and the head of the WRC-19 delegation didn’t comment Tuesday.

The last WRC was very successful on many levels, David Gross of Wiley Rein told us. “Overall,” industry people with a lot at stake are “quite pleased with the outcome,” said Gross, who oversaw U.S. work at two WRCs under President George W. Bush. “That’s not always the case.” After WRC-15, “there was a lot of concern about some of the outcomes,” Gross said: The U.S. delegation “did a first rate job with a lot of controversial issues.”

Gross said the issues O’Rielly raises are important. “WRCs have always been difficult because of the need to have consensus across 190 and some countries, many of whom have very differing interests, that have very different incumbent users of spectrum and the like,” he said. “It’s always a complicated process.” An ITU core tenet is that all countries maintain sovereignty over their own radiowaves, he said. “There is nothing that happens at a WRC ... that requires the FCC to do or not to do anything within the United States. Yes, it affects borders, and yes, it affects global relationships, but within the United States the FCC remains the sole decision-maker.”

The world is seeing more regional decisions and that’s likely to continue, Gross said. That’s not “necessarily at the expense of the global decisions that the ITU makes at WRCs, but rather as a practical safety valve to allow groups of countries in a given region to make their own more independent decisions,” he said.

There was much discussion about 28 GHz at WRC-15 and the U.S. was upset the band “was not in the mix” for international mobile telecom (IMT) at the 2019 conference, said Colin Thomson, Access Partnership head of practice-infrastructure. The U.S., Japan, Korea and Singapore were unique in pressing for a discussion that never occurred because 28 GHz wasn’t on the agenda for IMT, he told us. “While we might not have the economies of scale of global identification, nothing is stopping the operation of services in the band domestically.”



Thomson noted the U.S. didn't get what it was looking for at WRC-15 on the use of the 600 MHz band for broadband, but that didn't stop the TV incentive auction. The U.S. is deploying "on its own without the ITU backing," he said. Industry is looking for opportunities to develop "national or regional frameworks ... outside of the ITU," he said. The U.S. can still comply with international radio regulations without seeking specific language on how a band can be used, he said. Thomson sees a similar case in the use of the 6 GHz band for Wi-Fi in the U.S. and Europe.

Tom Struble, tech policy manager at the R Street Institute, understands why O'Rielly "would come away from the conference feeling that private standard-setting organizations, like 3GPP [3rd Generation Partnership Project] and IEEE, are more helpful than the ... ITU in terms of globally harmonizing spectrum policy and achieving the corresponding scale economies and consumer benefits."

The disputes at WRC over some bands "closely mirrors the spectrum disputes" within the U.S. government, Struble said. O'Rielly's "frustration with one process may be bleeding into the other," he said. "While the FCC has recently been doing everything in its power to promote deployment of 5G, Wi-Fi 6, and other next-gen wireless services, their progress has been stymied left and right by other federal agencies," he said: "With the U.S. delegation to WRC-19 unable to present a unified front on issues in 5 GHz, 6 GHz, 24 GHz, and elsewhere, it seems that other nations seized on that uncertainty to protect their own interests. That's a problem ... that could've been avoided or at least minimized if we had done a better job coordinating federal spectrum policy beforehand." — *Howard Buskirk*

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### **Cantwell, Wicker Seek Input**

## **Thune Partners With Schatz for Section 230 Talks; Schakowsky Issues Draft**

Senate Majority Whip John Thune, R-S.D., and Sen. Brian Schatz, D-Hawaii, are trying to formulate a proposal on the tech industry's content liability shield, they told us Wednesday. Schatz previously announced plans to roll out legislation on Section 230 of the Communications Decency Act (see [1909120058](#)).

Thune and Schatz used the word "preliminary" to describe the 230 talks. "We're working with colleagues to see what's possible," Schatz said, noting a few bills are "percolating" with Thune that could be privacy related. "Hopefully, we'll be able to talk about that soon," Thune said. He and Schatz are chair and ranking member of the Senate Communications Subcommittee.

The effort is separate from talks on the section between Senate Judiciary Committee Chairman Lindsey Graham, R-S.C., and Sen. Richard Blumenthal, D-Conn., Blumenthal told us. "We're talking to them, but they're probably separate." Graham said he hopes to speak with Blumenthal shortly after Jan. 1, citing the need to child-proof apps and social media sites that sexual predators abuse.

Senate Commerce Committee Chairman Roger Wicker, R-Miss., and ranking member Maria Cantwell, D-Wash., are soliciting expert input from industry and privacy groups on privacy legislation, Cantwell told reporters Wednesday. The process is getting "more granular," she said.

Cantwell's skeptical Congress will pass bipartisan privacy legislation in 2020. "I have faith in the ability to get a strong privacy bill with willing partners," she said. "I don't know if the Senate has the will

to dedicate floor time to any major policy. We haven't demonstrated that thus far, and that's what that would take." Cantwell told us she's not exploring anything related to the portion of statute, but "there will be lots of discussion about issues."

Wicker was more optimistic. "We've spent a year arriving at some very excellent protections for consumers and understandable rules for people who must comply," he told reporters. He welcomed a draft privacy bill from House Consumer Protection Subcommittee Chair Jan Schakowsky, D-Ill., and Rep. Cathy McMorris Rodgers, R-Wash. (see [1912130049](#)). "Anything that involves a bipartisan compromise will add to the conversation and enhance our chances," Wicker said.

Senate Democrats have discussed the proposal with Schakowsky, Cantwell said. "I don't know what they're going to prioritize," she said, noting reports that McMorris Rodgers is trying to "hang in there with" Schakowsky. Cantwell also welcomed parallel bills from Schakowsky and McMorris Rodgers: "Whatever shows what people's main principles are ... would be helpful." Cantwell said her office is interested in three pillars: the strength of the FTC in protecting privacy rights with strong language; data privacy; and federal and state enforcement. The last pillar requires the most discussion, she said. "To know that you have strong data privacy and you have strong abilities by the FTC, then you can get to that bigger question about how does this fit together with everybody else."

House lawmakers released discussion draft text Wednesday. It doesn't address a private right of action and federal pre-emption, as expected (see [1912130049](#)). The draft, a product of bipartisan discussions, grants the FTC rulemaking authority, first-offense civil penalty authority and jurisdiction over common carriers and nonprofits, which FTC Chairman Joe Simons has requested. It creates a new Privacy Bureau, with additional funding "as needed."

State attorneys general could enforce the privacy law, which allows consumers the right to access and delete their data. The draft includes limits on third-party data sharing. Areas left empty concerned the bill's effective date and children's privacy.

Rodgers cautioned the "staff draft is not a finished product." It "will serve as an important step in the process for us to solicit feedback and continue to negotiate a final bill," McMorris Rodgers said in a statement. She noted "bipartisan staff work" occurred, and she's "committed to continue working with Chair Schakowsky towards a bipartisan privacy bill." — *Karl Herchenroeder*

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### **Switchover Missing Deadline?**

## **FCC Reveals 'Modified' Lifeline NV Soft Launch in Last 3 States**

The Lifeline national verifier soft launches Friday in California, Oregon and Texas, but differently than it did in other states, the FCC Wireline Bureau [said](#) Wednesday in docket 11-42. The announcement was expected (see [1912120034](#)). The NV hard launches Jan. 22 in Alabama, Arkansas, Louisiana, Maryland, Massachusetts, New Jersey, Oklahoma, South Carolina and Washington state, the bureau [said](#) separately.

The announcements confirm what stakeholders had expected: the agency is behind on what some saw as its end-of-year deadline to finish the NV rollout. Those same stakeholders had welcomed the delay because of concerns the changes to the eligibility checks could incorrectly deem ineligible some low-income people. “By December 31, 2019, we expect Lifeline eligibility will be determined in all states and territories using the National Verifier. We also expect that [Universal Service Administrative Co. (USAC)] may require testing and trials of the National Verifier prior to deployment and we allow this with the approval of the Bureau,” [said](#) the commission’s 2016 order on the NV.

Asked about the apparent delay to NV rollout, a USAC spokesperson emailed: “The FCC makes policy decision[s] around the National Verifier, including setting the launch schedule.” The FCC didn’t comment.

Due to “unique circumstances” in California, Oregon and Texas, including FCC-approved opt-outs of the national lifeline accountability database (NLAD), the bureau and USAC are working with the states on a modified soft launch, the bureau said now. Consumers will continue to apply through each state’s application process, while the state will continue to do eligibility determinations and check for duplication, the bureau said. “Unlike all other states, territories, and the District of Columbia, these three states operate their own comprehensive systems, in place of the NLAD, to prevent duplicative federal Lifeline support,” it noted. “The Lifeline program continues to rely on these states’ systems for eliminating duplicative Lifeline support. Similarly, each of these states has its own system in place to determine subscriber eligibility for the federal Lifeline program in addition to its own state-based low-income discount program.”

The countrywide checks “will operate in these three states by using state eligibility data to validate eligible telecommunications carriers’ (ETCs’) claims for federal Lifeline support and will perform reviews of state eligibility information and documentation to ensure that state eligibility determinations are made in accordance with the Commission’s rules,” FCC staff wrote. For those Lifeline applicants states can’t review, including broadband-only applicants in California, the NV “will accept applications through the service provider portal during the soft launch period, or service providers may continue to conduct their own eligibility checks using their legacy processes.” The modified approach furthers goals of the 2016 Lifeline order, the bureau said.

“Lifeline applications in these states will be reviewed by the state agency or its administrator—an independent, objective third party—as opposed to being solely handled by the ETC receiving reimbursement from the program, and the claims based on those eligibility results will then be validated by the National Verifier to prevent improper payments. Relying upon the states’ existing processes and automated data sources will improve administrative efficiency, streamline review of all applications, minimize consumer confusion, and support a single process for applicants to apply for both the federal Lifeline benefit and the state low-income subsidy.” And it will reduce NV costs, the bureau said.

The Texas Public Utility Commission applauds “the FCC for not only allowing Texas to continue with our proven processes, but also for working closely with us via USAC to ensure vigilance for any potential abuses of the system,” a PUC spokesperson emailed. “This approach maintains simplicity for Texas Lifeline customers, ensuring better continuity in these vital services.” California and Oregon commissions didn’t comment. — *Adam Bender*



## Comm Daily® Notebook

### FCC's 5.9 GHz NPRM Got Numerous Changes While Before Commissioners

The FCC's NPRM on the 5.9 GHz band, approved by commissioners 5-0 last week (see [1912120058](#)), underwent changes from the draft circulated by Chairman Ajit Pai three weeks earlier, based on our side-by-side comparison Wednesday when it was released in the *Daily Digest*. The [NPRM](#) proposes to reallocate the 5.9 GHz band for Wi-Fi and cellular vehicle to everything (C-V2X), while potentially preserving a sliver for dedicated short-range communications (DSRC). Officials said last week the item had been tweaked. [Draft](#) language that tentatively concluded "no additional provisions are needed to protect non-federal incumbent operations in the 5.9 GHz band from new C-V2X operations" was changed to proposing only. The draft said, "Promoting traffic safety and other [intelligent transportation system] benefits remains a critical priority of the United States, and we support the development and widespread use of these technologies and services." The final NPRM said, "We continue to recognize the importance of ITS, and are committed to a regime that enables the provision of ITS." The final notice recognized more explicitly importance of bands beyond 5.9 GHz for ITS, saying the spectrum is "part of a larger transportation and vehicular safety-related ecosystem that also includes spectrum outside of the 5.9 GHz band." The final document adds language on the importance of ITS. "We note that a primary purpose of the original DSRC band was to provide valuable vehicular safety of life applications to the public," the final wording said: "We propose that ITS in this band continue to provide safety of life services. ... Additionally, we seek comment on whether there are actions that we should take, or requirements that we should adopt, to promote rapid and effective deployment of ITS." The final NPRM includes questions not in the draft on 5G Automotive Association assertions C-V2X needs 60 MHz to evolve to include 5G. "Is it necessary to plan for such systems?" the final NPRM asked: "If so, can 20 or 30 megahertz support 5G automotive applications?" The NPRM casts a wider net. "We propose that U-NII-4 devices meet an [out-of-band-emission] limit of -27 dBm/MHz at or above 5.925 GHz, which is the same limit required for U-NII-3 devices at this frequency," the draft said. The final notice added "or devices that operate across a single channel that spans the U-NII-3 and U-NII-4 bands." And "autonomous vehicles are already being deployed and clearly cannot be relying on DSRC because it is not widely deployed and would not be for many years even under favorable predictions" changed to "autonomous vehicles are already being tested and deployed using applications and technologies other than DSRC for vehicle-to-vehicle communications or other transportation or vehicular-safety." —**HB**

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### WinnForum Technical Report on Wi-Fi in 6 GHz Notes Controversies Remain

The [Wireless Innovation Forum's new 6 GHz Band Multi-Stakeholder Committee](#) said controversies remain, as does work to be done. Getting protections right is important, Wednesday's report said. "A number of licensed users occupy this spectrum, prominent occupants being users of fixed point-to-point links," it said. "A large fraction of these links serves critical functions that must maintain a high level of availability." The group [filed](#) in FCC docket 18-295 and discussed the report with retiring Chief Julius Knapp and others from the Office of Engineering and Technology. "WinnForum's 6 GHz Committee has accomplished the most important task for any co-existence analysis: Identify suitable protection criteria and propagation models used to predict compatibility," said Andrew Clegg of Google, WinnForum chief technical officer:

“It’s important that these considerations get buy-in from all stakeholders.” Senate Communications Subcommittee ranking member Brian Schatz, D-Hawaii (see [1912180064](#)) raised concerns, while Zebra also lobbied the FCC (see [1912180063](#)).

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## Trump Gives Federal Employees Extra Day Off for Dec. 24

Federal employees will have a day off Dec. 24 with exceptions “for reasons of national security, defense, or other public need,” said President Donald Trump in an [executive order](#) Tuesday.

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## Capitol Hill

### Schatz Urges FCC to Prove No Harmful Interference in 6 GHz Sharing Rulemaking

Senate Communications Subcommittee ranking member Brian Schatz, D-Hawaii, urged the FCC Wednesday to ensure automated frequency control is “proven effective before it is relied upon” for measuring and preventing interference as part of a proposal to share the 6 GHz band with Wi-Fi and other unlicensed users. Commissioners Mike O’Rielly and Brendan Carr are hopeful a 6 GHz proposal will come in Q1 (see [1912130012](#)). The FCC should “condition any” 6 GHz sharing rulemaking “on a finding of no

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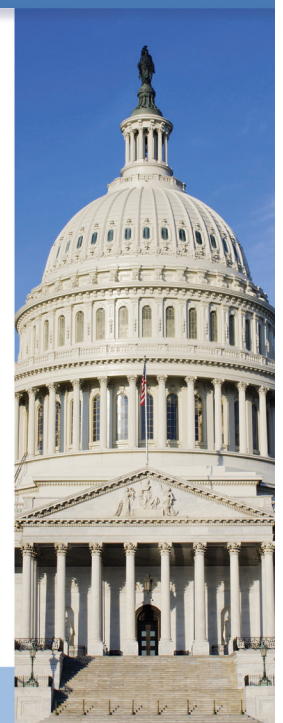
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harmful interference” with incumbents “and specific requirements that will prevent harmful interference,” Schatz said in a [letter](#) to Chairman Ajit Pai. “It would not be appropriate to consider relocation” of incumbents to 7 GHz because that “would be costly, difficult, and impractical.” It’s “unclear that there is sufficient additional room” on the 7 GHz band to accommodate 6 GHz incumbents given heavy use by federal users, Schatz said. The FCC is “reviewing” the letter, a spokesperson said. Others also acknowledge 6 GHz issues (see [1912180040](#)) and have concerns (see [1912180063](#)).

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## Wireline

### AT&T May Take Longer to Restore Wildfire-Affected Northern California Service

AT&T wants extension until Feb. 14 of [emergency authorization](#) to suspend wireline service after its network was damaged in Northern California wildfires in 2017, it [said](#) Wednesday in docket 17-354. The company first filed its request two years ago and has since completed much restoration. A remaining project would serve 88 living units and awaits Santa Rosa approval, the telco said.

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## Wireless

### High-Band Auction Nears \$4 Billion

FCC auction of licenses in the 37, 39 and 47 GHz bands had \$3.92 billion in gross [proceeds](#) at the end of bidding Wednesday. The auction started Dec. 10. Three rounds are scheduled for Thursday.

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### ARRL, NYU Still at Odds on Encoded Transmissions by Amateurs

ARRL said the FCC should take no action in response to a New York University petition for a declaratory ruling that Section 97.113(a)(4) of FCC rules prohibits the transmission on amateur radio frequencies of “effectively encrypted or encoded messages, including messages that cannot be readily decoded over-the-air for true meaning.” The use of encrypted Winlink Global Radio Email by amateur radio operators has been a long-standing dispute (see [1904010034](#)). “The League does not support limiting experimentation and use of digital techniques in the Amateur Service without a clearly demonstrated need for doing so,” said reply [comments](#) posted Wednesday in docket 16-239. “Any such limitation would be unique to the United States. There is no public interest in prohibiting or limiting experimentation with digital techniques in this country.” NYU said few of the comments opposing its petition “appear to originate from licensed amateur radio operators.” It [said](#) it doesn’t seek to “halt, harm, or disable operation of Winlink” or similar services. It seeks clarity “to ensure that transparency and openness are assured for all data modes and networks in the amateur radio service, present and future.”

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## **Zebra Details 6 GHz Concerns in Meetings at FCC**

Zebra Technologies presented about its ultra-wideband technology that uses the 6 GHz band, in meetings with FCC Commissioner Mike O’Rielly and aides to the other commissioners. The company discussed “the impact of the proposals outlined in the NPRM on the Dart technology and its uses, and suggested coexistence solutions that would continue to allow for unlicensed UWB technologies to successfully coexist with incumbent users and expand unlicensed Wi-Fi uses,” said a [filing](#) posted Wednesday in docket 18-295.

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## **FCC Adds Details for Jan. 14 EBS Workshop for Tribes**

The FCC Wireless Bureau detailed a workshop Jan. 14 (see [1912020057](#)) on how tribal interests can seek access to 2.5 GHz educational broadband service spectrum. “FCC staff will provide information to attendees on 2.5 GHz spectrum, the mapping tool developed by the Commission, and the Rural Tribal Priority window dates and application filing process,” the bureau [said](#) Wednesday, releasing an agenda. The tribal window opens Feb. 3 and closes Aug. 3. The workshop starts at 9:30 a.m. in the Commission Meeting Room.

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## **Keysight, AAC Extend Relationship to Accelerate Antenna Designs for 5G**

Keysight Technologies extended its collaboration with AAC Technologies for validation of antenna designs for 5G new radio devices, it [said](#) Wednesday. Keysight’s 5G solutions will facilitate introduction of high-performance 5G products in “nearly any form factor,” said the company. AAC provides RF front-end integrated components for the global wireless market.

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## **US Cellular on Board With Public C-Band Auction, Wants Quick Action**

U.S. Cellular is “fully supportive” of a public auction of the C-band, it told the FCC in docket 18-122, posted Wednesday. “Time is of the essence,” the company [said](#): “The FCC should clear, auction and license as much spectrum as possible but no less than 280 MHz of spectrum. ... If spectrum is cleared and made available on different timeframes, separate clock products should be utilized for ‘earlier’ and ‘later’ license blocks.”

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# **Internet**

## **FTC Finalizes Settlement With Cambridge Analytica CEO, App Developer**

The FTC 5-0 approved a settlement with Cambridge Analytica leaders over “allegations they used deceptive tactics to collect personal information from tens of millions of Facebook users for voter profiling

and targeting,” the agency [said](#) Wednesday. Then-CEO Alexander Nix and app developer Aleksandr Kogan are prohibited from making future false or deceptive statements.

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## State Telecom

### California AG Posts New Privacy Ballot Initiative

California privacy advocates plan to collect signatures for a ballot initiative to tighten the California Consumer Privacy Act, [said](#) Californians for Consumer Privacy. Attorney General Xavier Becerra (D) released the title and summary for the [California Privacy Rights Act](#) Tuesday. It needs 623,212 registered voter signatures to get on 2020’s ballot (see [1909260013](#)). State Senate Majority Leader Robert Hertzberg (D) supported the effort: “What we’ve realized is that we need to create a strong and effective privacy protection agency that will stand the test of time.” The AG collected comments for a CCPA rulemaking this month (see [1912160047](#)).

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### CPUC Seeks Input on Disaster Relief Proceeding Scope

The California Public Utilities Commission asked for additional topic ideas for the second phase of its disaster relief proceeding (see [1911200002](#)). Parties should file recommendations by Jan. 7, said a Wednesday [ruling](#) by the assigned commissioner, President Marybel Batjer, and Administrative Law Judge Colin Rizzo, in docket R18-03-011. “Phase II will focus on having a resilient and dependable communications network that aids first responders and allows the public to communicate in a reliable manner, as well as consider fines and citations with non-compliance to our orders,” it said.

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### New York Restricts Telemarketing in Emergencies

New York state banned telemarketers from knowingly making unsolicited sales calls during a declared state of emergency. Gov. Andrew Cuomo (D) signed [A-117A](#) Wednesday, his office [said](#).

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## International Telecom

### Officials Didn't Violate 4th Amendment With Foreign Surveillance, 2nd Circuit Rules

The U.S. government didn’t violate the Fourth Amendment when it incidentally collected communications of a U.S. citizen through a foreign surveillance program, the 2nd U.S. Circuit Court of Appeals [ruled](#) Wednesday in *U.S. v. Hasbajrami*. Agron Hasbajrami was arrested at JFK airport in New York in 2011 and charged with attempting to provide material support to a terrorist organization. The prosecution partly



relied on information gathered without warrant under Foreign Intelligence Surveillance Act Section 702, which Hasbajrami sought to suppress under the Fourth Amendment. The case was remanded to the district court. The American Civil Liberties Union disagreed with the 2nd Circuit's ruling that "NSA can collect Americans' international communications without a warrant, [but] the court rightly finds that the Fourth Amendment applies when the government searches for that sensitive information in intelligence databases," said National Security Project staff attorney Patrick Toomey.

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## Senate Republicans Demand Drone Restrictions Against Chinese Threats

The U.S. should restrict use of drones and funding for state-owned firms trying to undermine national security, Senate Republicans [wrote](#) the Transportation Department and FAA Wednesday. Sens. Marsha Blackburn, Tennessee; Marco Rubio and Rick Scott, Florida; John Cornyn, Texas; and Tom Cotton, Arkansas, demanded immediate restrictions on the equipment, in response to Chinese threats. "American taxpayer dollars should not fund state-controlled or state-owned firms that seek to undermine American national security and economic competitiveness," they wrote Transportation Secretary Elaine Chao and FAA Administrator Stephen Dickson. DOT didn't comment.

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## Telecom Notes

### FCC's NANC Sets Jan. 13, Feb. 13 Meetings

The FCC North American Numbering Council scheduled meetings Jan. 13 and Feb. 13, at 2 p.m. at the agency's headquarters and via conference call, said a [public notice](#) Wednesday. NANC is to vote at the January meeting on a technical requirements document for the reassigned numbers database and in February on recommendations for its fee structure and pricing.

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## Consumer Electronics

### Amazon, Apple, Google Lead Effort to Develop Smart Home Standard

The Zigbee Alliance encouraged industrywide participation in a new smart home working group spearheaded by the alliance's board, along with Amazon, Apple and Google. Absent in Wednesday's [announcement](#) was the Z-Wave platform, with 2,400 smart home products on 100 million devices. Project Connected Home over IP "welcomes device manufacturers, silicon providers, and other developers from across the smart home industry to participate in and contribute to the standard," it said. The Z-Wave Alliance didn't comment. The WG plans to develop and promote adoption of a new, royalty-free connectivity standard to increase compatibility among smart home products. It highlighted participating Zigbee Alliance board member companies including Ikea, NXP Semiconductors, Samsung SmartThings, Schneider Electric, Signify (formerly Philips Lighting) and Silicon Labs as joining the WG. Control4 that's based on the Zigbee protocol wasn't highlight-

ed. Charlie Kindel, chief product and technology officer of parent SnapAV, emailed us that Control4 remains committed to Zigbee and the alliance. “For the promise of the smart home to be realized, companies big and small will need to deliver a seamless, secure and ever-reliable experience,” said Kindel. —**RD**

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## Intellectual Property

### Comments Due Dec. 26 on Philips Allegations Against Fitbit, Garmin Trackers

Comments are due Dec. 26 on the import ban Philips seeks at the International Trade Commission on Garmin and Fitbit wearable monitoring devices that allegedly infringe its patents (see [1912120031](#)), said a [notice](#) in Tuesday’s *Federal Register*. Manufactured by Ingram Micro, Maintek Computer and Inventec Appliances in China, the Garmin and Fitbit activity trackers copy the patented designs of Philips’ GoSafe and HomeSafe motion biosensor and sleep diagnostics products, Philips said. It seeks a limited exclusion order and cease and desist orders against Garmin, Fitbit and the three Chinese manufacturers. “Fitbit plans to defend itself vigorously against all allegations made in the complaint,” a spokesperson told us Wednesday. A Garmin spokesperson said the company doesn’t comment on pending or ongoing litigation.

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## Broadcast

### Media Bureau Extends Political File Recon Petition Replies to Jan. 28

Replies to a broadcaster petition for reconsideration of the FCC recent policy clarification on political advertising disclosures are extended to Jan. 28, said a Media Bureau [order](#) on docket 19-363 Wednesday. The petition was filed by NAB, Hearst, E.W. Scripps and other station groups. The order grants an extension request from the Campaign Legal Center, Common Cause and Sunshine Foundation (see [1912090032](#)). Comments remain due Dec. 30.

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## Cable

### Localities, FCC, NCTA Clash at 6th Circuit Over LFA Order Stay

The FCC and NCTA disagree with localities about a proposed stay of the local franchise authority order that’s subject of appeals before the 6th U.S. Circuit Court. The order (see [1908010011](#)) took effect almost three months ago and compliance is well underway, so a stay would run contrary to the purpose of a stay by changing the status quo instead of preserving it, NCTA said in a docket 19-4163 [opposition](#) (in Pacer) this week filed with the 6th Circuit. The FCC [said](#) (in Pacer) the stay request is actually for injunctive relief, and the localities haven’t shown irreparable injury if the order stays in effect. Localities seeking the stay [said](#) (in Pacer) they will suffer irreparable harm without a stay pending review, because cable operators

could unilaterally withhold franchise fee payments or stop following franchise agreements, leading to “dramatic budget uncertainty.” The Media Bureau denied an administrative stay.

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## Media Notes

### Free Mobile Streaming Platform Seeks Submissions Before Q1 Launch

Mobile streamer Ficto announced a slate of shows Wednesday that will debut with Q1 launch. The free platform [seeks](#) profit-sharing with creators. It has a beta [submission platform](#).

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## Satellite

### Hiber Seeks OK for Up to 10,000 Earth Station Terminals

Hiber wants a blanked license to operate up to 10,000 mobile earth station user terminals in conjunction with its planned 24-satellite non-voice non-geostationary constellation (see [1908160043](#)). In an FCC International Bureau [application](#) Tuesday, it said the IoT user modems will be dormant 99 percent of the time, operating only when a satellite is overhead, and are designed to operate in the field for up to 10 years on a single battery. It said they will operate in the 399.9-400.05 MHz band for uplinks and the 400.15-401-MHz band for downlinks.

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## Communications Personals

Librarian of Congress Carla Hayden appoints Associate Register-Copyrights **Maria Strong** to acting register of copyrights and director, Copyright Office, succeeding Register of Copyrights **Karyn Temple** (see this section, Dec. 10) ... FTC Chairman Joseph Simons promotes **Ian Conner** to Competition Bureau director and **Daniel Francis** to deputy director; **Gail Levine** also deputy director ... President Donald Trump moving Department of Homeland Assistant Secretary-Cyber, Infrastructure and Resilience Policy **Bryan Ware** to assistant director-cybersecurity.

New TechCongress Congressional Innovation Fellows: **Victoria Houed**, ex-Cards Against Humanity; **Jennie Kam**, ex-Cisco; **Anna Lenhart**, ex-IBM; **Walter Pope**, ex-Navy; **Peter Terpeluk**, ex-Google; and **John Yaros**, ex-Treasury Department's Office of Terrorism and Financial Intelligence.

Comcast advertising sales division Effectv appoints **James Rooke**, from FreeWheel Publishers, general manager ... PeerStream advances **Jason Katz** to CEO, replacing **Alex Harrington**, separates from company and resigns from board; Katz remains also president, chief operating officer and chairman ... LBI Media promotes to executive vice presidents **Ivan Stoilkovich**, TV programming, and **Jason Hall**, advertising sales ... NAB adds **DeDe Lea**, ViacomCBS, to TV board ... Technology Policy Institute names **Bryan Tramont**, Wilkinson Barker, to board ... National Association of State Chief Information Officers taps Washington Chief Information Officer **Jim Weaver** and Utah Chief Information Officer **Michael Hussey** for executive committee.

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