



Copyright is the key

Why It's Suddenly Illegal to "Unlock" Your New Cell Phone

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If you buy something, it's yours, to do with as you want. Right?

Don't be silly.

We first encountered the concept of limited ownership with purchases that lacked any physical existence, like e-books and online music. If I buy an online movie from Amazon, I can watch it on my Kindle Fire forever – but I can't donate it to my local library. I can buy a book for my Kindle reader, but having read it, cannot pass it on to my wife. We don't fully own these things because they're not really things. They are made of bits, not atoms. What we buy is only a license for particular uses.

But when we buy an actual thing, made of atoms, then it's ours, and we can use it in any way that we want.

Not any more. Not if the thing is a cell phone.

Most people buy a phone at much less than the real price. I paid Verizon \$200 for mine, which actually costs more like \$700. Over the next two years Verizon will recoup the difference out of my monthly payments. If I leave Verizon before the two years are up, they will charge me an "early termination fee" to make up the shortfall. That's part of the deal that got me a \$700 phone for \$200.

But now let's say my two years are up. The phone is paid for. My contractual obligations to Verizon are satisfied. Now I can walk away from Verizon and use the

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Mark your calendars!

700 MHz B Block Build-Out Deadline Extended For Many, But Not All

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[Editor's Note: This month we welcome two new additions to the FHH Telecom Law bullpen of contributing authors: Tony Lee, whose piece appears below, and Jamie Troup, whose piece on the FCC's proposal concerning rural call blocking is on page 5. With years of experience in local exchange and wireless issues, they will be offering their insights on those subjects in future issues.]

If you're an active Lower 700 MHz band **B Block licensee** with an interim four-year construction benchmark deadline before December 13, 2013, here's some good news: unless you happen to fall within a couple of exceptions, [the FCC has extended your construction deadline to December 13, 2013](#). This tracks a [similar extension granted to Lower 700 MHz A Block licensees](#) a couple of months ago.

The construction deadline in question stems from Section 27.14(g), which requires 700 MHz B Block folks both to provide signal coverage and to offer service over at least 35% of the geographic area of their licenses by one of two dates, either (1) June 13, 2013 (if the initial authorization was granted on June 13, 2009 or earlier), or (2) within four years of the initial license grant.

Since at least 2009, a number of 700 MHz licensees have been complaining that the FCC's approach to the 700 MHz band – i.e., developing two separate and distinct band classes within the Lower 700 MHz band – has given rise to interoperability issues that have in turn impeded construction. In March, 2012, [the Commission agreed to explore interoperability issues](#), but beyond the issuance of a Notice of Proposed Rulemaking, nothing has come of that "Interoperability Proceeding" to date. Meanwhile, the construction clock has continued to tick down.

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Some signs point to “yes” . . . or at least “maybe”

The Five-Year Enforcement Shot Clock: Has the FCC Finally Begun to Acknowledge It?

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It appears that the Commission may have taken the first steps – baby steps carefully cloaked from public view, perhaps, but steps nonetheless – toward addressing its hopeless backlog of broadcast complaints. In a series of super-low-key actions earlier this year, the Media Bureau quietly cancelled a number of previously assessed forfeitures. The actions have been reflected in terse (and we do mean terse – [check out this example](#)) letters that provide no explanation for the cancellations. But based on the answers we got to some informal inquiries, we figure that these cancellations could be the harbinger of considerably more dramatic developments on the complaints front.

It appears that the recent forfeiture cancellations have all involved the same general fact pattern. The Bureau issued a notice of apparent liability (NAL) and/or forfeiture order for violations which occurred significantly more than five years ago. The target licensee responded by arguing that, thanks to [28 U.S.C. §2462](#), the FCC is statutorily prevented from collecting the fines, so they should be cancelled. That argument has been initially rejected by the Bureau in some cases ([here's an example](#)), but the licensees have pressed their argument before the Commission in applications for review.

And now, we understand that the Bureau has been directed by higher-ups in the agency to cancel the forfeitures in light of that Section 2462 argument. The Bureau's cancellation letters are, we are told, the result of that direction.

For readers not familiar with Section 2462, check out [Steve Lovelady's post](#) on the topic from a couple three years ago. Essentially, Congress has told the Department of Justice that DOJ can't initiate any lawsuit to enforce a civil fine, penalty or forfeiture later than five years after the underlying claims accrue. That's important because Congress (in [47 U.S.C. §504\(a\)](#)) has also told the FCC that, if the FCC fines a licensee and the licensee declines to pay – which is an option accorded to licensees by Congress – the FCC can collect only by getting DOJ to sue the licensee to collect the fine. Perhaps more importantly for FCC licensees, [Section 504\(c\) of the Communications Act](#) clearly and unequivocally provides that, if a licensee has not paid the fine and no court has ordered that the fine be paid, then the fact that the Commission may have imposed a forfeiture in the first place “shall not be used, in any other proceeding before the Commission, to the prejudice of the person to whom such notice was issued”.

Get the picture?

If the licensee doesn't pay the fine voluntarily, the only way the FCC can collect is through a lawsuit. But if the claim underlying that lawsuit arose more than five years earlier, the FCC (acting through DOJ) **can't even start** such a lawsuit, much less collect through it. And if the lawsuit can't get started, then, under Section 504(c), whether or not the rules may have been violated makes no difference: the mere fact that an NAL (or, presumably, forfeiture order) was issued **cannot** be “used . . . to the prejudice” of the supposed violator.

Truth be told, this is a pretty simple concept, made even simpler by the clarity of the two statutes in question. But historically the Commission appears to have ignored it. You can understand why.

The Commission has tended to take a leisurely approach to forfeitures. The Communications Act, after all, technically permits the Commission to issue fines for licensee misconduct that occurred at any time during a license term as long as the next license term hasn't already started. (Remember, Section 2462 relates to collecting fines, not

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What hath the derecho wrought?

FCC Looks to Improve Reliability of the 9-1-1 System

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People have come to rely on dialing 9-1-1 in an emergency, and getting a rapid response. But what happens if the telephone network is so degraded by a storm that not only do 9-1-1 calls not go through to the public safety answering point (PSAP), but neither the PSAP nor the telephone company *know* that the 9-1-1 system is not working? That is an issue that the FCC proposes to address in a recently released Notice of Proposed Rulemaking (*Notice* or *NPRM*).

In the *NPRM*, the Commission seeks comment on approaches to ensure the reliability and resiliency of the communications infrastructure necessary to ensure continued availability of the Nation's 9-1-1 system, particularly during times of major disaster. This proceeding is a response to the findings and recommendations presented in the Public Safety and Homeland Security Bureau's (Bureau) January 10, 2013 report on the impact on communications networks and services from the June 2012 derecho (*Derecho Report*). (Unclear on what a "derecho" is? See the accompanying informational sidebar on page 13.) In that report, the Bureau found that the June 2012 derecho affecting the Midwest and Mid-Atlantic United States severely disrupted 9-1-1-related communications and that these disruptions were due in large part to avoidable planning and systems failures within 9-1-1 service providers' networks. The Bureau concluded that these failures could, and would, have been avoided if providers had followed industry best practices and other sound engineering principles. Accordingly, the Bureau recommended that the Commission consider action in the following areas: (1) 9-1-1 circuit auditing; (2) 9-1-1 service provider central office backup power; (3) physical diversity of monitor and control links; and (4) improved outage notification to PSAPs. The Commission appears to be taking this matter seriously, and in the *NPRM*, seeks comment on approaches to implement these and other recommendations.

The *Notice* first seeks comments on the extent to which 9-1-1 failures during the derecho reflect reliability vulnerabilities of 9-1-1 networks nationwide. It also asks whether carriers throughout the country have reviewed their 9-1-1 network architecture and maintenance prac-

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RF – Threat or Menace?

FCC Looks at Health Effects of Radio Waves

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Do cell phones cause cancer?

Those on both sides of the question will carefully parse the FCC's 201-page "[First Report and Order, Further Notice of Proposed Rule Making and Notice Of Inquiry](#)," as the agency wades again into one of its murkiest controversies: what effect do radio waves have on health?

The FCC has had rules limiting RF (radiofrequency) exposure for decades. Because the actual metrics setting numerical exposure limits are well outside the FCC's own expertise, the FCC relies on other bodies to recommend the limits. The FCC nevertheless decides which recommendations to adopt, what kinds of transmitters must be tested for compliance, and how those tests are to be carried out.

The proper limits for safe exposure are a matter of considerable debate – a debate that helped to prompt the FCC's current action. The question is controversial in part because of disagreement over how radio waves affect bodily tissue.

Everyone agrees that RF exposure causes heating. A microwave oven works simply by spraying your popcorn with radio waves. A cell phone held up your ear has a similar effect on your brain, in principle, although at much lower energy levels. The FCC directly regulates the amounts of heating permitted from cell phones and many other devices that are used within eight inches (that's 20 centimeters, for our non-U.S. readers) of the body and operate below 6 GHz. Required tests assess the so-called "specific absorption rate" (SAR) by measuring actual heating of a model or manikin representing the affected part of the body. Devices operating above 6 GHz or used more than eight inches away, such as vehicle-mounted radios, are subject to a much simpler test of energy reaching the user, called "maximum permissible exposure" (MPE).

Wi-Fi, Bluetooth, and most other unlicensed consumer devices are "categorically excluded" from RF evaluation because they operate at low enough power to be

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Better late than never

700 MHz Recons Rejected

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700 MHz licensees who have been holding their breath and turning blue while waiting for the FCC to rule on petitions for reconsideration they filed more than five years ago may now gulp some air. The FCC has taken a quick break from its usual tasks of unleashing broadband and unlocking spectrum to [act on that lingering bit of unfinished business](#).

In August, 2007, the FCC released its [700 MHz Second Report and Order \(2nd ReO\)](#) establishing the critical service rules that govern licensing and operations in the 700 MHz band. As could be expected, the *2nd ReO* caused dismay to some industry players, leading ten companies to file petitions for reconsideration addressing, by our count, more than 20 different aspects of the *2nd ReO*. The petitions, all filed in September, 2007, languished while the Commission conducted auctions, ultimately awarding 700 MHz licenses worth billions of dollars. In fact, so much time has gone by that the first build-out deadline for those licenses (*i.e.*, June 13, 2013) is fast approaching. The FCC must have decided that it should probably rule on the petitions that had challenged many of the build-out parameters from the get-go.

For example, for many 700 MHz licenses, the build-out rules require that 35% of a market's geography be covered at the first benchmark. This contrasts sharply with the usual *population-based* coverage requirements that apply in most other services. The distinction is critical for carriers who find themselves required to provide service to geographic areas where there are no people, often at greater expense than would be necessary to serve areas where people are actually clustered. Many 700 MHz licensees now feverishly building out their markets could have used relief from this requirement, as was requested by a number of the petitioners.

But it was not to be.

The FCC denied the petitions addressing the geographical build-out requirement, as, indeed, it denied or dismissed **all** of the petitions. In so doing, the Commission:

- ☞ retained geographic build-out benchmarks and rejected exclusions for water areas, Tribal lands, and low population density areas;
- ☞ refused to alter the population-based metric for large REAG licensees;
- ☞ rejected changes to the keep-what-you-use provisions of the rules;
- ☞ tossed out challenges to its potential penalties for licensees who fail to meet build-out terms;
- ☞ trashed a request to abolish the interim report requirement (somewhat belatedly, since the interim reports had to be filed a couple of years ago); and
- ☞ cursorily kissed off a handful of challenges to the auction process such as anonymous bidding and spectrum aggregation limits.

Many of the auction-related petitions had already become moot, having been long overtaken by events.

It was in no mood to mess around.

Many of the auction-related petitions had already become moot, having been long overtaken by events. In this regard, a ghost from the past appeared in the pleadings: Frontline Wireless, LLC. Frontline, you may recall, was the start-up in which former FCC Chairman Reed Hundt was a principal. At one point it appeared that the Commission was bending over backwards to ensure that the former Chairman's company would have a good shot in the auction. Frontline fell by the wayside, however, when it failed to raise the minimum funds necessary to bid on the D block.

All the arguments – raised both by Frontline and by other petitioners – about when and how to auction the D block became moot when the D block went unsold and Congress decided instead to award the block to public safety. This simplified the Commission's decision-making process and proved, once again, that procrastination is not a bad policy for administrative agencies, or, indeed, in life. If you just wait long enough, all problems become moot. Or you die.

Failure to communicate?

FCC Proposes New Reporting Requirements for Blocked Rural Calls

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Although perhaps not widely acknowledged or often discussed, the problem of “blocked” or unsuccessful long-distance telephone calls to rural customers is a serious one. For at least a couple of years interested parties have urged the Commission to do something about it. And now the FCC thinks that it’s come up with a way to begin to address this failure to communicate: new recordkeeping requirements, and a new report to be filed quarterly by facilities-based originating providers (with some notable exceptions).

The report would theoretically allow the Commission to better monitor the delivery of long-distance calls in rural areas. In a [Notice of Proposed Rulemaking](#) (NPRM), the FCC has invited comments on the proposed requirements.

So what’s the problem the FCC is addressing here?

Increasingly, the U.S.’s once-reliable telecommunications network is being seriously degraded. Where the industry could once brag of an extraordinarily high level of service quality – known to the *cognoscenti* as the “five 9s”, referring to the fact that calls were completed 99.999% of the time – that’s no longer true. Now, calls placed to small towns and rural areas are increasingly blocked, impaired by degraded call quality, or interrupted by false busy signals or misleading error messages.

While the precise reasons for this may still be a matter of debate, it’s safe to say that degradation in rural service is almost certainly tied to the fact that providing service to rural areas is expensive. The high costs are an incentive for profit-motivated carriers to cut corners or figure out way(s) to try to shift the responsibility to other carriers. Despite the issuance of various declaratory orders, the establishment of complaint lines and the pursuit of investigations by the FCC, the problem persists.

The Commission has determined, by analysis of data obtained through the complaint process, that some carriers collect and retain information on failed-call attempts, while others don’t. The lack of available data impedes its ability to investigate the problem. Accordingly, the FCC

plans to require the uniform, monthly, collection of data on call attempts and the quarterly submission of those data to the Commission.

Who would be subject to these requirements?

“Originating long distance voice service provider (or its first facilities-based provider when the originating provider is not facilities-based)” – **as long as** the provider has more than 100,000 total retail long distance subscribers (business and residential combined). Originating providers would include LECs, IXCs, wireless carriers, and two-way VoIP providers that carry traffic that will traverse the public switched telephone network (PSTN) at some point. The FCC invites comments on whether it should

extend its proposed record-keeping and reporting requirements to intermediary carriers, resellers, and one-way VoIP providers.

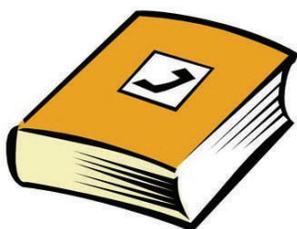
The FCC also asks for comments regarding its proposal to exempt any carrier with 100,000 or fewer subscribers from the recordkeeping/reporting requirements.

Degradation in rural service is almost certainly tied to the fact that providing service to rural areas is expensive.

What records would have to be kept? Each provider subject to the rules would be required to retain the following records about each attempted call to a rural telephone company (including rural CLEC) and non-rural LEC (including non-rural CLEC):

- Calling party number;
- Called party number;
- Date;
- Time;
- An indication whether the call was handed off to an intermediate provider or not and, if so, which intermediate provider;
- An indication whether the called party number was assigned to a rural telephone company or not and, if so, the operating company number (OCN) of the rural telephone company;
- An indication whether the call was interstate or intrastate; and
- An indication whether the call was answered or not.

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Number, please.

FCC Proposes Rule Changes for Obtaining Telephone Numbers

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Have you ever wondered where telephone numbers come from? Well, kids, there's this bird called a stork that delivers the numbers to your phone company which is very happy to receive them...

If only it were that simple.

Telephone numbers aren't just made up by the phone companies. There are complex rules and processes (and history) involved in determining where numbers are assigned geographically, which sequences of numbers can be assigned, and which companies are ultimately allowed to have access to the numbers. Of course, these processes ultimately involve the FCC, which has authority over all telephone numbers in the U.S.

In a recent release containing a [Notice of Proposed Rulemaking \(NPRM\)](#), [Order and Notice of Inquiry \(NOI\)](#) the FCC is looking to make some changes to how telephone numbers are obtained by certain types of providers and, eventually, the fundamentals of what we understand a telephone number to represent.

Unfortunately, no, the FCC still doesn't have a way to make telephone numbers magically immune from [robocallers](#).

In the near-term, rules proposed in the NPRM (if adopted) would allow interconnected VoIP providers to have direct access to telephone numbers instead of having to obtain them through carriers. The NPRM seeks comment on this proposal and the associated issues. To test out its proposals and gather data, the FCC's Order is allowing certain interconnected VoIP providers – including, specifically, Vonage – to have direct access to telephone numbers as part of a limited trial.

For the long-term, the FCC is seeking, through the NOI, comment on various issues related to whether telephone numbers should be disassociated from specific geographic locations.

In other words, in the future area codes such as 212, 305, and 404 might not be tied specifically to Manhattan, Miami and Atlanta... but more on that a little later.

The NPRM and Order

Telephone numbers for the U.S. and 19 other North American countries are administered under the [North American Numbering Plan \(NANP\)](#). Under the FCC's rules, telephone numbers in the U.S. can be obtained directly only from the numbering administrators by telecommunications carriers that are authorized to provide services in the geographic areas for which numbers are being requested. This authorization must be in the form

of an FCC license or lease (*e.g.*, for cellular service providers) or a state public utility commission certification to provide traditional local telephone services or competitive local exchange services.

Interconnected VoIP providers are currently not considered

“telecommunications carriers” or “telecommunications service” providers by the FCC ([we blogged about that distinction here](#)) and are mostly unregulated at the state level. Consequently, interconnected VoIP providers typically do not meet the FCC's requirements for obtaining direct access to telephone numbers. Instead, these VoIP providers (as well as many other non-traditional service providers) must obtain telephone numbers by partnering with carriers that do qualify for direct access.

No big deal, right? Well, according to Vonage and several other companies providing interconnected VoIP (and related) services, it is. Back in 2005 (and again in 2011), Vonage petitioned for a waiver of the FCC's “must have an authorization” rule so that it could obtain direct access to telephone numbers. Vonage asserted, among other things, that not having direct access to telephone numbers served as a barrier to the efficient routing of calls to its customers. Vonage claimed that having direct access would improve network reliability, reduce costs (by cutting out the middle-man), and allow for deploy-

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Certain interconnected VoIP providers will have direct access to telephone numbers as part of a limited trial.



(Telephone Number NPRM - Continued from page 6)
ment of innovative services and features.

Vonage's petition was opposed by several parties, including a number of competitive local exchange carriers concerned about routing, interconnection, exhaustion of telephone numbers and other issues which could arise from allowing "non-carriers" direct access to telephone numbers. Indeed, these parties continued to lobby against even allowing Vonage a limited trial access to telephone numbers in the days leading up to the FCC's NPRM/Order/NOI release.

Ultimately, the FCC decided to grant Vonage a limited waiver, subject to numerous conditions, so that the company could obtain direct access to telephone numbers as part of a trial run. Similar waiver requests previously filed by other interconnected VoIP providers were also granted on a limited trial basis as long as those providers agreed to the same conditions as Vonage and filed an approved proposal with the FCC. The FCC intends to use data gathered under these trials to help inform its decision on whether and how to permanently allow all interconnected VoIP providers to have direct access to telephone numbers.

The FCC will not be considering any new waiver requests to participate in this technical trial. Interconnected VoIP providers who did not already have a waiver request on file with the FCC will likely need to wait until the proposed rules become final.

Concurrent with the trials, the FCC seeks comment – through the NPRM – on issues associated with the proposal to permanently grant interconnected VoIP providers direct access to telephone numbers. The NPRM invites general comments on the proposal, as well as comments on more specific issues such as the type of documentation required to obtain numbers, utilization requirements, measures to prevent waste of numbering resources, enforcement actions for violations of numbering rules, call routing and termination concerns, local number portability, and intercarrier compensation.

The NPRM also seeks comment on the possibility of expanding direct access to telephone numbers to providers of other types of innovative communications services (for example, telematics, machine-to-machine and one-way VoIP) and allowing VoIP Positioning Center providers access to pseudo-ANI (automatic

number identification) codes for purposes of providing 911 and E911 service.

The NOI

Historically, telephone numbers essentially served as addresses and were utilized to route calls to designated telephone switches serving only customers in specific geographic areas. Hence, you could readily determine where a telephone customer was physically located based upon the first three digits of the telephone number, the area code. The significance of geographic area codes can often be seen in popular culture, such as this [TV sitcom episode](#) about 212 versus 646 in New York, or [this rap song](#) about conquests in different area codes.

However, as we have all noticed, the association of area codes with geographic locations has diminished over the years as more and more telephone users transition away from fixed telephone lines and towards more portable services like cell phones or VoIP. A caller from a 212 number no longer has to be physically located in Manhattan, and calls to a 305 number might actually reach someone in Texas instead of Miami. With the advance of technology, geographic telephone numbers are no longer determinative for the routing of calls to their final destinations.

Accordingly, the FCC's NOI seeks comment on a range of issues related to a possible transition to non-geographically distributed telephone numbers. Among other things, the NOI seeks comment on the practical and policy implications of such a transition, whether there are any benefits or limitations to simply retaining the current system, public safety issues such as routing of 911 calls, interconnection concerns, and how to administer a non-geographic distribution regime.

Here's what we want to know – what will artists rap about in the future after geographic area codes become a thing of the past . . . IP addresses?

To see all of the issues on which the FCC is seeking comment, the NPRM, Order and NOI can be accessed [here](#). Interested parties will have 30 days to submit comments after the FCC's release is published in the Federal Register. Stay tuned to our blog for an update once the comment deadlines are announced.

What will artists rap about in the future after geographic area codes become a thing of the past?



(Unlocking Cell Phones - Continued from page 1)

phone with Sprint-Nextel's service instead. Right?

Until a few weeks ago, the answer would have been yes. Not any more. It's a violation of federal law. Specifically, a violation of the Digital Millennium Copyright Act (DMCA) – the same statute that allows draconian limits on electronic books, movies, and music. In principle, at least, moving the phone to a Verizon competitor could bring jail time.

A phone configured for a particular carrier is said to be “locked.” Before it can be used with a different carrier, it must be “unlocked.” It is possible to buy an unlocked phone and take it to the carrier of your choice. But that has a downside: you will pay full price for the phone (\$700, in my case) and probably pay the same monthly carrier rate as someone who bought the same phone at a steep discount. It is also possible to unlock the phone you already have, just by downloading and running software from the Internet. Not hard to do – but it might get you hauled up before a federal district judge.

Unlocking the phone “circumvents a technological measure” that limits access to a particular carrier.

(Unlocking is different from “jailbreaking” an iPhone – what Android users call “rooting.” Jailbreaking and rooting are software changes giving access to internal software files which, if mishandled, can render the phone an inert brick. They void the warranty, for obvious reasons, and they block automatic updates. But they also make it possible to use certain sophisticated apps that won't run on an unmodified phone.)

The unlocking problem starts with this one sentence in the DMCA:

No person shall circumvent a technological measure that effectively controls access to a work protected under this title. [17 U.S.C. § 1201(a)(1)(a).]

The term “work” here covers the software in the phone. Unlocking the phone “circumvents a technological measure” that limits access to a particular carrier. So the DMCA prohibits unlocking.

But the DMCA also authorizes the Librarian of Congress to make exceptions to the law. One such exception authorizes jailbreaking (or rooting). It allows “[c]

omputer programs that enable wireless telephone handsets to execute lawfully obtained software applications, where circumvention is accomplished for the sole purpose of enabling interoperability of such applications with computer programs on the telephone handset.” [37 C.F.R. § 201.40\(b\)\(3\)](#). Oddly, however, this exception does not apply to tablets. In the Librarian's view, “the record did not support” extending it to tablets. So jailbreaking your tablet remains a federal offense.

There used to be a parallel exception that allowed unlocking phones. It permitted “[c]omputer programs, in the form of firmware or software, that enable used wireless telephone handsets to connect to a wireless telecommunications network, when circumvention is initiated by the owner of the copy of the computer program solely in order to connect to a wireless telecommunications network and access to the network is authorized by the operator of the network.” [37 C.F.R. § 201.40\(b\)\(3\) \(2012\)](#).

But in an order dated October 22, 2012, which took effect on January 27, the Librarian limited this exemption to handsets bought before January 27. Unlocking a phone acquired after that date is illegal.

How did the Librarian explain the sudden change? Unlocking a phone entails modifying its software. Until 2010, most people would agree that when you bought a phone, you also bought the software inside it, so the software was yours to modify. But [a decision by the U.S. Court of Appeals for the Ninth Circuit that year](#) suggested otherwise. As the Ninth Circuit saw it, the phone buyer acquires only a license to use the software, not ownership. The wireless phone industry, which opposes unlocking, used this case to argue that the carrier still controls the software after the sale. It also insisted that many unlocked phones are available on the market, so there is no need (it said) for consumers to unlock the ones they buy from carriers. (This does not make much sense to us, either.) The rationale for letting people unlock “legacy” phones is hard to make out, but may simply reflect a reluctance to disturb the rights people thought they had when they made the purchase.

The tech blogs were outraged at the new anti-unlocking rule, and particularly at the fact of somebody with the word “librarian” in his title making decisions about

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(Blocked Rural Calls - Continued from page 5)

For these purposes, an attempted call returned by an intermediate provider to the originating provider and re-assigned would be counted as a single attempted call. The information would have to be in a “readily retrievable” form and extend back for the six most recent, complete, calendar months.

The FCC requests comments on these proposed record-keeping and record-retention requirements.

What information would have to be reported to the FCC, how, and when? Under the FCC’s proposal, affected providers would have to file call completion reports electronically every quarter. The report would require calculations comparing (a) the monthly call answer rate for calls placed to rural telephone companies to (b) the monthly call answer rate for calls placed to terminating carriers that are not rural telephone companies. The monthly call answer rate would be reported as a percentage, calculated by dividing the number of attempted calls during a particular month that result in an answered call by the total number of attempted calls during that month.

Three types of call answer rates would have to be calculated and reported: (1) for each rural telephone company OCN to which 100 calls were attempted during the month; (2) for the total call attempts to all rural telephone company OCNs to which 100 calls were attempted during the month; and (3) for the total call attempts to all companies with OCNs that are not rural telephone company. The FCC asks for comments as to the difference in call answer rates for calls placed to rural and urban OCNs that would warrant an FCC fine.

Since there doesn’t appear to be any readily available, affordable software designed to process the raw data, perform the necessary calculations, and present the results in a useful format, some observers have suggested

that some alternative to the proposed quarterly report might be preferable. For example, a monthly electronic submission of the raw data alone. And since it appears that some providers aren’t able to report call attempts by terminating OCN, it might be more useful to request that the raw data to be submitted be based on terminating exchange, rather than terminating OCN. Monthly submissions would also prevent the data from becoming stale.

The FCC also asks whether the filed reports should be kept confidential by the FCC or made available to the public. Public reports would arguably be more effective in deterring and resolving call blocking.

Proposed safe harbors. The FCC proposes two safe harbor exemptions to its requirements. Under the first safe harbor, a carrier would be exempt from the recordkeeping/reporting requirements if the carrier certifies annually that: (1) it contractually limits to two the number of intermediate providers in the call path; and (2) it has in place a process for monitoring its intermediate providers.

Other matters. The *NPRM* seeks comments on a variety of other details underlying the problem of blocked rural calls. Anyone affected by this regrettable phenomenon should review the *NPRM* carefully.

What the *NPRM* does not propose is any direct solution for the continued degradation of telephone service to rural areas. For now, the Commission has chosen in the *NPRM* to focus instead on recordkeeping and reporting as the first steps. We encourage all interested parties – and particularly anyone who has experienced call blocking – to provide their input in response to the *NPRM*.

The [deadlines for comments and reply comments have been set](#): comments are due no later than **May 13, 2013**; reply comments are due by **May 28**.



(Unlocking Cell Phones - Continued from page 8)

advanced technology. [A petition on the White House web site](#) to reverse the decision has drawn over 114,000 signatures.

The White House itself agrees the decision is wrong. Now [the FCC Chairman has stepped in as well](#), asking if the Librarian of Congress is the right person to be making these kinds of decisions

The Library of Congress long having been central to the U.S. copyright scheme, its Librarian has the job of interpreting the copyright statute and writing the rules. This

arrangement made some sense in the days of paper and ink. Now, though, when copyright increasingly concerns the quantum-mechanical behavior of electrons in silicon, maybe some of the copyright rules should come under an agency having the needed technical expertise – such as, for example, the FCC.

In the meanwhile, if Congress can find time in its busy schedule of naming post offices, it may overcome partisan gridlock long enough to overrule the Librarian. We’ll let you know.



(Enforcement Shot Clock - Continued from page 2)

imposing them in the first place.) In order to preserve its ability to issue fines, then, the FCC has imposed the dreaded “enforcement hold” on pending renewal applications, meaning that it has simply declined to grant renewal where the possibility of some violation might exist. By doing this, the FCC has been able to (a) avoid the commencement of a new license term and, thus, (b) keep open the option of maybe someday getting around to considering whether a fine may or may not be appropriate.

(Relevant illustrative factoid: According to CDBS, as of February, 2013 there were more than 300 TV renewal applications still pending from the 2004-2007 application season. Our guess is that most, if not all, of those have been hung up on “enforcement holds” – but since the Commission doesn’t generally disclose why any renewal has been held up, your guess is as good as ours.)

By invoking such “holds”, the Commission has been able to avoid resolving, or even addressing, vast numbers of complaints and violations (admitted or otherwise) that have piled up for a decade or more. And since many of those complaints involve issues like indecency, the Commission has also been able to avoid the difficult political and legal considerations attendant to such controversial topics.

Think of all those distasteful chores that you put off by relegating them to the basement, or a closet, or the garage, always with the promise that you really will get around to them someday, but also always with the tacit understanding that that “someday” probably won’t be anytime soon, particularly as the basement/closet/garage gets more and more jam-packed with chores. That’s essentially what the “enforcement hold” has let the FCC do with hundreds of thousands, possibly millions, of complaints.

The five-year shot clock imposed by Section 2462 obviously messes that leisurely approach up big time. If that statute of limitations on collection actions really means what it says, then any complaint filed with the Commission more than five years ago, and any forfeiture proceeding initiated more than five years ago, is at a dead end if the case hasn’t already resulted in payment of a forfeiture or the filing of a collection suit. Logically and legally, the only available course for the Commission would appear to be to summarily toss any such complaint or forfeiture proceeding.

Which is just what the Media Bureau has done with the dozen or so forfeitures which it recently cancelled. And that’s why those mysterious, unexplained cancellations could portend an important shift in the FCC’s handling of old complaints.

Bear in mind that the Bureau had already considered, and rejected, the Section 2462 argument in at least some, if not all, of those cases, insisting instead that the FCC could reach back indefinitely to penalize misconduct. But that’s not what 28 U.S.C. §2462 and 47 U.S.C. §504(c) provide. And we understand that at least some folks in the General Counsel’s office may now recognize and accept that limitation – and that the Bureau’s recent forfeiture cancellations are a result of that recognition and acceptance.

That’s the good news: Some fines have been cancelled for reasons which should lead to further cancellations of previously issued fines or previously-initiated-but-still-pending inquiries.

The bad news is that the Commission may still be reluctant to follow up with those other cancellations.

The Commission appears still to be loath to state conclusively that Section 2462 imposes a five-year shot clock on the FCC collection process. We understand from conversations with folks involved in the Bureau’s recent cancellations that Section 2462 was the reason for those cancellations, but you won’t find any reference to that section in any of the cancellation letters. And to avoid even having to refer to the arguments that had been presented concerning Section 2462, when it issued its cancellation letters the Bureau

called on the various beneficiaries of those letters to request withdrawal of their respective, still-pending pleadings in which those arguments had been advanced.

What’s up with that? As best we can figure, the Commission believed that, if it had to dispose of those arguments on their merits, it would have to publicly acknowledge that Section 2462 does indeed impose a five-year shot clock. But if the Bureau instead offered to simply cancel the fines without explanation, it could call upon the affected licensees to withdraw their pleadings, thus obviating the need to address their arguments. And those licensees could be expected to comply happily – they are, after all, getting off the hook for the fines they had been assessed, so why should they care whether the FCC formally acknowledges the reason for that?

The Commission’s reticence is not encouraging, but to some degree understandable. Formal acceptance of the five-year shot clock would affect the Commission both retrospectively and prospectively.

Looking back, the Commission would be required to sort through its various enforcement files, searching for any complaints, inquiries, etc., that involve potential misconduct that occurred more than five years ago and as to

*The Commission’s
reticence is not encouraging,
but to some degree
understandable.*

(Continued on page 11)



(B Block Build-Out - Continued from page 1)

The announced extension reflects the FCC's recognition that its own failure to act thus far has put some folks in a bind.

The extension does not, however, extend to *all* Lower 700 MHz B Block licensees. In particular, the extension is not available to the limited universe of licensees who had already filed notifications of construction for any of their B Block licenses on or before April 9, 2013. Similarly, the extension won't help any B Block licensees who (a) filed comments or reply comments (including through their direct or indirect controlling parent or affiliate) in the Interoperability Proceeding, but (b) "did not claim that a lack of interoperability has impeded their ability to take advantage of the benefits of economies of scale in order to build out their networks."

Another gotcha: The extension will **not** be transferable. That means that, if you happen to be buying a Lower 700

MHz B Block license that would otherwise be eligible for the extension, you can't automatically take advantage of it. Instead, you'll have to file on your own for relief from the deadline (or meet the deadline, if that's possible).

Over the years, a number of licensees have filed for waivers of the deadline. The extension to December 13, 2013 does **not** resolve those requests. Neither does it constitute anything even remotely resembling resolution of the Interoperability Proceeding or any of the questions on the table in that proceeding.

While any extension is likely welcome to those staring at the dwindling number of days, it's not at all clear that the limited extension will provide any practical relief, particularly if licensees can't obtain any equipment to meet the Interim Construct Benchmark Deadline until the interoperability issue is resolved. We're crossing our fingers that the FCC is able to move quickly to provide clarity on that issue before the day of reckoning arrives.



(Enforcement Shot Clock - Continued from page 10)

which no collection lawsuit has yet been filed.

All such complaints, inquiries, etc. would then have to be summarily dismissed, no questions asked. Back the dump trucks up to the Portals and start tossing files out the window. We're probably talking about hundreds of thousands, maybe millions, of complaints or other potential violations. Problems involving indecency, sponsorship ID, kidvid reports, public files, etc., etc., etc. Kiss them goodbye and color them gone. (Indeed, [as we have reported on www.CommLawBlog.com](http://www.CommLawBlog.com), the Commission has recently announced that it has miraculously cleared more than 1,000,000 indecency complaints off the books.)

That's a lot of work in and of itself. And if the Commission were to do that, the result would likely be a public relations nightmare. Various self-appointed guardians of the public interest would almost certainly rise up on their hind legs and complain vigorously about the impropriety of allowing scofflaws – including pornographers! – to avoid any penalty for their supposedly vile misdeeds. And some members of Congress might respond to such complaints by asking pointed questions of the Commission: how, after all, did the FCC get itself into this mess? A preference to avoid this scenario is understandable.

And looking forward, the Commission would be acknowledging that it is in fact subject to a five-year shot clock. That would mean that the Commission would have to veer sharply away from its decades-long lackadaisical approach to enforcement. Instead, it would have to commit staff and resources sufficient to process complaints and related matters on a super fast-track. Suffice it to say that the FCC has

seldom demonstrated the inclination or ability to do much of anything on a super fast-track, particularly in the enforcement area.

Remember, Section 2462 requires that the collection lawsuit be initiated within five years. So the Commission would have to investigate potential misconduct, issue an NAL, consider the licensee's response, issue a Forfeiture Order, maybe address any petition for reconsideration, determine that the licensee wasn't going to pay, and then convince DOJ to free up attorneys to file the suit, all within five years. A preference to avoid this scenario is likewise understandable.

Such preferences may be understandable, but they are also unrealistic and just plain silly. After all, the law says what the law says, and it's said it for years. If the recent forfeiture cancellations do in fact reflect an acknowledgement by senior agency officials that the constraints of Section 2462 apply, we can see no valid distinction between those proceedings and the myriad other long-pending complaints, investigations, etc., that have been gathering dust at the Commission for more than five years.

It would be nice if the Commission, in the much-vaunted spirit of transparency, were to issue a public notice or some other statement explaining the recent cancellations, acknowledging the impact of Section 2462 on its enforcement activities, and committing to prompt steps consistent with those statutory obligations. It would also be nice if the Commission were simply to start taking such steps, fanfare or no. Whether it will do so obviously remains to be seen. Let's all keep our fingers crossed.



(9-1-1– Reliability - Continued from page 3)

tices in light of these recent failures, and if so, whether they have taken steps to make the 9-1-1 system less vulnerable.

1. Routine 9-1-1 Circuit Auditing

The *Derecho Report* found that one factor in the breakdown of 9-1-1 was the lack of physical diversification of network assets, and lack of adequate auditing by carriers of such diversification. In light of that finding, the *Notice* seeks comment in general on the extent to which providers are auditing these circuits and whether those audits follow established best practices. Do existing best practices provide sufficient guidance on this topic? More specifically, though, the *Notice* seeks comments as to whether the Commission should *require* the performance of audits, and asks for details as to the costs and benefits of such audits.

2. Backup Power at Central Offices

The *derecho* experience raised many questions regarding wireline carrier central office backup power. Because so many 9-1-1 service providers ultimately suffered a loss of power, the Bureau recommended that the Commission take more aggressive action to ensure that carrier central offices have alternative power sources in the event of a grid failure. The *Notice* seeks comments on whether the Commission should institute requirements to that effect, including testing and maintenance of the installed equipment. Alternatively, would new or expanded best practices provide as much assurance of rigorous compliance as any of the approaches proposed here? If requirements are enacted, what precisely should be required? What are the costs and benefits of having generators available in all central offices, with battery and generator testing protocols? What about backup generators or other backup power sources?

3. Network Monitoring Capabilities

According to the *Derecho Report*, during the *derecho* the network monitoring capabilities of the two primary ILECs involved were disabled within the area of the storm, depriving them of visibility into the status of their network operations and complicating their recovery efforts. In both instances, the loss of monitoring capability throughout the segment of the network affected by the storm could be attributed to a single point of failure. Accordingly, the Bureau recommended that the Com-

mission take action to ensure that 9-1-1 service providers put in place “diverse monitor and control links and capabilities throughout their network[s].” The *Notice* seeks comment on whether and how to implement this recommendation. How should the FCC specify the level or degree of “diversity” expected of network monitoring and control capabilities? For example, should the Commission define this “diversity” such that the failure of one element of a service provider’s monitoring system, for example the failure of a control link, cannot result in the loss of network monitoring capabilities? If this definition is not suitable, what would a suitable alternative be? What are the costs and benefits here?

4. Improved Notification to PSAPs

The Commission’s current rules provide that 9-1-1 PSAPs must be notified by carriers when communications outages affect 9-1-1 service, but the *Derecho Report* revealed that many PSAPs’ efforts to restore service and respond to emergencies during the *derecho* were hindered by inadequate information and otherwise ineffective communication by the carriers. The *Notice* therefore proposes amendments to section 4.9 of the Commission’s rules to clarify how service providers can “more effectively and uniformly notify PSAPs of outages affecting 9-1-1 service and cooperate to restore service as quickly as possible.”

Under the proposed rules, service providers subject to PSAP notification requirements would be required to notify PSAPs of outages immediately, by telephone and in writing via electronic means. These notifications would include, at a minimum, the nature of the outage, the estimated number of users affected or potentially affected, the location of those users, the actions being taken by provider to address the outage, the estimated time at which service will be restored, recommended actions the impacted facility should take to minimize disruption of service, and the sender’s name, telephone number and email address at which the sender can be reached. Comments are sought regarding the costs and benefits of this approach, and whether other entities involved in the provision of 9-1-1 service should be notified, such as data centers and centralized call offices.

In addition, the *Notice* proposes four means by which the Bureau’s recommendations could be implemented, and

(Continued on page 13)

Under one approach, the FCC would specify minimum standards for 9-1-1 communications reliability, based on recognized industry best practices.



(9-1-1 Reliability - Continued from page 12)

seeks comments on whether one or a combination of more than one of these means should be used:

1. Reporting Requirements

Under this approach, the Commission would require carriers to periodically report on the extent to which they are voluntarily implementing critical best practices, or complying with applicable standards established by the Commission. What costs and benefits would such a reporting obligation create? The Notice notes that prior 9-1-1 reporting requirements “proved of limited use, however, because they lacked the specificity necessary to determine network reliability in individual cases.” Accordingly, it appears unlikely that the FCC will rely solely on further reporting requirements.

2. Certification

Under this approach, the Commission would require providers to certify periodically that their 9-1-1 network service and facilities comply with voluntary industry best practices, reliability requirements specified by the Commission or other standards. This approach is designed to “ensure that senior management is aware of significant vulnerabilities in the 9-1-1 network and accountable for its decisions regarding design, maintenance, and disaster preparedness.”

3. Reliability Requirements

Under a third approach the Commission would specify minimum standards for 9-1-1 communications reliability, based on recognized industry best practices. For instance, the Commission could require service providers to maintain a minimum, specified level of physical diversity for their 9-1-1 circuits in compliance with CSRIC Best

Practice 8-7-0532 or to replace or redesign interdependent backup generators that violate CSRIC Best Practice 8-7-5281. Comments are sought on the costs and benefits of this approach.

4. Compliance Reviews and Inspections

Under this approach, the Commission would conduct periodic compliance reviews or site inspections of service provider facilities to verify that 9-1-1 service providers are adhering to certain standards. According to the *Notice*, this approach may work best as part of an integrated approach, in conjunction with rules setting minimum standards for compliance. Comments are sought on benefits or costs of this approach, as well as whether reviews should be limited to records and documentation of compliance with Commission requirements, or include physical site inspections of network routes.

Comments are due no later than May 13, with replies due by the 28th. The statements of the Democratic commissioners make it clear that they want to take firm action here. The Republican commissioners warn of unintended consequences. While lip service is given in one sentence to the idea that each individual 9-1-1 network is complex and unique in many ways, and that the reliability issues discussed in the *Notice* may not lend themselves to simple solutions based on generalized assumptions, carriers should not count on the Commission to follow that principle here. On the other hand, the recent resignations of FCC Chairman Genachowski and Commissioner McDowell will slow down, and may change, the substance of this proceeding.

We will keep you informed as this important proceeding progresses.

Another educational FTL clip 'n' save sidebar!



What the Heck is a “Derecho”?

For those of you who, like us, had never heard of a “derecho” before the 2012 event, the National Weather Service defines a derecho as “a widespread, long-lived wind storm that is associated with a band of rapidly moving showers or thunderstorms. . . . By definition, if the wind damage swath extends more than 240 miles (about 400 kilometers) and includes wind gusts of at least 58 mph (93 km/h) or greater along most of its length, then the event may be classified as a derecho.”



(Health Effects of RF - Continued from page 3)
deemed intrinsically harmless. Certain fixed transmitters are also excluded, based on a combination of low enough power and high enough antenna mounting.

The current RF exposure levels date back to 1996. There are two sets of numbers: one for the general public, which the FCC intends to be conservative, and somewhat higher limits for those whose occupations entail working with and around radio transmitters and who are therefore presumed to understand the risks and know how to avoid them.

A large community of people believe the present RF standards – and particularly the “general population” standards – are far too lenient. Some fear that even FCC-compliant cell phones and other radio-based devices may be dangerous, especially to children. Others are concerned about exposure from antennas on buildings and towers.

Some of these concerns arise from theories that RF energy does more than just heat tissue. No one with scientific training seriously thinks radio waves can damage cells in the same ways that x-rays can. But other hypotheses abound – for example, that radio waves affect magnetic or electrical properties of molecules within cells. None of these hypotheses has been proven, at least to scientific standards. But that does not hinder their circulation on the Internet. Some observers assert other kinds of evidence – such as ADHD diagnoses growing in synchrony with cell phone adoption – to argue the two are connected. Every statistics student learns that [correlation does not mean causation](#), but the human brain is wired to find these kinds of patterns, which can be very compelling.

The FCC’s recent action is unlikely to satisfy anyone on any side of the issue.

The opening section of the document, dubbed the “First Report and Order” (*First Re&O*) adopts rules the FCC formally proposed ten years ago – a long time even by federal standards. There are no major policy shifts here, just a lot of fine-tuning.

Manufacturers are now permitted to use SAR testing even when it is not required. (Although more conservative and more expensive, SAR compliance can spare a manufacturer the need to design special housings that keep the user at a specified distance from the antenna.) The FCC

has withdrawn its infamous OET Bulletin 65 Supplement C, long the bible on RF exposure testing. Instead, the FCC will now keep that information in its [Knowledge DataBase](#) (KDB) system, for easier updates. The *First Re&O* clarifies that body-worn and implanted medical devices are subject to the RF exposure rules. Labeling and other requirements for use of the “occupational” limits are revised. There are adjustments to the rules for certain fixed transmitters. The FCC now classes the outer ear as an “extremity,” like hands and feet, a step that it concedes will have no discernible practical effect.

The “Further Notice of Proposed Rulemaking” (*FNPRM*) section of the document suggests several additional changes to the rules. These, too, are relatively small-scale adjustments that do not alter the basic structure of the FCC’s regulatory approach.

A large community of people believe the present RF standards are far too lenient.

First are revisions of certain key definitions to better accord with reality. Second, the FCC proposes extensive changes to the methods for determining whether a device is categorically excluded from RF exposure testing. These do not seek to change the level of energy reaching the user. (That happens in the “Notice of Inquiry” section, described below). The aim here, rather, is to make the rules both simpler to apply and more consistent across different kinds of devices. These proposals apply to individual devices and to multiple devices operating at the same location. Third, the FCC proposes to adjust the methods used for assessing compliance of “portable” devices, *i.e.*, those used within eight inches of the body. Fourth, the FCC offers proposals for “mitigating” RF exposure, which involve such activities as labels, signs, barriers, job training, and enforcement. Many of these concern details of limiting and calculating occupational exposure. Finally, the FCC proposes an overall edit and clean-up of the RF exposure rules generally.

The specifics are too detailed for adequate summary here. We urge those interested to consult the *NPRM*, paragraphs 110 through 204.

The “Notice of Inquiry” (*NOI*) section is likely to be the most controversial. Here the FCC proposes to reopen the whole question of what numerical exposure limits are appropriate. It may have added fuel to the fire by stating the intent to “adequately protect the public without imposing an undue burden on industry.” No doubt some commenters will stress the importance of protecting the public regardless of the burden on industry. In addition

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Chronic Press Release Syndrome Afflicts FCC

By the Communications Curmudgeon

[Being the first in an occasional series of grouches from a grumpy communications observer]

On April 8, FCC [Commissioner McDowell issued a press release](#) briefly noting the passing of former British Prime Minister Margaret Thatcher with a six sentence eulogy. Teletype machines in newsrooms all across the globe were no doubt burning hot as journalists and editors scrambled to get the word out that soon-to-be-former-FCC Commissioner McDowell was saddened by Thatcher's death. This communiqué from someone who had apparently met her once many years ago was, I am sure, of great comfort to Lady Thatcher's family and loved ones in their time of grief. But wouldn't a personal note and some flowers have been better?



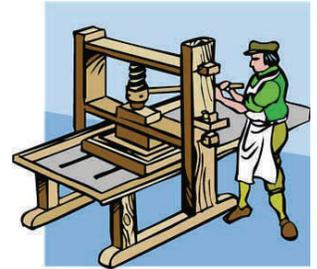
FCC Commissioners routinely issue press releases congratulating each other for various activities, commenting on routine developments, and expressing regret at various deaths or resignations, and delight at various elections or re-appointments. Meaning no disrespect for the Iron Lady, we must ask ourselves whether such press releases

are how the FCC Commissioners and their staffs should really be spending their taxpayer-funded time. I'm surprised we didn't get a raptured press release on the beauty of the cherry blossoms or a press release expressing regret on the Boston bombing. Note to FCC: Just because you have a press office and the modern equivalent of a mimeograph machine does *not* mean that you have to use it constantly to comment on matters that are outside your official duties! The reality is that probably nobody cares, so it is just a waste of time and staff resources.

To be sure, the Commissioners also issue a high volume of press releases that are at least tangentially related to the industry they regulate. In my opinion, even these could be cut by at least 50% with little discernible loss to the security and well-being of the Republic. I'd prefer that the Commissioners spend more time focusing on the issues at hand and less time (i) explaining why what they're doing is important and (ii) patting all concerned on the back for doing their jobs. Fewer press releases, more actions.

Editor's Note

With this issue of *FHH Telecom Law* we are trying an experiment: the inclusion of active links in several of the articles. The use of links is common on our blog (www.CommLawBlog.com). We have not previously used them in the *FTL*, however, mainly because we never got into the habit of doing so back when the *FTL* was prepared the old-fashioned way, on paper (*see* illustration on right), where links would have been useless. But now that we are distributing the *FTL* electronically, it makes sense to provide links to our readers. (Yes, we know that our electronic distribution has been going on for several years already – it takes some of us a while to catch up.) We hope that the links will prove to be a useful resource to readers interested in delving into some of the materials underlying our articles. We welcome your comments on this and any other aspect of *FHH Telecom Law*.



(Health Effects of RF - Continued from page 14)

to numerical limits, issues laid on the table in the *NOI* include:

- ☛ the information that manufacturers and others should provide to consumers;
- ☛ methods for reducing exposure (other than lowering the limits);
- ☛ methods for evaluating exposure; and
- ☛ the costs of imposing “precautionary” limits that

are lower than current science can justify.

We hope the FCC is ready for a large volume of submissions. It has signaled, as plainly as it can, that “vague and unsupported assertions” will not carry much weight. But it will probably get a lot of those anyway.

Comments and replies will be due 90 and 150 days, respectively, after publication in the Federal Register, which will probably happen in late April or in May. Watch CommLawBlog.com for updates.