

FHH Telecom Law

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In Brief

Adios, Analog? Not so fast – Cellular carriers who have been awaiting the day in February, 2008, when they can finally stop providing analog service now have something else to worry about. (Cellular carriers were required by the FCC to continue to provide service to the very rapidly diminishing population of analog subscribers in order to ensure that those customers, especially the hearing impaired and emergency callers, were not left without service.) ADT (the security alarm service) and something called the “Alarm Industry Communications Committee” have petitioned the FCC to extend the sunset date of the analog service rule for an additional two years. They cite the lack of digital alternatives for the currently analog-based systems which wirelessly connect homes and businesses with alarm centers. The request can be expected to raise protests from carriers who have already been maintaining parallel facilities for several years beyond the point where such service might have been economically justified. Comments are due by January 19, 2007, replies by February 6.

Reef madness – Sometimes in the regulatory world, as in real life, not to decide is to decide. Or, more precisely, not to respond is to respond. Recently a company called Reef Fanatic was sent a couple of official inquiries from the FCC about unspecified behavior. Reef Fanatic apparently did not respond substantively to the FCC’s inquiries, though it did acknowledge having received them. The FCC promptly issued a citation to Reef – not for whatever the original behavior was, but for not responding to the inquiry *about* the behavior. The citation included a warning that a further failure to respond immediately would result in up to \$11,000 per day in fines. Thus, by ignoring the FCC’s original inquiries, the taciturn target made itself potentially liable for a major fine having nothing to do with whether or not it had engaged in any misconduct in the first place. We’ve said it before and we’ll say it again: not responding to these FCC enforcement inquiries is usually not a good strategy. Partially responding may be an even worse one.