



FCC and Federal Activity Review:

Update on Key Wireless Developments

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OVERVIEW

1. National Broadband Plan
2. Universal Service and Intercarrier Compensation
3. Spectrum
4. Roaming
5. Public Safety
6. Privacy
7. Consumer Protection
8. Net Neutrality
9. Facility Issues
10. AT&T/T-Mobile Merger



NATIONAL BROADBAND PLAN



National Broadband Plan

- Called for by Congress in the American Recovery and Reinvestment Act of 2009
 - *“... the Commission shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, a report containing a national broadband plan.*
- Designed to set the roadmap for US broadband policy – and its implementation likely will dominate FCC agenda in coming years
- Released March 16, 2010 -- not voted on by Commission
- No binding legal impact



National Broadband Plan

- 360 Pages
- 208 Total Recommendations
 - Over 40 Recommendations to Congress
 - Over 90 Recommendations to Federal Agencies and the Administration
 - Over 10 recommendations to States



National Broadband Plan: Six Overarching Goals

- At least 100 million US homes should have affordable access to actual download speeds of at least 100 Mbps and actual upload speeds of at least 50 Mbps.
- The US should lead the world in mobile innovation, with the fastest and most extensive wireless networks of any nation.
- Every American should have affordable access to robust broadband service, and the means and skills to subscribe if they so choose.
- Every American community should have affordable access to at least 1 Gbps broadband service to anchor institutions such as schools, hospitals and government buildings.
- To ensure the safety of the American people, every first responder should have access to a nationwide, wireless, interoperable broadband public safety network.
- To ensure that America leads in the clean energy economy, every American should be able to use broadband to track and manage their real-time energy consumption.



National Broadband Plan

- Spectrum for Broadband
 - Goal:
 - 10 Years: 500 MHz for mobile broadband
 - 5 Years: 300 MHz between 225 MHz – 3.7 GHz

Spectrum Timeline from National Broadband Plan

Band	Key Actions and Timing	Megahertz Made Available for Terrestrial Broadband
WCS	2010-Order	20
AWS 2/3	2010-Order 2011-Auction	60
D Block	2010-Order 2011-Auction	10
Mobile Satellite Services (MSS)	2010- L-Band and Big LEO Order 2011-S-band Order	90
Broadcast TV	2011-Order 2012/13-Auction 2015-Band transition/clearing	120
Total		300



National Broadband Plan

- Spectrum Reallocation
 - Congress should expand FCC authority to allow for incentive auctions
 - Congress should build upon success of Commercial Spectrum Enhancement Act (CSEA) to facilitate relocation
 - FCC should evaluate secondary markets policies and rules – NPRM, July 2010
 - FCC and NTIA should develop plan by October 2010 to identify additional candidate bands for reallocation
 - FCC and NTIA should measure spectrum use and assess spectrum needs every three years

National Broadband Plan

- Spectrum Access – Alternatives to Licensed
 - Within 10 years, free up a contiguous, nationwide band for unlicensed use
 - Unlicensed spectrum has allowed developers to create devices such as
 - Garage-door openers
 - Key fobs to open car doors
 - Bluetooth headsets





National Broadband Plan

- Spectrum Access – Alternatives to Licensed
 - Experimental Licensing Rules – NPRM, Nov. 2010
 - Creates three new types of experimental licenses to permit testing over a wide variety of frequencies and eliminate the requirement for prior approval for specific tests
 - Promoting More Efficient Use of Spectrum Through Dynamic Spectrum Use Technologies – NOI, Nov. 2010
 - Seeks comment on how to promote more intensive use of spectrum by dynamic spectrum access radio technologies, including spectrum sensing and other technologies that identify temporarily unused spectrum
 - Complete TV White Spaces – Orders, Nov. 2008, Sept. 2010
 - Address issues related to White Spaces rules, and conditionally name white space database administrators



National Broadband Plan

- Other Means to Promote Availability and Adoption of Broadband
 - Infrastructure – easier access to poles, conduits, ducts and rights of way
 - Continue to foster development of research networks and wireless testbeds
 - Reform Universal Service and Intercarrier Compensation regimes to enhance availability



USF AND ICC REFORM

USF/ICC Reform

- Order and FNPRM (Docket 01-92) adopted 10/27/11
- 10 years in the making
- Adopts major reforms of universal service and intercarrier compensation programs
- Executive Summary released, no text yet



Connect America Fund & Mobility Fund

- CAF (primarily for ILECs)
 - Will ultimately replace all existing federal high cost funds
 - Freezes legacy high-cost support at current level (\$4.5B for 6 years)

Phase 1

- Year 1 support stays the same for price cap carriers
 - Existing support reduced where price cap companies charge low end user voice rates
- Adds \$300M for unserved areas for broadband deployers with speeds of 4Mbps downstream, 1Mbps upstream

Connect America Fund & Mobility Fund (cont.)

Phase 2

- Forward looking cost models and competitive bidding to support broadband and voice networks
- ILECs “state-level commitment” to provide affordable broadband to all high cost locations
 - Carriers must meet interim buildout requirements in 3 years, final in 5 years
- After 5 years and in areas with no commitment, competitive bidding to distribute CAF support
- \$1.8B annually dedicated to unserved areas

Mobility Fund

- Identical Support Rule Eliminated
- Purpose: Support availability of **mobile** broadband in unserved areas

Phase 1

- \$300M in one time support for deployment of mobile broadband networks in unserved areas
 - 4G in 3 years
 - 3G in 2 years
- Reverse auction targeted for 3rd quarter 2012

Phase 2

- \$500M in ongoing support
- Focus on communities where broadband would be unavailable absent federal support

Key Concerns for Mobile Providers

- New USF programs do not seem to acknowledge the extent of consumer migration to mobile broadband
- Eliminating the identical support rule will lead to a significant reduction in CETC support
- Long-term cost support for mobile = only the 11% of high cost fund

Intercarrier Compensation Reform

Immediate Steps

1. Reduce access stimulation

- Revenue sharing + large increases in traffic or imbalanced traffic (> 3 to 1) → lower access charges

2. Reduce Phantom Traffic

- Require CPN be passed

3. Wireless Traffic

- Confirms that calls that begin and end in the same MTA are subject to reciprocal compensation

Immediate Steps (cont.)

4. VOIP

- All voice traffic subject to reciprocal compensation

5. IP & IP Interconnection

- FNPRM but parties are expected to negotiate in good faith in the interim

6. ICC Rates Capped (mostly)

Longer Term Reform

- **Transition to Bill and Keep for all traffic;**
phased in over time
 1. Intrastate access rates lowered to interstate levels (July 2013)
 2. All toll VOIP traffic subject to interstate rates (July 2013 maybe earlier)
 3. Other charges reduced to B&K:
 - 6 yrs for large (price cap) LECs
 - 9 yrs for smaller (rate of return) LECs
- ILECs can impose additional monthly fees (\$0.50/\$1.00) on end-users to make up for ICC losses
- FNPRM on IP to IP interconnection



SPECTRUM



Commercial Spectrum – Short Term

- AWS-2 H and J Blocks (20 MHz)
- AWS-3 (20 MHz)
- 700 MHz D Block (10 MHz)

Commercial Spectrum – Short Term

- AWS-2 H and J Blocks (WT Docket No. 04-356)
 - Spectrum Bands
 - H Block: 1915-1920/1995-2000 MHz
 - J Block: 2020-2025/2175-2180 MHz
 - Status
 - NPRM 2004; FNPRM 2008 (No Order – Still Pending)
 - Key Issues
 - NBP suggests upper J Block (2175-2180 MHz) could be joined with AWS-3 (2155-2175 MHz), and H and J Blocks could be joined with MSS S-Band spectrum (at 2000-2020 and 2180-2200 MHz)
 - FCC MSS 2 GHz Public Notice seeking comment on pairing J and/or H Blocks with MSS 2 GHz Band
 - Or auction separately – interference and international coordination issues

Commercial Spectrum – Short Term

- AWS-3 (WT Docket No. 07-195)
 - Spectrum Band
 - 2155-2175 MHz
 - Status
 - NPRM 2007; FNRPM 2008 (No Order – Still Pending)
 - Key Issues
 - FCC has not resolved M2Z proposal for TDD use in AWS-3 band, substantial interference issues
 - NBP suggests AWS-3 may be paired with 20+ MHz of Federal government spectrum (1755-1780 MHz)
 - Wait to pair with 1.7 GHz Government band? Auction off separately? Combine with 2 GHz MSS?

Commercial Spectrum – Short Term

- 700 MHz D Block
 - Spectrum Band
 - 758-763/788-793 MHz
 - Status
 - 2d and 3d FNPRMs 2008; NBP PN # 8 (No Order – Still Pending)
 - Key Issues
 - Reallocate to public safety or auction?
 - Early deployment waivers already issued for adjacent public safety band
- More on the D Block in a moment



Commercial Spectrum – Longer Term

- Broadcast spectrum
- MSS/ATC

Commercial Spectrum – Longer Term

- Broadcast Spectrum
 - 120 MHz of spectrum targeted in NBP – voluntary incentive auctions
 - Related NBP recommendations
 - Update rules on TV service areas and distance separations, ensuring efficient allotment of 6 MHz channel assignments
 - Establish a licensing framework to permit two or more stations to share a 6 MHz channel
 - Create auction rules for broadcast spectrum reclaimed through repacking and voluntary channel sharing



Commercial Spectrum – Longer Term

■ Broadcast Spectrum

- CEA study estimates reallocated broadcast spectrum would have a market value of \$62 billion if made available for wireless broadband
- NAB argues CTIA/CEA estimates of potential revenue from incentive auctions are inaccurate
- Public interest value of broadcast TV?
- Windfall concerns
- Access to broadcast signals in rural areas



Commercial Spectrum – Longer Term

- Broadcast Spectrum: Next Steps
 - NAB seeks assurance of “truly voluntary” and additional protections:
 - The continued opportunity for broadcasters to innovate by prohibiting the Commission from forcing broadcasters to move into the low VHF band
 - The authority for only one incentive auction of television spectrum
 - Holding harmless stations that do not volunteer
 - Preserving existing service areas
 - Impact of debt ceiling legislation?

Commercial Spectrum – Longer Term


- MSS/ATC – 2 GHz Band – total of 40 MHz
 - TerreStar (2000-2010/2190-2200 MHz, and ATC authority)
 - DBSD (ICO) (2010-2020/2180-2190 MHz, and ATC authority)
 - Issues:
 - Addition of co-primary allocation for wireless broadband
 - Extension of spectrum manager leasing rules
 - Band plan? (FCC MSS 2 GHz PN – comments were due July 8)
 - 2 GHz MSS band alone (2000-2020 and 2180-2200)
 - 2 GHz MSS plus AWS-2 J Block (2020-2025 and 2175-2180)
 - 2 GHz MSS plus AWS-2 J Block plus AWS-2 H Block (1995-2000) plus 5 MHz of AWS-3 (2170-2175)
 - Vehicle to enable terrestrial broadband use? (FCC MSS 2 GHz PN – comments were due July 8)
 - License modification
 - Incentive auctions

Commercial Spectrum – Longer Term

- MSS/ATC – 2 GHz Band
 - August 2011: DISH submits transfer applications/ATC waiver request for DBSD and TerreStar
 - Seeks to use combined spectrum for terrestrial-only service
 - DISH says proposed service will not cause interference in adjacent spectrum

Commercial Spectrum – Longer Term

- MSS/ATC – Big LEO (1.6/2.4 GHz) – total of 33 MHz
 - Globalstar (25.225 MHz total, and ATC authority, which has been suspended for failure to come into compliance with the ATC “gating criteria”)
 - Iridium (8.725 MHz total; no application filed for ATC authority)
- MSS/ATC – L Band (1.6 GHz) – total of 66 MHz
 - Inmarsat (approximately 20 MHz; no application filed for ATC authority)
 - LightSquared (approximately up to 40 MHz, and ATC authority – with conditional waiver of gating criteria)
 - Issues:
 - GPS interference
 - Eligibility restrictions

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- NTIA 10 Year Plan
 - Spectrum Ranked for Priority Consideration by NTIA
 - NTIA Fast Track Evaluation
 - NTIA Implementation of 10 Year Plan
 - NTIA Next Steps
 - FCC Actions on Bands Identified in NTIA 10 Year Plan

Federal Spectrum – Potential for Reallocation

- NTIA 10 Year Plan (October 2010)
 - Initial list of candidate spectrum bands (total of 1473.9 MHz)
 - 406.1-420 MHz
 - 1300-1390 MHz
 - 1675-1710 MHz (shared)
 - 1755-1780 MHz* (NTIA will consider these bands together)
 - 1780-1850 MHz* (NTIA will consider these bands together)
 - 2200-2290 MHz
 - 2700-2900 MHz
 - 2900-3100 MHz (shared)
 - 3100-3500 MHz (shared)
 - 3500-3650 MHz
 - 4200-4220 & 4380-4400 MHz (shared) (a/k/a “4200-4400 MHz”)
 - Steps to determine additional candidate bands
 - Process to assess and evaluate feasibility
 - Actions necessary to make spectrum available for broadband use within 10 years

Federal Spectrum – Potential for Reallocation

- Spectrum ranked for priority consideration by NTIA (per Second Interim progress report dated October 2011)
 - Licensed non-federal exclusive use
 - 1755-1850 MHz
 - 1695-1710 MHz
 - 406.1-420 MHz
 - 1370-1390 MHz
 - 4200-4400 MHz
 - 3500-3650 MHz
 - Non-federal/federal shared use
 - 1300-1370 MHz
 - 1675-1695 MHz
 - 2700-2900 MHz
 - 2900-3100 MHz
 - 3100-3500 MHz
 - 2200-2290 MHz
 - 5350-5470 MHz (possibly, for additional WiFi)

Federal Spectrum – Potential for Reallocation

- NTIA Fast Track Evaluation
 - Conducted fast track analysis of 4 bands to determine availability for wireless broadband within 5 years, at request of OMB, NEC, OSTP
 - 1675-1710 MHz
 - 1755-1780 MHz
 - 3500-3650 MHz
 - 4200-4220 and 4380-4400 MHz
 - Recommended 115 MHz be made available for wireless broadband within 5 years, contingent on timely allocation of funds (and necessary FCC rulemaking proceedings)
 - 1695-1710 MHz (outside of exclusion zones)
 - 3550-3650 MHz (outside certain coastal areas and test/training areas)
 - 4200-4400 MHz – Recommended further review regarding use of this band; noted that due to necessary ITU and International Civil Aviation Organization action, spectrum cannot be made available for broadband use in US before 2016, but US Government will initiate action now to obtain international approvals for reallocating this spectrum by 2016
 - 1755-1780 MHz – recently completed (Sept. 30, 2011); report expected this month

Federal Spectrum – Potential for Reallocation

- NTIA – Implementation of 10-Year Plan
 - Work in collaboration with FCC to consider Federal, shared and non-Federal bands for potential commercial broadband use
 - Prioritize candidate bands (based on current use, industry interest, relocation cost, likelihood that band can be repurposed within 10 years)
 - Convene Policy & Plans Steering Group (PPSG) to perform evaluations of candidate bands
 - Bands reviewed, and recommendations released, on rolling basis
 - US CTO, in conjunction with NTIA, will review agencies' use of spectrum for efficiency
 - Solicit contributions from CSMAC on how to best execute President's Spectrum Initiative

Federal Spectrum – Potential for Reallocation

- NTIA Next Steps
 - November 2011
 - Publish consolidated report
 - Release report regarding finding for 1755-1850 MHz band
 - January 2012
 - Identify next bands for analysis
 - September 2012
 - Decision #2 – next priority bands to be repurposed
 - October 1, 2012
 - Publish First Annual Progress Report on 10 -Year Plan
 - October 1, 2013
 - Publish Second Annual Progress Report on 10 -Year Plan
 - January 2014
 - Decision Point(s) – additional bands to be repurposed (as needed)



Federal Spectrum – Potential for Reallocation

- FCC Actions on Bands Identified in NTIA 10-Year Plan
 - March 8 PN seeking comment on steps FCC can take to promote wireless broadband deployment in 1695-1710 MHz and 3550-3650 MHz band, and input to inform assessment of other bands identified by NTIA (1755-1850 MHz, 4200-4400 MHz, and other bands identified in 10-Year Plan) (Comments filed Apr. 22, 2011)



ROAMING

Roaming

- Pre 2011 rules – automatic roaming for **voice**, outside home market
- Data Roaming
 - Rules require facilities-based providers of commercial mobile **data** to offer data roaming arrangements subject to certain conditions
 - Terms must be “commercially reasonable,” otherwise arbitration process

§ 20.12 Resale and Roaming

* * * * *

(e) Offering Roaming Arrangements for Commercial Mobile Data Services

A facilities-based provider of commercial mobile data services is required to offer roaming arrangements to other such providers **on commercially reasonable terms and conditions, subject to the following limitations:** (1) providers may negotiate the terms of their roaming arrangements on an **individualized basis**; (2) it is reasonable for a provider not to offer a data roaming arrangement to a requesting provider that is not **technologically compatible**; (3) it is reasonable for a provider not to offer a data roaming arrangement where it is not **technically feasible** to provide roaming for the particular data service for which roaming is requested **and any** changes to the host provider's network necessary to accommodate roaming for such data service **are not economically reasonable**; and (4) it is reasonable for a provider to condition the effectiveness of a roaming arrangement on the requesting provider's provision of mobile data service to its own subscribers using a generation of wireless technology comparable to the technology on which the requesting provider seeks to roam.



PUBLIC SAFETY

700 MHz: D Block

- Originally offered at auction in 2008 to commercial operators – subject to public/private partnership and network build out obligations
- D Block garnered only a single bid that failed to exceed the reserve price of \$1.33 billion
- FCC subsequently initiates proceedings regarding technical issues related to shared public/private network performance requirements and other license terms
- NBP calls for nationwide, wireless, interoperable broadband public safety network, accessible to all first responders
 - FCC should issue order by end of 2010 to make D Block available for commercial use that is compatible with public safety broadband services

700 MHz D Block – Reallocation?

- National Wireless Initiative – Administration supports reallocation to public safety
- Obama FY2012 Budget – proposes \$10.65 billion in funding to implement interoperable 4G public safety network
 - \$3.15 billion for allocation of D Block, \$7 billion to fund network build out, \$500 million for research and development
- American Jobs Act of 2011 – proposes reallocation
 - \$6.45 billion for build out; \$200 million for state, regional, tribal and local jurisdictions to integrate the nationwide network; \$300 million for research and development
- Reallocation faces resistance from House Republicans in particular, who generally favor auctioning the spectrum



700 MHz D Block – Reallocation?

- Funding remains a significant issue
- Does public safety need spectrum, or does it need money and expertise/resources to construct the network
- Ten years after September 11 – still no state and local public safety interoperable network
- Federal government users still segregated
- Spectrum lies fallow

Enhanced 911 (“E911”) – Accuracy Requirements

- The existing requirements per 2nd R&O
 - Require county-level or PSAP-level compliance
 - For both handset- and network-based solutions, these requirements apply to outdoor measurements only
 - For carriers employing handset-based solutions:
 - Within two years, must meet 50 meters for 67% of calls, and 150 meters for 80% of calls, but can exclude up to 15% of counties or PSAP areas from 150 meter requirement based on heavy forestation
 - Within eight years, must meet 50 meters for 67% of calls, and 150 meters for 90% of calls, subject to 15% exclusion



Enhanced 911 (“E911”) – Accuracy Requirements

- For carriers employing network-based solutions:
 - Within one year, must meet 100 meters for 67% of calls, in 60 percent of counties or PSAP service areas, covering at least 70% of population covered by carrier across its entire network
 - Within three years, must meet 100 meters for 67% of calls, in 70% of counties or PSAP service areas, covering at least 80% of population covered by carrier across its entire network; and 300 meters for 90% of calls, in 60 percent of counties or PSAP service areas, covering at least 70% of population covered by carrier across its entire network
 - Within five years, must meet 100 meters for 67% of calls, in 100% of counties or PSAP service areas covered by the carrier; and 300 meters for 90% of calls, covering at least 80% of population covered by carrier across its entire network
 - Within eight years, must meet 300 meters for 90% of calls, in 85% of counties or PSAP service areas

Enhanced 911 (“E911”)

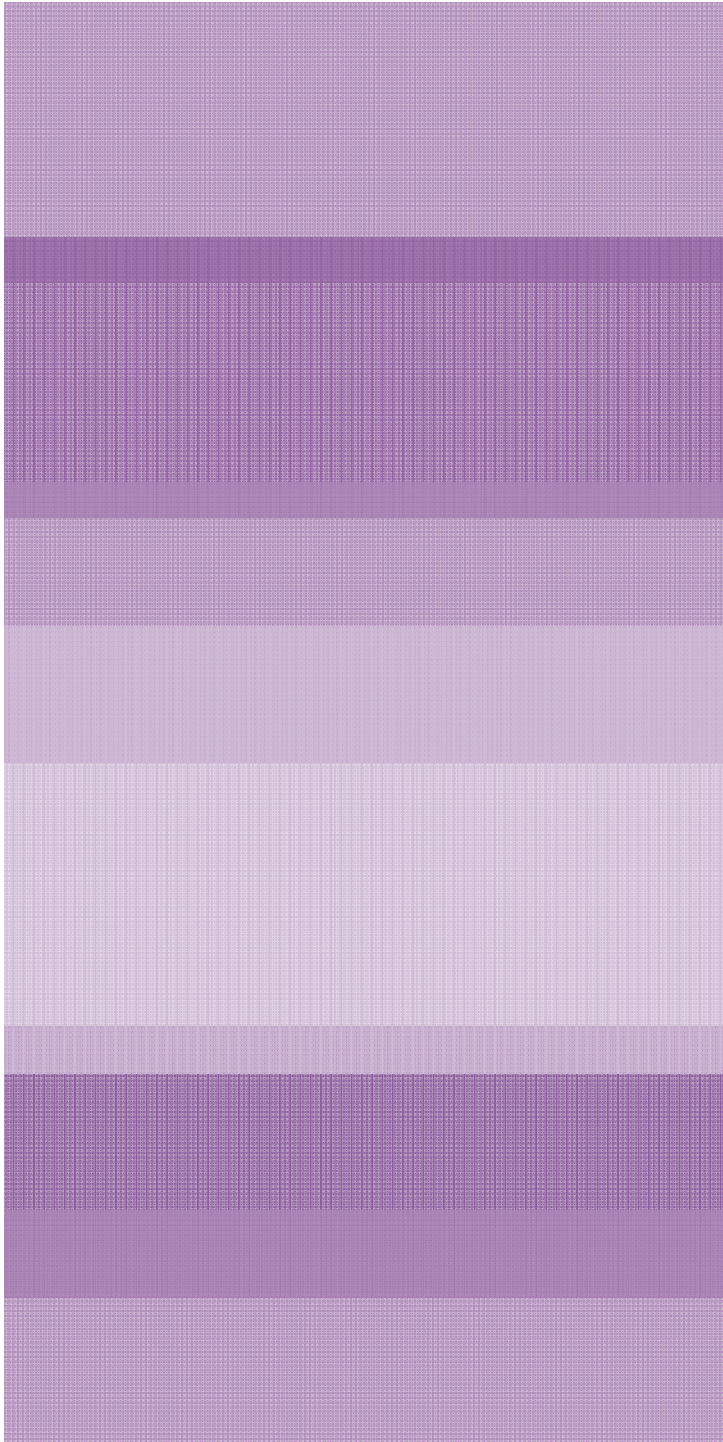
- July 2011: FCC adopts E911 3rd R&O, 2nd FNPRM and NPRM
- 3rd R&O:
 - Requires transition to a single handset-based location accuracy standard
 - FCC will retain network-based and handset-based accuracy requirements for remainder of current 8-year implementation period, but “new” CMRS systems must meet handset-based accuracy requirements
 - Adopts requirement that carrier do outdoor testing of accuracy of E911 solutions and share results, but defers obligation until FCC adopts test procedures based on CSRIC recommendations
- 2nd FNPRM:
 - Extend 911 obligations to outbound-only VoIP services?
 - Establish a framework to develop ALI for VoIP calls?
 - Roll of over-the-top VoIP providers v. broadband providers?
 - Leveraging LBS for 911 location determination?
 - Require indoor location accuracy testing? Standards?
 - Improving indoor location accuracy – can WiFi help?




PRIVACY

Privacy

- Increased scrutiny regarding how network and applications providers may use information collected from customers and users when they set up service, browse the Internet, etc.
- Policy Questions
 - Balance between privacy and assumptions behind the “free” (i.e., advertising-funded) Internet
 - Industry self-regulation vs. prescriptive requirements
- Legal Questions
 - Balance between FCC, FTC authority
 - Interaction between/among multiple overlapping privacy-related statutes (ECPA, FCRA, HIPPA, Communications Act, many others)



- 
- FCC initiatives
 - Summer 2009 – FCC/FTC established Joint Privacy Task Force to discuss and address consumer concerns and encourage smart innovation
 - 2011 – FCC internal working group examining the privacy implications of increased use of LBS and related services
 - June 2011 – FCC/FTC Consumer Education Forum on LBS - what consumers should know and how they can protect themselves when using LBS
 - Impending FCC privacy report focusing on LBS
 - Pending legislation regarding collection and use of geolocation data – at least 3 pending bills:
 - H.R. 1895 - the Do Not Track Kids Act of 2011 – would require parental consent for collection and use of childrens’ geolocation data
 - H.R. 2168 – the Geolocation Privacy and Surveillance Act – would require customer consent or, in case of government acquisition, a warrant before geolocation information can be shared (limited exceptions for first responders or law enforcement in emergencies)
 - S. 1011 – the Electronic Communications Privacy Act Amendments Act of 2011 – would require a warrant for most governmental acquisitions of geolocation information

Privacy

- Proposed Changes to COPPA (Children's Online Privacy Protection Act)
 - September 2011 - FTC proposed changes to COPPA rule that would require verifiable parental consent before commercial online services may collect precise geolocation data from children under 13 – comments due by Nov. 28, 2011
 - Applies to any services provided over or connected to Internet or WAN, including Internet enabled gaming platforms and text messages that go over Internet or WAN
 - Targeted at evolving technologies and will continue to assess status of new technologies over time
 - Treats passive tracking of children online by any technology as the collection of personal information from children
 - Personal information includes: online contact information, persistent identifiers (used to track/profile child across multiple websites), photo/video/audio file containing child's image or voice, geolocation data at least equivalent to a physical address



Privacy: Next Generation 911

- Type of information provided
 - Location
 - Health records
- Governing Law?
- Liability Protections?



CONSUMER PROTECTION



Consumer Protection

- Cramming NPRM
- Bill Shock
- Accessibility Issues

Cramming

- Current law/regulations
 - Unreasonable practice under Section 201(b) of Communications Act.
 - “Deceptive and unfair” conduct under FTC Act
- Truth in Billing Rules require:
 1. Identifying service providers and highlighting new providers
 2. Full and non-misleading description of charges*
 3. Information needed to contest bill
- Cramming continues to be a problem
 - Worse with more third-party charges, electronic billing and auto payments
 - 2nd highest FCC complaint category
 - Verizon Wireless \$1.99 per MB charge

Cramming (cont'd)

- NPRM (CG Docket No. 11-116) issued 7/12/11
 - Seeks comment on proposed rules designed to detect and prevent unauthorized charges on the bills (cramming)
- Proposed Rules
 1. Include FCC contact information on all bills for submission of complaints*
 2. Notify subscribers of options to block third-party charges at point of sale, on bills and on websites
 3. Place third-party charges in a separate bill section

Bill Shock



Bill Shock

- NPRM (CG Docket No. 10-207) issued 10/14/10
- Proposed rules would require mobile service providers to provide usage alerts to assist customers in avoiding unexpected charges on bills
- FCC Survey
 - 30M Americans experienced unexpected increases in wireless bills due to
 - High roaming fees
 - Exceeding allotment of minutes, texts, data consumption

Bill Shock (cont'd)

- 10/17/2011 CTIA, FCC and Consumer Union Announcement
 - Free alerts to consumers
 - Before and after monthly limits for voice, data and text are reached;
 - Of international roaming charges
 - Clear and conspicuous disclosure of tools and services which allow subscribers to set limits or monitor balances



Accessibility

- 21st Century Communications & Video Accessibility Act enacted in October 2010
- FCC Report & Order issued October 7, 2011
 - Implementation dates -- October 2012/2013
- Requires advanced communication services (ACS) to be accessible to people with a broad range of disabilities if “achievable”
- ACS = VoIP services, electronic messaging (email, texting, IM) and video conferencing

Accessibility (cont'd)

Who is Covered?

- Manufacturers of apps and devices that use ACS
- ACS providers including:
 - Providers of email services
 - Providers of mobile text messages
 - Social networking sites that use ACS
 - Real time text and video chat applications (gaming)

What is achievable?

- With reasonable effort and expense, as determined by the FCC
- Four Factors
 - Cost
 - Economic impact on operations
 - Type of operations
 - Extent of accessible options/price points



NET NEUTRALITY

Net Neutrality

- 2005 – *Internet Policy Statement* – Consumers should be able to:
 - Access lawful content of their choice
 - Run applications and services subject to law enforcement needs
 - Connect non-harmful legal devices to the network
 - Have competition from network, application and content providers
- 2008 – FCC issues Comcast order, concluding that the blocking of BitTorrent traffic violated *Internet Policy Statement*
- 2010 – DC Circuit vacates Comcast Order on jurisdictional grounds
- Jan. 2010 NPRM: Proposed codification of the FCC’s *Internet Policy Statement* plus nondiscrimination and reasonable network management principles and disclosure requirements
- Dec. 2010 Order: new Part 8 rules / three categories: transparency, no blocking, and nondiscrimination
- November 20, 2011: Rules take effect
- Lawsuits currently pending in DC Court of Appeals



Net Neutrality

- **Transparency**
 - All providers of broadband Internet access service must disclose network management practices, performance characteristics, and commercial terms of service. In addition, mobile broadband providers must disclose third-party device and applications limits and any relevant criteria for use of such third-party offerings.
- **No Blocking**
 - Mobile broadband providers may not block access to lawful websites.
- **Nondiscrimination**
 - Mobile broadband providers may not block applications that compete with their own video or voice telephony services (does not apply to the operation of an “app store”).



FACILITY ISSUES

Shot Clock



- Declaratory Ruling on CTIA “Shot Clock Petition” issued 11/18/09
- Established deadlines for state and local zoning authorities to act on sitting applications
 - 90 days for collocations
 - 150 days for other applications
- Missed deadline = “failure to act” and a section 332(c)(7)(B)(v) claim
- Rejects the “one provider” rule adopted by some circuits

Access to ROW and Poles

- 4/7/11 Report and Order (WT Docket No. 05-265)
 - Extensively revises pole attachment rules in 30 states where FCC regulates poles
 - Confirms wireless carriers are entitled to benefits and protection of Section 224
 - Clarifies that Section 224 allows pole top attachments
 - Adopts a four-stage timeline for processing wireless pole attachments

Access to ROW and Poles (cont'd)

- NOI regarding access to public ROW
- NOI examines:
 1. Efficacy of shot clock
 2. Reasonableness of charges to use ROW
 3. Whether ordinances have been updated to reflect current technology
 4. Consistent or discriminatory treatment
- Comments filed 7/18; replies filed 8/30

Wireless Backhaul

- Order and FNPRM (WT Docket No. 10-153) issued 8/9/11
 - Relaxed rules to facilitate use of microwave spectrum (7 GHz; 13 GHz) for wireless backhaul
 - Opened up 650 MHz of spectrum in rural areas
 - Adaptive modulation (allows for flexibility/deviations from minimum carriage payloads)
 - Licensing still on a site-by-site, per link basis
 - NPRM – smaller antennas; further relaxation of minimum payload standards; authorization of wider channels ???
 - Comments 10/14; replies 10/25

Special Access

- Special Access NPRM (WC Docket 05-25) in 2005
- Parties asked to refresh record in July 2007
- Proceeding seems to be stalled





**PROPOSED AT&T /
T-MOBILE MERGER**

Proposed AT&T / T-Mobile Merger

- AT&T / T-Mobile (parent company: Deutsche Telecom) announced proposed deal on March 20, 2011
- AT&T to pay \$39 billion (\$25 billion in cash; rest in AT&T common stock)
- Combined company would have more than 129 million subscribers, potentially making it the largest wireless carrier in the US

Proposed AT&T / T-Mobile Merger

■ Key Dates

- April 28, 2011: FCC issues Public Notice establishing a pleading cycle for the proposed transaction
- May 31, 2011: Petitions to Deny were due
- June 10, 2011: Oppositions were due
- June 20, 2011: Replies were due
- August 31, 2011: US Department of Justice filed an antitrust lawsuit in federal district court seeking to block the proposed transaction
- September, 2011: Sprint and C Spire file lawsuits challenging merger
- November 2, 2011: District Judge Ellen Huvelle dismissed parts of Sprint's lawsuit, but allowed Sprint and C Spire to proceed on antitrust claims relating to roaming, and on the claim that the merger would make it more difficult to obtain certain wireless devices
- November 20, 2011: District Court status hearing
- February 13, 2012: Scheduled start date for District Court trial

Questions?? Comments??

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