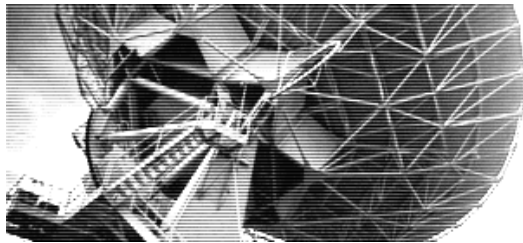


October 2008



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Communications Law & Regulation

FHH TELECOM LAW

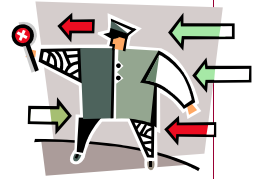
Current Issues in Telecommunications Law and Regulation

CTIA - The Wireless Association (CTIA) filed a Petition for Declaratory Ruling on July 11, 2008, asking the Commission to clarify the provisions of the Communications Act that restrict state and local review of wireless facility siting applications. Section 332(c)(7) of the Act was enacted in the '90s to prevent local governments from using zoning and other local rules to completely thwart-1.138.02

The FCC as Internet traffic cop?

Should We Regulate the Internet? Should We Care?

By Mitchell Lazarus
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Once upon a time, boys and girls, there were no big Internet sites like Google and Ebay, and no big Internet service providers (ISPs) like Comcast and Verizon. People accessed the Internet through thousands of small ISPs operating out of dorm rooms and coat closets. The sites they reached were mostly small and home-grown. Users formed networks serving all kinds of interesting and off-beat interests. Pornography, the universal early adopter for every new communications technology, flourished as well.

The FCC had resolved back in 1976 not to regulate “enhanced services,” a decision that applied to the later-arriving Internet. That was just as well, because the emerging Internet was so hopelessly decentralized that any effort at regulation would have been ludicrous. Users operated with complete freedom, beyond the reach of any authorities that might have cared.

No more. A small number of interests now run the facilities that most consumers need to access the Internet. As control continues to centralize, regulation becomes more feasible. But is it desirable?

Over the last few years, the FCC reiterated its 1976 hands-off decision as to facilities used for broadband Internet access. The current question is whether it should now step back in – not to control content, which would be unconstitutional, but to maintain free access to content. Four distinct viewpoints have emerged:

- 📁 Old-time users and their younger allies seek to preserve the Internet’s original wide-open, anything-goes character at all costs – even if that (paradoxically) takes regulation.
- 📁 Big ISPs invoke the Internet’s original wide-open, anything-goes character to fight Government regulation that might limit their profit opportunities.
- 📁 Operators of big commercial websites support or oppose regulation as needed to ensure unimpeded (or preferred) delivery of their own content to their customers.
- 📁 Law-and-order interests favor even intrusive regulation to thwart use of the Internet for illegal activity, ranging from child pornography and terrorism to copyright infringement.

Two case studies illustrate the problem.

Comcast vs. BitTorrent

Comcast is the largest cable TV company and the second largest ISP in the United States. Among other services, the cable business offers video-on-demand (VOD) for a fee.

BitTorrent is a popular Internet application that helps users share very large files, such as movies. As a group, people who obtain movies for free with BitTorrent

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Stick Values II

ALL New Structures Near AM Stations - Subject Soon To Regulations?

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At the urging of the AM Directional Antenna Performance Verification Coalition, the FCC is seeking comment on harmonizing its rules governing the construction of new towers near AM antenna arrays. Because AM antennas conduct the broadcast signal through their structure, the resulting pattern is uniquely susceptible to interference from nearby (or not so nearby) metallic structures. The proposed rule goes beyond mere harmonizing, however; it could represent a substantial extension of the FCC's authority over non-communications-oriented structures.

Currently, regulations concerning the construction of towers near AM arrays are scattered throughout the Commission's rules and apply to the construction of towers in some services and not others. For example, cellular carriers are required to take measures to prevent interference to AM stations if they erect towers within one kilometer of a non-directional AM station and three kilometers of a directional station, but PCS carriers have no comparable obligation. The Commission proposes to have a single rule in Part 1 of the Commission's regulations that would apply equally to the construction of any tower, with some exceptions. It seems to make sense to have a consistent AM protection policy applicable to all communications tower constructors.

Whether this new "harmonized" rule should apply only to communications towers, or whether it should apply more broadly to *any* structure over which the FCC can assert jurisdiction is a basic issue underlying the proceeding. The Commission is jurisdictionally limited as to what construction projects it can regulate. It has no jurisdiction over construction that is not performed by or related to some FCC licensed or sanctioned activity. The reach of the new proposal is potentially quite broad (and without precedent) if it extends FCC jurisdiction to *every* structure erected within one wavelength proximity of AM stations and taller than 60 electrical degrees at the AM frequency. Because troublesome

(Continued on page 7)

The votes are in!

Carriers Cautious About CMAS Participation FCC outlines notice requirements

By Davina Sashkin
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Since our last update, the FCC adopted a Third Report and Order (released August 7, 2008) establishing a deadline for wireless providers to indicate election to participate in the voluntary Commercial Mobile Alert System (CMAS) to transmit emergency text alerts to subscribers. The FCC also prescribed notification requirements for those carriers electing not to participate (or electing to participate only in part).

ELECTION RESULTS.

The participation election deadline was September 8, 2008. Industry insiders who have waded through the 466 items entered into the election docket (PS Docket 08-146) tell FHH that approximately 100 providers elected, at least in part, to participate; approximately 300 providers chose to sit this one out. The 100 participating providers represent the vast majority – approximately 97% – of wireless services in the United States. The major players – *i.e.*, Verizon Wireless, SprintNextel, AT&T, and T-Mobile – all indicated partial election, meaning that each indicated an intention to participate, but hedged their bets by noting that full deployment might not be possible for a variety of reasons. The hedges largely centered on concerns that FEMA, the Federal Alert Aggregator, might fail to meet the December 31, 2008, deadline for adopting the protocols for the Government Interface Design specifications for the Federal Alert Gateway. These carriers also appear concerned that the "C" Interface between the Federal Alert Gateway and the carriers' gateways might not meet interoperability standards that would allow immediate roll-out. Of course, no one is expected or required to roll out the alert system until FEMA has its system set up.

NOTICE REQUIREMENTS

Non-Participating Providers and Partial-Election Providers: Because the statute requires that carriers "provide clear and conspicuous notice at

(Continued on page 10)

Rorschach test results?



Beauty Of AWS Test Results Depends On The Eye Of The Beholder

By Ron Whitworth
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The battleground over a proposal for the FCC to offer free broadband in the Advanced Wireless Service-3 (AWS-3) band intensified following tests organized by the Commission's Office of Engineering and Technology (OET). The OET tests, conducted on September 3-5 at Boeing's test facility near Seattle, Washington, were designed to answer burning questions about the extent that the offering would lead to interference for the AWS spectrum.

But while the tests have concluded, and the results have been released, there have been very diverse conclusions being drawn regarding what the results indicate. Both M2Z and the wireless industry issued immediate, predictable responses to the testing, while the Commission waited more than a month before drawing tentative conclusions as this issue went to press. There is speculation that the Commission could vote on proposed AWS-3 rules as early as the Nov. 4 Commission meeting.

M2Z, the startup fronted by former Wireless Bureau Chief John Muleta proposing to build a nationwide wireless free broadband network, claims that the results indicate that the interference would be minimal to those relying on AWS-1 spectrum which the Commission auctioned off in 2006.

The wireless industry's take on the results is quite different. Industry spokespersons claim that M2Z's conclusions were misleading and just plain wrong. T-Mobile, CTIA, MetroPCS, Nokia and AT&T submitted to the Commission on Sept. 10 that the results published by OET were "completely consistent with the test results previously provided by T-Mobile USA" indicating significant interference to AWS-1 spectrum. One engineer who observed the tests in person, Charles Jackson, was quoted in *Communications Daily* as saying, "Contrary to M2Z's claims, the testing shows that, in many everyday situations, an AWS-3 handset operating within several meters of an AWS-1 handset would render the AWS-1 handset inoperable."

A report issued by OET on October 10 indicated that the Commission's conclusions are more closely aligned

with M2Z than the wireless industry. OET's report concluded that an AWS-3 handset, under static conditions, could safely operate without disrupting the service of AWS-1 handsets, while noting that the test conditions were not ideal since AWS-3 handsets are not yet available.

The Commission's determination contradicted T-Mobile's report issued filed in early October, which indicated that the interference to AWS-1 users would be a significant "degradation in system capacity" of 5.3 percent, and double for home traffic. T-Mobile and other wireless carriers continue to argue that if the Commission green lights the M2Z proposal, the end result will be a significant loss of subscribers for wireless carriers due to the problems it would create.

The wireless industry is not alone in voicing its concern about the proposal. According to *Communications Daily*, the Commerce Department is considering sending a letter to the Commission opposing the M2Z proposal. The letter was nearly sent in July, but was hung up due to various political concerns, according to the trade publication.

Even prior to the release of OET's initial conclusions from its Seattle tests, the buzz around Washington was that results had already been discussed with Commissioner staffs on the 8th floor, and that the wheels may be set in motion to implement the plan before the end of the year. The release of the OET results intensified that speculation, with rumors circulating that the item may be teed up for the Commission's November meeting. In the face of mounting pressure from the wireless industry to toss the proposal aside, Muleta and M2Z is pushing hard for the Commission to move forward, stating that the results of the Seattle tests have given the Commission enough ammunition to make "its own technologically neutral judgment" on the proceeding.

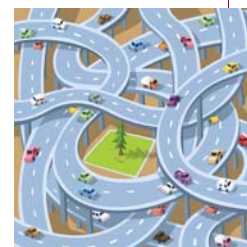
We will have any developments on the story on FHH's all-new blog, commlawblog.com. Stay tuned.

There have been very diverse conclusions as to what the test results mean.

Getting there from here

New (or At Least Clearer) Vistas For Travelers Information Stations?

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Travelers Information Stations (TIS) have long provided such things as freeway, parking lot and visitor center data for people on the move. A new effort by a coalition of public safety, education, travel, tourism and other related government agencies is trying to open a path at the FCC to make TIS into a more wide-ranging information source.

Most people encounter TIS these days as narrowly-beamed AM stations heard only on freeways, from the New Jersey Turnpike to the 101 in California, or in parking lots or other immediate vicinities of such public facilities as transportation hubs or major visitor sites.

On the New Jersey Turnpike, for instance, it provides a way for state police to warn motorists of construction or accident delays ahead. This is probably the most common use – and the one most people think of, if they think of TIS at all.

But many communities have been adding more professionally produced material, including weather reports and non-commercial tourist information, as well as historical and cultural material. Some, unhappily, have been rewarded with FCC forfeiture notices because the TIS rules, while authorizing the provision of “traveler information,” do not clearly delineate what that means. So while a continuous loop warning of speed limits, construction sites, and accidents clearly fits the rules, one can imagine that information of interest to travelers could include much more.

That is what AAIRO, the recently formed American

Association of Information Radio Operators, wants to clarify at the FCC. They have filed a request for a “declaratory” ruling that legal TIS content means any message, short of commercial blurbs, that could help travelers get safely and efficiently where they are going and make the most of their journey.

Other agencies and groups, though not members of AAIRO, have sent the FCC pleadings in support of this effort. Notably, many public safety agencies see expanded TIS service adding capability to reach the public during disasters or emergencies. APCO, the Association of Public Service Communications Officers, for instance, has filed in support. Given the vast sea of formats on the air, through-travelers may not have an easy time finding a local station that provides the best weather, traffic and other information.

TIS operations, which almost always use frequencies either at the top or the bottom of the AM dial, would provide a readily-identifiable radio dial geography where those who need such information know to seek it.

Comments either in support of or in opposition to the AAIRO plan can be filed with the FCC – and could provide an opportunity to shape a growing debate on the role of public agencies in providing direct public information to the community.

You can view AAIRO’s petition at <http://aairo.org/fcc-petition.htm>, and APCO’s letter in support at <http://aairo.org/downloads/APCO-letter-supporting-aairo-petition-09-2008.pdf>

Should legal TIS content include any message that could help travelers get safely and efficiently where they are going?



(Cellsite Say-so Process - Continued from page 1)

As of October 3, 2008, over 450 comments had been filed. Not surprisingly, the comments were divided between individuals and local governments, on the one hand, who argued vigorously that deliberate processing of applications by municipalities is imperative to public safety, and members

of the wireless industry on the other, who stressed the difficulties and obstacles they have encountered in trying to obtain zoning authority to provide wireless services in a timely and affordable manner.

Though the formal comment period is now closed, it is not too late to offer *ex parte* comments.



Viewability load lightened

Small Cable Guys Get Break On Digital Carriage

By Paul J. Feldman
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In November, 2007, the FCC imposed requirements on the way that cable systems transmit digital and analog “must-carry” broadcast TV signals. The goal was to ensure that those signals be viewable to all subscribers. Among other things, the FCC required cable operators to carry the HDTV version of certain broadcast signals, even if cable operators were carrying the analog version of that signal. Recently, the FCC provided some relief to small cable operators regarding this HDTV carriage requirement.

Background

Material Degradation

The FCC first addressed cable carriage of DTV signals in 2001. At that time it established two principles derived from statutory provisions (the 2001 standards) requiring that cable operators carry local TV broadcast signals “without material degradation”:

- “a cable operator may not provide a digital broadcast signal in a lesser format or lower resolution than that afforded to any other signal on the system”; and
- “a cable operator must carry broadcast stations such that, when compared to the broadcast signal, the difference is not really perceptible to the viewer.”

Thus, a digital broadcast signal delivered in HDTV (as opposed to “standard definition” digital or “SD”) had to be carried on the cable system in HDTV. This is an issue for some cable operators, as HDTV takes up more bandwidth on the cable system than SD. Nevertheless, the FCC ruled in 2001 that because the material degradation was to be measured by the eye, it did not necessarily require carriage of *all* of the content bits of a station’s digital signal.

Viewability

In the 2007 Order, the FCC retained the requirement that HDTV signals be carried in HDTV, as well as the comparative approach to determining whether material degradation has occurred. In addition, however, in

light of the statutory mandate that all TV signals carried pursuant to “must-carry” must be viewable by subscribers on all TV receivers connected to the cable system, the FCC adopted rules (the 2007 standards) specifying that:

- cable systems that are *not* “all-digital” must provide must-carry signals in analog (as well as in digital), though “all-digital” systems *may* provide them in digital form only;
- the cost of any down-conversion of digital TV signals to analog for this purpose must be borne by cable operators; and
- down-converted signals may count toward the one-third channel capacity/bandwidth capacity cap on commercial TV must-carry obligations.

In explaining the first of these new 2007 standards, the FCC stated that cable operators must either: (a) carry the signals of commercial and non-commercial must-carry stations in analog format to all analog cable subscribers, or (b) for all-digital systems, carry those signals only in digital format, provided that all subscribers with analog television sets have the necessary equipment to view the broadcast content. The FCC also clarified in the 2007 Order that that it is *not* material degradation to down-convert that signal to comply with these “viewability” requirements.

It is important to remember that these requirements apply **only** to *local TV stations carried pursuant to “must-carry.”* Stations carried pursuant to retransmission consent are subject to whatever terms the cable operator and the TV station negotiated in their consent agreement.

Lastly, in the 2007 Order, the FCC recognized that the “viewability” requirements would place significant financial and bandwidth burdens on small cable systems, so it: (a) invited waiver requests from cable operators with less than 552 MHz of activated channel capacity; and (b) issued a notice of proposed rulemaking seeking comments on other ways of relieving the burdens on small cable systems.

(Continued on page 7)



(Small Cable Guys - Continued from page 6)

As initially adopted, these “viewability” rules will be effective for at least three years from the beginning of the digital transition, *i.e.*, through at least February 17, 2012. The FCC will review them in 2011.

September 2008 Viewability Order

In its most recent Order, the FCC did two things:

First, it exempted for three years “small” cable systems from the requirement that TV signals broadcast in HDTV must be carried in HDTV format. “Small” cable systems are defined for this purpose as systems that either: (a) have 2,500 or fewer subscribers and are not affiliated with a large cable operator serving 10% or more of the nation’s subscribers; or (b) have an activated channel capacity of 552 MHz or less. It did *not* provide an exemption from the three viewability requirements adopted in the 2007 standards.

“Small” cable systems are exempt, temporarily, from the requirement that TV signals broadcast in HDTV must be carried in HDTV format.

Second, it clarified that where a must-carry station is broadcasting in SD, and the cable system down-converts that signal to analog for subscribers who cannot view digital signals, the rules do *not* require cable operators to also carry an SD digital version of a broadcast station’s signal, in addition to the analog version, to satisfy the material degradation requirement that has been in place since 2001. This is because both an SD digital version and an analog version of the digital broadcast signal received at the headend should have the same resolution – 480i – and thus there should be no perceptible difference between the two versions of the signal.

However, if the cable operator also has subscribers who are incapable of viewing an analog signal, then the cable operator *would* have to carry the station’s SD signal.

In spite of the fact that the FCC’s recent Order is intended to “clarify” matters, there may be some uncertainty among cable operators in implementing these requirements. If you have any questions as to how cable systems should carry broadcast signals, please call us.



(AM Station Protection - Continued from page 3)

proximity to an AM tower will now be determined by reference to the specific wavelength of the AM station, we need to look closely at the formulas supplied by the FCC for calculating the wavelength and tower heights:

$(300 \text{ meters}) / (\text{AM frequency in megahertz})$
= AM wavelength in meters. For example, at the AM frequency of 1000 kHz, or 1 MHz, the wavelength is $(300/1 \text{ MHz}) = 300$ meters.

$[(\text{Tower height in meters}) / \text{AM wavelength in meters}] \times 360 \text{ degrees} = \text{Tower height in electrical degrees}$. For example, if the AM frequency is 1000 kHz, then the wavelength is 300 meters. A nearby tower 75 meters tall is therefore $[75/300] \times 360 = 90$ electrical degrees tall at the AM frequency. [The FCC is considering whether towers below a set height should be excluded from this new rule.]

Application of these formulas seems in most cases to reduce the distance around an AM tower where interference must be guarded against, but they also make the protected zone a variable one for hapless tower con-

structors.

In addition to structures that fall within these formulas, the FCC is also seeking comment on whether *other* structures should be brought within the scope of the rule upon a submission by an AM station that they are affecting the station’s pattern.

Presumably there would have to be some sort of notification procedure, where an AM operator is notified of proposed new construction before any harmful interference occurs and steps can be taken to avoid interference at the onset. How much notice and what form this notice would take is also up for comment.

The Commission is proposing that the rule would apply only prospectively to new construction and that it would rely on its current interference complaint system to provide notification if problem structures have not been adequately detuned.

For those interested in commenting, the filing deadline will be 30 days from its eventual publication in the Federal Register (expected imminently) and the deadline for reply comments will be 60 days from publication in the Federal Register.



(Regulate the Internet? - Continued from page 2)
are probably less likely to pay for Comcast's VOD.

Comcast programmed its ISP servers to peek into subscribers' communications looking for BitTorrent packets. When they found one, the servers sent out forged signals that instructed both ends of the communication to hang up. Comcast put out successive denials and explanations, all later shown to be untrue.

The FCC suspected that Comcast was interfering with BitTorrent to protect its VOD service from competition, and ordered it to stop all discrimination based on content. By then, Comcast had already done so. But it nonetheless appealed the order in federal court, questioning the FCC's authority over its internal network management practices. Since the FCC had not fined Comcast, and the company was already in compliance with the FCC's order, the appeal was purely a matter of principle.

Even so, Comcast may have a point. Possibly two points. The FCC gets all of its authority from Congress via particular statutes. Ordinarily an FCC order disposes of the authority question by citing the relevant statute. But the *Comcast* order, lacking a statute to cite, struggles through a dozen single-spaced, heavily footnoted pages to establish its authority. Comcast is betting the court won't buy it. Moreover, the FCC does not claim that Comcast violated any specific regulation, there being none on this topic. The FCC does point to a published policy statement on broadband services under which, among other things, consumers are "entitled to access the lawful Internet content of their choice," and "to run applications and use services of their choice." But the FCC did not follow the procedure needed to put this language into an enforceable rule. Although Comcast's actions may have been anticompetitive, discriminatory, and just plain unfair, they might not have been illegal. And the FCC has still not proposed rules to prohibit similar future conduct by others.

alt.no-more-usenet

An early Internet application that long predated the World Wide Web, Usenet is hundreds of thousands of discussion groups covering every imaginable human activity (and also some others). The groups are organ-

ized into "hierarchies" with names like comp.*, rec.*, soc.*, and dozens of others. ISPs have traditionally made Usenet available as part of the service.

Eight of the major hierarchies – the so-called "big eight" – have loose rules for starting new groups. A ninth big hierarchy, alt.* does not. Anyone can start an alt.* group. Many have. Roughly 100,000 such groups exist, ranging from alt.history.ocean-liners to alt.swedish.chef.bork.bork.bork. Some concern out-of-the-way sexual interests. A few dozen are suspected of having been used to distribute child pornography.

That activity is unlawful. Enforcement authorities could have used appropriate procedures to shut down the offending groups, plus any new ones that pop up. But they did not. Instead, the New York attorney general called in the large ISPs and asked them to voluntarily block the entire alt.* hierarchy – including the 99.9% that is fully legitimate. AT&T, Comcast, RoadRunner, Sprint, Time Warner, and Verizon all complied. Verizon went further, and blocked all of Usenet except the big eight. Comcast went further still. It shut off its subscribers from all of Usenet.

The FCC's response to the widespread blocking of Usenet, affecting a large fraction of U.S. Internet users, has been . . . nothing.

Of course no large company wants to be seen as aiding child pornography. Yet subscribers have every right to the vast majority of Usenet that deals with other material. For an attorney general or a legislature to *order* the complete shut-down of alt.* would be unconstitutional. The same action, if carried out voluntarily by an ISP, would seem contrary to the *Comcast* ruling. Yet, the FCC's response to the widespread blocking of Usenet, affecting a large fraction of U.S. Internet users, has been . . . nothing.

More Regulation, Fewer Restrictions

The Internet's inventors thought they had built something so decentralized as to be immune to authoritarian control. They failed to foresee access becoming concentrated into a handful of large companies, or those companies caving so easily to law-enforcement authorities making improper requests. To achieve the dream of the unregulated Internet – everyone able to access content posted by anyone on the globe – the FCC may have to step in and regulate after all.



(D Block - Continued from page 1)

but with changes. The commercial and public safety entities must work together closely on the deployment plan, equipment, sharing protocols, and virtually every other element of sharing a huge nationwide telecommunications network but with radically different incentives and perspectives. Like a marriage counselor always on call, the FCC proposes to hover about resolving arguments and smoothing over differences as they arise. Testing such a novel mode of operation in a system critical to public safety on a nationwide scale using perhaps the most desirable spectrum likely to be available for decades to come is a risky proposition indeed, but the FCC seems committed to going forward.

❓ To be sure, the FCC has tried to eliminate from the equation some of the uncertainties which doomed the first auction by clarifying the rights and responsibilities of the public safety licensee (PSL) vis-à-vis the commercial licensee (CL): a Draft Network Sharing Agreement has been prepared which contains the “baseline” elements which the FCC expects the CL and PSL to agree on. The CL will be liable for a default payment after the auction only if it fails to reach agreement with the PSL on the remaining issues and the FCC deems the CL’s position to be unreasonable. This still entails some risk to the CL since the default penalty will be between 3% and 20% of the amount bid. The Commission also clarified under what circumstances the PSL would have access to the CL’s commercial spectrum, how much spectrum the PSL would be entitled to, and the circumstances in which such priority access would have to be offered. These proposals eliminate a number of the most contentious issues which previously were left open to negotiation.

❓ The FCC provided much clearer guidance on the governing structure of the PSL and its relationship with outside advisors – something which had been a subject of much discord in the first go-round. It also clarified eligible users of the public safety network, allowable fees, and funding possibilities.

❓ The FCC proposed a unique method of auctioning the D Block in which the spectrum will be awarded on either a single-licensee nationwide basis or a multiple-licensee regional basis, depending on the auction results. If a nationwide licensee is selected, the 4G protocol is unrestricted, but if multiple licensees

are selected, the operating protocol must be either Wi-Max or LTE depending on who bids the most for the licenses overall. This interesting proposal somewhat follows the proposal by NTCH, Inc. to let the governing protocol of the national D Block system be set by auction bidders who essentially “vote” with their dollars. The proposal makes for an auction with many moving parts and innumerable permutations, but also conceivably has the effect of letting the market decide which configuration for the D Block makes the most sense. At the same time, a single, consistent protocol will be established whether the licensee is nationwide or regional. The “regions” for this purpose are “Public Safety Regions” – the 55 areas (plus three others) into which the US is divided for purposes of public safety planning.

The FCC has tried to eliminate from the equation some of the uncertainties which doomed the first auction.

❓ The Commission also clarified that the CL and PSL will both have access to the full 20 MHz of spectrum, but their rights of priority usage to amounts of the spectrum will be set by the final order. Fifty percent of the capacity of the combined public safety/D Block network is subject to unrestricted public safety use and available for commercial use only on a secondary, preemptible basis. Public safety access to additional capacity on the commercial network would be limited and subject to narrowly defined “emergency” situations.

❓ The FCC revised its proposed build-out rules. The original rules called for strict build-out of substantial portion of the geographic area of the license within four years. Under the new proposal, the license term has been extended to 15 years, with construction benchmarks at the 4th, 10th and 15th years. (40% of the population of each Public Safety Region by the 4th year, 75% by the 10th year, and 90-95% by the 15th year, depending on the population density of the Public Safety Region involved.) The build-out obligation is therefore not only considerably spread out but is also less demanding in terms of picking up the miniscule population pockets necessary to achieve 99% coverage.

❓ The FCC significantly lowered the minimum price from \$1.33 billion to \$750 million.

❓ The FCC retained the elimination of the prohibition on “impermissible material relationships” between the auction winner and other parties. This means

(Continued on page 10)

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First Class

point-of sale” of their non-election or partial election to provide emergency alerts, the FCC adopted specific notification language that must be conveyed to potential subscribers.

Notice of non-participation must be given to potential and new customers at the point of sale, regardless of third party