

# Communications Daily

The authoritative news source for communications regulation



A service of **WARREN COMMUNICATIONS NEWS**

FRIDAY, DECEMBER 6, 2019

VOL. 39, NO. 235

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## Top News

**'Insufficiently Rigorous'**

### FTC Removes Facebook's Past Privacy Auditor, Draws Congressional Skepticism

The FTC “effectively removed” Facebook’s independent privacy assessor (see [1912050065](#)), Chairman Joe Simons wrote recently in a congressional letter. We obtained the document in response to a Freedom of Information Act request. Senators reached Thursday were skeptical that the FTC’s \$5 billion settlement resulted in meaningful structural change at Facebook.

PricewaterhouseCoopers conducted the social media platform’s third-party privacy audit before the Cambridge Analytica scandal (see [1907240042](#)). Though Simons’ letter doesn’t name the assessor, past documents identify PwC.

The agency “effectively removed assessors, in this case and others, by not re-approving those assessors who were insufficiently rigorous in their prior assessments,” Simons wrote in an Oct. 31 letter to Senate Commerce Committee ranking member Maria Cantwell, D-Wash., who had questioned the effectiveness of the agency’s settlement.

When asked about structural change at Facebook, Sen. Brian Schatz, D-Hawaii, laughed Thursday. “Facebook’s stock went up after the settlement, and that’s all you need to know,” he told us. The FTC, Facebook and PwC didn’t comment.

PwC shouldn’t have “been a privacy auditor in the first place,” said Center for Digital Democracy Executive Director Jeff Chester in a statement. “Simons did the right thing to remove them. What is needed is a truly independent expert who will be the watchdog that the public needs.”

PwC concluded in a 2015-17 audit that Facebook’s privacy controls “were [operating](#) with sufficient effectiveness to provide reasonable assurance to protect the privacy of covered information.” More than a year later, news broke that Facebook had allegedly enabled Cambridge Analytica to improperly access personal data from some 87 million users, despite the platform’s 2012 FTC order for previous privacy violations.

A 2019 agency fact sheet says Facebook “must [have](#) a stronger and more independent assessor.” The assessor must “look under the hood” to “judge the effectiveness of Facebook’s privacy program—not rely solely on what management says,” the agency says. The fact sheet notes that only the company’s independent privacy committee and the FTC can approve or remove the assessor.

The Cambridge Analytica-related order, issued in July, dictates Facebook must hire an FTC-approved replacement before removing an assessor, subject to Consumer Protection Bureau Enforcement Division oversight. In deciding whether to approve an assessor, the agency examines qualifications, expertise, methodology, objectivity and independence. The order mandates initial and biennial assessments of Facebook’s privacy program from one or more qualified assessors.

“I thought the Facebook settlement should have been more,” said Sen. Marsha Blackburn, R-Tenn. “Probably Facebook is going to—like a lot of these big tech companies—they’re going to continue to push the envelope until we slap their hand enough and pass a privacy bill and empower consumers.”

“It was the nominally highest penalty ever,” Senate Intelligence Committee ranking member Mark Warner, D-Va., told reporters. “Even with high penalties, if you don’t build in long-term structural changes, if some of these actions can fall into the cost of doing business, you’re not going to have structural changes.” Warner doesn’t entirely blame Facebook because Congress didn’t set the framework. It’s not fair to rely on the “goodwill of [Facebook’s] instincts as opposed to giving them some rules of the road,” he said.

“There’s no indication of significant structural reform at Facebook,” said Sen. Richard Blumenthal, D-Conn. “One of my complaints about the settlement is that it failed to require that kind of reform.”  
— *Karl Herchenroeder*

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## **C-Band Decision Praised**

### **House Communications Members Blast Pai on Wireless Location Data**

House Communications Subcommittee members from both parties grilled FCC commissioners during a Thursday hearing on recent actions, including the commission’s long-running investigation into wireless carriers’ location tracking practices (see [1805240073](#)), and what some deemed Chairman Ajit Pai’s failure to adequately loop legislators in on his plans. Pai was praised on his proposal for a public auction of spectrum in the 3.7-4.2 GHz C band, as expected (see [1912040028](#)). House Communications Chairman Mike Doyle, D-Pa., and others drilled in further on C-band plans, with an eye to advancing legislation (see [1911210056](#)).

The Enforcement Bureau expects to wrap up “by the end of January” its location tracking probe investigating sale of customer location tracking data allegedly accessed by bounty hunters, Pai testified. “As soon as possible thereafter, I’d be happy to share” findings and recommendations with lawmakers.” Pai said the same Tuesday in a letter responding to House Commerce Committee Democratic leaders (see [1911080051](#)). EB’s “investigation is nearing its conclusion” and “I will provide you with those results as soon as practicable,” Pai wrote. “The Bureau’s staff to date has reviewed over 50,000 pages.”

Doyle and others criticized the length of the inquiry and the FCC’s failure to frequently update House Communications. “That investigation started over a year ago,” which “is unacceptable,” said Com-

merce Chairman Frank Pallone, D-N.J. “Effective deterrence requires swift and decisive action,” but “the FCC has demonstrated neither.” Doyle said the investigation is one of “many issues that were of concern to us” during a May oversight hearing (see [1905150061](#)) that “remain unresolved.”

Doyle noted Pai promised during a subsequent June Senate Commerce Committee hearing (see [1906120076](#)) that the investigation results would be ready soon. “That was six months ago and we still don’t have them,” Doyle said. Commissioners Jessica Rosenworcel and Geoffrey Starks noted a lack of communication with their offices. “I still don’t know what happened,” Rosenworcel said. Pai’s office “has refused to provide us with any information about letters of inquiry or what we’re investigating.”

### Other Criticisms

Pai took heat for his Wednesday proposal to ditch Mobility Fund Phase II and repurpose \$9 billion in USF funds for that program and others over the next 10 years for a new 5G Fund (see [1912040027](#)).

“It seems that you finally realized that the data you collected is garbage, and that you need to go back and do this all over again,” Doyle said. “Everyone has been telling you that for years, and instead of acting decisively, folks in rural America will have to wait even longer to get rural broadband.” Pallone has “serious concerns” about the 5G Fund announcement, saying it follows a pattern of FCC failures to adequately inform lawmakers before announcements.

House Commerce ranking member Greg Walden, R-Ore., said the plan “sounds good, but I have no details on” it. “We expect to have a little more notice, a little more communication on some of these big announcements,” he said. “I think that would be helpful and probably alleviate some of the questions that will come today.” Pai said he waited to announce the new fund until after the FCC finished investigating MF-II inaccuracies.

A move away from MF-II is needed because the FCC shouldn’t be reliant on rely on inaccurate broadband coverage data as it decides which areas should get 5G Fund allocations, Pai said. “The entire

## Communications Daily

(ISSN 0277-0679)

PUBLISHED BY WARREN COMMUNICATIONS NEWS, INC.

Jonathan Make ..... Executive Editor  
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point of the 5G Fund is that we are in the early stages,” he said. “So the problem of inaccurate mapping with respect to 4G LTE does not map, pardon the pun, to the 5G environment.”

Pallone is “quite concerned” about the FCC’s process for deciding its review of T-Mobile’s purchase of Sprint, which ended in a 3-2 party-line approval (see [1911050055](#)). He criticized the FCC for attempting to “strip away protections that promote diversity in the ownership of media companies,” which the 3rd U.S. Circuit Court of Appeals remedied in *Prometheus IV* (see [1909230067](#)). The FCC “intentionally undermined the ruling of that court, by approving more consolidation after the fact,” Pallone said. He and Doyle pressed the FCC on that issue in October (see [1910220044](#)).

Walden chided Pai for not coordinating his Monday call for Congress to repeal a provision of the 2012 spectrum law that mandates public safety move off the 470-512 MHz T band by 2021 (see [1912020063](#)). “I find it interesting” Pai sought the repeal, an announcement that “was not coordinated nor discussed with me or my staff, despite our efforts to find a solution,” Walden said. He wants any legislative deal to also end state and local-level diversion of 911 fees (see [1905150061](#)).

### C Band

Doyle and other House Communications members delivered a far more positive response to Pai’s C-band decision. Though Doyle also criticized the FCC for moving at “a glacial pace” in freeing up midband spectrum.

“I’m glad that you’ve come to see that a public auction” is in U.S. stakeholders’ best interests, Doyle said. He later pressed Pai and other commissioners on whether the FCC “under its current authority” can use C-band auction revenue “to pay for rural broadband development,” next-generation 911 or other projects. All the regulators indicated Congress would need to allocate the auction proceeds.

“This is why we need to move quickly” on C-band legislation, Doyle said. “This is an opportunity we dare not miss.” Walden noted “proceeds from an FCC auction would go to the Treasury for deficit reduction, rather than going toward bipartisan” telecom priorities. “It is important to legislate and look to my colleagues on the other side to work with us on this issue in the coming weeks,” he said. “As we have these discussions, we must work with current licensees, potential bidders, and others so that this auction moves quickly, and we preserve U.S. wireless leadership.”

Doyle told us before the hearing he hasn’t ruled out 2019 House Commerce action on his Clearing Broad Airwaves for New Deployment (C-Band) Act ([HR-4855](#)) or other C-band legislation. HR-4855 and companion [S-2921](#) would direct the FCC to sell rights to use 200-300 MHz of “contiguous” spectrum in the C band. There’s a “consensus” on the need to legislatively allocate C-band proceeds for telecom priorities “so that shouldn’t be controversial,” he said.

Walden is “not sure” he’s ready to sign on to HR-4855, but “there’s common ground” lawmakers can reach on C-band legislation. “There are issues about how you do [the C-band] auction and I think we’re going to have to work through that” via legislation, he said. “You don’t want to set up an auction that fails or becomes so reverse-expensive that it doesn’t pay off.” The U.S. “needs that midband spectrum to become available as soon as possible to facilitate 5G buildout in rural areas,” Walden said.

The Senate Commerce Committee plans to mark up the C-band-centric 5G Spectrum Act Wednesday. [S-2881](#) would require the FCC hold a 2020 public auction of at least 280 MHz of C-band spectrum. The measure would require the FCC return at least 50 percent of proceeds to the U.S. Treasury.



Senate Commerce plans to also mark up four other tech and telecom bills during the meeting: the Data Analytics Robocall Technology Act ([S-2204](#)), the Telecommunications Opportunities for Workers Engaging in Real (Tower) Infrastructure Deployment Act ([S-2363](#)), the National Suicide Hotline Designation Act ([S-2661](#)) and the Drone Advisory Committee for the 21st Century Act ([S-2730](#)). The markup [starts](#) at 10 a.m. in G50 Dirksen.

Senate Communications Chairman John Thune, R-S.D., told us he co-sponsored S-2881's approach of sending only 50 percent of C-band proceeds to Treasury because there needs to be "sufficient incentives" for auction participants. "Historically, that's the way this has worked," he said. Thune noted there could be other ways to direct the proceeds, and an aide told us the 50-percent figure is "a floor, not a ceiling." — *Jimm Phillips and Monty Tayloe*

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### Half to Treasury?

## **FCC May Not Consider C-Band Incentive Auction Viable**

There's skepticism an FCC incentive auction for the C band is viable since it likely would take longer than alternatives, said C-band panelists Thursday at a *Capitol Forum* event. Other options include a forward auction with the new licensees required to pay incentives to parties like satellite operators, they said. A third option is an overlay auction, but bidders would want to know how much they're paying for spectrum rights while they're bidding, said AT&T Vice President-Federal Regulatory Hank Hultquist. Whatever type of auction is adopted will likely be a clock auction, he said.

Eutelsat Director-Spectrum Management and Policy Wladimir Bocquet said another limitation of an incentive auction is that it doesn't work when dealing with nonexclusive licenses, such as with the C-band operators. A classic forward auction would be the quickest and smoothest route, he said.

Hultquist said the FCC is likely working toward a January order that "identifies fairly big picture things" like license size and some auction details, while issues such as technical rules to protect against interference will take longer. He said the agency could adopt procedures in January for seeking information needed for the transition plans. Others said a January order is likely (see [1912040011](#)). Hultquist said satellite companies should look at the 5G Spectrum Act ([S-2881](#)) introduced by Senate Commerce Committee Chairman Roger Wicker, R-Miss., and Communications Subcommittee Chairman John Thune, R-S.D., potentially as guidance for what they might be able to get from an auction. The legislation would require at least 50 percent of auction gross proceeds go to the Treasury.

Panelists generally agreed a 2020 auction seems realistic. Bocquet said having the first 100 MHz cleared by mid-2021, and the entire transition done by mid-2023, seems doable.

There also was general agreement about the need for incentive compensation for satellite providers. Hultquist said the transition will be particularly complicated because the C-band ecosystem has satellite providers selling services to content companies that in turn provide content to earth station operators, meaning transition will involve a series of steps by various parties. He said without proper incentives, there's a risk the transition won't happen expeditiously. Added NAB Associate General Counsel Patrick McFadden, incentives are the best way to ensure active participation toward a successful outcome. Bocquet said the

small satellite operators with C-band authorizations but not customers also need to be accommodated to help ensure a smooth and clear transition process.

The relative lack of competition in the fixed broadband market needs more attention, with even FCC data—which is typically overly optimistic—indicating 35 percent of households have only a single provider, and 11 percent have none, said Jonathan Sallet, Benton Institute for Broadband & Society senior fellow and former FCC general counsel. Benton recommended policy steps for ginning up fixed broadband competition (see [1910300005](#)). Government-driven overbuilding is criticized as wasteful, but there may be times when public money should be used to support deployment, Sallet said. Benton plans to reissue the report in 10 months after spending the time until then getting comments and input, he said.

A panel on tech platform antitrust debated platforms' treatment of news and whether the news industry should get a temporary exemption to negotiate some compensation agreement with Google. Antitrust laws protect platforms from news publishers, which cannot collectively bargain that way, said News Media Alliance CEO David Chavern. International Center for Law and Economics research fellow Alec Stapp said such an exemption could lead to Google's axing Google News altogether, and the news industry will either figure out its business woes with business model experimentation or there could be public action such as tax breaks or subsidization. Antitrust lawyer Jonathan Kanter of Paul Weiss said antitrust is at an inflection point given the swiftly changing American economy, and an uptick is likely over the next decade of anti-trust cases being litigated, providing more guidance. — *Matt Daneman*

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## 5G Sloganeering?

### **Mobile Now Hearing Focuses on Rural Broadband, Spectrum Sharing**

Senate Communications Subcommittee members focused on 5G, need for rural broadband and potential for freed-up federal spectrum during a Thursday [hearing](#) on implementing the Making Opportunities for Broadband Investment and Limiting Excessive and Needless Obstacles to Wireless Act. The Mobile Now Act was enacted as part of the FY 2018 omnibus spending bill (see [1803230038](#)). The law requires DOD and other federal agencies identify at least 255 MHz for broadband use by 2022. It requires the FCC and NTIA identify at least 100 MHz for unlicensed use below the 8 GHz band.

Mobile Now was intended to spur freeing up wireless spectrum, and the FCC should act quickly to finalize rules for the 6 GHz band and bring C-band spectrum to auction with no delays, said Senate Communications Subcommittee Chairman Sen. John Thune, R-S.D. “Not having the right policies in place will slow our leadership in the deployment of next-generation technology, particularly in more rural areas.”

CTIA, the Wireless Infrastructure Association and Thune said more mid-band spectrum is needed for the U.S. to quickly move to 5G. “We need as much spectrum as we can get as fast as we can get it,” said WIA President Jonathan Adelstein. Freeing up mid-band spectrum would be a “stimulus” for the country, because it currently has a “mid-band deficit,” said CTIA Senior Vice President-Regulatory Affairs Scott Bergmann. The auction process for the C band should include plans to clear the spectrum for 5G as soon as possible, Bergmann said.

Communications ranking member Brian Schatz, D-Hawaii, asked Bergmann if “sloganeering” is inflating the urgency of the 5G race. “I don’t want to frame this as though we are forever behind if we don’t

do everything the companies want us to do,” Schatz said. “We should hurry, but not be hasty.” There’s a “tremendous advantage” to being first, as the U.S. saw with 4G, Bergmann said.

Schatz and Sarah Morris, director of the New America Foundation’s Open Technology Institute, said funds from a C-band auction should be reinvested in rural broadband. Such an auction is a “huge opportunity” compared with the incremental increases in funding for such efforts that have been contemplated in the past, he said. The auction of a public resource should be used to close the digital divide, Morris said.

Sen. Jon Tester, D-Mont., has long been “frustrated” by lack of action on rural broadband. “Years have gone by with zero progress,” he said. FCC Chairman Ajit Pai’s announcement this week of a \$9 billion fund for rural 5G “sounds marvelous,” but Tester has doubts about the FCC’s ability to execute. “We need an oversight hearing about it,” he said to Thune. “The market breaks down when it comes to rural America,” Adelstein said.

Lots of work remains to free up federal spectrum for wireless use, Adelstein said. Federal agencies “have very little incentive to share spectrum,” said Sen. Mike Lee, R-Utah. Bergmann said lack of competition keeps federal agencies from using their spectrum with maximum efficiency. “There’s room for reform,” Lee said. Sens. Ted Cruz, R-Texas, and Marsha Blackburn, R-Tennessee, expressed concern about provisions on DOD spectrum in the National Defense Authorization Act. Anything that removes jurisdiction from the FCC, NTIA or the subcommittee over portions of spectrum is concerning to the wireless industry, said Bergmann. DOD already holds “enormous amounts of prime spectrum,” Cruz said.

There’s not enough unlicensed spectrum to keep up with demands of 5G, Cisco Senior Director-Technology and Spectrum Policy Mary Brown responded to Thune. Unlicensed is seeing congestion in certain networks on existing spectrum that is “the canary in the coal mine,” Brown said. Unlicensed device manufacturers are united in seeking to share spectrum in the 6 GHz band, she said.

Senate Commerce Committee ranking member Maria Cantwell, D-Wash., questioned Adelstein and Bergmann over concerns use of the 24 GHz band for 5G would interfere with weather prediction. The FCC approached the matter “in the worst possible way” by dismissing concerns from NOAA and international officials, she said. Asked if he similarly dismissed those concerns, Adelstein responded that he defers to the FCC on the issue. — *Monty Tayloe*

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## Comm Daily® Notebook

### Forest Service Gets Broadband, Communications Permit Suggestions

Streamlining evaluation of applications for siting communications facilities on National Forest Service lands and expanded categorical exceptions for environmental reviews were among suggestions the U.S. Forest Service got on updating its permitting practices for communications and broadband infrastructure, in comments posted this week at regulations.gov. CTIA [said](#) the agency could streamline the evaluation by incorporating a 270-day clock for communications uses applications, having a system for tracking applications for communications uses, and setting up a 30-year term for communications use authorizations with automatic renewals at recurring 10-year intervals. The Wireless Infrastructure Association also backed



codifying that deadline and increasing lease terms to 30 years. WIA [said](#) expanding the exemptions to include modifications of less than 20 acres would streamline the application process while helping foster collocations on existing facilities. The Western Governors' Association [backed](#) the service's proposal to revise directives to expedite requests for collocating communications uses in or on existing communications facilities and giving the current categorical exclusion more authority for special use authorization. Crown Castle [supports](#) expanding the scope of categorical exclusions. The New Mexico Broadcasters Association [said](#) the agency needs to avoid adding new review process requirements or facility sharing rules. —**MD**

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## Investigate Telecom Network Resiliency, Groups Seek, Citing FCC Deregulation

Two dozen advocacy groups asked the House Communications Subcommittee that held an FCC oversight hearing Thursday (see [1912050043]) to ask the regulator to address their concerns about telecom network resiliency, in a letter Wednesday to Chairman Mike Doyle, D-Pa., and ranking member Bob Latta, R-Ohio. The groups [said](#) “increasing numbers of Americans lack basic, reliable voice telephone service as providers allow their legacy networks to rust and degrade. Lack of maintenance and lack of emergency preparedness have contributed to lengthy outages in periods of natural disaster.” They sought a “comprehensive investigation into national network reliability.” They criticized industry for its history of urging policymakers to “ignore worries over critical infrastructure by promising us a shiny future of fiber and 5G.” Recent communications problems from California wildfires raised concerns failures could be worse during an earthquake (see [1911200002](#)), the letter said. Signers included Public Knowledge, Common Cause, the Greenlining Institute, National League of Cities, The Utility Reform Network. The FCC didn't comment Thursday.

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## Capitol Hill

### Wyden, Leahy Ask for Barr Ethics Probe Over DEA Surveillance Program

Attorney General William Barr should be investigated for an ethics violation for his 1992 approval of an “illegal mass surveillance program” by the Drug Enforcement Administration, Sens. Patrick Leahy, D-Vt., and Ron Wyden, D-Ore., [wrote](#) Thursday to DOJ's Office of Professional Responsibility. Citing an inspector general report, the senators said Barr approved the surveillance “without conducting any analysis of whether it was legal.” Approval of the program, which “swept up billions of phone records over more than 20 years, using subpoenas that were never reviewed by a judge,” was inconsistent with Barr's oath to defend the Constitution, they wrote. DOJ didn't comment.

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## Wireline

### Telcos' Dispute Over FCC Draft Order on VoIP Symmetry Continues

The FCC should reject its draft order to clarify VoIP symmetry rules before it comes up for a vote at commissioners' Thursday meeting, CenturyLink [said](#), posted Thursday in docket 10-90 on meetings with

aides to the four commissioners. It said the draft “cannot be reconciled with precedent or governing law” and isn’t supported by the policy justifications. The telco said that “because the draft order would require carriers like AT&T and CenturyLink to distinguish between over-the-top and facilities-based traffic even though there is no way for them to do so reliably, it would fail to achieve the commission’s goal” of resolving intercarrier compensation disputes. Teliix [said](#) the agency should remove the draft. Teliix argued it fails to address issues raised by comments and other times gives inadequate explanations. Verizon [supports](#) the “conclusion that the VoIP Symmetry Rule permits LECs to assess end office switched access charges only if the LEC or its VoIP partner provides a physical connection to the last-mile facilities used to serve an end user, and also supports the finding that this ruling should have retroactive effect.” —*MH*

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## FCC Sets ETCs' Minimum Monthly Usage Allowance at 250 GB in 2020

Eligible telecom carriers subject to broadband public interest obligations in 2020 must offer a minimum monthly usage allowance of 250 GB, [said](#) the FCC Wireline Bureau and Office of Economics and Analytics in a public notice Thursday in docket 10-90 announcing results of its 2020 urban rate survey for fixed voice and broadband services. They said ETCs must certify by July 1 that pricing for their basic residential voice services is no more than \$54.76, two standard deviations above the urban average monthly rate of \$34.81. The report includes 2020 broadband rate benchmarks for multiple service offerings, with higher benchmarks for ETCs serving Alaska.

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## Wireless

### Free-Market Groups Applaud 5.9 GHz Band Segmentation

Deregulation supporters backed FCC Chairman Ajit Pai’s move to reallocate most of the 5.9 GHz band away from dedicated short-range communications for Wi-Fi and other unlicensed use. In a docket 19-138 [posting](#) Wednesday, 21 signers including Americans for Tax Reform, American Legislative Exchange Council, National Taxpayers Union, TechFreedom and the Institute for Policy Innovation said Pai’s “thoughtful compromise proposal [will let] severely underused spectrum ... be put to work.” They said segmenting the band with the lower 45 MHz for Wi-Fi and the top 30 MHz for vehicular safety will support deployment of auto safety technology and meet unlicensed spectrum needs.

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### DOD's L-Band Advocacy Shouldn't Deter FCC, FSF's Cooper Says

DOD arguments against Ligado’s L-band license modification applications (see [1911210055](#)) are similar to what other agencies did when trying to derail the FCC’s 24 GHz spectrum band plan, Free State Foundation Senior Fellow Seth Cooper [blogged](#) Thursday: It’s not uncommon for agencies or other institutions to disagree with the FCC on technical matters, but it has final say on nongovernmental spectrum use. The Pentagon referred to the Defense Secretary’s Nov. 18 letter.

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## Internet

### US Chamber Seeks Facial Recognition Use, Data Privacy Transparency

Be transparent when using facial recognition technology, specifically in collecting and using data, [said](#) the U.S. Chamber of Commerce Thursday. Other recommendations include: protect privacy and personal data; promote beneficial uses while mitigating risks; risk-based regulation; and establish a national regulatory framework.

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## State Telecom

### Oregon PUC Gets Northwest/Frontier Settlement Details

The Oregon Public Utility Commission got more details about a settlement on Northwest Fiber's proposed buy of Frontier Communications wireline, video and long-distance operations. The companies, PUC staff and the Oregon Citizens' Utility Board filed a [stipulation](#) Wednesday saying they support the deal with conditions. The agency typically rules within six to eight weeks, but there's no statutory deadline, a spokesperson emailed Thursday. The companies made commitments including about expanding broadband deployment, keeping wholesale agreements, and reporting on finances and service quality. Beyond Connect America Fund Phase II funding, Northwest agreed to spend at least \$50 million enhancing and expanding 1 Gbps fiber symmetrical service within five years. That should cover at least 60 percent of locations in the combined ILEC territories in Oregon. Northwest would spend at least \$10 million outside the Portland area. Northwest would ensure existing Frontier fiber customers have such access within a year. The companies and Montana Consumer Counsel filed their own pact Tuesday at that state's Public Service Commission (see [1912040050](#)). Settlement was earlier announced in Washington state, the last state OK needed. Details are [due](#) Dec. 19 to the Utilities and Transportation Commission, with a hearing Jan. 27.

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### California Seeks More USF Coordination With FCC

State and federal governments should link arms on USF programs, including more syncing up between the California Advanced Service Fund (CASF) and the FCC's Rural Digital Opportunity Fund (RDOF) and Connect America Fund (CAF), the California Public Utilities Commission told the FCC. Staff from the CPUC Communications Division and the FCC's Wireline Bureau and Office of Native Affairs had a call Tuesday, said a Thursday-posted [filing](#) in docket 19-126. FCC staff say they plan to wrap RDOF meetings by month's end and hope to start taking bidding applications late next year after auction rules are adopted, the CPUC said. Statestaffers said it's hard to know how many CAF Phase II subscribers are in California because carriers don't report it, so they use subscribers to 10/1 Mbps as a proxy. "CPUC staff noted that subscribership to CAF II appears to be fairly low, below 15%, with some counties at 0%." Thursday, the CPUC scheduled a Jan. 22 [en banc](#) hearing on how California should update rules and processes to keep up with the communications market, following up on a May meeting (see [1905200052](#)). The commission

wants providers to weigh in on affordability, rural and tribal challenges, grant programs and network sharing. The hearing is 10 a.m. PST.

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## International Telecom

### Huawei Asks 5th Circuit to Overturn FCC Ban on USF Spending for Its Gear

Huawei petitioned the 5th U.S. Circuit Court of Appeals to overturn the FCC banning rural eligible telecom carriers from using USF programs to buy equipment that could come from the Chinese firm, the company [said](#) Thursday. Last month, the FCC voted, for national security, to ban Huawei and ZTE equipment on networks bought with USF dollars (see [1911220033](#)). The FCC declined comment now.

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## Telecom Notes

### Groups Representing Deaf Support Sorensen's VRS Petition

Groups representing the hearing impaired support a Sorenson Communications petition asking the FCC to clarify that enterprise and public videophones should be excluded from the removal rule for lack of use in a one-year period and that point-to-point calls should be excluded from the all-call query requirement. Comments posted Wednesday to docket 10-51. Telecommunications for the Deaf and Hard of Hearing, the Cerebral Palsy and Deaf Organization, National Association of the Deaf and American Association of the DeafBlind [said](#) such public use of videophones differs from personal use because both “enterprise and public videophones may not be used with the same regularity as a personal videophone. Moreover, public videophones are a resource to certain segments of the [video relay service] user population” who may be ineligible for telecom relay service user registration database because they lack broadband.

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## Consumer Electronics

### Huawei to Maintain No. 2 Smartphone Share Behind Samsung in 2020, Says SA

The global smartphone market will stay on a downward trajectory in 2020, [blogged](#) Strategy Analytics Thursday. Shipments “under the worst case” will decline 3 percent from 2019 before rebounding in 2021, it said. The 2021 forecast assumes “the likelihood of global economic recession remains low,” the U.S. and China will sign a trade deal and that the U.S. will lift its trade restrictions on Huawei, it said. Samsung will remain 2020’s market leader, followed by Huawei and Apple, it said. “We expect Huawei will see a big fall in overseas markets,” but a “resurgence” in China will help offset those declines, said SA: “Huawei will survive.”

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## Broadcast

### FCC Staff OK Univision Foreign Ownership Request

The FCC Media Bureau approved Univision's unopposed request for an increase in the percentage of the company that's allowed to be foreign-owned, said a declaratory [ruling](#) in docket 19-132, posted in Thursday's *Daily Digest*. The request would allow internal restructuring (see [1905070032](#)). The ruling would allow the broadcaster's foreign equity and voting interest to exceed 25 percent and to increase up to 70 percent.

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### National Cap Should Let Broadcasters Achieve Scale, Tegna's Lougee Tells O'Rielly

Decisions on the national ownership cap should allow broadcasters to "achieve sufficient scale to compete fairly in today's diverse media marketplace," said Tegna CEO Dave Lougee in a meeting Monday with FCC Commissioner Mike O'Rielly, per a [filing](#) posted Thursday in docket 17-318. "When journalism and localism are more important than ever, the public interest would be served by allowing healthy growth for broadcasters."

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## Cable

### Amazon Video App Added to Atlantic Broadband TiVo Devices

Atlantic Broadband integrated the Amazon Prime Video app into its TiVo devices, the cable ISP [said](#) Thursday. The Netflix app previously was integrated into its video platform.

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## Media Notes

### Netflix Most Viewed, Amazon Second, Among OTT, Parks Finds Amid More Competition

Netflix placed first and Amazon Prime Video second in U.S. over-the-top viewership for 2019 through October, [reported](#) Parks Associates Thursday. MLB.TV dropped from sixth to eighth and Sling TV held on as the top U.S. vMVPD. Apple TV Plus and Disney Plus launched after the time period. Other top-10 streamers were subscription VOD service Hulu in third, followed by HBO Now, CBS All Access, Starz, Showtime and ESPN Plus. "Competition in live streaming services is intensifying as several big brand names are competing for a small but growing slice of the OTT subscription base," said Brett Sappington. Services will continue to grow as long as consumers subscribe to multiple offerings, the analyst said. Sev-



enty-one percent of U.S. broadband homes have at least one OTT entertainment product, the research firm found. —**RD**

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## Satellite

### SpaceX, Commissioners Talk Orbital Debris, MVDDS Spectrum

SpaceX representatives urged approval of its pending modification for new orbital planes for 1,584 planned broadband satellites (see [1909030043](#)), in a meeting with FCC Chairman Ajit Pai and Commissioners Geoffrey Starks, Mike O’Rielly and Brendan Carr, per an International Bureau [posting](#) Wednesday. It said if the FCC does update its orbital debris rules, they must apply equally to U.S. operators and non-U.S. ones authorized to provide domestic service, or operators will seek other licensing administrations to avoid U.S. rules. The company said Amazon’s pending Kuiper constellation application (see [1904040034](#)) should be part of a new processing round. It said the FCC shouldn’t allow mobile use of MVDDS spectrum until a coordination strategy is viable.

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### 1 dB Standard the Right Choice for GPS Protection, GPSIA Says

The 1 dB increase in noise floor is the international definition of harmful interference and can be an objective and predictable metric for protecting satellite-based radio navigation like GPS from harmful interference, GPS Innovation Alliance Executive Director David Grossman [blogged](#) Thursday. He said critics press for other metrics, like use of key performance indicators (KPI), but those are calculated further downstream in the receiver when harmful interference may already have occurred. Evaluating KPIs across legions of devices, operational scenarios and measurements “is logistically and administratively impossible,” he said.

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## Communications Personals

Comcast Senior Executive Vice President **David Cohen** stepping down from operational responsibilities, effective Jan. 1, moving to senior counselor to CEO Brian Roberts ... Lead House GOP FCC and FTC appropriator House Appropriations Financial Services Subcommittee ranking member **Tom Graves**, Ga., [won’t seek](#) re-election.

Verizon adds **Carol Tome**, ex-Home Depot, to board ... At FirstNet, **Vincent DeLaurentis** is Homeland Security Department designee to board, replacing **Ron Hewitt**, retires; DeLaurentis also becomes Technology Committee members.

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