



governmentattic.org

"Rummaging in the government's attic"

Description of document: Federal Communications Commission (FCC) Transition Briefing Document for the Incoming Biden Administration 2020

Requested date: January 2021

Release date: 05-February-2021

Posted date: 12-July-2021

Source of document: Freedom of Information Act Request
Federal Communications Commission
45 L Street NE
Washington, D.C. 20554
[FOIAonline](#)

The governmentattic.org web site ("the site") is a First Amendment free speech web site and is noncommercial and free to the public. The site and materials made available on the site, such as this file, are for reference only. The governmentattic.org web site and its principals have made every effort to make this information as complete and as accurate as possible, however, there may be mistakes and omissions, both typographical and in content. The governmentattic.org web site and its principals shall have neither liability nor responsibility to any person or entity with respect to any loss or damage caused, or alleged to have been caused, directly or indirectly, by the information provided on the governmentattic.org web site or in this file. The public records published on the site were obtained from government agencies using proper legal channels. Each document is identified as to the source. Any concerns about the contents of the site should be directed to the agency originating the document in question. GovernmentAttic.org is not responsible for the contents of documents published on the website.



Federal Communications Commission
Washington, D.C. 20554

February 5, 2021

VIA ELECTRONIC MAIL

Re: FOIA Control No. FCC-2021-000163

This letter responds to your Freedom of Information Act (FOIA) request for “[a] digital/electronic copy of the transition briefing document(s) (late 2020) prepared by FCC for the incoming Biden Administration.” Your request has been assigned FOIA Control No. FCC-2021-000163.

The Office of General Counsel searched for responsive records. We located 896 pages of records responsive to your request. The records are produced in full without redaction.

We are required by both the FOIA and the Commission’s own rules to charge requesters certain fees associated with the costs of searching for, reviewing, and duplicating the sought after information.¹ To calculate the appropriate fee, requesters are classified as: (1) commercial use requesters; (2) educational requesters, non-commercial scientific organizations, or representatives of the news media; or (3) all other requesters.²

Pursuant to section 0.466(a)(8) of the Commission’s rules, you have been classified for fee purposes under category (3) as an “all other requester.”³ As an “all other requester,” the Commission assesses charges to recover the full, reasonable direct cost of searching for and reproducing records that are responsive to the request; however, you are entitled to be furnished with the first 100 pages of reproduction and the first two hours of search time without charge under section 0.470(a)(3)(i) of the Commission’s rules.⁴ The production in response to your request required less than two hours of search time, and was provided in electronic form *or* did not involve more than 100 pages of duplication. Therefore, you will not be charged any fees.

If you consider this to be a denial of your FOIA request, you may seek review by filing an application for review with the Office of General Counsel. An application for review must be

¹ See 5 U.S.C. § 552(a)(4)(A); 47 CFR § 0.470.

² 47 CFR § 0.470.

³ 47 CFR § 0.466(a)(8).

⁴ 47 CFR § 0.470(a)(3)(i).

received by the Commission within 90 calendar days of the date of this letter.⁵ You may file an application for review by mailing the application to Federal Communications Commission, Office of General Counsel, 45 L Street NE, Washington, DC 20554, or you may file your application for review electronically by e-mailing it to FOIA-Appeal@fcc.gov. Please caption the envelope (or subject line, if via e-mail) and the application itself as “Review of Freedom of Information Action.”

If you would like to discuss this response before filing an application for review to attempt to resolve your dispute without going through the appeals process, you may contact the Commission’s FOIA Public Liaison for assistance at:

FOIA Public Liaison
Federal Communications Commission
Office of the Managing Director
Performance Evaluation and Records Management
45 L Street NE, Washington, DC 20554
202-418-0440
FOIA-Public-Liaison@fcc.gov

If you are unable to resolve your FOIA dispute through the Commission’s FOIA Public Liaison, the Office of Government Information Services (OGIS), the Federal FOIA Ombudsman’s office, offers mediation services to help resolve disputes between FOIA requesters and Federal agencies. The contact information for OGIS is:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road–OGIS
College Park, MD 20740-6001
202-741-5770
877-684-6448
ogis@nara.gov
<https://www.archives.gov/ogis>

⁵ 47 CFR §§ 0.461(j), 1.115; 47 CFR § 1.7 (documents are considered filed with the Commission upon their receipt at the location designated by the Commission).

If you have any questions, please do not hesitate to contact Stephen Duall in the Office of General Counsel at Stephen.Duall@fcc.gov.

Sincerely,

A handwritten signature in black ink that reads "Elizabeth Lyle". The signature is written in a cursive, flowing style.

Elizabeth Lyle
Assistant General Counsel
Administrative Law Division
Office of General Counsel

cc: FCC FOIA Office

2020 Presidential Transition Qualtrics Instructions

Succession Planning - DUE SEPTEMBER 15, 2020

Agency heads are statutorily required to ensure that a succession plan is in place for each senior noncareer position in the agency. Agencies shall ensure that such succession plans are in place no later than **September 15, 2020**. Under the Presidential Transition Act of 1963, as amended, agencies' succession plans must be in accordance with subchapter III of chapter 33 of title 5, which includes the Federal Vacancies Reform Act (VRA).

As such, no later than September 15, Agency Transition Directors/Presidential Transition Communication Points of Contact should submit via the tool provided (link below):

1. The name of a career employee for each senior, Senate confirmed position who would be eligible for presidential designation to serve as an acting officer under section 3345(a)(3) in the event of a vacancy
2. A certification of completion of the broader succession plan for all senior noncareer positions
3. A high level organizational chart inclusive of the senior noncareer positions identified in the succession plan
4. Any other applicable attachments

You will receive a copy of your answers via email.

If you need to make any changes to a succession plan that has already been submitted, please email presidentialtransition2020@gsa.gov with all necessary updates.

Using the Tool to Submit Succession Plans

Please submit succession plans using the following link:
https://feedback.gsa.gov/jfe/form/SV_3K9jaTbuCSTzkmF

1. Select your organization from the drop down menu.
 - If your organization is not listed, please select “Other”. There will be a spot on the next page for you to type in the name of your organization.



Agency heads are statutorily required to ensure that a succession plan is in place for each senior noncareer position in the agency. Agencies shall ensure that such succession plans are in place no later than **September 15, 2020**. Under the Presidential Transition Act of 1963, as amended, agencies' succession plans must be in accordance with subchapter III of chapter 33 of title 5, which includes the Federal Vacancies Reform Act (VRA).


As such, no later than September 15, 2020 agencies shall submit (1) the name of a career employee for each senior, Senate-confirmed position who would be eligible for presidential designation to serve as an acting officer under 5 U.S.C. § 3345(a)(3) in the event of a vacancy; (2) a certification of completion of the broader succession plan for all senior noncareer positions; (3) a high level organizational chart inclusive of the senior noncareer positions identified in the succession plan; and (4) any other applicable attachments.

If an agency does not have any Senate-confirmed positions that would be eligible for presidential designation to serve as acting officers under 5 U.S.C. § 3345(a)(3) in the event of vacancies, the Agency Transition Director or Presidential Transition Communication Point of Contact shall still submit a certification of the completion of the broader succession plan for all senior noncareer positions.

Please select your organization:

Next Page

2. Enter the name of your Agency Transition Director/Presidential Transition Communication Point of Contact.



Contact Information

Please enter the name of the Agency Transition Director/Presidential Transition Communication Point of Contact below:

3. Fill out **your** contact information.

Please provide **your** first name, last name, email address, and phone number below so we may contact you with any questions regarding your entries in this form.

First Name

Last Name

Email Address

Phone Number (xxx-xxx-xxxx)

4. If applicable, please provide the first name, last name, email address, and phone number for an **additional point of contact** at your organization who we may contact with any questions regarding your entries on this form.

If applicable, please provide the first name, last name, email address, and phone number for an **additional point of contact** at your organization who we may contact with any questions regarding your entries on this form.

First Name

Last Name

Email Address

Phone Number (xxx-xxx-xxxx)

5. Click on the gray box to upload an organizational chart.

- Please indicate which positions are Senate confirmed and which positions are non-Senate confirmed senior level positions on this organizational chart.

Succession Planning

This section of the form will collect information related to your organization's succession plan. You will be asked to provide an organizational chart, a certification that you have completed succession planning for all senior level positions at your organization, and the names of acting career employees for all Senate confirmed positions (PAS).

If your organization does not have any Senate confirmed officials, please upload your organizational chart, certify that you have completed succession plans for senior level noncareer positions, and enter 0 when asked about the number of Senate confirmed positions you will be entering.

Please upload an organizational chart that shows the positions you have included in your succession plan in the context of the whole agency.

Please indicate which positions are Senate confirmed versus non-Senate confirmed senior level positions.

Drop files or click here to upload

6. Check the box to certify that your agency has completed succession plans for all senior noncareer level positions.

- If no succession plan is needed at this time, please select that box. An additional box will populate for you to explain why.

Certifying Broader Succession Plans

If an agency does not have any Senate-confirmed officials (which would require a Presidential designation), the Agency Transition Director or Presidential Transition Communication Point of Contact shall still submit a certification of the completion of the broader succession plan for all senior noncareer positions.

- Yes, I certify that my agency has completed a broader succession plan for all senior noncareer positions.
- I have reviewed my agency's senior noncareer positions and no succession plan is needed at this time.

Please explain why no succession plan is needed at this time (termed noncareer positions, no senior noncareer positions, etc.)

7. Indicate how many Senate confirmed positions you are entering into the succession plan.

- If your organization does not have any Senate confirmed positions, please enter 0 in this area.

How many Senate confirmed positions will you be entering for this succession plan?
(Numeric responses only)

On the next page you will be asked to enter each position title and the name of each noncareer Senate confirmed official and each potential acting career official. You will have an opportunity to attach any additional documentation you would like to include on the final page of your response.

8. Fill in the position title, incumbent first and last name, and the acting first and last name for each Senate confirmed position.

Senate Confirmed Position 1: Please enter the requested information below.

Position Title	<input type="text"/>
Incumbent First and Last Name	<input type="text"/>
Potential Acting First and Last Name	<input type="text"/>

9. There is an optional page where you can upload any additional documentation you would like to include.

This section of the form is **optional**.

Please upload any supplementary documentation you would like to include here. You may attach up to 5 supplementary documents to this form.

You will receive an email of your responses upon submission. Please email presidentialtransition2020@gsa.gov with any questions or if you need to edit your responses.

Please upload any additional documentation you would like to include here.

Drop files or click here to upload

Please upload any additional documentation you would like to include here.

Drop files or click here to upload

10. Submit.

Certifying Briefing Materials - DUE NOVEMBER 1, 2020

Agencies are statutorily required to prepare and finalize briefing materials for the possible incoming Administration no later than **November 1, 2020**. As such, agencies should certify that they have done so on or before November 1, 2020.

Given the different needs of potential agency review teams and incoming administration officials, agencies may be requested to prepare tailored briefing materials as appropriate. While agencies have discretion as to the format and information included in the briefing materials, they should be prepared with the needs of the intended audiences in mind, and make electronic versions available.

At a minimum, briefing materials should include information on the following:

1. Overview of the organization
2. The top five to ten operational items a new administration will have to handle immediately after Inauguration
3. Budget overview
4. Current leadership team
5. Congressional considerations

Agencies should ensure information included in briefing materials is approved for release to the intended audience. As a general principle, briefing materials for the agency review teams may include information that is releasable to members of the public through a Freedom of Information Act (FOIA) request, but should not include pre-decisional or deliberative information.

Briefing materials should **NOT** be submitted to GSA. Agencies will just be required to certify that the briefing materials are completed.

Using the Tool to Certify Completion of Briefing Materials

Please submit succession plans using the following link:
https://feedback.gsa.gov/jfe/form/SV_e516cWg83IUa125

1. Select your organization from the drop down menu.
 - If your organization is not listed, please select “Other” and type in the name of your organization in the provided box.

Please select your organization:

If "Other" was selected, please write the name of your organization below.

2. Provide **your** contact information.

Please provide your first name, last name, email address, and phone number below so we may contact you with any questions regarding your entries in this form.

First Name

Last Name

Email Address

Phone Number (xxx-xxx-xxxx)

3. Certify that your agency has prepared and finalized briefing materials for the potential incoming Agency Review Teams.

Please certify that your agency has prepared and finalized briefing materials for the potential incoming Agency Review Teams.

- I certify that my agency has prepared and finalized briefing materials for the potential incoming Agency Review Teams.

4. Submit.

SUCCESSION PLAN for the FEDERAL COMMUNICATIONS COMMISSION

Five Commissioners direct the Federal Communications Commission. They are appointed by the President and confirmed by the Senate. Only three Commissioners can be of the same political party at any given time, and none can have financial interests in any Commission-related business.

The President has authority to select one of the sitting Commissioners to serve as Chairman or as Acting Chairman without further Senate approval. All Commissioners, including the Chairman, are appointed to terms of five years, except when filling the unexpired term of a previous Commissioner.

Commissioners serve through the end of their term and may continue serving until their successors are appointed, have been confirmed, and taken the oath of office, except that they shall not continue to serve beyond the expiration of the next session of Congress subsequent to the expiration of their term of office.

As three members of the Commission constitute a quorum, the Commission therefore can continue to operate and legally transact business as long as there are three Commissioners vote to do so.

The names and terms of the current Commissioners are:

Chairman Ajit Pai - five-year term ends 06/30/2021

Commissioner Michael O’Rielly - five-year term ended 6/30/2019*

Commissioner Brendan Carr - five-year term ends 6/30/2023

Commissioner Jessica Rosenworcel - five-year term ended 6/30/2020**

Commissioner Geoffrey Starks - five-year term ends 6/30/2022

*Not to exceed the end of the current session of Congress.

**Not to exceed the end of the next session of Congress.

**Consumer and Governmental Affairs Bureau
Briefing Sheets
October 2020
Table of Contents**

SUBJECT	PAGE
Telephone Consumer Protection Act (TCPA) (Fax Advertising and “Robocalls”) and CAN-SPAM Rules	1
Caller ID Rules	9
Establishment of a Public Safety Answering Point (PSAP) Do-Not-Call Registry	12
Cramming and Truth-in-Billing (TiB) Rules	13
Slamming	15
Consumer Advisory Committee (CAC)	16
Complaint and Inquiry Process (CICD)	17
Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA)	18
Hearing Aid Compatibility (HAC)	21
Audio Description (AD)	23
Telecommunications Relay Services (TRS)	25
User Interfaces (TV and Set-Top Box Controls, Menus, and Program Guides)	35
Real-Time Text	37
Closed Captioning	40
Access to Emergency Information on Television	43
Emergency Alerts	45
Disability Advisory Committee (DAC)	48
Intergovernmental Advisory Committee (IAC)	51
Hospital Robocall Protection Group (HRPG)	54
Office of Native Affairs and Policy (ONAP)	57
Native Nations Communications Task Force (NNCTF)	65
Mobile Device Theft Prevention	68
Consumer Affairs and Outreach Division (CAOD)	70
FCC Rural Tour Program (RTP)	75
Robocalls and Spoofing Consumer Outreach Efforts	77
Lifeline Consumer Outreach- Lifeline Awareness Week	80
Web and Print Publishing Division (WPPD)	82

CGB BRIEFING SHEETS

SUBJECT: Telephone Consumer Protection Act (TCPA) (Fax Advertising and “Robocalls”) and CAN-SPAM Rules

SUMMARY/BACKGROUND:

Fax Rules

- In September 2020, CGB issued a declaratory ruling in *Joseph T. Ryerson & Son, Inc.* The Bureau determined that that the technology described by Ryerson in its Petition was sufficiently similar to that described in *Amerifactors*, and is thus governed by the analysis there. As explained in *Amerifactors*, to the extent an unsolicited facsimile advertisement is sent to an online service that effectively receives faxes “sent as email over the Internet” and is not itself “equipment which has the capacity . . . to transcribe text or images (or both) from an electronic signal received over a regular telephone line onto paper,” the service is not a “telephone facsimile machine” and is thus outside the scope of the statutory prohibition.
- In December 2019, CGB issued a declaratory ruling in *Amerifactors Financial Group* clarifying that an online fax service that effectively receives faxes “sent as email over the Internet” and is not itself “equipment which has the capacity . . . to transcribe text or images (or both) from an electronic signal received over a regular telephone line onto paper” is not a “telephone facsimile machine” and thus falls outside the scope of the statutory prohibition.
- In March 2017, the Court of Appeals for the D.C. Circuit held that the Commission did not have authority to require opt-out notices on solicited faxes and held that the 2006 Solicited Fax Rule was unlawful. Accordingly, the Consumer and Governmental Affairs Bureau deleted the rule requiring opt-out notices on faxes sent with the recipient’s prior express permission or consent. The Bureau also dismissed as moot several related petitions.
- On April 5, 2006, the Commission adopted a Report and Order and Third Order on Reconsideration to implement the Junk Fax Prevention Act.
- The Junk Fax Prevention Act of 2005 amended the TCPA and in general: 1) codified an established business relationship exemption to the prohibition on sending unsolicited facsimile advertisements; 2) required the sender of a fax advertisement to provide specified notice and contact information on the fax message to allow recipients to “opt-out” of any future fax transmissions from the sender; and 3) specified circumstances under which a request to “opt-out” is valid.

- Pursuant to the TCPA, in 1992 the Commission adopted rules to restrict the use of the telephone network for unsolicited advertising via telephone and facsimile. The fax rules apply to faxes sent to both residential and business numbers.

Robocalls

- Pursuant to the TCPA and except as noted below, the Commission’s implementing rules since 1992 have prohibited:
 - Autodialed *or* prerecorded non-emergency calls, regardless of content, to wireless numbers, emergency lines including 911, hospital room phones, and other specified recipients, unless the caller obtains prior express consent from the called party; and
 - Prerecorded telemarketing calls to residential lines, unless the caller obtains prior express consent from the called party.
- The TCPA was amended in 2015 to remove autodialed or prerecorded calls solely to collect debts owed to or guaranteed by the United States from the requirement to obtain prior express consent and to authorize the Commission to place limits on the number and duration of calls to wireless telephone numbers to collect debts owed to or guaranteed by the United States. In July 2020, the Supreme Court determined that the amendment violated the First Amendment, but severed it from the rest of the TCPA, so that the remainder of the law remains in effect.
- On February 15, 2012, the Commission adopted a Report and Order revising the rules applicable to autodialed or prerecorded message calls. The revised rules: (1) require prior *written* consent (obtained after making certain disclosures) for telemarketing robocalls, rather than allowing either oral or written consent; (2) eliminate the “established business relationship” exemption that previously allowed telemarketing robocalls to residential lines without prior consent if the consumer has done business with the caller (*i.e.*, made a purchase, inquiry, or application); (3) require an automated, interactive opt-out mechanism for telemarketing robocalls so that consumers can immediately, during a call, tell the caller not to make any more calls; (4) exempt health care calls to residential lines from TCPA requirements because consumer rights are already protected by a separate federal statute (the Health Insurance Portability and Accountability Act); and (5) tighten the call abandonment rule, which restricts “dead air” telemarketing calls, by requiring telemarketers to limit their abandoned calls to the established 3% level in every telemarketing campaign.
- The 2012 rule changes did not modify the consent requirements for certain categories of autodialed or prerecorded message calls under the TCPA rules, including calls by or on behalf of tax-exempt non-profit organizations; calls for political purposes, such as those made by politicians or political campaigns; and calls that deliver purely “informational” messages, such as notifying recipients of a flight cancellation.

CAN-SPAM rules

- On December 8, 2003, Congress passed the CAN-SPAM Act to address the growing number of unwanted commercial electronic mail messages, which Congress determined to be costly, inconvenient, and often fraudulent or deceptive. The Act prohibits any person from transmitting such messages with false or misleading information about source or content, and it gives recipients the right to decline to receive additional messages from the same source. The Federal Trade Commission and Department of Justice are charged with general enforcement of the CAN-SPAM Act. Section 14 of the CAN-SPAM Act requires the Commission, in consultation with the FTC, to promulgate rules to protect consumers from unwanted “mobile service commercial messages.” The Commission adopted rules in August 2004 that prohibit the sending of Mobile Service Commercial Messages (MSCMs) unless the individual addressee has given the sender express prior authorization. This authorization may be given orally, on paper, or electronically.
- The Commission’s rules require all wireless service carriers to provide to the Commission all of the Internet domain names used to transmit commercial electronic messages to wireless devices, including cell phones and pagers. From these submissions the Commission compiles a wireless domain name list posted on the FCC website that enables senders of commercial electronic mail to determine the addresses used to send messages to mobile devices. The Commission’s CAN-SPAM rules prohibit sending any MSCMs to addresses that contain domain names that have been posted on the wireless domain name list for at least 30 days or at any time if the sender otherwise knows that the message is addressed to a wireless device.

RECENT ACTION:

Robocalls

- In October 2020, the Commission issued a Notice of Proposed Rulemaking seeking comment on proposals to implement section 8 of the TRACED Act, which requires the Commission to ensure that any exemption adopted pursuant to sections 227(b)(2)(B) or (C) includes requirements with respect to: (1) the classes of parties that may make such calls; (2) the classes of parties that may be called; and (3) the number of such calls that may be made to a particular called party.
- In July 2020, CGB confirmed in a Public Notice that calls and text messages made by or on behalf of commercial labs, health insurers, physicians, and pharmacies pursuant to guidance from federal, state, or local government officials, to individuals who have tested positive for COVID-19 to provide them with information regarding donating their plasma after recovering, fall within the “emergency purposes” exception to the TCPA. As a result, such calls and texts during the ongoing pandemic do not require prior express consent to be lawful.

- In July 2020, the Commission issued a *Third Report and Order, Order on Reconsideration, and Fourth Further Notice of Proposed Rulemaking* establishing two safe harbors from liability for the unintended or inadvertent blocking of wanted calls, thus eliminating a concern that kept some companies from implementing robust robocall blocking efforts. The first safe harbor protects phone companies that use reasonable analytics, including caller ID authentication information, to identify and block illegal or unwanted calls from liability. The second safe harbor protects providers that block call traffic from bad actor upstream voice service providers that pass illegal or unwanted calls along to other providers, when those upstream providers have been notified but fail to take action to stop these calls. Through a Further Notice of Proposed Rulemaking, the Commission asks about additional steps to protect consumers from robocalls and better inform them about provider blocking efforts. The Further Notice specifically seeks comment on whether to obligate phone companies to better police their networks against illegal calls, and whether to require them to provide information about blocked calls to consumers for free. In addition, the Further Notice seeks comment on notification and effective redress mechanisms for callers when their calls are blocked, and on whether measures are necessary to address the mislabeling of calls.
- In June 2020, the Commission issued a Call Blocking Report on the deployment and implementation of call blocking and caller ID authentication, in consultation with the Wireline Competition Bureau and Public Safety and Homeland Security Bureau. The Report responds to the Commission’s directive in the *2019 Call Blocking Declaratory Ruling* that the Bureau prepare a report “on the state of deployment of advanced methods and tools to eliminate such calls, including the impact of call blocking on 911 and public safety.” The data and information contained in this Report relies on a number of sources, primarily from voice service providers and third-party analytics companies.
- In June 2020, CGB issued a Declaratory Ruling in *P2P Alliance* clarifying that the fact that a calling platform or other equipment is used to make calls or send texts to a large volume of telephone numbers is not probative of whether that equipment constitutes an autodialer under the TCPA. Instead, the decision makes clear that if a calling platform is not capable of originating a call or sending a text without a person actively and affirmatively manually dialing each one, that platform is not an autodialer and calls or texts made using it are not subject to the TCPA’s restrictions on calls and texts to wireless phones.
- In June 2020, CGB issued a Declaratory Ruling and Order in *Anthem, Inc.*, affirming that callers must get consumers’ prior express consent before making autodialed calls or robocalls, and thus denying Anthem’s requests.
- In April 2020, the Commission issued a Notice of Proposed Rulemaking seeking comment on protecting called parties from one-ring scams, as required by section 12 of the TRACED Act.

- In March 2020, CGB issued a Declaratory Ruling confirming that the COVID-19 pandemic constitutes an “emergency” under the TCPA and that consequently hospitals, health care providers, state and local health officials, and other government officials may lawfully communicate information about the novel coronavirus as well as mitigation measures without violating federal law.
- In December 2019, CGB issued an order in *AmeriCredit Financial Services Inc. d/b/a GM Financial* granting a limited waiver to the petitioner that allows it to satisfy the Commission’s identification requirements for artificial or prerecorded voice calls by providing customers with its “doing business as” (d/b/a) name, GM Financial. The Bureau concluded that granting this limited waiver will better serve the public interest by ensuring that GM Financial’s customers understand the identity of the calling party and are not confused by the use of an unfamiliar legacy name.
- In June 2019, the Commission adopted a *Declaratory Ruling and Third Further Notice of Proposed Rulemaking* in which it clarified that voice service providers may offer call-blocking services by default while giving consumers the choice to opt out, rather than only offering those blocking services on an opt-in basis, and clarified that voice service providers may offer opt-out call-blocking programs based on any reasonable analytics designed to identify unwanted calls. The Commission also clarified that nothing in the Act or its rules prohibits a voice service provider from offering an opt-in white list blocking program using the consumer’s contact list. In the NPRM portion of the item, the Commission took additional steps to protect consumers from illegal calls and ensure the effectiveness and integrity of the SHAKEN/STIR Caller ID authentication framework by: proposing rules to allow voice service providers to block calls based on failed Caller ID authentication in certain instances; proposing protections to ensure that the most important calls are not blocked; and proposing to require voice service providers to implement the SHAKEN/STIR Caller ID authentication framework in the event that major voice service providers have not met Chairman’s Pai’s deadline for doing so by the end of 2019. The item also instructed the Consumer and Governmental Affairs Bureau, in consultation with the Wireline Competition Bureau and the Public Safety and Homeland Security Bureau, to prepare two reports on the implementation and effectiveness of call blocking measures; the reports are due in June 2020 and June 2021.
- In February 2019, CGB issued a Robocalls Report in consultation with the Federal Trade Commission. The report fulfilled a Commission directive to describe “both the progress made by industry, government, and consumers in combatting illegal robocalls, and the remaining challenges to continuing these important efforts.”
- In December 2018, the Commission adopted an order authorizing establishment of a reassigned numbers database. The database will reduce the number of unwanted phone calls Americans receive. The new rules establish a single, comprehensive database with information provided by phone companies that callers will be able to use to avoid calling reassigned numbers. Callers using the database will be able to find out if telephone numbers assigned to consumers who want their calls to have been disconnected and made

eligible for reassignment. Any such numbers can then be purged from their call lists, thereby decreasing the number of unwanted calls to consumers. To further encourage callers to use the database, the Commission is providing callers a safe harbor from liability for any calls to reassigned numbers caused by database error.

- In November 2017, the Commission adopted an R&O and FNPRM regarding carrier-initiated blocking of unlawful robocalls. The R&O adopted rules to explicitly authorize voice service providers to block calls purporting, based on Caller ID, to originate from an invalid telephone number that cannot exist; from a valid telephone number that has not yet been allocated to any provider; or from a valid telephone number that has been allocated to a provider, but is not used. The R&O also codified a prior CGB Public Notice clarifying that a voice service provider may block calls when the subscriber to whom a particular telephone number is assigned asks that calls originating from that telephone number be blocked. The FNPRM sought comment on potential mechanisms to ensure that erroneously blocked calls can be unblocked as quickly as possible and without undue harm to callers and consumers and on ways to measure the effectiveness of FCC robocalling efforts as well as those of industry. The R&O and FNPRM also directed the Consumer and Governmental Affairs Bureau, in consultation with the Federal Trade Commission's Bureau of Consumer Protection, to prepare a report on the state of robocalling in the United States and to submit it to the Commission by January 2019. Due to the partial Federal Government shutdown, the report was released in February 2019.
- In July 2016, the Commission addressed petitions that sought clarity on how the TCPA applies to autodialed and prerecorded calls by schools and by utilities, including whether certain types of calls fall within the emergency-purpose exception of the TCPA.
- In June 2016, the Commission granted a petition seeking clarification of how the TCPA applies to calls by the federal government. In *Broadnet*, the Commission ruled that the federal government and its agents are not "persons" as defined in the Communications Act and therefore are not subject to the TCPA's prior express consent requirement. Two reconsideration petitions are pending, one asking the Commission to narrow its original ruling, and the other, to broaden it. In May 2018, the Commission sought further comment on the pending petitions for reconsideration.
- In June 2015, the Commission addressed almost two dozen petitions and other requests that sought clarity on how the Commission interprets the TCPA. The TCPA requires prior express consent for non-emergency autodialed, prerecorded, or artificial voice calls to wireless phone numbers, as well as for prerecorded telemarketing calls to residential wireline numbers. Several aspects of the Declaratory Ruling and Order were appealed to the Court of Appeals for the D.C. Circuit. In March 2018, the Court issued a decision overturning certain aspects of the clarifications the Commission had set forth in the *2015 Declaratory Ruling and Order*. The Court set aside the Commission's interpretation of "automatic telephone dialing system" and the Commission's treatment of autodialed calls to reassigned wireless numbers. In May and October 2018, the Commission sought

comment on these issues and others from the *2015 Declaratory Ruling and Order*. In July 2020, the Supreme Court granted cert to consider how circuit courts have interpreted the definition of “autodialer.”

- In March 2014, the Commission released Declaratory Rulings concerning petitions filed by the Cargo Airline Association (CAA) and GroupMe, Inc. In *Cargo*, the Commission granted CAA’s request that package delivery notifications be exempted from the TCPA’s prior express consent requirement for autodialed or prerecorded non-emergency calls to wireless numbers. Utilizing the TCPA’s exemption provision for the first time, the Commission allowed package delivery companies to alert wireless consumers about their packages, as long as consumers are not charged and may easily opt out of future messages if they wish, among other pro-consumer conditions. In *GroupMe*, the Commission determined that group organizers using GroupMe’s social media texting service could act as intermediaries who, on behalf of GroupMe, obtain and convey to GroupMe the group members’ consent to receive administrative messages from GroupMe regarding joining the group. The Commission noted, however, that if consent was not actually obtained, the sender of the autodialed text messages, GroupMe, remained liable for initiating or making autodialed calls to wireless numbers. The Commission also emphasized that an intermediary can only convey consent that has actually been obtained, and it cannot provide consent on behalf of another party.
- In November 2012, the Commission released a Declaratory Ruling in response to a petition filed by SoundBite Communications, clarifying that sending a one-time text message confirming a consumer’s request that no further text messages be sent does not violate the TCPA or the Commission’s rules as long as the confirmation text only confirms receipt of the consumer’s opt-out request, and does not contain marketing, solicitations, or an attempt to convince the consumer to reconsider his or her opt-out decision. The ruling applies only when the sender of the text messages has obtained prior express consent, as required by the TCPA and Commission rules, from the consumer to be sent text messages using an automatic telephone dialing system.

Fax advertising

- In March 2017, the Court of Appeals for the D.C. Circuit ruled that the Commission did not have statutory authority to adopt the rule requiring opt-out notices on fax ads sent with consent. The D.C. Circuit later denied rehearing, and the U.S. Supreme Court denied a petition for certiorari. Accordingly, the Consumer and Governmental Affairs Bureau deleted the rule requiring opt-out notices on faxes sent with the recipient’s prior express permission or consent. The Bureau also dismissed as moot several related petitions.
- In an order issued in November 2016, CGB addressed an additional 26 fax waiver requests.

- In two orders issued in August and December 2015, CGB addressed more than one hundred additional fax waiver requests using the factors described in the *Anda Order*.
- On October 30, 2014, the Commission released an Order in response to an application for review filed by Anda, Inc., and 24 petitions for declaratory ruling and/or waiver filed by other parties. All of the parties requested relief from the requirement that senders of fax ads must include certain information on the fax that will allow consumers to opt out, even if the recipients previously agreed to receive fax ads from such senders. In the Order, the Commission confirmed the opt-out notice requirement but also recognized that some parties who had sent fax ads with the recipient's prior express permission may have reasonably been uncertain about whether this notice requirement applied to them. The Commission therefore granted retroactive waivers of the opt-out notice requirement to the individual parties, temporarily providing them with relief from any past obligation to have provided the opt-out notice as required by the Commission's rules. The *Anda Order* provided a six-month window for these waiver recipients to come into compliance with the opt-out requirement, and the Consumer and Governmental Affairs Bureau conducted outreach to inform senders of the opt-out notice requirement. The Commission emphasized that, after this six-month window, all waiver recipients must include the opt-out notice in the precise manner required by the rules. The Commission also noted that other, similarly situated parties may also seek waivers such as those granted in the Order, and it stated that it expected parties to make every effort to file such waiver requests within six months of the release of the Order.

CGB BRIEFING SHEET

SUBJECT: Caller ID Rules

SUMMARY/BACKGROUND:

NASA's Kennedy Space Center (NASA), the Liberty Public School District in Liberty, Missouri (Liberty Schools), Chevrah Hatzalah Volunteer Ambulance (Hatzalah) and the Enlarged City School District of Middletown, New York (Middletown Schools) filed separate petitions requesting limited waivers of the Commission's Caller ID rules at 47 CFR § 64.1601(b). NASA, Liberty Schools and Middletown Schools requested waivers to allow them to deal with threatening phone calls to their facilities. In response to threats made via phone to various Jewish Community Centers (JCCs), Senator Charles E. Schumer submitted a letter suggesting consideration of a similar waiver on behalf of JCCs. Hatzalah requested a waiver to allow it to more effectively locate callers to its ambulance service.

In 1994, the Commission adopted rules that require common carriers using Signaling System 7 (SS7) to transmit calling party number (CPN) on interstate calls to interconnecting carriers. The Commission concluded that passage of CPN over interstate facilities made possible a wide range of services, and that promoting the development of such services was consistent with the Commission's responsibilities under the Communications Act. In adopting this requirement, however, the Commission recognized that unrestricted CPN transmission could intrude upon the privacy interests of calling parties wishing to remain anonymous. Therefore, the Commission's Caller ID rules at 47 C.F.R. § 64.1601(b) prohibit terminating carriers from passing the CPN to the called party where a privacy request has been made by the caller. Specifically, the rules require carriers to recognize *67 as a request that they not pass the calling party's number. Section 64.1601(b) provides that "[n]o common carrier subscribing to or offering any service that delivers CPN may override the privacy indicator associated with an interstate call."

2002 Insight Order. In 2002, the Commission's Common Carrier Bureau granted a limited waiver of the Caller ID rules to INSIGHT 100, a non-profit corporation whose members include state and private universities and public and private hospitals, which provide extensive residential facilities to students and patients and are responsible for the delivery of emergency response and public safety services within their campuses.

The waiver was limited to:

- Hospitals or universities that provide residential facilities or services within a defined geographic area under the control of the institution.
- The entity must have primary or exclusive responsibility for the emergency response and/or security services provided to residents.
- The entity must provide telecommunications services within the geographic area by operating central office-class equipment.

- The entity must implement privacy protection measures so that no unauthorized persons gain access to CPN.

As for Caller ID rules in general, the Truth in Caller ID Act was signed into law on December 22, 2010. It amends section 227 of the Communications Act to make it unlawful to cause any Caller ID service to knowingly transmit misleading or inaccurate Caller ID information with the intent to defraud or cause harm, or wrongfully obtain anything of value, unless such transmission is exempted in connection with: (1) exemptions the FCC deems appropriate; (2) authorized law enforcement activities; or (3) a court order specifically authorizing Caller ID manipulation. The ability of consumers to block transmission of Caller ID information is protected. In June 2011, the Commission issued a Report and Order adopting rules to implement the Truth in Caller ID Act.

STATUS:

- On October 25, 2017, the Commission issued a Caller ID Report and Order amending its rules to ensure that security and law enforcement personnel have quick access to the blocked Caller ID information they need to identify and thwart threatening callers, without the regulatory delay inherent in applying for and being granted a waiver of the rules. At the same time, to protect the privacy of law-abiding consumers, the Commission limited access to blocked Caller ID information to law enforcement personnel and others responsible for the safety and security of the threatened party. The Commission also provided an exemption for non-public emergency services, such as private ambulance services, to obtain blocked Caller ID information of callers requesting their assistance. (A similar exemption already existed for public emergency services.)
- On March 3, 2017, CGB granted to JCCs and any carriers that serve JCCs a temporary, emergency waiver of section 64.1601(b) of the Commission's rules. In addition, CGB sought comment on whether to make this waiver permanent. As noted above, a Report and Order issued in October 2017 amended the Caller ID rules so that the emergency waiver was no longer necessary.
- On May 9, 2013, CGB granted the Liberty petition, and on April 13, 2016, CGB granted the Middletown petition. The Bureau Orders concluded that the limited waivers will serve the public interest by allowing security and law enforcement personnel to respond rapidly to telephone calls threatening the safety of schoolchildren and school workers, without undermining the policy objectives of the Commission's CPN rules.
- On February 20, 2013, CGB granted the Hatzalah waiver request subject to certain conditions. The Bureau Order similarly concluded that a limited waiver would serve the public interest by allowing Hatzalah to respond more effectively to emergency calls for its ambulance service, thereby protecting public safety without undermining the policy objectives of the Commission's CPN rules.

- On May 23, 2012, CGB granted the NASA waiver request, subject to certain conditions, concluding that a limited waiver would serve the public interest by allowing security and law enforcement personnel to rapidly respond to threatening telephone calls made to the Kennedy Space Center, thereby protecting national security interests without undermining the policy objectives of the Commission's CPN rules.

CGB BRIEFING SHEET

SUBJECT: Establishment of a Public Safety Answering Point (PSAP) Do-Not-Call Registry

SUMMARY/BACKGROUND:

The Commission works with public safety organizations to ensure that PSAPs are made aware of the opportunity to place their phone numbers on the registry, and with robocalling equipment operators to inform them about the new requirements. Commission staff will continue to work on the registry's operational details.

On February 22, 2012, the President signed into law the Middle Class Tax Relief and Job Creation Act of 2012. In relevant part, section 6507 of the Tax Relief Act requires the Commission to initiate, within 90 days after enactment, a proceeding to create a registry that allows PSAPs to register telephone numbers on a Do-Not-Call list and prohibit the use of automatic dialing ("robocall") equipment to contact those numbers. In addition, the Tax Relief Act establishes a range of monetary penalties for entities that disclose the registered numbers or use automatic dialing equipment to contact any number on the PSAP registry. The purpose of the provision is to prevent the use of "automatic dialing equipment" to generate large numbers of phone calls to public safety lines in a short period of time, which can tie up those lines, divert critical responder resources away from emergency services, and impede public access to emergency lines.

On May 22, 2012, the Commission released a Notice of Proposed Rulemaking initiating a proceeding to create a PSAP Do-Not-Call registry. On October 17, 2012, the Commission released a Report and Order establishing a specialized Do-Not-Call registry for PSAPs and prohibiting the use of robocalling equipment to contact registered PSAP phone numbers other than for an emergency purpose. Specifically, the rules: 1) allow PSAPs to upload any number associated with the provision of emergency services or communications with other public safety agencies onto a specialized Do-Not-Call registry; 2) prohibit operators of robocalling equipment from using such equipment to contact any number on the registry except for an emergency purpose; and 3) adopt specific monetary penalties, as required by the Tax Relief Act, for contacting or disclosing numbers contained in the PSAP registry.

In 2019, Congress appropriated funds to support the information technology work needed to implement the PSAP Do-Not-Call registry.

CGB BRIEFING SHEET

SUBJECT: Truth-in-Billing (TiB) Rules (including anti-slamming and anti-cramming provisions)

SUMMARY/BACKGROUND:

- CGB continues to review complaints and work with the Enforcement Bureau to protect consumers from slamming and cramming.
- In 1998, the Commission facilitated an industry agreement on voluntary wireline “best practices” to combat cramming.
- In 1999, pursuant to Sections 258 and 201(b) of the Communications Act of 1934, as amended, the Commission adopted TiB rules to address growing confusion regarding telephone bills, slamming (unauthorized carrier changes), and cramming (billing unauthorized charges). Rules apply to interstate and intrastate charges and telephone bills. All rules adopted in 1999 applied to wireline, and several subsequently were applied to Commercial Mobile Radio Service (CMRS).
- On July 12, 2011, the Commission adopted an NPRM seeking comment on additional measures to combat wireline cramming and on whether there is need for additional rules for CMRS and Voice-over-Internet-Protocol service (VoIP).
- On July 13, 2011, the Senate Commerce Committee held a hearing on cramming. It concurrently released a majority staff report concluding that most third-party charges on wireline telephone bills were unauthorized and stating that CMRS cramming appeared to be a comparatively smaller problem.
- On April 27, 2012, the Commission adopted a Report and Order and Further Notice of Proposed Rulemaking on cramming. In it, the Commission adopted rules requiring wireline carriers to: 1) notify subscribers – at the point of sale, on bills, and on websites – of options to block third party charges, if any, offered by the carrier; and 2) place third-party charges for non-telecommunications services in a distinct section of the bill separate from carrier charges, and provide a separate subtotal on the payment page of a paper bill or equivalent location on an electronic bill. These rules do not apply to bills containing charges only for intrastate services. The rules requiring billing system changes became effective December 26, 2012; rules not requiring billing system changes became effective November 13, 2012. The Commission also sought comment on additional wireline measures, including an opt-in requirement whereby wireline carriers would be required to obtain prior subscriber approval to place third-party charges on telephone bills, and on whether there is need for rules regarding CMRS and VoIP. The comment cycle closed on July 20, 2012.
- On April 17, 2013, CGB held a public workshop. The purpose of the workshop was to educate consumers about how to detect and prevent cramming by utilizing the information disclosures and revised bill formatting required by the rules, which became fully effective in December 2012, and to collect additional information in response to the April 2012 FNPRM.

Speakers from the industry, consumer groups, states, and federal agencies participated in the workshop. On August 27, 2013, CGB released a Public Notice seeking to refresh the record in light of developments and additional evidence related to wireline and wireless cramming since the April 2012 Further Notice of Proposed Rulemaking. Comments were due November 18, 2013 and reply comments were due December 2, 2013.

- On July 14, 2017, the Commission released a Notice of Proposed Rulemaking that sought comment on additional steps to protect consumers from slamming and cramming. On June 8, 2018, the Commission released a Report and Order that: (1) created a clear ban on misrepresentations made during sales calls and provided that such material misrepresentations invalidate any authorization given by a consumer to switch telephone companies; (2) created an explicit prohibition against placing unauthorized charges on consumers' phone bills; (3) provided that phone companies that abuse the third-party verification process will be suspended from using that process for five years (suspended companies will have to use other approved methods to verify switches); and (4) improved the efficiency of the third-party verification process by eliminating the requirement that a phone company must obtain the authorization of a consumer for each service being sold – a time-consuming step that the Commission found can confuse consumers. The new rules strengthen the Commission's ability to act against slammers and crammers, and they deter carriers from slamming and cramming in the first place, without impeding competition or impairing the ability of consumers to switch providers.
- On December 13, 2019, the Consumer and Governmental Affairs Bureau issued a Public Notice to refresh the record on possible ways to modernize and strengthen the Commission's truth-in-billing rules. The Public Notice asked parties to address whether the Commission should require that government-mandated charges be displayed on bills separately from other line-item fees and whether to apply the TiB rules to interconnected VoIP service. Comments were filed on February 12, 2020, and reply comments were filed on March 13, 2020.

CGB BRIEFING SHEET

SUBJECT: Slamming

SUMMARY/BACKGROUND:

Slamming is the unlawful practice of changing a subscriber's selection of telephone service provider without that subscriber's knowledge or permission. The Commission has adopted authorization and verification rules that must be followed in changing a consumer's presubscribed carrier, and liability rules that apply when slams occur. States may "opt in" to administer these rules. Thirty-five states, the District of Columbia, and Puerto Rico have "opted in." CGB adjudicates individual slamming complaints, refers to and works with the Enforcement Bureau to enforce rule violations, and addresses petitions for clarification and rulemaking regarding the rules.

STATUS:

CGB has developed a complaint processing procedure and is currently administering the rules for the 15 states (and the Virgin Islands) that have not "opted in."

Since 2001, when the Commission's revised slamming rules became effective, the FCC has received and resolved approximately 30,000 complaints. The complaints are resolved, largely, by: (1) referring them to partnering states that have opted to enforce the slamming rules; and (2) issuing orders. To date, the Commission has issued orders involving over 15,500 consumer slamming complaints, directing carriers to provide credits and refunds to victims of slamming.

In addition to the money recovered for individual consumers, the FCC has been aggressively pursuing companies engaged in the practice of slamming and cramming. Since 2014, the Commission has taken enforcement actions totaling approximately \$435 million in penalties and refunds to consumers. The Commission will continue coordinating its enforcement of these rules with the states to ensure their full participation.

In 2018, the Commission revised its rules to strengthen the Commission's ability to act against slammers and further deter carriers from committing slamming violations. Among other things, the new rules create a clear ban on misrepresentations made during sales calls and provided that such material misrepresentations invalidate any authorization given by a consumer to switch telephone companies; provide that phone companies that abuse the third-party verification process will be suspended from using that process for five years (suspended companies will have to use other approved methods to verify switches); and improve the efficiency of the third-party verification process by eliminating the requirement that a phone company must obtain the authorization of a consumer for each service being sold – a time-consuming step that the Commission found can confuse consumers. These rules became effective on August 16, 2018.

CGB BRIEFING SHEET

SUBJECT: Consumer Advisory Committee (CAC)

SUMMARY/BACKGROUND:

- Mission and term: The CAC, a Federal Advisory Committee, was first chartered in November 2000. The mission of the CAC is to make recommendations to the Federal Communications Commission on topics related to the needs and interests of consumers, as specified by the Commission, and to facilitate the participation of consumers in rulemaking and other proceedings before the Commission.
- The tenth two-year term of the Committee (CAC-10) terminates on October 20, 2020.
- The Commission has obtained the approval of the General Services Administration (GSA) for renewal of the CAC's Charter for an eleventh two-year term starting on October 16, 2020, and has invited interested individuals, organizations, and companies to submit nominations of members of the newly constituted CAC-11.

RECENT ACTIVITIES:

- During its tenth term (2018-2020), the Committee adopted recommendations on issues including Caller ID authentication, call blocking tools, truth-in-billing rules, and other matters. These and other recommendations adopted by the Committee are posted to the CAC's webpage at www.fcc.gov/consumer-advisory-committee.
- The final meeting of the CAC-10 was held on September 25, 2020.

CGB BRIEFING SHEET

SUBJECT: Complaint and Inquiry Process (CICD)

SUMMARY/BACKGROUND:

- Through its Consumer Inquiries and Complaints Division (CICD), CGB receives consumer informal complaints and inquiries via the FCC website (at <https://consumercomplaints.fcc.gov>), regular mail, fax, and telephone (at the FCC's toll-free number, 888-225-5322 (888-CALL-FCC)), and also receives disability access-related complaints through telephone or email contact with CGB's Disability Rights Office (DRO) and the ASL Consumer Support Line (844) 432-2275.
- Complaint: consumer communication seeking relief and identifying a particular entity that allegedly caused harm.
- Inquiry: consumer communication seeking information about FCC rule/policy.
- To handle informal complaints and inquiries, CICD operates a consumer center comprised of staff in two separate locations – one at FCC Headquarters in Washington, DC, and a second in Gettysburg, Pennsylvania. FTEs work at both locations and contract staff work at the Gettysburg location.
- For inquiries, CICD may respond using various scripts and consumer guides.
- For complaints, CICD may:
 - serve complaint on a target company and request a written response, typically within 30 days, be sent to the FCC and copied to the complainant, and serve a rebuttal on the company for a more favorable resolution if that proposed in its response is inadequate;
 - if FCC lacks jurisdiction, refer complaint to appropriate Federal, state or local agency;
 - refer complaint to EB for review and investigation, as it deems appropriate (*e.g.*, indecency); or
 - refer complaint to substantive bureaus/offices for review/input; or
 - reply to complainant, indicating that FCC cannot assist, suggesting other agency or office that may be able to help.

CGB BRIEFING SHEET

SUBJECT: Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA), Pub. L. 111-260, as amended by Pub. L. 111-265 (technical amendments)

SUMMARY/BACKGROUND:

The purpose of the CVAA is to help ensure that people with disabilities can fully utilize communications services and equipment and better access video programming.

STATUS:

The Commission has undertaken numerous rulemaking proceedings and other actions to implement the CVAA. The final set of CVAA-mandated rules was released on October 31, 2013. Some of these proceedings have included further notices of proposed rulemaking (FNPRMs).

The Commission has taken the following actions to implement the CVAA:

- Section 102 – Extends hearing aid compatibility (HAC) requirements to advanced communications. See the HAC section for information about HAC.
- Section 103 – Adopts a new definition of Telecommunications Relay Services (TRS) and requires VoIP service providers to contribute to the Interstate TRS Fund. See the TRS section for information about TRS.
- Section 104 - Adds Section 716 (advanced communications services and equipment); Section 717 (recordkeeping and enforcement for Sections 255, 716, and 718; FCC and Comptroller reporting; Accessibility Clearinghouse); and Section 718 (Internet browsers built into mobile phones) to the Communications Act.
 - *Current Waivers.* On February 1, 2016, the Commission (CGB) granted an indefinite extension of a waiver of its advanced communications accessibility rules for basic e-readers.
 - On November 13, 2013, the Commission (CGB) released a Public Notice announcing that it had established a system for consumers to request dispute resolution assistance from CGB (a prerequisite to filing informal complaints with EB) to address accessibility concerns related to telecommunications and advanced communications services and equipment, and Internet browsers built into mobile phones.
 - On April 29, 2013, the Commission released a Second Report and Order adopting rules to implement Section 718.
 - Since 2013, the Commission (CGB) has released an annual Public Notice to remind covered entities about the recordkeeping requirement and to use the Commission’s web-

based system to file their annual recordkeeping certifications and contact information with the Commission by April 1 of each year. The most recent Public Notice was released on February 12, 2020.

- Beginning October 2012, the Commission (CGB) has submitted reports to Congress every two years regarding the accessibility of telecommunications and advanced communications products and services. The 2020 biennial report was submitted to Congress on October 6, 2020 and released on October 7, 2020. .
- In October 2011, the Commission launched its Accessibility Clearinghouse, which provides people with disabilities with information about accessible telecommunications and advanced communications products and services.
- On October 7, 2011, the Commission released a Report and Order adopting rules to implement Sections 716 and 717, and an FNPRM proposing rules to implement Section 718 and seeking comment on related issues.
- Section 105 – Provides up to \$10 million annually in financial support from the Interstate TRS Fund for programs that distribute accessible telecommunications, Internet access, and advanced communications services equipment to low-income individuals who are deafblind. Effective July 1, 2012, CGB launched the National Deaf-Blind Equipment Distribution Program (NDBEDP) as a pilot program, certified 53 entities to distribute equipment under the program, and selected the Perkins School for the Blind to conduct national outreach for the program. The NDBEDP has since become known as the iCanConnect program. On August 4, 2016, the Commission adopted rules to make the NDBEDP/iCanConnect program permanent, and extended Perkins’s national outreach efforts for five years. Effective July 1, 2017, CGB certified 56 programs to distribute equipment in the 50 states, DC, and five U.S. territories. CGB announces funding allocations for the 56 certified programs annually.
- Section 106 – Establishes the Emergency Access Advisory Committee (EAAC) and authorizes FCC action to ensure reliable and interoperable access to next generation 911 services by individuals with disabilities.
 - *EAAC Reports to the Commission.* After completing a national survey on the needs of people with disabilities in accessing 911 services, the EAAC, in December 2011, submitted a report with recommendations to ensure access to 911 services by people with disabilities, including the ability to text to 911. In March 2013, the EAAC submitted reports to the Commission on three NG 911 related issues (TTY transition, media line communication services, and interim text messaging to 911). On June 14, 2013, the EAAC submitted three more reports, which provided guidance on issues related to text-to-911 and legacy equipment. The EAAC submitted its final report on July 10, 2013, on gaps in the NENA i3 Solution. These reports led to regulations around text-to-911 and real-time text (to transition away from antiquated TTY technology.)
- Section 201 – Establishes the Video Programming and Emergency Access Advisory Committee (VPAAC), which met quarterly from January 2011 to February 2012.

- *VPAAC Reports to the Commission.* In July 2011, the VPAAC submitted its first report and recommendations on Internet protocol closed captioning. It submitted its second report and recommendations on audio description, accessible emergency information, user interfaces, video programming guides, and menus on April 9, 2012. *See CVAA Sections 202-205, below, regarding implementation of related CVAA requirements.*
- Sections 202 and 203 – Establishes requirements for the provision of, and apparatus capabilities for, closed captioning, audio description, and accessible emergency information. See the audio description, captioning, and televised emergency information sections for more information on relevant proceedings.
- Sections 204 and 205 – Establishes requirements for accessible user interfaces on video programming apparatus and accessible programming guides and menus provided by navigation devices (*e.g.*, set-top boxes). See the user interface section for more information on relevant proceedings.

CGB BRIEFING SHEET

SUBJECT: Hearing Aid Compatibility (HAC)

SUMMARY/BACKGROUND:

The Commission requires wireless and wireline phones to be compatible with hearing aids, and requires wireline phones (and wireless phones on or after March 1, 2021) to provide sound levels suitable for persons with hearing loss (including persons with and without hearing aids).

Without these HAC rules, if someone with a hearing aid were to pick up a telephone or cell phone to make a call, they could experience substantial unwanted interference (e.g., noise), or they may not receive suitable volume in order to participate in a telephone conversation. The HAC rules also apply to the use of cochlear implants.

The wireline rules apply to wireline telephones connected to the Public Switched Telephone Network (PSTN), and to advanced communications services (ACS), such as VoIP.

STATUS:

As of March 1, 2021, all wireless handsets submitted for equipment certification or for permissive changes relating to hearing aid compatibility must also be equipped with volume control that produces sound levels suitable for persons with hearing loss (including persons with and without hearing aids).

On January 30, 2020, the Commission released a Notice of Proposal Rulemaking that proposes a new technical standard for determining whether a wireless handset is hearing aid compatible, updates the Commission's HAC labeling requirements so that consumers have the information they need to understand and evaluate the HAC of a handset; and changes to simplify and update the Commission's HAC rules. The comment cycle closed April 20, 2020.

On November 16, 2018, the Commission released a Report and Order that eliminated the filing of annual HAC reports by all wireless service providers; enhanced the information that wireless service providers must provide on their websites concerning their hearing aid compatible wireless handsets; and added a requirement for wireless service providers to file an annual certification concerning their compliance with the HAC rules.

On October 24, 2017, the Commission adopted a Report and Order approving a new wireline HAC volume control standard; applying the wireline HAC standards to handsets used with advanced communications services, including VoIP; requiring volume control on wireless handsets; and eliminating an obsolete RF standard for wireless handsets.

On August 4, 2016, the Commission adopted a Report and Order to implement a consumer-industry consensus by increasing to 66% in two years and to 85% in five years, with additional time for service providers, the number of wireless handset models offered by many manufacturers that must be hearing aid compatible; and expanding the *de minimis* exception to

entities offering four or five handsets. The Commission proposed to determine the achievability of a 100% compliance standard no later than 2024.

On November 20, 2015, the Commission released a Fourth Report and Order expanding the scope of the HAC rules to emerging wireless technologies to include handsets used with any terrestrial mobile service that enables two-way real-time voice communications among members of the public or a substantial portion of the public, including through the use of pre-installed software applications.

CGB BRIEFING SHEET

SUBJECT: Audio Description

SUMMARY/BACKGROUND:

Audio description (referred to as video description in the Commission's rules) is audio-narrated descriptions of a television program's key visual elements. These descriptions are inserted into natural pauses in the program's dialogue. Audio description makes television programming more accessible to individuals who are blind or visually impaired.

The Commission requires:

- Local television station affiliates of ABC, CBS, Fox, and NBC located in the top 60 TV markets to provide 87.5 hours per calendar quarter (about 7 hours per week) of audio-described programming, of which 50 hours must be prime time and/or children's programming and 37.5 hours may be any type of programming shown between 6:00 a.m. and midnight.
- Subscription TV systems (offered over cable, satellite or the telephone network) with 50,000 or more subscribers to provide 87.5 hours per calendar quarter (about 7 hours per week) of audio-described programming on the top five most-watched non-broadcast networks, of which 50 hours must be prime time and/or children's programming and 37.5 hours may be any type of programming shown between 6:00 a.m. and midnight.
- Broadcast TV stations and subscription TV systems to pass through audio description received with their programming unless the secondary audio stream is being used for another purpose related to the programming.

STATUS:

On October 27, 2020, the Commission will consider a draft Report and Order that would expand the audio description requirements by an additional 10 designated market areas each year for the next four years. In addition, the draft Report and Order would modernize the Commission's terminology to use the more common and widely understood term "audio description" rather than "video description."

On April 23, 2020, the Commission (MB) released an NPRM proposing to expand the audio description regulations by phasing in an additional ten designated market areas (DMAs) each year for four years, beginning on January 1, 2021, and updated the rules to use the terms "audio description" rather than "video description."

On October 8, 2019, the Commission (MB) submitted a second report to Congress, as required by the CVAA, on the availability, use, benefits, and costs of audio description.

On May 17, 2018, the Commission (MB) announced that the top five national non-broadcast networks subject to the audio description requirements, as of July 1, 2018, will be Discovery, HGTV, History, TBS, and USA.

On July 12, 2017, the Commission adopted rules to increase the amount of described programming on each included network carried by a covered broadcast station or MVPD, from 50 to 87.5 hours per quarter beginning July 1, 2018.

On June 30, 2014, the Commission (MB) submitted a report to Congress on audio description of video programming delivered via television and the Internet, finding overall industry compliance with the Commission's rules and substantial benefits for individuals who are blind or visually impaired. The Commission (MB) also found consumer desire for program information regarding which programs are audio-described, easier access to audio description, and increased availability of audio-described programming on television and the Internet.

On August 25, 2011, the Commission reinstated the audio description rules that were vacated by the D.C. Circuit in 2002. Those rules were fully implemented by July 1, 2012, requiring affiliates of the top four broadcast networks located in the top 25 markets to provide 50 hours per calendar quarter (about four hours per week) of audio-described prime time and/or children's programming. The Commission extended this requirement to affiliates located in the top 60 markets on July 1, 2015. Multichannel video programming distributors (MVPDs) with 50,000 or more subscribers were required to provide 50 hours per calendar quarter of audio-described prime time and/or children's programming on each of the top five national non-broadcast networks they carry. All broadcasters and MVPDs must pass through audio description when provided.

CGB Briefing Sheet

SUBJECT: Telecommunications Relay Services (TRS)

SUMMARY/BACKGROUND:

Title IV of the Americans with Disabilities Act of 1990 added section 225 to the Communications Act of 1934 (47 U.S.C. § 225), which requires the Commission to ensure that interstate and intrastate TRS is available to persons with hearing and speech disabilities. There are various forms of TRS, including traditional TRS, Video Relay Service (VRS), PSTN-based Captioned Telephone Service (CTS), Internet Protocol Captioned Telephone Service (IP CTS), Internet Protocol Relay (IP Relay), and Speech-to-Speech (STS). Relay services are generally available in both English and Spanish.

The Commission oversees the regulation and compensation of TRS providers. *See* 47 CFR § 64.601 *et seq.* Its principal challenge over the past few years has been determining appropriate compensation methodologies for reimbursing providers for the costs of providing service (users do not pay for the service) and ensuring that the Interstate TRS Fund (Fund) is compensating providers only for legitimate minutes of use. The TRS Fund compensates providers for interstate TRS services and, with respect to the Internet-based forms of TRS (VRS, IP Relay, and IP CTS), both interstate and intrastate TRS services. Interstate and intrastate telecommunications carriers, as well as VoIP providers, contribute to the TRS Fund, and generally pass these costs on to their customers.

STATUS:

TRS COVID-19 Related Waivers. In a series of Orders dated March 16, 2020, April 3, 2020, and May 14, 2020, the Commission (CGB) waived multiple TRS rules to ensure continued service as demand levels surged and providers were forced to move communications assistants (CAs) from call centers to home work stations as a result of the ongoing COVID-19 pandemic, the national state of emergency, and state and local shutdowns and stay-at-home orders. Initially, the waivers were to expire on May 15, 2020, but were extended several times to June 30, 2020 (by Order of May 14, 2020), August 31, 2020 (by Order of June 22, 2020), November 30, 2020 (by Order of August 26, 2020), and February 28, 2021 (by the Commission's IP CTS Rate Order and Metrics FNPRM adopted September 30, 2020).

TRS Definition. On September 18, 2019, the Commission adopted a Report and Order amending the definition of TRS in the Commission's rules to conform it to the definition of TRS as amended by the CVAA and to allow TRS providers to be compensated for TRS calls between two or more individuals with disabilities using different types of relay services.

State TRS Program Recertification. On August 4, 2020, the Commission adopted a Report and Order eliminating the requirement to publish notification of applications for certification of state TRS programs in the Federal Register, but to continue to publish such notifications in Public Notices released by the Commission.

On July 16, 2017, the Commission (CGB) released a Public Notice granting certification to 54 states and U.S. territories seeking to renew their state TRS programs. The certifications shall remain in effect for a five-year period, ending on July 25, 2023. Each state may apply for renewal one year prior to the expiration of its certification.

TRS Rate Order for the 2020-21 Fund Year. On August 14, 2020, the Commission (CGB) placed on public notice Sprint Relay's petition for reconsideration of the rates set for the Internet Protocol (IP) Relay Service for the 2020-21 Fund Year. The comment period closed on September 29, 2020.

On June 30, 2020, the Commission (CGB) adopted contribution factors of 0.01360 for support of non-IP CTS TRS and 0.00962 for support of IP CTS and a funding requirement of \$1,634,678,939 for the 2020-21 Fund year, encompassing the period from July 1, 2020, through June 30, 2021. Fund year 2020-21 is the first with a separate contribution factor to support IP CTS, as directed by the Commission's expansion of the contribution base to include intrastate and interstate revenues in an order dated November 22, 2019. In addition, the Commission (CGB) adopted the following annual per-minute rates of compensation from the Fund for the 2020-21 Fund year for each form of interstate TRS: (1) for traditional TRS, \$3.7526; (2) for STS, \$4.8836; and (3) for CTS, \$2.3153; and for each form of Internet-based TRS: (1) IP CTS, \$1.58 through September 30, 2020, with further Commission action to address the IP CTS rate for the balance of the Fund year; (2) for IP Relay, \$1.7146, and (3) for VRS, \$4.82 per completed conversation minute for a provider's first 1,000,000 monthly minutes (Tier I); \$3.97 per completed conversation minute for a provider's monthly minutes between 1,000,001 and 2,500,000 (Tier II); \$2.63 per completed conversation minute for a provider's monthly minutes exceeding 2,500,000 (Tier III), and for providers of VRS with 500,000 or fewer monthly minutes \$5.29 per completed conversation minute (Emergent Tier).

Direct Video Calls and Sign Language Video Support. On January 18, 2017, the Commission (CGB and WCB) granted a petition for waiver filed by VTCSecure to allow VTCSecure to obtain ten-digit numbers for customer service centers that wish to provide direct video calling (DVC) in sign language, access the TRS Numbering Directory, and add DVC customer service numbers to the directory. The Commission (CGB and WCB) also granted VTCSecure's request for a declaratory ruling that VRS providers must route and connect all direct voice, video, and text calls to and from any telephone number listed in the TRS Numbering Directory, including direct sign language customer support service numbers.

Speech-to-Speech Report and Order and Further Notice of Proposed Rulemaking. On July 19, 2013, the Commission released a Report and Order and FNPRM amending rules: (1) to extend the time a communications assistant (CA) must stay on a call to 20 minutes (from 15 minutes); (2) to allow STS users the option to mute their voices during an STS call; and (3) to ensure that STS users have the same ability to reach an appropriate CA as users of other types of TRS. In the accompanying FNPRM, the Commission sought comment on: (1) whether to contract for a national STS outreach coordinator to conduct all STS outreach; (2) whether to adopt consumer eligibility, registration, and verification for STS; and (3) whether to adopt other recommendations made by consumers to improve STS for its users.

VRS Interoperability. On March 3, 2020, in response to a petition by Sorenson, the Commission (CGB) adopted an Order on Reconsideration and Order Suspending Compliance Deadline deleting the Commission rule reference to the Relay User Equipment (RUE) Profile technical standard and suspending the Video Access Technology Reference Platform (VATRP) compliance obligations.

On January 17, 2017, the Commission (CGB) amended its rules to incorporate by reference certain technical standards for the interoperability and portability of services, equipment, and software used for VRS (*2017 VRS Interoperability Order*). These requirements are intended to (1) allow VRS users to make and receive calls through any VRS provider, and to choose a different default provider, without changing the access technology used to place calls, and (2) ensure that VRS users can make point-to-point calls to all other VRS users, irrespective of the default provider of the calling and called party.

In the accompanying FNPRM, CGB sought further comment on the extent to which a rule specifying a basic interface that is intended to enable a user to use the same equipment and software with any default provider without experiencing any inconvenience or disruption of basic communications functions for provider-distributed VRS user equipment and software is necessary and appropriate for functionally equivalent communication.

VRS Improvements Order. On March 23, 2017, the Commission adopted a Report and Order, NOI, FNPRM, and Order (*2017 VRS Improvements Order*) to further improve the quality of VRS. In the Report and Order, the Commission approved trials for the provision of skills-based routing and deaf interpreters, clarified the VRS speed of answer rules, allowed for the assignment of ten-digit telephone numbers to hearing people for the limited purpose of point-to-point video calls with VRS users, and adopted a pilot program to permit at-home VRS call handling by communications assistants (CAs), subject to safeguards. In the Order, the Commission suspended the effectiveness of the VRS Provider Interoperability Profile, a technical standard adopted in the Commission's (CGB's) *2017 VRS Interoperability Order*, pending the Commission's consideration of the server-based routing issue in the accompanying FNPRM.

In the NOI, the Commission sought comment on (i) establishing performance goals and service quality metrics to evaluate the efficacy of the VRS program and (ii) the incidence of "phony" VRS calls and the handling of such calls. In the FNPRM, the Commission sought comment on alternative proposals for a four-year VRS compensation rate plan, whether to permit server-based routing of VRS and point-to-point video calls, safeguards for the use of enterprise and public VRS videophones, and whether to allow customer service support centers to access the TRS Numbering Directory for direct video calling, and whether to prohibit the use of non-compete provisions in VRS CA employment contracts. The comment period closed on June 26, 2017.

VRS Rate Order. On October 6, 2017, the Commission (CGB) released a Public Notice seeking comment on a petition filed by the Interstate Telecommunications Relay Service Advisory Council seeking reconsideration of rates established in the VRS Rate Order to compensate VRS providers for an eight-month trial of skills-based routing.

On July 6, 2017, the Commission adopted a four-year VRS provider compensation plan, effective from July 1, 2017, through June 30, 2021. The Commission transitioned from a rate-of-return formula to use of an allowed operating margin in the range of 7.6% to 12.35%. The Commission also adjusted the tiered rate structure. VRS providers with up to 500,000 total monthly minutes as of July 1, 2017 are compensated at the Emergent Tier rate of \$5.29 per minute for the entire four-year period. For the other VRS providers, the per minute compensations rates are: Tier I (the first 1,000,000 monthly minutes), \$4.82 for the entire period; Tier II (monthly minutes above 1,000,000 and up to 2,500,000), \$3.97 for the entire period; Tier III (monthly minutes above 2,500,000), \$3.21 from July 1, 2017 through June 30, 2018, \$2.83 from July 1, 2018 through June 30, 2019, and \$2.63 for the two-year period from July 1, 2019 through June 30, 2021.

The Commission also amended its rules to (1) permit server-based routing of VRS and point-to-point video calls; (2) provide continuing authority to the TRS Fund administrator to request funding for research and development; (3) repeal the provisions in its rules providing for a neutral video communications service platform; and (4) reinstate the effectiveness of the VRS Interoperability Profile.

2019 VRS Program Management Order. On July 1, 2020, the Commission (CGB) released a Declaratory Ruling to address a request by Convo Communications to clarify whether an equipment offer (the Complete Home Package) by ZVRS and Purple Communications violated the prohibition on non-service-related inducements to initiate service. The Commission relied on the test articulated in the 2019 VRS Program Management Order of whether the equipment was ordinarily needed or used for VRS calls and the extent to which the equipment was designed, marketed, and used for VRS. The Commission found that all the devices offered in the Complete Home Package, including a laptop computer, OneVP (NVIDIA Shield with ZP VRS applications), iPad tablet with keyboard, and call signaling devices, are service related, and, therefore, not subject to the prohibition on non-service-related inducements.

On November 4, 2019, the Commission (CGB) released a public notice seeking comment on a request filed by Sorenson for clarification, or in the alternative waiver of rules, concerning enterprise and public videophones, the all-call query function of the TRS Numbering Database, and direct video calling. The comment period closed on December 19, 2019.

On May 9, 2019, the Commission adopted a Report and Order and FNPRM to improve direct video calling, while seeking to protect the VRS program against waste, fraud, and abuse. The Commission allowed telephone numbers and routing information for qualifying call centers to be entered in the TRS Numbering Director by entities that are certified as Qualified Direct Video Entities by the Commission (CGB). To address waste, fraud, and abuse more efficiently and effectively, the Commission modified its per-call validation rule to authorize the processing of registration validation queries by the TRS Numbering Directory rather than the TRS User Registration Database; adopted a rule requiring registration of enterprise and public videophones in the Database; and prohibited VRS providers from offering or providing non-service related inducements to consumers to entice them to register with a VRS provider. In the FNPRM, the Commission proposed to permit VRS providers to commence service to new and porting VRS

users for up to two weeks, pending Database verification of the user's identity, with compensation to be paid only after the user's identity is verified; and sought comment on requiring consumers to log in to enterprise and public videophones.

Certification to Provide VRS. On December 21, 2016, the Commission (CGB) granted Convo Communications LLC a full certification to provide video relay services for a period of five years.

VRS Social Security Waiver. On May 15, 2015, the Commission (CGB) released an Order waiving, on a limited and temporary basis, the requirement for all VRS providers to obtain from each user the last four digits of the user's Social Security number or Tribal Identification Number as part of the user registration requirement pursuant to the *2013 VRS Reform Order*. Specifically, users who do not have a Social Security number or Tribal Identification Number may instead present alternative documentation as specified in the waiver order. CGB found that limiting the use of VRS to only individuals in the United States who have a Social Security number or Tribal Identification Number would be inconsistent with the statutory mandate under Americans with Disability Act that TRS be available for all individuals with hearing and speech disabilities in the United States.

At-Home Call Handling . On April 20, 2020, the Commission (CGB) extended the at-home call handling pilot program through the effective date of the Commission's rules adopted on January 30, 2020 for the permanent at-home call handling program.

On January 30, 2020, the Commission authorized TRS Fund compensation of VRS providers for calls handled by communications assistants (CAs) from home workstations, converting the existing pilot program to a permanent program.

On October 30, 2019, the Commission (CGB) extended the pilot program for six additional months, through April 30, 2020 or the effective date of a Commission decision regarding at-home call handling, whichever occurs first.

On April 30, 2019, the Commission (CGB) extended the pilot program for six additional months through October 31, 2019 and granted limited waivers of the at-home call handling rules to permit Sorenson, GlobalVRS, and Convo to participate in the pilot program, as extended.

On October 31, 2018, the Commission (CGB) granted a limited waiver of the expiration date of the VRS at-home call handling pilot program allowing CSDVRS, LLC d/b/a ZVRS and Purple Communications, Inc. to continue their participation in the program for six additional months, through April 30, 2019.

On October 21, 2017, the Commission (CGB) authorized CSDVRS, LLC d/b/a ZVRS and Purple Communications, Inc. to participate in the VRS at-home call handling pilot program from November 1, 2017 through October 31, 2018.

TRS User Registration Database (URD). On April 20, 2020, the Commission (CGB) released a public notice seeking comment on a petition filed by consumer groups to waive TRS-URD

registration and per-call validation requirements to allow all persons with speech and hearing disabilities to communicate during the COVID-19 pandemic. The groups also asked the Commission to rule that certain software needed by deafblind individuals to access TRS could be compensated from the TRS Fund.

On June 26, 2018, the Commission (CGB) released a public notice inviting comment on a petition filed jointly by all five VRS providers for a limited waiver to permit them to provide service for up to two weeks to a new user, or to a user whose VRS telephone number has been ported from another provider, while that user's TRS-URD verification process is pending.

The TRS-URD, a centralized system of records containing TRS user registration data, was established pursuant to the *2013 VRS Reform Order* to ensure accurate registration and verification of TRS users, achieve more effective prevention of waste, fraud, and abuse, and determine the number of individuals using VRS. On December 29, 2017, the Commission (CGB) released a public notice announcing that the TRS-URD is ready to accept registration data and setting a February 28, 2018 deadline for VRS providers to submit current user registration information to the TRS-URD. The Commission (CGB) released orders extending the deadline, first to March 31, 2018, and then to April 30, 2018.

IP Captioned Telephone Service Growth. On June 20, 2014, the United States Court of Appeals for the District of Columbia Circuit vacated the \$75 equipment payment rule and the default captions off rule. In addition, the Commission granted a limited waiver of the equipment labeling rule to one petitioner.

In response to unprecedented growth in IP CTS usage, which suggested potential misuse of the service, on August 26, 2013, the Commission adopted an Order to reform the IP CTS program. The *2013 IP CTS Reform Order*, which replaced a March 7, 2013 Interim Order: (1) prohibited referrals for rewards and other incentives to use IP CTS service; (2) prohibited providers from receiving compensation from the Fund for any IP CTS minutes of use generated by IP CTS equipment that they distribute for free or for less than \$75, while still permitting free distribution of IP CTS devices by state or local equipment distribution programs (the \$75 equipment payment rule); (3) required provider registration of new users, including self-certification of their understanding of and need for IP CTS; (4) required provider registration of existing users, including self-certification and, for those who received equipment for less than \$75, certification of their need for IP CTS from an independent, third party professional; (4) required maintenance of confidentiality of registration and certification information; (5) required provider compliance with certain eligibility requirements; (6) required notification labels on equipment, stating that federal law prohibits use of such equipment with captions turned on by anyone but registered users with hearing loss; and (7) required providers to set equipment to a default setting of "captions off" at the beginning of each call (the default captions off rule).

IP CTS Social Security Waiver. On February 6, 2015, the Commission (CGB) released an Order waiving, on a temporary basis, the requirement for all IP CTS providers to obtain from each user the last four digits of the user's Social Security number as part of the IP CTS user registration process. Specifically, users who have a Tribal Identification Number may provide it instead of the last four digits of the Social Security number, and those users who do not have a

Social Security number or Tribal Identification Number may instead present alternative documentation as specified in the waiver order. CGB found that limiting the use of the telephone to only IP CTS users in the United States who have Social Security numbers would be inconsistent with the statutory mandate under Americans with Disability Act that TRS be available for all individuals with hearing and speech disabilities in the United States.

Assessments of IP CTS. On April 11, 2018, the Commission (OMD and CGB) released a public notice announcing the release of two summaries prepared by the MITRE Corporation detailing the results of the first two phases of independent testing performed to assess the quality and usability of IP CTS devices and services, as well as automated speech-to-text technologies.

IP CTS Modernization and Reform. On September 30, 2020, the Commission adopted a Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, continuing the work of improving the efficiency and quality of IP CTS and other telephone captioning services. In the Report and Order, the Commission set compensation rates for IP CTS through June 30, 2022, to complete the process of bringing IP CTS in line with reasonable costs, which will save the TRS Fund approximately \$200 million. The rate was reduced by 10 percent from \$1.58 per minute to \$1.42 per minute from December 1, 2020 through June 30, 2021, with an additional reduction to \$1.30 per minute from July 1, 2021 through June 30, 2022. In the Order on Reconsideration, the Commission denied a petition for reconsideration of the interim IP CTS rates set for Fund Years 2018-19 and 2019-20 filed by Sprint Corporation. And in the Further Notice of Proposed Rulemaking the Commission proposed to adopt measurable standards for caption delay and accuracy as well as rules on how to test the quality of telephone captioning services.

Following the 2018 Declaratory Ruling approving the use of Automatic Speech Recognition (ASR) to provide TRS-Funded IP CTS, the Commission (CGB) conditionally certified two ASR-only IP CTS providers, MachineGenius (May 5, 2020) and Clarity Products (June 4, 2020). The Commission conditionally certified each company for five years to allow for further study and verification that their IP CTS meets or exceeds the Commission's mandatory minimum standards for TRS.

On May 29, 2020, the Commission (CGB) adopted an order waiving the June 30, 2020, expiration date for the Fund Year 2019-20 of the IP CTS compensation rate, and extended the existing \$1.58 per minute rate until September 30, 2020. The Commission extended the period to gather more information from IP CTS providers on the impact of the COVID-19 pandemic on their cost and demand projections and to consider additional data in its pending rulemaking to adopt new rates for IP CTS.

On August 6, 2018, the Commission (CGB) released a public notice seeking comment on two petitions filed by Sprint. In the first petition, Sprint sought clarification, or in the alternative reconsideration of the Declaratory Ruling on the use of automatic speech recognition. This item remains pending. In the second petition, Sprint sought reconsideration of the adoption of interim IP CTS compensation rates in the Report and Order. The second petition was denied in the Commission's Report and Order on Reconsideration, and Further Notice of Proposed Rulemaking adopted September 30, 2020.

On June 7, 2018, the Commission adopted a Report and Order, Declaratory Ruling, Further Notice of Proposed Rulemaking, and Notice of Inquiry, adopting measures and proposing others to ensure that IP CTS remains sustainable for those individuals who need it.

In the Report and Order, the Commission adopted (1) interim IP CTS compensation rates for TRS Fund Years 2018-19 and 2019-20 that will save the TRS Fund at least \$399 million over two years and (2) rules to limit unnecessary use of IP CTS. In the Declaratory Ruling, to modernize IP CTS while enhancing efficiency, the Commission approved use of speech-to-text automation, without the participation of a communications assistant, to generate IP CTS captions.

In the Further Notice of Proposed Rulemaking, the Commission explored how best to fund, administer, and determine user eligibility for IP CTS. The Commission sought comment on: the compensation rate structure; the role that state programs and intrastate carriers can play in the provision of and support for IP CTS; the use of independent third-party hearing health professionals to perform IP CTS user eligibility assessments; ways to curb provider practices that could be incenting use of IP CTS by people who may not need it; additional measures to prevent waste, fraud, and abuse and to ensure 911 call quality; and the extent to which alternative communication services and applications can complement or reduce reliance on IP CTS. Parts of this item are pending.

In the Notice of Inquiry, the Commission sought comment on IP CTS performance goals and metrics to ensure service quality for users.

IP CTS User Registration and Emergency Call Handling. On June 5, 2019, the Commission (CGB) sought comment on a petition filed by Hamilton for reconsideration of the Commission's exogenous cost recovery guidelines that limit when IP CTS providers can recover from the TRS Fund certain costs associated with implementing registration of users to the TRS-URD during the period of interim IP CTS compensation rates. The comment period closed on July 15, 2019.

On February 14, 2019, the Commission adopted a Report and Order, Further Notice of Proposed Rulemaking, and Order, adopting measures and seeking comment on others to improve IP CTS and better safeguard the funding for the program.

In the Report and Order, the Commission integrates IP CTS in the TRS User Registration Database. Including IP CTS user registrations in this database will help the Commission verify the identity of IP CTS users, audit and review IP CTS provider practices, and substantiate provider compensation requests.

In the Further Notice of Proposed Rulemaking, the Commission proposes (1) requiring IP CTS providers to add user account identifiers to call records submitted for compensation; (2) allowing new or porting IP CTS users to receive service for up to two weeks, while their identities are verified in the TRS User Registration Database, and (3) simplifying the handling of 911 calls placed by IP CTS users who connect to an IP CTS provider via the Internet in order to place a call. Comments were due April 15, 2019, and reply comments are due April 29, 2019.

The Order, pending completion of the rulemaking, grants waiver of most of these emergency call-handling requirements to IP CTS providers that assign their users such callback numbers.

TRS Fund Contribution Base. On November 22, 2019, the Commission modified the cost recovery rules to require providers of intrastate voice communications services to contribute to the TRS Fund to support IP CTS, expanding the TRS Fund contribution base.

On October 7, 2011, the Commission adopted rules requiring TRS Fund contributions by non-interconnected VoIP service providers. Interconnected VoIP service providers have been required to contribute to the Interstate TRS Fund since 2007.

Curbing Misuse of IP Relay. In June 2012, the Commission amended its rules as an initial step to curb fraud and misuse of the IP Relay service. Many people without hearing or speech disabilities, especially from overseas locations, had been using IP Relay as a vehicle to defraud retailers in the United States or otherwise misuse the service. Such fraud and misuse cause a drain on the Interstate TRS Fund and results in retailers rejecting relay calls, depriving legitimate users of the value of the service. The amended rules tightened the TRS user registration requirements to ensure that no funded IP Relay service is provided to a new user until the user's identity has been verified.

IP Relay Rates. On November 7, 2018, the Commission (CGB) released a public notice seeking comment on a petition for rulemaking filed by Sprint to establish a new ratemaking methodology for IP Relay. The current three-year price-cap period for IP Relay expires at the end of the 2018-2019 TRS Fund Year. This item is pending.

Internet-based TRS Certification Process. On October 6, 2020, the Commission (CGB) released a Public Notice seeking comment an amendment to ClearCaptions, LLC's application for certification as a provider of IP CTS proposing to include a fully automatic captioning mode using Automatic Speech Recognition in addition to IP CTS provided with communications assistants.

On March 20, 2020, the Commission (CGB) released a public notice seeking comment on the application of Mezmo Corporation d/b/a Innocaption to provide ASR-supported IP CTS. The comment cycle closed on May 5, 2020. InnoCaption filed a Supplement to its application on October 1, 2020.

On September 25, 2019, the Commission (CGB) released a public notice seeking comment on a request filed by VTCSecure for limited waiver of rules related to the provision IP CTS when using automated speech recognition (ASR). The comment period closed on October 21, 2019.

On August 26, 2019, the Commission (CGB) released a Public Notices seeking comment on an application from VTCSecure for certification to provide IP CTS using ASR. The comment periods closed on October 10, 2019.

The Commission has received applications from new entities and incumbent providers for certification to provide Internet-based TRS. The Commission has granted certifications on a conditional basis, denied some applications for full certification, and the other applications for full certification remain pending. Some VRS and IP Relay providers that were granted conditional certifications voluntarily exited the service.

TRS Long Distance Carrier and Billing Options Waiver. On August 19, 2020, the Commission (CGB) extended the temporary waivers of the equal access and billing options requirements granted to Sprint and Hamilton Relay until the effective date of the Commission's rule amendments deleting these requirements in their entirety.

On its August 4, 2020, the Commission adopted a Report and Order eliminating the equal access and billing options requirements for all TRS providers.

On August 8, 2018, the Commission (CGB) extended for one year the temporary waivers, previously granted to Sprint and Hamilton Relay of two mandatory minimum standards applicable to certain telecommunications relay services (TRS) offered through state TRS programs. On August 20, 2019, the Commission (CGB) extended the waivers again for one year through August 24, 2020.

On August 24, 2016, the Commission (CGB) granted Sprint and Hamilton Relay temporary waivers of rules that require TRS providers to allow users to choose their preferred long-distance carrier and to offer the same billing options (such as collect, calling card, and third-party billing) traditionally offered by wireline telephone companies. This order temporarily waives this requirement for two years for traditional TRS, STS, and CTS, to the extent that the providers do not assess a toll charge for long-distance calls.

Call Center Notification Waiver. On August 30, 2018, the Commission (CGB) granted CSDVRS, LLC, d/b/a ZVRS and Purple Communications, Inc. limited waivers of sections 64.604(c)(5)(iii)(E)(4) and (N)(2)(iii) of the Commission's rules. As a result, the providers may be compensated for VRS calls handled at a ZVRS call center that was relocated on June 4, 2018, for which ZVRS provided notification to the Commission, but not to the TRS Fund administrator.

CGB BRIEFING SHEET

SUBJECT: User Interfaces (TV and Set-Top Boxes Controls, Menus, and Program Guides)

SUMMARY/BACKGROUND:

Requirements Applicable to Digital Apparatus Under Section 204 of the CVAA

Digital apparatus must be designed, developed, and fabricated so that control of appropriate built-in functions (*i.e.*, those functions used for the reception, play back, or display of video programming) included in the apparatus are accessible to and usable by individuals who are blind or visually impaired. 47 CFR § 79.107(a)(1). In addition, digital apparatus with built-in closed captioning or video description capability must include a mechanism that is reasonably comparable to a button, key, or icon for activating the closed captioning and video description.

Requirements Applicable to Navigation Devices Under Section 205 of the CVAA

The on-screen text menus and guides provided by navigation devices for the display or selection of multichannel video programming must be audibly accessible in real time upon request by individuals who are blind or visually impaired. 47 CFR § 79.108(a)(1). In addition, navigation devices with built-in closed captioning capability must include a mechanism that is reasonably comparable to a button, key, or icon for activating the closed captioning. 47 CFR § 79.109(b).

STATUS:

On September 16, 2019, the Commission (MB) granted Google Fiber's petition for a limited waiver of the accessible user interfaces requirements for certain video programming functions.

On November 5, 2018, the Commission (MB) reminded covered mid-sized and smaller MVPD operators of the December 20, 2018 compliance deadline for accessible user interfaces.

On November 2, 2018, the Commission (MB) granted the American Cable Association's petition for limited waivers of the accessible user interface requirements for certain small and mid-sized cable systems.

On September 25, 2017, the Commission (MB) granted a limited waiver for rear entertainment systems in certain Chrysler vehicles.

On March 16, 2017, the Commission (MB) granted a limited 20-month waiver for rear entertainment systems in certain Honda vehicles, which it extended on April 30, 2018, for 2017-2020 Model Year Acura MDXs.

On November 20, 2015, the Commission released a Second Report and Order regarding notifying and informing consumers about accessible user interfaces; an Order on Reconsideration regarding mechanisms to activate closed captioning and audio description; and a Second Further Notice of Proposed Rulemaking (Second FNPRM) proposing to require

manufacturers and video programming distributors to ensure that consumers are able to readily access user display settings for closed captioning pursuant to the Television Decoder Circuitry Act of 1990.

On October 31, 2013, the Commission released a Report and Order adopting rules and an FNPRM on related issues. Covered entities were generally required to comply with the requirements of Sections 204 and 205 by December 20, 2016, and certain mid-sized and smaller MVPD operators must comply with the requirements of Section 205 by December 20, 2018. The rules adopted require that 11 functions identified in the VPAAC report (see CVAA Section 201, above) when built-in to apparatus that receives or plays back video programming (but not navigation devices), must be accessible to individuals who are blind or visually impaired, if achievable. In addition, access for activating closed captioning and audio description must be provided through a mechanism that is reasonably comparable to buttons, keys or icons. MVPDs and manufacturers of navigation devices, such as set-top boxes and devices manufactured with MVPD apps, must make on-screen text menus and program guides used for the display or selection of video programming accessible to individuals who are blind or visually impaired upon request, if achievable. In addition, access for activating closed captioning built in navigation devices must be provided through a mechanism that is reasonably comparable to a button, key or icon.

CGB BRIEFING SHEET

SUBJECT: Real-Time Text

SUMMARY/BACKGROUND:

Real-Time Text (RTT) allows individuals with and without disabilities to communicate directly with one another, using text on a voice line without the need to buy a stand-alone device like a TTY. RTT messages are conveyed immediately to the recipient as the message is being composed, allowing the recipient to see what the other person is typing and begin developing a response before the entire message has been conveyed, similar to voice conversations. In December 2016, the Commission adopted rules to allow wireless service providers and handset manufacturers to provide RTT technology, rather than continue to support TTY technology.

STATUS:

Petitions for Extension of Waiver for TTY. On July 1, 2020, the Commission (CGB) issued a Public Notice seeking comment on three petitions for extension of the June 30, 2020, deadline for non-Tier I CMRS providers to implement RTT on their IP-based networks, filed by US Cellular, the Competitive Carriers Association, on behalf of six members, and East Kentucky Network d/b/a Appalachian Wireless. The comment period closed on August 17, 2020.

Limited Waiver of TTY Rules to expedite deployment of RTT. On July 20, 2018, CGB issued a letter determining that the waivers granted to CCA members continue to apply to Upper Midwest Wireless, LLC (UMW) despite UMW no longer maintaining CCA membership.

On July 20, 2018, CGB granted a temporary limited waiver of the requirement to support TTY technology over IP-based wireless service to Comcast Corporation. The waiver expires June 30, 2021, which aligns with the earliest RTT implementation date for such providers reselling wireless services as establishing in the *RTT Report and Order*. The waiver is subject to the same conditions, as the AT&T waiver. On April 22, 2019, Comcast notified the Commission that Comcast supports RTT and no longer requires the waiver granted by the Commission.

On August 24, 2017, CGB granted a temporary limited waiver of the requirement to support TTY technology over IP-based wireless service to TracFone Wireless, Inc. (TracFone). TracFone is a reseller of wireless services over AT&T's network. The waiver expired on December 31, 2017, which aligned with the anticipated availability of AT&T's RTT app under the deadline established in the *RTT Report and Order*. As a condition of the waiver, TracFone was required to inform customers that TTY technology is not supported for calls to 911 services over IP-based wireless services and there are alternative public switched telecommunications network (PSTN)-based and IP-based accessibility solutions for people with communication disabilities for such calls. Given the limited duration of the TracFone waiver period, CGB did not require TracFone to file a report with the Commission every six months regarding progress toward the deployment of new IP-based wireless accessibility solutions. On December 29, 2017, CGB extended the waiver previously granted to TracFone until June 30, 2021. As a condition of the waiver extension, CGB required TracFone to file a report with the Commission every six

months and inform its customers about its progress toward and the status of its implementation of RTT.

On January 13, 2017, CGB granted a temporary limited waiver of the requirement to support TTY technology over IP-based wireless services to 21 small, rural wireless telecommunications that provide wireless telecommunications services in their local communities in Iowa. The waiver expires June 30, 2020, which aligns with the earliest RTT implementation date for such providers as establishing in the *RTT Report and Order*. The waiver is subject to the same conditions, as the AT&T waiver.

On October 6, 2015, four FCC Bureaus (CGB, PSHSB, WTB, and WCB) granted AT&T a limited, temporary waiver from the FCC's rules requiring support for TTY technology for Internet protocol (IP)-based wireless services, such as Wi-Fi calling. This waiver allowed for expedited development and deployment of alternative accessibility solutions for IP-based wireless networks and did not impact current TTY capabilities on the older (legacy) telephone network. The waiver was subject to the following conditions: (1) AT&T inform customers that TTY technology will not be supported for calls to 911 services over IP-based wireless services; and (2) every six months, AT&T must file a report with the Commission regarding AT&T's progress toward the deployment of new IP-based wireless accessibility solutions, such as RTT. This waiver expired December 31, 2017, or upon the effective date of rules requiring new IP-based wireless accessibility solutions, such as RTT, whichever was earlier. Other carriers were permitted to apply for similar waivers, and, once granted, were subject to the same conditions. Similar waivers were granted to Verizon and Cellular South; however, because the petitions filed by these entities generally had failed to provide evidence of their plans to develop and deploy an interoperable accessible text solution in the IP environment, the Bureaus included an additional reporting obligation to submit plans for such deployment that were required to be filed within 90 days of the waiver grants. Subsequently, on April 20, 2016, the Bureaus granted waivers to members of the Competitive Carriers Association (CCA) based on the association's representation that its members would meet substantially the same conditions applied to the other parties granted waivers.

Real-Time Text Report and Order and Further Notice of Proposed Rulemaking. On December 15, 2016, the Commission adopt a Report and Order (Order) and Further Notice of Proposed Rulemaking (FNPRM) (*RTT Report and Order*) to facilitate a transition from outdated TTY technology to a reliable and interoperable means of providing RTT communication for people who are deaf, hard of hearing, deafblind, or have a speech disability over IP-enabled networks and services. In the Order, the FCC permits wireless service providers and handset manufacturers to support real-time text over wireless IP-enabled networks in lieu of support for TTY technology. Entities that support RTT will be relieved of their existing obligations to support the use of TTYs over wireless networks. To achieve this, and to ensure access to telecommunications services, advanced communications services, relay services and emergency services, the item amends parts 6, 7, 14, 20, 64 of the Commission's rules and adopts part 67 of the Commission's rules to allow RTT. The comment period for the FNPRM closed on March 24, 2017. On or around December 31, 2017, three nationwide wireless providers released devices or apps that support RTT over their respective IP-based networks.

T-Mobile Petition for Clarification. On November 3, 2017, CGB and PSHSB released an Order granting the petition of T-Mobile USA, Inc. for clarification or, in the alternative, reconsideration in part of the *RTT Report and Order*. CGB and PSHSB clarified that where a Commercial Mobile Radio Service (CMRS) provider delivers RTT 911 calls to a legacy Public Safety Answering Point (PSAP) served by a selective router, the CMRS provider is responsible for performing the necessary conversion from IP to circuit switched format before it delivers the call to the selective router. For RTT 911 calls to a legacy PSAP served by an Emergency Services Internet Protocol Network (ESINet), the conversion to circuit-switched format is the responsibility of the ESINet provider. CGB and PSHSB dismissed T-Mobile's alternative petition for reconsideration of the *RTT Report and Order* as moot.

911 Access, Routing, and Location in Enterprise Communications Systems. On August 1, 2019, the Commission adopted a Report and Order to implement direct 911 dialing and on-site notification capabilities in multi-line telephone systems (MLTS) and rules to ensure that the dispatchable location is conveyed with a 911 call, regardless of the technological platform used and including with calls from MLTS.

PSAP Workshop. On October 2, 2018, CGB and PSHSB held a workshop to educate PSAPs and other emergency communications systems about RTT features and benefits for emergency response personnel and consumers (including consumers with disabilities); best practices for processing RTT requests from service providers; and ways to implement the RTT service feature.

CGB BRIEFING SHEET

SUBJECT: Closed Captioning

SUMMARY/BACKGROUND:

Closed captioning is the visual display of the audio portion of video programming shown on television and the Internet.

Televised Programming. Section 79.1 of the Commission's rules, adopted in 1997 pursuant to section 713 of the Communications Act, requires all new, non-exempt English and Spanish language televised video programming be closed captioned. The following categories of televised programming do not need to be captioned: programming in languages other than English or Spanish; primarily textual programming; programming distributed in the late night hours; interstitials, promotional announcements, and public service announcements; educational broadband service (EBS) programming; non-news programming with no repeat value that is locally produced by the video programming distributor; programming on new networks; primarily non-vocal musical programming; programming that would require captioning expenses in excess of 2 percent of a channel's annual gross revenues; programming on channels producing annual revenues of under \$3,000,000; and educational programming locally produced by public television stations. In addition, entities may petition for an exemption when providing closed captioning for video programming shown on television would be economically burdensome.

Video programming distributors of televised programming must publish their contact information, and they must make it available through the FCC's searchable database (<http://esupport.fcc.gov/vpd-search/>) for the receipt of consumer concerns and complaints.

IP-Delivered Programming. The Commission requires the provision of closed captioning of covered full-length IP-delivered video programming that was published or exhibited on television with captions. As for video clips, the rules require video programming distributors that show programming on TV to post captioned clips of their programming on their own websites or applications. At this time, the video clips rules do not apply to third party websites or apps. Entities may petition for an exemption when providing closed captioning for IP-delivered video programming would be economically burdensome.

STATUS:

Closed Captioning on Television

Petition for Declaratory Ruling Regarding Live Captioning Quality Metrics and the Use of Automatic Speech Recognition Techniques. On August 14, 2019, the Commission (CGB), released a public notice inviting comment on a petition for declaratory ruling and rulemaking by a coalition of consumer and academic organizations in regard to live captioning quality metrics and the use of automatic speech recognition techniques. The comment period closed on October 30, 2019.

Closed Captioning Quality and Enhanced Electronic Newsroom Technique (ENT) Rules.

On May 10, 2019, CGB hosted an educational event to provide an overview of the enhanced ENT rules and the implementation of the Commission's enhanced ENT rules. Forum panels discussed implementation challenges, solutions, and stakeholder collaboration.

On February 20, 2014, the Commission adopted a Captioning Quality Report and Order, Declaratory Ruling, and FNPRM. The rules established quality standards for accuracy, synchronicity, completeness, and placement of closed captions, along with best practices for video programmers and captioning vendors. The Commission also adopted rules to enhance the use of ENT captioning, which converts teleprompter scripts into captions. Broadcasters who may use ENT for live news programming are now required to pre-script more of their news programming, including sports and weather segments. In addition, the enhanced ENT rules require that crawls and other visual information be used to provide visual access to live interviews or live on the scene or breaking news segments that cannot be pre-scripted. The accompanying FNPRM sought comment on several issues, including the apportionment of captioning responsibilities between video programming distributors and video programmers; the retention of certain categorical exemptions; and on other ways to improve access to televised video programming.

Allocation of Responsibility of Closed Captioning Quality. On February 18, 2016, the Commission amended its rules to clarify that video programmers and video programming distributors are each responsible for the quality and delivery of closed captions for television programming to the extent they have primary control over each issue. The Commission also extended its contact information requirement and the captioning complaint procedures to include video programmers, though consumers may continue to file complaints directly with their programming distributor or the Commission. In addition, the Commission adopted rules to require video programmers to certify their compliance with captioning obligations through a web-based form that the Commission will make available on its website.

Definition of Multichannel Video Programming Distributor (MVPD). On December 19, 2014, the Commission released an NPRM seeking comment on its proposal to include within the definition of MVPD multiple linear streams of video programming, regardless of the technology used to distribute the programming, that are made available for purchase by subscribers or customers. The Commission specifically sought comment on the impact, if any, of accessibility obligations, including closed captioning, audio description, and access to emergency information, on such services. The comment period closed April 1, 2015.

Petitions for Exemption from the Captioning Rules. On July 20, 2012, the Commission released an Order interpreting the term "economically burdensome" under Section 202(c) of the CVAA to be consistent with the previous "undue burden" standard used to assess closed captioning exemption requests. Pursuant to section 713 of the Communications Act, as amended, the Commission's closed captioning rules allow for the filing of petitions for exemption from the rules when closed captioning would be economically burdensome. 47 CFR § 79.1(f). Factors to be considered when determining whether the petitioner has met this standard include:

- (i) the nature and cost of the closed captions for the programming;
- (ii) the impact on the operation of the provider or program owner;
- (iii) the financial resources of the provider or program owner; and
- (iv) the type of operations of the provider or program owner.

During the pendency of an economically burdensome determination, the video programming subject to the request for exemption shall be considered exempt from the closed captioning obligation. Since July 30, 2014, CGB has released 19 Memoranda Opinions and Orders granting two-year exemptions from the captioning rules to seven petitioners and denying the exemption requests of 12 petitioners. As of September 30, 2020, 34 petitions remain pending.

Internet Captioning

Video Clips Rules. On July 14, 2014, the Commission released a Second Order on Reconsideration adopting rules to require video clips of video programming shown on television with captions to be captioned when a video programming provider or distributor posts such clips on its own website or application. The accompanying FNPRM sought comment on related issues.

Petitions for Waiver and Further Notice of Proposed Rulemaking. On June 14, 2013, the Commission released an Order addressing petitions for reconsideration regarding closed captioning requirements for video programming delivered using Internet protocol and apparatus used by consumers to view video programming and an accompanying FNPRM seeking comment on related closed captioning issues.

Internet Captioning Report and Order. On January 13, 2012, the Commission adopted rules that require video programming shown on television with captions to be captioned when distributed using Internet protocol (with phased-in compliance deadlines). The Commission also adopted rules that required, by January 1, 2014, for apparatus designed to receive or play back video programming to be capable of decoding or displaying closed captions, and for apparatus designed to record video programming to enable the rendering or pass through of closed captions.

CGB BRIEFING SHEET

SUBJECT: Access to Emergency Information on Television

SUMMARY/BACKGROUND:

Section 79.2 of the Commission's rules requires that video programming distributors (VPDs) provide individuals who are deaf, hard of hearing, blind, or visually impaired access to televised emergency information that VPDs provide to their viewers.

Emergency information is information about a current emergency that is intended to further the protection of life, health, safety, and property (i.e., critical details regarding the emergency and how to respond to the emergency). Section 79.2 currently requires the following: (1) emergency information provided in the *audio* portion of television programming must be made accessible to persons with hearing disabilities by using either closed captioning or another method of visual presentation, such as crawls, scrolls, banners, or graphics; (2) emergency information provided in the *video* portion of a regularly scheduled newscast, or in the *video* portion of a newscast that interrupts regular programming must be made accessible to persons with visual disabilities; and (3) emergency information provided in the *video* portion of programming that is neither a regularly scheduled newscast, nor a newscast that interrupts regular programming, must be made accessible to persons with visual disabilities through the use of a secondary audio stream to provide the emergency information aurally (e.g., emergency information conveyed in a text scroll or a crawl must be preceded by an aural tone and conveyed aurally on the secondary audio stream). There are no exemptions for this rule.

The Commission (via CGB) periodically releases Public Notices reminding VPDs of their Section 79.2 obligations. The last such Public Notice was released on August 10, 2020, which also included a link to an American Sign Language video on accessible televised emergency information.

STATUS:

Emergency Information Presented Through Secondary Audio Stream. On May 28, 2015, the Commission released a Second Report and Order and Second FNPRM requiring MVPDs to pass through a secondary audio stream containing audible emergency information when they permit consumers to access linear programming on second screen devices over the MVPD's network as part of their MVPD services by July 10, 2017; requiring apparatus manufacturers to provide a mechanism that is simple and easy to use for activating the secondary audio stream to access audible emergency information by December 20, 2016; and seeking comment on prioritizing emergency information, school closings, and whether to require MVPDs to ensure that the navigation devices they provide include a simple and easy to use mechanism for activating the secondary audio stream to access audible emergency information.

On April 9, 2013, the Commission released a Report and Order to implement the CVAA's requirement for televised emergency information to be accessible to people who are blind or visually impaired, and an FNPRM seeking comment on related issues. Emergency information

conveyed in text crawls displayed during regular programming must be conveyed aurally on the secondary audio stream. The Report and Order also requires video apparatus to be compatible with the provision of such accessible emergency information and the provision of audio description.

Petitions for Waiver. On May 26, 2015, the Commission (MB) granted waivers of the emergency information rule: (1) with conditions, for certain hybrid (digital/analog) cable systems; (2) for analog-only cable systems until June 12, 2018; (3) for broadcasters until November 26, 2015; (4) for non-textual emergency information until November 26, 2016; and (5) for school closing information while the Commission considers this requirement under the May 28, 2015 Second FNPRM (described further below). On November 16, 2016, the Commission (MB) extended the waiver for non-textual emergency information until May 26, 2018. On May 25, 2018, the Commission (MB) granted, with conditions, a permanent waiver of the audible crawl rule for analog-only cable systems that lack the equipment needed to pass through audible emergency information via a secondary audio stream; and extended the existing waiver for non-textual emergency information for five more years (until May 26, 2023), subject to the filing of a status report on November 25, 2020.

CGB BRIEFING SHEET

SUBJECT: Emergency Alerts

SUMMARY/BACKGROUND:

The FCC requires that emergency notifications are accessible as follows:

- The Emergency Alert System (EAS): Under the Commission's rules, at 47 CFR § 11.1(c), analog radio and television stations, and wired and wireless cable television systems, DBS, DTV, SDARS, digital cable and DAB, and wireline video systems (EAS Participants) must receive and retransmit EAS alerts initiated by the President. In addition, EAS Participants may voluntarily receive and retransmit EAS alerts issued by other government agencies. The rules also require EAS visual messages to be readable and accessible to people with disabilities and EAS visual and audio portions to be played in full at least once.
- The Wireless Emergency Alerts (WEAs): The WEA system allows consumers who own certain mobile devices to receive geographically-targeted, text-like emergency messages. WEA was established in 2008, pursuant to the Warning, Alert and Response Network (WARN) Act. The Commission adopted rules allowing CMS Providers to voluntarily deliver timely and accurate emergency alerts over subscribers' mobile devices. The WEA rules include a requirement for a distinctive vibration cadence and distinctive aural signal to ensure that WEAs are accessible to persons with hearing and vision disabilities.

STATUS:

Accessible Emergency Alert System. On July 13, 2018, the Commission released a Report and Order and FNPRM adopting new EAS rules to help prevent false emergency alerts and improve alert testing by permitting actual EAS alert codes to be used during local EAS tests. These rules require that the entity conducting the test to conduct public outreach notifying the public that there will be a test that uses a live code, and to the extent technically feasible, inform the public in the test message that the event is only a test. In both instances, such notification must be accessible to individuals with disabilities, consistent with the FCC's EAS rules. The new rules also permit public service announcements (PSAs) about EAS alerts to include the EAS attention signal and audible tones, and these PSAs are expected to be accessible to individuals with disabilities.

On June 3, 2015, the Commission released a Report and Order adopting minimum accessibility rules in order to ensure that EAS visual messages are readable and accessible to all members of the public, including people with disabilities. The EAS visual message must be displayed in a size, color, contrast, location, and speed that is readily readable and understandable and displayed in its entirety at least once during any EAS alert message. The EAS message also must be placed on the screen in a way that doesn't overlap with important information. Finally, the audio portion of any EAS alert must play in full at least once during any EAS message.

Accessible Wireless Emergency Alerts.

On March 28, 2018, the Commission released a Public Notice inviting parties to comment on the feasibility of including multimedia content in WEA messages. This feature can promote greater accessibility for individuals with various disabilities. The comment period closed on June 11, 2018.

On January 30, 2018, the Commission adopted a Second Report and Order and Second Order on Reconsideration, adopting rules that will improve WEA by increasing the geographic accuracy of these alerts. The order also requires that WEA-capable mobile devices preserve the alerts for 24 hours, so consumers have more time to review emergency information. During this 24-hour period, the messages displayed must continue to be accessible to people with disabilities.

On September 29, 2016, the Commission adopted rules to update and strengthen WEAs by promoting to the wider use and effectiveness of WEA and making such messages more accessible for individuals with disabilities. The Commission also released a FNPRM to seek comment about how to achieve the inclusion of thumbnail-sized photos and symbols in Public Safety Messages; whether to incorporate future technical advancements to improve WEA, such as multimedia and multilingual alert content, including American Sign Language (ASL); and how to improve consumer choices and education about WEA.

Nationwide Alerting Tests.

On June 19, 2020, FEMA announced that the 2020 national emergency alerting test will not be conducted.

On August 7, 2019, the Commission and the Federal Emergency Management Agency (FEMA) conducted a nationwide test of the EAS. The tests were designed to gauge the reliability, accessibility, and effectiveness of the EAS using only a hierarchical, broadcast-based distribution system in the event that dissemination via the Internet is not available. On May 12, 2020, PSHSB, after coordinating with DRO, released a report and analysis of the 2019 test and recommendations for improvement. In the report, the Commission stated it would continue to promote accessible EAS messaging in the outreach conducted prior to any upcoming nationwide EAS test.

On October 3, 2018, the Commission and the FEMA conducted a nationwide test of the WEA system, followed by a nationwide test of the EAS. The tests were designed to gauge the reliability, accessibility, and effectiveness of the WEA system and the EAS. PSHSB released its initial findings of each test on December 21, 2018. The findings indicated some issues around accessibility, such as lack of the required vibration or audio attention signals for WEA messages and difficulty in understanding text crawls or audio of televised EAS messages. On April 8, 2019, PSHSB (after coordinating with DRO), released a report and analysis of the 2018 test and recommendations for improvement. The report also outlined next steps to ensure disability access for both WEA and EAS messages.

On September 28, 2016, and September 27, 2017, the Commission and FEMA conducted nationwide tests of the EAS. The tests were designed to gauge the reliability, accessibility, and

effectiveness of the EAS. The Commission released its initial findings of each test, on December 26, 2016 and December 7, 2017, respectively. The findings of the 2016 test, inter alia, indicated that some people with disabilities had difficulty receiving or understanding the alert text or audio. The Commission released a report and analysis of the 2016 test and recommendations for improvement on April 21, 2017. On April 13, 2018, PSHSB (after coordinating with DRO) released a final report to outline next steps for optimizing the EAS test, including steps to ensure disability access.

Emergency Alerting Paradigm. On January 29, 2016, the Commission released an Emergency Alerting Paradigm NPRM prepared by the Public Safety and Homeland Security Bureau to promote community preparedness and ensuring that the public receives the most effective alerts during emergencies. The NPRM sought comments on issues including, but not limited to, how emergency alerts and outreach activities can best meet the needs of individuals with limited English proficiency and those with disabilities, including the use of new and emerging technologies, such as text-to-speech, alert signaling, and American Sign Language video alerts.

Early Earthquake Warnings. On April 8, 2016, the Commission released a Public Notice seeking comment on technical aspects of the Integrated Public Alert and Warning System (IPAWS) and its associated alerting systems, such as the EAS and WEA, as well as other alerting schemes. The Public Notice sought to gather input about different models for delivering early earthquake warnings to the entire public in fewer than three seconds. Public input was also sought on how to better design and transmit such alerts to ensure that they are accessible to people with disabilities.

Hurricane Season Response Efforts. On December 7, 2017, PSHSB released a Public Notice seeking comment on the effectiveness of emergency communications during the 2017 hurricane season. Among other issues, comments are sought about experiences of people with disabilities during the emergency events, and how emergency communication can be improved. The comment period closes on February 21, 2018. On April 13, 2018, PSHSB hosted a roundtable on how to identify critical details necessary to improve communications during disasters. Members of the disability community provided their perspective on communication needs during such emergencies.

False Alerts. On April 10, 2018, PSHSB (after coordinating with CGB/DRO) released a report and recommendations concerning the Hawaii Emergency Management Agency's January 13, 2018 false missile alert. The report discusses, inter alia, the impact of false alerts on individuals with disabilities. On May 15, 2018, PSHSB hosted a public roundtable to share best practices identified in the Report. A representative of a disability rights consumer group served as a panelist.

CGB BRIEFING SHEET

SUBJECT: Disability Advisory Committee (DAC)

SUMMARY/BACKGROUND:

The Disability Advisory Committee (DAC) provides advice and recommendations to the Commission on a wide array of disability matters within the jurisdiction of the Commission. Pursuant to the Federal Advisory Committee Act, on December 2, 2014, the Commission announced the establishment of the DAC for its first two-year term. The DAC was renewed for a second term on December 29, 2016, and a third term from December 21, 2018, to December 21, 2020. To learn more about the DAC and its activities, visit: www.fcc.gov/dac.

STATUS:

Meetings. The third term of the DAC met on April 10, 2019, September 24, 2019, February 26, 2020, and October 14, 2020.

Recommendations. The first and second terms of the DAC resulted in 28 recommendations to the Commission. The six recommendations in the third term are:

- [Providing Reliable Information About Televised Programs with Audio Description](#)
- [RTT Integration with Point-to-Point Videophone Calls](#)
- [RTT Integration with Video Relay Services Calls](#)
- [IP CTS and the TRS User Registration Database](#)
- [Best Practices for Access to Live Programming in Smaller Markets](#)
- [Audio Description Quality Best Practices](#)

Tentative Fourth Term. On July 14, 2020, the Commission announced the anticipated renewal of the DAC for a fourth term for years 2020-22 and solicited applications for membership. The application period closed on August 13, 2020.

Membership. The current members of the third term are:

- ABC, Inc./The Walt Disney Company – Townsend Davis
- ACT – the App Association – Brian Scarpelli; Joel Thayer (Alternate)
- Aira Tech Corporation – Paul Schroeder; Daniel Frye (Alternate)
- American Association on Intellectual & Developmental Disabilities – Dr. Maggie Nygren
- American Council of the Blind – Anthony Stephens; Claire Stanley (Alternate)
- American Foundation for the Blind – Sarah Malaier; Stephanie Enyart (Alternate)

- Apple, Inc. – Maria Kirby; Sarah Herrlinger (Alternate)
- AT&T - Linda Vandeloop; Susan Mazrui (Alternate)
- Audio Description Associates, LLC – Joel Snyder; Bill Parks (Alternate)
- City of Boston – Carl Richardson
- ClearCaptions, LLC – Michael Strecker; Rita Beier (Alternate)
- Comcast – Thomas Wlodkowski; Chris Wendt (Alternate); Jerry Parkins (Alternate)
- Consumer Technology Association – Rachel Nemeth; Rehan Ehsan (Alternate)
- Convo Communications, LLC – Jeff Rosen
- CSDVRS, LLC – Gregory Hlibok; Mark Stern (Alternate)
- CTIA – the Wireless Association - Kara Graves; Matthew Gerst (Alternate)
- Deaf Blind Citizens in Action – Divya Goel; George Stern (Alternate)
- Dicapta – Maria Victoria Diaz
- Gallaudet Rehabilitation Engineering Research Center on Improving the Accessibility, Usability and Performance of Technology for Individuals who are Deaf or Hard of Hearing – Dr. Christian Vogler; Linda Kozma-Spytek (Alternate); Raja Kushalnagar (Alternate)
- Hamilton Relay, Inc. – Dixie Ziegler; Beth Slough (Alternate)
- Hearing Loss Association of America – Lise Hamlin; Barbara Kelley (Alternate)
- Level Access, Inc. - Sam Joehl; Owen Edwards (Alternate)
- National Association for State Relay Administration (NASRA) – Rebecca Rosenthal; Rochelle Garrow (Alternate)
- National Association of Broadcasters – Joshua Pila; Larry Walke (Alternate); Leigh Foley (Alternate)
- National Association of the Deaf – Zainab Alkebsi; Howard Rosenblum (Alternate)
- National Black Deaf Advocates – Isidore Niyongabo

- National Captioning Institute, Inc. – Darlene Parker; Beth Nubbe (Alternate)
- National Federation of the Blind – Everette Bacon; John Pare (Alternate)
- Rochester Institute of Technology, National Technical Institute for the Deaf, Center on Access Technology – Brian Trager; Gary Behm (Alternate)
- Sorenson Communications, LLC – Michael Maddix; Bruce Peterson (Alternate)
- Telecommunications for the Deaf and Hard of Hearing, Inc. – Eric Kaika; Blake Reid (Alternate)
- Telecommunications Industry Association (TIA) –Colin Andrews
- T-Mobile USA – Shellie Blakeney, Dennis Selznick (Alternate)
- Ultratec/Captel – Pamela Holmes
- Verizon – Zachary Bastian; Ian Dillner (Alternate)
- VITAC – Heather York; David Titmus (Alternate)
- Ex Officio Federal Government Representatives (Non-Voting Members)
 - U.S. Access Board – Timothy P. Creagan; Bruce Bailey (Alternate)
 - U.S. Department of Homeland Security, Federal Emergency Management Agency – Gay Jones
 - U.S. Department of Education, Office of Special Education and Rehabilitative Services (OSERS) – Brianne Burger; Johnny Collett (Alternate)

CGB BRIEFING SHEET

SUBJECT: Intergovernmental Advisory Committee (IAC)

SUMMARY/BACKGROUND:

Mission: The mission of the IAC is to make recommendations to the Commission on communications issues affecting local, state and Tribal governments that are within the jurisdiction of the Commission.

Background: In 1997, the FCC established the IAC's predecessor, the Local and State Government Advisory Committee (LSGAC). On July 17, 2003, the Commission renamed the advisory body the IAC to reflect greater balance between state, local and Tribal representation, and urban and rural representation, as well as to gain expertise in homeland security and rural matters. Since 1997, the LSGAC and IAC have provided input into the FCC's decision-making process through over 50 policy comments, reports and recommendations.

Oversight: Oversight for the IAC is handled by the Consumer and Governmental Affairs Bureau's Office of Intergovernmental Affairs (IGA). Commission rules found at 47 CFR § 0.701 govern the composition and operation of the IAC.

Time Parameters: Under Commission rules, 47 CFR § 0.701(c), the IAC is authorized to undertake its mission for a period of two years from the date of any term's first meeting.

Not a Federal Advisory Committee: Pursuant to Section 204(b) of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. § 1534(b), the IAC is a forum to "facilitate intergovernmental communication," *see* 47 CFR § 0.701(a), and is not subject to, or required to follow, the procedures set forth in the Federal Advisory Committee Act, 5 U.S.C., App. 2 (1988). As a result, its meetings are not open to the public.

Membership: Pursuant to Section 0.701(b) of the Commission's rules, the IAC consists of thirty members (or their designated employees), with a minimum of four elected municipal officials (city mayors or city council members); two elected county officials (county commissioners or council members); one elected or appointed local government attorney; one elected state executive (governor or lieutenant governor); three elected state legislators; one elected or appointed public utilities or public service commissioner; and three elected or appointed Tribal representatives.

ACTIVITIES:

On August 13, 2020 the Commission issued a Public Notice announcing the membership of the new IAC and Paul TenHaken, Mayor of Sioux Falls, SD as Chair of the IAC and Peter Larkin, Chairman of the Massachusetts Broadband Institute, as Vice Chair. The first virtual meeting of the 2020 IAC was held on September 22, 2020.

IAC MEMBERS (2020-2022):

- **Chairman:** Paul TenHaken, Mayor, City of Sioux Falls, South Dakota
- **Vice-Chairman:** Peter J. Larkin, designee of Massachusetts Lieutenant Governor Karyn E. Polito
- **State Executive Representatives (3)**
 - Eric Holcomb, Governor, Indiana
Designee: Robert E. Carter, Commissioner, State of Indiana Department of Corrections
 - John Husted, Lieutenant Governor, Ohio
 - Karyn E. Polito, Lieutenant Governor, Massachusetts
Designee: Peter J. Larkin, Chairman of the Board of the Massachusetts Broadband Institute at the Massachusetts Technology Collaborative and Special Advisor to the Executive Office of Housing and Economic Development (IAC Vice-Chair)
- **Municipal Representatives (11)**
 - Paul TenHaken, Mayor, City of Sioux Falls, South Dakota (IAC Chair)
 - Steve Adler, Mayor, City of Austin, Texas
 - James R Clark, Town Council Member, Town of Orleans, Indiana
 - Alix Desulme, City Councilman, City of North Miami, Florida
 - Mike Duggan, Mayor, City of Detroit, Michigan
Designee: Joshua Edmonds, Director of Digital Inclusion, City of Detroit
 - Scott A. Fadness, Mayor, City of Fishers, Indiana
 - John Fogle, City Councilor, City of Loveland, Colorado
 - Brian J. O’Neill, Philadelphia City Council Member, Pennsylvania
 - Adrian Perkins, Mayor, City of Shreveport, Louisiana
 - Timothy A. Scott, Mayor, Borough of Carlisle, Pennsylvania
 - Tony Singh, Council Member, District 2, Town of Little Elm, Texas
- **County Representatives (3)**
 - Pamela Carter, Member of the Augusta County Board of Supervisors, Virginia
 - Paul M. Wendel, Jr., Chautauqua County Executive, Mayville, NY
 - B. Glen Whitley, County Judge, Tarrant County, Texas

- **City Attorney Representative (1)**
 - Debra M. Bryan, Associate City Attorney, City of Virginia Beach, Virginia
- **State Legislative Representatives (5)**
 - Spencer Hawks, State Representative, Arkansas House of Representatives
 - Kristin Phillips-Hill, State Senator, Pennsylvania State Senate
 - Robert H. Plymale, State Senator, West Virginia State Senate
 - Angelo J. Puppolo, Massachusetts State Representative
 - Jason Saine, State Representative, North Carolina General Assembly

State Public Utility Commission Representatives (2)

- Upendra J. Chivukula, Commissioner, New Jersey Board of Public Utilities
- Alexandra Fernández Navarro, Associate Member, Puerto Rico Public Service Regulatory Board
- **Tribal Representatives (4)**
 - Clifford Agee, Under Secretary of Subsidiary Services and Support, Chickasaw Nation, Ada, Oklahoma
 - Godfrey Enjady, General Manager for Mescalero Apache Telecom, Inc, New Mexico
 - Tina Glory Jordan, Secretary of State, Cherokee Nation, Tahlequah, Oklahoma
 - Danae Wilson, Manager Department of Technology Services, Nez Perce Tribe, Lapwai, Idaho
- Vacant seat

CGB BRIEFING SHEET

SUBJECT: Hospital Robocall Protection Group (HRPG or Group)

SUMMARY/BACKGROUND:

Mission and term: The HRPG, a Federal Advisory Committee, was chartered on June 25, 2020. As required by section 14(c) of the TRACED Act, the mission of the HRPG is to issue best practices recommendations regarding the following: (1) how voice service providers can better combat unlawful robocalls made to hospitals; (2) how hospitals can better protect themselves from such calls, including by using unlawful robocall mitigation techniques; and (3) how the Federal Government and State governments can help combat such calls. It is anticipated that these best practices shall be issued not later than 180 days after establishment of the HRPG, as required by the TRACED Act. Best practices issued shall be reported to the Chairman of the Commission.

The HRPG shall terminate upon issuance of best practices, which is anticipated to be no later than 180 days after the HRPG is established (June 25, 2020), but in no case more than two years from its establishment.

Oversight: Oversight for the HRPG is handled by IGA. The HRPG is organized under, and will operate in accordance with, the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App. 2, and the TRACED Act (Public Law No. 116-105).

Membership: Twenty volunteer members of the HRPG were appointed by the Chairman of the Commission in consultation with appropriate Commission staff. As required by section 14(b) of the TRACED Act, the Group is composed of an equal number of representatives from each of the following: (a) voice service providers that serve hospitals; (b) companies that focus on mitigating unlawful robocalls; (c) consumer advocacy organizations; (d) providers of one-way voice over internet protocol services described in section 14(e)(3)(B)(ii) of the TRACED Act; (e) hospitals; and (f) state government officials focused on combating unlawful robocalls. Additionally, the Group is composed of one representative of the FCC and one representative of the Federal Trade Commission.

The HRPG Chair is Dave Summitt, Chief Information Security Officer, Moffitt Cancer Center. The HRPG Vice Chair is Patrick Halley, Senior Vice President, Policy & Advocacy, USTelecom – The Broadband Association.

The Committee's roster by category and name is as follows:

Voice Service Providers that Serve Hospitals:

- John Cunningham, Director of Fraud Management, CenturyLink
- Joseph DeLotto, VP of Voice and Unified Communications Products, Charter Communications
- Linda Vandeloop, Assistant Vice President, Federal Regulatory, AT&T

Companies that Focus on Mitigating Unlawful Robocalls:

- Mark Collier, Chief Technology Officer, SecureLogix
- Aaron Foss, Founder and CEO, Nomorobo
- Patrick Halley, Senior Vice President, Policy & Advocacy, US Telecom – The Broadband Association

Consumer Advocacy Organizations:

- John Breyault, Vice President, Public Policy, Telecommunications and Fraud, National Consumers League
- Dawit Kahsai, Senior Legislative Representative, AARP (formerly the “American Association of Retired Persons”)
- Irene Leech, Vice-President, Consumer Federation of America

Providers of one-way voice over internet protocol services:

- Gunnar Halley, Assistant General Counsel CELA-Privacy & Regulatory Affairs, Microsoft Corporation
- Rebekah Johnson, Founder & CEO, Numeracle
- Chris Shipley, Attorney & Policy Advisor, INCOMPAS

Hospitals:

- Richard Lovich, Managing Partner, Stephenson, Acquisto & Colman, and National Counsel to the American Association of Healthcare Administrative Management (AAHAM)
- John Riggi, Senior Advisor for Cybersecurity and Risk, American Hospital Association
- Dave Summitt, Chief Information Security Officer, Moffitt Cancer Center & Research Institute

State Government Officials Focused on Combating Unlawful Robocalls:

- Creecy Johnson, Special Deputy Attorney General, North Carolina Attorney General’s Office
- David McCoy, Assistant Attorney General, Office of the Arkansas Attorney General
- Wisam Naoum, Assistant Attorney General, Michigan Department of Attorney General

FCC Representative:

- Commissioner Brendan Carr

FTC Representative:

- Commissioner Noah Phillips

ACTIVITIES:

At its inaugural meeting on July 27, 2020, the HRPG formed three Working Groups, assigned tasks, and named its Chair and Vice Chair, its Working Group Chairs, and members of each working group as follows:

Working Group 1: How voice service providers and other entities can better combat unlawful robocalls made to hospitals

- 1) Working Group Chair: Joseph DeLotto
- 2) Aaron Foss
- 3) Dr. Irene Leech
- 4) Chris Shipley
- 5) Wisam Naoum
- 6) Richard Lovich
- 7) FCC Commissioner Brendan Carr

Working Group 2: How hospitals can better protect themselves from such calls, including by using unlawful robocall mitigation techniques

- 1) Working Group Chair: John Riggi
- 2) John Cunningham
- 3) Mark Collier
- 4) John Breyault
- 5) Rebekah Johnson
- 6) David McCoy
- 7) FTC Commissioner Noah Phillips

Working Group 3: How the Federal Government and State governments can help combat unlawful robocalls

- 1) Working Group Chair: Creecy Johnson
- 2) Dave Summitt (HRPG Chair)
- 3) Linda Vandeloop
- 4) Patrick Halley (HRPG Vice Chair)
- 5) Dawit Kahsai
- 6) Gunnar Halley
- 7) FCC Commissioner Brendan Carr
- 8) FTC Commissioner Noah Phillips

Activities of the HRPG are posted to the Group's webpage at <https://www.fcc.gov/hospital-robocall-protection-group>.

CGB BRIEFING SHEET

SUBJECT: Office of Native Affairs and Policy (ONAP)

SUMMARY:

On August 12, 2010, the Commission created the Office of Native Affairs and Policy (ONAP) within the Consumer and Governmental Affairs Bureau. ONAP is the Commission's primary point of contact on Native issues, and is charged with bringing the benefits of modern communications infrastructure to all Native communities by, among other things:

- Ensuring robust government-to-government consultation with federally recognized Tribal governments and other Native organizations, including Hawaiian Home Lands;
- Working with Commissioners, Bureaus, and Offices within the FCC, as well as with other government agencies and private organizations, to develop and implement policies for assisting Native communities;
- Ensuring that Native concerns and voices are considered in all relevant Commission proceedings and initiatives; and
- Representing the Commission's positions on matters of interest to Tribal entities.

CONSULTATION WITH TRIBAL NATIONS AND NATIVE COMMUNITIES:

Tribal consultation is the formal dialogue process between federal agencies and Tribal Nations, intended to provide timely notice, obtain meaningful Tribal input, and ensure such input is carefully considered in federal actions that affect Tribal Nations. For ONAP, the structure of consultation and other forms of engagement has included training and consultation workshops, participation in national and regional inter-Tribal organization conferences, and government-to-government meetings on specific topics. ONAP is constantly reviewing its Tribal engagement plans and practices to ensure they further the Commission's mission.

In furtherance of its FCC Tribal Communications Training and Consultation Workshop program, ONAP held four Workshops in calendar year 2019, in Norman, Oklahoma, Billings, Montana, Albuquerque, New Mexico, and Blue Lake, California. The Workshop sessions primarily consist of panels led by ONAP, with representatives from other Bureaus across the Commission, as well as other agencies, such as the U.S. Department of Agriculture, discussing policy initiatives affecting Tribal lands. The Workshops also include listening sessions in which Tribal leaders and employees have the opportunity to share their perspectives on these issues. ONAP also supports the Universal Service Administrative Company's (USAC) separate Tribal E-rate trainings sessions, in addition to inviting USAC to make presentations as part of ONAP's Workshop programs.

The following is a non-exhaustive sample of the consultations, trainings, and meetings which ONAP either organized and/or participated in – typically with subject-matter experts from other

Bureaus and Offices – during the last 12 months. With the cessation of travel and in-person events as a result of the Covid-19 pandemic, over the last six months ONAP has relied on electronic communication and appearances.

- September 2020 – presented at an Internet Society training session for annual Indigenous Connectivity Summit
- September 2020 – helped plan and participated in the Department of the Interior’s second annual National Tribal Broadband Summit
- August 2020 – conducted national Tribal meeting on the Commission’s proposed Twilight Towers Program Comment
- July 2020 – participated in Congresswoman Schrier’s online 2.5 GHz Rural Tribal Priority Window event for Washington State Tribes
- July 2020 – Supported and presented at the Department of the Interior’s Emergency Broadband Support webinar
- June 2020 – Conducted Rural Digital Opportunity Fund webinar hosted by the National Congress of American Indians
- June 2020 – Conducted Rural Digital Opportunity Fund webinar hosted by the Affiliated Tribes of Northwest Indians
- May 2020 – Conducted a Rural Digital Opportunity Fund webinar for state, local, Tribal and territorial governments
- March 2020 – Made two presentations on the 2.5 GHz Rural Tribal Priority Window in Juneau, Alaska
- February 2020 – Participated in a MuralNet-sponsored 2.5 GHz Rural Tribal Priority Window Webinar for Washington State
- January 2020 – Tribal Spectrum Opportunity Workshop, Norman, Oklahoma
- December 2019 – Made a Spectrum Opportunities presentation at the Bureau of Indian Affairs Tribal Providers Conference in Anchorage, Alaska
- November 2019 – Conducted an in-person Native Nations Communications Task Force meeting at FCC headquarters in Washington, DC
- November 2019 – Conducted an FCC Tribal Workshop in Blue Lake, California
- October 2019 – Conducted a Broadcast Radio and Broadband Spectrum Summit in Albuquerque, New Mexico in collaboration with Native Public Media and the National Congress of American Indians
- September 2019 – Supported and presented at the Department of the Interior’s National Tribal Broadband Summit in Washington, DC

THE COMMISSION’S POLICY INITIATIVES AFFECTING TRIBAL LANDS:

The Commission established ONAP to more fully realize the Commission’s long-standing commitment to the trust relationship between the federal government and Tribal Nations. Through ONAP and its other Bureaus and Offices, the Commission works closely with Tribal governments, and has incorporated recommendations from Tribal governments, Tribally owned telecommunications companies, and national and regional inter-Tribal organizations in its policy initiatives, creating new opportunities for Tribal nations and highlighting the challenges they experience.

A non-exhaustive sample of these initiatives includes:

- *Transforming the 2.5 GHz Band (WT Docket No. 18-120)*: On February 3, 2020, the Commission opened a six-month Rural Tribal Priority Window, which provides federally recognized Tribes an unprecedented opportunity to obtain licenses for currently unassigned 2.5 GHz spectrum over their rural Tribal lands, prior to any currently unassigned spectrum being offered through competitive auction. ONAP and the Wireless Telecommunications Bureau have led the Commission's efforts to disseminate information about the Priority Window through in-person presentations at FCC Tribal Workshops and other inter-Tribal events, as well as through telephone calls and letters to the leadership of individual Tribes, and through regular email updates. The Priority Window was extended by WTB Order on July 31, 2020 for thirty days and closed on September 2, 2020. The Commission received over 400 applications which are undergoing processing.
- *5G Fund Notice of Proposed Rulemaking (GN Docket 20-32)*: In April, the Commission released a Notice of Proposed Rulemaking seeking comment on a proposal to distribute up to \$9 billion in two phases for next-generation wireless broadband connectivity in rural America. Recognizing the distinct challenges in ensuring that Tribal lands are provided with 5G service, as proposed, the Phase I budget includes \$680 million reserved to support 5G networks serving Tribal lands. Only eligible areas on Tribal lands would be assigned support under the reserved Tribal lands budget. The Notice asked commenters to consider whether the proposed Tribal reserve budget would significantly advance the Commission's goal of promoting 5G service to Tribal lands. The Notice also addressed a number of other matters of potential interest to Tribal governments and entities: how to identify Tribal lands, bid processing for the Tribal lands reserved budget, whether to adopt different requirements for legacy support recipients serving Tribal lands, whether to adopt a waiver opportunity for the letter of credit requirement for Tribally owned winning bidders. The Commission is currently scheduled to consider a 5G Fund Report and Order at the October 27 Open Meeting.
- *Ex Parte Reform Notice of Proposed Rulemaking (GN Docket No. 20-221)*: In July 2020, the Commission adopted a Notice of Proposed Rulemaking in which it proposed, among other things, to alter the rules governing *ex parte* presentations by federally recognized Indian Tribes to better facilitate government-to-government consultation in certain circumstances. If adopted, these reforms would, among other things, give Tribes more flexibility in how they communicate with the Commission, as well as more control over what is and is not made publicly available.
- *COVID-19 Telehealth Program (WC Docket No. 20-89)*: As part of the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Congress provided the FCC with \$200 million to support emergency telehealth initiatives. Five Tribal health care providers in the upper Midwest, Navajo Nation, California, Oregon, and Minneapolis were approved for a total of \$2,362,923 in support to help health care providers provide connected care

services to patients at their homes or mobile locations in response to the COVID-19 pandemic.

- *Lifeline Waiver Order (WC Docket No. 11-42)*: In June 2020 the Commission made it easier for eligible consumers living on rural Tribal lands to enroll in the Lifeline program during the COVID-19 pandemic. The Wireline Competition Bureau waived through August 31, 2020 the requirement that such consumers provide the necessary documentation prior to receiving their Lifeline-supported service. Instead, a Lifeline provider may choose to immediately begin providing the consumer with Lifeline-supported service, and the consumer will have 45 days from the time of application to provide such documentation and prove their eligibility. In August, the Bureau extended this waiver through November 30, 2020 to help subscribers residing in rural areas on Tribal lands begin receiving Lifeline services more quickly.
- *USF/ICC Transformation Order (WC Docket No. 10-90 et al)*: Numerous Tribal-specific questions were presented in the proposed rulemaking, and through ONAP and the various Bureaus and Offices across the agency, the Commission engaged Tribal governments and associations, Native institutions, and leaders throughout the country in the rulemaking process. Among other things, the *USF/ICC Transformation Order* established the Tribal engagement obligation, requiring that all ETCs demonstrate, on an annual basis, they have meaningfully engaged Tribal governments in their supported areas. In 2012, ONAP together with the Wireline Competition and Wireless Telecommunications Bureaus issued advisory guidance (2012 Further Guidance) on practical compliance with the obligation.
 - Several Petitions for Reconsideration were filed, which remain under review.
 - In September 2018, GAO released a Report, GAO 18-630, addressing the accuracy of broadband availability data on Tribal lands, which recommended, among other things, the FCC obtain feedback from Tribal stakeholders and providers on the effectiveness of the advisory guidance issued in 2012.
 - On October 21, 2019, the Commission issued a Public Notice seeking comment on the effectiveness of the 2012 guidance and to refresh the record on the related petitions for reconsideration. Comments were due on December 5, 2019, and replies were due on January 6, 2020.
 - The Commission has also tasked the Native Nations Communications Task Force with assessing the effectiveness of the Tribal Engagement Obligation and making recommendations for increasing its effectiveness, including identifying best practices.
- *Alternative Connect America Model – II (A-CAM II)*: As part of its ongoing USF reforms, the Commission has taken steps that enable rate-of-return carriers to receive stable, predictable support by electing to accept funding based on the Connect America Cost Model (A-CAM). In the Commission’s December 2018 Rate-of-Return Order, the Commission offered to increase model-based support (A-CAM-II) in exchange for carriers committing to meet increased build out and service requirements. On August 22, 2019, the Commission authorized A-CAM-II funding to support maintaining, improving,

and expanding affordable broadband in 44,243 homes and businesses on Tribal lands. Most of those homes and businesses – 37, 281 in all – will have access to speeds of at least 25/3 Mbps.

Promoting Telehealth for Low-Income Consumers (WC Docket No. 18-213): In July 2019, the Commission adopted a Notice of Proposed Rulemaking seeking to establish a three-year, \$100 million Connected Care Pilot program to be funded by the Universal Service Fund. On April 2, 2020, the Commission released a Report and Order establishing the Connected Care Pilot Program within the Universal Service Fund to help defray eligible health care providers' costs of providing connected care services, with an emphasis on supporting these services for low-income and Veteran patients, including Tribal populations.

- *Promoting Telehealth in Rural America (WC Docket No. 17-310)*: The Commission released a Report and Order on August 20, 2019, reforming the Rural Health Care Program to prevent waste, fraud, and abuse by changing how the discounted rates that health care providers pay for communications services, and the amount of support received from the program, are calculated. The Report and Order also creates a database of rates enabling rural health care providers to quickly and easily determine the amount of support they can receive. A significant share of the annual funding supports telehealth programs on rural Tribal lands, particularly in Alaska.
- As part of multiple ongoing initiatives, and in response to congressional direction in the 2018 Consolidated Appropriations Act, the Commission continues its efforts to identify and resolve, in consultation with Tribes and Tribal organizations, obstacles to greater broadband deployment and adoption on Tribal lands.
 - The 2018 RAY BAUM's Act required the Commission to submit a Tribal Broadband Deployment Report to Congress and undertake a related unserved-areas rulemaking.
- *Rural Digital Opportunity Fund (FCC 20-5, Docket Nos. 19-126, 10-90)*: On January 30, 2020, the Commission adopted an Order establishing the framework for providing up to \$20.4 billion over 10 years for broadband and voice services to fixed locations in currently unserved and underserved areas. The Order includes a 25% Tribal Broadband Factor that establishes a lower funding threshold for eligible locations on Tribal lands. ONAP worked with the Commission's Rural Broadband Auctions Task Force to disseminate information about the Order and its Tribal Broadband Factor to Tribes, Tribal telecommunications companies, and inter-Tribal organizations, and to answer questions arising before and during the application window, which opened on July 1, 2020 and closed on July 15, 2020. Phase 1 of the auction (Auction 904) is scheduled to begin on October 29, 2020 and will award up to \$16 billion to bring service to currently unserved locations.

- *Digital Opportunity Data Collection (WC Docket No.19-195)*: On July 16, 2020, the Commission adopted a Second Report and Order and Third Notice of Proposed Rulemaking establishing requirements to ensure the Commission collects accurate and granular data on the availability of broadband service, including on Tribal lands, through the Digital Opportunity Data Collection, and seeking comment on additional measures to implement the requirements of the Broadband DATA Act. (WC Docket No. 19-195).
- *Wireless Infrastructure Deployment (WT Docket No. 17-79)*: The National Historic Preservation Act (NHPA) requires the Commission to consult with Tribal governments before authorizing the construction of telecommunications infrastructure such as cellular towers to ensure potential effects on resources of religious and cultural significance to Tribes are identified and mitigated. In April 2017, the Commission adopted an NPRM/NOI that sought an examination of regulatory impediments to wireless network infrastructure investment and deployment.
 - On March 30, 2018, the Commission released a Second Report and Order adopting several significant reforms to this historic-preservation review process, several of which affected Tribal Nations. The Report and Order was vacated in part and affirmed in part by the U.S. Court of Appeals for the D.C. Circuit in an August 9, 2019 decision. The Commission continues to explore additional reforms in this proceeding, including, among others, a proposed Program Comment to address colocations on Twilight Towers (those constructed between March 16, 2001 and March 7, 2005) that have not gone through Section 106 review. A draft Program Comment was submitted to the Advisory Council on Historic Preservation on August 24, 2020. On October 7, 2020, the ACHP notified the Commission that it would decline to comment on the proposal.
- *Connect America Fund Phase II Auction (WC 10-90)*: In 2011, the Commission reformed the High Cost program and established the Connect America Fund. In states where the price cap carriers declined Phase II support, the Commission determined support would be awarded through a competitive bidding process. Six Tribal entities submitted winning bids for support in the subsequent CAF-II reverse auction, which closed in August 2018. In all, it is projected that more than 80,000 locations on rural Tribal lands may obtain access to fixed broadband service based on the winning bids. ONAP worked closely with the Wireline Competition Bureau to provide technical assistance to winning bidders. All winning Tribal bidders have now been authorized to begin receiving support.
- *Lifeline Reform and Modernization (WC Docket No. 11-42)*: The Commission adopted an Order in November 2017 to further reform the Lifeline program. The Order was subsequently challenged in a lawsuit before the U.S. Court of Appeals for the D.C. Circuit, which in February 2019 remanded some provisions in the Order to the Commission to conduct a new notice-and-comment rulemaking proceeding on the vacated portions of the Order.

- In August 2017, WCB released a public notice announcing the six states to participate in the initial launch of the National Lifeline Eligibility Verifier. The initial launch began in June 2018 and included several Tribal areas. As of January 31, 2020, the National Verifier had been launched in all states except California, Oregon and Texas. After the launch, ETCs must use the National Lifeline Eligibility Verifier to recertify their subscribers.
 - ONAP, together with WCB and, in conjunction with the Universal Service Administrative Company (USAC), conducted extensive Tribal outreach to ensure Tribes were aware of and prepared for the change, as well as identify problems with the National Verifier process and potential solutions.
 - ONAP, WCB and USAC are also in the process of identifying appropriate federal, state and Tribal databases that could be used to automate the eligibility-verification process to reduce the administrative burden on individual Tribal carriers and program participants.
- *Spectrum over Tribal Lands (WT Docket No. 11-40)*: In 2011, the Commission released a Notice of Proposed Rulemaking in which it sought comment on how to provide Tribes with new opportunities to gain access to spectrum and create incentives for licensees to deploy wireless services on Tribal lands. The five proposals were to: (1) expand the Tribal licensing priority to Wireless Radio Services; (2) create a formal negotiation process under which Tribes could work with incumbent wireless licensees to bargain in good faith for access to spectrum; (3) implement a build-or-divest process that would allow licensees to build out in areas where licensees have met their construction requirement but are not serving Tribal lands within their service areas; (4) establish a Tribal lands construction safe harbor for wireless service providers; and (5) make modifications to the Tribal lands bidding credit. As noted above, the Commission has since created a Tribal licensing priority for currently unassigned 2.5 GHz spectrum over rural Tribal lands. The remaining proposals remain under consideration.
 - *Native Nations NOI (CG Docket No. 11-41)*: The NOI sought comment on specific topics related to the unique challenges and significant obstacles to the deployment of communications infrastructure on Tribal lands, including, for example: (1) whether a Tribal Priority should be adopted to remove barriers to entry for Native Nations seeking to provide communications services to their communities; (2) the establishment of a Native Nations Broadband Fund to support sustainable broadband deployment and adoption on Tribal lands; (3) sustainable business and deployment models to address the significant communications infrastructure needs, market challenges, and demand aggregation requirements specific to Tribal lands; and (4) challenges in achieving broadband adoption and utilization on Tribal lands. As noted above, the Commission has since created a Tribal Priority for unassigned 2.5 GHz spectrum over rural Tribal lands. This inquiry remains open.

In addition to several actions on the preceding list, the Commission has recently taken a number of other steps that have supported Tribal governments responding to the COVID-19 pandemic. Examples include:

- *Special Temporary Authority:* Since the pandemic began earlier this year, the Commission has granted several Tribes and other communications providers serving Tribal lands special short-term access to spectrum to help meet the increased need for connectivity for educational, public safety, healthcare and similar purposes.
- *Increased E-Rate Flexibility:* In March, the Commission clarified that schools and libraries closed due to the coronavirus COVID-19 outbreak are permitted to allow the general public to use E-Rate-supported Wi-Fi networks while on the school's campus or library property. This flexibility has provided Tribal students and members with a vital link to Internet connectivity during the ongoing pandemic.
- *Relaxation of USF Gift Rules:* Additionally in March, the Commission waived its gift rules that would have prevented the nation's rural health care providers and schools and libraries affected by the coronavirus disease from soliciting and accepting, improved broadband connections or equipment for telehealth or remote learning during the COVID-19 outbreak. The waiver was subsequently extended through the end of 2020.

CGB BRIEFING SHEET

SUBJECT: Native Nations Communications Task Force (NNCTF)

SUMMARY/BACKGROUND:

Mission: To make recommendations to the Commission on communications-related issues that affect Tribal interests.

Background:

- The Native Nations Broadband Task Force (Task Force), created in March 2011 and composed of senior Commission staff and elected and appointed leaders from federally recognized Tribal governments or governmental entities, or their designated employees, aided the Commission in fulfilling its commitment to increasing broadband deployment and adoption on Tribal lands.

Current Policy Agenda:

- Renewed in 2018 as the Native Nations Communications Task Force, the NNCTF is currently helping develop and execute the Commission's consultation policy, elicit input from Tribal governments, ensure Tribal concerns are considered in all Commission proceedings related to broadband, develop additional recommendations for promoting broadband deployment and adoption on Tribal lands, and coordinate with external entities, including other federal departments and agencies.

Logistics:

- The Task Force is expected to meet in person twice a year with meetings supplemented by teleconferences, and to work on assigned tasks throughout the year. The Task Force met at FCC headquarters on December 4, 2018, and on November 5, 2019, and in Norman, Oklahoma on June 11, 2019. During the coronavirus pandemic the Task Force has been conducting monthly virtual meetings to continue its work.
- Pursuant to the "intergovernmental communication" exemption in the Unfunded Mandates Reform Act, the NNCTF is exempt from the requirements and procedures set forth in the Federal Advisory Committee Act.

Oversight: Oversight of the NNCTF is handled by the Consumer and Governmental Affairs Bureau's Office of Native Affairs and Policy.

Membership: Members of the NNCTF must be elected or appointed leaders from federally recognized Tribal governments or governmental entities, or their designated employees. On - March 31, 2020, Chairman Pai announced the appointment of nine new Tribal Task Force members, filling several vacancies and expanding the total number of Tribal members from 19 to 25. The total number of Tribal members can vary from time to time due to normal attrition, as

Public Information

Tribal members who leave their positions with their Tribal governments lose their eligibility to serve on the Task Force.

POLICY ACTIVITIES

- *Native Nations Communications Task Force Broadband Report*: The Tribal members of the NNCFT adopted a report entitled *Improving and Increasing Broadband Deployment on Tribal Lands* report on November 5, 2019. The report identifies obstacles to and recommendations for achieving greater broadband deployment and adoption on Tribal lands. The Commission released the report on December 4, 2019. ONAP later placed the report in the official record of all relevant proceedings to inform the Commission's ongoing planning and policy making.
- The Task Force is currently working on its second task - evaluating the effectiveness of the Tribal Engagement Obligation, which requires USF High Cost recipients serving Tribal lands to engage in meaningful dialogue with the Tribes they serve at least annually and making recommendations for how to improve these engagements.

NNCTF Tribal Members (2018-2021)

Co-Chairs:

- Matthew Duchesne, ONAP
- Danae Wilson, Nez Perce Tribe

Members:

- Honorable Cheryl Andrews-Maltais, Wampanoag Tribe of Gay Head (Aquinnah)
- Honorable Susie Allen, Confederated Tribes of the Colville Reservation (**resigned**)
- Honorable Michael Connors, St. Regis Mohawk Tribe
- Honorable Joe Garcia, Ohkay Owingeh Pueblo
- Honorable Frankie Hargis, Cherokee Nation
- Honorable Jefferson Keel, Chickasaw Nation (**resigned**)
- Honorable Andy Teuber, Tangimaq-Native Village
- Honorable Joe Whitman, Gila River Indian Community
- Joelynn Ashley, Navajo Nation (**resigned**)

- Bill Bryant, Salt River Pima Maricopa Indian Community
- Crystal Hottowe, Makah Tribe
- Kristen Johnson, Tohono O'odham Nation
- Donald Long Knife, Fort Belknap Indian Community
- Robert A. Lucas II, Tanana Chiefs Conference
- Peter McCaslin, Kenaitze Indian Tribe
- Will Micklin, Ewiiapaayp Band of Kumeyaay Indians
- Theron Rutyna, Red Cliff Band of Lake Superior Chippewa Indians
- Karen Woodard, Morongo Band of Mission Indians
- Clifford Agee, Chickasaw Nation
- Christopher Becenti, Navajo Nation
- Damon Day, Confederated Tribes of the Colville Reservation
- Daniel Gargan, Rosebud Sioux Tribe
- James Kinter, Yocha Dehe Wintun Nation
- Robert Pollard, Blue Lake Rancheria
- Kevin Shendo, Pueblo of Jemez
- Derek White, San Carlos Apache Tribe (**resigned**)
- Jimmy Williams, Choctaw Nation

CGB BRIEFING SHEET

SUBJECT: Mobile Device Theft Prevention

SUMMARY/BACKGROUND:

On May 11, 2017, CTIA formally launched its Stolen Phone Checker. Powered by the GSMA Device Check, the Stolen Phone Checker is an online tool that is intended to become the one-stop reference point for consumers, businesses and law enforcement to ensure that any given mobile device has not been stolen. Moreover, devices that are listed as stolen on the Stolen Phone Checker cannot be reactivated on US mobile provider networks. Eventually the de-activation will be valid on service providers around the world.

The Stolen Phone Checker is the current milestone on a multi-year collaboration between the Commission and the members of the mobile device community (providers, device manufacturers, OS providers, application developers) to drive down the incidence of mobile device theft that began in April 2012. Together Commission staff and the mobile device community, working predominantly through the Technological Advisory Council (TAC) working group on mobile device theft prevention, have delivered important improvements to align security features across mobile device manufacturers, empower consumers to better protect their devices, more easily track them if they are lost or stolen, and to block reactivation of devices that have been reported stolen. Particular attention has been focused on improving collaboration with law enforcement and making more timely and accurate information about mobile device theft available both to law enforcement and the reseller community.

The TAC working group chair is Melanie Tiano from CTIA. Members include representatives from all major mobile service providers, OEMs, and OS providers.

At its final meeting in 2016 the TAC recommended that the FCC develop a smartphone antitheft measures national framework, including a consumer education kit, a voluntary code of conduct for device resellers, and that the FCC work with a range of law enforcement associations on consumer outreach and with Congress on the introduction of legislation to criminalize the reprogramming of IMEIs. The TAC also recommends that the FCC work with the solutions providers and the ecosystem involved in reverse logistics (carriers, device recyclers, device resellers, etc.) to ensure that the solution providers have enacted a mechanism for reverse logistics providers for devices that are covered by the industry commitments.

When the TAC was formally re-chartered earlier this year, the mobile device theft working group was re-established with the primary mission to implement the TAC's 2016 recommendations and in particular to promote better outreach to law enforcement.

ACTIVITIES:

Supporting TAC working group efforts to reach out to law enforcement and continue to follow the working group's recommendations and plan next steps as appropriate – a particular focus should be the utility and effectiveness of the Stolen Phone Checker. In addition, law

enforcement agencies that have provided stolen phone data to the working group in the past will be solicited to provide such information on a recurring basis. This information together with an ongoing consumer survey by CTIA will provide baseline information on program effectiveness and trends. Additionally, work continues to reach additional countries for the providers to participate in the Stolen Phone Checker and prevent activation on their networks.

CGB BRIEFING SHEET

SUBJECT: Consumer Affairs and Outreach Division (CAOD)

SUMMARY/BACKGROUND:

The mission of CAOD is to lead the Commission's efforts to effectively and efficiently engage the public through consumer awareness and education activities on issues within the FCC's regulatory purview. The Division accomplishes this mission via a comprehensive program of public outreach events that directly engage consumers as well as local, regional, and national consumer advocacy groups, community anchor institutions, and locally elected and appointed leaders. CAOD establishes strategic alliances with Federal, state, and local governmental entities, nongovernmental consumer and advocacy groups, and other organizations in order to effectively promulgate consumer-oriented information through shared channels via joint email blasts, social media content, and outreach events and activities.

The Division accomplishes its mission via deliverables in three primary workstreams.

- **Outreach Events.** Division staff are responsible for planning and executing consumer-oriented events that provide actionable and salient information to organizations that serve consumers as well as directly to consumers.
- **Public Engagement and Strategic Partnership.** Division staff are responsible for developing and maintaining partners – governmental and nongovernmental – that can assist the Commission in more effectively amplifying its consumer messaging. They develop shared public-facing products such as social media content, bi-monthly consumer newsletters and joint email blasts. They build and maintain the Division's contacts list and conduct email campaigns as necessary. They also leverage partnerships into concrete outreach and engagement deliverables to support the information needs of consumers.
- **504 Compliance Team.** Division staff on this team are primarily responsible for American Sign Language interpreting services for deaf or hard-of-hearing staff and visitors to the Commission. Additionally, they serve as subject matter experts to advise the events and public engagement teams on outreach efforts that support the disability community. Finally, the Section 504 Compliance Officer is the central Agency subject matter expert on all reasonable accommodations requests from members of the public interested in accessing the programs, activities, or services of the Commission. He reviews incoming requests to the FCC's 504 email inbox and provides appropriate oversight and direction to ensure that requests are met to the fullest extent possible.

2020 Outreach Highlights:

January 2020

- Planning and execution of one (as of July 31, 2020) FCC Rural Tour program.
 - Arizona and New Mexico (January 2020)

March 2020

- Exhibited at National Association of Counties 2020 Legislative Conference (Collaboration with IGA)
- Presented at the National League of Cities Annual Legislative Conference (Information Technology and Communications Committee)
- Exhibited at National League of Cities Annual Legislative Conference (Collaboration with IGA)
- Attended INCOMPAS Policy Summit
- Attended Free State Foundation Telecom Conference
- Exhibited DOJ Elder Justice Conference (Florida)
- Exhibited Great Lakes Media Show (Michigan Association of Broadcasters)
- Provided information for consumers as part of National Consumer Protection Week

April 2020: (COVID-19 Protocol)

- Guest presentation on National Community Action Foundation Monthly Webinar
- Joint email with NAAC regarding Covid-19 scams

June 2020

- Presented on the AARP “Slam the Scam” Outreach Campaign Video

July 2020:

- Email blast Military Consumer flier (Collaboration with FTC)
- Email blast HHS MENTAL Challenge (Collaboration with other federal agencies)

September 2020

- Released Telecom Themed Activity Booklet for Kids
- Interviewed on “Spotlight TV”, a partner (National Asian American Council) weekly public access newsmagazine (on robocalls).

October 2020

- Chairman’s Awards for Advancement in Accessibility on October 8

2019 Outreach Highlights:

Public Information

- Planning and execution of three (as of September 30, 2019) FCC Rural Tour programs. They included:
 - Georgia and South Carolina (May 2019)
 - Wisconsin and Minnesota (June 2019)
 - Nebraska and Kansas (September 2019), which included a public event with Chairman Pai on September 18, 2019.
- Participated in a webinar with the American Library Association (ALA) aimed at educating ALA member reference librarians about broadband adoption issues. (July 2019 with over 8,000 participants)
- Participated in 15 outreach events and partnership meetings throughout California and Nevada to launch the full-scale operations of the FCC Supermarket Program in conjunction with our outreach partners the National Asian American Coalition. The full-scale program includes trained staff and volunteers staffing information kiosks in 15 Island Pacific Supermarket branches, engaging local consumers on robocalls, spoofing, and other telecommunications consumer issues. (March 2019)
- Established a strategic partnership with USAC on the topic of the National Verifier. While the partnership is still new (September 3, 2019) it has already resulted in a joint CAOD/USAC outreach event to train staff at So Others May Eat (September 19, 2019) who interact with low-income consumers. The FCC (CAOD)/USAC outreach partnership is driven by weekly coordination calls.
- Conducted the Chairman's Awards for Advancement in Accessibility (June 2019)
- Attended and exhibited at the Operation Hope Global Leadership Forum (May 2019)
- Attended the Congressional Hispanic Caucus Leadership Institute Conference (September 2019)
- Attended the Congressional Black Caucus Institute Annual Conference (September 2019)
- Gave presentations at FCC Kids Day (April) and Girls Who Code (July) and LULAC 90th Annual National Convention and Exposition (July).
- Attended the Consumer Federation of America's Consumer Assembly from May 10 - 11 in DC.
- Attended the Minority Business Development Agency's National AAPI Business Summit (May 2019).

- Participated in monthly calls partnership calls with LULAC (Federal Training Institute Partnership), Department of Homeland Security (STOP.THINK.CONNECT.), National Asian American Coalition and The Telecom, Policy and Conference (TPRC 47).
- Participated on the Tropical Storm Dorian Task Force. Via our contacts at the National Association of Broadcasters, we were able to share information with the Florida, Georgia, South Carolina and Puerto Rico Broadcaster Association presidents.
- Launched a new program of monthly informational conference calls with outreach partner organizations (September 2019).
- Shared partner email blast with the Department of Veterans Affairs (VA), Veterans Benefits Administration resulted in delivery of anti-robocalls/spoofing messaging to 5.8M consumers (February 2019).
- Shared partner email blast with the Minority Media Telecommunications Council (MMTC) in July 2019 to the shared email lists of MMTC and CAOD.
- Developed an internal staff program to enhance presentation skills by providing opportunity to do public presentations on robocalls, spoofing, and other consumer issues. These presentations were provided at the following locations:
 - Wellness Senior Center, Washington, DC
 - Holiday Park Senior Center, Silver Spring, MD
 - St. Martin de Porres Senior Center, Alexandria, VA (including presentations and FCC document drop-off *en Espanol* by Keyla Hernandez-Ulloa, CAOD Associate Chief.)
- Established and maintained partnerships with mailings to the following entities. These are examples and, due to space limitations, do not reflect the totality of entities who have received Commission printed information on robocalls and other consumer issues:
 - U.S. Rep Don Bacon, Nebraska (for a constituent-focused emergency communications town hall event)
 - Wisconsin State Broadcasters Association
 - Sovereign Council of the Hawaiian Homelands Assembly.
 - Filipino-American Chamber of Commerce (Los Angeles Chapter)
 - Nebraska State Senator Halloran

- Held partnership meetings: with NAB (February), Virginia Press Association (July), Waseca County (July), Georgia Broadcasters Association (April), South Carolina Broadcasters Association (April), Wisconsin Broadcasters Association (July), City of Coconut Creek (July), Federal Trade Commission (July and August), MMTC (May), AARP (June – September), LGBTTech (July).

CGB BRIEFING SHEET

SUBJECT: FCC Rural Tour Program (RTP)

SUMMARY/BACKGROUND:

The FCC Rural Tour Program (RTP) puts CAOD staff into rural areas of the county to conduct a concentrated series of consumer outreach events, education and awareness briefings with local community leaders (mayors, librarians, etc.), listening sessions with local leaders, and local media engagements in order to maximize the reach and effectiveness of Commission consumer messaging efforts.

The staff connects directly with consumers to discuss telecommunications issues; provide useful information about preventing robocalls, how to protect yourself online, how to communicate in emergency situations and other topics. CAOD staff travel a pre-planned route in the targeted area.

CAOD staff will continue to build out partnerships focused on rural communities and connected services, such as connected agriculture. Staff will also work with partner Federal agencies to conduct joint events, where appropriate, in areas targeted for future RTPs.

The program goals are:

1. to deliver consumer awareness and engagement activities in selected rural areas to ensure that consumers have viable information to make informed decisions on telecommunications services;
2. build lasting partnerships with local consumer-oriented entities to help improve our outreach effectiveness;
3. get feedback from rural consumers on our agency's policy and rulemaking efforts; and
4. provide the Commission with a physical presence in areas which are unserved or underserved in terms of broadband and telecommunications infrastructure.

The tours consist of meetings and activities that include direct consumer engagement (through community meetings, town halls, radio programs, etc.) and/or relationship building with local government (mayor/city council, law enforcement, public library officials) and non-governmental entities (NAACP, AARP, etc.), held in specific rural areas.

Currently, staff members are concentrating their briefings and discussions on:

- Robocalls and spoofing, with a focus on arming consumers with information to avoid being a victim of robocall-initiated fraud.
- Broadcast transition and the importance of rescanning.

- Maintaining vigilance and security of one's mobile device and how to maintain security of personal identifying information.
- Understanding phone bills and avoiding being a victim of slamming and cramming.

Commission tours are almost universally welcomed with great enthusiasm by local leaders, grassroots organizations, community anchor points, and individual consumers.

Prior to COVID-19, CAOD had tentatively planned four RTPs during FY2020.

In January 2020, CAOD staff went to Arizona and New Mexico, visiting the following towns: Phoenix, AZ, Casa Grande, AZ, Marana, AZ, Oro Valley, AZ, Tucson, AZ, Benson, AZ, Bisbee, AZ, Wilcox, AZ, Silver City, NM, Deming, NM, Truth or Consequences, NM, Socorro, NM, and Albuquerque, NM.

In September 2019, CAOD staff went to Kansas and Nebraska, visiting the following towns: Hartington, NE; Wayne, NE; West Point, NE; Fremont, NE (joint event with Chairman Pai); Valley, NE; Plattsmouth, NE; Nebraska City, NE; Auburn, NE; Tecumseh, NE; Beatrice, NE; Hiawatha, KS; Marysville, KS; Seneca, KS; Troy, KS; Atchinson, KS; Leavenworth, KS; and Oskaloosa, KS.

In June 2019, CAOD staff went to Minnesota and Wisconsin, visiting the following towns: Blue Earth County, MN; Chaska, MN; St. Peter, MN; Le Sueur, MN; Kasson, MN; Owatonna, MN; Waseca, MN; Winona, MN; La Crescent, MN; La Crosse, MN; St. Charles, MN; Mauston, WI; New Lisbon, WI; Sparta, WI; Tomah, WI; DeForest, WI; Portage, WI and Wisconsin Dells, WI.

In May 2019, CAOD staff went to Georgia and South Carolina, visiting the following towns: Conway, SC; Florence, SC; Kingstree, SC; Sumter, SC; Aiken, SC; Columbia, SC; Lexington, SC; Sparta, GA; Eatonton, GA; Madison, GA; Conyers, GA; Covington, GA; Snellville, GA; Douglasville, GA; Rockmart, GA and Rome, GA.

In December, 2018, CAOD staff went to the Appalachian area, visiting the following cities: Morgantown, WV; Clarksburg, WV; Bridgeport, WV; Fairmont, WV; Charleston, WV; Huntington, WV; Morehead, KY; Frankfort, KY; Elizabethtown, KY; Radcliff, KY; Hurricane Mills, TN; Waverly, TN; Huntingdon, TN; Clarksville, TN; Fort Campbell, KY; and Hopkinsville, KY.

In September 2018, CAOD staff went to the Pacific Northwest area, visiting the following cities: Mt. Vernon, WA; Seattle, WA; Federal Way, WA; Olympia, WA; Chehalis, WA; Longview, WA; Salem, OR; Portland, OR; Sandy, OR; Canby, OR; and Bend, OR.

CGB BRIEFING SHEET

SUBJECT: Robocalls and Spoofing Consumer Outreach Efforts

SUMMARY/BACKGROUND:

The Consumer Affairs and Outreach Division (CAOD) is focused on developing and implementing consumer outreach that addresses the issue of robocalls and texts, the Federal Communication Commission's top consumer protection priority. CAOD leverages partnerships to ensure that the Commission's efforts are informed by a wide range viewpoints and real time information from consumers and consumer advocates of underserved communities . The Division plans, develops and conducts consumer outreach on this issue.

CAOD and Web and Print Publishing Division (WPPD) have been jointly focused on creating and disseminating practical and useful consumer information on spoofing, as required by RAY BAUM's Act.

Since March 2018, the WPPD of the FCC's Consumer and Governmental Affairs Bureau has posted more than 30 staff-written articles and blog posts on the Consumer Help Center (<http://www.fcc.gov/consumers>) to raise consumer awareness about numerous robocall, text and Caller ID spoofing scams. In the Summer of 2019, WPPD launched a Scam Glossary as art of the CHC, it contains over 50 entries and is updated as new scams emerge. Each post includes tips to avoid being scammed, along with links to in-depth consumer guides that feature helpful videos and call-blocking resources. Posts often feature audio samples from actual call-back scams and visual representations of text scams. The CHC and each post also include prominent links for consumers to file complaints about robocalls, texts and spoofing with the FCC, as well as other agencies, including the FTC, when appropriate. Additionally, WPPD maintains a suite of web pages focused on helping consumers avoid robocall, text and spoofing scams and has posted FCC video messages from Chairman Ajit Pai, webinars with CGB Bureau Chief Patrick Webre and other FCC experts addressing these issues, including an animated video created entirely in house. In July 2020, a standalone consumer guide with refreshed call blocking and labeling resources was added to the web suite.

Through September 2019, over 27,000 robocall/robotext & spoofing consumer cards were distributed to consumers. A total of 17,500 consumer cards were distributed in 2018.

Through its collaborative partnerships with non-profit and community-based organizations, CAOD strives to provide information about the scourge of robocalls and the practice of spoofing to historically underserved communities including African Americans, non-English language speakers, low income, people with disabilities, rural consumers and older adults.

In 2018, CAOD dedicated various efforts to ensure that consumers received information that would help them address or lessen the amount of robocalls they receive. In March, during National Consumer Protection Week, CAOD provided robocalls consumer tips and tip cards to employees and visitors from an exhibit booth in the Twelfth Street lobby. This effort had a social media component that included posts and daily consumer tips on the FCC's social media outlets

and main website and CAOD's Outreach Page. CAOD also released the first in a series of *Consumer Connections* videos that featured a discussion about robocalls. This was followed by the March 23 "Fighting the Scourge of Robocalls" panel co-hosted with the Chairman's Office and the Federal Trade Commission (FTC). Our March outreach efforts concluded with distributing robocall materials at the HOPE Global Forum in Atlanta (March 26-28).

On April 23, CAOD once again collaborated with the Chairman's Office and FTC to co-host the Stop Illegal Robocalls Expo at the Pepco Gallery in DC. This was followed by providing information to older adults during the Prince Georges County Department of Family Service Information Fair (May 30), the DC Mayor's Annual Senior Symposium (June 20) and the American Library Association Annual Conference in New Orleans (June 22-25).

CAOD assisted with two September 2018 tele-town halls in collaboration with AARP. FCC staff again partnered with AARP to participate in a two-part video webinar series in May 2019.

Additionally, information was provided to community leaders and their constituents during the WA/OR (September 18), TN/WV/KY (December 18), SC/GA (May 19), MN/WI (June 19), and NE/KS (September 19) Rural Tours.

In partnership with the National Asian American Coalition (NAAC), CAOD distributed a total of 2,731 tip cards via Hope Booths at four Island Pacific Supermarkets in 2018 including translated tip cards (Spanish, Chinese, Korean, Tagalog and Vietnamese). NAAC volunteers trained by CAOD, assisted approximately 650 consumers who wanted to navigate the FCC's robocall pages and/or file an informal complaint. In 2019, the program expanded to 11 more Island Pacific Supermarkets.

In February 2019, CAOD teamed up with the US Department of Veterans Affairs to combat illegal robocalls and "spoofing" that target all Americans, including veterans and their families. An email blast was sent to approximately 5.5 million consumers urging everyone to maintain awareness of spoofed robocalls and tips on how to protect yourself.

In April 2019, WPPD created and posted a consumer education video on the FCC's YouTube channel and on the FCC.gov/spoofing webpage: "Spoofing: Don't Hang On, Hang Up!" The video is approaching 50,000 views and has been promoted by partners and through FCC social media.

Spoofing and robocalls have remained the main education topic for CAOD and WPPD throughout 2020, including the growing trend of text scams, with an emphasis on scams related to the COVID-19 pandemic (<https://www.fcc.gov/covid-scams>). In addition to continued partner engagement and conference presentations, WPPD's Scam Glossary, robocalls, and spoofing webpages are updated with fresh content and information on new scams as they surface. Combined, these FCC webpages received more than 700,000 page views through the first three quarters of 2020. In the same period, total page views to the Consumer Help Center, including WPPD's library of consumer guides, reached 3.9 million.

ACTIVITIES:

- Seek opportunities to collaborate with the Office of the Chairman and Commissioners to ensure that accurate and consumer-oriented information about robocalls is provided to the public.
- Develop, continue and enhance our partnerships with other federal, state and local government agencies, nonprofit and other organizations in providing information to various underserved communities.
- Improve the effectiveness of the FCC's outreach page by developing content and audio support to supplement printed consumer guides.
- Educate consumers on the difference between legal and illegal robocalls. This includes reminding consumers how to file an informal complaint and using the Consumer Help Center.
- Continue to collaborate on consumer-focused activities with FTC.
- Spoofing education campaign featuring original video, audio samples of scams and a reboot of the Bureau's robocalls, text and spoofing web pages.
- Ongoing social media campaign to raise consumer awareness of scams and how to avoid them, including graphics and animations to illustrate both problems and the solutions.

CGB BRIEFING SHEET

SUBJECT: Lifeline Consumer Outreach - Lifeline Awareness Week

BACKGROUND:

The Federal Communications Commission's Lifeline program helps make communications services more affordable for low-income consumers by providing subscribers a discount on monthly telephone service, broadband Internet service, or voice/broadband bundled services purchased from participating providers. The Lifeline program is part of the FCC's Universal Service Fund and is administered by the Universal Service Administrative Company (USAC). USAC is responsible for data collection and maintenance, support calculation, disbursements, and assisting consumers with Lifeline eligibility and enrollment for the program.

Lifeline is available to eligible low-income consumers in every state, commonwealth, territory, and on Tribal lands. In 2016, the Commission adopted comprehensive reform and modernization of the Lifeline program and included broadband as a supported service in the Lifeline program.

To participate in the Lifeline program, consumers must either have an income that is at or below 135% of the Federal Poverty Guidelines (<https://aspe.hhs.gov/poverty-guidelines>) or participate in certain federal assistance programs. Lifeline provides up to a \$9.25 monthly discount on service for eligible low-income subscribers. Subscribers may receive a Lifeline discount on either a wireline or a wireless service, but they may not receive a discount on both services at the same time. FCC rules prohibit more than one Lifeline service per household.

To apply for Lifeline, a consumer must use the [National Verifier application system](#). The National Verifier is a centralized system established by the FCC and operated by USAC that verifies Lifeline applicants' eligibility and recertifies subscriber eligibility annually.

Lifeline Consumer Outreach

On July 26, 2005, the National Association of Regulatory Utility Commissioners (NARUC), and National Association of State Utility Consumer Advocates (NASUCA) launched "Lifeline Across America," a nationwide program to raise awareness about the Lifeline program and to draw more low-income consumers into the program. The federal-state Lifeline Across America Working Group (LAAWG) was established to review outreach efforts on the Lifeline program and provide state, local, and Tribal entities with information and resources to help ensure that low-income consumers are aware of the program and understand the requirements for participation. Its members include the FCC, NARUC, and NASUCA. The LAAWG began seeking public input in 2006 on the most effective ways to enhance consumer awareness of Lifeline services, and compiled a report containing its observations, recommendations, and conclusions concerning best practices for outreach on the Lifeline program, including a recommendation that one week per year be dedicated to Lifeline outreach. Subsequently, on July 22, 2009, the NARUC Board of Directors adopted a resolution urging the FCC, state commissions, NASUCA, and eligible telecommunications carriers to proclaim the first full week

in September following the week of Labor Day as *National Telephone Discount Lifeline Awareness Week*. The first National Telephone Discount Lifeline Awareness Week (*Lifeline Awareness Week*) took place September 14-20, 2009.

Beginning with the 2012 Lifeline Reform Order, when the Commission directed its Wireline Competition (WCB) and Consumer and Governmental Affairs (CGB) Bureaus to work together to conduct outreach to educate low-income consumers about the Lifeline program rules and to coordinate with USAC, states, and consumer groups, CGB and WCB have worked to promote greater awareness of the Lifeline program through Lifeline Awareness Week activities. Lifeline Awareness Week 2020 took place September 14–18 and included outreach on the Lifeline Program by the FCC, NARUC, NASUCA and other state and local stakeholders throughout the country.

Lifeline During the Coronavirus Pandemic

The FCC has been working to ensure that Americans stay connected during the COVID-19 pandemic. The FCC acted to help ensure that no current Lifeline subscribers are involuntarily removed from the Lifeline program during the pandemic by waiving several rules that could otherwise result in de-enrollment of subscribers. The FCC also waived Lifeline program rules to assist program participants potentially affected by the disruptions caused by the pandemic and to aid community efforts to slow its spread. The FCC temporarily waived usage requirements, recertification and reverification de-enrollment procedures, and general de-enrollment procedures, and has extended those waivers until November 30, 2020. The FCC also directed the Lifeline program administrator to pause any involuntary de-enrollment of existing subscribers. In addition, pursuant to a temporary waiver approved by the FCC in response to the COVID-19 pandemic, a Lifeline carrier may choose to immediately begin providing Lifeline service to a consumer living in a rural Tribal area who applies for Lifeline but is unable to provide the necessary documentation to resolve a failed automated check at the time of application.

On April 29, 2020, the FCC also made it easier for individuals who have lost their employment during the coronavirus pandemic and who qualify for Lifeline benefits to enroll in the Lifeline program by temporarily waiving the requirement that consumers seeking to qualify for the program based on their income must provide at least three consecutive months of income documentation. On June 1, the FCC streamlined Lifeline service enrollment for consumers living in rural Tribal areas. These changes will stay in effect through November 30, 2020.

Additionally, the FCC partnered with NARUC to raise awareness of the federal Lifeline program during the pandemic, sending out a joint letter from the FCC Chairman and NARUC President to NARUC members (the FCC-NARUC Joint Letter).

CGB BRIEFING SHEET

SUBJECT: Web and Print Publishing Division (WPPD)

BACKGROUND:

The Web and Print Publishing Division of the FCC's Consumer and Governmental Affairs Bureau has a longstanding role as a resource for consumer-focused content creation, design and management. The Division also continues to support all Commission initiatives involving web publishing and consumer content development.

Current Priorities:

- Continue updating fcc.gov/covid-scams consumer resources webpage, launched in March, which has had more than 130,000 total page views through Oct. 1. The webpage includes information about ongoing COVID19-related robocall and text scams, examples of text scams and actual audio from call-back scams, tips to help consumers avoid being scammed, and information on home network optimization and cell phone hygiene.
- Develop and implement plans to raise consumer awareness of call blocking and labeling resources to combat unwanted calls.
- Develop and implement plans to help raise consumer awareness of SIM fraud.
- Increase multimedia proficiency for continued development of consumer videos and interactive features.
- Update Consumer Help Center design to accommodate and showcase WPPD's expanding digital content mix.

Additional Areas of Focus:

- **Help Center and FCC Blog posts:** WPPD researches, writes and publishes all Consumer Help Center Posts (fcc.gov/consumers), and drafts FCC Blog Posts for the CGB Bureau Chief. Scam-related posts are archived in an alphabetized Scam Glossary (fcc.gov/scams)
- **Consumer guides:** WPPD manages development and maintenance of more than 160 regularly curated consumer guides to inform CGB's audience on multiple topics and issues of interest.
- **Translations:** In addition to in-house Spanish translations, WPPD manages the Bureau's contract for all other language translations of consumer materials. More than 100 consumer guides, and all Consumer Help Center Posts, are produced in English, Spanish, Chinese, Korean, Tagalog and Vietnamese, plus other languages on request. Voice translation services are also available.

- **Public Safety:** WPPD partners with the FCC's Public Safety and Homeland Security Bureau to translate daily status reports on communications services in geographic regions impacted by natural disasters or other service disruptions. WPPD also provides digital audio PSAs on emergency communications in English, Spanish, French, Korean, Traditional Chinese, Vietnamese, and Tagalog, as well as ASL videos, for use by regional broadcasters.
- **Print Design:** WPPD leads content development and design for handouts, infographics and posters on a range of telecom consumer issues, including spoofing, broadband, emergency communications, billing, and other consumer topics. Materials are distributed by FCC outreach staff at meetings, conferences and consumer events, including rural consumer education tours. Materials are also provided to partner organizations on request and are available in an online catalog to print on demand.
- **Alternate Formats:** WPPD's Alternate Formats Specialist responds to hundreds of requests per year from consumers for braille and large-print documents. The specialist also provides support for FCC events such as Disability Advisory Committee meetings.
- **Animated Videos:** WPPD provides in-house development and creation of animated video content highlighting consumer education topics and other priority messaging for the Commission. In April 2019, the first animated video -- on spoofing -- was launched on the FCC website. A second video, on communicating during emergencies, launched in October 2019.
- **Web Performance Metrics:** WPPD develops regular web analytics reports tracking usage of consumer guides and other CGB publications to inform content decisions based on audience activity and FCC policy priorities.
- **Subject Matter Collaboration:** All CHC content is developed and curated by WPPD staff, in consultation with subject-matter experts throughout the FCC and partner agencies.

**Enforcement Bureau
Briefing Sheets
October 2020
Table of Contents**

SUBJECT	PAGE NUMBER
Consumer Protection	1
Competition and Rural Call Completion	9
Universal Service	13
TRS/VRS and Other Accessibility	19
Interference Resolution and Public Safety	22
911, E911 and NG911	26
Misuse of Emergency Alert System (EAS) codes and Attention Signal	28
Jammers	31
Unauthorized Operations and Other Wireless Service Issues	34
Equipment Marketing	40
Unlicensed Broadcast Stations (Pirate Radio)	45
Sponsorship Identification/Payola/Underwriting	49
Broadcast Obscenity, Profanity, and Indecency	51
CALM Act (Loud Commercials)	54
Dispute Resolution	56
Auctions	61

EB BRIEFING SHEET

SUBJECT: Consumer Protection

SUMMARY: The Enforcement Bureau enforces the consumer protection obligations that apply to companies providing consumers various forms of communications services, such as telecommunications, broadcast television, and cable television. The Bureau also enforces consumer protection obligations that apply to manufacturers of telecommunications equipment, telemarketers, and companies using telecommunications equipment to distribute unsolicited advertisements.

BACKGROUND AND KEY ISSUES:

- ***Cramming:*** Telecommunications service providers violate Section 201(b) of the Communications Act and section 64.2401(g) of the Commission’s rules when they place, or cause to be placed, unauthorized charges on a consumer’s telephone bill. This unlawful practice is commonly referred to as “cramming” and results in significant consumer harm. The unauthorized charges are often small amounts and can go undetected by consumers for many months, because they are typically not disclosed clearly or conspicuously on a multipage telephone bill. Further, consumers who receive electronic bills or who have authorized automatic deductions from their bank accounts for payment of monthly invoices are especially vulnerable, because they may not even look at their bills prior to payment. In 2012, the Commission adopted “truth in billing” rules designed to help consumers better identify “crammed” charges on their wireline phone bills.
- ***Negative Option Billing:*** Section 543(f) of the Act, codified at Section 76.981(a) of the Commission’s rules, prohibits a cable provider from engaging in “negative option billing”—the practice of charging subscribers for services or equipment that they did not affirmatively request. Similar to cramming, charges added to consumers’ bills through negative option billing may go unnoticed, and may burden subscribers by requiring them to identify the charges and seek any redress for equipment and services they do not want.
- ***Slamming:*** Section 258 of the Act prohibits carriers from submitting orders to change a consumer’s preferred telecommunications provider without first verifying the consumer’s consent. This unlawful practice is commonly referred to as “slamming” and results in significant consumer harm. The Commission’s rules outline permissible procedures that can be undertaken to verify consumers’ change requests, such as use of a letter of authorization or an independent third party. In 2018, the Commission adopted a rule that prohibits material misrepresentations during sales calls and provides that a consumer’s “authorization” for a carrier change is not valid if there was a material misrepresentation.
- ***Truth-in-Billing:*** Section 201(b) of the Act, as amended, and section 64.2401 of the Commission’s rules require all charges and practices of carriers to be just and reasonable. Among other requirements designed to make bills easier for consumers to understand, Commission rules require that telephone bills must include clear descriptions of the services provided, identify the service provider and identify any

change in the service provider, and provide detailed descriptions of charges on the bills. The Commission also requires carriers to use standard labels for line-item charges such as universal service fees, subscriber line charges, and local number portability charges.

- ***Broadband Internet Public Disclosures:*** Under the Restoring Internet Freedom Declaratory Ruling, Report and Order and Order, 33 FCC Rcd 311, 435, para. 215 (2018), the FCC requires providers of broadband Internet access services to publicly disclose accurate information regarding their network management practices, performance, and the commercial terms of the services they provide via a publicly available, easily accessible website or by transmittal to the Commission.
- ***Do-Not-Call and Prerecorded Advertisements:*** Under authority granted by the Telephone Consumer Protection Act (TCPA), located in Section 227 of the Act, section 64.1200 of the Commission's rules prohibit telemarketers from calling residential telephone numbers on the National Do-Not-Call Registry and require that they honor such do-not-call preferences within 31 days of a number being placed on the Registry. Telemarketers must also maintain their own company-specific lists of do-not-call requests from residential subscribers and must honor those requests within no more than 30 days. In addition, the rules prohibit the delivery of prerecorded or autodialed messages (robocalls) to destinations such as emergency telephone lines, hospital lines, and cell phone numbers, among others, unless the caller has the recipient's prior express consent. The rules also prohibit the delivery of unsolicited prerecorded advertising messages to residential telephone lines, except under limited circumstances.
- ***Truth in Caller ID:*** The Truth in Caller ID Act of 2009 (TICIDA), codified in Section 227 of the Communications Act, prohibits causing any caller identification service to knowingly transmit misleading or inaccurate caller identification information with the intent to defraud, cause harm, or wrongfully obtain anything of value. In passing the TICIDA, members of Congress observed that consumers greatly value accurate, reliable caller ID information to help them decide whether to answer a phone call and whether to trust the caller on the other end of the line. The TICIDA is designed to prevent harms that flow from the misuse of caller ID. The RAY BAUM's Act states that the TICIDA covers communications originating outside the United States sent to recipients within the United States, and the new statute also makes explicit that the TICIDA covers text messages as well as voice calls.
- ***Privacy:*** The Communications Act includes provisions protecting customer information obtained by telecommunications carriers and, separately, cable companies, as part of their business relationship.
 - Section 222 of the Act requires carriers to protect the confidentiality of the proprietary information of their customers. The Commission's rules require carriers and interconnected VoIP providers to protect the privacy and security of customer proprietary network information (CPNI), to notify consumers and law enforcement of data breaches involving CPNI, and to file annual certifications documenting their compliance with the CPNI rules (codified at 47 CFR § 64.2001 *et seq*). More specifically, carriers are required to report breaches of CPNI to a

- designated web portal that is managed by the U.S. Secret Service and monitored by EB/TCD staff.
- Section 631 of the Act provides that, with certain exceptions, a cable operator “shall not disclose personally identifiable information concerning any subscriber without the prior written or electronic consent of the subscriber concerned and shall take such actions as are necessary to prevent unauthorized access to such information by a person other than the subscriber or cable operator.” Section 631 also requires cable operators to provide each subscriber access to the personally identifiable information that the cable operator collects and maintains about that subscriber and to destroy such personally identifiable information if the information is no longer necessary for the purpose for which it was collected. Cable operators are also required to give subscribers annual notices of their privacy practices.
 - **Broadcast Contest Rigging and Other Contest Violations:** Section 508(a) of the Communications Act makes it unlawful for any person with intent to deceive the listening or viewing public to engage in actions that influence or alter the outcome of a contest of intellectual knowledge, intellectual skill, or chance—including, but not limited to, bribery, intimidation, secret assistance, or predetermination of aspects of the contest—or to conspire with persons engaged in the foregoing. Section 73.1216 of the Commission’s rules requires a licensee to “fully and accurately disclose the material terms” of a contest it broadcasts or advertises, and conduct the contest “substantially as announced and advertised.”
 - **Live Broadcast Rule:** Section 73.1208 of the Commission’s rules provides that any taped, filmed, or recorded program material in which time is of special significance, or by which an affirmative attempt is made to create the impression that it is occurring simultaneously with the broadcast, must be identified by broadcast licensees as taped, filmed or recorded. Failing to do so could mislead the public to believe that a prerecorded show perceived is a live broadcast.
 - **Junk Fax:** Under authority granted by the TCPA, the Commission has adopted rules prohibiting unsolicited fax advertisements except under limited circumstances.

STATUS:

COVID-19 WARNING LETTERS TO GATEWAY AND ORIGINATING PROVIDERS:

- On May 20, 2020, the Enforcement Bureau and the Federal Trade Commission’s Bureau of Consumer Protection sent joint letters to three voice service providers warning them to cease carrying COVID-19 related scam robocall traffic. If they failed to stop carrying the suspected fraudulent traffic, then the Commission would authorize other voice service providers to block all traffic from that gateway provider. The Bureau sent letters to RSCoM, PTGi Carrier Services, and Intelepeer. Additionally, the Bureau sent a letter to USTelecom thanking the Industry Traceback Group for its work in tracing these COVID-19 related scam calls.

- On April 3, 2020, the Enforcement Bureau and the Federal Trade Commission's Bureau of Consumer Protection sent joint letters to three gateway providers warning them to cease carrying COVID-19 related scam robocall traffic. If they failed to stop carrying the suspected fraudulent traffic, then the Commission would authorize other voice service providers to block all traffic from that gateway provider. The Bureau sent letters to SIPJoin, Connexum, and VoIP Terminator. Additionally, the Bureau sent a letter to USTelecom thanking the Industry Traceback Group for its work in tracing these COVID-19 related scam calls.

TRACEBACK LETTERS TO INDUSTRY:

- On February 4, 2019, the Enforcement Bureau sent letters to seven gateway service providers that allow international robocalls into U.S. networks, urging the companies to fully participate in efforts to track down the originators of illegal spoofed foreign robocalls. The letters also requested information from the companies about their facilitation of international robocalls.
- On November 6, 2018, the Enforcement Bureau and Chief Technology Officer sent letters to voice providers calling on them to assist industry efforts to trace scam robocalls that originate on or pass through their networks. These letters included questions about the providers' efforts to combat and mitigate illegal robocalls. The Enforcement Bureau also wrote to USTelecom and its Industry Traceback Group members to thank them for their assistance in tracing illegal call traffic.

RELEASED ITEMS:

Cramming, Slamming, and Truth-In-Billing Actions

- On August 13, 2019, the Bureau entered into a consent decree with CenturyLink, Inc. to resolve an investigation into CenturyLink's placement of unauthorized charges onto its customers' bills. Under the terms of the settlement, CenturyLink paid \$550,000 to the U.S. Treasury, cease billing for third parties (with certain narrow exceptions), implement enhanced consumer complaint and refund practices, and adopt a compliance plan.
- On March 21, 2019, the Commission released a Forfeiture Order against Long Distance Consolidated Billing, imposing a \$2,320,000 forfeiture for slamming, cramming, and deceptive marketing practices. The Commission had issued an NAL against this carrier on July 20, 2015.
- On April 27, 2018, the Commission released a Notice of Apparent Liability against Tele Circuit Network Corporation, proposing a \$5,323,322 forfeiture for engaging in deceptive marketing, slamming, cramming, providing false and misleading information to the Commission, and failing to fully respond to an Enforcement Bureau letter of inquiry. The Commission indicated it would consider initiating proceedings against Tele Circuit to revoke its Commission authorizations.

- On October 3, 2017, the Commission released a Notice of Apparent Liability against Neon Phone Service, Inc., proposing a \$3,963,722 forfeiture for slamming, cramming; providing false and misleading material information to the Commission; deceptively marketing its service; and violating a Commission order to produce certain information and documents related to Neon's business practices.

Broadband Internet Public Disclosures

- On December 10, 2019, the Enforcement Bureau issued 8 citations and 16 admonishments to broadband Internet access service providers for failing to prominently disclose their network management practices, performance, and commercial terms associated with their broadband Internet access services. These broadband providers were required to publicly disclose the required information via a publicly available, easily accessible website, or by transmittal to the Commission, within thirty days, or be subject to significant fines.

TCPA and TICIDA—Robocalling, Do-Not-Call, and Truth in Caller ID Actions

- On July 27, 2020, the Enforcement Bureau issued a Public Notice requesting information on the status of private-led traceback efforts of suspected unlawful robocalls. The Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act) requires the Commission to seek input from industry on the status of traceback efforts by the registered consortium to be used in an annual report required by section 13(a) of the TRACED Act.
- On July 27, 2020, the Enforcement Bureau issued a Report and Order selecting the USTelecom-led Industry Traceback Group as the single registered consortium designated to lead private traceback efforts. The Bureau concluded that the Industry Traceback Group fulfills the statutory requirements enumerated in the TRACED Act.
- On June 9, 2020 the Commission issued an NAL against John Spiller, Jakob Mears and their companies including Rising Eagle Capital Group LLC and J Squared Telecom LLC, proposing \$225,000,000 in monetary forfeitures for violating the Truth in Caller ID Act by making more than one billion apparently unlawful spoofed robocalls from January 2019 to May 2019 with the intent to defraud, cause harm, and wrongfully obtain something of value. Spiller's robocalls purported to offer health insurance from large well-known health insurance brands such as Blue Cross Blue Shield and Cigna; instead, Spiller made the robocalls on behalf of short-term, limited duration health insurance sales agents unaffiliated with the mentioned brands.
- On May 1, 2020, the Enforcement Bureau issued an Order implementing section 3 of the TRACED Act. The Order amends section 1.80 of the rules to remove the citation requirement for violations of section 227(b) by non-regulated entities, increasing the penalty for intentional violation of section 227(b) by \$10,000, and extending the statute of limitations period to four years for intentional violations of section 227(b) and violations of 227(e).

- On March 27, 2020, the Commission issued a Report and Order amending the rules to establish a process to register a single consortium under section 13(d) of the TRACED Act. The Wireline Competition Bureau included a Further Notice of Proposed Rulemaking with the Report and Order.
- On February 6, 2020, the Commission released a Notice of Proposed Rulemaking seeking comment on the registration process for the selection of the single consortium designated to lead private traceback efforts implementing section 13(d) of the TRACED Act. The proposed rules would require that each applicant submit a Letter of Intent to register and address four statutory requirements: neutrality; competency; commitment to focus on fraudulent, abusive, or unlawful traffic; and inclusion of written best practices with the Letter of Intent.
- On January 31, 2020, the Commission issued an NAL against Scott Rhodes, proposing \$12,910,000 in monetary forfeitures for violating the Truth in Caller ID Act by making more than 6,000 apparently unlawful spoofed robocalls from May 2018 to December 2018 with the intent to cause harm and wrongfully obtain something of value. Rhodes's calls apparently targeted voters in districts during political campaigns or residents in communities that had experienced major news events involving white nationalism, immigration, or other public controversies. In all these calling campaigns, Rhodes manipulated called ID so that his calls appeared to come from local numbers.
- On December 13, 2019, the Commission issued an NAL against Kenneth Moser and his telemarketing company Marketing Support Systems, proposing \$9,997,750 in monetary forfeitures for violating the Truth in Caller ID Act by making more than 47,000 apparently unlawful spoofed robocalls over a two-day period in May 2018 with the intent to cause harm and wrongfully obtain something of value. Moser apparently spoofed the telephone number assigned to another telemarketing company when transmitting prerecorded voice calls containing false accusations against a California State Assembly candidate shortly before the 2018 primary election. The Commission also cited Moser for violations of the TCPA (prerecorded calls to wireless numbers without prior express consent, and failure to include the phone number and identity of the party responsible for initiating the calls).
- On November 27, 2019, the Telecommunications Consumers Division of the Enforcement Bureau issued a Citation against Dante Sciarra and D&D Global Enterprises, LLC for violating the TCPA by making prerecorded calls to wireless numbers without prior express consent, making telephone solicitations to residential telephone lines registered on the National Do-Not-Call Registry, and using prerecorded messages that failed to include the phone number and identity of the party responsible for initiating the calls. The prerecorded calls sought to convince call recipients that there was a problem with the recipient's Google business listing.
- On September 26, 2018, the Commission issued an NAL against Affordable Enterprises of Arizona, proposing \$37,525,000 in monetary forfeitures for violating the Truth in Caller ID Act by making 2,341,125 apparently unlawful

spoofed robocalls during a 14-month period from July 2016 to September 2017 with the intent to cause harm and wrongfully obtain something of value. The calls were part of telemarketing campaigns for home improvement and remodeling services. The Commission also cited Affordable Enterprises for violations of the TCPA's prohibitions on calls to numbers listed on the Do-Not-Call registry.

- On September 26, 2018, the Commission issued a Forfeiture Order against Best Insurance Contracts, Inc. and Philip Roesel, imposing \$82,106,000 in monetary forfeitures for violating the Truth in Caller ID Act by making more than 21 million spoofed robocalls during a three-month period in 2016 and 2017 with the intent to cause harm or wrongfully obtain something of value. This was the same amount proposed in the August 4, 2017 NAL. The calls made by Roesel and his business generated leads and sought to sell health and life insurance products.
- On May 10, 2018, the Commission issued a Forfeiture Order against Adrian Abramovich and his companies, imposing \$120 million in monetary forfeitures for violating the Truth in Caller ID Act; this was the same amount proposed in the June 22, 2017 NAL. This is the largest forfeiture ever imposed by the Commission. Abramovich made nearly 100 million spoofed robocalls during a three-month period in 2016. He spoofed the calls to appear as local numbers and fraudulently claimed to be calling on behalf of well-known hospitality companies offering discounted vacations. Contemporaneously with the June NAL, the Commission also cited Abramovich for violations of the TCPA (prerecorded calls to residential, wireless, and emergency telephone lines without prior express consent) and federal wire fraud laws (fraudulent representations made in interstate communications over the telephone system).

Broadcast Contests

- On July 8, 2020, the Enforcement Bureau issued an NAL against Townsquare Media of El Paso, Inc., proposing a \$6,000 penalty for violating section 73.1216 of the Commission's rules for failing to award the prize in a contest aired by its station KSII(FM), El Paso, Texas. The company has since paid the forfeiture in full.
- On July 8, 2020, the Enforcement Bureau issued an NAL against Gow Media, LLC, proposing a \$5,200 penalty for violating section 73.1216 of the Commission's rules for failing to award the prize in a contest aired by its station KFNC(FM), Mont Belvieu, Texas. The company has since paid the forfeiture in full.

Live Broadcast Rule

- On January 28, 2020, the Enforcement Bureau entered into a Consent Decree resolving its investigation into whether Salem Media Group, Inc. violated section 73.1208 by broadcasting prerecorded programming as "live" without announcing before the broadcast that the programming was prerecorded. In the Consent Decree, Salem agreed to pay a \$50,000 civil penalty, and implement a compliance and reporting plan to ensure future compliance with the Commission's rules.

TCPA—Junk Fax

- On September 4, 2019, the United States District Court for the Northern District of Texas entered an Agreed Judgment and Permanent Injunction, which settles a case brought by the Department of Justice on behalf of the Commission against Scott Malcolm and his companies, DSM Supply, LLC and Somaticare, LLC for violations of the Commission’s junk fax rules. Malcolm and his companies sent unsolicited fax advertisements for chiropractic supplies primarily to health care practitioners who reported that the unwanted faxes caused intrusion, expense, and disruption to their business activities, including patient care. Under the settlement, Malcolm and his companies are permanently prohibited from engaging in any type of fax advertising. The settlement also requires Malcolm to pay \$70,000 to the U.S. Treasury and to file compliance reports with the Commission for three years.

Privacy Actions

- On February 28, 2020, the Commission released Notices of Apparent Liability for Forfeiture and Admonishment against AT&T, Inc.; Sprint Corporation; T-Mobile USA, Inc.; and Verizon Communications. The NALs propose forfeitures in the amounts of \$57,265,625 (AT&T), \$12,240,000 (Sprint), \$91,630,000 (T-Mobile), and \$48,318,750 (Verizon) for violations of section 222 of the Act, and the Commission’s CPNI rules, relating to the carriers’ practices involving wireless customer location information. The orders also admonish the carriers for violations occurring outside of the applicable statute of limitations.

EB BRIEFING SHEET

SUBJECT: Competition and Rural Call Completion

SUMMARY: The Commission has authority under Section 403 of the Communications Act to initiate investigations regarding compliance with the various Sections of the Act or the Commission’s rules pertaining to competition. In addition, Sections 208 and 224 of the Act authorize the Commission to investigate alleged violations pertaining to competition involving common carriers (Section 208) and pole attachments (Section 224) in response to complaints initiated by private parties. Section 201 requires that carrier practices in connection with their telecommunications services are just and reasonable and Section 202 prohibits carriers from unjust or unreasonable discrimination in practices, facilities, or services. The *Improving Rural Call Quality and Reliability Act of 2017*, Section 262, prohibits large “covered” carriers and VoIP providers from handing off voice calls to any intermediate provider that is not registered with the Commission. Section 262 also requires intermediate providers to register and comply with service quality standards established by the Commission.

BACKGROUND AND KEY ISSUES:

- ***Transfers and Assignments:*** The Commission ensures that carriers comply with the rules pertaining to the applications for, transfer of, and assignment of Commission authorizations and licenses, and the Commission’s discontinuance notification requirements under Section 214 of the Act and Part 63 of the rules.
- ***Sections 251, 252, 271, and 272 of the Act and Parts 51 and 53 of the Rules:*** The Commission has authority to take enforcement action against carriers that fail to comply with the Commission’s interconnection requirements, the requirements pertaining to BOCs’ provision of interLATA services, and the Commission’s separate affiliate requirements.
- ***Traffic Stimulation:*** The Commission has authority to investigate and resolve complaints brought by IXC’s concerning access stimulation (*i.e.*, an arrangement that an LEC enters into with a provider of high call volume operations such as adult entertainment calls, chat lines, or “free” conference calls), which inflates the amount of access minutes terminated to the LEC, thereby increasing the LEC’s access revenues.
- ***Rural Call Completion:*** Under Commission precedent, carriers may not block, choke, reduce, or otherwise restrict traffic. The Commission’s April 2018 *Rural Call Completion Second Report and Order* affirmed the Wireline Competition Bureau’s 2012 *Declaratory Ruling* that it is an unjust and unreasonable practice in violation of Section 201 of the Act for a carrier that knows or should know it is providing degraded service to certain areas to fail to correct the problem, or to fail to ensure that intermediate providers acting on behalf of the carrier are performing adequately. To satisfy this obligation, which the Commission extended to larger VoIP providers, the provider must “promptly resolve[] any . . . problems and take[] action to ensure they do not recur.” In addition, these “covered” carriers and VoIP providers must monitor their intermediate providers’ performance

completing calls to rural destinations. The Bureau may take enforcement action when there is evidence that a provider is not complying with these duties.

Last year, Commission rules became effective that implement Section 262's requirements that intermediate providers register with the Commission and comply with service quality standards, and that require "covered" originating providers to use only registered intermediate providers. 382 intermediate providers, including affiliated entities, are now listed on the publicly-available registry. Because registration is tantamount to an FCC license, intermediate providers that fail to register or that violate the service quality standards are subject to FCC forfeiture authority.

- ***Foreign Ownership and Control:*** The Commission ensures that foreign ownership in American telecommunications carriers is in the public interest, with particular consideration of issues related to competition, national security, law enforcement, foreign policy, and trade policy pursuant to Section 310 (b) of the Act and Section 1.990 of the Commission's rules.

STATUS:

RELEASED ITEMS:

- On September 2, 2020, the Commission proposed a \$163,192 fine against Internet service provider Barrierfree Communications Corp. for apparently reporting inaccurate information that significantly inflated its broadband subscription numbers, failing to file required deployment data, making false statements to Commission investigations, and failing to respond to other inquiries.
- **Rural Call Completion.** Since 2013, the Bureau has entered into consent decrees with six long distance providers to resolve rural call completion investigations. These consent decrees have resulted in the payment of more than \$46 million in civil penalties, fines, and voluntary contributions, and significant commitments by these providers to take concrete steps to improve service going forward. Most recently, in April 2018, the FCC reached a settlement with T-Mobile USA, Inc. for failing to correct ongoing problems with call delivery to rural consumers and inserting false ring tones into hundreds of millions of calls. T-Mobile agreed to pay a \$40 million civil penalty to the U.S. Treasury and entered into a compliance plan to prevent future violations. T-Mobile has paid the \$40 million civil penalty in full. In 2016, inContact paid a civil penalty of \$100,000 for failing to ensure that its intermediate providers were adequately delivering its calls to a consumer in rural Minnesota and for its initial failure to cooperate with the Bureau's investigation. A consent decree in 2015 resolved the Bureau's investigation into Verizon's failure to investigate evidence of potential problems with its delivery of calls to certain rural areas. Verizon paid a \$2 million fine and agreed to spend \$3 million over three years to advance and achieve solutions to rural call completion problems. The Bureau also entered into settlement agreements with Windstream Corporation (\$2.5 million) and Matrix Telecom (\$875,000) in 2014, and with Level 3 Communications (\$975,000) in 2013. Each of these companies also

agreed to institute compliance plans designed to ensure future compliance with the Commission's rules.

- *Facilitating Resolution of Rural Call Completion Incidents.* The Bureau also continues to receive complaints from rural telephone companies regarding calls failing to connect to rural consumers and quality issues with connected calls. These problems have negative economic, social, and public safety impacts on rural communities. The Bureau serves rural carrier complaints on the relevant service providers and directs them to investigate and file reports documenting how the problems were resolved. It also works with the Consumer & Government Affairs Bureau to ensure that consumer complaints are adequately addressed. The Bureau tracks and monitors the complaints for recurring patterns that may warrant additional investigative and enforcement action.
- **Unauthorized Transfer and Assignments.**
 - In March 2020, the Bureau entered into a Consent Decree with Missouri Network Alliance, LLC, which settled the investigation into whether the company violated Sections 63.03 and 63.04 of the Commission's rules related to the sale of assets to Bluebird Media, LLC (Bluebird) prior to receiving approval from the Commission's Wireline Competition Bureau. To settle this matter, the company admitted that it had failed to obtain the necessary Commission approval prior to the sale of assets to Bluebird, agreed to pay a civil penalty of \$8,000, and entered into a two-year compliance plan.
 - In December 2018, the Bureau entered into a Consent Decree with Mobile Communications America, Inc., which settled the investigation into whether the company violated Sections 310(d) and 301 of the Communications Act and Sections 1.948 and 1.903 of the Commission's rules related to the transfer of control of wireless radio licenses prior to receiving Commission approval, and its operation of wireless stations after their licenses had expired. To settle this matter, the company admitted that it failed to obtain the necessary Commission approval prior to transfer of the wireless licenses, and agreed to pay a fine of \$93,600 and implement a compliance plan.
 - In December 2018, the Bureau entered into a Consent Decree with the Estate of Martin J. Tibbitts, which settled the investigation into Martin Tibbitts' purchase of Business Network Long Distance, Inc., Communications Network Billing, Inc., Integrated Services, Inc., Multiline Long Distance, Inc., Nationwide Long Distance Service, Inc., and Network Service Billing, Inc. prior to receiving approval from the Commission's Wireline Competition and International Bureaus. In the Consent Decree, the Estate admitted liability for the unauthorized transfer, agreed to pay a settlement amount of \$48,000, and entered into a two-year compliance plan containing safeguards to prevent future violations.

- In November 2018, the Bureau entered into a Consent Decree with San Isabel Telecom, Inc. which settled the investigation into the company's sale of assets to Futurum Communications Corp. d/b/a Forethought.net prior to receiving approval from the Commission's Wireline Competition and International Bureaus. In the Consent Decree, San Isabel admitted liability for the unauthorized transfer of its authorizations, agreed to pay a settlement amount of \$16,000, and entered into a two-year compliance plan containing safeguards to prevent future violations.
- **Traffic Stimulation.** From 2011 through the present, EB's Market Disputes Resolution Division has handled numerous complaints by IXCs concerning LEC access stimulation schemes, resulting in the release of at least 10 Commission or Bureau-level orders resolving these disputes.
- **Foreign Ownership and Control.** In June 2016, the Bureau entered into a settlement agreement with América Móvil, S.A.B. de C.V. (América Móvil), as the ultimate parent company of Puerto Rico Telephone Company, Inc. (PRTC), and PRTC as holder of radio licenses for common carrier telecommunications services. The companies failed to abide by foreign ownership and control limits established by the Commission's International Bureau. América Móvil paid a civil penalty of \$1.1 million, and both companies implemented compliance plans to prevent further stock purchases that would exceed foreign ownership and control limits without first requesting and receiving authorization from the International Bureau.

EB BRIEFING SHEET

SUBJECT: Universal Service

SUMMARY: Section 254(d) of the Communications Act and Part 54 of the Commission's rules govern the universal service obligations of the telecommunications industry, as well as other entities receiving universal service support. The Commission has authority under Section 403 of the Act to investigate possible violations of the statute or the Commission's rules, and under Section 503(b) to issue forfeitures. The Commission also has authority to suspend and debar persons from participating in the universal service mechanisms pursuant to Section 54.8 of the rules.

BACKGROUND AND KEY ISSUES:

- Section 254 of the Act and Part 54 of the rules require entities providing interstate telecommunications to report designated revenue and make contributions to the Universal Service Fund (USF). Carriers and other entities are also required to comply with Section 254 of the Act and with Part 54 of the rules when seeking or receiving universal service support. Beginning in 2011, the Enforcement Bureau began increasing the number of investigations of entities who receive support from the various USF programs, such as Lifeline, E-rate, and the High Cost Fund.
- Section 54.8 of the Commission's rules governs the suspension and debarment of persons from the universal service program. Any person suspended or debarred is excluded from activities associated with the schools and libraries program, the low-income support mechanism, the high cost support mechanism, and the rural health care support mechanism.

STATUS:

STRENGTHENED RULES TO PREVENT WASTE, FRAUD AND ABUSE OF LIFELINE:

- In November 2019, the Commission released the 2019 Lifeline Reform Order which strengthened the Lifeline program's enrollment, recertification, and reimbursement processes. The Order prohibits carriers from paying commissions on Lifeline enrollments to their agents/employees, requires eligibility documentation to be collected in certain instances during annual recertification, and codifies processes to prevent fraudulent enrollment of deceased subscribers. The Order also implements the Representative Accountability Database (RAD), a system to register service provider representatives and lock their accounts due to reasons such as suspicious activity and prolonged periods of inactivity.

ADOPTION OF NATIONAL LIFELINE ELIGIBILITY VERIFIER:

- In March 2016, the Commission adopted a Third Report and Order on Lifeline Reform and Modernization that extended the USF program to also cover support for stand-alone broadband service, as well as bundled voice and data service packages. In addition, the Commission established a National Lifeline Eligibility Verifier (NV) to make eligibility determinations and perform a variety of other

functions necessary to enroll eligible subscribers into the program, and remove the responsibility for eligibility determinations from Lifeline service providers.

- Consistent with the 2016 Lifeline Order, USAC launched the National Verifier in all states and territories by the end of 2019. Carriers are now required to use the NV system and consumers have access to use the NV through a Consumer Portal. California, Oregon, and Texas, which have opted out of NLAD, will continue managing their own Lifeline eligibility verification and duplicate checking processes. The NV will operate in these three states by using state eligibility data to validate service providers' claims for federal Lifeline support.

LAUNCH OF NATIONAL LIFELINE ACCOUNTABILITY DATABASE:

- In 2014, the Commission and USAC launched the National Lifeline Accountability Database (NLAD), which prevents Lifeline providers from enrolling a new subscriber without first confirming that the subscriber's household does not already receive Lifeline service.
- In January 2018, the Commission began basing Lifeline support payments on subscriber data contained in the NLAD. Eligible telecommunications carriers are required to file reimbursement requests using USAC's online E-File system, thus phasing out the FCC Form 497 which was previously used to seek Lifeline support. These steps further the Commission's objective of protecting against waste, fraud, and abuse in the Lifeline program.

ENFORCEMENT ADVISORIES:

- In June 2013, the Bureau released an Enforcement Advisory reminding Eligible Telecommunications Carriers (ETCs) receiving federal universal service support from the Lifeline program that they are liable for any conduct by their agents, contractors, or representatives that violates the FCC's Lifeline rules. The Enforcement Advisory also reminded ETCs to take all necessary steps to ensure that they and their agents, contractors, and representatives adhere to the Lifeline rules or risk monetary penalties of up to \$1.9 million for each failure to comply.
- In December 2019, the Bureau released an Enforcement Advisory reminding ETCs receiving federal universal service support from the Lifeline program that they remain responsible for claiming Lifeline support only for eligible low-income consumers. The Advisory serves as a reminder to ETCs that the creation of the NLAD and the NV do not relieve ETCs of their responsibilities to submit accurate claims for Lifeline reimbursement. The Commission's rules require that ETCs establish and implement policies and procedures ensuring that their Lifeline subscribers are eligible to receive Lifeline services. ETCs that violate these Commission rules may be subject to substantial monetary fines.

RELEASED ITEMS:

- **E-Rate Cases.** In December 2015, the Bureau reached a settlement with the New York City Department of Education (NYC DOE), the nation's largest school district, regarding allegations of competitive bidding violations stemming from NYC DOE's involvement in the USF E-rate Program. The NYC DOE settlement was the largest resolution of a USF E-rate Program investigation in the FCC's history. As part of the consent decree, NYC DOE relinquished claims to its requested USF E-rate funds, paid a \$3 million fine, and was required to appoint an independent compliance monitor.
- In a related matter, in October 2017, the Commission released a settlement with Verizon in connection with the NYC DOE E-rate investigation, in which Verizon agreed to repay approximately \$17.3 million to the Universal Service Fund, and relinquished rights to approximately \$7.3 million in unpaid invoices. Verizon further agreed to pay approximately \$355,000 to the Department of Justice to settle a False Claims Act investigation into the same allegations.
- **Lifeline Cases.** In April 2020, the Commission proposed a \$6,013,000 forfeiture against TracFone Wireless for improperly claiming Lifeline support for apparently ineligible subscribers and fictitious accounts in Florida and Texas. TracFone sales agents manipulated subscriber data in Florida to create fake subscriber accounts, and it claimed more Lifeline support than was authorized by the Texas public utility commission, which is responsible for making subscriber eligibility determinations since the state has opted out of using NLAD.
- In October 2018, the Commission released a Notice of Apparent Liability against American Broadband and Telecommunications Company, which proposed a forfeiture penalty of \$63,463,500 for multiple Lifeline rule violations. The Bureau's investigation determined that American Broadband had enrolled thousands of Lifeline customers who were not eligible for Lifeline service, including over 12,000 deceased individuals and several thousand duplicate customers, and also failed to de-enroll thousands of customers for which the Company should not have claimed USF reimbursement, including customers who were not using their Lifeline service and customers who had transferred their service to other providers.

Rural Health Care Cases. In April 2020, the Enforcement Bureau released a Consent Decree that resolved the Bureau's investigation into whether DRS Global Enterprise Solutions, Inc. (DRS Global) violated the Commission's Rural Health Care Program rules. The investigation found that DRS Global did not develop its rural rates in conformance with the methodology set forth in Section 54.607 of the Commission's rules, which governs the determination of rural rates for the provision of telecommunications services to eligible rural health care providers in the Rural Health Care Program. Instead, DRS Global used its own method to establish its rural rates, based on the Company's calculation of what it considered to be an acceptable rate of return as well as

the rates of its primary competitor. DRS Global submitted payment requests based on these improperly calculated rural rates to the Universal Service Administrative Company (USAC) through September 2017 for telecommunications services provided to the Tanana Chief's Conference (Tanana), an Alaskan health care provider. In the Consent Decree, DRS Global admitted liability for these violations and agreed to a settlement value of \$1,000,000.

- In February 2020, the Enforcement Bureau released a Consent Decree that resolved an investigation into whether TeleQuality Communications, LLC (TeleQuality) violated the Commission's Rural Health Care Program rules. The investigation found that TeleQuality: (a) used fabricated sales quotes as urban rates; (b) assisted health care providers in creating bid evaluation criteria and bid matrices during the competitive bidding period, and in responding to information requests from the Universal Service Administrative Company (USAC) in contravention of RHC Program rules; (c) provided improper incentives to health care providers to encourage the awarding of contracts to TeleQuality; (d) failed to determine its rural rates in accordance with section 54.607 of the Commission's rules and, at least with respect to some requests, failed to determine its urban rates in accordance with Section 54.605 of the Commission's rules; and (e) invoiced USAC and received payment for telecommunications services it did not provide to health care providers. TeleQuality also failed to file accurate Telecommunications Reporting Worksheets (FCC Form 499-As) reporting its actual interstate telecommunications revenues and failed to make required Contributions payments. In the Consent Decree, TeleQuality admitted liability for these violations, and agreed to a settlement value of \$31 million.
- In January 2018, the Commission released a Notice of Apparent Liability against DataConnex. The Bureau's investigation found that DataConnex apparently violated Rural Health Care Program rules relating to the competitive bidding process and falsified its urban rates in order to obtain higher reimbursements from the Universal Service Fund. The NAL proposed a forfeiture penalty of \$18,715,405. DataConnex subsequently filed bankruptcy, and in March 2019, reached a settlement with the United States in which DataConnex agreed to repay the Universal Service Fund \$1,500,000, and further agreed to relinquish appeal rights to approximately \$1,200,000 in undisbursed funds.
- In November 2016, the Commission released its first enforcement action for apparent violations of the Rural Health Care Program rules as well as the Federal Wire Fraud Statute (18 U.S.C. § 1343) when it proposed a forfeiture of approximately \$21.7 million against Network Services Solutions, LLC (NSS). The Bureau's investigation uncovered apparent competitive bidding violations, as well as violations related to how NSS determined the rural and urban rates for telecommunications services it administered to health care providers. The investigation also uncovered NSS's use of apparently forged and backdated documents that USAC relied upon to release USF support to

NSS. NSS filed a response to the NAL on January 3, 2017. On June 7, 2017, the Commission issued an Amendment to the NAL against NSS, amending the basis of the proposed forfeiture from relying on forms filed by rural health care providers to a one based on USF payment requests submitted by NSS within one year of the release of the November 4, 2016 NAL. As a result, the Commission proposed an amended forfeiture of \$22,547,433. NSS filed a response to this Amendment on July 7, 2017.

- **High Cost Cases.** In September 2020, the Commission assessed a forfeiture penalty of approximately \$49.6 million against Sandwich Isles Communications, Inc. (SIC). The forfeiture found that SIC failed to maintain its accounting records and memoranda in the manner prescribed by the Commission pursuant to section 220(d) of the Act. These violations stemmed from the submission and certification of the company’s annual cost studies, which were relied upon by USAC and the National Exchange Carrier Association (NECA) to calculate SIC’s high-cost support payments.
- **Contribution Cases.** In July 2020, the Bureau released NALs against Blue Casa Telephone, LLC, and Compu-Phone Voice & Data, Inc., for their apparent failure to cooperate with verification functions performed by USAC in apparent violation of section 54.706(a) of the Commission’s rules. The Bureau proposed forfeiture penalties against each company in the amount of \$75,000. These are the first enforcement actions addressing the failure of companies to cooperate with USAC’s important function of verifying the accuracy of revenues reported in Telecommunications Reporting Worksheets, which are used to determine USF contribution assessments for each USF contributor.
- In June 2020, the Commission released an Order and Consent Decree which entered into a \$5 million settlement with voice over Internet provider magicJack regarding its failure to report its interstate revenues and contribute to the Universal Service Fund. The company, which sells a VoIP telephone service to consumers, agreed to the settlement, along with an extensive compliance plan. magicJack markets itself to consumers as a competitive replacement for traditional telephone service. It uses Internet service to allow consumers to make phone calls to and receive calls from traditional mobile and landline phones. The service includes “traditional” phone services such as caller ID, voicemail, call forwarding, and 411 service. The \$5 million settlement resolves the Enforcement Bureau’s investigation and makes clear that magicJack will comply with federal rules going forward.
- In December 2017, the Bureau released a Forfeiture Order against UnityComm, Inc., imposing a penalty of \$100,000 for its failure to file Telecommunications Worksheets with the Commission, by which UnityComm was able to avoid making required payments to the USF and other federal regulatory programs.

- In June 2017, the Commission released a \$975,000 Forfeiture Order against Advanced Tel, Inc. for the Company's failures to timely and fully pay required payments to federal regulatory programs and to timely file required revenue information. The penalty was modified from the \$1,588,988 proposed in the NAL based upon a showing of the Company's inability to pay the proposed penalty amount.
- **Unlawful USF Overcharges.** In December 2016, the Commission released a Notice of Apparent Liability of \$392,930 against NECC Telecom, Inc. (NECC) for apparently charging excessive and unlawful USF fees to its customers despite being exempt from any USF contribution obligation at the time. The Commission also based the proposed forfeiture on NECC's failure to pay over \$80,000 in mandatory regulatory fees and its transfers of Commission authorizations without prior FCC approval.
- **Suspensions and Debarments.** Since the beginning of 2008, the Commission has debarred 32 individuals and one company convicted of federal crimes relating to defrauding the government or engaging in similar acts through activities associated with or related to the federal low-income Lifeline support mechanism and the schools and libraries E-Rate support mechanism.

EB BRIEFING SHEET

SUBJECT: TRS/VRS and Other Accessibility

SUMMARY: Sections 225, 255, 716, and 718 of the Act (as well as FCC requirements for manufacturers of telecom equipment and customer premises equipment (CPE), and providers of telecommunications services, Telecommunications Relay Services (TRS), emergency information, closed captioned video programming, and wireless handset hearing aid compatibility) are aimed at ensuring that persons with disabilities have access to communications products and services, and emergency information.

BACKGROUND AND KEY ISSUES:

- ***Section 225:*** Section 225(c) of the Act requires each common carrier providing voice transmission services to provide TRS in accordance with the standards set forth in Section 64.604 of the Commission's rules. The TRS rules also allow non-common carriers to be certified by the Commission to provide Internet-based TRS, which includes IP Relay and video relay services (VRS), and to obtain reimbursements from the TRS Fund for the costs of providing such services. All telecommunications service providers and VoIP providers pay into the TRS Fund to cover the costs of TRS.
- ***Section 255:*** Section 255 of the Act requires that manufacturers of telecommunications equipment and providers of telecommunications services make their products and services accessible to persons with disabilities to the extent readily achievable. Parts 6 and 7 of the rules implement these requirements. Effective October 8, 2013, the Commission began enforcing Section 255 pursuant to the Twenty-first Century Communications and Video Accessibility Act of 2010 (CVAA) Section 717, described below, where informal complaints must be resolved within 180 days after a 30-day period of dispute resolution assistance.
- ***Section 716:*** Section 716 of the Act requires that manufacturers of equipment used for advanced communications services and providers of advanced communications services ensure that the equipment, software, and services that such entities offer for sale or otherwise distribute in interstate commerce are accessible to and usable by individuals with disabilities, unless it is not achievable. Pursuant to CVAA Section 717, described below, informal complaints must be resolved within 180 days after a 30-day period of dispute resolution assistance.
- ***Section 718:*** Section 718 of the Act requires that manufacturers of telephones used with public mobile services that include an Internet browser or providers of mobile services that arrange for the inclusion of a browser in telephones to sell to customers, shall ensure that the functions of the browsers are accessible to and usable by individuals who are blind or have a visual impairment, unless doing so is not achievable. Pursuant to CVAA Section 717 described below, informal complaints must be resolved within 180 days after a 30-day period of dispute resolution assistance.

- ***Closed Captioned Programming:*** All new nonexempt programming (English and Spanish) must be provided with captions. The rules allow for complaints to be filed either with the video programming distributor or directly with the Commission.
- ***Emergency Information Accessibility:*** Section 79.2 of the rules requires that video programming distributors (VPDs) make emergency information accessible to persons with disabilities. If information is distributed in the audio portion of programming, the VPD must provide persons with hearing disabilities a visual presentation of the information distributed aurally to other viewers. This access can be accomplished either by closed captioning or by using another method of visual presentation. If emergency information is displayed in the video portion of a broadcast, the VPD must make this programming accessible to viewers with visual disabilities.
- ***Wireless Handset Hearing Aid Compatibility Requirements:*** Section 20.19 of the rules specifies technical standards that digital wireless handsets must meet to be considered compatible with hearing aids operating in acoustic coupling and inductive coupling (telecoil) modes. In addition, that rule establishes deadlines by which manufacturers and service providers are required to offer specified numbers of hearing aid-compatible digital wireless handsets per air interface. The rules also require manufacturers and service providers to label the handsets with the appropriate technical rating and to explain the technical rating system in the owner's manual or as part of the packaging material for the handset. In addition, the Commission has adopted rules that require these entities to submit periodic status reports on their compliance with the hearing aid compatibility requirements and to maintain a list of hearing aid-compatible handset models and certain information regarding those models on their publicly-accessible web sites.
- ***Advanced Communications Services (ACS) and Mobile Phone Internet Browsers:*** The CVAA, an amendment to the Communications Act, provides accessibility of "advanced communications services" (ACS) to persons with disabilities and mobile phone Internet browsers to people who are blind or sight-impaired. Under the Commission's implementing rules, effective October 8, 2013, providers and manufacturers must make ACS services and devices accessible to persons with disabilities, unless not achievable, and mobile phone Internet browsers accessible to the blind, unless not achievable. Beginning January 30, 2013, these covered providers were required to begin keeping records of their accessibility efforts, and on April 1, 2013, filed certifications regarding their recordkeeping efforts, including contact information for conflict resolution and informal complaints. A key provision of the CVAA is intended to make it easier for consumers to file informal complaints asserting violations of the accessibility requirements. Section 14.32 of the rules implementing the CVAA requires Consumer Dispute Assistance from the Consumer and Governmental Affairs Bureau. Where a dispute cannot be resolved, the complainant may file an informal complaint under CVAA Section 717 with the Enforcement Bureau, which must then adjudicate the complaint and issue an order concluding the case

within 180 days of filing. The expedited dispute resolution and complaint process went into effect on October 8, 2013.

STATUS:

RELEASED ITEMS:

TRS/VRS

- On February 1, 2019, the Bureau entered into a settlement with ASL Services Holdings, LLC dba GlobalVRS to terminate an investigation into improper billing of the TRS Fund by GlobalVRS and its failures to comply with user verification requirements and data retention. Under the settlement, the TRS Fund will retain \$177, 649.88 in reimbursements claimed by GlobalVRS and the company will pay a \$75,000 civil penalty, implement a compliance plan to prevent future violations, submit reports of its compliance and any incidents of noncompliance.
- On September 29, 2017, the Bureau released a \$2.9 million Consent Decree with Sorenson Communication. The Consent Decree resolved an investigation into a preventable service outage in June 2016. Through the settlement, Sorenson agreed to repay the TRS Fund and provide enhanced notices to consumers during outages.
- On February 15, 2017, the Commission released a \$9.1 million Consent Decree with Purple Communications and CSDVRS. The Consent Decree settles the December 2015 Purple Forfeiture Order and investigations into improper billing of the TRS Fund by Purple and CSDVRS. The settlement repays the TRS Fund and establishes a 5-year compliance plan to ensure that services going forward incorporate the required checks.

EB BRIEFING SHEET

SUBJECT: Interference Resolution and Public Safety

BUREAUS/OFFICES: Enforcement Bureau

SUMMARY: The Enforcement Bureau, through its field offices, supports the Commission's public safety goals, including investigations and resolution of interference to public safety communications and critical infrastructure. As the number and variety of wireless devices has increased, interference complaints received by the field have also increased. Such interference complaints come from a variety of sources, but the Bureau's highest priority is responding to complaints from those that protect the public and preserve security (e.g., Federal Aviation Administration (FAA) air traffic control and navigation, U.S. Coast Guard search-and-rescue operators, Emergency Medical Service technicians, police, and firefighters). In addition, the Bureau investigates complaints regarding lighting outages and other defective lighting and marking of antenna structures that can cause air hazards.

BACKGROUND AND KEY ISSUES:

- The Bureau works with federal, state, and local public safety agencies to resolve harmful interference to public safety communications and critical infrastructure communication systems. EB field agents determine the cause of interference using their radio frequency expertise and specialized instruments and equipment (e.g., radio receivers, spectrum analyzers, field strength meters, and radio direction-finding equipment). Agents use instruments to quantify and identify incidental or intentional radio frequency energy and signal transmissions. In addition, they use direction-finding equipment to identify the source of radio frequency interference.
- The Bureau works closely with the FAA and the Armed Services to investigate harmful interference. Acting on several recent complaints from the FAA concerning interference to aircraft operations, the Field determined they were caused by specific pirate FM broadcast radio operators. In all known instances, the interference was mitigated after the field investigated. EB also investigates complaints from the FAA and others concerning lighting outages and other defective antenna structure marking and lighting that are potential violations of the Commission's rules and can cause air hazards.
- The Bureau works with the Department of Homeland Security, Federal Emergency Management Agency, as directed by the President in support of the National Response Framework, Emergency Support Function 2 – Communications in emergency response and restoration efforts (most often in response to hurricanes).
- The Bureau works with the Department of Homeland Security under the direction of the United States Secret Service to support National Special Security Events, such as the State of the Union, Republican National Convention and Democratic National Convention.

- EB works with the Department of Homeland Security, Customs and Border Protection on cross-border interference matters and Immigration and Customs Enforcement on matters involving importation of uncertified and unauthorized intentional, unintentional, and incidental radiators that can cause interference to licensed services.
- EB coordinates on GPS interference issues with the FAA National Operations Center, the United States Coast Guard Navigation Center, and the U.S. Air Force.
- EB Field Agents ensure the President has a method to communicate to the nation in emergencies by performing operational checks of Emergency Alert System equipment.
- EB protects the public by ensuring compliance with rules aimed at preventing the public from overexposure to radio frequency radiation, electrocution from AM radio towers and fencing, and from interference to frequencies used for distress transmissions.
- In addition to working with local public safety entities and utilities to resolve interference to their communications systems, the Bureau also assists licensees that lack the authority expertise, or the funds to identify and resolve interference quickly and on their own.
- National Response Framework, Emergency Support Function 2 – Communications. In 2019, during Hurricane Dorian, the Enforcement Bureau worked closely with the Public Safety and Homeland Security Bureau to deploy teams to assess communications response needs in Florida, Georgia, South Carolina and North Carolina.

STATISTICS:

- As of July 1, 2020, in CY 2020, EB field agents have responded to 84 public safety incidents involving interference allegations and 12 public safety incidents that did not involve allegations of interference.
- In CY 2019, EB field agents responded to 226 public safety incidents involving interference allegations and 17 public safety incidents that did not involve allegations of interference.

MAJOR ITEMS:

- On May 7, 2020, the Enforcement Bureau released a Notice of Apparent Liability against DWireless & More Inc. (DWireless) for apparently operating Unlicensed National Information Infrastructure (U-NII) devices in 5 GHz spectrum in an unauthorized manner that caused interference to an FAA terminal doppler weather radar station in San Juan, Puerto Rico. DWireless operated its U-NII devices without enabling Dynamic Frequency Selection, as required by the Commission's rules and apparently violated the rules and Section 301 of the Act. The Commission proposed a penalty of \$25,000 for these apparent violations.

- On April 22, 2020, the Enforcement Bureau released a Notice of Apparent Liability against WiFi Services Caribbean, Inc. (WiFi Services) for apparently operating two Unlicensed National Information Infrastructure (U-NII) devices in 5 GHz spectrum in an unauthorized manner that caused interference to an FAA terminal doppler weather radar station in San Juan, Puerto Rico. WiFi Services operated their U-NII devices with their country codes set as “Compliance Test” and did not have Dynamic Frequency Selection enabled, as required by the Commission’s rules and apparently violated the rules and Section 301 of the Act. The Commission proposed a penalty of \$25,000 for these apparent violations.
- On April 22, 2020, the Enforcement Bureau released a Notice of Apparent Liability against Buzzer Net LLC (Buzzer Net) for apparently operating in 5 GHz spectrum an Unlicensed National Information Infrastructure (U-NII) device in an unauthorized manner that caused interference to an FAA terminal doppler weather radar station in San Juan, Puerto Rico. Buzzer Net’s devices had no option to select the United States or Puerto Rico as the country code and were not operating with Dynamic Frequency Selection as required by the Commission’s rules and apparently violated the rules and Section 301 of the Act. The Commission proposed a penalty of \$25,000 for these apparent violations.
- On February 26, 2020, the Bureau imposed a forfeiture of \$25,000, jointly and severally, against CA Solutions, Inc. (d/b/a Boom Solutions) and Boom Net, LLC (d/b/a Boom Solutions), and imposed a forfeiture of \$4,051 against Broadband Telecommunications Network, Corp (d/b/a/ Integra Wireless) for causing interference to the FAA’s Terminal Doppler Weather Radar (TDWR) in 5 GHz spectrum in San Juan, Puerto Rico.
- On January 13, 2020, the Bureau entered into a Consent Decree with Scripps Broadcasting Holdings, LLC (Scripps), to resolve an investigation into the compliance of its predecessor, Cordillera Communications, with the Commission’s part 17 rules pertaining to antenna structure lighting and monitoring. In the Consent Decree, Scripps agreed to pay a penalty of \$1,130,000 and to implement a compliance plan.
- On November 14, 2019, the Bureau imposed a forfeiture of \$25,000 against WinPR, Inc., and a forfeiture of \$7,912 against Caribbean Network Solutions, Inc., for causing interference to the FAA’s Terminal Doppler Weather Radar (TDWR) station in San Juan, Puerto Rico.
- On October 4, 2019, the Bureau entered into a Consent Decree with Arctic Slope Telephone Association Cooperative, Inc., to resolve an investigation into the company’s compliance with the Commission’s part 17 rules pertaining to antenna structure inspection and signage rules. In the Consent Decree, the company admitted that it failed to inspect its tower lights and failed to display the correct antenna structure registration number, agreed to implement a compliance plan, and paid a \$45,000 civil penalty.
- On September 27, 2019, the Bureau entered into a Consent Decree to resolve its investigation into whether Daytona Aircraft Services operated two GPS re-radiators without a Commission license, in violation of the Commission’s rules,

and in a manner that caused interference to another Commission licensee and nearby aircraft at the Daytona Beach International Airport. In the Consent Decree, the company admitted to its misconduct, agreed to implement a compliance plan, and paid a \$14,000 civil penalty.

- On August 7, 2019, the Commission imposed a forfeiture of \$39,278 against Ocean Adrian Hinson of Surry County, North Carolina, for misusing a local public safety radio communication network.

EB BRIEFING SHEET

SUBJECT: 911, E911 and NG911

BACKGROUND AND KEY ISSUES: The Commission seeks to ensure 911 call completion from the 911 caller at one end to the appropriate public safety answering point (PSAP) at the other end.

Section 9.4 (previously 64.3001) of the Commission's rules requires all telecommunications carriers to transmit all 911 calls to a PSAP, to a designated statewide default answering point, or to an appropriate local emergency authority. Additionally, pursuant to Section 9.5 (previously 64.3002), where these entities have not been established or do not exist, telecommunications carriers are required to identify an appropriate local emergency authority based on the exercise of reasonable judgment and complete all translation and routing necessary to deliver 911 calls to such appropriate local emergency authority. Section 9.10 (previously 20.18) of the Commission's rules contains similar requirements, as well as E911 requirements, for commercial mobile radio service providers. Separately, in Section 4 of the rules, the Commission adopted notification requirements for communications providers when 911 outages occur. These notification requirements ensure that carriers provide the Commission with timely information about the causes and impacts of 911 outages they experience so the Commission can monitor trends and take action if needed. The notification requirements also ensure that carriers and 911 providers quickly notify PSAPs with pertinent information about 911 outages that impact the PSAP.

STATUS:

RELEASED ITEMS:

- On October 2, 2020, the Enforcement Bureau announced settlements with seven telecommunications providers that did not file timely 911 service reliability certifications for 2019. Each provider agreed to pay a civil penalty and abide by a compliance plan to ensure it meets its filing responsibilities going forward.
- On November 4, 2019, the Enforcement Bureau (Bureau) released two Orders and Consent Decrees ending an investigation into an August 1, 2018, regional 911 service outage in CenturyLink, Inc.'s NG911 routing network. The outage was triggered when CenturyLink's agent, West Safety Services, Inc. (West), made an easily preventable error during a routine configuration change to the NG911 routing network. This caused disruption with the routing of 911 calls by CenturyLink to PSAPs in six states. The outage was exacerbated by CenturyLink's failure to have sufficient alarming in its network. The resulting NG911 outage lasted for 65 minutes. During the course of the event, hundreds of 911 calls failed to transmit to affected PSAPs. To settle the investigation, CenturyLink agreed to pay a \$400,000 civil penalty and West agreed to pay a \$175,000 civil penalty. Both companies also agreed to implement a compliance plan to prevent recurrence of the type of inadvertent error that initiated the outage.

- as well as enhanced alarming to provide better internal and inter-company notification when 911 calls fail to transmit through their networks.
- On June 28, 2018, the Bureau released an Order and Consent Decree ending an investigation into two 2017 911-service outages in AT&T Mobility's (AT&T) nationwide Voice over Long Term Evolution (VoLTE) network. AT&T caused both outages through its own errors during planned network changes. Together, the outages lasted almost six hours, knocked out 911 service to millions of customers, and resulted in over 15,000 failed 911 calls. AT&T also took four-and-a-half hours to complete notification of potentially affected PSAPs. Moreover, some PSAPs said the notification was unclear, incomplete, or they simply did not receive it. To settle the investigation, AT&T agreed to pay a \$5.25 million fine and implement a compliance plan to adopt proactive risk management principles designed to reduce the likelihood and impact of 911 failures, ensure reliable 911 call completion, and plan for and provide timely notification to PSAPs affected by 911 outages.

EB BRIEFING SHEET

SUBJECT: Misuse of Emergency Alert System (EAS) Codes and Attention Signal

SUMMARY: Section 11.45 of the Commission’s rules states that, “[n]o person may transmit or cause to transmit the EAS codes or Attention Signal, or a recording or simulation thereof, in any circumstance other than in an actual National, State or Local Area emergency or authorized test of the EAS,” with one exception: Section 11.46 allows EAS participants to use the EAS Attention Signal and a simulation of the EAS codes as provided by FEMA in PSAs provided by federal, state and local government entities, or non-governmental organizations, in certain specified types of public service announcements to raise public awareness about emergency alerting. Section 10.520(d) prohibits any person from transmitting the Wireless Emergency Alert (WEA) common audio attention signal, or a recording or simulation thereof, in any circumstance other than in an actual National, State or Local Area emergency or authorized test, or in the context of a PSA provided by federal, state and local government entities, or non-governmental organizations, to raise public awareness about emergency alerting. Thus, if advertisements, promotional announcements, or other programming includes the EAS codes or EAS or WEA Attention Signals (or simulations thereof) not in connection with an actual emergency, authorized EAS or WEA test, or authorized PSA, they are illegal. A “simulation” of the EAS codes or EAS or WEA Attention Signals includes not only recordings of actual EAS codes or EAS or WEA Attention Signals, but also sounds that mimic or are substantially similar to them such that an average listener could reasonably mistake the sounds for an actual EAS code or EAS or WEA Attention Signals. In addition, such false use of the EAS codes or EAS or WEA Attention Signals may be considered a “false distress signal,” which is prohibited under Section 325(a) of the Act.

BACKGROUND AND KEY ISSUES:

- Since 2013, the Commission has received an increasing number of complaints alleging that EAS or WEA tones or simulations thereof are being used as attention-getting devices in various advertisements and promotions.
- The Commission regards misuse of EAS codes and EAS or WEA Attention Signals as very serious violations, because such actions raise substantial public safety concerns.
 - Misuse of the codes and Attention Signals raises the risk of creating public alarm and confusion as to whether an emergency event is taking place. This is particularly true for audience members not actively focused on the programming, in another room, or with visual impairments. They may be easily alarmed by use of Attention Signals even if the program material at issue is clearly intended to be an advertisement, promotion, or a joke.
 - This risk is particularly high in areas of the country that rely on the EAS and WEA to alert the public of destructive weather events that can move quickly or arise with little or no warning (e.g., tornados, ice storms, hurricanes, etc.).

- Moreover, using the EAS or WEA outside of an actual emergency or authorized test creates a “cry wolf” scenario that undermines the integrity of the EAS or WEA by potentially desensitizing the public to potentially life-saving alerts.
- For this reason, the Commission’s rules plainly and strictly reserve the use of the EAS codes and EAS or WEA Attention Signal for legitimate uses.

RELEASED ITEMS:

- On April 7, 2020, the Enforcement Bureau issued a Notice of Apparent Liability against Entercom License, LLC for allegedly broadcasting an EAS attention signal on its station WNEW(FM), New York, NY, during a skit lampooning the WEA test that was scheduled to take place later that day. The Bureau proposed a \$20,000 fine against Entercom.
- On September 9, 2019, the Commission issued a Notice of Apparent Liability against CBS Broadcasting Inc. for allegedly broadcasting a simulated EAS tone during a nationally televised episode of its show “Young Sheldon.” On April 12, 2018, CBS transmitted the episode via at least 227 television stations, including 15 of CBS’s owned and operated stations. The episode included a sound effect accompanying a tornado warning, which the producers modified, but still audibly simulated actual EAS tones. CBS’s modifications to the EAS tones did not make broadcasting such tones permissible because the audio elements used in the episode were substantially similar to the actual EAS tones. The Commission has proposed a \$272,000 fine against CBS.
- On August 15, 2019, the Enforcement Bureau entered into a Consent Decree with ABC, Inc. for the broadcast of false WEA tones during the October 3, 2018 episode of “Jimmy Kimmel Live!” ABC transmitted the episode nationwide to 250 TV stations, including eight of its owned and operated stations, which in turn broadcast the episode in their markets. ABC admitted to the violation, agreed to pay a \$395,000 civil penalty, and committed to a compliance and reporting plan to avoid such actions in the future.
- On August 15, 2019, the Enforcement Bureau entered into a Consent Decree with AMC Networks Inc. for the broadcast of EAS tones in a February 2019 episode of “The Walking Dead.” The episode was transmitted on eight separate instances across cable and satellite systems nationwide. AMC admitted to the violation, agreed to pay a \$104,000 civil penalty, and committed to a compliance and reporting plan to avoid such actions in the future.
- On August 15, 2019, the Enforcement Bureau entered into a Consent Decree with Discovery, Inc. for its broadcast of an actual WEA tone in an episode of Animal Planet’s show “Lone Star Law.” The crew was filming Texas game wardens following Hurricane Harvey, and captured the tone of a real wireless alert received by phones during filming. Discovery transmitted the episode eight times to cable and satellite systems nationwide from January through March 2018. Discovery admitted to the violation, agreed to pay a \$68,000 civil penalty, and committed to a compliance and reporting plan to avoid such actions in the future.

- On August 15, 2019, the Enforcement Bureau entered into a Consent Decree with Meruelo Radio Holdings for its broadcast of simulated EAS attention signals during a promotion for its morning show. The promotion was broadcast 106 times on station KDAY(AM), and 33 times on KDEY-FM's simulcast of KDAY(AM). The company admitted to the violation, agreed to pay a \$67,000 civil penalty, and committed to a compliance and reporting plan to avoid such actions in the future.
- On May 19, 2015, the Enforcement Bureau entered into a Consent Decree with iHeartCommunications, Inc. (iHeart), a subsidiary of iHeartMedia, Inc. iHeart admitted that it violated Section 325(a) of the Act and Section 11.45 of the Commission's rules when it EAS tones during the broadcast of the October 24, 2014 episode of the nationally syndicated *The Bobby Bones Show* absent an actual emergency or authorized test. The EAS tones were sent to more than 70 affiliated stations and triggered a multi-state cascade of false EAS alerts on radios and television stations throughout the nation. iHeart agreed to pay a \$1,000,000 civil penalty and implement a three-year compliance plan for all of its radio stations.
- On January 20, 2015, the Commission issued a consolidated Forfeiture Order against Viacom Inc. (Viacom) and ESPN Inc. (ESPN), affirming each entity's false and unauthorized transmission, via multichannel video programming distributors, of the EAS Attention Signal and codes embedded in ads for the movie "Olympus Has Fallen," in violation of Section 325(a) of the Act and Section 11.45 of the Commission's rules. The Forfeiture Order imposed a forfeiture of \$1,120,000 against Viacom and a \$280,000 forfeiture against ESPN, both of which were paid. (NBCUniversal also paid the \$530,000 forfeiture the Commission proposed in a consolidated NAL against all entities that was released on March 3, 2014.)

ENFORCEMENT ADVISORY:

- On August 15, 2019, the Enforcement Bureau released an Enforcement Advisory to remind the industry about the existing law as it applies to the misuse of EAS tones. The advisory states that we remain concerned about the misuse of the EAS codes and EAS and WEA Attention Signals, and simulations thereof, to capture audience attention during programs and at any other time that there is no genuine alert, authorized test, or authorized PSA about the EAS, or WEA, that is accompanied by an appropriate disclaimer.
- On November 5, 2013, the Enforcement Bureau released an Enforcement Advisory to remind the public that false, fraudulent or unauthorized use of the EAS Attention Signal and codes is strictly prohibited by Section 325(a) of the Act and Section 11.45 of the Commission's rules.

EB BRIEFING SHEET

SUBJECT: Jammers

SUMMARY: The Communications Act of 1934, as amended, (Act) prohibits the operation, manufacture, importation, marketing, and sale of equipment designed to jam or otherwise interfere with authorized radio communications, such as radar, global positioning system (GPS), and cell phone communications. These jamming devices pose significant risks to public safety and potentially compromise other radio communications services.

BACKGROUND AND KEY ISSUES:

- Section 301 of the Act requires a valid FCC authorization or license for the operation of radio transmitting equipment. Unlike other radio transmitting equipment, jamming equipment cannot be authorized by the FCC because the main purpose of jamming equipment is to interfere with radio communications.
- Section 302(b) of the Act prohibits the manufacture, importation, sale, offer for sale, or operation of devices that do not comply with the equipment authorization rules. Jammers do not comply with the rules because they are designed to jam or disrupt authorized communications.
- Section 333 of the Act prohibits willful or malicious interference with any radio communications of any station licensed by or authorized under the Act, or operated by the United States Government.
- Consequently, the operation of jamming equipment violates Sections 301 and 333 of the Act. The manufacture, importation, sale, or offer for sale of jamming equipment violates Section 302(b) of the Act.
- As a result of past enforcement efforts, jammers are rarely marketed by domestic entities and now are almost exclusively marketed online by foreign retailers. When the retailer is located outside of U.S. territory, The Hague Convention on Service Abroad may apply and require that Commission documents only be served in a manner prescribed by authorities in the retailer's country of residence.
- The Enforcement Bureau has released Enforcement Advisories specifically designed to inform retailers, importers, consumers, and state and local government agencies that jammers are illegal and may not be operated, marketed or imported into the United States. The Advisories warn that violators risk substantial civil and criminal penalties.
- The Enforcement Bureau maintains a Jammer Enforcement webpage (<https://www.fcc.gov/general/jammer-enforcement>) that provides the applicable laws in consumer-friendly language. This website was significantly updated in April 2020 to reflect the launch of the Enforcement Bureau's Public Safety Interference (PSIX-ESIX) Portal and to provide consumers with better instruction on how to troubleshoot and report a loss or interference with service.

STATUS:

We continue to investigate jammer-related complaints and take appropriate enforcement action. In this regard, the Enforcement Bureau coordinates closely on jammer enforcement issues with various federal, state, and local agencies, including assistance with jammer seizures.

The Bureau successfully curbs the importation of jammers by engaging online marketplaces and, in some instances, the payment processing industry, to help limit illegal online advertising and sales to U.S. consumers. As a consequence, the most prominent multi-seller marketplaces independently search for and remove jammer listings that have been uploaded by retailers onto their platform. Similarly, U.S.-based payment processors will refuse to conduct business with known jammer websites, effectively preventing them from accepting payment via credit cards.

INVESTIGATIONS:

- As of July 1, 2020, in CY 2020 EB field agents have investigated 8 complaints concerning the alleged use of jammers.
- In CY 2019, EB field agents have investigated 43 complaints concerning the alleged use of jammers.

RELEASED ITEMS:

- On August 26, 2019, the Enforcement Bureau entered into a Consent Decree with Frank Reimer to resolve its investigation into whether Reimer operated an illegal Global Positioning System (GPS) signal jamming device in the vicinity of the Newark International Airport. Signal jamming devices overpower, jam, or interfere with authorized communications.
- On April 25, 2018, the Enforcement Bureau, Region Two Field Office issued a \$22,000 fine against Ravi's Import Warehouse (Ravi) for operating a cellular phone jammer in its commercial establishment located in Dallas, Texas. On April 10, 2017, an AT&T representative complained that an AT&T base station was receiving interference, possibly from a signal located within Ravi's commercial establishment. In response to the agent's inquiries, the owner of Ravi admitted to using a signal jammer to prevent her employees from using mobile phones while at work. Thereafter, the AT&T representative confirmed the base station was no longer receiving interference from equipment operated at Ravi's commercial establishment.
- On October 23, 2017, the Enforcement Bureau's Columbia, Maryland Regional Office issued a Warning for Unauthorized Radio Operation to the Maidstone Club in East Hampton Village, New York for allegedly operating radio transmitting devices designed to jam Global Positioning System (GPS) in violation of Sections 301 and 333 of the Communications Act.

INTER-AGENCY COORDINATION: The Bureau responds to requests from U.S. Customs and Border Protection (CBP) agents to verify whether devices being held at ports of entry are illegal jammers. If the Bureau is able to determine that a device is a jammer, CBP is instructed to prohibit entry into the United States.

EB BRIEFING SHEET

SUBJECT: Unauthorized Operations and Other Wireless Service Issues

SUMMARY: Section 301 of the Communications Act of 1934, as amended (the Act) prohibits the use or operation of a radio frequency station except in accordance with a Commission-granted authorization. Investigations in this area have focused on the various service stations operating without Commission authority or in a manner inconsistent with the terms of the underlying authorization/license, including Commercial Mobile Radio Service stations, Private Land Mobile Radio Service (PLMRS) stations, Personal Communications Service wireless radio stations, General Mobile Radio Service stations, public coast stations, and satellite earth stations.

The Commission has also established construction and discontinuance requirements, among other things, pursuant to the rules established for a particular licensed service. These requirements promote productive use of spectrum, encourage provision of service to customers in a timely manner, and promote the provision of innovative services. EB is responsible for investigating licensee failures to comply with construction and/or discontinuance rules—actions which undermine these important goals.

BACKGROUND AND KEY ISSUES: Section 301 of the Act requires a valid FCC authorization or license for the operation of radio transmitting equipment. Additionally, Section 1.903(a) of the Commission's rules provides that stations in the Wireless Radio Services must be used and operated pursuant to the rules pertaining to their particular service and with a valid Commission-granted authorization/license. Licensees that want to operate after their licenses' expiration must affirmatively request continued operating authority from the Commission. If a licensee fails to file a timely renewal application, the Commission requires such a licensee to seek temporary or new operating authority. Also, before starting construction on certain wireless facilities, Section 1.1301 of the rules requires each licensee to assess whether its facility may have a significant impact on the environment or historic properties. EB/SED enforces the Commission's service and licensing rules, particularly in areas involving licensee failures to meet construction and discontinuance requirements, and failures to operate wireless stations within the terms of the Commission authorization/license and/or service rules.

STATUS:

RELEASED ITEMS:

- On May 7, 2020, the Enforcement Bureau (Bureau) released a Notice of Apparent Liability against DWireless & More Inc. (DWireless) for apparently operating Unlicensed National Information Infrastructure (U-NII) devices in 5 GHz spectrum in an unauthorized manner that caused interference to an FAA terminal doppler weather radar station in San Juan, Puerto Rico. DWireless operated its U-NII devices without enabling Dynamic Frequency Selection, as required by the Commission's rules and apparently violated the rules and

Section 301 of the Act. The Commission proposed a penalty of \$25,000 for these apparent violations.

- On April 22, 2020, the Bureau released a Notice of Apparent Liability against WiFi Services Caribbean, Inc. (WiFi Services) for apparently operating two Unlicensed National Information Infrastructure (U-NII) devices in 5 GHz spectrum an unauthorized manner that caused interference to an FAA terminal doppler weather radar station in San Juan, Puerto Rico. WiFi Services operated their U-NII devices with their country codes set as “Compliance Test” and did not have Dynamic Frequency Selection enabled, as required by the Commission’s rules and apparently violated Section 301 of the Act. The Commission proposed a penalty of \$25,000 for these apparent violations.
- On April 22, 2020, the Bureau released a Notice of Apparent Liability against Buzzer Net LLC (Buzzer Net) for apparently operating in 5GHz spectrum an Unlicensed National Information Infrastructure (U-NII) device in an unauthorized manner that caused interference to an FAA terminal doppler weather radar station in San Juan, Puerto Rico. Buzzer Net’s devices had no option to select the United States or Puerto Rico as the country code and were not operating with Dynamic Frequency Selection as required by the Commission’s rules and apparently violated the rules and Section 301 of the Act and the Commission’s rules. The Commission proposed a penalty of \$25,000 for these apparent violations.
- On March 12, 2020, the Bureau imposed a forfeiture of \$18,000 against Jerry Materne, an amateur radio licensee, for causing intentional interference to licensed radio operations and failing to transmit his assigned call sign in violation of section 333 of the Act, and sections 97.101(d) and 97.119(a) of the Commission’s rules.
- On February 26, 2020, the Bureau imposed a forfeiture of \$25,000, jointly and severally, against CA Solutions, Inc. (d/b/a Boom Solutions) and Boom Net, LLC (d/b/a Boom Solutions), and imposed a forfeiture of \$4,051 against Broadband Telecommunications Network, Corp (d/b/a/ Integra Wireless) for causing interference to the FAA’s Terminal Doppler Weather Radar (TDWR) in San Juan, Puerto Rico.
- On January 22, 2020, the Bureau entered into a Consent Decree with Brevard Wireless, Inc. dba Florida High Speed Internet (Brevard) to resolve an investigation into whether it operated unregistered base stations without authorization in the 3650-3700 MHz band in violation of section 301 of the Act and sections 1.903(a) and 90.1307(a) of the Commission’s rules. Brevard admitted that it operated unregistered base stations without authorization, agreed to pay a \$16,000 penalty, and to implement a compliance plan.
- On January 6, 2020, the Bureau entered into a Consent Decree with Teton Communications, Inc. to resolve an investigation into whether the company violated sections 1.1307 and 1.1312 of the Commission’s rules by failing to

complete the Section 106 environmental review process prior to beginning the construction of a wireless facility. Teton in admitting liability, agreed to pay a \$20,000 civil penalty and to implement a three-year compliance plan.

- On December 23, 2019, the Bureau entered into a Consent Decree with L3Harris Technologies, Inc. (formerly known as Harris Corporation) to resolve an investigation into whether the company violated section 301 of the Communications Act of 1934, as amended, and sections 5.53 and 25.102 of Commission's rules, by transmitting uplink data to one of its small satellites on a radio frequency not authorized for that use. In the Consent Decree, L3Harris Technologies, Inc. (a) admits liability, (b) agrees to pay a \$100,000 civil penalty; and (c) agrees to implement a three-year compliance plan.
- On November 1, 2019, the Enforcement Bureau entered into a Consent Decree with NE Colorado Cellular, Inc., d/b/a Viaero Wireless, to resolve its investigation into whether the company operated an unregistered base station, without Commission authorization, on 3650 – 3700 MHz, in violation of the Commission's rules. In the Consent Decree, the company admitted violating the Commission's rules, agreed to implement a compliance plan, and agreed to pay a civil penalty of \$16,000.
- On June 18, 2019, the Enforcement Bureau entered into a Consent Decree with David Larsen to resolve an investigation into whether he violated section 301 of the Communications Act of 1934, as amended (Act), and sections 90.20, 90.403, 90.405, and 90.425 of the Commission's rules related to unauthorized radio transmissions on a public safety radio system. Larsen agreed to pay a civil penalty of \$7,500 and is subject to an additional \$32,500 if he violates the Act or Commission's rules again.
- On December 20, 2018, Swarm Technologies entered into a Consent Decree to resolve the Commission's investigation into allegations that the company launched and operated small satellites without a Commission authorization. Specifically, Swarm Technologies prematurely launched four small satellites that transmitted for 10 days with associated earth stations while its application for a license remained pending with the Commission. The company also operated unauthorized radio frequency equipment. Under the terms of the settlement, Swarm Technologies agreed to pay a civil penalty of \$900,000 and implement a compliance plan to ensure that it adheres to the Commission's rules in the future, including by notifying the Commission of its pre-launch activities regarding future satellites.
- On September 14, 2018, the Commission released a Notice of Apparent Liability against IOU Acquisitions, Inc. (IOU) and Air-Tel, LLC (Air-Tel) (collectively, the Companies) for apparently providing an unauthorized wireless data transmission service in the guise of providing Radiolocation Service (RLS). Although the Companies held RLS licenses, which is typically a radar-like technology, they instead simply transmitted GPS

coordinates over wireless data technology. The Companies apparently did so by intentionally altering the settings of wireless broadband equipment to operate outside of the equipment's authorized frequency bands. The Companies did not cease providing their unauthorized service until after the Commission commenced an investigation. The Commission proposed a penalty of \$207,290 against IOU and \$327,290 against Air-Tel for these apparent violations.

- On January 12, 2017, Straight Path entered into a Consent Decree to resolve the Bureau's investigation into allegations that Straight Path violated the Commission's buildout and discontinuance rules regarding its licenses in the 28 GHz and 39 GHz bands (5G bands). Specifically, Straight Path had made "substantial service" filings with the Commission in which it represented that it had met its buildout requirements for the provision of wireless communications services in the 39 GHz bands, but later admitted that the equipment deployed in connection with the buildout was put in place only for a short time and that a significant amount of the installed equipment was no longer present at the original locations at the time of the investigation. Under the terms of the consent decree, Straight Path has paid to the U.S. Treasury civil penalties in the amount of \$629 million, surrendered to the Commission 196 of its licenses in the 39 GHz spectrum band, and entered into an agreement to sell the remainder of its license portfolio. In May 2017, Straight Path agreed to be acquired by Verizon for approximately \$3.1 billion. On January 18, 2018, WTB issued an order consenting to the transfer of control of Straight Path's licenses to Verizon. On February 28, 2018, Verizon completed its acquisition of Straight Path.

UNAUTHORIZED TRANSFERS AND ASSIGNMENT OF WIRELESS RADIO AUTHORIZATIONS

- On July 16, 2020, the Enforcement Bureau entered into a Consent Decree with Caesars Entertainment Corporation to resolve the Bureau's investigation into whether Caesars violated section 310(d) of the Communications Act of 1934, as amended, and section 1.948 of the Commission's rules related to the unauthorized transfers of control and assignments of wireless licenses in connection with Caesars' filing of a petition for reorganization pursuant to Chapter 11 of the U.S. Bankruptcy Code. Caesars agreed to pay a civil penalty of \$127,000, and implement a compliance and reporting plan to ensure that it adheres to the Commission's rules in the future.
- On June 25, 2020, the Enforcement Bureau entered into a Consent Decree with Archer Daniels Midland Company to resolve the Bureau's investigation into whether ADM violated sections 308(b) and 310(d) of the Communications Act of 1934, as amended, and sections 1.17 and 1.948 of the Commission's rules regarding ADM's failure to provide accurate licensee qualification information in wireless license applications and its participation in unauthorized transfers of control and assignments in connection with ADM's transfer of business entities holding various FCC licenses. ADM agreed to pay a civil penalty of \$240,000

and implement a compliance and reporting plan to ensure that it adheres to the Commission's rules in the future.

- On June 9, 2020, the Enforcement Bureau entered into a Consent Decree with ABB Inc. and KEC Acquisition Corporation to resolve the Bureau's investigation into whether ABB and KEC violated sections 310(d) and 301 of the Communications Act of 1934, as amended, and sections 1.948 and 1.903 of the Commission's rules regarding ABB's and KEC's participation in unauthorized transfers of control and assignments and unauthorized operation of a wireless license, and ABB's and KEC's failure to submit accurate licensee qualification information in the submission of applications for wireless radio licenses in violation of section 308(b) of the Act and section 1.17 of the Commission's rules. ABB and KEC agreed to pay a civil penalty of \$250,000 and implement a compliance and reporting plan to ensure that they adhere to the Commission's rules in the future.
- On April 28, 2020, the Enforcement Bureau entered into a Consent Decree with Marriott Vacations Worldwide Corporation to resolve the Bureau's investigation into whether Marriott violated section 310(d) of the Communications Act of 1934, as amended, and section 1.948 of the Commission's rules when it acquired wireless radio licenses from various entities as part of its acquisition of ILG, Inc. prior to receiving approval from the Commission. Marriott agreed to pay a civil penalty of \$70,000 and implement a compliance and reporting plan to ensure that it adheres to the Commission's rules in the future.
- On May 31, 2019, the Enforcement Bureau entered into a Consent Decree with Nutrien, Ltd. to resolve the Commission's investigation into whether Nutrien violated section 310(d) of the Communications Act of 1934, as amended, and section 1.948 of the Commission's rules related to the unauthorized transfer and assignment of wireless radio authorizations. Nutrien agreed to pay a civil penalty of \$24,000 and implement a compliance and reporting plan to ensure that it adheres to the Commission's rules in the future.
- On May 15, 2019, the Enforcement Bureau entered into a Consent Decree with Constellation Club Parent, Inc. to resolve the Commission's investigation into whether Constellation Club violated section 310(d) of the Communications Act of 1934, as amended, and section 1.948 of the Commission's rules related to the unauthorized transfer and assignment of wireless radio authorizations. Constellation Club agreed to pay a civil penalty of \$24,975 and implement a compliance and reporting plan to ensure that it adheres to the Commission's rules in the future.

- On February 7, 2019, the Enforcement Bureau issued a Notice of Apparent Liability against Lexington Coal Company, LLC for allegedly violating section 310(d) of the Communications Act of 1934, as amended, and section 1.948 of the Commission's rules related to the unauthorized transfer and assignment of wireless radio authorizations. The Enforcement Bureau proposed a forfeiture of \$25,000.
- On August 28, 2018, the Enforcement Bureau entered into a Consent Decree with Marriott International, Inc. to resolve the Bureau's investigation into allegations that Marriott violated section 310(d) of the Communications Act of 1934, as amended, and section 1.948 of the Commission's rules related to the unauthorized transfer and assignment of wireless radio authorizations. Under the terms of the settlement, Marriott agreed to implement a compliance and reporting plan to ensure that it adheres to the Commission's rules in the future, and to pay a civil penalty of \$504,000.

EB BRIEFING SHEET

SUBJECT: Equipment Marketing

SUMMARY: Equipment marketing cases involve the marketing of unauthorized radio frequency (RF) devices in the United States. Section 302 of the Communications Act of 1934, as amended (Act), and the associated Commission rules, outline the requirements for marketing RF devices. Violations can range from the marketing of a device that has not been authorized (by either certification or Supplier's Declaration of Conformity procedures), to the marketing of a device that has not been properly labeled or is missing the required user information disclosures. Enforcement of Commission rules requiring that devices be properly authorized, labeled, and furnished with the proper user information disclosures prior to marketing in the United States is crucial to preventing harmful interference to commercial and public safety wireless services and to Federal communications systems.

BACKGROUND AND KEY ISSUES: Section 302 of the Act authorizes the Commission to promulgate regulations governing the interference potential of devices that emit RF energy and can cause harmful interference to radio communications. The Commission adopted rules to ensure that RF devices comply with the Commission's technical standards, as well as labeling and information disclosure requirements, to prevent harmful interference from occurring once devices are marketed to the public. One of the primary ways in which the Commission ensures compliance is through the equipment authorization program for RF devices, which is codified in Part 2 of the Commission's rules. Specifically, under Section 2.803, RF devices must comply with the Commission's equipment authorization, labeling, user information disclosure, and other requirements before they can be imported, sold, leased, or advertised for sale or lease, in the United States.

STATUS:

RELEASED ITEMS

- On July 23, 2020, the Commission issued a Forfeiture Order against ABC Fulfillment Services LLC d/b/a HobbyKing USA LLC and HobbyKing.com, et al., (HobbyKing). The Forfeiture Order affirmed the Commission's June 5, 2018, Notice of Apparent Liability (NAL) assessing a fine of \$2,861,128 against HobbyKing, an online retailer of noncompliant drone audio/video transmitters accessories. HobbyKing advertised and sold unlawful drone equipment in violation of the Act and the Commission's equipment marketing rules and violated Commission orders requiring HobbyKing to provide complete information to the Bureau during the course of the investigation. The devices marketed by HobbyKing were marketed as amateur devices, but could operate on non-amateur bands making them noncompliant. Some could threaten Federal government and public safety services, such as aviation and doppler radar. The Forfeiture Order and NAL followed previous citations issued to HobbyKing, warning it to cease marketing unlawful equipment and to provide the requested information;

however, HobbyKing continued its unlawful marketing and never provided a complete response to the Bureau’s inquiries.

- On April 3, 2020, the Commission released a Notice of Apparent Liability that proposes a \$685,338 forfeiture against Sound Around, Inc. for marketing 32 models of wireless microphones that were apparently noncompliant or not authorized in violation of section 302 of the Act and sections 2.803 and 74.851 of the Commission’s rules. Sound Around apparently marketed the wireless microphones on its website even though the microphones did not have a certification or could operate contrary to their certifications violating the Commission’s equipment marketing rules.
- On April 2, 2020, the Enforcement Bureau entered into a Consent Decree with BLU Products, Inc. (BLU Products) to resolve an investigation into its marketing of a smartphone that exceeded the Specific Absorption Rate limit and failed to comply with the labeling, user manual, and permissive change requirements of the equipment authorization rules. To settle the matter, BLU products admitted that it violated the Commission’s rules, and agreed to pay a civil penalty of \$130,000 and to implement a compliance plan to ensure that it adheres to the Act and the Commission’s rules.
- On August 27, 2019, the Enforcement Bureau entered into a Consent Decree with Seasons 4, Inc. d/b/a S4 Lights (S4 Lights) to resolve an investigation into its marketing of light-emitting diode (LED) products without the required equipment authorization, labeling, and user manual disclosures, and by failing to produce certain required test records. To settle the matter, S4 Lights admitted that it marketed devices that did not comply with the Commission’s marketing rules, and agreed to pay a civil penalty of \$25,000 and to implement a compliance plan to ensure that it adheres to the Act and the Commission’s rules.
- Between March 30, 2018 and November 27, 2018, the Enforcement Bureau entered into Consent Decrees with 21 separate companies to resolve allegations that the companies improperly marketed LED signs in violation of the Act and the Commission’s equipment marketing rules. Under the terms of the settlements, the companies agreed to pay civil penalties totaling \$853,500 and to implement compliance plans to ensure that they adhere to the Act and the Commission’s rules. Each company, its civil penalty amount, and the date of the consent decree are listed below.

Date of Consent Decree	Company Name	Civil Penalty Amount
November 27, 2018	Gable Signs & Graphics, Inc.	\$50,000
October 12, 2018	Adaptive Micro Systems, LLC	\$50,000
October 10, 2018	Hyoco Distribution, Inc.	\$21,000

September 4, 2018	NanoLumens, Inc.	\$27,500
August 8, 2018	Lighthouse Technologies Limited	\$115,000
August 8, 2018	Absen, Inc.	\$55,000
August 3, 2018	Electro-Matic Visual, Inc.	\$105,000
July 24, 2018	ThinkSign Optoelectronics, Inc. a/k/a ThinkSign Inc.	\$43,000
July 18, 2018	D3 LED, LLC	\$40,000
July 17, 2018	Yaham LED USA, Inc.	\$20,000
July 17, 2018	Prismview, LLC	\$14,000
June 29, 2018	Cirrus Systems, Inc.	\$15,000
June 29, 2018	EBSCO Sign Group, LLC	\$55,000
June 15, 2019	Next LED	\$21,000
May 18, 2018	Digital Outdoor LLC d/b/a Lightking Outdoors	\$15,000
May 8, 2018	Liantronics, LLC	\$61,000
May 2, 2018	Optec Displays, Inc.	\$54,000
May 2, 2018	Tradenet Enterprise Inc. d/b/a Vantage LED	\$15,000
April 20, 2018	Media Resources, Inc.	\$19,500
April 20, 2018	Boyce Industries d/b/a VISIONTECH	\$39,500
March 30, 2018	Anthem Displays, LLC	\$18,000

- On August 16, 2018, the Enforcement Bureau entered into a Consent Decree with Horizon Hobby, LLC (Horizon Hobby) to resolve an investigation into whether the Company advertised and sold noncompliant audio/video transmitters (AV transmitters) intended for use on drones on its various websites in violation of the Act and the Commission’s equipment marketing and amateur radio rules. To settle the matter, Horizon Hobby admitted that it marketed AV transmitters that did not comply with the Commission’s marketing rules, and agreed to pay a civil penalty of \$35,000 and to implement a compliance plan to ensure that it adheres to the Act and the Commission’s rules.

- On August 1, 2018, the Enforcement Bureau issued a citation against Amcrest Industries, LLC d/b/a Baofengradio.us (Amcrest) for importing, advertising, and selling noncompliant two-way radios in violation of the Act and the Commission's equipment marketing rules. Specifically, Amcrest marketed radios that operated outside the scope of its equipment authorization, including on aviation and maritime frequencies. The citation directed Amcrest to cease marketing the noncompliant radios and to provide information demonstrating that the Company has come into compliance with the Act and the Commission's rules.
- On May 30, 2018, the Commission issued a Notice of Apparent Liability (NAL) against Bear Down Brands, LLC d/b/a Pure Enrichment (Pure Enrichment). The NAL proposed a forfeiture of \$590,380 against Pure Enrichment for apparently marketing 14 models of consumer-grade electronic personal hygiene and wellness devices that were noncompliant because they lacked equipment authorization or were authorized but failed to include user manual disclosures or FCC labels—all of which are required prior to marketing in the United States, pursuant to Section 2.803, and Parts 15 and 18 of the Commission's rules. Even after becoming aware of the apparent violations, Pure Enrichment continued to market 13 of the 14 models while it took corrective actions. The Company became compliant with the Commission's rules for most of the devices at issue nine months after learning of those violations.

ENFORCEMENT ADVISORIES:

- On February 15, 2019, the Enforcement Bureau issued an Enforcement Advisory reminding any entity that markets RF devices that the devices may be subject to new compliance requirements provided in the Supplier's Declaration of Conformity (SDoC) procedures. With limited exceptions, before any RF device is marketed in the United States, it must be properly authorized under the SDoC or, alternatively, under the Certification procedures.
- On February 15, 2019, the Enforcement Bureau issued an Enforcement Advisory reminding any entity that markets light-emitting diode (LED) signs that the sign's panels must be properly authorized, labeled, and furnished with the proper user information disclosures before the signs can be marketed in the United States.
- On November 28, 2018, the Enforcement Bureau issued an Enforcement Advisory informing retailers, importers, and users of devices, including fishing net tracking buoys, that operate on radio frequencies assigned to Automatic Identification Systems (AIS) that these devices may not be imported, advertised, sold, or used unless the FCC has approved such radios under its equipment authorization process or are intended for use exclusively by the Federal government. The only devices currently authorized to use AIS frequencies are Class A and B shipborne equipment, AIS Search and Rescue

Transmitters, and Maritime Survivor Locating Devices. Fishing net tracking equipment is authorized in a different frequency, the 1900-2000 KHz band.

- On September 24, 2018, the Enforcement Bureau issued an Enforcement Advisory informing retailers, importers, and users of very high frequency and ultra-high frequency radios (VHF/UHF radios) that these radios may not be imported, advertised, sold, or used unless the FCC has approved such radios under its equipment authorization process, or unless the devices operate exclusively on frequencies reserved for amateur licensees or are intended for use exclusively by the Federal government.
- On June 5, 2018, the Enforcement Bureau issued an Enforcement Advisory clarifying that retailers may not advertise or sell audio/video transmitters for use with drones, and no one may use them, unless the FCC has approved such transmitters under its equipment authorization process or unless the devices operate exclusively on frequencies authorized for use only by amateur licensees.

EB BRIEFING SHEET

SUBJECT: Unlicensed Broadcast Stations (Pirate Radio)

SUMMARY: Section 301 of the Communications Act requires an FCC license or authorization for the operation of a broadcast station. Situations involving unlicensed radio stations generally concern an individual operating a station without an FCC license or authorization exceeding the unlicensed radiated emission limits found in Part 15 of the Commission's rules. In areas of concentrated pirate activity, the Enforcement Bureau's (EB or Bureau) actions against pirate operators have become more aggressive, as the Bureau is actively implementing its new approach for deterring pirate activity, including holding landowners liable for providing specific material support to pirate radio stations operating on their property.

BACKGROUND AND KEY ISSUES:

- On January 24, 2020, the PIRATE Act became law. The new law raises fines on unlicensed station operators to \$100,000 per day per violation, up to a maximum of \$2 million. In addition to tougher fines on violators, the law requires the FCC to conduct sweeps in the five cities where pirate radio is the biggest problem. The new law also grants the Commission authority to take enforcement action against landlords and property owners that knowingly allow illegal pirate radio activity on their properties.
- The Bureau investigates and acts on cases of unlicensed broadcasting in response to complaints from licensed broadcasters and the public. When unlicensed broadcast stations cause interference to licensed broadcast operations that prevents listeners from hearing the programming on those stations and potentially important Emergency Alert System (EAS) warnings aired by those broadcasters.
- The Bureau also investigates and acts on cases where technical deficiencies of unlicensed transmitters cause interference to non-broadcast operations, including air traffic control frequencies.
- EB field agents determine the cause of the interference using their expertise and specialized equipment. EB field agents are equipped with radio receivers, spectrum analyzers, field strength meters, and radio direction-finding equipment that can receive, track, locate, and measure radio transmission sources.
- Parties found operating radio stations without FCC authorization could be subject to a variety of enforcement actions, including seizure of equipment, imposition of monetary forfeitures, ineligibility to hold any FCC license, injunctive relief, and criminal penalties.
- In addition to the FCC's administrative warnings and sanctions, EB, in coordination with the Office of General Counsel, may refer a case to the Department of Justice (DOJ) to initiate an *in rem* seizure or injunction pursuant to Section 510(a) or Section 401(a) of the Communications Act, respectively. The decision to pursue an *in rem* seizure or an injunction rests with DOJ. Seizures require substantial resources, in terms of investigations and notice, litigating the matter in federal district court as well

as arranging for U.S. Marshals and other law enforcement personnel to conduct the seizure.

- A willful and knowing violation of Section 301 of the Communications Act may also subject the operator of an unlicensed broadcast station to criminal prosecution under Section 501 of the Communications Act. In these rare cases, the Bureau, in coordination with the Office of General Counsel, could refer the case to DOJ and ask DOJ to initiate a criminal prosecution against the subject. The decision to pursue a criminal prosecution rests with DOJ.
- The Public Safety and Homeland Security Bureau's High Frequency Direction-Finding (HFDF) Center also independently detects and tracks HF pirate radio cases. The Public Safety and Homeland Security Bureau refers these cases to EB field agents for assistance in locating the source and enforcing as appropriate.
- In addition to efforts by the FCC and DOJ, Florida, New York, and New Jersey have made operation of a pirate radio station a criminal offense under their respective state laws. In New York, FCC field agents have worked cooperatively with local law enforcement to assist local prosecutions against pirate operators.

STATISTICS:

- As of July 1, 2020, in CY 2020, EB has issued 11 sanctions in enforcement actions against pirate radio operators. Our ability to investigate pirate radio complaints has been limited due to the COVID-19 pandemic.
- In CY 2019, sanctions in enforcement actions against pirate radio operators, including three Notices of Apparent Liability for Forfeiture (NAL) totaling \$614,020 and one Forfeiture Order (FO) for \$144,344.

MAJOR ITEMS:

- On July 1, 2020, the Commission released a settlement in which the Bureau required Acerome Jean Charles of Boston, Massachusetts, to pay a \$4,000 penalty and advised him that he would be sanctioned an additional \$75,000 if he operates a pirate radio station during the next 20 years or if the Bureau finds that he misled the Commission regarding his current financial status. The settlement resolved a Notice of Apparent Liability (NAL) the Commission issued against Jean Charles on December 16, 2019. Mr. Jean Charles paid the penalty.
- On July 1, 2020, the Commission released a settlement in which the Bureau required Gerlens Cesar of Boston, Massachusetts, to pay a \$5,000 penalty and advised him that he would be sanctioned an additional \$225,000 if he operates a pirate radio station during the next 20 years or if the Bureau finds that he misled the Commission regarding his current financial status. The settlement resolved a Notice of Apparent Liability (NAL) the Commission issued against Cesar on December 16, 2019. Gerlens Cesar paid the penalty.
- On June 18, 2020, the Bureau released a Forfeiture Order affirming the \$10,000 forfeiture proposed in the August 22, 2019 NAL issued against Gerald Sutton in Alma, Arkansas for operating a pirate radio station.

- On June 17, 2020, the Bureau released a settlement in which the Bureau required Anthony Edwards of Stroudsburg, Pennsylvania, to pay a \$1,500 penalty and advised him that he would be sanctioned an additional \$23,500 if he operates a pirate radio station during the next 20 years or if the Bureau finds that he misled the Commission regarding his current financial status.
- On December 16, 2019, the Commission adopted a Notice of Apparent Liability (NAL) proposing a forfeiture of \$151,005 against Acerome Jean Charles for continuously operating the pirate station, “Radio Concorde” in the Mattapan neighborhood of Boston, Massachusetts, without a Commission license, in apparent violation of section 301 of the Act.
- On December 16, 2019, the Commission adopted a Notice of Apparent Liability (NAL) proposing a forfeiture of \$453,015 against Gerlens Cesar for continuously operating the pirate station, “Radio TeleBoston” simultaneously from three locations in and around Boston, Massachusetts, in apparent violation of section 301 of the Act.
- On August 22, 2019, the Bureau proposed a \$10,000 forfeiture against Gerald Sutton, for apparently willfully operating an unlicensed FM broadcast station on 103.1 MHz in Alma, Arkansas.
- On March 5, 2019, DOJ, on behalf of the FCC, filed a complaint in the District Court of Massachusetts seeking an injunction under Section 401(a) of the Act, to prohibit Mr. Vasco Oburoni and Christian Praise International Church from operating a pirate broadcast station in violation of Section 301 of the Act. DOJ subsequently settled the case, eliciting a commitment from the defendants to refrain from unauthorized broadcasting in the future (including a consent judgment of \$75,000 if the defendants break that commitment) and surrender of the defendants’ broadcast equipment to the Commission for destruction.
- On February 26, 2019, the Bureau released a settlement, in which the Bureau required Winston Tulloch of Paterson, New Jersey to pay a \$1,500 penalty and advised him that he would be subject to an additional \$23,500 if he operates a pirate radio station in the next 20 years or if the Bureau finds that he misled the Commission regarding his financial status. The settlement resolved an NAL the Bureau issued against Tulloch on October 30, 2018, proposing a \$25,000 fine for operating an unauthorized FM radio station.
- On February 11, 2019, FCC Field Agents, New York Police Department, and the Bronx District Attorney’s Office conducted a search and seized radio transmission equipment from two pirate radio stations in Bronx.
- On December 19, 2018, the FCC Field Agents working with the Westchester County District Attorney’s Office, seized radio transmission equipment from an unauthorized radio station in the Croton-On-Hudson (Westchester County) New York. The suspect was arrested and arraigned on December 12, 2018. His trial date is set for late April 2019.

- On December 6, 2018, a combined Notification of Harmful Interference (NOHI) and Notice of Unauthorized Operation (NOUO) was issued to an unlicensed FM station operating on 91.7 MHz at Prospect Park, New Jersey. The notice was issued following an investigation of a complaint from the FAA concerning harmful interference to a frequency used by the FAA to communicate with pilots operating airplanes in New Jersey airspace.
- On October 23, 2018, a NOUO was issued to an unlicensed FM Station operating on 100.9 MHz in Brentwood, New York. The notice was issued following an investigation of a complaint from the FAA concerning harmful interference to aeronautical radio communications in New York and New Jersey.
- On October 22, 2018, FCC Field Agents, working closely with the U.S. Marshals Service, seized radio transmission equipment from an unauthorized radio station in the Miami area.
- On October 3, 2018, the Bureau released a settlement, in which the Bureau required Sergio Plasencia of Miami, Florida, to pay a \$2,680 penalty and advised him that he would be sanctioned an additional \$17,320 if he operates a pirate radio station during the next 20 years or if the Bureau finds that he misled the Commission regarding his current financial status. The settlement resolved a Notice of Apparent Liability (NAL) the Bureau issued against Plasencia on April 27, 2017, proposing a \$20,000 fine for operating a pirate radio station. Mr. Plasencia paid the \$2,680 penalty.
- On August 8, 2018, the Bureau released a Forfeiture Order affirming the \$15,000 forfeiture proposed in the November 21, 2017, NAL issued against Juan Carlos Uribe in Van Nuys, California for operating a pirate radio station.
- On July 19, 2018, the Commission issued a Forfeiture Order FO affirming the \$144,344 forfeiture imposed jointly and severally in the September 26, 2017, NAL issued against Fabrice Polynice and Harold and Veronise Sido of North Miami, Florida for willfully operating a pirate radio station. The Commission held the property owners liable as pirate operators because they provided certain direct material support facilitating the operation of an illegal radio station.

EB BRIEFING SHEET

SUBJECT: Sponsorship Identification/Payola/Underwriting

SUMMARY: Sections 317 and 507 of the Communications Act and Sections 73.1212 and 76.1615 of the Commission’s rules generally require that when money, services, or other valuable consideration has been received or promised to a broadcast licensee or cable operator for the airing of program material, the broadcast station or cable system must disclose that fact and identify who paid or promised to provide consideration at the time the material is aired. Section 399B of the Communications Act and section 73.503(d) of the Commission’s rules define an advertisement as programming material broadcast in exchange for any remuneration and intended to promote any service, facility or product of for-profit entities, and section 399B(b)(2) of the Act provides that noncommercial educational stations may not broadcast advertisements.

BACKGROUND AND KEY ISSUES:

- **Section 317 of the Act** requires broadcasters to disclose to viewers or listeners that content is being broadcast in exchange for money, services, or other valuable consideration. The announcement must be made when the content is broadcast. A broadcast licensee must exercise “reasonable diligence” to obtain the information necessary to air such disclosures from its employees and from other people with whom it deals regarding programming. The Commission has adopted rules— Sections 73.1212 and 76.1615—setting forth broadcasters’ and cable operators’ responsibilities. Violations of these rules are usually punishable by imposition of a monetary forfeiture.
- **Section 507 of the Act** provides that, when payment or other consideration is provided to a broadcaster in exchange for including material in programming, that payment or agreement must be disclosed in advance of the broadcast. Both the person making or agreeing to provide the consideration and the recipient are obligated to disclose the payment or agreement. Violators can incur criminal penalties from DOJ prosecution, including imprisonment of up to one year and/or fines of up to \$10,000, as well as FCC administrative forfeitures.
- **Sponsorship Identification Rules:** The sponsorship identification rules impose upon broadcast licensees and cable operators an obligation of disclosure in connection with political material and program matter dealing with controversial issues. The Commission has noted that, particularly in the case of such programming, audience members are entitled to know “when the program ends and the advertising begins.” In contrast to the general disclosure requirement that a single announcement must be made at the time the material is aired, for political or controversial programming of more than five minutes in duration, the announcement must be made at the beginning and conclusion of the airing of the material.
- **News-Related Sponsorship Identification Issues:** In addition to traditional pay-for-play complaints, the Commission has also received complaints alleging sponsorship identification rule violations during news programming. Specifically, complaints allege that broadcasters are selling “value added advertising” that includes sponsored

news stories in addition to the advertising time purchased. The broadcaster then runs the additional news story featuring the advertised product, service, or entity featured in the paid advertising, but allegedly does not provide sponsor information with the news story. Other complaints allege that broadcasters have entered into agreements with sponsors to run stories during news programming featuring the sponsors or promoting their positions, without disclosing those arrangements.

- We have also received complaints and are aware of press reports alleging that paid spokespersons are appearing on news broadcasts to promote products and services but that the licensees of stations featuring these spokespersons fail to provide sponsorship announcements to viewers to inform viewers or listeners that the appearances are paid for. Some of the complaints suggest that the spokespersons and/or their PR firm representatives fail to report the compensated nature of the spokespersons' appearances, in violation of Section 507.

STATUS:

RELEASED ITEMS:

- On July 2, 2020, the Enforcement Bureau issued a Notice of Apparent Liability proposing a \$15,000 fine against Plymouth Gathering, Inc., licensee of noncommercial LPFM station KELS-LP, for apparently violating the underwriting rules by airing over 1,600 advertisements promoting the products, services or businesses of at least 14 financial contributors.
- On August 6, 2019, the Commission issued a Notice of Apparent Liability proposing a \$233,000 fine against Cumulus Media subsidiaries for apparently violating the sponsorship identification rules, and for apparently failing to promptly self-report some of these violations to the Commission despite its obligation to do so under an existing Consent Decree with the Enforcement Bureau for other prior violations of the sponsorship identification rules.
- **Pay-for-Play.** On December 21, 2017, the Commission issued a Notice of Apparent Liability proposing a \$13,376,200 fine against Sinclair Broadcast Group for apparently failing to make required disclosures in connection with programming sponsored by a third party. The programming, produced pursuant to a marketing agreement between Sinclair and the Huntsman Cancer Foundation, was broadcast more than 1,700 times, either as stories resembling independently generated news coverage that aired during the local news, or as longer-form stories aired as 30-minute television programs. On May 6, 2020, the Commission entered into a post-NAL Consent Decree with Sinclair to resolve these apparent violations, as well as investigations into the company's disclosure of information relating to its proposed acquisition of the stations owned by Tribune Media, and into whether the company met its obligations to negotiate retransmission consent agreements in good faith. Sinclair admitted that it violated the Commission's rules, agreed to pay a civil penalty of \$48 million, and entered into a strict compliance plan.

EB BRIEFING SHEET

SUBJECT: Broadcast Obscenity, Profanity, and Indecency

SUMMARY: Broadcast of indecent and/or profane matter is barred between the hours of 6 a.m. and 10 p.m. pursuant to Title 18, Section 1464 of the United States Code, and Section 73.3999 of the Commission's rules. The Commission may revoke or decline to renew a station license, impose a monetary forfeiture, or issue an admonishment for such broadcasts. Also, obscene matter is prohibited in both broadcast and subscription programming services (e.g., cable and DBS) at all times, pursuant to Title 18, Section 1468(a), and Title 47, Section 559 of the United States Code. Obscene material is referred to DOJ pursuant to a Memorandum of Understanding.

BACKGROUND/KEY ISSUES:

- **Obscenity:** Obscene speech is not entitled to First Amendment protection and cannot be broadcast or distributed over cable or satellite facilities at any time. Under Supreme Court case law, to be obscene: (1) an average person, applying contemporary community standards, must find that the material, as a whole, appeals to the prurient interest; (2) the material must depict or describe, in a patently offensive way, sexual conduct specifically defined by applicable law; and (3) the material, as a whole, must lack serious literary, artistic, political, or scientific value.
- **Indecency:** Indecent speech is protected by the First Amendment. Nonetheless, the federal courts have upheld Congress's authority to restrict the broadcast of indecent speech during times of day when children are more likely to be in the audience. Under the rules, no radio or television station may broadcast indecent material during the period from 6 a.m. to 10 p.m. The Commission has defined indecency as "language or material that, in context, depicts or describes, in terms patently offensive as measured by contemporary community standards for the broadcast medium, sexual or excretory activities or organs." To determine whether material within the subject matter scope of the definition is patently offensive, the Commission applies three key factors to assess whether: (1) the material is sufficiently graphic or explicit, (2) the material dwells on or repeats sexual or excretory references or the references are fleeting, and (3) the material is presented in a pandering or titillating manner or in a manner that would shock the audience. No one factor is determinative; it is a balancing test.
- **Profanity:** Prior to 2004, the Commission had only discussed "profane language" as relating to religiously offensive or blasphemous material. In the 2004 [*Golden Globe Awards Order*](#), however, the Commission explained that the term "profane" also includes those words that are so highly offensive that their mere utterance in the context presented may, in legal terms, amount to a "nuisance." The FCC warned broadcasters that, depending on the context, it would consider the "F-Word," and other words (or variants thereof) that are as highly offensive as the "F-Word," to be "profane language" that cannot be broadcast between 6 a.m. and 10 p.m. In the television indecency *Omnibus Order* (2006), the FCC also

warned broadcasters that they may be subject to enforcement action for their future airing of programming containing the “S-Word,” or variations of the word, which it considered to be “profane language.” In the *Omnibus Order*, the Commission also established a presumption that its regulation of profane language would be limited to the universe of words that are sexual or excretory in nature or are derived from such terms. In *Fox Television Stations v. FCC* (2007), the Second Circuit expressed doubt about the FCC’s new approach to profanity. Although the Commission has not issued any orders announcing a change in policy regarding profanity, briefs filed on the Commission’s behalf no longer argue that certain words meet the aforementioned definition of “profane.”

- **Recent Court Decisions:** The most recent major Court proceedings concerning the Commission’s application of the indecency rule are:
 - On June 21, 2012, the U.S. Supreme Court issued its ruling in *FCC v. Fox Television Stations, Inc. (Fox II)*. *Fox II* addressed the Second Circuit’s decision in *Fox Television Stations v. FCC* regarding the use of fleeting expletives during the “Billboard Music Awards” and the Second Circuit’s decision in *ABC, Inc. v. FCC*, regarding a momentary display of nudity during an episode of “NYPD Blue.” The Court found that the Commission had not provided sufficient notice to the broadcasters in question about changes in long-standing Commission policy concerning “fleeting” expletives and momentary nudity. However, because the Court resolved the case on fair notice grounds under the Due Process Clause, it specifically declined to address the First Amendment implications of the Commission’s indecency policy or reconsider the indecency enforcement regime as a whole.
 - Shortly thereafter, on June 29, 2012, the Supreme Court declined to hear an appeal of the Third Circuit’s decision in *CBS Corporation v. FCC* (concerning the Janet Jackson Super Bowl Half Time Show), in which the Third Circuit adhered to its previous decision reversing the FCC’s imposition of a forfeiture on the grounds that the FCC’s order reflected an unexplained change in policy.
 - On September 21, 2012, the Department of Justice filed to voluntarily dismiss its District Court action to collect the forfeiture imposed on Fox Television in connection with the 2003 *Married by America* case, which was granted by the District Court. The dismissal ended the last judicial proceeding concerning the enforcement of the FCC’s indecency rules.

STATUS:

PUBLIC NOTICE ON BROADCAST INDECENCY POLICIES:

- On April 1, 2013, the Office of General Counsel and the Enforcement Bureau released a Public Notice (PN), which described then-Chairman Genachowski's instructions to Commission staff to commence a review of the Commission's broadcast indecency policies and enforcement of those policies to ensure they are fully consistent with vital First Amendment principles. In addition, the Chairman directed the Bureau to focus its indecency enforcement resources on egregious cases and to reduce the backlog of pending broadcast indecency complaints. The PN further notes that the Bureau is actively investigating egregious indecency cases and will continue to do so.
- The PN also invited public comment on whether the full Commission should make changes to its current broadcast indecency policies or maintain them as they are. The PN specifically invited comment on the treatment of isolated (or "fleeting") expletives and isolated (non-sexual) nudity, along with any other aspect of the Commission's substantive indecency policies. The Commission received 102,000 filings in response to the PN.

RELEASED ITEMS:

- On March 23, 2015, the Commission issued an NAL proposing to fine station WDBJ(DT), Roanoke, Virginia, \$325,000 for apparently violating the indecency laws by airing a news report at approximately 6 p.m. on July 12, 2012, that contained graphic sexual images taken from an adult film website. WDBJ paid the proposed forfeiture.

EB BRIEFING SHEET

SUBJECT: CALM Act (Loud Commercials)

SUMMARY: The CALM Act was enacted on December 15, 2010 in response to consumer complaints about “loud commercials.” The CALM Act directs the Commission to incorporate into its rules by reference and make mandatory a technical standard that was developed by the Advanced Television Systems Committee (ATSC). The ATSC’s A/85 Recommended Practice (RP) is designed to prevent digital television commercial advertisements from being transmitted at louder volumes than the program material they accompany. A Second Report and Order, which took effect on June 4, 2015, modifies the RP to account for periods of silence within associated programming and its effect on the “average” loudness of commercials. The Enforcement Bureau is responsible for enforcing the rules as implemented in the Report and Order, which specified that enforcement actions would be based on patterns or trends in complaints filed with the Commission.

BACKGROUND AND KEY ISSUES: On December 13, 2011, the Commission released a Report and Order adopting rules to implement the CALM Act which took effect on December 13, 2012. They require digital TV broadcasters, digital cable operators, satellite TV providers, and other digital multichannel video programming distributors (MVPDs) to ensure that the commercials they transmit to viewers comply with the technical standard.

The Rules:

- The RP provides a set of methods for industry to measure and control the loudness of digital programming, including commercials.
- The rules apply to all commercial television stations and all MVPDs.

Enforcement and Compliance:

- As described in the Report and Order, enforcement actions will be based on consumer complaints, rather than by the Commission monitoring the loudness of commercials, or auditing stations or MVPDs for compliance.
- The Report and Order and the Commission’s consumer outreach materials inform consumers how to file complaints and what information must be included in the complaint.
- Recognizing that commercials can seem loud, subjectively, without violating the rules, the Report and Order focused on patterns or trends of complaints as the basis for enforcement action, rather than attempting to pursue individual, isolated complaints.
- In the event the Enforcement Bureau notifies a station or MVPD of a pattern or trend of complaints, the station or MVPD must demonstrate compliance with the rules. Stations and MVPDs have two choices for demonstrating compliance with

the rule: (1) by demonstrating actual compliance or (2) by demonstrating ongoing compliance with the RP.

- Actual Compliance: Stations or MVPDs choosing to demonstrate actual compliance with the RP must show that the specific commercials covered by the FCC enforcement inquiry complied with the RP.
- Ongoing compliance: The mode for demonstrating ongoing compliance varies depending on whether the station or MVPD is directly inserting a commercial, or if it is passing through commercials embedded in a programming stream by a network or programmer.
 - For locally inserted commercials, a station or MVPD will be “deemed in compliance” when it installs, utilizes, and maintains, in a commercially reasonable manner, equipment and software to comply with the RP.
 - For embedded commercials, a station or MVPD may show that it qualifies for a “safe harbor” or use a real-time processor. Under the safe harbor, stations and MVPDs have different responsibilities based on the size of the entity and whether a programmer has certified that its programming complies with the RP.
 - Certified Programming: All stations and MVPDs will be in the safe harbor for commercials in programming that the program provider certifies to comply with the RP. A certifying programmer must make its certifications widely available to all distributors.
 - Noncertified Programming/Annual Spot Checks: For commercials in noncertified programming, larger stations and MVPDs must perform annual 24-hour spot checks and take action to correct any violations of the RP. Smaller stations and MVPDs are excused from annual spot checks.
 - Spot Checks: Any station or MVPD that is notified by the Commission of a pattern or trend of complaints must, within 30 days, perform a 24-hour spot check of the programming being transmitted at that time on the channel or program stream at issue to verify ongoing compliance.

STATUS: The Enforcement Bureau coordinates with Consumer and Governmental Affairs Bureau (CGB) in reviewing complaints that may implicate the CALM Act. CGB, which first receives the complaints from consumers, forwards those that appear to provide specific information about the complained-of commercial. Since the rules took effect, CGB has referred thousands of complaints to the Enforcement Bureau (EB). EB staff reviews and sorts the complaints to detect any pattern or trend. Based on the information then available, EB reviews the complaints and to identify potential trends or patterns. After this review, EB would open an investigation to determine whether the entities in question have complied with CALM Act requirements. In the past, these investigations have prompted broadcasters to conduct a spot check, which then results in compliance. The Commission has also periodically reported to Congress about these matters.

EB BRIEFING SHEET

SUBJECT: Dispute Resolution

SUMMARY: Sections 208 and 224 of the Act authorize the Commission to adjudicate formal complaints concerning alleged violations of the Act, as well as access to, and the reasonableness of rates, terms, and conditions for, pole attachments. The Market Disputes Resolution Division (MDRD) is tasked with handling these complaints. In addition, MDRD assists parties in resolving disputes informally via mediation, as an alternative to formal complaint processes.

BACKGROUND AND KEY ISSUES: Through the work of MDRD, the Enforcement Bureau resolves complex competitive disputes among telecommunications carriers, cable systems, utility pole owners, and others. MDRD has addressed disputes involving a wide range of issues, including tariffs, inter-carrier compensation, interconnection, merger conditions, retention marketing, traffic pumping, traffic blocking, wireless roaming, pole access, pole attachment rates, and payphone compensation.

Both formal and informal procedures are available for resolving these matters, including:

- ***Formal Common Carrier Complaints:*** Under Sections 207-208 of the Act and Sections 1.720-1.740 of the Commission's rules, a person claiming to be damaged by any common carrier is entitled to bring a formal complaint before the Commission. Formal complaint proceedings before MDRD are similar in many ways to a civil proceeding in federal court (e.g., similar pleading cycle, discovery, etc.). Some of these formal matters come to MDRD as the result of a primary jurisdiction referral from a U.S. District Court. Formal complaint cases are ultimately resolved by Bureau or Commission-level orders.
- ***Informal Common Carrier Complaints:*** Alternatively, a person claiming to be damaged by a common carrier may file an informal complaint with the Commission pursuant to Sections 207-208 of the Act and Sections 1.716-1.719 of the rules. This simpler, more abbreviated procedure can offer a more cost effective option for the parties seeking to reach a negotiated settlement. If, however, the parties are unable to resolve the dispute informally, the complainant may file a formal complaint pursuant to Section 1.718.
- ***Pole Attachment Complaints:*** Under Section 224 of the Act and Sections 1.720-1.740 and 1.1401-1.1415 of the Commission's rules, a cable television system operator, a utility, a telecommunications carrier, or an association of such entities may file a complaint alleging that it has been denied access to a utility pole, duct, conduit, or right-of-way and/or that a rate, term, or condition for a pole attachment is not just and reasonable. *See* 47 CFR § 1.1402(d). Pole attachment complaints are subject to the same basic set of procedural rules as formal common carrier complaints (*see* 47 CFR §§ 1.720-1.740) as well as a few additional rules that specifically address pole attachment complaints (*see* 47 CFR §§ 1.1401-1.1415).

- **Data Roaming Complaints:** Under Section 20.12(e)(2) of the rules, wireless providers alleging a violation of the Commission’s data roaming rules are entitled to file a formal or informal complaint pursuant to the procedural rules governing formal common carrier complaints except that a complainant may not recover damages in such a dispute (*see* 47 CFR § 20.12(e)(2)). Such complaints are to be litigated before MDRD and ultimately resolved by Bureau or Commission-level orders.
- **Accelerated Docket Complaints:** Parties to a formal complaint proceeding against common carriers, or a pole attachment complaint proceeding against a cable television system operator, a utility, or a telecommunications carrier, may request that the complaint be included on the Bureau’s Accelerated Docket. Commission staff has discretion to decide whether a complaint, or portion of a complaint, is suitable for inclusion on the Accelerated Docket (*see* 47 CFR § 1.736(d)), and those matters accepted onto the Accelerated Docket are litigated and resolved on an expedited schedule, per Section 1.736 of the rules.
- **Mediation:** MDRD also mediates disputes. Parties’ participation in the mediation process is both voluntary and confidential. Mediation can be initiated via an informal complaint, an Accelerated Docket request, formal complaint, or a stand-alone mediation request (*see* 47 CFR § 1.737). Mediation has led to successful and timely resolution of many disputes, thereby conserving the resources of the parties and the Commission.

The following are recent orders addressing formal complaint matters filed with the Division:

- **AT&T v. Florida Power and Light.** On May 20, 2020, the Enforcement Bureau released an order holding that the rate AT&T paid to attach to FPL’s poles was unjust and unreasonable. The order instructed the parties to confer in an attempt to resolve their remaining disputes (using the Old Telecom rate as a reference point) and to report their progress to the Commission.
- **AT&T v. Local Exchange Carriers of Michigan (LEC-MI).** On June 24, 2020, the Enforcement Bureau released an order holding that LEC-MI violated sections 201(b) and 203(c) of the Act by billing and collecting end office charges, through its agent, for wireless calls that were placed to AT&T’s toll-free customers. The Bureau rejected LEC-MI’s argument that it was not liable for the conduct of its billing agent who sent the improper bills to AT&T. The order directed LEC-MI to pay AT&T a refund of the amounts improperly billed plus interest.
- **MCI v. Wide Voice, LLC.** On November 8, 2019, the Commission granted in part Verizon’s complaint challenging Wide Voice’s tariffed rates for terminating tandem-switched transport access service. The Commission held that Wide Voice’s tariff is unjust and unreasonable under section 201(b) of the Act and that Wide Voice billed Verizon pursuant to its unlawful tariff provisions in violation of sections 201(b) and 203(c) and ordered Wide Voice to amend its tariff in accordance with the order.

- ***MAW Communications, Inc. V. PPL Electric Utilities Corp.*** On August 12, 2019, the Enforcement Bureau released an order finding that PPL violated section 224(f) of the Communications Act and section 1.1403(a) of the Commission's rules by denying access to its poles and refusing to process MAW's pole attachment applications for reasons other than insufficient capacity, safety, reliability, or generally applicable engineering standards. The Bureau ordered PPL immediately to respond to MAW's pending applications as prescribed by the Commission's rules.
- ***CenturyLink v. Verizon.*** On July 25, 2019, The Enforcement Bureau released an order denying a formal complaint alleging that Verizon undercalculated the value of certain credits to which it was entitled under two Verizon contract tariffs. The Bureau found that the language of the contract tariffs expressly barred CenturyLink from challenging the calculation of credits once it had consented to, and received payment of, the quarterly credits from Verizon.
- ***Edward Ryan v. Verizon Wireless.*** On May 21, 2019, the Enforcement Bureau released an order denying a formal complaint alleging the Verizon Wireless violated the Commission's C Block rules by providing an operating system update that caused the tethering application on Mr. Ryan's mobile phone to cease functioning. The Bureau found that the record contained no evidence that Verizon took any action causing Ryan's difficulties.
- ***Procedural Streamlining of Administrative Hearings.*** On September 11, 2020, The Commission adopted procedural changes designed to streamline many administrative hearings under the Communications Act. Specifically, the rules promote the efficient resolution of hearings by (a) resolving factual disputes on a written record whenever possible, (b) authorizing the Commission to assign specific case management functions to qualified Commission staff, and (c) forgoing preparation of an intermediate opinion when the record of a proceeding can be certified to the Commission for final decision.
- ***AT&T Corp. v. Iowa Network Services, Inc., d/b/a Aureon Network Services.*** AT&T alleged in its complaint that Aureon violated Sections 201(b) and 203 of the Act in connection with its provision of Centralized Equal Access service. In an order released on November 8, 2017, the Commission concluded that Aureon is subject to the Commission's rate cap and rate parity rules and that it violated those rules by filing a 2013 tariff containing rates exceeding those prescribed by the Commission. The Commission further held that, as a result, Aureon's 2013 tariff was void *ab initio*. In an Order on Reconsideration, the Commission clarified that, in light of the void *ab initio* finding in the Liability Order, the rates in Aureon's 2012 tariff would apply for the period 2013-2018, unless AT&T could demonstrate during the damages phase of the proceeding that Aureon furtively employed improper accounting practices to conceal potential rate of return violations. On August 31, 2018, AT&T filed a petition for further

reconsideration of the Commission's Order on Reconsideration, which the Commission denied in an order released on November 28, 2018.

- ***Flat Wireless, LLC v. Verizon Wireless.*** On August 3, 2018, the Commission released an order denying a formal complaint filed by Flat alleging that Verizon's proposed voice roaming rate is unjust and unreasonable and unreasonably discriminatory, and that its proposed data roaming rates are commercially unreasonable. The Commission found that the voice roaming rate Verizon offered to Flat was well within the range of comparable rates in Verizon's roaming agreements with other providers. Similarly, the Commission found that the data roaming rates Verizon offered Flat were commercially reasonable in view of the rates in Verizon's existing agreements with other providers. The Commission also rejected Flat's request that it impose cost-based voice and data roaming rates as inconsistent with both the "just and reasonable" standard applicable to voice roaming and the "commercially reasonable" standard applicable to data roaming.
- ***Amendment of Procedural Rules Governing Formal Complaint Proceedings Delegated to the Enforcement Bureau.*** On July 18, 2018, the Commission released an order that created a single streamlined and consolidated set of procedural rules for formal complaints involving claims against common carriers, pole attachment disputes, and disputes concerning the accessibility of telecommunications and advanced communications services and equipment for people with disabilities. Prior to this order, three separate sets of procedural rules governed such complaints. Importantly, the new rules establish a 270-day shot clock for resolution of formal complaints (except for those complaints already subject to a shorter deadline). The new rules became effective on October 4, 2018.
- ***Level 3 Communications v. AT&T.*** On February 12, 2018, the Commission released an order denying a formal complaint filed by Level 3 alleging that AT&T Inc. and its price cap carrier subsidiaries violated Section 51.907(g)(2) of the Commission's rules and Sections 201(b) and 202(a) of the Act. Level 3 complained that AT&T improperly assessed rule 51.907(g)(2)'s step-down rate of \$0.0007 per minute only when tandem switching and transport traffic terminates to an AT&T Price Cap Carrier end office, but not when such traffic terminates to the end office or equivalent facility of an AT&T affiliate that is not itself a price cap carrier, including AT&T's affiliated CLEC or wireless end office. The Commission found that the rule's \$0.0007 per minute rate applies only to tandem switching and transport traffic that terminates to a price cap carrier end office.
- ***Express Scripts, Inc. v. AT&T.*** On January 31, 2018, the Enforcement Bureau released an order denying a formal complaint that Express Scripts, Inc. (ESI) filed against AT&T Corp. alleging that AT&T, which provides interstate telecommunications services to ESI pursuant to contract, violated Commission rule 54.712(a) and Section 201(b) of the Act by failing to apply certain credits to ESI's interstate telecommunications charges before calculating a Universal Service Fund (USF) pass-through charge on ESI's bills. The Bureau found that AT&T's calculation of ESI's USF pass-through charge was consistent with the

terms of the parties' agreement and did not violate either Commission rule 54.712(a) or Section 201(b) of the Act.

The following matters were filed with the Division as formal complaints and successfully resolved through settlement (note that matters brought to the Division solely seeking mediation are strictly confidential and not included below):

- *Crown Castle Fiber LLC v. Commonwealth Edison Company (two pole attachment complain matters, one addressing pole access and one addressing pole attachment rates)*
- *CenturyLink Communications, LLC and Level 3 Communications, LLC v. Birch Communications, Inc.*
- *Verizon Virginia, LLC v. Virginia Electric and Power Company d/b/a Dominion Virginia Power*
- *Commonwealth Telephone Company LLC d/b/a Frontier Communications v. Metropolitan Edison Company*
- *Farmers Bank v. Verizon Business Network Services Inc.*
- *AT&T Services Inc. v. Great Lakes Comnet, Inc.*
- *Frontier Florida LLC v. Florida Power and Light Company*
- *Zito Canton, LLC v. PPL Electric Utilities Corp.*
- *AT&T v. Great Lakes Communication Corp.*
- *Zito Media, LP v. Pennsylvania Electric Co.*
- *Missouri Network Alliance, LLC v. Sprint*

STATUS: The Bureau adjudicates all Section 208 and 224 complaints as they arise, and endeavors to facilitate settlements among all parties that opt to participate in mediation.

EB BRIEFING SHEET

SUBJECT: Auctions

SUMMARY: The Connect America Fund (CAF) Phase II (CAF-II) Auction (Auction 903) was conducted to award financial support to service providers who committed to increasing broadband services in areas of great need. The Commission took steps to protect the integrity and proper functioning of Auction 903 by requiring auction participants to meet all auction requirements and by establishing penalties for default. Several winning bidders defaulted on the payments for their winning bids.

BACKGROUND AND KEY ISSUES:

- The Commission conducted Auction 903 between July 24, 2018 and August 21, 2018, to allocate CAF-II monetary support to certain eligible areas across the United States. Auction 903 was slated to award up to \$198 million in annual support, a total of \$1.98 billion over ten years, in ongoing high-cost universal service support to service providers that committed to offering voice and broadband services in unserved areas. Using a multiple-round, reverse auction, Auction 903 was intended to close the digital divide for all Americans, including those in the rural areas of our country.
- In establishing procedures for Auction 903, the Commission was explicit as to the requirements a bidder must meet and the consequences for falling short of those requirements, including the penalties for default. In a February 1, 2018 Public Notice (*Phase II Auction Procedures Public Notice*), the Commission established a bidding process with clear dates and deadlines. Each bidder was first required to file FCC Form 183 (Short-Form Application) no later than March 30, 2018. Bidders were required to provide information in the Short-Form Application that demonstrated their baseline financial qualifications and technical capabilities in order to establish eligibility. After reviewing the Short-Form Applications, the Commission announced the applicants qualified to participate in Auction 903.

Once Auction 903 bidding began, the Commission conducted a multi-round, descending clock auction. The minimum geographic areas established by the Commission for bidding in Auction 903 were Census Block Groups (CBGs) that contained one or more eligible census blocks, identified in a list released by the Commission's Wireline Competition Bureau (WCB) in December 2017. The list of CBGs included approximately 214,000 eligible census blocks, located in approximately 30,300 CBGs.

STATUS:

- On August 28, 2018, the Commission released a Public Notice identifying the 103 winning bidders who had won \$1.488 billion in support over a ten-year period. Winning bidders were given the opportunity to assign some or all of their winning bids to related entities by September 14, 2018. Additionally, winning bidders were required to submit a post-auction application for support, FCC Form 683 (Long-Form Application), no later than October 15, 2018.

RELEASED ITEMS:

- In May 2020, the Enforcement Bureau released a Notice of Apparent Liability (NAL) against Westfield Gas and Electric Light Department for defaulting on one of their winning bids in Auction 903. The NAL proposed a forfeiture penalty of \$3,000. The company has since paid this penalty in full.
- On October 11, 2019, the Enforcement Bureau released 13 Notices of Apparent Liability (NALs) against companies that partially or completely defaulted on their winning bids in Auction 903. These NALs proposed forfeiture penalties totaling over \$100,000. These companies have all paid in full.
- On September 6, 2019, the Enforcement Bureau released NALs against AT&T Services, Inc. and AMG Technology Investment Group, LLC for violating the Commission's anti-collusion rules during Auction 903. The Bureau proposed a \$75,000 forfeiture against AT&T and a forfeiture of \$100,000 against AMG for prohibited communications during the quiet period of the auction process.

**International Bureau
Briefing Sheets**

October 2020

Table of Contents

Subject	Page Number
Telecommunications and Analysis Division	
International Section 214 and Cable Landing License Applications	1
Foreign Ownership/Transaction Review	5
Executive Branch Coordination Reform	8
China Telecom (Americas) Corporation, China Unicom (Americas) Operations Limited, and Pacific Networks and ComNet (USA) LLC Orders to Show Cause	11
Submarine Cables With China Landing Points and/or Chinese State-Owned Enterprise Ownership	13
Submarine Cable Interagency Coordination	16
Communications Marketplace Report – Satellite Competition Component and International Broadband Data Report	18
Global Strategy and Negotiation Division	
World Radiocommunication Conference (WRC)	20
Coordination Issues with Mexico	24
Coordination Issues with Canada	27
Satellite Division	
World Telecommunication Standardization Assembly (WTSA)	30
Large Non-Geostationary Orbit (NGSO) Fixed Satellite Service (FSS) Constellations & License Processing Rounds	33
Space Exploration Holdings, LLC (SpaceX) Modification Application	38
Earth Stations in Motion in the Fixed Satellite Service (FSS)	40
Space Situational Awareness and Space Mission Authorization	42
Small Satellite Licensing	44
Mitigation of Orbital Debris	46
Further Streamlining Part 25 Rules Governing Satellite Services	48
Non-Geostationary-Satellite Orbit (NGSO) Mobile-Satellite Service (MSS) Constellations and Associated Processing Rounds	49
Petitions for Rulemaking Addressing Part 25	52

IB BRIEFING SHEET

SUBJECT: International Section 214 and Cable Landing License Applications

SUMMARY: The International Bureau (IB) licenses international telecommunications services and submarine cables, coordinating with Executive Branch agencies on national security, law enforcement, foreign policy, and trade policy issues.

International Section 214 Authorizations. IB acts on applications filed by carriers to provide international telecommunications service and transfer or assign existing authorizations pursuant to section 214 of the Communications Act of 1934. The international section 214 process seeks to ensure that the U.S. market is protected against potential anti-competitive behavior by carriers with market power in a foreign country.

Submarine Cable Landing Licenses. IB also acts on applications for licenses to own and operate submarine cables and landing stations and to transfer or assign existing licenses pursuant to the Cable Landing License Act of 1921 and under delegated authority pursuant to Executive Order No. 10530. The review of such applications seeks to ensure that an applicant that controls a necessary input to a telecommunications cable system (*e.g.*, the wet link, cable landing station, or backhaul facilities) cannot engage in anti-competitive conduct to the detriment of competing carriers.

STATUS:

International Section 214 Authorizations

- In 2019, applicants filed 207 applications related to international section 214 authority (*i.e.*, applications for authority, transfers of control, assignments, modifications, and requests for special temporary authority). IB processed 201 applications.
- As of September 30, 2020, applicants filed 174 applications related to international Section 214 authority. IB processed 147 applications.

Submarine Cable Licenses

- In 2019, applicants filed 39 applications related to submarine cable licenses (*i.e.*, applications for authority, transfers of control, assignments, modifications, and requests for special temporary authority (STA)). IB processed 37 applications.
- As of September 30, 2020, applicants filed 45 applications related to submarine cable licenses. IB processed 46 applications.
- Currently, there are 81 FCC licensed submarine cable systems operating or scheduled to enter into service. One previously licensed system expired after the 25-year license term and is currently operating under an STA while the Commission is reviewing its request to renew the license.

KEY ISSUES: On September 30, 2020, the Commission adopted a Report and Order in IB Docket No. 16-155 (FCC 20-133) that streamlines and improves the timeliness and transparency of the process by which the Commission coordinates certain applications referred to the Executive Branch agencies for assessment of any national security, law enforcement, foreign

policy, or trade policy issues. The rules formalize the review process and establish firm time frames for the Executive Branch agencies to complete their review consistent with the President's April 4, 2020 Executive Order No. 13913 that established the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (the "Committee"). See IB Briefing Sheet: Executive Branch Coordination Reform.

BACKGROUND:

International Section 214 Authorizations. The Commission has an open-entry standard for applicants for international services. Instead of conducting an in-depth review of the competitiveness of each foreign market to preclude potential anti-competitive conduct, the Commission has in place safeguards against potential anti-competitive harm resulting from foreign entry into the U.S. market. IB approves most applications for international section 214 authorizations and transfers or assignments that do not require coordination with the Executive Branch through a streamlined process with an automatic grant on the 14th day after IB places the application on Public Notice. Applications that do not qualify for streamlined processing because the applicant has not sought streamlined processing or is affiliated with a foreign carrier with market power in the destination market are placed on Public Notice with a 28-day comment period.

Submarine Cable Licenses. Applications that qualify for streamlined processing may be acted upon within 45 days from when they are placed on Public Notice. Applications that do not qualify for streamlined treatment may be acted upon within 90 days from when they are placed on Public Notice unless the application requires coordination with the Executive Branch. The Commission's licensing rules include safeguards to reduce the potential for anti-competitive harm where the applicant controls one of the necessary inputs of a telecommunications cable system (e.g., the undersea portion of the cable, cable landing station, or backhaul facilities).

Executive Branch Coordination. The Commission coordinates applications for international telecommunications services and submarine cables that have 10 percent or greater foreign owners with the relevant Executive Branch agencies. The agencies review the applications for national security, law enforcement, foreign policy, or trade policy issues. At the request of the agencies, the Commission will remove an application from streamlined processing and defer action on the application until the agencies have completed their review. As part of this process, the agencies may decide to negotiate letters of assurance (LOA) or national security agreements (NSA) with carriers to address any potential national security or law enforcement concerns. The agencies then petition the FCC to condition grant of the application on compliance with the LOA or NSA. This review adds significant time to the processing of most applications referred to the Executive Branch. In June 2016, the Commission released an NPRM that seeks to streamline and facilitate the Executive Branch review process, while ensuring that the Commission continues to take Executive Branch concerns into consideration as part of its public interest review.

On April 4, 2020, the President signed Executive Order No. 13913, establishing the Committee. Importantly, the Executive Order designates several Executive Branch agencies as members of the Committee to review applications referred by the Commission and establishes procedures

and time frames for that review, including 120 days for initial review, and an additional 90 days for secondary assessment when warranted. On April 27, 2020, the International Bureau released a public notice seeking comment on how the Executive Order affects the specific proposals and issues raised in the NPRM.

On September 30, 2020, the Commission adopted a Report and Order that formalizes the review process and establishes firm time frames for the Executive Branch agencies to complete their review consistent with Executive Order. Among other requirements, for most applications referred by the Commission, the Committee has 120 days for initial review, plus an additional 90 days for secondary assessment if the Committee determines that the risk to national security or law enforcement interests cannot be mitigated with standard mitigation measures. *See* IB Briefing Sheet: Executive Branch Coordination Reform.

RELATED MATTERS: In July 2018, after seven years of review, the Executive Branch agencies recommended that the Commission deny the application for international section 214 authority filed by China Mobile International (USA) Inc. (China Mobile USA) on national security and law enforcement grounds. In May 2019, after an extensive review of the record in this proceeding, the Commission denied the application stating that China Mobile USA had not demonstrated that its application for authority to provide international telecommunications services was in the public interest.

On April 9, 2020, NTIA, on behalf of the Executive Branch agencies, filed a recommendation requesting that the Commission revoke and terminate China Telecom (Americas) Corporation's international section 214 authorizations due to national security and law enforcement risks. On April 24, 2020, the International Bureau, Wireline Bureau, and Enforcement Bureau issued three Orders to Show Cause against four companies that are ultimately subject to the ownership and control of the Chinese government: China Telecom (Americas) Corporation, China Unicom (Americas) Operations Limited, and Pacific Networks and ComNet (USA) LLC. The Orders direct the companies to explain why the Commission should not initiate a proceeding to revoke and/or terminate their domestic and international section 214 authorizations enabling them to operate in the United States and to reclaim their International Signaling Point Codes. These proceedings remain pending. *See* IB Briefing Sheet: China Telecom (Americas) Corporation, China Unicom (Americas) Operations Limited, and Pacific Networks and ComNet (USA) LLC Orders to Show Cause.

On June 17, 2020, NTIA, on behalf of the Executive Branch agencies, filed for a recommendation for partial denial of the application for a submarine cable landing license for the Pacific Light Cable Network (PLCN). The Executive Branch agencies recommend that the Commission partially deny the license application with respect to PLCN's connection to Hong Kong and with respect to PLCN's foreign owners, Hong Kong based Pacific Light Data Communication Co. Ltd. and China-based ultimate parent entity Dr. Peng Telecom & Media Group Co., Ltd. On August 27, 2020, the cable landing license application for PLCN was withdrawn, and a new application for the PLCN cable was filed that did not include Dr. Peng Telecom & Media Group Co., Ltd as an applicant or Hong Kong as a landing point. Additional information on cables with landing points in China and/or Chinese State-Owned Enterprise

Ownership can be found in another briefing sheet. *See* IB Briefing Sheet: Submarine Cables With China Landing Points and/or Chinese State-Owned Enterprise Ownership.

Since 2015, IB has terminated 14 international section 214 authorizations because the carriers failed to comply with the terms of the LOA entered into with the Executive Branch agencies, an express condition for holding the section 214 international authorization.

IB BRIEFING SHEET

SUBJECT: Foreign Ownership Under Section 310/Transaction Review

SUMMARY: IB reviews transactions that involve proposals for foreign investment. The review arises in the context of petitions for declaratory ruling under section 310(b) of the Communications Act of 1934, as amended, for foreign ownership of common carrier non-broadcast wireless licenses. The Media Bureau reviews section 310(b)(4) petitions for declaratory ruling for foreign ownership of broadcast licenses. The Commission seeks input from the relevant Executive Branch agencies on national security, law enforcement, foreign policy, and trade policy concerns relevant to section 310(b) foreign ownership petitions.

In the *2013 Second Report and Order*, the Commission streamlined the policies and procedures that apply to foreign ownership of common carrier licensees to reduce costs and provide greater transparency. The *2016 Foreign Ownership Report and Order* extended the same streamlined procedures and rules adopted in the *2013 Second Report and Order* to broadcast licensees, with certain tailored modifications. The *2016 Foreign Ownership Report and Order* also changed the methodology that both common carrier and broadcast licensees use to assess compliance with the 25 percent foreign ownership benchmark under section 310(b)(4). The Report and Order did not change the 25 percent statutory foreign ownership limitation set out in section 310(b)(4) or the public interest standard of review.

STATUS: The rules adopted in the *2016 Foreign Ownership Report and Order* went into effect on April 20, 2017. As of September 30, 2020, IB has received 8 section 310(b) petitions in 2020.

BACKGROUND: Section 310 requires the Commission to review foreign investment in FCC radio licensees and imposes specific restrictions on who may hold certain types of radio licenses.

- Section 310(a) prohibits a foreign government or representative from holding any radio license.
- Section 310(b) places specific restrictions on the ownership of broadcast, common carrier, aeronautical en route and aeronautical fixed radio station licensees.
 - Section 310(b)(1) prohibits any alien or representative of any alien from holding such a license.
 - Section 310(b)(2) prohibits a foreign corporation from holding such a license.
 - Section 310(b)(3) prohibits foreign governments, individuals, and corporations from owning more than 20 percent of the stock of such licensees.
 - Section 310(b)(4) establishes a 25 percent benchmark for investment by foreign individuals, corporations, and governments in the U.S. parents of such licensees, but grants the Commission discretion to allow higher levels of foreign ownership if it determines that such ownership is not inconsistent with the public interest. The 25 percent benchmark applies to foreign investment in the licensee through a controlling

U.S. parent entity. The majority of proposed foreign investments reviewed by the Commission involve Section 310(b)(4) of the Act.

Based on the discretion provided in section 310(b)(4), the Commission or IB, under delegated authority, has granted numerous applications involving investment above the 25 percent foreign investment threshold in a common carrier licensee's controlling U.S. parent. In 1997, the Commission adopted an "open entry standard" for foreign investment from World Trade Organization (WTO) Member countries. In addition to considering the competitive effects of foreign investment, the Commission also accords the appropriate level of deference to Executive Branch concerns regarding national security, law enforcement, foreign policy, and trade policy.

In the *2011 Notice of Proposed Rulemaking*, the Commission sought comment on measures to revise and simplify the regulatory framework for authorizing foreign ownership of common carrier and certain aeronautical radio station licensees under Section 310(b)(4). In the *2012 First Report and Order*, in response to requests and comments to broaden the scope of the proceeding to consider the relationship of Sections 310(b)(3) and 310(b)(4) of the Act, the Commission forbore from applying the Section 310(b)(3) limits to certain foreign interests in common carrier licensees. In the *2013 Second Report and Order*, the Commission streamlined the policies and procedures that apply to foreign ownership of common carrier licensees to reduce costs and provide greater transparency. Among other things, the Commission eliminated its differential treatment of foreign investment from WTO Member and non-WTO Member countries, and instead decided to apply the WTO Member "open entry" standard in its assessment of *all* foreign investment. At that time, the Commission did not extend the policies to broadcast licensees.

In the *2016 Foreign Ownership Report and Order*, the Commission extended to broadcast licensees the Section 310(b)(4) foreign ownership rules and policies adopted for common carrier licensees in the *2013 Second Report and Order*, with some tailored modifications to recognize the differences between the two services. Among other things, the rules:

- affirm and codify the Commission's policy of allowing a broadcast licensee to request Commission approval for its controlling U.S. parent to have up to and including 100 percent foreign ownership;
- allow the licensee to request that a proposed controlling foreign investor be permitted to increase its ownership up to and including 100 percent in the future without filing a new petition;
- extend to broadcast licensees the practice of allowing the licensee to request that any non-controlling named foreign investor, once approved by the Commission, be permitted to increase its interest in the U.S. parent up to and including a non-controlling interest of 49.99 percent in the future without filing a new petition;
- remove regulatory burdens on broadcast licensees by not requiring the licensee to request approval of a non-controlling foreign investor with an interest of 5 percent or less (or 10 percent in certain circumstances);
- allow broadcast licensees to continue to use the broadcast attribution rules to disclose their principal U.S. and foreign owners and to rely on broadcast insulation rules; and

- codify the methodology that a publicly traded broadcast or common carrier licensee or controlling U.S. parent should use to assess its compliance with Section 310(b).

RELATED MATTERS: On September 30, 2020, the Commission adopted a Report and Order in IB Docket No. 16-155 (FCC 20-133) that streamlines and improves the timeliness and transparency of the process by which the Commission coordinates certain applications referred to the Executive Branch agencies for assessment of any national security, law enforcement, foreign policy, or trade policy issues. The rules formalize the review process and establish firm time frames for the Executive Branch agencies to complete their review consistent with the President's April 4, 2020 Executive Order No. 13913 that established the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (the "Committee"). Among other requirements, for most applications referred by the Commission, the Committee has 120 days for initial review, plus an additional 90 days for secondary assessment if the Committee determines that the risk to national security or law enforcement interests cannot be mitigated with standard mitigation measures. *See* IB Briefing Sheet: Executive Branch Coordination Reform.

IB BRIEFING SHEET

SUBJECT: Executive Branch Coordination Reform

SUMMARY: On September 30, 2020, the Commission adopted rules and procedures in IB Docket No. 16-155 (FCC 20-133) that streamline and improve the timeliness and transparency of the process by which the Commission coordinates with the Executive Branch agencies for assessment of any national security, law enforcement, foreign policy, or trade policy issues regarding certain applications filed with the Commission. The rules formalize the review process and establish firm time frames for the Executive Branch agencies to complete their review consistent with the President’s April 4, 2020 Executive Order No. 13913 that established the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (the “Committee”). Among other requirements, for most applications referred by the Commission, the Committee has 120 days for initial review, plus an additional 90 days for secondary assessment if the Committee determines that the risk to national security or law enforcement interests cannot be mitigated with standard mitigation measures.

STATUS/KEY ISSUES: The Commission adopted the Report and Order on September 30, 2020 and the Report and Order was released on October 1, 2020. Some of the rules will become effective 30 days after Federal Register publication, which remains pending. The remaining rules will become effective after Paperwork Reduction Act review. In the Report and Order, the Commission also directed the International Bureau, within 90 of adoption, by December 29, 2020, to develop, solicit comment on, and make publicly available on a website the Standard Questions that applicants will now be required to submit to the Committee before or at the time they file their application with the FCC.

BACKGROUND:

Executive Branch Coordination. The Commission coordinates applications for international telecommunications services and submarine cables that have 10 percent or greater foreign owners with the relevant Executive Branch agencies. The agencies review the applications for national security, law enforcement, foreign policy, or trade policy issues. At the request of the agencies, the Commission will remove an application from streamlined processing and defer action on the application until the agencies have completed their review. As part of this process, the agencies may decide to negotiate letters of assurance (LOA) or national security agreements (NSA) with carriers to address any potential national security or law enforcement concerns. The agencies then petition the FCC to condition grant of the application on compliance with the LOA or NSA. This review adds significant time to the processing of most applications referred to the Executive Branch. In June 2016, the Commission released an NPRM that seeks to streamline and facilitate the Executive Branch review process, while ensuring that the Commission continues to take Executive Branch concerns into consideration as part of its public interest review.

On April 4, 2020, the President signed Executive Order No. 13913, establishing the Committee. Importantly, the Executive Order designates several Executive Branch agencies as members of the Committee to review applications referred by the Commission and establishes procedures

and time frames for that review, including 120 days for initial review, and an additional 90 days for secondary assessment when warranted. On April 27, 2020, the International Bureau released a public notice seeking comment on how the Executive Order affects the specific proposals and issues raised in the NPRM.

On September 30, 2020, the Commission adopted a Report and Order that formalizes the review process and establishes firm time frames for the Executive Branch agencies to complete their review consistent with Executive Order. The rules will provide greater regulatory certainty for applicants and facilitate foreign investment in, and the provision of new services and infrastructure by, U.S. authorization holders and licensees in a more timely manner, while continuing to ensure that the Commission receives the benefit of the agencies' views as part of its public interest review of an application.

- *First*, the Commission will continue to refer to the Executive Branch agencies those applications for international section 214 authorizations and submarine cable licenses or to assign, transfer control or modify such authorizations and licenses where the applicant has reportable foreign ownership, and all petitions for section 310(b) foreign ownership rulings. Some categories of applications that present a low or minimal risk to national security, law enforcement, foreign policy, and trade policy concerns, will be excluded from referral, including *pro forma* transfers of control and assignments.
- *Second*, for those applications that are referred, the applicants are required to provide responses to a set of standardized national security and law enforcement questions (Standard Questions) directly to the Executive Branch before or at the time the applicant files its application with the Commission. This will enable the Executive Branch agencies to begin their review earlier in the process than is now the case and may eliminate the need for the Committee to send a specifically tailored questionnaire (Tailored Questions) to each applicant.
- *Third*, the rules require all applicants for international section 214 authorizations and submarine cable landing licenses, applications to assign, transfer control or modify such authorizations and licenses (including those that do not have reportable foreign ownership), and petitioners for section 310(b) foreign ownership rulings to provide certain certifications. These certifications, such as to designate a U.S. citizen or permanent U.S. resident as a point of contact, should facilitate faster reviews, make mitigation unnecessary for a number of applications reviewed by the Committee, strengthen compliance, and assist the Commission in its ongoing regulatory obligations.
- *Fourth*, the rules adopt the time frames set forth in the Executive Order: a 120-day initial review period followed by a discretionary 90-day secondary assessment.
 - The 120-day review period will begin when the Committee finds that an applicant's responses to any Tailored Questions are complete as set forth in the Executive Order.
 - Under the rules, the Commission will have the discretion to start its 120-day initial review clock if the Tailored Questions are not provided to an applicant within 30 days of referral or within a specified extension period.

- *Finally*, the Order establishes a new subpart CC in Part 1 of the rules to provide a unified and transparent set of rules governing referral of applications to the Executive Branch agencies.

RELATED MATTERS:

- In July 2018, after seven years of review, the Executive Branch agencies recommended that the Commission deny the application for international section 214 authority filed by China Mobile International (USA) Inc. (China Mobile USA) on national security and law enforcement grounds. In May 2019, after an extensive review of the record in this proceeding, the Commission denied the application stating that China Mobile USA had not demonstrated that its application for authority to provide international telecommunications services was in the public interest.
- On April 9, 2020, NTIA, on behalf of the Executive Branch agencies, filed a recommendation requesting that the Commission revoke and terminate China Telecom (Americas) Corporation's international section 214 authorizations due to national security and law enforcement risks. On April 24, 2020, the International Bureau, Wireline Bureau, and Enforcement Bureau issued three Orders to Show Cause against four companies that are ultimately subject to the ownership and control of the Chinese government: China Telecom (Americas) Corporation, China Unicom (Americas) Operations Limited, and Pacific Networks and ComNet (USA) LLC. The Orders direct the companies to explain why the Commission should not initiate a proceeding to revoke and/or terminate their domestic and international section 214 authorizations enabling them to operate in the United States and to reclaim their International Signaling Point Codes. These proceedings remain pending. *See* IB Briefing Sheet: Orders to Show Cause.
- On June 17, 2020, NTIA, on behalf of the Executive Branch agencies, filed for a recommendation for partial denial of the application for a submarine cable landing license for the Pacific Light Cable Network (PLCN). The Executive Branch agencies recommend that the Commission partially deny the license application with respect to PLCN's connection to Hong Kong and with respect to PLCN's foreign owners, Hong Kong based Pacific Light Data Communication Co. Ltd. and China-based ultimate parent entity Dr. Peng Telecom & Media Group Co., Ltd. On August 27, 2020, the cable landing license for PLCN was withdrawn and a new application for the PLCN cable was filed that did not include Dr. Peng Telecom & Media Group Co., Ltd as an applicant or Hong Kong as a landing point. Additional information on cables with landing points in China and/or Chinese State-Owned Enterprise Ownership can be found in another briefing sheet. *See* IB Briefing Sheet: Submarine Cables With China Landing Points and/or Chinese State-Owned Enterprise Ownership.

IB BRIEFING SHEET

SUBJECT: China Telecom (Americas) Corporation, China Unicom (Americas) Operations Limited, and Pacific Networks and ComNet (USA) LLC Orders to Show Cause

SUMMARY: On April 9, 2020, the National Telecommunications and Information Administration (NTIA) of the Department of Commerce filed a recommendation on behalf of the Executive Branch agencies requesting that the Commission revoke and terminate China Telecom (Americas) Corporation's (China Telecom Americas) international section 214 authorizations due to national security and law enforcement risks.

On April 24, 2020, the International Bureau, Wireline Bureau, and Enforcement Bureau (Bureaus) issued three Orders to Show Cause against four companies that are ultimately subject to the ownership and control of the Chinese government: China Telecom Americas, China Unicom (Americas) Operations Limited (China Unicom Americas), Pacific Networks Corp. (Pacific Networks), and ComNet (USA) LLC (ComNet).

The Orders to Show Cause directed the companies to explain why the Commission should not initiate a process to revoke and/or terminate their domestic and international section 214 authorizations enabling them to operate in the United States and to reclaim their International Signaling Point Codes (ISPCs). The Orders to Show Cause gave the companies the opportunity to demonstrate that they are not subject to the influence and control of the Chinese government, that they continue to be qualified to hold domestic and international section 214 authorizations and ISPCs, and that public convenience and necessity is served by their retention of the authorizations and assignments.

The Order to Show Cause for China Telecom Americas directed that company to provide a detailed response to allegations raised in the Executive Branch Recommendation to Revoke the company's international section 214 authorizations.

STATUS/KEY ISSUES: Responses were due within thirty (30) calendar days from the release date of the Orders to Show Cause. Each company requested an extension of the time for its response to the Order to Show Cause, which the International Bureau's Telecommunications and Analysis Division granted or granted in part. China Unicom Americas, Pacific Networks, and ComNet submitted their responses on June 1, 2020. China Telecom Americas submitted its response on June 8, 2020. Commission staff is reviewing the record.

On October 15, 2020, the International Bureau issued letters requesting that the U.S. Department of Justice, on behalf of the Attorney General as Chair of the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee) under Executive Order 13913, address the arguments made by China Unicom Americas and by Pacific Networks and ComNet in their responses to the Order to Show Cause. By these letters, the International Bureau requested the Committee's views on each entity's arguments concerning whether and how it is subject to the exploitation, influence, and control of the Chinese government, and the national security and law enforcement risks associated with such exploitation, influence, and control. The International Bureau also asked the Committee to

respond as to whether mitigation measures could address any identified concerns. The International Bureau asked the Committee to provide a response and any supporting documentation by November 16, 2020.

BACKGROUND:

China Telecom Americas. China Telecom Americas holds two international section 214 authorizations, ITC-214-20010613-00346 and ITC-214-20020716-00371. Additionally, it provides domestic interstate telecommunications service pursuant to blanket authority that the Commission has issued by rule. China Telecom Americas also holds three ISPCs for Signaling System No. 7 networks.

China Unicom Americas. China Unicom Americas holds two international section 214 authorizations, ITC-214-20020728-00361 and ITC-214-20020724-00427. Additionally, it is authorized to provide domestic interstate telecommunications service pursuant to blanket authority that the Commission has issued by rule. China Unicom Americas also holds three ISPCs for Signaling System No. 7 networks.

Pacific Networks and ComNet. Pacific Networks and its wholly owned subsidiary, ComNet, each hold an international section 214 authorization. Pacific Networks' authorization is ITC-214-20090105-00006 and ComNet's authorization is ITC-214-20090424-00199. Additionally, Pacific Networks and ComNet are authorized to provide domestic interstate telecommunications service pursuant to blanket authority that the Commission has issued by rule. ComNet also holds two ISPCs for Signaling System No. 7 networks.

RELATED MATTERS: In July 2018, after seven years of review, the Executive Branch agencies recommended that the Commission deny the application for international section 214 authority filed by China Mobile International (USA) Inc. (China Mobile USA) on national security and law enforcement grounds. In May 2019, after an extensive review of the record in this proceeding, the Commission denied the application stating that China Mobile USA had not demonstrated that its application for authority to provide international telecommunications services was in the public interest.

IB BRIEFING SHEET

SUBJECT: Submarine Cables With China Landing Points and/or Chinese State-Owned Enterprise Ownership

SUMMARY: There are four licensed submarine cable systems in operation today that land in China, Hong Kong, or Taiwan. Two cable systems – the Trans-Pacific Express Cable Network and New Cross-Pacific – have mainland China landing points and ownership by Chinese state-owned enterprises or their subsidiaries (Chinese SOEs). The FASTER system has a Taiwan landing point and Chinese SOE ownership. The Asia America Gateway (AAG) has a Hong Kong landing point, but no Chinese SOE ownership. In addition, there are two pending applications for cables that propose to land in Hong Kong and one application with Chinese SOE ownership that will land in the Philippines (Hong Kong-Americas (HKA) and Hong Kong-Guam (HKG)).

STATUS: In June 2020, the National Telecommunications and Information Administration (NTIA), on behalf of Executive Branch Agencies, recommended that the FCC deny the portion of the Pacific Light Cable Network (PLCN) application related to a landing in Hong Kong and the proposed Chinese ownership in the cable system. In August 2020, the original application for PLCN was withdrawn and a new one was filed without a connection to Hong Kong or operation by the Chinese owner. Another application which originally included a Hong Kong landing and Chinese SOE ownership was withdrawn (BtoBE Express) and replaced with an application with the same Chinese SOE ownership but landing in the Philippines rather than Hong Kong (CAP-1 cable). Two applications for landings in Hong Kong remain pending (HKA and HKG). All of the applications are pending review by the Executive Branch for national security, law enforcement, foreign policy, and trade policy issues.

BACKGROUND: In June 2020, NTIA filed a recommendation for a partial denial of the application filed by Pacific Light Data Communications (PLDC), GU Holdings Inc. (GU Holdings) (a wholly owned subsidiary of Google) and Edge Cable Holdings USA, Inc. (Edge USA) (a wholly owned subsidiary of Facebook) for the PLCN cable that included a Hong Kong landing point. The Executive Branch recommended partial denial with respect to PLCN's Chinese owners – Hong Kong based-majority owner PLDC and Chinese parent entity Dr. Peng Group – and with respect to PLCN's Hong Kong landing site. The recommendation was based on concerns that the People's Republic of China (PRC) could acquire and collect sensitive personal data information on U.S. citizens and the U.S. government by creating the highest capacity pathway to Asia through PRC territory and PRC-owned infrastructure. Specifically, the Executive Branch asserted that PLCN's Chinese owners, PLDC and Chinese parent entity, Dr. Peng Group, have contracts with PRC government intelligence and security services to provide fiber optics, and also have an agreement with Huawei to provide data centers throughout China.

On August 27, 2020, the Applicants for the PLCN cable withdrew the application and GU Holdings and Edge USA, Inc. filed a new application for the portions of the cables connecting the United States with Taiwan and the Philippines, dropping PLDC and the Hong Kong landing from the application. GU Holdings is providing commercial service between the United States

and Taiwan pursuant to Special Temporary Authority (STA). *See* SCL-STA-20200827-00037. GU Holdings and Edge USA also have an STA for construction and testing of the cable system in U.S. territory. *See* SCL-STA-20200828-00039.

US Cables With Mainland China Landing Points

- **Trans-Pacific Express Cable Network (TPE), SCL-LIC-20070222-00002, SCL-MOD-20080714-00012)**
In-Service Date: Sept. 30, 2008
Landing Points: China, Taiwan, South Korea, Japan, and Oregon
Licensees: China Telecommunications Corporation; China United Network Communications Group Company Limited; MCI International, LLC; AT&T Corp.; Chunghwa Telecom Co. Ltd; KT Corporation; and NTT Ltd. Japan Corporation.
- **New Cross-Pacific: SCL-LIC-20151104-00029**
In-Service Date: Feb. 22, 2018
Landing Points: China, Taiwan, South Korea, Japan, and Oregon,
Licensees: China Mobile International Limited; China Telecommunications Corporation; China United Network Communications Group Company Limited; Microsoft Infrastructure Group, LLC; Microsoft Operations Pte Ltd; Chunghwa Telecom Co., Ltd.; and KT Corporation

US Cables with Hong Kong Landing Points

- **Asia America Gateway (AAG), SCL-LIC-20070824-00015**
In-Service Date: Nov. 10, 2009
Landing Points: Hong Kong, Thailand, Brunei, Philippines, Singapore, Malaysia, Vietnam, California, Hawaii and Guam
Licensees: AT&T Corp.; Unified National Networks Sdn Bhd; CAT Telecom Public Company Limited; Network i2i Limited; Philippine Long Distance Telephone Company; PT Telekomunikasi Indonesia International; StarHub Ltd.; Telekom Malaysia Berhad; Telstra Corporation Limited; and Vietnam Posts and Telecommunications Group

US Cables With Taiwan Landing Points

- **FASTER: SCL-LIC-20150626-00015**
In-Service Date: Aug. 17, 2016
Landing Points: Taiwan, Japan and Oregon
Licensees: China Mobile International Limited; China Telecom Global Limited; GU Holdings Inc.; Global Transit 2 Limited; KDDI Corporation; and, Singapore Telecom USA Inc;

Pending Applications with Hong Kong landing:

- **Hong Kong-Americas (HKA): SCL-LIC-20180711-00018**
Landing points: Hong Kong, Taiwan and California
Applicants: China Telecommunications Corporation; China Telecom Global Limited; China United Network Communications Group Company Limited; RTI Express Pte. Ltd.; Tata Communications (Bermuda) Limited; and Telstra Corporation Limited
- **Hong Kong-Guam (HKG): SCL-LIC-20191122-00037**
Landing Points: Hong Kong and Guam
Applicants: RTI Solutions, Inc.; RTI HK-G Pte. Ltd.; RTI HK-G Pte. Ltd.; and GU Holdings, Inc.;

Other Pending Application with Chinese SOE ownership:

- **CAP-1: SCL-LIC-20200910-00044**
Landing Points: California, Philippines
Applicants: China Mobile International Limited; Edge Cable Holdings USA, LLC; and, Amazon Data Services, Inc.
STA. The CAP-1 applicants were granted an STA to allow the construction and testing of the CAP-1 system in U.S. territory. *See* SCL-STA-20200910-00045,

RELATED MATTERS: *See* IB Briefing Sheets: China Telecom (Americas) Corporation, China Unicom (Americas) Operations Limited, and Pacific Networks and ComNet (USA) LLC Orders to Show Cause; Executive Branch Coordination Reform.

IB BRIEFING SHEET

SUBJECT: Submarine Cable Interagency Coordination

SUMMARY: The Commission licenses submarine cables pursuant to authority under the Cable Landing License Act of 1921, as delegated by the President through Executive Order No. 10530. Before granting the application, the Commission coordinates with the Department of State and may seek assistance from any executive department or establishment of the Government as the Commission may deem necessary. In addition to the FCC, other federal government agencies are involved in regulating the installation of submarine cable systems through various authorizations and permits.

In the *2015 Submarine Cable Outage NPRM*, the Commission tasked IB, in coordination with the Public Safety and Homeland Security Bureau (PSHSB), to develop and improve interagency coordination processes and best practices vis-à-vis submarine cable deployment activities and related permits and authorizations to increase transparency and information sharing among the government agencies, cable licensees, and other stakeholders.

STATUS/KEY ISSUES: Through the development of an interagency coordination process, Commission staff have been working with relevant federal agencies involved in regulating the installation of submarine cable systems and/or other cable-related undersea activities. Since 2016, IB and PSHSB have hosted several interagency submarine cable meetings and are working to improve interagency coordination to develop best practices and facilitate deployment of submarine cables.

BACKGROUND: In the *2015 Submarine Cable Outage NPRM* and *2016 Submarine Cable Outage Report and Order*, the Commission proposed a goal to develop and improve interagency coordination processes and best practices to increase transparency and information sharing among the government agencies, cable licensees, and other stakeholders.

Pursuant to the *2015 Submarine Cable Outage NPRM*, Commission staff have established a staff-level federal interagency coordination group with agencies involved in regulating the installation of submarine cable systems and/or other undersea activities that may impact planned or existing submarine cables. In addition to the FCC, the agencies involved in the interagency coordination process include the: Bureau of Ocean Energy Management (BOEM) and U.S. Fish and Wildlife Service (FWS) of the Department of the Interior; Federal Energy Regulatory Commission (FERC); National Oceanic and Atmospheric Administration (NOAA) and National Telecommunications and Information Administration (NTIA) of the Department of Commerce; U.S. Army Corps of Engineers (Corps), Defense Intelligence Agency (DIA)/Air Force, Defense Information Systems Agency (DISA), and the U.S. Navy (Navy) of the Department of Defense; Department of Energy; Department of Homeland Security; and Department of State.

Since 2016, as a result of the interagency coordination meetings, the Commission has: (1) established an interagency contact/distribution list for rapid tracking and coordination of submarine cable related issues; (2) worked on creating a tracking system to coordinate pending submarine cable projects and other cable-related undersea activities; (3) improved the FCC's

public facing submarine cable website with links to relevant regulatory agencies and other related information; (4) continued to work on enhancing interagency submarine cable coordination processes; and (5) continued to work with interagency partners for information sharing concerning infrastructure and tools to coordinate agency efforts.

RELATED MATTERS: The *2016 Submarine Cable Outage Report and Order* was adopted on June 24, 2016 and released on July 12, 2016. The North American Submarine Cable Association and the Submarine Cable Coalition filed two separate petitions for reconsideration of the *2016 Submarine Cable Outage Report and Order*.

A working group of the Communications Security, Reliability and Interoperability Counsel (CSRIC), an advisory committee to the Commission, examined issues related to submarine cables. In December 2014, the working group released a report on “Protection of Submarine Cables Through Spatial Separation.” In June 2016, the working group released a report on “Interagency and Interjurisdictional Coordination.” In August 2016, the working group released a report on “Clustering of Cables and Cable Landings.”

IB BRIEFING SHEET

SUBJECT: Communications Marketplace Report – Satellite Competition Component and International Broadband Data Report

SUMMARY: The RAY BAUM’s Act of 2018 directs the Commission to publish in the last quarter of every even-numbered year “a report on the state of the communications marketplace” (Communications Marketplace Report). The biennial Communications Marketplace Report must, among other things, assess the state of all forms of competition in the communications marketplace. The report includes:

- An assessment of the state of competition to deliver voice, video, audio, and data services by providers of satellite communications, and
- The International Broadband Data Report (IBDR), which is mandated by the Broadband Data Improvement Act (BDIA) of 2008 and was previously part of the Commission’s annual Section 706 Report.

STATUS: International Bureau staff prepared the satellite component and the IBDR for inclusion in the Commission’s first Communications Marketplace Report. The Commission adopted this Report on December 12, 2018. Year-end 2018 updates to certain data contained in the first Communications Marketplace Report were released on February 20, 2020. Commission staff is preparing the next report.

BACKGROUND:

Statutory Requirements Regarding the IBDR. The BDIA requires the Commission to engage in a detailed international comparison of the “extent of broadband service capability (including data transmission speeds and price for broadband service capability) in a total of 75 communities in at least 25 countries for each of the data rate benchmarks for broadband service utilized by the Commission to reflect different speed tiers.” For this comparison, the BDIA directs the Commission to choose international communities comparable to U.S. communities with respect to population size, population density, topography, and demographic profile, and include a geographically diverse selection of countries and communities including capital cities.

Sixth IBDR. On February 2, 2018, IB released its *Sixth IBDR* containing the latest available data and information mandated by the BDIA, in conjunction with the Commission’s *2018 Broadband Deployment Report*. The *Sixth IBDR* compared fixed and, for the first time, mobile broadband (LTE) speeds in the United States with 27 foreign countries (all OECD members). The United States ranked 10th out of 28 countries in 2016 in terms of actual download speeds (55.07 Mbps) weighted by the number of tests in each city—an improvement from a ranking of 11th in 2015 (40.38 Mbps) and 15th in 2014 (28.09 Mbps). The report examined advertised broadband prices for both fixed and mobile service plans in the United States and up to 28 comparison countries depending on data availability (for a total of up to 29 countries). For the first time, the broadband price analysis included hedonic assessments that account for quality differences as well as market-level cost and demographic differences that are known to affect pricing, such as

population density, income, and education levels. This approach seeks to better assess how the U.S. market is performing relative to other markets. The report also included a comparison of regulatory and market trends in the comparison countries and a comparison of fixed and mobile high-speed broadband deployment in Europe and the United States (rural and non-rural areas).

IB BRIEFING SHEET

SUBJECT: World Radiocommunication Conference (WRC)

SUMMARY: The WRC is a treaty-level conference held by the International Telecommunication Union (ITU) every three to four years. WRCs decide on the international allocation of spectrum to allow the deployment, growth and harmonization of all types of radiocommunication services such as mobile, fixed, broadcasting, satellite, maritime and aeronautical services.

The Department of State has overall responsibility for U.S. preparation for and participation in the WRC. The FCC provides the State Department with policy and technical expertise and serves as U.S. spokespersons on issues related to commercial radiocommunication services as well as amateur, broadcasting and state/local government radiocommunication services.

STATUS: The last WRC was held in November 2019 (WRC-19) and preparations for the next WRC, to be held in 2023 (WRC-23), began immediately following WRC-19. To that end, IB has established the WRC-23 Advisory Committee (WAC), to develop private sector recommendations to the FCC on the issues to be considered at the WRC. Over 50 private sector entities are participating as WAC members for WRC-23, and many others will participate as WAC observers. U.S. industry and the FCC will participate on the U.S. WRC delegation and provide input and advice through the delegation on U.S. positions for WRC-23. The WAC has convened two meetings to date and has provided initial preliminary view recommendations to the FCC on several WRC-23 agenda items. The FCC will seek to reconcile these WAC recommendations with NTIA in order to finalize the official U.S. preliminary views to the CITEL PCC.II meeting in November 2020.

KEY ISSUES:

WRC-23: WRC-23 will address many issues critical to U.S. industry, in particular:

- ***Spectrum for broadband wireless services, including 5G (Agenda Items 1.1, 1.2, 1.3):*** WRC-19 identified several mid-band frequencies to study for possible identification for 5G use at the WRC-23. The ITU identified five candidate band ranges for studies, with some overlap with the FCC's Flexible Use Proceeding (3.7-4.2 GHz and 6.425-7.125 GHz bands). The 3.3-3.4 GHz band included the Title VI -Mobile Now Act, is also being studied at the ITU. Allocating and identifying additional mobile spectrum for 5G will be the U.S./FCC's highest priority at WRC-23. The FCC will seek to globally identify the bands under Agenda Items 1.1 and 1.2 which overlap with the FCC's proceedings.
- ***Fixed Satellite Service (FSS) (Agenda Items 1.15, 1.16 and 1.17):*** WRC-23 will consider additional uses for the FSS in the frequency bands 12.75-13.25 GHz (Earth-to-space) and 27.5-30 GHz (Earth-to-space) by earth stations in motion. In addition, studies will consider appropriate regulatory actions for the provision of inter-satellite links in specific frequency bands, or portions thereof, by adding an inter-satellite service allocation. There is also some overlap between the study of these frequency bands and

those previously identified for IMT 5G spectrum at WRC-19. It will be important to establish the U.S. approach with the treatment of these overlapping, shared bands.

- ***MSS IoT (Agenda Item 1.18):*** WRC-23 will consider the spectrum needs for the mobile satellite service (MSS) in portions of the 1 to 3 GHz bands. These studies will consider the spectrum needs and potential new allocations to the MSS for future development of narrowband mobile-satellite systems for the internet-of-things applications. It will be important to establish the U.S. approach with the treatment of these studies with any open proceedings domestically.

Other issues to be addressed include:

- ***Aeronautical Safety (Agenda Items 1.7 and 1.9):*** WRC-23 will consider regulatory actions needed to enhance aeronautical safety-of-flight communications in the HF and VHF frequency bands. This agenda item will consider new digital technology to improve HF communications for aircraft communications over oceans. New satellite technology may be able to further enhance traditional VHF terrestrial aeronautical communications to improve air traffic control around airports and commercial airspace.
- ***Global Maritime Distress and Safety System (GMDSS) Modernization (Agenda Item 1.11):*** WRC-23 will consider the requisite regulatory changes needed for the GMDSS modernization and the provisions needed for the inclusion of new satellite systems into the GMDSS. The GMDSS is an international system which uses improved terrestrial and satellite technology and ship-board radio systems to provide rapid alerting of shore-based rescue and communications authorities in the event of a maritime emergency. The FCC in collaboration with the U.S. Coast Guard will continue to develop the technical and operational requirements for the modernization of the GMDSS during this study cycle.
- ***High Altitude Platform Systems as IMT Base station (HIBs) (Agenda Item 1.4):*** WRC-23 will consider technical and regulatory measures for broadband connectivity by high-altitude platforms using IMT base stations. Such systems are expected to provide IMT to rural/underserved areas as well as complementing existing IMT terrestrial deployments. HIBs can provide broadband connectivity to a large coverage area with high capacity and cost-effective deployment advantages. Noting the importance of enabling new wireless broadband technologies while protecting existing IMT terrestrial deployments, the FCC will continue to follow these new solutions for delivering wireless broadband.

The List of WRC Agenda Items

Agenda Item	Band or Issue
1.1 IMT	4.8-4.99 GHz
1.2 IMT	3.3-3.4 GHz, 3.6-3.8 GHz, 6.4-7.125 GHz
1.3 Mobile Allocation in Region 1	3.6-3.8 GHz

1.4 HIBs	Bands below 2.7 GHz
1.5 IMT in UHF bands for Region 1	470-960 MHz
1.6 Sub-Orbital Vehicles	Technical and Regulatory measures to accommodate space vehicles in existing terrestrial and space services.
1.7 HF aeronautical safety	Technical and regulatory measures to enhance HF communications for aircraft
1.8 UAS	Continued technical and operational measures for unmanned aircraft systems.
1.9 VHF aeronautical communications	Technical and regulatory measures to enhance VHF communications for aircraft
1.10 Aeronautical Mobile service in non-safety aero	Consideration of aeronautical mobile service in non-safety aeronautical frequency bands
1.11 GMDSS modernization	Continued work on modernizing the GMDSS
1.12 Spaceborne radars	Secondary allocations around 45 MHz
1.13 Upgrade of Space Research Service	Possible upgrade of SRS to primary status in 14.8-15.4 GHz
1.14 Review of existing EESS allocations	Examine and consider regulatory actions for EESS in 231-252 GHz
1.15 GSO Earth stations in motion	Ku band
1.16 NGSO Earth stations in motion	Ka band
2 ITU-R Recs. Incorporated by Reference	
3 To consider other changes necessitated by the decisions of the WRC-19	
4 To review Recs and Res. from prior WRCs	
5 To take appropriate action on, the Report from the Radiocommunication Assembly	
6 To identify items requiring urgent action by the radiocommunication study groups in preparation for the next WRC	
7 Review of satellite regulatory procedures	Issues to be determined during course of study cycle
8 To delete unnecessary country footnotes	
9 Approval of the Director's Report on	

<p>9.1. Topic A. Space Weather sensors</p>	<p>Consider technical, operational and regulatory conditions for study to enable the use of Space Weather sensors.</p>
<p>9.1. Topic B. Review of amateur service allocations and operation in the 1240-1300 MHz frequency band in order to protect the radio-navigation service</p>	<p>Technical and operation mitigation studies</p>
<p>9.1 Topic C. Study of IMT for fixed wireless access applications</p>	<p>In frequency bands allocated to the fixed service</p>
<p>9.2 Difficulties or inconsistency in application of the Radio Regulations</p>	
<p>AI 10 Future agenda items</p>	<p>CITEL adopted 18 future agenda items; most were supported by the U.S.</p>

IB BRIEFING SHEET

SUBJECT: Coordination Issues with Mexico

BACKGROUND: In June 2013, a major telecommunications constitutional reform bill was passed by the Mexican Congress and signed into law. The reform bill created a new independent telecommunications regulator, the Federal Institute of Telecommunications (IFT), which was established on September 10, 2013, and is managed by a board of seven commissioners, including interim Chairman Adolfo Cuevas Teja. The FCC, working with the State Department, coordinates wireless and broadcast services with IFT.

Along with IFT's commitment towards 600 MHz band reconfiguration for mobile broadband services, IFT made clearing the 700 MHz band, for its digital transition, a top policy priority. Mexico's DTV transition was largely completed, with most analog operations turned off in 600 MHz and 700 MHz spectrum by December 31, 2015. The corresponding US transition of these spectrum blocks was completed on June 12, 2009 (700 MHz) and July 3, 2020 (600 MHz). Under Mexico law, ninety megahertz of the 700 MHz band was freed as a result of the DTV transition to be utilized for the installation and operation of a shared public wireless broadband network operated by an independent wholesaler (Red Compartida), eighty four megahertz was allocated of the 600 MHz band.

Current priorities for Mexico are with 2.5 GHz band and various ranges within the 3 GHz band.

SUMMARY/ISSUES:

700 MHz Band Plan: In September 2012, IFT announced plans to adopt the Asia Pacific Telecommunity (APT) band plan for use in the 700 MHz band. This band plan is fundamentally different from the North American 700 MHz band plan used in the United States and Canada. In multiple meetings with Mexico from 2012-2014, the U.S. 700 MHz Working Group (comprised of FCC, State, NTIA, and public safety and commercial operators) documented the difficulties resulting from the incompatibility of the two band plans, including our concerns on the interference risk to the significant public safety and state and local narrowband deployments on the U.S. side of the common border, as well as potential adverse impact to the FirstNet broadband network operations in the border area. Nevertheless, IFT adopted the APT band plan. Subsequent negotiations since 2014 have focused on studies and analysis of proposals to allow for co-existence of the two differing band plans while protecting existing US commercial operations and public safety operations

As described below, IFT has licensed one entity to operate a 700 MHz broadband network. There have been ongoing discussions between the U.S. and Mexican Governments regarding the necessary revisions of the existing agreement covering coordination of services in the 700 MHz band in the border region, while addressing any interference incidents that may occur in the interim.

800 MHz: To eliminate harmful interference to 800 MHz public safety operations, the United States is reconfiguring the band to separate public safety and other "high-site" systems from

commercial cellular systems in the 800 MHz band. As part of this plan, the United States is relocating the National Public Safety Advisory Committee (NPSPAC) public safety block from its current location at the top of the 800 MHz band to the bottom portion of the band.

On June 8, 2012, the United States and Mexico signed an agreement modifying the international allocation of the 800 MHz spectrum in the U.S.-Mexico border region (Amended Protocol), which enables the United States to proceed with 800 MHz band reconfiguration along the border. In April 2013, the Public Safety and Homeland Security Bureau adopted a reconfigured channel plan for the 800 MHz band along the U.S.-Mexico border based on the allocation plan in the Amended Protocol.

600 MHz Wireless & DTV: On July 15, 2015, the FCC and IFT finalized an arrangement through an exchange of technical coordination letters that set forth a framework and common guidelines for repurposing TV spectrum for mobile broadband on both sides of the border. This transition was completed on July 3, 2020. This arrangement significantly reduces potential interference to future wireless operations in the border region and assures that mobile broadband services in the border markets will face less potential interference from Mexican television broadcast stations. The FCC and IFT are working towards development of new bilateral arrangements to govern DTV service under the new band plan, and the newly created mobile broadband service in the 614-698 MHz band in the border region.

Education Broadband Service (EBS) and Broadband Radio Service (BRS)(2495-2690 MHz): The original analog Multipoint Distribution Service (MDS) agreement with Mexico was signed in 1992, and amended in 1998 to cover digital systems, but does not yet cover 2-way systems. FCC provided Mexico with a draft agreement in 2009, but Mexico was not ready to proceed then. In August 2018, IFT auctioned a total of 120 MHz of the 2.5 GHz band in six blocks of 20 MHz each. This includes four for FDD-LTE services and two for TDD-LTE. AT&T Mexico secured two 20 MHz blocks of FDD and two 20 MHz blocks of TDD spectrum. Telefonica acquired the remaining 40 MHz of FDD spectrum. Mexico has an incumbent in the band (America Movil) that has secured rights to use 60 MHz of spectrum (2500-2530 and 2660-2690 MHz).

STATUS:

700 MHz Band Plan: In November 2016, the Secretariat of Communications and Transportation (SCT) awarded the Red Compartida contract to the ALTAN consortium for the design, installation, deployment and operation of the network using 90 megahertz of the 700 MHz band. In December 2016, SCT sent a letter to the FCC notifying the FCC that ALTAN will operate Red Compartida, which will require further coordination between the U.S. and Mexico and negotiations under the U.S.-Mexico 700 MHz Protocol.

Since August 2019, ALTAN's use of their network in the frequencies they selected have caused degradation and loss of service to commercial and public safety services in the United States. Discussions between IFT and FCC focused on the immediate mitigation of interference and development of a bilateral band plan that would permit optimal use of the band by both countries. Immediate interference was successfully eliminated through the negotiation of

adjustments between US and Mexico operators. The FCC continues to work with the State Department and IFT to revise the existing 700 MHz protocol and resolve areas of incompatibility between the two different band plans. U.S. efforts have focused on establishing technical criteria that will protect U.S. operations, permit FirstNet broadband operations, and allow for the introduction of 700 MHz services using the APT plan in Mexico without interfering with existing and future U.S. operations.

800 MHz: The FCC is working with PSHSB and the State Department to encourage IFT to complete the 800 MHz rebanding as described in the 2012 800 MHz Protocol. Mexico is amenable to a rolling rebanding process – as U.S. licensees are ready to move, the FCC would notify IFT and they would try to move their concessionaires within 90 days – rather than waiting for Mexico to move all of their concessionaires at the same time. PSHSB and the 800 MHz Transition Coordinator are working with IFT to transition U.S. 800 MHz licensees and existing Mexican licensees. Some of these transitions entail Mexican licensees leaving the 800 MHz band and the issuance of new licenses by IFT. On September 2016, IFT published in its official Gazette a new agreement on the transition of certain Mexican concession holders. In February 2018, IFT reported that it had cleared all licensed operators in Mexico along the border from the lower segment of the band.

600 MHz Wireless & DTV: The successful conclusion of FCC's incentive auction in March 2017 resulted in a common North American band plan for 600 MHz, with Mexico, Canada, and the United States all agreeing to move TV operations below channel 37 (614 MHz). FCC staff provided IFT officials a comprehensive draft Memorandum of Understanding, which would govern DTV coordination following the incentive auction. The FCC and IFT also will commence discussions on the development of a 600 MHz wireless protocol.

Education Broadband Service (EBS) and Broadband Radio Service (BRS)(2495-2690 MHz): Given the potential for interference between systems using different access technologies, FCC and IFT plan to form a task force to address interference issues, with the goal of developing recommendations on a revised or new protocol to govern the band.

IB BRIEFING SHEET

SUBJECT: Coordination Issues with Canada

BACKGROUND: Innovation, Science & Economic Development Canada (ISED) is Canada's ministerial body responsible for telecommunications and radio communications policy. ISED is also responsible for spectrum policy and management and is the lead negotiator for agreements concerning coordination of services in the border area.

SUMMARY/ISSUES:

General Coordination Agreement: The GCA is a binding treaty between the U.S. and Canada (ISED) which provides a framework for coordination of both broadcast and non-broadcast uses of spectrum in the border area. The GCA will replace an outdated 1962 treaty.

700 MHz Public Safety Broadband: ISED had allocated the D-Block for PS Broadband use and therefore, the U.S. and Canada band plans at 700 MHz are now aligned. Canada has no mandated technology for its future PS Broadband but expects its licensees would have to use LTE to be interoperable with FirstNet. FirstNet designated AT&T to build, deploy, operate and maintain the network, with a focus on ensuring robust coverage for public safety.

600 MHz Wireless and DTV Transition: In August 2015, the FCC and ISED finalized a Statement of Intent for jointly repurposing UHF TV spectrum for mobile broadband on both sides of the border. The Statement of Intent established procedures for determining the amount of spectrum to be cleared and for repacking TV stations in both countries to lower channels. The two agencies cooperated closely for several years to accomplish the joint repurposing of 600 MHz spectrum. At each stage of the FCC's incentive auction, ISED validated a prospective band plan and related TV channel reassignments. In September 2017, the FCC and ISED finalized the results of the incentive auction through an exchange of letters. The FCC and ISED are working towards development of a new bilateral arrangement to govern DTV service under the new band plan, and a 600 MHz wireless arrangement to allow introduction of new mobile broadband service above 614 MHz in the border region.

700 MHz Air-Ground: In October 2014, the FCC adopted a Report and Order adding provisions for air-ground communication in the 700 MHz band between low-altitude aircraft and associated ground stations in the U.S. The existing Arrangement Q between the FCC and ISED does not cover A/G and would require a new SOL.

AWS-4: The FCC's ASW-4 Report and Order (*AWS-4 R&O*) increased the nation's supply of spectrum for wireless flexible use, including for mobile broadband, by 40 megahertz by adopting service, technical and licensing rules for stand-alone wireless service in the spectrum, which is also sharing with the MSS.

AWS-3: In March 2014, the Commission adopted a Report and Order with technical, assignment, and licensing rules for commercial use of the spectrum in the 1695-1710, 1755-1780, 2020-2025, and 2155-2180 MHz bands (collectively "AWS-3"). The AWS-3 Report and

Order required that commercial operators successfully coordinate with Federal incumbents before operating in certain Protection Zones. In July 2014, the FCC and NTIA put out a Joint Public Notice Announcing AWS-3 Coordination Details, which refined the default nationwide coordination zones and provided additional information regarding coordination between Federal and non-Federal commercial shared use of the 1695-1710 MHz and 1755-1780 MHz bands. Because of the need for a 3-way agreement between ISED, FCC and NTIA, the agencies are working towards development of a new bilateral arrangement.

VHF Interoperability Channels: ISED identified two channels, 159.81 MHz and 159.93 MHz, which they suggested the channels might be used for public safety interoperability communications. FCC and ISED need to figure out how to deal with the adjacent channels in order to minimize the impact to WTB's Industrial/Business spectrum as the US continues licensing the adjacent channels in the coordination zone for Industrial/Business use.

3.5 GHz: The Commission adopted a *Report and Order and Further Notice of Proposed Rulemaking* creating a new Citizen's Broadband Service to promote small cells and spectrum sharing. This band was identified for potential broadband use in the NTIA 2010 Fast Track Report. SAS operators have expressed resistance to implementing any protection criteria that is not enforceable through FCC rules or international treaty.

STATUS:

General Coordination Agreement (GCA): The U.S. and Canada have agreed to the text of the new treaty. Canada is pursuing an Order in Council from its Parliament to authorize signature and the U.S. State Department is similarly working on C-175 signing authority for the U.S. Both Administrations anticipate final signing authority to be completed by fall 2020.

700 MHz Public Safety Broadband: ISED and FCC are jointly working on finalizing a draft Statement of Intent (SOI) for sharing public safety broadband spectrum along the border, which is based on principles used for commercial portions of the band, Arrangement O.

600 MHz Wireless and DTV Transition: FCC and ISED coordinated the release of the agencies' new 600 MHz band plan and joint repacking schedule on April 13, 2017, fulfilling the stated goals of the 2015 Statement of Intent by repurposing 84 MHz of UHF TV spectrum for mobile broadband use. Recently, ISED indicated it would move any Canadian TV stations affecting the U.S. TV transition or new 600 MHz wireless services within the 39-month repacking period mandated for U.S. stations. Canada completed the migration of television operations out of 600 MHz spectrum on July 3, 2020. Canada's television transition for channels 2 thru 37 will continue until January 14, 2022. The agencies are working on two new arrangements: 1) a new DTV arrangement; and 2) a new arrangement for 600 MHz broadband operations in both countries.

700 MHz Air-Ground: FCC and ISED are working on finalizing the draft SOI defining the sharing zone, defining low and high altitude, defining technical limits for land mobile, protecting base station beyond the sharing zone, and designating channels outside the narrowband segment for high altitude aircraft.

AWS-4: ISED and FCC are working on finalizing the draft SOI.

AWS-3: NTIA, FCC, and ISED are working on finalizing the draft SOI.

VHF Interoperability Channels: FCC and ISED are working on finalizing the draft SOI.

3.5 GHz: The FCC and ISED are working on principles for an interim arrangement.

IB BRIEFING SHEET

SUBJECT: Major ITU Conferences (other than WRC)

SUMMARY: Every four years the ITU Telecommunications Sector and Development Sector hold a conference to set the direction for the Sectors and define the scope of work and elect leadership for Study Groups. The Telecommunications Sector's conference is called the World Telecommunication Standardization Assembly (WTSA) and the Development Sector's conference is called the World Telecommunication Development Conference (WTDC). (The Radiocommunication Sector holds its World Radio Conference generally every 3-4 years. There is a separate briefing sheet for that conference). In addition to the sector conferences, the ITU holds its Plenipotentiary Conference every four years.

The U.S. Department of State heads the multi-stakeholder U.S. delegation to these conferences. FCC experts play a prominent role within the U.S. delegation, contributing actively to the development of U.S. proposals and positions and serving as U.S. and regional leads on key issues.

WTSA:

The ITU Telecommunication Standardization Sector (ITU-T) is responsible for the contribution-driven, consensus-based development of international telecommunication standards, carried out through the technical work of eleven Study Groups. The WTSA was originally scheduled to take place in Hyderabad, India, in November 2020, but has been postponed due to the pandemic. Discussions are ongoing about whether and when a virtual WTSA will be rescheduled or whether the major business of the conference will go forward in a virtual meeting later in 2021.

Overall FCC/U.S. objectives for WTSA:

- Promoting high-quality, demand-driven international telecommunications standards;
- Improving organizational effectiveness and ensuring value-add by improving working methods and processes, reaffirming a commitment to efficiency, transparency, and consensus-based decision-making;
- Focusing on core ITU-T strengths, leveraging limited resources by reducing duplicative activities and minimizing overlap with the work of other ITU Sectors and other standards development organizations;
- Enhancing collaboration with the ITU Telecommunication Development Sector (ITU-D) on standards-related capacity building and knowledge sharing with developing countries; and
- Building a long-term strategy in order to set the stage for broader ITU-T reform.

Key Issues:

- Undertaking structural and procedural reforms to tighten working methods and ensure proposed new work streams have wide backing among membership. The United States is pursuing these reforms in large part in response to a broadening of the ITU-T's scope to address issues that the United States views as outside the ITU's mandate, such as Internet policy and issues related to new technologies like machine learning and IOT.

- Advancing U.S. leadership in the Sector. The United States has nominated six candidates for ITU-T leadership positions up for appointment at WTSA, including five candidates from industry and one from the FCC (Ms. Ena Dekanic for ITU-T Study Group 3 Vice-Chair).
- Countering China's proposal to study "new IP" (i.e. "future vertical communications Networks"). Under its so-called "new IP" concept, China is vigorously promoting its vision for a future telecommunications and Internet-based connectivity mechanism for vertical applications, especially those relying on 5G (and beyond) infrastructure, as well as other emerging technologies. Allegedly intended to resolve perceived problems with the current Internet Protocol, China's "new IP" proposals risk ensuring vendor lock-in and promoting a top-down, centrally-managed approach to the Internet. As such, experts from the U.S. delegation (led by NTIA and State, with strong support from the U.S. private sector) continue to work diligently to counter China's proposals and strengthen U.S. strategy and messaging.
- Countering what the United States considers to be mission creep in ITU-T. Some countries are seeking to expand both standardization and regulatory/policy efforts within the ITU-T with respect to emerging technologies, e.g., AI, machine vision, quantum, distributed ledger technologies (DLT)/blockchain, etc. In coordination with other like-minded countries the United States continues to consider how best to address proposals related to emerging technologies and ensure the ITU-T remains focused on its core mission and mandate.

WTDC:

The ITU Development Sector organizes and coordinates technical cooperation and development assistance activities through its own projects and in conjunction with other U.N. agencies. It has regional offices around the world, in addition to the staff located in Geneva. The United States holds two key leadership positions in the Sector; an American citizen, Doreen Bogdan Martin, is the elected head of the Sector (she had previously worked in senior staff positions at the ITU) and Roxanne McElvane Webber from the FCC's International Bureau is the Chair of the Sector's oversight group, known as the Telecommunications Development Advisory Group. Ms. Bodgan-Martin was elected to her four-year term at the 2018 Plenipotentiary Conference.

The next WTDC will be held in February 2021, in Addis Ababa, Ethiopia. FCC staff have been working with the U.S. multistakeholder preparation group to lay the groundwork for proposals to the conference. At this relatively early stage, the focus is on working with regional partners in the Americas Region to support reforms for the Sector to streamline operations and broaden participation that are championed by Ms. Bodgan-Martin.

Plenipotentiary Conference (Plenipot):

The Plenipot is the supreme governing and highest policy-making body for the ITU. Its primary functions are to:

- adopt the four-year strategic and financial plans for the ITU;
- elect the forty-eight Member States of the ITU Council (the U.S. has always been elected to Council);
- elect the leadership of the ITU, including the Secretary-General, the Deputy General Secretary General, and the Directors of the three Sectors;

- adopt and/or amend Resolutions and Decisions that provide direction to the ITU Secretariat and invite action by Member States and others.

The next Plenipot will be held in 2022. The current Secretary General, Houlin Zhao of China, and the current Deputy Secretary General, Malcolm Johnson of the U.K. will have completed two terms and will not be eligible for re-election to those positions. Ms. Bodgan Martin will be eligible to run for another term as head of the Development Sector, or for another position such as Deputy Secretary General or Secretary General, if the United States chooses to advance her candidacy for any of those positions

In past conferences, the most challenging policy issues related to the scope of the ITU's mandate and whether it should include policy work related to new technologies, Internet governance, and cybersecurity. We expect those issues to also be challenging at the 2022 conference

IB BRIEFING SHEET

SUBJECT: Large Non-Geostationary-Satellite Orbit (NGSO) Fixed-Satellite Service (FSS) Constellations and Application Processing Rounds

SUMMARY: There is significant industry interest in developing and deploying large constellations of NGSO satellites with robust capabilities to be used for global Internet connectivity as well as other services. Based on a lead application filed in April 2016 by OneWeb for Ku- and Ka-band frequencies, the FCC initiated a processing round for licensing proposed systems. Eleven other license applications or requests for market access were submitted in response. An application by Boeing in June 2016 for V-band frequencies triggered another processing round, where an additional nine V-band applications or petitions for market access were filed. Licenses will be granted for all systems that meet the FCC's licensing and technical criteria. The FCC initiated a second processing round for applicants for Ku- and Ka-band frequencies in March 2020.

To date, the Commission has approved eleven applications, that are currently active, to launch NGSO satellite constellations using the Ku-, Ka, and/or V-bands. OneWeb, SpaceX and Kepler have launched the first satellites of their constellations (by October 2020, OneWeb had launched 74 satellites, SpaceX had launched approximately 800 and Kepler 5). Whenever there is potential for interference, operators are expected to develop sharing arrangements among themselves or resort to the FCC's default mechanism that prescribes splitting the overlapping spectrum during the periods of time when interference may occur.

BACKGROUND:

2016 Ku-Band/Ka-Band Processing Rounds. In April 2016, OneWeb filed a Petition for Declaratory Ruling requesting access to the U.S. market for its NGSO constellation in the Ku- and Ka-bands (10.7-12.7 GHz, 14.0-14.5 GHz, 17.8-18.6 GHz, 18.8-19.3 GHz, 27.5-28.35 GHz, 28.35-29.1 GHz, and 29.5-30.0 GHz bands). In July 2016, a public notice announced a processing round for the submission of applications for NGSO systems using the same frequency bands applied for by OneWeb. Applications to be considered in this processing round were accepted until November 15, 2016. A list of the applications is provided below in the "Status" section.

On May 26, 2017, the FCC initiated another processing round to cover some frequencies not included in the OneWeb application. This processing round had a cut-off date of July 26, 2017 and included the following frequency bands: 12.75-13.25 GHz; 13.85-14.0 GHz; 18.6-18.8 GHz; 19.3-20.2 GHz; and 29.1-29.5 GHz. New Spectrum Satellite filed a new application and SpaceX filed a supplemental application in response. New Spectrum's application also included frequencies which fell in three categories: OneWeb processing round frequencies (after the cutoff date); additional processing round (within the cutoff date); and new frequencies.

The following submissions occurred after the cutoff dates for filing applications:

- On September 27, 2018, ViaSat filed an amendment to its application reducing the number of satellites from 24 to 20. ViaSat's application, as amended, was granted on April 22, 2020.
- On November 8, 2018, SpaceX submitted a modification to its authorization to have 1,584 satellites of its constellation operating at an altitude of 550 km in lieu of the currently authorized 1,600 satellites operating at 1,150 km. This reduced the total number of satellites in the constellation from 4,425 to 4,409. The modification application also addressed conditions in the original authorization related to orbital debris mitigation, compliance with power limits, and protection of fixed services in the Ka-band. This application was granted on April 26, 2019 and on May 23, 2019, SpaceX launched the first 60 satellites of its constellation.
- On August 10, 2019, SpaceX submitted a second modification application proposing to operate the 1,584 satellites that will be at a 550 km in 72 planes with 22 satellites each, instead of 24 planes with 66 satellites each. This application was granted on December 19, 2019.
- On July 4, 2019, Kuiper, a wholly owned subsidiary of Amazon Services, filed for a U.S. license to operate a NGSO FSS constellation consisting of 3,236 satellites in 98 orbital planes at altitudes of 590 km, 610 km, and 630 km. Operations will be conducted using Ka-band frequencies. Kuiper requested a waiver of the rule that would require a new processing round. Kuiper's application was granted on July 29, 2020 and the Commission denied Kuiper's waiver request to be considered part of the first, or 2016 processing round, and noted that Kuiper's system would be considered part of the second or "March 2020" processing round for purposes of coordination.
- On April 17, 2020, SpaceX filed a third modification application proposing to operate all satellites of the constellation at altitudes varying between 540 km and 570 km in orbits with inclinations of 53° (1584 satellites), 53.2°(1,584), 70°(720), 97.6° (520). This application is pending. (See separate briefing sheet on the SpaceX 3 Modification).

March 2020 Ku-Band/Ka-Band Processing Round. Applications from New Spectrum Satellite for use of Ku-band frequencies, filed in July 2017, and from Kuiper for use of Ka-band frequencies, as described above, triggered a processing round announced by a Public Notice of March 24, 2020. During the filing window that closed on May 26, 2020, 8 other applications were filed including a submission from New Spectrum Satellite that replaced its previous 2017 application. Some of these applications were submitted as amendments to pending applications or modifications to existing grants.

V-Band Processing Round. With a lead application filed by Boeing in June 2016, on November 1, 2016, a public notice accepted the Boeing application for filing and initiated a processing round for additional NGSO V-band applications in the 37.5-40.0 GHz, 40.0-42.0 GHz, 47.2-50.2 GHz, and 50.4-51.4 GHz bands to be considered with the Boeing application. Applications were accepted until March 1, 2017, and eight other requests were filed, including a second application from Boeing and are listed below in the Status section. Boeing subsequently withdrew its initial application. ViaSat also filed an amendment to its application to reduce the

number of satellites from 24 to 20. ViaSat’s application, as amended, was granted on April 22, 2020.

NGSO FSS Rulemaking Proceeding. In September 2017, the Commission adopted a Report and Order that updated, clarified and streamlined the existing rules covering NGSO FSS systems to facilitate the deployment of these new large, technically complex constellations. Three petitions for reconsideration have been filed addressing several aspects of the NGSO FSS Order. Specifically, the Report and Order:

- amended the U.S. Table of Frequency Allocations to accommodate NGSO and geostationary operations that are currently being authorized through waivers of the Ka-Band Plan;
- relaxed the NGSO milestone rules, and removed international geographic coverage rules, to provide greater flexibility to NGSO FSS operators; and
- adopted a new threshold to characterize situations where, in the absence of a coordination agreement, spectrum will be split among NGSO FSS systems.

In August 2020, the Commission adopted a Second Report and Order in this proceeding that removed the domestic coverage requirement for NGSO FSS systems.

STATUS: The Commission has acted on all but one of the initial applications remaining in the first Ka, Ku, and V-band processing rounds.

Applicants who filed in the first or 2016 NGSO FSS Ku/Ka Band Processing Round

Company	Administration	Constellation Structure
Audacy Corporation (granted Jun 4, 2018)	US	3 satellites 3 planes (1 satellite per plane) in a 25° circular orbit at 13,890 km
Karousel LLC (granted Aug 16, 2018)	US	12 satellites 3 groups (4 satellites per group, with nominal nodal crossings at 85W, 135E, and 25 E) in a 63.4° circular orbit at 35,786 km
Kepler Communications (granted Nov 15, 2018)	CAN	140 satellites 7 planes (20 satellites per plane, including spares) in 98.6° circular orbit at 500 to 650 km
LeoSat MA, Inc. (granted Nov 15, 2018; grant became null and void in September 2019 for failure to maintain its surety bond)	NETHE	78 satellites (+6 spares) 6 planes (13 satellites + 1 spare per plane) in a 90° circular orbit at 1,400 km
O3b Limited (granted Jun 4, 2018)	UK	3 proposed additions to the current 12 operational satellites: (1) 8 additional satellites in circular equatorial orbit at 8,062 km; (2) 24 satellites in circular equatorial orbit at 8,062 km; and (3) 16 satellites: 2 planes (8 satellites per plane) in a 70° circular orbit at 8.062km; one proposed reduction from 60 to 42 satellites

Space Exploration Holdings, LLC (granted Mar 28, 2018 + modification 1 granted Apr 26, 2019 + modification 2 granted on Dec 19, 2019 + modification 3, filed Apr 17, 2020, is pending)	System is filed separately through US and Norway	Initial Deployment: 800-1600 satellites; 32 planes (25-50 satellites per plane) in a 53° circular orbit at 1,150 km Final Deployment: 2825 satellites
Space Norway AS (granted Nov 2, 2017)	NOR	2 satellites in 63.4° HEO (8,089 x 43,509 km)
Telesat Canada (granted Nov 2, 2017)	CAN	117 satellites 6 planes with 12 satellites per plane in a 99.5° circular orbit at 1,000 km; 5 planes with 9 satellites per plane in a 37.4 ° circular orbit at 1,248 km
Theia Holdings A, Inc. (granted May 9, 2019)	US	112 (+8 spares) 8 planes (14 satellites per plane) in a 98.6° circular orbit at 800 km
ViaSat, Inc. (amendment reducing number of satellites to 20, granted Apr 22, 2020)	NETH	24 satellites (+3 spares) 3 planes (8 satellites plus 1 spare per plane) in a 87° circular orbit at 8,200 km
WorldVu Satellites Limited (OneWeb) (granted Jun 22, 2017)	UK	720 satellites (plus spares) 18 planes (40 satellites per plane) in a 87.9° circular orbit at 1,200 km

Note: Boeing filed and subsequently withdrew an application and New Spectrum Satellite filed an application but amended it in response to the March 2020 processing round.

Applicants who filed in the V-band Processing Round

Satellite System	Administration	Number of Satellites
Theia (granted May 9, 2019)	US	112 (previously filed)
Audacy (granted Jun 4, 2018)	US	3 (previously filed)
SpaceX (granted Nov 15, 2018)	US	Some of the 4425 (previously filed) + 7518
Boeing 2 (pending)	US	147
Telesat (granted Nov 15, 2018)	CAN	117 (follow-on to the 117 Ku/Ka)
OneWeb (granted Aug 26, 2020)	UK	720 (previously filed)
O3b (granted Jun 4, 2018)	UK	24 (previously filed)
ViaSat (granted, as amended Apr 22, 2020)	NETHE	24 (previously filed)

Filings in response to the March 2020 Public Notice announcing a new Ku-Band/Ka-Band Processing Round:

Satellite System	Administration	Number of Satellites
New Spectrum Satellite	CAN	15 satellites, 63.435° (26,679 km x 1,125 km)
Kuiper (granted July 29, 2020)	US	3,236 satellites in 98 orbital planes at altitudes of 590 km, 610 km, and 630 km.
ViaSat	NETHE	288 satellites at an orbit altitude of 1,300 km.
SpaceX	US	Second generation constellation of 30,000 satellites
Mangata	UK	791 satellites in 27 MEO planes (inclinations 45°-52.5° and 32 HEO planes (inclinations of 63.4°).
Kepler	CAN	360 satellites, 12 orbital planes at an altitude of 600 ± 50km.
O3b	UK	Adding 70 satellites to the 42 satellites that currently have a market access grant
EOS (Audacy) (see Note)	US	Adding new frequencies to the currently authorized 3 satellites
Telesat	CAN	298 satellites (Phase 1) and total 1671 satellites (Phase 2)
OneWeb	UK	720 → 716 (Phase 1); total 47,844 (Phase 2)

Note: EOS has acquired Audacy.

IB BRIEFING SHEET

SUBJECT: Space Exploration Holdings, LLC (SpaceX) Modification Application

SUMMARY: SpaceX was licensed in April 2018 as part of the first NGSO FSS Ku, Ka-band processing round, or 2016 Processing Round, to deploy and operate a satellite system to provide broadband to consumers and businesses. (See separate briefing sheet on NGSO FSS processing rounds). SpaceX is currently launching satellites, and as of October 2020, has launched more than 800 satellites for operation at an altitude of approximately 550 km. These satellites are authorized pursuant to a license modification that lowered the operational altitude for 1,584 of the 4,425 licensed satellites. In April 2020, SpaceX filed a license modification request to move all remaining satellites in its constellation to the lower orbital region. Several parties oppose the application arguing that the change is a major reconfiguration of SpaceX's system, alters the interference environment and should not be considered as part of the 2016 Processing Round. Parties also argue that SpaceX's application presents risks to space safety. SpaceX disagrees with these contentions.

BACKGROUND:

In April 2018, as part of the first NGSO FSS Ku-, Ka-band Processing Round, the Commission authorized SpaceX to construct, deploy and operate an NGSO constellation consisting of 4,425 satellites operating at an altitude of 1,150 km using Ku-and Ka-band spectrum. SpaceX subsequently filed two applications for system modifications, which were approved.

- In November 2018, SpaceX submitted a modification to its authorization to specify operation of 1,584 satellites at an altitude of 550 km in lieu of 1,600 satellites planned for 1,150 km. With respect to the 1,584 satellites, the modification also addressed conditions in the original authorization related to orbital debris mitigation, compliance with certain power limits, and protection of fixed services in the Ka-band. This application was granted on April 26, 2019 and on May 23, 2019, SpaceX launched the first 60 satellites of its constellation.
- In August 2019, SpaceX submitted a second modification application proposing to operate the 1,584 satellites that will be at a 550 km in 72 planes with 22 satellites each, instead of 24 planes with 66 satellites each. The Bureau approved these changes on December 19, 2019.

On April 17, 2020, SpaceX filed a third modification to its authorized system. In this application, SpaceX seeks to specify operations of 2,824 satellites in the lower altitude range, at altitudes ranging from 540 km to 570 km with inclinations of 53°(1584 satellites), 53.2°(1,584), 70°(720), 97.6° (520), in lieu of altitudes ranging from 1,100 km to 1,330 km. In support of the application, SpaceX argues the changes will enhance space safety, allow SpaceX's system to provide low-latency broadband to unserved populations around the world and improve service to customers.

The modification application was placed on public notice on June 12, 2020 and the comment cycle ended on August 7, 2020. Several parties filed petitions to deny and/or to defer

consideration, or otherwise oppose the application, including, Kuiper (Amazon), Kepler Communications, SES Americom Inc./O3b Limited, ViaSat Inc. and the Balance Group. AT&T, WorldVu Satellites Limited, Debtor-in-Possession (OneWeb), and Spire Global, Inc., also filed comments.

Some opponents and commenters argue that relocating the remainder of its licensed satellites to a lower altitude will cause more “in-line” interference events to other NGSO FSS operators, due to the change in elevation angles. If the Commission does not deny the application, several parties ask that the Commission consider the modification as part of the Second NGSO FSS processing round, (triggered by the March 2020 Public Notice). Some commenters assert that SpaceX’s proposed changes will disrupt the environment in the 12 GHz band where there are sharing rules to allow Direct Broadcast Satellite Service (DBS) systems, NGSO and Multipoint Video Data Distribution Service (MVDDS) operations. In addition, some parties argue that there are significant space safety related issues, including risk of additional conjunction events with systems that are licensed to operate at close altitudes as well as orbital debris.

In response to petitions and comments, SpaceX argues that the application is not a major change and that it is improving the safety profile of its system and will not have a significant impact on other NGSO systems.

Related Issues:

SpaceX and Kuiper Petitions for Rulemaking: SpaceX and Kuiper each filed petitions for rulemaking seeking updates and changes the Commission’s satellite rules. In its petition, Kuiper seeks changes to the Part 25 modification application rule in the context of NGSO FSS modifications. SpaceX petitions for changes in the sharing rules for NGSO FSS systems in different processing rounds. (See separate briefing sheet on these two proceedings).

MVDDS 5G Coalition Petition for Rulemaking: In 2016, the MVDDS 5G Coalition, which is a group of terrestrial licensees holding authorizations in the 12 GHz band, filed a petition for rulemaking to allow spectrum in the 12 GHz band to be used for two-way, mobile and fixed 5G wireless broadband services. Terrestrial supporters of this proposal argue that SpaceX’s application would preclude many of the proposals described in the MVDDS petition.

STATUS: Application is pending.

IB BRIEFING SHEET

SUBJECT: Earth Stations in Motion (ESIMs) in the Fixed-Satellite Service (FSS)

SUMMARY: The Commission has adopted separate but related rules to govern the licensing and operation of earth stations on vessels (ESVs), land vehicles (VMESs), and aircraft (ESAAs) communicating with C-band and Ku-band geostationary-orbit (GSO) satellites in the FSS. Collectively, these earth stations are known as “earth stations in motion” or ESIMs. In September 2018, the Commission adopted a Report and Order that consolidated various rules addressing the three different categories of ESIMs operating with GSO satellites into one rule section, as well as a Further Notice of Proposed Rulemaking (FNPRM) seeking comment on ESIM operation with GSO satellites in portions of the Ku-band and Ka-band. In November 2018, the Commission adopted an NPRM seeking comment on possible ESIM operation with non-geostationary-orbit (NGSO) space stations. In May 2020 the Commission adopted a Report and Order that expanded frequency bands for GSO satellites communicating with ESIMs as well as a framework to allow ESIMs to communicate with NGSO space stations. A Further NPRM was also adopted seeking comment on possible out-of-band interference to terrestrial “UMFUS” operations

BACKGROUND: The FSS traditionally involves communication between satellites in orbit and earth stations at fixed locations. Frequencies allocated to the FSS, however, have been used for many years for the operation of earth stations in motion. As the use of earth stations in motion evolved to include broadband communications, it became clear that Mobile-Satellite Service (MSS) spectrum was not able to fully meet this requirement. Today, most satellite operators (e.g. Intelsat, SES, and ViaSat) view ESIMs as one of their fastest growing segments. To date, applications have focused mostly on ESVs and ESAAs. Developments in antenna technology are expected to drive the growth of VMES applications, as antenna manufacturers (e.g., Kymeta, a manufacturer of small satellite antennas), satellite operators and car manufacturers (e.g., Toyota) jointly explore these possibilities.

The R&O released in September 2018, consolidates into a single rule section, the sections in Part 25 of the Commission’s rules for the three types of FSS earth stations that the Commission authorizes to communicate while in motion with GSO space stations. In addition, the R&O expands the range of frequency bands for GSO FSS ESIM operation to include the 28.35-28.6 GHz, 29.25-30 GHz, 18.3-18.8 GHz, and 19.7-20.2 GHz bands (conventional Ka-band), where ESIMs have been licensed on an *ad-hoc*, non-conforming basis. The associated FNPRM sought comments on possible ESIM operation with GSO space stations in the following frequency bands: 10.7-10.95 GHz; 11.2-11.45 GHz; 17.8-18.3 GHz; 18.8-19.3 GHz; 19.3-19.4 GHz; 19.6-19.7 GHz; and 28.6-29.1GHz.

The November 2018 NPRM sought comment on possible ESIM operation with NGSO FSS space stations in the same Ku-band and Ka-band frequency ranges where ESIM communication with a GSO space station is either already allowed or was proposed in the September FNPRM. Specifically, these frequency ranges are: 10.7-11.7 GHz; 11.7-12.2 GHz; 14.0-14.5 GHz; 17.8-18.3 GHz; 18.3-18.6 GHz; 18.8-19.3 GHz; 19.3-19.4 GHz; 19.6-19.7 GHz; 19.7-20.2 GHz; 28.35-28.6 GHz; 28.6-29.1 GHz; 29.5-30.0 GHz.

On May 14, 2020, a Second R&O addressing the September 2018 FNPRM and a R&O addressing the November 2018 NPRM were released in a single document. The rule changes adopted allowed ESIM operations in the frequency bands proposed in the 2018 FNPRM and NPRM, with the exception of the frequency band 28.35-28.4 GHz. In the 28.35-28.4 GHz band, no ESIM operation is allowed pending consideration of a FNPRM, also released on May 14, 2020, which addresses possible out-of-band interference to terrestrial “UMFUS” operations below 28.35 GHz. The comment cycle in this proceeding closed on September 22, 2020, with participation from CTIA, SIA, Viasat, Kepler, Kuiper, Verizon/US Cellular and the Global Mobile Suppliers Association.

IB BRIEFING SHEET

SUBJECT: Space Situational Awareness and Space Mission Authorization

SUMMARY: For a number of years, there have been policy and legislative activities focused on improving the organization of U.S. space activities and authorization processes.

In November 2015, the Office of Science and Technology Policy (OSTP) recommended legislation that would charge the FAA with authorizing non-governmental space missions that are not squarely addressed by current licensing processes, and with serving as the civilian “face” of the 18th Space Control Squadron, (formerly the Joint Space Operations Center or JSPOC), for purposes of sharing space data with non-governmental satellite operators. These recommendations were reiterated in reports to Congress completed on April 4, 2016, concerning authorization, and September 16, 2016, concerning the feasibility of processing and releasing space situational awareness data through a civil agency, such as the FAA, instead of through the current process, which is headed by DoD. In addition, SAIC submitted a Congressionally mandated independent report assessing the framework for space traffic management and orbital debris mitigation on December 19, 2016. SAIC recommended that a single civil agency be given responsibility for orbital traffic management.

On June 18, 2018, President Trump signed Space Policy Directive 3 (SPD-3) concerning space traffic management. SPD-3’s wide-ranging policy statements include the following:

With respect to space situational awareness data, SPD-3 states that the Department of Commerce should be the civilian agency charged with distributing data, free of charge, and that there should be substantial improvements in the framework for sharing such data, and for incorporating data from sources other than the U.S. Space Surveillance Network.

With respect to orbital debris mitigation, SPD-3 initiated a NASA-lead process to update U.S. Government Standard Practices. FCC staff provided technical support for this effort, which was completed on December 9, 2019, with the release of revised guidelines. The revised guidelines include new provisions concerning large constellations, small satellites, and rendezvous and proximity operations.

RELATED MATTERS: On June 8, 2017, the Science, Space and Technology Committee completed a mark-up of the American Space Commerce Free Enterprise Act of 2017. That bill proposed to adopt a new authorization process for space activities, administered by the Department of Commerce, but would have exempted from this process traditional communications satellites licensed by the FCC. FCC staff provided technical support for these reports and for the draft legislation. On August 1, the Senate Committee on Commerce, Science and Transportation voted favorably on a bill known as the Space Frontier Act of 2018. Like the House bill, the Senate bill left existing FCC authority unaltered. Unlike the House bill, however, the Senate bill did not provide for expansion of the Department of Commerce’s role to the same extent, instead focusing on revision of Commerce’s current licensing processes for remote sensing systems and providing a somewhat expanded role for the FAA. The Senate bill was

reported out of committee on November 29, 2018. The Congress ended without further action on these bills.

On March 27, 2019, the Space Frontier Act of 2019 was introduced in the Senate. It was marked up in committee on April 3, 2019 and reported out of Committee on December 11, 2019. The bill is a slightly modified version of the Space Frontier Act of 2018. Following requests from House members, the Consolidated Appropriations Act of 2020 provided for a study to assess the organization best suited to take on space traffic management tasks. The National Academy for Public Administration released the study in August 2020, and recommended assigning space traffic management tasks to the Office of Space Commerce in the Department of Commerce.

IB BRIEFING SHEET

SUBJECT: Small Satellite Licensing

SUMMARY: Historically, the bulk of commercial activity in space involved larger satellites designed for long-term (10 years or more) operations and equipped with propulsion and solar arrays capable of producing relatively high levels of electrical power for operations. However, small satellites are increasingly being launched for scientific exploration, technology development, and commercial purposes. With the launch of 88 satellites on an Indian PSLV launch vehicle in 2017, U.S. remote sensing company Planet became the operator of what up until then was the largest satellite constellation by number of satellites (149 at the time).

The Planet satellites and many small satellites launched in recent years were built to the “CubeSat” standard, which allows deployment of the satellite from a standardized deployment pod, usually attached as a secondary payload on a launch vehicle. Launches dedicated to small satellites are becoming increasingly common, and several new launch vehicles and deployment devices specifically designed for this purpose are under development and/or providing initial launches for satellite customers.

FCC staff are continuing to license small satellites on a case-by-case basis. In addition, a new alternative, optional, cost-effective and streamlined small satellite licensing process, contained within Part 25 of the Commission’s rules, is now available.

BACKGROUND: In the last 15 years, the miniaturization of components in the cellphone mass market and the satellite industry’s ability to capitalize on commercial off-the-shelf equipment has enabled smaller, cheaper satellites to be built and launched into space. The CubeSat design, developed originally with the goal of easing access to space for the academic community, has since been widely adopted by commercial and amateur operators as well due to low cost and easy access to launch services. From 2012 through 2017, over 725 CubeSats had been launched, more than half of which were commercial satellites, and the majority of which were FCC-licensed.

Until recently, the Commission handled small satellite licensing in one of three ways: (1) as amateur radio service satellite operations under Part 97 of the Commission’s rules; (2) as experimental operations under Part 5 of the Commission’s rules, or (3) as regular satellite operations under Part 25 of the Commission’s rules. In response to concerns raised by universities, technology developers, and nascent commercial enterprises that the current Part 25 licensing process was developed primarily with large satellites in mind and imposes unnecessary burdens on small satellite operators, the Commission developed the Part 25 small satellite licensing process.

The new small satellite licensing process is geared primarily toward commercial operations, and is an optional alternative to the existing amateur, experimental, and Part 25 non-geostationary-orbit (NGSO) satellite authorization processes. It is not intended to replace or modify any of those existing processes, but will enable qualifying applicants to opt-in to a streamlined Part 25 application process, with a shorter timeline for review and a lower application fee that currently

exist for applicants under Part 25 of the Commission's rules. In order to qualify for small satellite streamlined processing, the following criteria must be met: (1) 10 or fewer satellites authorized under a single license (there is no limitation on the number of applications that may be filed); (2) maximum size of 180 kilograms for an individual satellite; (3) maximum in-orbit lifetime of any individual satellite is 6 years or less; (4) all operations under a license will be completed within 6 years; (5) deployment below 600 km., unless the satellite(s) have propulsion; (6) licensee will have the ability to eliminate harmful interference when necessary, including capability for immediate ceasing of emissions by telecommand; (7) the satellite or system will be compatible with existing operations in the requested frequency band and not materially constrain future operations of other satellites in those frequency bands; and (8) several additional criteria on orbital debris mitigation that are consistent with lower-risk missions. Eligible applicants are exempt from the Commission's Part 25 NGSO processing round procedures, have a 1-year grace period before filing of the surety bond, and are subject to a reduced Part 25 application fee of \$30,000. The related issue of Part 25 regulatory fees for small satellites will be addressed in the Commission's annual Regulatory Fee proceeding.

STATUS: These new small satellite processing rules came into effect on August 19, 2020. On October 8, 2020, the FCC issued the first license under the new process.

IB BRIEFING SHEET

SUBJECT: Mitigation of Orbital Debris

SUMMARY: The FCC's rules for satellite licensing have included requirements concerning mitigation of orbital debris since 2004. On November 15, 2018, the FCC initiated a rule making proceeding to take the first comprehensive look at the FCC's requirements since 2004. On April 23, 2020, the Commission revised the rules, with the objective of improving the specificity and clarity of the disclosures of debris mitigation plans by satellite companies. The changes include requiring that satellite applicants assign numerical values to collision risk, probability of successful post-mission disposal, and casualty risk associated with those satellites that will re-enter earth's atmosphere. Satellite applicants will also have new disclosure requirements related to protecting inhabitable spacecraft, maneuverability, use of deployment devices, release of persistent liquids, proximity operations, trackability and identification, and information sharing for situational awareness. The new rules also update the process for geostationary orbit satellite license term extension requests.

The Commission also adopted a Further Notice of Proposed Rulemaking, which invites additional comment on orbital debris mitigation measures related to the probability of accidental explosions; collision risk and casualty risk for satellite constellations on a system-wide basis; and on requiring maneuverability for space stations located above a certain altitude in the low earth orbit region and limiting post-mission orbital lifetime. The Commission will also seek public comment on adopting an indemnification requirement similar to one used in some other countries and on the use of a surety bond tied to post-mission disposal.

BACKGROUND: The FCC rules for orbital debris mitigation apply to all satellite licensing (experimental under Part 5, commercial under Part 25, and amateur under Part 97 of the rules), including requests to access the U.S. market using non-U.S. licensed satellites. The rules require a plan, submitted to the FCC, discussing steps taken or to be taken to avoid debris generation from accidental explosions and collisions with large objects, and the method of disposal for the satellite after its primary mission ends. Plans are reviewed as part of the licensing process, and authorizations are subject to additional conditions or denial if a plan is found to be contrary to the public interest.

The FCC rules follow the general outline of various guidelines and standard practices developed domestically and internationally. The U.N. General Assembly has endorsed guidelines for debris mitigation developed by its Committee on Peaceful Uses of Outer Space. Those guidelines were, in turn, based on guidelines developed by the Inter-Agency Space Debris Coordinating Committee (IADC), which is comprised of space agencies from the major space-faring nations. The IADC guidelines were developed contemporaneously with U.S. Government Standard Practices.

As a companion to these high-level guidelines, NASA has developed a standard and related assessment tools that it uses for its own missions. These tools include open source software and are used by many satellite operators to prepare documentation for FCC license applications. The NASA assessment tools include several quantitative requirements stated on a per satellite basis,

for example for risk of collision with large objects and risk of human casualties from satellites re-entering Earth's atmosphere.

Since 2004, when the FCC rules were adopted, there have been significant changes in satellite technologies and market conditions, particularly in the low earth orbit region of space. These changes include the increasing use of lower-cost small satellites, such as CubeSats, as well as plans for the deployment of large constellations of non-geostationary orbit systems, some involving thousands of satellites.

On June 18, 2018, the President signed Space Policy Directive 3 (SPD-3). Among a number of initiatives, SPD-3 directed NASA, working with other agencies, including the FCC in a consultative role, to update the U.S. Orbital Debris Mitigation Standard Practices. This activity was completed with the release of revised standard practices on December 9, 2019.

The FCC rule changes mirror many of these revisions. The Further Notice of Proposed Rule Making seeks comments on several questions related to how other revisions should be implemented in the FCC licensing process.

STATUS: Three parties (Kuiper, SpaceX, and a consortium of satellite operators) filed petitions for reconsideration of the Report and Order, on September 24, 2020. The comment deadline for the FNPRM was on October 9, 2020, with in excess of 40 filings received by that date, from a wide range of interests. Reply comments are due November 9, 2020.

IB BRIEFING SHEET

SUBJECT: Further Streamlining Part 25 Rules Governing Satellite Services

SUMMARY: In November 2018, the Commission adopted a Notice of Proposed Rulemaking that incorporated suggestions received from industry during the Commission’s biennial review of its part 25 rules governing satellite services, as well as proposals developed by Commission staff during its independent review. These proposals would further streamline the Commission’s satellite rules, greatly simplify the licensing process, and provide additional flexibility for satellite operators.

Specifically, the Notice:

- Proposed an optional, streamlined license for geostationary orbit fixed-satellite service (GSO FSS) space station networks in certain “two-degree spacing” bands that would authorize both the satellites and earth stations in the network. This unified network license would eliminate redundancies in the separate authorization processes for satellites and earth stations, and thereby facilitate the more rapid and cost-efficient deployment of earth stations.
- Proposed to align the one-year buildout periods for earth stations in certain bands where advance terrestrial coordination is necessary with the accompanying five-year or six-year buildout periods for their communicating satellites. Such alignment would give satellite operators greater certainty with respect to the placement of their gateway earth stations while the satellite design is being finalized.
- Proposed to repeal certain satellite annual reporting requirements.
- Proposed to update the default out-of-band emissions limits for satellite services with an internationally adopted standard, and
- Sought comment on other industry proposals to streamline the processing of satellite and earth station applications and modifications.

STATUS: The comment cycle closed on April 16, 2019. A draft Report and Order has been circulated for consideration at the Commission’s November 18, 2020 Open Meeting.

IB BRIEFING SHEET

SUBJECT: Non-Geostationary-Satellite Orbit (NGSO) Mobile-Satellite Service (MSS) Constellations and Associated Processing Rounds

SUMMARY: In the last few years several companies submitted proposals for use of frequencies allocated to the MSS, mostly for the provision of Internet of Things (IoT) connectivity. As a result, the Commission initiated two processing rounds addressing non-voice NGSO MSS systems. One processing round, initiated in August 2019, covers the frequency bands 400.15-401 MHz (↓) and 399.9-400.05 MHz (↑) and is referred to here as the UHF Processing Round. The other, initiated in March 2020, covers the frequency bands 137-138 MHz (↓) and 148-150.5 MHz (↑) and is referred to here as the VHF Processing Round. The UHF Processing Round includes five applications filed by the relevant deadline: Hiber, Myriota, Spire Global, Astro Digital, and Kineis. The VHF Processing Round includes two applications: Myriota, and Swarm.

BACKGROUND:

400.15-401 MHz (↓) and 399.9-400.05 MHz (↑)

On September 10, 2018, Hiber filed a market access application for a constellation of 24 satellites, operating in the frequency bands 400.15-401 MHz (↓) and 399.9-400.5 MHz (↑). On March 28, 2019, Myriota requested access to the US market using the same frequency ranges on a constellation of 26 satellites operating at an altitude no greater than 600 km.

A Public Notice released on August 15, 2019, announced a processing round for non-voice NGSO MSS systems operating in 400.15-401 MHz (↓) and 399.9-400.05 MHz (↑). In addition to Hiber and Myriota, this processing round (UHF Processing Round) also included previous applications submitted by Spire Global and Astro Digital, which were still pending with respect to these frequency bands.

On October 11, 2019, Kineis requested market access for a constellation of 25 satellites (650 km altitude; 5 orbital planes with 98° inclination) using the 399.9-400.05 MHz and 400.15-401 MHz bands. Kineis was also included in the UHF Processing Round.

137-138 MHz (↓) and 148-150.5 MHz (↑)

On December 21, 2018, Swarm filed an application to use frequencies in portions of the 137-138 MHz band for downlink and of the 148-149.95 MHz band for uplink on a constellation of 150 technically identical satellites, at altitudes ranging from 400 to 550 km. This application was granted on October 17, 2019.

On November 18, 2019, Myriota filed an application requesting access to the U.S. market, using frequencies in the same ranges. On March 5, 2020, a Public Notice announcing a processing round non-voice NGSO MSS systems (VHF Processing Round) was released asking for competing applications by May 4, 2020. The only application submitted during the filing

window came from Swarm, which filed a modification application requesting an increase in the number of satellites from 150 to 300 and authorization to operate in the full frequency ranges 137-138 MHz and 148-150.5 MHz.

Both the Myriota application and the Swarm modification application are currently pending.

STATUS:

UHF Processing Round

The following NGSO MSS applications were included in the UHF processing round.

System	Number of Satellites (Orbit Altitude)	Licensing Administration (Main Use)
Hiber (granted May 6, 2020)	24 (600 km)	Netherlands (IoT)
Myriota (granted May 29, 2020)	26 (400 km to 600 km)	Australia (IoT)
Kineis	25 (650 km)	France (IoT)
Spire	25 (650 km) 1,000 (385 TO 650 km)	US (TT&C)
Astro Digital	30 (600 km)	US (TT&C)

VHF Processing Round

The following NGSO MSS applications were included in the VHF processing round.

System	Number of Satellites (Orbit Altitude)	Licensing Administration (Main Use)
Swarm (see Note)	300 (300 km to 550 km)	US (IoT)
Myriota	26 (400 km to 600 km)	Australia (IoT)

Note: On Oct 17, 2019, before the announcing of the VHF processing round, Swarm had an application granted including 150 satellites and only a portion of the frequency ranges included by Swarm in the modification application filed within the filing window of the processing round.

IB BRIEFING SHEET

SUBJECT: Petitions for Rulemaking Addressing Part 25

SUMMARY:

SES Petition for FSS Use of the 17 GHz Band

On March 5, 2019, SES Americom requested that the Commission initiate a rulemaking to amend parts 2 and 25 of the rules to authorize Fixed Satellite Service (FSS) operations in the space-to-Earth direction using the 17.3-17.7 GHz frequencies (“17 GHz band”) on a protected basis. This Petition was placed on public notice on May 1, 2019. Comments cycle concluded on June 17, 2019. A draft Notice of Proposed Rulemaking has been circulated for consideration at the Commission’s November 18, 2020 Open Meeting.

SpaceX Petition (Sharing Between NGSO FSS Systems in Different Processing Rounds)

On April 30, 2020, SpaceX filed a Petition for Rulemaking addressing sharing for NGSO FSS systems. SpaceX proposals include: (i) limiting the default sharing procedure in section 25.261(c) to systems authorized within the same processing round, and not to apply it between rounds; (ii) quantifying the level to which a later-round NGSO FSS system would have to protect an earlier-round system; (iii) earlier-round NGSO FSS systems should be required to share data on their beam locations to facilitate the analysis performed by the later-round NGSO FSS system licensee; (iv) the protection of earlier-round systems from later-round systems should sunset after a period of time.

The Petition was placed on Public Notice on May 14, 2020, and the comment cycle concluded on July 1, 2020.

Kuiper Petition (Revisiting Section 25.117 in the Context of NGSO FSS Modifications)

On July 9, 2020, Kuiper filed a Petition for Rulemaking, proposing to address section 25.117 (Modification of station license). Kuiper specifically proposes that any of the following changes would lead a modification application to be included in a subsequent processing round: (i) changes in apogee or perigee by 10 km in altitude; (ii) changes in orbital inclination of more than 2 degrees; (iii) changes that materially increase the number or duration of in-line interference events; (iv) changes that materially increase the received interference power density to other co-frequency NGSO FSS licensees. Kuiper also requests consideration of the cumulative effect of several modifications of an application. The Petition was placed on public notice on July 16, 2020, and the comment cycle concluded on September 1, 2020.

OFFICE OF ECONOMICS AND ANALYTICS

BRIEFING SHEETS

November 2, 2020

Table of Contents

SUBJECT	PAGE #
Creation of Office of Economics and Analytics	1
FCC Spectrum License Auctions	2
FCC USF Auctions	6
Reform of Part 1 Competitive Bidding/Designated Entity Rules	10
Communications Marketplace Report	12
Digital Opportunity Data Collection (DODC)	13

SUBJECT: Creation of the Office of Economics and Analytics (OEA)

SUMMARY:

The Office of Economics and Analytics was launched on December 11, 2018. OEA works with the Chairman, Commissioners, Bureaus, and Offices to ensure that economic analysis is deeply and consistently incorporated into the agency’s regular operations and throughout the decision-making process. There are over 115 staff in OEA including approximately 65 economists.

OEA has four Divisions:

- Auctions Division
- Data Division (includes data governance; and OPEN Data Govt Act)
- Economic Analysis Division (includes performing cost-benefit analyses, transaction review, economic analytic support for policy making, and reviewing Commission-level items)
- Industry Analysis Division (includes the Form 477 and USF monitoring reports among other responsibilities)

BACKGROUND:

Chairman Pai announced his proposal to establish a standalone FCC Office dedicated to economics and data analysis, which would become the Office of Economics & Analytics, in an April 2017 speech at the Hudson Institute. Following the announcement of his proposal, the Chairman formed a working group of FCC staff to develop a plan for creating this new office. In January 2018, the working group released a report with its findings and recommendations. On January 30, 2018, the FCC adopted an Order creating OEA. The Order amended the FCC’s rules to reflect the new organizational structure and describes OEA’s functions and delegated authority.¹

OEA is charged with expanding and deepening the use of economic analysis in Commission policy making, enhancing the development and use of auctions, and implementing consistent and effective agency-wide data practices, collections and policies. OEA provides economic analysis for rulemakings, transactions, adjudications, and other Commission actions; manages the FCC’s auction program; designs and implements some of the Commission’s most critical data collections, particularly related to broadband mapping; develops policies and strategies to help manage the FCC’s data resources and establish best practices for data use; and conducts long-term research on ways to improve the Commission’s policies and processes.

The rules describing the functions of OEA can be found in [47 CFR § 0.21](#).

¹ See *In the Matter of Establishing a 5G Fund for Rural America; Universal Service – Mobility Fund*, Notice of Proposed Rulemaking and Order, 35 FCC Rcd 3994, 4062, para. 206 (establishing delegated authority for OEA).

SUBJECT: FCC Spectrum License Auctions – Various AU Dockets

BACKGROUND AND KEY ISSUES: The Commission has used auctions for over 25 years to award authorizations for the use of spectrum. More recently, the Commission has conducted incentive auctions comprised of reverse and forward auctions pursuant to authority granted under Title VI of the Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act). See the separate discussion regarding FCC Universal Service Fund auctions (briefing sheet starting at page 9).

Spectrum Auctions: Section 309(j) of the Communications Act requires the Commission to assign licenses by competitive bidding where mutually exclusive license applications are accepted, unless a statutory exemption applies. Auctions provide the Commission with an efficient tool for the assignment of licenses when there are competing demands for spectrum. In 2012 the Commission was granted authority by the Spectrum Act to conduct incentive auctions to meet the growing demand for wireless broadband. Pursuant to the Spectrum Act, incentive auctions determine through a descending price (or “reverse”) auction, the amounts sought by pre-existing licensees that voluntarily relinquish their licenses, which amounts will be paid from the proceeds of bidding in an ascending price “forward” auction that assigns new initial spectrum licenses subject to flexible-use service rules for the bandwidth cleared in by the reverse auction. The Spectrum Act also extended the Commission’s general auction authority until 2022.

- Since the first spectrum auction was held in July 1994, 3,170 winning bidders (of over 5,400 qualified bidders) have won approximately 85,000 licenses in 95 auctions (as of Auction 105 closing on August 25, 2020)
- The Commission has raised over \$126 billion for the US Treasury including, as of September 30, 2020:
 - \$39.8 billion for the Public Safety Trust Fund
 - includes \$4.5 billion from Auction 103 to be transferred in early FY 2021
 - includes \$20 billion to be transferred to the General Fund by NTIA for deficit reduction in FY 2022
 - \$24.3 billion to the General Fund
 - \$18.9 billion to the Digital Television Transition and Public Safety Fund
 - \$18.4 billion to the Spectrum Relocation Fund
 - \$10.0 billion in payments for winning reverse auction bids in the broadcast television incentive auction
 - \$1.75 billion to the TV Broadcasters Relocation Fund
 - \$37.1 million in incentive payments to clear 39 GHz spectrum for new licenses

Spectrum Auctions Completed in FY 2020

Auction	Winning Bidders	Licenses Won	Net Winning Bids [after bidding credit discounts]	Fiscal Year
103 – Upper 37, 39, and 47 GHz	28	14,142	\$7,558,703,201	2020
105 – 3.5 GHz	228	20,625	\$4,543,232,339	2020

- Upper 37 GHz, 39 GHz, and 47 GHz (Auction 103)** — In December 2018, the Commission established a framework to auction spectrum in the upper 37 GHz (37.6-38.6 GHz), 39 GHz (38.6-40 GHz), and 47 GHz (47.2-48.2 GHz) bands. This innovative incentive auction mechanism offers new licenses of contiguous spectrum in these bands while enabling incumbents to preserve spectrum usage rights provided by pre-existing licenses in the 39 GHz band.

Under the incentive auction approach, an incumbent 39 GHz licensee could choose to relinquish the spectrum usage rights provided by its existing licenses in exchange for a share of the proceeds from the auction of new licenses. Alternatively, the incumbent could choose to receive modified licenses after the auction that are consistent with the new band plan and service rules and equivalent to its existing authorizations to operate in the 39 GHz band. All 39 GHz incumbents selected to relinquish their licenses.

Consequently, Auction 103 offered 24 100-megahertz blocks in the contiguous Upper 37 GHz and 39 GHz bands, with an additional 10 100-megahertz blocks in the 47 GHz band in 416 PEAs, for a total of 14,144 licenses.

Bidding in this auction began on December 10, 2019, and concluded on March 5, 2020, with the conclusion of the assignment phase. Auction 103 raised a total of \$7,558,703,201 in net bids (\$7,569,983,122 in gross bids), with 28 bidders winning a total of 14,142 licenses, or over 99 percent of the licenses offered. Based on these bids, the incentive payments for existing licensees total \$3,084,172,898, and the net proceeds for the auction total \$4,474,530,303. Following an auction, spectrum license applications are granted on a rolling basis. The first grant of licenses after Auction 103 generated sufficient auction proceeds to pay all the incentive payments in full. Three winning bidders that also were incumbent licensees used incentive payments to offset some of their winning bids for new licenses. One winning bidder that also was an incumbent offset all of its winning bids for new licenses with its incentive payment and received the remainder in cash. Seven other incumbents received all of their incentive payments in cash.

- 3.5 GHz (Auction 105)** — Auction 105 offered seven 10-megahertz unpaired channels within the 3550-3650 MHz band in each county-based license area. Thus, the auction offered a total of 22,631 Priority Access Licenses, the largest number of licenses ever offered in a single Commission auction, each of which is a 10-year renewable license.

Bidding in Auction 105 began on July 23, 2020, after being postponed from its original June 25, 2020 date due to the pandemic and concluded on August 25, 2020. Auction 105 raised a total of \$4,543,232,339 in net bids (\$4,585,663,345 in gross bids), with 228 bidders winning a total of 20,625 licenses, or over 90 percent of the record number of licenses offered. Down payments for winning bids and long-form license applications were due by 6:00 pm on September 17, 2020. Final payments were due by 6:00 pm on October 1, 2020.

Currently Scheduled Spectrum Auctions:

- **3.7 GHz (Auction 107)** — Auction 107 will offer 5,684 new flexible-use overlay licenses for 280 megahertz of spectrum in the 3.7–3.98 GHz band throughout the contiguous United States subject to clearing requirements. The spectrum will be licensed on an unpaired basis in 20-megahertz sub-blocks over partial economic areas (PEAs) in the contiguous states and the District of Columbia.

The 3.7–4.2 GHz band, also known as the “C-Band,” previously was allocated in the United States exclusively for non-Federal use on a primary basis for Fixed Satellite Service (FSS) and Fixed Service services. The Commission set a deadline for clearing the lower 300 megahertz of the C-Band by December 5, 2025, with 280 megahertz to be made available for 5G services and 20 megahertz to become a guard band. Existing space station operators that must relocate services to clear spectrum for new licenses were given until May 29, 2020, to choose whether to make a binding commitment to clear the spectrum on an accelerated timetable. All eligible space station operators made the commitment. Accordingly, these companies must first clear 120 megahertz of spectrum in 46 PEAs by December 5, 2021. In a second phase, they must clear the lower 120 megahertz in the remaining PEAs, plus an additional 180 megahertz nationwide, by December 5, 2023. If the companies fulfill these commitments, they will be eligible for up to \$9.7 billion in accelerated relocation payments plus reasonable relocation costs, paid for by the new flexible use licensees.

Bidding in Auction 107 is scheduled to begin on December 8, 2020. The deadline for filing applications to participate in the auction was September 22, 2020. On October 19, 2020, OEA released a Public Notice with WTB announcing the status (i.e., complete or incomplete) of 74 short-form applications that were received for Auction 107. Applicants with incomplete applications will be given a limited period in which to resubmit their applications. To become qualified to bid, an applicant must have on file as of the end of this period, a complete application and an upfront payment that is sufficient under the Commission’s rules and procedures.

Future Spectrum Auctions:

On March 25, 2020, OEA and the Media Bureau postponed indefinitely an auction of 130 FM broadcast service construction permits (Auction 106), in which bidding was scheduled to begin on April 28, 2020. Motivated by the onset of the COVID-19 pandemic, OEA and MB took this action in order to protect the health and safety of Commission staff during the auction and so that parties had additional time to prepare to participate in Auction 106. Due to the postponement, previously

filed applications to participate in the auction were dismissed and refunds of previously submitted upfront payments were made available to the applicants. The Commission has not yet rescheduled the auction.

OEA and the Wireless Telecommunications Bureau continue to work to identify new spectrum bands to make available for future auctions and to plan auctions for bands subject to new, flexible service rules.

Work is ongoing towards a future auction of the 2.5 GHz Band. The Commission has transformed the rules previously governing the Educational Broadband Service (EBS), which extends from 2502 to 2690 MHz and is comprised of 20 channels designated for EBS, and a number of small guard band channels. The Commission held a Tribal priority window to enable Tribal nations to obtain EBS licenses to provide service on rural Tribal lands, which closed on September 2, 2020. This window will be followed by an auction to assign geographic area licenses for the remaining unused portions of the band for commercial use. Earlier this year, the Chairman indicated that he hoped that this 2.5 GHz band auction might occur during 2021.

Pursuant to a statutory mandate, the Commission also is considering further action to offer new flexible use licenses in select cities in 470-512 MHz, also known as the T-Band, subject to clearing incumbent licensees. These frequencies are associated with broadcast television channels 14-20 and have been used by public safety licensees and private land mobile service operations in these cities. In June 2020, the Commission adopted a Notice of Proposed Rulemaking with that sought comment on reallocating T-Band spectrum. The Notice sought comment on relocating “public safety eligibles” from the T-Band and assigning new licenses by auction for the 6 megahertz to 18 megahertz of spectrum that is potentially could be made available in eleven cities. The Notice also sought comment on whether and how to transition non-public safety operations. A significant question is whether and how the relocation of public safety eligibles, as well as additional incumbents, can be funded. The next step will be a Report and Order addressing the issues raised by the Notice.

On September 30, 2020, the Commission adopted a Report and Order and Further Notice of Proposed Rulemaking that proposes to make 100 megahertz of spectrum in the 3.45-3.55 GHz band available for flexible-use wireless services throughout the contiguous United States and proposes to add a co-primary, non-federal fixed and mobile (except aeronautical mobile) allocation to the band. The Further Notice proposes unpaired, 20-megahertz blocks for this band to align with the recently reallocated 3.7 GHz band, licensed on an exclusive geographic area basis by Partial Economic Areas. In addition, the item proposes service, technical, and competitive bidding rules for flexible use licensees in the band, which largely align with the 3.7 GHz band rules. OEA continues to work with WTB toward a future auction.

SUBJECT: FCC USF Auctions – Various AU Dockets, as well as Mobility Fund (WC Dockets 10-90 and 16-271; WT Docket 10-208; AU Dockets 12-25 and 13-53); 5G Fund (GN Docket 20-32, closing WT Docket 10-208)

BACKGROUND: As part of reforming and updating the use of Universal Service Funds to support both telecommunications and broadband over the last decade, the Commission has used competitive bidding to distribute certain Universal Service Fund support. These auctions build on the Commission’s successful experience with using competitive bidding to award authorizations for the use of spectrum for over twenty-five years. See the separate discussion regarding FCC spectrum auctions (briefing sheet starting at page 5).

In October 2011, the Commission adopted a *Report and Order and Further Notice of Proposed Rulemaking*, which comprehensively reformed and modernized the universal service system to help ensure the universal availability of fixed and mobile communication networks capable of providing voice and broadband services where people live, work, and travel. For the first time, the Commission established a universal service support mechanism dedicated exclusively to mobile services—the Mobility Fund. The Mobility Fund is the first universal service mechanism dedicated to ensuring availability of mobile broadband networks in areas where a private-sector business case is lacking. The Commission created two phases to the Mobility Fund and provided additional support specific to Tribal lands and remote areas. In addition, the Commission provided for the possible use of competitive bidding to assign support for service to fixed locations in unserved and underserved locations.

Since 2012, the Commission has completed three reverse auctions for Universal Service Fund support. The Commission currently has scheduled a fourth auction for USF support to begin in October 2020. In addition, the Commission has pending proposals for conducting future auctions for USF support to be provided by the 5G Fund.

The Rural Broadband Auctions Task Force coordinates with the Office of Economics and Analytics and the Wireline Competition Bureau on the implementation of auctions to assign USF support.

Completed Auctions for USF Support:

Mobility Fund Phase I Auction (Auction 901) —This auction made available up to \$300 million in one-time support to accelerate deployment of networks for mobile voice and broadband services in areas unserved by current generation or 3G networks to further USF statutory objectives under Section 254 of the Act. The reverse auction determined (1) which providers would receive Mobility Fund support to deploy 3G or better wireless service, (2) the specific geographic areas that the providers would cover in exchange for support, and (3) the level(s) of support the providers would receive. The auction was designed to maximize coverage of unserved road miles within the budget, and winners are required to deploy 4G service within three years, or 3G service within two years, accelerating the migration to 4G.

Auction 901 concluded in September 2012. In this auction, there were a total of 33 winning bidders. The winning bidders are eligible to receive a total of up to \$300 million in one-time Mobility Fund Phase I universal service support to provide 3G or better mobile voice and broadband services covering up to 83,494 road miles in 795 biddable geographic areas

located in 31 states and 1 territory. Since April 2013, the Wireless Telecommunications and Wireline Competition Bureaus have authorized initial disbursements for over \$270 million in winning bids and announced over \$29 million in auction defaults. Of the authorized winning bids, eight winning bidders subsequently defaulted on bids totaling over \$75.7 million. The Bureaus and USAC are actively processing the remaining final payment requests.

Tribal Mobility Fund Phase I (Auction 902) — This complementary Mobility Fund Phase I auction made available up to \$50 million in one-time additional universal service funding to Tribal lands to improve mobile voice and broadband availability in these remote and underserved areas and to accelerate deployment of networks for mobile voice and broadband services in areas unserved by current generation or 3G networks. The auction was designed to maximize coverage of population within the budget, and winners are required to deploy 4G service within three years, or 3G service within two years, accelerating the migration to 4G.

Auction 902 concluded on February 25, 2014. There was a total of five winning bidders. The winning bidders are eligible to receive a total of up to \$50 million in one-time Tribal Mobility Fund Phase I universal service support to provide 3G or better mobile voice and broadband services covering a population of 56,932 in 80 biddable areas. These areas include 18 biddable areas on five Reservations or Tribal lands in Arizona, Montana, New Mexico, and Utah; and 62 biddable areas in 49 Alaska Native Village Statistical Areas and 13 bidding areas otherwise in Alaska Native Regions. Since July 2014, the Bureaus have authorized support to all five winning bidders. The Bureaus and Universal Service Administrative Company are actively processing final payment requests.

Connect America Fund Phase II (Auction 903) — Auction 903 was the first Commission auction to award ongoing high-cost USF support. The Commission made eligible for Auction 903 high-cost census blocks in states where the price cap carriers declined an earlier offer of model-based support and other unserved areas nationwide (excluding NY, AK, PR, VI) that are not served by an unsubsidized service provider. Authorized winning bidders are required to offer voice and broadband service to fixed locations at or above specific performance levels, and file annual reports on their deployment progress. Authorized winning bidders may use any technology capable of providing the required service at the performance level specified by their bid.

On August 21, 2018, bidding ended in the Commission's Connect America Fund Phase II Auction. There were 103 winning bidders. The winning bidders are eligible to receive a total of up to \$1.49 billion over 10 years to provide fixed broadband and voice services to over 700,000 locations in 45 states. The Bureaus have authorized support totaling over \$1.47 billion over 10 years to over 700,000 locations.

Currently Scheduled Auctions for USF Support:

Rural Digital Opportunity Fund Phase I (Auction 904) — Building on the success of Auction 903, the Commission created the Rural Digital Opportunity Fund to direct up to \$20.4 billion in two phases of ten years each to finance up to gigabit speed broadband networks in unserved rural areas. The goal is to connect millions more American homes and businesses to digital opportunity by ensuring that networks stand the test of time by

prioritizing higher network speeds and lower latency, so that those benefitting from these networks will be able to use tomorrow's Internet applications as well as today's. In Phase I, Auction 904 will target homes and businesses in census blocks that are entirely unserved by voice and broadband with download speeds of at least 25 Mbps. A second auction (Phase II) will cover locations in census blocks that are partially served, as well as locations not funded in the first auction. Each phase will award support for a ten-year term. Up to \$16 billion will be made available for Phase I, and any remaining Phase I budget after the auction, along with an additional \$4.4 billion, will be awarded for Phase II for a total of \$20.4 billion. In the first phase (Auction 904), there were approximately 5.3 million eligible locations.

Bidding in the first (Phase I) Rural Digital Opportunity Fund Auction (Auction 904) began on October 29, 2020.

Future Auctions for USF Support:

5G Fund. In an October 2020 Order, the Commission adopted rules to replace the previously planned Mobility Fund II with the 5G Fund. In doing so, the Commission decided to direct universal service funds to support networks that are more responsive, more secure, and up to 100 times faster than today's 4G LTE networks. The Commission will use multi-round reverse auctions to distribute up to \$9 billion, in two phases, over the next decade and beyond to bring voice and 5G broadband service to rural areas of our country that are unlikely to see unsubsidized deployment of 5G-capable networks.

Previously, in a February 2017 Order, the Commission adopted the framework to move forward with Phase II of the Mobility Fund and Tribal Mobility Fund. Phase II was intended to allocate up to \$4.53 billion over ten years to advance the deployment of 4G LTE and to expand availability of mobile broadband networks to high-cost areas where no unsubsidized provider offers 4G LTE service. Subsequently, the Commission determined that the concerns many stakeholders raised about the accuracy of Mobility Fund Phase II 4G LTE coverage data, many of which were validated during staff's investigation into carriers' maps, and in light of marketplace changes including the merger of T-Mobile and Sprint, it no longer made sense to use limited universal service support to deploy 4G LTE networks. Rather, the Commission proposed to establish a 5G Fund for Rural America.

STATUS:

Support From Mobility Fund Phase I (Auction 901) and Tribal Mobility Fund Phase I (Auction 902). Based on Auction 901, over \$96.7 million in final disbursements have been made, completing the disbursement process for 92% of Mobility Fund Phase I winning bids. Eight winning bidders defaulted on bids totaling over \$75.7 million. Based on Auction 902, final payments totaling over \$24.4 million in support have been disbursed, completing the disbursement process for 86% of the winning bids.

5G Fund. On October 27th, the Commission adopted a Report and Order that would establish the 5G Fund for America. The R&O:

- Adopts a two-phase reverse auction targeting support for deploying 5G networks in areas without an unsubsidized provider of either 4G LTE or 5G mobile broadband as

determined using new, granular, mobile coverage maps that will be developed through the Commission's Digital Opportunity Data Collection;

- Adopts a 10-year term of support and a budget of \$9 billion; in Phase I, up to \$8 billion would be available with \$680 million set aside for bidders offering to serve Tribal lands; in Phase II, at least \$1 billion would target deployment facilitating adoption of precision agriculture technologies;
- Requires 5G Fund winning bidders to deploy networks providing 5G mobile broadband at speeds of at least 35/3 Mbps and meet interim deployment milestones beginning in year three and a final deployment milestone by the end of year six;
- Requires mobile carriers receiving frozen legacy support to use an increasing percentage of their support to deploy 5G in their existing service areas offering the same performance levels as 5G Fund winning bidders;
- Adopts an adjustment factor for bidding in the 5G Fund auction that would reflect the relative cost of serving areas with more challenging terrain and a weaker business case for deployment; and
- Adopts a framework for transitioning frozen legacy high-cost support to 5G Fund support.

SUBJECT: Reform of Part 1 Competitive Bidding/Designated Entity Rules (WT Docket No. 14-170, GN Docket No. 12-268, WT Docket No. 05-211)

BACKGROUND:

- Section 309(j) of the Communications Act requires the Commission to advance several objectives in implementing its auction authority, including “disseminating licenses among a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by members of minority groups and women.” Such parties identified in the statute have historically been referred to as “designated entities,” or “DEs.” The Commission has implemented this objective primarily by making bidding credits—percentage discounts on the auction purchase price of licenses—available to small businesses that meet certain revenue limits. The Commission’s general competitive bidding rules include rules to implement bidding credits where adopted by the Commission in connection with the rules on licenses for specific services subject to auction.
- The Commission’s challenge has always been to find a reasonable balance between the competing goals of providing DEs with reasonable flexibility to obtain needed financing from investors and, at the same time, ensuring that the rules effectively prevent entities ineligible for DE benefits from circumventing the intent of the rules by obtaining those benefits indirectly, through their investments in qualified businesses.

STATUS:

- In July 2015, the Commission adopted a *Report and Order* that modernized and reformed the Commission’s Part 1 competitive bidding rules. Specifically, the *Report and Order*:
 - Modified eligibility requirements for small business benefits and updated the standardized schedule of small business sizes, including the gross revenues thresholds used to determine eligibility.
 - Eligibility for a small business bidding credit is assessed on a license-by-license basis to ensure that the small business makes independent decisions about its business operations. The Commission eliminated the attributable material relationship (AMR) rule, which had previously limited the amount of spectrum a small business could lease, and concluded that Section 309(j) did not statutorily require that a designated entity provide primarily facilities-based service with each of the licenses acquired with bidding credits.
 - Established a new 15% bidding credit for eligible rural service providers that have not otherwise claimed a small business bidding credit; have fewer than 250,000 combined wireless, wireline, broadband, and cable subscribers as of the short-form filing deadline; and serves predominantly rural areas, defined as counties with a population density of 100 or fewer persons per square mile. Eligibility is based on general DE attribution standard, with a limited exception for certain existing rural partnerships, where each member would otherwise qualify as an RSP.
 - Established a range of caps on the total amount of bidding credits that a small business or rural service provider can receive in any particular auction, as well as the

overall amount that can be awarded to eligible small businesses for winning bids in smaller markets.

- Strengthened and targeted attribution rules to prevent the unjust enrichment of ineligible entities, with respect to non-controlling disclosable interest holders (DIHs) that hold a ten percent or greater interest in an applicant. On a license-by-license basis, DE applicants must disclose and attribute the revenues (or, for RSPs, subscribers) of any DIH that has an agreement to use more than 25% of the spectrum capacity for any license(s) acquired with bidding credits during the unjust enrichment period.
- Revised the former defaulter rule, under which an entity that has defaulted on a license or has been delinquent on any non-tax debt owed to any federal agency, but has since remedied all such defaults and delinquencies, was required to pay an upfront payment that is 50 percent more than the normal upfront payment amount to be eligible to bid in an auction. The rule codifies a waiver granted in Auction 97 and limits the entities covered under the rule to the applicant and its “controlling interests.”
- Prohibited certain joint bidding arrangements, *i.e.*, arrangements relating to the licenses being auctioned that address or communicate, directly or indirectly, bidding at auction, bidding strategies (including price or specific licenses), and any such arrangements relating to post-auction market structure and made related updates to the rule on prohibited communications.
 - Joint bidding arrangements between auction applicants are prohibited.
 - Arrangements between nationwide and non-nationwide providers also are prohibited, where any one of the parties is an applicant.
 - Prohibition applies without regard to the licenses or geographic areas selected.
 - The prohibition does not include agreements that solely address operational aspects of providing a mobile service, such as roaming agreements, leasing or other spectrum use arrangements, and certain assignment/transfer agreements.
- Prohibited an individual from serving as an authorized bidder for more than one auction applicant.

NEXT STEPS: Three petitions for reconsideration or clarification of the 2015 *Report and Order* were filed.

- The Rural-26 DE Coalition and Blooston, Mordkofsky, Dickens, Duffy & Prendergast, LLP, on behalf of its rural and independent telephone and wireless service provider clients seek reconsideration of the rule prohibiting an individual from serving as an authorized bidder for more than one auction applicant.
- Multicultural Media, Telecom and Internet Council (MMTC) seeks partial reconsideration the decision declining to adopt incentives for secondary market transactions that MMTC had proposed for which there was no support in the record for the proceeding or which were outside of the scope of the rulemaking.

STATUS: These petitions for reconsideration are pending.

SUBJECT: Communications Marketplace Report; GN Docket No. 20-60

SUMMARY: Title IV of RAY BAUM’S Act of 2018 directs the Commission to publish in the last quarter of every even numbered year a report that, among other things, “assess[es] the state of competition in the communications marketplace, including competition to deliver voice, video, audio, and data services among providers of telecommunications, providers of commercial mobile service (as defined in section 332 of the Communications Act of 1934, as amended (the Act)), multichannel video programming distributors (as defined in section 602), broadcast stations, providers of satellite communications, Internet service providers, and other providers of communications services.” In assessing the state of competition, the Commission must consider all forms of competition, including “the effect of intermodal competition, facilities-based competition, and competition from new and emergent communications services.” The Commission must also “assess whether laws, regulations, regulatory practices (whether those of the Federal Government, States, political subdivisions of States, Indian tribes or tribal organizations (as such terms are defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304)), or foreign governments), or demonstrated marketplace practices pose a barrier to competitive entry into the communications marketplace or to the competitive expansion of existing providers of communications service.”

BACKGROUND: Each biennial report must assess the state of all forms of competition in the communications marketplace; the state of deployment of communications capabilities; barriers to competitive entry, including market entry barriers for entrepreneurs and other small businesses; and must describe the actions taken by the Commission in the previous two years to address challenges and opportunities in the communications marketplace, and the Commission’s agenda for continuing to address those challenges and opportunities over the next two years. The Commission must also compile a list of geographic areas that are not served by any provider of advanced telecommunications capability.

On December 12, 2018, the Commission adopted the first *Communications Marketplace Report (2018 Communications Marketplace Report)*, providing a comprehensive evaluation of the state of the communications marketplace (as of year-end 2017). In February 2020, the Commission updated certain figures, maps and tables contained in the *2018 Communications Marketplace Report*, to reflect the most recent data available as of year-end 2018.

STATUS: On February 27, 2020, the Commission adopted a Public Notice seeking input on the state of the communications marketplace to inform its assessment of competition in the communications marketplace in its second *Communications Marketplace Report (2020 Communications Marketplace Report)* to Congress. The comment period was scheduled to end on April 13, 2020, and the reply comment period was scheduled to end on May 13, 2020. These deadlines were extended on April 10, 2020, due to the COVID-19 pandemic, and community and business efforts to respond to this public safety crisis. The revised comment date was April 27, 2020, and the revised reply comment date was May 28, 2020. The Commission received 20 Comments and 11 Reply Comments as part of this proceeding. In addition, over 15 *Ex Partes* were filed. The statutory deadline for publication of the second *Communications Marketplace Report* is December 31, 2020.

SUBJECT: Establishing the Digital Opportunity Data Collection; Modernizing the FCC Form 477 Data Program (WC Docket No. 19-195; WC Docket No. 11-10)

SUMMARY: On August 6, 2019, the Commission issued a Report and Order and Second Further Notice of Proposed Rulemaking that made targeted changes to Form 477 and established a new collection—the Digital Opportunity Data Collection (DODC)—that will allow the Commission to accurately target universal service support where it is needed most, by collecting precise, granular broadband availability data from fixed broadband providers, including a mechanism for incorporating public feedback into the data. On July 16, 2020, the Commission adopted a Second Report and Order and Third Further Notice of Proposed Rulemaking that takes further critical steps to collect and verify improved, more precise data on both fixed and mobile broadband availability and fulfills requirements relating to the collection and verification of data on broadband services established by the Broadband Deployment Accuracy and Technological Availability Act (Broadband DATA Act), enacted in March 2020.

BACKGROUND AND KEY ISSUES: Since 2000, the FCC has collected data on broadband subscribership and on mobile and fixed telephony through Form 477. Filing Form 477 is mandatory for all facilities-based providers of broadband and mobile voice services, and for all providers of fixed voice and interconnected VoIP services. Form 477 must be filed twice a year: by March 1st (reflecting data as of the preceding December 31st), and by September 1st (reflecting data as of the preceding June 30th). The Commission relies on Form 477 as the primary means of collecting data on the broadband and voice markets. Data from Form 477 populate, in whole or in part, a number of reports, including the annual Broadband Progress Report for Congress and the twice-annual Internet Access Services and Voice Telephone Services (formerly the Local Telephone Competition) reports.

- The Commission augmented Form 477 in a 2013 Report & Order by initiating the collection of data on broadband deployment data via the form.
- The August 2019 Report and Order: (1) made targeted changes to the existing Form 477 data collection to reduce reporting burdens for all filers and modify the collection to incorporate new technologies; (2) established the DODC in order to collect geospatial broadband coverage maps from fixed broadband providers, specifically aimed at advancing the Commission’s universal service goals and providing more precise and granular depictions of deployment than are collected under the Form 477; and (3) adopted a process to collect public input, commonly known as “crowdsourcing,” on the accuracy of fixed providers’ broadband maps.
- The Second Further Notice sought comment on: (1) certain aspects of the new collection to improve the accuracy and usefulness of fixed broadband deployment reporting, including technical standards service providers must use in generating coverage data, how to resolve conflicts between reported coverage and public feedback, and how to incorporate mobile wireless coverage data into the new collection; (2) how to collect and incorporate location-based fixed broadband deployment data; (3) how to improve the collection of satellite broadband deployment data; and (4) sunseting the broadband deployment data collection that is currently part of the Form 477 collection, once the new collection has been established.

- In March 2020, Congress passed the Broadband DATA Act, largely ratifying the Commission’s approach to broadband mapping established in the Digital Opportunity Data Collection proceeding, including the establishment of (1) a biannual collection of geographically granular broadband coverage data for use in creating broadband availability maps, (2) processes for challenges to the coverage data and for accepting crowdsourced information, and (3) a comprehensive database of all broadband serviceable locations (“the Fabric”). However, the Broadband DATA Act prohibits the Commission from delegating any responsibilities to the Universal Service Administrative Company or from using funds collected through the Universal Service Fund to pay any costs associated with fulfilling the Broadband DATA Act’s requirements. As a result, the Commission cannot undertake the development of costly IT and filing platforms needed to implement the requirements under the Broadband DATA Act or the Commission’s rules until Congress specifically appropriates funding for that purpose, which it has not done to date.
- The July 2020 Second Report and Order adopted rules for: (1) collecting fixed broadband availability and quality of service data; (2) collecting mobile broadband deployment data, including the submission of standardized propagation maps, and propagation model details; (3) establishing a common dataset of all locations in the United States where fixed broadband service can be installed; (4) verifying the accuracy of broadband availability data; (5) collecting crowdsourced data; (6) enforcing the requirements of the Broadband DATA Act; (7) creating coverage maps from the data submitted; and (8) ensuring the privacy, confidentiality, and security of information submitted by broadband providers.
- The Third Further Notice seeks comment on a range of additional measures to implement requirements of the Broadband DATA Act, including additional processes for verifying broadband availability data submitted by providers, the development of a challenge process, collecting mobile service infrastructure data, and FCC Form 477 reforms.

STATUS: Petitions for reconsideration of the August 2019 Report and Order were filed by Microsoft and INCOMPAS, and the Commission placed those petitions on public notice on January 13, 2020. A shortened time period was established for responses to the Third Further Notice, with deadlines of September 8, 2020 for comments and September 17, 2020 for replies.

Office of Engineering & Technology

Briefing Sheets

October 2020

Table of Contents

SUBJECT	PAGE NUMBER
Spectrum Access System (SAS), and Environmental Sensing Capability (ESC) in the 3.5 GHz Band	1
Unlicensed White Space Devices	3
Licensed Wireless Microphones (Low Power Auxiliary Stations)	5
Use of 6 GHz Band (Unlicensed Services)	7
Equipment Authorization	9
Use of the 5.9 GHz Band (Intelligent Transportation and Unlicensed Services)	11
Experimental Licensing Program	13
Spectrum Horizons	15
FCC Responsibilities Concerning Biological Effects of Radio Frequency Radiation	16
FCC Policies Regarding Wireless Power Transfer (WPT) Equipment	19
NTIA Coordination	21
Measuring Broadband America (MBA) Program	22
Technological Advisory Council (TAC)	24
OET Waivers	25
Spectrum Allocation for Non-Federal Space Launch Operations	26

OET BRIEFING SHEET

SUBJECT: Spectrum Access System (SAS) and Environmental Sensing Capability (ESC) in the 3.5 GHz Band

BACKGROUND: The April 17, 2015 Report and Order and Second Further Notice of Proposed Rulemaking establishing the new Citizens Broadband Radio Service (CBRS) relied on the use of cutting-edge Spectrum Access System (SAS) and Environmental Sensing Capability (ESC) technologies to permit the introduction of new users into the band. The Commission made further refinements in 2016 (Order on Reconsideration and second R&O addressing FNPRM issues) and 2018 (third R&O increasing Protected Access Licensee (PAL) areas from census tracts to counties, extending license term to ten years, and making technical changes to support wider channel use).

OTHER BUREAUS/OFFICES: WTB has the lead on this project, in coordination with OET and IB. Dockets 12-354 (3.5 GHz), 15-319 (SAS/ESC), and Docket 17-258 (October 2018 R&O).

SUMMARY: The 2015 R&O and Second Further Notice of Proposed Rulemaking established a new Citizens Broadband Radio Service (CBRS) for shared wireless broadband use of the 3550-3700 MHz band (3.5 GHz band). Spectrum Access System (SAS) administrators will coordinate the three tiers of users in the band making the band available for commercial use on a shared basis with existing federal and non-federal incumbents. On December 21, 2016, WTB and OET conditionally approved the first wave of seven entities to act as SAS administrators (Amdocs, CommScope, CTIA, Federated Wireless, Google, Key Bridge, Sony). CTIA withdrew its request to become SAS administrator on November 17, 2017. On January 27, 2020, the Commission released a Public Notice and certified CommScope, Federated Wireless, Google, and Sony as SAS Administrators in the 3.5 GHz band. Subsequently, On July 31, 2020, the Commission released a Public Notice and accepted the lab test results for Key Bridge as SAS administrator in the 3.5 GHz. The Commission's next step for final certification of Key Bridge SAS is to review and accept its report on Initial Commercial Deployment (ICD) field testing. OET/WTB staff are currently reviewing the Key Bridge final ICD report.

On the Environmental Sensing Capability (ESC) approval process, WTB and OET conditionally approved the first wave of ESC operator requests (CommScope, Federated Wireless, Google, Key Bridge) on February 21, 2018. And after completing final testing by ITS, the Commission released a public notice approving the ESCs of CommScope, Federated Wireless, and Google (in April 2019) and Key Bridge (in July 2020) for use in the 3550-3650 MHz portion of the 3.5 GHz band. Most recently, on September 15, 2020, WTB and OET approved the updated or new ESC sensor deployment and coverage plans of CommScope, Google, and Key Bridge.

The testing and certification of the second wave SAS/ECS applicants has not yet begun. The second wave of SAS administrator applicants are RED Technologies, Fairspectrum, Nokia, and Rivada Networks. The second wave ESC applicants are Nokia, Rivada, and RED Technologies. The Commission is working with NTIA on extending the contractual agreement for ITS to perform the lab test for the second wave SAS applicants, but ITS will not perform ESC tests for the second wave applicants.

On CBRS equipment certification, more than thirty-five CBSDs from different manufacturers have been approved by the FCC lab. With support from WTB/OET, the FCC lab is currently developing the certification process for CBRS Distributed Antenna System (DAS) equipment.

To ensure that SASs have complete and accurate information regarding the location of protected FSS receive sites, the Commission launched an FSS antenna site registration database and API in June 15, 2018. Over 230 FSS earth station antenna locations have registered in this database to be protected from interference from CBRS operations.

STATUS: OET is providing its technical expertise in support of all activities necessary for implementation and operation of CBRS since 2013. The Office has evaluated technical methodologies to protect incumbent radio service operations - Fixed Satellite Service earth stations and DoD current and future radars. In addition, WTB and OET have been providing technical support for SAS and ESC testing process and evaluation criteria. The WinnForum's Spectrum Sharing Committee, a non-FCC industry organization of stakeholders focused on developing band sharing standards in 3.5 GHz, has been developing industry requirements in areas including SAS functional requirements and protocols, security, ESC, and testing. The next stage of the WF activity is to publish Release-2 SAS specifications for testing and approval. OET/WTB staff are currently reviewing WF release-2 requirement specifications.

Four SAS administrators received final approval in January 2020 and are currently in operation nationwide. We believe that General Authorized Access (GAA) tier operations are currently underway. The Commission completed Protected Access Licensee (PAL) auction 105 in September 2020.

SUBJECT: Unlicensed White Space Devices

SUMMARY: On February 28, 2020, the Commission adopted a Notice of Proposed Rulemaking (ET Docket No. 20-36) that proposed targeted changes to the white space device rules in the TV bands (Channels 2-35) to provide improved broadband coverage that would benefit American consumers in rural and underserved areas. The Notice proposed to: 1) increase the maximum permissible power for fixed white space devices operating in “less congested” areas; 2) increase the maximum permissible antenna height above average terrain for fixed white space devices, subject to a procedure to notify potentially affected TV broadcast stations; 3) increase the minimum required separation distances between protected services in the TV bands and white space devices operating with higher power/antenna heights; 4) allow higher power mobile operations within defined “geo-fenced” areas; and 5) establish rules for narrowband white space devices used in IoT applications. It also sought comment on whether to allow white space devices to operate with higher power at locations inside the service contour of an adjacent channel TV station.

STATUS: On October 27, 2020, the Commission adopted a Report and Order implementing rules generally consistent with the proposals in the Notice of Proposed Rulemaking, as well as a Notice of Proposed Rulemaking asking about modifying the rules to permit the use of terrain-based models to determine available TV channels for white space devices.

Two issues raised in petitions for reconsideration of a prior (2015) R&O that modified the existing rules for white space device operations in the reconfigured bands following the Incentive Auction remain unresolved: (1) the requirement for databases to push changes in channel availability information to white space devices to protect licensed wireless microphones, and (2) the technical requirements for white space device operation on Channel 37. The Commission waived the push notification requirement through March 31, 2021, and white space devices are not yet operating on channel 37. In addition, an NAB petition for reconsideration of OET’s approval of Nominet UK as a white space database administrator remains pending. These issues will have to be addressed at a future date.

Nominet UK recently transferred its database to RED Technologies. To ensure the database is complete and accurate and in response to NAB’s assertion of alleged errors, OET has been working with RED and actively monitoring the database to identify and correct any errors.

BACKGROUND: In 2010 the Commission adopted Part 15 rules (ET Docket No. 04-186) to allow unlicensed fixed and personal/portable devices to operate in the broadcast television spectrum at locations where that spectrum is not being used by licensed services (the “white spaces”). The primary method of ensuring that white space devices do not interfere with TV and other services is by requiring devices to use a geo-location capability in conjunction with a database to identify vacant TV channels at specific locations. The Commission’s action made a significant amount of unused TV broadcast spectrum (then Channels 2-51, except Channels 3, 4 and 37) available for new and innovative products and services, including broadband data and other services for businesses and consumers.

In 2014, the Commission decided to conduct an incentive auction and repurpose a portion of the TV broadcast spectrum for 600 MHz wireless services and create a 600 MHz guard band and duplex gap to protect 600 MHz wireless services and operations on Channel 37. In 2015, the

Commission adopted a Report and Order (ET Docket No. 14-165), which modified the existing rules for white space device operations in the reconfigured bands following the Incentive Auction – i.e., the repacked TV bands (now TV Channels 2-36 following the 2017 incentive auction), the 600 MHz guard band and duplex gap, and the 600 MHz wireless service band. In addition, the R&O codified new Part 15 rules for unlicensed wireless microphones operating in these bands and authorized white space device operations on Channel 37 under specified conditions. In 2019, the Commission adopted a Report and Order and Order on Reconsideration (ET Docket Nos. 16-56 and 14-165) that required all fixed white space devices to incorporate a geo-location capability such as GPS, and that resolved petitions for reconsideration of the 2015 R&O, with the exception of the Channel 37 and push notification issues.

Database administrators. Since 2011, OET has approved a total of six white space database administrators -- Key Bridge, Spectrum Bridge, LSTelcom, iconectiv, Google, and Nominet UK. (Three of these, Google, iconectiv, and Spectrum Bridge, did not renew their authority at the end of their initial five-year term and have ceased operations). Nominet UK is OET's most recent approval, which occurred in September 2018. Nominet subsequently transferred its database to RED Technologies in August 2020.

Equipment certification. Equipment certification has been granted to twenty-seven (27) fixed white space devices: two by Koos Technical Services, three by Adaptrum, one by MeldTech, two by Carlson Wireless, six by 6Harmonics, two by Redline, two by Runcom, two by Metric Systems, two by Whizpace, two by Radwin, two by Saankhya Labs and one by Huwomobility. OET continues to work with manufacturers to ensure that devices comply with applicable requirements (database access, technical operation).

RELATED PROCEEDINGS: In addition to unlicensed white space devices, wireless microphones may also operate in the TV bands on vacant TV broadcast channels on either a licensed or unlicensed basis. Licensed wireless microphone operators may register their operating times and locations on vacant TV channels in the white spaces databases to obtain interference protection from co-channel white space devices. In various recent proceedings, the Commission has addressed issues related to licensed wireless microphones that operate in the TV bands, the 600 MHz guard band and duplex gap, and the 600 MHz wireless service band. Most recently, in July 2017 the Commission adopted the Wireless Microphones Order on Reconsideration addressing licensed wireless microphone issues. (See Briefing Sheet on Licensed Wireless Microphones)

OET BRIEFING SHEET

SUBJECT: Licensed Wireless Microphones (Low Power Auxiliary Stations)

BUREAUS/OFFICES: OET/WTB

SUMMARY: Wireless microphone use is authorized, on a licensed basis, under the Part 74 rules for low power auxiliary stations (LPAS). Entities eligible for Part 74 licenses include broadcast station licensees and networks, certain cable television operators, motion picture/TV producers, and professional sound companies and venue operators that routinely use 50 or more wireless microphones.

On July 13, 2017, the Commission adopted the Wireless Microphones Reconsideration Order and Further Notice (GN Docket Nos. 14-166 and 12-268, ET Docket No. 14-165). The Order portion of this item addressed petitions for reconsideration of the 2015 Wireless Microphones R&O, as well as petitions for reconsideration of the 2015 Part 15 R&O pertaining to unlicensed wireless microphones. In the Further Notice, the Commission proposed a limited expansion of eligibility for Part 74 wireless microphone licensees, which would permit certain qualifying professional theaters, music, and performing arts organizations to obtain licenses to provide needed interference protection for wireless microphones used at their events. The comment period closed on October 16, 2017.

STATUS: Staff continues to consider the record and the proposal to expand licensee eligibility for certain qualifying professional theaters, music, and performing arts organizations.

BACKGROUND/KEY ISSUES: Through the years, wireless microphones and related devices (in-ear monitors, cue and control communications, TV camera synchronization signals) – referenced collectively as “wireless microphones” have operated predominantly in the TV bands, which have been shrinking in size as some of that spectrum has been made available for wireless broadband services. Several orders adopted in recent years address wireless microphone operations in this changing landscape. These actions have included finding new opportunities for operations outside of the TV bands.

In January 2010, the Commission released a Report and Order and Further Notice of Proposed Rulemaking (WT Docket Nos. 08-166 and 08-167, ET Docket No. 10-24) to require that wireless microphone operations cease in the 700 MHz portion of the TV band that had been repurposed for wireless and public safety services (with a provision for unlicensed wireless microphone operations in the TV bands under a temporary waiver). In September 2010, the Commission released a Second Memorandum Opinion and Order in the TV white spaces proceeding (ET Docket Nos. 04-186, 02-380) which included provisions to protect wireless microphones operating in the TV bands from interference from new unlicensed white space devices. White space devices were prohibited from operating on up to two unused UHF channels in all areas of the country to provide spectrum for wireless microphones, and licensed wireless microphones were permitted to register in the white space databases for protection from interference from unlicensed white space device operations.

On May 15, 2014, the Commission adopted the Incentive Auction Report and Order (GN Docket No. 12-268) to implement the broadcast TV spectrum Incentive Auction, further reducing the TV

spectrum available for wireless mics. The Commission took several actions in this Order to accommodate wireless mic operations, including permitting operations in TV band spectrum at more locations than previously permitted and in newly-designated 600 MHz Band guard bands. The Commission also provided a transition period which ran until July 13, 2020 that gave wireless mic users operating in the repurposed 600 MHz Band sufficient time to replace equipment and move to other available spectrum. Also, on May 15, 2014, the Commission adopted the TV Bands Wireless Microphones Second R&O, which extended eligibility for wireless microphone licenses to include venue owners/operator and professional sound companies that routinely use 50 or more wireless mics for large events/productions.

On August 6, 2015, the Commission adopted the Wireless Microphones R&O (GN Docket Nos. 14-166 and 12-268), which took several steps to revise the rules to accommodate licensed wireless mic operations in the repacked TV bands and in other spectrum bands. On July 13, 2017, the Commission adopted the Wireless Microphones Reconsideration Order and Further Notice, which addressed petitions for reconsideration concerning wireless microphone operations, and proposed limited expansion of eligibility for Part 74 licensed wireless microphone operations to include certain qualifying professional theaters, music, and performing arts organizations. The proposals raised in the Further Notice are pending.

OET BRIEFING SHEET

SUBJECT: Use of the 6 GHz Band (Unlicensed Services)

SUMMARY: The Commission has adopted rules permitting unlicensed devices to operate under the Commission's Part 15 rules within the 5.925-7.125 GHz (6 GHz) band while protecting the incumbent operations in the band. The Commission has also proposed rules for an additional class of very low power unlicensed devices to operate in the 6 GHz band.

KEY ISSUES:

- The 6 GHz decision provides a large swath of unlicensed spectrum that will help meet the exploding demand for mobile broadband and the associated home networking, wi-fi, and internet of things devices.
- Determining the proper protection criteria and mechanisms is vital to ensure that incumbent services are protected from harmful interference if unlicensed devices are introduced in the band; incumbent operators continue to push back against the Commission's decisions.
- The Commission still has to decide whether an additional class of very low power unlicensed devices should be allowed to operate in the 6 GHz band.

BACKGROUND: On April 23, 2020 the Commission adopted the Unlicensed Use of the 6 GHz Band Report and Order and Further Notice of Proposed Rulemaking (ET Docket 18-295, FCC 20-51) that authorized two types of unlicensed devices to operate in the 6 GHz band:

- Standard-power access points may transmit under the control of an automated frequency control (AFC) system in the 5.925-6.425 GHz and 6.525-6.875 GHz sub-bands.
 - These frequencies are heavily used by point-to-point microwave links. The AFC system will prevent the unlicensed devices from operating where they would cause harmful interference to microwave receivers.
 - Satellite systems using these frequencies operate in the Earth-to-space direction. The Commission concluded that the power limits will protect FSS space stations.
- Throughout the entire 6 GHz band unlicensed access points may operate indoors at a lower power without being under the control of an AFC system.
 - These indoor low-power access points will not cause harmful interference to licensed incumbents due to the combination of building attenuation and reduced power.

In addition, client devices may operate across the 6 GHz band under the control of either a standard-power or indoor low-power access point. Client devices must operate at lower power than the associated access point.

In the Further Notice, the Commission proposed to further expand unlicensed use of the 6 GHz band by:

- Permitting an additional class of very low-power unlicensed devices to operate across the entire 6 GHz band. These devices would not be restricted to indoor use and would not be under the control of an AFC system.
- Permitting indoor low-power access points to operate at 3 dB higher power.

- Permitting standard-power access points under AFC control to be used in mobile applications.
- Permitting standard-power access points under AFC control to operate at higher power levels when used for fixed point-to-point applications.

STATUS: The Commission received four petitions for reconsideration of the rules adopted in the Report and Order, although one petition has been withdrawn. The pleading cycle for the petitions for consideration ended August 10, 2020 and generated 14 filings. In addition, several parties have filed court challenges of the rules adopted in the Report and Order (On Oct. 1, the D.C. Circuit court denied an emergency motion to stay the FCC's decision; the underlying lawsuit remains pending).

The comment cycle for the Further Notice ended on July 27, 2020 and generated 40 comments and 28 reply comments. Commenters expressed a wide range of opinions ranging from supporting the proposed expansions of unlicensed use of 6 GHz band to opposing the proposals. OET staff is evaluating the record developed in response to the Further Notice and the petitions for reconsideration to determine a recommended course of action for the Commission's consideration.

RELATED ACTIONS: On August 3, 2017, the Commission adopted a Notice of Inquiry (NOI) in GN Docket 17-183 (FCC 17-104, 32 FCC Rcd 6373 (2017)) that sought information on opportunities for expanded flexible broadband use of spectrum between 3.7 and 24 GHz. Both the October 2018 Unlicensed Use of the 6 GHz Band NPRM (20-51) and the February 2020 Expanding Flexible Use of the 3.7-4.2 GHz R&O (FCC 20-22) follow from this NOI.

OET BRIEFING SHEET

SUBJECT: Equipment Authorization

SUMMARY: Radio Frequency (RF) devices are required to be properly authorized under 47 CFR part 2 prior to being marketed or imported into the United States. The Office of Engineering and Technology (OET) administers the equipment authorization program under authority delegated by the Commission. The Commission continues to review and incrementally update the Equipment Authorization Program.

KEY ISSUES:

- The number of RF devices now authorized is in the millions, and it continues to increase. The Commission must ensure that the equipment authorization program continues to protect the integrity and usability of spectrum, while also keeping up with rapid changes in technology and the demands of the marketplace.
- As more RF devices are configured by software that can be altered following authorization, maintaining the integrity of RF software controls is critical for ensuring that authorized devices operate in their approved configuration.
- The last major update to our procedures was in 2017 in ET Docket No. 15-170. That docket left open additional EA-related topics for future consideration. Several parties remain interested in further updates, especially to the importation and marketing rules.

BACKGROUND:

EA Process: The Commission has two different approval procedures for equipment authorization – Certification and Supplier’s Declaration of Conformity (SDoC). The required procedure depends on the type of equipment being authorized as specified in the applicable rule part. In some instances, a device may have different functions resulting in the device being subject to more than one type of approval procedure.

Certification is the most rigorous approval process for RF Devices with the greatest potential to cause harmful interference to radio services. It is an equipment authorization issued by an FCC-recognized Telecommunication Certification Body (TCB) based on an evaluation of the supporting documentation and test data submitted by the responsible party (e.g., the manufacturer or importer) to the TCB. Testing is performed by an FCC-recognized accredited testing laboratory. Information including the technical parameters and descriptive information for all certified equipment is posted on a Commission-maintained public database.

SDoC is a procedure that requires the party responsible for compliance ensure that the equipment complies with the appropriate technical standards. The responsible party, who must be located in the United States, is not required to file an equipment authorization application with the Commission or a TCB. Equipment authorized under the SDoC procedure is not listed in a Commission database. However, the responsible party or any other party marketing the equipment must provide a test report and other information demonstrating compliance with the rules upon request by the Commission.

An equipment authorization guide is posted at <https://www.fcc.gov/engineering-technology/laboratory-division/general/equipment-authorization>. The Lab uses its Knowledge Database (KDB) system to post general guidance about the equipment authorization process, as well as to receive and answer specific authorization-related questions.

Procedural background: On July 13, 2017, the Commission adopted a First Report and Order (1st R&O) (FCC 17-93, 32 FCC Rcd 8746) which implemented these major rule modifications:

- Codified electronic labeling (e-label) procedures.
- Modified the rules related to the importation of RF equipment, including eliminating an outdated filing requirement (FCC Form 740).
- Adopted Self Declaration of Conformity (SDoC) by combining two self-approval equipment authorization procedures.
- Incorporated new RF measurement standards into our rules and streamlined the way measurement procedures are referenced in our rules.

The 1st R&O did not address certain proposals relating to RF device certification that would:

- Clarify the certification process as it pertains to today's more complex devices that often include numerous transmitters configured in increasingly varied manners. This includes issues related to which parties are responsible for a device's FCC certification and the processes for obtaining and later modifying such certifications.
- Require manufacturers to certify that a device cannot be modified by third-party radio frequency controlling software that causes those devices to create harmful interference (mirroring a policy the Commission has adopted for individual device categories over the last few years).
- Revise when the information included in certification applications is made available to the public.

STATUS: A petition for reconsideration by the National Customs Brokers and Forwarders Association of America (NCBFAA) claims that the rule modifications place an unwarranted responsibility on customs brokers for determining the FCC compliance status of imported RF devices. We anticipate that the reconsideration petition, as well as the remaining proposals in ET Docket 15-170 can be addressed in a future Commission decision.

In April 2020, Garmin International submitted an ex parte filing suggesting the adoption of a "provisional certification" provision to make it easier to import equipment.

In June 2020, the Consumer Technology Association (CTA) filed a petition urging the Commission to further expand marketing opportunities and importation procedures for innovative technologies, including RF devices subject to equipment authorization requirements. The Commission sought comment on CTA's petition under RM-11857, which resulted in eight comments and two reply comments. Commission staff continues to analyze this record.

RELATED ACTIONS: On April 2, 2019, OET issued a Public Notice requesting comment on whether to update certain standards incorporated by reference in the Commission's rules that are related to measurements and the accreditation of testing laboratories. (34 FCC Rcd 1904, ET Docket 19-48). This matter remains pending.

OET BRIEFING SHEET

SUBJECT: Use of the 5.9 GHz Band (Intelligent Transportation and Unlicensed Services)

OTHER BUREAUS/OFFICES: WTB, PSHSB, OEA, OGC

SUMMARY: In December 2019, the Commission adopted a Notice of Proposed Rulemaking (5.9 GHz NPRM) taking a “fresh look” at the most efficient and effective use of the 75 megahertz of spectrum in the 5.850-5.925 GHz band (the 5.9 GHz band). The Commission proposed separate spectrum segments for unlicensed devices and transportation/vehicular safety-related applications. Specifically, the Commission proposed to designate the lower 45 megahertz of the 5.9 GHz band (5.850-5.895 GHz) for unlicensed operations such as broadband WiFi technologies, while retaining the upper 30 megahertz (5.895-5.925 GHz) for Intelligent Transportation System (ITS) applications (Cellular Vehicle to Everything (C-V2X) and/or Dedicated Short-Range Communications (DSRC)). The Commission proposed to divide the ITS spectrum, with the upper 20 megahertz (5.905-5.925 GHz) designated for C-V2X and sought comment on whether the remaining 10 megahertz (5.895-5.905 GHz) should be designated for C-V2X or DSRC. The 5.9 GHz NPRM proposed technical rules that would govern the unlicensed and transportation uses in the 5.9 GHz band and addressed matters relative to incumbents. Finally, the 5.9 GHz NPRM sought comment on the extent to which the transportation/vehicle-safety functions originally contemplated under the DSRC model are being, or are anticipated to be, provided in other bands or through other means.

KEY ISSUES:

- The 5.9 GHz NPRM proposed a plan that could reboot this long-underused but incredibly important mid-band spectrum.
- The 5 GHz NPRM is informed by:
 - the relatively slow deployment of DSRC over the past 20 years since the FCC designated the spectrum for ITS;
 - the emergence of C-V2X as an ITS alternative to DSRC; and
 - the growth of, and high demand for, unlicensed devices in the 5 GHz frequencies.
- The transportation/vehicular safety-related functions in the 5.9 GHz spectrum must be viewed in the context of today’s larger and more modern ecosystem which includes spectrum bands and technologies that were not available 20 years ago; promoting safety in the transportation environment remains a significant national objective.
- The proposed unlicensed portion of the band could be combined with existing unlicensed spectrum in adjacent frequencies to provide cutting-edge, high-throughput broadband applications on channels up to 160 megahertz wide.
- The 5 GHz NPRM proposed a win-win for transportation and unlicensed uses of the spectrum.

BACKGROUND: **ET Docket No. 98-95:** In 1999, the Commission reallocated 75 megahertz of spectrum in the 5.850-5.925 GHz band for DSRC-based ITS services. The Commission contemplated that DSRC systems would use short-range wireless communications links in the 5.9 GHz band to transfer information among appropriately-equipped vehicles and between appropriately-equipped vehicles and appropriately-equipped roadside systems, improving the

efficiency of our nation's transportation infrastructure and facilitating the growth and development of the ITS industry. In 2003, the Commission adopted licensing and service rules for DSRC operations.

ET Docket No. 13-49: In line with the Spectrum Act of 2012, the National Telecommunications and Information Administration (NTIA) released a study of the potential for unlicensed devices to share spectrum with DSRC in the 5.9 GHz band. The Commission adopted a Notice of Proposed Rule Making in January 2013 to develop a record on this possibility, and in June 2016, the Commission issued a Public Notice outlining a 3-phase test plan, in coordination with the NTIA and the Department of Transportation, to assess potential sharing in the band between DSRC and unlicensed operations. FCC staff at the Columbia Lab completed the first phase of testing and issued a Public Notice in October 2018 to solicit comments on the test report. Further testing was anticipated, but in the 5.9 GHz NPRM, the Commission expressed skepticism that delays to accommodate further testing were warranted, and proposed that separate spectrum segments for unlicensed devices and ITS applications would speed to resolution the uncertainty about use of the 5.9 GHz band, obviating the need to study and implement complex spectrum sharing regimes.

GN Docket No. 18-357: On November 21, 2018, the 5G Automotive Association (5GAA), a coalition of car manufacturers, equipment vendors and carriers, filed a waiver request seeking to use C-V2X in the 5.9 GHz band. The Commission has not yet acted on this waiver request.

STATUS: The comment cycle for the NPRM ended on April 27, 2020 and generated 349 comments and 47 reply comments. Commenters expressed a wide range of opinions ranging from advocating for more widespread unlicensed use of the 5.9 GHz band than what was proposed, to opposing any unlicensed operations in the 5.9 GHz band.

At the time this briefing sheet was prepared, Chairman Pai had announced his intent to place a Report and Order on the November 2020 Commission Meeting.

OET BRIEFING SHEET

SUBJECT: Experimental Licensing Program

SUMMARY: The Commission’s experimental licensing program allows interested parties—including universities, research labs, health care facilities, and manufacturers of radio frequency equipment—to develop new technologies and services while protecting incumbent services against harmful interference. In 2013, the Commission created program licenses designed to streamline the process for institutions that regularly file for experimental applications such as universities, R&D development companies, and medical institutions and also conduct a large portion of their experiments within geographic areas under their control. This new program licenses also provide for Innovation Zones, which are geographic areas that the Commission can define and make available for experiments.

KEY ISSUES:

- Each year, the Office of Engineering and Technology typically grants more than 2,000 experimental licenses. Many of the services and technologies deployed today were first tested under the experimental licensing program. In fact, many experimental licenses are currently supporting work looking towards the introduction of next-generation 5G services.
- 2013 rule revisions created three new types of experimental licenses – the program license, the medical testing license, and the compliance testing license. These licenses provide greater flexibility to conduct experiments – which can promote the development of new technologies and expedite their introduction to the marketplace.
- In 2017 program experimental licensing became available. Upgrades to the licensing system allows license holders to register proposed experiments on a new FCC license notification system and proceed with proposed experiments if no objections are received.
- On September 16, 2019 the Commission announced the creation of its first two Innovation Zones, in New York City and Salt Lake City. These Innovation Zones will be city-scale test beds for advanced wireless communications and network research, including 5G networks. The National Science Foundation selected smart city-research organization US Ignite and Northeastern University to form the Platform for Advanced Wireless Research Project Office, which will manage the Innovation Zones. Innovation Zones partner universities and the cities themselves will enable test bed development and deployment supported by the National Science Foundation along with a consortium of telecom and tech companies.
- The Spectrum Horizons rules create another ‘flavor’ of experimental licenses for the 95 GHz to 3 THz range. Spectrum Horizons Licenses are more flexible than traditional conventional experimental licenses – they have longer license terms, license transferability, and permit the licensee to sell equipment during the experimental term.

BACKGROUND:

Types of experimental licenses are currently as follows:

Conventional Experimental Radio License

This type of license is issued for a specific research or experimentation project (or a series of closely-related research or experimentation projects), a product development trial, or a market

trial. Widely divergent and unrelated experiments must be conducted under separate licenses. **Spectrum Horizon Licenses** are licensed like conventional licenses in that they are issued for a specific project, but they are only available in the 95 GHz to 3 THz range and offer greater flexibility in how they may be used.

Special Temporary Authorization

When an experimental program is expected to last no more than six months, its operation is considered to be temporary and the special temporary authorization procedure outlined in §5.61 of the rules must be used.

Program Experimental Radio License

This type of license is issued to qualified institutions and to conduct an ongoing program of research and experimentation under a single experimental authorization subject to the requirements of subpart E of this part. Program experimental radio licenses are available to colleges, universities, research laboratories, manufacturers of radio frequency equipment, manufacturers that integrate radio frequency equipment into their end products, and medical research institutions.

Medical Testing Experimental Radio License

This type of license is issued to hospitals and health care institutions that demonstrate expertise in testing and operation of experimental medical devices that use wireless telecommunications technology or communications functions in clinical trials for diagnosis, treatment, or patient monitoring.

Compliance Testing Experimental Radio License

This type of license will be issued to laboratories recognized by the FCC under Subpart J of this part to perform:

- product testing of radio frequency equipment, and
- testing of radio frequency equipment in an Open Area Test Site.

STATUS:

- The experimental licensing system was recently updated to accept applications for program licenses. Parties may apply for an experimental program license using the existing Form 442 application for experimental licenses at <https://apps.fcc.gov/oetcf/els/forms/442Dashboard.cfm>. Once approved, licensees may go on the new Experiments Notification System website and begin registering new program experiments. The website is available at <https://apps2.fcc.gov/ELSExperiments/pages/login.htm>. The program license registration system continues the FCC's commitment to encouraging research and development.

OET BRIEFING SHEET

SUBJECT: Spectrum Horizons (ET Docket No. 18-21)

SUMMARY: On March 15, 2019, the Commission adopted the Spectrum Horizons First Report and Order (R&O), ET Docket 18-21 (FCC, 19-19, rel. March 21, 2019), which:

- Created a new category of experimental licenses for the 95 GHz to 3 THz range. These licenses are more flexible than conventional experimental licenses – they have longer license terms, license transferability, and the ability to market equipment; and
- Made 21.2 gigahertz of spectrum available for unlicensed use in several band segments (116-123 GHz, 174.8-182 GHz, 185-190 GHz, and 244-246 GHz) under rules based on those currently in place for unlicensed use of the 57-71 GHz band.

KEY ISSUES: Federal and non-Federal users are co-primary in the 95 GHz – 3000 GHz band, so coordination with Federal interests will be vital. Other issues include:

- Ensuring that new operations above 95 GHz will coexist with existing passive services (such as the radio astronomy service (RAS) and the earth exploration satellite service (EESS)); fixed and mobile satellite services (FSS and MSS, respectively); and federal services in these frequencies; and
- Deciding whether we should license fixed point-to-point microwave links, mobile and point-to-multipoint services, and if so, how much spectrum and what bands to use.

BACKGROUND: In addition to the experimental and unlicensed rules that the Commission adopted in the R&O, in the Spectrum Horizons NPRM, ET Docket 18-21 (FCC 18-17, 33 FCC Rcd 2438 (2018)), it also sought comment on adopting rules for fixed point-to-point use of up to 102.2 gigahertz of spectrum in various bands above 95 GHz, based on our existing 70/80/90 GHz rules under which licensees obtain a nationwide non-exclusive license and register links with a database manager and on the deployment of mobile services in this spectrum.

STATUS: On July 1, 2019, Robert Bosch, LLC filed a petition for partial consideration requesting the Commission add the 123-140 GHz band to the bands above 95 GHz made available for use by unlicensed devices. OET staff continues to review the petition and related pleadings as it monitors development and use of the bands above 95 GHz. Ultimately, the Commission will determine if launching further rulemaking proceedings to modify the rules based on usage trends and/or to consider whether licensed use is warranted.

RELATED ACTIONS: On August 9, 2019, the mmWave Coalition filed a petition for rulemaking (RM-11847) requesting that the Commission modify footnote US246 of the Table of Frequency Allocations. In order to protect passive services (e.g., Radio Astronomy and Earth Exploration Satellite (passive)), footnote US246 prohibits most operations in specific bands ranging from 73 MHz to 252 GHz. The proposed modifications would allow some operation in these restricted frequency bands above 95 GHz provided that certain ITU-R interference recommendations are met.

OET BRIEFING SHEET

SUBJECT: FCC Responsibilities Concerning Biological Effects of Radio Frequency Radiation

SUMMARY: In accordance with provisions of the National Environmental Policy Act (NEPA), the Commission has rules for evaluating and limiting human exposure to radio frequency (RF) emissions from FCC-regulated transmitters. The FCC's guidelines for RF exposure were established in 1996 and are based upon recommendations from Federal health and safety agencies, and the rules set forth the necessary procedures for licensees and manufacturers to demonstrate compliance with those exposure guidelines. The RF limits for hand-held cellular telephones and other consumer devices are slightly more stringent than those in most other countries and among the most stringent in the world. The limits for more distant sources (i.e., wireless base stations, broadcast transmitters, etc.) are slightly more relaxed than most others.

KEY ISSUES:

- In November 2018, the National Toxicology Program (NTP) released its final reports on rats and mice exposed to RF emissions like that used in 2G and 3G cell phone technologies. While the NTP continues its research program in the area of RF exposure, the Food and Drug Administration (FDA) maintains that the current FCC guidelines are acceptable. The reports presented findings from observations made while exposing rodents to extremely high levels of radiofrequency energy (considerably above the current FCC limits) throughout various tissues and organs in the entire body over their lifetime – with inconsistent results depending on tissue type. Both the NTP and the FDA state that NTP's findings should not be directly interpreted to apply to human cell phone usage. In February 2020, the FDA released a review of scientific literature spanning ten years, concluding that “[t]he available scientific evidence to date does not support adverse health effects in humans due to exposures at or under the current limits...” and “[n]o changes to the current standards are warranted at this time.”
- FCC exposure limits currently extend from 100 kHz to 100 GHz, including specific absorption rate (SAR) limits applicable between 100 kHz and 6 GHz and maximum permissible exposure (MPE) limits applicable between 300 kHz and 100 GHz. The rules additionally specify limits for small devices that are typically held against the body, such as cell phones. These additional SAR limits for small devices currently only go up to 6 GHz, and so we have been effectively translating and applying the MPE limits to facilitate approval of such devices operating above 6 GHz. RF exposure measurement techniques for small devices operating at frequencies above 6 GHz and incorporating smarter capabilities are evolving at the Commission and in industry, resulting in development of guidance to describe the appropriate application of time and spatial averaging when demonstrating compliance of these devices. Ultimately, limits will need to be developed for frequencies above 100 GHz.
- Additionally, FCC exposure limits do not provide for protection against neurostimulation effects at the lower end of this frequency range, although the dominant heating effect for most sources is limited by SAR in this range. Some wireless power transfer (WPT) equipment is using high power to charge electric vehicles at frequencies below 100 kHz,

which is the lower limit of the present range for which our limits are specified. Therefore, limits may need to be developed for frequencies below 100 kHz as well.

STATUS: On November 27, 2019 the Commission unanimously adopted an item that continues to ensure the health and safety of workers and consumers of wireless technology, and which concludes the issues raised in the 2013 rulemaking. The Commission took the following actions:

- Resolved a Notice of Inquiry that sought public input on, among other issues, whether the Commission should amend its existing RF emission exposure limits, declining to propose amendments to existing RF limits at this time;
- Issued a Report and Order adopting the 2013 proposals to: establish a generally-applicable set of exemption formulas for all transmitters; revise outdated rules regarding RF evaluation procedures to allow for flexibility to better accommodate rapidly evolving technology; and adopt rules for matters such as the signage for antennas, restricted areas, and notification of responsibility for access to areas where antennas are located.
- Issued a Notice of Proposed Rulemaking proposing new limits to allow for flexibility to better accommodate rapidly evolving technology, such as for portable devices operating in millimeter-wave frequency bands and wireless power transfer (WPT) equipment, while maintaining the same underlying fundamental basis for protection as our existing limits;
- Issued a Memorandum Opinion and Order denying a pending petition for reconsideration and affirms the Commission's prior finding that the outer ear (pinna) should be treated like other extremities for purposes of testing compliance with our RF emission limits.

Commission staff must review and evaluate the comments and replies received in response to the Notice of Proposed Rulemaking and recommend what further action could be taken to better accommodate new technologies.

BACKGROUND:

- On March 29, 2013, the Commission adopted a Report and Order (R&O), Further Notice of Proposed Rulemaking (FNPRM) (in ET Docket No. 03-137), and Notice of Inquiry (NOI) (in ET Docket No. 13-84) that resolved some of the issues related to measurements and exemptions raised in a 2003 NPRM, reevaluated others of those proposals and modified them based on the evolution of available information and usage patterns, sought further comment on the modified proposals, and asked whether a rulemaking should be started with respect to the basic RF exposure guidelines themselves as well as some of the current implementations. The NOI opened a new docket seeking comment and information on whether new research, deployment, and usage patterns require a reexamination of our basic RF exposure limits, resulting in over a thousand filings totaling more than 20,000 pages.
- A petition for reconsideration was received in response to the 2013 R&O, requesting that the Commission reconsider its decision on how it classifies exposure to the outer ear. The petition was opposed by several parties.
- Many comments were received opposing the Commission's Spectrum Frontiers and Wireless Infrastructure Reports and Orders based on biological concerns; these were copied into the NOI proceeding docket.

- The R&O has been challenged in court. These cases have been consolidated in the D.C. Circuit court under Environmental Health Trust v. FCC (case no. 20-1025).
- Upon review of the record, the Commission found no appropriate basis for and thus declined to initiate a rulemaking to reevaluate the existing RF exposure limits. This decision was supported by the FCC's expert sister agencies and a recognized a lack of data in the record to support modifying the existing exposure limits. The Commission will continue to study and review publicly available science and collaborate with other federal agencies and the international community to ensure its limits continue to reflect the latest science and, if an appropriate basis for launching a new Commission proceeding arises, can undertake further evaluation of the rules.
- Laboratory Activity: Because of the speed with which wireless technology advances, the Commission generally does not include test procedures in our rules. These testing requirements are continually being modified by updates to the FCC Laboratory's on-line Knowledge Database (KDB), which includes reference to standards documents and FCC bulletins, and provides for more timely revision of the Commission's procedures.

OET BRIEFING SHEET

SUBJECT: FCC Policies Regarding Wireless Power Transfer (WPT) Equipment

SUMMARY: The scope of use of Wireless Power Transfer (WPT) equipment is progressively expanding, to include applications for operating at increasingly higher power and at greater distances than currently deployed. While much WPT equipment operates at frequencies covered by our existing limits, there are unique electromagnetic compatibility and exposure scenarios associated with WPT at a distance using microwave frequencies that require significant new testing considerations to ensure compliance. Wireless power transfer devices have been authorized for several years under the Commission's Part 15 and Part 18 rules, depending on whether any communication function is involved between the transmitting and receiving units. However, these new and enhanced wireless power transfer products, currently under development, will seek a ubiquitous position in modern households and workplaces and will require unique considerations in our equipment authorization process and likely in our rules.

KEY ISSUES:

- While WPT is typically designed for relatively close coupling between the transmitting and the receiving units, it can operate at very high power (e.g., higher than 3 kW and up to several tens of kW), and at a variety of frequencies below 100 kHz. Other advanced wireless power transfer applications can provide charging from a transmitting unit to one or more receiving unit(s) located at greater distances (one meter or more) from the transmitting unit, with future developments intended at distances suitable for room-size operation, and while the receiving unit is in motion. These new devices also create significant measurement challenges since the beam forming provided by the antenna technologies is dynamic and can vary in time and space based on the detection of obstruction between the transmitting and receiving units.
- Under Part 18 of the FCC rules, wireless power transfer equipment is currently authorized pursuant to the Supplier's Declaration of Conformity (SDoC) rules with the option to use the Certification rules. Most WPT products, especially inductive wireless charging pads used for phones with operating frequencies less than 1 MHz and output powers up to 15 watts, seek SDoC treatment rather than Certification under KDB 680106 D01 v03. However, there have been a handful of WPT products, especially radiating WPT products, which instead have sought Certification.
- GuRu (formerly Auspion), planning plans to market its radiating WPT system exclusively for industrial, retail and enterprise applications, has requested that the Commission waive the "local use" condition, as specified in the ISM definition, to allow its ISM system to operate at distances greater than 1 meter (3 feet) between the transmitter and receivers, as long as the transmitted power is directed to very precise locations where the receivers reside.

STATUS: On November 27, 2019 the Commission unanimously adopted an item that continues to ensure the health and safety of workers and consumers of wireless technology, which opened a Notice of Proposed Rulemaking seeking comment on wireless power transfer (WPT) issues. The Commission took the following actions:

- Proposed to define wireless power transfer devices under Part 18 of our rules as:

- *“A category of ISM equipment which generates and emits RF energy for local use by inductive, capacitive or radiative coupling, for transfer of electromagnetic energy between a power transfer unit (TU) and receiving unit(s) (RU) of a Wireless Power Transfer (WPT) system.”*
- Sought comment on whether the term “locally” in the context of allowed energy use under Part 18 should be defined in terms of distance between the transmitting and receiving units, and if so, proposed 50 cm as the maximum distance for wireless power transfer devices that operate “locally” (*i.e.*, excluding wireless power transfer at-a-distance devices, as discussed below).
- Sought comment on a suitable definition and operating parameters for wireless power transfer devices “at-a-distance,” *i.e.*, that provide charging of receiving units located at a distance from the power transfer unit (*i.e.*, 50 cm or greater), with future developments intended at distances suitable for room-size operation, and while the RU is in motion.
- Sought comment on whether to establish frequency bands and power limits specifically for wireless power transfer at-a-distance devices either under Part 15 or Part 18 of our rules, including operation in designated ISM bands (instead of allowing unlimited power in these bands, as Part 18 currently permits), and what should be the basis for such limits.
 - In particular, should there be any consideration for potential harmful interference to other non-part 18 devices given the popularity of these frequency bands for consumer devices?
 - Should there be additional consideration given to the potential for harmful interference from wireless power transfer devices to active medical devices that may be worn or implanted (e.g., body worn insulin pumps, implantable cardiac pacemakers, implantable deep brain stimulators (DBS), spinal cord stimulators)?
- Proposed to require wireless power transfer equipment for both consumer and non-consumer applications to be subject to our Certification rules (rather than SDoC).

BACKGROUND:

- WPT equipment allows for the transmission of electrical energy without the use of wires or other physical connections. Specifically, the primary device is a transmitting unit that conveys RF energy to one or several secondary devices that act as receiving units, to charge or power the receiving unit. The most familiar consumer applications of wireless power transfer technology are charging pads or fixtures for charging the batteries in cell phones, electronic toothbrushes, kitchen appliances, and cordless tools.
- Most of these products have been designed to operate via magnetic induction or resonance techniques, where the device is placed on a charger with little or no distance separation between the power source (transmitting unit) and the battery or appliance (receiving unit). Most of the existing applications are for battery charging and charge only one device at a time and at low power. However, use of wireless power transfer for powering of devices and charging of multiple devices at once is increasing, and charging (or powering) of devices while in motion is being developed.
- Laboratory Activity: Because of the speed with which wireless technology advances, we generally do not include test procedures in our rules. These testing requirements are continually being modified by updates to the FCC Laboratory’s on-line Knowledge Database (KDB), which includes reference to standards documents and FCC bulletins, and provides for more timely revision of our procedures.

OET BRIEFING SHEET

SUBJECT: NTIA Coordination

OTHER BUREAUS/OFFICES: WTB, IB, PSHSB

SUMMARY: The Communications Act assigns joint jurisdiction for spectrum management to the Commission and the National Telecommunications and Information Administration (NTIA) at the Department of Commerce. The FCC is responsible for non-Federal use of spectrum and NTIA is responsible for Federal use of spectrum. The FCC and NTIA have an MOU governing coordination to ensure that the spectrum is used for its highest and best purpose whether by the private sector, state and local government, or Federal agencies. Coordination takes place informally at the staff level and formally through the Interdepartment Radio Advisory Committee (IRAC). OET serves as the liaison to the IRAC for the FCC.

STATUS: On-going coordination of all FCC spectrum-related items with NTIA is in progress for proceedings that may impact Federal Government users.

OET BRIEFING SHEET

SUBJECT: Measuring Broadband America (MBA) Program – Performance Measurements of wireline and wireless broadband networks (GN Docket No. 12-264)

OTHER BUREAUS/OFFICES: CGB, OMD, WTB, WCB, OEA, OGC

SUMMARY: The Measuring Broadband America (MBA) program has the following objectives:

- (a) to define and execute network measurements on a core population of the major U.S. Internet Service Providers (ISPs);
- (b) to make available the collected data on its web page; and
- (c) to provide regular reports that analyze the measurement results for the purpose of informing U.S. consumers and other communities of interest about the performance of broadband services at a national level.

The program comes from the FCC's 2010 National Broadband Plan's recommendation that the Commission work with industry to generate and make available empirical data on consumer broadband service performance, using transparent methodology and analyses; as well as the 2008 Broadband Data Improvement Act's requirement that the Commission conduct and make public periodic reports of surveys of consumers on broadband services, the data transmission speeds, and performance.

The program enlisted the cooperation of wireline ISPs as well as academic and industry participants. The participating ISPs serve more than 80 percent of broadband consumers.

The program uses a measurement infrastructure superposed on the participant ISPs' networks. Measurement servers are hosted both at neutral premises outside ISP networks (referred to as 'Off-net') and within ISP networks ('On-net'). The two separate server categories are needed to correlate performance averages, and to more easily detect anomalous trends. The infrastructure also consists of measurement devices or test probes within broadband consumers' homes, test schedulers, data collectors, and cloud storage. The entire infrastructure is controlled and administered by the FCC's contractor – SamKnows.

Dedicated off-the-shelf measurement devices that unobtrusively measure consumers' broadband service performance are delivered to consumer volunteers for the study. Regular adjustments are made to the panel composition to account for shifts in service and subscription demographics as well as for changes in network capabilities.

Tests run 24x7x365. However, by agreement with MBA industry participants, a benchmark month is chosen as the basis on which to compile the yearly report. Each ISP validates their users' provisioned service and that then gets compared to the measured service for the chosen month. Input is regularly solicited for improving the process, and the MBA study is widely considered the most transparent and accurate view of consumer broadband services within the United States. All collected information is anonymized and made available to the public, along with detailed descriptions of the tests, methodology, software, and scripts used for data analysis. Measurement methods developed within this program have been submitted to two standards groups and the raw data released is regularly used by academics.

The MBA program includes mobile wireless broadband measurements based on a crowd sourcing approach using the FCC Speed Test app. The mobile measurements use the same test server network used for fixed-service broadband measurements. The app is available for download through either Google Play for Android devices or App Store for iOS devices. More than 200,000 volunteers have downloaded the software allowing network measurements detailing mobile wireless broadband network performance. In addition to performance data, structure data such as cell tower locations, cell tower IDs, handset type, etc. are collected. Over time, this data will permit the FCC to develop a view of wireless technology deployment and service coverage in the U.S. The collected datasets from prior years are publicly available.

The annual MBA report documents network performance of each ISP, and hence creates an awareness of competitive vulnerability. As a result, the program has helped to spur a competitive environment where each ISP has worked towards improving its service performance. Further, the program spotlights technology-based performance differences and evolution trends among consumer broadband service technologies. For example, the MBA program has shown a growing gap between DSL performance compared to the performance of fiber and cable technologies.

As the program has evolved, collected data has been incorporated into the work of other bureaus. Examples include:

- (a) fulfillment of congressional data collection requirements;
- (b) potential use of MBA test capabilities as an option to verify Connect America Fund (CAF) Phase II and Rural Digital Opportunity Fund (RDOF) recipients; and
- (c) potential use of FCC Speed Test App to verify mobile wireless service coverage.

The program also offers an additional avenue of informal collaboration with leading U.S. academics through its research component, MBA Assisted Research Studies (MARS). MARS conducts advanced research experiments to characterize evolving technical aspects of the U.S. Internet. Such studies provide additional insight into Internet architectures and performance. A recent example includes investigations of performance bottlenecks encountered by consumers – as Internet services are made available at ever higher speeds, home networks are becoming limiting factors in end-to-end performance.

STATUS:

9th MBA Fixed Broadband report and new updated FCC Speed Test app released August 3, 2020.

OET BRIEFING SHEET

SUBJECT: Technological Advisory Council (TAC)

SUMMARY: The Technological Advisory Council (TAC) is a Federal Advisory Committee that provides guidance to the Commission on important technological issues that can significantly impact the nation's communication infrastructure and services. The TAC typically consists of C-Level executives drawn from the technical industry. Members include representatives of the wireless service industry, cable and broadcasting industry, communications equipment manufacturers, component vendors, application-based companies, as well as representatives of amateur radio and other stakeholder groups. The TAC operates under an annual study cycle which is initiated with a discussion between TAC members and FCC staff of possible study topics. A list of proposed study topics, which is drafted by the OET staff and the TAC chairman, is reviewed by the FCC Chairman and discussed with the Chief, OET; together they agree on the study charter for the TAC for the coming year. Over the years, TAC recommendations have had a significant and positive impact on FCC work programs.

STATUS: Full video transcripts of the meeting are available at the FCC website at <https://www.fcc.gov/general/technological-advisory-council> together with a copy of all materials presented. Also, TAC Working Group Charters and TAC members information are available at the website shown above.

The next TAC meeting is scheduled for December 1, 2020.

BACKGROUND: Past TAC recommendations have impacted the FCC's work in several areas. For example, in the 3.5 GHz CBRS proceeding, the Commission proposed rules consistent with the TAC recommendation about small cell site deployment (lower power/lower antenna heights). The FCC was able to reduce exclusion zone size by factors of 5 to 10, and sharing technologies are in development to further reduce or eliminate the impact of exclusion zones. Similarly, it was a TAC work group that identified the potential for early deployment of millimeter (mm) wave technologies and the importance of rapidly making available mm spectrum bands to enable technology development, which eventually lead to the FCC's Spectrum Frontiers proceeding.

OET BRIEFING SHEET

SUBJECT: OET Waivers

SUMMARY: As part of its mission is to manage the spectrum and provide leadership to create new opportunities for competitive technologies and services for the American public, OET periodically issues waivers of the Commission's rules. Most of these waivers are for unlicensed devices under Part 15 of the rules, but OET can also waive equipment authorization (Part 2) and experimental (Part 5) rules, as well as the Table of Frequency Allocation (also Part 2).

STATUS: Waivers are considered on an ongoing basis.

Part 15/unlicensed rules: These waiver requests are typically filed in ECFS as a non-docketed filing in INBOX-PART 15. OET may open a docket and put the petition out for public comment. Recent unlicensed waivers have involved the rules for ultra-wideband devices, U-NII operations, as well as frequency-specific operations (such as short-range devices used for interactive motion sensing in the 57-71 GHz band – the Google Soli device). Many recent waiver requests have involved these broad categories of devices and applications:

- Medical devices
- Industrial devices (including ground-penetrating radar applications)
- Security devices (such as walk-through screening portals)
- Short-range sensing applications
- Transportation applications

Equipment authorization: In May 2020, OET waived certain provisions of its equipment authorization rules to allow the importation and marketing of certain medical devices to address the surge in demand caused by the COVID-19 pandemic. This order (in conjunction with WTB) also waived Part 15, 18 and 95 operational rules.

Table of Frequency Allocations: OET waives the provisions of the Table (2.106) to allow for non-conforming uses. Typically, these are issued in conjunction with the appropriate licensing bureau (IB, WTB, etc.) to support a particular applicant.

BACKGROUND: OET considers waiver requests under Section 1.3 of the Commission's rules. The petitioner must demonstrate good cause, which may be found "where particular facts would make strict compliance inconsistent with the public interest." To make this public interest determination, the waiver cannot undermine the purposes of the rule, and there must be a stronger public interest benefit in granting the waiver than in applying the rule.

The vast majority of OET's waivers work involves Part 15 rules/unlicensed operations. While the Part 15 rules provide flexibility to develop and market a variety of unlicensed devices, it is impossible for these rules to anticipate the innovation that takes place in this area. Consideration of waivers allows OET to support such innovation on a case-by-case basis, which gives Federal government entities that share these frequencies assurance that they will not be subject to harmful interference.

OET BRIEFING SHEET

SUBJECT: Spectrum Allocation for Non-Federal Space Launch Operations (ET Docket No. 13-115)

SUMMARY: On May 9, 2013, the Commission issued a Notice of Proposed Rulemaking and Notice of Inquiry (FCC 13-65) that proposed to improve commercial access to spectrum used for communications services required for controlling, monitoring, and tracking launch vehicles and initiated a broad-ranging inquiry on future spectrum requirements of the commercial space industry. The Commission received 15 comments and four reply comments during a pleading cycle that closed September 30, 2013. Recent *ex parte* filings by space launch interests have renewed interest in this docket.

STATUS: Commission staff are evaluating the record developed in response to the NPRM and more recent *ex parte* filings to determine how this docket can be used to support space launch activities.

BACKGROUND AND KEY ISSUES:

Commercial space launch operators currently use spectrum that is allocated for exclusive Federal use, and thus must use the spectrum on a non-interference basis.

The NPRM identified a need for commercial space launch operators to directly acquire licenses needed for use during launches using a well-defined application and coordination processes. It proposed to make primary non-Federal allocations in three frequency bands used for communications services required for controlling, monitoring, and tracking launch vehicles: 420-430 MHz (used for sending self-destruct commands during launches), 2200-2290 MHz (used for telemetry signals from the launch vehicle to ground stations), and 5650-5925 MHz (used for radar tracking of the launch vehicle).

While a significant amount of time has elapsed since the NPRM was issued, recent events have encouraged Commission staff to re-evaluate the issues raised in this proceeding. Specifically, a private launch provider has recently taken astronauts to the International Space Station and this launch provider successfully conducted 13 launches in 2019. Other private launch providers have also conducted or are planning to conduct launches in the future. Recently several private launch providers have made presentations to Commission staff about their spectrum needs for future launches. The growth of the commercial space launch industry and the expressed needs of its participants show that Commission action may be needed to further encourage the development of this important industry.

**Office of General Counsel
Briefing Sheets**

October 2020

Table of Contents

SUBJECT	PAGE NUMBER
American Electric Power Service Corp. v. FCC (9th Cir. No. 19-70490)	1
AT&T Services, Inc., et al. v. FCC (D.C. Cir. Nos. 20-1190, 20-1216)	2
City & County of San Francisco v. FCC (9th Cir. No. 19-71832)	3
City of Eugene, Oregon v. FCC (6th Cir. No. 19-72219)	4
City of Portland v. FCC (9th Cir. No. 18-72689) (and consolidated cases))	5
Competitive Enterprise Institute, et. al. v. FCC (D.C. Cir. No. 18-1281)	6
COMPTEL d/b/a INCOMPAS v. FCC (D.C. Cir. No. 19-1164)	7
Environmental Health Trust, et al. v. FCC (D.C. Cir. No. 20-1025)	8
GCI Communications Corp. v. FCC (D.C. Cir. No. 19-1217)	9
Gorss Motels v. FCC (2d Cir. No. 20-1075)	10
Great Lakes Communications Corp. v. FCC (D.C. Cir. Nos. 19-1233 & 19-1244)	11
Huawei Technologies USA, Inc. v. FCC (5th Cir. No. 19-60896)	12
The League of California Cities et al. v. FCC (9th Cir. No. 20-71765)	13
Massachusetts Department of Telecomms and Cable v. FCC (1st Cir. No. 19-2282)	14
National Lifeline Ass'n v. FCC (D.C. Cir. No. 20-1006)	15
PDR Network, LLC v. Carlton & Harris Chiropractic, Inc. (4th Cir. No. 17-1705 (formerly U.S. Supreme Court No. 17-1705))	16
Prometheus Radio Project v. FCC (3d Cir. No. 17-1107)	17
PSSI Global Services, L.L.C. v. FCC (D.C. Cir. No. 20-1142)	19
Tri-County Tel. Ass'n v. FCC (D.C. Cir. No. 20-1003)	20
United States Telecom Ass'n v. FCC (D.C. Cir. No. 15-1322)	21
Summary of Some Key Provisions on FCC Process	22

OGC BRIEFING SHEET

SUBJECT: *American Electric Power Service Corp. v. FCC* (9th Cir. No. 19-70490)

SUMMARY: Several electric utility companies challenge the FCC’s amendment of its pole attachment rules, including the establishment of a “one-touch make-ready” process that allows new attachers with simple wireline attachments to control the work necessary to complete such attachments. See *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, FCC 18-111 (released Aug. 3, 2018).

STATUS: Petitioners filed a petition for review in the Eleventh Circuit on October 18, 2018. On October 30, 2018, the FCC moved to transfer this case to the Ninth Circuit pursuant to 28 U.S.C. § 2112(a)(5) so that the petition could be consolidated with an earlier-filed petition for review of the same FCC order (*City of Portland v. USA*, No. 18-72689 (9th Cir.)). On March 1, 2019, the Eleventh Circuit granted the transfer motion and transferred the case to the Ninth Circuit. This case (9th Cir. No. 19-70490) was then consolidated with *City of Portland v. FCC* (9th Cir. No. 18-72689). The FCC’s brief was filed on August 22, 2019. Oral argument was held on February 10, 2020. On August 12, 2020, the Ninth Circuit issued an opinion denying the petition for review and upholding the FCC’s new pole attachment rules. Petitioners filed a petition for panel rehearing on September 28, 2020, which the Court denied on October 22, 2020.

OGC BRIEFING SHEET

SUBJECT: *AT&T Services, Inc., et al. v. FCC* (D.C. Cir. Nos. 20-1190, 20-1216)

SUMMARY: In this consolidated appeal, AT&T, Edison Electric Institute (“EEI”), and others challenge the Commission's order to open the 6 GHz band to unlicensed indoor operations without the use of an automated frequency coordination (AFC) system. Rather than the use of an AFC system, the Commission adopted several restrictions to prevent harmful interference to licensed services, including limiting devices to indoor operations, requiring a contention-based protocol, and limiting access points to low power operation. Petitioners allege that the order will adversely impact public safety, and is arbitrary, capricious, and an abuse of discretion.

STATUS: AT&T filed a petition for review on June 5, 2020, and EEI filed its petition of the same order on June 17, 2020. NAB and APCO filed petitions on July 24, 2020, and UTC/NECA/APPA filed a petition on July 27, 2020. EEI and APCO also filed stay petitions before the Commission, which the staff denied in August 2020. EEI, APCO, and UTC/NECA/APPA subsequently filed a petition for judicial stay, which the D.C. Circuit denied on October 1, 2020. The Court also denied petitioners’ request for an expedited briefing schedule. The parties must file a proposed briefing schedule with the Court by November 1, 2020.

OGC BRIEFING SHEET

SUBJECT: *City & County of San Francisco v. FCC* (9th Cir. No. 19-71832)

SUMMARY: San Francisco seeks review of a Commission order preempting part of a local ordinance, known as Article 52, to the extent it may require owners of multiple tenant environments (such as apartments or condominiums) to allow new communications providers to use inside wiring that is already currently in use by another communications provider. *Improving Competitive Broadband Access to Multiple Tenant Environments*, Notice of Proposed Rulemaking and Declaratory Ruling, 34 FCC Rcd 5702 (2019).

STATUS: San Francisco filed its petition for review on July 22, 2019. The court directed the parties to participate in a mediation call on September 19, at which San Francisco suggested it may be able to resolve this matter without need for litigation. Following that call, the court vacated the briefing schedule and directed San Francisco to file confidential status reports updating the court and the parties on its position. The latest status report indicated that San Francisco is still hoping to resolve the matter without pursuing this litigation. On October 22, 2021, San Francisco informed the FCC that it intends to file a motion withdrawing its court challenge.

OGC BRIEFING SHEET

SUBJECT: *City of Eugene, et al. v. FCC* (6th Cir. No. 19-4161)

SUMMARY: Several local franchising authorities (LFAs) seek review of the Third Report and Order in the Commission’s cable franchising proceeding. That order responded to the U.S. Court of Appeals for the Sixth Circuit’s remand of the FCC’s Second Report and Order in the same rulemaking docket (*Montgomery County, Maryland v. FCC*, 863 F.3d 434 (6th Cir. 2017)). The order on review held that the cable-related “in-kind” contributions made by cable operators to municipalities (*e.g.*, free cable service) are “franchise fees” under the Communications Act and thus count toward the statutory cap on franchise fees. The order further held that LFAs are barred from regulating the non-cable facilities and services of cable operators. It then preempted any state or local requirements that are inconsistent with the rules adopted in the order.

STATUS: Several LFAs filed petitions for review of the Third Report and Order in the U.S. Courts of Appeals for Third, Seventh, Ninth, and D.C. Circuits; after a judicial lottery, those cases were consolidated in the Ninth Circuit. The Commission then filed a motion in the Ninth Circuit to transfer the petitions from that court to the Sixth Circuit, in light of the Sixth Circuit’s *Montgomery County* decision. While the transfer motion was pending, associations representing LFAs and state and local governments filed a petition for administrative stay with the Commission. After the Media Bureau denied the stay request, certain LFA petitioners filed a motion for a judicial stay in the Ninth Circuit. The Ninth Circuit granted the Commission’s transfer motion, however, and transferred the petitions for review and the pending stay motion to the Sixth Circuit. On March 11, 2020, the Court heard oral argument on the stay motion, which the Court denied in a March 19, 2020 Order. Petitioners filed their initial brief on May 15, 2020, the FCC filed its responsive brief on August 10, 2020. We await an oral argument date.

SUBJECT: *City of Portland v. FCC* (9th Cir. No. 18-72689) (and consolidated cases)

SUMMARY: Dozens of municipalities challenge the *August Infrastructure Order*'s ruling that state and local moratoria on communications infrastructure deployment have the "effect of prohibiting" service in violation of Section 253(a). Third Report and Order and Declaratory Ruling, *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, 33 FCC Rcd 7705 (2018). Multiple parties also challenge the *September Infrastructure Order*'s application of that same phrase in Sections 253 and 332(c)(7) to state and local fees, aesthetic requirements, and shot clocks for small wireless facilities. Declaratory Ruling and Third Report and Order, *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, 33 FCC Rcd 9088 (2018).

STATUS: The Ninth Circuit panel issued its decision on August 12, 2020, substantially upholding the Commission's orders except for two narrow issues concerning aesthetic regulations. Judge Bybee dissented from a portion of the decision upholding the Commission's determination that localities may not impose small cell fees that exceed a reasonable approximation of their actual costs, but the decision was unanimous in all other respects. On September 28, two groups of local government petitioners filed petitions for rehearing en banc, which the Court denied on October 22, 2021.

OGC BRIEFING SHEET

SUBJECT: *Competitive Enterprise Institute, et. al. v. FCC* (D.C. Cir. No. 18-1281)

SUMMARY: In May 2015, Charter Communications, Time Warner Cable, and Advance/Newhouse Partnership agreed to merge into a new entity called New Charter. To effectuate the merger, the companies filed an application with the Commission for the approval to transfer control of certain radio licenses. The Commission in 2016 approved the application, contingent on New Charter complying with certain conditions that the agency deemed would serve the public interest. New Charter agreed to these conditions and is in the process of executing them.

The Competitive Enterprise Institute and four New Charter broadband customers (collectively CEI) challenged the imposition of four of the conditions in a petition for reconsideration before the agency. They argued that the conditions were contrary to longstanding Commission policy and exceeded the agency's statutory authority. After the reconsideration petition remained pending for some time, CEI filed a petition for a writ of mandamus in the D.C. Circuit to compel a decision. Oral argument on that mandamus petition was scheduled for September 2018. A week before argument, the Commission issued a brief order dismissing the petition for reconsideration on standing grounds without reaching the merits of the petitioners' challenges to the conditions. The FCC's action led the Court to cancel oral argument and dismiss CEI's mandamus petition as moot.

STATUS: CEI filed a notice of appeal of the Commission's 2016 order and the reconsideration order on October 9, 2018. After briefing, oral argument was held on September 5, 2019. On August 14, 2020, the Court dismissed the challenge as to two of the conditions, based on a finding that the challengers lacked Article III standing to seek review of those conditions. The Court vacated the other two conditions, however, after finding that the individual New Charter subscribers did have standing to challenge those conditions. Judge Sentelle dissented. He thought the challengers lacked standing to challenge all four of the conditions and would have dismissed the entire case for lack of jurisdiction.

OGC BRIEFING SHEET

SUBJECT: *COMPTEL d/b/a INCOMPAS v. FCC* (D.C. Cir. No. 19-1164)

SUMMARY: INCOMPAS, a trade association of competitive local exchange carriers, and the California Public Utilities Commission challenge the FCC's decision to forbear from requiring price cap incumbent LECs to (1) unbundle analog voice-grade copper loops and (2) offer for resale at wholesale rates telecommunications services that are offered at retail to non-carrier customers. *Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. § 160(c) to Accelerate Investment in Broadband and Next-Generation Networks*, FCC 19-72 (released August 2, 2019).

STATUS: INCOMPAS filed a petition for review in the D.C. Circuit on August 12, 2019, and CPUC filed a petition of the same order on October 1, 2019. Petitioners filed two separate briefs on January 13, 2020. Respondents' brief was filed on March 25, 2020. Oral argument took place on September 14, 2020. We await a decision from the Court.

OGC BRIEFING SHEET

SUBJECT: *Environmental Health Trust, et al. v. FCC* (D.C. Cir. Nos. 20-1025 and 20-1138))

SUMMARY: Environmental Health Trust and Children’s Health Defense seek review of the FCC’s decision in *Proposed Changes in the Commission’s Rules Regarding Human Exposure to Radiofrequency Electromagnetic Fields*, FCC 19-126 (rel. Dec. 4, 2019), which, among other things, terminated a 2013 Notice of Inquiry to review the Commission’s radiofrequency (RF) exposure limits for radiation emitted by communications devices and facilities.

STATUS: Petitioners have filed their opening brief, and the FCC’s response brief was filed on September 22, 2020. We await an oral argument date.

OGC BRIEFING SHEET

SUBJECT: *GCI Communications Corp. v. FCC* (D.C. Cir. No. 19-1217)

SUMMARY: In *Promoting Telehealth in Rural America*, FCC No. 19-78 (rel. Aug. 20, 2019) the Commission reformed several aspects of its Rural Health Care Program. The program provides subsidies for telehealth services based on the difference between the urban rate—i.e., the rate charged for “similar services in urban areas of the state”—and the rural rate—i.e., the rates for “similar services provided to other customers in comparable areas.” See 47 U.S.C. § 254(h)(1)(A). In the order, the Commission, among other things, clarified the scope of “similar services,” defined the geographic contours of urban and rural areas, and delegated to USAC the determination of urban and rural rates. On October 21, 2019, GCI, the largest participant in the program in Alaska, petitioned for review of the order. GCI argues that (1) the Commission’s new rate-setting approach is arbitrary and capricious, (2) the Commission impermissibly delegated policy-making functions to USAC and the Wireline Bureau, (3) and the new regime uses irrational benchmarks that provide inadequate subsidies in especially remote rural areas.

STATUS: GCI petitioned for review in the D.C. Circuit on October 21, 2019. Soon after, five other parties filed petitions for agency reconsideration, asking the FCC to revisit or clarify aspects of the *Order*. Because the reconsideration petitions raised many of the issues that GCI would raise in court, GCI and the FCC jointly moved to put the D.C. Circuit case in abeyance. The D.C. Circuit granted the motion. . While the case was still in abeyance, GCI filed an application for review of a guidance letter from the Wireline Competition Bureau to USAC on issues related to those in the appeal. Based on this, and the still pending reconsideration petitions, the parties jointly moved to continue abeyance for six further months, until March 8, 2021. The D.C. Circuit granted the motion, and the case continues in abeyance.

OGC BRIEFING SHEET

SUBJECT: *Gorss Motels v. FCC* (2d Circuit, No. 20-1075)

SUMMARY: Petitioners challenge the Commission's interpretation of a D.C. Circuit decision, *Bais Yaakov of Spring Valley v. FCC*, 852 F.3d 1078 (D. Cir. 2017), which invalidated a rule requiring opt-out notices on faxes sent with the recipient's prior consent. Petitioners contend that the *Bais Yaakov* decision does not bind other courts of appeals to reach the same decision, including the Second Circuit.

STATUS: Gorss Motels filed a petition for review on March 25, 2020, in the Second Circuit. The petitioner filed its opening brief on August 3. The FCC filed its response brief on October 20, 2020. We await an oral argument date.

OGC BRIEFING SHEET

SUBJECT: *Great Lakes Communication Corp. v. FCC* (D.C. Cir. Nos. 19-1233 & 19-1244)

SUMMARY: Several local exchange carriers and providers of high-volume calling services challenge the FCC's revision of its rules for curbing access stimulation (or "traffic pumping"). See *Updating the Intercarrier Compensation Regime to Eliminate Access Arbitrage*, 34 FCC Rcd 9035 (2019).

STATUS: Two different groups of petitioners filed petitions for review in the D.C. Circuit (Nos. 19-1233 and 19-1244). Petitioners in No. 19-1233 moved for a stay on October 30, 2019. The Court denied that stay motion on November 25, 2019. The Court granted the FCC's unopposed motion to hold the case in abeyance on December 23, 2019. CarrierX, one of the petitioners in No. 19-1244, filed another stay motion on January 9, 2020. The Court denied that motion on January 29, 2020. The abeyance period ended on June 18, 2020. Under the briefing schedule established by the Court, the FCC's brief is due on December 14, 2020. Oral argument has not yet been scheduled.

OGC BRIEFING SHEET

SUBJECT: *Huawei Technologies USA, Inc. v. FCC* (5th Cir. No. 19-60896)

SUMMARY: In *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs, Huawei Designation, ZTE Designation*, FCC 19-121 (rel. Nov. 26, 2019), the FCC prohibited the use of USF funds to purchase equipment or services from a “covered company,”—i.e., a company that poses a national security threat. The agency also initially designated Huawei Technologies Company (Huawei) and ZTE Corporation (ZTE) as covered companies for purposes of this rule. Huawei challenges the order as arbitrary and capricious, a violation of due process, and on several other statutory and constitutional grounds.

STATUS: Huawei petitioned for review of the order in the Fifth Circuit on December 5, 2019. The case has been briefed, and the oral argument is schedule for November 4, 2020.

OGC BRIEFING SHEET

SUBJECT: *The League of California Cities et al. v. FCC* (9th Cir. No. 20-71765)

SUMMARY: Local governments seek review of Declaratory Ruling and Notice of Proposed Rulemaking, *Implementation of State and Local Governments' Obligation to Approve Certain Wireless Facility Modification Requests Under Section 6409(a) of the Spectrum Act of 2012*, FCC 20-75 (released June 10, 2020). The Declaratory Ruling clarifies several terms in the Commission's rules addressing municipal review of applications to deploy telecommunications equipment on existing infrastructure. 47 CFR § 1.6100.

STATUS:

The League of California Cities filed a petition for review in the Ninth Circuit on June 22, 2020. The FCC filed the record in the Ninth Circuit on August 3, 2020. Two additional petitions were filed in the D.C. Circuit on August 7, 2020 and August 10, 2020: *City of Boston* and *City of Seattle*. The D.C. Circuit consolidated the cases, with *City of Seattle* as lead.

The Commission moved to transfer *City of Seattle* to the Ninth Circuit for purposes of consolidation with *League of California Cities*. (The Ninth Circuit properly has jurisdiction pursuant to 28 USC 2112(a)(5), as venue of the first-filed case). Petitioners in *League of California Cities* moved to hold the briefing schedule in that case in abeyance pending transfer and consolidation. The Ninth Circuit granted the motion to hold briefing in *League of California Cities* in abeyance.

The D.C. Circuit transferred *City of Seattle* to the Ninth Circuit, which docketed the petitions and set a briefing schedule. Petitioners' opening brief in those cases is due December 3, 2020, and the Commission's brief is due January 4, 2021. *League of California Cities* remains in abeyance. The Commission has filed a motion to consolidate the cases, and the parties currently are discussing a proposal for a briefing format and schedule.

The Ninth Circuit has granted motions to intervene by CTIA and WIA, which plan to support the FCC. Also pending are motions to intervene by NATOA, and additional local governments.

OGC BRIEFING SHEET

SUBJECT: *Massachusetts Department of Telecommunications and Cable v. FCC* (1st Cir. No. 19-2282)

SUMMARY: The Massachusetts Department of Telecommunications and Cable challenges the FCC’s determination that Charter, a cable operator, faces “effective competition” (as defined by Section 623(l)(1)(D) of the Communications Act) in its franchise areas in Massachusetts and Kauai, Hawaii. *See Petition for Determination of Effective Competition in 32 Massachusetts Communities and Kauai, HI*, 34 FCC Rcd 10229 (2019).

STATUS: The petition for review was filed in the First Circuit on December 23, 2019. Petitioner’s brief was filed on May 26, 2020. The FCC’s brief was filed on July 15, 2020. Oral argument was held on October 8, 2020. We await the Court’s decision.

OGC BRIEFING SHEET

SUBJECT: *National Lifeline Ass'n v. FCC* (D.C. Cir. No. 20-1006)

SUMMARY: The National Lifeline Association (NaLa), a trade association for providers of discounted Lifeline services, challenges a Commission order denying its petition for declaratory ruling, which asked the agency to clarify that Lifeline providers can seek reimbursement for Lifeline services provided to subscribers served as of the first day of the month, including those subscribers subject to a 15-day “cure” period following 30 days of non-usage.

STATUS: NaLa filed a petition for review on January 13, 2020, in the D.C. Circuit. NaLa and the FCC filed their final briefs in the case on July 15, 2020. Oral argument was held on October 13, 2020; we await a decision by the Court.

OGC BRIEFING SHEET

SUBJECT: *PDR Network, LLC v. Carlton & Harris Chiropractic, Inc.* (4th Cir. No. 16-2185 (formerly U.S. Supreme Court No. 17-1705))

SUMMARY: In the 2006 *Junk Fax Order*, the Commission ruled that fax messages promoting free goods or services may qualify as unlawful “unsolicited advertisements” under the Telephone Consumer Protection Act (TCPA). *Rules & Regulations Implementing the Telephone Consumer Protection Act of 1991*, 21 FCC Rcd 3787, 3814 ¶ 52 (2006). No party sought direct review of that ruling.

In 2015, the plaintiff in this case filed a private TCPA suit (to which the FCC was not a party) arguing that the defendant violated the TCPA by sending unsolicited faxes inviting physicians to download a free copy of its e-book. The defendant argued that, notwithstanding the *Junk Fax Order*, its faxes were not “advertisements” and thus not subject to the TCPA. The district court held that the Commission’s interpretation in the *Junk Fax Order* is invalid and entered judgment for the defendant.

On appeal, the Fourth Circuit held that the district court was required to follow the FCC’s interpretation, and thus lacked authority to invalidate it, under a federal statute known as the Hobbs Act. The Hobbs Act grants the courts of appeals “exclusive jurisdiction to enjoin, set aside, suspend (in whole or in part), or to determine the validity of” any FCC order (as well as orders of several other agencies). The Fourth Circuit held that this statute confines challenges to FCC orders to direct review under the Hobbs Act, and thus deprived the district court of jurisdiction to entertain the plaintiff’s challenge. The Supreme Court granted certiorari and, following briefing and oral argument, remanded the case back to the Fourth Circuit to address “two preliminary sets of questions”: first, whether the 2006 Order is a “legislative rule” or an “interpretive rule” under the Administrative Procedure Act, and second, whether PDR had a “prior, adequate, and exclusive opportunity for judicial review” within the meaning of 5 U.S.C. § 703.

STATUS: The government was not originally a party to this case in the Fourth Circuit. After the Supreme Court granted review, the Solicitor General, with the assistance of the Commission, filed an amicus brief on behalf of the United States arguing that the Hobbs Act deprives district courts of authority to question the validity of FCC orders in civil litigation between private parties. Following remand, the Fourth Circuit entered an order directing the parties to file supplemental briefs addressing seven specific issues. Together with the Department of Justice, we submitted a joint amicus brief addressing the bulk of those issues on December 20, 2020. The Fourth Circuit held oral argument (with DOJ participating on behalf of the government) on September 10, 2020, and we await the court’s decision.

OGC BRIEFING SHEET

SUBJECT: *Prometheus Radio Project et al. v. FCC* (3d Cir. No. 17-1107)

SUMMARY: Consolidated challenges were filed in the Third Circuit to three Commission orders stemming from the 2010/2014 quadrennial review of the media ownership rules: (1) *2014 Quadrennial Regulatory Review*, 31 FCC Rcd 9864 (2016) (*2016 Order*); (2) *2014 Quadrennial Regulatory Review*, 32 FCC Rcd 9802 (2017) (*2017 Recon. Order*); and (3) *Rules and Policies to Promote New Entry and Ownership Diversity in the Broadcasting Services*, 2018 WL 3738329 (rel. Aug. 3, 2018) (*Incubator Order*).

After briefing and oral argument, in a divided decision, the Third Circuit on September 24, 2019, vacated and remanded the *2017 Recon. Order* and the *Incubator Order* in their entirety, as well as the portion of the *2016 Order* establishing the FCC’s definition of “eligible entities.”

At the outset, after upholding petitioners’ standing to challenge the Commission’s rules, the Court rejected two of petitioners’ challenges to the Commission’s revisions. First, the Court found that the Commission had sufficiently justified its retention of the “top four” local television restriction, which prevents the merger of two top-four stations in a market.

Second, the Court held that the Commission had adequately justified its definition of “comparable markets” in its order allowing a broadcaster who “incubates” a new broadcaster to acquire a radio station in a “comparable market” that would otherwise be forbidden by the agency’s rules. The Court found both that the agency had provided adequate notice that it would consider multiple options for defining comparable markets, and that the agency’s ultimate choice in this respect was reasonable.

However, the Court vacated the Commission’s ownership rule revisions because it believed that the FCC had not adequately considered the impact of its actions on minority and female ownership. The FCC had determined that its 2017 rule changes were unlikely to have a major effect on minority and female ownership, relying among other things on a comparison of National Telecommunications and Information Administration (NTIA) minority ownership data from the late 1990s—around the time the local media ownership rules were first relaxed—with later FCC data. While the Commission had made inferences from this and other record evidence and the lack of contrary data in the record that relaxation of media ownership rules would not have an adverse effect on female ownership, the Court concluded that the FCC failed to base its determination on any specific data regarding female ownership (since the NTIA data contained nothing about female ownership). As to minority ownership, the Court criticized the Commission’s use of different data sets and its methodology. Because of the Commission’s reliance on data that the Court deemed inadequate, the Court vacated the rule changes “in their entirety,” and remanded for the Commission to “ascertain on record evidence the likely effect of any rule changes it proposes . . . on ownership by minorities and women, whether through new empirical research or an in-depth theoretical analysis.”

Judge Scirica, dissenting, would have upheld the Commission’s rule changes as reasonably explained.

STATUS: The Office of the Solicitor General filed a petition for writ of certiorari on behalf of the FCC on April 17, 2020. The Supreme Court announced that it will hear the case on October 2, 2020. The government's merit brief is due on November 16, 2020.

OGC BRIEFING SHEET

SUBJECT: *PSSI Global Services, L.L.C. v. FCC* (D.C. Cir. No. 20-1142) (and consolidated cases)

SUMMARY: Three incumbent satellite operators (known as the Small Satellite Operators, or “SSOs”) and an operator of transportable earth stations (PSSI) challenge the Commission’s reallocation of the lower portion of the C-band for terrestrial 5G use in the *3.7 GHz Report and Order*, 35 FCC Rcd. 2343 (2020).

The SSOs—who do not currently provide C-band service to any registered earth stations in the continental United States—argue that eliminating fixed satellite service in the lower 300 megahertz of the C-band exceeded the Commission’s authority to “modif[y]” licenses under Section 316, and that the Commission should instead have been required to compensate them for their lost spectrum access rights. They also argue that the Commission’s decision to offer other incumbents \$9.7 billion in accelerated relocation payments, and to reimburse those other incumbents for the costs of new satellites, provided an unjustified and unlawful windfall to the SSOs’ competitors. Unlike the SSOs, the satellite operators who *do* currently provide service to U.S. customers in the C-band (and who will be eligible for relocation payments to make the necessary changes to their operations) all support the order.

PSSI likewise argues that the Commission lacked authority to reallocate a portion of the C-band for terrestrial wireless use. It also argues that the Commission did not adequately consider that the reduction in C-band spectrum and potential interference caused by new terrestrial licensees will allegedly make it difficult or impossible for PSSI and others to continue to reliably provide coverage of some live events (including major sports events).

STATUS: Briefing was completed on September 16, 2020, and oral argument is scheduled for October 28.

OGC BRIEFING SHEET

SUBJECT: *Tri-County Tel. Ass'n v. FCC* (D.C. Cir. No. 20-1003)

SUMMARY: Petitioner Tri-County Telephone Association, a contributor to the Universal Service Fund, challenges a pair of rulemaking orders— *Uniendo a Puerto Rico Fund and the Connect USVI Fund*, 34 FCC Rcd 9109 (2019) and *Uniendo a Puerto Rico Fund and the Connect USVI Fund*, 33 FCC Rcd 5404 (2018)—in which the Commission made available “high-cost” subsidies from the Universal Service Fund to rebuild, improve, and expand voice and broadband communications networks in Puerto Rico and the U.S. Virgin Islands after Hurricanes Irma and Maria. Tri-County contends that funds made available in these orders were unlawfully diverted from the Universal Service Fund High-Cost Program, which Tri-County contends was not intended “as insurance for natural disasters.”

STATUS: The parties filed final briefs in this matter on July 16, 2020. The court heard oral argument on October 15, 2020. We await the Court’s decision.

OGC BRIEFING SHEET

SUBJECT: *United States Telecom Ass'n v. FCC* (D.C. Cir. No. 15-1322)

SUMMARY: In *Lifeline and Link Up Reform and Modernization*, 30 FCC Rcd 7818 (2015) (“*Lifeline Reform Order*”), the FCC took several actions to reform its Lifeline program, which is designed to ensure that qualifying low-income consumers have access to affordable telephone service. Among other things, the Commission stated that telecommunications carriers have a duty to protect the confidentiality of documentation submitted by customers or collected by carriers to ascertain a consumer’s eligibility for the Lifeline program. USTelecom petitioned for review, contending that the FCC’s statements regarding carriers’ data security obligations exceed the agency’s authority. CTIA separately petitioned the agency for reconsideration, raising the same argument.

STATUS: USTelecom filed its petition for review (No. 15-1322) on Sept. 11, 2015. In an order issued on January 14, 2016, the Court granted the FCC’s motion to hold the case in abeyance pending Commission action on CTIA’s petition for reconsideration. The Commission has not yet acted on that petition.

OGC BRIEFING SHEET

SUBJECT: Summary of Some Key Provisions on FCC Process

Voting Process. Three members of the Commission constitute a quorum. 47 U.S.C. § 154(h). If there are only three Commissioners, all must participate in the matter or there is no quorum. An item is adopted by majority vote when all the participating Commissioners have voted.

Ex Parte Rules. The ex parte rules classify FCC proceedings as restricted, permit-but-disclose, or exempt. The Commission can change the status of an individual proceeding.

Restricted Proceedings. Most adjudicatory proceedings (other than declaratory orders) that involve more than one party (*e.g.* the applicant) are restricted proceedings. Written presentations concerning such proceedings must be served on all parties to the proceedings. Oral presentations are prohibited unless all parties have notice and an opportunity to be present.

Permit-but-Disclose Proceedings. Rulemakings and petitions for declaratory rulings are permit-but-disclose proceedings. This means outside entities may have oral discussions with the Commission, but they must disclose oral presentations by filing a detailed summary of the information or citations to previous filings with the same information. Copies of any written presentations must also be filed in the record. Presentations by members of Congress and other federal agencies, as well as their staffs, concerning permit-but-disclose proceedings are required to be disclosed only if the presentation is of substantial significance and clearly intended to affect the ultimate decision. *See* 47 C.F.R. § 1.1206.

Exempt Presentations and Proceedings. No disclosure requirements apply to exempt proceedings and to most exempt presentations. For example, Notices of Inquiry are exempt proceedings unless the Commission decides to designate an NOI permit-but-disclose. In some cases, exempt presentations may be subject to more limited disclosure requirements. For example, presentations to or from an agency or another branch of the Federal government involving a matter of “shared jurisdiction” require the Commission to disclose information in the record that it relies upon in its decision making no later than at the time of the release of its decision. *See* 47 C.F.R. § 1.1204.

Sunshine Period. Unless an exemption applies, outside parties (other than Members of Congress and federal agencies) may not make presentations on items on an open meeting agenda once Sunshine Notice issues one week before the meeting. *See* 47 C.F.R. § 1.1203.

Delegation of Authority. The Commission has broad authority to delegate its functions. 47 U.S.C. 155(c). Absent specific delegation by Commission order, none of the delegations provide any Bureau or Office with authority to decide “new and novel” issues or with authority to issue or act on notices of proposed rulemaking.

Federal Records Act (FRA). The FRA governs the retention and disposal of federal records. It requires that agencies retain records for periods set forth in either General Records Schedules (GRS) (government-wide) or FCC records schedules approved by the National Archives and Records Administration (NARA). Commissioners' permanent records include emails, calendars, business correspondence, speeches, and articles.

FOIA. Under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, the Commission is required to disclose reasonably described agency records requested by any person, unless the records contain information that fits within one or more of the exemptions from disclosure provided in the Act. Under the Act, the Commission generally is allowed twenty to thirty business days to respond to a FOIA request. The FOIA exceptions most widely invoked by the Commission include:

- trade secrets and confidential commercial or financial information obtained from any person and privileged or confidential (exemption 4);
- interagency and intra-agency memorandums, letters and work papers, including attorney-client privilege, attorney work product and deliberative process materials (exemption 5);
- personnel, medical and other files whose disclosure would constitute an unwarranted invasion of personal privacy (exemption 6); and
- certain investigatory records compiled for law enforcement purposes (exemption 7).

Initial FOIA decisions by the Bureaus and Offices are subject to an application for review by the full Commission. OGC prepares draft decisions on FOIA AFRs for the Commission. Even if a document falls within a FOIA exemption, it is not exempt from a formal congressional request to produce it.

Privacy Act. The Privacy Act restricts the collection, maintenance, use and dissemination of agency records that contain information about individuals to the extent they are contained in a system of records and are retrievable by means of some personal identifier.

Non-Public Information. Section 19.735-203(a) of the Commission's rules generally prohibits disclosure of non-public information to persons outside the Commission unless "authorized by the Commission or its rules." Under section 19.735-203(a), non-public information includes, but is not limited to, the content of agenda items and actions or decisions that have not yet been released. Although there is no express provision in the rules, Commissioners generally have been considered free to express their own views on issues before the Commission as long as they don't publicly discuss the specific content of drafts (before they are released to the public) or other non-public information.

Paperwork Reduction Act (PRA). The PRA requires that the Commission obtain approval from the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB) before conducting any "information collections" from 10 or more entities, including voluntary collections. The OIRA approval process takes approximately 120 days (less under emergency circumstances though OIRA disfavors emergency applications if emergency is of agency's own making). The public can raise failure to comply with the PRA as an absolute defense in any action the Commission takes based on unapproved information collections.

Peer Review. Under a 2005 OMB Bulletin, draft agency products containing important scientific (and social scientific) information shall be peer reviewed by qualified specialists in the field who were not involved in producing the draft before it is disseminated by the federal government. The purpose of peer review is to ensure that the quality of published information meets the standards of the scientific and technical community.

Public Safety & Homeland Security Bureau

Briefing Sheets

October 2020

Table of Contents

SUBJECT	PAGE NUMBER
PUBLIC SAFETY SPECTRUM	
4.9 GHz Band (WP Docket No. 07-100)	1
FirstNet/700 MHz Public Safety Broadband Network (PS Docket 12-94; PS Docket 06-229; WT Docket 06-150)	2
800 MHz Rebanding (WT Docket No. 02-55)	3
“T-Band” (470-512 MHz Band)	4
NETWORK RELIABILITY	
Mobile Wireless Resiliency (PS Dockets 13-239 and 11-60)	6
Submarine Cable Outage Reporting and Improving the Submarine Cable Deployment Process and Interagency Coordination (GN 15-206)	8
Communications Security, Reliability, and Interoperability Council	9
Network Outage Reporting	11
Disaster Information Reporting System	13
NORS/DIRS Information Sharing Proceeding	15
ALERTING	
Wireless Emergency Alerts (WEA) (PS Docket No. 15-91)	16
Emergency Alert System (EAS) (EB Docket No. 04-296)	18
NATIONAL SECURITY/EMERGENCY PREPAREDNESS	
FCC Disaster Response Activities	20
Priority Communications Services	22
Communications Assistance for Law Enforcement Act (CALEA) (Docket Nos. RM-11376, ET 04-295, RM-10865)	24

Space Communications Resilience	26
Network Reliability Best Practices (PS Docket No. 18-99)	28
Secure and Trusted Communications Networks Act	30
Supply Chain National Security Designations	31
911	
Location-Based Routing for Wireless 911 Calls	32
Kari's Law Act of 2017 and Section 506 of RAY BAUM'S Act of 2018	33
E911 Wireless Location Accuracy	35
Next Generation 911 and Text-to-911 (PS 10-255; PS 11-153)	37
911 Call-Forwarding Requirements for Non-Service-Initialized (NSI) Phones (PS Docket No. 08-51)	39
Annual 911 Fee Diversion Report to Congress	40
911 Fee Diversion Notice of Inquiry (PS Dockets 20-291 and 09-14)	42
Improving 911 Reliability - Reliability and Continuity of Communications Networks (PS Docket No. 13-75)	43
Emergency Access to Wi-Fi Access Points and Spectrum for Unlicensed Devices Pursuant to Section 301 of RAY BAUM'S Act of 2018	45

PSHSB BRIEFING SHEET

SUBJECT: 4.9 GHz Band (WP Docket No. 07-100)

SUMMARY: In 2002 the Commission allocated fifty megahertz of spectrum in the 4940-4990 MHz band (4.9 GHz band) for fixed and mobile services (except aeronautical mobile service) and designated this band for use in support of public safety. In March 2018, the Commission released a *Sixth FNPRM*, 33 FCC Rcd 4597 in the 4.9 GHz proceeding which sought comment on proposals to encourage greater use of and investment in the band. The Commission sought comment on whether an appropriate sharing mechanism could encourage more opportunistic use of the band while ensuring the priority, integrity, and security of public safety operations. On October 2, 2020 the Commission released its *Sixth Report and Order and Seventh Further Notice of Proposed Rulemaking* in which it authorized 4.9 GHz statewide licensees to lease spectrum, including leases to non-public safety entities. In the *Seventh Further Notice of Proposed Rulemaking*, the Commission seeks comment on licensing the 4.9 GHz band at the state level going forward, while grandfathering 4.9 GHz licenses that were in effect at the time the Commission froze processing of 4.9 GHz licenses. It also solicited comment on other actions that would further encourage robust use of the 4.9 GHz band.

STATUS: The Bureau will review the comment record.

PSHSB BRIEFING SHEET

SUBJECT: FirstNet/700 MHz Public Safety Broadband Network (PS Docket Nos. 16-269; 12-94; and 06-229; and WT Docket No. 06-150)

SUMMARY: The Middle-Class Tax Relief and Job Creation Act of 2012 (the Act) created the First Responder Network Authority (FirstNet), an independent authority within NTIA, to build and operate a nationwide public safety broadband network. FirstNet holds a 10-year license from the Commission, issued in 2012, and is charged with administering a \$7 billion fund for the construction, deployment and operation of the network. In 2017, FirstNet selected AT&T as its nationwide partner for deployment. AT&T is deploying FirstNet infrastructure including portable cell sites and FirstNet subscribers have access both to FirstNet and AT&T's services on its system. In addition to reallocating the spectrum and licensing FirstNet, the Commission is charged under Act with "facilitating the transition" of the spectrum to FirstNet and renewing the license. While the Act gave states the option of "opting out" of the network, no state elected to do so.

STATUS:

In July 2018, the state of Colorado submitted a request for declaratory rulemaking and petition for rulemaking seeking guidance from the Commission on FirstNet's obligation to facilitate interoperability among the FirstNet network, public safety networks, and commercial networks. Colorado later asked the Commission not to act on its request as it was actively working with AT&T and FirstNet. PSHSB dismissed the filing without prejudice in October 2018. On November 2018 the Boulder Regional Emergency Telephone Authority (BRETSA) filed a Petition for Reconsideration, or in the Alternative, Petition for Declaratory Ruling and Petition for Rulemaking raising the same issues raised by Colorado in its petition. On September 11, 2019, the PSHSB dismissed the Petition for Reconsideration as premature. The Petition for Declaratory Ruling and Petition for Rulemaking were placed on Public Notice, with comments filed on September 26, 2019 and reply comments filed on October 11, 2019. The Petitions remain pending.

The FirstNet license will expire on November 15, 2022. Under the Act, prior to the license's expiration FirstNet must file an application for renewal demonstrating that FirstNet has met its duties and obligations under the Act. The renewal term is not to exceed 10 years.

Commission staff routinely coordinate with FirstNet regarding a variety of activities, including issuance of Special Temporary Authority (STA), development of National Environmental Protection Act (NEPA) protocols, and consulting with FirstNet and NTIA on their rulemaking/statutory interpretation activity as appropriate.

PSHSB BRIEFING SHEET

SUBJECT: 800 MHz Rebanding (WT Docket No. 02-55)

SUMMARY: In 2004, the Commission adopted a Report and Order which reconfigured the 800 MHz band plan to remedy harmful interference to the communications systems of first responders. The order initiated rebanding for over 2000 public safety and non-public safety licensees. The cost of rebanding (most recently estimated as \$3.2 to 3.6 billion when complete) is being paid by Sprint.

STATUS: Rebanding of licensees' 800 MHz facilities is nearing completion; with only one licensee located near the Mexico border that has not yet begun operation on its replacement frequencies. Continuing efforts are underway to have all licensees close their Frequency Reconfiguration Agreements – the contracts between Sprint and rebanding licensees for the reconfiguration of licensees' systems – as soon as possible. On October 28, 2019, the Commission released *Improving Public Safety Communications in the 800 MHz Band, Order and Sixth Further Notice of Proposed Rulemaking*, which, *inter alia*, required 800 MHz rebanding licensees that had completed rebanding but not filed closing documents, to advise the 800 MHz Transition Administrator whether they had a dispute with Sprint over the costs or other aspects of rebanding. The Order provided that licensees that did not so advise the Transition Administrator by January 15, 2020, would be deemed to have completed rebanding and no longer had recourse to rebanding funding or the services of the Transition Administrator. On January 6, 2020, PSHSB issued a Public Notice reminding licensees of the need to file the required notification to the TA by January 15, 2020. On May 12, 2020, the Commission issued a Report and Order adopting proposals made in the *Sixth Further Notice* to eliminate certain audit and financial reconciliation tasks previously required of the 800 MHz Transition Administrator.

PSHSB BRIEFING SHEET

SUBJECT: T-Band (470-512 MHz Band)

SUMMARY: The T-Band is the designation for the 470-512 MHz band, which is primarily allocated to broadcast television, except in thirteen major metropolitan areas where certain portions of the band are allocated to land mobile radio (LMR). In these 13 markets, the rules allow licensing of both public safety and non-public safety LMR systems, but licensing has occurred in only 11 of the markets (Boston, Chicago, Dallas, Houston, Los Angeles, Miami, New York, Philadelphia, Pittsburgh, San Francisco, and Washington DC). The other two T-Band markets (Cleveland and Detroit) have not been licensed due to proximity to Canada.

In Section 6103 of the Middle Class Tax Relief and Job Creation Act of 2012 (Public Safety Spectrum Act), Congress directed the Commission to reallocate the T-Band spectrum used by public safety agencies, to auction new licenses for use of the spectrum, and to use the auction proceeds to fund a grant program (administered by NTIA) that would pay for relocation of public safety incumbents. The Act requires the Commission to reallocate the spectrum and begin a system of competitive bidding within nine years of enactment, i.e. by February 22, 2021. The Act further requires T-Band public safety licensees to relocate within two years after the auction is completed.

KEY ISSUES:

- Implementing the directives of the Public Safety Spectrum Act with respect to relocating public safety entities from the T-Band spectrum. *See Notice of Proposed Rulemaking*, FCC 20-89.
- T-Band public safety licensees may be having trouble finding replacement parts for their aging radio equipment (except possibly on the used market).

STATUS:

- In April 2012, in response to the Act, PSHSB and WTB imposed a freeze on processing of certain T-Band applications. The Freeze remains in effect. (27 FCC Rcd 4218 (WTB PSHSB 2012)).
- In February 2013, the Bureaus released a Public Notice to gather information to develop a better understanding of options for the Commission's future consideration regarding the T-Band. (28 FCC Rcd 1130 (WTB PSHSB 2013)).
- Commenters to the PN generally contended that alternative spectrum is not available to accommodate relocation of T-Band licensees and that relocation would be extremely costly even if spectrum were available. Many commenters also advocated lifting or relaxing the application freeze.
- In October 2014, the Commission opened up the 700 MHz narrowband reserve channels (twenty-four 12.5 kilohertz bandwidth channel pairs) for general licensing and afforded T-Band public safety licensees priority access to these channels in T-Band areas. (29 FCC Rcd 13283 (2014)).

- On July 21, 2016, PSHSB posted a T-Band Fact Sheet on the FCC website, available at http://www.fcc.gov/pshs/docs/T-Band_FactSheet_July2016.pdf.
- On October 22, 2018, the Commission afforded T-Band licensees priority access over mutually exclusive applicants for 800 MHz band interstitial channel pairs in the public safety pool or the business/industrial/land transportation pool for which they are eligible, provided that any relocating T-Band incumbent commits to surrendering an equal amount of 470-512 MHz spectrum on a channel-for channel basis. Priority access is offered for a three-year period once the interstitial channels become available for licensing. (33 FCC Rcd 10222 (2018)).
- On June 21, 2019, the Government Accountability Office issued a report based on interviews of first responders and officials in three of four areas selected as T-Band case studies. Those interviewed observed that suitable replacement spectrum for T-Band licensees was not available and that, as a consequence, public safety communications could be imperiled. The report concluded that Congress should consider legislation allowing public safety users continued use of the T-Band. A recent FCC analysis showed that relocation options for public safety users are limited or nonexistent. Further, costs for relocating public safety users from the T-Band were calculated by FCC to be \$5-to-\$6 billion.
- On December 2, 2019, the Wireless Telecommunications Bureau and the Public Safety and Homeland Security Bureau announced, by Public Notice that, until further notice, they would accept, but not grant, applications to renew Part 22 and Part 90 licenses for operation in the T-Band. (34 FCC Rcd 11136 (WTB PSHSB 2019)).
- On December 2, 2019, FCC Chairman, Ajit Pai echoed the conclusions of the GAO report, stating “I’m calling on Congress to repeal the T-Band mandate.”
- On July 6, 2020, the Commission released a Notice of Proposed Rulemaking in Docket No. 13-42 that proposed to: reallocate the T-Band for mobile, fixed, and broadcasting use; auction the T-Band; and assign new licenses. *See* FCC 20-89 (Jul. 6, 2020).

PSHSB BRIEFING SHEET

SUBJECT: Mobile Wireless Resiliency (PS Dockets 13-239 (terminated) and 11-60)

SUMMARY: In September 2013, the Commission issued a *Notice of Proposed Rulemaking* (NPRM) (FCC 13-125) that considered ways to promote transparency to consumers as to how mobile wireless service providers compare in keeping their networks operational in emergencies.

Following the *NPRM*, CTIA and other industry members proposed a voluntary commitment, the Wireless Network Resiliency Framework (Framework), to accomplish the goals of the *NPRM* in a voluntary fashion. In an *Order* (FCC 16-173) adopted in December 2016, the Commission terminated the proceeding, declined to adopt the proposals in the *NPRM*, and instead adopted the Framework proposed by CTIA and other industry members.

In late 2018, the FCC launched an effort to review the Framework's efficacy given the 2017-18 Hurricane Season, incorporating findings from its 2018 Hurricane Michael Report and 2019 outreach to California stakeholders on the wildfires and power shutoffs. The FCC identified several areas for improvement: better internal coordination processes with backhaul providers and power companies; more engagement with state and local emergency managers; and development of internal processes for requesting and/or activating roaming agreements prior to disasters.

KEY ISSUES:

The Wireless Network Resiliency Framework contains five elements:

1. Providing for reasonable roaming under disasters arrangements when technically feasible;
2. Fostering mutual aid during emergencies;
3. Enhancing municipal preparedness and restoration;
4. Increasing consumer readiness and preparation; and
5. Improving public awareness and stakeholder communications on service and restoration status.

STATUS:

- After CTIA proposed the Framework that included commitments from Verizon, AT&T, Sprint, T-Mobile and U.S. Cellular, PSHSB sought comment on the Framework via a Public Notice (DA 16-463) in April 2016. On December 20, 2016, the Commission released an *Order* (FCC 16-173) that refrained from adopting the proposals in the *NPRM*, terminated PS Docket 13-239, and adopted the Framework. In 2017, PSHSB released a Public Notice (DA 17-732) inviting additional providers to commit to the Framework. T-Mobile re-iterated its commitment, and CGI and SouthernLinc submitted letters of commitment.
- Subsequently, the Commission published the names of those wireless providers committing to the [Framework](#) on its website.

- The Government Accountability Office (GAO) reviewed federal efforts to improve wireless network resiliency and released a [report](#) on January 9, 2018.
- On June 13, 2018, PSHSB issued a Public Notice (DA 18-614) seeking comment on the Framework including how best to measure the extent of the Framework’s use and effectiveness, as well as on how to incorporate backhaul into the Framework.
- On November 6, 2018, PSHSB sent letters to the signatories, requesting written narratives as to how they implemented the Framework in the 2017-18 Hurricane Seasons. The letters requested lists of mutual aid and roaming agreements providers established with each other, and any instances where the agreements were modified, impeded, or declined, as well as information about how each provider implemented CTIA’s best practices.
- PSHSB has released three Public Notices seeking input on the efficacy of the Framework:
 - On December 10, 2018, PSHSB issued a Public Notice (DA 18-1238) seeking comment on how to ensure that wireless carriers and backhaul providers better coordinate with each other, as well as with other stakeholders, before, during and after an emergency event.
 - On January 3, 2019, PSHSB issued a Public Notice (DA 19-13) to identify actions that PSHSB, wireless providers, and power companies can take to increase coordination before, during, and after an event.
 - On April 1, 2019, PSHSB issued a Public Notice (DA 19-242) seeking comment on the implementation and effectiveness of each prong of the Framework.
- On September 12, 2019, PSHSB sent letters to five wireless providers regarding their preparation for the California power shutoffs and wildfires (PS Docket 19-251). PSHSB conducted further outreach in October, November, and December 2019 with communications providers, the power industry, and California state and local entities asking about their preparation for power shutoffs and wildfires and “lessons learned.”
- In February 2020, PSHSB hosted meetings with Framework signatories, backhaul providers, and power companies to discuss ways to improve wireless resiliency based on PSHSB’s findings from the comprehensive review. As a result and at the urging of Chairman Pai, Edison Electric Institute and CTIA announced the establishment of a cross-sector resiliency forum to improve coordination between the wireless and electric power sectors to strengthen disaster response.
- In May 2020, PSHSB sent follow-up inquiries to Framework signatories, backhaul providers, and power companies to obtain updates regarding their work to improve wireless resiliency and address Framework gaps as identified by PSHSB staff. Their responses are filed in PS Docket No. 11-60.

PSHSB BRIEFING SHEET

SUBJECT: Submarine Cable Outage Reporting and Improving the Submarine Cable Deployment Process and Interagency Coordination (GN Docket 15-206)

SUMMARY: In 2008, the Commission, in consultation with undersea cable licensees, established the Undersea Cable Information System (UCIS), a voluntary web-based system to collect and analyze information on undersea cable outages. UCIS was intended to allow the Commission to analyze and respond to undersea cable outages similar to other communications service outages subject to the Commission's Part 4 outage reporting rules, but low licensee participation limited the Commission's ability to assess the outages.

UCIS proved insufficient at meeting the Commission's goals. A lack of licensee routine participation resulted in limited visibility into most of undersea cable infrastructure and related outages or disruptions. When information was filed, it was insufficient for the Commission to analyze the outage or outage trends. The information provided was not probative about the outage root causes nor housed in a systematic collection or database structured to facilitate network trend analysis.

In June 2016, the Commission adopted a *Report and Order* (FCC 16-81) bringing submarine cable reporting within the mandatory outage reporting requirements under the Commission's network outage reporting rules. In December 2019, the Commission adopted an Order on Reconsideration (FCC 19-138), that addressed two petitions for reconsideration and narrowed the scope of reportable outages to exclude outages involving planned maintenance (that is announced to customers). The Order on Reconsideration enhances the Commission's ability to track and analyze submarine cable outage trends, oversee and assist restoration, and protect submarine cable infrastructure.

STATUS:

- Both the International and Public Safety and Homeland Security Bureaus are engaged in interagency coordination, developing processes and best practices with the multiple federal entities involved in submarine cable permits and authorizations.
- Following the *Order on Reconsideration* from 2019, the implementation of the submarine cable outage reporting requirements in NORS is ongoing.

PSHSB BRIEFING SHEET

SUBJECT: Communications Security, Reliability, and Interoperability Council (CSRIC)

SUMMARY: CSRIC is a Federal advisory committee, first chartered in 2007 and recently re-chartered in March 2019, which makes recommendations and develops best practices to ensure the reliability and interoperability of the nation's communications systems, including telecommunications, media and public safety communications systems. The FCC Chairman appoints members from among commercial communications entities, public safety agencies, Federal/state/tribal/local partners and consumer or community organizations or other non-profit entities to bring a diversity of expertise and viewpoints. CSRIC accomplishes much of its work through subcommittees known as Working Groups, and meets quarterly at the Commission to consider recommendations from the Working Groups and hear progress reports. Once CSRIC votes on a Working Group's report, the report becomes a CSRIC recommendation to the Commission. Commission staff in turn use the CSRIC recommendations to address the identified issues of concern.

STATUS AND KEY ISSUES:

The CSRIC VII was re-chartered on March 15, 2019. On July 15, the FCC announced the CSRIC VII membership and the Chair, Charlotte Field of Charter Communications. On July 19, 2019, CSRIC VII held its first meeting. On July 22, the FCC announced the tasks that it was referring to CSRIC VII, to be addressed by the following six working groups:

- Working Group 1: Alert Originator Standard Operating Procedures (SOP). CSRIC VII will recommend model emergency alerting communications SOPs that emphasize engagement with all entities that contribute to the dissemination of fast and reliable emergency information to the public. The model SOPs should include recommendations on several types of best practices.
 - CSRIC VII approved the Report on Standard Operating Procedures for Emergency Alerting Communications at the September 16, 2020 meeting.
- Working Group 2: Managing Security Risk in the Transition to 5G. CSRIC VII will review risks to 5G wireless technologies that may carry over from existing vulnerabilities in earlier wireless technologies that can lead to the loss of confidentiality, integrity, and availability of wireless network devices and recommend best practices to mitigate the risks for each vulnerability it identifies and address recently proposed solutions by security researchers.
 - CSRIC VII approved the [Report on Risks to 5G from Legacy Vulnerabilities and Best Practices for Mitigation](#) at the June 10, 2020 meeting.
- Working Group 3: Managing Security Risk in Emerging 5G Implementations. CSRIC VII will evaluate the 3GPP Releases 15 and 16 standards, identify areas of risk, and develop risk mitigation strategies to minimize risk in core 5G network elements and

architectures. Further, the FCC directs CSRIC VII to identify optional features in proposed or work-in-progress 5G standards that can diminish their effectiveness.

- CSRIC VII approved the [Report on Risks Introduced by 3GPP Releases 15 and 16 5G Standards](#) at the September 16, 2020 meeting.
- Working Group 4: 911 Security Vulnerabilities During the IP Transition. CSRIC VII will survey the current state of interoperability for the nation's 9-1-1 systems, including for legacy 911 networks, transitional 911 networks, and Next Generation 911 (NG911). The FCC further directs CSRIC VII to identify security risks in legacy 911 networks, transitional 911 networks, and NG911 networks and recommend best practices to mitigate risks in these three areas. In addition, CSRIC VII will place the vulnerabilities on a scale that accounts for both risk level and remediation expense.
 - CSRIC VII approved the [Report on the Current State of Interoperability in the Nation's 911 Systems](#) at the March 17, 2020 meeting.
 - CSRIC VII approved the [Report on Security Risk and Best Practices for Mitigation in 911 Legacy, Transition and NG 911 Implementations](#) at the September 16, 2020 meeting.
- Working Group 5: Improving Broadcast Resiliency. CSRIC VII will update current best practices for how broadcasters should prepare for natural disasters and develop additional ones that, if implemented, would improve the resilience of broadcast infrastructure and allow for more rapid recovery.
 - CSRIC VII approved the [Report on Best Practices for Broadcast Resiliency During Major Storms and Disasters](#) at the March 17, 2020 meeting.
- Working Group 6: SIP Security Vulnerabilities. CSRIC VII review the security vulnerabilities affecting SIP that affect the provision of communications service. CSRIC VII should outline how industry is addressing these vulnerabilities, identify any gaps in industry action, update any existing best practices relevant to SIP, and develop additional ones that, if implemented, would address such vulnerabilities and mitigate their associated risks, including the promotion of end-to-end-security.

The last three CSRIC VII meetings, on March 17, June 10, and September 16 of 2020, were held virtually in keeping with corporate and government guidelines related to the COVID-19 pandemic. The seventh meeting of CSRIC VII will be held on December 9, 2020.

PSHSB BRIEFING SHEET

SUBJECT: Network Outage Reporting System

SUMMARY: The Commission established Part 4 outage reporting rules in 2004 to address the critical need for rapid, complete, and accurate information on significant communications service disruptions, including disruptions to 911 service, that could affect homeland security, public health or safety, and the economic well-being of the nation. The rules require communications providers, including wireline, wireless, paging, cable, satellite, Signaling System 7, and interconnected Voice over Internet Protocol (VoIP) service providers, to report major communications disruptions of voice and/or paging services that meet certain thresholds.

These entities file reports electronically through the Commission's Network Outage Reporting System (NORS), and such reports are presumed confidential. DHS, however, has secure real-time access to the reports.

The Commission has amended the outage reporting rules to keep pace as technology transitions continue to unfold. PSHSB has gained considerable experience in administering the NORS and has identified ways the Commission could refine the rules to improve their utility, including the most recent change to incorporate outage reporting for submarine cable facilities.¹

PSHSB uses NORS data to track network reliability trends, and staff shares aggregated anonymized data with industry parties to work collaboratively toward industry-wide improvements. NORS data also helps PSHSB assess the scope and impact of major communications outages; this data provided much of the factual foundation of the Derecho Report released in January 2013, the Multistate 911 Outage Report from October 2014, the March 8 VoLTE 911 Outage Report from May 2017, the Multistate 911 Outage Report from August 2018 and others. Most investigations of major outages culminate in a public report.

In March 2017, PSHSB moved NORS to a new IT platform with several API interfaces.

KEY ISSUES:

- The Commission adopted a Second Further Notice of Proposed Rulemaking (PS Docket No. 15-80) on February 28, 2020 that proposes to provide state and federal agencies with read-only access to communications outage data (NORS and DIRS) for public safety purposes while also preserving the confidentiality of that data.

STATUS:

As a result of several major network outages, PSHSB created a [Network Reliability Resources website](#) in April 2018 to serve as a repository of network reliability best practices and related

¹ Refer to the Submarine Cable Outage Reporting section for additional information.

material. PSHSB contemporaneously released a Public Notice encouraging industry to follow network reliability best practices.

In August 2019, PSHSB issued a public report about a large transport outage in CenturyLink's network in December 2018. The report described the causes and effects of this event including the effects on 911 calling.

In October 2019, PSHSB issued a [Public Notice](#) sharing lessons learned from several recent major communications network outages and encouraging communications service providers to review industry best practices to ensure network reliability as recommended by CSRIC.

On February 28, 2020, the Commission adopted a Second Further Notice of Proposed Rulemaking (PS Docket No. 15-80) that proposes to provide state and federal agencies with read-only access to communications outage data (NORS and DIRS) for public safety purposes while also preserving the confidentiality of that data.

In April 2020, PSHSB issued a Public Notice (DA 20-453) seeking comment on the implementation of new data fields for covered 911 service providers that it will add to the Network Outage Reporting System (NORS) and 911 Reliability Certification System, respectively, to improve the Bureau's ability to assess 911 reliability.

In October 2020, PSHSB issued a public report about a nationwide outage in T-Mobile's network that occurred in June 2020. The report described the causes and effects of this event including the effects on 911 calling.

PSHSB BRIEFING SHEET

SUBJECT: Disaster Information Reporting System

SUMMARY: The Disaster Information Reporting System (DIRS), available since September 11, 2007, is the voluntary, web-based system through which the Commission collects operational status and restoration information from communications providers during major disasters and subsequent recovery efforts. DIRS provides communications providers with a single, coordinated, consistent, and generally voluntary Federal process to report their communications infrastructure status information during disasters. As of June 2012, DIRS covers wireline, wireless, broadcast, cable, interconnected VoIP, satellite, and broadband services.

The Commission's Chief Preparedness Officer, located in PSHSB, works with federal partners and the Chairman's Office to determine when to activate DIRS, the geographic areas to cover, and when to request initial reports. Typically, DIRS activation precedes an anticipated major emergency, like a major hurricane, or follows an unpredictable disaster. However, the current protocol gives the Commission and Federal partners wide latitude to request the activation of DIRS; ESF-2 activation² is not required. Every year, PSHSB administers a voluntary test of DIRS with registered DIRS participants.

During the last several years, DIRS was activated for Hurricanes Harvey, Irma, Maria and Nate in 2017; for Hurricanes Lane, Florence, and Michael in 2018; and for Hurricanes Barry and Dorian in 2019. In addition, DIRS was activated in response to the power shutoffs in California in 2019 and for the earthquakes in Puerto Rico in January 2020, and for the Midwest Derecho in August 2020. Recently, DIRS was activated for Hurricanes Isaias, Marco, Laura, Sally and Delta in 2020. When DIRS is activated, PSHSB creates situation reports and maps which are provided to DHS, FEMA and Federal ESF-2 members; A subset of this information is made available to the public on the Commission's website.

KEY ISSUES:

- **Confidential Treatment:** Because the information that communications providers report in DIRS is sensitive for national security and/or commercial reasons, the information submitted receives confidential treatment. This information is, however, shared in aggregated form with Federal government agencies involved in ESF-2 activities, most notably FEMA.
- **Voluntary Nature of DIRS:** DIRS participation is voluntary for most service providers, and differs from the mandatory network outage reporting requirements that apply to certain communications providers under Part 4 of the Commission's rules. However, for recipients of Universal Service Fund support in Puerto Rico and the U.S. Virgin Islands, participation in DIRS is mandatory.
- **Continuing Obligation to File NORS Data:** In DIRS activation public notices, PSHSB announces whether it will suspend the network outage reporting obligations of Sections

² During disasters the primary vehicle for Communications-Electric Sector coordination is the National Response Framework (NRF) through its Emergency Support Function (ESF) Annexes. The FCC is a supporting agency to ESF#2 (Communications)

4.9 and 4.11 of the Commission's rules for DIRS participants during the DIRS activation period with respect to outages in the counties where DIRS has been activated.

- **Increasing the Base of Reporting Providers:** PSHSB coordinates with both telecommunications and broadcast trade associations on outreach to members to encourage more members to sign up to participate in DIRS.

STATUS:

- On May 9, 2019, PSHSB issued a report, "October 2018 Hurricane Michael's Impact on Communications: Preparation, Effect, and Recovery - Report and Recommendations." DIRS provided information on the restoration efforts for the storm.
- In 2019, DIRS was activated for Hurricane Barry and twice for Hurricane Dorian, and the power shutoffs in California. So far in 2020, DIRS has been activated for the earthquakes in Puerto Rico, the Midwest Derecho, Hurricanes Isaias, Marco, Laura, Sally and Delta. Situation reports, maps and public reports were issued on every day that DIRS was activated.
- On September 26, 2019, the Commission adopted a Report and Order and Order on Reconsideration allocating nearly a billion dollars in federal universal service support to rebuild and improve communications networks in Puerto Rico and the U.S. Virgin Islands. On February 5, 2020, the Commission released a [Public Notice](#) announcing application procedures and requirements communications providers must observe to receive support, which include preparing and filing Disaster Preparation and Response Plans and performing mandatory DIRS reporting.
- On February 28, 2020, the Commission adopted a Second Further Notice of Proposed Rulemaking (PS Docket No. 15-80) that proposed to provide state and federal agencies with read-only access to communications outage data (NORS and DIRS) for public safety purposes while also preserving the confidentiality of that data.
- In July 2020, the Commission updated DIRS to support satellite provider reporting.

PSHSB BRIEFING SHEET

SUBJECT: NORs/DIRS Information Sharing Proceeding

SUMMARY: The Commission supports the nation's emergency response and preparedness efforts by collecting and providing accurate and timely information on the status of communications services and infrastructure through its NORs and DIRS.

KEY ISSUES:

- During disasters, the Commission makes this information available to DHS, which uses it to assess the needs of affected areas and to coordinate emergency response efforts with state and local first responders. The Commission's experience with recent major outages—from the 2017 hurricanes, tornados, and flooding to power shutdowns in California and earthquakes in Puerto Rico—underscores the value of reliable and timely outage information to the rapid restoration of disrupted communications and the crucial role that state and other government agencies play in that restoration.

STATUS:

- On February 28, 2020, the Commission adopted a [Second Further of Notice of Proposed Rulemaking](#) (PS Docket No. 15-80), that proposes a framework for sharing detailed communications outage information with state and federal agencies. The comment period closed on June 1, 2020.
- To protect the data, the Commission proposed that participating agencies would be required to treat NORs and DIRS filings as confidential.
- The Commission's proposal would allow participating agencies to share NORs and DIRS information with first responders and other government officials who play a vital public safety role in their jurisdictions during crises. Participating agencies would also be allowed to publicly disclose information that is appropriately aggregated and anonymized.

PSHSB BRIEFING SHEET

SUBJECT: Wireless Emergency Alerts (WEA) (PS Docket No. 15-91)

SUMMARY: Under the 2006 Warning Alert and Response Network (“WARN”) Act the Commission established Wireless Emergency Alerts (WEA), through which commercial mobile service (CMS) providers may voluntarily elect to transmit emergency alerts to their customers.

On April 7, 2012, WEA became operational. Based on our records, 80 wireless carriers, including the four major national carriers, have opted in to provide WEA alerts, either in whole or in part. As of July 14, 2020, WEA has been used more than 54,580 times.

First WEA R&O and FNPRM. On September 29, 2016, the Commission adopted a R&O and FNPRM that improved Alert Message content by increasing the maximum Alert Message length from 90 to 360 characters for 4G-LTE and future networks; creating a new Alert Message classification for “Public Safety Messages;” requiring Participating CMS Providers to support embedded references (i.e., URLs and phone numbers) ; requiring that customers be allowed to opt-in to receive end-to-end WEA tests; requiring Participating CMS Providers to support transmission of Spanish-language Alert Messages; and requiring presentation of alerts concurrent with other device use. The order also improved Alert Message delivery by requiring Participating CMS Providers to narrow geographic targeting (geo-targeting) of Alert Messages to areas that best approximate alert areas specified by the alert originator.

Second WEA R&O and Second Order on Reconsideration. Adopted by the Commission on January 30, 2018, the Second WEA R&O required Participating CMS Providers to deliver WEA alerts to the area specified by the alert originator with no more than a one-tenth of a mile overshoot, and to preserve alert messages in a consumer-accessible format for 24 hours after receipt, or until the consumer chooses to delete the message. The Order on Reconsideration extended the deadline for Participating CMS Providers to support Spanish-language WEAs. The WEA enhancements adopted by both the First and Second WEA R&Os became effective on December 19, 2019.

WEA Multimedia Public Notice. On March 28, 2018, the PSHSB issued a Public Notice directing parties to refresh the record on facilitating multimedia in Wireless Emergency Alerts. The item is pending before the Commission.

Nationwide EAS/WEA Test. On October 3, 2018, the Commission, in coordination with FEMA and the National Weather Service, conducted the first nationwide WEA test, in conjunction with the fourth nationwide EAS test. The test report analyzing the results of the nationwide test was released on April 8, 2019. Based on survey data shared with the Commission, most people reported successful receipt of the WEA test message. However, the test highlighted areas where WEA delivery can be improved, such as ensuring more consistent delivery, reducing duplicate messages, and resolving issues concerning alert message audio tone and vibration cadence.

WEA End-to-End Test Waivers. The Commission’s rules prohibit the use of the WEA Attention Signal except during actual emergencies, authorized tests, or certain public service

announcements. Accordingly, the Commission required emergency managers to request a waiver to conduct end-to-end WEA tests until the rule authorizing them to do so became effective and certain implementation issues were resolved with FEMA's IPAWS. After the Bureau announced on December 19, 2019 that the WEA enhancements were available for use by alert originators, including the State/Local WEA Test category, the Bureau received and subsequently granted a limited waiver to Los Angeles World Airports, in part, because of the short amount of time that the State/Local WEA Test category had been available. The Bureau emphasized, however, it did not expect to routinely grant waiver requests to alert originators seeking to conduct end-to-end live WEA tests, absent a showing of unique circumstances. In February 2020, the Commission denied the City of Aliso Viejo, California a waiver to conduct a public end-to-end live WEA test without using the State/Local Test code category and subsequently used similar reasoning also to deny waivers to Sonoma County, California, the Virgin Islands, and Irvine, California.

Enhanced WEA Geo-Targeting Test. On June 11, 2019, PSHSB issued a Public Notice seeking authorized alert originator(s) to partner with PSHSB to test WEA performance, including as to the accuracy of Participating CMS Providers' enhanced geo-targeting capabilities. OMB approved the associated information collection in a Notice issued on February 5, 2020. PSHSB has not yet announced its partners.

Earthquake Early Warning Waiver Order. On September 23, 2019, the Bureau granted a waiver to permit Participating CMS Providers to forego enhanced geotargeting for earthquake early warnings (EEWs) and related Public Safety Messages issued by the United States Geological Survey (USGS).

Chairman's Enhanced WEA Geo-targeting Letters. On September 10, 2020, Chairman Pai sent letters to CTIA requesting annual reports on the market penetration of mobile devices that support enhanced WEA geo-targeting; to ATIS requesting best practices on discretionary aspects of enhanced WEA geo-targeting standards, and to Qualcomm requesting confirmation that all 5G-enabled mobile devices sold in the U.S. that use Qualcomm chipsets will support enhanced WEA geo-targeting. Each of these letters' recipients agreed to the Chairman's requests.

PSHSB BRIEFING SHEET

SUBJECT: Emergency Alert System (EAS) (EB Docket No. 04-296, PS Docket No. 15-94)

SUMMARY: EAS is a nationwide emergency alerting mechanism under which EAS Participants must provide communications capability to the President to address the nation in a national emergency. EAS also is available at the state and local level to enable EAS Participants, on a voluntary basis, to transmit local or state emergency information, such as severe weather alerts and child abduction alerts (Amber Alerts). The Commission, in conjunction with the Federal Emergency Management Agency (FEMA) and the National Weather Service (NWS), implements EAS at the federal level.

National Tests. The Commission, in coordination with FEMA and the National Weather Service, conducted the first nationwide EAS in 2011, with the second occurring in 2016. Tests have since occurred annually. FEMA has announced there will be no nationwide EAS test in 2020. The fifth nationwide EAS test was conducted on August 7, 2019, at 2:20 p.m. Eastern Daylight Time. Reports were filed using the ETRS, an online database launched in 2016. The 2019 test report, released May 12, 2020, indicated that the majority of EAS Participants received and retransmitted the test alert.

Relief of Requirement to Process CAP Alerts. On February 7, 2020, PSHSB released an order that addressed five petitions for waiver of EAS Participants' obligation to receive and process EAS alerts formatted in the Common alerting Protocol (CAP). PSHSB granted three and dismissed two petitions.

Guidance to EAS Participants on Processing IPAWS Alerts. The EAS equipment readiness rules regarding installation of the digital certificate was set to expire on November 8, 2019. On November 5, 2019, PSHSB released a Public Notice that partially waived this deadline, allowing EAS Participants to continue to operate their EAS equipment for a period of up to 60 days from November 8, 2019, without additional FCC authority, while they made reasonable and good faith efforts to complete the installation. Thereafter, EAS Participants were required to submit an informal request for additional time.

ETRS Filing Waiver. On July 8, 2020, in consideration of the ongoing coronavirus national emergency and FEMA's decision not to conduct a nationwide test of the EAS in 2020, PSHSB waived, on its own motion, the requirement that EAS Participants file identifying information in the ETRS.

State EAS Plan, Testing, and Efficiency NPRM. On January 28, 2016, the Commission adopted an NPRM proposing to strengthen the EAS as a tool for community emergency preparedness and considering EAS security issues. On April 10, 2018, the Commission released a Report and Order (1) mandating the electronic filing of EAS plans; (2) establishing the Alert Reporting System (ARS) for the filing of EAS plans; (3) providing online templates for EAS Plans; and (4) specifying required contents of EAS Plans. PSHSB currently is working to implement the ARS in the near future. On July 13, 2018, the Commission released a Report and Order that adopted rules to facilitate more effective public safety tests and exercises using the EAS, as well as to help prevent the issuance of false alerts. In a companion Further Notice of

Proposed Rulemaking, the Commission sought comment on further proposals to facilitate false alert reporting, to add elements to State EAS Plans to facilitate effective testing and prevent and correct false alerts, and to ensure that Wireless Emergency Alerts (WEA) are effectively delivered to the public.

False Alert Reporting. The Commission adopted rules in July 2018, requiring entities to report false alerts to the Commission. Those rules became effective July 23, 2019. The Bureau is compiling and investigating reports as they are submitted.

Live Code EAS Tests. These test procedures allow broadcasters to participate in two tests per calendar year to test the EAS and raise public awareness for it. They also became effective July 23, 2019. Tests must involve sufficient notice to the public about the planned test, appropriate coordination with federal, state and local authorities, and disclaimers. If technically feasible, the alert message should also include information that it is a test.

Sirius XM Petition. On June 25, 2019, the Commission adopted an Order on Reconsideration that amended the EAS testing rules to make the testing requirements for Satellite Digital Audio Radio Service (SDARS) providers identical to the testing requirements that apply to Direct Broadcast Satellite (DBS) service providers. On July 24, 2019, PSHSB adopted an Order addressing the waiver request portion of Sirius XM Radio Inc.'s (Sirius) petition that granted a conditional waiver to Sirius to authorize transmission of certain truncated EAS alert data on its four Instant Traffic, Weather and Alert channels. The rule changes regarding SDARS testing became effective on June 19, 2020.

PSHSB BRIEFING SHEET

SUBJECT: FCC Disaster Response Activities

SUMMARY: The FCC conducts a number of disaster response activities to determine and ensure the availability of communications to the public and to first responders during and after the occurrence of disasters and emergencies such as hurricanes, wildfires and earthquakes. The FCC disaster response activities include, but are not limited to the following:

- *Situational Awareness Provision:* The Commission uses a combination of tools and applications to collect data used to develop a communications picture in areas impacted by disasters and emergencies. These tools and applications include an array of remotely-accessible static and mobile, multi-band radio frequency (RF) sensors; deployable RF sensor suites equipped to survey RF activity in a specified location and reconcile against FCC licensee databases; crowd-sourced data collection platforms; all-source information resources; and the aforementioned Disaster Information Response System (DIRS) and Network Outage Reporting System (NORS). The combination of data sources allows the FCC to identify potential areas of concern, validate the status of communications infrastructure and services and share information with the Federal Emergency Management Agency (FEMA), the Department of Homeland Security (DHS), and the White House. This information is used to prioritize restoration and rescue efforts, and identify significant gaps in network resilience that can be used to enhance communications functionality, post-disaster.
- *Spectrum Management:* If necessary, FCC personnel may deploy, either independently at the behest of the FCC leadership or per the request of a federal partner such as FEMA or CISA to perform spectrum management. Spectrum management activities include spectrum monitoring, interference resolution, frequency allocation, and/or communications damage assessments. Travel expenses for FCC personnel who deploy under a Stafford Act mission assignment are reimbursed by the requesting department/agency.
- *Regulatory Flexibility:* The FCC Operations Center, in coordination with appropriate Bureaus and Offices, may issue waivers or grant requests for Special Temporary Authority, permitting the operation of a communications facility for a limited period at a specified variance from the terms of the station or service authorization under FCC rules.
- *Assistance & Coordination:* Through its 24x7 Operations Center, the Commission manages requests for information and assistance originating from Federal, State, Local, Tribal, and Territorial government partners, members of industry, public safety officials, and consumers. The FCC will coordinate across all sectors to resolve or respond to requests, assisting licensees to obtain access to network facilities or fuel for generators; provide response or communications status information to government and public safety partners; coordinate security or additional logistical support; facilitate foreign language messaging; or provide coordination and contact instructions. The FCC also conducts proactive outreach to 911 call centers, public safety officials, broadcasters, and others to assess operating status and offer support, as necessary.

- *Public Messaging:* The Commission publishes tip sheets to educate consumers about how to best communicate during a disaster.

In all these activities, the FCC works closely with FEMA, DHS and the White House under the National Response Framework to coordinate communications response.

KEY ISSUES:

- There is an ongoing disparity between how industry reports the status of 911 Public Safety Access Points in DIRS and how state 911 coordinators report their status in daily situational reports. Industry may report a PSAP as being down if certain communications services, such as Automatic Location Information, to that PSAP have been disrupted. However, state 911 coordinators will not report a PSAP as being “down” if calls can be rerouted to another PSAP and dispatch of localized first responder is still effective. The Bureau is working with both industry and state officials to standardize language that will alleviate any future conflict or confusion.
- Unless a high-concentration of specific foreign language speakers resides in a disaster-prone region, there may not exist a suitable means of broadcasting emergency information in that language to a foreign language-speaking community. The FCC is working with broadcasters and state and local emergency management officials to identify these communications gaps and encouraging broadcasters to develop mechanisms for mutual aid that would allow for the broadcast of information in foreign languages during and after disasters and emergencies. Emergency information often includes evacuation instructions, shelter locations, and logistical instructions on how to obtain fuel, food, and water.

STATUS: In a very active 2020 hurricane season that has seen 23 named storms and 9 that have made landfall within the US mainland and its territories. Prior to the 2020 season, the Bureau conducted its annual hurricane preparedness outreach to communications providers, cable companies, and industry associations to determine the measures industry has taken to ensure the availability of communications following a major disaster while still managing the network constraints brought about by the residual impacts of COVID-19. Communications industry members are confident that, despite challenges brought about by the virus, they will be able to effectively respond to and manage the impacts of the impending hurricane season.

During the 2020 Hurricane Season, the FCC activated the Disaster Information Reporting System and its internal incident management team. The FCC also deployed operational teams to manage public safety spectrum and to provide FEMA and state emergency management officials with awareness of the status of public safety communications services during Hurricanes Hanna, Douglas, Isaias, Laura, Marco, Sally and Delta.

The Bureau continues to coordinate closely with DHS CISA, FEMA, and State, Local, Tribal, and Territorial public safety communications and emergency management officials through formal interagency groups and discussions, the Regional Emergency Communications Coordination Working Groups, ESF #2 planning and exercise sessions, and ESF #14 (Cross-sector Business Coordination) meeting to share information and resources and to encourage unified cross-sector restoration following disasters and emergencies.

PSHSB BRIEFING SHEET

SUBJECT: Priority Communications Services

SUMMARY: The Federal government administers communications service programs for priority access and routing to improve the effectiveness of national security and emergency preparedness (NSEP) activities. These programs are used to maintain a state of readiness or to respond to and manage any event or crisis that degrades or threatens the NSEP posture of the United States.

There are three priority services programs that support prioritized connectivity for NSEP users of telecommunications services. The Department of Homeland Security (DHS), Cybersecurity Infrastructure Security Agency, Emergency Communications Division (ECD) manages these programs, primarily through contractual agreements with telecommunications providers. However, the Commission also has had a long-standing regulatory role with respect to certain elements of these programs.

The priority services programs available to Federal, state, local, and tribal government, and private organizations that perform NSEP functions are: (1) Telecommunications Service Priority (TSP); (2) Government Emergency Telecommunications Service (GETS); and (3) Wireless Priority Services (WPS), referred to in the FCC rules as Priority Access Service (PAS). FCC rules are in place for TSP and PAS; the FCC approved the use of area code 710, thereby enabling the provision of GETS.

- Telecommunications Service Priority (TSP):
 - TSP was established by an FCC rulemaking in 1988 (see 47 C.F.R Part 64, Appendix A).
 - The TSP System authorizes NSEP organizations to receive priority treatment for vital voice and data circuits. Specifically, service vendors are required to prioritize the provisioning and restoration of wired communications facilities to ensure effective NSEP communications following a disruption of service, regardless of the cause.
 - There are over 2,000 enrolled organizations (e.g., military bases, federal agencies, hospitals, etc.) covering approximately 300,000 active circuits.
- Government Emergency Telecommunications Service (GETS):
 - GETS is a voluntary program established in 1995; there are no FCC rules for GETS, but the Commission approved the program's implementation. The major local exchange carriers participate in GETS.
 - GETS provides priority access and routing of wireline calls, substantially increasing the probability that GETS calls will be completed when networks are congested. NSEP personnel use access cards and Personal Identification Numbers (PINs) to initiate priority wireline calls.
 - Carriers received Federal funding for software to initiate service.
 - There are over 330,600 GETS card holders; a nominal fee applies for calls.

- Wireless Priority Services (WPS):
 - WPS is a voluntary program established in 2000 (see 47 C.F.R. Par 64, Appendix B). It was originally referred to as Priority Access Services (PAS). If a carrier voluntarily offers WPS, it must comply with the Commission's rules regarding WPS, which include providing priority wireless service based on five priority levels for NSEP users.
 - WPS provides priority access to wireless networks which substantially increases the probability that WPS calls will be completed when networks are congested.
 - The Commission's WPS rules currently permit re-ordering of queued (not-yet-established) call requests based on user priority, but do not provide for re-ordering of active (in-progress) calls.
 - Authorized users' cellular phones are coded to process WPS calls and the service is initiated with a unique dialing code on authorized cellular devices.
 - Carriers received Federal funding for software to initiate the service. However, WPS users are responsible for commercial wireless subscription and equipment costs.
 - There are approximately 130,200 WPS subscribers. WPS is currently available from AT&T, Cellcom, C Spire, GCI, SouthernLINC, Sprint, T-Mobile, U.S. Cellular, and Verizon Wireless.

KEY ISSUES:

- *Effectiveness of Current Services.* America's communications networks are rapidly transitioning away from the provision of time-division multiplexed (TDM) services running on copper to Internet Protocol (IP) multimedia networks using copper, co-axial cable, wireless, and fiber as physical infrastructure. As carriers replace their legacy TDM systems with new technologies and platforms, the priority services programs that rely on wireline TDM systems will be rendered inoperable.
- The transition to IP transport poses both challenges (technologically driven obsolescence of rules applicable only to legacy systems) and opportunities (support for video, text, and other data, including Industrial Control Systems) for these programs. Testing and funding pose additional issues in terms of keeping pace with industry technology modernization.

STATUS: In July 2020, the Commission unanimously voted to approve a Notice of Proposed Rulemaking (NPRM) to streamline existing Part 64 Priority Services rules, broaden the scope of priority services programs to include data, video, and IP-based voice services, and set forth guidelines allowing DHS to better manage the priority services programs through voluntary contractual agreements.

PSHSB BRIEFING SHEET

SUBJECT: Communications Assistance for Law Enforcement Act (CALEA) (Docket Nos. RM-11376, ET 04-295, RM-10865)

SUMMARY: CALEA Section 103 (47 U.S.C. § 1002) requires “telecommunications carriers to provide technical capabilities to law enforcement in order to conduct electronic surveillance pursuant to lawful authorization. Under CALEA, “telecommunications carrier” includes entities providing services that constitute substantial replacements for a portion of the local telephone exchange.” In 2005, the Commission determined that CALEA covers common carriers, facilities-based broadband Internet access providers, and providers of interconnected Voice over Internet Protocol (VoIP) service. CALEA exempts “information services” from this requirement, and the Commission treats such services as segregable from covered communications.

A telecommunications carrier is CALEA compliant if it conforms to publicly available technical requirements or standards adopted by an industry association or standard-setting organization, or by the FCC. Technical requirements or standards for implementing the assistance capability requirements of Section 103 must (i) “protect the privacy and security of communications not authorized to be intercepted,” (ii) “minimize the cost of such compliance on residential ratepayers,” and (iii) serve the public interest and U.S. policy to promote innovation. See Section 107, 47 U.S.C. § 1006.

KEY ISSUES: DHS/DOJ/FBI assertion that law enforcement’s technological capability to conduct lawful surveillance pursuant to CALEA is at risk of “going dark” given the rise of new communications modalities (e.g., SnapChat, Google Voice, online gaming), the prevalence of user-installed encryption, and heightened post-Snowden privacy concerns.

STATUS:

- A DOJ Petition (2007) claiming that the CDMA2000 CALEA standard is deficient remains pending. The technology at issue was to be obsolete by 2019; however there are isolated pockets where the technology is still used. PSHSB continues to engage DHS, DOJ and FBI in high-level discussions about the “going dark” problem, and to encourage these agencies to refresh the 2007 DOJ Petition record.
- In a Further Notice issued concurrently with the 2005 *CALEA First Report and Order*, the Commission asked whether certain classes of communications service providers – notably small and rural providers and providers of broadband networks for educational and research institutions – should be exempt from CALEA or provided other kinds of relief. The Commission also asked whether CALEA should apply to types of VoIP service other than two-way, interconnected VoIP. This proceeding remains pending. PSHSB is considering options.
- Congressional legislation was introduced in the Senate on June 23, 2020 titled the Lawful Access to Encrypted Data Act, S.4051, 116th Cong. (LAED Act). The LAED Act would impose law enforcement assistance obligations for decryption of data directly on consumer device manufacturers, over-the-top software providers, and operating system providers. The LAED Act imposes these obligations independently of the CALEA

statute and without requiring Commission action to expand the “substantial replacement” condition for additional entities. The LAED Act separately amends CALEA to eliminate the telecommunications carrier exemption for data decryption if the carrier provides or facilitates the customer encryption. If adopted, this legislation would likely address the “going dark” problem created by end-to-end customer encryption. PSHSB is monitoring this pending legislation.

- PSHSB is developing a secure, online database for SSI filings.

PSHSB BRIEFING SHEET

SUBJECT: Space Communications Resilience

SUMMARY: PSHSB leads the Commission's efforts on matters related to national and homeland security elements of space-provided communications, to include satellite communications - purposeful and hostile interference, cyber-related space issues, uplink/downlink jamming of satellite communications and telemetry tracking and control of satellites, and RF/laser dazzling of national satellites; and space weather (solar flares and geomagnetic disturbances effect on critical infrastructure and communications networks). The Bureau works with interagency senior staff within the Intelligence Community, Law Enforcement, other Departments, Agencies and Organizations, and international partners around the world. PSHSB is the focal point for the Commission on space communications resilience and mitigation to interference issues, both nationally and internationally.

KEY ISSUES:

- Use of non-U.S. Global Navigation Satellite Systems (GNSS) in the U.S. In November 2018, the Commission granted in part the European Commission's request for a waiver of the Commission's rules so that non-Federal devices in the U.S. may access specific signals transmitted from Galileo. In August 2020, PSHSB issued an order granting a request by AT&T to use Galileo for E911 location purposes.
- Interference Resolution Support to DoD & Continued Coordination and Collaboration with the Government of Brazil (GoB) on Unauthorized Access to U.S. Military Ultra-High Frequency (UHF) Satellites – DoD has requested assistance from FCC in support of ongoing interference to U.S. military UHF satellites. This interference is coming from illegal operators outside the U.S., mostly from Brazil. In coordination with the State Department and per bilateral meetings between Brazil and the U.S., FCC has supported this effort by transmitting agreed upon satellite data to GoB. GoB uses this data to locate and silence illegal operators throughout Brazil.
- Interference Resolution Support provided to the European Space Agency (ESA) and National Aeronautics and Space Administration (NASA) on Reports of Satellite Interference – At the request of the French Administration, the FCC continues to assist ESA in the resolution of harmful radiofrequency interference (RFI) reported throughout the U.S. affecting Soil Moisture and Ocean Salinity (SMOS) satellites. FCC has supported this effort since 2010. The FCC also assists NASA in the resolution of harmful RFI to their similar mission in this area, Soil Moisture Active Passive (SMAP).
- Interference Resolution and Interagency Support provided on GPS disruption/outage reports. Reports are received throughout the U.S. on the loss or degradation of GPS. PSHSB leads the Commission's resulting response (interagency coordination and interference resolution). PSHSB fulfills the FCC's role leading the Interagency Task Force (IATF) tasked with locating and silencing reported sources of interference nationwide, in coordination with other USG agencies and FCC field offices.
- Purposeful Interference Response Team (PIRT) - FCC is one of the founding members of the PIRT and actively supports its efforts for a while-of-government approach to purposeful interference (PI) affecting space systems and the services and capabilities they

provide. PIRT is an interagency organization chartered by the National Security that promotes and facilitates timely and effective reporting, analysis, and response for instances of suspected PI affecting U.S. Government (USG) National Security Space, USG civil space systems and USG-leased commercial space-supported services, capabilities or interests. The PIRT is chaired by USSPACECOM and is comprised of the following agencies: FCC, DoD, DoS, DoC, DHS, DoT, ODNI, NRO, NSA, NGA, CIA, NASIC, DIA, NASA, NOAA, and DoJ.

- International Space Radio Monitoring Meeting (ISRMM) – Since 2003, the FCC has represented the U.S. government in multilateral international forum. ISRMM is comprised of telecommunications regulatory authorities from around the world engaged in space communications issues, to include China, Germany, Greece, Japan, Korea, Oman, Switzerland, Ukraine, Austria, Brazil, France, Netherlands, Saudi Arabia, Pakistan, Vietnam, Iran, and UK. The group brings together communications satellite regulatory and industry personnel from around the world to discuss signal monitoring and interference. A PSHSB employee participated in the 21st ISRMM in Brazil in September 2019 and plans to attend the 22nd ISRMM in Switzerland in September 2021.
- Space Weather, Operations, Research Mitigation (SWORM)– PSHSB is a member of this group which is under the National Science and Technology Council on Homeland and National Security, Space Weather, Security, and Hazards Sub-Committee and is tasked with developing a national strategy and action plan to enhance national preparedness for space-weather events. On 26 March 2019, the White House released a National Space Weather Strategy. Action Plan.
- PNT Sub-PCC - PSHSB is a member of this group working on implementation of the Executive Order on “Strengthening National Resilience through Responsible Use of Positioning, Navigation, and Timing Services” signed by the President on 12 February 2020.
- EMP Sub-PCC - PSHSB is a member of this group working on implementation of the Executive Order on Coordinating National Resilience to Electromagnetic Pulses signed by the President on 26 March 2019.
- Space Cybersecurity Sub-PCC – PSHSB is a member of this group formed to address cyber-related threats to space assets and facilitated the development of Space Policy Directive-5 (SPD-5), the Nation’s first comprehensive cybersecurity policy for space systems. SPD-5 was signed by the President on 4 September 2020.
- Satellite Monitoring Facility – PSHSB maintains for the Commission a satellite monitoring facility in Columbia, MD. This facility is the registered satellite facility for the U.S., with the International Telecommunications Union (ITU) and telecom regulators around the world. Through this facility, FCC facilitates the resolution of satellite interference both nationally and internationally. This facility will require capital investment to modernize current hardware and software.

STATUS: PSHSB continues to lead efforts for the Commission in space communications resilience and mitigation to interference issues reported both nationally and internationally. Work in this area supports national and homeland security and promotes international cooperation.

PSHSB BRIEFING SHEET

SUBJECT: Network Reliability Best Practices (PS Docket No. 18-99)

SUMMARY: To ensure that wireless networks remain secure, PSHSB initiated investigations into vulnerabilities introduced to the network by Signaling System 7 (SS7) and Diameter protocols and the use of recommended best practices to maintain mitigate these vulnerabilities. SS7 and Diameter are crucial support protocols that undergird wireline and wireless networks' infrastructures globally, allowing communications devices on those networks to exchange calls and text messages.

Over the last several years, security vulnerabilities have come to light in SS7 and Diameter protocol. Attackers typically target these signaling protocols to obtain subscriber information, eavesdrop on subscriber traffic, conduct financial theft, and promulgate denial-of-service attacks. Security weaknesses in these critical signaling protocols present a substantial and diverse threat to communications network resiliency and consumer data.

KEY ISSUES:

- How reliable and resilient are SS7 and Diameter-based communications networks? Are such networks equipped to continue service under emergency conditions?
- How can the Commission further encourage the use of best practices to ensure the reliability and resiliency of SS7 and Diameter-based communications networks?

STATUS:

- In March 2017, the Commission's Communications Security, Reliability, and Interoperability Council (CSRIC V) recommended best practices for SS7 security in the Report on Legacy Systems Risk Reductions. Subsequently, PSHSB investigated whether an SS7 compromise occurred on a major wireless provider's network.
- In August 2017, PSHSB issued a Public Notice (DA 17-799) reminding wireless providers of those best practices and encouraging implementation.
- In April 2018, PSHSB sought further comment in a Public Notice (DA 18-333) on communications providers' implementation of the best practices, including progress, barriers, and lessons learned.

In March 2018, CSRIC VI released a [report](#), Recommendations to Mitigate Security Risk for Diameter Networks (Diameter Report), that advised wireless service providers to implement certain security measures to ensure network reliability and mitigate security risks associated with the Diameter protocol.

- In February 2020, PSHSB issued a Public Notice (DA 20-141) seeking comment on the implementation and effectiveness of the CSRIC VI recommendations regarding Diameter protocol.

- In July 2020, Chairman Pai [announced](#) that the wireless communications industry has made significant progress in addressing security risks associated with the Diameter protocol following PSHSB's assessment of industry adoption of CSRIC VI recommended security measures.

PSHSB BRIEFING SHEET

SUBJECT: Secure and Trusted Communications Networks Act of 2019 (Secure Networks Act)

SUMMARY: The Secure Networks Act directs the Commission to publish a list of covered communications equipment or services that meet two criteria:

1. “produced or provided by any entity” that “poses an unacceptable risk to the national security of the United States or the security and safety of United States persons,” pursuant to certain determinations set forth in the Act; and
2. “capable of . . . (A) routing or redirecting user data traffic or permitting visibility into any user data or packets that such equipment or service transmits or otherwise handles; (B) causing the network of a provider of advanced communications service to be disrupted remotely; or (C) otherwise posing an unacceptable risk to the national security of the United States or the security and safety of United States persons.”

KEY ISSUES:

- Section 8(b) of the Act also prohibits the use of federal subsidy funds, such as the Universal Service Fund, to purchase, rent, lease, or otherwise obtain, or to maintain, listed communications equipment or services. Further, it establishes a reimbursement program for the replacement of communications equipment or services posing such risks.

STATUS:

- On March 13, 2020, PSHSB sought comment on how the Act applies to the ongoing designation process for Huawei and ZTE (now complete), outlined in the 2019 Supply Chain Order.
- On June 11, 2020, Krisztina Pusok of the American Consumer Institute was added to CSRIC and its five still-active working groups to represent the interests of the public and consumers, satisfying the requirements of Section 8(b) of the Secure and Trusted Communications Networks Act of 2019.
- On July 16, 2020, the Commission adopted a Declaratory Ruling and Second Further Notice of Proposed Rulemaking that integrates provisions of the Secure Networks Act into the existing supply chain rulemaking proceeding.
- The final designations of Huawei and ZTE were released on June 30, 2020. On July 31, 2020, Huawei filed an application for review and ZTE filed a petition for reconsideration of their final designations. In its application, Huawei stated that the Secure Networks Act relegated the FCC to the ministerial role of keeping a list of USF-excluded equipment based on the determination of other agencies. In its petition, ZTE argued the FCC overstepped its role under the Secure Networks Act by totally banning ZTE.

PSHSB BRIEFING SHEET

SUBJECT: Supply Chain National Security Designations

SUMMARY: On November 22, 2019, the Commission adopted a rule barring the use of universal service support to purchase, obtain, maintain, improve, modify, or otherwise support any equipment or services produced or provided by a covered company posing a national security threat to the integrity of communications networks or the communications supply chain. The FCC also initially designated Huawei Technologies Company and ZTE Corporation as covered companies, and directed PSHSB to make a final determination with respect to these entities following a comment period during which each could proffer an opposition to the initial designation.

KEY ISSUES:

- The Secure Networks Act became law on March 12, 2020. On March 13, 2020, PSHSB sought comment on how the Act applies to the ongoing designation process for Huawei and ZTE (now complete), outlined in the 2019 Supply Chain Order.
- On July 16, 2020, the Commission adopted a Declaratory Ruling and Second Further Notice of Proposed Rulemaking that integrates provisions of the Secure Networks Act into the existing supply chain rulemaking proceeding.

STATUS:

- The final designations of Huawei and ZTE were released on June 30, 2020. On July 31, 2020, Huawei filed an application for review and ZTE filed a petition for reconsideration of their final designations.

PSHSB BRIEFING SHEET

SUBJECT: Location-Based Routing for Wireless 911 Calls (PS Docket 18-64)

SUMMARY: On March 22, 2018, the Commission adopted a Notice of Inquiry seeking to determine the best way to avoid delays in emergency response that arise from the manner in which some 911 calls are routed. Recent advances in location technology suggest that in many situations it is now feasible to pinpoint the 911 caller's location quickly and accurately enough to support the initial routing of the call. The Notice of Inquiry develops a more complete record regarding the technical and operational implications, limitations, deployments, and best common practices of location-based routing and the costs and benefits of different location-based routing methods.

KEY ISSUES:

- Because the current 911 system is configured to route wireless 911 calls to PSAPs based on the location of the cell tower that handles the call the call may be answered by a different PSAP from the one that serves the caller's location. This may be particularly true in the case of wireless 911 calls made near jurisdictional borders.
- Each time a wireless 911 call is "misrouted" and must be transferred to another PSAP, time and resources in both the PSAPs are wasted.

STATUS:

- In September 2016, the Communications Security, Reliability and Interoperability Council V (CSRIC V) adopted its "Task 2" report examining 911 location-based routing (CSRIC V LBR Report). The CSRIC V LBR Report contained an in-depth review of five location-based routing solutions chosen by CSRIC V that could be used for wireless 911 call routing. These solutions were: holding the call until Phase II location information is available; using an interim or quick fix; using geo-code registered or provisioned civic address; relying on device-based hybrid location; and using wireless 911 location accuracy emerging technologies.
- On March 23, 2018, the Commission released a Notice of Inquiry (NOI) on these issues. The Notice sought:
 - Additional data on the frequency of wireless 911 call misrouting and its impact on public safety.
 - Comment on the current state of location-based routing technologies, as well as potential location-based routing solutions recommended in the CSRIC V LBR Report. Information on the means available to the Commission to facilitate improvements in 911 routing and reduce the likelihood of misrouted 911 calls, including the promotion of voluntary best practices, the implementation of incentive-based mechanisms, and regulatory action.
 - Comments were filed on May 7, 2018, and reply comments were filed on June 28, 2018.

PSHSB BRIEFING SHEET

SUBJECT: Kari’s Law Act of 2017 and Section 506 of RAY BAUM’S Act of 2018 (PS Docket Nos. 18-261, 17-239 and GN Docket No. 11-117)

SUMMARY: In 2018, Congress enacted two statutes directed at the improvement of 911: (1) Kari’s Law Act of 2017 (Kari’s Law), which requires implementation of direct 911 dialing and on-site notification capabilities in multi-line telephone systems (MLTS), and (2) Section 506 of RAY BAUM’s Act, which requires the Commission, by September 23, 2019, to “conclude a proceeding to consider adopting rules to ensure that the dispatchable location is conveyed with a 9-1-1 call, regardless of the technological platform used and including with calls from [MLTS].” MLTS are telephone systems that serve consumers in enterprise environments such as office buildings, campuses, and hotels.

On August 1, 2019, the Commission adopted a Report and Order addressing both statutes. The Commission adopted rules to implement Kari’s Law by requiring direct dialing and notification for calls to 911 from MLTS. Consistent with Section 506 of RAY BAUM’s Act, the Commission also adopted rules to ensure that, to the maximum extent technically feasible, “dispatchable location” information, such as the street address, floor level, and room number of a 911 caller, is conveyed with 911 calls so that first responders can more quickly locate the caller. The new rules apply improved location requirements to fixed telephony service, MLTS, interconnected Voice over Internet Protocol (VoIP) services, Internet-based Telecommunications Relay Services (TRS), and mobile text services.

KEY ISSUES ADDRESSED IN THE REPORT AND ORDER:

- **Direct Dialing and Notification for MLTS.** The new rules define terms used in Kari’s Law and clarify other aspects of the statute, including the notification requirement and the enforcement of obligations in situations where multiple parties may be responsible for compliance.
 - The new rules apply to any MLTS that is manufactured, imported, offered for first sale or lease, first sold or leased, or installed after Feb. 16, 2020.
 - Notification must contain, at a minimum, the following information: (1) the fact that a 911 call has been made, (2) a valid callback number, and (3) the information about the caller’s location that the MLTS conveys to the public safety answering point (PSAP) with the call to 911; provided, however, that notification does not have to include a callback number or location information if it is technically infeasible to provide this information.
 - The destination point for MLTS notification must be a location where someone is likely to see or hear the notification, but it does not have to be continuously staffed or monitored.
 - The compliance date for the MLTS direct dialing and notification rules is Feb. 16, 2020.

- Dispatchable Location. The new rules contain dispatchable location requirements for MLTS, as well as fixed telephony, interconnected VoIP services, TRS, and mobile text services. The dispatchable location requirements vary depending on the particular service involved and whether the device used to make the call is fixed or non-fixed (nomadic).
 - *Fixed devices*. Fixed devices in these services must provide automated dispatchable location, which is location information generated automatically, without any action by the 911 caller when he or she places the call.
 - *Non-fixed devices*. The rules for non-fixed devices require automated dispatchable location if it is technically feasible. If automated dispatchable location is not feasible, the rules provide options such as alternative or enhanced location information, depending on the particular service.
 - Alternative location information may be coordinate-based, and it must be sufficient to identify the caller's civic address and approximate in-building location, including floor level, in large buildings.
 - Enhanced location information also may be coordinate-based, and it must consist of the best available location that can be obtained from any available technology or combination of technologies at reasonable cost.
 - The new rules expand the scope of the dispatchable location requirements to include interconnected VoIP services that permit users to initiate calls to 911, even if the service does not generally permit users to receive calls (outbound-only service).
 - The compliance date for the dispatchable location requirements is one or two years after the effective date of the rules, depending on the type of service covered by the rule.
- Consolidation of 911 Rules. The Report and Order also consolidates the Commission's 911 rules by designating part 9 of the Code of Federal Regulations, which currently contains the interconnected VoIP 911 rules, as the part that contains all of the 911 rules. Consistent with this, the Report and Order moves existing 911 rules from parts 64, 20, 25, and 12 into part 9.

STATUS: The Report and Order was released on August 2, 2019. The rules became effective on January 6, 2020, subject to OMB approval of certain rules specified in the Report and Order as constituting information collections. These rules establish different compliance deadlines for meeting the applicable dispatchable location requirements depending on whether the device originating the 911 call is fixed or non-fixed. Providers of fixed telephony, fixed MLTS, fixed interconnected VoIP, VRS, IP Relay, and IP CTS must comply with these requirements by January 6, 2021. Providers of non-fixed MLTS, non-fixed interconnected VoIP, VRS, IP Relay, and IP CTS, and mobile text must comply with these requirements by January 6, 2022.

SUBJECT: E911 Wireless Location Accuracy (Docket 07-114)

SUMMARY: The Commission’s wireless Enhanced 911 (E911) rules require wireless 911 services to provide Public Safety Answering Points (PSAPs) with accurate and meaningful information on wireless 911 calls. The wireless E911 rules apply to all Commercial Mobile Radio Service (CMRS) providers, except Mobile Satellite Service operators.

KEY ISSUES: On January 29, 2015, the Commission adopted a *Fourth Report and Order* updating its E911 location accuracy regulatory framework to respond to Americans’ increasing use of wireless phones to call 911, especially from indoors, where traditional location technologies often do not work effectively or at all. On November 25, 2019, the Commission adopted a *Fifth Report and Order* specifying a vertical (z-axis) location accuracy metric for indoor wireless E911 calls for each of the benchmarks and geographic requirements previously established in the Commission’s E911 wireless location accuracy rules. On July 16, 2020, the Commission adopted a *Sixth Report and Order and Order on Reconsideration*, that (1) increased z-axis technology deployment options; (2) encouraged the development of dispatchable location technologies; and (3) required wireless providers to deploy either dispatchable location or z-axis technology on a nationwide basis by April 3, 2025. The current rules include the following requirements:

- For Horizontal location information:

All CMRS providers must provide (1) dispatchable location (street address and floor level), or (2) x/y location within 50 meters, for the following percentages of wireless 911 calls within the following timeframes, measured from the April 2015 effective date of rules:

- Within 2 years (April 2017): 40 percent of all wireless 911 calls.
- Within 3 years (April 2018): 50 percent of all wireless 911 calls.
- Within 5 years (April 2020): 70 percent of all wireless 911 calls.
- Within 6 years (April 2021): 80 percent of all wireless 911 calls.

- For Vertical location information:

- Within 3 years (April 2018): All CMRS providers must make uncompensated barometric data available to requesting PSAPs from any handset with the capability to deliver such sensor data.
- Within 6 years and 8 years (April 2021 and April 2023): Nationwide CMRS providers must deploy either (1) dispatchable location, or (2) z-axis technology that achieves the +/- 3-meter z-axis metric, in each of the top 25 and 50 Cellular Market Areas (CMAs), respectively:
- In each CMA where dispatchable location is used, nationwide CMRS providers must ensure that dispatchable location is supported by a sufficient number of total dispatchable location reference points to equal 25 percent of the CMA population

- Where z-axis technology is used: CMRS providers must use a technology that provides 3-meter accuracy above or below the handset for 80% of wireless E911 calls made from the z-axis capable device. CMRS providers must deliver z-axis information in Height Above Ellipsoid format and must also provide floor level information when available. CMRS providers must deploy z-axis technology to cover 80 percent of the CMA population, or 80 percent of buildings taller than 3 stories in the CMA or they must deploy z-axis capable handsets enabled with z-axis technology on a nationwide basis.
- By January 6, 2022, all wireless providers shall provide dispatchable location with wireless E911 calls if it is technically feasible for them to do so.
- By April 3, 2025, nationwide wireless providers must deploy dispatchable location or z-axis technology on a nationwide basis. Non-nationwide providers have an additional year to meet this requirement throughout their service area.
- The *Fourth Report and Order* also adopted reporting requirements for CMRS providers to demonstrate compliance with the above metrics based on their providing quarterly live 911 call data reported in six cities (San Francisco, Chicago, Atlanta, Denver/Front Range, Philadelphia, and Manhattan Borough, New York City) and their surrounding areas that are representative of dense urban, urban, suburban, and rural area morphologies.
- PSHSB continues to coordinate with public safety organizations and CMRS providers on meeting the Commission's indoor location accuracy requirements.
- CTIA established the 911 Location Technologies Test Bed, LLC to independently operate the Indoor Test Bed consistent with the Commission's rules.
- Since 2017, CMRS providers have provided periodic live 911 call data from six cities (San Francisco, Chicago, Atlanta, Denver/Front Range, Philadelphia, and Manhattan Borough, New York City) and their surrounding areas to track the use of location technologies in dense urban, urban, suburban, and rural area morphologies. This data is provided on a confidential basis to the Commission, NENA, APCO, and NASNA. Nationwide carriers must report live call data every quarter and non-nationwide carriers must report every six months.
- On April 26, 2019, the nationwide providers submitted the Dispatchable Location Summary Report (Report) that describes the initial evaluation of NEAD-based dispatchable location solutions. However, on February 14, 2020, the NEAD, LLC informed the Commission, that the NEAD had "ceased operation and is no longer available to support wireless providers' provision of dispatchable location information."

STATUS: In response to the *Fifth Report and Order*, one party filed a petition for reconsideration and another party filed a petition for clarification. In the *Sixth Report and Order* the Commission denied the petition for reconsideration and granted in part the petition for clarification. Two parties filed petitions for reconsideration of the *Sixth Report and Order*.

PSHSB BRIEFING SHEET

SUBJECT: Next Generation 911 and Text-to-911 (PS 10-255; PS 11-153)

SUMMARY: Replacing today's 911 system with a broadband-enabled, IP-based 911 network will offer more flexibility, resilience, functionality, innovation potential, and competitive opportunities than is presently possible. In December 2010, the Commission initiated a comprehensive proceeding to facilitate the deployment of NG911 and close the gap between the capabilities of modern networks and devices and today's 911 system.

KEY ISSUES:

- *Facilitating the Deployment of Text-to-911* – The ability to send text to 911 in the short term could substantially improve accessibility to 911 services, particularly for people with disabilities, and for callers that need to contact the Public Safety Answering Point (PSAP) silently because placing a voice call could put the caller in danger.
- *Facilitating the Long-Term Deployment of NG911 Multimedia Applications* – Carriers generally argue that they should be given additional time to develop standards for IP-based emergency services. The Commission is examining the timeframe in which standards are likely to be completed for real-time text or other IP-based messaging solutions.
- *Consumer Education and Disclosure Mechanisms* – Given the non-uniform rollout of text-to-911 and NG911 applications, the Commission has implemented measures for the public to access accurate and up-to-date information about the geographic availability of text-to-911 and is exploring approaches to provide a similar level of information concerning the NG911 applications.
- *NG911 Legal and Regulatory Framework* – Pursuant to the Next Generation 9-1-1 Advancement Act, the Commission submitted a report to Congress on February 22, 2013, containing recommendations for: (1) a legal and regulatory framework for the development of NG 911 services and the transition from legacy 911 to NG911 networks; (2) legal mechanisms to ensure efficient and accurate transmission of 911 caller information to emergency response agencies; and (3) recommendations for removing jurisdictional barriers and inconsistent legacy regulations.

STATUS:

- *Text-to-911 Order:* In August 2014, the Commission adopted a *Second Report and Order* and *Third Further Notice of Proposed Rulemaking* requiring that CMRS providers and other providers of interconnected text messaging applications (collectively, “covered text providers”) be capable of supporting text-to-911 service by December 31, 2014. Covered text providers have six months from the date of a PSAP request to implement text-to-911 for that PSAP.
 - In the *Third Further Notice of Proposed Rulemaking*, the Commission sought comment on technical issues related to the provision of enhanced location information and support for roaming for texts to 911, as well as the capabilities of future texting services.

- *Text-to-911 Bounce-Back Order:* In May 2013, the Commission required all covered text providers to provide an automatic “bounce-back” text message in situations where a consumer attempts to send a text message to 911 in a location where text-to-911 is not available. The Commission required all covered text providers to implement the bounce-back capability by September 30, 2013.
- *Text-to-911 Registry:* In February 2015, the Bureau launched the PSAP Text-to-911 Registry, which lists PSAPs that are ready to accept texts and serves as a single point of notification to all covered text providers to deliver texts to the PSAP within six month of the notification date. The Bureau regularly updates the registry as new PSAPs file.
- *Task Force on Optimal PSAP Architecture:* The Task Force on Optimal PSAP Architecture, a federal advisory committee, was established in December 2014 under a two-year charter to provide recommendations to the Commission regarding actions that PSAPs can take to optimize their security, operations, and funding as they migrate to Next Generation 911 (NG911). On January 29, 2016, the Task Force unanimously adopted a consolidated report and final set of recommendations based on the reports and recommendations of the three working groups. On December 2, 2016, the Task force adopted three Supplemental Reports.
- *In the Matter of Transition from TTY to Real-Time Text Technology; Petition for Rulemaking to Update the Commission's Rules for Access to Support the Transition from TTY to Real-Time Text Technology and Petition for Waiver of the Rules Requiring Support for TTY Technology:* In 2016, the Federal Communications Commission (FCC) amended its rules to allow IP-based wireless carriers and manufacturers to support RTT on IP-based wireless networks and equipment, establish basic guidelines for RTT, and set implementation dates for the transition from TTY to RTT. To support RTT, wireless carriers and manufacturers must enable users to initiate, send, transmit, receive, and display RTT communications in accordance with Commission rules.
- *PSAP RTT Education Day on October 2, 2018:* RTT Education Day provided information to PSAPs and other emergency communications systems about RTT features and benefits for emergency response personnel and consumers (including consumers with disabilities); best practices for processing RTT requests from service providers; and ways to implement the RTT service feature. Among other things, panels addressed regulatory policy, PSAPs’ experiences with RTT testing, and RTT infrastructure issues. There was a live demonstration of the use of RTT and RTT opportunities.
- *Dispatchable Location.* On August 2, 2019, the Commission released a Report and Order that, among other things, adopted dispatchable location requirements for mobile text providers. (See briefing sheet on Kari’s Law/RAY BAUM’S Act.)

PSHSB BRIEFING SHEET

SUBJECT: 911 Call-Forwarding Requirements for Non-Service-Initialized (NSI) Phones (PS Docket No. 08-51)

SUMMARY: To ensure widespread availability of 911-service, the Commission requires wireless carriers to transmit all wireless 911 calls to Public Safety Answering Points, including those placed by “non-service-initialized” (NSI) phones, *i.e.*, phones for which there is no associated service contract. According to public safety entities, however, harassing 911 calls made from NSI phones have become an increasing problem because they do not include a call-back number, and tracing the caller’s location when a NSI phone is used is difficult, costly, and resource-consuming. The Commission has initiated a rulemaking proceeding to address this issue.

- In April 2008, the Commission released a Notice of Inquiry, seeking comment on: (1) the nature and extent of fraudulent 911 calls made from NSI devices; (2) the viability of using call blocking as a means of addressing fraudulent 911 calls from NSI devices; and (3) other possible solutions to address fraudulent 911 calls from NSI devices.
- In February 2013, the National Emergency Number Association (NENA) filed an *ex parte* letter proposing that the Commission phase out the NSI call-forwarding rule. PSHSB released a Public Notice seeking comment on the NENA *ex parte* and to refresh the record stemming from the 2008 Notice of Inquiry.
- On April 1, 2015, the Commission released a Notice of Proposed Rule Making (*NPRM*) in which proposed to sunset the NSI call-forwarding rule after a six months transition period to allow for consumer outreach and education. The *NPRM* also sought comment on alternative approaches to address the problem of harassing 911 calls from NSI phones.

KEY ISSUES:

- Whether, and on what timeline, the Commission should sunset the NSI rule in light of the increasing use of such devices to harass PSAPs.
- How to treat legitimate 911 calls from service-initialized phones that temporarily appear as NSI devices to 911 call-takers (e.g., due to off-network roaming or exhaustion of a caller’s pre-paid usage allowance).
- Whether mechanisms exist to efficiently handle 911 calls from NSI phones without imposing undue costs on carriers or PSAPs, such as a third-party call center to which carriers could transmit such calls for appropriate screening and disposition.

STATUS: Several dozen commenters filed in response to the April 2015 *NPRM*. Commenters include individuals, public safety organizations, and regional and national wireless carriers. The proceeding remains pending.

PSHSB BRIEFING SHEET

SUBJECT: Annual 911 Fee Diversion Report to Congress (PS Docket 09-14)

SUMMARY: The NET 911 Act requires the Commission to submit an annual report to Congress on the collection and distribution of 911 and Enhanced 911 (E911) fees and charges by the states, the District of Columbia, U.S. territories, and Tribal Nations (states and other reporting entities). Under Section 6(f)(2) of the NET 911 Act, the Commission is required to obtain information “detailing the status in each State of the collection and distribution of such fees or charges, and *including findings on the amount of revenues obligated or expended by each State or political subdivision thereof for any purpose other than the purpose for which any such fees or charges are specified* [emphasis added].”³

To prepare the Commission’s annual 911 Fee Report, the Public Safety and Homeland Security Bureau (“Bureau”) sends a questionnaire to states and territories in which it asks each one to identify the amount of funds collected for 911 or E911 purposes that were made available or used for any purpose other than the purposes designated by the funding mechanism or used for purposes otherwise unrelated to 911 or E911 implementation or support, such as funds transferred, loaned, or otherwise used for the state’s General Fund.

KEY ISSUES:

High-level Issues:

For each calendar year, the annual Report identifies:

- The total 911/E911 fees or charges collected by states and other reporting jurisdictions. Some states and reporting jurisdictions collect 911/E911 fees at the state level, some report collecting fees at the local level, and others collect fees at both the state and local level.
- States and other reporting jurisdictions that diverted or transferred 911/E911 fees for purposes other than 911/E911 and the total amount of 911/E911 funds diverted by all reporting jurisdictions.
- States and reporting jurisdictions that engaged in Next Generation 911 (NG911) programs and the total amount of reported NG911 expenditures from 911/E911 fees.
- States and other reporting jurisdictions that deployed state-wide, regional, and local Emergency Services IP Networks (ESInets).
- Deployment of text-to-911, i.e. PSAPs that are capable of receiving text-to-911 and projections for PSAPs that would be text-capable by the end of the calendar year.
- States and other reporting jurisdictions that lack the authority to audit service providers to verify that the collected fees accurately reflect the number of in-state subscribers served by the provider.

³ NET 911 Act at §6(f)(2) (emphasis added).

- 911 funds spent on 911-related cybersecurity programs for PSAPs.

STATUS: For calendar year 2018, 56 states and territories submitted fee reports with the Bureau. The FCC submitted the Eleventh Annual 911 Fee Report to Congress on December 19, 2019. Bureau staff is collecting information from states and territories for the twelfth annual report, which will cover calendar year 2019.

PSHSB BRIEFING SHEET

SUBJECT: 911 Fee Diversion Notice of Inquiry (PS Dockets 20-291 and 09-14)

SUMMARY: To ensure that the 911 system provides Americans with the lifesaving services they need in times of crisis, 911 centers must be adequately funded. Funding is also needed to support migrating 911 networks from legacy technology to advanced, Internet Protocol-enabled next generation technology (NG911) that will make the 911 system more resilient and support advanced capabilities such as text messaging and streaming video. Funding for these critical 911 purposes is provided in part by dedicated 911 fees established by each state and territory that appear as charges on customer bills for wireless, wireline, and other communications services.

Pursuant to the New and Emerging Technologies 911 Improvement Act of 2008, the Commission reports annually to Congress on the collection and expenditure of 911 fees by states and territories (see Briefing Sheet on Annual 911 Fee Report). These reports show that despite the critical importance of funding for 911 services, some states divert a portion of the funds collected for 911 to other purposes. According to the Commission's annual reports, between 2012 and 2018, American states and jurisdictions diverted a total of over \$1.275 billion in 911 fees to non-911 programs or to the state's general fund. On October 2, 2020, the Commission released a Notice of Inquiry that would seek comment on the effects of this fee diversion and on the most effective ways to dissuade states and jurisdictions from diverting 911 fees.

The NOI:

- Seeks comment on the specific effect that 911 fee diversion has had on the provision of 911 services and the transition to NG911 in states that have diverted fees.
- Examines whether mechanisms, such as restrictions on federal grant funding for diverting states, could be incorporated into programs administered by the Commission and/or interagency efforts in this area.
- Seeks comment on regulatory steps the Commission could take to discourage fee diversion, such as exercising the Commission's truth-in-billing authority to address the description of 911 fees on consumer bills when diversion occurs or conditioning state eligibility for FCC licenses, programs, or other benefits on the absence of fee diversion.
- Asks questions about how the Commission could encourage states to pass legislation or adopt rules that would end 911 fee diversion.
- Seeks comment on whether improvements to the Commission's annual 911 fee data collection and reporting process could further discourage fee diversion, including whether the Commission should provide additional guidance on what constitutes fee diversion.

STATUS: Comments are due November 2, 2020 and reply comments are due December 2, 2020.

PSHSB BRIEFING SHEET

SUBJECT: Improving 911 Reliability; Reliability and Continuity of Communications Networks, Including Broadband Technologies (PS Docket Nos. 13-75, 11-60)

SUMMARY: The Commission has generally addressed communications reliability and continuity issues by working with service providers to develop voluntary best practices, chiefly through CSRIC, and by measuring the implementation and effectiveness of those best practices through mandatory outage reporting.⁴ After widespread 911 outages during the June 2012 derecho storm, however, the Commission determined that voluntary best practices alone were insufficient to ensure reliable and resilient 911 service and established mandatory reliability certification requirements for certain 911 service providers.

In December 2013, the Commission adopted the *911 Reliability Report and Order* (Order) (FCC 13-158) requiring “covered 911 service providers”⁵ to take reasonable measures to provide reliable service with respect to 911 circuit diversity, central-office backup power, and diverse network monitoring, as evidenced by an annual certification of compliance. The *Order* also amended the Commission’s Part 4 rules to require covered 911 service providers to notify PSAPs of outages potentially affecting 911 service within 30 minutes of discovery and to follow up with additional information within two hours. This *Order* also required that the Commission revisit the rules in five years and determine if they have been effective in promoting 911 reliability or if any changes or sunseting of the rules is warranted.

In July 2015, the Commission released an *Order on Reconsideration* (FCC 15-95) that clarified that under Section 12.4 of its rules, covered 911 service providers may implement and certify an alternative measure for any of the specific certification elements, including circuit auditing, as long as they provide an explanation of how such alternative measures are reasonably sufficient to mitigate the risk of failure.

In June 2018, PSHSB issued a Public Notice (DA 18-612) seeking comment on the effectiveness of the 911 certification requirements, as directed by the 2013 *911 Reliability Report and Order*, including how effective the rules have been in practice, and whether they should be modified to adapt to advancements in technology or other changes. Comments were due on July 16, 2018 and replies on August 13, 2018.

In April 2020, PSHSB issued a Public Notice (DA 20-453) seeking comment on the implementation of new data fields for covered 911 service providers that it will add to the Network Outage Reporting System (NORS) and 911 Reliability Certification System improve the Bureau’s ability to assess 911 reliability. The new fields are intended to aid the Commission in identifying 911 special facilities (such as public safety answering points (PSAPs)) affected by service outages, determining whether alternative measures to circuit diversity are effective in maintaining network reliability, recognizing year-to-year improvements in 911 reliability, and

⁴ In 2007, based on recommendations from the panel examining the communications effects of Hurricane Katrina, the Commission adopted backup power rules that were ultimately vacated and remanded by the D.C. Circuit.

⁵ “Covered 911 Service Providers” are defined as entities that provide core 911 capabilities such as call routing and location information directly to public safety answering points (PSAPs) or that operate central offices that directly serve PSAPs. 47 CFR § 12.4(a)(4)(i).

ensuring compliance with existing network reliability requirements. Comments were due July 20, 2020.

KEY ISSUES:

High-level Issues:

- How reliable and resilient are the Nation's communications networks, particularly 911 networks? Are such networks equipped to continue service under emergency conditions?
- How can the Commission promote the reliability and resiliency of legacy 911 infrastructure while ensuring that its rules and policies also support the transition to NG911?
- How have the 911 reliability rules been working since their adoption in 2013?

STATUS:

- By October 15, 2015, covered entities were required to certify compliance with respect to at least 50 percent of (a) their critical 911 circuits, (b) central offices that directly serve PSAPs, and (c) network monitoring areas. Annual certifications of 100 percent compliance with each element commenced October 15, 2016.
- On June 13, 2018, PSHSB issued a Public Notice seeking comment the effectiveness of the 911 certification requirements in accordance with the 2013 *911 Reliability Report and Order's* direction to review the 911 Reliability Rules in five years.
- On May 8, 2018, PSHSB released a report summarizing the 911 reliability measures certified by 911 service providers in 2017.
- On July 30, 2020, PSHSB announced that the 911 Reliability Certification System is available for the filing of annual reliability certifications, which are due October 15, 2020.
- On July 30, 2020, PSHSB denied a waiver requested by USTelecom – The Broadband Association to provide broadband service providers an additional 90 days to file their annual 911 reliability certifications.
- On October 2, 2020, EB entered into consent decrees with seven telecommunications providers that did not file timely 911 service reliability certifications last year. Each provider agreed to pay a civil penalty and abide by a compliance plan to ensure it meets its filing responsibilities going forward.

PSHSB BRIEFING SHEET

SUBJECT: Emergency Access to Wi-Fi Access Points and Spectrum for Unlicensed Devices Pursuant to Section 301 of RAY BAUM’S Act of 2018 (PS Dockets 20-285)

SUMMARY: On September 1, 2020, the Public Safety and Homeland Security Bureau sought comment on emergency access to Wi-Fi access points pursuant RAY BAUM’S Act of 2018. By March 23, 2021, Section 301 of RAY BAUM’S Act requires the Commission to submit to Congress and make publicly available on the Commission’s website, a study on the public safety benefits and technical feasibility and cost of:—

- making telecommunications service provider-owned Wi-Fi access points, and other communications technologies operating on unlicensed spectrum, available to the general public for access to 9-1-1 services, without requiring any login credentials, during times of emergency when mobile service is unavailable;
- the provision by non-telecommunications service provider-owned Wi-Fi access points of public access to 9-1-1 services during times of emergency when mobile service is unavailable; and
- other alternative means of providing the public with access to 9-1-1 services during times of emergency when mobile service is unavailable.

STATUS: Comments are due on October 1, 2020 and reply comments are due on October 16, 2020.

**Wireline Competition Bureau
Briefing Sheets
October 2020**

TABLE OF CONTENTS

Subject	Page Number
Universal Service – High Cost	1
Universal Service – Lifeline	6
Universal Service – Connected Care Pilot Program	14
Covid-19 Telehealth Program	16
Veterans Broadband Report	17
Universal Service Fund – Rural Health Care	18
Universal Service Fund – Schools and Libraries (E-Rate)	21
Universal Service Fund Contribution Methodology	25
Universal Service Fund Cap	27
Universal Service – Contributions	28
Establishing the Digital Opportunity Data Collection; Modernizing the FCC Form 477 Data Program	29
Developing A Unified Inter-carrier Compensation Regime	31
VOIP Symmetry Declaratory Ruling	33
Updating the Inter-carrier Compensation Regime to Eliminate Access Arbitrage	34
8YY Access Charge Reform	36
Regulation of Price Cap Carriers’ Business Data (Special Access) Services Pricing	38
Regulation of Rate-Of-Return Carriers’ Business Data (Special Access) Services Pricing	41
Rate-Of-Return Represcription	43
Jurisdictional Separations	44
Inmate Calling Services	46
Aureon Tariff Investigation	50
Northern Valley Tariff Investigation	53
Eliminating <i>Ex Ante</i> Pricing Regulation and Tariffing of Telephone Access Charges	54
Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment	55
AT&T Mobility Puerto Rico Inc./Liberty Latin America Ltd. Transfer of Control	59
Broadband Deployment Advisory Committee (BDAC Or Committee)	61
Task Force for Reviewing Connectivity and Technology Needs of Precision Agriculture In The United States (Precision Ag Connectivity Task Force or Task Force)	63
Broadband Deployment Reports	65
Caller Id Spoofing/The Truth In Caller Id Act	66
Charter Communications, Inc. Petition to Sunset Merger Conditions	67
Cincinnati Bell Inc., Et Al., And Red Fiber Parent LLC Transfer of Control	68

Communications Marketplace Report	69
Implementation of Section 222 (CPNI Proceeding/Privacy of Customer Telephone Records/Privacy of Customers Of Broadband And Other Telecommunications Services)	71
Improving Competitive Broadband Access to Multiple Tenant Environments	73
Incumbent Local Exchange Carrier (LEC) Section 214 Bankruptcy Transactions: Windstream Holdings, Inc	75
Modernizing Unbundling and Resale Requirements in An Era of Next-Generation Networks and Services	78
Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs	80
Restoring Internet Freedom	82
Rural Call Completion	85
USTelecom—The Broadband Association (USTelecom) Forbearance Petition (2018)	88
833 Toll Free Number Auction	89
Access To Telephone Number Resources By Non-Carriers	91
Call Authentication Trust Anchor	94
iconectiv Petition for Competitive Procurement of the Toll-Free Numbering Administrator	97
National Suicide Hotline Improvement Act	98
Nationwide Number Portability	99
Text-Enabled Toll Free Numbers	101

WCB BRIEFING SHEET

SUBJECT: UNIVERSAL SERVICE – HIGH-COST (WC DOCKET NOS. 19-126, 18-143, 10-90)

SUMMARY: Since 2011, the Commission has undertaken extensive reforms to modernize the high-cost universal service support program to ensure that voice and broadband service, both fixed and mobile, is available throughout the nation. Beginning with the *USF/ICC Transformation Order and FNPRM*, the Commission established the Connect America Fund to support networks capable of providing voice and broadband service in areas that do not, or would not otherwise, have access to such networks. The Commission has made subsequent adjustments to the framework to take into account what the Commission has learned to date and new marketplace developments. Most recently, the Commission established the Rural Digital Opportunity Fund, which would direct up to \$20.4 billion over 10 years to expand fixed broadband in unserved rural areas. (For information on the reforms adopted to support mobile voice and broadband, please see WTB’s “Mobility Fund” briefing sheet).

BACKGROUND AND KEY ISSUES:

- High-cost support reduces the costs for providers serving rural, high-cost areas to deploy and maintain a modern network capable of offering voice and high-speed broadband services at rates reasonably comparable to urban areas
- In order to receive high-cost universal service support, a provider must first receive a designation as an Eligible Telecommunications Carrier (ETC) for a specific area by either a state regulatory commission or, in some cases, the FCC
- High-cost recipients can be grouped into three general categories:
 - Price Caps: former Bell Operating Companies and other large and mid-sized incumbent local exchange carriers
 - Rate-of>Returns: smaller, rural incumbent local exchange carriers
 - Competitive ETCs: carriers providing either fixed or mobile service that are not regulated as incumbent local exchange carriers and receive high-cost support in lieu of, or sometimes in addition to, the incumbent
- The high-cost universal service support program includes several different funding mechanisms. High-cost support is determined in one of four ways:
 - Competition: Carriers compete (such as in a reverse auction) for a portion of a fixed budget to serve an area identified as eligible by the FCC, and support is awarded to bidders offering the best possible service at a competitive cost
 - Cost Model: Carriers receive support in high-cost areas as determined by a model that estimates the cost to construct and maintain a voice and broadband network
 - Cost Basis: Carriers recover a portion of their costs to provide service
 - Fixed Amounts: Carriers receive a fixed amount of support as determined by the FCC
- Regulatory goals include:

- Fiscal responsibility (eliminate inefficiency and control costs to manage ratepayers' burden)
- No support for areas served with voice and broadband by an unsubsidized competitor
- Explicit, accountable public interest obligations, including mandatory deployment obligations and defined service levels

IMPLEMENTATION:

- ***Connect America Phase I***

- Between 2012 and 2015, price cap carriers reported deploying to almost 25,000 locations that previously lacked access to broadband with two rounds of Phase I incremental support.

- ***Connect America Phase II***

- ***Model-based Support:*** Each price cap carrier had the opportunity to make a “state-level commitment” to provide voice and broadband to high-cost locations in its service territory in each state it serves, in exchange for six years of support determined by a cost model.
 - In August 2015, nine price cap carriers accepted over \$1.5 billion in annual support to serve over 3.6 million locations by the end of 2020 in 45 states and one U.S. territory. As of 2020, carriers reported broadband deployment to more than 3.45 million locations.
 - ***Auction:*** In states where the price cap carriers declined model-based support, and in certain other areas nationwide (such as extremely high-cost areas and areas served by subsidized competitors), a competitive bidding process awarded funding.
 - In August 2018, bidding concluded in the CAF Phase II auction (Auction 903), awarding \$1.488 billion in support over 10 years to deploy networks serving more than 700,000 locations in 45 states. Over 99% of the locations will receive broadband service with speeds of at least 25/3 Mbps.
 - ***Rural Broadband Experiments (RBEs):*** Prior to conducting the Phase II auction, the Commission adopted in July 2014 an experiment to test competitive interest in deploying broadband in high-cost price cap areas and established an objective methodology for selecting projects. The Commission received bids from 181 entities. In total, over \$41 million in RBE support has been authorized for 16 bidders in 15 states.
 - ***New York CAF II Auction Waiver:*** In January 2017, the Commission made available up to \$170.4 million to companies that were selected by the state's New NY Broadband process to deploy broadband services to CAF Phase II eligible areas. As of July 2020, WCB has authorized \$63 million in high-cost support to offer voice and broadband services to more than 46,000 locations across New York.
- ***Alaska***
 - ***Alaska Communications:*** In 2016, the Commission adopted tailored CAF II service obligations for ACS, a price cap carrier serving Alaska that elected to continue receive frozen support in lieu of model-based support. ACS elected to receive nearly

- \$20 million annually for a 10-year term and is required to offer voice service and broadband service at the same speed, latency, usage and pricing metrics as established for Phase II model-based carriers to at least 31,571 locations.
- **Alaska Plan:** In 2016, the Commission adopted the *Alaska Plan Order*, which provided a one-time opportunity for Alaskan rate-of-return carriers to elect to receive frozen support for a 10-year term in exchange for meeting individualized performance obligations. In December 2016, the Bureau approved the individualized performance obligations of the 13 fixed carriers that elected support (2 elected A-CAM support instead).
 - **Uniendo a Puerto Rico and the Connect USVI Funds—WC Docket Nos. 18-143, 10-90, 14-58**
 - In May 2018, the Commission established the Uniendo a Puerto Rico Fund (“Bringing Puerto Rico Together”) and the Connect USVI Fund, in response to the widespread devastation of the 2017 hurricane season. In Stage 1, the Commission made available \$64.2 million in new funding to Puerto Rico and the U.S. Virgin Islands for both fixed and mobile services.
 - In September 2019, the Commission adopted an order that allocates \$950 million in fixed and mobile high-cost universal service support for Stage 2 to expand, improve, and harden communications networks in Puerto Rico and the U.S. Virgin Islands.
 - As of October 2020, WCB had authorized all \$258.8 million in Stage 2 support for mobile services to both territories.
 - **Rate-of-Return Reforms**
 - For rate-of-return carriers, subsequent to the *2011 ICC/Transformation Order*, the Commission established two new mechanisms for the distribution of support:
 - Under one option, carriers voluntarily elected to receive model-based support for a term of 10 years in exchange for meeting defined build-out obligations.
 - 262 companies in 43 states have elected A-CAM I: obligation to deploy 25/3 Mbps, 10/1 Mbps, 4/1 Mbps and upon reasonable request.
 - 171 companies have elected A-CAM II: obligation to deploy 25/3 Mbps, 4/1 Mbps and upon reasonable request; 25/3 Mbps to more than 363,000 locations, including more than 37,000 locations on Tribal lands.
 - Under the alternative, carriers may choose to remain on legacy support, which has been modified to provide support for broadband service to locations where the customer no longer subscribes to traditional regulated local exchange voice service, along with defined voice and broadband build-out obligations.
 - 437 study areas remain on legacy mechanisms, with an obligation to deploy 25/3 Mbps to more than 473,000 locations.
 - In March 2016, the Commission re-prescribed the authorized rate of return from 11.25% to 9.75%, with a phased transition.

- In December 2018, the Commission provided predictable funding levels for legacy mechanisms with annual inflation adjustment.
- ***Rural Digital Opportunity Fund:*** In January 2020, the Commission established the new Rural Digital Opportunity Fund.
 - Through a two-phase reverse auction mechanism, the FCC will direct up to \$20.4 billion over ten years to finance up to gigabit speed broadband networks in unserved rural areas, connecting millions more American homes and businesses to digital opportunity.
 - Phase I (Auction 904) will begin in October 2020 and target up to \$16 billion to approximately six million rural homes and businesses in census blocks that are wholly unserved with fixed broadband at speeds of at least 25/3 Mbps, based on existing data.
 - Funds will be allocated through a multi-round reverse auction like that used in the CAF Phase II auction.
 - To support the deployment of sustainable networks, Phase I will prioritize bidders committing to provide networks with higher speeds, greater usage allowances, and lower latency.
 - Phase II of the program will make available at least \$4.4 billion to target partially served areas, census blocks where some locations lack access to 25/3 Mbps broadband. Using the granular, precise broadband mapping data being developed in the FCC's Digital Opportunity Data Collection, along with census blocks unawarded in the Phase I auction.
- ***Overall Connect America Fund (information applicable to all CAF programs)***
 - *Performance Measures.* All high-cost recipients with defined deployment obligations are subject to a uniform framework for measuring the speed and latency performance of their broadband service, which requires carriers to submit testing results as part of their annual compliance certification. Carriers that do not comply with our speed and latency requirements will be subject to a reduction in support, commensurate with their level of noncompliance. In addition, providers will be subject to audit of all testing data.
 - *Connect America Fund Broadband Map.* On October 9, 2018, WCB announced the release of the Connect America Fund Broadband Map (CAF Map). The CAF Map shows locations where funding recipients have already reported CAF-funded broadband deployment to fixed locations. The CAF Map illustrates both areas eligible for funding and the specific fixed locations where funding recipients have reported deployment by address and geographic latitude and longitude, including the maximum speed offered and the date of deployment. The CAF Map will be updated with additional information as it is certified by carriers participating in these CAF programs and as more CAF programs are added to the map. The CAF Map is published by the administrator of the Universal Service Fund, the Universal Service Administrative Company (USAC), with data submitted annually by funding recipients using USAC's High Cost Universal Broadband (HUBB) portal.

STATUS:

- ***CAF Phase II auction (Auction 903)***: Winning bidders were required to submit post-auction long-form applications by October 15, 2018. Long-form applications are being reviewed and will be authorized by the Commission staff on a rolling basis. As of September 2020, \$1,476,554,824 in support had been authorized for more than 702,000 locations nationwide; 2 applications remain under review.
- ***Rural Digital Opportunity Fund Phase I auction (Auction 904)***: Short-form applications to be qualified to participate in the auction were due July 15, 2020. In September 2020, the status of the 505 short-form applications received was announced, with corrections to those that were classified as incomplete due September 23. On October 13, 386 applicants were announced as qualified to bid. Auction 904 is scheduled to begin October 29, 2020.
- ***Uniendo a Puerto Rico and Connect USVI Stage 2 Fixed Competitive Process***: In September 2020, the Bureau announced it had received a total of seven complete applications from eligible entities in Puerto Rico and the U.S. Virgin Islands.
- ***Performance Measures***: The Bureau acted on petitions for reconsideration related to satellite performance in September 2019; the Commission affirmed the performance measures framework, with certain refinements, in October 2019. The Commission is implementing the testing regime, and carriers will be required to engage in pre-testing, which will allow carriers to gain testing experience without being subject to support reductions, and the implementation of testing for specific support programs will be based on required deployment deadlines.

WCB BRIEFING SHEET

SUBJECT: UNIVERSAL SERVICE – LIFELINE (WC DOCKET NOS. 17-287; 11-42; 09-197)

SUMMARY: On October 30, 2019, the Commission adopted the *Fifth Report and Order, Memorandum Opinion and Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking* (FCC 19-111) (*2019 Lifeline Order and Notice*), which restored the states' proper role in designating ETCs to participate in the Lifeline program. The *2019 Lifeline Order and Notice* also clarified the obligations of participating carriers and took targeted steps to improve compliance by Lifeline ETCs to reduce waste, fraud, and abuse in the program. The Commission also took the opportunity to seek comment on appropriate program goals and metrics for a modernized Lifeline program and additional improvements to program integrity. Additionally, the Commission continues to pursue improved program integrity by overseeing and supporting the work of the Universal Service Administrative Company (USAC) in operating the National Lifeline Eligibility Verifier (National Verifier) and conducting data reviews to ensure current Lifeline claims are not the result of fraud or abuse.

BACKGROUND AND KEY ISSUES:

July 2020 Proposed Order: In July 2020, Chairman Pai circulated a proposed order to revise the formula used to annually update the Lifeline program's mobile broadband minimum service standard to ensure predictable, reasonable results from the updating mechanism, enabling the program to better serve subscribers with robust mobile broadband service offerings. The proposal would increase the Lifeline program's mobile broadband minimum service standard to 4.5 GB per month beginning December 2020, instead of the increase to 11.75 GB that would otherwise go into effect, to ensure that Lifeline subscribers have sufficient broadband capacity while keeping Lifeline services affordable.

October 2019 Lifeline Order and Notice: The *2019 Lifeline Order and Notice* took significant steps to promote the integrity, effectiveness, and efficiency of the Lifeline program by:

- Reversing a legally insupportable interpretation of the traditional state and federal roles in designating ETCs and eliminating the Lifeline Broadband Provider (LBP) ETC category;
- Removing a perverse financial incentive for abuse of the Lifeline program in the enrollment process by prohibiting ETCs from offering commissions-based payments to agents, employees, contractors, and subcontractors based on the number of Lifeline applications received or the number of successful Lifeline enrollments;
- Codifying a requirement that an ETC's enrollment representatives register with USAC before they can begin interacting with USAC's Lifeline systems;
- Codifying USAC's process for confirming that a consumer is actually alive when they are enrolled in the program or their eligibility is recertified;
- Codifying USAC's process for requesting reimbursement from the Lifeline program based on actual consumer data in the NLAD to prevent overclaims;

- Improving the recertification process by requiring eligibility documentation from the subscriber at the time of recertification in certain circumstances;
- Targeting future audits of ETCs based on a risk assessment to be developed by USAC;
- Seeking comment on a new Lifeline program goal of increasing broadband adoption among customers and the data that the Commission might collect and analyze to assess that potential goal; and
- Seeking comment on further program integrity enhancements around eligibility documentation, compliance with the Lifeline program's usage requirement, the de-enrollment process, the distribution of free handsets, and privacy protection efforts.

The *2019 Lifeline Order and Notice* did not address the FCC's 2017 proposals to set a self-enforcing budget mechanism for Lifeline, limit Lifeline support to facilities-based providers, or establish a mandatory minimum subscriber contribution. Those proposals remain pending.

Since 2012, the Commission has adopted a number of reforms that have modernized the Lifeline program and targeted waste, fraud, and abuse in the program.

January 2012 Lifeline Order: The *2012 Lifeline Order* made significant and successful reforms to bring accountability to the Lifeline program, including:

- Adopting specific performance goals and measures for the program;
- Establishing an interim support amount of \$9.25 per month on non-Tribal lands;
- Setting a uniform eligibility floor;
- Adopting a one-per-household requirement, limiting one Lifeline supported service to each qualifying household;
- Requiring ETCs to obtain proof of consumer eligibility at enrollment and re-checking annually that Lifeline subscribers remain eligible for the program; and
- Launching the NLAD, a national duplicates database to detect and eliminate duplicative Lifeline support.

As a result of these reforms targeting waste, fraud, and abuse, overall disbursements for Lifeline program fell from \$2.2 billion in 2012 to \$1.5 billion in 2016.

June 2015 Lifeline Order: The Commission adopted a set of reforms to further protect against waste, fraud, and abuse:

- Required Lifeline providers to retain documentation demonstrating subscriber eligibility;
- Established a uniform "snapshot" date each month for Lifeline providers to calculate their number of subscribers for reimbursement;
- Eliminated the requirement that incumbent local exchange carriers (LECs) must resell retail Lifeline-discounted service, and limited reimbursement for Lifeline service to Lifeline providers directly serving Lifeline customers; and

- Interpreted “former reservations in Oklahoma,” as provided in the Commission’s rules, as the geographic boundaries reflected in the Historical Map of Oklahoma 1870-1890 (Oklahoma Historical Map) for the purposes of enhanced Lifeline support on Tribal lands.

March 2016 Lifeline Order: The 2016 *Lifeline Order* acted on many of the proposals in the 2015 FNPRM to:

- Allow low-income consumers to apply the \$9.25 per month support not only to bundled voice and data service packages, but also to standalone broadband service;
- Purportedly preempt states from their statutory role in designating Lifeline providers;
- Set minimum service standards for Lifeline-supported service;
- Establish the National Verifier to prevent waste, fraud, and abuse by relying on a neutral third party, rather than relying solely on ETCs, for eligibility verification; and
- Establish a non-self-enforcing budget of \$2.25 billion, indexed to inflation.

November 2017 Lifeline Order: The 2017 Order, NPRM, and NOI takes a fresh look at the program to focus on areas where Lifeline support is most needed and to incentivize investment in networks that enable 21st Century connectivity for all Americans, by:

- Increasing consumer choice by eliminating restrictions that barred Lifeline consumers from changing Lifeline providers for a year;
- Protecting consumers and the program by clarifying that Lifeline support is only available for mobile broadband at 3G or better levels, barring support for so-called “premium Wi-Fi” services that require use at a Wi-Fi hotspot;
- Seeking comment on spurring investment and reducing waste, fraud, and abuse by limiting Lifeline support to facilities-based providers;
- Seeking comment on protecting the program by restoring the traditional role of the states in approving participation of Lifeline-eligible providers;
- Seeking comment on protecting ratepayers, who pay for Lifeline through an assessment on their phone bills, by setting a self-enforcing budget cap on the program;
- Seeking comment on improving provider incentives to offer high quality services by establishing a maximum discount level for Lifeline-supported services; and
- Seeking comment on efficiently targeting funds to areas most in need of help in obtaining digital opportunity. These areas would include rural and Tribal areas, as well as low-income urban areas that are likely to be underserved by providers.
- The 2017 Order also included efforts to incentivize deployment on Tribal lands by targeting enhanced support to facilities-based carriers serving rural low-income consumers. That section of the Order has been remanded to the Commission by the U.S. Court of Appeals for the D.C. Circuit and is not in effect. The Commission is reviewing the court’s decision and determining how best to promote access to communications service for low-income consumers.

COVID-19 RELIEF

2020 COVID-19 Orders: In March and April 2020, the Bureau temporarily waived the Lifeline recertification, non-usage, and income documentation rules for all Lifeline consumers. In June 2020, the Bureau temporarily waived application requirements to allow a consumer residing in rural areas on Tribal lands to begin receiving Lifeline service even if their application failed an automatic check and the applicant is still in the process of providing documentation to confirm their eligibility. These temporary waivers will expire on November 30, 2020.

FCC and USAC staff have undertaken numerous efforts to promote Lifeline awareness during the pandemic. At the federal level, FCC and USAC staff have collaborated with the Department of Health and Human Services, the Department of Veterans Affairs, the Department of Housing and Urban Development, the Bureau of Indian Affairs, the Department of Agriculture, the Social Security Administration, and the Department of Commerce. At the state level, FCC and USAC staff have partnered with the National Association of Regulatory Utility Commissioners to raise awareness of the Lifeline program among state government agencies responsible for administering qualifying programs, such as SNAP and Medicaid, and to announce expanded access to the Lifeline National Eligibility Verifier for state agencies interested in helping consumers apply for the Lifeline program. USAC has distributed Lifeline materials to over 13,000 food banks, homeless shelters, and other direct service organizations to ensure people in need are aware of the Lifeline program, and has conducted additional trainings for hundreds of consumer advocates, in some cases doubling or tripling the trainings' usual attendance. Finally, FCC and USAC staff have created a toolkit of Lifeline resources for our federal and state partners, which is posted on the USAC website at <https://www.usac.org/lifeline/learn/lifeline-resources-for-state-and-federal-partners/> so that any agency can easily provide its stakeholders with information about the program and how to apply.

PROGRAM INTEGRITY

National Lifeline Eligibility Verifier: In the *2016 Lifeline Order*, the Commission directed USAC to establish the National Verifier to determine Lifeline eligibility and ensure program integrity with the expectation that it be launched in all states and territories by the end of 2019. As of December 2019, the National Verifier had launched (either soft launched or fully launched) in all 55 states and territories and the District of Columbia.

With the National Verifier, all new subscribers must be deemed eligible by the National Verifier prior to receiving the Lifeline benefit. However, this approach will vary in California, Oregon, and Texas, where the state agencies have managed their own Lifeline eligibility verification and duplicate checking processes for many years and, pursuant to waivers granted under the *2012 Lifeline Order*, do not participate in the NLAD duplicates database. Due to the unique circumstances in these states, the FCC will continue to rely on the states' eligibility determinations and duplicate checks with oversight from the National Verifier to strengthen program integrity and ensure compliance with FCC rules. Under this approach, consumers in California, Oregon, and Texas will continue to apply using a streamlined state application process for both federal and state benefits, which will leverage the states' automated database connections where available.

In addition to benefitting indirectly from available automated connections in the NLAD opt-out states, the National Verifier has established direct connections to automated data sources in 19

states. These connections provide a check for participation in the Supplemental Nutrition Assistance Program (SNAP) in each state, as well as a check of Medicaid and Supplemental Security Income (SSI) participation and income-based eligibility, where available. The National Verifier also has implemented automated connections with two federal agencies: the Centers for Medicare & Medicaid Services (CMS) to check for federal Medicaid participation, and the U.S. Department of Housing and Urban Development (HUD) to check for Federal Public Housing Assistance (FPHA) participation. All of the eligibility database connections established by the National Verifier to date are reflected in the chart below.

State/Territory	Soft Launch	Hard Launch	Eligibility Database Connections Established
Colorado	6/18/2018	11/2/2018	SNAP, Medicaid, FPHA, CMS
Mississippi	6/18/2018	11/2/2018	SNAP, FPHA, CMS
Montana	6/18/2018	11/2/2018	FPHA, CMS
New Mexico	6/18/2018	11/2/2018	SNAP, Medicaid, FPHA, CMS
Utah	6/18/2018	11/2/2018	SNAP, Medicaid, FPHA, CMS
Wyoming	6/18/2018	11/2/2018	FPHA, CMS
Guam	10/15/2018	1/15/2019	FPHA
Hawaii	10/15/2018	1/15/2019	FPHA, CMS
Idaho	10/15/2018	1/15/2019	FPHA, CMS
New Hampshire	10/15/2018	1/15/2019	FPHA, CMS
North Dakota	10/15/2018	1/15/2019	FPHA, CMS
South Dakota	10/15/2018	1/15/2019	FPHA, CMS
Missouri	12/4/2018	3/5/2019	SNAP, Medicaid, FPHA, CMS
North Carolina	12/4/2018	3/5/2019	SNAP, FPHA, CMS
Pennsylvania	12/4/2018	3/5/2019	SNAP, Medicaid, FPHA, CMS
Tennessee	12/4/2018	3/5/2019	SNAP, FPHA, CMS
Alaska	2/6/2019	5/7/2019	FPHA, CMS
American Samoa	2/6/2019	5/7/2019	FPHA
Delaware	2/6/2019	5/7/2019	FPHA, CMS
District of Columbia	2/6/2019	5/7/2019	FPHA, CMS
Maine	2/6/2019	5/7/2019	FPHA, CMS
Northern Mariana Islands	2/6/2019	5/7/2019	FPHA
Rhode Island	2/6/2019	5/7/2019	FPHA, CMS
U.S. Virgin Islands	2/6/2019	5/7/2019	FPHA, CMS
Indiana	3/12/2019	6/11/2019	SNAP, Medicaid, FPHA, CMS
Kentucky	3/12/2019	6/11/2019	SNAP, Medicaid, FPHA, CMS
Michigan	3/12/2019	6/11/2019	SNAP, Medicaid, SSI, FPHA, CMS
Arizona	6/25/2019	10/23/2019	FPHA, CMS
Connecticut	6/25/2019	10/23/2019	FPHA, CMS
Georgia	6/25/2019	10/23/2019	SNAP, Medicaid, FPHA, CMS

State/Territory	Soft Launch	Hard Launch	Eligibility Database Connections Established
Iowa	6/25/2019	10/23/2019	SNAP, FPHA, CMS
Kansas	6/25/2019	10/23/2019	FPHA, CMS
Nebraska	6/25/2019	10/23/2019	FPHA, CMS
Nevada	6/25/2019	10/23/2019	SNAP, FPHA, CMS
New York	6/25/2019	10/23/2019	FPHA, CMS
Virginia	6/25/2019	10/23/2019	SNAP, Medicaid, FPHA, CMS
Vermont	6/25/2019	10/23/2019	FPHA, CMS
West Virginia	6/25/2019	10/23/2019	FPHA, CMS
Alabama	10/11/2019	1/22/2020	FPHA, CMS
Arkansas	10/11/2019	1/22/2020	FPHA, CMS
Louisiana	10/11/2019	1/22/2020	FPHA, CMS
Maryland	10/11/2019	1/22/2020	FPHA, CMS
Massachusetts	10/11/2019	1/22/2020	FPHA, CMS
New Jersey	10/11/2019	1/22/2020	FPHA, CMS
Oklahoma	10/11/2019	1/22/2020	FPHA, CMS
South Carolina	10/11/2019	1/22/2020	SNAP, FPHA, CMS
Washington	10/11/2019	1/22/2020	SNAP, FPHA, CMS
Florida	12/16/2019	3/24/2020	FPHA, CMS
Illinois	12/16/2019	3/24/2020	FPHA, CMS
Minnesota	12/16/2019	3/24/2020	FPHA, CMS
Ohio	12/16/2019	3/24/2020	FPHA, CMS
Wisconsin	12/16/2019	3/24/2020	SNAP, Medicaid, SSI, Income, FPHA, CMS
Puerto Rico	10/11/2019	6/23/2020	SNAP, FPHA, CMS
California	12/20/2019	TBD	N/A
Oregon	12/20/2019	TBD	SNAP, Medicaid, SSI
Texas	12/20/2019	TBD	SNAP, Medicaid

USAC submitted its latest required National Verifier annual report to the Bureau in January 2020, and its latest required biannual implementation update in July 2020. Since the initial soft launch in June 2018, eligibility was confirmed using an automated state/federal data source in approximately 63% of applications. The connection to CMS alone, which became available in September 2019, increased the average automated pass rate in states and territories without connections to state databases from 6% to nearly 60%. In 2020, USAC will continue to work with state and federal agencies to add more automated data sources to the National Verifier. After the COVID-19 waivers have ended, USAC will also continue reverification, the one-time process unique to launch of the National Verifier, to ensure that existing subscribers whose eligibility was initially validated prior to the National Verifier are still eligible for the Lifeline program.

Representative Accountability Database: The *2019 Order* codified a requirement that ETC enrollment representatives register with USAC before they can begin interacting with USAC's Lifeline systems. On May 25, 2020, use of USAC's Representative Accountability Database (RAD) became mandatory. Thus, enrollment representatives must have a Representative ID, and that ID must be linked to their employer's system account to complete transactions in NLAD and the National Verifier.

GAO Report: A report released in 2017 by the Government Accountability Office (GAO) confirmed that waste, fraud, and abuse are still all too prevalent in the Lifeline program. The Chairman has accordingly directed USAC to take immediate action to stop this abuse of the program and establish procedures for ongoing vigilance to protect the Fund. USAC, with the oversight of FCC staff, has made several common-sense administrative improvements to make it more difficult for providers to enroll fraudulent or ineligible subscribers.

Enforcement: Commission staff investigate instances of potential waste, fraud, and abuse in the Lifeline program and take action against offenders to address wrongdoing and deter future non-compliance. For example, in December 2017, the Commission entered into consent decrees to settle investigations dating back to 2013 into five Lifeline providers that received improper payments from the program. The providers had already repaid the Fund for the improper payments, and in each settlement the company agreed to make additional payments to the U.S. Treasury and to implement compliance plans to ensure future adherence to the Commission's rules.

Ongoing Oversight: Commission staff and USAC continue to take steps to protect the integrity of the Lifeline program rules through tools like auditing requirements and periodic program reporting.

Forbearance & ETC Petitions

- **Lifeline Broadband Provider Designations:** The 2016 *Lifeline Order* created a new category of ETC, called Lifeline Broadband Providers (LBPs). Chairman Pai has stated that he does not believe the Bureau should review petitions for LBP designation at this time, due to concerns about whether the Commission has the authority to designate LBPs, instead of state commissions. The U.S. Court of Appeals for the D.C. Circuit has remanded a court challenge on this issue to the FCC for further consideration, and the *2017 Lifeline NPRM* sought comment on eliminating the LBP category to restore states' role in ETC designation. The *2019 Lifeline Order and Notice* restored the traditional role of states in the ETC designation process and removed the LBP category. The FCC will act to resolve any pending LBP petitions in accordance with the current Lifeline rules.
- **Flexibility for ETCs to Offer Broadband:** The 2016 *Lifeline Order* clarified that ETCs may receive support for offering Lifeline broadband service. In November 2016, WCB issued guidance on how ETCs can avail themselves of forbearance from the obligation to offer Lifeline-supported broadband Internet access service (BIAS). In January 2017, WCB clarified that ETCs must permit customers to apply Lifeline discounts to standalone BIAS where the ETC commercially offers a standalone BIAS service pursuant to a high-cost public interest obligation. The Commission also granted forbearance to high-cost ETCs from the obligation to offer Lifeline-supported voice service where certain competitive conditions are met. In the *2017 Lifeline NPRM*, the Commission sought comment on its authority to continue supporting broadband service through the Lifeline program. In *Mozilla v. FCC*, the

U.S. Court of Appeals for the D.C. Circuit remanded to the FCC the issue of its authority to provide reimbursement for BIAS under the Lifeline program (see Restoring Internet Freedom briefing sheet).

STATUS: Staff is working actively on implementing the reforms stemming from the 2016, 2017, and 2019 Orders, including working closely with USAC on continuous improvements to the National Verifier and timely addressing matters arising from administration of the Lifeline program.

WCB BRIEFING SHEET

SUBJECT: UNIVERSAL SERVICE – CONNECTED CARE PILOT PROGRAM (WC DOCKET NO. 18-213)

SUMMARY: The Commission adopted a Report and Order to establish a Connected Care Pilot Program to support the delivery of advanced telehealth services primarily to low-income Americans and veterans.

BACKGROUND AND KEY ISSUES:

2018 Notice of Inquiry: In August 2018, the Commission adopted a Notice of Inquiry, seeking comment on creating a Universal Service Fund pilot program to promote the use of broadband-enabled telehealth services among low-income households and veterans, with a focus on services delivered directly to patients beyond the doors of brick-and-mortar health care facilities.

2019 Notice of Proposed Rulemaking: In July 2019, the Commission adopted a Notice of Proposed Rulemaking that proposes and seeks comment on establishing a three-year, \$100 million Connected Care Pilot program that would support bringing telehealth services directly to low-income patients and veterans. The proposed Connected Care Pilot would provide an 85% discount on connectivity for broadband-enabled telehealth services that connect patients directly to their doctors and are used to treat a wide range of health conditions.

2020 Report and Order: In March 2020, the Commission adopted a Report and Order establishing the Connected Care Pilot Program. The Connected Care Pilot Program will make available up to \$100 million of universal service funding over a three-year period to help defray eligible health care providers' costs of providing connected care services, with a primary focus on pilot projects that will provide connected care services to low-income Americans and veterans.

The Report and Order established that the Connected Care Pilot Program is open to eligible health care provider sites, whether located in rural or non-rural areas and is limited to nonprofit and public eligible health care providers that fall within the statutorily enumerated categories of "health care provider" in section 254(h)(7)(B) of the Telecommunications Act. Health care providers interested in participating will submit an application to the Commission, and the Commission will select applicants based on the criteria outlined in the Report and Order. Applying health care providers will determine the specific health conditions to be treated and connected care services to be provided through their proposed pilot projects. Selected pilot projects will receive an 85% discount on the eligible costs of 1) patient broadband internet access services, 2) health care provider broadband data connections, 3) other connected care information services, and 4) certain network equipment. The Commission did not set a limit on the number of pilot projects that will be selected, or establish a limit on per project funding.

Data gathered through the Pilot program would be used to analyze the possible benefits that support of broadband service for connected care may bring.

2020 Public Notice: On September 3, 2020, the Wireline Competition Bureau released a Public Notice providing guidance to assist prospective applicants in preparing to apply for the Connected Care Pilot Program (DA 20-1019). The Public Notice provided additional information on eligible funding, eligible health care providers, how to request an eligibility determination before filing an FCC Form 460, and information that will be required on applications.

STATUS: Commission staff is working on implementing the Pilot Program. An application filing window has not yet been announced.

WCB BRIEFING SHEET

SUBJECT: COVID-19 TELEHEALTH PROGRAM (WC DOCKET NO. 20-89)

SUMMARY: On April 2, 2020, the Commission released a Report and Order establishing the COVID-19 Telehealth Program pursuant to the Coronavirus Aid, Relief, and Economic Security (CARES) Act, to implement the \$200 million congressionally appropriated budget to help eligible health care providers maximize their provision of connected care services during the COVID-19 pandemic.

BACKGROUND AND KEY ISSUES: On April 2, 2020, the Commission released a Report and Order establishing the COVID-19 Telehealth Program and made available \$200 million in funding, appropriated by Congress as part of the Coronavirus Aid, Relief, and Economic Security (CARES) Act, to help health care providers provide connected care services to patients at their homes or mobile locations in response to the novel Coronavirus 2019 disease (COVID-19) pandemic. The COVID-19 Telehealth Program provided immediate support to eligible health care providers responding to the COVID-19 pandemic by fully funding their telecommunications services, information services, and devices necessary to provide critical connected care services until the program's funds have been expended or the COVID-19 pandemic has ended.

The Wireline Competition Bureau opened the application window for the COVID-19 Telehealth Program on April 13, 2020, and accepted applications until June 25, 2020, when it became clear that demand for funding had exceeded Program funds. From April 13, 2020 to July 8, 2020, the Bureau expeditiously reviewed applications and issued funding commitments and, in accordance with the Commission's Report and Order, prioritized funding applications that targeted areas that have been hardest hit by COVID-19 and where the support had the potential to have the most impact on addressing the health care needs. On July 8, 2020, the Commission announced that it committed exactly \$200 million through issuing 539 separate funding commitments to eligible health care providers, and had therefore exhausted the funds appropriated to the Commission through the CARES Act.

STATUS: As of July 8, 2020, the Commission committed exactly \$200 million through issuing 539 separate funding commitments to eligible health care providers, and has therefore exhausted the funds appropriated through the CARES Act. Commission staff is reviewing invoices submitted by funding recipients and disbursing funds to eligible health care providers for eligible services and devices.

WCB BRIEFING SHEET

SUBJECT: VETERANS BROADBAND REPORT (WC DOCKET NO. 18-275)

SUMMARY: The Commission released a report on promoting access to broadband service for veterans, pursuant to the RAY BAUM'S Act of 2018, in May 2019.

BACKGROUND AND KEY ISSUES:

In the RAY BAUM'S Act of 2018, Congress directed the Commission to submit to Congress a report on promoting access to broadband service for veterans, in particular low-income veterans and veterans residing in rural areas. Congress also directed the Commission to provide the public an opportunity to comment on the issues to be addressed in the report. In September 2018, the Wireline Competition Bureau sought public input for the report.

In May 2019, the Wireline Competition Bureau released and submitted to Congress a report on promoting access to broadband service for veterans. The report found that many veterans have access to both fixed and mobile broadband, but a significant number still lack access to fixed broadband, mobile broadband or both. Key findings include:

- 92.5% of veterans have access to fixed broadband at 25/3 Mbps.
- 78.4% of veterans have access to mobile LTE broadband at 10/3 Mbps.
- 85% of households with veterans report paid Internet connections in their homes.

Barriers to broadband access for veterans include digital literacy and relevance, price, and location. Demographic and social trends among veterans are relevant to understanding broadband adoption rates among veterans (age, disability status, income, households with men living alone). Collaboration across federal agencies, industry stakeholders, and local communities could help move toward universal broadband access.

The Report made the following recommendations to Congress:

- Direct agencies and organizations to collect and share data on broadband deployment to and adoption by veterans;
- Direct agencies and organizations to perform veteran-specific outreach and education about broadband;
- Direct agencies and other stakeholders to coordinate to enhance education and outreach to veterans; and
- Require funding agencies to take into account the needs of low-income veterans and veterans in rural areas when directing broadband deployment loans and grants.

STATUS: The Commission has submitted to Congress its report on promoting access to broadband service for veterans, particularly low-income veterans and veterans residing in rural areas.

WCB BRIEFING SHEET

SUBJECT: UNIVERSAL SERVICE FUND – RURAL HEALTH CARE (WC DOCKET NOS. 02-60, 17-310)

SUMMARY: The Commission’s Rural Health Care (RHC) Program stems from the Telecommunications Act of 1996 and provides support for communications connections for eligible nonprofit and public health care providers. Currently, it consists of two separate programs: the Telecommunications (Telecom) Program and the Healthcare Connect Fund Program. The Telecom Program ensures that eligible health care providers pay no more than their urban counterparts for telecommunications services. The Healthcare Connect Fund Program expands health care provider access to broadband, especially in rural areas, and encourages the creation of state and regional broadband health care networks. The funding year (FY) for the RHC Program runs from July 1 through June 30 of the subsequent year (*e.g.*, FY2019 ran from July 1, 2019 - June 30, 2020). As of FY2017, the RHC Program is capped at \$571 million per funding year and, beginning in FY2018, has been adjusted annually for inflation. Prior to FY2017, the RHC Program was capped at \$400 million per funding year.

BACKGROUND AND KEY ISSUES:

- ***Telecom Program.*** This program, established in 1997, ensures that rural health care providers pay no more than their urban counterparts for telecommunications services. Specifically, an applicant’s program support is based on the difference between rural rates charged for telecommunications services in the rural areas where the health care provider is located, and the urban rates charged for similar telecommunications services in the State. The rural health care provider pays only the urban rate for the telecommunications service, and the Universal Service Fund (USF) pays the difference between the urban rate and rural rate for the service to the service provider – in effect, providing a discount to the health care provider in the amount of the “rural-urban differential.”
- ***Healthcare Connect Fund Program.*** This program, established in 2012, provides a flat 65% discount on high-capacity broadband connectivity to both individual rural health care providers and consortia, which can include non-rural health care providers (if the consortium has a majority of rural sites). These services include Internet access, dark fiber, business data, traditional DSL, and private carriage services. Through the Healthcare Connect Fund Program, the Commission promotes the use of broadband services for the delivery of health care services and facilitates the formation of health care provider consortia. These efforts recognize the increasing need for rural health care providers to have access to specialists who are often located in urban areas, as well as the advent of certain communications-based trends in healthcare delivery, such as the move towards electronic health records.
 - In contrast to the Telecom Program, participants in the Healthcare Connect Fund Program may obtain multi-year funding commitments. Consortia may also obtain support for upfront charges, which may include support for service provider deployment of new or upgraded facilities or for health care provider-owned network facilities, if shown to be the most cost-effective option.

STATUS: There have been several developments in the RHC Program in the past several years:

- ***Reform of the RHC Program:*** In December 2017, the Commission released an NPRM seeking comment on the appropriate level for the RHC Program funding cap. The

NPRM also explored ways to more efficiently distribute RHC Program funds and combat waste, fraud, and abuse.

- In June 2018, the Commission released an Order that adopted rules to: (1) increase the annual RHC Program funding cap to \$571 million and apply it to FY2017; (2) annually adjust the RHC Program funding cap for inflation, beginning with FY2018; and (3) establish a process to carry-forward unused funds from past funding years for use in future funding years. As noted in the Commission's Order, the RHC Program funding cap for FY2018 is \$581 million, adjusted for inflation.
- In August 2019, the Commission adopted and released an order that reforms the RHC Program to increase transparency, predictability and efficiency. The rules adopted by the Order: (1) target and prioritize funding to rural areas in the most need of health care services; (2) simplify urban and rural rate determinations by, among other things, directing the USAC to create urban and rural rate databases; (3) reform competitive bidding in the RHC Program making it more productive for health care providers to identify and select cost-effective service offerings in their rural areas; (4) streamline the application process and align procedures between the E-Rate and RHC Programs to ease the burden on participants; and (5) strengthen safeguards against waste, fraud, and abuse in the RHC Program.
- *Rural Rates in the Telecom Program:* In February 2019, in order to assist eligible health care providers participating in the RHC Telecom Program as they compiled their applications for FY2019, WCB released a Public Notice providing guidance on complying with program rules, including the Commission's rules for determining rural rates. It also provided some reminders and tips providing additional transparency into the program's application process and to help applicants and service providers prepare their applications so as to expedite application review and the issuance of funding decisions by USAC.

Pursuant to the *RHC Reform Order*, on July 1, 2020, USAC released a database with urban and rural rates for determining support in the Telecom Program beginning in FY2021. On June 30, 2020, shortly before USAC released the database, the Wireline Competition Bureau issued a letter to USAC with instructions on the administration of the database.

- *Administering Funding Requests*
 - *FY2018:* The FY2018 application filing window ran from February 1, 2018 - June 29, 2018. The funding cap for FY2018 was approximately \$581 million. Due to demand for RHC Program funds, a second filing window period for FY2018 was not opened and USAC did not accept any applications not properly filed in the first filing window. For the first time, demand for multi-year commitments and upfront payments in the Healthcare Connect Fund Program exceeded the \$150 million internal cap on such requests. On May 20, 2019, the Commission issued an order suspending the multi-year commitment rule in the Healthcare Connect Fund Program to allow all funding requests seeking support for services to be delivered in FY2019 to be funded in full and preserving the ability of program participants to seek the remainder of their requested funding in future funding years.

- *FY2019*: The FY2019 application filing window ran from February 1, 2019 - May 31, 2019. The funding cap for FY2019 is \$594,066,116, which represents a 2.2% inflation adjusted increase from the \$581,278,000 funding cap for FY2018. On June 10, 2019, WCB released a Public Notice announcing USAC's projection that \$83.22 million in unused funds is available for carry-forward to FY2019. On March 13, 2020, the Commission issued an order carrying forward an additional \$42.19 to ensure that demand could be fully met and waiving the cap on upfront commitments and multi-year payments. Due to demand for RHC Program funds, a second filing window period for FY2019 was not opened. On September 16, 2020, the Wireline Competition Bureau issued a waiver extending the RHC Program's Healthcare Connect Fund Program invoice filing deadline to provide relief to applicants and service providers who received FY 2019 funding commitment letters after or within 180 days of the invoice filing deadline
- *FY2020*: The FY2020 application filing window ran from February 1, 2020 – June 30, 2020. The window was originally scheduled to close on April 30, 2020, but the Bureau extended the window as a part of the Commission's COVID-19 relief efforts. The funding cap for FY2020 is \$604,759,306 and the cap for upfront payments and multi-year commitments under the Healthcare Connect Fund Program is \$152,700,000, which represents a 1.8 % inflation increase from FY2019. On June 30, 2020, WCB released a Public Notice announcing USAC's projection that \$197.98 million in unused funds is available to satisfy demand for FY2020.
- ***COVID-19 Relief***
 - On March 13, 2020, the Commission issued an order to fully fund RHC Program demand for FY2019 by carrying forward additional unused funds from previous years and waiving the cap on upfront commitments and multi-year payments.
 - On March 18, 2020, the Wireline Competition Bureau issued a waiver of the gift rules until September 30, 2020, to enable service providers to offer, and RHC and E-Rate program participants to solicit and accept, improved connections or additional equipment for telemedicine or remote learning during the coronavirus outbreak.
 - On March 26, 2020, the Wireline Competition Bureau (1) issued an extension of the RHC Program application filing window from April 30, 2020 until June 30, 2020; (2) eased competitive bidding requirements for health care providers with expiring evergreen contracts; and (3) provided an extension of deadlines for responding to information requests from USAC, filing appeals, installing services, and filing invoices.
 - On September 3, 2020, the Wireline Competition Bureau issued an order extending, until December 31, 2020, the waiver of the gift rules issued on March 18, 2020 and the waiver of the response time for USAC information requests issued on March 26.

WCB BRIEFING SHEET

SUBJECT: UNIVERSAL SERVICE FUND – SCHOOLS AND LIBRARIES (E-RATE) **(CC DOCKET NOS. 02-6; 13-184)**

SUMMARY: The E-Rate program helps schools and libraries obtain affordable Internet access, internal connections, basic maintenance of internal connections, managed internal broadband services, telecommunications, and telecommunications services. It allows eligible schools, libraries, and consortia of schools and libraries, to apply for universal service discounts on eligible services. Discounts for support are based on student poverty levels and whether the majority of schools or libraries in the school or library system are located in urban or rural areas. The discounts range from 20% to 90% of the costs of eligible “category one” services (i.e., services needed to support broadband connectivity to schools and libraries), and from 20% to 85% for “category two” services (i.e., internal connection services needed for broadband connectivity within schools and libraries). Annual E-Rate funding is currently capped at \$4.23 billion (adjusted annually for inflation).

BACKGROUND AND KEY ISSUES:

In 2014, the Commission adopted two E-Rate Orders:

- ***2014 First E-Rate Order:*** Adopted on July 11, 2014, the *2014 First E-Rate Order* established three goals for the E-Rate program: (1) ensuring affordable access to high-speed broadband sufficient to support digital learning in schools and robust connectivity for all libraries; (2) maximizing the cost-effectiveness of spending for E-Rate supported purchase; and (3) making the E-Rate application process and other E-Rate processes fast, simple and efficient. To achieve those goals, the Order adopted measures to focus the program on high-speed broadband connectivity to and within schools and libraries and streamline program administration.
- ***2014 Second E-Rate Order:*** Adopted on December 11, 2014, the *2014 Second E-Rate Order* sought to expand school and library access to affordable fiber services by equalizing the treatment of leased lit fiber and leased dark fiber, making self-provisioned networks an eligible service when self-provisioning a network is the most cost-effective option for the applicant to achieve its connectivity needs, providing up to an additional 10% in category one funding to match state funding for special construction charges for projects that meet the Commission’s connectivity targets, and expanding the five-year budget approach for providing category two internal connections through funding year 2019.

Informed by and building upon the experiences since the adoption of these Orders, on January 22, 2020, the Commission adopted a Report and Order, permanently eliminating a requirement that applicants amortize over three years certain high-dollar funding requests, which include funding requests for special construction. This requirement had been suspended since funding year 2015; and, it would have gone back into effect as of funding year 2019 if the Commission had not issued a waiver in 2019. In permanently eliminating the requirement, the Commission noted that the suspension had created a more certain path for reimbursement, which made applicants and service providers more willing to invest in new broadband infrastructure, resulting in lower costs to both applicants and the Universal Service Fund.

Also, on December 3, 2019, the Commission adopted a Report and Order, making permanent the category two budget approach the Commission adopted in 2014 for funding internal connections following a five-year test period. The category two budget approach consists of five-year budgets for schools and libraries that provide a set amount of funding to support internal connections, which are primarily used for Wi-Fi, a technology that has enabled the transition from computer labs to one-to-one digital learning. In the Report and Order, the Commission also took steps to improve the category two budget approach, including streamlining the budget approach to allow applicants to make more effective use of category two funding and to reduce administrative burdens. As part of these improvements, the Commission also provided more equitable, consistent support for small, rural schools and libraries within the existing category two services budget. To ensure a smooth transition to the new rules, the Commission established rules for funding year 2020, extending the five-year test period for an additional year and providing a prorated amount of category two support to all applicants. The Report and Order follows the Wireline Competition Bureau's release of a report in February 2019, which found that since the adoption of the category two budgets in funding year 2015, more schools and libraries have received funding for Wi-Fi and benefitted from increased predictability and flexibility than under the prior rules.

Program Administration

- ***Chairman Pai Letter to USAC:*** On April 18, 2017, Chairman Pai sent a letter to then-USAC CEO Chris Henderson expressing concerns about serious flaws in USAC's administration of the E-Rate program, particularly regarding USAC's rollout of the E-Rate Productivity Center (EPC). Chairman Pai sought USAC's commitment to focusing on the administration of E-Rate, being fully transparent with and accountable to the Commission, and identifying alternative options to assist applicants in the event of IT failures. As a result, USAC has continued to increase its operational efficiency, reduce system defects, and enhance its trainings and outreach to target the needs of program participants in 2019 and 2020.
- ***Transition to New Business Processing Outsourcing Vendor (BPO):*** In 2018, USAC began its transition to a new BPO vendor, Maximus Federal, after 20 years with the previous vendor, Solix. To ensure a smooth transition, USAC worked with a Project Management Office (PMO) vendor, Deloitte Consulting, to develop knowledge management tools and resources to share with the new vendor and focused its efforts on trainings and outreach to program participants in 2018. USAC completed the transition to the new vendor in early 2019. Despite concerns from members of the E-Rate community that the transition might slow down the review of applications and issuance of funding commitments, USAC continues to issue funding commitment decisions and disbursements at a faster pace each year since 2017. This year, for example, USAC issued its largest first wave of funding year 2020 commitments in the program's history with nearly 53% of all applications submitted during the initial application filing window and 23% of the total funding requested committed during the first wave. This year's first wave of commitments is also the fastest first wave ever issued, coming only ten days after the initial application filing window closed on April 29, 2020.

COVID-19 Relief

- On March 13, 2020, the Wireline Competition Bureau issued a Public Notice, extending the initial funding year 2020 application filing window by an additional 35 days through April

29, 2020. The notice also provided all applicants with an automatic, 14-day extension for responses to all Program Integrity Assurance (PIA) requests.

- On March 18, 2020, the Wireline Competition Bureau issued a waiver of the gift rules until September 30, 2020 to enable service providers to offer, and E-Rate and RHC program participants to solicit and accept, improved broadband connections or equipment for telemedicine or remote learning during the coronavirus outbreak.
- On March 23, 2020, the Wireline Competition Bureau released a Public Notice reminding schools and libraries that are closed due to the COVID-19 pandemic that they are permitted to allow the general public to use E-Rate-supported Wi-Fi networks while on the school's campus or library property, even if the school or library is closed.
- On April 1, 2020, the Wireline Competition Bureau issued an order extending several key E-Rate program deadlines, including the service implementation deadline for special construction to deploy fiber, to alleviate administrative and compliance burdens on schools and libraries and enable them to focus on transitioning to remote learning during the COVID-19 pandemic. Other deadlines extended included the deadlines to file appeals and requests for waivers, invoices, the FCC Form 486, and the timeframe for responding to USAC information requests related to pending appeals, invoices, FCC Form 500 requests, audits, and PIA review.
- On April 27, 2020, the Commission announced its partnership with the Department of Education to promote the use of \$16 billion in funding from the Coronavirus Aid, Relief, and Economic Security (CARES) Act's Education Stabilization Fund for remote learning to help schools and school districts learn about the availability of these funds and how to use them to get students connected.
- On May 21, 2020, the Commission announced its partnership with the Institute of Museum and Library Services to promote the use of \$50 million in funding from the CARES Act to raise awareness of these funds among libraries and Tribal organizations for use to increase broadband access in their communities.
- On August 6, 2020, the Wireline Competition Bureau issued a waiver of the funding year 2020 FCC Form 471 application filing window deadline for those applicants impacted by COVID-19 that requested a waiver of the filing deadline and submitted their applications within 60 days of the close of the initial filing window.
- On September 3, 2020, the Wireline Competition Bureau issued an order extending, until December 31, 2020, the waiver of the gift rules issued on March 18, 2020, and directed USAC to provide program participants a 30-day extension of the deadline to respond to certain USAC information requests, including those related to Program Integrity Assurance requests, issued through December 31, 2020. On September 16, 2020, the Wireline Competition Bureau announced the opening of a second funding year 2020 filing window to allow schools to request additional funding to address increased on-campus bandwidth needs in light of the unanticipated demand for on-campus connectivity and reliance on remote learning resulting from the pandemic. The second window opened on September 21, 2020 and closed on October 16, 2020.

STATUS: The initial funding year 2020 filing window opened on January 15, 2020 and closed on April 29, 2020, after the Wireline Competition Bureau extended the deadline by an additional

35 days due to the COVID-19 pandemic. A second filing window was opened on September 21, 2020 to allow schools to request additional funding to meet their increased bandwidth needs resulting from the pandemic. This second filing window closed on October 16, 2020. Funding year 2020 marks the fifth year in which applicants may request E-Rate support for special construction related to leased dark fiber and self-provisioned networks. It is also the second year USAC's new BPO vendor, Maximus, will conduct all operational activities, including the review of applications and the processing of commitments. Last year, USAC processed 95.30% of workable funding year 2019 applications by September 1, thereby meeting its application processing goal to process more than 95% of all workable applications by this date. And, this year, although the COVID-19 pandemic resulted in some processing delays, USAC was able to keep pace, processing 91.6% of all workable applications received during the initial filing window by September 1. The Wireline Competition Bureau will continue to work closely with USAC to ensure that the changes to the program the Commission recently adopted are effectively implemented.

WCB BRIEFING SHEET

SUBJECT: UNIVERSAL SERVICE FUND CONTRIBUTION METHODOLOGY (WC DOCKET NO. 06-122)

SUMMARY: The Commission has a pending rulemaking to consider how to reform and modernize the universal service contribution methodology in light of the evolving communications ecosystem. The Commission has asked the Federal-State Joint Board on Universal Service to submit a recommended decision on contributions reform to the Commission.

BACKGROUND AND KEY ISSUES: All telecommunications service providers and certain other providers of telecommunications must contribute to the federal universal service fund (USF or Fund) based on a percentage of their interstate and international end-user telecommunications revenues. Under current rules, voice service (whether offered by wireline or wireless carrier) and interconnected VoIP offered by any entity is subject to contributions, and retail broadband Internet access is not subject to contributions. This system has two distinct but related components: (1) the assessment of contributions on telecommunications providers; and (2) the recovery of contribution payments by providers from their customers.

- *Assessment.* Contributors are assessed on their interstate and international end-user telecommunications revenues based on a “contribution factor” that is calculated quarterly.
- *Recovery.* Contributors that elect to do so may recover their contribution payments from their end users. If contributors choose to recover their universal service contribution costs through a line item on a customer’s bill, the contributors may not mark up the line item above the relevant contribution factor.

Contribution Methodology Reform and Modernization FNPRM. On April 27, 2012, the Commission adopted a Further Notice of Proposed Rulemaking regarding reform of the contributions system. The *FNPRM* sought comment on various measures to reform and modernize the USF contribution system, including:

- *Who Should Contribute.* The Notice seeks comment on two possible approaches to address uncertainty regarding the USF contribution obligations for providers of certain services. The first approach would require USF contributions from providers of specific services, including all enterprise communications services, text messaging, one-way VoIP, and broadband Internet access service. The second approach would adopt a more general definition of interstate telecommunications providers who would be required to contribute, and to clearly identify those services that are exempted or not required to contribute.
- *How Contributions Should Be Assessed.* The Notice seeks comment on how contributions should be assessed and on what methodology should be used to determine the relative contribution obligations among those providers who are required to contribute. In particular, the Notice seeks comment on potential reforms to the current revenues-based system, including approaches to simplify the apportionment of revenues from bundled offerings and how companies allocate revenues between the interstate, intrastate, and international jurisdictions for USF contribution purposes. The Notice also seeks comment on alternative contribution methodologies based on connections, numbers, or a hybrid approach in light of changes in the marketplace since the Commission last sought comment on these issues.

- *How the Administration of the Contribution System Can Be Improved.* The Notice also proposes administrative improvements that could be implemented regardless of who is required to contribute, or on what basis. For example, the Notice proposes to adopt a rule that would provide for annual public comment on the instructions and content of the form on which contributors report information used to determine USF contribution assessments.
- *Recovery of Universal Service Contributions from Consumers.* The Notice also addresses the process by which providers recover contributions from consumers. Among other things, the Notice looks at ways in which that process could be made more transparent for consumers, such as requiring additional information on customer bills.

STATUS: On August 7, 2014, the Commission released an order asking the Federal-State Joint Board on Universal Service to provide recommendations on how the Commission should modify the universal service contribution methodology. The Commission asked the Joint Board to examine the record in the *2012 Contribution Methodology Reform and Modernization FNPRM* and provide recommendations within the scope of the issues raised in that proceeding, with particular focus on issues that would impact the role of the states in accomplishing universal service objectives and protecting consumers. The Joint Board's recommendation remains pending. On June 11, 2020, the Bureau released a Public Notice to refresh the record on whether to include revenues derived from the provision of non-interconnected VoIP services in the funding base. The comment cycle closed on July 27, 2020. Staff are currently reviewing the record.

WCB BRIEFING SHEET

SUBJECT: UNIVERSAL SERVICE FUND CAP (WC DOCKET NO. 06-122)

SUMMARY: On May 31, 2019, the Commission released a Notice of Proposed Rulemaking seeking comment on establishing a cap on the Universal Service Fund and ways it could enable the Commission to evaluate the financial aspects of the four USF programs in a more holistic way.

BACKGROUND AND KEY ISSUES: Section 254(b) of the Act directs the Commission to base policies for the preservation and advancement of universal service on a number of principles. The Commission's statutory obligation requires that its policies result in equitable and nondiscriminatory contributions to the Fund, as well as specific and predictable support programs. This item looks at the Fund and its programs holistically for the first time. Specifically, the item:

- Proposes to set the overall cap at \$11.42 billion, which is the sum of the authorized budgets for the four universal service programs in 2018.
- Asks questions about how to implement the cap, including tracking USF demand transparently and how to reduce expenditures if USAC projects that disbursements will exceed the overall cap.
- Seeks comment on proposed changes to individual programs, including combining the E-Rate and Rural Health Care program caps.

STATUS: On July 5, the Commission extended filing deadlines for comments and reply comments to July 29, 2019 and August 26, 2019, respectively. Almost two hundred filings were received in response to the NPRM. Staff are currently reviewing the record.

WCB BRIEFING SHEET

SUBJECT: UNIVERSAL SERVICE – CONTRIBUTIONS (WC DOCKET NO. 06-122)

SUMMARY: On October 9, 2020, the Commission released an Order on Review, denying two Applications for Review and affirming the Wireline Competition Bureau’s 2017 *Private Line Order*.

BACKGROUND AND KEY ISSUES: Pursuant to Section 254(d) of the Act, the Commission’s rules require that all providers of interstate telecommunications services contribute a portion of their interstate and international revenues to the Universal Service Fund. One such service involves the provision of mixed-use special access lines (sometimes called private lines) that carry both intrastate traffic and interstate traffic. Although intrastate services are not generally subject to assessment, Commission rules treat these mixed-use private lines as interstate for purposes of universal service contributions if more than 10% of the traffic carried on private lines is interstate traffic. In the *Private Line Order*, the Wireline Competition Bureau clarified the operation of the so-called “10% rule” for assessing contributions to the Fund. The *Private Line Order* also remanded to the Universal Service Administrative Company (USAC) several requests for review of USAC audit findings for further consideration in accordance with the clarifications and guidance set forth in the Bureau’s order.

- On May 1, 2017, TDS Metrocom and XO Communications Services filed Applications for Review challenging the Bureau’s *Private Line Order*, or in the alternative, sought waiver of the Bureau’s order.
- The Order on Review adopted by the Commission:
 - affirms the Bureau’s 2017 *Private Line Order*;
 - grants TDS’s request for waiver and reverses USAC’s determination to the extent it reclassified TDS’s lines at issue as interstate;
 - dismisses XO’s request for waiver and remands USAC’s audit finding back to USAC for further consideration.

STATUS: Remand work on XO’s audit finding is pending with USAC.

WCB BRIEFING SHEET

SUBJECT: ESTABLISHING THE DIGITAL OPPORTUNITY DATA COLLECTION; MODERNIZING THE FCC FORM 477 DATA PROGRAM (WC DOCKET NO. 19-195; WC DOCKET NO. 11-10)

SUMMARY: On August 6, 2019, the Commission issued a Report and Order and Second Further Notice of Proposed Rulemaking that made targeted changes to Form 477 and established a new collection—the Digital Opportunity Data Collection (DODC)—that will allow the Commission to accurately target universal service support where it is needed most, by collecting precise, granular broadband availability data from fixed broadband providers, including a mechanism for incorporating public feedback into the data. On July 16, 2020, the Commission adopted a Second Report and Order and Third Further Notice of Proposed Rulemaking that takes further critical steps to collect and verify improved, more precise data on both fixed and mobile broadband availability and fulfills requirements relating to the collection of data on broadband services established by the Broadband Deployment Accuracy and Technological Availability Act (Broadband DATA Act), enacted in March 2020.

BACKGROUND AND KEY ISSUES: Since 2000, the FCC has collected data on broadband and mobile and fixed telephony through its Form 477. Filing Form 477 is mandatory for all facilities-based providers of broadband and mobile voice services, and for all providers of fixed voice and interconnected VoIP services. Form 477 must be filed twice a year: on March 1st (reflecting data as of the preceding December 31st), and on September 1st (reflecting data as of the preceding June 30th). The Commission relies on Form 477 as the primary means to collect data on the broadband and voice markets. Data from Form 477 populate, in whole or in part, a number of reports, including the annual Broadband Progress Report for Congress and the twice-annual Internet Access Services and Voice Telephone Services (formerly the Local Telephone Competition) reports.

- The Commission initiated the collection of broadband deployment data on Form 477 when it adopted a Report & Order in 2013.
- The August 2019 Report and Order: (1) made targeted changes to the existing Form 477 data collection to reduce reporting burdens for all filers and modify the collection to incorporate new technologies; (2) established the DODC, which will collect geospatial broadband coverage maps from fixed broadband providers, specifically aimed at advancing the Commission’s universal service goals and providing more precise and granular depictions of deployment than is collected under the Form 477; and (3) adopted a process to collect public input, commonly known as “crowdsourcing,” on the accuracy of fixed providers’ broadband maps.
- The Second Further Notice sought comment on: (1) certain aspects of the new collection to improve the accuracy and usefulness of fixed broadband deployment reporting, including technical standards service providers must use in generating coverage data, how to resolve conflicts between reported coverage and public feedback, and how to incorporate mobile wireless coverage data into the new collection; (2) how to collect and incorporate location-based fixed broadband deployment data; (3) how to improve the collection of satellite broadband deployment data; and (4) sunsetting the broadband deployment data collection that is currently part of the Form 477 collection, once the new collection has been established.

- The July 2020 Second Report and Order adopted rules for: (1) collecting fixed broadband availability and quality of service data; (2) collecting mobile broadband deployment data, including the submission of standardized propagation maps, and propagation model details; (3) establishing a common dataset of all locations in the United States where fixed broadband service can be installed; (4) verifying the accuracy of broadband availability data; (5) collecting crowdsourced data; (6) enforcing the requirements of the Broadband DATA Act; (7) creating coverage maps from the data submitted; and (8) ensuring the privacy, confidentiality, and security of information submitted by broadband providers.
- The Third Further Notice seeks comment on a range of additional measures to implement the requirements of the Broadband DATA Act, including additional processes for verifying broadband availability data submitted by providers, the development of a challenge process, collecting mobile service infrastructure data, and FCC Form 477 reforms.

STATUS: Petitions for reconsideration of the August 2019 Report and Order were filed by Microsoft and INCOMPAS, and the Commission placed those petitions on public notice on January 13, 2020. A shortened time period was established on September 8, 2020 for comments and on September 17, 2020 for replies in response to the Third Further Notice. The statutory deadline for adopting rules to implement the requirements of the Broadband DATA Act was September 18, 2020.

WCB BRIEFING SHEET

SUBJECT: DEVELOPING A UNIFIED INTERCARRIER COMPENSATION REGIME (WC DOCKET NO. 10-90 ET AL.)

SUMMARY: In 2011, the Commission adopted a framework to comprehensively reform federal high-cost universal service programs and the intercarrier compensation (ICC) system. (USF/ICC Transformation Order) (*See* the Universal Service – High-Cost briefing sheet for USF reform issues). ICC is the system of regulated payments in which carriers compensate each other for the origination, transport and termination of telecommunications traffic. Under the legacy ICC regime, the compensation available to a carrier for originating or terminating a call varied based on the type of carrier (ILEC, CLEC, CMRS/wireless), the nature of the traffic involved (local, interexchange, ISP-bound), and the direction of traffic (originating or terminating), even though the cost to the carrier generally is the same in all cases. This variability led to widespread disputes and arbitrage opportunities, such as access stimulation and phantom traffic. It also became a deterrent to the deployment of IP networks to the detriment of consumers. In addition, significant controversy existed over the appropriate ICC framework for Voice over Internet Protocol (VoIP) traffic.

BACKGROUND AND KEY ISSUES:

- ***ICC Reform:*** In the USF/ICC Transformation Order, the Commission fundamentally reformed the ICC regimes. First, the Commission adopted rules to immediately address access stimulation and “phantom traffic.” Second, the Commission adopted comprehensive ICC reform based on a uniform national bill-and-keep framework as the ultimate end state for all telecommunications traffic exchanged with a LEC. In order to facilitate predictability and stability, the Commission adopted a gradual, measured transition that focused on reducing terminating switched access rates. The Commission first required carriers to cap most ICC rates as of the Order’s effective date. Thereafter, the Commission required carriers to reduce their termination (and for some carriers also transport) rates, and to transition to a bill-and-keep methodology for setting rates, within six years for price cap carriers and nine years for rate-of-return carriers. The Commission also adopted a transitional recovery mechanism that allows incumbent LECs to recover a portion of ICC revenues reduced as part of the transition to bill-and-keep, up to a defined baseline, through limited increases in end-user rates and, where appropriate, universal service support through the Connect America Fund. The Commission also clarified the prospective payment obligations for VoIP traffic exchanged between a LEC and another carrier and adopted a transitional ICC framework applicable to such traffic. Further, the Commission clarified certain aspects of CMRS-LEC compensation to reduce disputes and to address existing ambiguity.
- ***Further Notice of Proposed Rulemaking:*** In the FNPRM accompanying the USF/ICC Transformation Order, the Commission sought comment on: (1) the transition of remaining switched access rate elements to the end state of bill-and-keep; (2) the appropriate policy framework and legal justification for any needed rules to address IP-to-IP interconnection; and (3) the proper definition of the network “edge” when a bill-and-keep methodology is applied to ICC.
- ***Waiver Petitions:*** Several cost recovery-related waiver petitions have been resolved. A number of petitions related to signaling requirements remain pending.

- **Reconsideration Petitions:** The Commission received a number of petitions seeking reconsideration of the rules implementing the *USF/ICC Transformation Order*. The petitions seek reconsideration of specific aspects of the rules concerning access stimulation, phantom traffic, the access rate transition, the recovery mechanism, LEC-CMRS compensation, and compensation for VoIP-PSTN traffic. In 2012, the Commission received comments and reply comments on the petitions. However, no comments or *ex parte* submissions regarding these petitions have been filed for several years. In an effort to manage its dockets, reduce backlog, and avoid addressing issues that are no longer relevant in light of regulatory changes, the Bureau released a Public Notice on January 14, 2020 announcing its intent to dismiss each Petition with prejudice unless it received an objection by April 20, 2020. The Commission received one objection.
- **Public Notice to Update Record:** On September 8, 2017, the Bureau released a Public Notice inviting interested parties to update the record on issues raised by the Commission in the FNPRM portion of the *USF/ICC Transformation Order* regarding (1) the network edge for traffic that interconnects with the Public Switched Telephone Network, (2) tandem switching and transport, and (3) transit (the non-access traffic functional equivalent of tandem switching and transport). Comments were received on October 26, 2017 and replies on November 13, 2017.

WCB BRIEFING SHEET

SUBJECT: VOIP SYMMETRY DECLARATORY RULING (WC DOCKET NO. 10-90, CC DOCKET NO. 01-92)

SUMMARY: In 2019, the Commission adopted an Order on Remand and Declaratory Ruling, clarifying that VoIP-LEC partnerships may collect end office switched access charges only if one of the partners provides a physical connection to the last-mile facilities used to serve the end user.

BACKGROUND AND KEY ISSUES: As part of its broader reforms in the *USF/ICC Transformation Order*, the Commission adopted a prospective transitional ICC framework for VoIP-public switched telephone network (PSTN) traffic. Under this framework, a LEC may charge the relevant intercarrier compensation for functions performed by it and/or by its retail VoIP partner, regardless of whether the functions performed or the technology used correspond precisely to those used in traditional network architecture. This is commonly referred to as the “VoIP Symmetry Rule.”

- In a *2015 Declaratory Ruling*, the Commission interpreted the VoIP Symmetry Rule and held that LECs and VoIP providers, both facilities-based and over-the-top, may provide the functional equivalent of end office switching and may therefore collect end office switching charges for VoIP-PSTN traffic. The United States Court of Appeals for the District of Columbia Circuit vacated and remanded this Ruling, finding that the Commission failed to adequately explain its reasoning. Subsequently, CenturyLink filed a Petition for Declaratory Ruling asking the Commission to reaffirm the original findings in the *2015 Declaratory Ruling*.
- On December 17, 2019, the Commission adopted an Order on Remand and Declaratory Ruling reaffirming the well-established Commission precedent that takes account of the functions a LEC or its VoIP provider partner are actually performing. Based on relevant precedent and the commonly-understood meaning of switched access, the Order found the *2015 Declaratory Ruling* to be misguided in its interpretation of the VoIP Symmetry Rule and held that a LEC providing retail service with a VoIP provider partner may assess end office switched access charges only if either the LEC or its VoIP partner provides a physical connection to the last-mile facilities used to serve the end user.

STATUS: The Commission did not receive any petitions for reconsideration.

WCB BRIEFING SHEET

SUBJECT: UPDATING THE INTERCARRIER COMPENSATION REGIME TO ELIMINATE ACCESS ARBITRAGE (WC DOCKET NO. 18-155)

SUMMARY: In September 2019 the Commission adopted an order aimed at broadening the scope and effectiveness of its access stimulation rules. In the order, the Commission modified its access charge rules to make an access-stimulating local exchange carrier (LEC) responsible for the access charges associated with delivering calls to it, rather than the interexchange carrier (IXC), and modified the definition of access stimulation.

BACKGROUND AND KEY ISSUES: In 2011, the Commission adopted rules to define access stimulation and address such schemes then occurring in the market. Under the rules adopted in 2011, an access-stimulating LEC is required to reduce its access charges either by adjusting its rates to account for its high traffic volumes or to reduce its access charges to those of the price cap LEC with the lowest switched access rates in the state.

Access Arbitrage NPRM: In response to information indicating that LECs revised their access arbitrage schemes in order to evade the rules adopted in 2011, the Commission released a Notice of Proposed Rulemaking seeking to eliminate financial incentives to engage in access stimulation. In the Notice, the Commission proposed to adopt rules to give access-stimulating LECs two choices on how they connect to IXCs. First, an access-stimulating LEC could choose to be financially responsible for calls delivered to its network so it, rather than IXCs, pays for the delivery of calls to its end office or the functional equivalent. Or, second, instead of accepting this financial responsibility, an access-stimulating LEC could choose to accept direct connections either from the IXC or an intermediate access provider of the IXC's choice, allowing IXCs to bypass intermediate access providers selected by the access-stimulating LEC. The Commission also sought comment on the definition of access-stimulation.

Access Arbitrage Order: The Commission adopted a Report and Order and Modification of Section 214 Authorizations (*Order*) in the Access Arbitrage docket on September, 26, 2019 that limits the use of the ICC system to subsidize "free" high-volume calling services, by adopting rules requiring access-stimulating LECs—rather than IXCs—to bear financial responsibility for the tandem switching and transport charges associated with the delivery of traffic from an IXC to the access-stimulating LEC's end office or its functional equivalent. Recognizing that access stimulation may occur even when there is no revenue sharing agreement between the LEC and the high-volume calling service provider, the Commission in the *Order* alternatively defines access stimulation to include situations where there is no revenue sharing agreement but the access-stimulating LEC has an unusually high ratio of inbound calling traffic as compared to outbound calling traffic. The revised definition is calibrated to avoid mislabeling rural incumbent local phone companies as access stimulators. In the *Order* the Commission also eliminated decades-old requirements that force IXCs delivering traffic to access-stimulating LECs that subtend certain intermediate access providers (known as centralized equal access or CEA providers) to use those CEA providers for tariffed tandem switching and transport services.

STATUS: On October 4, 2019 a group of access-stimulating LECs petitioned the Commission to stay the recently-adopted *Order*. The Commission denied the petition for stay on October 24, 2019. On October 30, 2019 the access-stimulating LECs filed an emergency motion for stay

with the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit). The D.C. Circuit denied that motion for stay on November 25, 2019. The *Order* became effective November 27, 2019. Several parties filed petitions for review of the *Order* in the D.C. Circuit. These appeals were consolidated by the court and were held in abeyance while the Commission addressed a Petition for Reconsideration of the *Order*. Several rules adopted in the *Order* became effective on January 11, 2020, 45 days after the effective date of the *Order*. On January 8, 2020 the Commission received a petition for expedited waiver of the *Order*, which was subsequently withdrawn on February 3, 2020. On January 9, 2020 another party filed an emergency motion for stay, which included a request for administrative stay, with the D.C. Circuit. On January 10, 2020 the D.C. Circuit denied the request for administrative stay and established a briefing schedule on the emergency motion for stay. On January 29, 2020 the D.C. Circuit denied the emergency motion for stay. The litigation is still pending.

On March 27, 2020 the Bureau adopted an order granting temporary waiver, until June 1, 2020, of the access-stimulation definition to Inteliquent, a competitive LEC, that completes conference call and video conferencing traffic to services such as Cisco Webex and Zoom. The Bureau agreed with Inteliquent that its inbound traffic ratios exceeded the triggers adopted in the access-stimulation definition because of conferencing service usage due to increased work from home and remote learning as a result of the COVID-19 global pandemic, not as a result of efforts to arbitrage the Commission's rules. Inteliquent requested renewal of the temporary waiver and filed data indicating that it was still completing high volumes of traffic to its conference call and video conferencing clients. On June 23, 2020, the Bureau adopted an order extending Inteliquent's waiver to September 1, 2020. The waiver is limited to traffic relating to companies that were Inteliquent clients before the pandemic. Inteliquent again requested renewal of its temporary waiver and provided data showing that it was still completing high volumes of traffic to its conference call and video conferencing clients. On September 18, 2020, the Bureau adopted an order extending Inteliquent's temporary waiver to December 1, 2020.

On June 11, 2020 the Commission adopted an Order on Reconsideration of the *Access Arbitrage Order* denying the Petition for Reconsideration (FCC 20-79). A summary of the Order on Reconsideration was published in the Federal Register on July 8, 2020. The Commission notified the D.C. Circuit that the decision had been published and that any Petition for Review of the Order on Reconsideration would be due no later than September 8, 2020.

WCB BRIEFING SHEET

SUBJECT: 8YY ACCESS CHARGE REFORM (WC DOCKET NO. 18-156)

SUMMARY: 8YY (toll free) calls have been used by companies to provide toll free access to their customers for over half a century and 8YY number usage continues to grow. 8YY calls differ from other calls in that their toll costs are paid for by the company that receives the calls, rather than the customer that initiates them. Under the current intercarrier compensation system, 8YY calling has become an increasing target of arbitrage and fraud schemes. In 2016-18, various parties urged the Commission to check the growing abuses related to 8YY calling. In June 2018, the Commission released a Further Notice of Proposed Rulemaking seeking comment on its proposal to move most toll-free calling charges to bill-and-keep. In October 2020, the Commission released a Report and Order that adopted a number of the rule changes proposed in the Further Notice.

BACKGROUND AND KEY ISSUES:

- ***Public Notice to Update Record:*** On June 29, 2017, the Commission released a Public Notice in WC Docket No. 10-90 et al. inviting interested parties to update the record on issues raised by the Commission in the FNPRM portion of the *USF/ICC Transformation Order* with respect to access charges for 8YY calls. The Commission encouraged commenters to submit updated data regarding originating 8YY minutes and address other 8YY-related intercarrier compensation issues and developments. Comments were received on July 31, 2017 and replies on August 15, 2017.
- ***Further Notice of Proposed Rulemaking:*** On June 8, 2018, the Commission opened a new proceeding, WC Docket No. 18-156, and released a Further Notice of Proposed Rulemaking proposing to take further steps in moving virtually all 8YY intercarrier compensation charges to bill-and-keep by transitioning tariffed rates for interstate and intrastate originating end office and tandem switching and transport charges for 8YY calls to bill-and-keep over a three-year period. Additionally, to address reported abuses of 8YY database query charges, the Further Notice proposes to cap 8YY database query rates on a nationwide basis at the lowest rate currently charged by any price cap local exchange carrier and to limit charges to one database query charge per call, regardless of how many carriers are in the call path or how many database queries are conducted. The Further Notice also seeks comment on other issues related to reforming 8YY access charges, including revenue recovery and the role of intermediate providers, and the relationship between 8YY traffic and the network edge. Comments on the Further Notice were received on September 4, 2018 and reply comments were received on October 1, 2018.
- ***Report and Order:*** On October 9, 2020, the Commission released a Report and Order adopting many of the changes proposed in the Further Notice. Consistent with that proposal, the Order transitions toll free originating end office access charges to bill-and-keep over approximately three years. It also mandates carriers assess a single joint tandem switching and transport rate for 8YY traffic of no more than \$0.001 per minute, instead of imposing bill-and-keep for such services as proposed in the Further Notice. The Commission found that retaining a charge for such services would allow intermediate tandem providers, which do not serve end users, to continue to participate in

the toll free market. The Order also caps rates for the database queries needed to route 8YY calls and imposes a lower interim nationwide cap on 8YY database query charges of \$0.0002 per query over approximately three years. This cap reduces the incentives for arbitrage of these charges by eliminating the wide variations in query rates that exist among carriers. The Order also limits carriers to assessing a single query charge per 8YY call. Finally, the Order allows carriers to use existing revenue recovery mechanisms, such as the universal service fund, to recover revenues lost as a result of these changes. Reducing intercarrier compensation for 8YY calling will curtail incentives to engage in toll free arbitrage and reduce the cost of 8YY calling overall, preserving and enhancing the value of toll free services for consumers and businesses.

WCB BRIEFING SHEET

SUBJECT: REGULATION OF PRICE CAP CARRIERS' BUSINESS DATA (SPECIAL ACCESS) SERVICES PRICING (WC DOCKET NOS. 16-143, 05-25; RM-10593)

SUMMARY: Business data services (BDS), also known as special access, are high capacity access services provided over dedicated facilities for business, educational, healthcare and other institutional use. Interstate special access rates for price cap carriers (e.g., Bell Operating Companies) have been governed by the Commission's price cap rules since 1990. Price cap regulation, however, has become less predominant as the Commission granted pricing flexibility and forbearance from dominant carrier treatment for higher speed optical and packet-based special access services. On April 28, 2017, the Commission released a Report and Order that eliminated ex ante pricing regulation and tariffing requirements for most types of BDS offered by price cap carriers, while preserving its regulatory authority to ensure just and reasonable rates under sections 201, 202 and 208 of the Communications Act. The Commission instituted a similar pricing regulatory framework for certain rate-of-return carriers' BDS in a subsequent order in 2018 (see separate briefing sheet).

BACKGROUND AND KEY ISSUES:

Business Data Services Report and Order: On April 28, 2017, the Commission released a Report and Order (BDS Order or Order) that resolved most of the outstanding issues in the price cap BDS proceedings. Various parties filed appeals of the Order at the Eighth Circuit Court of Appeals which upheld all portions of the Order except for the revised regulation of price cap carriers' TDM transport services which the court vacated and remanded to the Commission on the basis of insufficient notice (*Citizens Telecommunications Co. of Minnesota v. FCC*, 901 F.3d 991 (8th Cir. 2018)) (see discussion below of the Commission's Second Further Notice).

- In the BDS Order, the Commission made findings based in part on its 2015 data collection, as to the relevant market for analysis, trends in competition, and the presence or absence of market power. The Commission found competition sufficiently widespread that pricing regulation would be counterproductive for all packet-based business data services, legacy Time Division Multiplexing (TDM)-based business data services with bandwidths in excess of a DS3 (approx. 45 Mbps), and TDM transport services. The Commission eliminated ex ante pricing regulation for these services.
- With respect to the provision of legacy TDM DS1 and DS3 end user channel terminations, the Commission found that levels of competition varied and, therefore, adopted the following competitive market test to distinguish between competitive and non-competitive markets. For a particular county if: (1) 50 percent of the buildings in that county are within a half mile of a location served by a competitive provider based on the 2015 Collection or (2) 75 percent of the census blocks in a county have a cable provider present offering broadband at a minimum rate of 10/1 Mbps based on Form 477 data, the Commission found that ex ante pricing regulation of DS1 and DS3 services in that county would be counterproductive.
- Packet-based BDS, TDM-based services that exceed DS3 speeds, for all TDM transport services, and TDM end user channel termination services (DS1s and DS3s) in counties that meet the competitive market test offered by price cap carriers were relieved of ex ante pricing regulation and are subject to permissive detariffing for a period of 36 months

at which time they will be subject to mandatory detariffing.

- The Commission imposed a six-month price freeze for tariffed TDM end user channel termination services (DS1s and DS3s) in counties that are deemed competitive. It also grandfathered existing BDS contract tariffs.
- For counties that do not meet the competitive market test, the Commission retained price cap regulation for DS1 and DS3 end user channel terminations and applied the principles of Phase I pricing flexibility to those services offered in these counties, which permit the price cap carriers serving in those counties to offer volume and term discounts, as well as contract tariffs for those services. It also grandfathered the Phase II pricing flexibility obtained by price cap carriers in counties deemed non-competitive by the competitive market test based on the administrative burden of converting these carriers in these counties back to price cap regulation.
- In the Order, the Commission adjusted forbearance to be consistent with its revised regulatory framework for business data services, leveling the regulatory playing field for all price cap providers. The Commission extended forbearance from section 203 of the Act to all price cap incumbent LECs for all packet-based business data services, for TDM services that exceed DS3 speeds, for all TDM transport services and other TDM services that are not end user channel terminations, and for all TDM end user channel terminations in counties that meet the competitive market test criteria. The Commission also conformed forbearance that had been deemed granted to Verizon and its successors in interest to the forbearance provided other carriers.
- The Commission incorporated a productivity-based X-factor of 2.0 percent for DS1 and DS3 end user channel terminations in non-competitive, non-grandfathered counties on a going-forward basis and concluded that no catch-up adjustment is warranted.
- The Commission confirmed that packet-based and TDM services that are relieved of ex ante pricing regulation continue to be subject to its regulatory authority pursuant to sections 201, 202, and 208 of the Act.
- For DS1 and DS3 end user channel terminations in counties that do not meet the competitive market test criteria, the Commission prohibited the use of non-disclosure agreements (NDAs) in business data service tariffs, contract tariffs, and commercial agreements that restrict or forbid disclosure of information to the Commission, or require a prior request or legal compulsion by the Commission to effect such disclosure, provided that any confidential information is submitted subject to a Commission protective order.
- The Commission concluded that certain business data services, such as certain services Comcast and Charter describe in the record, constitute private carriage rather than common carrier services and are therefore not subject to Title II regulation.
- The Commission confirmed that the interim rules established in the Emerging Wireline Order, which require incumbent LECs to offer reasonably comparably priced packet-based services as a condition of approval of a section 214 discontinuance of TDM business data services in a wire center, were to be discontinued upon the effective date of the rules in the Order (August 1, 2017).
- ***Eighth Circuit Appeal:*** In August 2018, the Eighth Circuit Court of Appeals upheld all portions of the Order except for the revised regulation of price cap carriers' TDM

transport services which the court vacated and remanded to the Commission on the basis of insufficient notice (*Citizens Telecommunications Co. of Minnesota v. FCC*, 901 F.3d 991 (8th Cir. 2018)). On November 9, 2018, the court stayed the issuance of its mandate for one year, preserving the Commission's TDM transport rules for price cap carriers and providing the Commission an opportunity to address the remand of its rules. On October 22, 2019, following the release of the Commission's BDS transport order (see below), the court issued its mandate, effectively terminating the litigation.

- ***Business Data Services Second Further Notice***: On October 24, 2018, the Commission released a Second Further Notice of Proposed Rulemaking to address the issues raised by the Eighth Circuit's remand of the portion of the BDS Order that dealt with the regulation of price cap carriers' TDM transport services. The Second Further Notice proposed to eliminate ex ante pricing regulation of price cap carriers' TDM transport services and sought comment on that proposal.
- ***Business Data Services Transport Order***. On July 12, 2019, the Commission released a Report and Order on Remand addressing the Eighth Circuit Court of Appeals' partial remand of the price cap BDS Order of 2017. The Order on Remand found that competition for lower speed price cap BDS TDM transport services had increased since 2017, particularly with the increase in competition from cable operators. The Order on Remand reaffirmed the Commission's previous decision, finding there was sufficient competition to justify elimination of ex ante pricing regulation of lower speed price cap BDS TDM transport services nationwide. The Order on Remand permitted price cap carriers to detariff these services and required de-tariffing by August 1, 2020. The Commission also used its section 10 forbearance authority to grant price cap carriers forbearance from DS1 and DS3 Transport unbundling obligations between certain wire centers.

STATUS: Price cap carriers' packet-based, higher speed TDM (above DS3 speeds), BDS transport, and lower speed TDM end user channel terminations (at or below a DS3) in price cap counties deemed competitive are no longer subject to the Commission's ex ante pricing regulation, including the tariffing obligation. Price cap carriers completed the process of detariffing those services by August 1, 2020. Price cap carriers' lower speed TDM DS1 and DS3 end user channel terminations in counties deemed non-competitive continue to be subject to price cap regulation with pricing flexibility. The competitive status of these counties will be reviewed every third year following release of the order. The results of the first triennial review were released January 31, 2020. Using the most current Form 477 data available, the Bureau found that an additional seven price cap counties were deemed competitive, removing ex ante pricing regulation and tariffing obligations from the relevant carriers' DS1 and DS3 TDM-based BDS end user channel termination services.

WCB BRIEFING SHEET

SUBJECT: REGULATION OF RATE-OF-RETURN CARRIERS' BUSINESS DATA (SPECIAL ACCESS) SERVICES PRICING (WC DOCKET NO. 17-144)

SUMMARY: On May 25, 2017, ITTA and USTelecom, representing rate-of-return carriers that receive their universal service support based on a cost model or another fixed, non-cost-based calculation methodology (model-based rate-of-return carriers), filed a petition for rulemaking seeking essentially the same regulatory relief for model-based rate-of-return carriers' business data services (BDS) as that accorded to price cap carriers' BDS offerings in the price cap BDS Order. On October 24, 2018, the Commission released an order that reduced ex ante pricing regulation of BDS offerings by model-based rate-of-return carriers that elect incentive regulation for their BDS. The Commission also released a Further Notice of Proposed Rulemaking, seeking comment on the appropriate regulatory treatment of rate-of-return carriers' lower-speed Time Division Multiplexing (TDM) transport services.

BACKGROUND AND KEY ISSUES:

- ***Rate-of-Return BDS Report and Order:*** On October 24, 2018 the Commission released a Report and Order implementing a new framework for the regulation of BDS provided by rate-of-return carriers receiving fixed universal service support (Order). The Order provided such carriers an option to elect incentive regulation for their TDM BDS at or below DS3 speeds (approx. 45 Mbps). Incentive regulation removes electing carriers' lower speed BDS from cost-based regulation and instead imposes lighter touch regulation similar to price cap regulation. It also allows electing carriers pricing flexibility for these services, including allowing them to offer volume and term discounts and contract tariffs.
 - The Commission established a test to measure competitive conditions in study areas served by rate-of-return carriers receiving fixed universal service support that was based in part on the competitive test for price cap carriers. Study areas in which cable operators offer a minimum of 10/1 Mbps broadband service in 75 percent of census blocks are deemed sufficiently competitive to warrant the removal of ex ante pricing regulation for rate-of-return carriers' TDM end user channel termination services at or below DS3 speeds.
 - The Commission also relieved electing rate-of-return carriers of ex ante pricing regulation of their packet-based BDS, TDM BDS that exceeds DS3 speeds, and TDM end user channel terminations at or below DS3 speeds in study areas deemed competitive. The Commission imposed a six-month price freeze for BDS that are no longer subject to ex ante pricing regulation, provided those rates remain tariffed.
 - The Commission forbore from section 203 tariffing requirements for electing carriers' BDS relieved of ex ante pricing regulation and from certain cost assignment and jurisdictional separations requirements for all electing carriers' BDS.
- ***Rate-of-Return BDS Further Notice:*** On October 24, 2018, the Commission released a Further Notice of Proposed Rulemaking that sought comment on the appropriate regulatory treatment of rate-of-return carriers' TDM transport services.
- ***Triennial Update of BDS Competitive Market Test:*** On January 31, 2020, pursuant to delegated authority, the Bureau released the results of its first triennial update of both the rate-of-return and price cap BDS competitive market tests. Using the most current Form 477

data available, the Bureau found that an additional seven rate-of-return study areas were deemed competitive, removing ex ante pricing regulation and tariffing obligations from the relevant carriers' DS1 and DS3 TDM-based BDS end user channel termination services.

STATUS:

- Rate-of-return carriers that receive model-based or other fixed universal service support were able to elect incentive regulation for their BDS effective either July 1, 2019 or July 1, 2020. Electing carriers may detariff their packet-based BDS, TDM-based BDS above DS3 speeds, and TDM-based end user channel termination services at or below DS3 speeds in study areas deemed competitive following the effective date of their election but must detariff these services no later than 36 months following their effective date. Thirty-seven (37) rate-of-return carriers serving 88 study areas in 29 states notified the Wireline Competition Bureau of their intention to elect incentive regulation for their BDS effective July 1, 2019. Ninety-nine (99) rate-of-return carriers serving 139 study areas in 37 states and one territory notified the Wireline Competition Bureau of their intention to elect incentive regulation for their BDS effective July 1, 2020.
- Comments on the Rate-of-Return BDS Further Notice were due on January 14, 2019 and reply comments were due on February 12, 2019.

WCB BRIEFING SHEET

SUBJECT: RATE-OF-RETURN REPRESRIPTION

SUMMARY: The rate of return is a key input in a rate-of-return incumbent LEC's revenue requirement calculation, which is the basis for both its common line and business data service (i.e., special access) rates, as well as some forms of universal service support. Historically, the level of support a carrier received depended, in part, on the interstate rate of return allowed for plant in service.

Effective July 1, 2016, the Commission reduced the currently authorized rate of return from 11.25 percent ultimately to 9.75 percent. The new re-prescribed rate of return will apply in all situations where a Commission-prescribed rate of return is used, including the calculation of interstate common line rates, consumer broadband-only loop rates, business data service rates, and some forms of universal service support. Relying primarily on the methodology and data contained in a 2013 Wireline Competition Bureau staff report—with some minor corrections and adjustments in part to respond to issues raised in the record—the Commission identified a more robust zone of reasonableness between 7.12 to 9.75 percent. It then adopted a new rate of return at the top end of this range at 9.75 percent and a transition to this authorized rate of return over a period of six years. July 1, 2016 is the effective date for the initial transitional rate of return of 11.0 percent followed by subsequent annual 25 basis point reductions until July 1, 2021, when the 9.75 percent rate of return will be effective.

BACKGROUND AND KEY ISSUES:

- In 1990, the Commission set an 11.25 percent interstate rate of return.
- In 2011, the Commission adopted the *USF/ICC Transformation Order and FNPRM*, initiating a re-prescription proceeding, and seeking comment on the appropriate data and methodologies to be used in determining the authorized interstate rate of return.
- In 2013, the Wireline Competition Bureau issued a staff report, "Prescribing the Authorized Rate of Return – Analysis of Methods for Establishing Just and Reasonable Rates for Local Exchange Carriers." Based upon analysis of 16 publicly traded incumbent LECs, the report identified a zone of reasonable estimates of the weighted average cost of capital ranging from 7.39 percent to 8.72 percent and recommended that the Commission consider establishing the authorized rate of return between 8.06 percent and 8.72 percent. The Bureau also initiated an external peer review process for the staff report and received peer reviews later in 2013.
- In 2016, the Commission adopted an Order and Order on Reconsideration re-prescribing the authorized rate of return, as part of a larger proceeding modernizing the rules governing rate-of-return carriers.

STATUS: The Commission is continuing to implement the phase down of the rate-of-return. As of July 1, 2020, the rate-of-return was decreased to 10 percent.

WCB BRIEFING SHEET

SUBJECT: JURISDICTIONAL SEPARATIONS (CC DOCKET NO. 80-286)

SUMMARY: The Commission’s Part 36 jurisdictional separations rules establish a process for incumbent local exchange carriers (LECs) to apportion their regulated costs between the intrastate and interstate jurisdictions in order to prevent recovery of the same costs in both these jurisdictions. The intrastate regulated costs that result from application of the separations rules form the foundation for determining rate-of-return incumbent LECs’ intrastate rate bases, expenses, and taxes. Interstate regulated costs form the cost basis for those incumbent LECs’ interstate access tariff rates.

In 1997, the Commission recognized the need to comprehensively reform the separations rules and referred separations reform to the Federal-State Joint Board on Jurisdictional Separations (Joint Board) for a recommended decision. In 2001, the Commission adopted a five-year interim freeze of the Part 36 jurisdictional separations rules in order to simplify and stabilize the separations process pending comprehensive separations reform. The Commission has extended the freeze several times, most recently in the *2018 Separations Freeze Extension Order*. That extension is for up to six years and will continue until the earlier of December 31, 2024, and the completion of comprehensive separations reform.

In the *2018 Separations Freeze Extension Order*, the Commission also granted rate-of-return carriers that had elected to freeze their separations category relationships a one-time opportunity to opt out of that part of the freeze. The Commission declined to alter the scope of the referral to the Joint Board regarding comprehensive separations reform. Instead, the Commission asked the Joint Board to focus in the short term on whether the Commission should amend the separations rules to recognize that they no longer apply to price cap and incentive regulation carriers, and on whether there are particular reporting or recordkeeping requirements that the Commission should modify or eliminate in light of the freeze extension of up to six years.

In the *Part 32 Reform Order*, the Commission referred to the Federal-State Joint Board on Jurisdictional Separations (Separations Joint Board) the issue of examining the jurisdictional separations rules in light of the accounting reforms adopted in that Order. In October 2017, the Separations Joint Board issued a Recommended Decision recommending specific amendments to harmonize the jurisdictional separations rules with those accounting reforms. In February 2018, the Commission released a Notice of Proposed Rulemaking inviting comment on those recommendations. In October 2018, the Commission issued a Report and Order adopting each of the Joint Board’s recommendations and amending Part 36 consistent with those recommendations.

BACKGROUND AND KEY ISSUES:

- ***Separations Freeze and Comprehensive Reform:*** The initial five-year interim freeze was based upon the Recommended Decision of the Separations Joint Board issued in 2000. In 2001, the State members of the Separations Joint Board filed a glide path policy paper outlining seven options for comprehensive separations reform, including: (i) extending the separations freeze; (ii) separating traffic-sensitive costs with fixed allocators; (iii) having the Commission set rates for interstate services and allowing states to apply “residual”

ratemaking methods when setting intrastate rates; (iv) redesigning the separations process to account for packet switching and competition; (v) simplifying the separations process by directly assigning telecommunications equipment to either the federal or state jurisdiction based on network location; (vi) abolishing separations altogether; and (vii) relieving separations regulation for carriers facing effective competition. The State members filed an update to the glide path paper in 2005.

In 2006, the Commission extended the interim separations freeze through June 2009; the freeze was subsequently extended by one year each in 2009, 2010, and 2011, by two years in 2012, by three years in 2014, and by eighteen months in 2017. The 2009 Freeze Extension included a referral of a number of issues to the Joint Board and asked the Joint Board to prepare a recommended decision. The Commission asked the Joint Board to consider comprehensive jurisdictional separations reform, as well as an interim adjustment of the current jurisdictional separations freeze, and whether, how, and when the Commission's jurisdictional separations rules should be modified.

- **Waivers:** In 2010, the Commission granted a waiver of certain separations rules to allow Gila River Telecommunications, a tribally-owned LEC, to unfreeze its category relationships and to revise its cost data retroactively to reflect costs based upon unfrozen category relationships for the period 24 months preceding the grant of the waiver. Gila River was one of approximately 45 rate-of-return LECs—and the only tribally-owned LEC—with frozen category relationships. In 2012, the Bureau granted similar relief to Eastex Telephone Cooperative. In the *2018 Separations Freeze Extension Order*, the Commission dismissed as moot similar petitions that Terral Telephone Company (Terral Tel) and Pioneer Telephone Cooperative (Pioneer Tel) had filed.

STATUS: On December 12, 2018, the Commission adopted a Report & Order extending the separations freeze by six years and granting a one-time opportunity to opt out of the category relationships freeze, rendering moot the waiver petitions filed by Terral Tel and Pioneer Tel. The Irregulars, a group that describes itself as an independent consortium of senior telecom experts, analysts, forensic auditors, and lawyers, appealed that Report and Order to the D.C. Circuit. On March 13, 2020, the Court dismissed that appeal, finding that the Irregulars and its individual members lacked standing to challenge the Commission's order.

WCB BRIEFING SHEET

SUBJECT: INMATE CALLING SERVICES (WC DOCKET NO. 12-375)

SUMMARY: Inmate calling services (ICS) differ from traditional payphone services in a number of important respects. Correctional authorities typically use a competitive bidding process to select a provider that is granted a monopoly contract to offer ICS in a particular facility or group of facilities. Correctional facilities often require payments, in the form of site commissions, as part of the bidding process, which are then passed on to ICS users through higher rates.

BACKGROUND AND KEY ISSUES:

- In 2013, the Commission adopted a Report and Order and Further Notice of Proposed Rulemaking (*Inmate Calling Report and Order and FNPRM*) that fundamentally reformed the interstate ICS regime in order to ensure that rates for interstate ICS are just, reasonable, and fair. In 2014, the United States Court of Appeals for the District of Columbia Circuit stayed three rules adopted in the *Inmate Calling Report and Order and FNPRM* pending resolution of the underlying appeal, including the rule requiring rates to be based on costs, the rule adopting interim safe harbor per-minute rates, and the rule requiring ICS providers to file with the Commission annual reports and certifications. The court allowed the \$0.21 per-minute rate cap for debit/prepaid ICS and \$0.25 per-minute rate cap for collect ICS adopted in the *Inmate Calling Report and Order and FNPRM* to go into effect on February 11, 2014.
- In 2014, the Commission released a Second Further Notice of Proposed Rulemaking (*Second FNPRM*) on ICS. In the *Second FNPRM*, the Commission sought comment on a comprehensive, market-based approach to ensuring just and reasonable rates as well as fair compensation for all interstate and intrastate inmate calling. The item sought comment on banning, or otherwise limiting, site commission payments and some ancillary fees, establishing rate caps as a backstop to the proposed market-based approach and transitional approaches to the proposed reforms. The *Second FNPRM* also sought comment on how the Commission could work cooperatively with states that undertake their own ICS reforms.
- In 2015, the Commission released a Second Report and Order and Third Notice of Proposed Rulemaking (*Second Report and Order*), in which it:
 - Adopted a tiered rate structure that accounts for the relatively higher costs ICS providers face in serving jails (especially small jails) as opposed to state and federal prisons. The rate caps applicable to both interstate and intrastate ICS calls follow:
 - 11 cents/minute for debit and prepaid calls in state or federal prisons
 - 14 cents/minute for debit and prepaid calls in jails with 1,000 or more inmates
 - 16 cents /minute for debit and prepaid calls in jails with 350-999 inmates
 - 22 cents /minute for debit and prepaid calls in jails of up to 349 inmates
 - Rates for collect calls were slightly higher in the first year and were to be phased down to the same level as debit and prepaid calls over a two-year period
 - Capped the following ancillary service charges at the levels listed below:
 - Automated payment by phone or website: \$3
 - Payment through a live agent: \$5.95
 - Paper bill fee: \$2

- Third-party financial transaction fees, such as fees charged by MoneyGram or Western Union, may be passed through with no mark-up
 - Prohibited all other ancillary service charges
 - Allowed mandatory taxes and regulatory fees to be passed through with no mark-up
 - Prohibited mandatory minimum payments and placed a floor on maximum payments
 - Discouraged “site commission” payments: payments made from providers to institutions that are not costs directly related to providing ICS
 - Disallowed providers from imposing so-called “flat-rate calling,” that is, a flat rate for a call up to 15 minutes regardless of actual call duration
 - Required providers to offer free access to telephone relay service (TRS) calls for inmates with communications disabilities and applied a steeply discounted rate for TTY-to-TTY calls
 - Required ICS providers to report annually on rates, fees, site commission payments, the number of TRS-related calls and complaints, and video visitation rates and fees
 - Required ICS providers to disclose rates and fees
- In addition, the Commission adopted a Third Further Notice of Proposed Rulemaking, seeking comment on several issues including:
 - Rate caps for international ICS
 - How to promote competition in inmate calling services to reduce the need for regulation
 - The use, costs and rates of video visitation and other advanced inmate communications services, and whether these services could be used to circumvent traditional ICS rates
 - The use of revenue-sharing agreements and whether additional reforms are necessary
 - Whether the FCC should adopt a recurring mandatory data collection and/or require providers to submit copies of their ICS contracts
- The rules governing rates and fees applicable to prisons were to become effective on March 17, 2016, 90 days after publication in the Federal Register, and those applicable to jails were to become effective on June 20, 2016, six months after publication in the Federal Register. However, on March 7, 2016, the D.C. Circuit stayed both the rules establishing the rate cap and the cap on charges and fees for single call services but allowed the remaining rules to become effective as scheduled. The rules that were subject to PRA approval—those related to the consumer disclosure requirement, annual reporting and certification requirement, and the Mandatory Data Collection—became effective on March 1, 2017.
- Later in 2016, the Commission released an Order on Reconsideration (*Order*) responding to a petition filed by Michael S. Hamden (the Hamden Petition), an attorney and corrections consultant who has actively participated in this proceeding. Specifically, the *Order* took the

following steps:

- Increased the rate caps on both interstate and intrastate ICS rates to expressly account for costs that facilities incur that are reasonably related to the provision of ICS. The revised rate caps are as follows:
 - 13 cents per minute for debit or prepaid calls, in state or federal prisons
 - 19 cents per minute for debit or prepaid calls, in jails with 1,000 or more inmates
 - 21 cents per minute for debit or prepaid calls, in jails with 350 to 999 inmates
 - 31 cents per minute for debit or prepaid calls, in jails of up to 349 inmates
 - Rates for collect calls are slightly higher, and were to be phased down after two years
- Amended the definition of “Mandatory Tax or Mandatory Fee” from the Second Report and Order to make clear that providers may not markup the taxes and fees they pass through to consumers.
- Denied the Hamden Petition in all other respects.
- The revised rate caps were to take effect on December 12, 2016, for calls from prisons and on March 13, 2017, for calls from jails. However, on November 2, 2016, the D.C. Circuit stayed the revised rate caps pending further order of the court.
- On June 13, 2017, the D.C. Circuit vacated the rate caps adopted in the *Second Report and Order*, as well as reporting requirements related to video visitation. The court also remanded the caps on fees for ancillary services to allow the Commission to determine whether those fees could be segregated between interstate calls—over which the Commission has jurisdiction—and intrastate calls—over which the court held the Commission lacks jurisdiction. On September 26, 2017, the D.C. Circuit denied a petition seeking rehearing en banc. On December 21, 2017, the D.C. Circuit vacated the rate caps the Commission adopted in the 2016 Order on Reconsideration. On the same day, the D.C. Circuit dismissed challenges to the Commission’s 2013 order as moot, noting that all parties agreed that the order had been superseded by subsequent Commission actions.
- On February 5, 2020, the Bureau released a public notice seeking to refresh the record on ICS-related ancillary service charges in response to the D.C. Circuit’s remand. Comments in response to the public notice are due March 20, 2020, and reply comments are due April 6, 2020.
- On August 6, 2020, the Commission adopted a Report and Order on Remand and a Fourth Further Notice of Proposed Rulemaking responding to remands by the U.S. Court of Appeals for the District of Columbia Circuit and proposing to comprehensively reform rates and charges for the inmate calling services within the Commission’s jurisdiction.
- The Report and Order on Remand found that the Commission’s five permitted ancillary service charges—(1) automated payment fees; (2) fees for single-call and related services; (3) live agent fees; (4) paper bill/statement fees; and (5) third-party financial transaction fees—generally, cannot be practically segregated between interstate and intrastate inmate telephone calls, except in a limited number of cases. As a result of the inability to practically separate interstate from intrastate components, inmate calling services providers would generally be prohibited from imposing ancillary service fees higher than the Commission’s caps, or imposing fees for additional ancillary services unless imposed in connection with purely

intrastate inmate telephone service calls. The Order also reinstates a rule prohibiting providers from marking up third-party fees for single-call services; reinstates rule language that prohibits providers from marking up mandatory taxes or fees that they pass on to inmate telephone service consumers; and amends certain of the inmate calling services rules consistent with the D.C. Circuit's mandates to reflect that the Commission's rate and fee caps on inmate calling service apply only to interstate and international inmate calling.

- The Fourth FNPRM proposes to substantially reduce the interstate rate cap for inmate telephone calls from the current interim rate caps of \$0.21 per minute for debit or prepaid calls and \$0.25 per minute for collect calls for all types of correctional facilities, to permanent rate caps of \$0.14 per minute for all interstate calls from prisons and \$0.16 for all interstate calls from jails. The Fourth FNPRM also proposes to adopt rate caps for international inmate calling services calls for the first time based on the proposed interstate rate caps, plus the amount that the provider must pay its underlying international service provider for an international call. It also proposes a waiver process for providers that believe the Commission's rate caps would not allow them to recover their costs of serving a particular facility or contract. Finally, it seeks comment on a further mandatory data collection to continue efforts to reform these rates and fees.

STATUS: On June 13, 2017, the D.C. Circuit vacated the rate caps adopted in the *Second Report and Order*, as well as reporting requirements related to video visitation. The court held that the Commission lacked jurisdiction over intrastate ICS calls and that the rate caps the Commission adopted for interstate calls were arbitrary and capricious. The court also remanded the Commission's caps on ancillary fees. On September 26, 2017, the court denied a petition for rehearing en banc. On December 21, 2017, the court issued two separate orders: one vacating the *2016 Order on Reconsideration* "insofar as it purports to set rate caps on inmate calling services," and one dismissing as moot challenges to the Commission's *2013 ICS Order*. The interim rate caps adopted in the *2013 ICS Order* (\$0.21 per minute for debit/prepaid ICS calls and \$0.25 per minute for collect calls) currently remain in effect for interstate ICS calls. No federally-mandated rate caps currently apply to intrastate ICS calls. On August 6, 2020 the Commission unanimously adopted a Report and Order on Remand responding to the D.C. Circuit's remands on ancillary service fees and a Fourth Further Notice of Proposed Rulemaking proposing new permanent rate caps for interstate and international services. This Order will become effective 30 days after publication in the Federal Register.

WCB BRIEFING SHEET

SUBJECT: AUREON TARIFF INVESTIGATION (WC DOCKET NO. 18-60)

SUMMARY: Multiple investigations have been initiated into the tariffed interstate switched transport rate imposed by Iowa Network Access Division d/b/a Aureon (Aureon). Aureon is a central equalized access provider (CEA) in Iowa. A CEA is a specialized type of intermediate carrier authorized by the Commission in the late 1980s to aggregate traffic for connection between rural incumbent local exchange carriers (LECs) in their respective states and other networks, particularly those of interexchange carriers (IXCs), and to implement long distance equal access obligations (permitting end users to use 1+ dialing to reach the IXC of their choice).

BACKGROUND AND KEY ISSUES:

- On June 8, 2017, AT&T Corp. (AT&T) filed a formal complaint against Aureon pursuant to section 208 of the Act. AT&T claimed, among other things, that Aureon violated the *USF/ICC Transformation Order* reform rules by raising its tariffed interstate switched transport rate above the applicable cap in 2013 and by never lowering its intrastate rate to match its interstate rates.
- On November 8, 2017, the Commission issued the *Aureon Order*, partially granting AT&T's complaint. First, the Commission concluded that for purposes of the intercarrier compensation reform rules, Aureon is a competitive local exchange carrier (LEC), and that, as a competitive LEC, Aureon violated the Commission's rate cap rules by increasing its interstate switched transport rate in June 2013 to \$0.00896 per minute of use (MOU), which exceeded the rate that was in effect on December 29, 2011 (\$0.00819). The Commission also concluded that Aureon violated the Commission's rate parity rules by not lowering its intrastate switched access rates halfway to the level of its interstate rates on or before July 1, 2012. Further, the Commission concluded that Aureon is subject to benchmarking rules and should not be permitted to tariff a rate that exceeds that of the competing incumbent LEC, leaving for later consideration what such rate might be.
- The Commission directed Aureon to file complying tariff revisions consistent with the *Aureon Order*. Aureon filed Transmittal No. 36 on February 22, 2018, lowering its rate to \$.00576.
 - AT&T and Sprint filed petitions asking the Commission to reject, or alternatively suspend and investigate Aureon's proposed revised rate on the basis that (1) the rate is higher than the allowed competitive LEC benchmark; and (2) Aureon's cost showing pursuant to section 61.38 was not sufficient.
 - On February 28, 2018, the Wireline Competition Bureau (Bureau) suspended for one day and opened an investigation into the lawfulness of Aureon's interstate switched access rate.
- On April 19, 2018, the Bureau released an order designating issues for investigation regarding the lawfulness of the Aureon tariff revisions. The Bureau designated three issues for investigation: (1) the appropriate benchmark rate for Aureon's interstate switched transport service; (2) the cost and demand data needed to support Aureon's revised rate of

\$0.00576 per minute-of-use (MOU) pursuant to section 61.38 of the Commission's rules; and (3) whether supporting cost information should be considered once the Commission determines the appropriate benchmark rate.

- On July 30, 2018 the Commission concluded the investigation into the lawfulness of the tariffed interstate switched transport rate contained in Transmittal No. 36. In the *Aureon Tariff Investigation Order*, the Commission found that, as a competitive local exchange carrier (LEC), Aureon's switched transport rate must comply with the transitional switched access service rate rules, which impose both a rate cap for all LECs and a benchmarking obligation on Aureon. The Commission further found that, as a dominant carrier, Aureon must also comply with our rules governing the development of cost-based rates. As a result, Aureon's tariffed switched transport rate cannot exceed the lower of: (i) Aureon's rate cap, (ii) its competitive LEC benchmark, or (iii) its cost-based rate. The Commission directed Aureon to amend its tariff to reflect the lower of the competitive LEC benchmark rate or the corrected cost-based rate.
- On August 30, 2018, AT&T filed a petition seeking partial reconsideration of the transport mileage used to calculate Aureon's composite benchmark rate in the *Aureon Tariff Investigation Order*. The Commission denied the petition on November 28, 2018 (*Aureon Tariff Reconsideration Order*).
- On September 24, 2018, Aureon filed Transmittal No. 38 reducing Aureon's switched transport rate to the cost-based rate of \$0.00296 per MOU. Aureon also submitted revised cost support material.
 - AT&T filed a petition asking the Commission to reject or suspend and investigate Transmittal No. 38.
 - On September 28, 2018, the Bureau concluded that substantial questions of lawfulness existed regarding how Aureon revised the switched transport rate contained in its proposed tariff revisions, suspended the revisions for one day and set for investigation the question of whether Aureon complied with the *Aureon Tariff Investigation Order* in revising its switched transport rate.
- On November 9, 2018, the Bureau released an order designating issues for investigation regarding the lawfulness of the Aureon tariff revisions. The Bureau designated two issues for investigation: (1) whether the increase in Aureon's central office switching equipment investment in Transmittal No. 38 as compared to Aureon's February 2018 tariff filing (Transmittal No. 36) represents investment that is used and useful in Aureon's provision of regulated interstate service; and (2) whether the annual network lease expense complies with the Commission's affiliate transaction rules. Aureon's Direct Case was filed on November 28, 2018; oppositions were filed on December 6, 2018; and rebuttals on December 12, 2018.
- On February 28, 2019, the Commission concluded the investigation into the lawfulness of the tariffed interstate switched transport rate contained in Transmittal No. 38 (*Aureon Second Tariff Investigation Order*). The Commission found that substantial questions of lawfulness remain with respect to Aureon's tariffed interstate switched transport rate, including, but not limited to, whether Aureon's cost-based support demonstrates compliance with the Commission's affiliate transaction rules. The Commission directed Aureon to file a revised interstate switched transport rate in Tariff F.C.C. No. 1 and revised cost support no later than April 30, 2019. After consultation with Commission staff, Aureon has filed several

Transmittals delaying the effective date of its tariff revisions. Most recently, on July 22, 2019, Aureon filed Transmittal No. 43 to reflect a further revised effective date of October 15, 2019.

- On September 30, 2019, after additional consultation with Commission staff, Aureon filed Transmittal No. 44 proposing a switched transport rate of \$0.00411 per MOU. That rate became effective on October 15, 2019.
 - Both Aureon and AT&T filed petitions for review of both the *Aureon Tariff Investigation Order* and *Aureon Tariff Reconsideration Order* in the United States Court of Appeals for the D.C. Circuit. In addition, Aureon filed a petition for review of the *Aureon Second Tariff Investigation Order*.
 - These cases have been consolidated and are being held in abeyance pending resolution of litigation in the United States Court of Appeals for the D.C. Circuit related to the underlying *Aureon Order* and subsequent complaint-related decisions. Oral argument on the consolidated complaint-related petitions was held on May 4, 2020.

STATUS: On August 4, 2020, the United States Court of Appeals for the D.C. Circuit granted in part and denied in part petitions for review of the *Aureon Order* and related complaint cases. The Court affirmed the Commission’s ruling that Aureon violated the rules capping rates for *intrastate* access services but rejected the Commission’s determination that Aureon violated a rate cap for *interstate* access services. The Court also reversed and remanded for further explanation the Commission’s decision that Aureon’s contracts with its “subtending” carriers do not qualify as “access revenue sharing agreements” under the access stimulation rule, 47 CFR 61.3(bbb). The Court further held that the Commission violated its duty to adjudicate complaints under 47 U.S.C. § 208 by deferring to rule on one of AT&T’s claims in this proceeding. Finally, the Court agreed with the Commission’s determination that the services Aureon provided to AT&T were within the scope of Aureon’s tariff.

WCB BRIEFING SHEET

SUBJECT: NORTHERN VALLEY TARIFF INVESTIGATION (WC DOCKET NO. 20-11)

SUMMARY: On January 10, 2020, the Commission suspended for one day and opened an investigation into the lawfulness of Northern Valley Communications, LLC's (Northern Valley) tariff revisions required by the *Access Arbitrage Order* (FCC 19-94) and related rules.

BACKGROUND AND KEY ISSUES:

- Northern Valley is an access-stimulating local exchange carrier (47 CFR § 61.3(bbb)). Pursuant to section 51.914 of the Commission's rules, Northern Valley is required to accept financial responsibility for Intermediate Access Providers' terminating switched access tandem switching and terminating switched access tandem transport charges for any traffic between Northern Valley's terminating end office or equivalent and the associated access tandem switch. The tariff revisions subject to investigation purport to comply with rule 51.914.
- On January 3, 2020, Sprint Communications Company, L.P. (Sprint) and Verizon Communications (Verizon) each filed petitions asking the Commission to reject or to suspend and investigate Northern Valley's proposed tariff revisions. Sprint and Verizon argued that the proposed tariff revisions did not comply with the *Access Arbitrage Order*, the rules the Commission adopted in the *Access Arbitrage Order*, and the Communications Act of 1934, as amended (Act).
- Citing substantial questions of lawfulness, the Bureau released an order suspending Northern Valley's tariff revisions on January 10, 2020. On March 11, 2020, the Bureau released an order designating issues for investigation and requiring Northern Valley to submit a Direct Case in response. Northern Valley submitted its Direct Case on April 1, 2020. Replies to the Direct Case were due on April 15, 2020.

STATUS: On June 11, 2020 the Commission released an order (FCC 20-78) rejecting Northern Valley's tariff revisions and finding them unlawful because they violate section 201(b) of the Communications Act of 1934, as amended (the Act), the *Access Arbitrage Order*, and the Access Stimulation Rules adopted therein. The Commission directed Northern Valley to file tariff revisions that comply with the Act, *Access Arbitrage Order* and Access Stimulation Rules no more than 30 days later. Northern Valley filed revised tariff language on July 10, 2020. Those revisions went into effect on July 25, 2020. The Commission is currently reviewing Northern Valley's plan to refund charges paid for services pursuant to the tariff revisions found unlawful in the *Tariff Investigation Order*.

WCB BRIEFING SHEET

SUBJECT: ELIMINATING *EX ANTE* PRICING REGULATION AND TARIFFING OF TELEPHONE ACCESS CHARGES (WC DOCKET NO. 20-71)

SUMMARY: On April 1, 2020, the Commission released a Notice of Proposed Rulemaking (Notice) proposing to deregulate and detariff the last handful of interstate end-user charges that remain subject to regulation (called Telephone Access Charges). In the interest of enabling consumers to easily compare voice service offerings by different providers, the Notice also contains a proposal to prohibit all carriers from separately listing Telephone Access Charges on customers' bills.

BACKGROUND AND KEY ISSUES:

- Commission rules currently include five tariffed Telephone Access Charges: the Subscriber Line Charge, the Access Recovery Charge, the Presubscribed Interexchange Carrier Charge, the Line Port Charge, and the Special Access Surcharge.
- Significant marketplace and regulatory changes over the past two-plus decades call into question whether *ex ante* price regulation and tariffing of Telephone Access Charges remain in the public interest. For this reason, the Notice proposes to eliminate *ex ante* pricing regulation of all Telephone Access Charges. In addition, the proposal would require incumbent local exchange carriers and competitive local exchange carriers to detariff all such charges.
- The Notice proposes a nationwide approach based on a review of data demonstrating widespread availability of competitive alternatives for voice services and on other factors that appear to make such regulation and tariffing unnecessary and contrary to the public interest. The Notice also seeks comment on the data used and on the analysis of those data and invites commenters to offer additional data and their own analyses.
- Consistent with ongoing efforts to simplify consumers' telephone bills, the Notice also proposes to modify the Commission's truth-in-billing rules to explicitly prohibit carriers from assessing any separate Telephone Access Charges, such as Subscriber Line Charges and Access Recovery Charges, on customers' bills after those charges are deregulated and detariffed.
- Given that some Telephone Access Charges are used to calculate contributions to the Universal Service Fund and other federal programs, as well as high-cost support, the Notice also proposes ways to provide certainty in calculating such contributions and support to ensure stability in funding following pricing deregulation and detariffing of Telephone Access Charges

STATUS: Comments on the Notice were filed on July 6, 2020 and reply comments were filed on August 4, 2020.

WCB BRIEFING SHEET

SUBJECT: ACCELERATING WIRELINE BROADBAND DEPLOYMENT BY REMOVING BARRIERS TO INFRASTRUCTURE INVESTMENT (WC DOCKET NO. 17-84)

SUMMARY: On August 2, 2018, the Commission adopted a *Third Report and Order* and *Declaratory Ruling (Third Wireline Infrastructure Order)* that takes a number of actions designed to accelerate the deployment of next-generation networks and services through removing barriers to infrastructure investment.

BACKGROUND AND KEY ISSUES:

- On April 20, 2017, the Commission adopted a *Notice of Proposed Rulemaking, Notice of Inquiry, and Request for Comment* seeking input on a number of actions designed to accelerate: (1) the deployment of next-generation networks and services by removing barriers to infrastructure investment at the federal, state, and local level; (2) the transition from legacy copper networks and services to next-generation fiber-based networks and services; and (3) the reduction of Commission regulations that raise costs and slow, rather than facilitate, broadband deployment.
- On November 16, 2017, the Commission adopted a Report and Order, Declaratory Ruling, and Further Notice of Proposed Rulemaking (*Wireline Infrastructure Order*). The *Wireline Infrastructure Order* took a number of actions:
 - First, the Report and Order revised the pole attachment rules to reduce costs for attachers, reform the pole access complaint procedures to settle access disputes more swiftly and increase access to infrastructure for certain types of broadband providers.
 - Second, the Report and Order revised the section 214(a) discontinuance rules and the network change notification rules, including those applicable to copper retirements, to expedite the process for carriers seeking to replace legacy network infrastructure and legacy services with advanced broadband networks and innovative new services.
 - Third, the Report and Order reversed a 2015 ruling that discontinuance authority is required for solely wholesale services to carrier-customers.
 - Fourth, the Declaratory Ruling abandoned the 2014 “functional test” interpretation of when section 214 discontinuance applications are required, bringing added clarity to the section 214(a) discontinuance process for carriers and consumers alike.
 - Finally, the Further Notice of Proposed Rulemaking sought comment on additional potential pole attachment reforms, reforms to the network change disclosure and section 214(a) discontinuance processes, and ways to facilitate rebuilding networks impacted by natural disasters.
- Greenlining Institute, Public Knowledge, The Utility Reform Network, and National Association of State Utility Consumer Advocates filed a Petition for Review of the *Wireline Infrastructure Order* in the U.S. Court of Appeals for the Ninth Circuit challenging (1) the Commission’s elimination of *de facto* retirement from the definition of copper retirement, and (2) the Commission’s declaratory ruling reversing the “functional test.” Petitioners subsequently sought to supplement their requests for relief to include challenges to the

Commission's elimination of the expanded direct notice requirements and reduction of the waiting period for copper retirement notices adopted in August 2015. The 9th Circuit denied the Commission's Motion to Strike those untimely claims, without prejudice to the Commission's renewing the arguments in their brief responding to Appellants' opening brief. Appellants' opening brief was filed on September 26, 2018. The Commission filed its responsive brief on November 30, 2018. Appellants filed a reply on January 22, 2019. The Court heard oral argument on August 27, 2019 and issued an order on August 28, 2019 permitting additional briefing on the standing issue. Petitioners filed a supplemental brief on that issue on September 6, 2019. The Commission filed a responsive brief on September 16, 2019. The Court issued an order on January 23, 2020 denying the Petition for lack of standing.

- The June 2018 *Second Wireline Infrastructure Order* built on the 2017 *Wireline Infrastructure Order*.
 - First, it further streamlined the section 214(a) discontinuance process by:
 - Reducing the comment and automatic-grant timeframes for certain applications where discontinuing the legacy voice or lower-speed data service is unlikely to cause harm;
 - Forbearing from applying section 214(a) and part 63 discontinuance requirements for services with no customers and no reasonable requests for service for the preceding 30 days; and
 - Eliminating unnecessary education and outreach requirements for carriers discontinuing legacy voice services that were adopted in 2016.
 - Second, it further streamlined the network change notification process by:
 - Eliminating unnecessary and burdensome or redundant notification requirements; and
 - Facilitating rapid restoration of communications networks in the face of natural disasters and other unforeseen events.
- On August 8, 2018, Public Knowledge filed a Petition for Reconsideration and Motion to Hold in Abeyance in response to the *Second Wireline Infrastructure Order*. Oppositions were due October 4, 2018. Replies were due October 15, 2018. The Commission received three oppositions and one reply to the Petition. On October 20, 2020, the Wireline Competition Bureau adopted an Order on Reconsideration denying the Petition and dismissing the Motion.
- In the *Third Wireline Infrastructure Order*, the Commission substantially reformed its pole attachment rules and also issued a *Declaratory Ruling* that addressed state and local moratoria on facilities deployment.
 - First, it adopted a new framework for the vast majority of pole attachments governed by federal law by instituting a “one-touch make-ready” (OTMR) regime, in which a new attacher may elect to perform all simple work to prepare a pole for new wireline attachments in the communications space. This new framework includes safeguards to promote coordination among parties and ensures that new attachers perform the work safely and reliably.

- Second, it retained the current multi-party pole attachment process for other new attachments that are complex or above the communications space of a pole, but made significant modifications to speed deployment, promote accurate billing, expand the use of self-help for new attachers when attachment deadlines are missed, and reduce the likelihood of coordination failures that lead to unwarranted delays.
- Third, it improved the pole attachment rules by codifying and redefining Commission precedent that requires utilities to allow attachers to “overlash” existing wires, thus maximizing the usable space on a pole; and by eliminating outdated disparities between the pole attachment rates that incumbent carriers must pay compared to other similarly-situated cable and telecommunications attachers. It also clarified that it will preempt, on an expedited case-by-case basis, state and local laws that inhibit the rebuilding or restoration of broadband infrastructure after a disaster.
- The *Declaratory Ruling* (1) interpreted section 253(a) of the Communications Act to prohibit state and local express and *de facto* moratoria on the deployment of telecommunications services or facilities, and (2) directed the Wireline Competition Bureau and Wireless Telecommunications Bureau to act promptly on petitions challenging specific alleged moratoria.
- On September 4, 2018, the following parties filed petitions for reconsideration with the Commission challenging the *Declaratory Ruling*: the Smart Communities and Special Districts Coalition; the Country Road Association of Michigan; and the City of New York (which also sought reconsideration on portions of the *Third Report and Order*). In addition, on October 15, 2018, the Coalition of Concerned Utilities filed a petition for reconsideration of certain elements of the *Third Report and Order*. The Commission received nine oppositions/comments in response to the petitions and six submissions during the reply round.
- On October 2, 2018, the City of Portland, Oregon filed a Petition for Review with the U.S. Court of Appeals for the Ninth Circuit challenging the *Declaratory Ruling*. On October 19, 2018, a coalition of utilities filed a Petition for Review with the U.S. Court of Appeals for the Eleventh Circuit challenging aspects of the *Third Report and Order*, specifically issues relating to self-help above the communications space, overlash, pre-existing conditions, and incumbent LEC rates. On March 1, 2019, the Eleventh Circuit transferred the coalition of utilities’ case to the Ninth Circuit. On March 25, 2019, the Ninth Circuit consolidated these two cases (along with the litigation on the September 2018 Wireless Infrastructure item) and ordered a special magistrate to conduct a case management conference to determine the next procedural steps in the litigation. On April 18, 2019, the Ninth Circuit set a briefing schedule, with the *Declaratory Ruling* on the same brief as the September 2018 wireless infrastructure item and the August 2018 *Third Report and Order* briefed separately. Oral argument was held on February 10, 2020, and on August 12, 2020, the Ninth Circuit issued an opinion that upheld the *Third Report and Order* and the *Declaratory Ruling* in their entirety.
- On September 6, 2019, CTIA filed a Petition for Declaratory Ruling that, among other things, requested the Commission to clarify: (1) that the term “pole” in section 224 includes utility light poles; (2) that utilities may not impose blanket prohibitions on access to any particular space of a utility-owned pole; and (3) that utilities may not ask providers to accept terms and conditions for pole attachments that are inconsistent with the Commission’s rules.

On July 29, 2020, the Wireline Competition Bureau released a Declaratory Ruling granting CTIA's Petition in part and denying it in part. Specifically, the Bureau clarified that: (1) the imposition of a "blanket ban" by a utility on attachments to any portion of a utility pole is inconsistent with the federal requirement that a "denial of access . . . be specific" to a particular request; and (2) while utilities and attachers have the flexibility to negotiate terms in their pole attachment agreements that differ from the requirements in the Commission's rules, a utility cannot use its significant negotiating leverage to require an attacher to give up rights to which the attacher is entitled under the rules without the attacher obtaining a corresponding benefit.

- On July 16, 2020, NCTA — The Internet & Television Association filed a petition for expedited declaratory ruling asking the Commission to declare that: (1) pole owners must share in the cost of pole replacements in unserved areas; (2) pole attachment complaints arising in unserved areas should be prioritized through placement on the accelerated docket under section 1.736 of the Commission's rules; and (3) section 1.1407(b) of the Commission's rules authorizes the Commission to order any pole owner to complete a pole replacement within a specified period of time or designate an authorized contractor to do so.

STATUS: The 2017 *Wireline Infrastructure Order* became effective on January 27, 2018. The section 214(a) discontinuance rules requiring OMB approval became effective on May 9, 2018. The pole attachment rule requiring OMB approval became effective on May 10, 2018; and the network change disclosure/copper retirement rules requiring OMB approval became effective on May 14, 2018. Oral argument on the Petition for Review took place on August 27, 2019, followed by supplemental briefing on standing. The Ninth Circuit denied the Petition for Review on January 23, 2020 for lack of standing.

The *Second Report and Order* became effective on August 8, 2018. Certain of the section 214(a) discontinuance rules and section 251 network change disclosure rules adopted in that *Order* became effective December 26, 2018.

The *Declaratory Ruling* component of the *Third Wireline Infrastructure Order* was effective upon release. The *Third Report and Order* became effective on October 15, 2018, with the exception of the pole attachment rules that require OMB approval. The presumption that incumbent LECs are entitled to the telecommunications rate for all new and newly-negotiated pole attachment agreements went into effect March 11, 2019. The revised pole attachment rules requiring OMB approval, including OTMR, went into effect May 20, 2019.

WCB BRIEFING SHEET

SUBJECT: AT&T MOBILITY PUERTO RICO INC./LIBERTY LATIN AMERICA LTD. TRANSFER OF CONTROL (WT DOCKET NO. 19-384)

SUMMARY: On December 20, 2019, the Wireless Telecommunications Bureau, Wireline Competition Bureau, and International Bureau (Bureaus) released a Public Notice accepting applications for the transfer of licenses and authorizations of AT&T Mobility Puerto Rico Inc. (AT&T Mobility PR) and AT&T Mobility USVI Inc. (AT&T Mobility USVI) to Liberty Latin America Ltd. (LLA) (collectively, Applicants). Applicants value the transaction at \$1.95 billion. On December 27, 2019, Team Telecom requested that the Commission defer action on the applications while it reviewed potential national security, law enforcement, and public safety issues. On July 1, 2020, Team Telecom advised the Commission that it has no objection to the Commission approving the applications, provided that the Commission conditions its approval on the assurances of LLA to abide by the commitments and undertakings set forth in a July 1, 2020 Letter of Agreement (LOA) between LLA and the Department of Justice. Communications Workers of America (CWA) and a consumer advocacy group, Hedge Clippers, filed comments opposing the transaction. Virgin Islands Telephone Corporation (Viya) filed late comments raising certain issues that it asserts lead to anti-competitive impacts of the transaction. On October 27, 2020, the Bureaus released a Memorandum Opinion and Order granting the applications subject to the LOA condition requested by Team Telecom.

BACKGROUND AND KEY ISSUES

- AT&T Mobility PR provides wireless voice and data services, as well as competitive local exchange carrier (LEC) and other services to business customers in Puerto Rico. LLA, a Bermuda entity, wholly owns Liberty Communications of Puerto Rico LLC (LCPR). LCPR, principally serving residential customers, is a competitive LEC and the largest cable operator in Puerto Rico and does not currently provide mobile wireless service. LCPR's hybrid fiber coaxial network passes approximately 85% of all households in Puerto Rico and provides broadband, video, and telephone services to approximately 392,000 customers on the island. AT&T is retaining its DIRECTV video business in Puerto Rico post-transaction.
- AT&T Mobility PR and LCPR provide wireline services in competition with the incumbent LEC, Puerto Rico Telephone Company (Claro PR), and other providers. AT&T Mobility PR and LCPR have overlapping fiber facilities primarily in the San Juan metropolitan area and in certain other areas of the island. WCB staff requested and received data from the Applicants indicating where they have confirmed fiber overlaps and whether there are other competitive fiber providers located at or near the overlap locations.
- AT&T Mobility USVI provides mobile wireless voice and data services in the U.S. Virgin Islands (USVI). Neither LLA nor any of its subsidiaries currently provide service in the USVI.
- Applicants claim that the transaction would result in certain benefits. These include enhanced network resiliency; allowing LCPR to offer a "quad play" of video, mobile voice and data, fixed broadband Internet, and telephony service to customers in competition with the incumbent LEC; and facilitating the rollout of 5G wireless service. Applicants further state that the transaction would enhance competition in the USVI by allowing LCPR to

expand network facilities there to compete with the incumbent LEC, Virgin Islands Telephone Corporation d/b/a Viya.

- CWA contends that: (1) the transaction will result in lost jobs; (2) LLA lacks sufficient finances to achieve its claimed public interest benefits and to provide sufficient service quality; and (3) the transaction may negatively impact FirstNet deployment. Hedge Clippers assert that LLA's indebtedness may impair its ability to sustain service quality in Puerto Rico. Viya asserts that AT&T must make mobile numbering porting arrangements it offers to LLA post-transaction also available to Viya.
- LLA responds that: (1) CWA's allegations are speculative; (2) the transaction is fully financed, and LLA is financially strong; and (3) AT&T will remain fully responsible for, and committed to, FirstNet deployment. It further argues that Viya's argument addresses general nationwide number portability issues and is not relevant to the transaction.

STATUS: .On October 27, 2020, the Bureaus released a Memorandum Opinion and Order granting the applications subject to the LOA condition requested by Team Telecom. The Bureaus found that the proposed transaction is unlikely to result in any material public interest harm in Puerto Rico where AT&T Mobility PR and LCPR operate as wireline competitive LECs, and reviewed and rejected the claims from CWA and Viya.

WCB BRIEFING SHEET

SUBJECT: BROADBAND DEPLOYMENT ADVISORY COMMITTEE (BDAC OR COMMITTEE)

SUMMARY: The BDAC is a federal advisory committee formed to provide advice and recommendations to the Commission on how to accelerate the deployment of high-speed Internet access, or broadband. The BDAC is organized under, and operates in accordance with, the Federal Advisory Committee Act (FACA). The initial two-year term of the BDAC expired on March 1, 2019. On December 10, 2018, the Commission announced its intent to renew the BDAC's charter for another two years, beginning March 1, 2019, and sought nominations for membership. The Commission renewed the BDAC's charter for a new two-year term on March 1, 2019, expiring March 1, 2021. The Commission has announced three working groups of the re-chartered BDAC: the Increasing Broadband Investment in Low-Income Communities Working Group, announced on March 7, 2019; the Broadband Infrastructure Deployment Job Skills and Training Opportunities Working Group, announced on April 1, 2019; and the Disaster Response and Recovery Working Group, created under the initial BDAC, which will continue its work under the re-chartered BDAC.

BACKGROUND AND KEY ISSUES:

- The mission of the BDAC is to make recommendations to the Commission on how to accelerate the deployment of high-speed Internet access, or “broadband,” by reducing and/or removing regulatory barriers to infrastructure investment. This Committee is intended to provide an effective means for stakeholders with interests in this area to exchange ideas and develop recommendations to the Commission on broadband deployment, which will in turn enhance the Commission's ability to carry out its statutory responsibility to encourage broadband deployment to all Americans.
- The Committee meets approximately three times a year. Meetings of the Committee are open to the public, timely notice of each meeting is published in the Federal Register, and the meetings are further publicized through other appropriate vehicles.
- Members of the Committee are appointed by the Chairman of the Commission in consultation with appropriate Commission staff. Members are selected to balance the expertise and viewpoints that are necessary to address effectively the issues to be considered by the Committee, including: various sectors of the communications industry, state and local regulators, and consumer and community organizations.
- Throughout its first term, which ran from March 1, 2017, to March 1, 2019, the BDAC held seven meetings. During that time, it debated, modified as it deemed appropriate, and ultimately adopted reports based on the recommendations of five working groups:
 - Model Code for Municipalities
 - Model Code for States
 - Competitive Access to Broadband Infrastructure
 - Removing State and Local Barriers
 - Streamlining Federal Siting

These reports are available on the BDAC website: <https://www.fcc.gov/broadband-deployment-advisory-committee>.

- On November 1, 2018, a public notice announced the members of the Disaster Response Working Group.
- On December 10, 2018, the Commission announced its intent to renew the BDAC's charter for another two years, beginning March 1, 2019, and sought nominations for membership.
- On March 1, the BDAC was re-chartered for a two-year term ending March 1, 2021.
- On March 7, 2019, the Commission announced and solicited nominations for the Increasing Broadband Investment in Low-Income Communities Working Group of the BDAC (Low-Income Working Group), which will provide advice and recommendations to the Commission on new ways to encourage the deployment of high-speed broadband infrastructure and services to low-income communities.
- On April 1, 2019, the Commission announced and solicited nominations for the Broadband Infrastructure Deployment Job Skills and Training Opportunities Working Group of the BDAC (Job Skills Working Group), which will provide recommendations to the Commission and other stakeholders on ways to improve job skills training and development opportunities for the broadband infrastructure deployment workforce.
- On July 1, 2019, the Commission announced the membership of the Low-Income Working Group and the Job Skills Working Group.
- On March 27, 2020, the Disaster Response and Recovery Working Group presented a report and recommendations to the Committee, which the BDAC approved. This report is available on the BDAC website: <https://www.fcc.gov/broadband-deployment-advisory-committee>.
- On April 16, 2020, the Commission announced additional charges for the Disaster Response and Recovery Working Group. The Working Group will assist the BDAC in documenting the various strategies and solutions that stakeholders are developing and implementing in real time to address the deployment-related challenges presented by the coronavirus (COVID-19) pandemic. It will also enable the BDAC to report on best practices and lessons learned from the response to COVID-19 to help with the ongoing response to the pandemic, and to assist stakeholders, including the Commission, in preparing for and responding to any comparable future crises. To assist the Working Group with carrying out these new charges, the Commission solicited nominations to add new members to the Working Group from individuals with expertise on these issues.
- On June 4, 2020, the Commission announced new members of the Disaster Response and Recovery Working Group.

STATUS: The BDAC is continuing its work on recommendations to accelerate broadband deployment. The most recent meeting of the BDAC occurred on July 29, 2020. At the meeting, the Disaster Response and Recovery Working Group, Job Skills Working Group, and Low-Income Working Group all presented status updates and overviews of their current work product. The BDAC is scheduled to meet again on October 29-30, 2020. At that meeting, the BDAC is expected to consider and vote on reports and recommendations from the Increasing Broadband Investment in Low-Income Communities, Broadband Infrastructure Deployment Job Skills and Training Opportunities, and Disaster Response and Recovery Working Groups.

WCB BRIEFING SHEET

SUBJECT: TASK FORCE FOR REVIEWING CONNECTIVITY AND TECHNOLOGY NEEDS OF PRECISION AGRICULTURE IN THE UNITED STATES (PRECISION AG CONNECTIVITY TASK FORCE OR TASK FORCE)

SUMMARY: The Precision Ag Connectivity Task Force is a federal advisory committee formed to make policy recommendations on how to accelerate broadband deployment on agricultural lands. The Agriculture Improvement Act of 2018 (2018 Farm Bill) directed the Commission to establish the Task Force. The Precision Agriculture Connectivity Task Force will perform duties and submit reports consistent with Section 12511 of the 2018 Farm Bill and in consultation with the Department of Agriculture in successive terms until the Task Force ends on January 1, 2025. The Task Force is organized under, and operates in accordance with, the Federal Advisory Committee Act. In November 2019, Chairman Pai, in consultation with Secretary of Agriculture Sonny Perdue, appointed fifteen members of the Task Force including agricultural producers representing diverse geographic regions and farm sizes, equipment manufacturers, and industry representatives, as well as Tribal, state and local government representatives. Four working groups will assist the Task Force in carrying out its work: (1) Mapping and Analyzing Connectivity on Agricultural Lands; (2) Examining Current and Future Connectivity Demand for Precision Agriculture; (3) Encouraging Adoption of Precision Agriculture and Availability of High-Quality Jobs on Connected Farms; and (4) Accelerating Broadband Deployment on Unserved Agricultural Lands. The Precision Agriculture Task Force held its first meeting on December 9, 2019. The Precision Agriculture Connectivity Task Force will begin to present recommendations towards the end of 2020.

BACKGROUND AND KEY ISSUES:

- The mission of the Task Force is to provide advice and recommendations for the FCC on how to assess and advance deployment of broadband Internet access service on unserved agriculture land to promote precision agriculture. The Task Force will examine policy, regulatory, and technical solutions to encourage the adoption of broadband on farms and ranches and promote the advancement of precision agriculture in the United States.
- The Task Force meets approximately three times a year. Meetings of the Task Force are open to the public, timely notice of each meeting is published in the Federal Register, and the meetings are further publicized through other appropriate vehicles.
- Members of the Task Force are appointed by the Chairman of the Commission in consultation with the Secretary of Agriculture. Members are selected to balance the expertise and viewpoints that are necessary to effectively address the issues to be considered by the Task Force, including: agricultural producers representing diverse geographic regions and farm sizes, equipment manufacturers, Tribal, state and local government representatives, and various sectors of the communications industry.
- In addition, not later than one year after the date on which the Commission officially establishes the Task Force, and annually thereafter, the Task Force will submit to the Chairman of the Commission a report, which shall be made public, that details: the status of fixed and mobile broadband Internet access service coverage of agricultural land; the projected future connectivity needs of agricultural operations, farmers, and ranchers; and the

steps being taken to accurately measure the availability of broadband Internet access service on agricultural land and the limitations of current, as of the date of the report, measurement processes.

- On June 17, 2019, the Commission announced the establishment of the Task Force and sought nominations for membership.
- On November 19, 2019, Chairman Pai, in consultation with Secretary of Agriculture Sonny Perdue, appointed fifteen members of the Task Force including agricultural producers representing diverse geographic regions and farm sizes, equipment manufacturers, and industry representatives, as well as Tribal, state and local government representatives.
- On November 19, 2019, the Commission also announced four working groups for the Task Force and solicited nominations for membership on these working groups.
- On December 4, 2019, Chairman Pai chartered the Precision Agriculture Connectivity Task Force for a two-year term.
- On December 6, 2019, Chairman Pai appointed chairs and vice chairs to lead the four working groups of the Task Force.
- On March 13, 2020, Chairman Pai, in consultation with Secretary of Agriculture Sonny Perdue, announced membership of the Task Force's four working groups.
- To date, the Task Force has held three meetings during its first term: December 9, 2019, March 25, 2020, and July 22, 2020. During this time, it has reviewed and discussed Task Force administration; updates from each of the four working groups; programs and policies relevant to the Task Force's duties; and recent agricultural industrywide events related to broadband deployment and precision agriculture technologies. More information about the Precision Ag Connectivity Task Force is available at <https://www.fcc.gov/task-force-reviewing-connectivity-and-technology-needs-precision-agricultureunited-states>.

STATUS: The Precision Ag Connectivity Task Force is continuing its work on recommendations to accelerate broadband deployment on agricultural lands. The most recent meeting of the Task Force occurred on July 22, 2020. At the meeting, the Mapping and Analyzing Connectivity on Agricultural Lands Working Group, Examining Current and Future Connectivity Demand for Precision Agriculture Working Group, Encouraging Adoption of Precision Agriculture and Availability of High-Quality Jobs on Connected Farms Working Group, and Accelerating Broadband Deployment on Unserved Agricultural Lands Working Group all presented status updates of their current work product. The Task Force is tentatively scheduled to meet again on October 28, 2020.

WCB BRIEFING SHEET

SUBJECT: BROADBAND DEPLOYMENT REPORTS (GN DOCKET NOS. 19-285, 18-238, 17-199, 16-245, 15-191, 14-126, 12-228, 11-121, 10-159, 09-137)

SUMMARY: Section 706(b) of the Telecommunications Act of 1996 (47 U.S.C. § 1302(b)) directs the Commission to annually “initiate a notice of inquiry concerning the availability of advanced telecommunications capability to all Americans (including, in particular, elementary and secondary schools and classrooms) and shall complete the inquiry within 180 days after its initiation. In the inquiry, the Commission shall determine whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion.” On April 24, 2020, the Commission released the *2020 Broadband Deployment Report*, concluding that advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion. The Sixteenth Notice of Inquiry, seeking comment to inform the 2021 Broadband Deployment Report, was adopted on August 7, 2020 and released on August 19, 2020.

BACKGROUND AND KEY ISSUES:

- The *2020 Report* found that as a result of the Commission’s efforts to close the digital divide, more Americans than ever have access to high-speed broadband. Furthermore, fiber networks were deployed to 6.5 million new homes in 2019, while capital expenditures by broadband providers increased in 2018 for the second consecutive year. Given such compelling evidence, the Commission concluded for the second consecutive year that advanced telecommunications capability is being deployed on a reasonable and timely basis.
- As of year-end 2018, fixed terrestrial broadband at speeds of 25 Mbps/3 Mbps is deployed to 94.4% of all Americans, up from 93.5% in 2017 and 89.4% in 2014. While such services are deployed to 98.5% of Americans in urban areas, service is deployed to only 77.7% of those in rural areas. Overall, 18.2 million Americans still lack fixed terrestrial broadband at speeds of 25 Mbps/3 Mbps.
- Both fixed terrestrial services at 25 Mbps/3 Mbps and mobile LTE at speeds of 5 Mbps/1 Mbps were deployed to 94.4% of the population. In rural areas, both services are deployed to 77.4% of Americans, as opposed to 98.5% of Americans in urban areas. With respect to fixed 25 Mbps/3 Mbps and 10 Mbps/3 Mbps LTE services, such services are deployed to 91.7% of all Americans, including 69.8% in evaluated rural areas, and 95.9% in evaluated urban areas.

STATUS: The *2020 Broadband Deployment Report* was released on April 24, 2020. The *Sixteenth Notice of Inquiry* was adopted on August 7, 2020 and released on August 19, 2020. The statutory deadline for the next Broadband Deployment Report is February 15, 2021, 180 days from the *Sixteenth Notice of Inquiry*’s release.

WCB BRIEFING SHEET

SUBJECT: CALLER ID SPOOFING/THE TRUTH IN CALLER ID ACT (WC DOCKET NOS. 11-39, 18-335)

SUMMARY: The Truth in Caller ID Act and the Commission's implementing rules prohibit any person or entity in the United States, acting with the intent to defraud, cause harm, or wrongfully obtain anything of value, from knowingly causing, directly or indirectly, any caller identification service to transmit or display misleading or inaccurate caller identification information. On August 1, 2019, the Commission adopted a Second Report and Order updating the Commission's existing spoofing rules pursuant to the RAY BAUM'S Act.

BACKGROUND AND KEY ISSUES:

- The Truth in Caller ID Act and the Commission's implementing regulations prohibit anyone in the United States, in connection with any telecommunications or IP-enabled voice service, from causing any caller identification service to knowingly transmit misleading or inaccurate caller identification information with the intent to defraud, cause harm, or wrongfully obtain anything of value. The Act includes exemptions from its prohibitions on impermissible caller ID spoofing for authorized law enforcement activities and court orders permitting caller ID spoofing.
- On March 23, 2018, the President signed into law the Consolidated Appropriations Act of 2018, which included the Repack Airwaves Yielding Better Access for Users of Modern Services Act of 2018 (RAY BAUM'S Act of 2018). Section 503 of RAY BAUM'S Act of 2018 amends the provisions created by the Truth in Caller ID Act, applying those provisions to text messages and text messaging services, and expanding its scope to include additional voice calls, including calls originating outside the United States. RAY BAUM'S Act requires the FCC to prescribe rules implementing the changes within 18 months of the law's enactment, and the provisions will take effect six months following adoption of the rules. RAY BAUM'S Act also requires the Commission to coordinate with the Federal Trade Commission to develop and post on its website consumer education materials on how to identify and avoid fraudulent activity that relies upon spoofing, and how consumers can access and use existing technologies to protect against such fraud.
- On February 14, 2019, the Commission adopted a Notice of Proposed Rulemaking (NPRM) proposing rules to implement the RAY BAUM'S Act. On August 1, 2019, the Commission adopted a Second Report and Order implementing the RAY BAUM'S Act. The Report and Order amends the Commission's rules to encompass malicious spoofing activities directed at consumers in the United States from actors outside of the United States and to reach caller ID spoofing using alternative voice and text messaging services.

STATUS: The Commission's revisions to its Truth in Caller ID rules implementing the requirements of the RAY BAUM'S Act became effective February 5, 2020.

WCB BRIEFING SHEET

SUBJECT: CHARTER COMMUNICATIONS, INC. PETITION TO SUNSET MERGER CONDITIONS (WC DOCKET NO. 16-197)

SUMMARY: On June 18, 2020, Charter filed a petition seeking consent to sunset on May 18, 2021 two conditions related to its merger with Time Warner Cable Inc. and Bright House Networks, LLC: (1) the prohibition on Charter imposing data caps and usage-based pricing mechanisms; and (2) the requirement for Charter to offer to connect its Internet protocol (IP) network to any qualifying entity free of charge and on standardized terms.

BACKGROUND AND KEY ISSUES:

- On May 10, 2016, the Commission released an order approving the applications for the transfer of control of licenses and authorizations from Charter Communications, Inc., Time Warner Cable Inc., and Advance/Newhouse Partnership, the parent of Bright House Networks, LLC, to a new company, also named Charter Communications. As part of its approval, the Commission imposed a number of conditions, including requiring Charter to offer broadband service at a discounted rate for low-income individuals, requiring Charter to expand its broadband network to two million new customer locations, prohibiting Charter from imposing data caps or usage-based billing on its customers, and requiring Charter to enter into settlement free interconnection with requesting parties that could meet certain requirements.
- The Commission established that the merger conditions would remain in effect for seven years after the closing date of the transaction, but set up a process for Charter to petition for relief of the interconnection and data caps/usage-based pricing conditions as of the five-year anniversary of the closing.
- Charter contends that sunsetting the two merger conditions is in the public interest in light of dramatic changes in the online video marketplace and the competitive nature of the internet service market.

STATUS: Comments on the petition were due by July 22, 2020, and replies were due by August 6, 2020. The Commission's Order approving the transaction requires that the Wireline Competition Bureau issue a decision on Charter's petition by May 18, 2021.

WCB BRIEFING SHEET

SUBJECT: CINCINNATI BELL INC., ET AL., AND RED FIBER PARENT LLC TRANSFER OF CONTROL (WC DOCKET NO. 20-146)

SUMMARY: On May 15, 2020, Cincinnati Bell Inc. (Cincinnati Bell), CBTS Technology Solutions LLC (CBTS), Cincinnati Bell Telephone Company LLC (CBT), Cincinnati Bell Extended Territories LLC (CBET), Hawaiian Telecom, Inc. (HTI), Hawaiian Telcom Services Company, Inc. (HTSC), and Wavecom Solutions Corporation (Wavecom) (CBTS, CBT, CBET, HTI, HTSC, and Wavecom, collectively, Licensees) filed applications for the transfer of Licensees to Red Fiber Parent LLC (Red Fiber Parent) (Licensees, together with Red Fiber Parent and Cincinnati Bell, Applicants), pursuant to sections 214 and 310(d) of the Act. Applicants have publicly announced that the proposed transaction is valued at \$2.9 billion. On October 8, 2020, the Wireline Competition Bureau, International Bureau, and Wireless Telecommunications Bureau sought comment on the transaction with comments due November 9, 2020 and replies due November 24, 2020.

BACKGROUND AND KEY ISSUES:

- Cincinnati Bell, through its subsidiaries, the Licensees, provides incumbent local exchange service (LEC), competitive LEC, long distance, wireless, and other services over its fiber optic and copper networks. CBT is an incumbent LEC serving portions of Ohio, Kentucky, and Indiana. HTI is an incumbent LEC in Hawaii. CBET provides competitive LEC services in contiguous areas in Ohio. CBTS provides nationwide long distance and competitive LEC service. HTSC provides interstate services, wireless service, and other services. Wavecom (formerly known as Pacific Lightnet, Inc.) operates as a competitive LEC in Hawaii.
- Red Fiber Parent does not itself provide telecommunications services. Upon closing, Red Fiber Parent will be indirectly majority owned by MIP V (FCC) AIV, L.P. (MIP V), a Delaware partnership (approximately 75% equity interest). MIP V is a fund managed by a member of Macquarie Infrastructure and Real Assets, which is ultimately held by Macquarie Group Limited, a publicly-traded Australian company that provides banking and investment services. Red Fiber Parent will be indirectly minority owned by investment vehicles managed by the Private Equity Group of Ares Management Corporation, a Delaware entity. On July 28, 2020, the Applicants filed updated information in the record that identifies Retail Employees Superannuation Trust, a widely held Australian public offer pension fund, as an additional post-transaction owner.
- Applicants claim that the transaction would result in certain benefits. These include the financial, management, and other resources made available by Red Fiber Parent that will strengthen the position of Cincinnati Bell. They further state that the proposed transaction will be at the holding company level and will not result in a change of carrier for any customer. and that Red Fiber parent has no plans to change the current rates, terms, and conditions of service.

STATUS: The applications are under review.

WCB BRIEFING SHEET

SUBJECT: COMMUNICATIONS MARKETPLACE REPORT (GN DOCKET NO. 20-60; GN DOCKET NO. 18-231, WT DOCKET NO. 18-203, MB DOCKET NO. 17-214, MB DOCKET NO. 18-227, IB DOCKET 18-251)

SUMMARY: On March 23, 2018, the President signed into law the Consolidated Appropriations Act of 2018, which included the Repack Airwaves Yielding Better Access for Users of Modern Services Act of 2018 (RAY BAUM’S Act of 2018). Title IV of RAY BAUM’S Act of 2018 amends section 13 of the Communications Act of 1934, and requires the Commission, “in the last quarter of every even numbered year” to publish a “Communications Marketplace Report,” that, among other things, “assess[es] the state of deployment of communications capabilities, including advanced telecommunications capability (as defined in section 706 of the Telecommunications Act of 1996 (47 U.S.C. §1302)), regardless of the technology used for such deployment.” The Commission released the first Communications Marketplace Report on December 26, 2018. The Office of Economics and Analytics released a public notice seeking comment on the 2020 Communications Marketplace Report on February 27, 2020.

BACKGROUND AND KEY ISSUES:

- In accordance with the RAY BAUM’S Act of 2018, the Communications Marketplace Report: (1) provided a holistic overview of competition in mobile wireless communications, fixed broadband communications, audio, video, and satellite communications markets; (2) assessed the state of deployment of communications capabilities; (3) assessed barriers to competitive entry, including market entry barriers for entrepreneurs and other small businesses; (4) compiled a list of geographic areas that are not served by any provider of advanced telecommunications capabilities; (5) described the Commission’s actions to address challenges and opportunities in the communications marketplace during the previous two years; and (6) discussed the Commission’s agenda for continuing to address those challenges and opportunities over the next two years.
- With respect to fixed broadband competition, the Report found that as of year-end 2017, 83% of Americans have at least 2 options for 10 Mbps/1 Mbps fixed terrestrial service, 70% have at least two options for 25 Mbps/3 Mbps fixed terrestrial service, 65% have at least two options for 50 Mbps/5 Mbps service, 55% have at least two options for 100 Mbps/10 Mbps service, and 25% have at least 2 options for 250 Mbps/25 Mbps service.
- With respect to voice telephone service, the Report found that as of June 2017, there are 55 million end-user switched access lines, including 22.5 million residential lines, and 64 million interconnected VoIP subscriptions, including 40 million residential subscriptions. Of these combined 119 million fixed retail voice telephone service subscriptions, 53% were residential connections, and 47% were business connections. The relative growth trends between fixed switched access and interconnected VoIP services are illustrative. The number of fixed retail switched-access lines declined over the past three years at a compound annual growth rate of 11%, while interconnected VoIP subscriptions increased a compound annual growth rate of 8%. The June 2017 data indicate there were 336 million mobile subscriptions in the United States, representing an increase in mobile voice subscriptions at a compound annual growth rate of 2% over the previous three years. In addition, the data

shows 7.8 million OTT VoIP subscriptions, with far more non-OTT VoIP, numbering 56.7 million subscriptions.

- With respect to broadband deployment, the Report found as of year-end 2017, 94% of all Americans have access to fixed terrestrial broadband at speeds of 25 Mbps/3 Mbps, up from 91.9% in 2016 and 83.6% in 2013. Nonetheless, over 19 million Americans still lack fixed terrestrial broadband at speeds of 25 Mbps/3 Mbps. Approximately 94% of the population has access to both fixed terrestrial services at 25 Mbps/3 Mbps and mobile LTE at speeds of 5 Mbps/1 Mbps. In rural areas, 75.3% of Americans have access to both services, as opposed to 98.5% of Americans in urban areas. With respect to fixed 25 Mbps/3 Mbps and 10 Mbps/3 Mbps LTE services, 86.1% of all Americans have access to such services, including 57.2% in evaluated rural areas and 91.5% in evaluated urban areas.

STATUS: The Office of Economics and Analytics released a public notice seeking comment on the 2020 Communications Marketplace Report on February 27, 2020; the comment cycle closed on May 13, 2020. Pursuant to the RAY BAUM’S Act of 2018, the second Communications Marketplace Report must be adopted by December 31, 2020.

WCB BRIEFING SHEET

SUBJECT: IMPLEMENTATION OF SECTION 222 (CPNI PROCEEDING/PRIVACY OF CUSTOMER TELEPHONE RECORDS/PRIVACY OF CUSTOMERS OF BROADBAND AND OTHER TELECOMMUNICATIONS SERVICES) (CC DOCKET NO. 95-115, WC DOCKET NO. 13-306; WC DOCKET NO. 16-106)

SUMMARY: Section 222 of the Communications Act requires telecommunications carriers to ensure that proprietary information of other telecommunications carriers, equipment manufacturers, and customers is adequately protected from unauthorized disclosure, and limits telecommunications carriers' use of customer proprietary network information (CPNI). Since the adoption of section 222 in the 1996 Act, the Commission has released several orders adopting rules implementing Section 222. As part of the Commission's reclassification of broadband Internet access service in the *Title II Order*, the Commission applied section 222 of the Act to broadband Internet service providers (ISPs) but forbore from applying the Commission's existing CPNI rules to ISPs. In October 2016, the Commission adopted a *Report and Order* establishing rules governing broadband providers' privacy practices. In March 2017, Congress passed Public Law 115-22, a resolution of disapproval of the *2016 Privacy Order*, under the Congressional Review Act. The President signed Public Law 115-22 on April 3, 2017. As a result, the *2016 Privacy Order* is no longer in effect, and the pre-existing rules have been reinstated. In December 2017, the Commission reclassified broadband Internet access service as an information service, returning jurisdiction over ISPs' privacy and data security practices to the Federal Trade Commission (FTC).

BACKGROUND AND KEY ISSUES:

- *Current Voice Rules.* The current rules implementing section 222, which cover traditional voice and interconnected VoIP services, impose obligations on providers to disclose their privacy practices with respect to CPNI, and to seek different levels of consent from consumers with respect to the use and sharing of CPNI. The rules also include data security protections, including customer authentication requirements, and data breach notification requirements.
- *Title II Order.* In its *Title II Order*, adopted February 26, 2015, the Commission reclassified broadband Internet access service as a telecommunications service subject to Title II, and applied section 222 of the Act to ISPs. However, the Commission forbore from applying the Commission's existing CPNI rules implementing section 222 to ISPs, pending the adoption of rules to govern broadband Internet access service in a separate rulemaking proceeding.
- On May 18, 2017, the Commission adopted a Notice of Proposed Rulemaking proposing to reinstate the classification of broadband Internet access service as an information service. (*See Restoring Internet Freedom Briefing Sheet.*) Among other things, the NPRM proposed to respect the jurisdictional lines drawn by Congress, whereby the FTC oversees Internet service providers' privacy practices.
- On June 26, 2017, the Commission adopted an Order recognizing the effect of Public Law 115-22, which rendered the *2016 Privacy Order* as though it had never taken effect. This Order reverted the rules in the Code of Federal Regulations to their pre-*2016 Privacy Order* state, and therefore dismissed as moot 11 petitions seeking reconsideration of the *2016 Privacy Order*.

- In December 2017, the Commission adopted the *Restoring Internet Freedom Declaratory Ruling, Report and Order, and Order* in which it reinstated the classification of broadband Internet access service as an information service. (See Restoring Internet Freedom Briefing Sheet.) In doing so, the Commission returned jurisdiction to regulate broadband privacy and data security to the FTC.

Petitions for Rulemaking/Reconsideration:

- *EPIC Petition to Repeal 47 CFR § 42.6 (Retention of Telephone Toll Records)*. On August 4, 2015, EPIC filed a petition asking the Commission to repeal the Commission requirement that telephone toll records be retained for 18 months, due to concerns involving data breaches, innovation, and competition. Regarding data breaches, EPIC stated that the risk of a breach can be reduced by deleting call records after they are no longer needed. In April 2017, petitioners requested that the Commission docket the petition and issue a public notice for comment. On May 17, 2017, the Commission issued a Public Notice seeking comment on the petition. The comment cycle closed on July 3, 2017.

STATUS: Following Congressional disapproval of the *2016 Privacy Order* under the Congressional Review Act, the rules implementing section 222 that were in existence prior to October 2016 have been reinstated. Some issues from previous CPNI proceedings remain open, including whether the Commission should adopt data retention time limits. The EPIC petition to repeal 47 CFR § 42.6 (Retention of Telephone Toll Records) also remains pending.

WCB BRIEFING SHEET

SUBJECT: IMPROVING COMPETITIVE BROADBAND ACCESS TO MULTIPLE TENANT ENVIRONMENTS (WC DOCKET NO. 17-142, MB DOCKET NO. 17-91)

SUMMARY: On June 22, 2017, the Commission adopted a *Notice of Inquiry* (Notice) that sought comment on ways to facilitate greater consumer choice and enhance broadband deployment in multiple tenant environments (MTEs), while at the same time avoiding introducing regulatory barriers that would undermine these very goals. On July 10, 2019, the Commission adopted a *Declaratory Ruling and Notice of Proposed Rulemaking* (NPRM). The Declaratory Ruling preempted part of an outlier San Francisco ordinance to the extent it requires the sharing of in-use wiring in MTEs. The NPRM sought comment on a variety of issues regarding the provisioning of broadband services within MTEs, including exclusive marketing and wiring arrangements, revenue sharing agreements, and state and local regulations. The NPRM also sought comment on the Commission’s legal authority to address broadband, telecommunications, and video deployment and competition in MTEs.

BACKGROUND AND KEY ISSUES:

- MTEs are commercial or residential premises occupied by multiple entities, such as apartment buildings, shopping malls, condominium buildings, or cooperatives.
- Nearly 30% of the U.S. population lives in condominiums and apartments, and millions more work in office buildings.
- In 2016, the San Francisco Board of Supervisors enacted Article 52 of the San Francisco Police Code, titled “Occupant’s Right to Choose a Communications Provider,” which required in part that building owners permit service providers to “use any existing wiring” owned by the building owner.
- In the Declaratory Ruling, the Commission preempted Article 52 to the extent it required the sharing of in-use wiring in MTEs. The Commission found that required sharing of in-use wiring deters broadband deployment, undercuts the Commission’s rules regarding control of cable wiring in residential MTEs, and threatens the Commission’s framework to protect the technical integrity of cable systems for the benefit of viewers.
- The Declaratory Ruling also clarified that the Commission welcomes state and local experimentation to increase access to MTEs so long as those actions are consistent with federal law and policy.
- The NPRM sought public input on additional actions the Commission could take to accelerate the deployment of next-generation networks and services within MTEs. In particular, the NPRM sought comment on the impact that revenue sharing agreements between building owners and broadband providers, exclusivity agreements regarding rooftop facilities, and exclusive wiring arrangements have on broadband competition and deployment.
- The NPRM also sought comment on the jurisdictional and statutory basis for addressing these various issues.

STATUS: On July 22, 2019, San Francisco filed a petition for review of the Declaratory Ruling with the United States Court of Appeals for the Ninth Circuit. The appeal remains pending. Comments in response to the NPRM were filed August 30, 2019, and reply comments were filed September 30, 2019.

WCB BRIEFING SHEET

**SUBJECT: INCUMBENT LOCAL EXCHANGE CARRIER (LEC) SECTION 214
BANKRUPTCY TRANSACTIONS: WINDSTREAM HOLDINGS, INC. (WC DOCKET
NO. 20-151) AND FRONTIER COMMUNICATIONS CORPORATION (WC DOCKET
NO. 20-197)**

SUMMARY: On June 25, 2020, the Wireline Competition Bureau, International Bureau, and Wireless Telecommunications Bureau (Bureaus) sought comment from interested parties on applications filed by Windstream Holdings, Inc, Debtor-in Possession (Windstream Holdings), its subsidiary, Windstream Services, LLC (Windstream), and post-bankruptcy Windstream Holdings, Inc. (New Windstream) for consent to transfer control of licenses and authorizations held by Windstream and its subsidiaries to effect a transaction under which they will emerge from Chapter 11 bankruptcy protection. The comment period closed on July 16, 2020, and the Bureaus received no comments in opposition to the proposed transaction and granted the applications on August 28, 2020.

On July 23, 2020, the Bureaus sought comment from interested parties on applications filed by Frontier Communications Corporation, Debtor-in-Possession (Frontier) and its wholly-owned operating subsidiaries (Frontier Operating Subsidiaries) to effectuate a pre-arranged Chapter 11 bankruptcy plan of reorganization to transfer control of the authorizations held by the Frontier Operating Subsidiaries from Frontier as debtor-in-possession to a newly formed parent company, Frontier Communications Parent (Reorganized Frontier). Comments and reply comments were due on the Frontier transaction on August 24, 2020 and September 8, 2020. The Bureaus received one comment filed jointly by the Communications Workers of America (CWA) and The Utility Reform Network (TURN). They also received a notification from Team Telecom that it has begun a 120-day initial review to assess whether granting the Frontier applications will pose a risk to national security or law enforcement interests based on the foreign ownership of the applicants, and requesting that the Commission defer action on the applications pending Team Telecom's review.

BACKGROUND AND KEY ISSUES:

Windstream

- Windstream's incumbent LEC subsidiaries serve customers in 18 states. Its competitive LEC subsidiaries serve primarily enterprise and government customers in all 50 states and the District of Columbia.
- The Windstream bankruptcy plan consists of two steps. "Step One" is the subject of the currently filed applications in WC Docket No. 20-151. In Step One, the existing holders of first lien debt of Windstream, as a group, will acquire 100% of the equity of New Windstream. The parties do not anticipate that any entity would obtain either *de jure* or *de facto* control of New Windstream. The following U.S.-based private equity entities will hold a 10% or greater equity or voting interest in New Windstream after the completion of Step One: Nexus Aggregator, L.P. (estimated 49.9% voting and equity interest) and Franklin Resources, Inc. (estimated 16.2% voting and equity interest). Funds controlled by four other investment companies and their subsidiaries, some with foreign ownership, will combined hold an estimated 32.1% of the equity and voting interests of New Windstream following consummation of Step One: Pacific Investment

Management Company, LLC; Oaktree Capital Group; HBK Capital Management; and Brigade Capital Management, LP.

- In Step One, the Windstream parties state that they will emerge with aggregate foreign ownership below the 25% statutory benchmark set forth in section 310(b)(4) of the Act and with no foreign investor holding 10% or more of New Windstream's stock. To achieve the necessary levels of foreign ownership, certain prospective foreign investors would hold upon closing "Special Warrants" entitling them to obtain indirect equity interests in Windstream, but they could not exercise such Special Warrants until the Commission approves a higher level of foreign investment in "Step Two" of the transaction. In Step Two, within 30 days of Windstream's emergence from bankruptcy, the parties would file a Petition for Declaratory Ruling under section 310(b) of the Act requesting Commission approval to permit the exercise of the Special Warrants by foreign entities of indirect interests in New Windstream at levels that would require disclosure or specific approval in some cases, and in the aggregate greater than 25%.

Frontier

- Frontier owns and operates incumbent LECs located in 25 states. Through its interexchange carrier subsidiaries, it also provides intrastate, interstate, and international long distance service on a resale basis in each of the states where Frontier operates as an incumbent LEC. In a separate transaction, on May 1, 2020, Frontier closed the sale of its incumbent LEC operating companies in Idaho, Montana, Oregon, and Washington to Northwest Fiber, LLC.
- The Frontier bankruptcy plan proposes to pay in full all non-funded debt owed to Frontier's employees, contractors, vendors, suppliers, carriers, and other third parties and provides for the conversion of more than \$10 billion of Frontier's unsecured notes into equity in Reorganized Frontier. Upon emergence from Chapter 11, the Senior Noteholders will initially own, in the aggregate, 100% of the new common stock of the Reorganized Frontier, though they do not anticipate that any single Senior Noteholder would hold a 10% or greater direct or indirect interest in Reorganized Frontier. Overall, the Frontier parties estimate that, upon emergence from bankruptcy, approximately 80% of the voting and 78% of the equity interests in Reorganized Frontier will be held directly or indirectly by foreign individuals or entities. They request a declaratory ruling, pursuant to section 310(b)(4) of the Act to permit foreign ownership of the Operating Subsidiaries' proposed, controlling U.S. parent to exceed the 25% benchmark specified in section 310(b)(4).
- In their comments, CWA and TURN assert that Frontier's bankruptcy reorganization plan, approved by the Bankruptcy Court on August 21, 2020, does not contain enough information to determine the impact of the bankruptcy on Frontier's workforce, cash flow, competitiveness, or service quality. The Applicants filed reply comments asserting that Frontier's pre-bankruptcy debt service obligations were unsustainable, and that the proposed restructuring will reduce its debt and allow it to maintain and invest in its business and preserve jobs.

STATUS: On August 28, 2020, the Bureaus granted the Windstream applications, along with a waiver of sections 1.948, 1.5000(a)(1), 63.03, 63.04, 63.18, and 63.24 of the Commission's rules, conditioned upon the filing, no later than 30 days after closing the transaction, of (1) a

petition for declaratory ruling to exceed the aggregate foreign ownership benchmark set forth in section 310(b)(4) of the Act, (2) a supplement providing the ownership and other information required by sections 1.948, 63.03, 63.04, 63.18, and 63.24 of the Commission's transfer of control rules, and (3) any necessary transfer applications. Windstream notified the Commission that it closed the "Step One" transaction and emerged from bankruptcy on September 21, 2020.

The Frontier transaction remains under review.

WCB BRIEFING SHEET

SUBJECT: MODERNIZING UNBUNDLING AND RESALE REQUIREMENTS IN AN ERA OF NEXT-GENERATION NETWORKS AND SERVICES (WC DOCKET NO. 19-308)

SUMMARY: The Commission has repeatedly adjusted the incumbent LEC-specific unbundling and resale requirements in the Telecommunications Act of 1996 (the 1996 Act), to account for changed circumstances. On October 27, 2020, the Commission adopted a Report and Order that ends, subject to reasonable transition periods, unbundling and resale requirements where they stifle technology transitions and broadband deployment. The Report and Order preserves unbundling requirements where they are still necessary to realize the 1996 Act's goal of robust competition benefiting all Americans.

BACKGROUND AND KEY ISSUES: Prior to 1996, incumbent LECs dominated the local service marketplace and held government-sanctioned monopolies in many areas. The 1996 Act changed the focus of telecommunications law and policy from the regulation of monopolies to the encouragement of robust intermodal competition. In the nearly quarter-century since the passage of the 1996 Act, the telecommunications marketplace has transformed to a marketplace characterized by competition and technological innovation. Former monopolist incumbent LECs are now one of many intermodal competitors, facing fierce competition from competitive LECs, cable providers, and wireless providers, among others. On November 22, 2019, the Commission adopted a Notice of Proposed Rulemaking seeking comment on proposals to update the unbundling and avoided-cost resale obligations.

The October 2020 Report and Order eliminated unbundling requirements for:

- Enterprise DS1 and DS3 loops in areas with sufficient evidence of competition, subject to a 42-month transition period for DS1 loops including a 24-month period for new orders, and subject to a 36-month transition period for DS3 loops;
- Broadband-capable DS0 loops and subloops in the most densely populated areas, subject to a 48-month transition period including a 24-month period for new orders;
- Voice-grade narrowband loops, multiunit premises subloops, and network interface devices nationwide, subject to a 36-month transition period; and
- Operations support systems nationwide, except for the purposes of managing other unbundled network elements, number portability, and interconnection.

It also:

- preserved the unbundling requirements for DS0 loops in less densely populated areas and DS1 and DS3 loops in areas without sufficient evidence of competition.
- Eliminated unbundling requirements for dark fiber transport provisioned from wire centers within a half-mile of competitive fiber networks but provided an eight-year transition period for existing circuits so as to avoid stranding investment and deployment by competitive LECs.
- Forbore from the Avoided-Cost Resale obligation where it continues to exist, subject to a three-year transition period.

STATUS: The Report and Order was adopted on October 27, 2020 and will become effective 30 days after publication in the Federal Register.

WCB BRIEFING SHEET

SUBJECT: PROTECTING AGAINST NATIONAL SECURITY THREATS TO THE COMMUNICATIONS SUPPLY CHAIN THROUGH FCC PROGRAMS (WC DOCKET NO. 18-89)

SUMMARY: On November 22, 2019, the Commission adopted the *2019 Supply Chain Order* to protect the nation's communications networks from potential security threats. Consistent with Congressional and Executive Branch actions, the *Order* enacted a rule ensuring that Universal Service Fund (USF) support is not used in a way that undermines or poses a threat to our national security, and initially designated Huawei and ZTE as national security threats. In an attached *Further Notice*, the Commission proposed to require that Eligible Telecommunications Carriers (ETCs) remove Huawei and ZTE equipment and services from their networks and to create a reimbursement program to assist ETCs in doing so.

In March 2020, the President signed into law the Secure and Trusted Communications Networks Act (Secure Networks Act), which directed the Commission to take further actions to protect our networks from security threats. On June 30, 2020, the Public Safety and Homeland Security Bureau (PSHSB) finalized the designations of Huawei and ZTE as national security threats to our communication networks, meaning that as of that date, USF funds may not be used for equipment or services produced or provided by Huawei and ZTE. On July 16, 2020, the Commission adopted a Declaratory Ruling, which found that it has complied with portions of the Secure Networks Act by prohibiting the use of USF for covered equipment and services in the *2019 Supply Chain Order*, accompanied by a Second Further Notice of Proposed Rulemaking (*Second Further Notice*) seeking comment on the implementation of sections 2, 3, 5 and 7 of the Secure Networks Act.

BACKGROUND AND KEY ISSUES:

- Over the last decade, both the Executive Branch and Congress have repeatedly stressed the importance of identifying and eliminating potential security vulnerabilities in communications networks and their supply chains. The National Defense Authorization Acts of 2018 and 2019 explicitly bar federal agencies from using specified equipment or services from Huawei and ZTE.
- *2018 Supply Chain Notice.* In April 2018, the Commission issued a Notice of Proposed Rulemaking seeking comment on three specific actions: (1) how to regulate USF funds from being used to fund equipment or services from companies that pose a national security threat; (2) how to identify those companies that pose a national security threat; and (3) how to enforce this rule.
- *2019 Supply Chain Order.* On November 2019, the Commission adopted a Report and Order, Further Notice of Proposed Rulemaking and Order (*Supply Chain Order*). The *Supply Chain Order* took the following actions:
 - First, the Report and Order determined that no universal service support may be used to purchase, obtain, maintain, improve, modify, or otherwise support any equipment or services produced by a company deemed to pose a national security threat to the integrity of communications networks or the communications supply chain.

- Second, the Report and Order established a process for designating companies as a national security threat. It initially designated Huawei and ZTE as covered companies and directed PSHSB to determine whether to finalize these designations.
- The attached *Further Notice* sought comment on a proposal to require ETCs to remove and replace equipment and services provided by covered companies and to reimburse ETCs for doing so.
- Finally, in the attached Information Collection Order, the Commission required ETCs to report whether they use or own equipment and services from Huawei and ZTE, and if so, the cost to remove and replace such equipment and services.
- On March 12, 2020, the Secure Networks Act was signed into law, which requires the Commission to take further steps to protect the communications supply chain.
- On April 13, 2020, the Wireline Competition Bureau sought comment on section 4 of the Secure Networks Act (*Section 4 Public Notice*), which requires the Commission establish a reimbursement program similar to that proposed in the *Further Notice*.
- On June 30, 2020, PSHSB finally designated Huawei and ZTE as covered companies, meaning that as of that date, no USF funds can be used to support any equipment or services produced or provided by Huawei and ZTE.
- *Supply Chain Declaratory Ruling and Second Further Notice*. In July 2020, the Commission adopted a Declaratory Ruling and Second Further Notice of Rulemaking to integrate the Secure Networks Act into the Supply Chain proceeding.
 - In the Declaratory Ruling, the Commission found that the *2019 Supply Chain Order's* prohibition on the use of USF support for equipment and services produced or provided by covered companies is consistent with and substantially implements the prohibition required by section 3(a) of the Secure Networks Act.
 - The attached *Second Further Notice* proposed and sought comment on publishing a list of covered communications equipment and services under section 2 of the Secure Networks Act, a prohibition on the use of federal subsidies for covered equipment and services as required by section 3 of the Secure Networks Act, and a mandate for providers of advanced communication service to report whether they purchase or obtain covered equipment or services, as required by section 5 of the Secure Networks Act.

STATUS: The comment period for the *Further Notice* closed on March 3, 2020, and the comment period for the *Section 4 Public Notice* closed on June 4, 2020. The comment period for the *Second Further Notice* closed on September 14, 2020. The Secure Networks Act requires that the Commission complete the rulemaking to implement section 4 and publish a list of covered equipment and services within one year of enactment, that is, by March 12, 2021.

Huawei filed a Petition for Review of the *2019 Supply Chain Order* in the Fifth Circuit Court of Appeals on December 5, 2019, which remains pending. On July 30, 2020, Huawei filed an Application for Review of the final designation order. On July 30, 2020, ZTE filed a Petition for Reconsideration of the final designation order. Both remain pending.

WCB BRIEFING SHEET

SUBJECT: RESTORING INTERNET FREEDOM (WC DOCKET NO. 17-108)

SUMMARY: In December 2017, the Commission adopted the *Restoring Internet Freedom Declaratory Ruling, Report and Order, and Order (Restoring Internet Freedom Order)*, which restored the light-touch regulatory framework under which the Internet had grown and thrived for decades by classifying broadband Internet access service as an information service. The Commission adopted a transparency rule and eliminated the conduct rules adopted in the *Title II Order*. The Restoring Internet Freedom Order became effective on June 11, 2018. On October 1, 2019, the D.C. Circuit largely upheld the *Restoring Internet Freedom Order* in *Mozilla Corp. v. FCC*, No. 18-1051. On February 6, 2020, the D.C. Circuit denied petitions for en banc rehearing and panel rehearing of the case.

BACKGROUND AND KEY ISSUES:

- In December 2010, the Commission adopted the *Open Internet Order*, in which the Commission specifically rejected more heavy-handed regulation of broadband Internet access service in favor of newly-claimed regulatory authority under section 706 of the Telecommunications Act to establish no-blocking and no-unreasonable-discrimination rules as well as a transparency requirement.
- In 2014, the D.C. Circuit vacated the no-blocking and no-unreasonable-discrimination rules adopted in the *Open Internet Order* but upheld the transparency rule.
- In February 2015, the Commission adopted the *Title II Order*, reclassifying broadband Internet access services from information services to telecommunications services. The Commission adopted no-blocking, no-throttling, and no-paid-prioritization rules, as well as a general Internet conduct standard and “enhancements” to the transparency rule.
- In 2016, a divided panel of the D.C. Circuit Court of Appeals upheld the *Title II Order* in *United States Telecom Ass’n v. FCC*, with the D.C. Circuit denying petitions for rehearing of the case *en banc* in 2017.
- In May 2017, the Commission adopted the *Restoring Internet Freedom Notice of Proposed Rulemaking*, proposing to return broadband Internet access service to an information service classification.
- In December 2017, the Commission adopted the *Restoring Internet Freedom Declaratory Ruling, Report and Order, and Order (Restoring Internet Freedom Order)*. The *Restoring Internet Freedom Order*:
 - Ended Title II regulation of the Internet and returned broadband Internet access service to its long-standing classification as an information service.
 - Reinstated the determination that mobile broadband Internet access service is not a commercial mobile service and returned it to its original classification as a private mobile service. In doing so, the *Order* returned to the prior definitions of key terms in section 332 of the Communications Act and implementing regulations.

- Found that transparency, ISPs' economic incentives, and antitrust and consumer protection laws will protect the openness of the Internet, and that Title II regulation is unnecessary to do so.
- Adopted a transparency rule similar to that in the *Open Internet Order* requiring disclosure of network management practices, performance characteristics, and commercial terms of service. Additionally, the transparency rule requires ISPs to disclose any blocking, throttling, paid prioritization, or affiliate prioritization. The transparency rule relied on section 257 of the Communications Act for legal authority.
- Eliminated the Internet conduct standard and bright-line conduct rules set forth in the *Title II Order*.
- Found that section 706 of the Telecommunications Act is better interpreted as hortatory, and that other potential sources of legal authority for conduct rules are unsatisfactory or would lead to patchwork regulation of ISPs.
- Conducted a cost-benefit analysis, finding that the costs of maintaining Title II, the Internet conduct rule, and the bright-line conduct Internet rules outweigh the benefits.
- Ended Title II regulation of Internet traffic exchange and restored the FTC's privacy and consumer protection authority over ISPs.
- Preempted state and local regulation of broadband Internet access service that is inconsistent with the federal deregulatory policy returned to in the *Restoring Internet Freedom Order*, while maintaining the states' traditional role in enforcing generally-applicable fraud and commercial laws.
- Denied INCOMPAS's petition, which sought to modify protective orders covering certain transactions reviewed by the Commission to enter the materials covered by the protective orders into the record of this proceeding.
- Denied NHMC's motion, which sought to enter the text of informal consumer complaints made to the Commission into the record of this proceeding.

STATUS: The *Restoring Internet Freedom Order* was adopted on December 14, 2017, released on January 4, 2018, and became effective on June 11, 2018, after OMB approved the modified information collection requirements contained in the transparency rule. On October 1, 2019, the D.C. Circuit issued an opinion largely upholding the *Restoring Internet Freedom Order*. The D.C. Circuit unanimously affirmed the agency's decision to reclassify broadband internet access service as an information service, as well as its decision to reclassify mobile broadband as a private mobile service. The D.C. Circuit remanded three issues that it found the Commission had not adequately explained: (1) the *Order's* implications for public safety; (2) the *Order's* effect on the regulation of pole attachments; and (3) the impact of broadband reclassification on the Lifeline program. Finally, a majority of the three-judge panel vacated the preemption portion of the *Order*. On February 20, 2020, the Wireline Competition Bureau issued a public notice seeking comment on the remanded issues, with comments due on March 30, 2020, and replies due on April 29, 2020. On March 25, 2020, the Wireline Competition Bureau granted a 21-day extension of time for filing comments and reply comments on the Public Notice, in response to a motion to extend those deadlines. On April 20, 2020, the Wireline Competition Bureau denied a request for an additional extension. On October 27, 2020, the Commission adopted an Order on Remand concluding that the *Restoring Internet Freedom Order* promotes public safety,

facilitates broadband infrastructure deployment for Internet service providers, and allows the Commission to continue to provide Lifeline support for broadband Internet access service. The Order on Remand further determined that any potential negative effects the reclassification may have on public safety, pole attachment rights for broadband-only providers, and the Lifeline program are limited and would not alter the Commission's classification decision in the *Restoring Internet Freedom Order* even if such negative effects were substantiated.

WCB BRIEFING SHEET

SUBJECT: RURAL CALL COMPLETION (WC DOCKET NOS. 13-39, 07-135; CC DOCKET NO. 01-92)

SUMMARY: On April 17, 2018, the Commission released a *Second RCC Report and Order and Third Further Notice of Proposed Rulemaking* to reorient the FCC’s rural call completion rules to better reflect strategies that have worked to reduce rural call completion problems while at the same time reducing the overall burdens on covered providers. The *Third RCC Further Notice* proposed and sought comment on rules to implement the recently-enacted Improving Rural Call Quality and Reliability Act of 2017 (RCC Act). On August 15, 2018, the Commission began implementation of the RCC Act with the release of the *Third RCC Report and Order*, which adopted rules to establish a registry for intermediate providers and require intermediate providers to register with the Commission before offering to transmit covered voice communications, as well as further measures to augment and bolster the effectiveness of the Commission’s call completion rules. On March 15, 2019, the Commission released a *Fourth RCC Report and Order*, which concluded its implementation of the RCC Act by establishing service quality standards for intermediate providers, and sunsetting the data recording and retention rules one year after the new service quality standards become effective.

BACKGROUND AND KEY ISSUES:

- Rural call completion problems have typically arisen in rural areas served by rate-of-return carriers where the costs that long-distance providers incur to complete calls are generally higher than in non-rural areas. Long-distance providers often employ one or more intermediate providers (also referred to as “least cost routers”) to carry a long-distance call to its destination. Some of these intermediate providers may be failing to deliver a significant number of calls, and evidence has indicated that the retail long-distance providers were not adequately examining the resulting rural call completion performance.
- In February 2012, the Wireline Competition Bureau issued a Declaratory Ruling clarifying that it is an unjust and unreasonable practice for a carrier that knows or should know that it is providing degraded service to certain areas to fail to correct the problem or to fail to ensure that intermediate providers acting for or employed by the carrier are performing adequately.
- On October 28, 2013, the Commission adopted a Report and Order and Further Notice of Proposed Rulemaking (*2013 RCC Order*) in which it established rules to address rural call completion problems and sought comment on potential additional measures that the Commission could take to address such problems. These rules included data recording, retention, and reporting rules. The rules also prohibit long-distance service providers from prematurely sending audible ringing to the caller before the terminating provider signals it is alerting the called party.
- In addition, the Commission’s Enforcement Bureau has investigated the rural call routing practices and performance of several major long-distance service providers and has entered into six consent decrees addressing rural call completion problems. These consent decrees have resulted in the payment of more than \$46 million in civil penalties, fines, and voluntary contributions, and significant commitments by these providers to take concrete steps to improve service going forward.

- Pursuant to the requirements of the *2013 RCC Order*, the June 22, 2017 WCB Data Report analyzed the data collected and submitted by carriers pursuant to the *2013 RCC Order*, and found that data quality issues impacted the reliability of the data collection and precluded WCB from drawing firm conclusions from the data, and recommended that the Commission “consider eliminating the recording, retention, and reporting rules.”
- The *Second RCC Further Notice* sought comment on adopting new rules and on whether to eliminate, modify, or retain the existing rural call completion recording, retention, and reporting rules.
- On February 26, 2018, the President signed the RCC Act into law. The RCC Act requires the FCC to develop: (1) a publicly available registry of intermediate providers, and (2) service quality standards for the transmission of covered voice communications by intermediate providers. The RCC Act requires the FCC to promulgate rules establishing the registry within 180 days of enactment, and to promulgate rules establishing service quality standards within one year of enactment.
- The *Second RCC Report and Order* required covered providers to monitor the performance of the intermediate providers to which they hand off calls, and based on the result of such monitoring, take steps that are reasonably calculated to correct any identified performance problem with an intermediate provider, including removing the intermediate provider from a particular route after sustained inadequate performance. To facilitate communications about problems that arise, the *Second RCC Report and Order* also required covered providers to make available a point of contact to address rural call completion issues. The *Order* also eliminated the reporting requirement for covered providers established in 2013, concluding that the reporting rules are burdensome on covered providers, while the resulting Form 480 reports are of limited utility to the FCC in discovering the source of rural call completion problems and a pathway to their resolution. In the *Third RCC Further Notice*, the Commission sought comment on how to implement the RCC Act.
- In April 2018, the Wireline Competition Bureau waived the May 1, 2018 reporting deadline.
- On June 11, 2018, NCTA filed a petition for reconsideration of the *Second RCC Report and Order*, requesting that the Commission reevaluate and reconsider its decision to not require covered providers to file their documented rural call completion monitoring procedures with the Commission.
- On June 11, 2018, USTelecom filed a petition for reconsideration of the *Second RCC Report and Order*, requesting that the Commission reconsider the uncodified rules governing the monitoring obligations of non-safe-harbor providers. On the same day, USTelecom also filed a petition for stay of the covered provider monitoring requirements during the pendency of the *RCC Third Further Notice*.
- On August 15, 2018, the Commission released the *Third RCC Report and Order*, which began implementation of the RCC Act by adopting rules to establish a registry for intermediate providers and require intermediate providers to register with the Commission before offering to transmit covered voice communications. The *Third RCC Report and Order* also adopted rules to require covered providers to use only registered intermediate providers to transmit covered voice communications, and to maintain the capability to disclose the identities of any intermediate providers relied on in the call path to the

Commission. The *Order* also denied USTelecom's petition for a stay of the monitoring requirement for covered providers.

- On March 15, 2019, the Commission released the *Fourth RCC Report and Order*, which concluded its implementation of the RCC Act by establishing flexible service quality standards for intermediate providers based on the Commission's rules for covered providers. The *Fourth RCC Report and Order* required intermediate providers to take steps reasonably calculated to ensure that any calls they handle are in fact completed. When routing traffic destined for rural areas, the *Fourth RCC Report and Order* required intermediate providers to actively monitor the performance of any directly contracted downstream intermediate provider and, based on the results of such monitoring, take steps to address any identified performance issues with that provider. Intermediate providers must also ensure that any additional intermediate providers to which they hand off calls are registered with the Commission. Finally, the *Fourth RCC Report and Order* adopted a provision to sunset the data recording and retention rules one year after the new service quality standards become effective and denied Petitions for Reconsideration of aspects of the *Second RCC Report and Order* filed by USTelecom and NTCA.
- On September 14, 2020, the Wireline Competition Bureau released a Report and Request for Comment, which found that the rules the Commission adopted in the *Second RCC Report and Order* have been effective in improving rural call completion and sought comment on that conclusion. The Bureau also sought comment on the effectiveness of the intermediate provider service quality standards adopted in the *Fourth RCC Report and Order*.

STATUS: The *Fourth RCC Report and Order* became effective on July 5, 2019, except for the intermediate provider service quality standards, which became effective on September 15, 2019. The sunset provision for the data recording and retention rules became effective on September 15, 2020.

WCB BRIEFING SHEET

SUBJECT: USTELECOM—THE BROADBAND ASSOCIATION (USTELECOM) FORBEARANCE PETITION (2018) (WC DOCKET NO. 18-141)

SUMMARY: On May 4, 2018, USTelecom filed a forbearance petition requesting that the Commission grant “nationwide forbearance from outmoded regulatory mandates that distort competition and investment decisions.” The petition sought forbearance from application of statutory provisions and regulations that USTelecom characterizes as falling into three categories:

- **Category 1:** Incumbent local exchange carrier (LEC) -specific unbundling and resale mandates in section 251(c)(3) and (4) and associated obligations under sections 251 and 252.
- **Category 2:** Section 272(e)(1)’s RBOC-specific time interval requirements for nondiscriminatory treatment of affiliates and non-affiliates regarding requests for service, and the long-distance separate affiliate requirement for independent incumbent LECs set out in section 64.1903 of the Commission’s rules.
- **Category 3:** Section 271(c)(2)(B)(iii)’s RBOC-specific competitive checklist item regarding access to poles, ducts, conduit, and rights-of-way.

BACKGROUND AND KEY ISSUES: The 2018 forbearance petition followed two Commission orders, adopted in 2013 and 2015, addressing requests for forbearance by USTelecom. The statutory deadline for the petition was originally May 4, 2019, but was extended to August 2, 2019.

STATUS: The Commission adopted three separate orders on the merits of the petition. On April 12, 2019, the Commission adopted a Memorandum Opinion and Order that granted Category 2 and 3 forbearance. On July 12, 2019, the Commission adopted a Memorandum Opinion and Order that granted partial forbearance in response to USTelecom’s Category 1 request related to certain DS1 and DS3 Transport unbundling obligations. On August 2, 2019, the Commission adopted another Memorandum Opinion and Order that granted partial forbearance in response to USTelecom’s Category 1 request related to Analog Loop unbundling obligations and Avoided-Cost Resale obligations. Prior to the August 2, 2019 statutory deadline, USTelecom withdrew all other requests for relief set forth in its petition that were not addressed by these orders. INCOMPAS and the California Public Utilities Commission filed Petitions for Review to the D.C. Circuit of the August 2, 2019 order on August 12, 2019 and October 1, 2019, respectively. USTelecom filed a motion to intervene on behalf of the Commission, which was granted. Briefing is complete, and oral argument was held on September 14, 2020. The deadline for appealing the April and July orders has passed.

WCB BRIEFING SHEET

SUBJECT: 833 TOLL FREE NUMBER AUCTION (WC DOCKET NO. 17-192, CC DOCKET NO. 95-155, AU DOCKET NO. 19-101)

SUMMARY: On September 27, 2018, the Commission issued a Report and Order modernizing toll free number assignments in a manner that is consistent with our statutory mandate, under section 251(e)(1), to make numbers available on an equitable basis. Under a rule that was adopted nearly 20 years ago, numbers were always assigned on a first-come, first-served basis. The Report and Order revised our rules to provide the Commission with flexibility to assign toll free numbers in a manner suited to their specific characteristics, including by auction. The Report and Order further established the auction of “mutually exclusive” numbers—those numbers for which there are two or more requests for assignment—in the recently opened 833 toll free code (the 833 Auction). The 833 Auction occurred on December 17, 2019.

BACKGROUND AND KEY ISSUES:

- The Commission opens new toll free codes when the pool of available toll free numbers is near exhaust. The Wireline Competition Bureau (WCB) has used this near exhaust standard to open the 888, 866, 877, 855, and 844 toll free codes. When a new toll free code opens, Responsible Organizations (RespOrgs) seek to reserve toll free numbers that have a particular interest for a subscriber—economic, commercial, or otherwise.
- With the announced opening of the 833 toll free code on April 27, 2017, WCB directed each RespOrg to submit a single request for up to 2,000 individual preferred 833 toll numbers. WCB then directed Somos, Inc., the Toll Free Numbering Administrator, to review all 833 number requests and identify mutually exclusive numbers.
- Somos identified approximately 17,000 mutually exclusive numbers and placed these numbers in unavailable status pending the outcome of this proceeding. These mutually exclusive numbers include repeaters numbers (e.g., 833-333-333 and 833-888-8888) as well as numbers that spell memorable words and phrases (e.g., 833-DENTIST, 833-DIVORCE, 833-DOCTORS, 833-FLOWERS, 833-HOLIDAY, 833-INJURED, and 833-LAWYERS).
- The remaining 833 toll free numbers were assigned on a first-come, first-served basis when the code was officially opened on June 3, 2017.
- The Report and Order:
 - Expanded the existing first-come, first-served toll free number assignment rule in section 52.111 to allow the Commission to assign toll free numbers by auction, on a first-come, first-served basis, by an alternative assignment methodology, or by a combination of methodologies.
 - Established a single-round, sealed-bid Vickrey auction for the roughly 17,000 mutually exclusive numbers set aside in the 833 toll free code. Under this type of auction, the highest bidder for a toll free number wins and pays the second-highest bid for the number.
 - Established Somos as the auctioneer of the 833 toll free number auction.
 - Required that net proceeds from the 833 toll free number auction offset the costs of toll free number administration for the benefit of all RespOrgs and subscribers.

- Established a process by which certain toll free numbers may be set aside, without cost, from the 833 toll free number auction to promote health, safety, education, and other public interest goals.
- Revised the Commission's existing rules regarding hoarding, warehousing, and brokering of numbers—sections 52.105 and 52.107—to allow for a secondary market for toll free numbers assigned in an auction.
- Made ministerial revisions to other toll free numbering rules to make those rules consistent with other revisions adopted, as well as with current industry terminology and practice.
- The Report and Order was released on September 27, 2018.
- After seeking comment on proposed auction procedures and deadlines, the Commission adopted them on August 2, 2019.
- The application filing window ran from October 7 to 18, 2019, and Somos announced the list of qualified bidders on December 10, 2019.
- Bidding occurred on December 17, 2019, and Somos issued an announcement of the winning bidders on December 20, 2019.
- Assignment of numbers by auction will make toll free numbers available on a more equitable and efficient basis to the parties who value them most. Parties who want particular toll free numbers often will have a better opportunity of acquiring those numbers in an auction than under the Commission's current rule, which does not take into account the need for or the value placed on particular numbers.
- On July 14, 2020, the North American Numbering Council (NANC) approved the Toll Free Assignment Modernization (TFAM) working group's report, *Perspectives on the December 2019 Auction of Numbers in the 833 Numbering Plan Area*.

STATUS: The Commission stated that it would use the 833 Auction as an experiment to determine how best to use an auction mechanism to assign toll free numbers, and consequently directed the Bureau to issue a report after completion of the 833 Auction, outlining the outcomes of the auction and lessons learned. On March 13, 2020, the Bureau invited comments on the 833 Auction. Comments were due April 13, 2020.

WCB BRIEFING SHEET

SUBJECT: ACCESS TO TELEPHONE NUMBER RESOURCES BY NON-CARRIERS (WC DOCKET NOS. 13-97, 10-90, 07-243, 04-36, AND CC DOCKET NOS. 01-92, 99-200, 95-116)

SUMMARY: On April 18, 2013, the Commission released the *Direct Access NPRM, Order and NOI (Direct Access NPRM)*, which, among other things, proposed to allow interconnected VoIP providers to obtain telephone numbers directly from the North American Numbering Plan Administrator (NANPA) and the Pooling Administrator (PA) (collectively, the Numbering Administrators), subject to certain requirements. On December 17, 2013, the Commission concluded a limited, six-month technical trial in which five interconnected VoIP providers were permitted to obtain numbers directly from the Numbering Administrators rather than through intermediaries. Subsequently, on June 22, 2015, the Commission released a *Report and Order* establishing an authorization process to enable interconnected VoIP providers to obtain North American Numbering Plan (NANP) numbers directly from the Numbering Administrators, subject to certain conditions designed to minimize number exhaust and maintain the integrity of the numbering system. The Commission anticipates that allowing interconnected VoIP providers to have direct access to numbers will help speed the delivery of innovative services to consumers and businesses, while preserving the integrity of the network and appropriate oversight of telephone number assignments.

BACKGROUND AND KEY ISSUES:

- Section 52.15(g)(2)(i) of the Commission’s rules limits access to telephone numbers to entities that demonstrate that they are authorized to provide service in the area for which the numbering resources are being requested. The Commission has interpreted this rule as requiring evidence of either state certification or Commission license and has waived section 52.15(g)(2)(i) in only one instance, with periodic renewals. In 2005, the Commission granted SBCIS, an information service provider that lacked state certification as a carrier, a waiver to obtain numbers directly from the Numbering Administrators. The Commission stated in the *SBCIS Waiver Order* that, “[t]o the extent other entities seek similar relief we would grant such relief to an extent comparable to what we set forth in this Order.” Following that order, at least 14 entities filed similar petitions.
- In the *Direct Access NPRM*, the Commission established a limited technical trial of direct access to numbers. Under this trial, the Commission would grant Vonage and other interconnected VoIP providers (those that had pending petitions for waiver of section 52.15(g)(2)(i) and that met the terms and conditions outlined in the *NPRM*) a limited, conditional waiver to obtain a small pool of telephone numbers directly from the Numbering Administrators for use in providing interconnected VoIP services.
- The *Direct Access NPRM* also granted a narrow waiver of section 52.15(g)(2)(i) rules to allow TeleCommunication Systems, Inc. (TCS) direct access to pseudo-Automatic Number Identification (p-ANI) codes for the purpose of providing 911 and Enhanced 911 (E911) service. This limited waiver allowed TCS, which provides VoIP Positioning Center (VPC) service, to better ensure that emergency calls are properly routed to trained responders at public safety answering points. The Commission sought comment on modifying its rules to allow all VPCs to obtain p-ANI codes directly in order to provide 911 and E911 services.

- In the accompanying *NOI*, the Commission sought comment on a range of issues regarding its long-term approach to telephone numbering resources. In particular, the Commission sought comment on the trends and associated Commission policies involving the relationship between numbers and geography – taken for granted when numbers were first assigned to fixed wireline telephones – as consumers turn increasingly to mobile and nomadic services. The pleading cycle for the *Direct Access NPRM and NOI* closed on August 19, 2013.
- On June 17, 2013, the Bureau released an order announcing that the following applicants met the Commission’s requirements to participate in a limited direct access to numbers trial and approved them: Vonage Holdings Corp. (Vonage), SmartEdgeNet, LLC, (SmartEdgeNet), Wiltel Communications, LLC (WilTel or Level 3), IntelPeer, Inc. (IntelPeer) and Millicorp. The Direct Access numbering trial concluded on December 17, 2013.
- On January 31, 2014, the Bureau released a *Report* upon completion of the trial, finding that it was technically feasible for interconnected VoIP providers to obtain telephone numbers directly from the Numbering Administrators.
- On June 18, 2015, the Commission adopted the *Direct Access Report and Order (Report and Order)*, which established an authorization process to allow interconnected VoIP providers to request NANP telephone numbers directly from the Numbering Administrators, rather than through intermediary carriers. The *Report and Order* also placed several conditions on this authorization in order to minimize number exhaust and preserve the integrity of the numbering system, including an acknowledgement that the applicant must file requests for numbers with the relevant state commission(s) at least 30 days before requesting numbers from the Numbering Administrators. The Commission further modified its rules to allow all VPC providers to obtain p-ANI codes directly from the Numbering Administrators for purposes of providing 911 and E911 services. In addition, the Commission required telecommunications carriers and interconnected VoIP providers to port numbers where technically feasible. Finally, the Commission directed the NANC to examine and address any specific considerations for interconnected VoIP provider porting both to and from wireline, wireless, and other interconnected VoIP providers, and to report on these issues to the Commission no later than 180 days after release of the *Report and Order*.
- The final rules adopted in the *Direct Access Report and Order* were approved by the Office of Management and Budget (OMB) on January 5, 2016, and became effective on February 4, 2016, when the announcement of OMB approval was published in the *Federal Register*. On the effective date of the rules, the Bureau released a Public Notice announcing that, on February 18, 2016, the Commission would begin accepting applications from interconnected VoIP providers for authorization to obtain telephone numbers directly from the Numbering Administrators. The Public Notice also provided details with respect to the filing procedures and information that must be included in an applicant’s filing. The Wireline Competition Bureau is overseeing the review of these applications.
- On March 2, 2016, the NANC submitted the report required by the *Direct Access Report and Order* on interconnected VoIP provider porting. The report recommended that the definition of “Class 1: interconnected VoIP provider” be clarified in the textual descriptions of the “Inter-Service Provider Local Number Portability (LNP) Operations Flows” in order to enable wireline, wireless, and other interconnected VoIP providers, to directly port numbers to and from interconnected VoIP providers.

STATUS: On December 23, 2015, the National Association of Regulatory Utility Commissioners (NARUC) appealed the Commission's *Direct Access Report and Order* to the D.C. Circuit. The Commission's brief was filed on May 19, 2016. Oral argument was held on February 8, 2017. On March 24, 2017, the court dismissed the petition because NARUC failed to show that it had standing to challenge the Order. To date, WCB has granted 60 applications from VoIP providers for authorization to obtain telephone numbers directly from the Numbering Administrators.

WCB BRIEFING SHEET

SUBJECT: CALL AUTHENTICATION TRUST ANCHOR (WC DOCKET NO. 17-97)

SUMMARY: As part of its multi-pronged approach to reducing robocalls, and consistent with Congressional direction, the Commission has taken action to ensure the widespread adoption of the Secure Telephony Identity Revisited (STIR)/Secure Handling of Asserted information using toKENs (SHAKEN) caller ID authentication framework. Safeguards against call spoofing practices were not built into the underlying structure of the telephone system. The idea behind the STIR/SHAKEN framework is to make sure that an outgoing telephone call is cryptographically “signed” by the telephone service provider initiating the call. The recipient telephone service provider can essentially check that signature against the number from which the call claims to come. If it matches, the call is verified. The signatures are created with a digital certificate—a unique marker that could only come from the provider who claims to be sending it. Those certificates would be handed out by a Certification Authority—a trusted party that anchors the whole process. In June 2019, the Commission adopted a Notice of Proposed Rulemaking proposing and seeking comment on mandating the adoption of STIR/SHAKEN by all voice service providers. In December 2019, Congress enacted the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence (TRACED) Act, directing the Commission to require providers to implement STIR/SHAKEN, subject to extensions and exemptions for certain categories of providers. In March 2020, the Commission took action both on its June 2019 proposal and in implementation of the TRACED Act and adopted a Report and Order mandating that all voice service providers, subject to extensions and exemptions, implement the STIR/SHAKEN framework by June 30, 2021. At the same time, the Commission adopted a Further Notice of Proposed Rulemaking proposing and seeking comment on extending the STIR/SHAKEN implementation mandate to intermediate providers and implementing other provisions of the TRACED Act regarding caller ID authentication technology. On September 29, 2020, the Commission adopted a Second Report and Order setting forth new rules that make clear the obligations and deadlines for voice service providers regarding caller ID authentication and completes implementation of the caller ID authentication provisions in the TRACED Act.

BACKGROUND AND KEY ISSUES:

- On July 13, 2017, the Commission issued a Notice of Inquiry that sought comment on the governing, technical implementation and operation, and scope and policy effects of a call authentication system.
- On May 3, 2018, a working group of the North American Numbering Council (NANC) issued a report recommending a structure and composition for a governance authority for carriers implementing the STIR/SHAKEN call authentication framework and a process by which that governance authority would select a policy administrator.
- On May 14, 2018, the Chairman accepted recommendations of the NANC working group that the industry quickly establish a governance authority for implementing an authentication framework.
- On September 18, 2018, industry groups created a governance authority called the Secure Telephone Identity Governance Authority (STI-GA). The STI-GA selected iconectiv as policy administrator in May 2019, and the two parties executed a contract in August 2019.

The STI-GA launched the STIR/SHAKEN governance framework in December 2019, allowing voice service providers to register with the policy administrator and start receiving certificates from newly-appointed certificate authorities. As of May 2020, 58 voice service providers have begun registration to participate in STIR/SHAKEN through the governance system, and 22 of these providers have completed registration and been approved.

- Beginning in November 2018, the Commission undertook efforts to encourage implementation of STIR/SHAKEN by voice service providers. The Chairman called on voice service providers voluntarily to deploy the STIR/SHAKEN framework by the end of 2019 and sent letters to 14 major voice service providers to inquire about their progress in meeting the deadline.
- In February 2019, the Chairman again called on voice service providers to deploy the standard voluntarily and convened a summit in July which focused on industry's implementation of the standard. On June 6, 2019, the Commission adopted its *Declaratory Ruling and Third Further Notice of Proposed Rulemaking* in which it proposed and sought comment on mandating implementation of STIR/SHAKEN in the event that major voice service providers did not voluntarily implement the framework by the end of 2019.
- On December 30, 2019, the President signed the TRACED Act into law, directing the Commission to require providers to implement STIR/SHAKEN.
- On March 31, 2020, the Commission adopted its *First Caller ID Authentication Report and Order and Further Notice of Proposed Rulemaking*, building on its aggressive and multi-pronged approach to ending illegal caller ID spoofing. Consistent with the TRACED Act's directive and the Commission's proposal, the *Report and Order* mandated that all voice service providers implement the STIR/SHAKEN caller ID authentication framework in the Internet Protocol (IP) portions of their networks by June 30, 2021. In the *Further Notice* the Commission proposed and sought comment on additional measures to combat illegal spoofing, including further implementation of the TRACED Act.
- On September 29, 2020, the Commission adopted its *Second Report and Order*, which adopted many of the proposals made in the *First Caller ID Authentication Report and Order and Further Notice*. Among other things, the *Second Report and Order* (1) requires voice service providers either to upgrade their non-IP networks to IP and implement STIR/SHAKEN, or work to develop a non-IP solution; (2) establishes extensions of and exemptions from the June 30, 2021, implementation deadline for certain voice service providers; (3) requires voice service providers subject to an extension to implement a robocall mitigation program and file certifications regarding efforts to stem the origination of illegal robocalls on their networks; (4) prohibits line-item charges for caller ID authentication; and (5) requires intermediate providers to implement STIR/SHAKEN on the IP portions of their networks by June 30, 2021.

STATUS: The *Second Report and Order* will become effective 30 days after publication in the Federal Register, except for those provisions containing collections which require Office of Management and Budget (OMB) approval. The Commission will publish documents in the Federal Register announcing the effective dates of these provisions.

Pending OMB approval of the collection, voice service providers must submit voluntary implementation exemption certifications by December 1, 2020. The Commission directed the Wireline Competition Bureau to make exemption determinations by December 30, 2020, as

required by the TRACED Act. The Commission further directed the Bureau to release a Public Notice establishing a database of robocall mitigation certifications no earlier than March 30, 2021. All voice service providers and intermediate providers not subject to an extension or exemption must implement STIR/SHAKEN on their entire voice networks no later than June 30, 2021.

WCB BRIEFING SHEET

SUBJECT: ICONECTIV PETITION FOR COMPETITIVE PROCUREMENT OF THE TOLL-FREE NUMBERING ADMINISTRATOR (WC DOCKET NOS. 20-174, 17-192, CC DOCKET NO. 95-155)

SUMMARY: On June 11, 2020, iconectiv, LLC filed a petition with the Commission, seeking competitive procurement of the Toll Free Numbering Administrator role. On June 29, 2020, the Commission released a Public Notice seeking comment on iconectiv's petition.

BACKGROUND AND KEY ISSUES:

- AT&T introduced toll free calling in the 1960s, with the Bell Operating Companies overseeing administration of toll free numbers, including creation and implementation of the original 800 toll free number code.
- Since 1993, the Commission has used a tariff-based process for the Toll Free Numbering Administrator and the administration of the Toll Free Number Database.
- In 2008, the SMS Management Team created the nonprofit membership corporation, SMS/800, Inc., to manage the Database. At the time, membership of the SMS/800, Inc., consisted of the three remaining Bell Operating Companies.
- In 2013, the Commission approved the SMS/800, Inc.'s request to expand its membership. The SMS/800, Inc. assumed tariffing authority and responsibility for the Database. The SMS/800, Inc. changed its name to Somos, Inc. in 2015.
- iconectiv's petition requests that the Commission implement a competitive procurement process to select the Toll Free Numbering Administrator.

STATUS: Comments on iconectiv's petition were due July 29, 2020, and reply comments were due August 13, 2020.

WCB BRIEFING SHEET

SUBJECT: 988 CODE FOR THE NATIONAL SUICIDE PREVENTION LIFELINE (WC DOCKET NO. 18-336, CC DOCKET NO. 92-105)

SUMMARY: On August 14, 2018, Congress passed the National Suicide Hotline Improvement Act (Act). The purpose of the Act is to study and report on the feasibility of designating a three-digit dialing code to be used for a national suicide prevention and mental health crisis hotline system by considering each of the current N11 designations. On August 14, 2019, the Wireline Competition Bureau and Office of Economics and Analytics submitted its report to Congress recommending 988 as the 3-digit dialing code. On December 12, 2019, the Commission released a Notice of Proposed Rulemaking (NPRM) proposing to use 988 as the 3-digit dialing code. On July 16, 2020, the Commission adopted a Report and Order (Order) designating 988 as the 3-digit dialing code and set July 16, 2022 as the deadline for implementation.

BACKGROUND AND KEY ISSUES:

- The Act directed the Commission to: (1) conduct a study that examines the feasibility of designating a simple, easy-to-remember, 3-digit dialing code to be used for a national suicide prevention and mental health crisis hotline system; and (2) analyze how well the current National Suicide Prevention Lifeline is working to address the needs of veterans.
- The Act also directed the Commission to coordinate with the Department of Health and Human Services' Substance Abuse and Mental Health Services Administration (SAMHSA), the Secretary of Veterans Affairs, and the North American Numbering Council (NANC) in conducting the study, and to produce a report on the study by August 14, 2019.
- The Wireline Competition Bureau and Office of Economics and Analytics Report to Congress recommended that: (1) a 3-digit dialing code be used for a national suicide prevention and mental health crisis hotline system; and (2) the Commission should initiate a rulemaking proceeding to consider designating 988 as the 3-digit code.
- On December 12, 2019, the Commission released a NPRM proposing to designate 988 as a new, nationwide, 3-digit dialing code for a suicide prevention and mental health crisis hotline. The NPRM proposes that calls made to 988 be directed to the existing National Suicide Prevention Lifeline, which is made up of an expansive network of over 170 state and locally funded crisis centers located across the United States, and to the Veterans Crisis Line. The NPRM also proposes to require all telecommunications carriers and interconnected VoIP service providers to make, within 18 months, any changes necessary to ensure that users can dial 988 to reach the National Suicide Prevention Lifeline and Veterans Crisis Line.

STATUS: On July 16, 2020, the Commission adopted an Order designating 988 as the 3-digit number to reach the Lifeline and Veterans Crisis Line (800-273-TALK or 800-273-8255), and requiring all telecommunications carriers, interconnected voice over Internet Protocol (VoIP) providers, and one-way VoIP providers to make any network changes necessary to ensure that users can dial 988 to reach the Lifeline by July 16, 2022.

WCB BRIEFING SHEET

SUBJECT: NATIONWIDE NUMBER PORTABILITY (WC DOCKET NOS. 17-244, 13-97)

SUMMARY: On October 24, 2017, the Commission adopted a Notice of Inquiry (NOI) and Notice of Proposed Rulemaking (NPRM) that would refresh the record on Nationwide Number Portability (NNP) and eliminate two provisions of the Commission's rules that could act as potential barriers for NNP. On July 13, 2018, the Commission issued a *Report and Order* forbearing from the interexchange dialing parity requirements for competitive local exchange carriers (LECs) and easing the requirement that the second-to-last carrier handling a call request query the local number portability database, allowing any carriers earlier in the chain to make the query if they so choose.

BACKGROUND AND KEY ISSUES:

- On July 27, 2015, in response to a Congressional letter regarding nationwide wireless-to-wireless number portability, the then FCC Chairman sent letters to members of the wireless industry calling on them to identify practical solutions for making nationwide wireless porting a practical reality. On September 25, 2015, CCA and CTIA responded, suggesting that the North American Numbering Council (NANC) and the Alliance for Telecommunications Industry Solutions (ATIS) should evaluate and recommend actions to enable NNP through modifications to the location routing number (LRN) system used to route wireless- and wireline-originated calls to ported numbers.
- On November 16, 2015, as suggested by CCA and CTIA, the Commission directed the NANC to study regulatory and consumer issues associated with allowing a wireless telephone number to be associated with any LRN and report its findings back to the Commission by May 19, 2016.
- On May 16, 2016, the NANC submitted its report on NNP, recommending further inquiry into the applicability and assessment of tolls, tariffs, and taxes; the role of state regulatory commissions in implementing NNP; the costs, including cost recovery mechanisms, for implementing NNP; the conforming edits to relevant federal rules needed to implement NNP; and the need for LRNs once VoIP interconnection is fully implemented. Among other things, the NANC reported that implementing NNP will likely require the industry to incur significant costs to implement and maintain systems, ultimately requiring consumers to incur service price increases, and that deploying NNP before the IP Transition is completed could result in unnecessary and duplicative costs. Thus, the NANC said that timing of NNP should coincide with implementation of the all-IP network.
- On June 20, 2016, ATIS issued a technical report on NNP, outlining existing LNP systems and describing five possible approaches for achieving NNP. The five approaches were: (1) commercial agreements, (2) national LRN implementation, (3) location portability per a new standard (GR-2982-CORE) proposed by iconectiv, (4) non-geographic LRNs, and (5) internet interconnection.
- On October 24, 2017, the Commission adopted the NOI/NPRM on NNP. The NOI sought comment on four of the five possible NNP solutions discussed by ATIS and the NANC. (The NANC indicated insufficient development of the internet interconnection solution to allow

detailed discussion.) The associated NPRM proposed eliminating the N-1 query requirement and interexchange dialing parity requirements for competitive LECs.

- The July 13, 2018 Report and Order expanded the scope of the forbearance issued in the *2015 USTelecom Forbearance Order*. While that earlier order forbore from applying the dialing parity requirements of the Act to incumbent LECs, the requirements remained in place for competitive LECs, and also for a limited number of customers who were still presubscribed to stand-alone long-distance plans. The 2018 Order removed that disparity by applying the forbearance to these formerly excluded categories.
- The July 13, 2018 Report and Order also amended Commission's rules to allow upstream carriers to perform number portability database queries but require the N-1 carriers to perform the queries if the upstream carriers have not.

STATUS: The NNP Working Group of the North American Numbering Council (NANC) was tasked with identifying the best means of implementing NNP, detailing the various costs, benefits, barriers, and other consequences, as well as recommending next steps to advancing NNP. On June 7, 2018, the NANC approved the NNP Working Group's report, which was unable to make a conclusive recommendation on any one model for NNP. The report did, however, eliminate one possible model and recommended a number of avenues for further analysis that would be necessary to evaluate the remaining possibilities. On July 3, 2018, the Commission requested the NANC to provide further analysis on long-term NNP solutions. On May 8, 2019, the NANC approved the second NNP Working Group report, which analyzed the technical requirements for two possibilities to implement NNP: national LRN and Internet Protocol LRN. The report recommended further study of the impacts on interconnection, compensation, tariffs, and access charges for the two possibilities and included a minority opinion recommending that the Commission concentrate its efforts solely on the national LRN approach. The amended rules from the July 13, 2018 Report and Order became effective on August 20, 2018. On December 16, 2019, the Wireline Competition Bureau directed the NNP Working Group to transmit a report to the NANC by July 28, 2020 regarding how the Internet Protocol LRN solutions might be implemented. The NNP Working Group's report was approved by the NANC on July 28, 2020 and transmitted to the Commission on July 29, 2020.

WCB BRIEFING SHEET

SUBJECT: TEXT-ENABLED TOLL FREE NUMBERS (WC DOCKET NO. 18-28, CC DOCKET NO. 95-155)

SUMMARY: On October 28, 2016, Somos, Inc. filed a petition for a declaratory ruling asking (1) the Commission to state “that a provider may not text-enable a Toll-Free number without seeking authorization from the Responsible Organization [RespOrg] with assignment and routing authority for that Toll-Free number,” and (2) that the Commission “require any text-enabled Toll-Free numbers be registered with the Toll-Free Number Administrator’s TSS Registry [i.e., its toll-free texting registry].” WCB issued a Public Notice on November 4, 2016. The Commission issued a Declaratory Ruling and Notice of Proposed Rulemaking (NPRM) on June 12, 2018.

BACKGROUND AND KEY ISSUES:

- As modern communications move from voice to text messaging, toll free numbers have become a vehicle for businesses to receive and send text messages to customers.
- Somos, Inc. is the Toll Free Numbering Administrator (TFNA) responsible for managing the toll free numbering database. The TFNA files a tariff with the Commission that includes rates, term and conditions of service.
- Somos argued that with the technical capability to text-enable toll free numbers comes potential abuse such as spoofing and fraud. Therefore, Somos argued the Commission should declare that a provider may text-enable a toll free number if it has obtained appropriate authorization from the RespOrgs, which are companies that have access to the toll free numbering database and perform number management functions for toll free customers.
- Moreover, Somos argued that to ensure both that text messaging providers are held accountable and that the routing of text-messaging traffic to toll free numbers is subject to competition, the Commission should require that any text-enabled toll free number be registered with the TFNA’s TSS Registry.
- The Commission issued a Declaratory Ruling and NPRM on its own motion.
- The Declaratory Ruling clarified that a messaging provider must obtain a toll free subscriber’s authorization before text-enabling a toll free number and accordingly may not text enable an unassigned toll free number. It also clarified that a messaging provider must disable toll free texting should a toll free subscriber revoke its authorization.
- The NPRM seeks comment on how a toll free subscriber should make clear its authorization to text-enable a toll free number. The NPRM proposes to require a toll free subscriber to inform its RespOrg of that authorization and for the RespOrg to update the appropriate records in the toll free SMS Database. The NPRM also seeks comment on what other information, if any, needs to be captured and centrally managed to protect the integrity of the toll free numbering system, and whether such information should be captured in the SMS Database or some other toll free registry.

STATUS: The Commission released the Declaratory Ruling and NPRM on June 12, 2018. The pleading cycle for the NPRM closed on September 7, 2018.

**WIRELESS TELECOMMUNICATIONS BUREAU
BRIEFING SHEETS
October 2020**

Table of Contents

SUBJECT	PAGE #
2.5 GHz Band	1
3.5 GHz Band	4
3.1-3.55 GHz Band	6
Expanding Flexible Use of the 3.7-4.2 GHz Band	7
4.9 GHz Band	10
70/80/90 GHz Band	11
700 MHz Construction Requirements	12
900 MHz Realignment	16
1675-1680 MHz Reallocation	18
Advanced Wireless Services	19
Alaska Plan	21
Amateur Radio Service	23
Automatic Data Roaming Obligations of Mobile Services Providers	24
Aviation Radio Service	26
Contraband Phones in Prisons	28
Hearing Aid Compatibility	33
Incentive Auction and Post-Auction Transition	34
Low-Band Spectrum (T Band)	40
Maritime Radio Service	42
Mobile Data Services Onboard Aircraft	43
Mobile Device Security Project	45
Multilateration – Location and Monitoring Service (M-LMS) Rulemaking	46
MVDDS 5G Coalition Petition for Rulemaking	49
OTARD	51
P&D NPRM	52
Positive Train Control	53
Private Land Mobile Radio Service	55
Restoring Internet Freedom	56
Signal Boosters	57
SNR/Northstar (DISH) Remand	59
Spectrum Frontiers	62
Spectrum Holdings Policies	66
Spectrum Licensing	69
Unmanned Aircraft Systems	72
Wireless Backhaul	76
Wireless Infrastructure	78
Wireless Radio Services Reform - License Renewal	81
Wireless Text Messaging	83

WIRELESS BRIEFING SHEET

SUBJECT: 2.5 GHz Band (WT Docket No. 18-120)

SUMMARY:

Beginning in 2004, the Commission, through a series of rulemaking orders, transformed the rules applicable to the two services in the 2495-2690 MHz (2.5 GHz) Band, the Educational Broadband Service (EBS) and the Broadband Radio Service (BRS). Although these changes made most of the 2.5 GHz band usable for wireless broadband, the Commission permitted a segment of the band to be used for legacy educational video operations and retained the eligibility, leasing, and educational use restrictions on the EBS portion of the band. Then in 2019, the Commission significantly changed EBS by adopting rules that permit existing EBS licensees to transfer or assign their licenses to commercial entities, though licensees are permitted to retain their licenses if they choose to do so. The Commission also adopted rules that will enable new entrants in the band, by opening a Tribal priority filing window for eligible Tribes and then by making available the remaining white space through competitive bidding. The rules adopted in 2019 went into effect on April 27, 2020, or 6 months after they were published in the Federal Register. BRS and EBS licensees are subject to the same rules, though their respective license areas differ. BRS is licensed on a BTA-basis and EBS is licensed on a county-basis, except for incumbent licenses and qualified tribal areas.

BACKGROUND:

- **EBS (formerly ITFS).** The EBS portion of the 2.5 GHz band (channel groups A, B, C, D, and G) consists of 112.5 megahertz of spectrum. Prior to April 27, 2020, EBS licenses were available only to accredited educational institutions or non-profit organizations whose purposes are educational and EBS channels were required to be used to transmit formal educational programming to students. Moreover, these rules restricted transfer or assignment of EBS licenses to other educational institutions that qualify under the Commission's rules. Although the rules did not permit EBS licensees to transfer or assign their licenses to any entity other than a qualified educational institution, they permitted licensees to lease as much as 95% of their "excess" capacity to commercial entities. Most EBS licensees did so by entering into long-term de facto leases, primarily with Sprint. Many, if not most of these leases contained a right of first refusal clause or an option to buy the license if the Commission eliminated the EBS eligibility rules. EBS licensees used the revenue from these leases to support their educational mission.
 - The EBS portion of the 2.5 GHz band is not licensed in approximately one-half of the geographic area of the United States, generally in areas west of the Mississippi River, affecting 15 percent of the population.
 - Although the Commission has granted a limited number of EBS applications since 2005 through a waiver of the EBS filing freeze, access to EBS spectrum has been strictly limited since 1995. Licensees were subject to a regulatory regime largely left over from the days when educational TV was the only use envisioned for this spectrum.

- **BRS.** The BRS portion of the band (channel groups E, F, and H and BRS1 and BRS2), has open eligibility and consists of 73.5 megahertz of spectrum.
 - T-Mobile, the major licensee of BRS spectrum and the largest lessee of EBS spectrum, acquired 2.5 GHz spectrum as part of the Sprint merger. T-Mobile is planning to use the 2.5 GHz band as part of its 5G rollout. Sprint had covered approximately 250 million people with 2.5 GHz LTE.
 - In 2009, the Commission sold 61 BRS Basic Trading Area (BTA) licenses by competitive bidding. The Commission has 18 BTA licenses in its inventory.
- On July 11, 2019, the Commission released the *2.5 GHz Report and Order* that allows more efficient and effective use of this spectrum band by providing greater flexibility to current EBS licensees as well as providing new opportunities for additional entities to obtain unused 2.5 GHz spectrum, which facilitates improved access to next generation wireless broadband, including 5G.

What the R&O did:

- Modernized and rationalized EBS spectrum to allow more flexible use.
 - Eliminated the eligibility requirements, the current restrictions on lease terms, and the educational use requirements.
- Established a Tribal priority filing window to allow eligible tribes to apply for available EBS spectrum. To be eligible, applicants must:
 - Be a federally recognized American Indian tribe or Alaska Native Village or an entity that is owned and controlled by a federally recognized Tribe or a consortium of federally recognized Tribes;
 - request a license on Tribal land, which includes federally recognized reservations, pueblos, or colonies, including former reservations in Oklahoma, Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) and Indian Allotments, see §54.400(e), as well as Hawaiian Home Lands, so long as such Tribal land is rural, *i.e.* not part of an urbanized area or urban cluster area with a population equal to or greater than 50,000; and
 - have a local presence on the Tribal land for which they are applying.
- Made any spectrum remaining after licenses are issued pursuant to the Tribal priority window available for commercial use through competitive bidding.
 - The Commission will auction overlay licenses on a county basis.
 - The Commission will license available EBS spectrum in three blocks:
 - (1) 2502-2551.5 MHz — (channels A1-A3, B1-B3, and C1-C3);

- (2) 2551.5-2602 MHz — (channels D1-D3, JA1-JA3, JB1-JB3, JC1-JC3, JD1-JD3, A4, B4, C4, D4, and G4); and
- (3) 2673.5-2690 MHz — (channels G1-G3 and KG1-KG3).

STATUS:

- The Tribal Priority window opened on February 3, 2020 and closed at 6 pm EDT on September 2, 2020 (DA 20-819). The FCC received more than 400 applications from Tribal entities throughout the country.
- 157 of these applications were accepted for filing on September 15, 2020. The period for petitions to deny ended October 15, 2020; no petitions to deny were filed. On October 23, 2020, the Commission issued a press release announcing that 154 of these applications have been granted..
- FCC staff review of the remaining applications is ongoing.
- On October 16, 2020, the Chairman's office circulated for consideration by the Commissioners an order addressing pending petitions for reconsideration of the *2.5 GHz Report and Order* filed by the National Congress of American Indians and a coalition of educational entities, led by the Schools, Health & Libraries Broadband Coalition.

WIRELESS BRIEFING SHEET

SUBJECT: 3550-3700 MHz (3.5 GHz band) (GN Docket Nos. 17-258; 15-319; 12-354)

BACKGROUND: The Commission adopted rules for commercial use of 150 megahertz in the 3.5 GHz Band in its *2015 Report and Order* (GN Docket No. 12-354). It created a three-tiered framework to coordinate shared federal and non-federal use of the band. Incumbents (including federal radiolocation users, Fixed Satellite Service (FSS) earth stations, and, for a finite period, certain grandfathered terrestrial wireless licensees in the 3650-3700 MHz band) comprise the highest tier and receive protection from all other users, followed by Priority Access Licenses (PALs), the second tier, and General Authorized Access (GAA), the third tier. PALs receive protection from GAA operations and must accept interference from incumbent tier users. GAA is licensed-by-rule and must accept interference from all other users (including other GAA users). Automated frequency coordinators, known as Spectrum Access Systems (SASs) Administrators, will coordinate operations between and among users in different access tiers. Environmental Sensing Capability (ESC) operators will manage a sensor system designed to detect the presence of federal incumbent radar transmissions and communicate that information to one or more SAS. The service and technical rules governing the 3.5 GHz Band were adopted as the new Part 96 of the Commission's rules.

While the Commission adopted a complete set of rules and policies for the 3.5 GHz band in the *2015 Report and Order*, it also determined that a few focused issues required further record development, and released a *Further Notice of Proposed Rulemaking*. The Commission resolved these issues in its *2016 Report and Order*. The Commission also addressed multiple petitions for reconsideration of the *2015 Report and Order* in a simultaneously released an *Order on Reconsideration*, which primarily upheld the framework established in 2015 but made some technical changes, including increased power limits for certain devices and the method for measuring power.

In October 2017, the Commission adopted and released a Notice of Proposed Rulemaking (*Notice*) and Termination Order (*Order*). The *Notice* sought comment on several changes to PALs. The *Order* denied T-Mobile's requests to revisit the base station power limits and the band plan adopted in the Commission's 2015 and 2016 orders (*i.e.*, the apportionment of PAL and GAA spectrum). The *Order* also terminated the rulemaking dockets that the Commission opened to address the CTIA and T-Mobile June 2017 petitions for rulemaking, as well as the docket used in the 3.5 GHz rulemaking initiated in 2012.

On October 23, 2018, the Commission adopted a *Report and Order* making targeted changes to PALs to help promote investment in next-generation wireless services, including 5G. Specifically, the Commission adopted rules (1) increasing the size of the PAL geographic license area to counties; (2) extending the PAL license term to 10 year and allowing license renewal; (3) requiring Priority Access Licensees to meet end-of-term performance requirements; (4) eliminating the "N-1" approach for offering PALs at auction; (5) allowing bidding credits for small and rural entities; and (6) allowing PALs to be partitioned and disaggregated on the secondary market. The *Report and Order* also safeguarded sensitive device registration information and ensured that the emissions mask for End User Devices supports operations over wider bandwidths.

Bureau-Level Releases: WTB/OET have released multiple public notices addressing the following issues: (1) criteria for determining the protection contours for grandfathered 3650-3700 MHz band wireless broadband licensees and describing the process for licensees to submit such contours to the Commission; (2) conditional approval of “first wave” SAS Administrator applications; (3) a “second wave” filing deadline for additional SAS and ESC proposals; (4) procedures for registration of FSS earth stations entitled to protection; (5) conditional approval of four ESC operators; (6) proposals for short-term, limited geographic commercial deployments (Initial Commercial Deployment or ICD) by conditionally approved SASs; (7) ECS sensor registrations and procedures; (8) approval of the ESC sensor deployment and coverage plans (ESC sensor registrations) for three ESC operators; (9) approval of six SAS administrators to begin ICD; and (10) certification of five SAS administrators to begin full commercial deployment.

In March 2020, WTB adopted an order extending the deadline for 3650-3700 MHz band licensees to transition their part 90 operations to part 96 until October 17, 2020. In October 2020, WTB adopted an order further extended this deadline for certain licensees to either December 16, 2020, or February 14, 2021.

WTB/OET also adopted an order granting waiver of several Part 96 rules to permit SASs to implement a protection methodology developed by NTIA that is based on Dynamic Protection Areas.

SAS/ESC Certification. In July 2019, the Commission approved the ESC sensor registrations of three ESC operators. In January 2020, the Commission certified four SAS administrators to begin full commercial deployment. The Commission also has certified equipment for use in the 3.5 GHz band. In April 2020, WTB and OET approved another SAS administrator to begin full commercial deployment and approved Federated Wireless to operate as a SAS Administrator in the 3650-3700 MHz band in American Samoa. In July 2020, WTB and OET approved the final “first wave” SAS to begin ICD.

STATUS: In February 2020, the Commission adopted a Public Notice that established application and bidding procedures for the auction of Priority Access Licenses (PALs) in the Citizens Broadband Radio Service in the 3550-3650 MHz portion of the 3.5 GHz band. In March 2020, the Commission announced the postponement of certain dates and deadlines for participation in the auction so that parties have additional time to prepare to participate in the auction given the COVID-19 pandemic. Bidding in this auction commenced on July 23, 2020, and concluded August 25, 2020. Auction 105 raised a total of \$4,543,232,339 in net bids (\$4,585,663,345 in gross bids), with 228 bidders winning a total of 20,625 licenses. On September 17, 2020, winning bidders made down payments and filed FCC Forms 601 and 602 long-form applications. On October 1, 2020, winning bidders remitted final payments. FCC staff are reviewing the winning bidders’ FCC Forms 601 and 602 long-form applications to determine eligibility for license grant and any claimed bidding credit.

WIRELESS BRIEFING SHEET

SUBJECT: 3.1-3.55 GHz Band (WT Docket No. 19-348)

SUMMARY: On September 30, 2020, the Commission adopted a Report and Order (*R&O*) and Further Notice of Proposed Rulemaking (*FNPRM*) moving forward with its plans to prepare a portion of the 3.1-3.55 GHz band for commercial wireless use, including 5G. The *R&O* adopts the Commission's proposal to remove the existing non-federal, secondary radiolocation and amateur allocations in the 3.3-3.55 GHz band and to relocate these non-federal operations out of the band. The *FNPRM* seeks comment on follow-up issues related to this clearing, as well as on reallocating the band for co-primary fixed and mobile (except aeronautical mobile) use and on the technical, licensing, and competitive bidding rules for such use. The *FNPRM* also seeks comment on coordination mechanisms to ensure commercial users and incumbent federal operations are able to share the band.

BACKGROUND: The MOBILE NOW Act, passed by Congress in 2018, requires the Commission and the Department of Commerce to make available new spectrum for mobile and fixed wireless broadband use, and further requires the Commission to work with the National Telecommunications and Information Administration (NTIA) to evaluate whether commercial wireless services and federal incumbents could share use of mid-band spectrum between 3.1 and 3.55 GHz.

In July 2020, the NTIA released its report addressing the 3.1-3.55 GHz band, making two principal conclusions. First, NTIA concluded that the 3450-3550 MHz portion of the band is a good candidate for potential spectrum sharing, including at the commercial system power levels sought by the wireless industry. Second, regarding the remainder of the band, NTIA concluded that additional analysis of the entire band should be conducted to assess the various sharing mechanisms and the potential for relocating incumbents from some portion of the remainder of the band for commercial use. The report noted that there are both classified and unclassified federal operations below 3450 MHz, which could be problematic for sharing with a commercial wireless system, and that this portion of the frequency range may become even more congested if some federal operations are shifted down from above 3450 MHz to accommodate sharing at 3450-3550 MHz.

Alongside NTIA's efforts, the Commission worked with the White House and Department of Defense as part of the America's Mid-Band Initiative Team (AMBIT) to begin the process of establishing coordination procedures and clearing to prepare the band for auction and commercial use by the end of 2021.

STATUS: Comments on the *FNPRM* are due by November 20, 2020 and reply comments are due by December 7, 2020.

WIRELESS BRIEFING SHEET

SUBJECT: Expanding Flexible Use of the 3.7-4.2 GHz Band (GN Docket No.18-122)

BACKGROUND:

Notice of Inquiry and NPRM: On August 3, 2017, the Commission released a Notice of Inquiry (NOI) that sought to evaluate whether spectrum between 3.7 GHz and 24 GHz can be made available for wireless broadband. Specifically, the NOI sought comment on three mid-range bands for expanded flexible use (3.7-4.2 GHz, 5.925-6.425 GHz, and 6.425-7.125 GHz), and it asked commenters to identify other non-federal, mid-range frequencies that may be suitable for expanded flexible use. On July 13, 2018, the Commission released an Order and Notice of Proposed Rulemaking (NPRM) to identify new opportunities for flexible use in up to 500 megahertz of mid-band spectrum between 3.7 and 4.2 GHz. The NPRM proposed to add a mobile (except aeronautical mobile) allocation to all 500 megahertz in the band and sought comment on various proposals for transitioning part or all of the band for flexible use, including market-based, auction, and alternative mechanisms. The Order required FSS earth station operators in the 3.7-4.2 GHz band to certify the accuracy of their existing registration and license information. In addition, the Order required space station and temporary fixed/transportable earth-station operators in the band to provide additional information regarding their current use of the band.

Freeze on Applications in the 3.7-4.2 GHz band: On April 19, 2018, IB, PSHSB, and WTB (Bureaus) issued a Public Notice (DA 18-398) announcing a temporary freeze on the filing of new or modification applications for fixed-satellite service (FSS) earth station licenses, receive-only earth station registrations, and fixed microwave licenses in the 3.7-4.2 GHz band in order to preserve the existing landscape of authorized operations in the band. As a limited exception to the freeze, IB concurrently opened a 90-day window during which entities that own or operate existing FSS earth stations in the 3.7-4.2 GHz band could file an application to register or license the earth station if it was currently not registered or licensed or could file an application to modify a current registration or license, in the International Bureau Filing System (IBFS). On June 21, 2018, IB announced a temporary filing freeze on new fixed-satellite service space station applications in the 3.7-4.2 GHz band. On the same day, IB announced a 90-day extension of the filing window to October 17, 2018 (later extended to October 31, 2018, due to IBFS technical issues).

Report and Order and Order of Proposed Modification: On February 28, 2020, the Commission adopted a Report and Order and Order of Proposed Modification to add a mobile, except aeronautical mobile, allocation to the 3.7-4.0 GHz band. The Commission also adopted a process to transition a 280-megahertz block of C-band spectrum, plus a 20-megahertz guard band, from incumbent use to new flexible-use no later than December 5, 2025 in the contiguous United States. The item makes accelerated relocation payments of up to \$9.7 billion, paid by flexible-use licensees, available to space station operators serving earth stations in the contiguous United States that commit to accelerate the transition from FSS to flexible-use. Specifically, Eligible space station operators will have the option to clear according to the following accelerated clearing timeline: (1) clearing 120 megahertz (3.7-3.82 GHz) by December 5, 2021, and (2) clearing the remaining 180 megahertz (3.82-4.0 GHz) by December 5, 2023.

The Report and Order provides both incumbent FSS and FS licensees, as well as incumbent earth station operators, with reimbursement of reasonable relocation costs paid by flexible-use licensees as a condition on their license.

The item creates a Relocation Payment Clearinghouse to manage the intake, payout, and auditing of relocation funds, serve in an administrative role to mediate disputes related to such costs, and provide progress reports to the Commission. The Report and Order also establishes a Relocation Coordinator to establish a timeline and take actions necessary to migrate and filter incumbent earth stations to ensure continued, uninterrupted service during and following the transition. The Relocation Coordinator will be required to review the Transition Plans filed by all eligible space station operators and recommend any changes to those plans to the Commission to the extent needed to ensure a timely transition.

The item requires incumbent FS licensees to relocate their point-to-point links to other bands, by December 5, 2023. Finally, the item adopts service and technical rules for flexible-use licensees in the 280 megahertz of spectrum designated for transition to flexible-use.

Pursuant to the Report and Order, the Commission will no longer accept applications or registrations for new FSS earth stations or space stations in the 3.7-4.0 GHz band in the contiguous United States. The order permits registered incumbent earth stations that are transitioned to the 4.0-4.2 GHz band to be renewed and/or modified to maintain their operations in the 4.0-4.2 GHz band, but it prohibits new applications for earth stations or space stations in the 4.0-4.2 GHz band until the transition is complete.

The item lifts the application and registration freeze for earth stations operating outside of CONUS, effective upon publication of the Report and Order in the Federal Register. The Order also prohibits new applications for point-to-point Fixed Service applications in the 3.7-4.2 GHz band within the contiguous United States, and it lifts the freeze for these services outside of the contiguous United States upon publication of the Report and Order in the Federal Register.

The Order of Proposed Modification would: (1) limit the operations of all 3.7-4.2 GHz band FSS licensees and market access holders held within the contiguous United States to the 4.0-4.2 GHz band no later than December 5, 2025, and (2) sunset the operations of 3.7-4.2 GHz FS licensees in the 3.7-4.2 GHz band within the contiguous United States by December 5, 2023.

Implementation. On June 1, 2020, the Wireless Telecommunications Bureau released a public notice (DA 20-578) announcing that all eligible space station operators filed Accelerated Relocation Elections committing to clear the 3.7-4.0 GHz band on the accelerated timeline described in the *3.7 GHz Report and Order*. As directed by the Report and Order, on July 30, 2020, the Bureau released the 3.7 GHz Transition Final Cost Category Schedule of Potential Expenses and Estimated Costs (DA 20-802), which provided estimated reasonable costs associated with the transition, announced the optional lump sum payment amounts for which incumbent Fixed Satellite Service earth station operators are eligible, and detailed the process and deadline for electing to receive lump sum payments. On August 3, 2020, the Bureau sought comment on the Relocation Coordinator and Relocation Payment Clearinghouse chosen by stakeholder selection committees to manage the transition and reimbursement processes (DA 20-827 and 20-828). On September 25, 2020, the Bureau announced that RSM US LLP, the entity chosen by the Relocation Coordinator selection committee, satisfies the selection criteria

established by the Commission in the *3.7 GHz Report and Order* and will serve as the Relocation Coordinator for the 3.7-4.2 GHz transition process. On October 22, 2020, the Bureau announced that CohnReznik and its subcontractors Squire Patton Boggs and Intellicom Technologies satisfy the selection criteria established by the Commission in the *3.7 GHz Report and Order* and will serve as the Relocation Payment Clearinghouse for the 3.7-4.2 GHz transition process.

Auction. On August 7, 2020, the Commission released a Public Notice that establishes the procedures to be used for Auction 107, the auction of new flexible-use overlay licenses in the 3.7–3.98 GHz band. The bidding for new licenses in Auction 107 is scheduled to commence on December 8, 2020.

LEGISLATIVE INTEREST:

The FY 2018 omnibus spending bill included the MOBILE NOW Act under Title VI of RAY BAUM’S Act. The MOBILE NOW Act ensures spectrum is made available for new technologies and helps secure America’s leadership in the future of communications technology. Section 605(b) of the MOBILE NOW Act required the Commission in consultation with the Secretary of Commerce, working through the National Telecommunications and Information Administration (NTIA), and the heads of affected federal agencies to submit a report to appropriate committees of Congress and to the Secretary of Commerce no later than September 23, 2019, “evaluating the feasibility of allowing commercial wireless services, licensed or unlicensed, to use or share use of the frequencies between 3700 megahertz and 4200 megahertz,” after providing notice and comment. On May 1, 2018, we sought comment on this requirement, and in mid-September 2019, the Commission transmitted its required report to Congress.

Section 603(a)(1) of the MOBILE NOW Act requires NTIA and the FCC, no later than December 31, 2022, to identify at least 255 megahertz of Federal and non-Federal spectrum for mobile and fixed wireless broadband use with at least (i) 100 megahertz below 6 GHz identified for use on an exclusive, licensed basis for commercial mobile (flexible) use; (ii) 100 megahertz below 8 GHz identified for unlicensed use; and (iii) 55 megahertz below 8 GHz identified for any combination of licensed or unlicensed. Making the 3.7-3.98 GHz band available nationwide for mobile services meets the mandate for 155 megahertz of this spectrum.

STATUS: The Commission adopted the Report and Order and Order of Proposed Modification on February 28, 2020 by a 3-2 vote. The bidding for new licenses in Auction 107 is scheduled to commence on December 8, 2020.

WTB BRIEFING SHEET

SUBJECT: 4.9 GHz Band (WP Docket No. 07-100)

SUMMARY: In 2002, the Commission allocated 50 megahertz of spectrum in the 4940-4990 MHz band (4.9 GHz band) for fixed and mobile services (except aeronautical mobile service) and designated this band for use in support of public safety. Non-traditional public safety entities, such as non-profit organizations, utilities, and even commercial entities could obtain licenses or enter into sharing arrangements with eligible public safety entities to use the 4.9 GHz band, but their use was restricted to being in support of public safety services, i.e., communications that relate to the safety of life, health or property that are not made commercially available to the public by the provider. The Commission has reexamined the rules governing the 4.9 GHz band multiple times. In March 2018, the Commission released a Sixth Further Notice of Proposed Rulemaking (*Sixth Further Notice*), which sought comment on proposals to encourage greater use of and investment in the 4.9 GHz band.

On September 30, 2020 the Commission adopted a Sixth Report and Order and Seventh Further Notice of Proposed Rulemaking. The Report and Order permits one statewide 4.9 GHz band licensee per state to lease some or all of its spectrum rights to third parties—including commercial and public safety users—in those states that the FCC has not identified as a diverter of 911 fees. The Report and Order does not limit or modify the rights of any incumbent public safety licensees, which will be able to continue providing existing services. When effective, these new rules also eliminate the requirement that leased spectrum must be used to support public safety but would require lessees to adhere to the informal coordination requirements applicable to the band.

The Further Notice of Proposed Rulemaking proposes a new state-based licensing regime for public safety operations in the band, which would complement the new leasing regime. The Further Notice proposes to make permanent the current freeze on new applications and grandfather all current public safety licensees. It also proposes to allow states without a statewide license to obtain such a license and seeks comment on the creation of a voluntary state band manager to coordinate operations in the band. Lastly, it seeks comment on additional ways to implement and facilitate robust use of the band, including steps to address expanded access in states that divert 911 fees, the use of dynamic spectrum sharing, and ways to encourage collaboration across jurisdictions.

STATUS: Comments are due 30 days after publication in the Federal Register and Reply Comments are due 60 days after publication in the Federal Register.

WIRELESS BRIEFING SHEET

SUBJECT: Modernizing and Expanding Access to the 70/80/90 GHz Bands (WT Docket No. 20-133)

SUMMARY: This briefing sheet describes Commission efforts to enable innovative commercial uses of the 70/80/90 GHz bands in furtherance of the Commission’s 5G FAST Plan, including provision of wireless backhaul for 5G and delivery of broadband connectivity to ships and aircraft.

BACKGROUND: The 71–76 GHz, 81–86 GHz, 92–94 GHz, and 94.1–95 GHz bands, collectively known as the 70/80/90 GHz bands, are licensed for co-primary Federal and non-Federal use. Licensees presently use this spectrum for fixed point-to-point links, but the bands remain unused or underused in many large parts of the United States. Given recent technological developments, this underuse makes the 70/80/90 GHz bands a potential resource for innovative service offerings. Although the Commission decided not to allow mobile service in the 70/80/90 GHz bands in the *2017 Spectrum Frontiers Order*, it also reserved the right to revisit this issue as mobile deployments increased in other millimeter-wave bands, as technology developed, and as frameworks for mobile and fixed services to coexist in the bands come to light.

PROCEEDING: The Commission commenced a proceeding on June 9, 2020, to consider several potential changes to the rules governing the 70/80/90 GHz bands in furtherance of its 5G FAST Plan. In its *Notice of Proposed Rulemaking (NPRM) and Order*, the Commission: (1) proposed updates to its antenna rules (specifically to maximum EIRP, minimum antenna gain, co- and cross-polarization discrimination, and slant polarization) that would allow use of smaller antennas to make high-band spectrum more usable for 5G wireless backhaul in the 70 GHz and 80 GHz bands and sought comment on whether similar changes are necessary for the 90 GHz band; (2) proposed to authorize point-to-point links to endpoints in motion in the 70 GHz and 80 GHz bands and to classify those links as a “mobile” service in order to allow delivery of broadband Internet access service to ships and aircraft in motion; (3) sought comment on whether it should change its current link regulation rules for the 70/80/90 GHz bands to eliminate never-constructed links from the database; (4) sought comment on technical and operational rules necessary to permit new services in the 70 GHz and 80 GHz bands and to mitigate interference to incumbents and other proposed users therein; (5) sought comment on whether the Commission should adopt a channelization plan in the 70 GHz and 80 GHz bands; and (6) denied two requests for waiver of existing antenna standards for the 71-76 GHz and 81-86 GHz bands.

STATUS: Comments in response to the NPRM were due August 5, 2020. Reply comments were due September 4, 2020. FCC staff are reviewing the record.

WIRELESS BRIEFING SHEET

SUBJECT: Construction Requirements for 700 MHz Band A, B, C, & E Block Licenses

BACKGROUND: This briefly describes the 700 MHz (Auction 73) licenses, construction requirements, and penalties.

General Description of Band

<u>Block</u>	<u>Frequencies (MHz)</u>	<u>Bandwidth</u>	<u>Area Type</u> <u>Number of Licenses</u>
<u>A</u> (Lower)	698-704, 728-734	12 MHz (2 x 6 MHz)	176 Economic Areas (EAs)
<u>B</u> (Lower)	704-710, 734-740	12 MHz (2 x 6 MHz)	734 Cellular Market Areas (CMAs)
<u>C</u> (Upper)	746-757, 776-787	22 MHz (2 x 11 MHz)	12 Regional Economic Area Groupings (REAGs)
<u>E</u> (Lower)	722-728	6 MHz (unpaired)	176 EAs

Construction Requirements and Penalties

	<u>Interim Construction Deadline</u>	<u>Interim Coverage Benchmark</u>	<u>Failure to Meet Interim Deadline</u>	<u>Final Construction Deadline</u>	<u>Final Coverage Benchmark</u>	<u>Failure to Meet Final Deadline</u>
<u>A, B Blocks</u>	December 13, 2016	35% of the <i>geographic</i> area of each license area*	License term is reduced by two years	<ul style="list-style-type: none"> • <i>If Interim Benchmark Is Met:</i> June 13, 2019 • <i>If Interim Benchmark Is Not Met:</i> June 13, 2017 	70% of the <i>geographic</i> area of each license area*	Licensee may retain the portion of its licensed area that it is actually serving; unserved portions of the license area will be returned to the Commission for relicensing
<u>Lower E Block</u>	March 7, 2017	35% of the <i>geographic</i> area of each license area* or 40% of the <i>population</i> in each license area	License term is reduced by one year	<ul style="list-style-type: none"> • <i>If Interim Benchmark Is Met:</i> March 7, 2021 • <i>If Interim Benchmark Is Not Met:</i> March 7, 2020 	70% of the <i>geographic</i> area of each license area* or 75% of the <i>population</i> in each license area	Licensee may retain the portion of its licensed area that it actually is serving; unserved portions of the license area will be returned to the Commission for relicensing
<u>Upper C</u>	Four years from license	40% of the <i>population</i>	License term is	• <i>If Interim</i>	75% of the <i>population</i>	Licensee may retain the portion of its

<u>Block</u>	grant date (June 13, 2013, for most)	in each EA comprising the REAG	reduced by two years	<i>Benchmark Is Met:</i> June 13, 2019 • <i>If Interim Benchmark Is Not Met:</i> June 13, 2017	in each EA comprising the REAG	licensed area that it actually is serving; unserved portions of the license area will be returned to the Commission for relicensing
--------------	--------------------------------------	--------------------------------	----------------------	---------------------------------------------------------------------------------------------------	--------------------------------	-------------------------------------------------------------------------------------------------------------------------------------

* Not required to include government land, but are required to include tribal land

Reports to the Commission: Each licensee was required to file a construction status report with the Commission two years after its license grant, and then again six years after its license grant. For most licensees, the interim report was due January 13, 2012.

Pursuant to the *Interoperability Report and Order*, released on October 29, 2013, the final report was waived for the majority of 700 MHz A and B Block licensees, and the final report deadline for E Block licensees was extended until March 7, 2019.

Construction Deadline Extensions (WT Docket No. 12-332): In 2012, a number of licensees requested an extension of time and waiver of the interim construction deadline. In 2013, the Bureau released two separate public notices extending the interim construction deadline for all Lower 700 MHz A licensees and most B Block licensees from June 13, 2013, until December 13, 2013, but did not act on the pending requests.

The *Interoperability Report and Order* addressed the requests for waiver and extension and granted the requests to the extent described in the *Order*; the requests were otherwise denied. The *Order* extended the interim construction deadline for the majority of Lower 700 MHz A and B Block licensees until December 13, 2016 and waived the interim construction deadline for certain A Block licensees that must protect Channel 51 broadcasters. For Lower 700 MHz E Block licensees, the *Order* extended the interim construction deadline until March 7, 2017, and the final construction deadline and license term until March 7, 2021. Further, the *Order* permits Lower 700 MHz E Block licensees the option of choosing a population-based (vs. geographic) benchmark to meet their construction requirements.

Enforcement Action: The Lower 700 MHz construction rules provide that if a Lower 700 licensee fails either its interim or final construction requirements (or both), it may be subject to enforcement action, including forfeitures. In a 2011 Public Notice, the Bureau clarified that licensees that fail to undertake “meaningful efforts to build out their networks” may face enforcement action. On reconsideration in 2013, the Commission affirmed the possible enforcement actions and acknowledged the Bureau’s *Public Notice*. The *Public Notice* gave the following examples of meaningful efforts: “system planning, exploring sites and site leases, pursuing network engineering planning, or engaging in efforts to procure equipment.”

700 MHz Relicensing: In 2007, the Commission established the “Keep-What-You-Serve” rules for licenses in the Lower A, B, and E, and Upper C Blocks of the 700 MHz band, whereby, if a licensee fails to meet its final construction requirement, it keeps the area of its license that it serves, and the remaining area is returned to the Commission’s inventory for relicensing. The

Commission established a two-phased application process for the relicensing of unserved areas and delegated authority to WTB to implement the process.

Many of the licenses subject to these rules faced an interim construction deadline in December 2016, and a small number of those licenses faced an accelerated final construction deadline in June 2017. Licensees that satisfied the interim construction benchmark had final construction deadlines in either 2019 or 2020, or have upcoming deadlines in 2020, depending on the license channel block. While most licensees have met their construction requirements, a small number of licenses have failed or will likely fail to satisfy the final construction requirement and the unserved areas of those licenses will be returned to the Commission's inventory for relicensing.

On August 28, 2017, WTB released a Public Notice (*Relicensing Public Notice*) that described the rules and policies set forth by the Commission in 2007 and sought comment on the Bureau's proposed approach for implementing the remaining elements of "Keep-What-You-Serve" and the relicensing process. Specifically, the *Relicensing Public Notice* sought comment on the Bureau's proposals regarding: (1) the required filings for failing licensees; (2) the identification of unserved areas that will be returned to the Commission's inventory for relicensing; (3) the rules and procedures applicable to applications submitted during both phases of the relicensing process; and (4) the construction requirements applicable to licensees of unserved area acquired through this relicensing process.

STATUS: 700 MHz Lower A, B, and E Block, and Upper C Block licensees continue to file their required construction notifications, which WTB has processed or is reviewing. In addition, some licensees are attempting to relocate TV Channel 51, and some are filing engineering studies to operate short-spaced to TV Channel 51.

Status of Waiver Requests: Several Lower A and B Block licensees have filed waiver requests regarding their construction obligations. WTB issued waivers to T-Mobile, AT&T, Polar Communications Mutual Aid Corporation, and the Alaska Wireless Network (AWN). The Rural Wireless Association (RWA) filed applications for review of each of those waivers. The Commission denied RWA's application for review of the T-Mobile waiver on December 13, 2017 and denied the applications for review of the AT&T and AWN waivers on February 28, 2018. The Bureau granted an additional waiver request filed by AT&T on June 11, 2018.

In addition, WTB denied the waiver requests of SAL Spectrum, LLC and Thomas Kurian, and granted a partial waiver to AST Telecom d/b/a Bluesky.

On October 2, 2019, WTB denied a request for waiver and extension of time filed by Smith Bagley, Inc. On January 7, 2020, WTB denied a request for waiver filed by Nemont Telephone Cooperative, Inc. on behalf of its subsidiary, Sagebrush Cellular, Inc. Both of these licensees admitted to not meeting their final construction deadlines in June 2019. The licenses that terminated in connection with these denials will be available for relicensing. WTB continues to review waiver and extension requests filed by other 700 MHz licensees that have failed to meet their construction requirements.

Status of Relicensing Unserved Areas: On February 12, 2019, WTB released a public notice establishing the finalized rules and procedures for implementation of "Keep-What-You-Serve" and the relicensing process (*Procedures PN*). The *Procedures PN* noted that, pursuant to the

Commission's rules, relicensing would occur through a two-phase application process beginning with a 30-day Phase 1 filing window, followed by a Phase 2 rolling window for applications. A summary of the *Procedures PN* was published in the Federal Register on March 8, 2019, with an effective date of April 8, 2019. On June 12, 2019, WTB released a public notice announcing that the 30-day Phase 1 relicensing window would begin on August 12, 2019 and end on September 11, 2019 for the following four markets where licensees failed to meet their construction requirements: part of the Gulf of Mexico, portions of North Dakota 4 – McKenzie and North Dakota 3 – Barnes, and the entire Texas 1 – Dallam market (*Phase 1 PN*). The *Phase 1 PN* included instructions regarding how to access the unserved areas in the form of maps and file an application.

After reviewing the applications filed during the Phase 1 window, WTB released on October 18, 2019, a public notice announcing the Phase 1 applications acceptable for filing, mutually exclusive applications, and the start date for Phase 2 of relicensing for the four markets listed above which began on October 25, 2019 (*Phase 2 PN*). WTB has not received any Phase 2 applications. The *Phase 2 PN* listed the following markets as acceptable for filing and no petitions to deny were filed: North Dakota 3 – Barnes, North Dakota 4 – McKenzie, and the Gulf of Mexico. The *Phase 2 PN* also listed two applications as mutually exclusive for the Texas 1 – Dallam market. The mutual exclusivity was resolved by the parties.

WIRELESS BRIEFING SHEET

SUBJECT: 900 MHz Realignment (WT Docket No. 17-200)

SUMMARY: On May 13, 2020, the Commission adopted a Report and Order (*900 MHz Report and Order*) that reconfigured that 900 MHz band to enable broadband deployment to meet the needs of a wide variety of entities. The *900 MHz Report and Order* established a regulatory framework to make available six megahertz of spectrum in the band for broadband licenses on a county-by-county basis, while reserving the remaining four megahertz of the band for continued narrowband operations. The *900 MHz Report and Order* adopted a primarily negotiation-based mechanism that enables prospective broadband licensees to acquire, relocate, or protect incumbents in the new broadband segment. If negotiations in a market are successful and granting an application is otherwise in the public interest, the Commission would issue new initial licenses to applicants meeting eligibility requirements. A 900 MHz broadband licensee would be permitted to relocate mandatorily a limited percentage of covered incumbents—except those with complex systems—from the new broadband segment to the narrowband segment by paying reasonable location costs, including providing comparable facilities. The *900 MHz Report and Order* also addresses license application requirements, anti-windfall payment obligations, transition procedures, operating rules, and technical rules applicable to new 900 MHz broadband licenses.

On the same day it adopted the *900 MHz Report and Order*, the Commission adopted an *Order of Proposed Modification* and two separate *Orders* in WT Docket No. 17-200. In the *Order of Proposed Modification*, the Commission proposed to modify the Association of American Railroads' nationwide ribbon license surrounding railroad rights-of-way to provide contiguous spectrum in one of the new narrowband segments. The proposed modification would clear a prominent nationwide incumbent from the new broadband segment and enable significant advancements to railroad safety. The first *Order* denied Enterprise Wireless Alliance's petition for rulemaking, which requested that the Commission designate part of the 800 MHz guard band for relocation of 900 MHz narrowband channels. The second *Order* partially lifted the freeze on 900 MHz applications for the limited purpose of permitting licensees to relocate their narrowband operations to facilitate the transition to broadband.

BACKGROUND: Before adoption of the *900 MHz Report and Order*, the 896-901/935-940 MHz band (900 MHz Band) consisted of 399 narrowband (12.5 kilohertz) channels grouped into 10-channel blocks that alternated between Specialized Mobile Radio (SMR) blocks that were geographically licensed by Major Trading Area (MTA) and Business/Industrial/Land Transportation (B/ILT) blocks that were assigned on a site-by-site basis.

Notice of Inquiry: On August 4, 2017, the Commission released a Notice of Inquiry (*NOI*) to examine whether rule changes are appropriate to increase access to spectrum, improve spectrum efficiency, and expand flexibility in the 900 MHz band for next generation technologies and services. The *NOI* sought comment on several ideas, including reconfiguring the band to create a broadband service, as suggested in a Petition for Rulemaking filed in 2014 by Pacific DataVision, Inc. (PDC) (now known as Anterix) and Enterprise Wireless Alliance (EWA). EWA and PDV proposed a 3/3 megahertz broadband segment (898-901/937-940 MHz) and 2/2 megahertz narrowband segment (896-898/935-937 MHz), wherein the broadband segment would be assigned by MTA to the licensee that holds at least fifteen of the twenty SMR licenses for that

MTA. After the comment cycle, EWA and PDV amended their request to shift the broadband segment to 897.6-900.6/936.6-939.6, create two separate narrowband segments, and propose that the broadband segment be issued based on Major Statistical Areas in the top 306 Cellular Market Areas (CMAs) and in individual counties in the remaining 428 CMAs.

900 MHz Freeze: On September 13, 2018, the Wireless Telecommunications Bureau (Bureau) issued a Public Notice, announcing a temporary freeze, effectively immediately until further notice, on the acceptance of applications for new or expanded use of 900 MHz band frequencies. The purpose of the freeze is to preserve the current landscape of authorized operations in the 900 MHz band pending Commission action as part of its ongoing inquiry into potential rule changes to promote next generation technologies and services in the band. The Public Notice specifies that the freeze applies to applications for new licenses, applications to modify existing licenses by adding or changing frequencies or locations, and applications that seek any other modification that expands the station's spectral or geographic footprint or that could increase the degree to which the 900 MHz band currently is licensed.

In October 2019, the Bureau modified the freeze to provide greater flexibility for 900 MHz band incumbents to relocate out of the broadband segment. Specifically, incumbents are permitted to exchange frequencies in a manner that does not increase the incumbent's net number of licensed frequencies and is consistent with the Commission's proposed band realignment.

In May 2020, the Commission partially lifted the freeze on 900 MHz applications for the limited purpose of permitting licensees to relocate their narrowband operations to facilitate the transition to broadband. Under the *Order*, covered incumbents are permitted to file applications to relocate their operations to different frequencies or locations and transition 900 MHz operations, provided the application is described in a Transition Plan for a broadband applicant or related to an agreement with a broadband license after license grant (e.g., as part of mandatory relocation).

Notice of Proposed Rulemaking: In March, 2019, the Commission released a *Notice of Proposed Rulemaking (NPRM)* proposing to realign the 900 MHz band to enable broadband deployment. The Commission proposed to create a paired 3/3 megahertz broadband segment at 897.5-900.5 MHz/936.5-939.5 MHz, licensed on a geographic basis, while reserving two separate segments—a 1.5/1.5 megahertz segment (896-897.5/935-936.5 MHz) below the broadband segment and a .5/.5 megahertz segment (900.5-901/939.5-940 MHz) above the broadband segment—for continued narrowband operations. The *NPRM* sought comment on various transition mechanisms. It proposed to authorize a market-driven voluntary exchange process that would allow existing licensees in the band to mutually agree to a plan for clearing of the broadband segment by relocating site-based incumbents to narrowband spectrum. This approach sought to take advantage of the speed and efficiency of voluntary realignment through private agreements between incumbents. It also sought comment on two other transition methods – an auction of overlay licenses and an incentive auction – options that might be needed to effectuate 900 MHz band realignment in certain markets.

STATUS: The Commission adopted the *Report and Order, Order of Proposed Modification, and Orders* on May 13, 2020. A summary of the *900 MHz Report and Order* was published on July 16, 2020 in the Federal Register, and the rules became effective on August 17, 2020, except for rules that contain information collections subject to the Paperwork Reduction Act.

WIRELESS BRIEFING SHEET

SUBJECT: 1675-1680 MHz Reallocation (WT Docket No. 19-116)

SUMMARY: As part of continuing efforts to make additional spectrum available for commercial use and to facilitate sharing with federal government users, the FCC is exploring making the 1675-1680 MHz band available for new, non-federal users on a shared basis with incumbent federal operations. Such action would be consistent with recent Presidential budgets which propose that this band be auctioned or assigned for shared use.

BACKGROUND: Currently, the National Oceanographic and Atmospheric Administration (NOAA) uses the 1675-1680 MHz band for satellite downlinks and, for several more years, radiosondes (weather balloons). These satellites provide detailed weather information that is used extensively in weather forecasting by NOAA and many other users.

On May 13, 2019, the Commission released a *Notice of Proposed Rulemaking (Notice)* that proposes to reallocate the 1675-1680 MHz band for shared use between incumbent federal operations and non-federal fixed or mobile (except aeronautical mobile) operations on a co-primary basis and seeks comment on an appropriate sharing mechanism that would allow both federal and non-federal users to operate successfully in the band. The *Notice* proposes to license the 1675-1680 MHz band as an unpaired 5 megahertz block on a geographic basis using Partial Economic Areas. The *Notice* proposes 15-year license terms and construction benchmarks that require a license to provide reliable signal coverage and offer service to at least 45% of the population within 6 years of initial grant and at least 80% of the population within 12 years of initial grant. Additionally, the *Notice* proposes to apply the general licensing and operating rules applicable to other Part 27 services.

The Commission received numerous comments on the *Notice*, largely reiterating concerns initially raised in response to a 2016 Commission Public Notice¹ regarding the potential impact of sharing the band with terrestrial mobile operations. In sum, many commenters continue to object to any commercial use of the band, citing the potential for interference to non-federal earth stations receiving transmissions from weather satellites. These commenters also expressed skepticism that the alternative distribution methods will be sufficiently robust to avoid latency or delivery disruptions that could jeopardize accurate weather forecasting, particularly in severe weather scenarios. Other commenters supported the allocation of the 1675-1680 MHz band for shared commercial use, noting that freeing up more federal spectrum for mobile broadband use serves the public interest by addressing consumer demand and facilitating innovation and competition.

STATUS: Comments on the Commission's *Notice* were due June 3, 2019 and reply comments were due July 2, 2019. Staff continues to review the record in this proceeding.

¹ The Public Notice was issued to refresh the record regarding a November 2, 2012 petition for rulemaking filed by LightSquared Subsidiary LLC (now Ligado Networks LLC) requesting that the Commission add a primary allocation permitting non-federal terrestrial mobile use of the 1675-1680 MHz band on a shared basis with federal users.

WIRELESS BRIEFING SHEET

SUBJECT: Advanced Wireless Services (AWS)—ongoing and upcoming matters

SUMMARY: Advanced Wireless Services are a total of 205 megahertz of spectrum as follows:

Name	First Grant	Total (megahertz)	Bands (MHz)	Interim Buildout	Final Buildout	Term (Yrs.)	Notes
AWS-1	2006-	90 paired 45 uplink 45 downlink	1710-1755 2110-2155	N/A-	2021-	15	The final buildout standard for AWS-1 is “substantial service.”
AWS “H Block”	4/29/2014	10 paired 5 uplink 5 downlink	1915-1920 1995-2000	4/29/18 (failed)	Extended from 4/29/22 to 6/14/23 as part of approval of T-Mo-Sprint merger. - offer 5G BB Svc. (5G) to 75% of pops. in each EA - but - contingent further extension to 6/14/25 if offering 5G on H Block to 50% or more of U.S. pops. by 6/14/23	10	DISH holds all the H Block licenses nationwide. <i>NTCH v. FCC</i> , (D.C. Cir., Feb. 21, 2020) affirmed FCC’s dismissal of NTCH’s app. for rev. of the Auction 96 procedures based on NTCH’s failure to comply with the agency’s procedural rules (rehearing en banc denied Apr. 28, 2020).
AWS-3	2015-	65 mixed <u>15 unpaired</u> 5 uplink 10 uplink <u>50 paired</u> 25 uplink 25 downlink	1695-1700 1700-1710 1755-1780 2155-2180	2021-	2027-	12	<i>Ongoing:</i> AWS-3 use of the UL bands is limited until most federal incumbents relocate. WTB continues to work with NTIA on matters related to the coordination transitions. <i>2018 Q2:</i> As directed by the Commission, WTB solicited comments for the purpose of making a recommendation to the

Name	First Grant	Total (megahertz)	Bands (MHz)	Interim Buildout	Final Buildout	Term (Yrs.)	Notes
		Two Auc. 97 applications are pending. See separate briefing sheet entitled: "SNR/Northstar (DISH) Remand."					Commission whether an extension of the initial license term (and associated build-out deadlines) by up to 3 years is warranted in light of the status of government relocation. The record is under review.
AWS-4	3/7/2013	40 Unpaired per waiver to DISH 20 downlink 20 downlink Two DISH entities hold all AWS-4 licenses, as well as the co-band MSS authorizations.	2000-2020 2180-2200	3/7/17 (failed)	Extended from 3/7/20 to 6/14/23 as part of approval of T-Mobile-Sprint merger - offer 5G BB Svc. (5G) to 70% of pops. in each EA -but-contingent further extension to 6/14/25 if offering 5G on AWS-4 to 50% or more of U.S. pops. by 6/14/23	10	<i>NTCH v. FCC</i> , (D.C. Cir., Feb. 21, 2020) affirmed AWS-4 rules and licenses to DISH but vacated FCC dismissal of NTCH app. for rev. of WTB's 2013 waiver to DISH. The court rejected FCC's claim that NTCH lacked standing to challenge the waiver. Because the FCC did not reach merits, the court remanded the app. for rev. of waiver grant to provide the FCC an opportunity to respond to NTCH's arguments on the merits (rehearing en banc denied Apr. 28, 2020).

WIRELESS BRIEFING SHEET

SUBJECT: Alaska Plan (WC Docket Nos. 16-271, 10-90)

SUMMARY: On August 31, 2016, the Commission adopted the *Alaska Plan Order and Further Notice of Proposed Rulemaking*. The Order established a 10-year plan for high cost support of fixed and mobile services in Alaska. High cost support to mobile providers in Alaska will be available only under the terms of the *Alaska Plan Order*, and carriers in Alaska will not be eligible for funding under MF-II. Under the plan, participating mobile providers in remote Alaska receive high cost support frozen at December 2014 levels for a period of 10 years. Providers must submit individual performance plans, with specific population-based coverage commitments at the end of year 5 (Dec. 31, 2021) and year 10 (Dec. 31, 2026) to upgrade their networks to LTE, except that the performance plans can be based on lower levels of technology where justified by middle mile cost or availability. WTB must approve these plans as a precondition of funding. To address the potential for duplicative LTE networks, the Commission established that after four years, ending on December 31, 2020, it would assess the extent of such duplication, and sought comment in the Further Notice on an appropriate mechanism that would eliminate any duplicative support in years six through 10 of the Plan. While relying on the frozen support to upgrade existing networks, the Commission also established a separate fund of \$162 million to support extending mobile service to remote areas of Alaska that currently lack any mobile coverage.

SUBSEQUENT ACTIONS: On December 21, 2016, WTB released a Public Notice approving the submitted performance plans of all participating mobile providers, and established January 1, 2017 as the commencement date for frozen support under the plan.

On February 28, 2018, WCB and WTB adopted a joint Order on Reconsideration denying an ATA petition for reconsideration regarding the middle mile/backhaul data collection. The Order reaffirmed that Alaska Plan participants were required to file information regarding fiber and microwave links (owned and leased) connecting the Alaska Plan participants' outdoor cell sites with community anchor institutions (e.g., schools and libraries).

On March 1, 2019, WTB and WCB adopted a joint Order denying a waiver petition from ATA that sought—on behalf of all of its members participating in the Alaska Plan—relief from the requirement that aerial and buried fiber links must be certified to within 7.6 meters of accuracy for the middle mile/backhaul data collection. On April 1, 2019, GCI filed an Application for Review of the Bureau's Order.

On March 18, 2020, the Commission denied GCI's Application for Review. The Commission found that GCI had not made a credible showing that complying with the 7.6-meter accuracy standard would impose an undue hardship or be inequitable for Alaska Plan participants, or that eliminating or modifying the accuracy standard would lead to more effective implementation of the Alaska Plan.

On December 12, 2019, WTB approved updated commitments from two wireless providers, ASTAC and GCI. These carriers were required to update their commitments, as their initial commitments relied on satellite backhaul in areas where terrestrial backhaul subsequently became commercially available. On September 8, 2020, WTB again approved further revised commitments from GCI, which had added microwave backhaul in an additional area.

On September 16, 2020, WTB released an Order adopting the Alaska Population-Distribution Model. Each mobile wireless provider receiving frozen support under the Alaska Plan was required to submit a performance plan setting forth its obligations to provide broadband service in remote areas of Alaska, including how many people it will cover. The Model identifies how many people have coverage when a census block only is partially covered by a mobile provider; the Model will be used to determine if providers have met their performance commitments at the 5-year (Dec. 31, 2021) and 10-year (Dec. 31, 2026) marks of the Alaska Plan.

STATUS: Carriers must provide updated commitments for the second term of the Plan (2022-2026) by December 31, 2020 and meet their first term commitments by December 31, 2021. Middle mile data are due on March 1 every year.

WIRELESS BRIEFING SHEET

SUBJECT: Amateur Radio Service; various petitions/NPRMs (RM-11708; WT Docket Nos. 15-81 and 16-239)

SUMMARY: The Amateur Radio Service provides an opportunity for individuals who are interested in radio techniques solely with a personal aim to communicate and to carry out technical investigations. Today, there are more than 770,000 amateur service licensees.

PETITIONS FOR RULEMAKING AND NPRMS: In March 2015, the Commission released a Notice of Proposed Rulemaking (WT Docket No. 15-81) proposing that historical amateur radio licensee address information no longer be routinely available for public inspection, which would enable amateur licensees to control what address information is shown in the Universal Licensing System. The NPRM also sought comment on whether such an approach should be extended to individual licensees in any other Wireless Radio Services. Approximately ten comments were filed, most in favor of the proposals.

In January 2016, the American Radio Relay League (ARRL) filed a petition for rulemaking (RM-11759) proposing to make additional high frequency (HF) spectrum available for data communications. Over 600 comments were received. In May 2016, James Whedbee filed a petition for rulemaking (RM-11769) proposing to open additional spectrum for data communications. Over 400 comments were filed. In October 2018, Ron Kolarik filed a petition for rulemaking (RM-11831) regarding digital codes and automatically controlled digital stations. Over 650 comments have been received.

In April 2016, Expert Linears America, LLC filed a petition for rulemaking (RM-11767) seeking to eliminate the power limit for external amplifiers. Over 75 comments were filed.

In July 2016, the Commission released a Notice of Proposed Rulemaking (WT Docket No. 16-239) proposing to remove the baud rate limitations applicable to data emissions in certain amateur bands. The *NPRM* was in response to a petition for rulemaking filed by ARRL in 2013 (RM-11708). Over 800 comments have been received.

In October 2016, Christopher LaRue filed a petition for rulemaking (RM-11775) proposing to prohibit frequent changes in vanity call signs. Over 150 comments were filed.

In August 2017, Gary A. Hampton filed a petition for rulemaking (RM-11829) proposing to create a new entry-level class license that would be awarded after passing an online examination about amateur radio etiquette and usage (with no technical questions) and would afford limited operating privileges. Over 150 comments have been received. In February 2018, ARRL filed a petition for rulemaking (RM-11828) proposing to afford Technician Class licensees additional HF operating privileges. Over 1,100 comments have been received.

In October 2019, Theodore Rappaport filed a Petition asking the Commission to declare that its rules do not allow transmission on amateur frequencies of "effectively encrypted or encoded messages," in response to issues raised in the Amateur Baud Rate proceeding (WT Docket No. 16-239) about data transmissions using newer technologies. The Commission put the Petition on Public Notice, and over 300 comments have been received.

WIRELESS BRIEFING SHEET

SUBJECT: Automatic Data Roaming Obligations of Mobile Service Providers (WT Docket No. 05-265)

SUMMARY: There are currently two mobile wireless roaming frameworks: (1) a Title II “just and reasonable” standard for voice roaming and (2) a Title I/III “commercially reasonable” standard for data roaming.

BACKGROUND AND ISSUES:

2007 Report and Order (CMRS Roaming Rule). In the 2007 Order the FCC clarified that wireless providers offering commercial mobile radio service (CMRS) must provide automatic roaming for voice, push-to-talk, and text messaging services—on a just, reasonable, and nondiscriminatory basis—to other technologically-compatible providers.

2010 Order on Reconsideration. In 2010, among other things, the Commission clarified that whether a request is reasonable and whether the host carrier's response to the request is reasonable and not unreasonably discriminatory would be resolved on a case-by-case basis, taking into consideration the totality of the circumstances.

2011 Second Report and Order (Data Roaming Rule). In April of 2011, the Commission acted to promote consumer access to nationwide mobile broadband service by adopting a rule that requires facilities-based providers of commercial mobile data services to offer data roaming arrangements to other such providers on commercially reasonable terms and conditions, subject to certain limitations. The Data Roaming Rule was based on the Communications Act, including Title III, which provides the Commission authority to manage spectrum and establish and modify license and spectrum usage conditions in the public interest. The Commission further found that the obligations did not amount to common carriage treatment and were therefore consistent with a provision of the Act prohibiting common carrier treatment of private mobile radio services.

WTB Declaratory Ruling. On December 18, 2014, WTB released a declaratory ruling granting a T-Mobile petition, clarifying that the Data Roaming Rule was intended to permit consideration of the totality of the facts and, thus, with respect to roaming disputes involving rates, a complaining party could adduce evidence of whether proffered roaming rates are substantially in excess of (i) retail rates, (ii) international rates, and (iii) MVNO/resale rates, as well as (iv) a comparison of proffered roaming rates to domestic roaming rates from other providers. The Declaratory Ruling noted that these other rates should be viewed in conjunction with one another and that their probative value as reference points will depend on the facts and circumstances of each case, including all the factors set forth in the Data Roaming Rule. In response to T-Mobile's request for guidance on the build-out factor in determining commercial reasonableness, WTB concluded that this factor is intended to be considered under the case-by-case, totality of the circumstances approach. In January 2015, AT&T Services, Inc. and Verizon filed applications for review of the declaratory ruling. The applications for review remain pending.

Open Internet Order. In the 2015 Open Internet Order, the Commission stated that the Data Roaming Rule would continue to apply to mobile broadband Internet access service (MBIAS) providers pending any possible changes that may be effectuated considering the reclassification

decisions in the Order, including the reclassification of MBIAS as a Title II service and as CMRS.

NTCH Petition. Following the 2015 Open Internet Order, NTCH filed a petition for reconsideration, arguing that the Title II “just and reasonable” standard in the CMRS Roaming Rule should be applied to data roaming arrangements rather than the Data Roaming Rule’s commercially reasonable standard. The petition remains pending.

Internet Freedom Order. On December 14, 2017, the Commission adopted a Declaratory Ruling, Report and Order, and Order that reinstated the classification of all broadband Internet access services, including mobile broadband, as Title I information services. The Commission also reinstated its previous determination that MBIAS is not a commercial mobile service. Given this reclassification of MBIAS, the existing Data Roaming Rule continues to apply to MBIAS service.

STATUS: On December 12, 2018, the Commission adopted a Declaratory Ruling classifying SMS and MMS as information services under Title I of the Act, and not commercial mobile services (see separate briefing sheet on Wireless Text Messaging). The Declaratory Ruling does not disturb the Commission’s decision in 2007 to apply automatic roaming obligations to push-to-talk and SMS services because the 2007 decision was not a determination that wireless messaging services are interconnected with the public switched network for purposes of regulatory classification.

WIRELESS BRIEFING SHEET

SUBJECT: Aviation Radio Service (WT Docket 01-289; RM-11793)

SUMMARY: The Aviation Radio Service rules regulate radio transmitters on aircraft and ground stations operating on aeronautical frequencies. Several pending rulemaking proceedings relate to the Aviation Radio Service.

BACKGROUND AND KEY ISSUES:

Aviation Safety NPRM. On June 7, 2019, the Commission released a Notice of Proposed Rulemaking in WT Docket No. 19-140 to support the deployment of more advanced avionics technology, increase the efficient use of limited spectrum resources, and generally improve aviation safety. Among the matters addressed in the NPRM are these petitions for rulemaking:

Aeronautical Mobile Airport Communications System (AeroMACS). On March 31, 2017, the WiMAX Forum filed a petition for rulemaking proposing service rules for AeroMACS, RM-11793. AeroMACS refers to a collection of high data rate wireless networks that are used in accordance with international aeronautical standards for airport surface communications between aircraft and other vehicles, as well as between critical fixed assets. It operates in the 5000-5030 MHz and 5091-5150 MHz bands, and will be utilized by Federal and non-Federal users.

Enhanced Flight Vision Systems (EFVS). On February 16, 2018, Sierra Nevada Corp. filed a petition for rulemaking proposing to amend parts 2 and 87 to permit use of the 92-92.5 MHz band for EFVS, RM-11799. An EFVS is an airborne system which provides an image of the scene and displays it to the pilot, in order to provide an image in which the scene and objects in it can be better detected. An EFVS includes imaging sensors such as a color camera, infrared camera, or radar, and a display for the pilot.

136-137 MHz band. On October 16, 2018, Aviation Spectrum Resources, Inc., filed a petition for rulemaking proposing to permit aircraft operational control communications in the 136-136.475 MHz band, which is designated for air traffic control communications, RM-11818. Ten comments were filed.

Vehicle squitters. On January 30, 2019, the Airports Council International-North America filed a petition for rulemaking proposing to permit aeronautical utility mobile stations on frequency 978 MHz.

Spectrum for Unmanned Aircraft Systems (UAS). On February 8, 2018, the Aerospace Industries Association filed a petition for rulemaking proposing technical and operational rules for operation of UAS command and control links in the 5030-5091 MHz band, RM-11798. The band already is allocated for UAS command and control, but the Commission has not adopted service rules. Approximately 10 parties filed comments. Aircraft and UAV manufacturers support the petition, but the Small UAV Coalition (Amazon, Google, Verizon, et al.) and CTIA assert that further study is needed.

Ground-based radar. On October 24, 2018, Echodyne Corporation filed a petition for rulemaking proposing to permit secondary use for radiolocation of the 24.25-24-65 GHz band, which is allocated for radionavigation, RM-11819. Two comments were filed. A related request for a waiver to permit the requested use pending and subject to the outcome of the rulemaking was approved on June 12, 2019.

STATUS: Notice of the Fourth Report and Order in WT Docket No. 01-289 was published in the Federal Register December 12, 2018, making the rule changes effective January 11, 2019. The NPRM in WT Docket No. 19-140 was published in the Federal Register July 2, 2019, making comments due September 3, 2019 and reply comments due September 30, 2019.

SUBJECT: Promoting Technological Solutions to Combat Contraband Wireless Device Use in Correctional Facilities (GN Docket No. 13-111) (Contraband Phones in Prisons)

BUREAUS/OFFICES: WTB (lead), PSHSB, OET, EB, OGC

SUMMARY: Despite security efforts, inmates in correctional facilities are frequently able to obtain contraband wireless devices, which they use to pursue illegal and sometimes life-threatening activities. In response, prison authorities have looked for technological solutions that would enable them to detect, block, or intercept illicit communications from contraband wireless devices. In May 2013, the Commission issued a Notice of Proposed Rulemaking (*NPRM*) to examine various solutions to the contraband problem and proposals to facilitate the deployment of these solutions. In March 2017, the Commission issued a Report and Order (*Order*) and Further Notice of Proposed Rulemaking (*FNPRM*) in this proceeding, described in more detail below. On July 28, 2020, WTB released a Public Notice seeking to refresh the record on the proposals and questions raised in the *FNPRM* and inviting additional comment on the successes and ongoing challenges of various technological solutions.

BACKGROUND: The use of contraband wireless devices in correctional facilities to engage in criminal activity poses a serious security challenge to correctional facility administrators, law enforcement authorities, and the general public. As a general matter, there are two primary categories of technological solutions currently deployed in the United States to address the problem: managed access and detection.

- *Managed access:* These are micro-cellular, private networks that typically operate on spectrum already licensed to wireless providers offering commercial subscriber services in geographic areas that include a correctional facility. These systems analyze transmissions to and from wireless devices to determine whether a device is authorized or unauthorized by the facility for purposes of accessing wireless carrier networks. A correctional facility or third party at a correctional facility may operate a managed access system if authorized by the Commission. This authorization has, to date, involved agreements with the wireless providers serving the area within which the facility is located, as well as spectrum leasing applications approved by the Commission.
- *Detection:* These systems are used to detect devices by locating, tracking, and identifying radio signals originating from a device. Traditionally, detection systems use passive, receive-only technologies that do not transmit radio signals and do not require separate Commission authorization. However, detection systems have evolved with the capability of transmitting signals not only to locate a device, but also to obtain device-identifying information. These types of advanced detection systems require separate Commission authorization, typically through the filing of spectrum leasing applications reflecting wireless provider agreement.

In the 2013 *NPRM*, the Commission proposed a series of modifications to its rules to facilitate spectrum leasing agreements between wireless providers and providers or operators of managed access systems used to combat contraband wireless devices in correctional facilities. The *NPRM* also proposed to require wireless providers to terminate service, if technically feasible, to a detected contraband wireless device pursuant to a qualifying request from an authorized correctional facility official.

In April 2016, Chairman Ajit Pai, then Commissioner, held a field hearing in Columbia, South Carolina, hosted by former South Carolina Governor Nikki Haley, on the topic of inmate use of contraband cell phones.

The following is a summary of the *R&O* and *FNPRM*:

R&O: The Commission acted to streamline the process of deploying contraband wireless device interdiction systems in correctional facilities, using the term Contraband Interdiction Systems (CIS) to refer to any system that transmits radio communication signals comprised of one or more stations used only in a correctional facility exclusively to prevent transmissions to or from contraband wireless devices within the boundaries of the facility and/or to obtain identifying information from such devices. In particular, the Commission eliminated certain filing requirements and provided for immediate approval of the lease applications needed to operate these systems.

- Qualifying long-term *de facto* transfer spectrum leasing applications and spectrum manager leasing notifications for CISs will be subject to immediate, next business day processing and approval. The Commission will establish internal procedures to ensure qualified spectrum lease filings for CISs are identified and handled according to immediate processing procedures.
- The Commission granted a waiver of Section 20.9 of its rules so that CIS operators will not be required to file a separate modification application to reflect PMRS regulatory status subsequent to approval or acceptance of the lease. Rather, the CIS operator will be permitted to indicate in the exhibit to its lease application whether it is PMRS or CMRS for regulatory status purposes.
- The Commission amended Section 20.18 of its rules to require CIS providers regulated as PMRS to route all 911 calls to the local PSAP unless the PSAP informs the CIS provider that it does not wish to receive 911 calls from a given correctional facility.
- The Commission amended its rules to exempt CIS providers seeking a Special Temporary Authority (STA) for a CIS from the requirement to file the application 10 days prior to operation. STA requests for CISs will be processed on an expedited basis.
- The Commission adopted a rule requiring that CMRS licensees negotiate in good faith with entities seeking to enter into leasing agreements to deploy a CIS in a correctional facility. If, after a 45-day period, there is no agreement, CIS providers seeking STA to operate in the absence of CMRS licensee consent may file a request for STA with the Wireless Telecommunications Bureau (WTB), accompanied by evidence demonstrating its good faith, and the unreasonableness of the CMRS licensee's actions. The licensee may file a response, and WTB will then decide on a case-by-case basis whether grant of STA is warranted.
- The Commission adopted a rule requiring that, 10 days prior to deploying a CIS that prevents communications to or from mobile devices, a lessee must notify the community in which the correctional facility is located, and the Commission amended its leasing rules to reflect this requirement. The notification must include certain information and be tailored to reach the specific surrounding community.

- The Commission designated an ombudsperson to assist CIS operators and CMRS licensees in complying with their regulatory obligations and to serve as the single point of contact at the Commission on contraband wireless device issues.

FNPRM: In the *FNPRM*, the Commission sought comment on a process for wireless providers to disable contraband wireless devices once they have been identified. The Commission also sought comment on additional methods and technologies that might prove successful in combating contraband device use, and various other proposals related to the authorization process for CISs and their deployment.

- The Commission sought further comment on whether to adopt a rule requiring the disabling of contraband wireless devices where certain criteria are met, including a determination of system eligibility and a validation process for qualifying requests, what should constitute a qualifying request and who should transmit the request, and the specifics of the disabling process, including the timeframe for disabling. Some parties have argued in the past that disabling should occur only in response to court orders. To the extent commenters continue to support a court-ordered approach to device disabling, the Commission sought specific comment on the particulars of the process.
- The Commission sought comment on the scope of a requirement that CMRS licensees notify CIS operators of technical changes to their networks, including what changes should trigger the notification requirement and when the notification should be sent to the CIS operator.
- The Commission sought additional comment on other technological solutions to the contraband device problem, including “quiet zones,” a network-based solution, and beacon technology.

STATUS: As noted above, the Commission released the *R&O* and *FNPRM* on March 24, 2017. The *R&O* and *FNPRM* were published in the Federal Register on May 18, 2017. The effective date of the rules adopted in the *R&O* was June 19, 2017, except for those rules requiring OMB approval and those listed in the ordering clauses as having a later effective date. Comments on the *FNPRM* were due June 19, 2017; reply comments were due July 17, 2017. The rule amendments related to the community notification requirement and the good faith negotiations rule that required OMB approval became effective on October 20, 2017. The rule amendments related to the handling of 911 calls become effective on February 12, 2018.

On February 7, 2018, the Commission held a fact-finding meeting to gather additional input from state, local, and federal officials, solutions providers, and wireless industry representatives on challenges involved in combatting the contraband phone problem and potential cost-effective solutions. We understand that on April 30, 2018, CTIA held a task force meeting, including the Association of State Correctional Administrators, representatives of various prison systems, and the FBI, that launched an initiative to identify and test solutions in the near term to find effective and affordable solutions to the problem (Contraband Task Force). A follow up meeting took place in mid-June 2018 and included presentations from various solutions providers. In addition, on June 12, 2018, NTIA released the results of a “micro” jamming equipment test that occurred in January 2018 at a federal prison in Cumberland, Maryland. The technical report notes that the tested equipment was effective in suppressing CMRS signals in the single cell test location without causing harmful interference beyond that location. However, the report also notes that aggregate emissions of a larger number of micro-jammer devices that would be required to cover an entire prison facility were not measured.

The Contraband Task Force had three additional meetings to discuss the effectiveness of MAS and solutions to the contraband problem. The Task Force also sponsored testing of MAS technologies continues at various correctional facilities in South Carolina and Texas. The Task Force also is expected to develop best practices for MAS deployments that will be a valuable tool for corrections officials as they deploy MAS or other technological solutions, including suggestions such as ensuring that MAS systems cover all bands service providers have deployed in the area of the facility, that they cover all deployed technologies, and that they be regularly updated to reflect current network settings, all recommendations based on actual problems that have been uncovered.

On April 26, 2019, CTIA and the Association of State Correctional Administrators, both members of the task force, submitted a status report to the Commission providing a summary of activities to date (2019 Task Force Report). The status report includes the testbed report, containing an analysis of several technical approaches and solutions to the contraband problem, and best practice recommendations.

On September 20, 2019, the NTIA released a report on the test of a micro-jammer in the maximum security housing block at the Broad River Correctional Institution in South Carolina. Public reaction to the report was positive; but a closer reading of the report reveals that the scope of testing was limited, and that installation of jammers in prison facilities remains challenging and potentially costly, requiring careful design, engineering, and additional deployment testing to avoid interference to devices outside the facility.

On April 27, 2020, the Commission provided the House and Senate Committees on Appropriations with a report on coordination among the Contraband Task Force, MAS vendors, and wireless providers on “MAS Evolved” (next generation MAS solutions) developments to comply with the Senate Financial Services and General Government Subcommittee’s report accompanying the Fiscal Year 2020 Consolidated Appropriations Act. The FCC report included an update on advancements on the use of small cells for managed access, deployment costs, and a timeline on any testing in state correctional facilities. This report followed up on a June 2019 report, which: (1) detailed recent industry developments to prevent contraband cell phone use in our nation’s correctional facilities, (2) summarized the 2019 Task Force Report, and (3) provided an update on ongoing Commission efforts in this area.

On July 28, 2020, WTB released a Public Notice (*Notice*), DA 20-791, seeking to refresh the record on the proposals and questions raised in the *FNPRM* and inviting additional comment on the successes and ongoing challenges of currently employed solutions and those under further review and development. The *Notice* seeks to refresh the record on all aspects of the proposed Commission process that would require the disabling of contraband wireless devices by wireless providers following identification, and on requiring notification to solutions providers of wireless provider system technical changes, recognizing that lack of timely notice of wireless provider system upgrades can render contraband interdiction systems ineffective. The *Notice* also invites further comment on other technological solutions addressed in the *FNPRM*, including quiet zones, network-based solutions, and beacon technology. In addition, the *Notice* requests comment on how MAS Evolved can be more effective, less complex, easier to manage, and less costly to implement when compared to a more traditional MAS deployment, and on whether the leasing rules adopted in 2017 remain effective in facilitating spectrum use agreements between wireless providers and solutions providers. Finally, the *Notice* seeks comment on the potential for wireless providers to voluntarily deploy base stations in the vicinity of a correctional facility

that would, in effect, result in the blocking of their own signals in all or part of a correctional facility. The *Notice* was published in the federal register on August 17, 2020. Comments were due September 16, 2020, and reply comments were due October 1, 2020. Staff is reviewing the record.

WIRELESS BRIEFING SHEET

SUBJECT: Hearing Aid Compatibility (WT Docket Nos. 15-285 and 20-3)

BACKGROUND:

The Commission's hearing aid compatibility rules require device manufacturers and wireless service providers to make available a certain number of handsets that meet specified technical criteria for hearing aid compatibility and to meet certain labeling and disclosure requirements. The rules also require yearly compliance filings. From time to time, as circumstances warrant, the Commission updates and revises these rules to ensure that the rules continue to meet their intended purpose.

Recent Decisions: In 2015 the Commission expanded the hearing aid rules to cover any handset that enables two-way real-time voice communications among members of the public or a substantial portion of the public, including through the use of pre-installed software applications. This change became effective in 2018. In 2016, the Commission increased the minimum number of hearing-aid compatible handsets that a manufacturer or service provider must offer and provided for gradual increases in those numbers over time. The Commission also set up a process for determining if 100% of handsets should eventually be hearing-aid compatible and stated that it will address this issue by 2024.

In 2017, the Commission adopted a requirement that manufacturers and service providers meet a volume control requirement by March 1, 2021. A year later, the Commission revised the compliance filing requirement for service providers by allowing them to certify compliance with the rules, instead of requiring a list of hearing-aid compatible phones and detailing the operations within a handset that are hearing-aid compatible. Manufacturers, on the other hand, are still required to list their hearing-aid compatible handset models and provide details to support their compliance. Following these changes, service providers now file a simplified certification in a Form 855 to certify their compliance with the applicable rules for the previous calendar year, while manufacturers continue to file the more detailed Form 655.

Pending Rulemaking: On January 30, 2020, the Commission adopted a Notice of Proposed Rulemaking that proposes to incorporate a new hearing aid compatibility technical standard into the Commission's rules and, after a two year-transition period, proposes to make it the exclusive testing standard for determining hearing aid compatibility. The Notice also proposes to extend the March 1, 2021 volume control deadline to coincide with the end of the transition period. The new testing standard includes a volume control technical standard. Finally, the Notice proposes to remove unnecessary or superseded rule provisions and seeks comment on ways to simplify and update the hearing aid compatibility rules.

WIRELESS BRIEFING SHEET

SUBJECT: Broadcast Incentive Auction and Post-Auction Transition

SUMMARY: In February 2012, the Middle Class Tax Relief and Job Creation Act (H.R. 3630) was enacted. Title VI of H.R. 3630, commonly known as the Spectrum Act, provides the Commission with the authority to conduct incentive auctions to meet the growing demand for wireless broadband. The Spectrum Act also directed the Commission to conduct an incentive auction of broadcast TV spectrum and set forth special requirements for such an auction. The broadcast incentive auction was a voluntary, market-based means of repurposing spectrum by encouraging existing broadcast television licensees to voluntarily relinquish spectrum usage rights in exchange for a share of the proceeds from an auction of new wireless licenses to use the repurposed spectrum. The auction commenced on March 29, 2016, and concluded on April 13, 2017. It repurposed 84 MHz of low-band spectrum, including 70 megahertz of licensed spectrum for 600 MHz services and raised approximately \$19.8 billion in gross revenues, which yielded more than \$10 billion in incentive payments to winning broadcasters, funded a \$1.75 billion TV Broadcaster Reimbursement Fund (TVBRF) for reimbursement of broadcaster relocation expenses, provided roughly \$500 million in small business and rural bidding credits, covered the Commission's expenses, and yielded approximately \$7.3 billion to the U.S. Treasury for deficit reduction.

As a result of the auction, 987 full power and Class A television stations were assigned new channels in the smaller broadcast TV band and were required to complete their transitions to their new channel during a 10-phase transition ending July 3, 2020. The Spectrum Act provided that the 957 stations whose moves were involuntary would be eligible for reimbursement of their reasonably incurred expenses from the TVBRF. In 2018, Congress recognized that the \$1.75 billion TVBRF created by the Spectrum Act would not likely cover the costs of those 957 relocations; that low power television and TV translator stations (together LPTV/translator) who were displaced by the auction would also incur costs to relocate to new channels; and that FM stations would incur costs while co-located TV stations constructed facilities for their new channels. Congress therefore passed the Reimbursement Expansion Act (REA) as part of its Omnibus Budget Reconciliation Act to appropriate an additional \$1 billion to be available to cover the projected full power and Class A station reimbursement shortfall, to expand the reimbursement program to include eligible LPTV/translator and FM stations, and to make available \$50 million for the Commission to educate over-the-air television viewers to assure that they would be aware of the need to rescan their TVs to continue receiving the relocated channels.

600 MHz BAND:

Technical and Service Rules: The new 600 MHz Band plan that resulted from the incentive auction is licensed for flexible use under Part 27 of the Commission's rules, with technical rules similar to those governing the adjacent 700 MHz Band. The 600 MHz band comprises 70 MHz of paired spectrum for licensed use, licensed in 5+5 MHz frequency pairs, on a Partial Economic Area (PEA) geographic basis. Specifically, 663-698 MHz constitutes the uplink portions of these frequency pairs, with the downlink portion at 617-652 MHz. Unlicensed operations are permitted in the duplex gap (652-663 MHz) and the guard band (614-617 MHz) between the downlink frequencies and Channel 37.

All full power and Class A television stations, LPTV/translator stations operating in the guard bands (including the duplex gap), and Broadcast Auxiliary Service (BAS) licensees were required by the Commission to cease operations in the 600 MHz band (614-698 MHz) no later than July 13, 2020 – 39 months from close of the auction – and all such stations, including those whose pre-auction channels were in the 600 MHz band, have now successfully vacated their pre-auction channel. LPTV/translator stations outside the guard bands and white space devices have been permitted to continue to operate in the 600 MHz Band, except in those areas in which a 600 MHz Band wireless licensee commences operations and provides the requisite notice to an LPTV/translator station or to a white space database administrator, as applicable.

As a result of winning forward auction bids, the Commission received 53 applications for 2,775 licenses in the 600 MHz Band. All 53 applications were granted, representing \$19.3 billion in net winning bids. New 600 MHz wireless licensees were not required to wait until spectrum was actually cleared before constructing wireless facilities; construction could begin any time after a forward auction winner filed its long-form license application, and licensees could commence offering services at varying times before and after that 39-month deadline, depending on when spectrum became available. Reports in press releases and news stories indicate that T-Mobile has commenced nationwide operation on 600 MHz spectrum acquired in the auction, including 5G operations.

New 600 MHz Band licensees must build out to 40 percent of the population in their service areas within six years from the time their licenses are issued, and to 75 percent of the population by the end of their initial license terms of 12 years. If a licensee fails to meet its initial construction deadline, its license term will be reduced to 10 years. Subsequent license terms will be 10 years.

POST-AUCTION BROADCAST TRANSITION:

Reassignment of Full Power and Class A Television Stations to Clear the 600 MHz Band Sold in the Auction. Since the close of the auction in April 2017, Commission staff have overseen a successful 39-month transition of 987 full power and Class A television stations to new channel assignments, thereby clearing the contiguous spectrum to be repurposed as the wireless 600 MHz Band. To accommodate interference constraints and facilitate efficient use of the stations' resources and tower, equipment manufacturer and other vendor resources that were necessary to complete the transition within the Commission-required 39-month schedule, the Commission adopted a 10-phase transition plan.

Relocating stations were assigned to one of the 10 phases, the end date of which established the deadline by which they must cease operations on their pre-auction channel. Over the course of the 39-month transition, the Incentive Auction Task Force (IATF) and Media Bureau granted over 200 waivers to change stations' phase assignments, but in light of the Commission's overall 39-month deadline for the transition established by the Commission, and with only a handful of exceptions, those waivers did not permit stations to continue operating on their pre-auction channel beyond July 13, 2020. The phase deadline was also the deadline set for a station's construction permit to complete construction of their permanent facilities. Stations could request an extension of that deadline, and the Media Bureau exercised its authority to extend construction permit expiration dates more than 300 times during the transition, which permitted the stations to operate on interim facilities after vacating their pre-auction channel while they complete construction of their new permanent facilities. Those waivers were not constrained by

the 39-month transition deadline, and as of August 14, 2020, approximately 11 percent of full power and Class A stations are operating on interim facilities pending completion of their permanent facilities.

As of July 13, 2020, all but six stations had vacated their pre-auction channel. Only one of those six channels was in the 600 MHz Band. All of those six stations sought and received waivers for brief periods to complete the transition to their new channel on the basis that there was good cause for a brief extension and that their construction had been delayed by circumstances beyond their control. The station remaining 600 MHz station vacated its channel on July 31, 2020, which meant that all of the 600 MHz wireless spectrum sold in the auction had been successfully cleared and was available for use by the wireless licensees as of that date. The stations in the reorganized broadcast TV band who were granted brief waivers vacated their pre-auction channels at various times, with the last one doing so on September 29, 2020.

Displaced LPTV and Translator Stations: While the Spectrum Act required the Commission to make “all reasonable efforts” to preserve the coverage area and population served of eligible full power and Class A television stations in the incentive auction repacking process, LPTV/translator stations are secondary to full power and Class A television stations and their coverage was not similarly protected and they were not eligible for reimbursement pursuant to the Spectrum Act. Accordingly, the over 2100 LPTV/translator stations that were displaced by full power and Class A stations as a result of the auction or the subsequent repacking process were required either to find a new channel from the smaller number of channels that remain in the reorganized broadcast TV band or to discontinue operations altogether. The Commission took a number of steps to mitigate the impact of the auction and repacking process on those LPTV/translator stations, including opening a special displacement filing window offering such stations an opportunity to select a new channel, and a subsequent settlement window for the resolution of mutually exclusive applications filed in that displacement window. In March 2018, Congress also took action in the REA to direct the Commission reimburse eligible LPTV/translator stations for the costs they reasonably incur to relocate to another channel and to provide additional funding to the TVBRF for that purpose.

REIMBURSEMENT OF BROADCASTER RELOCATION COSTS:

Full Power and Class A Television Stations: As part of its 2012 Incentive Auction Report and Order, the Commission adopted procedures to reimburse costs reasonably incurred by eligible full power and Class A television stations that are reassigned to new channels in the repacking process, as well as by multichannel video programming distributors (MVPDs) who incur costs as a result of the relocation of local full power and Class A stations that they carry, from the \$1.75 billion TVBRF established by Congress in the Spectrum Act. Under these procedures, the Commission issued eligible television stations and MVPDs an allocation of funds to cover the majority of their estimated costs. Those funds are available for draw down as expenses are incurred and invoices are submitted to the Commission. Additional funds will be allocated as necessary, and a final allocation and true-up will occur at the end of the reimbursement program.

The Commission adopted additional reimbursement measures to minimize administrative burdens and to prevent waste, fraud, and abuse in the reimbursement process. For example, the IATF and Media Bureau established a list of eligible expenses and estimated costs (the Cost Catalog) to assist full power and Class A television stations, MVPDs, the Commission’s Fund Administrator, and Commission staff in the reimbursement process. The Office of Management and Budget approved the TV Broadcaster Relocation Fund Reimbursement Form, FCC Form

2100, Schedule 399, which includes an embedded form of the Cost Catalog, in March 2016. The IATF and Media Bureau released an updated Cost Catalog of expenses in February 2017, together with a methodology for annually adjusting the prices in accordance with the Bureau of Labor Statistics' Producer Price Index (PPI), and announced updated price ranges listed in the Cost Catalog in a July 1, 2019, Public Notice.

Initial cost estimates were due July 12, 2017. The aggregate amount of initial submissions totaled \$2,139,861,869.68. Commission staff, with assistance from a Fund Administrator with extensive experience in television broadcast engineering and Federal funds management, EY (formerly Ernst & Young), conducted an in-depth review of each cost estimate to calculate initial allocations for each entity that is eligible for reimbursement from the Fund. After completion of the review, the aggregate reimbursement demand for the purposes of the initial allocation was \$1,863,971,470.42. The Commission announced the initial allocation of \$1 billion on October 16, 2017. Thereafter, on March 23, 2018, Congress passed the REA to address the TVBRF's apparent shortfall for full power and Class A stations and the lack of reimbursement funds for other categories of impacted broadcast stations. The REA appropriated a total of \$1 billion in additional funds for the TVBRF, increasing the total from \$1.75 Billion to \$2.75 billion comprised of \$600 million in fiscal year 2018 and \$400 million in fiscal year 2019. The IATF and Media Bureau have made additional allocations and allocation adjustments based on revised estimates for a total of approximately \$1.91 billion as of August 11, 2020. Additional allocations may be made prior to the end of the reimbursement period. In making the allocations, the Commission noted that it anticipates that estimated costs will continue to rise during the transition period as stations completing their transition submit final invoices.

Once the initial allocations were made, the Commission and Fund Administrator began reviewing invoices submitted by eligible full power and Class A stations and MVPDs to determine whether and in what amount the submitted costs are eligible for reimbursement and began making payments to eligible entities in October 2017. As of October 19, 2020, the Commission had reimbursed full power and Class A stations and MVPDs for submitted invoices a total of roughly \$1.34 billion. This process will continue throughout the transition period.

LPTV, TV Translator, and FM Station Relocation Costs: In addition to providing additional funding for full power and Class A stations, the REA directs the Commission to reimburse costs reasonably incurred by displaced LPTV/translator stations to relocate or modify their facilities and by FM stations to reasonably minimize disruption of service as a result of the repacking process and provides funding for consumer education. For the fiscal year 2018 funds, the REA directs the Commission to use not more than \$350 million of the newly appropriated funding to reimburse full power and Class A stations, not more than \$150 million to reimburse LPTV/translator stations, and not more than \$50 million to reimburse FM radio stations, and to use up to \$50 million for consumer education. The REA does not expressly delineate the use of 2019 funds. The Commission determined in the March 15, 2019 *REA Report & Order* that reimbursement of full power and Class A stations and MVPDs from 2019 funds would be prioritized over payment of LPTV/translator and FM stations.

Consistent with Congress' directive that the REA be implemented within one year of enactment, the Commission also adopted eligibility rules and procedures in the *REA Report & Order*. Concurrently, after public comment, the IATF and Media Bureau adopted a revised version of

the Cost Catalog reflecting costs or cost ranges for equipment and services most likely to be purchased by LPTV/translator and FM stations.

The IATF and Media Bureau announced reimbursement procedures for and procedures for submission of financial information by LPTV/translator and FM broadcast stations on August 15, 2019. In October 2019, the Commission received 93 reimbursement submissions from FM stations. After careful review by the Commission's Fund Administrator in consultation with the IATF and Media Bureau, 87 of those stations were determined to satisfy the requirements for eligibility to participate in the reimbursement program. For each of those 87 stations, the Fund Administrator reviewed the cost estimates and supporting documentation and, where reasonableness could not be determined, necessary documentation appeared to be missing, or the cost estimates appeared to be excessive, requested additional information from the station. After the Fund Administrator completed its initial review of the estimates, and Media Bureau reviewed and verified the Fund Administrator's recommendations, the aggregate reimbursement demand for purposes of an initial allocation as of December 9, 2019, was \$18,615,904. On that date, the IATF and Media Bureau announced an initial allocation to each of the 86 eligible FM stations that had submitted cost estimates as of that date in the amount of 92.5% of each station's verified cost estimate. That allocation totaled \$17,219,711. Since then, the IATF and Media Bureau have made adjustments to the initial allocation, and the allocation amount as of October 19, 2020, was roughly \$18.34 million. The Commission is now reimbursing eligible FM stations for submitted invoices.

The filing deadline for eligibility certifications and estimates by LPTV/translator stations was November 14, 2019. The Commission received 947 submissions from LPTV/translator stations. After review, 844 LPTV/translator stations were determined to satisfy the requirements for eligibility to participate in the reimbursement program. The aggregate reimbursement demand as of March 26, 2020, for all the LPTV/translator stations that filed estimates was \$164,922,143 and for those LPTV/translator stations determined to be eligible was \$143,633,411. Based on the review of those estimates, the verified estimate amount for eligible stations was \$102,437,198. The IATF and Media Bureau recognized that a number of factors could apply upward pressure on the total amount of verified cost estimates, including the fact that (1) filers that were found ineligible due to lack of proper documentation could resubmit sufficient information to be reassessed as eligible, (2) some estimates that were removed from a specific station's verified amount could be resubmitted with sufficient additional justification, (3) additional costs could be identified, and (4) currently anticipated costs could rise. Accordingly, in light of these upward pressures and consideration of the total \$150 million designated for LPTV/translator stations, on March 26, 2020, the IATF and Media Bureau made an initial allocation to each eligible LPTV/translator station in the amount of 85 percent of the station's verified cost estimates, for an aggregate initial allocation of \$87,071,619, to minimize the possible need for future allocation reductions and claw-backs and to assure that we allocate funds fairly and consistently across all eligible LPTV/translator stations. Since then, the IATF and Media Bureau have made adjustments to the initial allocation, and the aggregate allocation amount as of October 19, 2020, was roughly \$85.65 million. The Commission is now reimbursing eligible LPTV/translator stations for submitted invoices.

Consumer Education

The IATF has undertaken a comprehensive consumer education strategy using the \$50 million appropriated by Congress in the REA, as well as existing Commission resources and staff. Among other things, the IATF established a dedicated call center to answer consumer inquiries

Public Information

about rescanning their TVs and other broadcast transition topics. The call center is open seven days a week from 8:00 a.m. to 1:00 a.m. Eastern time and can assist callers in both English and Spanish. As of October 19, 2020, the call center had handled over 115,000 consumer calls, 97,359 of which were in English and 18,365 in Spanish. The Call Center will remain active until late 2020 to be sure that viewers whose local channels are moving from interim to permanent facilities can obtain information and help with any necessary rescans.

During the transition, IATF also contracted with a national public relations firm to undertake a comprehensive nationwide consumer education campaign to inform consumers about the need to rescan their TV sets to continue to receive broadcast stations that transition to new broadcast channels. The campaign included print, radio, digital radio and podcast advertising, online banner ads and paid search, and earned media in the form of radio interviews and pitching to local news outlets, and social media. Efforts included outreach in both English and Spanish, and website information in multiple other languages. Our phase-by-phase, geo-targeted consumer outreach program resulted in more than 2,670 airings of radio interviews with an estimated audience of over 6.9 million listeners as of July 15, 2020, as well as more than 2000 print and online media placements, many of which were in hard-to-reach markets. As a result of these efforts, the Commission's "FCC.gov/TVrescan" landing page, launched in 2018, had received over 5.6 million hits by July 15, 2020. That site provides consumer information, in multiple languages, on what to expect during the transition and how to rescan an over-the-air television. Call center volume also spiked during the week surrounding each phase completion date, demonstrating that consumers received the outreach that provided the 1-888-CALLFCC consumer help line number.

Prior to receiving the dedicated consumer education funding, the IATF, together with the Consumer & Governmental Affairs and Media Bureaus, had already created a number of consumer resources, which effort continued throughout the transition. These include an online mapping tool that shows consumers which stations in their area are changing channels and when. The Commission also updated its consumer guides on how to rescan over-the-air receivers and has recorded a public service announcement to remind viewers how to make sure their equipment is tuned to the right channels. As always, these materials were also available in multiple languages. The staff also has printed material to use in outreach to community organizations and others.

STATUS:

All of the 987 full power and Class A stations required to change channels have vacated their pre-auction channels.

The IATF and Media Bureau are continuing to process the necessary licensing of the 6.5 percent of full power and Class A stations who are operating on their new channels using interim antennas or shared facilities, or are silent pending construction of their permanent facilities, and the LPTV/translator stations who are also moving to new channels. Reimbursement of relocation costs related to the transition for full power and Class A television, LPTV/translator, and FM stations, and MVPDs is also ongoing and will continue until a final allocation and true-up can occur. Pursuant to the REA, any unobligated amounts in the Fund as of July 3, 2023, will be rescinded from the Fund and deposited into the Treasury and dedicated for the sole purpose of deficit reduction.

WIRELESS BRIEFING SHEET

SUBJECT: Flexibility for Low-Band Spectrum (T-Band)

SUMMARY: The Middle Class Tax Relief and Job Creation Act of 2012 requires the Commission to relocate Public Safety licensees from the T-Band (470-512 MHz). This will involve reallocating and auctioning T-Band spectrum, relocating existing private land mobile radio (PLMR) licensees, and establishing effective coexistence with broadcast stations

BACKGROUND:

- T-Band (TV Channels 14-20, located at 470-512 MHz)
 - In 1971, the Commission allocated some of this spectrum for PLMR in 13 cities, of which 11 cities were assigned (between one and four six-megahertz TV channels allocated per market)
 - The band is used for both Industrial/Business and Public Safety
 - There are approximately 4,700 PLMR licenses in these cities held by approximately 1,700 licensees (about 1,000 Public Safety, 700 Industrial/Business, and 20 Part 22 licensees), each with up to 6 base stations
 - Licensees use paired 25-kilohertz channels
 - Operation is permitted within an 80-mile circle (base station must be within 50 miles of city center; mobile units may operate only within 30 miles of base station)
- Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act) requires that:
 - The Commission shall, by February 2021, reallocate the spectrum used by Public Safety in this band, and commence an auction for the reallocated spectrum
 - Relocation of Public Safety from the T-Band spectrum shall be completed no later than two years after completion of the auction
 - Auction proceeds are made available to the National Telecommunications and Information Administration to make grants as necessary to cover relocation costs for the public safety entities for which the statute requires relocation.
 - The Act is silent regarding Business/Industrial licensees (estimated \$5.9 billion to relocate Public Safety only)

STATUS:

In 2013, WTB and PSHSB sought comment on issues regarding how to implement the Spectrum Act T-Band provisions and received approximately 40 comments from Public Safety and Industrial/Business entities.

In March 2019, WTB/PSHSB staff provided Congressional briefing materials and analysis on the T-Band relocation to Senate Commerce Committee staff. In June 2019, GAO submitted a report to the House Subcommittee on Emergency Preparedness, Response, and Recovery, Committee on Homeland Security titled “Emergency Communications: Required Auction of Public Safety Spectrum Could Harm First Responder Capabilities.” GAO recommended that Congress consider legislation allowing public safety users continued use of the T-Band spectrum.

On June 24, 2020, the Commission adopted a Notice of Proposed Rulemaking (*Notice*) (FCC 20-89), to commence the process of meeting the statutory deadlines and directives in Section 6103 of the Middle Class Tax Relief and Job Creation Act of 2012. Specifically, in the *Notice*, the Commission sought comment on the following:

- The Commission sought comment on reallocating T-Band spectrum, assigning new licenses by auction for the 6 megahertz to 18 megahertz of spectrum that is potentially available in each of the eleven urbanized areas, and relocating “public safety eligibles” from the T-Band. The Commission proposed rules that would allow for flexible use in the auctioned T-Band, including wireless (fixed or mobile) use.
- The Commission also proposed to permit broadcast operations and sought comment on how best to facilitate this and other potential uses.
- The Commission sought comment on transition mechanisms and costs for relocating public safety eligibles from the T-Band, including whether to transition these licensees only where auction revenues exceed anticipated transition costs.
- The Commission also proposed an auction framework and licensing, operating, and technical rules for the reallocated spectrum that would preserve the current environment for incumbents remaining in the T-Band.
- The Commission sought comment on how to best address the non-public safety operations in the T-Band to maximize opportunities for new entrants, including whether and how to transition non-public safety operations.

The *Notice* was published in the Federal Register on July 31, 2020. Comments were due by August 31, 2020, and reply comments were due by September 29, 2020. Staff is reviewing the record.

WIRELESS BRIEFING SHEET

SUBJECT: Maritime Radio Service (RM-11726 & RM-11765)

SUMMARY: The Maritime Radio Service rules regulate radio transmitters on ship and coast stations operating on maritime frequencies. A number of pending rulemaking proceedings relate to the Maritime Radio Service.

BACKGROUND: On June 16, 2014, the National Global Maritime Distress and Safety System Implementation Task Force (GMDSS Task Force) filed a petition for rulemaking (RM-11726) proposing that the Commission update the carriage requirements for radio safety equipment on small passenger vessels to enhance their safety and conform to the latest standards. No comments were filed.

On February 16, 2016, the Radio Technical Commission for Maritime Services (RTCM) filed a petition for rulemaking (RM-11765) proposing to comprehensively update, streamline, and reorganize the maritime radio service rules to enhance maritime safety, promote the efficient use of maritime spectrum, and remove unnecessary regulatory burdens. Twelve comments were filed.

On August 20, 2018, RTCM filed a petition for rulemaking (RM-11813) proposing that the Commission revise its rules to incorporate by reference the latest versions of the RTCM standards for Personal Locator Beacons and Maritime Survivor Locating Devices. Six comments were filed.

STATUS: The GMDSS Task Force and RTCM petitions are under consideration.

WIRELESS BRIEFING SHEET

SUBJECT: Mobile Data Services Onboard Aircraft (WT Docket No. 13-301)

BACKGROUND: Commission rules governing the use of airborne mobile devices vary significantly between services. For example, airborne use of the 800 MHz cellular band (Part 22) is prohibited and airborne use of the 800 MHz SMR band (Part 90) is precluded on aircraft that typically fly at elevations over one mile as a means to protect terrestrial networks from harmful interference. However, service-specific rules applicable to other services, such as PCS and 700 MHz, are generally silent regarding such use, although several bands have restrictions against aeronautical use in the underlying spectrum allocation.

In 2004, the Commission adopted an NPRM that proposed to relax or replace the Part 22 and Part 90 restrictions on airborne use of cellular mobile handsets. In response to that NPRM, various commenters raised concerns regarding the use of mobile services on airborne aircraft. The proceeding was terminated in 2007 due to the insufficiency of the technical record. The Commission, however, left open the possibility of revisiting the issues raised in this proceeding, should new technical information become available.

In September 2013, the FAA's Aviation Rulemaking Committee (ARC) completed a report regarding recommendations on ways to relax FAA rules limiting the use of personal electronic devices while planes are below 10,000 feet. The ARC report was released on October 31, 2013 and recommended allowing the use of devices like tablets and iPods while they are in "airplane" mode, as well as while connected to in-flight Wi-Fi devices. That same day, the FAA announced that it was immediately implementing provisions to certify aircraft as tolerant of emissions from PEDs. Several airlines are now allowing "gate-to-gate" use of Wi-Fi devices in "airplane" mode.

SUMMARY: On December 12, 2013, the Commission adopted a Notice of Proposed Rulemaking (*NPRM*) proposing to revise outdated rules and adopt consistent new rules governing mobile communications services aboard airborne aircraft. These proposed rule changes would give airlines, subject to applicable FAA and Department of Transportation (DOT) rules, the choice of whether to permit mobile communications services using an Airborne Access System and, if so, which specific services to enable. The *NPRM* proposes to:

- Remove existing, narrow restrictions on airborne use of mobile devices in the 800 MHz cellular and Specialized Mobile Radio (SMR) bands, replacing them with a more comprehensive framework encompassing access to mobile communications services in all mobile wireless bands;
- Harmonize regulations governing the operation of mobile devices on airborne aircraft across all commercial mobile spectrum bands;
- Add the authority to provide mobile communications services on airborne aircraft across all commercial mobile spectrum bands to existing Part 87 aircraft station licenses;
- Allow mobile communications services on airborne aircraft only if managed by an Airborne Access System certified by the FAA, which would control the emissions of onboard PEDs by requiring them to remain at or near their lowest transmitting power level;

- Limit authorization for mobile communications services to aircraft travelling at altitudes of more than 3,048 meters (approximately 10,000 feet) above the ground; and
- Consider alternative authorization frameworks, the potential impact of these proposals on public safety and national security, and issues related to the use of voice services onboard aircraft.

While the *NPRM* focuses on data service, it does not propose to limit the use of mobile communications services on aircraft to non-voice applications onboard aircraft. Rather, it leaves such decisions to the FAA and the airlines because considerations of whether to permit voice service relate primarily to in-cabin safety and passenger comfort onboard commercial aircraft.

On April 10, 2017, the Commission circulated an order terminating the proceeding initiated by the 2013 *NPRM*, citing a lack of consensus among stakeholders on a clear path forward. The Order remains on circulation.

DOT RULEMAKING:

On December 8, 2016, the DOT issued an *NPRM* proposing to require airlines and ticket agents to disclose in advance to consumers if the carrier operating their flight allows passengers to make voice calls using mobile wireless devices. The DOT's *NPRM* also seeks comment on whether to prohibit airlines from allowing voice calls via passenger mobile wireless devices on domestic and/or international flights. The comment period in that proceeding closed on February 13, 2017.

LEGISLATIVE INTEREST:

The FAA Reauthorization Act of 2018, signed into law on October 5, 2018, directs DOT to issue regulations prohibiting an individual on an aircraft from using a cell phone to make a voice call during a domestic scheduled passenger flight, with exemptions applying to any member of the flight crew or flight attendant on duty on an aircraft, as well as federal law enforcement acting in an official capacity.

WIRELESS BRIEFING SHEET

SUBJECT: Mobile Device Security Project

SUMMARY: In May 2016, the FCC and FTC launched a coordinated inquiry into mobile device security updates. The inquiry was in part in response to recent growth in the number of vulnerabilities associated with mobile operating systems that threaten security and integrity of a user's device, e.g. the "Stagefright" vulnerability that affected almost one billion Android devices globally in 2015.

The agencies entered into a Letter of Agreement in which they agreed that the FCC would issue letters to mobile carriers (AT&T, Verizon, T-Mobile, Sprint, US Cellular, Tracfone, Ting) asking questions about their processes for reviewing and releasing security updates for mobile devices and the FTC would simultaneously issue letters to mobile device manufacturers (Apple, Google, Microsoft, Samsung, Motorola, LG, HTC, Blackberry) requesting information about how they issued updates to address vulnerabilities in smartphones, tablets, and other mobile devices. The agencies agreed to share all information obtained through responses to the letters.

WTB issued letters on May 9, 2016 requesting information on each carrier's general security procedures, practices for development and release of security updates, communications with customers regarding security updates and vulnerabilities, and specific questions about the carrier's experience with Stagefright.

In August 2016, WTB staff sent follow-up inquiries to AT&T, Verizon, T-Mobile, Sprint, Tracfone, and US Cellular requesting data on recent Android vulnerabilities, specifically the date the carrier learned of the vulnerability and the date the carrier put out a patch to resolve the vulnerability, for the carrier's five most popular and five least popular devices.

STATUS: This remains pending. The FTC issued its report in February 2018:
<https://www.ftc.gov/news-events/press-releases/2018/02/ftc-recommends-steps-improve-mobile-device-security-update>

WIRELESS BRIEFING SHEET

SUBJECT: Multilateration - Location and Monitoring Service (M-LMS) Rulemaking

BACKGROUND: The M-LMS spectrum in the 902-928 MHz band has been occupied by a number of users, including federal, licensed, amateur, and unlicensed operations. This spectrum has been historically used by a variety of Part 15 devices and, since 1995, has been licensed for M-LMS as specified in Part 90 of the Commission's rules. Since M-LMS was established there has been very limited development of M-LMS service under existing rules.

Progeny Waiver Proceeding. On December 20, 2011, WTB and OET released an Order (*2011 Order*) in WT Docket No. 11-49 granting a petition of Progeny for waiver of two M-LMS rules to enable Progeny to utilize a more advanced and efficient multilateration location service than had been contemplated when the rules were established. The waiver enabled Progeny to make its service equally available to other mobile devices so long as Progeny provides its location service to both vehicular and non-vehicular location services. In addition to complying with existing testing requirements, the order further conditioned the waivers on Progeny filing a report demonstrating that its M-LMS system will not cause unacceptable levels of interference to Part 15 devices.

On June 6, 2013, following its review of field tests and comments filed in response to field testing reports, the Commission adopted an Order (*Progeny Order*) permitting Progeny to commence conditionally commercial operations of its B and C Block M-LMS network. A petition for reconsideration of the *2011 Order* and petitions for reconsideration of the *Progeny Order* are pending.

LMS Rulemaking. The Commission initiated a rulemaking in 2006 and sought comment on whether to expand M-LMS licensee spectrum rights by potentially removing use restrictions and modifying technical requirements that have hindered equipment availability, while still protecting other users. In 2014, the Commission terminated the 2006 *NPRM*, expressly declining to expand licensee spectrum rights after finding that the various proposals for broad rule revisions did not merit further reconsideration at that time. The Commission noted that: 1) wholesale changes to existing LMS framework or other changes were not necessary to provide sufficient flexibility to provide location services; and 2) at least one licensee (*i.e.*, Progeny) could commence commercial operations consistent with the existing M-LMS framework.

Extension of Construction Deadlines. In November 2008, following extension and waiver requests by Progeny and PCS Partners, WTB extended the interim and final construction deadlines to 2012 and 2014, respectively, for Progeny and all the other M-LMS licensees in the 902-928 MHz band. In 2012, Progeny and the other five M-LMS licensees filed requests for waiver and extension of time of the M-LMS construction deadlines. On August 29, 2014, the Bureau released an Order (*2014 Order*) addressing the FCR, PCS Partners, Helen Wong-Armijo, Skybridge, and Telesaurus waiver and extension requests. The *2014 Order* extended the interim deadline until September 4, 2016, and the final deadline until September 4, 2018, stating that the Commission removed regulatory uncertainty when it terminated the M-LMS *NPRM* in June 2014, and that a limited extension will permit M-LMS licensees to make appropriate business decisions regarding their licenses. The *2014 Order* also stated that lack of available equipment

will not be considered as a basis for further extension beyond the relief granted in the *2014 Order*.

On April 15, 2016, PCS Partners filed applications for modification seeking expedited treatment of its waiver requests to permit machine type communications using LTE to support Internet of Things applications and to extend both its interim and final construction deadlines for an additional four years, for thirty-one of its Channel Block A M-LMS licenses. PCS Partners later amended its request on August 19, 2016, to include its sole Channel Block C M-LMS license. On August 29, 2016, and August 31, 2016, respectively, Helen Wong-Armijo and FCR filed applications requesting an extension of the interim construction deadline, and on September 12, 2016, filed applications requesting an extension of the final construction deadline. In the alternative, Helen Wong-Armijo and FCR requested a waiver of the construction requirements. On September 2, 2016, Skybridge and Telesaurus, acting through a court-appointed receiver, jointly filed applications for extension of the interim construction deadline.

Treatment of Construction Extension Requests. In January 2017, the Bureau granted Progeny a conditional waiver to extend its construction dates to align with the timelines for wireless carriers to comply with the indoor wireless location accuracy rules the Commission adopted in its 2015 Fourth Report and Order, specifically April 2020, April 2021, or April 2023, depending on the market license (*2017 Order*). On July 17, 2020, the Bureau conditionally granted Progeny's request to waive and extend for six months its deadline for satisfying the end-of-term construction requirements for 42 M-LMS licenses (Licenses) as set forth in the *2017 Order*. Given the impact of COVID-19, the Bureau found good cause to grant a waiver, and therefore extend Progeny's deadline for the Licenses from April 3, 2020, to October 3, 2020, subject to the condition that, by the extended deadline, Progeny must ensure that performance of its agreement with the International Association of Fire Chiefs to deliver end user receivers for training and search and rescue exercises has resumed and that the receivers are being used by fire departments. Progeny must continue to support the wireless carriers' efforts to comply with their location accuracy requirements.

Also in January 2017, the Bureau denied the petitions for reconsideration filed by PCS Partners, Skybridge, and Telesaurus, affirming its 2014 extension providing an additional two years to the interim and final construction deadlines of all licensees, excepting Progeny.

On November 20, 2017, the Bureau denied the extension and waiver requests of Helen Wong-Armijo, FCR, Skybridge, and Telesaurus. In a separate order on the same day, the Bureau denied PCS Partners' extension and waiver request. As a result, Progeny and Telesaurus are the only remaining licensees in the M-LMS band since both entities hold licenses not subject to either order; all of the licenses that were the subject of the two orders were deemed to have terminated automatically as of September 4, 2016.

STATUS: On December 20, 2017, PCS Partners, Skybridge, Telesaurus, and Warren Havens filed petitions for reconsideration of the Bureau's November 20, 2017 decision; FCR and Helen Wong-Armijo filed applications for review of the decision. Also pending before the Bureau are various challenges to the grant of Progeny's technical waiver, extension relief, and commencement of commercial operations grant, as well as pending petitions for reconsideration and Applications for Review of prior decisions by the Bureau and Commission to prior

construction relief to licensees in the M-LMS band, including the 2017 Bureau denial of challenges to the limited extension in 2014.

WIRELESS BRIEFING SHEET

SUBJECT: MVDDS 5G Coalition Petition for Rulemaking to Increase Flexibility for the Use of Multichannel Video Distribution and Data Service (MVDDS) Spectrum (RM-11768)

SUMMARY: The MVDDS 5G Coalition consists of most of the MVDDS licensees (12.2-12.7 GHz) with DISH as the primary proponent along with a licensee owned by a Dell investment fund that is not a Coalition member but generally supports the petition. The petition seeks to initiate a rulemaking proceeding to change the rules to allow MVDDS licensees to provide two-way mobile broadband service. The requested rule changes would include adding a mobile allocation, deleting or demoting to secondary status a fixed satellite service allocation, and eliminating the MVDDS equivalent isotropically radiated power limit, although it would still require MVDDS not to exceed an equivalent power flux density limit at each Direct Broadcast Satellite (DBS) dish). On May 26, 2020, the Competitive Carriers Association, Public Knowledge, Open Technology Institute at New America, INCOMPAS, and the Computer & Communications Industry Association submitted a filing expressing support for permitting licensees to provide mobile services in the 12.2-12.7 GHz band.

BACKGROUND: The 12.2-12.7 GHz band has co-primary allocations for DBS, Fixed Service, and non-geostationary fixed satellite service (NGSO FSS) (space-to-Earth), though the latter two services operate on a non-harmful interference basis to DBS. MVDDS is a one-way terrestrial, multipoint video/data service that was created with technically and operationally significant restrictions to protect the millions of consumers receiving Direct Broadcast Satellite (DBS) service. Protecting DBS was so critical that Congress required the Commission to hire an engineering firm to conduct an independent technical demonstration of any terrestrial service technology proposed by any entity to determine whether the proposed technology would cause harmful interference to any DBS service. Fixed (MVDDS) and NGSO FSS share the band essentially on a first-in-time priority basis relative to each MVDDS transmitter and each Earth station location.

STATUS: A public notice seeking comment on the MVDDS 5G Coalition Petition for Rulemaking was released on May 9, 2016.

RELATED PROCEEDINGS:

- *NGSOs:* Since 2017 the FCC has granted authority to at least six operators, including OneWeb and SpaceX, to use the 10.7-12.7 GHz band, among others, for NGSO FSS space-to-Earth operations. These grants indicated that use of the 12.2-12.7 GHz is subject to the outcome of any possible rulemaking involving the MVDDS 5G Coalition's Petition.
- SpaceX and OneWeb have subsequently modified their authorizations; further modifications, which MVDDS licensees oppose, are pending.
- *Mid-band Inquiry:* Some commenters note that the 12-12.7 GHz is non-Federal, mid-band spectrum that should be made available for wireless 5G broadband service. *See, e.g.,* Notice of Inquiry, Expanding Flexible Use in Mid-Band Spectrum Between 3.7 and 24 GHz (GN Docket 17-183).
- *MVDDS Waiver Requests:* In September 2015, the Commission sought comment on requests by seven MVDDS licensees for waiver of certain MVDDS technical rules,

including power limitations, to enable the use of the band for point-to-point services. These requests remain pending before WTB.

- *MVDDS Buildout Showings*: In July-August 2019, all MVDDS licensees filed build-out showings. Those showings are now under review.

WIRELESS BRIEFING SHEET

SUBJECT: Updating the Commission's Rule for Over-the-Air Reception Devices (WT Docket No. 19-71)

SUMMARY: The Commission is considering modernizing the rule for over-the-air reception devices (OTARD). The current rule prohibits certain state and local restrictions that unreasonably impair the ability of users to deploy small antennas on their own property. In April 2019, the Commission adopted an NPRM that proposed to eliminate the restriction that currently excludes hub and relay antennas from the scope of OTARD rule. The goal of the proposed rules is to spur wireless infrastructure deployment and investment.

BACKGROUND AND ISSUES:

2000 Competitive Networks Order. The original OTARD rule applied only to antennas used to receive video programming signals, but in the *2000 Competitive Networks Order*, the Commission expanded the rule to apply to antennas used for transmitting or receiving fixed wireless signals. In the order, the Commission stated that it did not intend to cover hub or relay antennas used to transmit signals to and/or receive signals from multiple customer locations.

In August 2018, the Wireless Internet Service Providers Association (WISPA) asked the Commission to update the OTARD rule to apply to all fixed wireless antennas, regardless of whether the equipment is used for reception, transmission, or both, so long as the equipment meets existing size restrictions. WISPA's request would extend the OTARD rule to cover the hub and relay antennas that previously were excluded from the OTARD framework.

STATUS: On April 12, 2019, the Commission adopted an NPRM seeking comment on WISPA's proposal. It also sought comment on whether updating the OTARD rule could help facilitate the deployment of other 5G infrastructure, such as small wireless facilities.

WIRELESS BRIEFING SHEET

SUBJECT: Partitioning, Disaggregation, and Leasing of Spectrum (WT Docket No. 19-38, FCC 19-22).

SUMMARY: On March 15, 2019, the Commission adopted a *Notice of Proposed Rulemaking (Notice)* to explore how potential changes to our partitioning, disaggregation, and leasing rules might better serve the Commission’s goals of closing the digital divide and increasing spectrum access by small and rural carriers.

BACKGROUND:

The *Notice* sought comment on whether to establish a program, or modify existing programs, for partitioning, disaggregation, and spectrum leasing as potential means to increase the availability of advanced telecommunications services in rural areas and spectrum access by small carriers. The *Notice* asked commenters to address: (1) whether reduced performance requirements applicable to partitioned or disaggregated licenses would promote the availability of advanced telecommunications services in rural areas or spectrum availability for small covered carriers; (2) what conditions may be needed to eliminate impediments to transfers of spectrum to small carriers to allow them to build out in a reasonable time; and (3) what incentives may encourage licensees to lease or sell spectrum to small carriers or unaffiliated carriers that will serve rural areas. Finally, the *Notice* sought comment on whether to allow “reaggregation” for spectrum that has been partitioned or disaggregated on the secondary market—up to the size of the original market area.

LEGISLATIVE INTEREST: On March 23, 2018, Congress adopted the Making Opportunities for Broadband Investment and Limiting Excessive and Needless Obstacles to Wireless Act (MOBILE NOW Act), which includes provisions requiring that the Commission take various actions concerning licensing, infrastructure, and deployment of wireless broadband services. Among the provisions is a requirement that the Commission initiate a rulemaking to consider specific questions related to the partitioning or disaggregation of spectrum licenses and spectrum leasing as a potential means to increase availability of advanced telecommunications services in rural areas and spectrum access by small carriers.

STATUS: Comments were due on or before June 3, 2019 and reply comments on or before July 1, 2019. Approximately 30 comments and reply comments were received. Staff is continuing to review the record.

WIRELESS BRIEFING SHEET

SUBJECT: Positive Train Control (RF Issues) (WT Docket No. 11-79)

SUMMARY: On September 12, 2008, a Metrolink commuter train collided with a Union Pacific freight train in Chatsworth, California, killing 25 passengers. Within months, Congress passed the Rail Safety Improvement Act of 2008 (RSIA), which, as amended, requires major freight, passenger, and commuter rails to implement Positive Train Control (PTC) systems by December 31, 2018. Only four railroads met the December 31, 2018, implementation deadline. Pursuant to RSIA, the Federal Railroad Administration (FRA) granted the remaining railroads up to 24 additional months (until December 31, 2020) to complete PTC implementation. PTC systems, which use radio communications equipment, are intended to prevent human-error train collisions, over-speed derailments, and incursions into work zones. The Commission has faced challenges in providing adequate spectrum for PTC implementation because RSIA did not direct the FCC to assign spectrum to rails for PTC or provide rails funds to acquire spectrum. Despite these challenges, on November 21, 2018, the FRA reported that “all railroads using radio spectrum-based PTC have acquired sufficient spectrum.” In 2017, Congress authorized \$197 million in competitive grants to implement PTC, which were awarded to 17 commuter and intercity passenger rails, through the Fixing America’s Surface Transportation (FAST) Act. On August 24, 2018, FRA announced \$203 million in grants for PTC implementation in 15 states.

LEGISLATIVE INTEREST: Hill interest in PTC intensified following a May 12, 2015 Amtrak derailment in Philadelphia, killing eight and injuring more than 200. Charles Mathias, WTB Associate Bureau Chief, testified in hearings on June 10, 2015, before the Senate Commerce Committee and on June 24, 2015, before the House Transportation and Infrastructure Committee regarding the FCC’s role in PTC implementation. Mr. Mathias explained that the FCC has two roles related to PTC: (1) facilitating railroads’ spectrum acquisition and use; and (2) managing the statutorily required historic/tribal/environmental reviews of physical infrastructure (*i.e.*, poles/antennas) used to support PTC’s wireless transmission systems.

BACKGROUND AND ISSUES:

- Spectrum between 217 and 222 MHz is the desired spectrum for PTC implementation.
- The rail industry, with FRA’s support, has requested FCC assistance in obtaining spectrum.
- Amtrak has acquired spectrum to enable PTC on the Northeast Corridor, from Washington, DC to New York City, and from New Haven to Boston. The Commission issued an order to provide Metro-North spectrum for the track under its control between New York City and New Haven in exchange for other spectrum held by Metro-North.
- Metrolink has leased spectrum to implement PTC and has acquired spectrum to implement PTC in greater Los Angeles.
- The freight rail industry (d/b/a PTC-220) has secured substantial nationwide spectrum to implement PTC. PTC-220 is working closely with Amtrak and the commuter rails to collaboratively implement PTC through infrastructure and spectrum sharing in many areas, including Los Angeles and Chicago (the nation’s busiest rail market).
- Commuter rail authorities report that they have acquired or leased spectrum to fulfill the RSIA mandate.

- The Commission and the Bureau have acted to facilitate spectrum acquisition and lease negotiations by Amtrak and the commuter rails with PTC-220 and other FCC licensees. For example, the Bureau released an order in March 2017 to enlarge the geographic footprint of a PTC-220 license in exchange for spectrum already held by PTC-220. Subsequently, the Bureau approved related spectrum assignments from that modified PTC-220 license to facilitate PTC deployment by New Jersey Transit and the Southeastern Philadelphia Transportation Authority. Commission staff have most recently facilitated additional spectrum acquisitions across much of the nation by PTC-220.
- The Commission has granted multiple requests for special temporary authority, as well as many legal and technical rule waivers to facilitate PTC implementation.
- Staff worked with the Advisory Council on Historic Preservation to develop a Program Comment that facilitates review of PTC infrastructure deployment (of more than 20,000 new poles). Details regarding this undertaking are provided in the Wireless Infrastructure brief, page 87 below.

STATUS:

- Staff has worked closely with Amtrak, the commuter rails, and the freights to help them acquire spectrum via the secondary markets to meet their PTC spectrum needs. In May 2015, the freight railroads informed FCC staff—for the first time—that their chosen PTC technology (I-ETMS) is incompatible with the PTC technology (ACSES) being deployed by Amtrak and certain commuter rails in the Northeast Corridor. An FRA-funded study suggests that both systems will suffer harmful interference and could fail when operated in close proximity with inadequate spectral separation. Commission staff has worked with interested parties to help develop solutions to this problem.
- In September 2017, months after advising staff that the freight rails' PTC spectrum needs were largely met, PTC-220 advised staff that further engineering analyses indicate that to deploy PTC in the future, the freight rails needed to obtain additional spectrum in more than 30 markets, particularly Chicago where Amtrak, two commuter rails, and numerous freights are collaboratively implementing PTC. In April and December 2019, the Bureau approved PTC-220's acquisition of additional spectrum to meet those needs.
- Staff continues to work closely with the rail industry to facilitate the use of spectrum to implement PTC (by technical waivers, for example), and, where necessary, help it identify spectrum for future needs.

WIRELESS BRIEFING SHEET

SUBJECT: Private Land Mobile Radio Service (WP Docket No. 16-261)

SUMMARY: Private land mobile radio (PLMR) licensees generally do not provide for-profit communications services. Some examples of PLMR licensees are public safety agencies, utilities, transportation entities, and medical service providers.

BACKGROUND: On October 22, 2018, the Commission released a Report and Order and Order to amend Part 90 of the Commission's rules to expand access to PLMR spectrum. It denied a petition for rulemaking filed by the Land Mobile Communications Council (LMCC) proposing that the Commission modify the rules to allow 800 MHz band incumbent licensees in a market a six-month period in which to apply for frequencies in the 800 MHz Expansion Band and Guard Band before making them available to applicants for new 800 MHz systems. It adopted in part a proposal in a separate LMCC petition proposing that the Commission's rules should extend conditional licensing authority to applicants for site-based licenses in bands above 470 MHz. In addition, the Commission made available for PLMR use certain frequencies that are on the band edges between the Industrial/Business Pool and either Part 74 Broadcast Auxiliary Service or Part 95 General Mobile Radio Service spectrum, and frequencies that were designated for central station alarm operations. It also amended the rules to permit licensing of interstitial channels in the 800 MHz band in WT Docket No. 15-32 and terminated the 800 MHz intercategory sharing freeze and announced the completion of 800 MHz rebanding in additional regions.

STATUS: The Report and Order and Order was published in the Federal Register on November 27, 2018, making most of the rules effective December 27, 2018. With respect to the rule changes regarding 800 MHz interstitial channels and central station alarm channels, which contain modified information collections, notice of OMB approval was published in the Federal Register June 21, 2019, making those rules effective on that date. Petitions for reconsideration were filed by The Monitoring Association regarding the decision to expand eligibility for frequencies that were designated for central station alarm operations, and by LMCC regarding the technical rules for licensing 800 MHz interstitial channels. The Monitoring Association withdrew its petition for reconsideration on January 14, 2020, and the Commission released an Order on May 3, 2020 disposing of LMCC's Petition.

WIRELESS BRIEFING SHEET

SUBJECT: Restoring Internet Freedom and Wireless Networks (WC Docket No. 17-108)

SUMMARY: On December 14, 2017, the Commission adopted the Restoring Internet Freedom Declaratory Ruling, Report and Order and Order. Among other things, it reinstated the determination that mobile broadband Internet access service is not a commercial mobile service and, in conjunction, revisited the elements of the *Title II Order* that modified or reinterpreted key terms of Section 332 and the Commission’s implementing regulations.

- Prior to the *Title II Order*, an interconnected service was defined as a service that was “interconnected with the public switched network... that gives subscribers the capability to communicate to or receive communication from all other users on the public switched network.” The public switched network was defined to mean “any common carrier switched network, whether by wire or radio ... that use[s] the North American Numbering Plan in connection with the provision of switched services.”
- The Commission modified these definitions in the *Title II Order*, in order to conclude that mobile broadband Internet access service was CMRS. First, it expanded the definition of the public switched network to include networks that use IP addresses. The Commission also changed the definition of the term “interconnected service” by removing the word “all” from the definition.
- The Restoring Internet Freedom Order restored the meaning of “public switched network” under section 332(d)(2) to its pre-*Title II Order* focus on the traditional public switched telephone network by removing reference to “IP addresses.” It also restored the word “all” in the definition of “interconnected service.”
- The Order also reversed the alternative finding in the *Title II Order* that mobile broadband Internet access service was also the functional equivalent of commercial mobile service.

STATUS: The Restoring Internet Freedom Order became effective on June 11, 2018. Mozilla, Inc. *et al.* challenged the Order in the Court of Appeals for the D.C. Circuit. Oral arguments were held before the D.C. Circuit on February 1, 2019. On October 1, 2019 a panel of the D.C. Circuit largely upheld the Commission’s Restoring Internet Freedom Order. The Court unanimously affirmed the agency’s decision to reclassify broadband internet access service as an information service, as well as its decision to reclassify mobile broadband as a private mobile service. On February 6, 2020, the D.C. Circuit denied, without dissent, the requests for rehearing and rehearing *en banc* of its decision in *Mozilla v. FCC*.

WIRELESS BRIEFING SHEET

SUBJECT: Signal Boosters (WT Docket No. 10-4)

SUMMARY: On February 20, 2013, the Commission adopted a Report and Order (*Signal Boosters Order*) with new rules governing signal boosters.² Signal boosters are fixed or mobile devices that amplify and/or distribute wireless signals to areas with poor signal coverage, such as tunnels, subways, large buildings, and rural areas. When properly installed, these devices can help consumers, wireless service providers, and first responders by expanding the area of reliable service, including broadband, to unserved or weak signal areas.

The 2013 rules substantially improved signal booster design by requiring manufacturers to include safeguards that protect wireless networks. As a result, all four nationwide carriers, as well as many rural and regional carriers, have consented to the use of boosters on their networks, if those boosters meet the technical specifications outlined in the *Signal Boosters Order*. The rules were designed to address the most pressing need at the time—increasing availability of well-designed signal boosters to consumers for everyday use in their homes and vehicles. While it kept the authorization mechanism simple, this approach stopped short of allowing consumer signal booster installation in public spaces, such as small businesses.

The *Signal Boosters Order* defines two classes of signal boosters—consumer and industrial—with distinct regulatory requirements for each. Specifically, consumer signal boosters must meet stringent technical specifications (Network Protection Standard) and are authorized under provider licenses subject to provider consent, voluntarily provided in this case by most carriers. Consumers must register their signal booster with their provider prior to use. Labeling requirements ensure that consumers understand these terms of use. Consumer boosters can be used on most mainstream wireless bands: Cellular, PCS, AWS-1, 700 MHz, and ESMR (after rebanding). The use of consumer boosters may not cause interference to wireless networks even if a device meets the Network Protection Standard.

The *Signal Boosters Order* also details rules for industrial signal boosters designed to cover large areas such as stadiums, airports, and tunnels, retaining the existing authorization process; industrial signal boosters must be installed and operated with the consent of licensees. On or after April 30, 2014, all consumer and industrial signal boosters sold and marketed in the United States must meet the new requirements.

On September 19, 2014, the Commission adopted an Order on Reconsideration (*Order on Reconsideration*) and Further Notice of Proposed Rulemaking (*FNPRM*). The *Order on Reconsideration* modified certain noise and gain limits in the technical specifications for wideband consumer signal boosters to accommodate existing measurement equipment and revised the rules for mobile provider-specific consumer signal boosters to ensure the protection of wireless networks. The *FNPRM* also sought comment on whether to retain the “personal use” restriction for provider-specific consumer signal boosters. This proposed change is intended to

² Our use of the term “signal booster” includes all manner of amplifiers, repeaters, boosters, distributed antenna systems, and in-building radiation systems that serve to amplify CMRS device signals, Part 90 device signals, or extend the coverage area of CMRS providers or Part 90 service licensees. It does not include femtocells.

legally expand consumer signal booster use to small businesses. The Commission adopted the proposal in the *Second Report and Order* adopted on March 22, 2018.

On February 29, 2016, the Bureau released a Public Notice seeking comment on the current state of the consumer signal booster market and any relevant technologies that should be considered going forward. Commenters were generally positive about the how the rules have worked thus far. Some commenters also reinforced the need to continue adjusting the rules so that small businesses may legally use Consumer Signal Boosters.

On December 21, 2016, Wilson Electronics filed a Petition for Rulemaking (RM-11784) (Wilson Petition) asking the Commission to eliminate the personal use restriction for wideband consumer signal boosters. The Bureau placed the Wilson Petition on public notice on March 3, 2017. Comments were due on March 23, 2017; reply comments were due April 3, 2017.

On March 22, 2018, the Commission adopted a *Second Report and Order and Second FNPRM* whereby it: 1) eliminated the current personal use restriction on provider-specific boosters, 2) sought input on removing unnecessary barriers to embedding boosters within vehicles, 3) proposed to eliminate the personal use restriction on wideband boosters and to authorize non-subscribers to operate both types of consumer signal boosters, and 4) sought comment on whether to expand consumer signal booster operations to additional spectrum bands. The *Second FNPRM* included the record from the Wilson Petition.

BACKGROUND: The Commission created WT Docket No. 10-4 to address four petitions filed by Bird Technologies, CTIA, the DAS Forum, and Wilson Electronics (collectively, Petitions) regarding the use and installation of signal boosters. These Petitions sought clarification on the proper use, certification, sale, and regulation of signal boosters. On April 6, 2011, the Commission released an NPRM to facilitate the development and deployment of well-designed signal boosters, which led to the *Signal Boosters Order*.

STATUS: The final rules from the *Signal Boosters Order*, *Order on Reconsideration*, and *Second Report and Order* are in full effect. Comments to the *Second FNPRM* were filed on May 18, 2018, and replies were filed on June 18, 2018. Staff is reviewing the record.

WIRELESS BRIEFING SHEET

SUBJECT: SNR/Northstar (DISH) Remand

SUMMARY: 31 bidders won 1,614 licenses in Auction 97 (AWS-3). Part of the long-form application review process is to verify that each applicant is eligible under the Commission's rules for any bidding credits it has requested.

On August 18, 2015, the Commission released a *Memorandum Opinion and Order* that found SNR Wireless LicenseCo, LLC ("SNR") and Northstar Wireless, LLC ("Northstar") (collectively, the "Applicants") ineligible for 25% bidding credits available to very small businesses. The Commission determined that DISH Network Corp. (DISH) has *de facto* and management control over SNR and Northstar, meaning that DISH's revenues must be attributed to SNR and Northstar, which renders them ineligible for very small-business bidding credits. That decision has been upheld in part, and remanded in part, by the D.C. Circuit.

Background—SNR and Northstar Applications—Auction 97

- SNR won 357 of 1614 licenses, with a total of \$4.11 B in net provisionally winning bids.
- Northstar won 345 of 1614 licenses, with a total of \$5.88 B in net provisionally winning bids.
- SNR and Northstar each asserted that it had less than \$15 million in gross revenues and therefore qualifies as a "very small business" under Auction-97 rules.
 - As "very small businesses" SNR and Northstar would be eligible to receive bidding credits equal to 25 percent off the amount of their gross winning bids, amounting to discounts of \$1,370,591,075, and \$1,961,264,850, respectively.
- DISH (through various intermediate subsidiaries) holds an 85 percent equity interest in each of the Applicants, provided the majority of their capital, and contracted to manage the build-out and operation of their networks.
- SNR, Northstar, and DISH had bidding agreements between and among each other pursuant to which they communicated and coordinated their bidding strategy throughout Auction 97.
- Eight parties filed petitions to deny generally arguing that that the FCC should deny SNR and Northstar the bidding credits due to their affiliation with DISH.

Determinations in 2015 MO&O

1. DISH has *de facto* control of and power to control SNR and Northstar.

- The Commission found that SNR and Northstar have a financial dependency on DISH of unprecedented size and scope, DISH's managerial responsibilities include virtually all the functions required of a wireless network licensee, and DISH has "investor protections" that extend far beyond those deemed necessary by the other investors in both Applicants.
- The Commission found that DISH, directly or indirectly, controls or has the power to control the Applicants via a variety of mechanisms including the Management Services Agreements and interoperability obligations imposed in other agreements that give DISH authority over a wide range of technology, network design, construction, operation, marketing, billing, accounting, and other functions. These factors give DISH the ability to

determine or significantly influence the nature and types of services offered by SNR and Northstar and constitute a controlling interest.

- The concerted bidding conduct of the Applicants and DISH was an additional corroborating circumstance as to DISH's *de facto* control. (*E.g.*, use of the same list of target licenses, extent of identical overlapping bids for identical licenses, willingness to accept random selection of winning bids.)
2. **Given the findings above, DISH's revenues are attributable to SNR and Northstar and the Applicants are ineligible for small-business bidding credits.**
 3. **SNR and Northstar were not disqualified to be FCC licensees.**
 - The *MO&O* rejects assertions that the Applicants should not be awarded all or some of the licenses that they won in Auction 97 on the ground that they did not adequately disclose the nature of their relationship and joint bidding arrangements with DISH, or that their bidding in Auction 97 violated FCC rules or antitrust laws. The Commission declined to refer the antitrust matter to the Department of Justice noting that the determination that DISH has *de facto* control of Applicants renders SNR, Northstar, and DISH a single entity for purposes of antitrust analysis.
 - The *MO&O* denied the bidding credits and required SNR and Northstar to make additional payments to cover their gross winning bids.

Selective Defaults

- On October 1, 2015, SNR and Northstar each requested that funds already on deposit, plus additional amounts remitted, be applied as follows:
 - SNR: full payment for 244 of 357 licenses and increased bid withdrawal payment, plus 15% interim default payment for 113 licenses declined (selective default)
 - Northstar: full payment for 261 of 345 licenses plus 15% interim default payment for 84 licenses declined (selective default).
- If the 197 licenses declined by SNR and Northstar sell for less than their winning bids in Auction 97 when they are re-auctioned, SNR and Northstar will be obligated to pay the differences between that sale price and their winning bid price in Auction 97.
- To address any concern that they might be unable to pay the amount of the potential deficiency payments, SNR, Northstar, and DISH provided the FCC with security against this risk in the form of a guarantee by DISH, revisions to their credit agreements to subordinate to the Commission DISH's and its affiliates' rights as a creditor of SNR and Northstar, and an acknowledgement that the licenses issued to SNR and Northstar will contain a condition that in the event any licenses are assigned or transferred by SNR or Northstar, the assignee or transferee will be liable for a proportional share of any future deficiency payment obligation which, if not paid, will result in cancellation of the licenses.
- On October 1, 2015, WTB released separate letters to SNR and Northstar setting forth these obligations and stating that the security provisions entered after the date of the *MO&O* will not be relied upon by the Commission to demonstrate control of SNR or Northstar by DISH and that, because the interim default payment has been satisfied, the selective default will not result in any of the entities being considered a current defaulter or render them ineligible to participate in future auctions.

Judicial Appeals

- SNR and Northstar sought judicial review of the *MO&O* before the D.C. Circuit and on August 31, 2017, the D.C. Circuit issued its opinion in *SNR Wireless LicenseCo, LLC v. FCC*, No. 15-1330. The Court held that the FCC had reasonably applied its longstanding

precedent to determine that DISH exercised a disqualifying degree of *de facto* control over SNR and Northstar. In so finding, the Court rejected Applicants' argument that the Commission was bound to grant bidding credits to them because the Wireless Telecommunications Bureau approved bidding credits in cases they asserted were materially indistinguishable. The Court held that under longstanding circuit precedent, the Commission is not bound to follow the decisions of its staff, and that the Bureau's approval of earlier bidding credit applications – effectuated through the one-word “grant” in ULS – was not precedent at all. The Court further found that the earlier agreements relied upon by Applicants were materially distinguishable.

- Separately, the Court held that the Commission did not give SNR and Northstar adequate notice that, if their relationships with DISH cost them their bidding credits, the FCC would also deny them an opportunity to cure. The court specified that “[n]othing in our decision requires the FCC to permit a cure. That choice lies with the FCC. But if the very opportunity to seek one is to be foreclosed, applicants must have clear, advance notice to that effect.” The Court remanded the matter to the Commission to give petitioners an opportunity to cure the *de facto* control the FCC found that DISH exercises over them.

Remand Process

- On January 24, 2018, the Wireless Telecommunications Bureau issued an order on remand establishing a procedure to afford Northstar and SNR the opportunity to cure their Auction 97 applications pursuant to the mandate of the D.C. Circuit. Pursuant to remand process, both Applicants amended their agreements and supplemented the record. As a result, the Applicants state that they now qualify for the very small business bidding credits and that the Commission should grant them the licenses on which they selectively defaulted. In response to the Applicants' filings, five parties to these proceedings filed comments about the Applicants' amended agreements, and the Applicants have responded to these comments and oppositions. The Commission affirmed WTB's order on remand in July 2018.

STATUS: The Applicants' amended agreements and comments by the parties to the proceedings are under review to determine if the Applicants' are eligible for the very small business credits and if they are entitled to the defaulted licenses.

WIRELESS BRIEFING SHEET

SUBJECT: Spectrum Frontiers Proceeding (GN Docket No. 14-177; IB Docket Nos. 15-256, 97-95; RM-11664; WT Docket No. 10-112)

SUMMARY: This briefing sheet describes Commission efforts to enable the use of millimeter wave spectrum above 24 GHz for mobile wireless services, including in the context of next-generation, or 5G, networks.

BACKGROUND:

- Historically, mobile wireless services have been targeted at bands below 3 GHz due to technological and practical limitations.
- However, there have been significant developments in antenna and processing technologies that may allow the use of higher frequencies – in this case those above 24 GHz – for mobile applications.
 - Studies show that these new technologies – what some are calling “5G” – can ultimately facilitate dramatically faster wireless broadband speeds and lower latencies than those available today.
 - A global race is on to capture the economic benefits that will likely accrue to those economies that are able to launch 5G services expeditiously.

PROCEEDING:

- *Notice of Inquiry:* On October 17, 2014, the Commission released a Notice of Inquiry that sought to broaden its understanding of the state of the art in technological developments for using frequencies above 24 GHz for mobile and other uses.
- *Notice of Proposed Rulemaking:* On October 22, 2015, the Commission adopted a Notice of Proposed Rulemaking, which built on the record developed by the Notice of Inquiry. The Notice of Proposed Rulemaking proposed a mix of licensed and unlicensed bands, with a licensing framework that supports flexible use of the spectrum and creates opportunities for sharing among different kinds of users and use cases.
- *First Report and Order:* On July 14, 2016, the Commission adopted a Report and Order and Further Notice of Proposed Rulemaking.
 - The First Report and Order created new fixed and mobile licenses in three bands: 27.5-28.35 GHz (28 GHz band), 38.6-40 GHz (39 GHz band), and 37-38.6 GHz band (37 GHz band). This new service is called the Upper Microwave Flexible Use Service.
 - The First Report and Order granted incumbent licensees in the 28 GHz and 39 GHz bands new mobile rights. New licenses not held by incumbents will be auctioned in these bands, along with 1000 megahertz of the 37 GHz band.
 - In the 37 GHz band, the Report and Order adopted a band plan that allows for continuity of commercial operations between the 37 and 39 GHz bands, while protecting federal uses and creating a path for their future use. It protected a limited number of Federal military sites across the full 37 GHz band and maintains the existing Federal fixed and mobile allocations throughout the band. In the 37-37.6 GHz band, the Report and Order created a space for coordinated co-primary shared access between Federal and non-Federal users.

- The First Report and Order adopted mechanisms to protect incumbent FSS operations in some areas and provides multiple paths for current and future FSS operations in 28 GHz to gain protection and expand operations in a manner consistent with terrestrial systems.
- The First Report and Order also established a new unlicensed band at 64-71 GHz, making a 14 gigahertz unlicensed band from 57-71 GHz.
 - The First Report and Order adopted a variety of other service and technical rules to facilitate the use of these bands, and that will serve as a framework for additional bands in the future.
- To meet the Commission's statutory duty to ensure that spectrum is being placed in use, the First Report and Order adopted performance requirements that are flexible to allow multiple use cases to evolve over time.
- *Second Report and Order:* On November 22, 2017, the Commission adopted a Second Report and Order, Second Further Notice of Proposed Rulemaking, Order on Reconsideration, and Memorandum Opinion and Order.
 - The Second Report and Order created new Upper Microwave Flexible Use Service rules for the 24.25-24.45 GHz and 24.75-25.25 GHz (collectively, 24 GHz band) and the 47.2-48.2 GHz band (47 GHz band).
 - The Second Report and Order declined to adopt any limits on the amount of spectrum in the 24 GHz and 47 GHz bands an entity may acquire through competitive bidding at auction. The item also increased the threshold for mmW transactions that may warrant further competitive analysis to a combined 1850 megahertz for all mmW bands.
 - The Second Report and Order adopted rules to allow unlicensed operation onboard most aircraft in the 57-71 GHz band under Part 15 of our rules.
 - On reconsideration, the Commission modified and clarified the rules for sharing between UMFUS and Fixed-Satellite Service earth stations to encourage placement of earth stations in smaller markets without harming terrestrial operations.
 - The Commission decided to keep 40-42 GHz and 48.2-50.2 GHz as core satellite bands to encourage the deployment of advanced satellite broadband systems. Conversely, it declined to relax restrictions on satellite use of the 37.5-40 GHz UMFUS band.
- *Third Report and Order:* On June 7, 2018, the Commission adopted a Third Report and Order, Memorandum Opinion and Order, and Third Further Notice of Proposed Rulemaking.
 - The Third Report and Order adopted a geographic area metric for Upper Microwave Flexible Use Service licenses, to be included in the existing list of performance metrics choices, as an option potentially suitable to IoT-type deployments.
 - The item adopted an operability requirement throughout the 24 GHz band.
 - The Third Report and Order adopted a sharing framework to allow use of the 24.75-25.25 GHz band for terrestrial wireless operations and for Fixed Satellite Service (FSS) earth stations.
 - The item also adopted 100 megahertz channels for the 37-37.6 GHz band (Lower 37 GHz band).

- The Third Report and Order also eliminated the pre-auction limit of 1250 megahertz on the amount of mmW spectrum in the 28 GHz, 37 GHz, and 39 GHz bands that an entity could acquire at auction.
 - The MO&O denied petitions for reconsideration asking for geographic area licensing in the Lower 37 GHz band and asking to allocate the 42 GHz band for satellite use.
 - The Third Further Notice of Proposed Rulemaking sought comment on how the 42 GHz band could be used to provide commercial wireless broadband service including possible opportunities for unlicensed and/or shared use, pursuant to the MOBILE NOW Act.
 - The Third FNPRM also sought comment on coordination mechanisms to facilitate shared use of the Lower 37 GHz band between Federal and non-Federal users, and among non-Federal users.
 - The Third FNRPM also sought comment on making the 25.25-27.5 GHz band (26 GHz band) available for flexible fixed and mobile use.
 - Finally, it sought comment on FSS use of the 50.4-51.4 GHz band for a limited number of earth stations.
- *Fourth Report and Order:* On December 12, 2018, the Commission adopted a Fourth Report and Order.
 - The Fourth Report and Order modified the band plans for the Upper 37 GHz, 39 GHz, and 47 GHz bands from 200 megahertz blocks to 100 megahertz blocks to be licensed by Partial Economic Area, to facilitate the simultaneous auction of licenses in the three bands.
 - The item adopted an incentive auction mechanism that offered contiguous blocks of spectrum throughout the Upper 37 GHz, 39 GHz, and 47 GHz bands, while preserving spectrum usage rights for existing licensees.
 - The Fourth Report and Order adopted a pre-auction process that allows incumbent licensees to rationalize their holdings.
- *Fifth Report and Order:* On April 12, 2019, the Commission adopted a Fifth Report and Order.
 - The Fifth Report and Order adopted rules to allow Fixed-Satellite Service earth stations to be individually licensed to transmit in the 50 GHz spectrum band.
 - The item also established a coordination process to accommodate the military's potential need for additional sites in the Upper 37 GHz band, while protecting the interests of non-Federal licensees in this band.

- *World Radio Conference-19*: At the 2019 World Radio Conference, two actions were taken relevant to this proceeding:
 - Several millimeter wave bands were identified for Mobile (IMT) use, including 24.25-27.5 GHz, 37-43.5 GHz, and 47.2-48.2 GHz.
 - WRC-19 agreed to establish new unwanted emission limit levels for the operation of IMT in the band 24.25-27.5 GHz. This treaty agreement comes into effect on January 1, 2021, and establishes a phased-in approach to emissions limits:

Date Applicable	Limits of unwanted emission power from active service stations in the specified bandwidth within the EESS (passive) band	Notes
January 1, 2021	-33 dBW in any 200 MHz of the EESS (passive) band for IMT base stations -29 dBW in any 200 MHz of the EESS (passive) band for IMT mobile stations	This limit will apply to any IMT base and mobile stations which has been brought into use prior to 1 Sept 2027. (Grandfather)
September 2027	-39 dBW in any 200 MHz of the EESS (passive) band for IMT base stations -35 dBW in any 200 MHz of the EESS (passive) band for IMT mobile stations.	

STATUS: The comment cycle on the Third Further Notice of Proposed Rulemaking closed on September 28, 2018. Pending issues include consideration of flexible use terrestrial wireless service in the 26 GHz, 42 GHz, and 50 GHz bands, as well as the development of a framework in the Lower 37 GHz band for sharing between Federal and non-Federal users. Auctions of the 28 GHz and 24 GHz bands were completed in 2019. An auction of the 37/39/47 GHz bands was completed in 2020. Starry and Qualcomm have reiterated their interest in the adoption of service rules for the Lower 37 GHz band.

WIRELESS BRIEFING SHEET

SUBJECT: Spectrum Holdings Policies

BACKGROUND: Policies Regarding Mobile Spectrum Holdings (WT Docket No. 12-269). On May 15, 2014, the Commission adopted the Mobile Spectrum Holdings Report and Order to ensure that its policies and rules facilitate access to spectrum, and the modified rules took effect on September 9, 2014. The Report and Order:

- Updated the spectrum screen for its competitive review of proposed secondary market transactions to reflect current suitability and availability of spectrum for the provision of mobile wireless services.
- Established that certain further concentrations of below-1-GHz spectrum will be treated as an enhanced factor in its case-by-case analysis of the potential competitive harms posed by individual proposed transactions.
- Declined to adopt auction-specific limits for the AWS-3 auction. Added AWS-3 spectrum to the screen on a market-by-market basis depending on the status of federal relocation.
- Established a market-based spectrum reserve for the Incentive Auction of the 600 MHz spectrum of up to a maximum of 30 megahertz in each licensed geographic area. Stated that the 600 MHz spectrum would be added to the spectrum screen upon release of the Channel Reassignment Public Notice after conclusion of the Incentive Auction.
- Excluded 5% of the Educational Broadband Service (EBS) capacity reserved for educational use and 16.5% for the EBS white space. After taking these discounts into consideration, the Commission included 89 megahertz of EBS spectrum in the screen.

On April 15, 2016, in the Sprint-Shentel-NTELOS Order, WTB determined that the 1695-1710 portion of the AWS-3 band “should now be considered available, as well as suitable, on a nationwide basis.” The spectrum screen was revised to include 15 megahertz of AWS-3 spectrum.

Spectrum Frontiers:

- In the July 14, 2016 Spectrum Frontiers Report & Order and FNPRM, the Commission adopted an *ex ante* spectrum aggregation limit of 1250 megahertz in the 28 GHz, 37 GHz, and/or 39 GHz bands for licensees acquiring spectrum through competitive bidding, as well as a threshold of 1250 megahertz for proposed secondary market transactions in these three bands.
- *Spectrum Frontiers 2nd R&O.* On November 22, 2017, the Commission released the Second Report and Order, the Second FNPRM, and the MO&O:
 - adding the 24 GHz and 47 GHz bands to the mmW spectrum threshold, which increased the threshold to 1850 megahertz. The Commission declined to adopt a pre-auction limit for these two bands.

- proposing to eliminate the pre-auction limit that was adopted in 2016 for the 28 GHz, 37 GHz, and 39 GHz bands, and sought comment on case-by-case review.
- rejecting CCA's request for reconsideration of the decision not to adopt band-specific limits for each of the 28 GHz, 37 GHz, and 39 GHz bands.
- *Spectrum Frontiers 3rd R&O*. On June 8, 2018, the Commission released the Spectrum Frontiers Third Report and Order, MO&O, and Third FNPRM.
 - In the Third Report and Order, the Commission eliminated the pre-auction limit of 1250 megahertz for the 28 GHz, 37 GHz, and 39 GHz bands. Also, the Commission adopted a post-auction case-by-case review (using the same 1850 megahertz threshold used for reviewing applications for the secondary market) to evaluate whether applicants' holdings would result in excessive concentration of licenses.
 - In the Third FNPRM, the Commission proposed to have no pre-auction limit for the 26 GHz and 42 GHz bands (to the extent that the Commission adopts UMFUS rules for some portion or all of these bands). Also, the Commission proposed to include these bands in in the mmW spectrum threshold for reviewing proposed secondary market transactions.

Other proceedings:

- *Broadcast Incentive Auction*. On April 13, 2017, the Incentive Auction Closing and Channel Reassignment Public Notice was released and the spectrum screen was revised to include 70 megahertz of 600 MHz spectrum.
- *BRS/EBS*. On July 10, 2019, the Commission adopted the 2.5 GHz Report and Order to rationalize the Broadband Radio Service (BRS) and Educational Broadband Service (EBS) in the 2.5 GHz Band (2496-2690 MHz). The 2.5 GHz Report and Order adopted rule changes to provide greater flexibility to current EBS licensees and to provide new opportunities for additional entities to obtain unused 2.5 GHz spectrum.
 - In the 2.5 GHz Report and Order, the Commission removed the educational use discount of 5%, as well as the EBS white space discount of 16.5%, and newly included the EBS J band channels in the spectrum screen. The order, effective April 27, 2020, increased the amount of EBS spectrum included in the screen from 89 megahertz to 116.5 megahertz.
- *3.7 GHz band*. On February 28, 2020, the Commission adopted the 3.7 GHz band Report and Order, which makes 280 megahertz (3.7-3.98 GHz) of the 3.7 GHz-4.2 GHz band available for flexible use in the contiguous United States through public auction of overlay licenses.

- The 3.7 GHz band Report and Order did not impose a pre-auction, bright line limit on acquisitions of the spectrum, but instead adopted case-by-case review of long-form license applications following the auction.
- In addition, the 3.7 GHz band Report and Order incorporated the 280 megahertz of spectrum in the 3.7-3.98 GHz band to the screen for secondary transactions once the auction closes.
- *900 MHz Realignment.* On May 13, 2020, the Commission adopted the 900 MHz Report and Order, Order of Proposed Modification, and Orders, which established a regulatory framework to make available six megahertz of spectrum in the band for broadband licenses on a county-by-county basis, while reserving the remaining four megahertz of the band for continued narrowband operations.
 - The 900 MHz Report and Order declined to include the 900 MHz broadband segment in the Commission’s spectrum aggregation screen.
- *T-Mobile Spectrum Manager Lease:* On August 7, 2020, Verizon filed a petition for reconsideration of the Wireless Telecommunications Bureau’s acceptance of T-Mobile’s Spectrum Manager Lease arrangements (involving 600 MHz spectrum) with Channel 51 License Company LLC and LB License Co, LLC. Verizon asserts that the Bureau should review potential competitive harm that could result from T-Mobile’s aggregation of low-band and mid-band spectrum.

WIRELESS BRIEFING SHEET

SUBJECT: Spectrum Licensing

Statutory mandate and international agreements. The Communications Act of 1934 requires the Commission to manage and license the spectrum to benefit the public convenience, interest, and necessity. The Act specifically tasks the Commission with facilitating a rapid, efficient communications service, ensuring prompt delivery of service to rural areas, preventing warehousing of spectrum, promoting investment in and rapid deployment of new technologies and services, assigning licenses and promulgating the rules governing such licenses, resolving mutually exclusive license applications by auction, and preventing interference between licensees, among other responsibilities. In addition, the U.S. is a party to numerous international agreements, which require management of wireless spectrum to meet treaty and other obligations and protection of U.S. wireless spectrum users, e.g., coordination along the Canadian and Mexican borders.

Licensing mechanisms. In furtherance of the Commission's statutory mandate, the Bureau has developed various methods of authorizing wireless spectrum use. For the most part, new licenses used to provide commercial wireless service to the public are assigned by competitive bidding (i.e., auctions) and are defined by market-based areas (e.g., Economic Areas, Cellular Market Areas). A wireless licensee generally has the exclusive right to deploy anywhere within its geographic boundary. Other wireless licenses are made available on an as-needed, site-by-site basis, where licensees have exclusive or shared use of the specified spectrum in a particular area or radio path. These licenses are typically used by businesses (e.g., two-way radio for internal communications, point-to-point links for wireless backhaul), industry (e.g., utility networks for monitoring critical infrastructure), safety (e.g., aircraft-to-control tower communications), and state and local government (e.g., coordinating personnel, tracking assets). In addition, the Bureau also authorizes wireless spectrum on a personal, non-exclusive use basis for safety (e.g., ships, aircraft), experimentation, and hobby (e.g., Amateur) purposes. These individual licenses authorize operation in particular services anywhere within the FCC's jurisdiction, rather than at a specific location or area. (Note: The Bureau also administers some services licensed by rule which require no FCC filing and in some frequency bands, wireless devices may operate on an unlicensed, low power basis pursuant to the Part 15 rules, which are overseen by the Office of Engineering and Technology.) In some bands, the Commission has implemented a dynamic approach to spectrum access by which lower tiers of users can use spectrum when not in use by higher priority users.

License-related filings received by the Bureau. In order to manage the nation's significant wireless spectrum resources effectively and accurately, the Bureau requires licensees to file a variety of information. Specifically, wireless licensees must file (1) applications for new spectrum licenses; (2) construction showings, which demonstrate a licensee's compliance with our performance requirements or seek additional time to build; (3) license modifications and waivers, which seek changes in spectrum rights or relief from other requirements in our rules; (4) license transfers, assignments, and leases; and (5) renewal of existing licenses. In addition, wireless licensees must apprise the Commission of any changes in their contact information. Some categories of filings, such as updating contact information, are subject to streamlined processing and require little, if any, individual review. Others license filings and resolution of

challenges to such filings (e.g., petitions to deny, petitions for reconsideration) require significant technical or legal review, with the level of detailed review determined by the particular service and circumstances of the application. We are required by the Communications Act and Congress to collect regulatory fees (covering the cost of administering the rules) and we are required by Congress to collect application fees (covering costs associated with application processing and review).

Leveraging licensing information. The licensing information collected by the Bureau furthers both day-to-day license operation and long-term, spectrum management policies. From an operational standpoint, licensing information facilitates interference avoidance and mitigation, enables coordination of frequency use in the border areas, allows accurate assignment of site-based licenses, and ensures timely communications with licensees. From a wireless spectrum management perspective, licensing information ensures that wireless spectrum is being used in compliance with Commission rules, allows the Bureau to evaluate whether wireless spectrum is being put to its best and highest use, facilitates sharing with federal government users, and enables consideration of rule changes to permit innovative, new services.

Effective and efficient licensing. The Bureau’s licensing information requirements balance the need for accurate data to manage the nation’s spectrum resources efficiently and effectively with continued efforts to minimize information collection and other filing burdens on licensees. To this end, the Bureau now mandates electronic filings in nearly all cases. This allows the Bureau and the public to track the status of all filings from submission to disposal. The Bureau’s Universal Licensing System facilitates public filings by guiding applicants through appropriate forms and schedules based on user responses to system prompts. Further, our electronic systems permit mass analysis and action on certain classes of filings. As a result, the Bureau automatically processes nearly 80% of all filings.

Challenges. The Bureau faces a number of challenges in licensing, some of them on-going, while others are long-term. Specifically,

- The Bureau faces cyclical spikes in the volume of incoming filings coupled with ever-decreasing staffing levels.
- The Bureau must react to variations in the number and types of filings over time.
- The Bureau must constantly adjust its processes and software in reaction to changes in our policies and rules, some of which may pose particularly difficult operational challenges.
- On a long-term basis, given the age of existing software and the limited ability to maintain such software, the Bureau must modernize ULS by moving it to a more stable platform.

Work Volume. To provide quick context, the table below summarizes the average number of filings disposed monthly over the last 5 years, broken down by general type of filing and licensing mechanism.

	Market-based	Site-by-site	Personal
New/Renewed licenses	275	4,513	10,443
License Modifications	76	3,386	2,659
License Transfers, Assignments, Leases	290*	256*	4*
Construction Notifications and	377	2,942	N/A

Extensions			
Admin changes	954	6,941	3,496
TOTAL	1,972 (6%)	16,037 (46%)	16,602 (48%)

* Applicants may include multiple types of licenses in the same Transfer/Assignment/Lease filing. In such cases, we have counted that application under each relevant column.

E-Licensing Proceeding (WT Docket 19-212). On September 6, 2019, the Commission issued an NPRM seeking comment on a number of proposals aimed at completing the transition of Bureau licensing systems from paper to electronic. Specifically, the NPRM sought comment on: (1) eliminating the small number of remaining e-filing exemptions, (2) requiring all applicants to provide an email address as contact information, (3) eliminating the mailing of hard copy licenses, and (4) replacing hard copy correspondence (via U.S. Mail) with some sort of electronic communications (including official application/license correspondence and renewal/construction “reminders”). Comments were due October 30, 2019 and replies were due November 14, 2019.

The Commission adopted an R&O in this proceeding on September 17, 2020 that finalizes its transition to electronic interactions for licenses in the Wireless Radio Services. Specifically, the E-Licensing R&O:

1. Eliminates existing exemptions from electronic filing in the FCC’s Universal Licensing System and requires electronic filing in the Antenna Structure Registration system;
2. Requires electronic filing (and delivery of service) of pleadings related to these systems;
3. Requires applicants, licensees, and registrants to provide an e-mail address on related FCC Forms; and
4. Shifts from paper to electronic delivery of Commission correspondence generated from these systems.

Together, these changes will decrease costs for consumers and the Commission, enhance transparency of and public access to data, and save a substantial amount of paper annually. The rules adopted in the R&O will become effective six (6) months after publication in the Federal Register.

SUBJECT: Unmanned Aircraft Systems (UAS)

BACKGROUND: In light of the rapidly increasing use of unmanned aircraft systems (UAS), Congress enacted the FAA Modernization and Reform Act of 2012, directing the Department of Transportation to develop a comprehensive plan to safely integrate UAS operations into the National Airspace System (NAS). Congress subsequently enacted the FAA Reauthorization Act of 2018 on October 5, 2018, requiring the FAA to meet certain milestones with regard to the integration of UAS into the NAS. Section 374 of the 2018 Act also requires the FAA, NTIA, and FCC to report on issues related to spectrum as described below.

This discussion provides a brief background regarding spectrum considerations and does not address technical/operational or privacy/security issues associated with UAS use.

Spectrum currently available for UAS

UAS rely on radio frequency (RF) spectrum for multiple purposes: (1) Command and Control (C2) uses (radio transmissions used to control aircraft); 2) Payload operations (radio transmissions used for backhaul data by aircraft); as well as (3) radio transmissions for other purposes such as telemetry, navigation, autonomy (sense-and-avoid), or relay/backhaul functions.

Until recently, the Commission had not designated spectrum for UAS operation. However, the Commission has permitted UAS operation on non-federal spectrum through the following: (1) unlicensed spectrum under Part 15; (2) Part 95 Personal Radio Services channels; (3) Part 97 Amateur Radio Service frequencies; and (4) experimental operations on authorized under Part 5.

Part 15 Unlicensed Use. Part 15 of the Commission's rules permits the operation of radio frequency devices, including UAS, within the limitations set forth in those rules. Individual licenses are not issued to operators of these devices. The UAS operator must accept whatever interference is received and must not cause harmful interference. It appears that most off-the-shelf unmanned aircraft currently in operation are using unlicensed frequencies.

Part 95 Personal Radio Services. UAS operation is permitted on Radio Control (R/C) frequencies and Multi-Use Radio Service (MURS) frequencies under Part 95. Part 95 permits control of a UAS on certain R/C frequencies and MURS frequencies, and also allows MURS frequencies to be used to transmit video, voice, and data on model aircraft subject to certain restrictions. UAS operation is limited to hobby/recreational uses.

Part 97 Amateur Radio Service. Licensed amateur radio operators may use Part 97 amateur frequencies to control model aircrafts so long as they meet certain operational requirements. These frequencies also may be used to transmit video, GPS coordinates, and identifying signals. Amateur frequencies can be used only for noncommercial purposes.

Part 5 Experimental Authorization. Individuals, universities, research institutes, state and local governments and businesses can seek authorization for UAS operation under Part 5.

There are no specific frequencies identified in the rules, and operations are on a temporary, non-interference basis.

Future spectrum use

L-Band (960-1164 MHz) and C-Band (5030-5091 MHz) – C2 spectrum

The International Telecommunications Union (ITU) is a United Nations specialized agency that allocates global radio spectrum and develops and harmonizes technical standards. ITU has been conducting ongoing studies of UAS spectrum requirements and has identified spectrum for UAS use: World Radio Conference (WRC)-07 and WRC-12 allocated the 960-1164 MHz portion of the L-Band and 5030-5091 MHz segment of the C-Band for UAS C2 control operation. Specifically, WRC-07 expanded uses of the L-Band by adopting a primary Aeronautical Mobile (Route) service (AM(R)S) allocation for the band, while WRC-12 added aeronautical mobile allocations to the C-Band.

Of consequence is the designation of these services as aeronautical safety services. The ITU established the AM(R)S, AMS(R)S and ARNS as the designated radio services reserved for aeronautical safety and regularity of flight, which are afforded higher levels of protection from harmful interference. Because C2 links play a critical role in maintaining the safety and regularity of UAS, stakeholders, such as ITU, believe that UAS should operate under an aeronautical safety service allocation.

In April 2015, the Commission adopted implementing regulations incorporating the L-Band allocation and allocated the C-Band spectrum to the AM(R)S service in March 2017. While these bands are allocated, the Commission has not yet adopted service rules.

On February 8, 2018, the Aerospace Industries Association filed a petition for rulemaking proposing technical and operational rules for operation of UAS command and control links in the 5030-5091 MHz band, RM-11798. The Commission sought comment on the petition on April 26, 2018. Comments were due May 29, 2018.

Fixed Satellite (FSS) Spectrum – C2 spectrum

Despite the designation of the L-Band and C-Band for UAS use, a review of the available spectrum in the L-Band and C-Band indicates that likely demand will not be met using these bands alone. To help address this gap, WRC-15 designated certain FSS spectrum for use as additional control links for UAS operation. However, the potential use of FSS spectrum for C2 is somewhat controversial in light of existing commercial operations on the FSS frequencies with certain jurisdictions opposed to allocating the frequencies as aeronautical safety spectrum. This allocation is set for further review and cannot be used for UAS until international (aeronautical) standards and recommended practices are developed.

Commercial wireless spectrum – potential payload and other uses

Commercial wireless service providers as well as other commercial entities such as Google and Amazon have expressed interest in leveraging existing wireless networks as platforms for UAS operation. Commercial spectrum could potentially be used for control links or payload as well as

for purposes such as navigation or autonomous operation. The commercial wireless industry is currently studying UAS to better understand market potential, spectrum and technical requirements, as well as the potential impact on their core communications business. Additionally, industry standards bodies, such as 3GPP, are researching the capability of commercial networks to provide connectivity for UAS operations.

Stakeholders

FAA

As noted, the FAA has been tasked with developing regulations and processes to safely integrate UAS into the NAS. The FAA has established rules permitting the routine use of small (under 55 pounds) unmanned aircraft subject to stringent operational parameters for both recreational and non-recreational uses. The FAA's rules regarding small UAS operation do not identify spectrum to be used, although as noted, most small UAS on the market appear to operate on Part 15 unlicensed frequencies. While it has issued numerous waivers, the FAA is continuing to develop rules for UAS operations outside of the small UAS parameters (*e.g.* use of larger aircraft, operations over people, operations at night, use beyond line-of-sight or above 400 feet), and in December 2019 issued a Notice of Proposed Rulemaking regarding remote identification of unmanned aircraft.

The FAA has also engaged third parties to perform studies and develop standards in areas such as traffic management and C2 operational requirements:

NASA - NASA has taken a lead role in the development of automated Air Traffic Control technologies, and has, through its NASA Ames Research Center, launched its UAS Traffic Management (UTM) program. Airspace integration requirements resulting from the program are being transferred incrementally to the FAA for further review and implementation.

Radio Technical Commission for Aeronautics (RTCA) - RTCA is an aviation standards body that develops recommendations regarding communications, navigation, surveillance, and air traffic management system issues. RTCA SC-228, established May 20, 2013, is working to develop the initial performance and certification standards, or Minimum Operational Performance Standards (MOPS), for the C2 control link. In 2016, RTCA SC-228 issued its Phase I MOPS which recommended standards – including the use of L- and C-Bands – for terrestrial-based line-of-sight systems. A second phase will separately develop UAS standards for beyond line-of-sight network operations and satellite spectrum. The FAA has reviewed the Phase 1 MOPS, and has to date issued a Technical Standards Order, TSO-C213, which permits the certification of equipment in the 5040-5050 MHz portion of the C-Band included in the MOPS.

American National Standards Institute (ANSI) - ANSI established the Unmanned Aircraft Systems Standardization Collaborative (UASSC) in 2017 as a coordinating body to accelerate the development of the standards and conformity assessment programs needed to facilitate the safe integration of UAS into the U.S. national airspace. In December 2018, the UASSC issued version 1.0 of its *Standardization Roadmap for Unmanned Aircraft Systems* which identified 60 gaps where additional standardization

work is needed. The UASSC initiated a version 2.0 update to its roadmap in September 2019.

Drone Advisory Council (DAC) – Established under the auspices of RTCA, the DAC is a long-term multi-stakeholder committee established to advise the FAA on UAS integration issues.

LEGISLATIVE INTEREST:

Section 374 of the FAA Reauthorization Act of 2018 requires the Commission, along with the FAA and NTIA, to submit a report to Congress that:

- Indicates whether UAS operations should be permitted, but not required, to operate on the 960-1164 MHz and 5030-5091 MHz spectrum;
- Addresses technological, statutory, regulatory, and operational barriers to the use of such spectrum; and
- Includes recommendations of other spectrum that may be appropriate for UAS operations if any of the specified frequencies are not suitable for beyond-visual-line-of-sight operations.

The Commission issued a Public Notice in November 2019, seeking comment on the issues identified in Section 374 as well as on the potential use of licensed, commercial spectrum for UAS operations. On August 27, 2020, the Wireless Telecommunications Bureau and the Office of Engineering and Technology issued a report, finding that the 5030-5091 MHz band is suitable for UAS operations and recommending that the Commission begin a rulemaking to develop service and licensing rules enabling UAS use of that band. The report also found that alternative frequencies licensed under flexible-use service rules are a promising option for UAS communications. The report noted that, absent specific restrictions in the spectrum allocation or service rules, current law does not prohibit UAS communications in the flexible-use bands, but found that UAS does have the potential to cause harmful interference to other operations and recommended that the Commission continue to review the use of flexible-use bands for UAS. The report also raised concerns with proposed UAS usage of the 960-1164 MHz band given the heavy incumbent usage of that band.

STATUS: Staff is currently reviewing the record and issues associated with the Aerospace Industries Association Petition for Rulemaking (RM-11798). On August 17, 2020, the Department of Justice, the Federal Aviation Administration, the Department of Homeland Security, and the Federal Communications Commission issued an advisory guidance document to help non-federal public and private entities better understand the federal laws and regulations that may apply to the use of capabilities to detect and mitigate threats posed by Unmanned Aircraft Systems (UAS) operations.

WIRELESS BRIEFING SHEET

SUBJECT: Wireless Backhaul Proceeding (WT Docket No. 10-153; RM-11602)

SUMMARY: This briefing sheet describes Commission efforts to increase flexibility in the use of microwave services licensed under our Part 101 rules and to open new spectrum for future uses.

BACKGROUND:

- The Commission’s licensing regime for Part 101 point-to-point services requires frequency coordination and the filing of an application for each microwave link or path containing detailed information concerning the proposed operation.
- Microwave operations have an extensive history of sharing spectrum with other services.
- Current and next-generation wireless networks will increasingly rely on wireless backhaul to connect small cells used to densify networks and increase capacity.
- New technologies will allow non-line of sight deployments and operators to use the same frequencies to provide end user service and backhaul.
- These same technologies may also spur high-speed fixed deployments to homes and businesses, providing fiber-like speeds over fixed wireless connections.

PROCEEDING:

- The Commission commenced a proceeding on August 5, 2010 to remove regulatory barriers to the use of microwave spectrum for wireless backhaul and other point-to-point and point-to-multipoint communications, *i.e.*, the *Wireless Backhaul* proceeding.
- *Report and Order (R&O) and Further Notice of Proposed Rulemaking (FNPRM)*. On August 9, 2011, the Commission made additional microwave spectrum available for fixed use and provided additional flexibility to enable fixed licensees to reduce operational costs, facilitating the use of wireless backhaul in rural areas. The Commission specifically allowed FS to share the 6875-7125 MHz and 12700-13150 MHz bands with BAS and CARS; eliminated the “final link” rule; and modified the Part 101 minimum payload capacity rule to allow temporary operations below the minimum capacity under certain circumstances, enabling FS links—in particular, long links in rural areas—to maintain critical communications during periods of fading. In the companion *FNPRM*, the Commission sought comment on additional proposals to remove regulatory barriers and facilitate backhaul deployment.
- *Second Report and Order (2nd R&O), Second Further Notice of Proposed Rulemaking (2nd FNPRM), and Second Notice of Inquiry (2nd NOI)*. On August 3, 2012, in the *2nd R&O*, the Commission (1) allowed smaller antennas in the 6, 18, and 23 GHz bands without materially increasing interference; (2) modified the definition of payload capacity in our Part 101 rules to account for Internet protocol radio systems; (3) adopted a Rural Microwave Flexibility Policy which allowed licensees in non-congested areas to obtain relief from the efficiency standards under specified circumstances; (4) allowed microwave operators to create higher capacity links by licensing 60 and 80 megahertz channels in the 6 and 11 GHz microwave

bands, respectively; and (5) revised rules governing microwave stations in proximity to satellite earth stations to conform to International Telecommunications Union (ITU) regulations.

- In the 2nd *FNPRM*, the Commission (1) proposed to change antenna standards for the 12.7-13.15 GHz band (13 GHz band) to allow the use of smaller antennas in non-congested areas; (2) sought comment on revising the circumstances under which licensees in the 11 GHz band can reduce power in order to avoid having to upgrade their antennas and on amending its rules to ensure that applicants do not specify more power than they need; (3) proposed to allow licensees to resolve interference issues by making an intermediate upgrade from one Category B antenna to another Category B antenna with better performance characteristics if that change would resolve the interference issue (as opposed to requiring licensees to upgrade to a higher performance Category A antenna, the pre-existing rule); and (4) rejected a proposal to allow the use of antennas that do not meet Category B standards.
- In the 2nd *NOI*, the Commission asked if it should institute a comprehensive review of its microwave antenna standards.

STATUS:

- The Bureau continues to review pleadings and filings submitted in the *Wireless Backhaul* proceedings.
- In addition to the issues teed up in the 2nd *FNPRM*, the Bureau is also reviewing additional proposals offered by parties to remove regulatory barriers and increase the flexibility and cost-effectiveness of the microwave bands, while protecting incumbent licensees in these bands.
- On June 10, 2020, the Commission released a Notice of Proposed Rulemaking to explore innovative new uses of the 71–76 GHz, 81–86 GHz, 92–94 GHz, and 94.1–95 GHz bands (collectively, the “70/80/90 GHz bands”). In particular, the NPRM seeks comment on potential rule changes for non-Federal users to facilitate the provision of wireless backhaul for 5G, as well as the deployment of broadband services to aircraft and ships, while protecting incumbent operations in the 70/80/90 GHz bands. *See* separate briefing sheet, “Modernizing and Expanding Access to the 70/80/90 GHz Bands (WT Docket No. 20-133).”

WIRELESS BRIEFING SHEET

SUBJECT: Wireless Infrastructure

BACKGROUND:

NEPA and NHPA. The National Environmental Policy Act (NEPA) requires agencies of the Federal Government to identify and evaluate the environmental effects of proposed “major Federal actions significantly affecting the quality of the human environment” 42 U.S.C. § 4332(2)(C). Section 106 of the National Historic Preservation Act (NHPA) states that “prior to the issuance of any license,” the head of a Federal agency “shall take into account the effect of the undertaking on any historic property” and “shall afford the [Advisory Council on Historic Preservation (ACHP)] a reasonable opportunity to comment with regard to the undertaking.” 54 U.S.C. § 306108. The Commission has imposed on its licensees and applicants responsibility for NEPA and NHPA review of wireless communications facilities construction based on the Commission’s actions in two areas: licensing and antenna structure registration.

State and Local Review. Several sections of the Communications Act relate to state or local regulation of communications deployments. Section 332(c)(7)(B) preserves local zoning authority, but provides that “regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government. . . shall not prohibit or have the effect of prohibiting the provision of personal wireless services.” It also requires, among other things, that state and local governments act on requests for personal wireless service facilities siting “within a reasonable period of time.” Under the Commission’s rules, a presumptively “reasonable period of time” under this provision is as follows: (i) 60 days for collocations of small wireless facilities, (ii) 90 days for collocations of non-small wireless facilities, (iii) 90 days to deploy a small wireless facility using a new structure, (iv) and 150 days to deploy a non-small wireless facility using a new structure.

Section 253(a) states that “[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.” Accordingly, both Section 253(a) and Section 332(c)(7) ban state or local regulations that “prohibit or have the effect of prohibiting” service.

Spectrum Act. In the 2014 Infrastructure Report and Order, the Commission adopted rules to implement Section 6409(a) of the Spectrum Act, which provides that “a State or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.” In the 2020 Section 6409(a) Declaratory Ruling and NPRM, the Commission clarified and proposed revisions to its existing rules.

PROCEEDINGS: In 2017, the Commission initiated a comprehensive review of the Commission’s wireless infrastructure rules and policies with respect to NEPA and NHPA, as well as state and local review processes.

SUMMARY:

State and Local Review

Section 6409(a) Declaratory Ruling, NPRM, and Report and Order (WT Dkt No. 19-50, RM 11849). On June 10, 2020, the Commission released a Declaratory Ruling and NPRM that clarifies certain rules adopted pursuant to Section 6409 of the Spectrum Act of 2012. The Declaratory Ruling clarifies when the 60-day shot clock for State or local government review of modifications of existing structures commences. It also clarifies what constitutes a “substantial change” in the physical dimensions of wireless infrastructure under the Commission’s rules, and the extent to which certain elements of a proposed modification to existing infrastructure affect the eligibility of that proposed modification for streamlined State or local government review under section 6409(a). The NPRM proposed to revise the Commission’s rules to permit limited excavation outside the boundaries of an existing tower site, and to revise the definition of the boundaries of a tower “site.” The comment period ended August 3, 2020. [On October 27, 2020, the Commission adopted a *Report and Order* that revises the Commission’s rules implementing section 6409(a) to provide for streamlined state and local review of collocations and other tower modifications that involve ground excavation or deployment of transmission equipment up to 30 feet in any direction outside the boundaries of a tower site. The *Report and Order* also revises the definition of the boundaries of a tower “site” in a manner that will ensure that the site boundaries from which limited expansion is measured appropriately reflect prior state or local government review and approval.]

Wireless Infrastructure Third Report and Order and Declaratory Ruling (WT Dkt. No. 17-79). On September 26, 2018, the Commission adopted a *Declaratory Ruling and Third Report and Order*. The *Declaratory Ruling* concluded that Section 253 and 332(c)(7) limit state and local governments to charging fees that are no greater than a reasonable approximation of objectively reasonable costs and identified specific fee levels for small wireless facility deployments. It also provided guidance on when certain state and local non-fee requirements—such as aesthetic and undergrounding requirements—may constitute an effective prohibition of service. The *Report and Order* established new shot clocks for small wireless facilities and adopted a new remedy for missing the shot clocks. A petition for reconsideration was filed November 14, 2018 by City of New Orleans, *et. al.*, and a public notice seeking comment on the petition was released January 2, 2019. On August 12, 2020, the U.S. Court of Appeals for the Ninth Circuit upheld most aspects of the Commission’s *Declaratory Ruling and Third Report and Order*.

NHPA and NEPA Review

Wireless Infrastructure Second Report and Order (WT Dkt. No. 17-79). On March 30, 2018, the Commission released a *Second Report and Order* determining that the deployment of small wireless facilities did not constitute a major federal action or undertaking and that such facilities do not, therefore, require NEPA/NHPA review. The *Second Report and Order* also streamlined the Commission’s historic preservation review process by limiting upfront fees charged by Tribal Nations in Section 106 review process, permitting applicants to use qualified contractors to evaluate the effects of deployments on historic properties of interest to Tribal Nations, and reducing the time for Tribal review of wireless facility deployments. In addition, the *Second Report and Order* eliminated the need for environmental assessments (EAs) solely due to the location of a proposed facility in a floodplain, and established timeframes within which the Commission will act on EAs. On August 9, 2019, however, the D.C. Circuit vacated the portion of the order that excluded small wireless facilities from review. The court affirmed the portion

of the Commission's order addressing the Tribal review process. The court's order became effective on September 30, 2019. There are four petitions for reconsideration of the *Second Report and Order*, Smart Communities and Special Districts Coalition (filed September 4, 2018), City of New York (filed September 4, 2018), Country Road Association of Michigan (filed September 4, 2018), and Coalition of Concerned Utilities (filed October 15, 2018). A public notice was released on October 18, 2018 seeking comment on the petitions.

Twilight Towers Program Comment. On December 14, 2017, the Commission adopted a *Public Notice* seeking comment on a draft Program Comment that would generally exclude collocations placed on so-called Twilight Towers from routine historic preservation review. These are towers that were constructed between March 16, 2001, and March 7, 2005, that either did not complete historic preservation review or cannot be documented to have completed such review pursuant to Section 106 of the National Historic Preservation Act. The Commission revised the draft Program Comment and on August 24, 2020, formally requested that the ACHP issue this Program Comment. In October 2020, the ACHP declined to comment on the Twilight Towers Program Comment.

Section 6409(a) Declaratory Ruling and NPRM (WT Dkt No. 19-50, RM 11849). In addition to clarifying the Commission's rules implementing Section 6409(a) of the Spectrum Act of 2012, the Commission's June 10, 2020, Declaratory Ruling also clarified that when the FCC and applicants have entered into a memorandum of agreement to mitigate effects on historic properties, and when the only basis for the preparation of an environmental assessment is the potential for significant effects on historic properties, a subsequent environmental assessment addressing such effects is not required.

Amendment to the Collocation NPA. On July 10, 2020, the Commission, the Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers executed a Second Amendment to the Nationwide Programmatic Agreement for the Collocation of Wireless Antennas (Collocation NPA). The amendment facilitates the collocation of wireless facilities on existing towers by eliminating review under Section 106 of the National Historic Preservation Act for certain collocations that involve a limited expansion of up to 30 feet in any direction beyond the boundaries of a tower site.

BDAC. On January 31, 2017, the Commission announced the formation of the Broadband Deployment Advisory Committee (BDAC). The BDAC has made a number of recommendations to accelerate the deployment of advanced broadband deployment by reducing and/or removing regulatory barriers to infrastructure investment and had its charter renewed in early 2019. BDAC working groups are currently focused on Disaster Response and Recovery, Broadband Deployment in Low-Income Communities, and Job Skills and Training for Broadband Infrastructure Deployment. The latest BDAC meeting took place in July 2020.

WIRELESS BRIEFING SHEET

SUBJECT: Wireless Radio Services Reform – License Renewal, Service Discontinuance, Spectrum Partitioning/Disaggregation Policies, Renewal Term Construction Issues, Part 27 Consolidation (WT Docket No. 10-112, WT Docket No. 12-40)

SUMMARY: In August 2017, the Commission adopted a Second Report and Order (*WRS Second R&O*) and Further Notice of Proposed Rulemaking (*WRS FNPRM*), which harmonized its rules governing: (1) renewal; (2) discontinuance of service; and (3) partitioning/disaggregation for Wireless Radio Services (WRS) regulated under Parts 22, 24, 27, 30, 74, 80, 90, 95, and 101. In the companion *WRS FNPRM*, the Commission sought comment on possible construction obligations during license renewal terms.

Renewal Paradigm. The *WRS Second R&O* generally applies the Commission’s model for renewal of 700 MHz commercial band licenses to services licensed by geographic area and, with certain refinements, to services licensed on a site-by-site basis. Under this approach:

- Renewal applicants must demonstrate: (1) that over the license term, the applicant provided and continues to provide service to the public or used and continues to use the license to meet private, internal communication needs; and (2) compliance with Commission rules and policies and the Communications Act. The *WRS Second R&O* sets forth “safe harbors” providing streamlined renewal for licensees that meet their initial term construction requirement and remain operating at or above that level. Renewal applicants that cannot meet a safe harbor must make a more detailed renewal showing.
- Applications that compete with a renewal application are prohibited. If a renewal application is denied, spectrum will be returned to the Commission for reassignment.

Discontinuance of Service. The *WRS Second R&O* harmonizes the permanent discontinuance of operations rules and provides that if a licensee discontinues service within the meaning of the revised rules, it will forfeit its associated spectrum.

Partitioning/Disaggregation. The *WRS Second R&O* requires that, when portions of geographic licenses are sold, both parties to the transaction have a clear construction obligation and penalty in the event of failure to construct, closing a loophole used to avoid our construction requirements.

WRS FNPRM. The *WRS FNPRM* seeks comment on: (1) imposing additional, incremental construction requirements for geographic licenses during the renewal terms after the initial license term; and (2) the appropriate penalties and re-licensing frameworks to implement additional, incremental requirements.

Part 27 Consolidation. In March 2017, the Commission adopted the Second Report and Order, Report and Order, and Second Further Notice of Proposed Rulemaking (FCC 17-27) in the Cellular and Wireless Radio Services reform dockets. It sought comment on possibly relocating the Cellular, PCS, and certain other geographically based wireless service rules to Part 27. In July 2018, the Commission adopted the Third Report and Order in this proceeding, declining to proceed with this idea given the lack of strong record support and the significant investment of resources that would be required.

STATUS: A summary of the *WRS Second R&O* was published in the FR on September 1, 2017. Four Petitions for Reconsideration or Clarification were filed. Staff is reviewing the petitions. A summary of the *WRS FNPRM* was published in the FR on September 1, 2017. Comments were due on October 2, 2017, and replies were due on October 31, 2017. Ten parties filed comments. Staff is reviewing the record. The *WRS Second R&O* adopts rules (47 CFR §§ 1.949, 1.950, 1.953) containing modified or new information collections that have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The rules and revised ULS filing procedures were put into effect on October 1, 2020.

WIRELESS BRIEFING SHEET

SUBJECT: Wireless Text Messaging (WT Docket No. 08-7)

BACKGROUND/KEY ISSUES: On December 11, 2007, Public Knowledge, Free Press, Consumer Federation of America, Consumers Union, EDUCAUSE, Media Access Project, New America Foundation, and U.S. PIRG filed a joint petition for declaratory ruling. The petitioners asked the Commission to clarify the regulatory status of text messaging services, including short-code based services sent from and received by mobile phones.

- The petitioners requested that the Commission declare that text messaging services are “commercial mobile services” governed by Title II, and thus are subject to the non-discrimination provisions of Section 202. Alternatively, the petitioners requested that, if the Commission declares that these services are “information services” subject to its Title I authority, the Commission should exercise ancillary jurisdiction to apply the non-discrimination provisions of Title II to text messaging services.
- Petitioners also requested that, in either case, the Commission should declare that refusing to provision a short code or otherwise blocking text messages because of the type of speech, or because the party seeking such service is a competitor, is “unjust and unreasonable discrimination” in violation of law.

On August 28, 2015, Twilio Inc., a cloud-based developer-platform company, filed a petition for an expedited declaratory ruling, asking the Commission “to declare that messaging services are governed by Title II” of the Communications Act.

- Twilio asserted that wireless providers engage in a variety of discriminatory and anti-competitive practices that cannot be adequately addressed absent a declaratory ruling classifying messaging services under Title II.
- Twilio also asserted that, under judicial and Commission precedent, messaging services constitute telecommunications services and commercial mobile radio services and are thus subject to Title II

STATUS: On December 12, 2018, the Commission adopted a Declaratory Ruling classifying SMS and MMS as information services under Title I of the Act, and not commercial mobile services, allowing carriers to continue using robotext-blocking and anti-spoofing measures to protect consumers from unwanted text messages. The Declaratory Ruling also denied the Public Knowledge and Twilio petitions. On January 28, 2019, Public Knowledge et al. filed a Petition for Reconsideration of the Declaratory Ruling, for which the Commission sought comment on February 5, 2019. AT&T and CTIA filed oppositions to the petition on March 25, 2019, and Public Knowledge filed a reply to oppositions on April 2, 2019.

On August 1, 2019, the Commission adopted a Second Report and Order amending its Truth in Caller ID rules to reach caller ID spoofing using text messaging services.

Senior Executive Service personnel list

Name	Title	Bureau/Office
BOIZELLE, ASHLEY S	DEPUTY GENERAL COUNSEL	14-OFFICE OF GENERAL COUNSEL
CARLSON, MICHAEL	DEPUTY GENERAL COUNSEL	14-OFFICE OF GENERAL COUNSEL
CAROWITZ, MICHAEL S	DEPUTY BUREAU CHIEF	24-ENFORCEMENT BUREAU
DENIGRO, HILLARY S	DEPUTY BUREAU CHIEF	41-MEDIA BUREAU
DISKIN, SHARON	AIG FOR INVESTIGATIONS	02-OFFICE OF INSPECTOR GENERAL
ELLISON, PAULA M	DEPUTY GENERAL COUNSEL	14-OFFICE OF GENERAL COUNSEL
ESBIN, BARBARA S	DEPUTY BUREAU CHIEF	42-CONSUMER & GOV'T AFFAIRS BU
FOWLKES, LISA M	BUREAU CHIEF	43-PUBLIC SAFETY & HOMELAND SEC
FURTH, DAVID L	DEPUTY BUREAU CHIEF	43-PUBLIC SAFETY & HOMELAND SEC
GELB, LISA	DEPUTY BUREAU CHIEF	24-ENFORCEMENT BUREAU
GINSBURG, MINDY JOY	DEPUTY MANAGING DIRECTOR	11-OFFICE OF MANAGING DIRECTOR
GREEN, THOMAS M	CHIEF HUMAN CAPITAL OFFICER	11-OFFICE OF MANAGING DIRECTOR
GUENDLSBERGER, NESE B	DEPUTY BUREAU CHIEF	08-INTERNATIONAL BUREAU
HARKRADER, TRENT B	DEPUTY BUREAU CHIEF	40-WIRELINE COMPETITION BUREAU
HAROLD, ROSEMARY C	BUREAU CHIEF	24-ENFORCEMENT BUREAU
HONE, ELIZABETH A	DEPUTY BUREAU CHIEF	40-WIRELINE COMPETITION BUREAU
HUNT, DAVID L	INSPR GEN	02-OFFICE OF INSPECTOR GENERAL
JOHNSON, THOMAS M	GENERAL COUNSEL	14-OFFICE OF GENERAL COUNSEL
JORDAN, DEBRA L G	DEPUTY BUREAU CHIEF	43-PUBLIC SAFETY & HOMELAND SEC
KIDDOO, JEAN L	DEPUTY BUREAU CHIEF	20-WIRELESS TELECOMMUNICATIONS BU
KREISMAN, BARBARA A	CHIEF, VIDEO DIVISION	41-MEDIA BUREAU
LEIGHTON, WAYNE A	SUPVY ECONMST	44-OFFICE OF ECONOMICS & ANALYTIC
LEWIS, JACOB	ASSOCIATE GENERAL COUNSEL (LITIGATION)	14-OFFICE OF GENERAL COUNSEL
MATHIAS, CHARLES B	DEPUTY BUREAU CHIEF	20-WIRELESS TELECOMMUNICATIONS BU
MCGINNIS, NICOLE M	DEPUTY BUREAU CHIEF	43-PUBLIC SAFETY & HOMELAND SEC
MCHENRY, GIULIA C	CHIEF	44-OFFICE OF ECONOMICS & ANALYTIC
MITCHELL, MARYKAY W	CHIEF ADMINISTRATIVE OFFICER	11-OFFICE OF MANAGING DIRECTOR
MONTEITH, KRIS A	CHIEF, WIRELINE COMPETITION BUREAU	40-WIRELINE COMPETITION BUREAU
OLIVER, LINDA L	ASSOCIATE GENERAL COUNSEL	14-OFFICE OF GENERAL COUNSEL
REPASI, RONALD THOMAS	DEPUTY CHIEF	13-OFF OF ENGINEERING/TECHNOLOGY
SALGUERO, FRANCISCO	CHIEF INFORMATION OFFICER	11-OFFICE OF MANAGING DIRECTOR
SAURER, HOLLY L	DEPUTY BUREAU CHIEF	41-MEDIA BUREAU
SCHLICHTING, JAMES D	DEPUTY BUREAU CHIEF	08-INTERNATIONAL BUREAU
SEONG, JAE K	CHIEF FINANCIAL OFFICER	11-OFFICE OF MANAGING DIRECTOR
SHAFFER, DANA B	ATTY ADVSR	20-WIRELESS TELECOMMUNICATIONS BU
SHEARER, MICHELLE M	BUREAU CHIEF	41-MEDIA BUREAU
SHETLER, DEENA M	DEPUTY MANAGING DIRECTOR	11-OFFICE OF MANAGING DIRECTOR
STEPHENS, MARK A	MANAGING DIRECTOR	11-OFFICE OF MANAGING DIRECTOR
STOCKDALE, DONALD K	BUREAU CHIEF	20-WIRELESS TELECOMMUNICATIONS BU
STONE, MARK A	DEPUTY BUREAU CHIEF	42-CONSUMER & GOV'T AFFAIRS BU
SULLIVAN, THOMAS P	BUREAU CHIEF	08-INTERNATIONAL BUREAU
TANNER, TROY	DEPUTY BUREAU CHIEF	08-INTERNATIONAL BUREAU
TAUBENBLATT, JOEL D	DEPUTY BUREAU CHIEF	20-WIRELESS TELECOMMUNICATIONS BU
WEBRE JR, GERALD P	BUREAU CHIEF	42-CONSUMER & GOV'T AFFAIRS BU
WHITESSELL, SARAH E	DEPUTY BUREAU CHIEF	41-MEDIA BUREAU
WIENER, MARGARET W	DEPUTY OFFICE CHIEF	44-OFFICE OF ECONOMICS & ANALYTIC

Subject: CORONAVIRUS UPDATE - ADMINISTRATIVE LEAVE

Date: Thursday, April 2, 2020 at 2:25:50 PM Eastern Daylight Time

From: Matthew Berry

To: EVERYONE-EX

Priority: High

I am writing to update you on the availability of administrative leave. Specifically, consistent with the policy applicable to this week and last week, **the Chairman has authorized 10 hours of administrative leave to be available next week (the week of April 5) as well.** We are taking things on a week-by-week basis because OPM is still working to roll out the availability of new paid leave under the Families First Coronavirus Response Act from a timekeeping and payroll perspective.

We hope that this administrative leave has been and will be helpful in balancing family responsibilities with your work during this challenging time. And we appreciate everyone's efforts over the last three weeks. Notwithstanding the shift to telework, the Commission has been quite productive, including by taking numerous actions to Keep Americans Connected during the COVID-19 pandemic and teeing up a full April meeting agenda. All of this has only been possible because of your hard work.

As a reminder, up to 10 hours of administrative leave is available to full-time employees, where you are prevented from (tele)working due to (1) school or daycare closures resulting in a lapse in childcare, which requires you to provide care; or (2) other reasons you identify related to COVID-19, such as helping another family member in order to help prevent exposure/spread of COVID-19, etc. Part-time employees may be granted administrative leave each week in an amount not to exceed a quarter of their total number of hours they are scheduled to work.

Employees should request such administrative leave related to COVID-19 by submitting a request in WebTA using Leave Transaction Code 66 – Administrative Leave/Excused Absence and providing a brief explanation in the Remarks field of how the request is related to COVID-19. Like any leave requests, these leave requests should be made in advance, except in the case of an emergency.

We will continue to keep you updated as circumstances warrant.

Matthew

Subject: CORONAVIRUS UPDATE

Date: Friday, March 13, 2020 at 3:26:52 PM Eastern Daylight Time

From: Matthew Berry

To: EVERYONE-EX

As we near the end of a tough week, I wanted to share with you a piece of good news. The partner of the employee of our HFDF Center whose potential exposure to COVID-19 prompted us to close the Center earlier this week has tested negative for COVID-19. As a result, we will be reopening the Center tomorrow. However, consistent with our general policy of strongly encouraging all FCC employees who can do so to telework, we are asking employees who work at the Center to telework unless it is absolutely necessary for them to be at the Center to do their job.

I will continue to keep you updated as circumstances warrant and hope that you are able to relax at least a bit this weekend.

Matthew

Subject: CORONAVIRUS UPDATE

Date: Monday, March 16, 2020 at 2:05:13 PM Eastern Daylight Time

From: Matthew Berry

To: EVERYONE-EX

Priority: High

While most of us are now teleworking, and **I once again strongly encourage everyone who can telework to do so**, I wanted to provide some additional guidance to those who are still working in FCC facilities or who may need to enter FCC facilities for a short time. First, consistent with advice from the Centers for Disease Control and Prevention (CDC), please try and stay at least **6 feet away** from anyone else while you are in FCC facilities. Second, please try to **minimize your movements** within the building. If it isn't necessary to go to someone else's office or travel to a different floor, please do not do so. Taking these precautions will help to protect your own health as well as the health of your co-workers.

We will continue to keep you updated as circumstances warrant.

Matthew

Subject: CORONAVIRUS UPDATE

Date: Thursday, March 26, 2020 at 2:25:10 PM Eastern Daylight Time

From: Matthew Berry

To: EVERYONE-EX

Priority: High

We hope that you and your families are keeping safe, taking the COVID-19 situation seriously, and staying home as much as possible to help slow the spread of the virus. We continue to thank you for all your hard work during this difficult time. This afternoon, I would like to share what we know about the impact of the COVID-19 pandemic on our upcoming headquarters move and also provide clarity on confidentially sharing health information as part of our efforts to keep Commission staff safe.

With respect to the move, it is going to be delayed beyond the end of June because of the pandemic. At this point, there are many unknown variables so I cannot provide you with a certain timeframe for when the move will happen, but it is fair to say that we are looking at least a two-month delay. We are working closely with GSA, our new lessor, and the myriad of vendors that are critical to a successful headquarters move to keep us moving forward and we will provide an updated schedule when we are able. But for now, while there are plenty of things to worry about during this challenging time, you do not need to worry about getting back into the building to pack up your things. There will be plenty of time for that.

With regard to how we navigate COVID-19, unfortunately, the current local and nationwide data suggests that we will continue to see a rise in the number of suspected and confirmed COVID-19 cases, and we want to make sure everyone is aware of what they should do from an FCC perspective if they have a suspected or confirmed case of COVID-19 or if they have been in “close contact” with a person with a suspected or confirmed case of COVID-19. As a reminder, the CDC defines “close contact” as “(a) being within approximately 6 feet (2 meters) of a COVID-19 case for a prolonged period of time; close contact can occur while caring for, living with, visiting, or sharing a healthcare waiting area or room with a COVID-19 case; or (b) having direct contact with infectious secretions of a COVID-19 case (e.g. being coughed on).”

First and foremost, please follow the advice of your health care provider and any other applicable federal, state, or local guidelines, to take care of yourself and your family and get well.

But so the FCC can determine if additional measures are warranted to protect our staff and facilities, please inform a supervisor (whether or not in your chain of command) as soon as possible if you believe you have a suspected or confirmed case of COVID-19 or if you have been in “close contact” with a person with a suspected or confirmed case of COVID-19, as well as other relevant facts or background information. In order to protect your privacy, we are only requesting that you inform your supervisor if, at the time you have relevant facts to report, you have been in FCC facilities or other (in-person) work meetings with FCC staff within the prior 30 days. Supervisors who receive such reports should immediately notify Mark Stephens (Mark.Stephens@fcc.gov; 202-418-0817) of the situation and circumstances. Your privacy and personal information will be protected to the greatest extent possible and only shared in management by those who need to know to make appropriate decisions. We will balance the need for privacy and transparency with respect to informing employees of potential health risks. To the extent information needs to be further shared to protect the health of employees in the workplace, such as communicating a building closure or informing particular staff

that they may have been in close contact with a diagnosed employee, we will convey only information that is necessary to protect the health of employees in the workplace. Confidentiality will be maintained as required by law.

We also want to assure you that we view coming forward as a good thing and reflects care and consideration of your colleagues; it is not something that will be stigmatizing or result in negative action. Unfortunately, COVID-19 is in our communities and can be spread by people with no symptoms or other knowledge that they have it and are contagious. But by better understanding who has it or has been exposed to it, we are in a better position to take proactive steps for the FCC to protect the health of our staff and try and prevent its further spread.

Thank you again for your cooperation. We will continue to provide guidance and updates as circumstances warrant.

Matthew

From: [Matthew Berry](#)
To: [EVERYONE-EX](#)
Subject: CORONAVIRUS UPDATE
Date: Thursday, September 17, 2020 3:25:23 PM

It's hard to believe that it's been almost six months since we began mandatory telework on March 23rd. Indeed, tomorrow will be the 180th day since mandatory telework began. Therefore, because of certain procedural requirements, I am writing to inform you that we will be renewing mandatory telework under 5 CFR § 550.409 from tomorrow until further notice. Like the past 180 days, all employees will be required to take leave or telework from their home or another alternative location mutually agreeable to the FCC and the employee, regardless of whether they have a current telework agreement. Staff will also continue to be unable to access FCC facilities without express authorization.

During the continued period of mandatory telework, employees may continue to utilize up to 10 hours a week of excused absence under the evacuation pay regulations for COVID-related care purposes, as well as utilize the expanded hours of work flexibilities we have provided. Please refer to my April 10 e-mail for more details on both of these workplace flexibilities. And as previously relayed, regardless of when mandatory telework ends, employees who are currently teleworking and want to continue teleworking may do so, regardless of location, at least through June 2021.

We will continue to monitor the circumstances at and around each of our facility locations and assess how to best proceed under the circumstances. We will also provide updates on the status of our move into our new headquarters as circumstances warrant.

Thank you for your continued hard work and dedication to serving the public interest during these challenging times. As evidenced by our packed September meeting agenda, the agency has continued to maintain its productivity because of your efforts.

And to all who are celebrating Rosh Hashanah this weekend, I wish you a good and sweet new year.

Take care,
Matthew

Subject: CORONAVIRUS UPDATE

Date: Friday, May 1, 2020 at 11:53:03 AM Eastern Daylight Time

From: Matthew Berry

To: EVERYONE-EX

Priority: High

Today marks the end of our sixth week of mandatory telework as an agency. And most of us began teleworking at least a week before we shifted to mandatory telework. So it has now been seven weeks that our agency has been largely operating on a remote basis. Needless to say, this is an extraordinary situation. But you have risen to the challenge in an extraordinary way. Over the past seven weeks, we have continued to advance the mission of the FCC, a mission that is more important than it has ever been. We have at least maintained, and I would argue increased, our productivity under difficult circumstances. And we have made a real difference on behalf of the American people.

Of course, the times in which we are living are not only extraordinary, they are uncertain. And I know many of you are wondering: What will come next? Unfortunately, I don't have all of the answers to that question; no one does. But the Chairman and I did want to provide you some important guidance about the weeks ahead.

Specifically, **mandatory telework will remain in effect for HQ employees until at least Friday, June 5. To be clear, today's update does NOT mean that we have decided to end mandatory telework after June 5. Rather, it simply means that we will continue to monitor the situation and reassess later in May how to proceed given the circumstances at that time. But given the state of the pandemic in the DC metro area and the challenges associated with reopening our headquarters so long as COVID-19 remains a risk, we are confident that we will need to maintain mandatory telework at least through June 5.**

It is also important to note that, even when mandatory telework is lifted at some point, there will not be an immediate return to pre-pandemic operations. Instead, there will need to be a gradual process during which appropriate measures are taken to ensure your health and safety and telework remains an option.

For those of you who work in facilities other than our headquarters, we are still in the process of considering the facts and circumstances specific to each facility and the metropolitan area in which it is located. But mandatory telework remains in effect for all those facilities until further notice, and we will communicate updated information to those employees as necessary. While we wish that we could provide you with more specific guidance at this time regarding those facilities, I can say that I don't anticipate any of those facilities will be transitioning out of mandatory telework status in the immediate future.

I hope that this information provides you with some additional peace of mind as we begin the month of May and head into the weekend. Please stay safe, and we will continue to keep you updated as circumstances warrant.

Matthew

Subject: CORONAVIRUS UPDATE - FCC HEADQUARTERS CLOSED ON MONDAY

Date: Sunday, March 22, 2020 at 7:50:48 PM Eastern Daylight Time

From: Matthew Berry

To: EVERYONE-EX

Priority: High

I am writing to let you know that today we became aware that an FCC headquarters security guard who was working in the building on Friday, March 20, was later informed that he had been in casual contact on the evening of Thursday, March 19 with a person who later tested positive for COVID-19. On Friday, the guard was stationed at various posts, but did not perform any roving patrols. The guard will not be further accessing the building until he tests negative or self-quarantines for 14 days. The other security guards with whom we know he came into contact at the FCC building on Friday have been informed of the situation and will also not be accessing the building for at least 48 hours. We do not have reason to believe that the guard came into close contact with any other FCC personnel.

The CDC recognizes [exposure risk categories](#) only related to certain travel or "close contact" with a person with symptomatic laboratory-confirmed COVID-19. The CDC defines "close contact" as (a) being within approximately 6 feet (2 meters) of a COVID-19 case for a prolonged period of time; close contact can occur while caring for, living with, visiting, or sharing a healthcare waiting area or room with a COVID-19 case; or (b) having direct contact with infectious secretions of a COVID-19 case (e.g., being coughed on). Because the guard has not tested positive and does not currently have "symptoms compatible with COVID-19" as defined by the CDC, anyone at the building on Friday would be a "contact of a contact," and the CDC does not recommend testing, symptom monitoring or special management for people exposed to asymptomatic people with potential exposures to COVID-19 (such as in a household). Based on CDC guidance, the risk to others who were in the building, particularly those following the guidance to maintain at least 6 feet of distance between others and practice good hand hygiene, remains low. Regular cleaning of the building, including "high touch" surfaces continues, including the specific areas we know the guard accessed.

Although under the circumstances, the CDC does not recommend any additional measures, out of an abundance of caution, we will be closing the building on Monday for further targeted deep cleaning. Therefore, no staff (FCC employees or contractors) may access FCC headquarters on Monday.

We will continue to assess the situation and let everyone know the building status for Tuesday and thereafter, and otherwise keep you updated as circumstances warrant.

Matthew

Subject: CORONAVIRUS UPDATE - HEADQUARTERS OPEN ON TUESDAY

Date: Monday, March 23, 2020 at 6:03:27 PM Eastern Daylight Time

From: Matthew Berry

To: EVERYONE-EX

Priority: High

I am pleased to report that today, we conducted the targeted deep cleaning of FCC headquarters that I discussed in yesterday's e-mail. As a result of that effort, we have gone above and beyond the measures recommended by the Centers for Disease Control and Prevention, and the building will be open beginning tomorrow (Tuesday). However, as a reminder, the FCC still has a policy of **mandatory telework** in place and only staff authorized to access an FCC facility to perform critical, mission essential functions that cannot be performed remotely will be allowed into any FCC facility, including our headquarters.

We will continue to keep you updated as circumstances warrant.

Matthew

Subject: CORONAVIRUS UPDATE - IMPORTANT INFORMATION

Date: Tuesday, June 2, 2020 at 10:38:17 AM Eastern Daylight Time

From: Matthew Berry

To: EVERYONE-EX

I wanted to start off this update by thanking each and every one of you for your continued hard work and dedication to serving the public interest. Notwithstanding the challenges that you have been facing during this pandemic—caring for your children, looking out for older relatives, and trying to stay safe yourselves—the Commission proceeded full steam ahead throughout the month of May. And that is all because of your remarkable efforts during this difficult time for our nation.

In my last email, I stated that mandatory telework would remain in effect for HQ employees until at least Friday, June 5, while we continued to monitor and assess the situation. And after doing so, **we have decided to continue mandatory telework for HQ employees through the end of June**. Like before, this update does NOT mean that we have decided to end mandatory telework after June 30. Rather, it simply means that we will continue to monitor the situation and reassess later in June how to proceed given the circumstances at that time.

Moreover, even when mandatory telework is lifted at some point, there will not be an immediate return to pre-pandemic operations. Therefore, we are confident that HQ employees currently on mandatory telework will be allowed to continue teleworking if they so choose at least through the end of August, except for possibly coming into the office for a brief period to pack for the move. We will also provide a reasonable period of advance notice before any change to our current telework status.

For those of you who work in facilities other than our headquarters, we are still in the process of considering the facts and circumstances specific to each facility and the metropolitan area in which it is located. But mandatory telework remains in effect for all those facilities until further notice, and we will communicate updated information to affected employees as necessary, giving a reasonable period of advance notice before any change to telework status.

I hope that this information is helpful as we begin the month of June. Please stay healthy and safe, and we will continue to keep you updated as circumstances warrant.

All the best,
Matthew

From: [Matthew Berry](#)
To: [EVERYONE-EX](#)
Subject: CORONAVIRUS UPDATE - LONG MESSAGE, BUT PLEASE READ
Date: Friday, April 10, 2020 4:03:12 PM
Importance: High

As we come to the end of another week, the Chairman and I want to reiterate our thanks and appreciation to everyone for your hard work and dedication to the FCC and the American people during this unprecedented and challenging time, particularly when we know many of you have additional important family and other personal responsibilities requiring your time and energy. We hope that you and your family are staying safe and practicing the social distancing necessary to minimize the spread of COVID-19.

While this is a long email, please read through it in its entirety as it contains important information about two topics: **(1) the continued availability of excused absence; and (2) expanded hours-of-work flexibilities.**

Administrative Leave/Excused Absence

In place of the 10 hours of general administrative leave that has been available for the past three weeks for dependent care issues related to the pandemic, beginning on Monday, April 13 and until further notice, **the Chairman has authorized employees to use up to 10 hours per week of paid excused absence under the evacuation pay regulations at 5 CFR 550.406(a).**

Consistent with OPM guidance, excused absences may be granted under the following circumstances:

- An employee has a child or children who attend an elementary or secondary school that is closed due to the COVID-19 pandemic;
- An employee has a younger child or children who are not of school age, and normal childcare arrangements are not in effect due to the pandemic; or
- An employee has other family members (e.g., adult child or elderly parent with special needs) in the home who require care and supervision and other caregivers are not available due to the pandemic.

If you have a COVID-19-related reason for seeking a paid excused absence that does not fall within any the categories outlined above, please discuss with your supervisor.

In determining the need for excused absence for employees in the above circumstances, supervisors should consider the following factors:

- the age and care needs of the employee's child or children;
- the needs of any adults in the home requiring care by the employee;
- the number of children or other persons in the home requiring care/supervision;
- the presence in the home of other healthy adult caregivers; and
- the employee's ability to perform work at times when direct care/supervision of a child or other person is not needed (e.g., while a child is sleeping), after making appropriate work scheduling flexibilities available.

Employees seeking to use this excused absence should discuss with their supervisor. Except in emergencies, requests for such excused absences should be submitted in advance. NFC is currently developing a specific time code for this type of excused absence, and we anticipate it will be available for use in WebTA next week. Until it is available, employees should request to use this leave from their supervisor outside of WebTA, and the request can be subsequently documented in WebTA once the timecode is available. Carol Edwards will send out specific WebTA instructions as soon as the new code is available

Hours-of-Work Flexibilities

In addition to the 10 hours of excused absence per week available as discussed above, **we are also temporarily modifying our hours-of-work policies to provide more flexibility as to when employees can perform their work, as well as enhancing the time when employees may earn credit hours** to offset hours of leave they may need to use during the day, for example, to care for children. All of these changes take effect on Monday, April 13 and will be available until further notice.

While all employees are welcome to maintain their current work schedules, if you need additional flexibility in your work schedule, please work with your supervisor to communicate your needs and work together to find a solution. Supervisors should approve requested work schedules and/or needed modifications as they arise to the maximum extent possible, consistent with operational needs.

Reduced Core Hours

Currently, employees must be working or on leave during the FCC's core hours from 10:00am to 3:30pm, Monday through Friday. The core hours also include the unpaid, 30-minute lunch period.

Beginning on Monday, the FCC is reducing the required core hours from 5½ hours each day to 2½ hours each workday (Monday-Friday), as well as offering 2 sets of core hours that employees may choose to work. Option 1 will be from 10:00am-12:30pm, and Option 2 will be from 12:30pm-3:00pm. The remaining 6 work hours, making up an employee's regular 8½-hour tour of duty, will be worked before and/or after the selected core hours.

Like now, employees may request to use leave during core hours (or other work hours) as necessary.

Expanded Start/End Times

Currently, employees may start their tour of duty between 7:00am and 10:00am and end their tour of duty 8½ hours later, from 3:30pm to 6:30pm. In addition to reducing core hours, we are also expanding start/end times so that employees may begin/end work as early/late as possible consistent with their selection of core hours. Practically, this means that employees who select to work core hours from 10:00am-12:30pm may select a tour of duty that begins between 5:00am and 10:00am and end their tour of duty 8½ hours later between 1:30pm to 6:30pm. Employees who select to work core hours from 12:30pm-3:00pm may select a tour of duty that begins between 10:15am and 12:30pm and end their tour of duty 8½ hours later between 6:45pm to 9:00pm.

Like now, employees need to notify their supervisors of their requested, fixed tour of duty. This does not need to be formally documented, but communication is important to make sure relevant colleagues are aware of when people are expected to work (or be on leave). To the extent employees need to shift or modify their tour of duty on an ad hoc basis, they should discuss this with their supervisor, and such request should be granted to the maximum extent possible. Neither the reduced core hours nor the expanded start/end times require any changes to the way employees record their time and attendance in WebTA; employees still record their total number of work hours each day.

Expanded Time Period to Earn Credit Hours

Currently, employees (except those on a Compressed Work Schedule) may work credit hours between: (1) 6:00am and 10:00am; and (2) 3:30pm and 8:30pm. Beginning on Monday, the hours during which credit hours may be worked will be expanded to: (1) 4:00am to 12:30pm; (2) 1:30pm to 11:59pm. If an employee needs to take leave during his or her tour of duty, earning credit hours may be a way to offset the leave used.

Beyond the expanded hours in which credit hours can be earned, the same procedures for earning/using credit hours continue to apply. Specifically, employees can earn up to 2 credit hours per workday without advanced supervisory approval provided there is assigned and necessary work to be done. A third credit hour can be earned in a workday, but it still requires advanced supervisory approval and submission in WebTA of a premium pay request (using transaction code 29-Credit Hours Worked-Telework Home). Under the circumstances, supervisors are encouraged to approve requests to work a third credit hour.

Credit hours can be earned in 15-minute increments and do not have to be earned contiguous to an employee's tour of duty. A maximum of 20 credit hours may be earned in a pay period. Full-time employees may only carry over a maximum of 24 credit hours from one pay period to the next; part-time employees may only carry over up to one-fourth of the hours they work in a bi-weekly pay period. Employees on a Compressed Work Schedule may not earn credit hours. Credit hours must be earned before they can be used. Like other leave requests, requests to use earned credit hours should be submitted through a leave request in WebTA.

Other Work Schedule Flexibilities

Employees who wish to have 1 or 2 set days off during a pay period may also consider switching to a Compressed Work Schedule. Under the 5/4-9 schedule, over the pay period, an employee has eight workdays of 9½ hours each; one workday of 8½ hours; and one non-workday (i.e. day off). Tours of duty start between 7:00am and 9:00am and end between 3:30pm and 6:30pm.

Under a 4-10 schedule, each week, employees have four workdays of 10½ hours; and one non-workday (i.e. day off). Tours of duty start between 6:00am-8:00am and end between 5:00pm and 6:30pm. At this time, we are not making any modifications to the core hours or start/end times for compressed work schedules.

A change to a Compressed Work Schedule (CWS) should only be done at the beginning of a pay

period, because it requires a change in WebTA. If you are interested in a CWS, please discuss with your supervisor and contact the Payroll and Benefits Services Center.

We will continue to keep you updated as circumstances warrant, including further information on a new category of leave under the Families First Coronavirus Response Act.

I hope that everyone who is celebrating has a Happy Easter and/or Happy Passover.

Matthew

Subject: CORONAVIRUS UPDATE - VERY IMPORTANT, PLEASE READ

Date: Friday, March 20, 2020 at 12:15:55 PM Eastern Daylight Time

From: Matthew Berry

To: EVERYONE-EX

Priority: High

Today's update is a long one but involves two important issues: (1) **Availability of Administrative Leave**; and (2) **Mandatory Telework**. **So it is important that you read this entire e-mail.**

I would like to start off by thanking everyone for working together to make our transition to large-scale telework as smooth as possible. By implementing precautionary measures, we are doing our part to help slow the spread of COVID-19 and protect not only ourselves, but also the broader community, including older Americans and those with underlying health conditions. We greatly appreciate the dedication and professionalism of FCC staff in this unprecedented situation to continue to ensure the accomplishment of the agency's important mission while also juggling personal and family responsibilities, which have been impacted by this pandemic. We have accomplished a lot over the past week, and it is a result of your hard work during these challenging times.

I am writing to let you know about two important changes to Commission policies that will go into effect on Monday – the availability of administrative leave and the implementation of mandatory telework.

AVAILABILITY OF ADMINISTRATIVE LEAVE

As we close out our first full week with the majority of staff teleworking full-time, we understand that we have all had to make adjustments to our daily routines and recalibrate work and life commitments, particularly as most schools and childcare providers have closed in an effort to help prevent the further spread of COVID-19. We hope that you have brought concerns to your supervisor's attention and have been able to utilize existing workplace flexibilities such as shifts in tours of duty and earning/using credit hours to help find a balance that can fit your needs, as well as enable you to continue teleworking to accomplish the important work of the FCC. But based on the feedback that we have received this week, we also believe that it would be helpful to provide you with additional flexibility.

Therefore, as a further measure to help make this transition a little easier, the Chairman has authorized full-time employees to be granted up to 10 hours of administrative leave per week for the weeks of March 22 and March 29 if you are prevented from (tele)working due to (1) school or daycare closures resulting in a lapse in childcare, which requires you to provide care; or (2) other reasons you identify related to COVID-19 such as assisting another family member in order to help prevent exposure/spread of COVID-19, etc. Part-time employees may be granted administrative leave each week in an amount not to exceed a quarter of their total number of hours they are scheduled to work.

Employees should request such administrative leave related to COVID-19 by submitting a request in WebTA using Leave Transaction Code 66 – Administrative Leave/Excused Absence and providing a brief explanation in the Remarks field of how the request is related to COVID-19.

We will continue to monitor the situation and evaluate options for continued or additional support or flexibilities that can be provided to employees, including after April 4.

MANDATORY TELEWORK

As we have continued to assess the situation and the latest guidance from the CDC, federal, state, and local authorities, we have decided to take an additional proactive and precautionary measure pursuant to 5 CFR § 550.409 and **mandate telework beginning Monday, March 23, 2020, for all FCC employees, unless they are authorized to access an FCC facility to perform critical, mission essential functions that cannot be performed remotely.** Given the current state of the pandemic, we believe that it is vital for there to be as few people in our facilities as possible, particularly to provide the maximum protection for those employees whose duties require them to be in an FCC facility. Therefore, under the terms of section 550.409, as of 12:01 AM Monday, March 23, and until further notice, all other employees will be required to take leave or telework from their home or other alternative location mutually agreeable to FCC and the employee, regardless of whether they have a current telework agreement. Employees will not be able to access FCC facilities without express authorization. Consistent with our prior actions, **our goal is preparedness, not panic.**

Current Teleworkers will be required to continue teleworking or take personal leave. We recognize this is a challenging time and encourage employees and supervisors to work together to take advantage of current flexibilities, including the availability of administrative leave discussed earlier in this e-mail.

Employees without a Telework Agreement must contact HumanResources@fcc.gov with a copy to Richard.Mansfield@fcc.gov by 2:30 pm on Friday, March 20, 2020 (today) to notify the FCC of what equipment, if any, is needed to telework, and provide an alternate contact method (i.e. a personal cell phone or landline) to the extent the employee cannot access their FCC phone number/voicemails or emails. The FCC will provide RSA tokens to allemployees who need them. The FCC also anticipates being able to provide laptop computers and/or internet access hotspot capabilities to all current non-teleworkers who lack them to enable them to telework while mandatory telework is in effect. The FCC will respond as soon as practicable as to the availability of equipment and, if available, potential delivery method(s) and date of retrieval/delivery. Any current non-teleworkers must consult with their supervisor to determine what work may be performed remotely, including work that may be performed without a computer and/or internet/network access, or other available leave options. As a general matter, pursuant to 5 CFR § 550.409(a), employees will be required to telework or take leave, even if the employee has no telework agreement in place.

Access to an FCC Facility

Although the FCC's operating status will remain "Open," access to an FCC facility will only be authorized by the Managing Director for the performance of critical, mission essential functions that cannot be performed remotely.

Individual employees meeting the above criteria, or a supervisor on behalf of an employee(s), may request to access a facility by emailing their Bureau/Office Chief, with a copy to the employee's immediate supervisor (if he or she is not submitting the request), and including an explanation for the request, the proposed time(s) and date(s) for building access, and their proposed method of commuting to the building, including whether parking at the facility would be required. Requests to

access to the building should be made with as much advance notice as possible, typically at least one business day. If the Bureau/Office Chief approves the request, he or she will forward the request to the Managing Director for final approval.

Employees approved to access a facility will be notified of the date/time of the granted access. To the extent possible, the Agency will work with non-monthly-paid parkers who must work from a facility to minimize the need to commute using public transportation. At facilities where guards are present, the employee's name will be given to the guards, and the employee will have to check in with the guards in the lobby before proceeding to their designated workspace. At such facilities, the guards will not grant access to any employee who has not been pre-cleared as outlined above. While in the facility, employees must adhere to CDC guidelines to the greatest extent possible (e.g. maintaining a distance of at least 6 feet between persons, practice good hand-washing and cough-and-sneeze etiquette), as well as limit the areas of the facility they access to only those spaces that are necessary to perform their work. No employee should request to access a facility (or follow through with previously granted access) if they are sick and/or have knowledge of potential exposure to a person who has tested positive or presumptive positive for COVID-19.

By maintaining an "open" operating status, but mandating telework for all employees, except in limited circumstances described above, the FCC, consistent with CDC and other government-wide guidance, will be better able to ensure that it can continue to perform its necessary and critical, mission-essential functions that can only be performed on-site and protect the limited staff necessary to perform those functions from additional risk of potential exposure.

OTHER MATTERS

I strongly encourage everyone to please also take a moment to sign up for [SendWordNow](#), the FCC's Emergency Notification System, if you have not already, so you can timely receive emergency alerts to both your FCC and personal contact information. Self-registration instructions are attached.

Finally, we understand this may be a stressful time and want to remind you of the Employee Assistance Program, which offers free, confidential assistance to employees who may be experiencing personal problems that may affect their performance, conduct, health and/or well-being. Participation in EAP is completely voluntary. Employees may obtain confidential assistance, 24 hours a day, seven days a week, by contacting an EAP representative at 1-800-222-0364 (TTY: 866-262-7848) or logging on to their website at www.FOH4you.com. Information about EAP can also be found on FCC's intranet site at the following link: <http://intranet.fcc.gov/omd/hrm/worklife/employee.html>.

We will continue to keep you updated as circumstances warrant.

Take care, and I hope everyone has a good, safe, and socially-distanced weekend.

Matthew

From: [Human Resources](#)
To: [Human Resources](#)
Subject: Emergency Paid Sick Leave under the Families First Coronavirus Response Act
Date: Monday, April 27, 2020 5:23:06 PM
Attachments: [FFCRA Poster_WH1422_Federal.pdf](#)
[Information Required to Request Emergency Paid Sick Leave under FFCRA.docx](#)
[opm-summary-of-statutory-and-regulatory-requirements-in-connection-with-the-emergency-paid-sick-leave-act-epsia.pdf](#)
[FFCRA Paid Sick Leave Available Hours Based on Daily and Aggregate Caps for DC Locality Pay.pdf](#)

As you may be aware, the Families First Coronavirus Response Act (FFCRA) makes up to 80 hours of a new type of leave, Emergency Paid Sick Leave, available for certain COVID-19-related reasons. Emergency Paid Sick Leave is a new, additional leave option, and it does not impact or replace other types of leave, including evacuation excused absence, that remain available to employees.

Information about when this leave may be used, the rate at which it is paid, and daily and aggregate caps on leave payments is discussed below and in the attached documents.

Please be advised that because of the daily and aggregate caps, many FCC employees will not be able to use 8 hours of this type of leave in one day or the full 80 hours. Most importantly, use of this leave for certain qualifying reasons, including childcare purposes, is only paid at two-thirds of an employee's regular rate of pay. **Therefore, if you use this leave for childcare purposes (or qualifying purposes #4 or #6), you will receive less pay than you would if you used another type of leave** (e.g. annual leave, earned credit hours, time off award, evacuation pay excused absence (all paid at 100% of an employee's regular rate of pay)).

Because of the daily and aggregate caps, as well as the different rate of pay for this type of leave, Emergency Paid Sick Leave cannot be requested and processed in WebTA as normal. Instead, any employee seeking to use Emergency Paid Sick Leave under FFCRA must email their supervisor for approval and copy Carol Edwards, Chief, Payroll and Benefits Service Center, so that she may manually enter and process the leave on the employee's timesheet at the end of the pay period. Please refer to the attached document, "Information Required to Request Emergency Paid Sick Leave," for necessary information to provide in the email when requesting this type of leave.

Emergency Paid Sick Leave under the Families First Coronavirus Response Act (FFCRA)

Under the FFCRA, federal employees are entitled to up to 80 hours of Emergency Paid Sick Leave for certain COVID-19-related reasons.

The FFCRA lists six reasons that would qualify an employee to use the Emergency Paid Sick Leave. The chart below and attachments provide further explanation. Please also note that a prerequisite for using this leave is that you are **unable to work, including being unable to telework**, because of the listed reason. If you have telework-ready work, you will typically be able to perform it despite being under a stay-at-home order or awaiting test results.

<u>FFCRA EMERGENCY PAID SICK LEAVE REASONS</u> <u>(80 total hours available 4/1/20-12/31/20)</u>	
Qualifying Reason for Leave related to COVID-19	<ol style="list-style-type: none"> 1. Is subject to a Federal, State, or local quarantine or isolation order related to COVID-19; 2. Has been advised by a health care provider to self-quarantine related to COVID-19; 3. Is experiencing COVID-19 symptoms and is seeking a medical diagnosis 4. Is caring for an individual subject to an order described in (1) or self-quarantine described in (2); 5. Is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons; 6. Is experiencing any other substantially-similar condition specified by HHS

		(note – HHS has not specified any other conditions)
Pay Rate	Employees eligible to receive 100% of regular rate of pay for paid sick leave for reasons #1-3; subject to the caps below.	Employees eligible to receive 2/3 of regular rate of pay for paid sick leave for reasons #4-6; subject to the caps below.
Caps	80 hours (for all qualifying reasons (1-6)) \$511 Daily Cap (equivalent to \$63.88/hr) \$5,110 Total Cap	80 hours (for all qualifying reasons (1-6)) \$200 Daily Cap \$2,000 Total Cap
Application to GS Pay Scale	<ul style="list-style-type: none"> All employees at the GS-13, step 9 level and below, and GS-14, steps 1 through step 3 would receive the maximum allowable daily and cumulative total entitlement (i.e. can use up to 8 hours in one day; and use 80 total hours). Employees at the GS-13, step 10 level and GS-14, step 4 level and above cannot claim a full day (8 hours) before hitting the daily \$511 pay cap and will also hit the \$5110 cap before using the full 80 hours. 	<ul style="list-style-type: none"> Based on the \$200 daily pay cap, all employees at the GS-10, step 6 level and below, and GS-11 step 1 through step 3 (i.e. hourly rates at \$37.50 an hour or less) would receive the maximum allowable daily and cumulative total entitlement at 2/3 of their regular rate of pay. Employees at the GS-10, step 7 through step 10 levels, and the GS-11, step 4 level and above cannot claim a full day (8 hours) before hitting the daily \$200 pay cap and will also hit the \$2000 cap before using the full 80 hours, factoring in payments at 2/3 of their regular rate of pay.
Examples	<ul style="list-style-type: none"> Example 1: a GS-14, step 4 employee's regular hourly rate of pay in the DC locality area is \$63.94 or \$511.52/day, which exceeds the \$511 daily maximum. The employee, therefore, can only use 7.75 hours of this leave per day and stay under the daily cap (\$63.94 x 7.75 hours = \$495.53); the employee can request another type of leave for the remaining 0.25 hours of the workday. A GS-14, step 4 can use 79.75 hours of paid leave (rather than 80 hours) before reaching the \$5110 cap. Example 2: a GS-15, step 10 employee's hourly rate of pay in the DC locality area is \$81.84 or \$654.72/day, which exceeds the \$511 daily maximum. The employee, therefore, can only use 6.00 hours of this 	<ul style="list-style-type: none"> Example 1: a GS-10, step 7 employee's regular hourly rate in the DC locality area is \$37.70; 2/3 of that hourly rate is \$25.13 or \$201.07/day, which exceeds the \$200 daily maximum. The employee, therefore, can only use 7.75 hours of this leave per day and stay under the daily cap (\$25.13 x 7.75 = \$194.75); the employee can request another type of leave for the remaining 0.25 hours (which will be paid at 100% of their hourly rate). A GS-10, step 7 can use 79.5 hours of paid leave before reaching the \$2000 cap (and hours paid at 2/3 of regular rate). Example 2: a GS-15, step 10 employee's regular hourly rate in the DC locality area is \$81.84; 2/3 of that hourly rate is \$54.56 or \$436.48/day, which exceeds the \$200 daily maximum. The employee, therefore, can

	<p>leave per day and stay under the daily cap (\$81.84 x 6.00 hours = \$491.04); the employee can request another type of leave for the remaining 2.00 hours of the workday. A GS-15, step 10 can use 62.25 hours of paid leave (rather than 80 hours) before reaching the \$5110 cap.</p>	<p>only use 3.5 hours of this leave per day and stay under the daily cap (\$54.56 x 3.5 = \$190.96); the employee can request another type of leave for the remaining 4.5 hours (which will be paid at 100% of their hourly rate). A GS-15, step 10 can use 36.5 hours of paid leave before reaching the \$2000 cap (and hours paid at 2/3 of regular rate).</p>
--	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

For Reasons #1-3, employees are paid at 100% of their regular rate of pay, up to a daily cap of \$511 and/or an aggregate cap of \$5110. In practice, this means that if you are a higher-graded employee, you will not be able to use/claim 8 hours of leave per day nor the full 80 hours before hitting the daily and/or aggregate caps. For reasons #4-6, employees are paid a reduced rate from their regular rate of pay for all such leave hours. Specifically, employees are paid at 2/3 of their regular rate of pay, up to a daily cap of \$200 and/or an aggregate cap of \$2000. This means that higher-graded employees will also not be able to claim 8 hours of leave per day or the full 80 hours before hitting the daily and/or aggregate caps.

The 80 total hours cap on Emergency Paid Sick Leave applies, regardless of the qualifying reason(s). Employees, therefore, may use Emergency Paid Sick Leave for all the same reason or combinations of different reasons, but the total hours of Emergency Paid Sick Leave cannot exceed 80 hours.

You may also have read that the FFCRA also provides expanded leave entitlements for certain employees covered by Title I of the Family Medical Leave Act. Those entitlements, however, are not applicable to most federal employees, including all FCC employees, because FCC employees are covered by Title II of the Family Medical Leave Act, not Title I. Nevertheless, we hope that you will be able to manage your work and family responsibilities through the additional workplace flexibilities previously made available and discussed above.

FCC Commissioners at a Glance

Ajit Pai, FCC Chairman



Ajit Pai is the Chairman of the Federal Communications Commission. He was designated Chairman by President Donald J. Trump in January 2017. He had previously served as Commissioner at the FCC, appointed by then-President Barack Obama and confirmed unanimously by the United States Senate in May 2012.

Regulatory Philosophy

Chairman Pai's regulatory philosophy is informed by a few simple principles. Rules that reflect these principles will result in more innovation, more investment, better products and services, lower prices, more job creation, and faster economic growth.

- Consumers benefit most from competition, not preemptive regulation. Free markets have delivered more value to American consumers than highly regulated ones.
- No regulatory system should indulge arbitrage; regulators should be skeptical of pleas to regulate rivals, dispense favors, or otherwise afford special treatment.
- Particularly given how rapidly the communications sector is changing, the FCC should do everything it can to ensure that its rules reflect the realities of the current marketplace and basic principles of economics.
- As a creature of Congress, the FCC must respect the law as set forth by the legislature.
- The FCC is at its best when it proceeds on the basis of consensus; good communications policy knows no partisan affiliation.

Selected Issues

Broadband

Broadband is critical in modern American life. Especially when it comes to innovation, the Internet has leveled the playing field. It's created a phenomenon that Chairman Pai calls the "democratization of entrepreneurship." With a good idea and a broadband connection, entrepreneurs anywhere can compete in ways unthinkable a generation ago.

Yet too many Americans still don't have broadband. They are left on the other side of the "digital divide." Chairman Pai has seen this for himself, from Barrow, Alaska to Fayetteville, West Virginia.

That's why he has proposed a comprehensive plan to promote broadband deployment to all Americans. The federal government must make it easier for broadband providers to retire

increasingly obsolete copper lines in favor of next-generation technologies like fiber. It must enable rural residents to have the same choice for stand-alone broadband typically found in cities. It must create a roadmap for state and local governments so that companies that want to compete in the broadband market don't have to jump through unnecessary regulatory hoops in order to lay fiber to consumers. It must promote common-sense policies like "Dig Once" and reform pole attachment rules to reduce the costs of building digital networks. It must streamline the process for deploying wireless infrastructure, from big towers to small cells. It must free up more licensed spectrum for use by wireless carriers and more unlicensed spectrum for things like Wi-Fi. And it must preserve Internet freedom here and abroad, so that the online world can flourish free from heavy-handed government intervention.

First Amendment

Chairman Pai has been an outspoken defender of First Amendment freedoms. When the FCC proposed to send researchers into newsrooms to question why reporters cover some stories and not others, Chairman Pai sounded the alarm. Soon after, the FCC canceled the study. Chairman Pai has also spoken out about threats to free speech here and abroad and has warned against government efforts to regulate the marketplace of ideas.

Public Safety

Public safety is a top priority for Chairman Pai. He took action to ensure that consumers can reach emergency services whenever they dial 911. He has also called on the FCC to help law enforcement combat the rising threat posed by contraband cellphones in our jails and prisons. And he's pushed for the advancement of Next Generation 911, an Internet-based system which will help keep Americans safe.

Fiscal Responsibility

Chairman Pai has fought to eliminate waste, fraud, and abuse in federal programs. He was the first commissioner to demand an end to corporate welfare in a recent major spectrum auction; the agency ultimately agreed, saving taxpayers over \$3 billion. He has been outspoken against the waste, fraud, and abuse in the Lifeline program, leading an investigation into the issue. And he wants to make sure that every federal program under the FCC's purview gets the most bang for the buck.

Taking the Initiative and Getting Results

In addition to the accomplishments mentioned above, Chairman Pai was the first member of the FCC in over two decades to call for revitalizing the AM radio band; the basic reforms he proposed were adopted in 2015. He also urged the FCC to create a task force to study the "Internet Protocol Transition" and report on obsolete rules that could be repealed; that task force was created. He proposed a way for the FCC to address petitions filed by the public much more quickly; that "rocket docket" is now in place and has dramatically sped up the agency's decision-making. With respect to outside review and oversight, in at least half a dozen high-profile cases in which he dissented, federal courts of appeals have upheld his position. And in other such cases, one or both Houses of Congress has passed legislation consistent with his position.

Biographical Information

Jenner & Block, LLP. Partner, 2011 – 2012

Federal Communications Commission. Deputy General Counsel, Associate General Counsel, and Special Advisor to the General Counsel, 2007 – 2011

U.S. Senate Judiciary Committee, Chief Counsel, Chairman Sam Brownback, Subcommittee on the Constitution, Civil Rights, and Property Rights, 2005-2007

U.S. Department of Justice. Senior Counsel, Office of Legal Policy, 2004 – 2005

U.S. Senate Judiciary Committee, Deputy Chief Counsel, Chairman Jeff Sessions, Subcommittee on Administrative Oversight and the Court, 2003-2004

Verizon Communications Inc. Associate General Counsel, 2001 – 2003

U.S. Department of Justice. Trial Attorney (Attorney General's Honors Program), Antitrust Division, Telecommunications Task Force, 1998 – 2001

Hon. Martin L.C. Feldman, U.S. District Court for the Eastern District of Louisiana. Law Clerk, 1997 – 1998

Chairman Pai graduated with honors from Harvard University in 1994 and from the University of Chicago Law School in 1997, where he was an editor of the University of Chicago Law Review and won the Thomas R. Mulroy Prize. In 2010, Pai was one of 55 individuals nationwide chosen for the 2011 Marshall Memorial Fellowship, a leadership development initiative of the German Marshall Fund of the United States.

The son of immigrants from India, Chairman Pai grew up in Parsons, Kansas. He now lives in Arlington, Virginia, with his wife, Janine; son, Alexander; and daughter, Annabelle.

Michael O’Rielly, Commissioner



Michael O’Rielly was nominated for a seat on the Federal Communications Commission by President Barack Obama and was sworn into office in November 2013. In January 2015, he was confirmed and sworn into office for a second term, which extends until June 30, 2019.

Key Notes

Served as a Policy Advisor in the office of Senate Republican Whip led by Senator John Cornyn (R-TX).

Full Bio

Michael O’Rielly was nominated for a seat on the Federal Communications Commission by President Barack Obama on August 1, 2013 and was confirmed unanimously by the United States Senate on October 29, 2013. He was sworn into office on November 4, 2013. On January 29, 2015, he was sworn into office for a new term, following his re-nomination by the President and confirmation by the United States Senate.

Prior to joining the agency Commissioner O’Rielly served as a Policy Advisor in the Office of the Senate Republican Whip, led by U.S. Senator John Cornyn, since January 2013. He worked in the Republican Whip’s Office since 2010, as an Advisor from 2010 to 2012 and Deputy Chief of Staff and Policy Director from 2012 to 2013 for U.S. Senator Jon Kyl.

He previously worked for the Republican Policy Committee in the U.S. Senate as a Policy Analyst for Banking, Technology, Transportation, Trade, and Commerce issues from 2009 to 2010. Prior to this, Commissioner O’Rielly worked in the Office of U.S. Senator John Sununu, as Legislative Director from 2007 to 2009, and Senior Legislative Assistant from 2003 to 2007. Before his tenure as a Senate staffer, he served as a Professional Staff Member on the Committee on Energy and Commerce in the United States House of Representatives from 1998 to 2003, and Telecommunications Policy Analyst from 1995 to 1998.

He began his career as a Legislative Assistant to U.S. Congressman Tom Bliley from 1994 to 1995.

Commissioner O’Rielly received his B.A. from the University of Rochester.

Brendan Carr, Commissioner



Brendan Carr was nominated to serve as a Commissioner of the FCC by President Donald J. Trump, and he was confirmed unanimously by the United States Senate in 2017. In 2019, Carr was nominated by the President and confirmed by the Senate to serve a new, five-year term.

Key Notes

He is leading the FCC's work to modernize the infrastructure rules governing the buildout of 5G and other next-gen networks.

Carr is also leading an FCC telehealth initiative, which is designed to drive down healthcare costs while improving outcomes for veterans, low-income, and rural Americans.

Carr is also focused on expanding America's skilled workforce—the tower climbers and construction crews needed to build next-gen networks.

Full Bio

Brendan Carr was nominated to serve as a Commissioner of the FCC by President Donald J. Trump, and he was confirmed unanimously by the United States Senate in 2017. In 2019, Carr was nominated by the President and confirmed by the Senate to serve a new, five-year term.

He focuses on regulatory reforms that will help create jobs and grow the economy for the benefit of all Americans.

He is leading the FCC's work to modernize the infrastructure rules governing the buildout of 5G and other next-gen networks. His reforms are predicted to cut billions of dollars in red tape and have already accelerated 5G builds—helping to bring more broadband to more Americans. By updating our country's infrastructure rules, he's helped extend U.S. leadership in 5G and ensured that rural America has a fair shot at next generation connectivity.

Carr is also focused on expanding America's skilled workforce—the tower climbers and construction crews needed to build next-gen networks. His jobs initiative promotes community colleges, technical schools, and apprenticeships as a pipeline for good-paying 5G jobs. And he is recognizing America's talented and hardworking tower crews through a series of "5G Ready" Hard Hat presentations.

Carr is also leading an FCC telehealth initiative, which is designed to drive down healthcare costs while improving outcomes for veterans, low-income, and rural Americans.

Time outside of Washington has informed Commissioner Carr's regulatory approach. Nearly every month, he hits the road to hear directly from the construction crews and tower techs who are building our country's infrastructure. He's seen firsthand how connectivity is growing the economy—from small-town manufacturing plants to the farmers and ranchers that are using broadband for Smart Ag. Back at the FCC, Commissioner Carr has built on the ideas he's heard from the community members, public safety officials, and local leaders he's met at town halls and events in 33 states over the past two years.

Commissioner Carr brings a dozen years of private and public sector experience in communications and tech policy to his role as Commissioner. Previously, he served as General

Counsel of the FCC, representing the agency in court and serving as the chief legal advisor to the Commission. He first joined the FCC as a staffer in 2012 and worked on spectrum policy and competition matters for a number of FCC offices.

Prior to joining the agency, Commissioner Carr worked as an attorney at Wiley Rein LLP in the firm's appellate, litigation, and telecom practices. He litigated cases involving the First Amendment and the Communications Act. A graduate of Georgetown University, Commissioner Carr clerked on the U.S. Court of Appeals for the Fourth Circuit for Judge Dennis W. Shedd. He graduated *magna cum laude* from law school at the Catholic University of America where he served as an editor of the Catholic University Law Review.

Commissioner Carr grew up in Virginia and now lives in Washington, DC with his wife and three children.

Jessica Rosenworcel, Commissioner



Rosenworcel was first nominated to the FCC by President Barack Obama in October 2011. She was confirmed unanimously by the United States Senate on May 7, 2012 and sworn into office on May 11, 2012, for a term ending June 30, 2015. In June 2017, Rosenworcel was nominated to an additional term by President Donald Trump. She was confirmed by the Senate on August 3, 2017.

Key Notes

Joint Conference Federal Chair - Federal-State Joint Conference on Advanced Telecommunications Services

Full Bio

Federal Communications Commissioner Jessica Rosenworcel believes that the future belongs to the connected. She works to promote greater opportunity, accessibility, and affordability in our communications services in order to ensure that all Americans get a fair shot at 21st century success. She believes strong communications markets can foster economic growth and security, enhance digital age opportunity, and enrich our civic life.

From fighting to protect net neutrality to ensuring access to the internet for students caught in the Homework Gap, Jessica has been a consistent champion for connecting all. She is a leader in spectrum policy, developing new ways to support wireless services from Wi-Fi to video and the internet of things. She also is responsible for developing policies to help expand the reach of broadband to schools, libraries, hospitals, and households across the country.

Named as one of POLITICO's 50 Politicos to Watch and profiled by InStyle Magazine in a series celebrating "women who show up, speak up and get things done," Jessica brings over two decades of communications policy experience and public service to the FCC. Prior to joining the agency, she served as Senior Communications Counsel for the United States Senate Committee on Commerce, Science, and Transportation, under the leadership of Senator John D. Rockefeller IV and Senator Daniel Inouye. Before entering public service, Jessica practiced communications law in Washington, DC.

She is a native of Hartford, Connecticut. She is a graduate of Wesleyan University and New York University School of Law. She lives in Washington, DC with her husband Mark, and children Caroline and Emmett.

Geoffrey Starks, Commissioner



Starks was unanimously confirmed by the United States Senate on January 2, 2019. He was sworn into office on January 30, 2019.

Key Notes

Served as Assistant Bureau Chief in the FCC's Enforcement Bureau

Full Bio

Commissioner Geoffrey Starks believes that communications technology has the potential to be one of the most powerful forces on Earth for promoting equality and opportunity. To unlock that potential, however, all Americans must have access. From combatting internet inequality to advocating for diversity in employment, entrepreneurship, and media ownership,

Commissioner Starks fights for policies designed to ensure that modern communications technology empowers every American.

Because high-quality broadband is essential to participating in our economy and society, Commissioner Starks has been a champion for the millions of Americans who lack access to or cannot afford a home internet connection. As a native Kansan, he understands the communications needs of rural America. He has consistently advocated for broadband deployment that helps rural communities tap into economic and educational opportunities that may not be close to home, which both encourages young people to stay and attracts new residents and employers.

Bringing a wealth of enforcement experience to the Commission, Commissioner Starks advocates for consumer protection and accountability, particularly in managing the Universal Service Fund. Before he was appointed Commissioner, Starks helped lead the FCC's Enforcement Bureau, handling a wide variety of complex investigations. At the Department of Justice, he served as a senior advisor to the Deputy Attorney General on a variety of domestic and international law enforcement matters and received the Attorney General's Award for Exceptional Service—the highest honor award a DOJ employee can receive.

Commissioner Starks is also a leader on national security policy, working to eliminate untrustworthy equipment from America's communications networks. His *Find It, Fix It, Fund It* initiative brought national attention to the urgent need to support small and rural companies as they work to make their networks more secure. With regard to personal data security, while Commissioner Starks fully supports the promise of advanced wireless service and other cutting-edge technologies—and works to ensure that all communities share in the benefits of these advancements—he also fully appreciates the potentially intrusive powers of some communications technologies and is vigilant to ensure against any uses of those powers that would promote illegal discrimination or compromise personal privacy.

Before he entered federal public service, Commissioner Starks practiced law at Williams & Connolly, clerked on the U.S. Court of Appeals for the 8th Circuit, served as a legislative staffer in the Illinois State Senate, and worked as a financial analyst. Commissioner Starks graduated

from Harvard College with high honors and Yale Law School. He lives in Washington, D.C. with his wife, Lauren, and their two children.

Federal Communications Commission Fiscal Year 2021 Budget Request



Congressional Staff Briefing
February 13, 2020

FY 2021 Budget Request - Overview

OPERATIONS

- **Regulatory Fees (Offsetting Collections):** \$343.07m represents a \$4.07m or 1.2% increase from the FY 2020 appropriated level of \$339m, which includes rent savings of \$6.88m
 - The PIRATE Act was passed after the FY 2021 budget was developed with OMB; therefore this budget request does not include a request for funding (\$11m) to implement the requirements of the PIRATE Act
- **Spectrum Auctions Program:** \$134.495m represents a \$1.956m or 1.5% increase from the FY 2020 capped level of \$132.539m
- **FTEs:** 1,448* is at the same level as the FY 2020 enacted level
- **Information Technology (IT) Systems:** Continued modernization & critical investments

ESSENTIAL PROGRAMMATIC FOCUS – FYs 2019, 2020, and 2021

- **Closing the “Digital Divide:”** Supportable and sustainable agency actions - USF-Rural Digital Opportunity Fund (RDOF); USF-5G Fund
- **Commercial Spectrum Expansion:** Continue auctioning additional spectrum for 5G (28 GHz; 24 GHz; Upper 37, 39, & 47 GHz; 3.5 GHz; 3.7-3.98 GHz; 2.5 GHz), follow through on the Spectrum Pipeline Act mandates, and continue post incentive auction repack

Summary of Change

Regulatory Fees (Offsetting Collections)

(Dollars in Thousands)

	FY 2020 Enacted	FY 2021 Estimates to Congress	TOTAL NET CHANGE	
			Amount	Percent
Regulatory Fees - Offsetting Collections:				
Commission	\$327,894	\$331,743	\$3,849	
Office of Inspector General (OIG)	\$11,106	\$11,327	\$221	
Total Spending Authority - Offsetting Collections¹	\$339,000	\$343,070	\$4,070	1.2%
Full-Time Equivalents (FTEs) - Commission ²	1,388	1,388	0	
FTEs - Office of Inspector General	60	60	0	
Total Full-Time Equivalents	1,448	1,448	0	0.0%

¹The FY 2021 total request does not include funding to implement the requirements of the Preventing Illegal Radio Abuse Through Enforcement Act (PIRATE Act) passed by Congress on January 8, 2020 and signed into law on January 24, 2020 (P.L. 106-109).

²Includes spectrum auctions program FTEs.

Detail Explanation of Changes

Regulatory Fees (Offsetting Collections)

Explanation of Changes - Regulatory Fees (Offsetting Collections)		
FY 2020 Total Request	\$335,660	
FY 2020 Appropriated & Enacted Above Total Request	\$3,340	
FY 2020 Appropriated & Enacted		\$339,000
Reversal of FY 2020 One-Time Investment Requests:		
IT - Cloud Services and <u>Systems</u> Modernization	-\$926	
IT - Cloud Services and <u>Applications</u> Modernization	-\$2,266	
Subtotal		-\$3,192
Base Pay Increase Starting in Calendar Year (CY) 2020:	\$6,634	
Base Pay Increase Applicable to FY 2020		\$4,975
FY 2020 Base		\$340,783
FY 2021 Reduction To Base - New Headquarters Rent Savings		-\$6,880 -2.0%
FY 2021 Adjustments to Base:		
Base Pay Increase in CY 2020 Applicable to FY 2021	\$1,658	
1 Percent Increase in Across-the-board Base Pay	\$858	
2 Percent Non-Salary Inflationary Increase to Base	\$1,653	
Additional Awards for Non-SES/SL/ST FTEs	\$1,893	
Mapping - Geographic Information System	\$150	
Computational Power System	\$375	
Subtotal - FY 2021 Adjustments to Base		\$6,588
FY 2021 Adjusted Base Before One-Time Investment Requests		\$340,491
FY 2021 - One-Time Investment Requests:		
IT - Cloud Services and <u>Systems</u> Modernization - COSER	\$1,022	
Mapping - Geographic Information System	\$420	
Computational Power System	\$263	
Enterprise Level Data Architecture	\$525	
On-Line Market Surveillance Tool	\$350	
Subtotal - FY 2021 One-Time Investment Requests		\$2,579
FY 2021 Total Request¹		\$343,070
TOTAL NET CHANGE		\$4,070 1.2%

¹The FY 2021 total request does not include funding to implement the requirements of the Preventing Illegal Radio Abuse Through Enforcement Act (PIRATE Act) passed by Congress on January 8, 2020 and signed into law on January 24, 2020 (P.L. 106-109).

PIRATE Act Requirements & Costs

- \$11 Million implementation cost not included in FY 2021 request because OMB required FY 2021 final numbers prior to legislation passing
 - P.L. Law No. 116-109, signed January 24, 2020
 - Passback from OMB December 3, 2019
- FCC submitted full and accurate cost analysis to CBO two years ago, and CBO did not score the amount based on theory that costs covered by regulatory fees do not score.
- The Congressional Budget Office (CBO) latest estimate --- estimated that there is a gross cost of \$36 million to implement the PIRATE Act. The CBO estimate also noted that the Commission would have to hire approximately 30 additional employees. Furthermore, CBO estimated that the PIRATE Act would cost the Commission an additional \$3 million to expand existing databases and purchase additional enforcement equipment.
- The PIRATE Act provides the Commission with additional authority to increase fines against pirate radio broadcasters and requires the Commission to conduct annual enforcement “sweeps” of the top five radio markets where pirate radio broadcasters are active. Additionally, the PIRATE Act requires the Commission to establish a database of licensed and unlicensed radio stations.

FY 2021 Request With PIRATE Act Costs

The FY 2021 total request of \$343,070,000 does not include funding to implement the requirements of the Preventing Illegal Radio Abuse Through Enforcement Act (PIRATE Act) passed by Congress on January 8, 2020 and signed into law on January 24, 2020 (P.L. 106-109).

Revised FY 2021 Request to Include PIRATE Act Costs - Regulatory Fees (Offsetting Collections)		
(Dollars in Thousands)		
	FY 2021 Total Request	
	<u>WITHOUT</u> PIRATE Act	<u>WITH</u> PIRATE Act
FY 2021 Total Request withOUT PIRATE Act	\$343,070	
PIRATE Act Requirement:		
Additional 30 Full Time Equivalents (FTEs) ¹		\$6,900
Database Expansion and Additional Enforcement Equipment ¹		\$3,000
Other - Additional Office Space, Travel, Premium Pay, Fuel & Maintenance ²		\$1,100
Total Estimated PIRATE Act Cost for FY 2021		\$11,000
FY 2021 Total Request WITH PIRATE Act		\$354,070

¹Based upon Congressional Budget Office Estimate.

²FCC estimate.

Continued IT Modernization for FY 2021

Base Increase & One-Time Investments

Total Request: \$3.104 million	
Base Increase: \$0.525 million	One Time: \$2.579 million
<ul style="list-style-type: none"> ➤ Mapping – Geographic Information System (GIS) ➤ Computational Power System 	<ul style="list-style-type: none"> ➤ Canadian Co-Channel System (COSER) ➤ Enterprise Level Data Architecture ➤ On-line Market Surveillance Tool ➤ Mapping – Geographic Information System (GIS) ➤ Computational Power System

IT Modernization Overview

- Focused on modernization with more than 45% of spending dedicated to improving capabilities and security posture
- IT Strategic Plan is fully aligned to Federal IT Cloud Computing and Security Strategies
- IT improvements include:
 - Enhancing infrastructure and system security
 - Alignment with Commission strategic plan and priorities
 - Continue cloud migration and adoption
- Commercial cloud platforms used for modernization efforts (Azure, ServiceNow, AWS, ZenDesk, Bizagi, etc)
- More than 20 systems identified for modernization during Fiscal Years 2020-2022

IT Modernization Initiatives

- Equipment Authorization System (EAS)
- Consolidated Database System (CDBS)
- Universal Licensing System (ULS)
- International Bureau Filing System (IBFS) & Schedule S
- Form 477 (Fixed Broadband Reporting)
- Electronic Comment Filing System (ECFS)
- Electronic Tariff Filing System (ETFS)
- Cable and Cable TV Relay System
- Integrated Spectrum Auction System (ISAS)
- Auctions Data Warehouse
- Urban Rate Survey

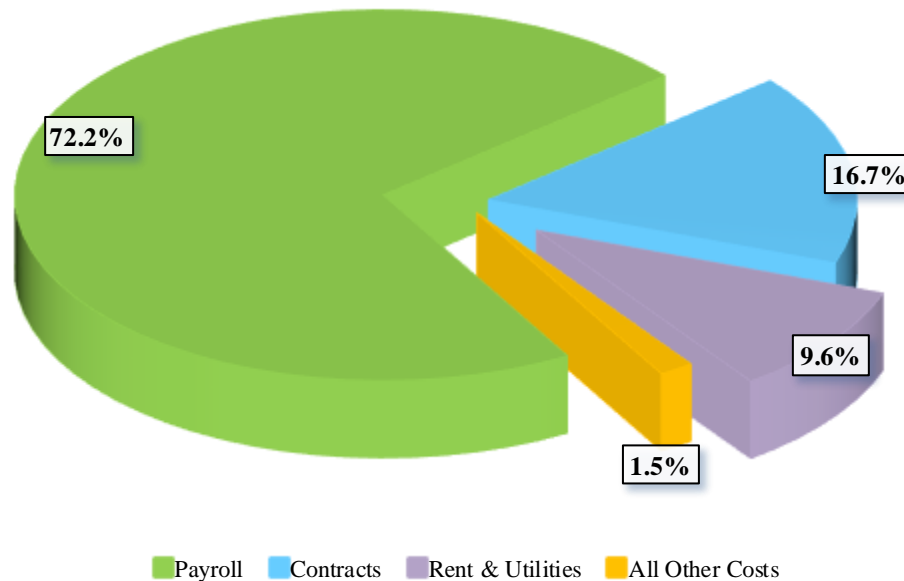
IT Overview

- Virtual Desktop Infrastructure in place with Cloud migration by June 2020. Microsoft Office 365 implemented.
- Delivered modernized solutions including: PSIX/ESIX, CORES II, Fixed Broadband Map, 323 Ownership Report, and EDOCS.
- Decommissioned legacy systems including: National Broadband Map, PCATS, EB/IHD, EDOCS Legacy, and the Enterprise Tape Archive Library. Others being replaced as funding is identified.
- Security enhancement and accreditation a top focus area, including FISMA goals. Reduced prior year audit findings by 39%.
- Support for Auctions and associated licensing a top priority.
- Improvements being made in Data Analytics and Business Intelligence. Open data and GIS platforms in place for public use.
- Independent testing performed on major development projects.
- Replacing ECFS.

Salaries & Expenses - FY 2021

Regulatory Fees - Offsetting Collections

Payroll, Contracts, and Rent & Utilities make up 98.5% of FCC's Budget



FCC Strategic Goals

Strategic Goal 1: Closing the Digital Divide

Develop a regulatory environment to encourage the private sector to build, maintain, and upgrade next-generation networks so that the benefits of advanced communications services are available to all Americans. Where the business case for infrastructure investment doesn't exist, employ effective and efficient means to facilitate deployment and access to affordable broadband in all areas of the country.

Strategic Goal 2: Promoting Innovation

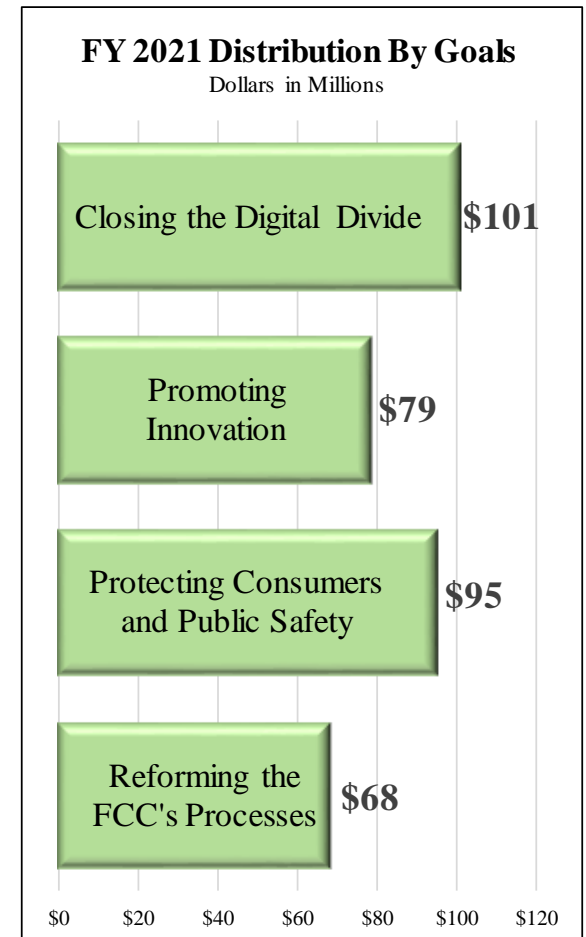
Foster a competitive, dynamic, and innovative market for communications services through policies that promote the introduction of new technologies and services. Ensure that the FCC's actions and regulations reflect the realities of the current marketplace, promote entrepreneurship, expand economic opportunity, and remove barriers to entry and investment.

Strategic Goal 3: Protecting Consumers and Public Safety

Develop policies that promote the public interest by providing consumers with freedom from unwanted and intrusive communications, improving the quality of communications services available to those with disabilities, and protecting public safety.

Strategic Goal 4: Reforming the FCC's Processes

Modernize and streamline the FCC's operations and programs to increase transparency, improve decision-making, build consensus, reduce regulatory burdens, and simplify the public's interactions with the agency.



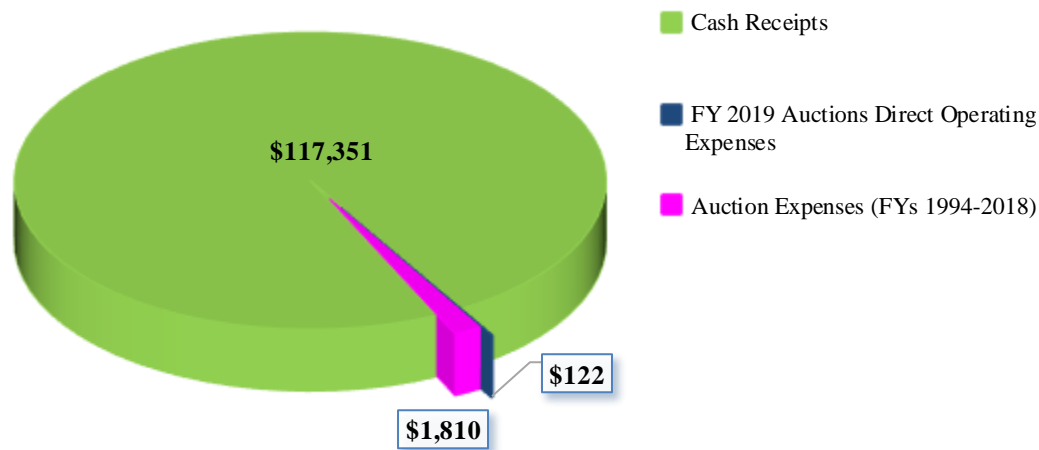
Spectrum Auctions Program Explanation of Changes

(Dollars in Thousands)

	FY 2020 Enacted	FY 2021 Estimates to Congress	TOTAL NET CHANGE	
			Amount	Percent
Spectrum Auctions Program Cost Recovery	\$132,539	\$134,495	\$1,956	1.5%
Explanation of Changes - Spectrum Auctions Program Cost Recovery				
FY 2020 Request to Congress			\$132,539	
FY 2020 Appropriated, Enacted			\$132,539	
Base Pay Increase Starting in Calendar Year (CY) 2020:		\$1,024		
Base Pay Increase Applicable to FY 2020			\$768	
FY 2020 Base			\$133,307	
FY 2021 - Reduction To Base - New Headquarters Rent Savings			-\$1,120	-0.8%
FY 2021 Adjustments To Base:				
Base Pay Increase in CY 2020 Applicable to FY 2021		\$256		
1 Percent Increase in Across-the-board Base Pay		\$281		
2 Percent Non-Salary Inflationary Increase to Base		\$1,771		
Subtotal - FY 2021 Adjustments to Base			\$2,308	
FY 2021 Total Request			\$134,495	
TOTAL NET CHANGE			\$1,956	1.5%

Cash Generated & Applied Spectrum Auctions Program

DOLLARS IN MILLIONS



Cash Receipts - Total new winning bids collected and deposited into Treasury or for broader government use. Over 26 year period, the average cash receipts are over \$4.5 billion per year.

Auction Expenses (FYs 1994-2019) does not include administrative cost of Credit Program.

Recent & Upcoming Auctions

Recent

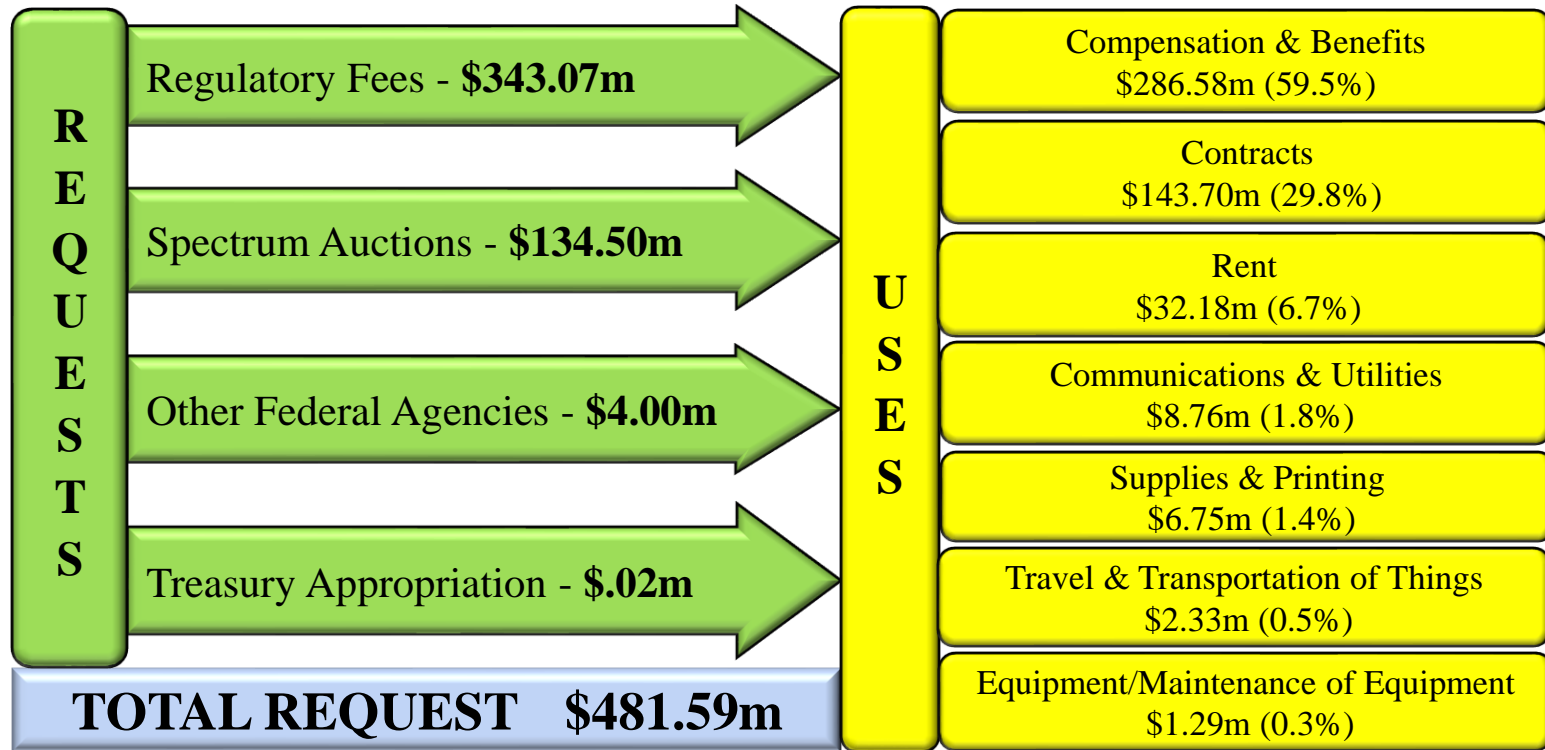


Note: Amounts shown are net winning bids except for Auction 103, which represents total gross bids at the end of the clock phase.

Planned/Upcoming

- FM Broadcast (Auction 106) (4/28/2020)
- 3.5 GHz (Auction 105) (6/25/2020)
- 3.7-3.98 GHz (Auction 107) (12/8/2020)
- 2.5 GHz (upcoming)
- USF - Rural Digital Opportunity Fund (\$20.4 Billion over 10 years) (Auction 904) (10/22/2020)
- USF - 5G Fund (\$9 Billion over 10 years) (upcoming)

FY 2021 Requests & Uses



Other Funds

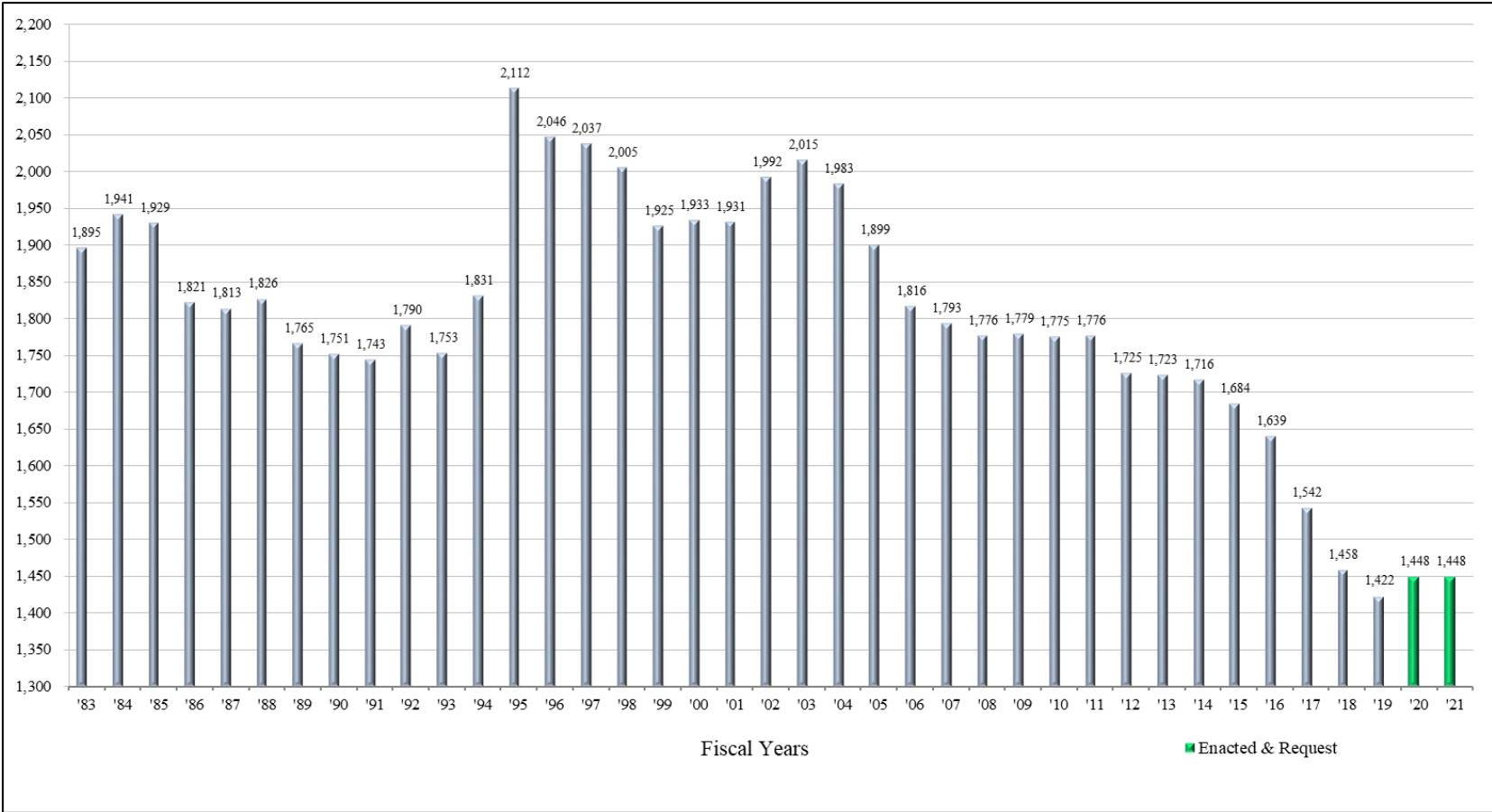
Auctions Receipts*	\$4.5b	Excess Regulatory Fees** (FY19)	\$14m	TV Broadcaster Relocation Fund (cap)	\$2.75b
Application Fees (FY19)	\$23m	De-obligated Regulatory Fees (FY19)	\$1m	HQs Move (appropriated)	\$71m
Fines & Forfeitures (FY19)	\$8m	De-obligated Auction Funds (FY19)	\$9m	(Regulatory Fees & Auctions Funds)	
		Sequestered Amount (FY13)	\$17m		

*26-year average

**Transferred to the Treasury for deficit reduction

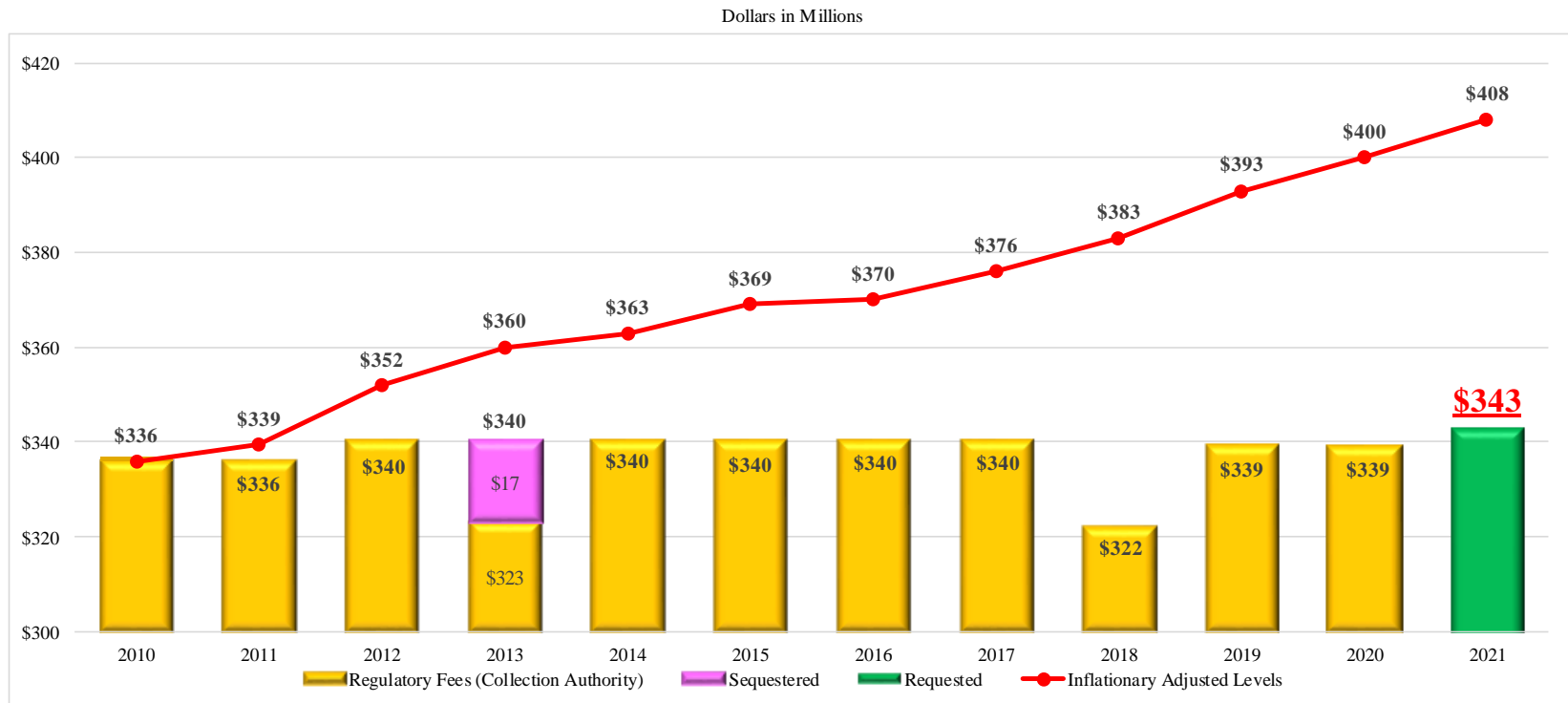
FTEs - Historical & Estimated

FYs 1983 - 2021



Budgetary Resources - Historical

Fiscal Years 2010 - 2021



In FYs 2016 and 2017, \$44 million and \$17 million, respectively, were provided for the necessary expenses associated with moving the FCC headquarters to a new facility to significantly reduce space consumption. Those amounts are not reflected in the above chart to provide a better historical comparison of Commission's regular S&E budget authority.

In FY 2013, FCC's appropriated budget authority was reduced by \$17 million due to the FY 2013 sequestration order implemented on March 1, 2013 as required by the Budget Control Act of 2011. The total amount shown for FY 2013 in the above graph includes the \$17 million sequestered amount.

Source for the Inflationary Adjusted Levels: CPI Inflation Calculator from the Bureau of Labor Statistics using FY 2010 as the base. Used an estimated inflationary rate of 2% for FY 2021.

Headquarters Move Status Update

- **Planned Physical Move – June 2020**
- The new HQs building is in Sentinel Square III at 45 L Street, Northeast Washington, DC.
- Most recent lease at current HQ has 659,030 rentable square feet. New lease planned for 473,000 rentable square feet -- **reduction of 28%**.
- Total estimated **net savings of \$119M** for reduced footprint over 15 years.
- The Commission's headquarters (HQs) lease for the Portals II building at 445 12th Street SW, Washington, DC expired on October 15, 2017. In June 2018, GSA executed a lease extension for the HQs at the Portals II building that expires on November 30, 2020.



TV Broadcaster Relocation Fund

- The post-incentive auction TV channel repacking is proceeding on schedule. As of February 4, 2020:
 - We are currently in the testing period for Phase 8 (of 10). Over 775 of the 987 full power and Class A stations to be repacked have vacated their pre-auction channels.
 - We have forwarded for payment over \$944 million to full power and Class A TV stations and MVPDs and obligated almost \$1.9 billion for those stations. We have obligated \$17.2 million to eligible FM stations. We are reviewing the eligibility and cost estimates of LPTV and TV translator stations and will make an allocation for them once that review is complete.
- Successfully completing the repack will require continued coordination among government officials, broadcasters, tower companies, equipment manufacturers, and engineers.
 - The FCC's staff is in close contact with stations to help them navigate the transition and find flexible solutions to problems in ways that do not impede the progress of other repack stations.
- We also have a comprehensive consumer education strategy underway that includes a dedicated call center for rescan support in English and Spanish, updated website information, and geo-targeted outreach to over-the-air viewers for each transition phase.

Application Fee Rulemaking Implementing the RAY BAUM'S Act

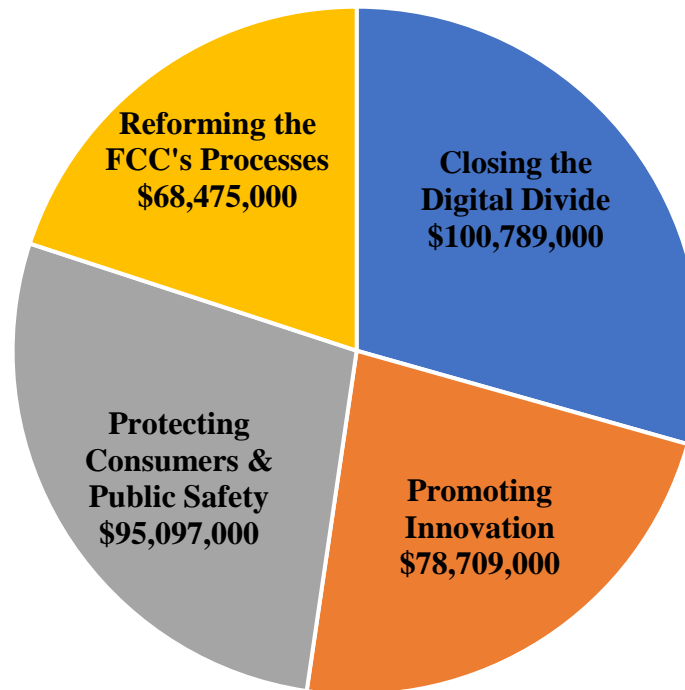
➤ **The RAY BAUM'S Act:**

- Requires that application fees be cost-based.
- Provides the Commission authority to add new, consolidate existing, and/or delete outdated application fees as appropriate.

➤ **Timeline:**

- The Commission expects to circulate a Notice of Proposed Rulemaking proposing and seeking comment on changes to the application fees this month.
- The Commission expects to implement new application fees by the end of calendar year 2020.

Federal Communications Commission
Fiscal Year 2021 – Budget Request by Strategic Goals
Total Request from Regulatory Fees - \$343,070,000



Legislative Proposals

The Administration is proposing legislative changes in the President's FY 2021 Budget that pertain to the FCC. These proposals are designed to improve spectrum management and represent sound economic policy.

Spectrum License Fee Authority

To promote efficient use of the electromagnetic spectrum, the Administration proposes to provide the FCC with new authority to use other economic mechanisms, such as fees, as a spectrum management tool. The FCC would be authorized to set user fees on unauctioned commercial spectrum licenses based on spectrum-management principles. Fees would be phased in over time as part of an ongoing rulemaking process to determine the appropriate application and level for fees. Fee collections are estimated to begin in 2021 and total \$4.0 billion through 2030.

Spectrum Auctions

The Spectrum Pipeline Act of 2015 requires 30 MHz of spectrum to be reallocated from Federal use to non-Federal use or shared Federal and non-Federal use, or a combination thereof; requires the FCC to auction this spectrum by 2024; and extends the FCC's auction authority only to allow auction of this spectrum. To facilitate this, the Act also authorizes the use of funds from the Spectrum Relocation Fund for research and development and planning activities by Federal entities that are expected to increase the probability of relocation from or sharing of Federal spectrum and that meet other requirements. The Budget proposes to require the auction of additional spectrum by 2030 and further extend the FCC's auction authority solely to allow this auction to proceed. Additional net auction proceeds are expected to exceed \$1 billion through 2030.

Auction or Assign via Fee 1675-1680 Megahertz

The Budget proposes that the FCC either auction or use fee authority to assign spectrum frequencies between 1675-1680 megahertz for flexible use by 2022, subject to sharing arrangements with Federal weather satellites. Currently, the spectrum is being used for radiosondes (weather balloons), weather satellite downlinks, and data broadcasts, and the band will also support future weather satellite operations. The National Oceanic and Atmospheric Administration (NOAA) began transitioning radiosondes operations out of the band in 2016 as part of the Advanced Wireless Services 3 (AWS-3) relocation process. If this proposal is enacted, NOAA would establish limited protection zones for the remaining weather satellite downlinks and develop alternative data broadcast systems for users of its data products. Without this proposal, these frequencies are unlikely to be auctioned and repurposed to commercial use. The proposal is expected to raise \$355 million in receipts over 10 years.

Regulatory Fee

Pursuant to 47 U.S.C. § 159, the Commission annually collects regulatory fees and retains them for Commission use to offset certain costs incurred by the Commission to carry out its functions.

These regulatory fees apply to the current holders of licenses with the FCC as of a specific date and to other entities (e.g., cable television systems) which benefit from Commission regulatory activities that are not directly associated with the FCC's application processing functions.

The regulatory fees do not apply to governmental entities, amateur radio operator licensees, nonprofit entities holding tax exempt status under section 501(c) of the Internal Revenue Code, 26 U.S.C. § 501, and certain other non-commercial entities.

Under the provisions of 47 U.S.C. § 159, the Commission has the authority to review its regulatory fees and to adjust the fees to reflect changes in its appropriation from year to year. The FCC may also add, delete, or reclassify services under certain circumstances. Additionally, pursuant to 47 U.S.C. § 159a, the Commission may charge up to a 25% late payment penalty and dismiss applications or revoke licenses for non-payment of the fees; the Commission may also waive, reduce, or defer payment of a fee for good cause.

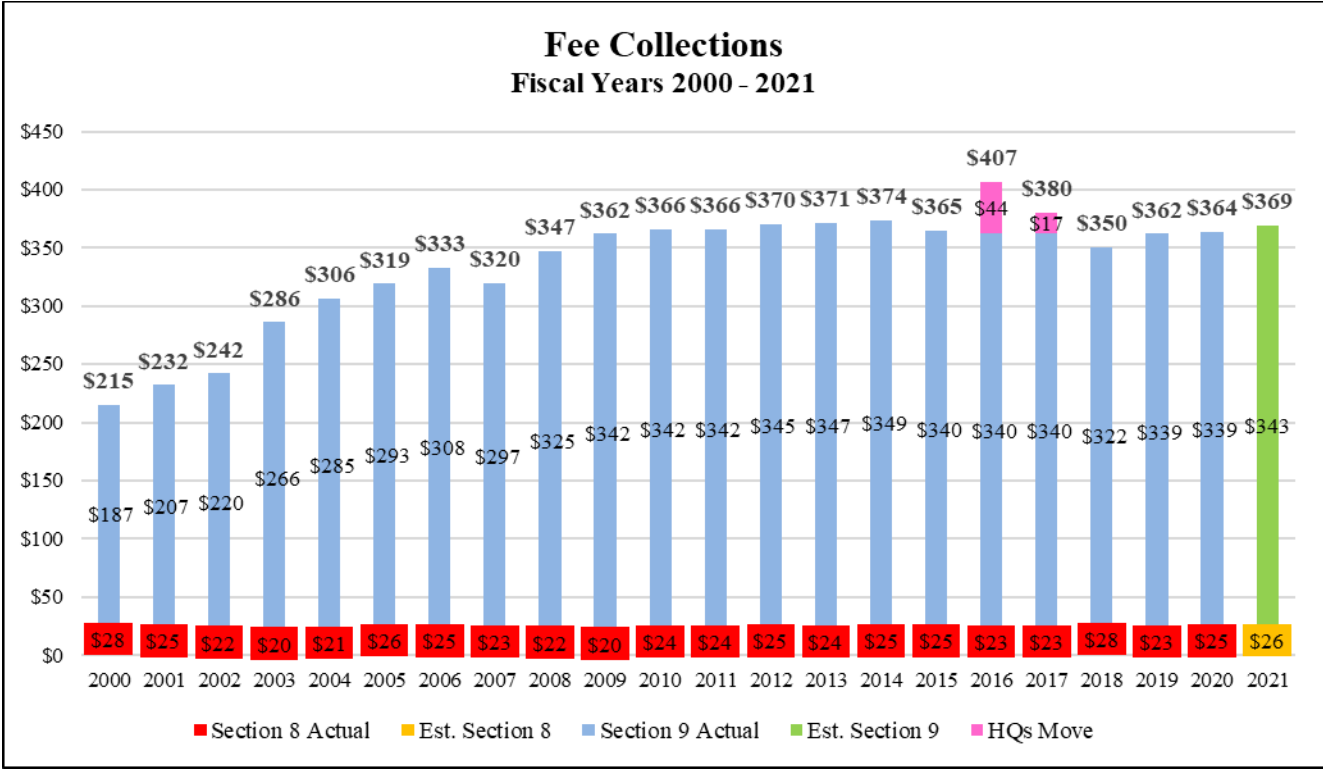
The Commission originally implemented the Regulatory Fee Collection Program by rulemaking on July 18, 1994. The most recent regulatory fee order was released by the Commission on August 31, 2020.

Availability of Regulatory Fee

The RAY BAUM'S Act of 2018 (2018 Act) requires the Commission to transfer all excess collections to the General Fund of the U.S. Treasury for the sole purpose of deficit reduction. On September 30, 2020, the Commission transferred over \$6.3 million in excess collections from FY 2020 to the General Fund of the U.S. Treasury to be used for deficit reduction.

The Commission receives an annual Salaries and Expenses appropriation. On March 1, 2013, the Office of Management and Budget (OMB) issued a report to Congress on sequestration for FY 2013. For the FCC, this translated into a \$17 million reduction in new budgetary authority. The sequestered amount is currently maintained in the Commission's no-year account, which indicates that the unobligated balances brought forward exclude \$17 million in unavailable balances of funds temporarily sequestered in FY 2013.

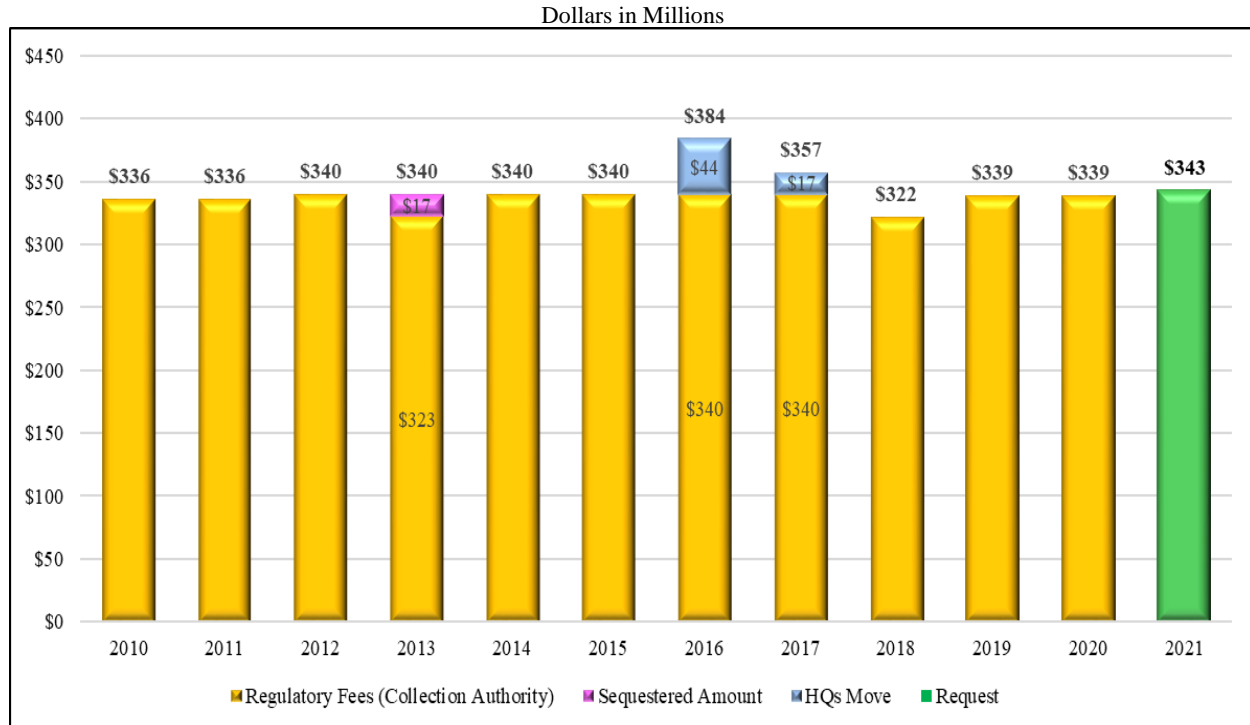
The FY 2021 request level for regulatory fees is \$343.07 million, which is an increase of \$4.07 million or 1.2 percent from the FY 2020 appropriated level of \$339 million. These regulatory fee levels will support Commission-wide goals that will allow the Commission to serve the American public in an efficient, effective, and responsive manner.



For FYs 2016 and 2017, \$44 million and \$17 million, respectively, represent amounts provided for the necessary expenses associated with moving the FCC headquarters to a new facility to significantly reduce space consumption.

Historical Distribution of Appropriated Budget Authority

The following graph depicts the historical distribution of appropriated budget authority since Fiscal Year 2010.



For FYs 2016 and 2017, \$44 million and \$17 million, respectively, represent amounts provided for the necessary expenses associated with moving the FCC headquarters to a new facility to significantly reduce space consumption.

In FY 2013, FCC's appropriated budget authority was reduced by \$17 million due to the FY 2013 sequestration order implemented on March 1, 2013 as required by the Budget Control Act of 2011. The total amount shown for FY 2013 in the above graph includes the \$17 million sequestered amount.

In FY 2020 Congress passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136) and appropriated \$200 million in direct appropriations to help health care providers provide telehealth services in response to the COVID-19 pandemic. On April 2, 2020, the Commission established the COVID-19 Telehealth Program and by July 8, 2020, the Commission provided all \$200 million to the approved health care providers. This direct budget authority is not represented in the above schedule to provide a better historical comparison of the components of the FCC's regular budgetary requests.

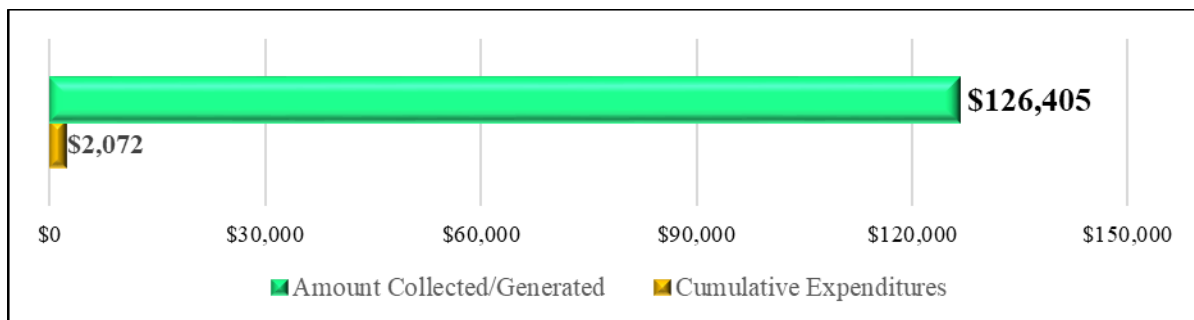
Spectrum Auctions and Cash Collected/Generated

Fiscal Years 1994 - 2020

Fiscal Year	Number of Auctions	Number of Licenses Won	Amount Collected/Generated
1994	2	604	\$652,954,213
1995	2	129	8,234,321,194
1996	6	2,026	2,019,376,024
1997	4	1,614	2,205,922,232
1998	2	1,388	860,878,576
1999	6	1,693	499,598,688
2000	8	4,403	1,335,043,185
2001	4	3,447	583,599,901
2002	7	7,036	135,630,842
2003	7	3,144	77,121,620
2004	5	267	126,790,232
2005	6	2,803	2,208,332,556
2006	5	1,284	13,834,978,827
2007	5	293	163,429,971
2008	3	1,144	18,988,396,013
2009	2	115	5,695,861
2010	3	4,788	25,973,019
2011	3	126	31,493,200
2012	1	93	3,878,133
2013	2	3,197	5,783,780
2014	2	186	1,564,597,176
2015	2	1,713	41,756,297,008
2016	0	0	0
2017	1	2,776	19,306,458,498
2018	2	41	805,757
2019	3	5,880	2,723,513,065
2020	2	34,767	9,054,319,253
Totals	95	84,957	\$126,405,188,824

Spectrum Auctions – Collected/Generated vs. Expenditures

Fiscal Years 1994 - 2020
(Dollars in Millions)



COVID-19 TELEHEALTH PROGRAM

Due to the ongoing novel Coronavirus 2019 disease (COVID-19) pandemic, the Commission established the COVID-19 Telehealth Program through a Report and Order released on April 2, 2020. The COVID-19 Telehealth Program is funded through a \$200 million Congressional appropriation as part of the Coronavirus Aid, Relief, and Economic Security (CARES) Act, to immediately support eligible health care providers responding to the pandemic by providing funding for telecommunications services, information services, and connected devices necessary to provide critical connected care services whether for treatment of the COVID-19 disease or other health conditions during the COVID-19 pandemic. The COVID-19 Telehealth Program is an emergency funding program, not a grant program, that is designed to provide flexibility for eligible health care providers that apply for and receive funding commitments, and then request reimbursement for eligible expenses that they have purchased and received from their service providers or vendors under the COVID-19 Telehealth Program.

In order to seek funding, eligible health care providers are required to submit an application to the Commission, including information on the costs of the services and/or connected devices for which they plan to seek reimbursement. The Wireline Competition Bureau (Bureau), in consultation with the FCC's Connect2Health Task Force, reviews the COVID-19 Telehealth Program applications, as outlined in the Report and Order, selects participants, and makes the funding awards on a rolling basis to eligible applicants based on the estimated costs of the eligible items they intend to purchase with the COVID-19 Telehealth Program funds. Selected funding recipients receive a funding commitment letter providing their award amount and certain COVID-19 Telehealth Program requirements and procedures. Consistent with the Report and Order, applications from areas that are hardest hit by COVID-19 and where funding has the most impact on addressing the health care needs are prioritized. In order to ensure as many applicants as possible receive available funding, the Bureau did not award more than \$1 million to any single applicant. In addition, applicants that exhausted initially awarded funding were able to request additional support as long as funding remained available. Awards were made until the appropriated funding for the COVID-19 Telehealth Program was exhausted, which occurred on July 8, 2020.

After paying for and receiving the eligible services and/or connected devices from the service provider or vendor, funding recipients must, at least on a monthly basis submit a request seeking reimbursement; invoice documentation sufficient to identify the eligible items that were purchased and received, and the price paid; and, if applicable, a Letter of Authorization for those applicants that received a funding commitment on behalf of other eligible health care provider sites. Under the COVID-19 Telehealth Program, the Commission reimburses funding recipients the full cost of the eligible services and/or connected devices received from their applicable service providers or vendors where the invoice submissions are accompanied by the required supporting documentation. After the reimbursement request is approved by the Commission, payment is issued electronically to the bank account on file associated with the funding recipient.

Federal Communications Commission



2021

**Budget Estimates to Congress
February 2020**

Table of Contents

INTRODUCTION AND SUMMARY OF REQUEST.....	5
Organizational Chart.....	10
Fiscal Year 2021 Proposed Appropriation Language.....	11
Legislative Proposals.....	12
Summary of FYs 2019 - 2021 FTEs and Funding by Bureaus and Offices.....	13
Fiscal Years 2019 - 2021 FTEs Distribution by Strategic Goals.....	14
FTEs by Resource Category.....	15
Number of Contractors.....	15
FTEs - Historical and Estimated.....	16
Summary of Changes - Regulatory Fees (Offsetting Collections).....	17
Narrative Explanation of Changes - Salaries and Expenses - Regulatory Fees.....	18
President’s Management Agenda.....	21
Agency Reform Plan.....	24
Office of Inspector General Narrative.....	25
Universal Service Fund Activities and Costs.....	26
Overall Status of Audit Recommendations.....	32
Status of FCC Headquarters Move.....	32
Crosswalk - Summary of Changes for Regulatory Fees.....	33
SPECTRUM AUCTIONS.....	35
Spectrum Auctions Program - Explanation of Requested Change.....	37
Spectrum Auctions Program.....	38
Spectrum Auctions Activities.....	47
Summary of Distribution of Resources - Spectrum Auctions Program.....	48
Spectrum Auctions Expenditures Report.....	49
Spectrum Auctions and Collections.....	52
Spectrum Auctions Program – Collections vs. Expenditures.....	53
Crosswalk - Summary of Changes for Spectrum Auctions Program.....	54
ECONOMY ACT REIMBURSABLE AGREEMENTS.....	55
FEE COLLECTIONS.....	57
Regulatory Fees.....	59

Availability of Regulatory Fees	59
Historical Distribution of Appropriated Budget Authority – Regulatory Fees	60
Historical Appropriated Budget Authority – Spectrum Auctions Program	61
Application Processing Fees	61
PERFORMANCE PLAN	63
FISCAL YEAR 2021 REQUIREMENTS BY BUREAUS AND OFFICES.....	87
Offices of the Chairman and Commissioners	89
Consumer and Governmental Affairs Bureau.....	90
Enforcement Bureau	92
International Bureau.....	94
Media Bureau.....	96
Public Safety and Homeland Security Bureau.....	97
Wireless Telecommunications Bureau.....	99
Wireline Competition Bureau	101
Office of Administrative Law Judges	103
Office of Communications Business Opportunities.....	105
Office of Economics and Analytics	107
Office of Engineering and Technology.....	109
Office of General Counsel	111
Office of Legislative Affairs	113
Office of the Managing Director.....	115
Office of Media Relations.....	117
Office of Workplace Diversity.....	118
Office of Inspector General.....	120
APPENDICES	123
Summary - Requested Resources.....	125
Summary - Distribution of Resources.....	127
Summary - Distribution of Resources by Strategic Goals	137
Allocation of Obligations by Budget Object Class Code.....	138
EXHIBITS AND REPORTS.....	139
Affirmation Statement from Senior Agency Official for Privacy (SAOP).....	141
Information Technology (IT) Investments.....	142
IT Table.....	142

IT Resources Statement 142
Award Spending Estimates 142
Universal Service Fund Exhibit 143
Telecommunications Relay Service Fund Exhibit 144
GAO-IG Act Audit List 145
Response to Congressional Inquiries Concerning GAO Recommendations 158

This page is intentionally left blank

INTRODUCTION AND SUMMARY OF REQUEST

This page is intentionally left blank

INTRODUCTION AND SUMMARY OF REQUEST

The Federal Communications Commission (FCC or Commission) is pleased to present its fiscal year (FY) 2021 budget request.

The FCC is an independent regulatory agency of the United States Government. The FCC is charged with regulating interstate and international communications by radio, television, wire, satellite, and cable. The Commission also regulates telecommunications and advanced communication services and video programming for people with disabilities, as set forth in various sections of the Communications Act.

As specified in section 1 of the Communications Act of 1934, as amended, the FCC's mission is to "make available, so far as possible, to all the people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex, rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges."¹ In addition, section 1 provides that the Commission was created "for the purpose of the national defense" and "for the purpose of promoting safety of life and property through the use of wire and radio communications."²

The FCC is directed by five Commissioners appointed by the President and confirmed by the Senate for five-year terms, except when filling the unexpired term of a previous Commissioner. Only three Commissioners can be from the same political party at any given time. The President designates one of the Commissioners to serve as Chairman.

The FCC's vision is to develop a regulatory environment to encourage the private sector to build, maintain, and upgrade next-generation networks so that the benefits of advanced communications services are available to all Americans. The FCC will work to foster a competitive, dynamic and innovative market for communications services through policies that promote the introduction of new technologies and services and ensure that Commission actions promote entrepreneurship and remove barriers to entry and investment. The Commission will also strive to develop policies that promote the public interest, improve the quality of communications services available to those with disabilities, and protect public safety. Furthermore, in FY 2021, the FCC will continue to implement its Agency Reform Plan to deliver on the needs of today and the future in a more proactive and efficient manner. Through these reform efforts, the Commission will develop and implement reforms that focus the Commission on effectively and efficiently leveraging human capital to deliver on programs that are the highest need to citizens and where there is a unique Federal role.

For FY 2021, the Commission is requesting the budget and personnel amounts that are summarized in the bullets and a table below:

- The Commission requests \$343,070,000 in budget authority from regulatory fee offsetting collections. This request represents an increase of \$4,070,000 or 1.2 percent from the FY 2020 appropriated level of \$339,000,000.

¹ 47 U.S.C. § 151.

² *Id.*

- The Commission requests \$134,495,000 in budget authority for the spectrum auctions program. This request represents an increase of \$1,956,000 or 1.5 percent from the FY 2020 appropriated level of \$132,539,000. To date, the Commission’s spectrum auctions program has generated over \$117 billion for government use; at the same time, the total cost of the auctions program has been less than \$2.1 billion or 1.7 percent of the total auctions’ revenue.
- In creating a lean, accountable, and efficient Commission that works for the American people, the Commission requests 1,448 Full Time Equivalents (FTEs) funded by budget authority from both regulatory fee offsetting collections and the spectrum auctions program. This FTE level is the same as the level enacted for FY 2020. With this FTE level, the Commission will continue to meet its mission demands in FY 2021.

(Dollars in Thousands)

	FY 2020		FY 2021		Change in Request	
	FTEs ¹	Enacted	FTEs ¹	Estimates to Congress	FTEs ¹	Amount
Budget Authority - Offsetting Collections:						
Regulatory Fees - Commission	1,388	\$327,894	1,388	\$331,743	0	\$3,849
Regulatory Fees - Office of Inspector General (OIG)	60	\$11,106	60	\$11,327	0	\$221
Subtotal - Offsetting Collections²	1,448	\$339,000	1,448	\$343,070	0	\$4,070
Budget Authority - Other Offsetting Collections:						
Economy Act Reimbursable Agreements		\$4,000		\$4,000		\$0
Auction Cost Recovery Reimbursement - Commission		\$132,402		\$134,355		\$1,953
Auction Cost Recovery Reimbursement - OIG		\$137		\$140		\$3
Subtotal - Other Offsetting Collections		\$136,539		\$138,495		\$1,956
Subtotal: Offsetting Collections	1,448	\$475,539	1,448	\$481,565	0	\$6,026
Other Budget Authority:³						
Credit Program Account ⁴		\$25		\$25		\$0
Universal Service Fund Oversight - OIG ⁵		\$4,549		\$0		-\$4,549
Subtotal: Other Budget Authority		\$4,574		\$25		-\$4,549
Total Gross Proposed Budget Authority	1,448	\$480,113	1,448	\$481,590	0	\$1,477

¹The FTE numbers include auctions FTEs. Refer to page 15 for a breakdown of FTEs between non-auctions (Regulatory Fees) and auctions.

²The FY 2021 total request does not include funding to implement the requirements of the Preventing Illegal Radio Abuse Through Enforcement Act (PIRATE Act) passed by Congress on January 8, 2020 and signed into law on January 24, 2020 (P.L. 106-109).

³The Middle Class Tax Relief and Job Creation Act of 2012 (2012 Act) mandated that the Commission reimburse reasonable channel relocation costs incurred by those qualified TV Broadcasters that will be affected by spectrum relocation. The 2012 Act also gave the Commission the authority to use \$1.75 billion from Incentive Auction revenues to reimburse TV Broadcasters for relocation costs. Additional authority totaling \$1 billion was provided to the Commission for this and for other purposes by the Consolidated Appropriations Act, 2018, Public Law 115-141. The TV Broadcaster Relocation Fund (TVBRF) is capped at \$2.75 billion. This budget authority is not represented in the above schedule to provide a better historical comparison of the components of the FCC’s regular budgetary requests. The Commission’s budgetary authority related to the TVBRF is presented separately in the Appendices section on page 131.

⁴A permanent indefinite appropriation for credit reform that becomes available pursuant to a standing provision of law without further action by Congress.

⁵Represents unused carryover funds from prior fiscal years.

In furtherance of these objectives and the FCC's mission, the FY 2021 budget request will be used to support the following Strategic Goals for FY 2021:

Strategic Goal 1: Closing the Digital Divide

Develop a regulatory environment to encourage the private sector to build, maintain, and upgrade next-generation networks so that the benefits of advanced communications services are available to all Americans. Where the business case for infrastructure investment doesn't exist, employ effective and efficient means to facilitate deployment and access to affordable broadband in all areas of the country.

Strategic Goal 2: Promoting Innovation

Foster a competitive, dynamic, and innovative market for communications services through policies that promote the introduction of new technologies and services. Ensure that the FCC's actions and regulations reflect the realities of the current marketplace, promote entrepreneurship, expand economic opportunity, and remove barriers to entry and investment.

Strategic Goal 3: Protecting Consumers and Public Safety

Develop policies that promote the public interest by providing consumers with freedom from unwanted and intrusive communications, improving the quality of communications services available to those with disabilities, and protecting public safety.

Strategic Goal 4: Reforming the FCC's Processes

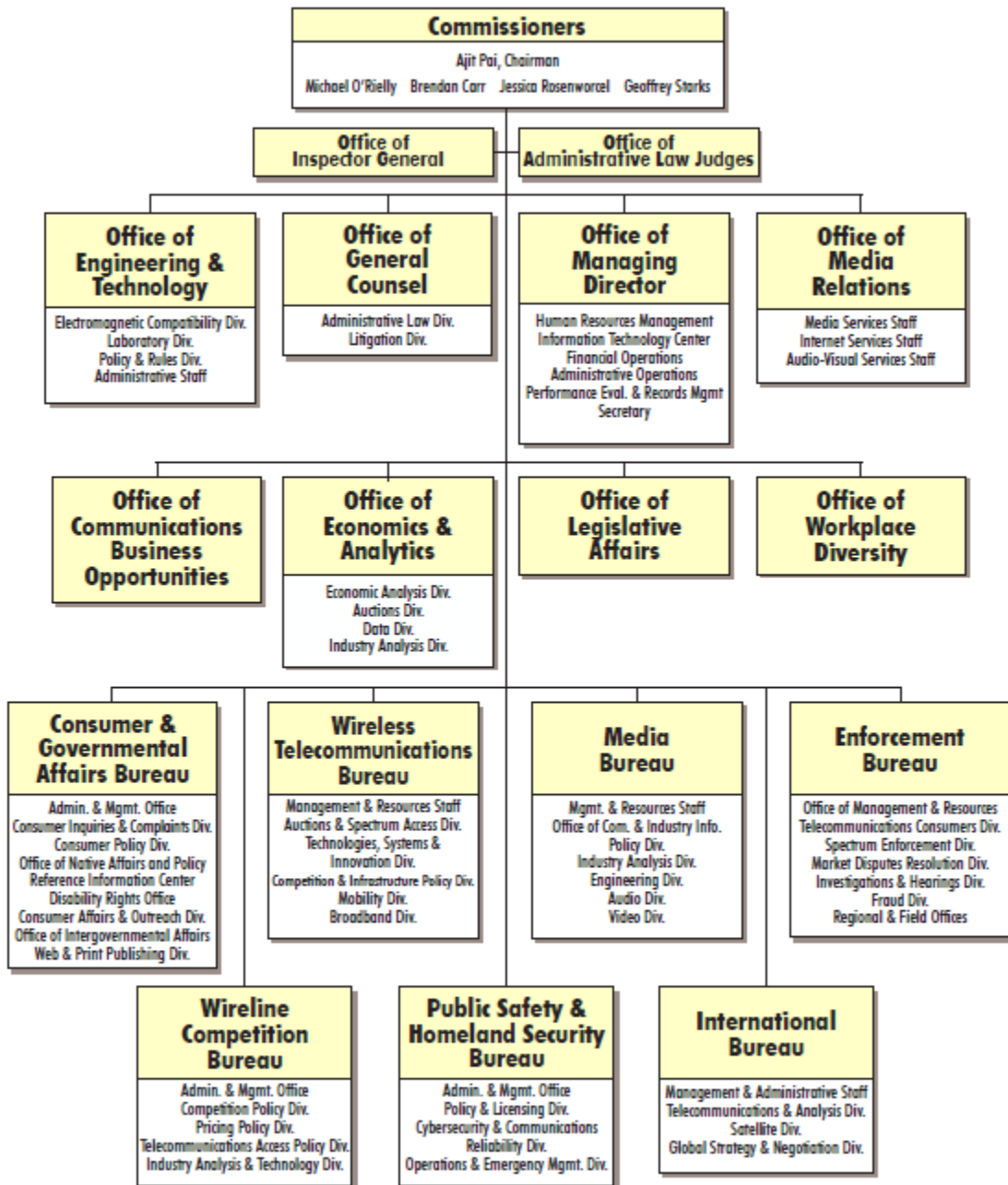
Modernize and streamline the FCC's operations and programs to increase transparency, improve decision-making, build consensus, reduce regulatory burdens, and simplify the public's interactions with the agency.

Additional Useful Information to Better Understand the Budget Request

Below is some additional useful information for readers to better understand the information presented in the Commission's budget request:

- FY 2019 numbers presented are actual numbers.
- FY 2020 numbers presented are appropriated and enacted numbers.
- There is no change in the total FTE level from the enacted FTE level for FY 2020 to the requested FTE level for FY 2021.
- The FTE numbers included in the charts on pages 89 – 118 include Spectrum Auctions Program FTEs, but the personnel compensation and benefits dollar amounts only represent personnel compensation and benefits dollars from Salaries and Expense (S&E) – regulatory fees.

Organizational Chart



Fiscal Year 2021 Proposed Appropriation Language

For necessary expenses of the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by 5 U.S.C. 5901–5902; not to exceed \$4,000 for official reception and representation expenses; purchase and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109, \$343,070,000, to remain available until expended: *Provided*, That \$343,070,000 of offsetting collections shall be assessed and collected pursuant to section 9 of title I of the Communications Act of 1934, shall be retained and used for necessary expenses and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced as such offsetting collections are received during fiscal year 2021 so as to result in a final fiscal year 2021 appropriation estimated at \$0: *Provided further*, That, notwithstanding 47 U.S.C. 309(j)(8)(B), proceeds from the use of a competitive bidding system that may be retained and made available for obligation shall not exceed \$134,495,000 for fiscal year 2021: *Provided further*, That, of the amount appropriated under this heading, not less than \$11,326,800 shall be for the salaries and expenses of the Office of Inspector General.

Legislative Proposals

The Administration is proposing legislative changes in the President's FY 2021 Budget that pertain to the FCC. These proposals are designed to improve spectrum management and represent sound economic policy.

Spectrum License Fee Authority

To promote efficient use of the electromagnetic spectrum, the Administration proposes to provide the FCC with new authority to use other economic mechanisms, such as fees, as a spectrum management tool. The FCC would be authorized to set user fees on unauctioned commercial spectrum licenses based on spectrum-management principles. Fees would be phased in over time as part of an ongoing rulemaking process to determine the appropriate application and level for fees. Fee collections are estimated to begin in 2021 and total \$4.0 billion through 2030.

Spectrum Auctions

The Spectrum Pipeline Act of 2015 requires 30 MHz of spectrum to be reallocated from Federal use to non-Federal use or shared Federal and non-Federal use, or a combination thereof; requires the FCC to auction this spectrum by 2024; and extends the FCC's auction authority only to allow auction of this spectrum. To facilitate this, the Act also authorizes the use of funds from the Spectrum Relocation Fund for research and development and planning activities by Federal entities that are expected to increase the probability of relocation from or sharing of Federal spectrum and that meet other requirements. The Budget proposes to require the auction of additional spectrum by 2030 and further extend the FCC's auction authority solely to allow this auction to proceed. Additional net auction proceeds are expected to exceed \$1 billion through 2030.

Auction or Assign via Fee 1675-1680 Megahertz

The Budget proposes that the FCC either auction or use fee authority to assign spectrum frequencies between 1675-1680 megahertz for flexible use by 2022, subject to sharing arrangements with Federal weather satellites. Currently, the spectrum is being used for radiosondes (weather balloons), weather satellite downlinks, and data broadcasts, and the band will also support future weather satellite operations. The National Oceanic and Atmospheric Administration (NOAA) began transitioning radiosondes operations out of the band in 2016 as part of the Advanced Wireless Services 3 (AWS-3) relocation process. If this proposal is enacted, NOAA would establish limited protection zones for the remaining weather satellite downlinks and develop alternative data broadcast systems for users of its data products. Without this proposal, these frequencies are unlikely to be auctioned and repurposed to commercial use. The proposal is expected to raise \$355 million in receipts over 10 years.

Summary of FYs 2019 - 2021 FTEs and Funding by Bureaus and Offices

(Dollars in Thousands)

Bureaus and Offices	FY 2019		FY 2020		FY 2021	
	FTEs ¹	Actual	FTEs ¹	Enacted	FTEs ¹	Estimates to Congress
Chairman and Commissioners	22	\$4,585	22	\$5,453	22	\$5,290
Consumer & Government Affairs Bureau	113	\$21,342	114	\$22,977	114	\$23,428
Enforcement Bureau	180	\$36,371	190	\$37,920	190	\$38,782
International Bureau	87	\$16,872	85	\$16,928	85	\$17,239
Media Bureau	137	\$21,520	131	\$21,813	131	\$22,206
Public Safety & Homeland Security Bureau	90	\$17,584	95	\$18,777	95	\$19,186
Wireless Telecommunications Bureau	155	\$13,289	150	\$14,504	148	\$14,814
Wireline Competition Bureau	142	\$27,398	138	\$28,187	138	\$28,703
Office of Administrative Law Judges	3	\$405	4	\$625	4	\$633
Office of Communications Business Opportunities	8	\$1,558	8	\$1,612	8	\$1,633
Office of Economics and Analytics	79	\$12,062	96	\$15,506	99	\$17,139
Office of Engineering & Technology	74	\$14,604	73	\$15,322	73	\$15,658
Office of General Counsel	73	\$15,180	70	\$16,037	70	\$16,338
Office of Legislative Affairs	8	\$1,521	8	\$1,594	8	\$1,611
Office of Managing Director	185	\$113,942	185	\$107,072	184	\$105,454
Office of Media Relations	14	\$2,579	13	\$2,579	13	\$2,621
Office of Workplace Diversity	7	\$935	6	\$989	6	\$1,008
Subtotal	1,377	\$321,747	1,388	\$327,894	1,388	\$331,743
Office of Inspector General	45	\$7,296	60	\$11,106	60	\$11,327
TOTAL	1,422	\$329,043	1,448	\$339,000	1,448	\$343,070

¹The FTE numbers include the spectrum auctions program FTEs.

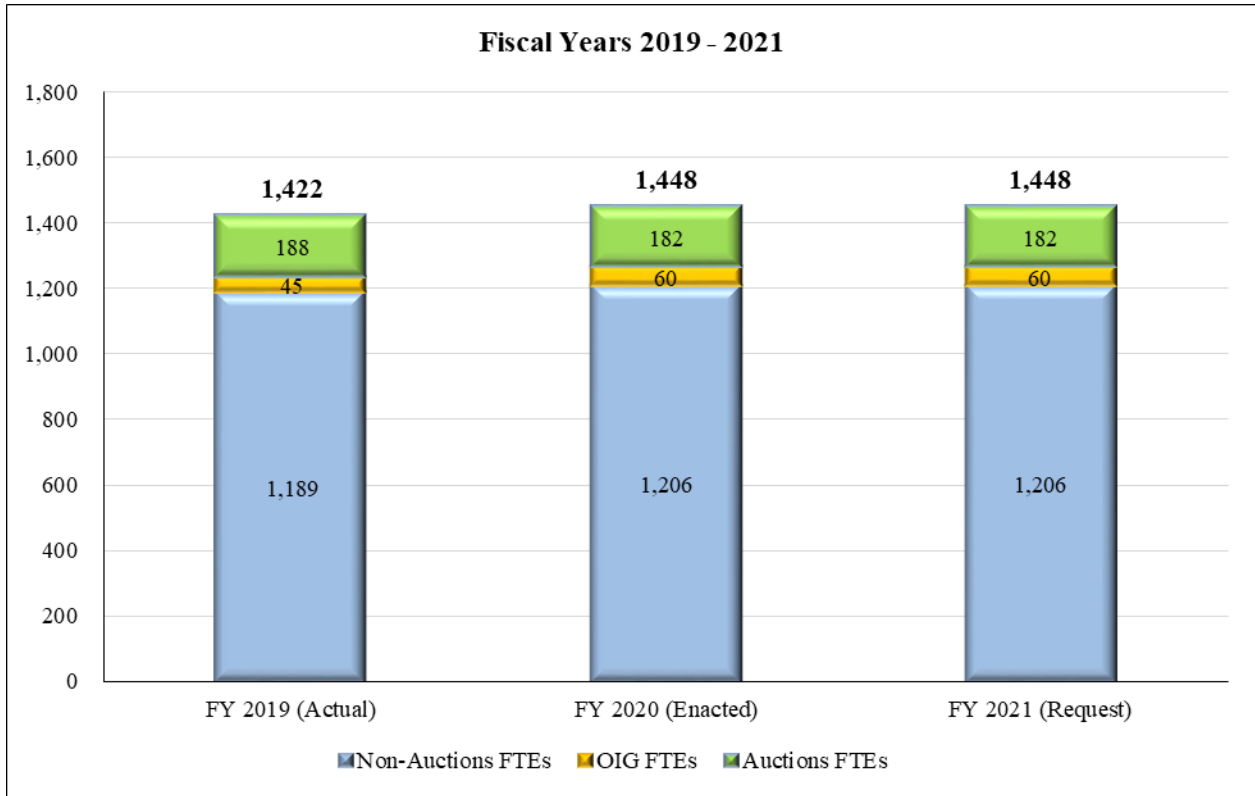
The Commission is responsible for the overall management, oversight, and administration of the Universal Service Fund (USF), including all USF policy decisions. All USF related activities are currently funded by regulatory fees. The Universal Service Fund Activities and Costs section on pages 26 through 31 provides more details related to the Commission's USF activities and related costs.

Fiscal Years 2019 - 2021 FTEs Distribution by Strategic Goals

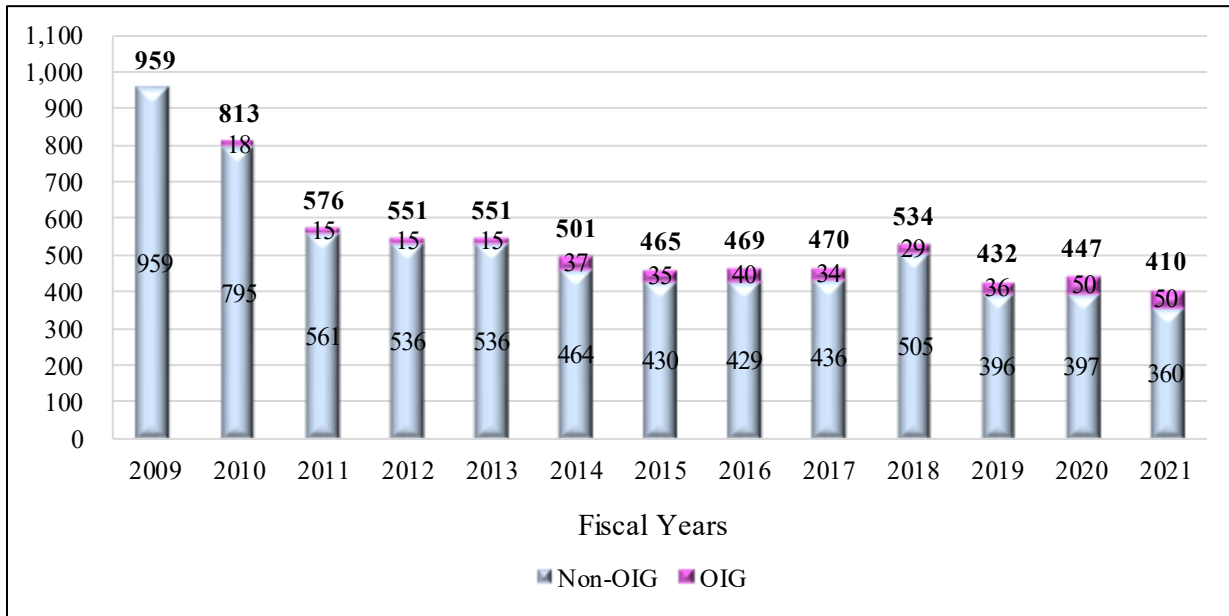
Strategic Goals	Closing the Digital Divide			Promoting Innovation			Protecting Consumers and Public Safety			Reforming the FCC's Processes			Total		
	2019	2020	2021	2019	2020	2021	2019	2020	2021	2019	2020	2021	2019	2020	2021
Fiscal Years	2019	2020	2021	2019	2020	2021	2019	2020	2021	2019	2020	2021	2019	2020	2021
Chairman & Commissioners	8	8	8	6	6	6	7	7	7	1	1	1	22	22	22
<u>Bureaus:</u>															
Consumer & Government Affairs	11	14	14	4	5	5	89	86	86	9	9	9	113	114	114
Enforcement	5	3	3	38	36	36	131	139	139	6	12	12	180	190	190
International	42	42	42	38	36	36	5	5	5	2	2	2	87	85	85
Media	90	83	83	37	44	44	2	1	1	8	3	3	137	131	131
Public Safety & Homeland Security	10	14	14	1	1	1	77	78	78	2	2	2	90	95	95
Wireless Telecommunications	92	91	90	54	52	51	2	3	3	7	4	4	155	150	148
Wireline Competition	57	63	63	60	54	54	19	17	17	6	4	4	142	138	138
Subtotal Bureaus	307	310	309	232	228	227	325	329	329	40	36	36	904	903	901
<u>Offices:</u>															
Administrative Law Judges	3	4	4	0	0	0	0	0	0	0	0	0	3	4	4
Communications Business Opportunities	2	4	4	5	3	3	0	0	0	1	1	1	8	8	8
Economics and Analytics	56	69	70	21	21	22	1	3	4	1	3	3	79	96	99
Engineering & Technology	33	30	30	40	41	41	0	0	0	1	2	2	74	73	73
General Counsel	17	16	16	35	32	32	6	9	9	15	13	13	73	70	70
Legislative Affairs	1	3	3	2	4	4	5	1	1	0	0	0	8	8	8
Managing Director	63	63	63	7	6	6	12	12	12	103	104	103	185	185	184
Media Relations	0	0	0	0	0	0	0	0	0	14	13	13	14	13	13
Workplace Diversity	0	0	0	0	0	0	0	0	0	7	6	6	7	6	6
Subtotal Offices	175	189	190	110	107	108	24	25	26	142	142	141	451	463	465
Subtotal	490	507	507	348	341	341	356	361	362	183	179	178	1,377	1,388	1,388
Inspector General	9	12	12	0	2	2	8	10	10	28	36	36	45	60	60
Total	499	519	519	348	343	343	364	371	372	211	215	214	1,422	1,448	1,448

Note: The FTE numbers include the spectrum auctions program FTEs.

FTEs by Resource Category

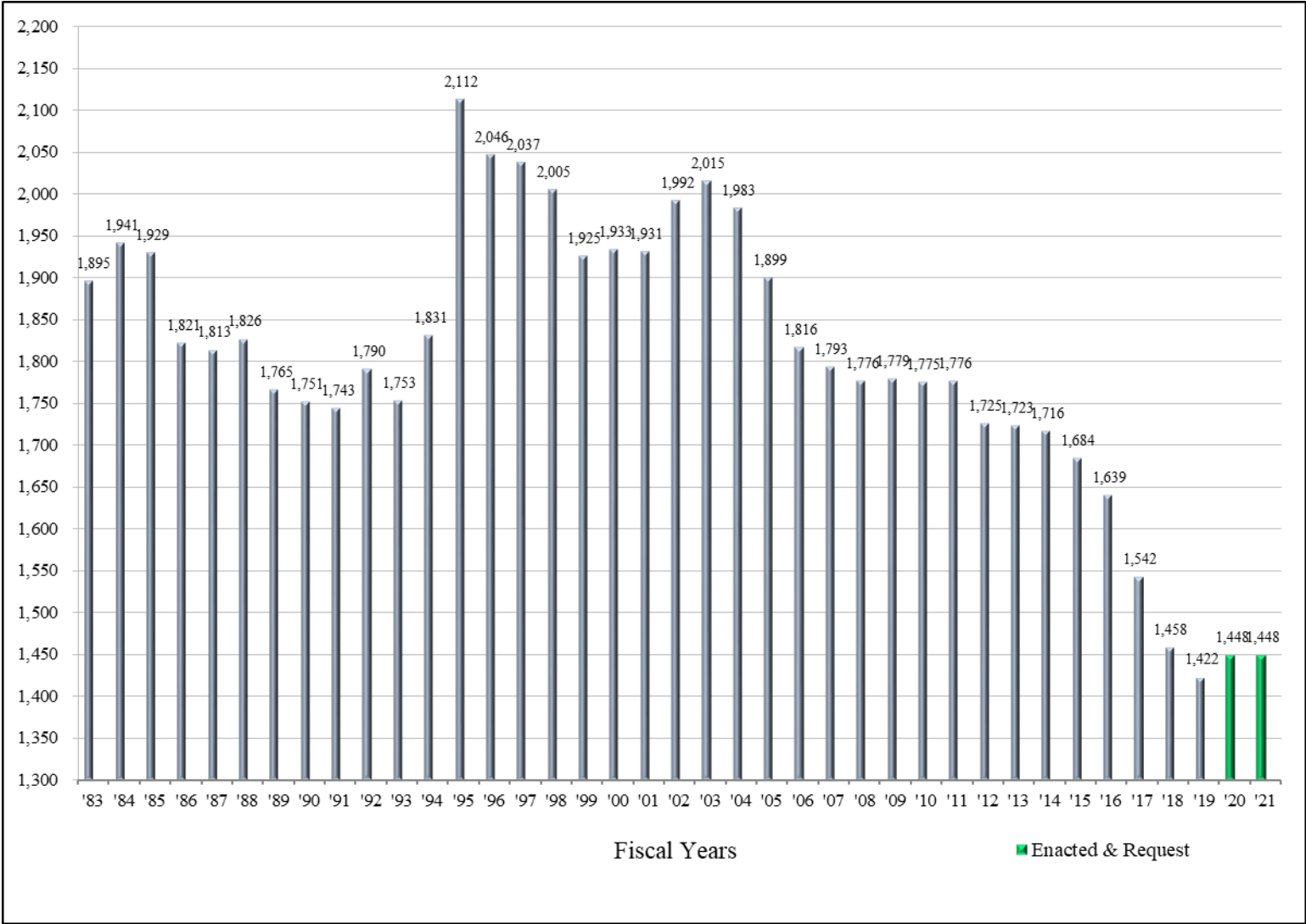


Number of Contractors



The numbers for FYs 2020 and 2021 are estimates. The OIG number for FY 2009 was not separable.

FTEs - Historical and Estimated Fiscal Years 1983 – 2021



Summary of Changes - Regulatory Fees (Offsetting Collections)

(Dollars in Thousands)

Regulatory Fees - Offsetting Collections:	FY 2020	FY 2021	TOTAL NET	
	Enacted	Estimates to Congress	Amount	Percent
Commission	\$327,894	\$331,743	\$3,849	
Office of Inspector General (OIG)	\$11,106	\$11,327	\$221	
Total Spending Authority - Offsetting Collections¹	\$339,000	\$343,070	\$4,070	1.2%
Full-Time Equivalents (FTEs) - Commission ²	1,388	1,388	0	
FTEs - Office of Inspector General	60	60	0	
Total Full-Time Equivalents	1,448	1,448	0	0.0%
Explanation of Changes - Regulatory Fees (Offsetting Collections)				
FY 2020 Total Request		\$335,660		
FY 2020 Appropriated & Enacted Above Total Request		\$3,340		
FY 2020 Appropriated & Enacted			\$339,000	
Reversal of FY 2020 One-Time Investment Requests:				
IT - Cloud Services and <u>Systems</u> Modernization		-\$926		
IT - Cloud Services and <u>Applications</u> Modernization		-\$2,266		
Subtotal			-\$3,192	
Base Pay Increase Starting in Calendar Year (CY) 2020:		\$6,634		
Base Pay Increase Applicable to FY 2020			\$4,975	
FY 2020 Base			\$340,783	
FY 2021 Reduction To Base - New Headquarters Rent Savings			-\$6,880	-2.0%
FY 2021 Adjustments to Base:				
Base Pay Increase in CY 2020 Applicable to FY 2021		\$1,658		
1 Percent Increase in Across-the-board Base Pay		\$858		
2 Percent Non-Salary Inflationary Increase to Base		\$1,653		
Additional Awards for Non-SES/SL/ST FTEs ³		\$1,893		
Mapping - Geographic Information System		\$150		
Computational Power System		\$375		
Subtotal - FY 2021 Adjustments to Base			\$6,588	
FY 2021 Adjusted Base Before One-Time Investment Requests			\$340,491	
FY 2021 - One-Time Investment Requests:				
IT - Cloud Services and <u>Systems</u> Modernization - COSER		\$1,022		
Mapping - Geographic Information System		\$420		
Computational Power System		\$263		
Enterprise Level Data Architecture		\$525		
On-Line Market Surveillance Tool		\$350		
Subtotal - FY 2021 One-Time Investment Requests			\$2,579	
FY 2021 Total Request¹			\$343,070	
TOTAL NET CHANGE			\$4,070	1.2%

¹The FY 2021 total request does not include funding to implement the requirements of the Preventing Illegal Radio Abuse Through Enforcement Act (PIRATE Act) passed by Congress on January 8, 2020 and signed into law on January 24, 2020 (P.L. 106-109).

²Includes spectrum auctions program FTEs.

³See chart on page 142.

Narrative Explanation of Changes - Salaries and Expenses - Regulatory Fees

Personnel Compensation and Benefits and Non-Salaries Inflationary Increase to Base: (\$4,169,180)

A. Personnel Compensation and Benefits (\$2,516,000):

1. Base Pay Increase in Calendar Year 2020 Applicable to Fiscal Year 2021 (\$1,658,000) – This estimated amount represents one quarter of the across-the-board pay raise that took effect in January 2020.
2. One Percent Across-the-Board Base Pay Increase (\$858,000) – Pursuant to OMB’s guidance, this estimated amount represents a one percent across-the-board base pay increase for FY 2021.

B. Non-Salary Inflationary Increase (\$1,653,180) – This request provides expected inflationary increases for phones, utilities, printing and reproduction services, contractual services, supplies, travel, training, and other expenses. The total non-salary increase includes related increases for the Office of Inspector General (OIG), which total \$34,740. This increase is developed using an estimated inflationary rate of approximately two percent.

FY 2021 Base Increases & One-Time Requests for New Investments: \$3,104,300

A. Base Increases (\$525,000)

1. **Mapping - Geographic Information System (GIS) (\$150,000)** – Geospatial analysis and the publication of maps have become an integral part of the Commission’s work, affecting everything from licensing to monitoring the Commission’s progress toward meeting Universal Service goals to analyzing markets. The FCC already creates and maintains interactive maps offering easy-to-use visualizations such as maps of nationwide LTE coverage, fixed broadband deployment, frequency coordination within the United States and cross-border, over-the-air DTV coverage, and weather-related service outages. These maps are often complex to build, yet easy to use by the public and policymakers. The Office of Economics and Analytics (OEA) will need to grow and maintain its GIS resources including both local and cloud-based hardware and software, as well as third-party geospatial datasets to meet the increasing demand for geospatial analysis in policymaking, policy implementation, and public safety. In addition to the FY 2021 One-Time Requests for New Investments listed below for GIS, the FCC is requesting these funds as an adjustment to the FCC’s base for the sustainment of GIS once the GIS is put into operation.
2. **Computational Power System (\$375,000)** – In order to fulfill its responsibilities, OEA needs to complete complex analyses on very large data sets. OEA requires a range of computational resources, platforms, and scientific computing support in order to process large data sets and perform empirical microeconomic research in performing the following responsibilities:

- Preparing a rigorous, economically grounded cost-benefit analysis for every rulemaking deemed to have an annual effect on the economy of \$100 million or more, and
- Reviewing and commenting on all significant issues of economic and data analysis raised in connection with actions proposed to be taken by the Commission, including the review of transactions before the Commission, and providing advice to the Commission regarding such issues.

The current computer structure and resources are inefficient to keep up with the demand for computational power. For example, completing a large-scale merger simulation on a newer powerful system may take three hours compared to older systems at the FCC where the same simulation may take one to three days to complete. Similarly, downloading of broadband speed test data may take three times as much time on the older systems compared to new more powerful systems. The FCC is requesting these funds as an adjustment to the FCC's base for the sustainment of its request below for a Computational Power System in the FCC's FY 2021 One-Time Requests for New Investments.

B. One-Time Requests for New Investments (\$2,579,300)

1. Information Technology (IT) Modernization & Implementation (\$1,021,800)

The Commission has made tremendous strides in modernizing its IT infrastructure and legacy dependent applications to better meet its mission as mandated by Congress; however, many of the Commission's systems and applications are still relying on outdated legacy technologies and aging physical infrastructure. Many of the technologies these systems and applications are built on are no longer supported by vendors, leaving the requisite skillsets and expertise to operate and maintain this outdated technology both costly and difficult to find. Furthermore, the highly-customized nature of these systems and applications makes any necessary enhancements expensive, cumbersome, slow to implement, and resource intensive, resulting in a high total cost of ownership. Continued use of IT systems and applications built on outdated technology also significantly increases cybersecurity risks and increases risks to the FCC's ability to deliver on its mission in a timely manner.

Since FY 2014, the Commission has modernized several of its outdated legacy-based systems, and the following systems are most recently in the progress of being modernized: Equipment Authorization System (EAS), Integrated Spectrum Auction System (ISAS), International Bureau Filing System (IBFS), and Universal Licensing System (ULS). These modernization efforts are resulting in dramatic technology shifts which will allow the Commission to move away from on premises and custom developed systems to cloud-based platform solutions. Additionally, these efforts will also empower the Commission by employing modern technology solutions to transform outdated legacy-based applications into more resilient, secure, and highly available cloud-based applications.

Building on these efforts, the momentum of the FCC's IT modernization will continue to better meet the Commission's mission needs. By continuing to modernize and/or migrate outdated technology-based systems and applications to cloud-based environments, the Commission will reduce its operations and maintenance (O&M) costs, reduce time and

resources required to make application changes and enhancements, and provide the ability to scale to meet increased demand loads such as public filing surges. In addition, security vulnerabilities that currently exist in these outdated systems will largely be eliminated as they are moved to modern cloud-based technology platforms.

Other key benefits of modernizing and/or moving outdated technology-based systems and applications to modern cloud-based technologies include:

- Reuse of enterprise services and solutions to reduce development and maintenance costs;
- Improved cycle time for system enhancements or changes required to keep pace with the Commission's rules and industry needs by leveraging Platform as a Service (PaaS) and Software as a Service (SaaS) capabilities;
- Quickly adapting to changing network requirements;
- Reducing the Commission's dependence on physical desktops with potential reduction in hardware, software licensing, and support costs;
- Creation of core enterprise services to reduce development time and O&M costs for future data collection efforts; and
- Ability to scale application capacity up or down to balance demand and cost factors.

To realize these benefits, the Commission requests a new one-time funding for the following Canadian Co-Channel System (COSER). The COSER system allows for coordination between Industry Canada and the FCC during the establishment of broadcast/telecommunications facilities along a predefined area (Line C) of the United States/Canadian border. COSER also allows for technical changes to existing facilities that may cause harmful interference to existing stations along the Line C area.

- 2. Mapping - Geographic Information System (GIS) (\$420,000)** – Geospatial analysis and the publication of maps have become an integral part of the Commission's work, affecting everything from licensing, to monitoring the Commission's progress toward meeting Universal Service goals, to analyzing markets. The FCC already creates and maintains interactive maps offering easy-to-use visualizations such as maps of nationwide Long-Term Evolution (LTE) coverage, fixed broadband deployment, frequency coordination within the United States and cross-border, over-the-air Digital TV (DTV) coverage, and weather-related service outages. These maps are often complex to build, yet easy to use by the public and policymakers. OEA will need to grow and maintain its GIS resources—including both local and cloud-based hardware and software, as well as third-party geospatial datasets—to meet the increasing demand for geospatial analysis in policymaking, policy implementation, and public safety.
- 3. Computational Power System (\$262,500)** – In order to fulfill its responsibilities, OEA needs to complete complex analyses on very large data sets. OEA requires a range of computational resources, platforms, and scientific computing support in order to process large data sets and perform empirical microeconomic research in performing the following responsibilities:
 - Preparing a rigorous, economically-grounded cost-benefit analysis for every rulemaking deemed to have an annual effect on the economy of \$100 million or more.

- Reviewing and commenting on all significant issues of economic and data analysis raised in connection with actions proposed to be taken by the Commission, including the review of transactions before the Commission, and providing advice to the Commission regarding such issues.

The current computer structure and resources are inefficient to keep up with the demand for computational power. For example, completing a large-scale merger simulation on a newer powerful system may take three hours compared to older systems at the FCC where the same simulation may take one to three days to complete. Similarly, downloading of broadband speed test data may take three times as much time on the older systems compared to new more powerful systems.

- 4. Enterprise Level Data Architecture (\$525,000)** – In accordance with the Foundations for Evidence-Based Policymaking Act of 2018 (P.L. 115-435), which includes the Open, Public, Electronic, and Necessary (OPEN) Government Data Act, the FCC is required to publish a Strategic Information Resources Plan in 2020. This document will include, among other things, the OPEN Data Plan for the FCC which will address how the FCC will create systems and implement processes and procedures that make all new data collection mechanisms available in an open format (“Open by Default”) for users within the FCC and by the general public. The Strategic Information Resources Plan will need to be implemented during FY 2021.

New investments in the Commission’s hardware and software, i.e. Enterprise Level Data Architecture, will be needed in FY 2021 for the Commission to fulfill its obligations to implement the OPEN Government Data Act. These obligations include: the creation of best practices for the Commission’s data governance; the design, creation and implementation of data catalogues; and supporting the FCC in data-based policy making. Enterprise Level Data Architecture allows data in the numerous databases at the Commission to be maintained in a usable format and accessible for analysis across and within bureaus and offices as well as by the general public.

- 5. On-Line Market Surveillance Tool (\$350,000)** – The Enforcement Bureau pursues entities that market noncompliant radio frequency devices on the Internet that have the potential to cause interference to other devices. Performing manual searches across the Internet is time-consuming and often results in the discovery of these devices only after they are in use. This funding request would be used to create an automated online tool with adaptive learning capabilities to perform key word and picture searches to find entities that are marketing these devices. This automated tool would provide the Enforcement Bureau with the ability to discover violations more quickly, detect trends, and identify recidivist entities.

President’s Management Agenda

The President's Management Agenda (PMA) lays out a long-term vision for modernizing the Federal Government supported by strategies and specific milestones that will improve the ability of agencies to deliver mission outcomes, provide excellent service, and steward taxpayer dollars effectively on behalf of the American people.

The following details FCC activity in certain of the priority areas as outlined in the Cross-Agency Priority (CAP) Goals contained in the PMA:

IT Modernization:

The Commission continues to make significant progress in modernizing its information technology (IT) capabilities and delivering secure, scalable, and reliable systems for both internal Commission business as well as for its public facing systems. The FCC's IT team prioritizes IT improvements as follows: 1) modernization and enhancements specifically authorized and funded by Congress; 2) systems with performance or security shortcomings; 3) systems that the Commission's leadership has identified for updates; and 4) systems with simple cloud migration paths. More than thirty systems have been modernized or are identified for modernization by Fiscal Year (FY) 2021. Examples of these systems include: Electronic Document System (EDOCS), Universal Licensing System (ULS), Consolidated Database System (CDBS), Canadian Co-Channel System (COSER), Electronic Comment Filing System (ECFS), and the International Bureau Filing System (IBFS).

Data, Accountability and Transparency:

The Commission has continued to increase the availability and quality of data by implementing improved Data Analytics, Visualization, and Business Intelligence capabilities. By partnering with the newly created Office of Economics and Analysis, FCC IT has been using technology tools to increase the effectiveness of agency-wide data practices and policies. The Commission has delivered on an open data platform for public consumption, which includes accountability and transparency at the core of its functionality. In addition to the 87 datasets currently available, a dedicated open government website has been created that provides links to all of the tools available. A variety of application programming interfaces have been published, as well as a Geographic Information System (GIS) tool which provides open data services in a map-centric model for visualizing a broad variety of Commission data.

People: Developing a Workforce for the 21st Century:

The Commission is taking steps to promote the 21st Century Workforce Priority Goals including, improving employee performance management and engagement, and reskilling and redeploying human capital resources.

The Commission implemented a plan to maximize employee performance and design a workforce to meet current and future needs. The FCC's plan supports managers and supervisors in managing employee performance and addressing conduct and performance issues. The Commission identified and implemented actions to consolidate support functions, reduce costs and increase efficiency across the agency. These workforce actions enable the FCC to redirect resources to other mission critical areas.

The FCC created the Office of Economics and Analytics to coordinate the contributions of economists and data professionals from around the FCC and better incorporate their analysis into the FCC's policymaking process.

The Commission has also transferred the audit and enforcement responsibilities associated with its Equal Employment Opportunity (EEO) rules from the Media Bureau Policy Division to the

Enforcement Bureau Investigations and Hearings Division. The Commission determined it was appropriate to make this organizational change to more efficiently deploy Commission audit and enforcement resources and enhance industry-wide oversight of compliance with EEO rules. In addition, the Commission created a Fraud Division within the Enforcement Bureau, comprised of existing staff, that is dedicated to taking enforcement actions against fraud in the Universal Service Fund and other funding programs that the Commission oversees.

Improving Customer Experience:

The Commission has made huge strides toward improving the customer experience for internal and external customers. By migrating Call Center support systems to the cloud and automating the updates and notification processes, timely responses are now available across nearly all aspects of customer interactions, questions, complaints, and general inquiries. Within FCC IT, the organizational strategic plan now includes specific targets for initial customer engagement and timeliness of issue resolution. Both targets are being exceeded on a monthly basis and performance continues to increase as additional improvements are made. The Commission has continued to improve the customer experience as systems are modernized by including customer friendly features such as improved interfaces, better search and reporting tools, simple GIS and mapping functions, and accessibility from mobile devices.

Acquisition Modernization:

The Commission has taken concrete steps to improve and modernize its acquisition strategies. In specific, the FCC has worked to leverage common contract solutions while meeting small business and other statutory socio-economic goals, including efforts to initiate and establish Agency policy to make greater use of small business programs such as Alaskan Native 8(a) program, Indian Tribes, Service Disabled Veteran Owned, HUBZone, 8(a), and Woman-Owned, and other socio-economic programs. Some of the common contract options that the FCC is using include: General Services Administration (GSA) Federal Supply Schedule (FSS), GSA Governmentwide Acquisition Contracts (GWAC), National Aeronautics and Space Administration (NASA) Scientific and Engineering Workstation Procurement (SEWP), and Government-wide acquisitions to expedite the Agency's procurements.

The FCC has also developed effective vendor management strategies to improve communication with vendors by actively engaging in events designed to promote and improve communications with vendors by informing them of upcoming procurements and encouraging fair and open competition. In addition, to help strengthen procurement strategies and to invite industry feedback, the Commission plans to significantly utilize the Request for Information as a part of its procurement and acquisition processes.

Further, the Commission has implemented best practices to eliminate inefficient purchasing and consumption behaviors by focusing on developing Agency-wide Indefinite Delivery and Indefinite Quantities (IDIQ) and Blank Purchase Agreements (BPAs) to eliminate inefficient and duplicate purchasing. In addition, the FCC plans to implement an Agency-wide survey to promote best-value procurements and further eliminate unnecessary purchases.

Finally, the FCC shares transactional data from across the Federal Government by utilizing the Federal Business Opportunities and GSA e-buy to share procurement information.

Agency Reform Plan

Plan to Maximize Employee Performance under OMB Memo - 17-22, Comprehensive Plan for Reforming the Federal Government and Reducing the Federal Civilian Workforce.

The Commission implemented a plan to maximize employee performance and design a workforce to meet current and future needs. The Commission undertook a comprehensive and on-going effort to:

- Review and update formal agency policy.
- Provide transparency around the performance improvement plan process.
- Ensure managers and supporting human resources staff are appropriately trained.
- Ensure accountability in manager performance plans and establish real-time manager support mechanisms.

The FCC's plan supports managers and supervisors in managing employee performance and addressing conduct and performance issues. In doing so, the Commission:

- Reviewed steps for addressing poor performance and limits the use of administrative leave.
- Ensures clear guidance is provided on the use of performance improvement plans (PIPs) and maintains data on PIPs, including the number of employees placed on them and the number who successfully improve performance.
- Strengthened training on employee relations, performance and conduct for supervisors and managers.
- Automated the performance management system and provided clear guidance to enhance accountability within the FCC's pass/fail and supervisory performance plans.
- Ensured that the Labor and Employee Relations team is adequately staffed to provide prompt and expert guidance and support and develop templates to facilitate the taking of action for performance and/or conduct based issues.

Workforce Actions

The Commission identified and implemented actions to consolidate support functions, reduce costs and increase efficiency in the provision of Human Resources and administrative services across the agency. In FY 2018, the Commission offered a voluntary early retirement authority (VERA) to all staff, as well as VERA and voluntary separation incentive payments (VSIP) for certain staff, and 19 staff took these offers. We again offered VERA and VSIP to administrative staff in FY 2019 and in early FY 2020 expanding the offer to include additional occupations. A total of 14 staff took these offers. These Workforce Actions are intended to identify cost savings and reduce administrative and other staff that are duplicative and redirect resources to other mission critical areas.

High Level Agency Reform Plan

In December 2018, the FCC established the Office of Economics and Analytics to coordinate the contributions of economists and data professionals from around the FCC and better incorporate their analysis into the FCC's policymaking process. By ensuring that economic analysis is

incorporated into policy work throughout the decision-making process, including the earliest stages, the Commission is now better able to ensure that it assesses the costs and benefits of its proposed actions and is able to establish a mechanism to measure the ongoing effectiveness of adopted approaches. The new Office is charged with conducting Regulatory Impact Analysis and informing FCC policymaking as well as undertaking long-term research on emerging market conditions and advances in communications technology, including implications for innovation and effects on the economy. The new Office will streamline the FCC's information collection procedures and uses of data and identify duplicative collections, thus substantially reducing financial and human capital burdens associated with unnecessary collections. We entered into a Memorandum of Understanding with the union, received the necessary Congressional approvals, and established the Office officially on December 7, 2018, when the reorganization was published in the Federal Register.

The Commission has also completed the transfer of the audit and enforcement responsibilities associated with its Equal Employment Opportunity (EEO) rules from the Media Bureau Policy Division to the Enforcement Bureau Investigations and Hearings Division. Shifting the EEO team to the Enforcement Bureau will improve operations and result in more effective enforcement of the Commission's EEO rules. The key objectives of this organizational change are to more efficiently deploy Commission audit and enforcement resources, enhance industry-wide oversight of compliance with EEO rules, improve cross-Commission consistency in audit-based enforcement, and rationalize and modernize our organizational structure. We received Congressional approvals and completed the reorganization on March 15, 2019, when the reorganization was published in the Federal Register.

The Commission has created a Fraud Division within the Enforcement Bureau, comprised of existing staff, that are dedicated to taking enforcement actions against fraud in the USF and other funding programs that the Commission oversees. The Fraud Division works cooperatively with other law enforcement entities, including the Office of Inspector General, where appropriate. The creation of the Fraud Division capitalizes on and enhances the Commission's expertise in rooting out fraud in programs over which the Commission has jurisdiction. We received Congressional approvals and completed the reorganization on August 12, 2019, when the creation of the Fraud Division was published in the Federal Register.

Office of Inspector General Narrative

The Office of the Inspector General's (OIG or the Office) workload continues to increase in all mission-critical areas. The Office keeps focus on increasing mission responsibilities and ensuring appropriate staff levels to keep pace with the workload. OIG has increased its Full-Time Equivalent (FTE) staff over the past few budget years and this recruitment effort has permitted the Office to engage in a greater number of, and more complex, audits and investigations. We anticipate further growth in the coming year. We hope to hire at least two criminal investigators (general schedule series 1811) in FY 2020 to begin a program of proactive investigations into E-rate and Lifeline providers and recipients and to provide additional law-enforcement capabilities we currently lack. Ideally, we would like to hire an additional two criminal investigators in FY 2021. Three senior level audit positions are vacant, and we plan to fill those positions during the current budget cycle. Regardless, we are continually mindful of budget constraints and attempt,

to the best of our ability, to gauge the relative merits of any audit and investigation prior to expending valuable resources.

The OIG FY 2021 budget request of \$11,326,800 reflects a \$221,100 net increase over the FY 2020 appropriated level of \$11,105,700. The net increase is attributable to a decrease in rent cost of \$123,850 and pay and non-salary inflationary increases.

OIG Office of Audit (OA) conducts or contracts for the performance of independent and objective audits, inspections, evaluations and related projects, designed to promote economy, effectiveness and efficiency in FCC programs and operations, and to prevent and detect fraud, waste and abuse. OA completed 8 projects in FY 2019, and an additional 10 projects were in process at the end of the FY. OA plans to complete more than 50 audits, inspections and evaluations over the next five years, not including any unforeseen Congressional requests or special projects.

OIG Office of Investigation (OI) matters cover a wide range of topics touching on myriad aspects of the FCC's mission and programs. Most significantly, our investigations often address allegations of criminal misconduct or civil fraud in the Commission's Universal Service programs. We deal with complex investigations, large criminal conspiracies, and matters involving complex financial transactions throughout the United States and its territories. As of September 30, 2019, OI had 53 open cases. Working with the Department of Justice, in recent years, OI and has recovered many tens of millions of dollars of government funds and saved the government hundreds of millions of additional dollars, resulting from criminal and civil fraud cases that have been successfully prosecuted or settled.

In compliance with the IG Reform Act of 2008, this FCC OIG FY 2021 budget request includes:

- A fair share ratio in the amount of \$30,582 for contribution to the Council of the Inspectors General on Integrity and Efficiency (CIGIE),
- Funds to support IONet Management Services, and
- Training funds in the amount of \$87,118.

Universal Service Fund Activities and Costs

The Commission is responsible for the overall management, oversight, and administration of the Universal Service Fund (USF). The Commission develops policies for the USF, and the Universal Service Administrative Company (USAC) collects and delivers funding through four programs – Schools and Libraries (E-Rate), Rural Health Care, Lifeline, and High Cost – focused on places where broadband and connectivity needs are critical. These programs serve people in rural, underserved, and difficult-to-reach areas.

The Commission works with USAC, as administrator of the USF, to review USAC's administrative expenses and also to oversee the effectiveness of USAC's internal controls around USAC's program management, procurements, information technology projects, and personnel processes. The descriptions below provide additional information about how the Commission's various Bureaus and Offices work together as the agency carries out its USF management and oversight responsibilities.

Office of Managing Director. The Office of Managing Director (OMD) is responsible for all USF management and administrative activities, including finance, accounting, procurement, information technology, and audits of beneficiaries and contributors. OMD provides instruction and oversight to USAC on these issues.

Wireline Competition Bureau. The Wireline Competition Bureau (WCB) oversees USF policy and provides guidance on the applicability and interpretation of the Commission's USF rules, orders, and directives to USAC and to stakeholders. WCB also is primarily responsible for USF rulemaking proceedings, appeals of USAC decisions, requests for waivers of the Commission's USF rules, petitions for USF declaratory rulings, interactions with the Federal-State Joint Board on Universal Service, and preparation and publication of USF information in the Universal Service Monitoring Report.

Wireless Telecommunications Bureau. The Wireless Telecommunications Bureau (WTB), in coordination with WCB, develops policy and procedures concerning the Mobility Fund, a universal service support mechanism dedicated exclusively to mobile wireless services.

Office of Economics and Analytics. The Office of Economics and Analytics (OEA), in coordination with WCB, oversees reverse auctions policy and implementation for distributing Mobility Fund and Connect America Fund universal service support.

Office of General Counsel. The Office of General Counsel (OGC) oversees issues relating to litigation and settlements and serves as the Commission's chief legal advisor, including on issues pertaining to USF matters.

Enforcement Bureau. If USAC or a Commission Bureau or Office identifies a possible violation of the Communications Act or a Commission rule, order, or directive, the matter is referred to the Enforcement Bureau (EB) for possible investigation and administrative enforcement action, including issuing forfeitures. EB pursues potential investigations of USF-related matters from other sources of information as well. In addition, EB is authorized to suspend and debar persons from participating in the universal service mechanisms upon a criminal conviction of or civil judgment for fraud against a USF program.

Office of Inspector General. The Office of Inspector General (OIG) conducts audits, evaluations, and inspections of USF programs and operations, as well as program service providers and beneficiaries designed to prevent and detect fraud, waste, and abuse. These oversight activities and related initiatives help promote economy, effectiveness, and efficiency of the USF.

USF Activities

Since 2017, the Commission has focused the USF on closing the digital divide. In early 2017, the Commission adopted rules for the Connect America Fund (CAF) Phase II auction, which aims to advance fixed voice and broadband service to unserved areas across the country. The auction was held in 2018, and on August 28, 2018, the Commission announced that there were 103 winning bidders in the auction, with the 10-year support amount totaling \$1.488 billion covering 713,176 locations in 45 states. Using an auction to allocate support for rural broadband is an efficient way to target limited resources where they are needed most. As of December 2019, the Commission

has authorized funding totaling \$1.2 billion over the ten-year term to support almost 550,000 locations in 45 states in the CAF Phase II auction.

In January 2020, the Commission approved a Report and Order establishing the Rural Digital Opportunity Fund, which will direct up to \$20.4 billion to expand broadband in unserved rural areas over 10 years through a reverse auction to support up to gigabit-speed networks. Phase I of the auction is targeting around six million rural homes and small businesses that lack modern broadband service. To implement the Rural Digital Opportunity Fund proposal, the FCC is planning to conduct an initial auction in 2020 and then hold an additional auction later.

In December 2019, Chairman Pai announced that he intends to establish the 5G Fund, which would make up to \$9 billion in USF support available to carriers to deploy advanced 5G mobile wireless services in rural America. This major investment in rural America would be allocated through a reverse auction and would target hard-to-serve areas with sparse populations and/or rugged terrain. The \$9 billion 5G Fund also would set aside at least \$1 billion specifically for deployments facilitating precision agriculture needs.

The 5G Fund would replace the Mobility Fund Phase II (MF-II), which was the subject of an FCC staff report that was also released in December 2019. The report described the staff's investigation of 4G LTE coverage maps submitted by providers to establish the areas that would be eligible for MF-II funding. Based on staff speed testing and review of other information gathered in the investigation, the report concluded that coverage maps submitted by certain carriers likely overstated their actual coverage. The report recommended that the Commission terminate the challenge process and take other steps to ensure that the coverage data the Commission and the public rely on are accurate.

Furthermore, to help facilitate and coordinate the FCC's rural broadband initiatives, the Commission formed a Rural Broadband Auctions Task Force, drawn from senior leaders across the agency, including OMD, WCB, WTB, and OEA. The Task Force is overseeing universal service support auctions, including the newly adopted Rural Digital Opportunity Fund.

In addition, the Commission also continues to work to close the digital divide through other initiatives focused on small, rural carriers, known as rate-of-return carriers, serving high-cost areas. Specifically, in March 2018, the Commission adopted rules providing an additional \$500 million in funding to assist rate-of-return carriers in expanding broadband deployment in rural America and sought comment on reforms for rate-of-return carriers generally. In December 2018, the Commission continued those efforts by providing rate-of-return carriers with additional support in exchange for providing at least 25/3 Mbps service to rural homes and businesses, while combatting waste and seeking further comment on additional reforms. And in August 2019, the Commission authorized over \$4.9 billion in support for rate-of-return carriers for maintaining, improving, and expanding broadband in rural areas over the next decade. This support will ensure the broadband access to approximately 455,334 homes and businesses served by 171 carriers in 40 states and territories, including 44,243 locations on Tribal lands.

Moreover, in May 2018, the Commission established the Uniendo a Puerto Rico Fund ("Bringing Puerto Rico Together") and the Connect USVI Fund to make additional universal service support available to rebuild fixed and mobile voice and broadband networks damaged in the 2017 hurricane season. In September 2019, the Commission approved \$950 million in Stage 2 funding

to improve, expand, and harden communications networks in Puerto Rico and the U.S. Virgin Islands. To accomplish these goals in Puerto Rico, the Commission is allocating more than \$500 million over ten years in fixed broadband support and more than \$250 million over three years in mobile broadband support. In the U.S. Virgin Islands, the FCC is allocating more than \$180 million over ten years in support for fixed networks, and \$4 million over three years for mobile networks. Fixed broadband support will be awarded through a competitive process, in which service providers will bid to serve every location in each covered area with up to gigabit speeds. Support for mobile services will be awarded to providers that were offering mobile services in the Territories prior to the hurricanes in order to expand and harden 4G LTE networks and deploy next-generation 5G networks.

Through the E-Rate program, the Commission continues to help schools and libraries obtain affordable broadband. In January 2020, in order to lower barriers to broadband infrastructure investment, the Commission adopted a Report and Order permanently eliminating a requirement that applicants amortize over three years high-dollar funding requests, including special construction requests. In December 2019, the Commission adopted a Report and Order making permanent the category two budget approach, which consists of five-year budgets for schools and libraries that provide a set amount of funding to support internal connections—primarily used for Wi-Fi, which has enabled the transition from computer labs to one-to-one digital learning. The Report and Order also simplifies and streamlines the category two budget approach to allow applicants to make more effective use of category two funding and to reduce administrative burdens; provides more equitable, consistent support for small, rural schools and libraries within the existing category two services budget; and makes permanent the eligibility of managed internal broadband services, caching, and basic maintenance of internal connections. Finally, to ensure timely review of applications and issuance of funding commitments, the Commission continues to oversee USAC’s administration of the E-Rate program. To this end, USAC has continued to issue funding commitments and disbursements at a faster pace each year since 2017.

Through the Rural Health Care program, the Commission provides support for the telecommunications and broadband services that eligible health care providers need to deliver critical health care services to rural and remote parts of America. In June 2018, the Commission increased the annual budget for the program from \$400 million to \$571 million, indexed the budget for inflation, and created a mechanism for unused funds from prior funding years to be carried forward for use in future years. As a result of these efforts, the annual program funding cap for funding year 2018 was increased to \$581 million, and the annual funding cap for funding year 2019 was further increased to \$594 million, with \$83.22 million in unused funds from prior funding years available to cover additional demands in funding year 2019. In August 2019, the Commission approved a Report and Order overhauling the Rural Health Care program by streamlining and simplifying the way health care providers apply for and calculate universal service support amounts, promoting transparency and predictability in the program, and taking new steps to guard against waste, fraud, and abuse.

The Commission is also taking steps to explore the creation of an experimental program to support the delivery of advanced telehealth services to low-income Americans. In July 2019, the Commission adopted a Notice of Proposed Rulemaking that proposes to establish the Connected Care Pilot program, which would provide up to \$100 million of USF support over three years to health care providers to defray the costs of broadband service to enable low-income patients and

veterans to access telehealth services, with a focus on services delivered directly to patients beyond the doors of brick-and-mortar health care facilities.

Through the Lifeline program, the Commission seeks to increase access to communications services, including broadband Internet access service, for low-income Americans. The Commission and USAC continue to take steps to address waste, fraud, and abuse in the program to ensure that limited USF dollars are directed only toward qualifying low-income consumers. These steps include closing loopholes that allow some participating carriers to enroll ineligible subscribers and establishing the National Lifeline Eligibility Verifier, which provides a unified interface that independently processes eligibility, verification, and recertification of subscribers. In October 2019, the Commission adopted a Fifth Report and Order to strengthen the Lifeline program’s enrollment, recertification, and reimbursement processes. These reforms included, among others, prohibiting participating carriers from paying commissions to employees or sales agents based on the number of consumers who apply for or are enrolled in the Lifeline program with that carrier; requiring participating carriers’ employees or sales agents involved in enrollment to register with USAC; codifying a rule that strengthens prohibitions barring Lifeline providers from claiming “subscribers” that are deceased; and taking additional steps to better identify duplicate subscribers, prevent reimbursement for fictitious subscribers, and better target carrier audits to identify potential FCC rule violations. The Commission also continues to oversee USAC’s work to deploy the National Verifier. As of the end of December 2019, the National Verifier has been soft launched in all 56 states and territories and fully launched in 37 states and territories as well as the District of Columbia.

Finally, the Commission continues its efforts to safeguard the security and integrity of the nation’s communications networks by barring the use of universal service funding to purchase equipment and services from companies that pose a national security threat. In November 2019, the Commission adopted a Report and Order initially designating Huawei Technologies Company and ZTE Corp. as companies covered by this rule and establishing a process for designating additional covered companies in the future. In an accompanying Further Notice of Proposed Rulemaking, the Commission proposed to require eligible telecommunications carriers to remove and replace existing equipment and services from covered companies and sought comment on how to pay for such removal and replacement. Additionally, the FCC will conduct an information collection to aid in the design of a removal and replacement program.

The chart below shows the estimated costs that the Commission will incur in overseeing USF activities, which includes costs incurred by the OIG.

(Dollars in Thousands)

Fiscal Years	FY 2019	FY 2020	FY 2021
FCC's USF Activities Cost¹	\$18,065	\$18,427	\$18,795
Full-Time Equivalent (FTEs)	94	94	94

¹ Estimated amounts based on actual costs.

The chart below shows the estimated number of Commission FTEs working on USF activities by bureau and office for FY 2019 based on extrapolated data.

Number of FCC FTEs Working On USF Activities By Bureau and Office	FTEs
Wireline Competition Bureau	53
Office of Economics & Analytics	12
Office of Inspector General	10
Enforcement Bureau	8
Wireless Telecommunications Bureau	4
Office of General Counsel	4
Office of the Managing Director	3
Total FTEs	94

Crosswalk of USF Outlays to FCC Strategic Goals

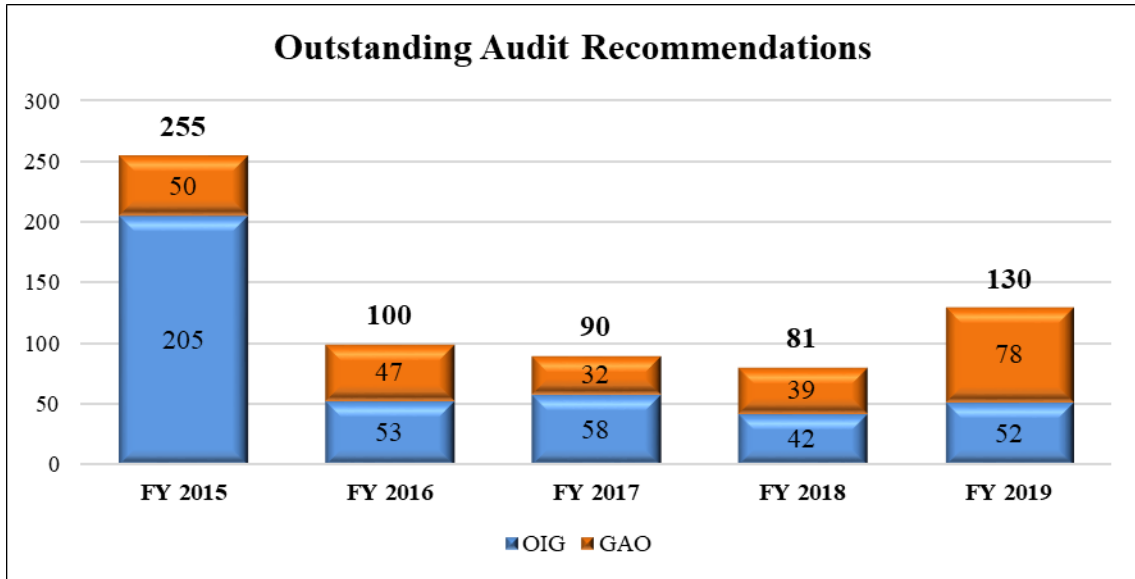
In FY 2019, USF made outlays totaling almost \$8.715 billion. These outlays were allocated to the following FY 2019 strategic goals:

(Dollars in Millions)

Applicable FY 2019 Strategic Goals	Outlay Amount	Percent
Closing the Digital Divide	\$7,067	81.1%
Promoting Innovation	\$1,648	18.9%
Total	\$8,715	100.0%

Overall Status of Audit Recommendations

The chart below shows the number of audit recommendations outstanding from various audits conducted by FCC’s Office of Inspector General (OIG) and the Government Accountability Office (GAO) at the end of each fiscal year. The numbers shown below exclude those recommendations for which the Commission has already submitted information to GAO and OIG requesting closure of the recommendation. The count also excludes those recommendations that the Commission has determined to close as not implemented.



Status of FCC Headquarters Move

The Commission’s headquarters (HQs) lease for the Portals II building at 445 12th Street SW, Washington, DC expired on October 15, 2017. In June 2018, GSA executed a lease extension for the HQs at the Portals II building that expires on November 30, 2020.

In 2015, Congress approved a prospectus for a replacement lease for a 15-year term that would reduce FCC headquarters square footage by approximately 30 percent and lower the overall rental expense. It is estimated that the move will provide up to \$119 million in total net savings over the 15 years of the new lease. Subsequently, the GSA conducted a competitive lease procurement and awarded the contract to a new lessor. The new lease will require the Commission to move to a newly built facility in FY 2020. The Commission’s obligation to pay rent at the new headquarters building commences when the construction is substantially complete.

GSA estimated that the total cost for the headquarters move would be \$70,971,489. In FYs 2016 and 2017, as part of the Commission’s budget request, the Commission requested a total amount of \$51,358,497 and \$19,612,992, respectively, from both regulatory fees and auctions program funds. Congress appropriated a total amount of \$68,225,489 from both regulatory fees and auctions program funds. The Commission intends to move to the new headquarters building in June 2020.

Crosswalk - Summary of Changes for Regulatory Fees

(Dollars in Thousands)

	FY 2020 Enacted	Reversal of FY 2020 One-Time Requests	FY 2020 Pay Increase from CY 2020	FY 2020 Base	FY 2021 Rent Decrease to Base	FY 2021 Pay Increase from CY 2020	FY 2021 1% Across-the-Board Base Pay	FY 2021 Non-Salary Inflationary Increase ¹	Additional Awards for Non-SES/SL/ST FTEs	FY 2021 Base Increases & One-Time Requests	FY 2021 Estimates to Congress
Chairman and Commissioners	\$5,453	\$0	\$88	\$5,542	-\$314	\$29	\$15	\$18	\$0	\$0	\$5,290
Consumer & Governmental Affairs Bureau	\$22,977	\$0	\$418	\$23,395	-\$236	\$139	\$73	\$56	\$0	\$0	\$23,428
Enforcement Bureau	\$37,920	\$0	\$730	\$38,650	-\$299	\$243	\$128	\$58	\$0	\$0	\$38,782
International Bureau	\$16,928	\$0	\$327	\$17,255	-\$206	\$109	\$57	\$24	\$0	\$0	\$17,239
Media Bureau	\$21,813	\$0	\$436	\$22,249	-\$282	\$145	\$76	\$17	\$0	\$0	\$22,206
Public Safety & Homeland Security Bureau	\$18,777	\$0	\$367	\$19,144	-\$168	\$122	\$64	\$24	\$0	\$0	\$19,186
Wireless Telecommunications Bureau	\$14,504	\$0	\$288	\$14,791	-\$138	\$96	\$50	\$15	\$0	\$0	\$14,814
Wireline Competition Bureau	\$28,187	\$0	\$562	\$28,749	-\$355	\$187	\$98	\$24	\$0	\$0	\$28,703
Office of Administrative Law Judges	\$625	\$0	\$12	\$638	-\$11	\$4	\$2	\$1	\$0	\$0	\$633
Office of Communications Business Opportunities	\$1,612	\$0	\$32	\$1,643	-\$28	\$11	\$6	\$2	\$0	\$0	\$1,633
Office of Economics and Analytics	\$15,506	\$0	\$303	\$15,809	-\$52	\$101	\$53	\$21	\$0	\$1,208	\$17,139
Office of Engineering and Technology	\$15,322	\$0	\$295	\$15,617	-\$132	\$98	\$52	\$23	\$0	\$0	\$15,658
Office of General Counsel	\$16,037	\$0	\$309	\$16,346	-\$188	\$103	\$54	\$23	\$0	\$0	\$16,338
Office of Legislative Affairs	\$1,594	\$0	\$31	\$1,625	-\$32	\$10	\$5	\$2	\$0	\$0	\$1,611
Office of Managing Director	\$107,072	-\$3,192	\$514	\$104,394	-\$4,268	\$171	\$64	\$1,304	\$1,893	\$1,896	\$105,453
Office of Media Relations	\$2,579	\$0	\$47	\$2,626	-\$35	\$16	\$8	\$6	\$0	\$0	\$2,621
Office of Workplace Diversity	\$989	\$0	\$18	\$1,008	-\$11	\$6	\$3	\$2	\$0	\$0	\$1,008
Subtotal	\$327,894	-\$3,192	\$4,778	\$329,480	-\$6,756	\$1,593	\$811	\$1,619	\$1,893	\$3,104	\$331,743
Office of Inspector General	\$11,106	\$0	\$197	\$11,303	-\$124	\$66	\$48	\$35	\$0	\$0	\$11,327
TOTAL	\$339,000	-\$3,192	\$4,975	\$340,783	-\$6,880	\$1,658	\$858	\$1,653	\$1,893	\$3,104	\$343,070

¹Represents estimated non-salary inflationary increase of approximately 2%.

This page is intentionally left blank

SPECTRUM AUCTIONS

This page is intentionally left blank

Spectrum Auctions Program - Explanation of Requested Change

The Federal Communications Commission requests \$134,495,000 for the Spectrum Auctions Program for FY 2021, as detailed below. This level of funding will enable the Commission to continue its efforts to make more spectrum available for 5G and reimburse full power and Class A stations, multichannel video programming distributors (MVPDs), Low Power TV (LPTV), TV translator stations, and FM broadcast stations for reasonable relocation costs incurred because of the Commission's broadcast incentive auction.

(Dollars in Thousands)

	FY 2020 Enacted	FY 2021 Estimates to Congress	TOTAL NET CHANGE	
			Amount	Percent
Spectrum Auctions Program Cost Recovery	\$132,539	\$134,495	\$1,956	1.5%
Explanation of Changes - Spectrum Auctions Program Cost Recovery				
FY 2020 Request to Congress			\$132,539	
FY 2020 Appropriated, Enacted			\$132,539	
Base Pay Increase Starting in Calendar Year (CY) 2020:		\$1,024		
Base Pay Increase Applicable to FY 2020			\$768	
FY 2020 Base			\$133,307	
FY 2021 - Reduction To Base - New Headquarters Rent Savings			-\$1,120	-0.8%
FY 2021 Adjustments To Base:				
Base Pay Increase in CY 2020 Applicable to FY 2021		\$256		
1 Percent Increase in Across-the-board Base Pay		\$281		
2 Percent Non-Salary Inflationary Increase to Base		\$1,771		
Subtotal - FY 2021 Adjustments to Base			\$2,308	
FY 2021 Total Request			\$134,495	
TOTAL NET CHANGE			\$1,956	1.5%

Spectrum Auctions Program

The Omnibus Budget Reconciliation Act of 1993, P.L. 103-66 (Act), required the Commission to auction licenses for portions of the electromagnetic spectrum used for certain services, replacing the former lottery process. The Act further requires the Commission to ensure that small businesses, women, minorities, and rural telephone companies have an opportunity to participate in the competitive bidding process. The Commission initiated regulations implementing the spectrum auction authority granted by the legislation and conducted its first round of auctions in July 1994.

As of December 2019, the total amount collected for broader government use and deficit reduction since 1994 exceeds \$117 billion. The original spectrum auction authority was scheduled to expire in FY 1998; however, it was extended through FY 2007 in the Balanced Budget Act of 1997, P.L. 105-33; extended through FY 2011 by the Deficit Reduction Act of 2005, P.L. 109-171; extended through FY 2012 by the DTV Delay Act (2012), P.L. 111-4; and extended through FY 2022 by the Middle Class Tax Relief and Job Creation Act of 2012, P.L. 112-96. Furthermore, the Commission's authority to conduct auctions was further extended until September 30, 2025, in the Spectrum Pipeline Act of 2015 (included as Title X in the Bipartisan Budget Act of 2015, P.L. 114-74), with respect only to electromagnetic spectrum identified under section 1004(a) of that Act.

The Commission is authorized to retain funds from auction revenues to develop, implement, and maintain the auctions program. These funds cover the personnel and administrative costs required to plan and execute spectrum auctions; operational costs to manage installment payments and collections activities; development, implementation, and maintenance of all information technology systems necessary for auctions operations, including development of a combinatorial bidding system; and a proportional share of the general administrative costs of the Commission. This budget submission assumes that the auctions program will continue to recover the costs of conducting auction activities from spectrum license auction receipts as the Commission continues to use auctions as a licensing mechanism for spectrum-based communications services.

For FY 2020, Congress capped the auctions program obligations at \$132.539 million. The Commission's request of \$134.495 million for FY 2021 is a net increase of \$1.956 million from the FY 2020 capped level that includes a decrease to base of \$1.12 million from rent savings as a result of moving the headquarters to a new facility to significantly reduce space consumption, which is offset by increases in uncontrollable non-payroll inflationary increase of about 2 percent, or \$1.771 million, and pay increases of \$0.537 million.

Funding at this level will enable the Commission to continue post-broadcast incentive auction (BIA) work related to repacking and reimbursing broadcasters and MVPDs for their relocation costs to implement the results of the BIA, as well as expand that program to include new requirements included in the Reimbursement Expansion Act (REA) as related to the universe of TV and radio stations eligible for reimbursement from the TV Broadcaster Relocation Fund (TVBRF); upgrade and improve its auctions program infrastructure in preparation for future auctions; conduct additional auctions to make more spectrum available for next-generation wireless services including the 2.5 GHz band; and continue implementing the Spectrum Pipeline Act of 2015 by, for example, taking the steps necessary to promote use of the 3.5 GHz band as well as taking other steps necessary to implement the RAY BAUM'S Act, including the Mobile Now provisions regarding identifying and making available, including through auctions, spectrum for mobile and fixed mobile broadband use in, among other bands, the 3.7 GHz – 4.2 GHz range. In addition, as

the demand for spectrum for new technologies extends to spectrum bands previously assigned for legacy applications, creative approaches must be found to accommodate existing licensees and operations while expanding opportunities for access by new users.

Post-Broadcast Incentive Auction Transition Work

In the Incentive Auction Closing and Channel Reassignment Public Notice, released on April 13, 2017, the Commission announced the completion of the first-ever spectrum incentive auction and publicly released the results of the reverse auction, the forward auction, the assignment phase, and the channel reassignments for full power and Class A television stations that are required to change their TV channels during the 39-month relocation process that commenced as of the release of that Public Notice. The licensing process for the winning bidders for new flexible-use wireless spectrum licenses also commenced with the release of that public notice.

After the post-auction transition by full power and Class A TV stations to their new channels is complete, the BIA will have made available 84 megahertz of low-band spectrum for commercial and unlicensed wireless use by repurposing a portion of the broadcast TV band. The total net winning bids of approximately \$19.3 billion from the auction placed it second among all Commission auctions in terms of the amount of total winning bids. The auction proceeds from winning bidders of new spectrum licenses were used, among other things, to pay winning broadcast bidders in the reverse auction and, as directed in the Middle Class Tax Relief and Job Creation Act of 2012, to fund the TVBRF with \$1.75 billion to reimburse full power and Class A broadcast stations and MVPDs for their reasonable expenses incurred as a result of stations being involuntarily relocated to new channels.

Determining that the TVBRF was likely to fall short of covering the costs of the post-BIA broadcast transition, Congress subsequently appropriated \$1 billion in additional funds for the TVBRF in the 2018 REA, increasing the total to \$2.75 billion. The \$1 billion in new funding included \$600 million in FY 2018 and \$400 million in FY 2019. The REA also expanded the universe of entities eligible for reimbursement to cover the costs reasonably incurred by displaced low power TV and TV translator stations (LPTV/translator stations) to relocate or modify their facilities, and by FM radio stations (FM stations) to reasonably minimize disruption of their service due to the TV repacking process. For FY 2018, the REA provided for funding of at least \$350 million to reimburse full power and Class A stations, not more than \$150 million for LPTV/translator stations, and not more than \$50 million for FM stations. The REA also provided \$50 million in FY 2018 funds for the Commission to use for consumer education relating to the reorganization of broadcast television. The REA does not expressly delineate the use of the \$400 million FY 2019 funds among the various categories of eligible recipients. The Commission determined in the *REA Report & Order* adopted March 15, 2019, that reimbursement of full power and Class A stations and MVPDs would be prioritized over reimbursement of LPTV/translator stations and FM stations for purposes of disbursement of the FY 2019 funds. The REA permits the Commission to continue the reimbursement program until July 3, 2023, under certain circumstances, but did not extend the July 3, 2020, transition deadline for all full power and Class A television stations to have moved to their new channels.

Because of the complex nature of the post-BIA transition and the addition of new categories of broadcast stations eligible for reimbursement, the Commission will continue to engage in a significant amount of post-auction activity. For example, the results of the BIA require 987 full-

power and Class A broadcasters nationwide to relocate to create contiguous spectrum in the 600 MHz band that has been repurposed and auctioned for flexible wireless uses, and 957 of those stations are eligible for reimbursement from the TVBRF.³ Over 2,000 LPTV/translator stations received displacement construction permits to relocate to alternative channels, and on December 9, 2019, an Incentive Auction Task Force and Media Bureau public notice announced that it had received eligibility certification and cost estimate submissions from 947 of those stations who seek reimbursement of their relocation costs. That public notice also announced that 87 FM stations had been determined to satisfy requirements for eligibility to participate in the reimbursement program. The repacking of full power and Class A stations will also require some MVPDs to modify their facilities to continue to carry the station's signals, the reasonable costs of which are also reimbursable from the TVBRF.

The last phase of the 39-month channel reassignment process ends July 3, 2020, and the REA authorizes the Commission to extend the reimbursement period to July 3, 2023. This means that while all full power and Class A broadcast stations are required to vacate their pre-auction channels prior to the end of the 39-month period, some of the necessary licensing and post-transition filings for such stations and for LPTV/translator stations and FM stations will continue after that date. Final reimbursement submissions, close-out review, and, as appropriate, verification and audit processes will also continue past that date. The following are a list of highlights from the many activities that will continue to take place in FY 2021.

- Licensing for Broadcasters Being Relocated – Broadcast licensing is performed in two steps: (1) application review and grant of a construction permit (CP); and (2) application review and grant of a license to cover. The Commission will continue to process applications and licenses to cover, as well as possible technical modifications determined to be necessary once the stations transition and test their new facilities, as described in more detail below.

The Commission implemented a phased transition process in which each full power and Class A station that is being repacked is assigned one of 10 phases. By the end of its assigned phase, a station must discontinue operations on its pre-auction channels, such that all broadcasters will have ceased operation on their pre-auction channels no later than the end of the tenth phase, which will occur within 39 months after the issuance of the Closing and Channel Reassignment Public Notice.

After a broadcaster completes the construction of its new facilities, it must file an application with the Commission for its license, which will require review and approval by the Media Bureau. Processing such filings for stations in the later phases of the transition will extend beyond the end of their phase deadlines. In addition, a number of full power and class A stations are using interim facilities in order to meet their deadline to vacate their pre-auction channel while still in the process of completing construction of their permanent facilities. In such cases, stations will have met their phase deadline to cease operation on their pre-auction channel but not yet have fully transitioned to their new facilities. Construction of

³ As a result of the BIA, 987 full-power and Class A broadcast stations were assigned new channels and must be relocated during the 39-month transition period. Of those, 30 full-power stations were winning bidders in the reverse auction and are not eligible for reimbursement of relocation costs, but they nevertheless must file applications, licenses to cover, and/or waivers that will require processing by the Commission. The remaining 957 full-power and Class A stations that are being relocated are eligible for reimbursement from the TVBRF.

those new facilities, and the related Media Bureau consideration of all related applications and waivers, as well as submission of reimbursement invoices, will continue for some of those stations beyond the end of the 39-month phase schedule.

The process will therefore require Commission staff to continue to monitor broadcaster progress, identify and resolve transition-related problems and challenges, process applications, and review and verify information in FY 2021. Concluding the post-auction transition will therefore also continue to require software, cloud computing resources, and assistance from skilled computer scientists, software engineers, and technology security experts.

- Regional Coordination of Transition – The Commission’s Incentive Auction Task Force and Media Bureau have created a specialized team to assist broadcasters through the transition on a regional basis. Regional Coordinators assist with communications among the affected broadcast stations and MVPDs, function as liaisons within the Commission, and assist with coordination with other federal government agencies such as the Federal Aviation Administration as well as with Tribal governments and coordination with Canada and Mexico.
- Displaced LPTV and TV Translator Station Licensing – A Special Displacement Window closed on June 15, 2018, for operating LPTV/translator stations displaced due to the new 600 MHz wireless band and the post-auction repacking process for full power and Class A stations. More than 2,000 applications were granted. Like the full power and Class A stations identified above, broadcast licensing for LPTV/translator stations is performed in two steps: (1) application review and grant of a CP and (2) application review and grant of a license to cover. The Commission will continue to process such applications as they are filed.
- FM Station Licensing – FM spectrum was not subject to the post-Incentive Auction repacking process. Some FM stations with antennas on or near a tower supporting a repacked TV antenna may be affected if, for example, the FM antenna must be moved, temporarily or permanently. In such situations some FM stations must apply for a construction permit or special temporary authority to operate on an interim basis during a construction project on the station’s tower.
- Reimbursements to Eligible TV and FM Stations and MVPDs – Reimbursements to eligible full power and Class A broadcasters and MVPDs started in FY 2018. The Commission has expanded its reimbursement process to include LPTV/translator and FM stations pursuant to the REA. It began accepting estimates of costs purportedly eligible for reimbursement from LPTV/translator and FM stations in August 2019.
 - Fund Administration – The Commission has engaged a contractor (Fund Administrator) to assist in administering the TVBRF. The Fund Administrator has extensive experience in television broadcast engineering and federal funds management to review cost estimates. The Fund Administrator reviews the initial reimbursement estimates and the accompanying supporting documentation submitted by eligible entities to validate that the estimates reflect costs that may be reasonably incurred to relocate television service from a station’s original channel

to its reassigned channel or, in the case of MVPDs, to continue to carry the broadcast signal of a reassigned broadcast station. Requests for additional information are sent to entities where reasonableness cannot be determined, where necessary documentation appears to be missing, or where the requested reimbursement appears to be excessive.

- Reimbursement Process – The reimbursement process has two major components: (1) cost estimates and fund allocation and (2) invoice reimbursement processing.
 - Cost Estimates and Fund Allocation – The Fund Administrator and Media Bureau review the initial reimbursement estimates, and the eligibility showings of the submitting entities, and the accompanying supporting documentation submitted by LPTV/translator stations and FM stations, to validate that the estimates reflect costs that may be reasonably incurred to relocate television service from a station’s original channel to its reassigned channel or, in the case of FM stations, to reasonably minimize disruption of service during the repack. Based upon that review, an initial allocation based on such verified estimates is issued to stations found to be eligible for reimbursement. Once the initial allocation is made, the Fund Administrator reviews invoices for actual costs incurred by broadcasters and MVPDs and makes recommendations to the Commission as to their reasonableness. The Commission reviews and verifies those recommendations and pays approved invoices submitted by eligible LPTV translator stations and FM stations. The Commission may announce one or more additional allocations during the transition period, and subsequent allocations may be based on revised cost estimates.

As of December 2019, the Commission had allocated a total of \$1.89 billion to full power and Class A stations and MVPDs, and \$17.2 million to eligible FM stations, giving them access to approximately 92.5 percent of their currently estimated and verified costs.

- LPTV/TV Translator Stations – As of December 2019, the Commission had received 947 submissions from LPTV/TV translator stations and had not yet completed its review of cost estimates and eligibility certifications. Once that review is complete, an allocation will be made and reimbursements to eligible LPTV/TV translator stations for their approved actual expenses will commence.
- Invoice Reimbursement Processing – Eligible TV and FM radio stations and MVPDs may only draw upon their allocated funds upon submission of actual invoices and other supporting documentation. The Fund Administrator reviews invoices for actual costs incurred by broadcasters and MVPDs and makes recommendations to the Commission as to their reasonableness. The Commission reviews those recommendations and pays approved invoices submitted by broadcasters and MVPDs. Reimbursement payments to all of these categories of recipients will continue in FY 2021 as reimbursement-eligible entities continue to submit their invoices.

- Close Out Procedures for TV and FM Broadcasters and MVPDs – Each entity will engage in a two-step close out procedure and receive two close out letters from the Media Bureau, including (1) an “interim close-out letter” when the station has submitted evidence of all incurred costs: and (2) a “final close-out letter” after all or nearly all entities eligible for reimbursement from the Fund have entered the close-out process. The final account close-out for each entity will occur no later than July 3, 2023, the statutory end of the reimbursement period, when all entities eligible for reimbursement from the Fund must have submitted all actually incurred costs.

When an entity completes its construction project it will submit all remaining supporting documentation and requests for reimbursement to the Commission and inform the Commission that the submissions are complete. The entity will receive a financial reconciliation statement from the Fund Administrator that specifies verified, estimated amounts; allocated amounts; amounts requested for reimbursement; amounts disbursed by the Commission; and information outlining any additional amounts payable by the Commission to the entity or owed to the Commission by the entity. If an overpayment is discovered, the entity will be required to return the excess amount to the Commission and detailed instructions for prompt submission of such overpayments will be provided to the entity by the Commission. Each station will review the financial reconciliation statement for accuracy and completeness and, upon concurrence, return an executed version of the financial reconciliation statement to the Fund Administrator. The Bureau will then provide the station with an interim close-out letter and issue any payments currently due, subject to the station’s available allocation.

Because the Commission has determined that stations should be allocated a *pro rata* amount of actual costs incurred based on the total fund availability, the Commission will withhold a certain portion of potentially eligible funds until the conclusion of the program, or until such time as the Bureau can reasonably extrapolate that the total available funding will be sufficient to meet the total cost of the program. A final close-out letter will serve as the official notice of account close-out, include a summary of any financial changes that occurred during the interim closing period, and remind entities of their ongoing document retention requirements.

- Audits, Data Validations, and Disbursement Validations – Audits, data validations, and site visits are essential tools in preventing waste, fraud, and abuse, and that use of these measures will maximize the amount of money available for reimbursement. Throughout the reimbursement period, the Media Bureau together with the Fund Administrator performs disbursement validations in order to confirm that entities receiving reimbursement funding for third party services have in fact disbursed monies received from the Fund in a manner consistent with representations made to the Commission in the Reimbursement Form. Also, a third-party audit firm acting on behalf of the Commission may conduct audits of entities receiving disbursements from

the Reimbursement Fund, and these audits may occur both during and following the Reimbursement Period. The Commission has determined that Commission staff and/or a third-party auditor will continue to validate expenses after the reimbursement period ends, consistent with the Commission's obligation to recover improper payments, including after the close-out period.

- Consumer Education – The REA made \$50 million available through July 3, 2023, to the Commission for consumer education. The Commission has developed several consumer resources to provide information about what the post-auction transition will require consumers to do to continue to receive over-the-air TV signals during and after the transition. For instance, in January 2019, the Commission announced the launch of a dedicated call center to assist consumers with rescanning their televisions and any other questions related to the broadcast transition. The Commission also awarded a contract to a national public relations firm to execute a comprehensive nationwide consumer education campaign that includes social media outreach and advertising, radio, print, and online advertising, paid online search, and earned local and regional media.
- Submission of Banking Information – The Commission requires all eligible entities who will receive TVBRF payments to provide detailed banking information that is both notarized on paper form and submitted in a secure electronic system. The Commission reviews this information prior to making any payments. Eligible entities may revise their banking information throughout the reimbursement period.
- Stakeholder Outreach – To minimize disruptions and ensure an orderly transition, the Commission provides necessary stakeholder and consumer communications, education, and outreach. These efforts include providing education materials for broadcast stations, MVPDs, wireless microphone operators, and unlicensed users affected by the transition. The Commission also maintains a comprehensive website to serve as a single point of reference for all transition-related information. The Commission will continue to maintain and update these efforts.

Spectrum Pipeline Act of 2015, RAY BAUM'S Act, and Other Auction Program Improvements

The Spectrum Pipeline Act of 2015 (Pipeline Act) requires the Commission to auction 30 megahertz of spectrum identified by the Secretary of Commerce for reallocation from Federal use to non-Federal use, shared use, or a combination thereof. The Pipeline Act also appropriates funds from the Spectrum Relocation Fund to support activities by Federal entities to improve the efficiency and effectiveness of Federal use of spectrum in order to make Federal spectrum available for non-Federal use, shared use, or a combination thereof. The Pipeline Act requires the FCC, as part of its role on the interagency Technical Panel established within the National Telecommunications and Information Administration (NTIA), to review Federal entities' proposals for funds for these purposes.

Additionally, the Pipeline Act requires the Commission to submit four reports to Congress. In November 2018, the Commission submitted a first report with an analysis of its new rules for the innovative Citizens Broadband Radio Service in the 3550-3650 MHz band and a second report analyzing proposals to promote and identify additional bands that can be shared under such rules

and identifying at least 1 gigahertz of spectrum between 6 GHz and 57 GHz for such use. By January 1, 2022, in coordination with the Assistant Secretary of Commerce for Communications and Information, the Commission must submit a third report that identifies at least an additional 50 megahertz of spectrum below 6 GHz for potential auction. Finally, by January 2, 2024, in coordination with the Assistant Secretary of Commerce for Communications and Information, the Commission must submit a fourth report which identifies at least another additional 50 megahertz of additional spectrum below 6 gigahertz for potential auction. The latter two reports must contain an assessment of the Federal operations in such spectrum, an estimated timeline for the competitive bidding process, and a proposed plan for balance between unlicensed and licensed use.

The RAY BAUM'S Act amended the Pipeline Act to require notice and comment for certain Pipeline Act reports and required the Commission to undertake numerous rulemakings and initiatives related to potential repurposing, reallocation, sharing, or auction of spectrum bands, including a requirement to work with NTIA to identify 255 additional megahertz of spectrum for mobile and fixed wireless use by 2022.

To fulfill these statutory requirements and enhance the Commission's ability to execute upcoming auctions, auctions funding will also be used for the following that include major amounts of work to be performed during FY 2021:

- 3.5 GHz Auction and Post-Auction Implementation – The Commission has updated its rules for issuing certain licenses in this band that will be subsequently auctioned late in the third quarter of FY 2020. Due to the characteristics of and use cases for licenses in this band, this auction will have a novel set of requirements that will require the Commission to develop new auctions procedures and software. Much of the work will take place in FY 2020, but statutorily required work, including post-auction licensing and monitoring of the novel licenses to be awarded, will by necessity continue into FY 2021 and possibly beyond. For example, depending on when the auction concludes, winning bidders will not file their long form license applications until late in the fourth quarter of FY 2020 or early in FY 2021. Commission staff must then undertake the statutorily required process to evaluate and grant such applications, where warranted; such work will extend into FY 2021. In addition, the Commission will have an ongoing need to interface with the Spectrum Access Administrators (SASs), which manage the dynamic spectrum sharing environment in the 3.5 GHz band, as well as the Environmental Sensing Capability operators, which facilitate federal incumbent protection in the band. The Commission also will have an ongoing need to test and verify the operational capabilities of current and future SASs. Successful implementation of the unique sharing model adopted in the band will provide the American consumer with access to additional spectrum resources.
- 3.7-4.2 GHz Auction and Post-Auction Implementation – The Chairman intends to commence an FCC-run auction of flexible-use licenses for 280 MHz of spectrum in this band, with bidding to start before the end of calendar year 2020. Following that auction, Commission staff would then undertake the statutorily required process to evaluate and grant such applications, where warranted. The Commission would also need to oversee the process of transitioning incumbent Fixed Satellite Services (FSS) out of the 280 MHz that has been auctioned in order to enable new flexible-use licensees to deploy. Under all of the transition proposals currently in the record, overseeing this process would involve Commission staff resources in FY 2021 and beyond.

- Other Auction Development and Implementation – The Commission needs to make additional changes to the auction bidding system for other planned auctions that could include an AWS-3 re-auction, auction of bands made available for flexible terrestrial use in the Spectrum Frontiers proceedings, auction of the 2.5 GHz band, potential auctions of licenses for mid-band spectrum (including 3.7-4.2 GHz), as well as other bands identified by the Mobile Now Act and the 30 megahertz required by the Pipeline Act. In particular, substantial Commission staff resources in FY 2019 were dedicated to preparation for auctions related to Spectrum Frontiers bands and potential mid-band auctions, which may involve novel requirements related to sharing with federal users and/or transitioning incumbents out of specific frequencies, tracking satellite earth station placements, and other issues. This work has continued into FY 2020 and the Commission expects a substantial amount of activity will occur in FY 2021 as well.
- SAS/ESC Testing for 3.5 GHz and Beyond – The Spectrum Access System (SAS)/Environmental Sensing Capability (ESC) are necessary components to facilitate additional non-federal access to spectrum in the 3.5 GHz band and are necessary to protect incumbent Federal operations. These systems will be launched first for the 3.5 GHz band and may have additional applications in the future. Because the SASs will work as dynamic frequency coordinators for a complex ecosystem of devices, we need to ensure they operate properly and consistently with the FCC’s rules prior to approval. Once the SASs and ESCs are approved for use in the 3.5 GHz band, the Commission will continue to monitor and analyze their operations to ensure compliance with the rules and identify opportunities for improving non-federal access to the 3.5 GHz band and, potentially, other spectrum bands. The Commission will engage in additional research (e.g., spectrum monitoring) to refine its understanding of the spectral environment and facilitate more robust and efficient use of spectrum resources.
- Optimization for New Spectrum Opportunities – The optimization team will help the Commission analyze and study options for using complex mathematical optimization techniques for making new spectrum licenses available through new auction formats including overlay licenses, transitioning incumbents out of repurposed spectrum bands while assuring continued service to their customers, and other ways to implement spectrum sharing scenarios, to ensure we are maximizing the amount of useful commercial spectrum. They will develop optimal band plans accommodating incumbent uses and demonstrate the value of additional clearing or sharing as necessary. This research will also provide statistical and technical computation, analysis, simulation, and modeling, including geographic data and mapping, related to auctions.
- Spectrum Visualization Tools – Public Facing and Internal – Commission will develop spectrum visualization tools to provide the public and government agencies with insights into how spectrum utilization could be modified to meet growing demand for wireless broadband services, including through licenses assigned by auction. These tools will help satisfy the public’s significant interest in understanding who has licensed rights to different spectrum bands at different locations and provide the ability to manipulate and analyze this data. Federal agencies also would benefit from this information as they consider sharing/relocation options. Additionally, it is critical for internal Commission teams to have robust data, including mapping, to understand coverage and operations across the country.

- Auction Application System (formerly known as Integrated Spectrum Auctions System (ISAS)) Enhancement/Modernization – The Commission must modify the application forms for participation in each auction in response to the auction’s unique requirements. Work to modernize the auction application system will provide for new implementations of the primary auctions application software, including providing the ability to customize the form to support future auctions based on novel license eligibility requirements and auction formats.
- Universal Licensing System (ULS) Modernization – The Commission must modernize its licensing database and infrastructure to implement complex new service rules, as well as eliminate the use of outdated technology and improve reliability, security, and access to data. The system modernization efforts will allow the FCC to better support new auctions, inventory existing auction licenses, and re-auction spectrum. Early in FY 2020, the Commission awarded a two-year contract to develop a modernized system for market-based licensing and gather requirements for the site-based and personal radio services. It is currently estimated that this modernization effort will take approximately four to five years to complete.

Pursuant to 47 U.S.C. §309(a), the Commission must provide its authorizing and appropriations committees in Congress with a detailed report of the FCC’s obligations in support of the auctions program for each fiscal year of operation. The following table shows available auction cash for recent fiscal years.

Spectrum Auctions Activities

Dollars in Thousands					
	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>
Beginning Cash Balance as of October 1	\$317,931	\$513,456	\$2,980,154	\$8,620,648	\$3,508,741
Current Year Net Cash	11,115,179	2,777,519	7,728,932	(3,929,722)	2,598,061
Less:					
Deferred Revenue as of September 30 ¹	(10,919,416)	(308,607)	(2,064,903)	(1,158,650)	(2,725,948)
Deposit Liability - Refunds as of September 30 ²	(238)	(2,214)	(2,214)	(2,214)	(2,214)
Accounts Payable ³	0	0	(21,321)	(21,321)	0
Available Cash as of September 30⁴	<u>\$513,456</u>	<u>\$2,980,154</u>	<u>\$8,620,648</u>	<u>\$3,508,741</u>	<u>\$3,378,640</u>

¹Cash associated with licenses that have not been granted as of stated date.

²Upfront auction deposits not refunded as of stated date.

³Remaining amount owed to the Incentive Auction Reverse Auction Winners.

⁴The FY 2017 amount includes approximately \$7 billion for deficit reduction when all the licenses from the incentive auction are granted. As of February 4, 2019, the Commission transferred a total of \$7.05 billion of earned auctions revenue from the incentive auction to the Public Safety Trust Fund.

Summary of Distribution of Resources - Spectrum Auctions Program

SPECTRUM AUCTIONS COST RECOVERY REIMBURSABLE AUTHORITY INCLUDING OFFICE OF INSPECTOR GENERAL

(Dollars in Thousands)

<u>Object Classification Description</u>	<u>FY 2019 Actual</u>	<u>FY 2020 Enacted</u>	<u>FY 2021 Estimates to Congress</u>
Personnel Compensation & Benefits:			
Full-time & Other than full-time Permanent (11.1 & 11.3)	\$27,330	\$28,394	\$29,386
Personnel benefits (12.0)	8,258	8,739	9,051
Subtotal - Personnel Compensation & Benefits	\$35,588	\$37,132	\$38,437
Other Expenses:			
Benefits for former personnel (13.0)	\$8	\$8	\$9
Travel & transportation of persons (21.0)	229	403	411
Transportation of things (22.0)	10	9	9
Rent payments to GSA (23.1)	5,961	6,175	5,150
Communications, utilities, & misc. charges (23.3)	2,179	2,751	2,803
Printing and reproduction (24.0)	174	184	187
Other services from non-Federal sources (25.2)	23,275	39,159	39,889
Other goods & services from Federal sources (25.3)	518	1,902	1,938
Operation & maintenance of equipment (25.7)	49,373	40,185	40,944
Supplies and materials (26.0)	3,832	4,492	4,579
Equipment (31.0)	1,006	131	134
Land and structures (32.0)	0	0	0
Insurance claims & interest (40.0)	34	5	5
Subtotal - Other Expenses	\$86,601	\$95,407	\$96,058
Total - Auctions Cost Recovery Reimbursable Authority	\$122,189	\$132,539	\$134,495

Spectrum Auctions Expenditures Report

Section 309(j) of the Communications Act permits the Commission to use funds raised from auctions to fund its auctions program, including contracts for services and costs related to personnel performing work in support of Commission auctions authorized under that section. The FCC's Office of General Counsel (OGC) and Office of Managing Director (OMD) provide direction to FCC employees attributing hours for this purpose. The House of Representatives and Senate Appropriations Committees review and set a yearly cap for the spectrum auctions program. The requested cap level for FY 2021 is \$134,495,000 to fund the following activities: further the objective of making more spectrum available for commercial use; continue post-BIA work to include the new additional requirements from the REA related to the TVBRF; upgrade and improve auctions infrastructure in preparation for future actions; and continue implementation of the Spectrum Pipeline Act of 2015 and certain provisions of the RAY BAUM'S Act. In addition, as the demand for spectrum for new technologies extends to spectrum bands previously assigned for legacy applications, creative approaches must be found to accommodate existing licensees and operations while expanding opportunities for access by new users.

The Commission's spectrum auctions program supports efficient licensing while also contributing significant funds to the U.S. Treasury for deficit reduction and providing direct support to other government programs. In particular, in the Middle-Class Tax Relief and Job Creation Act of 2012, Congress directed that proceeds from certain spectrum auctions, including auctions of licenses covering spectrum offered in the H-Block, AWS-3, and BIA, fund certain public safety-related programs and contribute to deficit reduction. Specifically, Congress directed that the net proceeds from these auctions, in addition to being used to reimburse Federal agencies for costs incurred as a result of sharing or relocating Federal spectrum assignments and to reimburse the relocation expenses of full power and Class A broadcast stations being repacked in the new TV Band following the BIA, be distributed as follows: \$135 million for a state and local First Responder Network Authority (FirstNet) implementation fund; \$7 billion for FirstNet build out; \$115 million for 911, E911, and NG911 implementation; \$300 million for public safety research; and \$20.4 billion plus any additional proceeds for deficit reduction.

As of December 2019, the Commission had raised over \$117 billion in auctions revenues since initiating the auctions program in 1994. During this period, auctions program expenses have been less than two percent of the Commission's total auctions revenues. The Commission operated the auctions program for nine years at \$85 million annually without any increase in funding, including increases for inflation. The FCC received increases in FYs 2013 through 2020 to fund the implementation costs for the BIA, REA and Spectrum Pipeline Act of 2015, and in FY 2016 to fund the necessary expenses associated with a headquarters move to a new facility to significantly reduce space consumption.

Spectrum auction planning, development, and implementation is performed agency-wide and is very information technology (IT) intensive, as reflected in our Auction Expenditure Justification Reports. For example, the Incentive Auction Task Force has drawn upon the resources and expertise of staff from across the Commission, including the Wireless Telecommunications Bureau, Media Bureau, International Bureau, Bureau of Consumer and Governmental Affairs, Office of Engineering and Technology, OMD, and OGC. Auctions funds also cover the program's share of Commission operating expenses. The Commission uses these funds to enable successful auctions and expends them in a manner consistent with statutory requirements.

Every auction is different and has specific requirements, which require careful attention to detail and planning. Since auction activities are performed agency-wide and are unique, allocating the appropriate amount of cost and overhead related to the auctions program is a challenge. In addition, the complexity of spectrum auctions has increased steadily as the Commission works through more difficult technical and policy issues. Preparation for spectrum auctions generally requires sufficient time to design, develop, and implement secure, reliable, and effective auction application, bidding, and post-auction licensing systems.

In the practice of cost accounting, costs are identified as one of the following: (1) direct cost, (2) indirect cost, or (3) generally allocated cost. The methodology for deriving the proportional share of generally allocated administrative costs to be charged to the auctions program is based on the Commission's time reporting system and Generally Accepted Accounting Principles. The allocation is based on the percentage of actual hours that employees worked to support the auction program plus the same proportional share of the employee's indirect hours (leave hours). This full time equivalent (FTE) rate is applied to costs that benefit the Commission as a whole. The items that are allocated by the FTE rate include Commission-wide IT systems, guard service, administrative facility services, supplies, furniture, equipment, and human resources training activities. The FCC has maintained an average of 14 percent for this purpose, with minor deviations.

A significant Commission auction focus in FY 2021 will be to continue post-broadcast incentive auction implementation. This work includes continuing to relocate (or "repack") 987 full power and Class A television stations and over 2,000 LPTV/translator stations with minimum disruption to the viewing public. We will also continue to make disbursements from the TVBRF to repacked full power and Class A TV stations and MVPDs, and, pursuant to the REA, to LPTV/translator stations and FM stations impacted by the post-auction repack that have become eligible for reimbursement as a result of the REA. The repacked full power and Class A television stations must vacate their pre-auction channels by July 2020, but there will be considerable continuing application review, cost reimbursement, and other transition processing required after that time for both full power and Class A stations, MVPDs, and LPTV/translator and FM stations. For example, LPTV/translator stations are not subject to the same construction deadlines as full power and Class A Stations, and a number of the full power and Class A stations who vacate their pre-auction channels are moving to interim facilities while they continue to construct their permanent facilities. Moreover, the reimbursement period for costs associated with the repack of full power and Class A stations and MVPDs, and the reimbursement of LPTV/translator stations and FM stations, is authorized by Congress to extend up to July 3, 2023.

Repacking involves reorganizing and assigning channels to the remaining broadcast television stations to create contiguous blocks of cleared spectrum suitable for flexible wireless use. The scope of the repacking component of this auction has made it a unique and computationally complex challenge that will continue to require substantial resources and engagement from the Commission until all stations are operating on their permanent facilities and the reimbursement process has been completed. Such active oversight of the process will continue to require Commission staff resources to coordinate with broadcasters to monitor broadcaster progress, identify and resolve transition-related problems and challenges, process applications, review and verify information, undertake and complete the ongoing reimbursement program and, as appropriate, conduct subsequent verifications and audits of the reimbursements. The transition also requires continued engagement of the Fund Administrator, which is overseen by Commission staff, to administer the

reimbursement of up to \$2.7 billion to the eligible broadcasters, MVPDs, LPTV/translator stations, and FM stations by reviewing cost estimates and invoices to prevent waste, fraud, and abuse.

In FY 2021, the Commission also will continue to focus on communications, education, and outreach efforts to all stakeholders in the BIA. The Incentive Auction Task Force, together with the Media Bureau and the Consumer and Governmental Affairs Bureau, will continue to provide informational materials and data for broadcast stations, MVPDs, wireless microphone operators, and unlicensed users affected by the transition. The Commission will also maintain troubleshooting guides for the Commission's existing consumer call center staff, and Consumer Q&As and Consumer Guides in multiple languages. For example, the Commission will maintain and update the comprehensive "Post-Auction Transition" section of its website that will serve as a single point of reference for all transition information for stakeholders and a "TV Rescan" landing page on its website that provides resources to assist consumers with rescanning their TVs, a consumer-friendly overview of the transition, answers common questions, and links to additional consumer resources. These efforts will continue to be maintained and updated throughout both the transition period ending in 2020 and reimbursement period ending no later than July 3, 2023.

In addition to these post-BIA efforts, the Commission continues to plan for future auctions, most notably planned and potential auctions related to reallocating bands made available in the Spectrum Frontiers proceeding to terrestrial wireless use, new auctions for Citizens Broadband Radio Service (CBRS) (3.5 GHz band) licenses and overlay licenses for white spaces in the 2.5 GHz band, possible reallocation of and auctions of licenses for a portion of the 3.7-4.2 GHz band licenses that may be made available under the Mobile Now Act, and auction of the spectrum required by the Spectrum Pipeline Act of 2015. Other auctions that may continue to be a focus for the Commission in FY 2021 include re-auctions of certain licenses previously offered and not won or returned to the Commission (including AWS-3 and unsold 600 MHz licenses from the BIA). The Commission will also continue to leverage auctions expertise and infrastructure to support reverse auctions that allocate Universal Service funding in an efficient and effective manner. Specifically, the Commission is planning to make available up to \$20.4 billion in the Rural Digital Opportunity Fund to bring fixed broadband to unserved locations and has announced a plan to make available up to \$9 billion in the 5G Fund to support deployment of mobile broadband in unserved areas. In addition, the Commission is continually working to update and modernize its auction bidding and application systems to improve their speed, flexibility, reliability, and security to support timely new auctions when additional spectrum that could be made available is identified.

In addition, in FY 2021, the Commission will continue implementation of the RAY BAUM'S Act, including working with NTIA to identify 255 megahertz of additional spectrum (subject to certain frequency and use requirements) for mobile and fixed broadband use; preparing annual reports on upcoming systems of competitive bidding; and coordinating with NTIA on initiatives related to incentivizing Federal agencies to share spectrum allocations, bidirectional sharing, and potential commercial wireless use in the 3100-3550 MHz bands; and monitoring post-auction operations in bands subject to spectrum sharing and/or transition to new flexible uses.

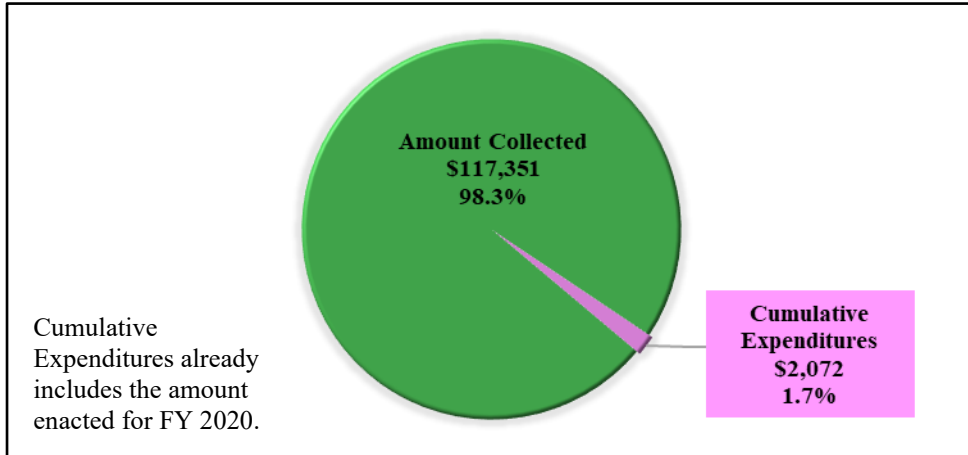
The actual and estimated FTE levels for the spectrum auctions program for FYs 2019 through 2021 are shown on page 15. At the end of the Spectrum Auctions section is a crosswalk showing how spectrum auctions program funds will be utilized in FY 2021.

The following two schedules provide some details of the spectrum auctions program since its inception in 1994. These schedules also provide some perspective into how much money was collected for the U.S. Treasury or for broader government use and the total cost for running the Commission's spectrum auctions program.

Spectrum Auctions and Collections Fiscal Years 1994 through December 2019

Fiscal Year	Number of Auctions	Number of Licenses Won	Amount Collected
1994	2	604	\$652,954,213
1995	2	129	8,234,321,194
1996	6	2,026	2,019,376,024
1997	4	1,614	2,205,922,232
1998	2	1,388	860,878,576
1999	6	1,693	499,598,688
2000	8	4,403	1,335,043,185
2001	4	3,447	583,599,901
2002	7	7,036	135,630,842
2003	7	3,144	77,121,620
2004	5	267	126,790,232
2005	6	2,803	2,208,332,556
2006	5	1,284	13,834,978,827
2007	5	293	163,429,971
2008	3	1,144	18,988,396,013
2009	2	115	5,695,861
2010	3	4,788	25,973,019
2011	3	126	31,493,200
2012	1	93	3,878,133
2013	2	3,197	5,783,780
2014	2	186	1,564,597,176
2015	2	1,611	41,756,297,008
2016	0	0	0
2017	1	2,776	19,306,458,498
2018	2	41	805,757
2019	3	5,880	2,723,513,065
Totals	93	50,088	\$117,350,869,571

Spectrum Auctions Program – Collections vs. Expenditures
Fiscal Years 1994 through December 2019
(Dollars in Millions)



Crosswalk - Summary of Changes for Spectrum Auctions Program

(Dollars in Thousands)

	FY 2020 Enacted	FY 2020 Pay Increase from CY 2020	FY 2021 Rent Decrease to Base	FY 2021 Pay Increase from CY 2020	FY 2021 1% Across-the-Board Base Pay Raise	Non-Salary Inflationary Increase ¹	FY 2021 Estimates to Congress
Consumer & Governmental Affairs Bureau	\$378	\$0	\$0	\$0	\$0	\$7	\$385
International Bureau	\$204	\$0	\$0	\$0	\$0	\$4	\$208
Media Bureau	\$12,000	\$0	\$0	\$0	\$0	\$226	\$12,226
Wireless Telecommunications Bureau	\$5,744	\$0	\$0	\$0	\$0	\$108	\$5,853
Office of Administrative Law Judges	\$1	\$0	\$0	\$0	\$0	\$0	\$1
Office of Economics and Analytics	\$8,927	\$0	\$0	\$0	\$0	\$168	\$9,096
Office of General Counsel	\$1	\$0	\$0	\$0	\$0	\$0	\$1
Office of Managing Director	\$67,975	\$0	-\$1,120	\$	\$0	\$1,254	\$68,109
Office of Media Relations	\$24	\$0	\$0	\$0	\$0	\$0	\$24
Office of Workplace Diversity	\$13	\$0	\$0	\$0	\$0	\$0	\$13
Compensation & Benefits	\$37,134	\$768	\$0	\$256	\$281	\$0	\$39,463
Office of Inspector General	\$137	\$0	\$0	\$0	\$0	\$3	\$140
TOTAL	\$132,539	\$768	-\$1,120	\$256	\$281	\$1,771	\$134,495

¹Represents estimated non-salary inflationary increase of approximately 2%.

ECONOMY ACT REIMBURSABLE AGREEMENTS

The Economy Act provides authority for Federal agencies to order goods and services from other Federal agencies and be reimbursed for costs of those goods and services. An interagency agreement is an arrangement in which one agency (Servicing Agency) provides goods or services to another agency (Requesting Agency) and receives reimbursement of costs incurred. Agencies can use interagency agreements to conduct a wide variety of operations. Interagency agreements can be routine in nature, involve the acquisition of goods or services necessary to maintain agency operations, or support a specific program.

As the Servicing Agency, the Commission enacted \$4.0 million in Economy Act Reimbursable Agreements with other Federal agencies in FY 2020. The Commission estimates that in FY 2021, the FCC's interagency reimbursable agreements will remain consistent at approximately \$4.0 million.

This page is intentionally left blank

FEE COLLECTIONS

This page is intentionally left blank

Regulatory Fees

Pursuant to 47 U.S.C. § 159, the Commission annually collects regulatory fees and retains them for Commission use to offset certain costs incurred by the Commission to carry out its functions.

These regulatory fees apply to the current holders of licenses with the FCC as of a specific date and to other entities (e.g., cable television systems) which benefit from Commission regulatory activities that are not directly associated with the FCC's application processing functions.

The regulatory fees do not apply to governmental entities, amateur radio operator licensees, nonprofit entities holding tax exempt status under section 501(c) of the Internal Revenue Code, 26 U.S.C. § 501, and certain other non-commercial entities.

Under the provisions of 47 U.S.C. § 159, the Commission has the authority to review its regulatory fees and to adjust the fees to reflect changes in its appropriation from year to year. The FCC may also add, delete, or reclassify services under certain circumstances. Additionally, pursuant to 47 U.S.C. § 159a, the Commission may charge up to a 25% late payment penalty and dismiss applications or revoke licenses for non-payment of the fees; the Commission may also waive, reduce, or defer payment of a fee for good cause.

The Commission originally implemented the Regulatory Fee Collection Program by rulemaking on July 18, 1994. The most recent regulatory fee order was released by the Commission on August 27, 2019.

Availability of Regulatory Fees

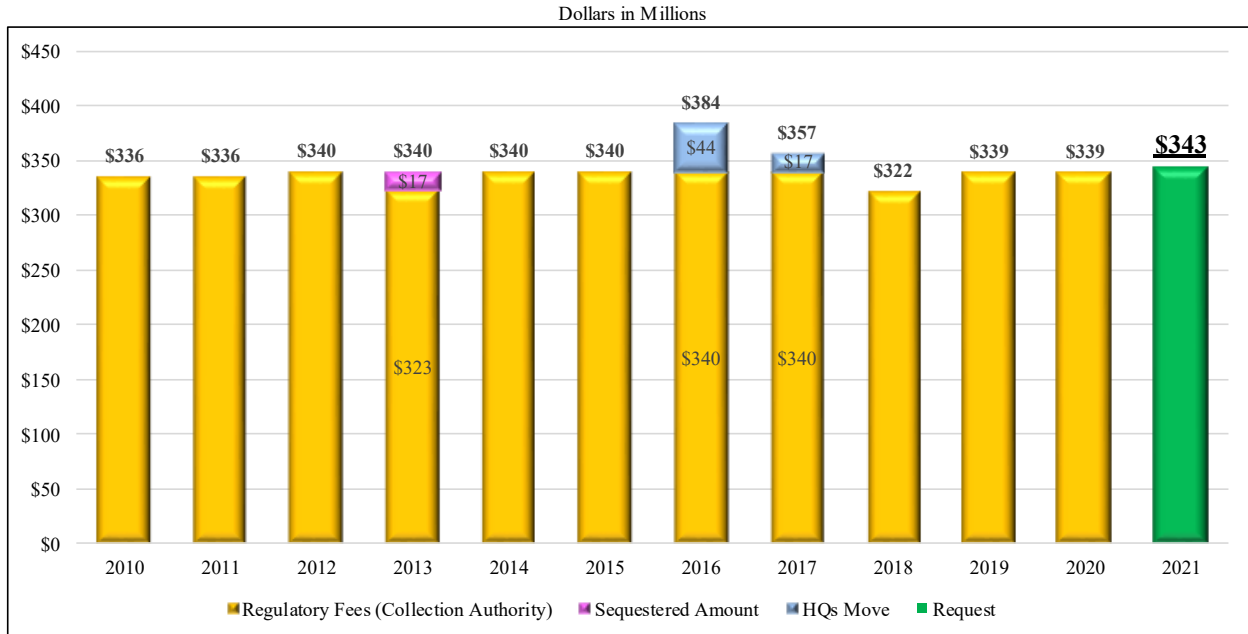
The RAY BAUM'S Act of 2018 (2018 Act) requires the Commission to transfer all excess collections to the General Fund of the U.S. Treasury for the sole purpose of deficit reduction. On October 1, 2019, the Commission transferred over \$13.7 million in excess collections from FY 2019 to the General Fund of the U.S. Treasury to be used for deficit reduction.

The Commission receives an annual Salaries and Expenses appropriation. On March 1, 2013, the Office of Management and Budget (OMB) issued a report to Congress on sequestration for FY 2013. For the FCC, this translated into a \$17 million reduction in new budgetary authority. The sequestered amount is currently maintained in the Commission's no-year account, which indicates that the unobligated balances brought forward exclude \$17 million in unavailable balances of funds temporarily sequestered in FY 2013.

The FY 2021 request level for regulatory fees is \$343.07 million, which is an increase of \$4.07 million or 1.2 percent from the FY 2020 appropriated level of \$339 million. These regulatory fee levels will support Commission-wide goals that will allow the Commission to serve the American public in an efficient, effective, and responsive manner. The distribution of budget authority from offsetting collections from regulatory fees is illustrated in the following graph.

Historical Distribution of Appropriated Budget Authority – Regulatory Fees

The following graph depicts the historical distribution of appropriated budget authority since FY 2010.

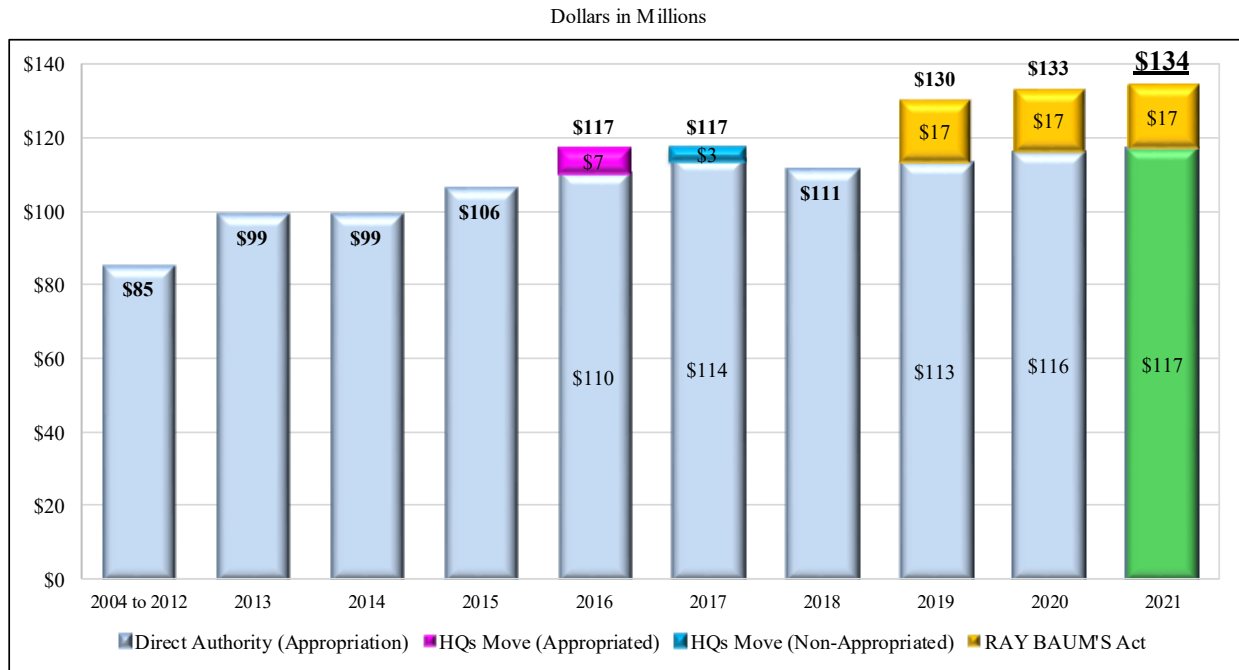


For FYs 2016 and 2017, \$44 million and \$17 million, respectively, represent amounts provided for the necessary expenses associated with moving the FCC headquarters to a new facility to significantly reduce space consumption.

In FY 2013, FCC's appropriated budget authority was reduced by \$17 million due to the FY 2013 sequestration order implemented on March 1, 2013 as required by the Budget Control Act of 2011. The total amount shown for FY 2013 in the above graph includes the \$17 million sequestered amount.

Historical Appropriated Budget Authority – Spectrum Auctions Program

The following graph depicts the historical appropriated budget authority for the spectrum auctions program since FY 2004.



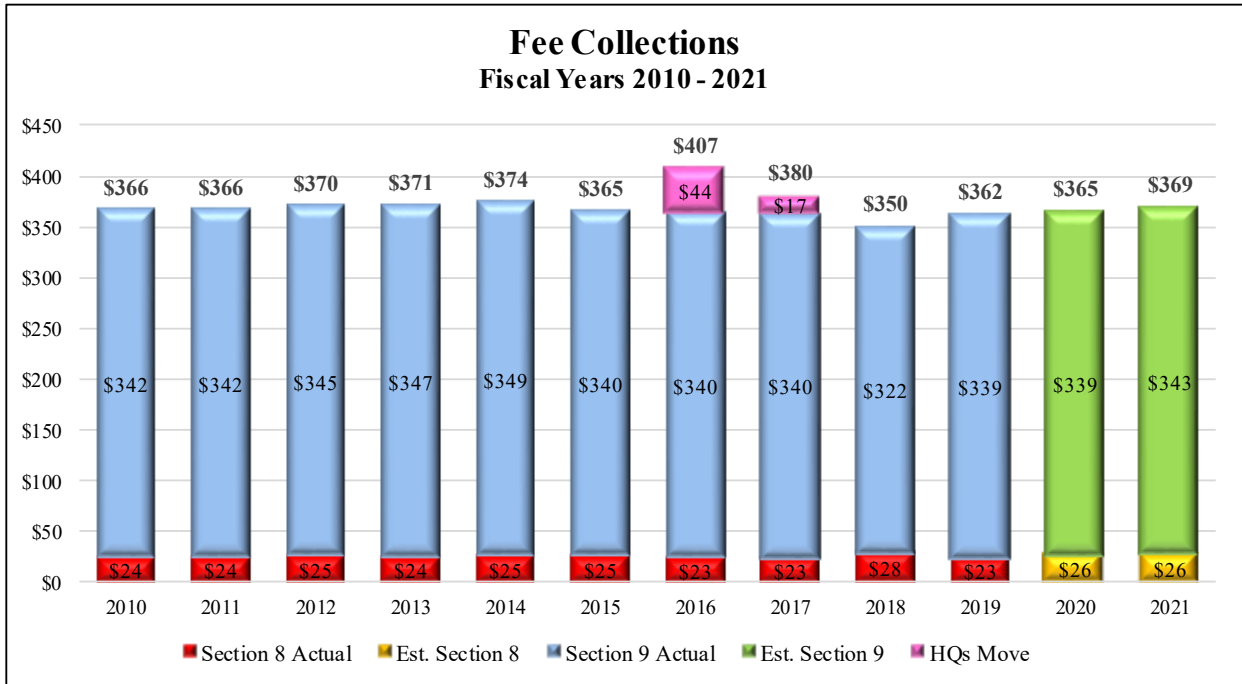
The FY 2021 column represents amount requested.

For FY 2016, \$7 million represents an amount provided by appropriation for the necessary expenses associated with moving the FCC headquarters to a new facility to significantly reduce space consumption. For FY 2017, \$3 million represents an amount the Commission reserved to ensure adequate funds are available based on GSA's initial estimates.

Application Processing Fees

Pursuant to 47 U.S.C. § 158, since FY 1987, the Commission has collected and deposited application processing fees, often referred to as Section 8 fees, into the General Fund of the U.S. Treasury. These fees are intended to recover a substantial portion of the costs of the Commission's application processing functions. The program encompasses over 300 different fees, with the vast majority collected at the time an original license application, renewal, or request for modification is filed with the Commission. Most fees are assessed as a one-time charge on a per-application basis, although there are certain exceptions.

Government, nonprofit, non-commercial broadcast, and amateur license applicants are exempt from the fees. A commercial bank is used to collect the fees, with all fees deposited into the General Fund of the U.S. Treasury. Once deposited, these fees are generally not refundable regardless of the outcome of the application process. The Commission must review and revise the fees every two years based upon changes to the Consumer Price Index (CPI). The most recent Order increasing application fees to reflect changes in the CPI index was adopted by the Commission on July 6, 2018 and released on July 10, 2018. This adjustment complies with the statutory formula set forth in Section 8(b). Application Processing Fee Collections (Section 8) and Regulatory Fee collections are summarized in the following graph.



For FYs 2016 and 2017, \$44 million and \$17 million, respectively, represent amounts provided for the necessary expenses associated with moving the FCC headquarters to a new facility to significantly reduce space consumption.

The RAY BAUM'S Act of 2018 substantially amended Section 8 of the Communications Act (47 U.S.C. § 158) and provided an effective date of October 1, 2018 for those changes. Congress provided that application fees in effect on the day before the effective date of the RAY BAUM'S Act shall remain in effect until such time as the Commission adjusts or amends such fees. Moving forward after October 1, 2018, the Commission's next amendment of the schedule of application fees will be based on the updated requirements in Section 8 of the Communications Act as amended by the RAY BAUM'S Act.

PERFORMANCE PLAN

This page is intentionally left blank

PERFORMANCE PLAN

Mission

As specified in section one of the Communications Act of 1934, as amended, the Federal Communications Commission's (FCC or Commission) mission is to "make available, so far as possible, to all the people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex, rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges."⁴ In addition, section one provides that the Commission was created "for the purpose of the national defense" and "for the purpose of promoting safety of life and property through the use of wire and radio communications."⁵

Vision Statement

The FCC's vision is to develop a regulatory environment to encourage the private sector to build, maintain, and upgrade next-generation networks so that the benefits of advanced communications services are available to all Americans. The FCC will work to foster a competitive, dynamic and innovative market for communications services through policies that promote the introduction of new technologies and services and ensure that Commission actions promote entrepreneurship and remove barriers to entry and investment. The Commission will also strive to develop policies that promote the public interest, improve the quality of communications services available to those with disabilities, and protect public safety.

About the Federal Communications Commission

The FCC is an independent regulatory agency of the United States Government. The FCC is charged with regulating interstate and international communications by radio, television, wire, satellite, and cable. The Commission also regulates telecommunications and advanced communication services and video programming for people with disabilities, as set forth in various sections of the Communications Act.

The FCC is directed by five Commissioners appointed by the President and confirmed by the Senate for five-year terms, except when filling the unexpired term of a previous Commissioner. Only three Commissioners can be from the same political party at any given time. The President designates one of the Commissioners to serve as Chairman.

The FCC is organized by function. There are seven Bureaus and ten Offices. The Bureaus and the Office of Engineering and Technology process applications for licenses to operate facilities and provide communications services; analyze complaints from consumers and other licensees; conduct investigations; develop and implement regulatory programs; and organize and participate in hearings and workshops. Generally, the Offices provide specialized support services. The Bureaus and Offices are:

- **The Consumer & Governmental Affairs Bureau** develops and implements consumer policies, including disability access and policies affecting Tribal nations. The Bureau serves as the public face of the Commission through outreach and education, as well as responding to consumer inquiries and informal complaints. The Bureau also maintains collaborative partnerships with state, local, and

⁴ 47 U.S.C. § 151.

⁵ *Id.*

Tribal governments in such critical areas as emergency preparedness and implementation of new technologies. In addition, the Bureau's Disability Rights Office provides expert policy and compliance advice on accessibility with respect to various forms of communications for persons with disabilities.

- **The Enforcement Bureau** enforces the Communications Act and the FCC's rules. It protects consumers, ensures efficient use of spectrum, furthers public safety, promotes competition, resolves intercarrier disputes, and protects the integrity of FCC programs and activities from fraud, waste, and abuse.
- **The International Bureau** administers the FCC's international telecommunications and satellite programs and policies, including licensing and regulatory functions. The Bureau promotes pro-competitive policies abroad, coordinating the FCC's global spectrum activities and advocating U.S. interests in international communications and competition. The Bureau works to promote high-quality, reliable, interconnected, and interoperable communications infrastructure on a global scale.
- **The Media Bureau** recommends, develops, and administers the policy and licensing programs relating to electronic media, including broadcast, cable, and satellite television in the United States and its territories.
- **The Public Safety & Homeland Security Bureau** develops and implements policies and programs to strengthen public safety communications, homeland security, national security, emergency management and preparedness, disaster management, and network reliability. These efforts include rulemaking proceedings that promote more efficient use of public safety spectrum, improve public alerting mechanisms, enhance the nation's 911 emergency calling system, and establish frameworks for communications prioritization during crisis. The Bureau also maintains 24/7 operations capability and promotes Commission preparedness to assist the public, first responders, the communications industry, and all levels of government in responding to emergencies and major disasters where reliable public safety communications are essential. Finally, the Bureau coordinates the Commission's national security mission and consults with the Defense Commissioner pursuant to 47 CFR § 0.181 of the Commission's rules.
- **The Wireless Telecommunications Bureau** is responsible for wireless telecommunications programs and policies in the United States and its territories, including licensing and regulatory functions. Wireless communications services include cellular, paging, personal communications, mobile broadband, and other radio services used by businesses and private citizens.
- **The Wireline Competition Bureau** develops, recommends, and implements policies and programs for wireline telecommunications, including fixed (as opposed to mobile) broadband and telephone landlines, striving to promote the widespread development and availability of these services. The Bureau has primary responsibility for the Universal Service Fund which helps connect all Americans to communications networks.
- **The Office of Administrative Law Judges** is composed of one judge (and associated staff) who presides over hearings and issues decisions on matters referred by the FCC.

- **The Office of Communications Business Opportunities** promotes competition and innovation in the provision and ownership of telecommunications services by supporting opportunities for small businesses as well as women and minority-owned communications businesses.
- **The Office of Economics and Analytics** is responsible for expanding and deepening the use of economic analysis into Commission policy making, for enhancing the development and use of auctions, and for implementing consistent and effective agency-wide data practices and policies. The Office also manages the FCC's auctions in support of and in coordination with the FCC's Bureaus and Offices.
- **The Office of Engineering and Technology** advises the FCC on technical and engineering matters. This Office develops and administers FCC decisions regarding spectrum allocations and unlicensed devices and coordinates use of the spectrum with the Executive Branch. The Office also grants equipment authorizations and experimental licenses.
- **The Office of the General Counsel** serves as the FCC's chief legal advisor.
- **The Office of the Inspector General** conducts and supervises audits and investigations relating to FCC programs and operations.
- **The Office of Legislative Affairs** serves as the liaison between the FCC and Congress, as well as other Federal agencies.
- **The Office of the Managing Director** administers and manages the FCC.
- **The Office of Media Relations** informs the media of FCC decisions and serves as the FCC's main point of contact with the media.
- **The Office of Workplace Diversity** ensures that the FCC provides employment opportunities for all persons regardless of race, color, sex, national origin, religion, age, disability, or sexual orientation.

Strategic Goals

The FCC is responsible to Congress and the American people for ensuring a vibrant competitive marketplace driven by policies that create an environment for innovation, investment, better products and services for consumers, lower prices, more job creation, and faster economic growth. The FCC must also provide leadership to assure that the communications needs of public safety officials are met; promote the universal availability and deployment of broadband and telecommunications services; make communications services accessible to all people; and protect and empower consumers in the communications marketplace. For fiscal year (FY) 2018, the Commission revised its strategic goals to reflect the agency's focus on expanding broadband deployment and promoting innovation in the communications marketplace. The Commission's strategic goals are:

1. Closing the Digital Divide
2. Promoting Innovation
3. Protecting Consumers & Public Safety
4. Reforming the FCC's Processes

What the FCC Commits to Accomplish in FY 2021

To implement its strategic goals, the FCC has identified several underlying strategic objectives. Each strategic objective has associated performance goals and targets.

Strategic Goal 1: Closing the Digital Divide

Strategic Objective 1.1: Expand broadband deployment in all parts of the country, including hard-to-serve areas, rural areas, and Tribal lands, and reduce the digital divide across America by creating a light-touch regulatory environment that maximizes private sector investment in broadband.

Performance Goals and Targets:

- 1.1.1 Expand facilities-based competition among providers of voice, data, and other communications services, domestic and international, by adopting pro-competitive rules.
 - Continue to promote, and defend an Internet free from unnecessary regulatory requirements, in order to facilitate innovation and investment in the markets for broadband services.
 - Collect broadband deployment data and provider certifications in the Digital Opportunity Data Collection, which is a new data collection that will allow the Commission to more accurately target universal service support to promote competition and deploy broadband by collecting more precise, granular broadband availability data, including a mechanism for incorporating public feedback into the maps.
 - Ensure data collected and used to monitor voice and broadband marketplaces through the Digital Opportunity Data Collection, FCC Form 477 and other avenues are accurate, reliable and useful to the Commission, Congress, the industry, and the public by analyzing data after each filing to identify potential issues and conducting outreach with filers as appropriate to clarify or resolve them.
 - Work to eliminate unnecessary rate regulation through rulemaking proceedings.
 - Continue working with the Federal-State Joint Board on Separations to update the FCC's rules to better reflect prior deregulatory actions.

- Continue reviewing and investigating tariffed rates to ensure that they are just and reasonable.
 - Continue working to advance resolution of the proposals raised in the 8YY Reform Notice of Proposed Rulemaking.
 - Promote the understanding and analysis of communications marketplaces by making FCC data accessible, current, and easy to use.
- 1.1.2 Ensure that broadband networks are deployed to all American consumers, including those in rural, insular, and high cost areas.
- Implement rules and procedures designed to expand broadband service to unserved Tribal areas, consistent with the requirements of the RAY BAUM’S Act.
 - Disseminate information to Tribal leaders and communities that enables them to participate in the development of and to benefit from policies designed to expand broadband deployment and adoption.
 - Award support and monitor progress to achieve a robust and resilient voice and broadband network in Puerto Rico and the U.S. Virgin Islands.

Strategic Objective 1.2: Reduce and remove regulatory burdens and barriers to infrastructure investment and provide opportunities for innovation in broadband services and technologies by developing a flexible approach that will modernize, reform, and simplify the Universal Service Fund (USF) programs to facilitate affordable broadband deployment.

Performance Goals and Targets:

- 1.2.1 Efficiently support broadband deployment where it is most needed by implementing USF reverse auctions that use market-based funding mechanisms that are grounded in sound economics.
- Commence a reverse auction to award support for high-speed fixed broadband-capable networks through the \$20 billion Rural Digital Opportunity Fund.
 - Implement measures to promote greater program efficiencies, certainty, and predictability for rate-of-return carriers.
 - Support the Commission’s broadband deployment efforts by disseminating information about the auctions process, particularly to small, women, and minority-owned communications businesses.
- 1.2.2 Decrease the cost and expedite the construction of next-generation networks by removing regulatory barriers to broadband deployment.
- Accelerate the deployment of modern infrastructure by streamlining the regulatory processes that govern that deployment.
 - Work collaboratively with Tribal Nations and intergovernmental organizations to implement new rules for streamlining historical and environmental reviews to balance the assessment and remediation of significant impacts with the reduction of unnecessary economic burdens on companies deploying infrastructure needed to close the digital divide for American consumers.
 - Take steps during FY 2021 to continue implementing the deregulatory framework of the Business Data Services (BDS) Order.

- Continue working to advance resolution of rulemaking proceedings addressing access charge reforms that may reduce carriers' incentives to continue to rely on Time Division Multiplexing (TDM)-based services.
- Ensure that the network change notification process does not impose unnecessary burdens when carriers retire legacy copper facilities and transition to next-generation fiber networks by mandating the use of the Commission's current procedures and requiring complete and timely copper retirement filings to facilitate incumbent local exchange carrier (LEC) network changes consistent with each carrier's copper retirement plan.
- Implement an interagency coordination process for Federal agencies that have submarine cable-related permits and licenses to facilitate timely deployment and protection of submarine cable infrastructure during FY 2021.

Strategic Objective 1.3: Reduce the digital divide and bring the benefits of the digital age to all Americans by ensuring that effective policies utilizing basic principles of economics are in place to promote entrepreneurship and expand economic opportunity.

Performance Goals and Targets:

1.3.1 Ensure appropriate assessment of costs and benefits of actions taken to reduce the digital divide, promote entrepreneurship, and bring the benefits of broadband to all Americans by incorporating improved economic analysis into Commission items that address these topics.

- Develop rules or procedures to ensure that the distribution of universal service support for mobile services takes into account economic challenges to mobile wireless infrastructure deployment in rural America.
- Evaluate feedback by stakeholder groups regarding opportunities to streamline or eliminate infrastructure siting requirements.
- Continue to facilitate streamlined government regulation of wireless infrastructure deployment to reduce the costs of deployment; provide market-driven incentives for private sector investment in greater coverage and capacity of networks; and work with state and local governments to better align regulations and fees on new wireless infrastructure with the costs of protecting legitimate local interests in land management and public safety.

1.3.2 Foster an environment that will encourage participation in broadband markets by new and non-traditional participants.

- Create certainty among providers that receive high-cost support by administering a process to adjust deployment obligations, consistent with the actual number of locations in a supported service area.
- Continue working on reforming the existing intercarrier compensation regime to reduce or eliminate rules that may be discouraging investment in newer, non-TDM-based technologies.
- Administer funding to CAF II auction winners using a variety of technologies to provide broadband and voice services in high-cost areas.
- Establish rules and procedures that will support the preservation and expansion of mobile wireless voice and broadband services by a variety of mobile providers in rural America.
- Act on pending non-geostationary and geostationary broadband satellite system and earth station applications and streamline the rules that apply to the operation of those systems by the end of FY 2021.

- Implement newly adopted rules in the “small satellite” proceeding to facilitate the deployment of services from small satellites by the end of FY 2021.
- Implement changes to streamline and make more transparent Executive Branch review of applications with reportable foreign ownership to expedite FCC action on such applications by the end of FY 2021.
- Host a workshop to disseminate information about the digital divide and related issues, with a focus on small, women, and minority-owned communications businesses.
- Provide Tribal governments with information that will enable them to identify opportunities to participate in broadband markets, and to evaluate alternative models for structuring that participation.

Strategic Objective 1.4: Reduce the digital divide, create incentives for providers to connect consumers in hard-to-serve areas, meet consumer demand for mobile connectivity, and bring the benefits of communications services to all Americans by developing and implementing flexible, market-oriented policies related to the assignment and use of spectrum.

Performance Goals and Targets:

- 1.4.1 Encourage facilities-based competition, continue to embrace a flexible use policy for spectrum, and free up spectrum for mobile broadband by pursuing spectrum allocation and license assignment policies to achieve the effective and efficient use of spectrum.
- Adopt service rules for licensing of additional bands of millimeter-wave spectrum, mid-band spectrum, and other spectrum to facilitate deployment of next-generation services.
 - Hold two spectrum auctions to make more spectrum available for 5G, the next generation of wireless connectivity, including an auction of 280 megahertz of spectrum in the C-band (3.7-4.2 GHz).
 - Ensure that the FCC’s decision-making process includes, where appropriate, consultation with Tribal Nations regarding potential impact and concomitant new and enhanced opportunities and outcomes of spectrum allocation and license assignment policies.
 - Review internal proposals to improve the efficiency of spectrum use.
 - Promote compliance with rules designed to maximize the effective and efficient use of spectrum by taking enforcement action in appropriate cases.
 - Make timely progress on potential repurposing of Federal spectrum to commercial use by processing of all Spectrum Pipeline Plans submitted by Federal agencies for potential relocation of their radio operations to other bands within 120 days.
 - Meet the statutory requirements of the MOBILE NOW Act by evaluating and reporting on spectrum use on a timely basis and repurposing and reallocating spectrum to support next generation mobile broadband.
 - Support the Commission’s spectrum use efforts by disseminating information about the assignment and use of spectrum to small, women, and minority-owned communications businesses.
 - Take final action on all outstanding requests for changes to the incentive auction plan in the border areas with Mexico during FY 2021.
- 1.4.2 Continue post-incentive auction (IA) repacking and reimbursement efforts for broadcasters.

- Continue post-IA broadcast transition for full power, Class A stations that received new channel assignments as a result of the IA, the FM broadcast stations implicated by the transition of full power and Class A stations, and the low power (LPTV) and TV translator stations provided displacement relief as a result of the repack in order to make spectrum available for deployment of mobile broadband services by carriers who purchased it in the IA.
- Continue licensing for full power, Class A, LPTV, and TV translator stations assigned to new channels in the post-incentive auction repack or displaced by the repack.
- Continue administering reimbursements from the \$2.75 billion TV Broadcaster Relocation Fund for eligible costs incurred by full power, Class A, LPTV, TV translator and FM stations, and multichannel video programming distributors in a manner that assures prompt payment, equity, and fairness among eligible stations, and minimizes the possibility of waste, fraud, and abuse.
- Continue to investigate, verify, and initiate actions on potential violations of the post-IA reimbursement rules.
- Continue implementation of a comprehensive consumer education strategy, using the funds provided by Congress as well as existing resources and staff, to ensure such consumers are made aware of and can take the steps necessary to continue to receive their local TV stations once they transition to their new channels, including rescanning over-the-air television sets.

1.4.3 Conduct effective and timely spectrum licensing and equipment authorization activities.

- Resolve at least 8,000 applications filed by television and radio licensees during FY 2021.
- Continue the review process of television and radio stations seeking to renew their licenses for another 8-year term by requiring all stations in at least 15 states to file renewal applications by set deadlines.
- Undertake pre-auction planning and implementation efforts to support auctions of available broadcast construction permits.
- Resolve 90% of equipment authorization inquiries in less than 30 days to ensure timely authorization of innovative and compliant products in the marketplace.
- Conduct semi-annual meetings with Telecommunication Certification Bodies to review test procedures and provide training on new technologies.
- Take enforcement action in appropriate cases against violations of spectrum-related rules, such as interference, unauthorized use of frequencies, and marketing of unauthorized equipment.
- Investigate and prioritize actions on allegations of violations of the Commission's spectrum licensing and equipment authorization rules and take appropriate enforcement action on 95% of apparent violations within one year.
- Process at least 95% of routine spectrum license applications within 90 days of receipt.

Strategic Objective 1.5: Reduce the digital divide by building awareness about the benefits of connectivity and providing consumers with education and the information necessary to drive greater broadband adoption.

Performance Goals and Targets:

- 1.5.1 Launch a national consumer awareness and education campaign focusing on broadband adoption with specific emphasis on populations where adoption lags.
- Create a series of new, innovative, and accessible guides, animated videos, and publications, including translation for low English proficiency populations.
 - Develop an outreach program of events and webinars, and email messaging campaigns to build awareness and knowledge about the benefits of broadband in rural and other underserved communities.
- 1.5.2 Launch geographically locally-focused and targeted programs of consumer outreach activities and events based on the Rural Digital Opportunity Fund Auction and other carrier commitments to the Commission for new deployment in specific areas based on USF high-cost support mechanisms.
- Coordinate the timing of geographically-focused micro-outreach campaigns in concert with new carrier deployment.
 - Develop an outreach program of events, local partnership engagements, email campaigns, and webinars to build awareness and knowledge about the benefits of broadband in areas where new carrier deployment has or soon will occur.

Strategic Goal 2: Promoting Innovation

Strategic Objective 2.1: Ensure flexibility in the decision-making process and advance the networks of the future and the innovative new products and services that take advantage of those networks, by removing barriers to innovation and investment.

Performance Goals and Targets:

- 2.1.1 Allow television broadcasters to innovate, leverage the power of the Internet, and fully enter the digital era by implementing the next generation broadcast standard.
- Encourage broadcaster innovation in delivering new services, including hybrid services involving both broadband and broadcasting delivery.
 - Continue to accept applications from television broadcasters seeking to use the Next Generation TV transmission standard, ATSC 3.0, on a voluntary, market-driven basis.
 - Review existing media rules in light of the current media environment and update as necessary to remove barriers to innovation and investment.
- 2.1.2 Foster innovation and promote the efficient use of spectrum by ensuring a competitive and vibrant unlicensed ecosystem.
- Authorize the use of more spectrally efficient technologies and identify additional frequency bands for unlicensed operations.
 - Initiate action on 50% of incoming waiver requests within 6 months, and 90% within one year.

- Promote innovative uses of unlicensed technologies in mid-band spectrum.

2.1.3 Allow new services and technologies to come to market by expediting processes.

- Adopt comprehensive update of Commission rules regarding orbital debris standards and practices by the end of FY 2021.
- Approve regional recommendations in the International Telecommunications Union promoting harmonized frequency arrangements for mobile broadband systems providing economies of scale and facilitating deployment and cross-border coordination.
- Advance studies in the International Telecommunications Union that support U.S. industry priorities and foster an international regulatory environment for the development of new technologies and radiocommunication services in preparation for the next World Radiocommunication Conference.
- Implement changes to streamline and make more transparent Executive Branch review of applications with reportable foreign ownership to expedite FCC action on such applications by the end of FY 2021.
- Enhance effective collaboration with other Federal agencies to foster the innovative use of existing spectrum through the introduction of new technologies and services.

Strategic Objective 2.2: Take targeted action to address real problems in the marketplace instead of imposing broad, preemptive regulations to address hypothetical harms.

Performance Goals and Targets:

2.2.1 Promote a flexible approach to oversight and foster investment in 5G networks by considering actions that address problems in the marketplace. Decisions will be fact-based, relying on economic analysis, ongoing fact-gathering initiatives and data analysis.

- Adopt an item making additional mid-band spectrum available for wireless broadband development.
- Hold two spectrum auctions to make more spectrum available for 5G.
- Investigate allegations of spectrum interference and take appropriate enforcement action on 95% of apparent rules violations within one year.

2.2.2 Promote investment in infrastructure and 5G networks by eliminating unnecessary administrative burdens.

- Work with the Advisory Council on Historic Preservation to propose implementation of a program comment to streamline compliance with or eliminate certain requirements of the National Historic Preservation Act reviews of certain wireless infrastructure deployments.

2.2.3 Work to promote a high-quality, globally interconnected communications infrastructure through international telecommunications and satellite programs and policies.

- Work with the Commission's counterparts in other countries and advise on best practices in communications policy.

- In coordination with other Federal agencies, develop and advance spectrum proposals for the next World Radio Conference (WRC) and take initial steps necessary to implement the results of the WRC-19 during FY 2021.
- In coordination with other Federal agencies, seek to promote policies that are consistent with FCC regulatory rules and policies at the International Telecommunication Union.
- In coordination with other Federal agencies, encourage other countries to use only trusted vendors when developing 5G networks.
- Streamline and update rules for licensing submarine cables to facilitate timely deployment of undersea broadband facilities during FY 2021.

Strategic Goal 3: Protecting Consumers and Public Safety

Strategic Objective 3.1: Improve communications services for all Americans, including those with disabilities, by developing and implementing an aggressive consumer agenda.

Performance Goals and Targets:

3.1.1 Implement proposals to target and eliminate unlawful telemarketing and robocalling.

- Ensure voice service provider implementation of SHAKEN/STIR Caller ID authentication framework to reduce high-impact fraudulent robocalls.
- Ensure that the SHAKEN/STIR Caller ID authentication framework is implemented in a manner that combats unlawful robocalling but also protects consumer privacy and the ability to make lawful calls.
- Facilitate the development of solutions that identify the makers of robocalls, mechanisms for caller ID validation, and tools to reduce high-impact fraudulent robocalls.
- Implement measures to combat unlawful robocalling while also protecting consumer privacy and the ability to make lawful calls by consulting with industry groups to monitor the governance structures and implementation of call authentication mechanisms.
- Increase, diversify and distribute print and online consumer education materials focusing on emerging and existing scams, by identifying partners and potential partners for distribution of materials in assorted community venues (e.g., libraries, schools).
- Work with other Federal agencies, as well as state and local governments, on combatting unlawful robocalls.
- Investigate allegations about violations of rules designed to protect consumers, including robocalls; take appropriate enforcement action on 95% of apparent violations within one year.
- Coordinate and share best practices with other countries on combatting unlawful robocalls.
- Reduce financial incentives to engage in robocalling by working with all carriers requesting assistance with tariff and contract revisions consistent with reforms to toll-free access charges.
- Reduce incentives to engage in phantom robocalling to toll-free numbers by adopting and/or implementing proposals to reform toll-free access charges.
- Conduct a comprehensive program of consumer education and awareness activities to reach consumers (through outreach events, train-the-trainer sessions, and establishment of strategic partnerships with community-serving entities) to identify and combat unlawful telemarketing and robocalls and to develop means to report illegal telemarketing and robocalls to provide the Commission with a more complete, real-time data set about the prevalence of such calls.

3.1.2 Improve the quality of telecommunications relay services to make them more functionally equivalent to voice services available to hearing individuals.

- Develop Video Relay Services (VRS) and Internet Protocol Captioned Telephone Service (IP CTS) performance goals and service quality metrics by the end of FY 2021.
- Decide applications and shift conditional certification for Internet-based Telecommunications Relay Service (TRS) providers to permanent status in FY 2021.
- Investigate complaints involving violations of the Commission's TRS rules and take appropriate enforcement action on 95% of apparent violations within one year.

3.1.3 Work with stakeholders to ensure that Commission proceedings consider and identify consumer protection issues and policies across different technologies and market sectors.

- Provide consumers with up-to-date, user-friendly online, print, and video publications concerning their rights, responsibilities, and service options so that they can make informed decisions.
- Leverage language translation capacity to target consumer education materials, campaigns, and alerts for multi-lingual audiences.
- Monitor trends in consumer complaints and work with interested consumer, industry, and government stakeholders to identify marketplace practices that negatively affect consumer interests and competition.
- Conduct quarterly dialogue sessions in FY 2021 with representatives of national, regional, Tribal, and local consumer advocacy organizations to socialize new and existing Commission consumer-oriented policies and develop future areas for collaboration on consumer protection issues and policies. Such sessions can be in the form of webinars that focus on separate Commission consumer initiatives and policies.

3.1.4 Implement actions to ensure that individuals with disabilities can access video programming.

- Ensure that transitions to new standards, such as Advanced Television Systems Committee (ATSC) 3.0, continue to provide consumers with disabilities with access to video programming through closed captioning, video description, accessible emergency information, and accessible user interfaces.

Strategic Objective 3.2: Support the ability of first responders, including law enforcement, by developing and implementing policies and procedures to strengthen public safety.

Performance Goals and Targets:

3.2.1 Combat the use of contraband cellphones in correctional facilities by developing reforms and examining other technological solutions.

- Take steps to propose new rules or facilitate voluntary industry solutions to reduce the use of contraband cellphones in correctional facilities.

3.2.2 Adopt public safety spectrum policies that facilitate interoperable communications by first responders.

- Analyze existing rules to determine whether the process for establishing interoperability agreements between Federal agencies and state, local, territorial, and Tribal public safety agencies on Federal and non-Federal channels can be made more efficient.
- Evaluate and establish a means for renewing the license held by the First Responder Network Authority (FIRSTNET).

3.2.3 Implement an integrated regulatory framework that facilitates faster emergency response, leverages technological advancements, and promotes the rapid deployment of Next Generation 911 (NG911).

- Implement the rules adopted in 2019 in response to Kari's Law regarding direct 911 dialing and notification requirements for Multi-Line Telephone Systems (MLTS).
- Implement dispatchable location requirements for MLTS, fixed telephony, interconnected VoIP, TRS, and mobile text adopted in 2019 pursuant to Section 506 of the RAY BAUM'S Act.
- Continue to implement the Congressional mandate for 56 states and territories to report annually on 911 fee expenditures to help ensure that 911 fees collected by states and territories are used to fund 911 expenses and facilitate the advancement of NG911.
- Conduct a rulemaking process to determine how wireless 911 calls may be routed more rapidly to the proper 911 call center to ensure that 911 callers can be located expeditiously by public safety answering points (PSAPs) and emergency responders.
- Advance 911 location services by continuing to implement the Commission's 2015 Location Accuracy rules and monitoring whether Commercial Mobile Radio Services providers are meeting their benchmarks to provide x/ y location within 50 meters or dispatchable location for 80% of all wireless 911 calls in FY 2021.
- Support PSAPs in updating the Master PSAP registry and providing notice to carriers when a given PSAP is text-to-911 capable.
- Maintain public-facing communication mechanisms, such as specific FCC email accounts that support PSAPs and emergency responders.

Strategic Objective 3.3: Improve public safety and communications reliability across the country and advance access to public safety and emergency communications by developing and implementing policies using a broad range of technologies.

Performance Goals and Targets:

3.3.1 Promote the nationwide availability of reliable and effective 911, Enhanced 911 (E911), and NG911 service by developing and implementing policies that will ensure the reliability, resiliency, and security of communications networks, particularly for 911 and NG911 networks.

- Further delineate, through Commission rules or policies, the technical responsibilities of participants in the NG911 ecosystem, including: originating service providers, system service providers, Emergency Services IP networks (ESInets) and PSAPs.

- Promote compliance with the Commission’s rules by taking action, where appropriate, on complaints and referrals concerning the Commission’s 911, E911 and NG911 rules.
 - Investigate cases involving violations of the FCC’s rules related to 911, E911 and NG911 service and take appropriate enforcement action on 100% of apparent violations within one year.
 - Promote technical assistance as appropriate to PSAPs and other state, local, and territorial government entities on issues related to 911, E911, and NG911 reliability.
 - Conduct educational sessions for state, local, Tribal, and territorial government entities presenting experts to review and explore major 911 reliability issues.
- 3.3.2 Collect and analyze outage information for communications networks and 911/NG911 networks by working with stakeholders to understand and address problems.
- Field Offices will contact complainants or otherwise initiate action on complaints raising public safety interference issues within one calendar day of filing with the FCC.
 - Review service provider compliance with the Commission’s outage reporting obligations and reports on individual outages and refer compliance issues for enforcement action where appropriate to ensure that consumers have access to advanced public safety service in an emergency.
- 3.3.3 Analyze each major outage to determine whether new practices and existing practices could have prevented the outage and could prevent future outages.
- Based on an analysis of aggregated outage data, publicly share “lessons learned” regarding voluntary best practices and other measures providers can take to help prevent similar outages in the future.
- 3.3.4 Fulfill the FCC’s responsibilities under the National Preparedness System, including support to Emergency Support Function #2 (ESF#2) – Communications. Provide situational awareness of communications systems; coordinate with industry and other Federal partners to facilitate communications network preparedness, response, and restoration by working closely with local, state, Tribal, territorial and Federal partners during a crisis.
- Respond to requests for interference resolution solutions from Federal, state, local, territorial, and Tribal law enforcement and national security partners within one day during significant disasters and incidents.
 - During incidents where ESF#2 is activated, activate the Disaster Information Reporting System (DIRS) as necessary to collect information from service providers on the status of communications, and use that information to provide daily situational awareness reports to ESF #2 agencies.
 - Take pro-active steps to expedite the processing of Special Temporary Authorizations during disasters and major incidents.
 - Implement, assess, and promote voluntary adoption by service providers of the Wireless Resiliency Cooperative Framework to increase coordination and cooperation among providers in advance of and during disasters.
 - Establish processes to facilitate the sharing of network outage information with Federal and state partners to improve situational awareness.

- Coordinate with other regulators, sector-specific agencies, and ESF#14 (Cross-Sector business and Infrastructure) to identify ways to harmonize communications infrastructure restoration practices across sectors.
 - Maintain up-to-date contacts and relationships with Tribal Nations, state, local, and territorial governments, disability groups, and consumer organizations to facilitate the dissemination of critical updates and information in the event of an emergency or disaster.
- 3.3.5 Strengthen access to emergency services and emergency public information sources during emergencies by supporting improved preparedness, reliability of communications networks, and disaster management practices.
- Work in partnership with other Federal agencies, as well as state, local, territorial, and Tribal governments to: share information on communications network status; identify and publish best practices and lessons learned for network reliability and resiliency through Public Notices and through the FCC’s network reliability website; and coordinate efforts to protect America’s safety and security to respond to network degradation or failure during disasters or emergency events.
 - Participate in interagency continuity of operations (COOP) planning and continuity of government (COG) planning, including preparations for significant public events (such as the Super Bowl and the State of the Union Address).
 - Work in partnership with PSAPs and other emergency call centers to encourage the use of text-to-911, including real-time text, for use by people with disabilities.
 - Complete the modernization of the DIRS to reduce burden on service providers that provide information on the status of communications during disasters.
 - During incidents in which ESF#2 and DIRS are activated, use information about the status of communications submitted by service providers in DIRS to provide daily public reports with certain aggregated data.
 - Streamline the Commission’s rules that address communications prioritization and update as necessary to reflect evolving technology and communications usage by national security and incident response officials.
- 3.3.6 Facilitate the effectiveness and reliability of the Emergency Alert System (EAS) and Wireless Emergency Alerts (WEA), including through encouraging the development of new alerting capabilities that leverage emerging technologies.
- Support at least one Federal Emergency Management Agency (FEMA) initiated test of the EAS and WEA to ensure continued effectiveness of these alert and warning systems.
 - Further explore, through the rulemaking process, improvements to WEA based on advancements in technology and evolving public safety stakeholders’ needs, such as earthquake early warning capabilities.
 - Launch the Alert Reporting System to reduce the paperwork burden on State Emergency Communications Committees, the voluntary entities that administer the EAS at the state level, and to allow the Commission and other authorized stakeholders to have accurate, end-to-end knowledge of how EAS alerts are propagated at the state, local, and national levels.
 - Develop a web-based system that streamlines the reporting of service providers’ elections to participate in WEA and provides relevant information to alert originators about the availability of WEA in their jurisdictions.

- Improve alert originators and other public safety stakeholders’ understanding of the availability of alerting tools through targeted outreach.

Strategic Objective 3.4: Leverage Commission expertise, situational awareness, and authorities to mitigate national and homeland security risks in coordination with interagency partners.

Performance Goals and Targets:

3.4.1 Support national security, law enforcement, and first responder operational activities during steady state, major disasters, emergencies, and significant events.

- Provide consultative support to the Defense Commissioner pursuant to section 0.181 of the Commission’s rules.
- Coordinate within the Commission and with inter-agency processes to ensure that Commission positions are included in the dialogue during steady state, major disasters, emergencies, and significant events.
- Provide Federal, state, Tribal, territorial, and local partners with critical information pertaining to the potential misuse of spectrum, communications infrastructure, and licensee status.
- Support broader information sharing and analysis to raise awareness of risks to the nation’s communications infrastructure.

3.4.2 Identify and implement methods to mitigate risks to communications reliability, resilience, and security.

- Coordinate with appropriate government entities and the private sector to identify and mitigate risks to the communications infrastructure.
- Collaborate with appropriate government entities and the private sector to develop measures to mitigate risks to the communications infrastructure.
- Conclude a proceeding to examine communications priority services rules and programs, including the Telecommunications Service Priority and Priority Access Service rules.

Strategic Goal 4: Reforming the FCC’s Processes

Strategic Objective 4.1: Serve the American public by improving the efficiency, effectiveness, and transparency of the FCC’s operations.

Performance Goals and Targets:

4.1.1 Continue to provide information about the status of matters pending before the FCC by developing and posting information online and communicating with stakeholders.

- Conduct meetings and outreach with stakeholders, including the state Members of Federal-State Joint Boards, to ensure that the Commission understands their policy concerns.
- Respond to 95% of informal consumer complaints within one business day of receipt.
- Develop and execute strategies for continued improvement and enhancement of the FCC’s informal complaint process regarding user experience and sharing of reliable complaint data.

- Use the Public Safety Support Center to receive complaints and contact complainants, or otherwise initiate action to resolve complaints of interference to public safety systems within one day of receipt of the complaint.
 - Improve access to information related to wireless licenses and authorizations, including taking steps to modernize and streamline the FCC’s Universal Licensing System (ULS) and completing the transition to electronic licensing in ULS and the Antenna Structure Registration system.
 - Continue to ensure that the FCC domestic transfer of control webpage is accurate and up-to-date in FY 2021, so as to inform all stakeholders of the status of pending transactions from the time of filing until the date of Commission action.
 - Ensure that in FY 2021, VoIP numbering resources are issued by the 31st day after the Commission releases a Public Notice stating that the application has been accepted for filing and that the webpage devoted to those applications is accurate and updated at least biweekly to inform all stakeholders of the status of pending applications from the time of filing until the date of Commission action.
 - Review 100% of incumbent LEC tariffs filed on 15 days’ notice in the Electronic Tariff Filing System in FY 2021.
 - Ensure that all new data collections are updated in the FCC data inventory and in the OMB data inventory in accordance with OMB guidelines.
- 4.1.2 Ensure that FCC regulations solve real problems at a reasonable cost by implementing the principles of regulation and requirements for regulatory impact analysis articulated in Executive Order 13563 of January 18, 2011 (Improving Regulation and Regulatory Review), and Executive Order 12866 of October 4, 1993 (Regulatory Planning and Review).
- Ensure that the Office of Economics and Analytics has reviewed each Commission rulemaking for its economic impact prior to public release in a timely manner.
 - For significant rulemakings in FY 2021 that have an annual effect on the economy of at least \$100 million, conduct a cost benefit analysis that includes an evidence-based assessment of the problem the regulation is intended to solve and an evaluation of the benefits and costs of alternative solutions.
 - For rulemakings with an annual effect on the economy of less than \$100 million, conduct a cost benefit analysis at a level of depth concomitant with the impact of the regulation.
 - Develop best practices for economic analysis of regulations, to include regulatory impact analysis.
 - Conduct at least two workshops or training classes for staff on analytical methods and best practices to perform economic analysis of regulations.
- 4.1.3 Ensure the Commission’s ability to meet its Mission Essential Functions and other critical activities during emergencies and disasters affecting FCC facilities and/or staff.
- Provide adequately trained FCC staff to meet public safety and national security requirements.
 - Participate in national-level interagency exercises to validate COG, COOP, and disaster response capabilities.
 - Provide analytical support for continuity of operations and disaster response actions when requested.

- Improve and maintain ability for Commission leadership to communicate via multiple paths (e.g., cellular, satellite, HF) during incidents that may impact segments of the communications grid.
 - Work with the interagency national security community to examine steps to improve the resiliency of national security communications requirements of all agencies.
- 4.1.4 For each program objective, ensure that the Commission adheres to all legal requirements in its operations by providing timely and accurate legal advice and representation regarding proposed and existing policies and rules within the FCC’s purview.
- Provide timely and accurate legal advice to Bureaus, Offices, and the Commission with respect to pending proceedings.
 - Promptly respond to all requests for legal advice relating to the Commission’s operations.
 - Provide FCC staff with advice relating to government ethics and ensure that all ethics inquiries are addressed in a timely manner.
 - Vigorously defend FCC rules, policies, and operations against legal challenge.
- 4.1.5 For each program objective, the Office of Economics and Analytics will support the Commission by providing expertise, guidance, and assistance to the Bureaus and other Offices in applying the principles of economic and data analysis.
- Advise the Chairman’s Office of emerging economic trends and issues relevant to the FCC’s mission.
 - Continue an active economic research program to bring state-of-the-art economic analysis to bear on matters relevant to the Commission.
 - Ensure consistent and timely public interest analysis of applications for transfer of control and assignment of licenses.
 - Ensure that analyses concerning mergers and transactions cite relevant facts, sources of information, and convey the basis for findings.

Strategic Objective 4.2: Achieve statutory objectives while reducing burdens on industry and promoting innovation and job growth by continuously reviewing the FCC’s regulatory and operational processes and significant regulations.

Performance Goals and Targets:

- 4.2.1 Implement a regulatory reform agenda guided by the principles of Executive Order 13771 of January 30, 2017 (Reducing Regulation and Controlling Regulatory Costs) and Executive Order 13579 of July 11, 2011 (Regulation and Independent Regulatory Agencies) by reviewing existing FCC regulations and eliminating those regulations that fail to solve real problems at a reasonable cost.
- Identify regulations that may be candidates for retrospective assessment by engaging stakeholders in ongoing dialogue.
 - Conduct retrospective analysis of at least three existing regulations to identify their actual benefits and costs, and record the lessons learned.

- Provide recommendations for reform of existing transaction review processes to create a more-efficient and expedited review of proposed license transfers.
- As a part of the Commission’s initiative on the modernization of media regulation, find opportunities to eliminate or modify outdated or unnecessary requirements applicable to broadcasters, cable operators, and satellite television providers in order to reduce regulatory burdens.
- As part of the modernization efforts of the Commission’s methods for assigning toll free telephone numbers, evaluate lessons learned from an initial experimental auction of 17,000 mutually exclusive toll-free numbers in the 833 code.
- Ensure that the Data Governance Board works to identify opportunities to eliminate or condense duplicative or redundant data.

4.2.2 Eliminate reports and related filing requirements that are unnecessary, duplicative, or fail to produce benefits that justify their costs by reviewing the Commission’s information collections processes.

- Complete review of part 25 streamlining proposals, including the creation of a new, unified space station and earth station authorization, and elimination of the rule that requires annual reporting requirements for geostationary-satellite orbit fixed-satellite service systems during FY 2021.
- Ensure rulemaking proceedings include review of existing regulations to identify opportunities to reduce and eliminate unnecessary, duplicative, or unbeneficial reporting and filing obligations.
- Conduct a rulemaking to reform and modernize the public safety frequency coordination process.
- Develop plans for the establishment of a centralized database for the receipt of reporting information and compensation requests under the National Deaf-Blind Equipment Distribution Program by the end of FY 2021, to reduce duplication in the delivery of such information by covered entities.

Strategic Objective 4.3: Effectively manage and modernize the FCC’s information technology (IT), financial, record keeping, facilities, and human capital resources to best achieve the FCC’s mission.

Performance Goals and Targets:

4.3.1 Make information readily available to agency management for decision-making by improving Commission systems.

- Maintain dashboards and information management systems, including systems to monitor field investigations, commercial radio and public safety complaints, consumer protection complaints, and records retention.
- Participate in ongoing dialogue with the Chairman’s and Commissioners’ offices and other Bureaus and Offices to provide information on enforcement-related issues in an efficient and timely manner.
- Conduct quarterly meetings of the Data Governance Board, which includes leadership from the Office of the Chairman, the Office of the Managing Director, the Office of Economics and Analytics, and program offices, to ensure that information obtained by implementing the

Foundations for Evidence-Based Policymaking Act is readily available to support decision-making by the Commission.

4.3.2 Carry out the agency's mission by upgrading and enhancing technology and tools used by Commission staff.

- Enhance access to real-time data for decision-making, reduce operating and maintenance costs and meet increased demand loads of public filings by continuing to migrate outdated technology-based systems and applications to cloud-based environments.
- Provide IT support for the administrative transition and physical move of the FCC's headquarters to its new building location.
- Explore technological tools to enhance accessibility, productivity, and accountability in the Federal workforce and commence migration to next-generation desk top services and end-user computing environment.
- Employ project management principles and timeline tools for the planning and preparation, as well as the conducting of Commission auctions, to improve the Commission's ability to assure the quality and timeliness of its auctions.
- Implement enhanced application, system, database, and infrastructure monitoring capabilities and develop an improved method of informing stakeholders of Commission-wide system issues and outages.
- Participate in agency-wide working groups to identify possible upgrades or enhancements to technology and tools to facilitate staff's ability to carry out the agency's mission.
- Update the FCC's IT Strategic Plan.
- Continue taking steps to modernize the FCC's auction application system, by integrating a new application type into the system.
- Continuously update the FCC's bidding systems to enable the auction of licenses for new services that will deploy new technologies to the public.
- Review existing staffing and communications processes, and explore more efficient, effective ways to communicate with stakeholders, provide enhanced transparency, facilitate meetings, and receive and respond to requests for status updates (such as electronic licensing and online dashboards reflecting status of proceedings and requests).
- Ensure full compliance with the provisions of section 508 of the Rehabilitation Act, requiring the Commission to provide accessible information and communication technology to its employees with disabilities.
- Continue to implement the Foundations for Evidence-Based Policymaking Act by conducting an annual capacity assessment of the resources available for data analysis to evaluate the need to upgrade or otherwise improve analytical technology and tools.

4.3.3 Maintain a high level of cybersecurity readiness and presence by providing FCC staff with a secure digital infrastructure.

- Ensure that all FCC staff and contractors timely complete cybersecurity training.
- Continue making upgrades to the security of the FCC's IT systems.

4.3.4 Ensure that all financial operations are helping control or contain costs, providing high quality customer service, and improving the effectiveness and efficiency of Commission operations by conducting a program of continuous review and evaluation.

- Coordinate on budget planning and execution to help ensure that auction, spectrum, and licensing activities are conducted effectively and efficiently.
- 4.3.5 Expand the role of economics and engineering at the FCC by developing workforce recruitment initiatives.
- Engage a Chief Economist and/or a Chief Technologist through the Intergovernmental Personnel Act (IPA).
 - Continue the Honors Engineer Program in FY 2021.
 - Continue agency-wide efforts to recruit economists and engineers.
- 4.3.6 Ensure that the FCC cultivates an inclusive culture that encourages collaboration, flexibility, and fairness.
- Maintain a model Equal Employment Opportunity (EEO) program for the FCC’s work environment.
 - Prepare and disseminate required annual report on diversity and inclusion, highlighting trends, accomplishments, gaps, and next steps.
 - Ensure that all employees timely complete No FEAR Act and Anti-Harassment Training.
 - Develop anti-harassment training programs to be presented on a recurring basis.

Strategic Objective 4.4: Ensure that the Universal Service Fund (USF) programs are well managed, efficient, and fiscally responsible and reduce fraud, waste and abuse.

Performance Goals and Targets:

- 4.4.1 Reduce the potential for fraud, waste, and abuse in the USF programs.
- Propose procedures for the Rural Digital Opportunity Fund auction that promote the selection of appropriate bidders.
 - Continue to ensure that processes are in place to detect and prevent ineligible subscribers from receiving Lifeline program benefits, including implementation of the National Eligibility Verifier in additional states.
 - Investigate and prioritize actions on allegations of violations of the USF rules and take appropriate enforcement action on 95% of apparent violations within one year.
 - Develop policy proposals to simplify and remove waste in the Rural Health Care program.
 - Coordinate and share information with USAC on a regular basis in FY 2020 to proactively identify and remediate opportunities for fraud, waste, and abuse in all USF programs.
 - Review and accept for filing within 14 days of a complete application, domestic section 214 transactions between incumbent telephone companies receiving high-cost USF support through different mechanisms to address potential harm to the Commission’s goal of ensuring that limited USF resources are distributed efficiently.
- 4.4.2 Ensure that the USF programs are administered efficiently and effectively by reviewing the administrative costs of the programs.

- Review internal proposals to improve the efficiency of the administration of universal service programs.
- Review all USAC IT projects commenced in FY 2021 to promote efficiency and effectiveness in USAC's operations.

4.4.3 Take steps to ensure that communications systems funded with USF programs are secure and resilient.

- Consider appropriate resilience targets in evaluating USF bids and proposals.
- Continue to ensure USF recipients refrain from purchasing network equipment from designated entities or other vendors that pose a risk to national security.

**FISCAL YEAR 2021 REQUIREMENTS BY
BUREAUS AND OFFICES**

This page is intentionally left blank

Offices of the Chairman and Commissioners

Offices of the Chairman and Commissioners	FY 2019 Actual	FY 2020 Enacted	FY 2021 Estimates to Congress
Full-Time Equivalents (FTEs)	22	22	22
11 - Personnel compensation	\$2,869,890	\$3,169,000	\$3,270,096
12 - Personnel benefits	917,985	1,010,404	1,042,637
13 - Benefits for former personnel	0	0	0
Subtotal - Personnel Costs	\$3,787,875	\$4,179,404	\$4,312,733
21 - Travel & transportation of persons	\$183,929	\$304,224	\$309,964
22 - Transportation of things	0	0	0
23 - Rent, Communications, and Utilities	610,748	965,686	663,673
24 - Printing and reproduction	0	0	0
25 - Other contractual services	2,311	4,000	4,000
26 - Supplies and materials	0	0	0
31 - Equipment	0	0	0
40 - Insurance claims and interest	0	0	0
Subtotal - Non-Personnel Costs	\$796,988	\$1,273,910	\$977,637
TOTAL	\$4,584,863	\$5,453,314	\$5,290,370

The FCC is directed by five Commissioners who are appointed by the President and confirmed by the Senate for five-year terms, except when filling an unexpired term. The President designates one of the Commissioners to serve as the Chairman. Only three Commissioners may be members of the same political party. None of them can have a financial interest in any Commission-related business.

The Chairman serves as the Chief Executive Officer of the Commission, supervising all FCC activities, delegating responsibilities to Offices and Bureaus, and formally representing the Commission before the Congress and the Administration.

Consumer and Governmental Affairs Bureau

Consumer and Governmental Affairs Bureau	FY 2019 Actual	FY 2020 Enacted	FY 2021 Estimates to Congress
Full-Time Equivalents (FTEs)	113	114	114
11 - Personnel compensation	\$14,225,596	\$15,163,953	\$15,647,706
12 - Personnel benefits	4,272,740	4,615,276	4,762,510
13 - Benefits for former personnel	0	0	0
Subtotal - Personnel Costs	\$18,498,336	\$19,779,229	\$20,410,216
21 - Travel & transportation of persons	\$117,371	\$92,000	\$93,736
22 - Transportation of things	0	0	0
23 - Rent, Communications, and Utilities	1,151,133	1,083,514	863,327
24 - Printing and reproduction	0	0	0
25 - Other contractual services	1,575,020	2,021,362	2,059,498
26 - Supplies and materials	350	1,000	1,019
31 - Equipment	65	0	0
40 - Insurance claims and interest	0	0	0
Subtotal - Non-Personnel Costs	\$2,843,939	\$3,197,876	\$3,017,579
TOTAL	\$21,342,275	\$22,977,105	\$23,427,796

The Consumer and Governmental Affairs Bureau develops and implements consumer protection policies, including disability access, on behalf of the Commission. Through its outreach and education programs, as well as its Tribal and inter-governmental affairs initiatives, the Bureau enhances the public's understanding of the Commission's work and facilitates the Agency's relationships with other governmental agencies and organizations. The Bureau also serves as the public face of the Commission through the call center and online complaint portal, where consumers can submit inquiries and informal complaints to the Commission regarding communications issues. Consistent with controlling laws and regulations and in accordance with its delegated authority, the Bureau performs the following duties and responsibilities:

- Initiating and directing the policy development and coordination of matters pertaining to consumers and governmental affairs, consistent with the priorities of the Commission.
- Advising the Chairman and Commissioners on matters of general consumer and disability policy.
- Protecting consumers from robocalls by enabling voice providers to block robocalls and by implementing the Telephone Consumer Protection Act to protect consumers when they receive illegal robocalls, while educating consumers about robocall-blocking tools, sharing consumer protection best practices, and collecting and tracking consumer complaints to ensure the agency has up-to-date and reliable information to aid with future enforcement actions.

- Communicating with the general public regarding Commission policies, programs, and activities to facilitate public education and participation in the Commission's decision-making processes.
- Handling informal consumer inquiries and complaints consistent with Commission regulations, including facilitating the negotiation and resolution of certain classes of informal complaints.
- Collaborating with, advising, and assisting state, local and Tribal governments, and other governmental agencies and industry groups, on consumer matters including disability access, emergency preparedness, and implementation of new technologies.
- Developing, recommending, and administering policies, rules, procedures and programs regarding consumer and disability policy and any other related issues affecting consumer policy.
- Consulting with federally recognized Tribal governments on a formal government-to-government basis, and engaging with Tribal governments, representatives and organizations representing those constituencies through meetings, trainings and other outreach, to facilitate a dialogue on telecommunications issues on Tribal lands and how the FCC's rules, policies and programs impact the provision of telecommunications services on Tribal lands and in Native homeland communities.
- Providing outreach to state and local governments, as well as to other federal regulatory agencies, for the purpose of fostering an understanding of FCC programs, policies, rules and decisions
- Representing the Commission on consumer and inter-governmental-related committees, working groups, task forces, and conferences within and outside the Agency.
- Providing expert advice and assistance within the Commission and to consumers and industry regarding compliance with applicable disability and accessibility requirements, rules, and regulations.
- Serving as the focal point within the Commission for collaborating with multiple stakeholders and consumer advocacy groups to plan, develop, and implement multimedia consumer outreach campaigns, events, and programs.
- Researching, developing, coordinating, and distributing educational materials in multiple media and languages, online and in print to inform consumers about the Commission's rules, procedures, policies, and programs.
- Coordinating all sign language interpreting requests for the Agency, producing Braille and other alternative formats of Commission materials, and ensuring they are available to Commission employees and members of the public.
- Coordinating with the Office of Managing Director to ensure compliance with section 508 of the Rehabilitation Act, which requires the Commission to procure and maintain accessible information and communication technologies for Commission employees with disabilities and members of the public using these FCC resources.
- Coordinating with the Chairman, Commissioners, Bureaus and Offices, and other federal agencies to provide Tribal perspectives on regulatory policies impacting the provision and deployment of telecommunications services on Tribal lands and to Tribal and Native homeland communities.

Enforcement Bureau

Enforcement Bureau	FY 2019 Actual	FY 2020 Enacted	FY 2021 Estimates to Congress
Full-Time Equivalents (FTEs)	180	190	190
11 - Personnel compensation	\$24,557,637	\$26,350,236	\$27,190,849
12 - Personnel benefits	7,479,638	8,173,770	8,434,526
13 - Benefits for former personnel	0	0	0
Subtotal - Personnel Costs	\$32,037,275	\$34,524,006	\$35,625,374
21 - Travel & transportation of persons	\$267,869	\$262,580	\$267,534
22 - Transportation of things	0	0	0
23 - Rent, Communications, and Utilities	2,038,324	2,288,026	2,027,052
24 - Printing and reproduction	0	0	0
25 - Other contractual services	269,680	264,400	269,388
26 - Supplies and materials	67,512	101,200	103,109
31 - Equipment	1,690,362	480,000	489,056
40 - Insurance claims and interest	0	0	0
Subtotal - Non-Personnel Costs	\$4,333,747	\$3,396,206	\$3,156,139
TOTAL	\$36,371,022	\$37,920,212	\$38,781,513

The Enforcement Bureau serves as the primary Commission entity responsible for enforcement of the Communications Act and other communications statutes, the Commission’s rules, orders, and authorizations, other than matters that are addressed in the context of a pending application for a license or other authorization or in the context of administration, including post-grant administration, of a licensing or other authorization or registration program. The Enforcement Bureau’s responsibilities include, among other things:

- Investigating and resolving complaints regarding, for example:
 - The Telephone Consumer Protection Act, which generally prohibits unauthorized robocalls, and the Truth in Caller ID Act, which prohibits unlawful spoofing;
 - Compliance with statutory and regulatory provisions, including complaints filed under section 208 of the Communications Act;
 - Compliance with section 301 of the Communications Act requiring a FCC license or authorization for the operation of a broadcast station;
 - Accessibility to communications services and equipment for persons with disabilities;
 - Radiofrequency interference and radiofrequency equipment and devices;
 - Compliance with radiofrequency licensing rules and regulations, including reporting obligations;

- Compliance with the Commission’s Emergency Alert System rules;
- Compliance with the Commission’s equal employment opportunity (EEO) rules;
- Compliance with the statute and rules regarding paid programming and sponsorship ID;
- The lighting and marking of radio transmitting towers;
- Indecent communications subject to the Commission’s jurisdiction;
- The broadcast and cable television children’s television programming commercial limits contained in section 102 of the Children’s Television Act;
- Unauthorized construction and operation of communications facilities;
- False distress signals;
- Title III licensees and permittees;
- Pole attachments filed under section 224 of the Communications Act;
- Multichannel video and cable television service under part 76 of the Commission’s rules; and
- Other matters assigned to it by the Commission.
- Policing Integrity:
 - Investigating violations of the Communications Act, the Commission’s rules, and other laws bearing on Universal Service Fund (USF) programs and contributions. Such investigations may involve coordination with the FCC’s Inspector General, the U.S. Department of Justice, and other law enforcement agencies.
 - Overseeing proceedings suspending or debaring parties from USF programs.
- Protecting Consumers:
 - Investigating unlawful marketing and billing practices, including unauthorized robocalling, caller ID spoofing, cramming, phone and text harassment; and unlawful disclosure of customer proprietary network information.
- Safeguarding Competition:
 - Enforcing merger conditions and unfair or anti-competitive practices that violate the law.
- Securing Networks:
 - Investigating interference or misuse of critical infrastructure.
- Mediating and settling disputes between service providers, upon request.
- Serving as trial staff in formal hearings conducted pursuant to 5 U.S.C. § 556 regarding applications, revocation, forfeitures, and other matters designated for hearing.
- Providing field support for, and field representation of, the Bureau, other Bureaus and Offices, and the Commission.
- Handling Congressional and other correspondence relating to or requesting specific enforcement actions, specific complaints, or other specific matters within the responsibility of the Bureau.

International Bureau

International Bureau	FY 2019 Actual	FY 2020 Enacted	FY 2021 Estimates to Congress
Full-Time Equivalents (FTEs)	87	85	85
11 - Personnel compensation	\$11,844,977	\$11,873,229	\$12,252,003
12 - Personnel benefits	3,524,978	3,596,212	3,710,937
13 - Benefits for former personnel	0	0	0
Subtotal - Personnel Costs	\$15,369,955	\$15,469,441	\$15,962,940
21 - Travel & transportation of persons	\$582,238	\$641,861	\$653,971
22 - Transportation of things	0	0	0
23 - Rent, Communications, and Utilities	906,826	813,202	618,241
24 - Printing and reproduction	0	0	0
25 - Other contractual services	12,481	3,500	3,566
26 - Supplies and materials	0	0	0
31 - Equipment	0	0	0
40 - Insurance claims and interest	0	0	0
Subtotal - Non-Personnel Costs	\$1,501,545	\$1,458,563	\$1,275,778
TOTAL	\$16,871,500	\$16,928,004	\$17,238,717

The International Bureau develops, recommends, and administers policies, standards, procedures, and programs for the regulation of international telecommunications facilities and services, and the licensing of satellite and submarine cable facilities under its jurisdiction. The Bureau advises and recommends to the Commission, or acts for the Commission under delegated authority, in the development of and administration of international telecommunications policies and programs. The Bureau assumes the principal representational role for Commission activities in international organizations. The Bureau has the following duties and responsibilities:

- Initiating and directing the development and articulation of international telecommunications policies, consistent with the priorities of the Commission.
- Advising the Chairman and Commissioners on matters of international telecommunications policy, and on the status of the Commission's actions to promote the vital interests of the American public in international commerce, national defense, and foreign policy areas.
- Developing, recommending, and administering policies, rules, and procedures for the authorization, licensing, and regulation of international telecommunications services and facilities (including submarine cables), and domestic and international satellite systems.
- Coordinating with executive branch agencies certain applications and petitions involving foreign ownership.

- Representing the Commission on international telecommunications matters at both domestic and international conferences and meetings and directing and coordinating the Commission's preparation for such conferences and meetings.
- Serving as the single focal point within the Commission for cooperation and consultation on international telecommunications matters with other federal agencies, international or foreign organizations, and appropriate regulatory bodies and officials of foreign government.
- Directing and coordinating, in consultation with appropriate Bureaus and Offices, negotiation of international agreements to provide for arrangements and procedures for bilateral coordination of radio frequency assignments to prevent or resolve international radio interference involving U.S. licensees.
- Developing, coordinating with other federal agencies, and administering regulatory assistance and training programs for foreign administrations to promote telecommunications development.
- Providing advice and technical assistance to U.S. trade officials in the negotiation and implementation of telecommunications trade agreements.
- Collecting and disseminating within the Commission information and data on international telecommunications, and regulatory and market developments in other countries and international organizations.
- Promoting the international coordination of spectrum allocation, and frequency and orbital assignments, so as to minimize cases of international radio interference involving U.S. licensees.
- Ensuring fulfillment of the Commission's responsibilities under international agreements and treaty obligations, and, consistent with Commission policy, ensuring that the Commission's regulations, procedures, and frequency allocations comply with mandatory requirements of all applicable international and bilateral agreements.
- Overseeing and, as appropriate, administering activities pertaining to the international consultation, coordination, and notification of U.S. frequency and orbital assignments, including activities required by bilateral agreements, the International Radio Regulations, and other international agreements.
- Monitoring compliance with the terms and conditions of authorizations and licenses granted by the Bureau and pursuing enforcement actions in conjunction with appropriate Bureaus and Offices.

Media Bureau

Media Bureau	FY 2019 Actual	FY 2020 Enacted	FY 2021 Estimates to Congress
Full-Time Equivalents (FTEs)	137	131	131
11 - Personnel compensation	\$15,726,968	\$16,004,455	\$16,515,021
12 - Personnel benefits	4,518,488	4,615,614	4,762,859
13 - Benefits for former personnel	0	0	0
Subtotal - Personnel Costs	\$20,245,456	\$20,620,069	\$21,277,881
21 - Travel & transportation of persons	\$13,085	\$25,000	\$25,472
22 - Transportation of things	0	0	0
23 - Rent, Communications, and Utilities	1,186,861	1,071,382	804,390
24 - Printing and reproduction	0	0	0
25 - Other contractual services	74,848	96,213	98,028
26 - Supplies and materials	0	0	0
31 - Equipment	0	0	0
40 - Insurance claims and interest	0	0	0
Subtotal - Non-Personnel Costs	\$1,274,794	\$1,192,595	\$927,890
TOTAL	\$21,520,250	\$21,812,664	\$22,205,770

The Media Bureau plays a key role in promoting innovation and competition in the media marketplace. The Bureau develops, recommends, and administers the policy and licensing programs for the regulation of media, including cable television, broadcast television and radio, and satellite services in the United States and its territories. The Bureau advises and recommends to the Commission, or acts for the Commission under delegated authority, in matters pertaining to multichannel video programming distribution, broadcast radio and television, direct broadcast satellite service policy, and associated matters. The Bureau will, among other things:

- Process applications for authorization, assignment, transfer, and renewal of licensed media services, including AM, FM, full and low power television, and related matters.
- Conduct rulemaking proceedings concerning the legal, engineering, and economic aspects of the media industry.
- Resolve waiver petitions, declaratory rulings, and adjudications related to the media industry.
- Ensure the smooth transition of full power, Class A, translator, LPTV and FM stations as a result of the Incentive Auction repack and efficiently process the reimbursement claims from these stations submitted to the \$2.75 billion TV Broadcaster Relocation Fund.

Public Safety and Homeland Security Bureau

Public Safety and Homeland Security Bureau	FY 2019 Actual	FY 2020 Enacted	FY 2021 Estimates to Congress
Full-Time Equivalents (FTEs)	90	95	95
11 - Personnel compensation	\$12,421,869	\$13,315,610	\$13,740,398
12 - Personnel benefits	3,720,473	4,037,910	4,166,725
13 - Benefits for former personnel	0	0	0
Subtotal - Personnel Costs	\$16,142,342	\$17,353,520	\$17,907,124
21 - Travel & transportation of persons	\$83,452	\$75,000	\$76,415
22 - Transportation of things	0	0	0
23 - Rent, Communications, and Utilities	864,741	736,052	578,990
24 - Printing and reproduction	0	0	0
25 - Other contractual services	480,956	599,488	610,798
26 - Supplies and materials	4,294	9,900	10,087
31 - Equipment	7,965	3,000	3,057
40 - Insurance claims and interest	0	0	0
Subtotal - Non-Personnel Costs	\$1,441,408	\$1,423,440	\$1,279,347
TOTAL	\$17,583,750	\$18,776,960	\$19,186,471

The Public Safety and Homeland Security Bureau (PSHSB) advises and makes recommendations to the Commission, acts for the Commission under delegated authority, and coordinates within the Commission on all matters pertaining to public safety, homeland security, national security, emergency management and preparedness, disaster management, and related matters. The Bureau also performs the following functions:

- Develops, recommends, and administers policy goals, objectives, regulations, programs, and plans for the Commission in the areas of 911, enhanced 911, and Next Generation 911; licensing and operation of public safety radio services; priority emergency communications; alert and warning systems; Continuity of Government (COG) and Continuity of Operations (COOP); National Security and Emergency Preparedness; disaster management coordination and outreach; communications infrastructure protection; reliability, operability and interoperability of networks and communications systems; the Communications Assistance for Law Enforcement Act (CALEA); and network security.
- Intakes and processes applications for public safety allocated spectrum and related requests.
- Recommends and develops emergency plans, policies, and preparedness programs covering: (1) reporting and situational awareness of communications status during an emergency; (2) Commission functions during emergency conditions, and (3) the provision of service by communications service providers during emergency conditions.
- Under the direction of the Defense Commissioner, coordinates the Commission's role in national security and emergency preparedness and defense mobilization, COG planning,

and other functions as may be delegated during a national emergency; plans and maintains readiness to lead response for major communications disruptions as directed by the President.

- Administers Commission recordkeeping and information collection requirements pertaining to public safety issues.
- Oversees public safety related Federal Advisory Committees.
- Serves as the point of contact for the U.S. Government in matters of international spectrum monitoring and interference resolution; oversees coordination of non-routine communications and materials between the Commission and international or regional public organizations or foreign administrations.
- Maintains and operates the Commission's 24-hour Operations Center, Sensitive Compartmented Information Facilities (SCIF) and central spectrum monitoring and analysis center.
- Acts on emergency requests for Special Temporary Authority (STA) during non-business hours.
- Represents the Commission on interagency bodies supporting public safety and national security missions.
- Performs such other functions and duties as may be assigned or referred to it by the Commission or the Defense Commissioner.

Wireless Telecommunications Bureau

Wireless Telecommunications Bureau	FY 2019 Actual	FY 2020 Enacted	FY 2021 Estimates to Congress
Full-Time Equivalents (FTEs)	155	150	148
11 - Personnel compensation	\$9,714,230	\$10,411,875	\$10,744,030
12 - Personnel benefits	2,916,010	3,181,716	3,283,218
13 - Benefits for former personnel	0	0	0
Subtotal - Personnel Costs	\$12,630,240	\$13,593,591	\$14,027,247
21 - Travel & transportation of persons	\$13,317	\$13,184	\$13,433
22 - Transportation of things	0	0	0
23 - Rent, Communications, and Utilities	338,903	617,880	488,840
24 - Printing and reproduction	0	0	0
25 - Other contractual services	306,155	277,083	282,311
26 - Supplies and materials	323	1,800	1,834
31 - Equipment	0	0	0
40 - Insurance claims and interest	0	0	0
Subtotal - Non-Personnel Costs	\$658,698	\$909,947	\$786,417
TOTAL	\$13,288,938	\$14,503,538	\$14,813,665

The Wireless Telecommunications Bureau (WTB) advises and makes recommendations to the Commission, or acts for the Commission under delegated authority, in matters pertaining to the regulation and licensing of wireless communications services, devices, facilities, and electromagnetic spectrum resources. The Bureau develops and recommends policy goals, objectives, programs, and plans for the Commission on matters concerning wireless communications and electromagnetic spectrum resources, drawing upon relevant economic, technological, legislative, regulatory, and judicial information and developments. Such matters include:

- Addressing present and future wireless communications and spectrum needs in the United States.
- Establishing rules and procedures that will support the deployment of 5G service by a variety of mobile providers.
- Promoting access, efficiency, and innovation in the use of the electromagnetic spectrum through licensing procedures and policies.
- Promoting investment in wireless communications infrastructure, including broadband.
- Ensuring choice and opportunity in the development of wireless communication services and related markets.

- Reviewing wireless applications, including those to assign or transfer licenses and for service and facility authorizations, in a manner that facilitates competition in the provision of mobile wireless services to the benefit of consumers.
- Promoting the integration and interconnection of wireless communications networks with other communications networks and facilities.
- In coordination with the Office of Economics and Analytics, serving as a staff resource with regard to the development and implementation of spectrum policy through auctions, and developing, recommending, and administering policies and rules concerning the licensing of spectrum through auctions.
- In coordination with the Wireline Competition Bureau and the Office of Economics and Analytics, developing and recommending policies, programs, rules, and procedures concerning the use of market-based mechanisms, including competitive bidding, to distribute universal service support.
- In conjunction with the International Bureau and the Office of Engineering and Technology, representing the United States' spectrum interests and serving as an expert resource on spectrum and infrastructure policy matters in international forums.

In addition to the above, the Bureau's activities also include:

- Developing and coordinating policy.
- Conducting rulemaking and licensing work.
- Acting on rule waivers.
- Facilitating the development and efficient operation of electronic systems for submission of applications for licenses and registration.
- Determining the resource impact of existing, planned, or recommended Commission activities concerning wireless communications.
- Reviewing and coordinating orders, programs, and actions initiated by other Bureaus and Offices in matters affecting wireless communications to ensure consistency of overall Commission policy.

Wireline Competition Bureau

Wireline Competition Bureau	FY 2019 Actual	FY 2020 Enacted	FY 2021 Estimates to Congress
Full-Time Equivalents (FTEs)	142	138	138
11 - Personnel compensation	\$20,076,551	\$20,313,747	\$20,961,786
12 - Personnel benefits	6,011,335	6,241,450	6,440,562
13 - Benefits for former personnel	0	0	0
Subtotal - Personnel Costs	\$26,087,886	\$26,555,197	\$27,402,348
21 - Travel & transportation of persons	\$10,120	\$72,060	\$73,420
22 - Transportation of things	0	0	0
23 - Rent, Communications, and Utilities	1,102,104	1,429,678	1,094,928
24 - Printing and reproduction	0	0	0
25 - Other contractual services	197,930	130,000	132,453
26 - Supplies and materials	0	0	0
31 - Equipment	0	0	0
40 - Insurance claims and interest	0	0	0
Subtotal - Non-Personnel Costs	\$1,310,154	\$1,631,738	\$1,300,800
TOTAL	\$27,398,040	\$28,186,935	\$28,703,148

The Wireline Competition Bureau advises and makes recommendations to the Commission, or acts for the Commission under delegated authority, on matters concerning wireline communications and related operations, drawing on relevant legal, economic, technological, legislative and regulatory expertise, information and developments. The Bureau has the following duties and responsibilities:

- Working to ensure that all Americans have access to robust and affordable broadband and voice services.
- Working to ensure access to affordable broadband connectivity for low income consumers, schools, school districts, libraries, and rural health-care providers.
- Working to protect a light-touch regulatory framework that will promote greater innovation, investment, deployment, and competition among broadband providers.
- Developing and coordinating wireline telecommunications policy.
- Handling adjudicatory and rulemaking proceedings affecting wireline telecommunications service providers and broadband providers.
- Preparing for Commission consideration draft orders responding to petitions, filed pursuant to the Communications Act, seeking Commission forbearance from applying certain of its regulations or provisions of the Communications Act.
- Administering the provisions of the Communications Act relating to charges, practices, and classifications for wireline telecommunications service providers to ensure that they are just and reasonable.

- Taking action on requests for waiver or interpretation of rules or statutes, where appropriate, affecting wireline telecommunications.
- Working to ensure wireline carrier networks and personnel are protected from harms caused by the attachment of terminal equipment.
- Making determinations regarding lawfulness of carrier tariffs.
- Administering U.S. numbering policy (including local number portability).
- Taking action on applications filed pursuant to section 214 of the Communications Act for authorization to transfer service and facility authorizations or to discontinue services or the operation of facilities.
- Reviewing wireline carrier performance.
- Overseeing the Act's incumbent local exchange carrier network change disclosure process to ensure that interconnecting competitive local exchange carriers have timely and sufficient notice of planned network changes.
- Regulating the rates, terms, and conditions for pole attachments, except in states that have preempted Commission authority.
- Administering accounting requirements for incumbent local exchange carriers.
- Interacting with the public; local, state, Tribal, and other government agencies; industry groups; and other stakeholders on wireline communications regulation and related matters.
- Reviewing and coordinating orders, programs, data collections, reports and other actions initiated by other Bureaus and Offices in matters affecting wireline communications to ensure consistency with overall Commission policy.

Office of Administrative Law Judges

Office of Administrative Law Judges	FY 2019 Actual	FY 2020 Enacted	FY 2021 Estimates to Congress
Full-Time Equivalents (FTEs)	3	4	4
11 - Personnel compensation	\$289,074	\$434,174	\$448,025
12 - Personnel benefits	87,823	139,202	143,643
13 - Benefits for former personnel	0	0	0
Subtotal - Personnel Costs	\$376,897	\$573,376	\$591,668
21 - Travel & transportation of persons	\$1,967	\$2,000	\$2,038
22 - Transportation of things	0	0	0
23 - Rent, Communications, and Utilities	25,673	45,002	34,465
24 - Printing and reproduction	0	0	0
25 - Other contractual services	315	5,000	5,094
26 - Supplies and materials	0	0	0
31 - Equipment	0	0	0
40 - Insurance claims and interest	0	0	0
Subtotal - Non-Personnel Costs	\$27,955	\$52,002	\$41,597
TOTAL	\$404,852	\$625,378	\$633,265

The Office of Administrative Law Judges (OALJ) hears and conducts all adjudicatory cases designated for formal evidentiary hearing, other than those designated to be heard by the Commission *en banc* or by one or more members of the Commission. The Office may also conduct other hearings which the Commission may assign in accordance with the Administrative Procedure Act (APA).

OALJ functions substantially as U.S. District Court Judges in non-jury cases, with the exception that Initial Decisions rendered are subject to review by the Commission if requested by a party, or on the Commission's own motion.

OALJ has the following responsibilities:

Adjudicative

- Prepares and maintains hearing calendars, showing time, and place of hearings.
- Presides over and conducts formal proceedings and adjudications.
- Acts on motions, petitions and other pleadings filed in proceedings.
- Conducts on-the-record prehearing conferences.
- Issues subpoenas, administers the oath, examines witnesses, makes findings of fact, and rules upon evidentiary questions.

- Prepares and issues Initial Decisions.

Administrative

- Prepares reports, statistical data and other information requested or received by the Office of Personnel Management, and other offices or agencies of the U.S. Government concerned with proper operation of the Office of Administrative Law Judges.
- Upon request of the Chairman, serves as liaison for the Commission in securing advice or information from representatives of agencies, bar associations, and interested persons in connection with Office practices and hearing procedures.
- Exercises such further authority as may be assigned by the Commission pursuant to section 5(c) of the Communications Act of 1934, as amended.

Office of Communications Business Opportunities

Office of Communications Business Opportunities	FY 2019 Actual	FY 2020 Enacted	FY 2021 Estimates to Congress
Full-Time Equivalents (FTEs)	8	8	8
11 - Personnel compensation	\$1,108,614	\$1,153,538	\$1,190,338
12 - Personnel benefits	333,816	337,998	348,781
13 - Benefits for former personnel	0	0	0
Subtotal - Personnel Costs	\$1,442,430	\$1,491,536	\$1,539,118
21 - Travel & transportation of persons	\$5,259	\$8,500	\$8,660
22 - Transportation of things	0	0	0
23 - Rent, Communications, and Utilities	109,052	111,178	85,147
24 - Printing and reproduction	0	0	0
25 - Other contractual services	1,516	500	510
26 - Supplies and materials	0	0	0
31 - Equipment	0	0	0
40 - Insurance claims and interest	0	0	0
Subtotal - Non-Personnel Costs	\$115,827	\$120,178	\$94,317
TOTAL	\$1,558,257	\$1,611,714	\$1,633,435

The Office of Communications Business Opportunities (OCBO) promotes competition and innovation in telecommunications ownership and information services. The office also supports opportunities for small, women-owned, and minority-owned communications businesses. A principal function of OCBO is to lead, advise, and assist the Commission, including its component Bureau/Office managers, supervisors, and staff, on ways to ensure that the competitive concerns of small entities, women, and minorities are fully considered by the agency in notice and comment rulemakings. In accordance with this function, the Office:

- Conducts independent analyses of the Commission’s policies and practices to ensure that those policies and practices fully consider the interests of small entities, women, and minorities.
- Advises the Commission, Bureaus, and Offices of their responsibilities under the Congressional Review Act provisions regarding small businesses.

The Office has the following duties and responsibilities:

- Serving, through its director, as the principal small business policy advisor to the Commission.
- Developing, implementing, and evaluating programs and policies that promote participation by small entities, women, and minorities in the communications industry.

- Managing the Regulatory Flexibility Analysis process pursuant to the Regulatory Flexibility Act and the Small Business Regulatory Enforcement Fairness Act to ensure that small business interests are fully considered in agency actions.
- Developing and recommending Commission-wide goals and objectives for addressing the concerns of small entities, women, and minorities.
- Acting as the principal channel for disseminating information regarding the Commission's activities and programs affecting small entities, women, and minorities.
- Developing, recommending, coordinating, and administering objectives, plans and programs to encourage participation by small entities, women, and minorities in the decision-making process.
- Promoting increased awareness within the Commission of the impact of policies on small entities, women, and minorities.
- Acting as the Commission's liaison to other federal agencies on matters relating to small business.

Office of Economics and Analytics

Office of Economics and Analytics	FY 2019 Actual	FY 2020 Enacted	FY 2021 Estimates to Congress
Full-Time Equivalents (FTEs)	79	96	99
11 - Personnel compensation	\$8,397,509	\$11,004,004	\$11,355,048
12 - Personnel benefits	2,503,939	3,330,706	3,436,961
13 - Benefits for former personnel	0	0	0
Subtotal - Personnel Costs	\$10,901,448	\$14,334,710	\$14,792,009
21 - Travel & transportation of persons	\$9,140	\$34,200	\$34,845
22 - Transportation of things	0	0	0
23 - Rent, Communications, and Utilities	701,073	614,390	572,556
24 - Printing and reproduction	0	0	0
25 - Other contractual services	450,035	522,400	1,739,755
26 - Supplies and materials	0	0	0
31 - Equipment	0	0	0
40 - Insurance claims and interest	0	0	0
Subtotal - Non-Personnel Costs	\$1,160,248	\$1,170,990	\$2,347,157
TOTAL	\$12,061,696	\$15,505,700	\$17,139,166

The Office of Economics and Analytics (OEA) works with Bureaus and other Offices, including those of the Chairman and other Commissioners, to develop and implement communications policies in all areas of the Commission's authority and responsibility, and to ensure the highest quality of economic and data analysis. The Office and its staff:

- Work collaboratively with other Bureaus and Offices on rulemakings, transaction reviews, statutory reports, and adjudications in the areas of economic and data analysis for significant communications policy issues, and especially with respect to analysis of the economic impact of Commission policies, rules, and proposals.
- Administer Commission auctions of spectrum licenses and universal service support and advise Bureaus and other Offices on policies related to auctions and competitive bidding.
- Administer significant, economically-relevant data collections used by a variety of Bureaus and other Offices, such as Form 477 data, and support Bureaus and Offices with respect to their use of these data collections.
- Develop, recommend, and implement policies for data management across the Commission, in conjunction with the Bureaus and other Offices.
- Provide expert advice to the Chairman, Commissioners, and Bureau and Office Chiefs.
- Include and support the Commission's Chief Economist.

- Coordinate the development, research and publication of White Papers by staff to release research aside from formal Commission actions, with a focus on issues of ongoing and future potential priorities for the Commission.
- Host visiting scholars from academia and elsewhere who join the FCC on a temporary basis to contribute to the Commission's mission.
- Conduct outreach efforts to relevant stakeholders, including those within academia, think tanks, the business community, and the capital markets.

Office of Engineering and Technology

Office of Engineering and Technology	FY 2019 Actual	FY 2020 Enacted	FY 2021 Estimates to Congress
Full-Time Equivalents (FTEs)	74	73	73
11 - Personnel compensation	\$10,119,790	\$10,612,928	\$10,951,497
12 - Personnel benefits	3,106,507	3,348,318	3,455,134
13 - Benefits for former personnel	0	0	0
Subtotal - Personnel Costs	\$13,226,297	\$13,961,246	\$14,406,631
21 - Travel & transportation of persons	\$15,860	\$18,000	\$18,340
22 - Transportation of things	0	0	0
23 - Rent, Communications, and Utilities	519,771	555,730	431,407
24 - Printing and reproduction	0	0	0
25 - Other contractual services	652,190	623,467	635,229
26 - Supplies and materials	13,268	13,300	13,551
31 - Equipment	176,594	150,000	152,830
40 - Insurance claims and interest	0	0	0
Subtotal - Non-Personnel Costs	\$1,377,683	\$1,360,497	\$1,251,357
TOTAL	\$14,603,980	\$15,321,743	\$15,657,988

The Office of Engineering and Technology allocates spectrum for commercial, private, and non-Federal governmental use and provides expert advice on technical and engineering issues before the Commission, including recommendations on technical standards for spectrum users. The Office also performs the following duties and responsibilities:

- Developing overall policies, objectives, and priorities for the Office of Engineering and Technology programs and activities; performing management functions; and supervising the execution of these policies.
- Advising and representing the Commission on frequency allocation and spectrum usage matters, including those covered by international agreements.
- Planning and directing broad programs for development of information relative to communication techniques and equipment, radio wave propagation, and new uses for communications, and advising the Commission and staff offices in such matters.
- Representing the Commission at various national and international conferences and meetings devoted to the progress of communications and the development of information and standards.
- Conducting engineering and technical studies in advanced phases of terrestrial and space communications, and special projects to obtain theoretical and experimental data on new or improved techniques, including cooperative studies with other staff units and consultant and contract efforts as appropriate.

- Advising the Commission and other Bureaus/Offices concerning spectrum management, emerging technologies, technical standards, international considerations, and national security matters involved in making or implementing policy or in resolving specific situations involving these matters.
- Developing and implementing procedures to acquire, store and retrieve scientific and technical information required in the engineering work of the Commission.
- Providing advice to the Commission, participating in and coordinating staff work with respect to general frequency allocation proceedings and other proceedings not within the jurisdiction of any single Bureau, and providing assistance and advice with respect to rulemaking matters and proceedings affecting more than one Bureau.
- Administering Parts 2 (Frequency allocations, radio treaty matters, and equipment authorization procedures), 5 (Experimental radio service), 15 (Unlicensed radio frequency devices), and 18 (Industrial, scientific and medical equipment) of the Commission's Rules and Regulations.
- Maintaining a test facility with appropriate and latest equipment to perform technical analyses to facilitate introduction of new services and technology and compliance testing of devices subject to the Commission rules.
- Performing technical, engineering and management functions of the Commission with respect to formulating rules and regulations, technical standards, and general policies for Parts 2, 5, 15 and 18, and for equipment authorization of radio equipment for compliance with appropriate rules.
- Maintaining liaison with other agencies of government, technical experts representing foreign governments and members of the public and industry concerned with communications and frequency allocation and usage.
- Coordinating frequency assignments for Commission licensees with Federal Government agencies and representing the Commission on issues regarding use of spectrum when jurisdiction is shared with the Federal Government. Serves as the Agency liaison to National Telecommunications and Information Administration (NTIA) within the Department of Commerce for coordinating policy decisions and frequency assignments between Federal agency and non-Federal spectrum users.
- Preparing recommendations for legislation and reviewing recommendations for rule changes and rulemaking proposals initiated by other offices affecting Bureau programs and operations.

Office of General Counsel

Office of General Counsel	FY 2019 Actual	FY 2020 Enacted	FY 2021 Estimates to Congress
Full-Time Equivalents (FTEs)	73	70	70
11 - Personnel compensation	\$10,616,550	\$11,262,294	\$11,621,578
12 - Personnel benefits	3,120,790	3,349,358	3,456,208
13 - Benefits for former personnel	0	0	0
Subtotal - Personnel Costs	\$13,737,340	\$14,611,652	\$15,077,786
21 - Travel & transportation of persons	\$32,640	\$35,000	\$35,660
22 - Transportation of things	0	0	0
23 - Rent, Communications, and Utilities	748,132	764,592	587,561
24 - Printing and reproduction	0	0	0
25 - Other contractual services	661,578	625,300	637,097
26 - Supplies and materials	0	0	0
31 - Equipment	0	0	0
40 - Insurance claims and interest	0	0	0
Subtotal - Non-Personnel Costs	\$1,442,350	\$1,424,892	\$1,260,318
TOTAL	\$15,179,690	\$16,036,544	\$16,338,104

As chief legal advisor to the Commission and its various components, the Office of General Counsel performs the following duties and responsibilities:

- Reviews all proposed Commission orders and rules for consistency with the Constitution, laws of the United States, and other rules and precedents.
- Represents the Commission in litigation and other dispute-resolution matters.
- Ensures consistent and timely public-interest analysis of transactions considered by the Commission, and provides technical expertise on various corporate, bankruptcy, fraud, and other transactional issues.
- Assists and makes recommendations to the Commission with respect to matters handled via adjudication (including the Commission’s review of initial decisions by Administrative Law Judges), as well as with respect to such other matters that, by Commission policy, are handled in a similar manner and that have been designated for hearing.
- Advises and makes recommendations to the Commission with respect to proposed legislation.
- Interprets statutes, regulations, and international agreements affecting the Commission.
- Prepares for the Commission procedural rules of general applicability, and makes recommendations concerning the interpretation and implementation of such rules.

- Provides advice to the Commission and its components on general law issues (e.g., leases, contracts, debt collection, tort claims, fiscal law, and labor law) common to most federal agencies.
- Serves as principal advisor to the Commission in the administration of laws and regulations regarding government ethics, the Freedom of Information, Privacy, Government in the Sunshine, and Alternative Dispute Resolution Acts.
- Exercises such authority as may be assigned or referred to it by the Commission pursuant to section 5(c) of the Communications Act of 1934, as amended, as well as the Commission's rules.

Office of Legislative Affairs

Office of Legislative Affairs	FY 2019 Actual	FY 2020 Enacted	FY 2021 Estimates to Congress
Full-Time Equivalents (FTEs)	8	8	8
11 - Personnel compensation	\$1,078,083	\$1,110,999	\$1,146,442
12 - Personnel benefits	343,108	353,594	364,874
13 - Benefits for former personnel	0	0	0
Subtotal - Personnel Costs	\$1,421,191	\$1,464,593	\$1,511,316
21 - Travel & transportation of persons	\$0	\$1,000	\$1,019
22 - Transportation of things	0	0	0
23 - Rent, Communications, and Utilities	99,856	128,758	98,611
24 - Printing and reproduction	0	0	0
25 - Other contractual services	0	100	101
26 - Supplies and materials	0	0	0
31 - Equipment	0	0	0
40 - Insurance claims and interest	0	0	0
Subtotal - Non-Personnel Costs	\$99,856	\$129,857	\$99,731
TOTAL	\$1,521,047	\$1,594,450	\$1,611,047

The Office of Legislative Affairs informs the Congress of the Commission's decisions, facilitates responses to Congressional letters and inquiries, and provides technical assistance to Congressional staff regarding proposed legislation. Specifically, the Office has the following functions:

- Advising and making recommendations to the Commission with respect to legislation proposed by Members of Congress or other government agencies and coordinating the preparation of the agency's technical assistance for submission to Congress or other government agencies.
- Tracking, monitoring, and analyzing legislation impacting the Commission, and providing technical assistance to Congressional staff, as necessary.
- Preparing and coordinating Commission and Bureau responses to Congressional inquiries on legislative, regulatory, or policy matters by Congressional committees and individual Members of Congress, including tracking inquiries and setting response times.
- Prepare the Chairman and all Commission-designated witnesses for appearances before the United States Congress.
- Coordinating briefings for Congressional Members and staff on issues before the Commission.
- Communicating and consulting with Congressional Members and staff on the Commission's policy agenda.

- Assisting the staffs of Members of Congress in responding to constituent concerns.
- Assisting the Office of Managing Director in the preparation of annual reporting requirements to Congress, including the annual submission of the Commission's budget.

Office of the Managing Director

Office of the Managing Director	FY 2019 Actual	FY 2020 Enacted	FY 2021 Estimates to Congress
Full-Time Equivalents (FTEs)	185	185	184
11 - Personnel compensation	\$20,341,892	\$21,530,691	\$23,989,034
12 - Personnel benefits	5,446,275	5,955,850	6,142,442
13 - Benefits for former personnel	51,600	51,600	53,246
Subtotal - Personnel Costs	\$25,839,767	\$27,538,141	\$30,184,723
21 - Travel & transportation of persons	\$57,112	\$105,234	\$107,219
22 - Transportation of things	61,896	55,814	56,867
23 - Rent, Communications, and Utilities	27,724,425	27,573,050	23,744,282
24 - Printing and reproduction	1,000,000	1,125,310	1,146,540
25 - Other contractual services	53,992,360	49,277,991	48,791,287
26 - Supplies and materials	3,949,323	641,448	653,549
31 - Equipment	454,543	164,486	167,589
32 - Land & Structures	750,701	470,483	479,359
40 - Insurance claims and interest	111,959	120,000	122,264
Subtotal - Non-Personnel Costs	\$88,102,319	\$79,533,815	\$75,268,957
TOTAL	\$113,942,086	\$107,071,956	\$105,453,680

The Managing Director is appointed by the Chairman with approval of the Commissioners. Under the supervision and direction of the Chairman, the Managing Director serves as the Commission's Chief Operating Officer with the following duties and responsibilities:

- Providing managerial leadership to, and exercising supervision and direction over, the Commission's Bureaus and Offices with respect to organization and operations, information technology systems and cybersecurity, and personnel and contract management.
- Providing input to Commission policy development and rulemakings on operational requirements, implementation risks and feasibility, software and systems requirements, fraud prevention and audit considerations, and financial and budgetary impacts.
- Managing all budget and financial operations within the Commission, including: collection of approved regulatory fees for agency operations; overseeing funding allocations and performance management for the operations of the Commission's Bureaus and Offices; managing of auction proceeds; accounting for other monies received by the Commission including licensing fees, forfeitures, and other actions; and providing financial oversight of the Universal Service Fund (USF), Telecommunications Relay Service (TRS) Fund, and the North American Numbering Plan (NANP) Fund.
- Formulating and implementing management and operational policies, programs, and directives for the Commission consistent with the authority delegated by the Commission

and the Chairman and recommending to the Chairman and the Commission major changes in such policies and programs.

- Advising the Chairman and the Commission on management, organizational, and operational matters; reviewing and evaluating the programs and procedures of the Commission; and initiating action or making recommendations as may be necessary to administer the Communications Act most effectively in the public interest.
- Assist the Chairman in carrying out the administrative and executive responsibilities delegated to the Chairman as the administrative head of the agency.

Office of Media Relations

Office of Media Relations	FY 2019 Actual	FY 2020 Enacted	FY 2021 Estimates to Congress
Full-Time Equivalents (FTEs)	14	13	13
11 - Personnel compensation	\$1,758,670	\$1,716,629	\$1,771,392
12 - Personnel benefits	546,957	528,186	545,036
13 - Benefits for former personnel	0	0	0
Subtotal - Personnel Costs	\$2,305,627	\$2,244,815	\$2,316,428
21 - Travel & transportation of persons	\$4,124	\$9,362	\$9,539
22 - Transportation of things	0	0	0
23 - Rent, Communications, and Utilities	112,960	142,034	108,777
24 - Printing and reproduction	0	0	0
25 - Other contractual services	151,401	169,500	172,698
26 - Supplies and materials	2,240	3,080	3,138
31 - Equipment	3,106	10,000	10,189
40 - Insurance claims and interest	0	0	0
Subtotal - Non-Personnel Costs	\$273,831	\$333,977	\$304,341
TOTAL	\$2,579,458	\$2,578,792	\$2,620,769

The FCC's Office of Media Relations is the agency's liaison to the news media. It provides information to the public about the work of the FCC, manages content on the Commission's website, oversees the release of FCC documents, leads the agency's social media accounts, and manages audio/visual services for the Commission's public meeting room. The Office's duties and responsibilities include:

- Serving as the agency's primary liaison to the news media.
- Producing press releases, fact sheets, speeches, and other public relations materials.
- Managing and creating content for the FCC's social media sites, including Twitter, Facebook, YouTube, Flickr, and others.
- Managing the Commission's website, working with other Bureaus and Offices to create and manage website content, and overseeing the agency's web standards and guidelines.
- Providing audio/visual support services for the Commission, which includes all public meetings.
- Facilitating the release of all Commission announcements, orders, and other information.
- Producing the Daily Digest of Commission releases.

Office of Workplace Diversity

Office of Workplace Diversity	FY 2019 Actual	FY 2020 Enacted	FY 2021 Estimates to Congress
Full-Time Equivalents (FTEs)	7	6	6
11 - Personnel compensation	\$661,666	\$671,114	\$692,524
12 - Personnel benefits	195,339	202,802	209,272
13 - Benefits for former personnel	0	0	0
Subtotal - Personnel Costs	\$857,005	\$873,916	\$901,795
21 - Travel & transportation of persons	\$9,604	\$4,000	\$4,076
22 - Transportation of things	0	0	0
23 - Rent, Communications, and Utilities	29,275	43,670	33,444
24 - Printing and reproduction	0	0	0
25 - Other contractual services	39,351	67,703	68,980
26 - Supplies and materials	0	0	0
31 - Equipment	0	0	0
40 - Insurance claims and interest	0	0	0
Subtotal - Non-Personnel Costs	\$78,230	\$115,374	\$106,501
TOTAL	\$935,235	\$989,290	\$1,008,296

The Office of Workplace Diversity develops, coordinates, evaluates, and recommends to the Commission policies, programs, and practices that foster a diverse workforce, and promotes and ensures equal employment opportunity (EEO) for all employees and applicants. A principal function of the Office is to lead, advise, and assist the Commission, including its component Bureau/Office managers, supervisors, and staff at all levels, on ways to promote inclusion and full participation of all employees in pursuit of the Commission’s mission. In accordance with this principal function, the Office shall: (1) conduct independent analyses of the Commission’s policies and practices to ensure that those policies and practices foster diversity in the workforce and ensure equal opportunity for employees and applicants; and (2) advise the Commission, Bureaus, and Offices of their responsibilities under: Title VII of the Civil Rights Act of 1964 as Amended; the Rehabilitation Act of 1973 as amended; Age Discrimination in Employment Act of 1967, as amended; Executive Order 11478; the Genetic Information Nondiscrimination Act and all other statutes, Executive Orders, and regulatory provisions relating to workforce diversity, equal employment opportunity, nondiscrimination, and civil rights. The Office has the following duties and responsibilities:

- Serving, through its Director, as the principal advisor to the Chairman and Commission officials on all aspects of workforce diversity, organization, equal employment opportunity, nondiscrimination, and civil rights.
- Providing leadership and guidance to create a work environment that values and encourages diversity in the workforce.

- Developing, implementing, and evaluating programs and policies to foster a workforce whose diversity reflects the diverse makeup of the Nation, enhances the mission of the Commission, and demonstrates the value and effectiveness of a diverse workforce.
- Developing, implementing, and evaluating programs and policies that promote understanding among members of the Commission's workforce of their differences and the value of those differences, and provides a channel for communication among diverse members of the workforce at all levels.
- Developing, implementing, and evaluating programs and policies to ensure that all members of the Commission's workforce and candidates for employment have equal access to opportunities for employment, career growth, training, and development, and are protected from discrimination and harassment.
- Developing and recommending Commission-wide workforce diversity goals and reporting on achievements.
- Developing, implementing, and evaluating programs and policies to enable all Bureaus and Offices to manage a diverse workforce effectively and in compliance with all equal employment opportunity and civil rights requirements.
- Working closely with the Associate Managing Director - Human Resources Management to ensure compliance with Federal and Commission recruitment and staffing requirements.
- Managing the Commission's EEO compliance program. Responsibilities in this area include processing complaints alleging discrimination, issuing final agency decisions on EEO complaints within the Commission, and providing consulting services to employees and applicants for employment on EEO matters.
- Developing and administering the Commission's program of reasonable accommodation for employees with disabilities in accordance with applicable laws and regulations.
- Developing and administering the Commission's program of Alternative Dispute Resolution to provide mediation services and to promote the use of dispute prevention and alternative dispute techniques.
- Representing the Commission at meetings with other public and private groups and organizations on matters concerning workforce diversity and equal employment opportunity.
- Maintaining liaison with and soliciting views of organizations within and outside the Commission on matters relating to equal opportunity and workforce diversity.

Office of Inspector General

Office of Inspector General	FY 2019 Actual	FY 2020 Enacted	FY 2021 Estimates to Congress
Full-Time Equivalents (FTEs)	45	60	60
11 - Personnel compensation	\$5,382,965	\$7,301,872	\$7,553,427
12 - Personnel benefits	1,623,735	1,838,523	1,897,175
13 - Benefits for former personnel	0	0	0
Subtotal - Personnel Costs	\$7,006,700	\$9,140,395	\$9,450,601
21 - Travel & transportation of persons	\$116	\$63,432	\$64,628
22 - Transportation of things	0	0	0
23 - Rent, Communications, and Utilities	288,762	271,983	150,928
24 - Printing and reproduction	0	0	0
25 - Other contractual services	110	1,597,331	1,627,470
26 - Supplies and materials	0	533	543
31 - Equipment	0	32,025	32,630
40 - Insurance claims and interest	230	0	0
Subtotal - Non-Personnel Costs	\$289,218	\$1,965,304	\$1,876,199
TOTAL	\$7,295,918	\$11,105,700	\$11,326,800

The FCC's Office of Inspector General (OIG) was established in compliance with the Inspector General Act of 1978 (Public Law 94-454), as amended. OIG conducts and supervises audits, inspections and investigations relating to FCC programs and operations. OIG provides management feedback, leadership, and recommends policies for activities designed to promote economy, efficiency, and increase the effectiveness of the administration. Further, the OIG works to both prevent and detect fraud, waste, and abuse in such programs and operations. OIG communicates with the Commission and Congress to keep them informed about issues and deficiencies relating to the administration of such programs and operations and the necessity for and progress of corrective action. The Inspector General reports directly to the Commission. The primary duties and responsibilities of OIG include:

- Conducting, supervising, and coordinating audits and investigations relating to the programs and operations of the FCC.
- Reviewing existing and proposed legislation and regulations relating to programs and operations of the FCC and making recommendations in semiannual reports required by section 5(a) of the Inspector General Act concerning the impact of such legislation or regulations on the economy and efficiency in the administration of programs and operations administered or financed by the FCC and the prevention and detection of fraud, waste, and abuse in such programs and operations.
- Recommending policies for and conducting or coordinating other activities carried out by or financed by the FCC for the purpose of promoting economy and efficiency in the

administration of or preventing and detecting fraud and abuse in its programs and operations.

- Recommending policies for matters relating to the promotion of economy and efficiency in the administration of, or the prevention and detection of fraud and abuse in, programs and operations administered or financed by the FCC.
- Reporting expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law.

This page is intentionally left blank

APPENDICES

This page is intentionally left blank

**Fiscal Year 2021 Budget Estimates to Congress
Summary - Requested Resources**

DISTRIBUTION OF BUDGET AUTHORITY

(Dollars in Thousands)

	<u>FY 2019 Actual</u>	<u>FY 2020 Enacted</u>	<u>FY 2021 Estimates to Congress</u>	<u>Change to Budget Authority</u>
<u>FCC - Without Office of Inspector General:</u>				
Authority to Spend Offsetting Collections:				
Total Appropriation - Regulatory Fees (Offsetting Collections)	\$321,747	\$327,894	\$331,743	\$3,849
Authority to Spend Other Offsetting Collections:				
Economy Act Reimbursable Agreements	\$1,247	\$4,000	\$4,000	\$0
Spectrum Auctions Cost Recovery Reimbursement	\$122,077	\$132,402	\$134,355	\$1,953
Total - Other Offsetting Collections	<u>\$123,325</u>	<u>\$136,402</u>	<u>\$138,355</u>	<u>\$1,953</u>
Total Budget Authority - Available to Incur Obligations	<u>\$445,071</u>	<u>\$464,296</u>	<u>\$470,099</u>	<u>\$5,802</u>
Other Budget Authority:				
Credit Program Account ²	\$0	\$25	\$25	\$0
<u>FCC - Office of Inspector General (OIG):</u>				
Authority to Spend Offsetting Collections:				
Total Appropriation - Regulatory Fees (Offsetting Collections)	\$7,296	\$11,106	\$11,327	\$221
Authority to Spend Other Offsetting Collections:				
Spectrum Auctions Cost Recovery Reimbursement	\$111	\$137	\$140	\$3
Total Budget Authority - Available to Incur Obligations	<u>\$7,407</u>	<u>\$11,243</u>	<u>\$11,467</u>	<u>\$224</u>
Other Budget Authority:				
OIG - Recovery of USF Oversight Cost	\$269	\$4,549	\$0	-\$4,549
<u>TOTAL - FCC with Office of Inspector General:</u>				
Total Appropriation - Offsetting Collections	<u>\$329,043</u>	<u>\$339,000</u>	<u>\$343,070</u>	<u>\$4,070</u>
Total - Other Offsetting Collections & Budget Authority¹	<u>\$123,705</u>	<u>\$141,113</u>	<u>\$138,520</u>	<u>-\$2,593</u>
Total Budget Authority - Available to Incur Obligations	<u>\$452,748</u>	<u>\$480,113</u>	<u>\$481,590</u>	<u>\$1,477</u>

¹The Middle Class Tax Relief and Job Creation Act of 2012 (2012 Act) mandated that the Commission reimburse reasonable channel relocation costs incurred by those qualified TV Broadcasters that will be affected by spectrum relocation. The 2012 Act also gave the Commission the authority to use \$1.75 billion from Incentive Auction revenues to reimburse TV Broadcasters for relocation costs. Additional authority totaling \$1 billion was provided to the Commission for this and for other purposes by the Consolidated Appropriations Act, 2018, Public Law 115-141. The TV Broadcaster Relocation Fund (TVBRF) is capped at \$2.75 billion. This budget authority is not represented in the above schedule to provide a better historical comparison of the components of the FCC's regular budgetary requests. The Commission's budgetary authority related to the TVBRF is presented separately in the Appendices section.

**Fiscal Year 2021 Budget Estimates to Congress
Summary - Requested Resources**

OUTLAYS

(Dollars in Millions)

	FY 2019 Actual	FY 2020 Enacted	FY 2021 Estimates to Congress
<u>FCC - Without Office of Inspector General:</u>			
New Offsetting Collections:			
Regulatory Fees	\$322	\$328	\$332
Spectrum Auctions Cost Recovery Reimbursement	\$122	\$132	\$134
Economy Act Reimbursable Agreements	\$1	\$4	\$4
Subtotal - Outlays from New Discretionary Authority (FCC)	\$445	\$464	\$470
<u>FCC - Office of Inspector General:</u>			
New Offsetting Collections:			
Outlays from New Discretionary Authority (OIG)	\$7	\$11	\$11
TOTAL OUTLAYS	\$452	\$475	\$481

FULL-TIME EQUIVALENTs (FTEs)

	FY 2019 Actual	FY 2020 Enacted	FY 2021 Estimates to Congress
Total Compensable Work Years:			
Full-Time Equivalents (FTEs) Employment	1,422	1,448	1,448
Proposed Distribution:			
Offsetting Collections - Commission without OIG	1,189	1,206	1,206
Offsetting Collections - Office of Inspector General	45	60	60
Subtotal - Regulatory Fees (Offsetting Collections)	1,234	1,266	1,266
Spectrum Auctions Program	188	182	182
TOTAL FTEs - COMMISSION	1,422	1,448	1,448

**Fiscal Year 2021 Budget Estimates to Congress
Summary - Distribution of Resources**

**REGULATORY FEES – OFFSETTING COLLECTIONS
(INCLUDING OIG)**

(Dollars in Thousands)

Object Classification Description	FY 2019 Actual	FY 2020 Enacted	FY 2021 Estimates to Congress
Personnel Compensation & Benefits:			
Full-time & Other than full-time Permanent (11.1 & 11.3)	\$171,193	\$183,400	\$191,041
Personnel benefits (12.0)	50,670	54,857	56,603
Subtotal - Personnel Compensation & Benefits	\$221,862	\$238,257	\$247,645
Other Expenses:			
Benefits for former personnel (13.0)	\$52	\$52	\$53
Travel & transportation of persons (21.0)	1,407	1,767	1,800
Transportation of things (22.0)	62	56	57
Rent payments to GSA (23.1)	33,367	33,410	27,030
Communications, utilities, & misc. charges (23.3)	5,192	5,846	5,956
Printing and reproduction (24.0)	1,000	1,125	1,147
Other services from non-Federal sources (25.2)	18,828	21,753	23,311
Other goods & services from Federal sources (25.3)	3,292	4,585	4,672
Operation & maintenance of equipment (25.7)	36,749	29,947	29,156
Supplies and materials (26.0)	4,037	772	787
Equipment (31.0)	2,333	840	855
Land and structures (32.0)	751	470	479
Insurance claims & interest (40.0)	112	120	122
Subtotal - Other Expenses	\$107,180	\$100,743	\$95,425
Total Obligations from Regulatory Fees	\$329,043	\$339,000	\$343,070
Total Resources from Regulatory Fees	\$329,043	\$339,000	\$343,070

**Fiscal Year 2021 Budget Estimates to Congress
Summary - Distribution of Resources**

**SPECTRUM AUCTIONS COST RECOVERY REIMBURSABLE AUTHORITY
(INCLUDING OIG)**

(Dollars in Thousands)

Object Classification Description	FY 2019 Actual	FY 2020 Enacted	FY 2021 Estimates to Congress
Personnel Compensation & Benefits:			
Full-time & Other than full-time Permanent (11.1 & 11.3)	\$27,330	\$28,394	\$29,386
Personnel benefits (12.0)	8,258	8,739	9,051
Subtotal - Personnel Compensation & Benefits	\$35,588	\$37,132	\$38,437
Other Expenses:			
Benefits for former personnel (13.0)	\$8	\$8	\$9
Travel & transportation of persons (21.0)	229	403	411
Transportation of things (22.0)	10	9	9
Rent payments to GSA (23.1)	5,961	6,175	5,150
Communications, utilities, & misc. charges (23.3)	2,179	2,751	2,803
Printing and reproduction (24.0)	174	184	187
Other services from non-Federal sources (25.2)	23,275	39,159	39,889
Other goods & services from Federal sources (25.3)	518	1,902	1,938
Operation & maintenance of equipment (25.7)	49,373	40,185	40,944
Supplies and materials (26.0)	3,832	4,492	4,579
Equipment (31.0)	1,006	131	134
Land and structures (32.0)	0	0	0
Insurance claims & interest (40.0)	34	5	5
Subtotal - Other Expenses	\$86,601	\$95,407	\$96,058
Total - Auctions Cost Recovery Reimbursable Authority	\$122,189	\$132,539	\$134,495

**Fiscal Year 2021 Budget Estimates to Congress
Summary – Distribution of Resources**

GOVERNMENT/OTHER REIMBURSABLE AUTHORITY

(Dollars in Thousands)

Object Classification Description	FY 2019 Actual	FY 2020 Enacted	FY 2021 Estimates to Congress
Personnel Compensation & Benefits:			
Full-time & Other than full-time Permanent (11.1 & 11.3)	\$313	\$350	\$350
Personnel benefits (12.0)	89	90	90
Subtotal - Personnel Compensation & Benefits	\$402	\$440	\$440
Other Expenses:			
Benefits for former personnel (13.0)	\$0	\$0	\$0
Travel & transportation of persons (21.0)	6	50	50
Transportation of things (22.0)	0	0	0
Rent payments to GSA (23.1)	0	0	0
Communications, utilities, & misc. charges (23.3)	0	0	0
Printing and reproduction (24.0)	0	0	0
Other services from non-Federal sources (25.2)	832	2,735	2,735
Other goods & services from Federal sources (25.3)	0	0	0
Operation & maintenance of equipment (25.7)	0	425	425
Supplies and materials (26.0)	2	50	50
Equipment (31.0)	5	300	300
Land and structures (32.0)	0	0	0
Insurance claims & interest (40.0)	0	0	0
Subtotal - Other Expenses	\$845	\$3,560	\$3,560
Total Government/Other Reimbursable Authority	\$1,247	\$4,000	\$4,000

**Fiscal Year 2021 Budget Estimates to Congress
Summary – Distribution of Resources**

CREDIT PROGRAM ACCOUNT

(Dollars in Thousands)

Object Classification Description	FY 2019 Actual	FY 2020 Enacted	FY 2021 Estimates to Congress
Personnel Compensation & Benefits:			
Full-time & Other than full-time Permanent (11.1 & 11.3)	\$0	\$0	\$0
Personnel benefits (12.0)	0	0	0
Subtotal - Personnel Compensation & Benefits	\$0	\$0	\$0
Other Expenses:			
Benefits for former personnel (13.0)	\$0	\$0	\$0
Travel & transportation of persons (21.0)	0	0	0
Transportation of things (22.0)	0	0	0
Rent payments to GSA (23.1)	0	0	0
Communications, utilities, & misc. charges (23.3)	0	0	0
Printing and reproduction (24.0)	0	0	0
Other services from non-Federal sources (25.2)	0	25	25
Other goods & services from Federal sources (25.3)	0	0	0
Operation & maintenance of equipment (25.7)	0	0	0
Supplies and materials (26.0)	0	0	0
Equipment (31.0)	0	0	0
Land and structures (32.0)	0	0	0
Insurance claims & interest (40.0)	0	0	0
Subtotal - Other Expenses	\$0	\$25	\$25
Total Credit Program	\$0	\$25	\$25

Note: The Commission is currently working with OMB to close out the Credit Program. OIG has no Credit Program funds.

**Fiscal Year 2021 Budget Estimates to Congress
Summary – Distribution of Resources**

TV BROADCASTER RELOCATION FUND

(Dollars in Thousands)

<u>Object Classification Description</u>	<u>FY 2019 Actual</u>	<u>FY 2020 Enacted</u>	<u>FY 2021 Estimates to Congress</u>
Personnel Compensation & Benefits:			
Full-time & Other than full-time Permanent (11.1 & 11.3)	\$0	\$0	\$0
Personnel benefits (12.0)	0	0	0
Subtotal - Personnel Compensation & Benefits	\$0	\$0	\$0
Other Expenses:			
Benefits for former personnel (13.0)	\$0	\$0	\$0
Travel & transportation of persons (21.0)	0	0	0
Transportation of things (22.0)	0	0	0
Rent payments to GSA (23.1)	0	0	0
Communications, utilities, & misc. charges (23.3)	0	0	0
Printing and reproduction (24.0)	0	0	0
Other services from non-Federal sources (25.2)	0	0	0
Other goods & services from Federal sources (25.3)	0	0	0
Operation & maintenance of equipment (25.7)	0	0	0
Supplies and materials (26.0)	0	0	0
Equipment (31.0)	0	0	0
Land and structures (32.0)	0	0	0
Grants, subsidies, and contributions (41.0)	580,000	1,260,000	694,000
Insurance claims & interest (40.0)	0	0	0
Subtotal - Other Expenses	\$580,000	\$1,260,000	\$694,000
Total TV Broadcaster Relocation Fund	\$580,000	\$1,260,000	\$694,000

Note: The Middle Class Tax Relief and Job Creation Act of 2012 (2012 Act) mandated that the Commission reimburse reasonable channel relocation costs incurred by those qualified TV Broadcasters that will be affected by spectrum relocation. The 2012 Act also gave the Commission the authority to use \$1.75 billion from Incentive Auction revenues to reimburse TV Broadcasters for relocation costs. Additional authority totaling \$1 billion was provided to the Commission for this and for other purposes by the Consolidated Appropriations Act, 2018, Public Law 115-141. The TV Broadcaster Relocation Fund is capped at \$2.75 billion. The amount shown for FY 2021 is an estimated carryover of funds that has not been obligated in prior fiscal years, which is available until July 3, 2023.

**Fiscal Year 2021 Budget Estimates to Congress
Summary – Distribution of Resources**

OFFICE OF INSPECTOR GENERAL – UNIVERSAL SERVICE FUND

(Dollars in Thousands)

Object Classification Description	FY 2019 Actual	FY 2020 Enacted	FY 2021 Estimates to Congress
Personnel Compensation & Benefits:			
Full-time & Other than full-time Permanent (11.1 & 11.3)	\$0	\$0	\$0
Personnel benefits (12.0)	0	0	0
Subtotal - Personnel Compensation & Benefits	\$0	\$0	\$0
Other Expenses:			
Benefits for former personnel (13.0)	\$0	\$0	\$0
Travel & transportation of persons (21.0)	43	40	0
Transportation of things (22.0)	0	0	0
Rent payments to GSA (23.1)	0	0	0
Communications, utilities, & misc. charges (23.3)	0	0	0
Printing and reproduction (24.0)	0	0	0
Other services from non-Federal sources (25.2)	225	4,377	0
Other goods & services from Federal sources (25.3)	0	16	0
Operation & maintenance of equipment (25.7)	0	0	0
Supplies and materials (26.0)	0	0	0
Equipment (31.0)	0	115	0
Land and structures (32.0)	0	0	0
Insurance claims & interest (40.0)	0	0	0
Subtotal - Other Expenses	\$269	\$4,549	\$0
Total Universal Service Program	\$269	\$4,549	\$0

Note: The Office of Inspector General (OIG) - Universal Service Fund (USF) represents carryover funds. These resources are presented in a separate schedule apart from the Salaries & Expenses account and funded from amounts transferred from the USF in FY 2008, as permitted in appropriations language for that year. No new budget authority is requested by the OIG in FYs 2020 and 2021. The carryover balances will be used to continue the USF oversight by OIG.

**Fiscal Year 2021 Budget Estimates to Congress
Summary – Distribution of Resources**

**REGULATORY FEES – OFFSETTING COLLECTIONS
(EXCLUDING OIG)**

(Dollars in Thousands)

Object Classification Description	FY 2019 Actual	FY 2020 Enacted	FY 2021 Estimates to Congress
Personnel Compensation & Benefits:			
Full-time & Other than full-time Permanent (11.1 & 11.3)	\$165,810	\$176,098	\$183,488
Personnel benefits (12.0)	49,046	53,018	54,706
Subtotal - Personnel Compensation & Benefits	\$214,856	\$229,117	\$238,194
Other Expenses:			
Benefits for former personnel (13.0)	\$52	\$52	\$53
Travel & transportation of persons (21.0)	1,407	1,703	1,735
Transportation of things (22.0)	62	56	57
Rent payments to GSA (23.1)	33,078	33,146	26,888
Communications, utilities, & misc. charges (23.3)	5,192	5,837	5,948
Printing and reproduction (24.0)	1,000	1,125	1,147
Other services from non-Federal sources (25.2)	18,828	20,289	21,819
Other goods & services from Federal sources (25.3)	3,292	4,452	4,536
Operation & maintenance of equipment (25.7)	36,749	29,947	29,156
Supplies and materials (26.0)	4,037	772	786
Equipment (31.0)	2,333	807	823
Land and structures (32.0)	751	470	479
Insurance claims & interest (40.0)	112	120	122
Subtotal - Other Expenses	\$106,891	\$98,777	\$93,549
Total - Obligations from Regulatory Fees	\$321,747	\$327,894	\$331,743
Total - Resources from Regulatory Fees	\$321,747	\$327,894	\$331,743

**Fiscal Year 2021 Budget Estimates to Congress
Summary – Distribution of Resources**

**SPECTRUM AUCTIONS COST RECOVERY REIMBURSEMENT AUTHORITY
(EXCLUDING OIG)**

(Dollars in Thousands)

Object Classification Description	FY 2019 Actual	FY 2020 Enacted	FY 2021 Estimates to Congress
Personnel Compensation & Benefits:			
Full-time & Other than full-time Permanent (11.1 & 11.3)	\$27,330	\$28,394	\$29,386
Personnel benefits (12.0)	8,258	8,739	9,051
Subtotal - Personnel Compensation & Benefits	\$35,588	\$37,132	\$38,437
Other Expenses:			
Benefits for former personnel (13.0)	\$8	\$8	\$9
Travel & transportation of persons (21.0)	229	403	411
Transportation of things (22.0)	10	9	9
Rent payments to GSA (23.1)	5,961	6,175	5,150
Communications, utilities, & misc. charges (23.3)	2,179	2,751	2,803
Printing and reproduction (24.0)	174	184	187
Other services from non-Federal sources (25.2)	23,165	39,028	39,754
Other goods & services from Federal sources (25.3)	518	1,897	1,933
Operation & maintenance of equipment (25.7)	49,373	40,185	40,944
Supplies and materials (26.0)	3,832	4,492	4,579
Equipment (31.0)	1,006	131	134
Land and structures (32.0)	0	0	0
Insurance claims & interest (40.0)	34	5	5
Subtotal - Other Expenses	\$86,490	\$95,270	\$95,918
Total - Auctions Cost Recovery Reimbursable Obligations	\$122,077	\$132,402	\$134,355

**Fiscal Year 2021 Budget Estimates to Congress
Summary – Distribution of Resources**

**REGULATORY FEES – OFFSETTING COLLECTIONS
(OFFICE OF INSPECTOR GENERAL)**

(Dollars in Thousands)

Object Classification Description	FY 2019 Actual	FY 2020 Enacted	FY 2021 Estimates to Congress
Personnel Compensation & Benefits:			
Full-time & Other than full-time Permanent (11.1 & 11.3)	\$5,383	\$7,302	\$7,553
Personnel benefits (12.0)	1,624	1,838	1,897
Subtotal - Personnel Compensation & Benefits	\$7,007	\$9,140	\$9,450
Other Expenses:			
Benefits for former personnel (13.0)	\$0	\$0	\$0
Travel & transportation of persons (21.0)	0	63	65
Transportation of things (22.0)	0	0	0
Rent payments to GSA (23.1)	289	263	142
Communications, utilities, & misc. charges (23.3)	0	9	9
Printing and reproduction (24.0)	0	0	0
Other services from non-Federal sources (25.2)	0	1,464	1,492
Other goods & services from Federal sources (25.3)	0	133	136
Operation & maintenance of equipment (25.7)	0	0	0
Supplies and materials (26.0)	0	1	1
Equipment (31.0)	0	32	33
Land and structures (32.0)	0	0	0
Insurance claims & interest (40.0)	0	0	0
Subtotal - Other Expenses	\$289	\$1,966	\$1,876
Total - Obligations from Regulatory Fees	\$7,296	\$11,106	\$11,327
Total - Resources from Regulatory Fees	\$7,296	\$11,106	\$11,327

**Fiscal Year 2021 Budget Estimates to Congress
Summary – Distribution of Resources**

**SPECTRUM AUCTIONS COST RECOVERY REIMBURSABLE AUTHORITY
(OFFICE OF INSPECTOR GENERAL)**

(Dollars in Thousands)

<u>Object Classification Description</u>	<u>FY 2019 Actual</u>	<u>FY 2020 Enacted</u>	<u>FY 2021 Estimates to Congress</u>
Personnel Compensation & Benefits:			
Full-time & Other than full-time Permanent (11.1 & 11.3)	\$0	\$0	\$0
Personnel benefits (12.0)	0	0	0
Subtotal - Personnel Compensation & Benefits	\$0	\$0	\$0
Other Expenses:			
Benefits for former personnel (13.0)	\$0	\$0	\$0
Travel & transportation of persons (21.0)	0	0	0
Transportation of things (22.0)	0	0	0
Rent payments to GSA (23.1)	0	0	0
Communications, utilities, & misc. charges (23.3)	0	0	0
Printing and reproduction (24.0)	0	0	0
Other services from non-Federal sources (25.2)	111	132	134
Other goods & services from Federal sources (25.3)	0	5	5
Operation & maintenance of equipment (25.7)	0	0	0
Supplies and materials (26.0)	0	0	0
Equipment (31.0)	0	0	0
Land and structures (32.0)	0	0	0
Insurance claims & interest (40.0)	0	0	0
Subtotal - Other Expenses	\$111	\$137	\$140
Total - Auctions Cost Recovery Reimbursable Obligations	\$111	\$137	\$140

**Fiscal Year 2021 Budget Estimates to Congress
Summary - Distribution of Resources by Strategic Goals**

(Dollars in Thousands)

Strategic Goals	Closing the Digital Divide	Promoting Innovation	Protecting Consumers & Public Safety	Reforming the FCC's Processes	TOTAL
<u>Regulatory Fees:</u>					
FY 2019 Actual	\$81,581	\$72,487	\$83,786	\$91,189	\$329,043
FY 2020 Enacted	\$97,058	\$76,227	\$91,759	\$73,956	\$339,000
Less: FY 2020 One-Time Investment Requests	\$0	\$0	\$0	-\$3,192	-\$3,192
FY 2020 Salary Inflationary Increase	\$1,424	\$1,119	\$1,347	\$1,085	\$4,975
FY 2020 Base Level	\$98,483	\$77,346	\$93,106	\$71,849	\$340,783
Less: FY 2021 New Headquarters Rent Savings	\$0	\$0	\$0	-\$6,880	-\$6,880
FY 2021 Salary Increases	\$721	\$566	\$681	\$548	\$2,516
FY 2021 Non-Salary Inflationary Increase	\$473	\$372	\$447	\$361	\$1,653
Additional Awards for Non-SES/SL/ST FTEs	\$542	\$426	\$512	\$413	\$1,893
FY 2021 Base Adjustments	\$150	\$0	\$0	\$375	\$525
Subtotal	\$1,886	\$1,363	\$1,641	-\$5,183	-\$292
FY 2021 One-Time Investment Requests	\$420	\$0	\$350	\$1,809	\$2,579
FY 2021 Request to OMB	\$100,788	\$78,709	\$95,097	\$68,475	\$343,070
<u>Spectrum Auctions Program</u>					
FY 2019 Actual	\$61,799	\$10,944	\$626	\$48,820	\$122,189
FY 2020 Enacted	\$67,033	\$11,871	\$680	\$52,955	\$132,539
FY 2020 Salary Inflationary Increase	\$388	\$69	\$4	\$307	\$768
FY 2020 Base Level	\$67,421	\$11,940	\$684	\$53,262	\$133,307
Less: FY 2021 New Headquarters Rent Savings	\$0	\$0	\$0	-\$1,120	-\$1,120
FY 2021 Salary Inflationary Increase	\$271	\$48	\$3	\$214	\$537
FY 2021 Non-Salary Inflationary Increase	\$896	\$159	\$9	\$708	\$1,771
FY 2021 Request to OMB	\$68,589	\$12,147	\$696	\$53,064	\$134,495

**Fiscal Year 2021 Budget Estimates to Congress
Allocation of Obligations by Budget Object Class Code**

(Dollars in Thousands)

Budget Object Class Codes and Descriptions	FY 2019 Actual	FY 2020 Enacted	FY 2020		FY 2021 Base	FY 2021		1% FY 2021 Pay Increase	Non- Payroll Infla- tionary Increase	Addi- tional Awards for Non- SES/SL/ ST FTEs	Base In- creases & One- Time Requests	FY 2021 Request to OMB
			Reversal of FY 2020 One-Time Requests	Base Pay Increase from CY20		New HQ Rent Savings	Base Pay Increase from CY20					
11 Personnel Compensation	\$171,193	\$183,400	\$0	\$4,975	\$188,375	\$0	\$1,658	\$858	\$0	\$1,893	\$0	\$191,041
12 Benefits	50,670	54,857	0	0	54,857	0	0	0	4	0	0	56,604
13 Benefits for former personnel	52	52	0	0	52	0	0	0	0	0	0	52
21 Travel & transportation of persons	1,407	1,767	0	0	1,767	0	0	0	33	0	0	1,800
22 Transportation of things	62	56	0	0	56	0	0	0	1	0	0	57
23.1 Rent payments to GSA	33,367	33,410	0	0	33,410	-6,880	0	0	501	0	0	27,030
23.3 Communications, utilities, & misc. charges	5,192	5,846	0	0	5,846	0	0	0	110	0	0	5,956
24 Printing and reproduction	1,000	1,125	0	0	1,125	0	0	0	21	0	0	1,147
25.2 Other services from non-Federal sources	18,828	21,753	0	0	21,753	0	0	0	58	0	1,500	23,311
25.3 Other goods & services from Federal sources	3,292	4,585	0	0	4,585	0	0	0	87	0	0	4,672
25.7 Operation & maintenance of equipment	36,749	29,947	-3,192	0	26,755	0	0	0	797	0	1,604	29,156
26 Supplies and materials	4,037	772	0	0	772	0	0	0	15	0	0	787
31 Equipment	2,333	840	0	0	840	0	0	0	16	0	0	855
32 Land and structures	751	470	0	0	470	0	0	0	9	0	0	479
40 Insurance claims & interest	112	120	0	0	120	0	0	0	2	0	0	122
Sub-Total - Regulatory Fees	\$329,043	\$339,000	-\$3,192	\$4,975	\$340,783	-\$6,880	\$1,658	\$858	\$1,653	\$1,893	\$3,104	\$343,070
Sub-Total - Appropriation Authority	\$329,043	\$339,000	-\$3,192	\$4,975	\$340,783	-\$6,880	\$1,658	\$858	\$1,653	\$1,893	\$3,104	\$343,070
Reimbursables - Government/Other	1,247	4,000	0	0	4,000	0	0	0	0	0	0	4,000
Spectrum Auction Cost Recovery Reimbursement	122,189	132,539	0	768	133,307	-1,120	256	281	1,771	0	0	134,495
TOTAL REQUEST	\$452,479	\$475,539	-\$3,192	\$5,743	\$478,090	-\$8,000	\$1,914	\$1,139	\$3,424	\$1,893	\$3,104	\$481,565

EXHIBITS AND REPORTS

This page is intentionally left blank

Affirmation Statement from Senior Agency Official for Privacy (SAOP)

Description of Privacy Program

The FCC conducts a privacy program to meet all applicable privacy requirements and manage privacy risks within the agency. Led by the Senior Agency Official for Privacy (SAOP) and the Privacy Manager in the office of the Chief Information Officer (CIO), the program monitors the FCC bureaus and offices that maintain systems of records and information technology that collect and maintain personally identifiable information (PII). When necessary, program officials help system owners execute system of records notices (SORNS), Privacy Impact Assessments (PIAs), and other required disclosures. Program officials provide privacy training and advise system owners on how they can minimize the collection of PII, in particular, of Social Security numbers. The program is also responsible for making sure that the FCC's Privacy Act statements and other public-facing privacy information are clear and compliant with current laws, rules, and OMB guidance.

The privacy program works closely with the CIO's office to help identify and mitigate privacy risks in the agency's information systems. Through the PIA process, the program helps IT development staff and customers identify privacy risks in their systems and mitigate these risks as much as possible. Program officials also work closely with the FCC's Network Security Operations Center (NSOC) to prepare for and respond to PII breaches.

SAOP Comments on FY 2021 New Investments

I have reviewed and support these proposed investments because moving systems from outdated legacy technologies to cloud-based platforms significantly improves the security of these systems, including systems that contain PII.

Information Technology (IT) Investments

The information will be submitted electronically in accordance with OMB Circular A-11, Section 55.

IT Table

TAFS/Account Code	# FTE PY	PY Total \$ In Millions	# FTE CY	CY Total \$ In Millions	# FTE BY	BY Total \$ In Millions
027-0100	36	\$109	36	\$89	36	\$91
027-5183	170	\$80	170	\$87	170	\$91
Total	206	\$189	206	\$176	206	\$182

IT Resources Statement

As required by OMB Circular A-11, Section 51.3, the Chief Financial Officer (CFO) and Chief Information Officer (CIO) affirm the following:

- that the CIO has reviewed and approved the major IT investments portion of the budget request;
- that the CFO and CIO affirm that the CIO had a significant role in reviewing planned IT support for major program objectives and significant increases and decreases in IT resources; and
- that the IT Portfolio includes appropriate estimates of all IT resources included in the budget request.

Award Spending Estimates

As required by OMB Circular A-11, Section 32.01, the following chart summarizes the Commission's award estimates for FYs 2020 and 2021.

(Dollars in Thousands)

FY 2020 Estimated Salary Spending for Non-SES/SL/ST Positions	\$187,200
Estimate Percentage of Award Spending for Non-SES/SL/ST	1.47%
FY 2020 Estimated Award Spending for Non-SES/SL/ST	\$2,752
FY 2021 Estimated Salary Spending for Non-SES/SL/ST Positions	\$188,058
Estimate Percentage of Award Spending for Non-SES/SL/ST	2.47%
FY 2021 Estimated Award Spending for Non-SES/SL/ST	\$4,645
Estimated Increase in FY 2021 Award Spending for Non-SES/SL/ST	\$1,893

Universal Service Fund Exhibit

Under the Telecommunications Act of 1996, telecommunications carriers that provide interstate and international telecommunications services are required to contribute funds for the preservation and advancement of universal service. The contributions generally provided, in turn, by each carrier's subscribers, are used to provide services eligible for universal service support as prescribed by the FCC. Administrative costs of the program are provided from carrier contributions. For budgetary purposes, the USF comprises five elements that consist of four universal service support mechanisms and the Telecommunications Relay Service (TRS) Fund for FY 2019. Starting with FY 2020, TRS is reported separately under a new Treasury Account Symbol (see Telecommunications Relay Service Fund Exhibit on next page).

Public Law 116-93 temporarily suspended the application of the Antideficiency Act to the Federal USF programs authorized under section 210 of the Communications Act of 1934, through December 31, 2020. The Antideficiency Act requires that funds be available before incurring an obligation on behalf of the Federal Government.

Program and Financing (in millions of dollars)

		2019 Actual	2020 Est.	2021 Est.
Obligation by program activity:				
0001	Universal service fund	\$15,403	\$6,470	\$6,607
0002	Program support	\$190	\$248	\$242
0900	Total new obligations (object class 41.0)	\$15,593	\$6,718	\$6,849
Budgetary resources				
1000	Unobligated balance carried forward, start of year	(\$6,047)	(\$11,076)	(\$9,295)
1010	Unobligated balance transfer to other accounts	\$0	(\$298)	\$0
1021	Recoveries of prior year unpaid obligations	\$787	\$563	\$733
1033	Recoveries of prior year paid obligations	\$21	\$0	\$0
1050	Unobligated balance (total)	(\$5,239)	(\$10,811)	(\$8,562)
Budget authority: Mandatory				
1201	Appropriation(special fund) - Receipt	\$9,725	\$8,655	\$8,478
1201	Appropriation(special fund) - Interest	\$31	\$1	\$0
1220	Appropriation transferred to other accounts	\$0	(\$426)	\$0
1260	Appropriation, mandatory (total)	\$9,756	\$8,230	\$8,478
Spending authority from offsetting collections, mandatory:				
1850	Collected (total)	\$0	\$0	\$0
1900	Budget authority (total)	\$9,756	\$8,230	\$8,478
1930	Total budgetary resources available	\$4,517	(\$2,581)	(\$84)
1941	Unexpired unobligated balance, end of year	(\$11,076)	(\$9,295)	(\$6,934)
Change in obligated balances:				
3000	Unpaid obligated balance, start of year	\$12,853	\$17,589	\$14,837
3010	Obligation incurred, unexpired accounts	\$15,593	\$6,718	\$6,849
3020	Total outlays (gross)	(\$10,070)	(\$8,889)	(\$8,923)
3030	Unpaid obligation transferred to other accounts	\$0	(\$18)	\$0
3040	Recoveries of prior year obligations	(\$787)	(\$563)	(\$733)
3050	Unpaid obligated balance, end of year (net)	\$17,589	\$14,837	\$12,030
3100	Obligation balance, start of year	\$12,853	\$17,589	\$14,837
3200	Obligation balance, end of year	\$17,589	\$14,837	\$12,030
Budget authority and outlays net:				
4090	Budget authority gross:	\$9,756	\$8,230	\$8,478
4100	Outlays from new mandatory authority	\$5,357	\$4,257	\$4,608
4101	Outlays from new mandatory balances	\$4,713	\$4,632	\$4,315
4110	Total outlays (net)	\$10,070	\$8,889	\$8,923
Offsets against gross budget authority and outlays				
4123	Offsetting collection from Non-Federal sources	(\$21)	\$0	\$0
4160	Budget authority net (mandatory)	\$9,756	\$8,230	\$8,478
4170	Outlays net (mandatory)	\$10,049	\$8,889	\$8,923
4180	Budget authority net (total)	\$9,756	\$8,230	\$8,478
4190	Outlays net (total)	\$10,049	\$8,889	\$8,923
Memorandum (non-add) entries:				
5000	Total investments, start of year: Federal securities: Par value	\$2,883	\$308	\$0
5001	Total investments, end of year: Federal securities: Par value	\$308	\$0	\$0

Telecommunications Relay Service Fund Exhibit

As part of the Americans with Disabilities Act of 1990 Congress amended the Communications Act of 1934 (Act) to direct the Commission "to ensure that interstate and intrastate telecommunications relay services (TRS) are available, to the extent possible and in the most efficient manner, to hearing and speech-impaired individuals in the United States." Section 225 of the Act also directs the Commission to prescribe regulations that "generally provide that costs caused by interstate telecommunications relay services shall be recovered from all subscribers for every interstate service and costs caused by intrastate telecommunications relay service shall be recovered from the intrastate jurisdiction." The shared-funding mechanism requires providers of interstate telecommunications services to contribute to a fund that reimburses TRS providers for the cost of providing interstate TRS. All telecommunications service providers and certain other providers of telecommunications contribute to the TRS Fund based on a percentage of their end-user telecommunications revenues. These companies include, but are not limited to, wireline phone companies, wireless phone companies, paging service companies and certain Voice over Internet Protocol (VoIP) providers.

All telec

Program and Financing (in millions of dollars)		2019 Actual	2020 Est.	2021 Est.
Obligation by program activity:				
0001	Telecommunications relay services	\$0	\$1,436	\$1,440
0002	Program support	\$0	\$15	\$15
0900	Total new obligations (object class 41.0)	\$0	\$1,451	\$1,455
Budgetary resources				
1000	Unobligated balance carried forward, start of year	\$0	\$0	\$271
1011	Unobligated balance transfer from other accounts	\$0	\$298	\$0
1021	Recoveries of prior year unpaid obligations	\$0	\$0	\$0
1033	Recoveries of prior year paid obligations	\$0	\$0	\$0
1050	Unobligated balance (total)	\$0	\$298	\$271
Budget authority: Mandatory				
1201	Appropriation(special fund) - Receipt	\$0	\$998	\$1,457
1221	Appropriation transferred from other accounts	\$0	\$426	\$0
1260	Appropriation, mandatory (total)	\$0	\$1,424	\$1,457
Spending authority from offsetting collections, mandatory:				
1850	Collected (total)	\$0	\$0	\$0
1900	Budget authority (total)	\$0	\$1,424	\$1,457
1930	Total budgetary resources available	\$0	\$1,722	\$1,728
1941	Unexpired unobligated balance, end of year	\$0	\$271	\$273
Change in obligated balances:				
3000	Unpaid obligated balance, start of year	\$0	\$0	\$15
3010	Obligation incurred, unexpired accounts	\$0	\$1,451	\$1,455
3020	Total outlays (gross)	\$0	(\$1,454)	(\$1,455)
3030	Unpaid obligation transferred to other accounts	\$0	\$18	\$0
3040	Recoveries of prior year obligations	\$0	\$0	\$0
3050	Unpaid obligated balance, end of year (net)	\$0	\$15	\$15
3100	Obligation balance, start of year	\$0	\$0	\$15
3200	Obligation balance, end of year	\$0	\$15	\$15
Budget authority and outlays net:				
4090	Budget authority gross:	\$0	\$1,424	\$1,457
4100	Outlays from new mandatory authority	\$0	\$1,141	\$1,173
4101	Outlays from new mandatory balances	\$0	\$313	\$282
4110	Total outlays (net)	\$0	\$1,454	\$1,455
Offsets against gross budget authority and outlays				
4160	Budget authority net (mandatory)	\$0	\$1,424	\$1,457
4170	Outlays net (mandatory)	\$0	\$1,454	\$1,455
4180	Budget authority net (total)	\$0	\$1,424	\$1,457
4190	Outlays net (total)	\$0	\$1,454	\$1,455

Note: TRS numbers are included under USF for FY 2019. Starting with FY 2020, TRS numbers are shown separately under its own account.

GAO-IG Act Audit List

Good Accounting Obligation in Government Act Report

In accordance with the Good Accounting Obligation in Government Act (GAO-IG Act), the Federal Communications Commission (FCC or Commission) provides the following report. The report describes the Commission's actions on outstanding public recommendations of the Government Accountability Office (GAO) and the Commission's Office of the Inspector General (OIG), which have remained unimplemented for one year or more as of the date on which the annual budget justification is submitted. The first section of the report provides information on the status of implementing GAO public recommendations designated by the GAO as *Open* or *Closed, Unimplemented*. The second section of the report provides information on the status of implementing OIG's recommendations for which the Commission has not completed final action. In accordance with the GAO-IG Act, both sections provide the required reporting elements for recommendations published not less than one year before the date on which the annual budget justification is submitted.

The GAO-IG Act also requires agencies to include a statement describing the status of implementing public recommendations open less than one year. For the GAO and OIG recommendations meeting this parameter, as of January 1, 2020, the Commission is in the process of implementing those recommendations, awaiting closure of the recommendations by the GAO or OIG, or awaiting discussions with the GAO or OIG on further actions to be implemented, if any, to close the recommendations.

The GAO-IG Act requires agencies to disclose discrepancies between its report and reports issued by the GAO and OIG. The Commission is not aware of any discrepancies between this report and public reports issued by the GAO relating to public recommendations designated by the GAO as *Open* or *Closed, Unimplemented*. Further, the Commission is not aware of any discrepancies between this report and the semiannual reports submitted by the OIG under Section 5 of the Inspector General Act of 1978 (5 U.S.C. App.).

FCC Report on Outstanding GAO and OIG Recommendations

1. GAO Recommendations

- **Implementation Status of GAO Public Recommendations Designated by the GAO as “open” or “closed, unimplemented.”**

The reporting details are provided in Section 1. As required by the GAO-IG Act, the details include the implementation status of each public recommendation, to include a timeline for full implementation, as applicable; e.g., for several recommendations, the Commission believes it has completed final action and is awaiting GAO concurrence and closure of the recommendations. The Commission did not include recommendations that were over four years old that GAO and the FCC agreed to label as “closed, unimplemented” because GAO agreed to close those recommendations.

2. OIG Recommendations

- **Implementation Status of OIG Public Recommendations for which Final Action Has Not Been Completed.**

The reporting details are provided in Section 2. As required by the GAO-IG Act, the details include the implementation status of each public recommendation, to include a timeline for implementation, as applicable; e.g., for several recommendations, the Commission believes it has completed final action and is awaiting OIG concurrence and closure of the recommendations.

Section 1 - Implementation Status of GAO Public Recommendations Designated by the GAO as Open or Closed, Unimplemented

Report Number	Report Title	Issued Date	Rec. No. in GAO Report	Recommendation	Timeline for Full Implementation	Justification for Decision Not to Implement
GAO-11-11	Telecommunications - Improved Management can Enhance FCC Decision Making for the Universal Service Fund Low-Income Program	10/28/2010	2	To improve the management and oversight of the Low-Income Program, the Chairman of the FCC should conduct a robust risk assessment of the Low-Income Program.	FY 2020	Implementation is in progress
GAO-12-738	TELECOMMUNICATIONS: FCC has reformed the High-Cost Program, but Oversight and Management Could be Improved)	07/25/2012	1	To determine the overall effectiveness of the Connect America Fund as well as improve the oversight and transparency of the high-cost program, the FCC should establish a specific data-analysis plan for the carrier data and make the information publicly available.	FCC management reported to GAO on 8/20/2019 that FCC had completed final action	Awaiting GAO closure of the recommendation
GAO-15-335	Telecommunications: FCC Should Evaluate the Efficiency and Effectiveness of the Lifeline Program	03/24/2015	1	The FCC should conduct a program evaluation to determine the extent to which the Lifeline program is efficiently and effectively reaching its performance goals of ensuring the availability of voice service for low-income Americans while minimizing the contribution burden on consumers and businesses.	FY 2021	Implementation is in progress
GAO-15-409	Telecommunications Relay Service: FCC Should Strengthen Its Management of Program to Assist Persons with Hearing or Speech Disabilities	04/29/2015	1	Develop specific performance goals and measures for the TRS program. FCC should establish goals that would guide its efforts on major program dimensions--for example, consider goals and performance measures related to, but not limited to, service quality or competition among providers.	FY 2020	Implementation is in progress
GAO-15-409	Telecommunications Relay Service: FCC Should Strengthen Its Management of Program to Assist Persons with Hearing or Speech Disabilities	04/29/2015	2	Following the establishment of TRS's performance goals, the Chairman of the Federal Communications Commission should conduct a robust risk assessment that can help FCC design a comprehensive internal- control system.	FY 2021	Implementation is in progress
GAO-15-409	Telecommunications Relay Service: FCC Should Strengthen Its Management of Program to Assist Persons with Hearing or Speech Disabilities	04/29/2015	3	Improve FCC's communication of TRS rules and procedures to the community of individuals who are deaf, hard of hearing, or have speech disabilities and the companies providing TRS services through the creation and dissemination of a handbook, program manual, or other consolidation of TRS rules and procedures.	FY 2020	Implementation is in progress

Section 1 - Implementation Status of GAO Public Recommendations Designated by the GAO as Open or Closed, Unimplemented

Report Number	Report Title	Issued Date	Rec. No. in GAO Report	Recommendation	Timeline for Full Implementation	Justification for Decision Not to Implement
GAO-16-167	Internet Protocol Transition: FCC Should Strengthen Its Data Collection Efforts to Assess the Transition's Effects	12/16/2015	1	To strengthen FCC's data collection efforts, the Chairman of FCC should develop a strategy to gather additional information on the IP transition to assess the transition's potential effects on public safety and consumers.	FY 2021	Implementation is in progress
GAO-16-222	Telecommunications: Additional Coordination and Performance Measurement Needed for High-Speed Internet Access Programs on Tribal Lands	01/29/2016	4	To help improve and measure the availability and adoption of high-speed Internet on tribal lands, the Chairman of the Federal Communications Commission should develop performance goals and measures to track progress on achieving its strategic objective of ensuring that all tribal schools and libraries have affordable access to modern broadband technologies.	FCC expects GAO to close this recommendation as Not Implemented	FCC management considers that FCC's current Strategic Plan contains sufficient goals and objectives to expand broadband deployment in all parts of the country, including Tribal lands
GAO-16-349	Local Media Advertising: FCC Should Take Action to Ensure Television Stations Publicly File Advertising Agreements	03/10/2016	1	The Chairman of FCC should review joint sales agreements (JSA) filed in stations' public inspection files to identify stations involved in those JSAs and take action to ensure that each station involved has filed its JSA as required.	FCC expects GAO to close this recommendation as Not Implemented	FCC management considers that FCC has taken sufficient actions to ensure that each station files its JSAs as required, including issuing Public Notice DA 16-636 which reminded licensees of the requirement to place JSAs in public inspection files
GAO-17-538	Telecommunications: Additional Action Needed to Address Significant Risks in FCC's Lifeline Program	05/30/2017	1	To address control weaknesses and related program-integrity risks we identified in Lifeline, the Chairman of FCC should require Commissioners to review and approve, as appropriate, spending above the budget in a timely manner.	A final implementation date has not been established	On-going evaluation of recommendation
GAO-17-538	Telecommunications: Additional Action Needed to Address Significant Risks in FCC's Lifeline Program	05/30/2017	3	To address control weaknesses and related program-integrity risks we identified in Lifeline, the Chairman of FCC should establish time frames to evaluate compliance plans and develop instructions with criteria for FCC reviewers how to evaluate these plans to meet Lifeline's program goals.	A final implementation date has not been established	On-going evaluation of recommendation

Section 1 - Implementation Status of GAO Public Recommendations Designated by the GAO as Open or Closed, Unimplemented

Report Number	Report Title	Issued Date	Rec. No. in GAO Report	Recommendation	Timeline for Full Implementation	Justification for Decision Not to Implement
GAO-17-538	Telecommunications: Additional Action Needed to Address Significant Risks in FCC's Lifeline Program	05/30/2017	4	To address control weaknesses and related program-integrity risks we identified in Lifeline, the Chairman of FCC should develop an enforcement strategy that details what violations lead to penalties and apply this as consistently as possible to all Lifeline providers to ensure consistent enforcement of program violations; the strategy should include a rationale and method for resource prioritization to help maximize the effectiveness of enforcement activities.	FCC management reported to GAO on 1/28/2020 that FCC had completed final action	Awaiting GAO closure of the recommendation
GAO-17-538	Telecommunications: Additional Action Needed to Address Significant Risks in FCC's Lifeline Program	05/30/2017	7	To address our findings regarding the USF, the Chairman of FCC should take action to respond to USAC requests for guidance and address pending requests concerning USF contribution requirements to ensure the contribution factor is based on complete information and that USF pass-through charges are equitable.	A final implementation date has not been established	Implementation is in progress
GAO-17-727	FCC Updated Its Enforcement Program, but Improved Transparency Is Needed	09/14/2017	1	The Chairman of the FCC should establish quantifiable goals and related measures--performance indicators, targets, and timeframes--for its enforcement program and annually publish the results to demonstrate the performance of this program and improve transparency regarding FCC's enforcement priorities.	FY 2020	Implementation is in progress
GAO-17-727	FCC Updated Its Enforcement Program, but Improved Transparency Is Needed	09/14/2017	2	The Chairman of the FCC should establish, and make publicly available, a communications strategy outlining the agency's enforcement program for external stakeholders, to improve engagement with the telecommunications community on the purposes, objectives, and processes the Enforcement Bureau employs to achieve its mission.	FY 2020	Implementation is in progress

Section 1 - Implementation Status of GAO Public Recommendations Designated by the GAO as Open or Closed, Unimplemented

Report Number	Report Title	Issued Date	Rec. No. in GAO Report	Recommendation	Timeline for Full Implementation	Justification for Decision Not to Implement
GAO-17-785	VIDEO PROGRAMMING FCC Should Conduct Additional Analysis to Evaluate Need for Set- Top Box Regulation	09/29/2017	1	To help ensure that any future decisions by FCC regarding its efforts under the Act are based on comprehensive analysis, we recommend that FCC, as part of its future annual video competition reports, analyze how the ongoing evolution in the video programming market affects competition in the related market for set-top boxes and devices, including how this evolution affects the extent to which consumer choice for devices to access MVPD content remains a relevant aspect of the competitive environment.	FY 2021	Implementation is in progress
GAO-18-71	INTERNET OF THINGS FCC Should Track Growth to Ensure Sufficient Spectrum Remains Available	11/16/2017	1	The Chairman of FCC should track the growth in high bandwidth IoT devices, such as video-streaming devices and optical sensors.	FCC expects GAO to close this recommendation as Not Implemented	As FCC management stated in its comment letter which is reprinted in GAO's report, FCC considers it more effective to work with industry to track overall spectrum usage, rather than singling out high bandwidth IoT devices
GAO-18-71	INTERNET OF THINGS FCC Should Track Growth to Ensure Sufficient Spectrum Remains Available	11/16/2017	2	The Chairman of FCC should track the growth in IoT devices relying on unlicensed spectrum.	FCC expects GAO to close this recommendation as Not Implemented	As FCC management stated in its comment letter which is reprinted in GAO's report, FCC maintains a database of all unlicensed devices which are certified under its rules, but it would not be practical to determine which of these devices qualify as IoT
GAO-18-198	Telecommunications: FCC Should Improve Monitoring of Industry Efforts to Strengthen Wireless Network Resiliency	12/12/2017	1	The Chairman of FCC should work with industry, to the extent practical, to develop specific and measurable objectives for the Wireless Network Resiliency Cooperative Framework, such as outputs to measure the extent of the framework's use.	FCC management reported to GAO on 1/23/2020 that FCC had completed final action	Awaiting GAO closure of this recommendation

Section 1 - Implementation Status of GAO Public Recommendations Designated by the GAO as Open or Closed, Unimplemented

Report Number	Report Title	Issued Date	Rec. No. in GAO Report	Recommendation	Timeline for Full Implementation	Justification for Decision Not to Implement
GAO-18-198	Telecommunications: FCC Should Improve Monitoring of Industry Efforts to Strengthen Wireless Network Resiliency	12/12/2017	2	The Chairman of FCC should develop a plan to monitor the outputs and outcomes of the Wireless Network Resiliency Cooperative Framework and document the results of its monitoring to evaluate its effectiveness and identify whether changes are needed.	FCC management reported to GAO on 1/23/2020 that FCC had completed final action	Awaiting GAO closure of this recommendation
GAO-18-630	BROADBAND INTERNET FCC's Data Overstate Access on Tribal Lands	09/07/2018	1	The Chairman of the Federal Communications Commission should develop and implement methods--such as a targeted data collection--for collecting and reporting accurate and complete data on broadband access specific to tribal lands.	FY 2021	Implementation is in progress
GAO-18-630	BROADBAND INTERNET FCC's Data Overstate Access on Tribal Lands	09/07/2018	2	The Chairman of the Federal Communications Commission should develop a formal process to obtain tribal input on the accuracy of provider-submitted broadband data that includes outreach and technical assistance to help tribes participate in the process.	FY 2021	Implementation is in progress
GAO-18-630	BROADBAND INTERNET FCC's Data Overstate Access on Tribal Lands	09/07/2018	3	The Chairman of the Federal Communications Commission should obtain feedback from tribal stakeholders and providers on the effectiveness of FCC's 2012 statement to providers on how to fulfill their tribal engagement requirements to determine whether FCC needs to clarify the agency's tribal engagement statement.	FY 2020	Implementation is in progress
GAO-19-75	TRIBAL BROADBAND FCC Should Undertake Efforts to Better Promote Tribal Access to Spectrum	11/14/2018	1	The Chairman of FCC should collect data on the extent that tribal entities are obtaining and accessing spectrum and use this information as FCC implements ongoing spectrum initiatives.	A final implementation date has not been established	Implementation is in progress
GAO-19-75	TRIBAL BROADBAND FCC Should Undertake Efforts to Better Promote Tribal Access to Spectrum	11/14/2018	2	The Chairman of FCC should analyze data to better understand the extent that unused spectrum licenses exist over tribal lands, such as by analyzing the data for a sample of tribal lands, and as appropriate use this information to inform its oversight of the secondary market.	FY 2020	Implementation is in progress
GAO-19-75	TRIBAL BROADBAND FCC Should Undertake Efforts to Better Promote Tribal Access to Spectrum	11/14/2018	3	The Chairman of FCC should make information on spectrum-license holders more accessible and easier to understand for interested parties, including tribal entities, to promote their ability to purchase or lease spectrum licenses from other providers.	A final implementation date has not been established	Implementation is in progress

Section 1 - Implementation Status of GAO Public Recommendations Designated by the GAO as Open or Closed, Unimplemented

Report Number	Report Title	Issued Date	Rec. No. in GAO Report	Recommendation	Timeline for Full Implementation	Justification for Decision Not to Implement
GAO-15-363	BROADBAND PERFORMANCE: Additional Actions Could Help FCC Evaluate Its Efforts to Inform Consumers	05/15/2015	1	To help FCC determine whether its efforts to provide consumers with broadband performance information are effective and meeting consumers' needs, and whether additional efforts--such as a standardized label suggested by FCC's transparency working group--could benefit consumers, FCC should conduct or commission research on the effectiveness of FCC's efforts to provide consumers with broadband performance information and make the results of this research publicly available.	GAO has marked this recommendation Closed – Not Implemented.	FCC continuously monitors the adequacy of its consumer information by soliciting input at outreach events, functions and meetings with all constituent groups. We also monitor complaints and inquiries we receive from consumers through our Consumer Help Center. We do not think the additional research GAO recommends would be the best use of FCC's limited resources.
GAO-15-363	BROADBAND PERFORMANCE: Additional Actions Could Help FCC Evaluate Its Efforts to Inform Consumers	05/15/2015	2	To help FCC determine whether its efforts to provide consumers with broadband performance information are effective and meeting consumers' needs, and whether additional efforts--such as a standardized label suggested by FCC's transparency working group--could benefit consumers, FCC should establish performance goals and measures under the agency's relevant strategic objectives that allow it to monitor and report on the impact and effectiveness of its efforts.	GAO has marked this recommendation Closed – Not Implemented.	FCC's Strategic Plan includes goals covering the FCC's efforts to provide consumers with broadband performance information. We believe these goals are sufficient.
GAO-15-574	ACCESSIBLE COMMUNICATIONS: FCC Should Evaluate the Effectiveness of Its Public Outreach Efforts	06/25/2015	1	We recommend the Chairman of FCC evaluate the effectiveness of FCC's accessibility-related public outreach efforts and ensure those efforts incorporate key practices identified in this report, such as defining objectives and establishing process and outcome metrics.	GAO has marked this recommendation Closed – Not Implemented.	FCC continuously monitors the effectiveness of our public outreach by soliciting input at outreach events, functions and meetings with all constituent groups. We also monitor complaints and inquiries we receive from consumers through our Consumer Help Center. We do not think the additional steps GAO recommends would be the best use of FCC's limited resources.

Section 2 - Implementation Status of OIG Public Recommendations Designated by the OIG for which Final Action Has Not Been Completed

Report Number	Report Title	Issued Date	Rec. No. in OIG Report	Recommendation	Timeline for Full Implementation	Justification for Decision Not to Implement
16-AUD-06-04	FY 2016 FCC Financial Statements Audit	11/15/2016	1	USAC develop and implement policies and procedures for recording deobligations in accordance with program rules and accounting standards. [Repeat from FY 2016]	FY 2020	Implementation is in progress
16-AUD-16-04	FY 2016 FCC Financial Statements	11/15/2016	3	USAC develop and implement quality review procedures to ensure that deobligations are processed in the appropriate fiscal year.	FY 2020	Implementation is in progress
18-AUD-07-05	FY 2018 FCC Financial Statements Audit	11/15/2016	4	Enhance the lines of communication between the accounting personnel and the program offices, to include formal and detailed communication of operational and application issues as they arise.	FY 2020	Implementation is in progress
12-AUD-12-19	FY 2011-2012 Red Light Audit	06/04/2014	1.3	We recommend that the FCC CFO require FCC Component entities to report in the RLD system all delinquent debts from inactive or out of business entities, and debts that have not been approved for write-off in order to prevent these entities from obtaining subsequent FCC benefits.	FCC management reported to OIG on 01/27/2020 that FCC had completed final action	Awaiting OIG closure of the recommendation
12-AUD-12-19	FY 2011-2012 Red Light Audit	06/04/2014	4.3	We recommend that the FCC CFO and its Component entities include language in contractual agreements with third-party service providers that stipulate each party's responsibilities for the transfer of files, reconciliation of accounts, document retention and document transfer between the predecessor and successor FCC Fund Administrators.	FCC management reported to OIG on 01/31/2020 that FCC had completed final action	Awaiting OIG closure of the recommendation
13-AUD-12-29	FY 2014 WCB Audit	07/29/2015	4.1	We recommend WCB develop and implement a plan that ensures the closure of pending appeals in a timely manner and prioritizes the resolution of appeals filed 2010 and earlier.	FY 2020	Implementation is in progress
18-AUD-01-02	FY 2017 IPERIA Audit	05/15/2018	1	Perform an assessment of the USF-LL Program to determine whether additional regulatory changes are necessary to reduce the gross improper payment rate to or below the IPERIA threshold of less than 10 percent of outlays.	FCC management reported to OIG on 12/16/2019 that FCC had completed final action	Awaiting OIG closure of the recommendation
18-AUD-01-02	FY 2017 IPERIA Audit	05/15/2018	7	Coordinate with USAC to conduct periodic training for all appropriate FCC and USF Program personnel, to further clarify and emphasize the requirements of guidance for reporting improper payments.	FCC management reported to OIG on 09/11/2019 that FCC had completed final action	Awaiting OIG closure of the recommendation
18-AUD-01-02	FY 2017 IPERIA Audit	05/15/2018	8	Require USAC to conduct periodic checks of Information Technology systems that support USP programs, to ensure that their configurations support complete, accurate and valid processing of data and payments.	FCC management reported to OIG on 09/11/2019 that FCC had completed final action	Awaiting OIG closure of the recommendation
16-AUD-11-05	FY 2016 WTB Auctions Division Risk Management Process Audit	01/16/2018	3	Formally communicate risk management policy to staff within the Auctions Division, e.g. risk specific trainings, or instructions.	FY 2020	Implementation is in progress

Section 2 - Implementation Status of OIG Public Recommendations Designated by the OIG for which Final Action Has Not Been Completed

Report Number	Report Title	Issued Date	Rec. No. in OIG Report	Recommendation	Timeline for Full Implementation	Justification for Decision Not to Implement
16-AUD-11-05	FY 2016 WTB Auctions Division Risk Management Process Audit	01/16/2018	4	Document the Auctions Division's decisions related to management's chosen responses to the risks identified, i.e. reduction, acceptance, avoidance, or sharing. The documentation of these responses can be used as a basis for responding to or informing on future policy and process changes at the Auctions Division, OMD, or FCC.	FY 2020	Implementation is in progress
15-AUD-10-09	Audit of National Lifeline Accountability Database (NLAD)	03/26/2018	1.3	Develop and implement monitoring procedures to ensure ETCs comply with the Lifeline Program's one-per-household rule and prevent ineligible consumers from enrolling in NLAD and receiving Lifeline Program-supported services. Also, on a random basis, request IEH Worksheets before completing consumers' enrollment in NLAD for households receiving multiple Lifeline Program benefits.	FCC management reported to OIG on 01/14/2020 that FCC had completed final action	Awaiting OIG closure of the recommendation
15-AUD-10-09	Audit of National Lifeline Accountability Database (NLAD)	03/26/2018	2.2	Require that USAC obtain written statements from state commissions and ETCs to confirm that their staff and agents who have NLAD access rights have successfully completed background investigations.	FY 2020	Awaiting OIG closure of the recommendation
15-AUD-10-09	Audit of National Lifeline Accountability Database (NLAD)	03/26/2018	2.4	Require that USAC obtain written statements from state commissions, contractors, and ETCs confirming that their staff and agents who are granted access rights for NLAD have completed appropriate training to reduce the possibility that PII will be accessed, used, or disclosed inappropriately.	FY 2020	Awaiting OIG closure of the recommendation
15-AUD-10-09	Audit of National Lifeline Accountability Database (NLAD)	03/26/2018	4.4	Develop and implement monetary-based sanctions to deter ETCs and agents from making inappropriate attempts to enroll ineligible consumers into NLAD.	FY 2020	Implementation is in progress
16-AUD-01-01	High Cost Interstate Common Line Support Controls Audit	07/12/2018	1.1	Ensure that USAC's management develops and implements a risk-based approach for validating the accuracy of the underlying financial and non-financial data that support the ETCs' FCC Forms 509.	FCC management reported to OIG on 12/09/19 that FCC had completed final action	Awaiting OIG closure of the recommendation
16-AUD-01-01	High Cost Interstate Common Line Support Controls Audit	07/12/2018	1.2	Execute a MOU with USAC and NECA to define the roles and responsibilities of each party (See Recommendation 2.1 for additional detail).	FY 2020	Implementation is in progress
16-AUD-01-01	High Cost Interstate Common Line Support Controls Audit	07/12/2018	1.3	Ensure that NECA implements a risk-based approach for its cost study validation process and for selecting ETCs for further examination.	FY 2020	Implementation is in progress

Section 2 - Implementation Status of OIG Public Recommendations Designated by the OIG for which Final Action Has Not Been Completed

Report Number	Report Title	Issued Date	Rec. No. in OIG Report	Recommendation	Timeline for Full Implementation	Justification for Decision Not to Implement
16-AUD-01-01	High Cost Interstate Common Line Support Controls Audit	07/12/2018	1.4	Ensure that NECA implements improvements to the cost study validation process to include: a. Verifying the accuracy of a sample of the underlying financial data supporting the cost studies, b. Validating the financial data supporting the CLR reported by the ETCs, c. Implementing changes to the management level reviews of compiled FCC Forms 509 to improve the reviews' effectiveness, d. Performing an evaluation to determine whether the thresholds for priority reviews should be set at both a lower dollar amount and percentage, and e. Maintaining a record of the changes that have been made to cost studies and other financial data submitted by ETCs to NECA.	FY 2020	Implementation is in progress
16-AUD-01-01	High Cost Interstate Common Line Support Controls Audit	07/12/2018	1.5	Ensure that USAC management implements a periodic review of NECA's process for compiling FCC Forms 509, validating cost studies, and using NECA IAD to monitor and help to reduce the risk of errors in FCC Forms 509 prepared by NECA.	FY 2020	Implementation is in progress
16-AUD-01-01	High Cost Interstate Common Line Support Controls Audit	07/12/2018	2.1	Execute a MOU among the FCC, USAC and NECA that defines the roles and responsibilities of each party with regard to the ICLS program. Monitor, review and update the MOU on a periodic basis to address changes to FCC's rules applicable to the ICLS program.	FY 2020	Implementation is in progress
16-AUD-01-01	High Cost Interstate Common Line Support Controls Audit	07/12/2018	2.2	Conduct periodic risk assessments of the ICLS program and review controls over ICLS. Additionally, perform internal control reviews at NECA to ensure that its internal control is effective in mitigating risks of improper ICLS payments to ETCs.	FY 2020	Implementation is in progress
NA	Semi-Annual Report to Congress	09/30/2017	NA	The FCC should follow through with its draft order and establish a reformed suspension and debarment program.	A final implementation date has not been established	Implementation is in progress
NA	Semi-Annual Report to Congress	03/30/2017	NA	The FCC should require a mandatory competitive bid document upload.	A final implementation date has not been established	On-going evaluation of recommendation

Section 2 - Implementation Status of OIG Public Recommendations Designated by the OIG for which Final Action Has Not Been Completed

Report Number	Report Title	Issued Date	Rec. No. in OIG Report	Recommendation	Timeline for Full Implementation	Justification for Decision Not to Implement
17-AUD-08-04	FY 2017 DATA Act Readiness Inspection	11/07/2017	3	Develop and implement a checklist of required documents (e.g., solicitation, contractor bids, award/base contract, contract modification(s), statement of work, etc.) that the FCC Contracting Officers must maintain in contract files. Contracting Officers should include the completed checklist in each contract file, and appropriate personnel should perform periodic quality control reviews to ensure the Contracting Officers consistently maintain the documentation.	FY 2020	Implementation is in progress
17-AUD-08-04	FY 2017 DATA Act Readiness Inspection	11/07/2017	4	Perform an analysis of the cost effectiveness and technical feasibility of locating all documents identified in the checklist referenced in Recommendation 3 for previously awarded, active contracts. If the analysis determines it is cost effective and technically feasible, locate the files and create and retain readily available digital copies.	FY 2021	Implementation is in progress
17-AUD-08-04	FY 2017 DATA Act Readiness Inspection	11/07/2017	5	Develop and implement procedures and establish a central repository to ensure that, going forward (i.e., all newly awarded contracts), the FCC retains digital, signed copies of all documents identified in the checklist referenced in Recommendation 3 for its official contract files. Consider the related functionality within the FCC's accounting system, Genesis. As applicable, include the digital files created in Recommendation 4.	FY 2020	Implementation is in progress
17-AUD-05-02	Audit of West Baton Rouge Parish Central Office (E-Rate)	02/01/2019	M-1	Universal Service Administrative Company should perform a review to determine if the Central Office received USF reimbursements for services (in years other than funding years 2015) that it did not pay for.	FCC management reported to OIG on 01/30/2020 that FCC had completed final action	Awaiting OIG closure of the recommendation
17-AUD-05-02	Audit of West Baton Rouge Parish Central Office (E-Rate)	02/01/2019	M-2	Universal Services Administrative Company should perform a review to determine if other E-rate program beneficiaries received reimbursements from the USF for services that AT&T did not bill for, and thus the beneficiaries did not pay for.	FCC management reported to OIG on 01/30/2020 that FCC had completed final action	Awaiting OIG closure of the recommendation

Section 2 - Implementation Status of OIG Public Recommendations Designated by the OIG for which Final Action Has Not Been Completed

Report Number	Report Title	Issued Date	Rec. No. in OIG Report	Recommendation	Timeline for Full Implementation	Justification for Decision Not to Implement
18-Eval 07-01	FY 2018 Federal Information Security Modernization Act of 2014 (FISMA) Evaluation	12/21/2018	1	We issued 19 recommendations in the non-public FY 2018 FISMA evaluation report to improve the effectiveness of the FCC’s information security program controls in the areas of Risk Management, Configuration Management, Identity and Access Management, Information Security Continuous Monitoring, Incident Response, and Contingency Planning. Our report does not include recommendations in the areas of Data Protection and Privacy and Security Training because the FCC demonstrated effective controls in these areas. Of the 19 recommendations we issued, 12 are either repeats or updates from prior FISMA evaluations, and 7 address security deficiencies identified in FY 2018. For comparison, we issued 24 recommendations in the FY 2017 FISMA evaluation report. We noted that the FCC was in the process of implementing policies and procedures to strengthen security controls in several areas during our evaluation. Kearney recommends that the FCC continue to prioritize and implement its documented security policies and procedures, as well as establish ongoing monitoring over all five NIST Cybersecurity Functions to achieve an effective maturity Level 4: <i>Managed and Measurable</i> for its information security program. (8 of the 19 recommendations remain open and two are repeats from 2016, three are repeats from 2017 and three remain open from 2018.)	Of the 19 recommendations 8 remain open and we plan to close all 8 recommendations in FY 2020	Implementation is in progress

Response to Congressional Inquiries Concerning GAO Recommendations



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

July 19, 2019

The Honorable Mike Quigley
Committee on Appropriations
Subcommittee on Financial Services and General Government
U.S. House of Representatives
2000 Rayburn House Office Building (G Floor)
Washington, DC 20515

Dear Chairman Quigley:

On April 19, 2019, the Government Accountability Office (GAO) publicly released a report entitled *Tribal Consultation: Additional Federal Actions Needed for Infrastructure Projects*, GAO 19-22 (Report). The Report examines factors that hinder effective Tribal consultation; identifies steps that twenty-one federal agencies, including the FCC, have taken to facilitate consultation; and recommends actions to improve Tribal consultation for many of the federal agencies. GAO notes that it included the FCC in the report because its “approach to Tribal consultation for telecommunications towers was identified as a best practice among reports [GAO] reviewed and Tribal and agency officials [GAO] interviewed.”

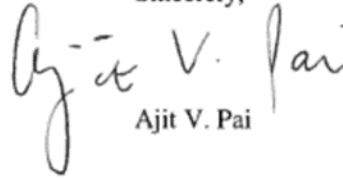
The Report recommends that the FCC Chairman document in the agency’s Tribal consultation policy how agency officials are to communicate with Tribes about how Tribal input from consultation was considered in agency decisions on infrastructure projects. In responding to the draft Report, the Chiefs of the FCC’s Wireless Telecommunications Bureau and Consumer and Governmental Affairs Bureau explained how the Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process (Nationwide Programmatic Agreement) sets forth procedures for communications between Tribal governments and the FCC regarding individual telecommunication infrastructure projects.

I share your interest in ensuring that the FCC has procedures in place to communicate with Tribes about how their input was considered in a project, which is why the Nationwide Programmatic Agreement is so important. Given that each of the 573 federally recognized Tribes has its own particular communications preference with the FCC, the Nationwide Programmatic Agreement provides a flexible approach that contemplates a collaborative, back-and-forth process between the FCC, entities constructing infrastructure projects, and the Tribes. The process created by the Nationwide Programmatic Agreement strikes a balance between keeping Tribes informed and respecting Tribal communication preferences.

Nevertheless, there is always room for improving communications. Consistent with GAO’s recommendation, I have asked FCC staff to explore ways of documenting how FCC staff could communicate with Tribes about how Tribal input was used in FCC decisions on

telecommunications infrastructure projects. I appreciate the opportunity to comment on the GAO Report and would be happy to discuss further if you have any questions.

Sincerely,



Ajit V. Pai

cc: The Honorable Bernie Sanders
The Honorable Thomas Udall
The Honorable Raúl M. Grijalva
The Honorable Ruben Gallego
The Honorable Peter Aguilar
The Honorable Donald S. Beyer, Jr.
The Honorable Tony Cárdenas
The Honorable Yvette D. Clarke
The Honorable William Lacy Clay
The Honorable Keith Ellison
The Honorable Jared Huffman
The Honorable Daniel T. Kildee
The Honorable Derek Kilmer
The Honorable Ann Kirkpatrick
The Honorable Alan S. Lowenthal
The Honorable Ben Ray Lujan
The Honorable Betty McCollum
The Honorable Gwen Moore
The Honorable Grace F. Napolitano
The Honorable Frank Pallone, Jr.
The Honorable Jared Polis
The Honorable Lucille Roybal-Allard
The Honorable Raul Ruiz, M.D.
The Honorable Linda T. Sanchez
The Honorable Mark Takano
The Honorable Norma J. Torres



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

December 3, 2019

The Honorable John N. Kennedy
Chairman
Committee on Appropriations
Subcommittee on Financial Services and General Government
United States Senate
S-128 The Capital Building
Washington, D.C. 20510

Dear Chairman Kennedy:

On July 29, 2019, the Government Accountability Office (GAO) publicly released a report entitled *FCC Should Assess Making Off-School-Premises Access Eligible for Additional Federal Support*, GAO 19-564 (Off-Premises Wireless Access Report).³ GAO was asked to review wireless Internet access for school-age children in lower-income households. The Off-Premises Wireless Access Report examines (1) challenges lower-income school-age children who lack in-home fixed broadband face in doing homework that involves Internet access and (2) selected school districts' efforts to expand wireless access for students and the federal role in those efforts. GAO also examined prior FCC efforts to expand wireless access for students and compared them to federal internal control standards and pilot-program design best practices.

The Off-Premises Wireless Access Report recommends that the Commission determine and execute a methodology for collecting and analyzing data "to assess the potential benefits, costs, and challenges of making off-premises access eligible for E-Rate program support," and publish the results of its analysis. In a July 15, 2019 response to a draft of the Off-Premises Wireless Access Report, the Chief of the Wireline Competition Bureau (Bureau) agreed with GAO's recommendation, and explained the Commission's plans for addressing the recommendation. I tasked the Commission's Office of Economics and Analytics, in consultation with the Bureau, to assess the potential benefits and costs of, and other policy issues involved in, making off-premises wireless broadband access eligible for E-Rate program support. To this end, Commission staff is currently undertaking the analysis of a 2011-2012 E-Rate pilot program, which involved a similar approach. I will ensure that FCC staff publish a report that evaluates the results of this pilot program. As the Bureau Chief noted in her response to GAO, we will evaluate such data for lessons learned (accounting for changes in technology, costs, and student learning over the past eight years) before taking any further steps.

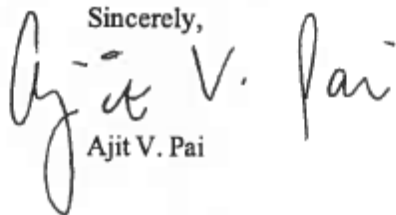
Closing the digital divide is my top priority, and the Commission's E-Rate program plays a critical role in addressing this issue by facilitating and promoting increased broadband deployment to our nation's schools and libraries. As Commission staff undertakes this analysis, and as noted in the Bureau Chief's response to GAO, we will remain mindful of limits of the Commission's authority under sections 254(h)(1)(B) and 254(h)(2) of the Communications Act, which require respectively that services be provided for "educational purposes" and that rules "enhance, to the extent technically feasible and

³ GAO, *FCC Should Assess Making Off-School-Premises Access Eligible for Additional Federal Support*, GAO 19-564, available at <https://www.gao.gov/assets/710/700629.pdf>.

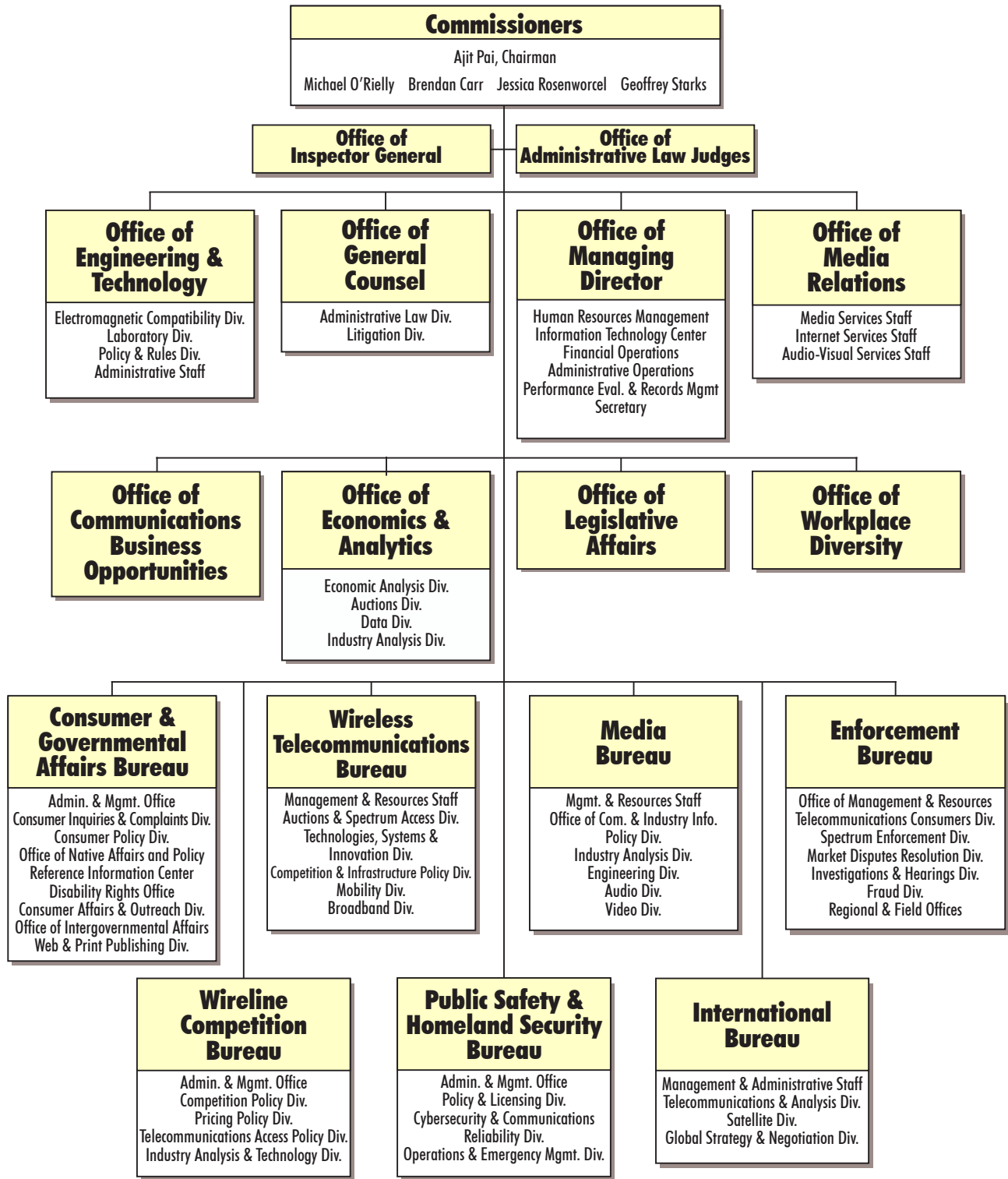
economically reasonable, access to advanced telecommunications and information services for . . . school classrooms . . . and libraries.”

I appreciate the GAO’s thorough analysis and recommendation. Thank you for the opportunity to respond to the Off-Premises Wireless Access Report, and please let me know if you require further assistance on this subject.

Sincerely,

A handwritten signature in cursive script that reads "Ajit V. Pai". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

Ajit V. Pai



Federal Communications Commission Fiscal Year 2021 Budget Request



Congressional Staff Briefing
February 21, 2020

FY 2021 Budget Request - Overview

OPERATIONS

- **Regulatory Fees (Offsetting Collections):** \$343.07m represents a \$4.07m or 1.2% increase from the FY 2020 appropriated level of \$339m, which includes rent savings of \$6.88m
 - The PIRATE Act was passed after the FY 2021 budget was developed with OMB; therefore this budget request does not include a request for funding (\$11m) to implement the requirements of the PIRATE Act
- **Spectrum Auctions Program:** \$134.495m represents a \$1.956m or 1.5% increase from the FY 2020 capped level of \$132.539m
- **FTEs:** 1,448* is at the same level as the FY 2020 enacted level
- **Information Technology (IT) Systems:** Continued modernization & critical investments

ESSENTIAL PROGRAMMATIC FOCUS – FYs 2019, 2020, and 2021

- **Closing the “Digital Divide:”** Supportable and sustainable agency actions - USF-Rural Digital Opportunity Fund (RDOF); USF-5G Fund
- **Commercial Spectrum Expansion:** Continue auctioning additional spectrum for 5G (28 GHz; 24 GHz; Upper 37, 39, & 47 GHz; 3.5 GHz; 3.7-3.98 GHz; 2.5 GHz), follow through on the Spectrum Pipeline Act mandates, and continue post incentive auction repack

Summary of Change

Regulatory Fees (Offsetting Collections)

(Dollars in Thousands)

	FY 2020 Enacted	FY 2021 Estimates to Congress	TOTAL NET CHANGE	
			Amount	Percent
Regulatory Fees - Offsetting Collections:				
Commission	\$327,894	\$331,743	\$3,849	
Office of Inspector General (OIG)	\$11,106	\$11,327	\$221	
Total Spending Authority - Offsetting Collections¹	\$339,000	\$343,070	\$4,070	1.2%
Full-Time Equivalents (FTEs) - Commission ²	1,388	1,388	0	
FTEs - Office of Inspector General	60	60	0	
Total Full-Time Equivalents	1,448	1,448	0	0.0%

¹The FY 2021 total request does not include funding to implement the requirements of the Preventing Illegal Radio Abuse Through Enforcement Act (PIRATE Act) passed by Congress on January 8, 2020 and signed into law on January 24, 2020 (P.L. 106-109).

²Includes spectrum auctions program FTEs.

Detail Explanation of Changes

Regulatory Fees (Offsetting Collections)

Explanation of Changes - Regulatory Fees (Offsetting Collections)		
FY 2020 Total Request	\$335,660	
FY 2020 Appropriated & Enacted Above Total Request	\$3,340	
FY 2020 Appropriated & Enacted		\$339,000
Reversal of FY 2020 One-Time Investment Requests:		
IT - Cloud Services and <u>Systems</u> Modernization	-\$926	
IT - Cloud Services and <u>Applications</u> Modernization	-\$2,266	
Subtotal		-\$3,192
Base Pay Increase Starting in Calendar Year (CY) 2020:	\$6,634	
Base Pay Increase Applicable to FY 2020		\$4,975
FY 2020 Base		\$340,783
FY 2021 Reduction To Base - New Headquarters Rent Savings		-\$6,880 -2.0%
FY 2021 Adjustments to Base:		
Base Pay Increase in CY 2020 Applicable to FY 2021	\$1,658	
1 Percent Increase in Across-the-board Base Pay	\$858	
2 Percent Non-Salary Inflationary Increase to Base	\$1,653	
Additional Awards for Non-SES/SL/ST FTEs	\$1,893	
Mapping - Geographic Information System	\$150	
Computational Power System	\$375	
Subtotal - FY 2021 Adjustments to Base		\$6,588
FY 2021 Adjusted Base Before One-Time Investment Requests		\$340,491
FY 2021 - One-Time Investment Requests:		
IT - Cloud Services and <u>Systems</u> Modernization - COSER	\$1,022	
Mapping - Geographic Information System	\$420	
Computational Power System	\$263	
Enterprise Level Data Architecture	\$525	
On-Line Market Surveillance Tool	\$350	
Subtotal - FY 2021 One-Time Investment Requests		\$2,579
FY 2021 Total Request¹		\$343,070
TOTAL NET CHANGE		\$4,070 1.2%

¹The FY 2021 total request does not include funding to implement the requirements of the Preventing Illegal Radio Abuse Through Enforcement Act (PIRATE Act) passed by Congress on January 8, 2020 and signed into law on January 24, 2020 (P.L. 106-109).

PIRATE Act Requirements & Costs

- \$11 Million implementation cost not included in FY 2021 request because OMB required FY 2021 final numbers prior to legislation passing
 - P.L. Law No. 116-109, signed January 24, 2020
 - Passback from OMB December 3, 2019
- FCC submitted full and accurate cost analysis to CBO two years ago, and CBO did not score the amount based on theory that costs covered by regulatory fees do not score.
- The Congressional Budget Office (CBO) latest estimate --- estimated that there is a gross cost of \$36 million to implement the PIRATE Act. The CBO estimate also noted that the Commission would have to hire approximately 30 additional employees. Furthermore, CBO estimated that the PIRATE Act would cost the Commission an additional \$3 million to expand existing databases and purchase additional enforcement equipment.
- The PIRATE Act provides the Commission with additional authority to increase fines against pirate radio broadcasters and requires the Commission to conduct annual enforcement “sweeps” of the top five radio markets where pirate radio broadcasters are active. Additionally, the PIRATE Act requires the Commission to establish a database of licensed and unlicensed radio stations.

FY 2021 Request With PIRATE Act Costs

The FY 2021 total request of \$343,070,000 does not include funding to implement the requirements of the Preventing Illegal Radio Abuse Through Enforcement Act (PIRATE Act) passed by Congress on January 8, 2020 and signed into law on January 24, 2020 (P.L. 106-109).

Revised FY 2021 Request to Include PIRATE Act Costs - Regulatory Fees (Offsetting Collections)

(Dollars in Thousands)

	FY 2021 Total Request		
	<u>WITHOUT</u> PIRATE Act	PIRATE Act Costs	<u>WITH</u> PIRATE Act
FY 2021 Total Request withOUT PIRATE Act		\$343,070	
PIRATE Act Requirement:			
Additional 30 Full Time Equivalents (FTEs) ¹		\$6,900	
Database Expansion and Additional Enforcement Equipment ¹		\$3,000	
Other - Additional Office Space, Travel, Premium Pay, Fuel & Maintenance ²		\$1,100	
Total Estimated PIRATE Act Cost for FY 2021		\$11,000	
FY 2021 Total Request WITH PIRATE Act			\$354,070

¹Based upon Congressional Budget Office Estimate.

²FCC estimate.

Continued IT Modernization for FY 2021

Base Increase & One-Time Investments

Total Request: \$3.104 million	
Base Increase: \$0.525 million	One Time: \$2.579 million
<ul style="list-style-type: none"> ➤ Mapping – Geographic Information System (GIS) ➤ Computational Power System 	<ul style="list-style-type: none"> ➤ Canadian Co-Channel System (COSER) ➤ Enterprise Level Data Architecture ➤ On-line Market Surveillance Tool ➤ Mapping – Geographic Information System (GIS) ➤ Computational Power System

IT Modernization Overview

- Focused on modernization with more than 45% of spending dedicated to improving capabilities and security posture
- IT Strategic Plan is fully aligned to Federal IT Cloud Computing and Security Strategies
- IT improvements include:
 - Enhancing infrastructure and system security
 - Alignment with Commission strategic plan and priorities
 - Continue cloud migration and adoption
- Commercial cloud platforms used for modernization efforts (Azure, ServiceNow, AWS, ZenDesk, Bizagi, etc)
- More than 20 systems identified for modernization during Fiscal Years 2020-2022

IT Modernization Initiatives

- Equipment Authorization System (EAS)
- Consolidated Database System (CDBS)
- Universal Licensing System (ULS)
- International Bureau Filing System (IBFS) & Schedule S
- Form 477 (Fixed Broadband Reporting)
- Electronic Comment Filing System (ECFS)
- Electronic Tariff Filing System (ETFS)
- Cable and Cable TV Relay System
- Integrated Spectrum Auction System (ISAS)
- Auctions Data Warehouse
- Urban Rate Survey

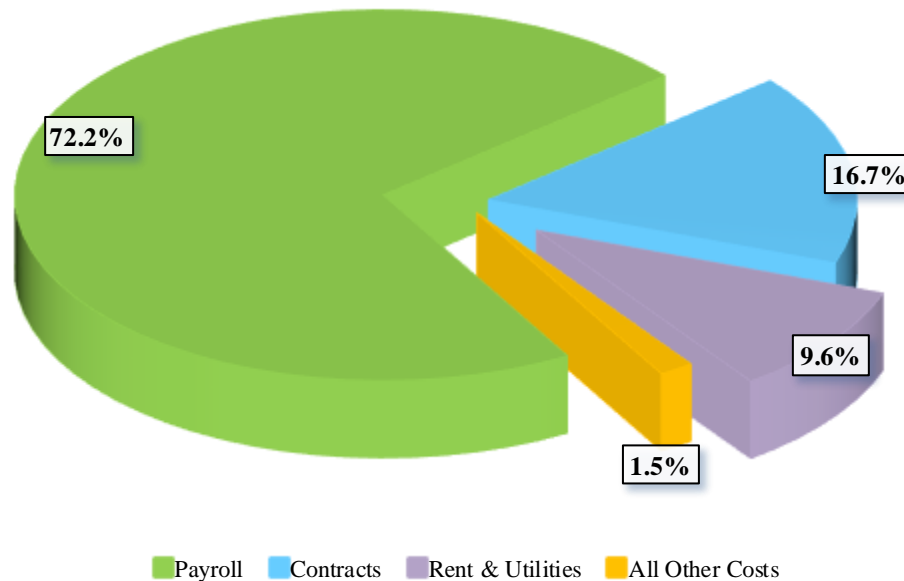
IT Overview

- Virtual Desktop Infrastructure in place with Cloud migration by June 2020. Microsoft Office 365 implemented.
- Delivered modernized solutions including: PSIX/ESIX, CORES II, Fixed Broadband Map, 323 Ownership Report, and EDOCS.
- Decommissioned legacy systems including: National Broadband Map, PCATS, EB/IHD, EDOCS Legacy, and the Enterprise Tape Archive Library. Others being replaced as funding is identified.
- Security enhancement and accreditation a top focus area, including FISMA goals. Reduced prior year audit findings by 39%.
- Support for Auctions and associated licensing a top priority.
- Improvements being made in Data Analytics and Business Intelligence. Open data and GIS platforms in place for public use.
- Independent testing performed on major development projects.
- Replacing ECFS.

Salaries & Expenses - FY 2021

Regulatory Fees - Offsetting Collections

Payroll, Contracts, and Rent & Utilities make up 98.5% of FCC's Budget



FCC Strategic Goals

Strategic Goal 1: Closing the Digital Divide

Develop a regulatory environment to encourage the private sector to build, maintain, and upgrade next-generation networks so that the benefits of advanced communications services are available to all Americans. Where the business case for infrastructure investment doesn't exist, employ effective and efficient means to facilitate deployment and access to affordable broadband in all areas of the country.

Strategic Goal 2: Promoting Innovation

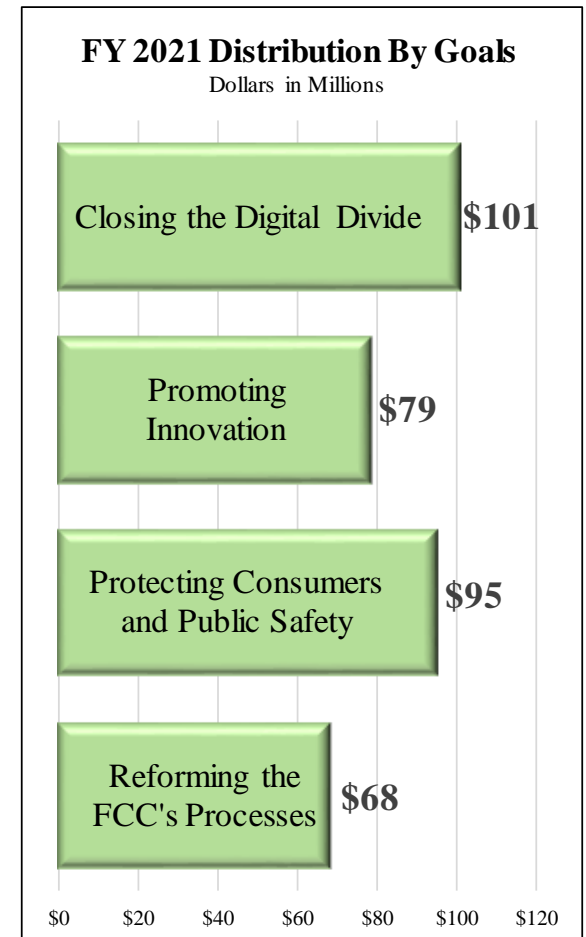
Foster a competitive, dynamic, and innovative market for communications services through policies that promote the introduction of new technologies and services. Ensure that the FCC's actions and regulations reflect the realities of the current marketplace, promote entrepreneurship, expand economic opportunity, and remove barriers to entry and investment.

Strategic Goal 3: Protecting Consumers and Public Safety

Develop policies that promote the public interest by providing consumers with freedom from unwanted and intrusive communications, improving the quality of communications services available to those with disabilities, and protecting public safety.

Strategic Goal 4: Reforming the FCC's Processes

Modernize and streamline the FCC's operations and programs to increase transparency, improve decision-making, build consensus, reduce regulatory burdens, and simplify the public's interactions with the agency.



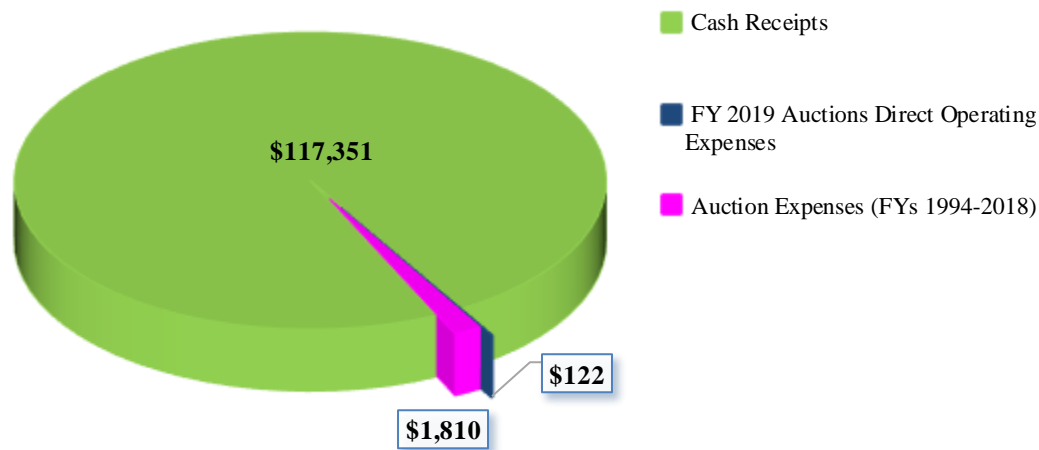
Spectrum Auctions Program Explanation of Changes

(Dollars in Thousands)

	FY 2020 Enacted	FY 2021 Estimates to Congress	TOTAL NET CHANGE	
			Amount	Percent
Spectrum Auctions Program Cost Recovery	\$132,539	\$134,495	\$1,956	1.5%
Explanation of Changes - Spectrum Auctions Program Cost Recovery				
FY 2020 Request to Congress			\$132,539	
FY 2020 Appropriated, Enacted			\$132,539	
Base Pay Increase Starting in Calendar Year (CY) 2020:		\$1,024		
Base Pay Increase Applicable to FY 2020			\$768	
FY 2020 Base			\$133,307	
FY 2021 - Reduction To Base - New Headquarters Rent Savings			-\$1,120	-0.8%
FY 2021 Adjustments To Base:				
Base Pay Increase in CY 2020 Applicable to FY 2021		\$256		
1 Percent Increase in Across-the-board Base Pay		\$281		
2 Percent Non-Salary Inflationary Increase to Base		\$1,771		
Subtotal - FY 2021 Adjustments to Base			\$2,308	
FY 2021 Total Request			\$134,495	
TOTAL NET CHANGE			\$1,956	1.5%

Cash Generated & Applied Spectrum Auctions Program

DOLLARS IN MILLIONS

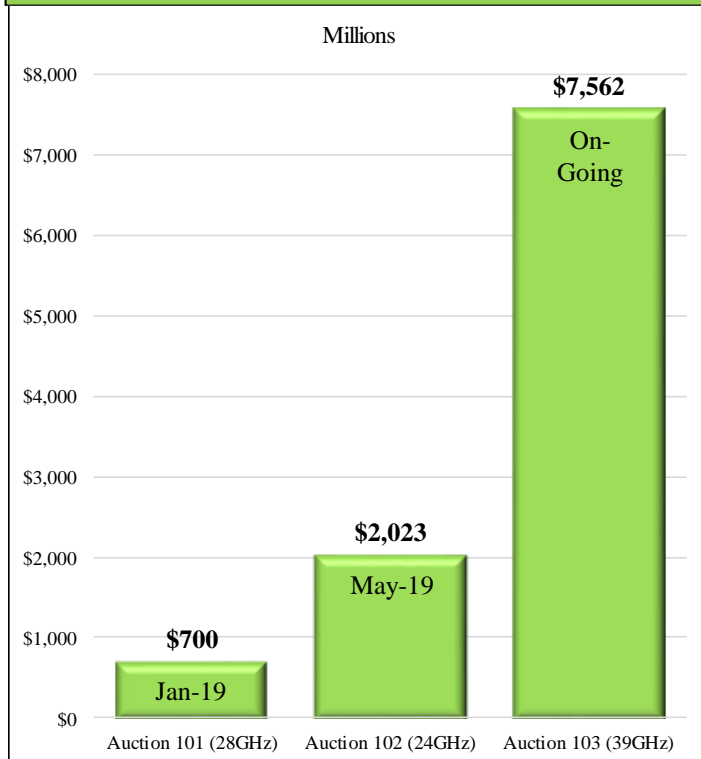


Cash Receipts - Total new winning bids collected and deposited into Treasury or for broader government use.
Over 26 year period, the average cash receipts are over \$4.5 billion per year.

Auction Expenses (FYs 1994-2019) does not include administrative cost of Credit Program.

Recent & Planned/Upcoming Auctions

Recent

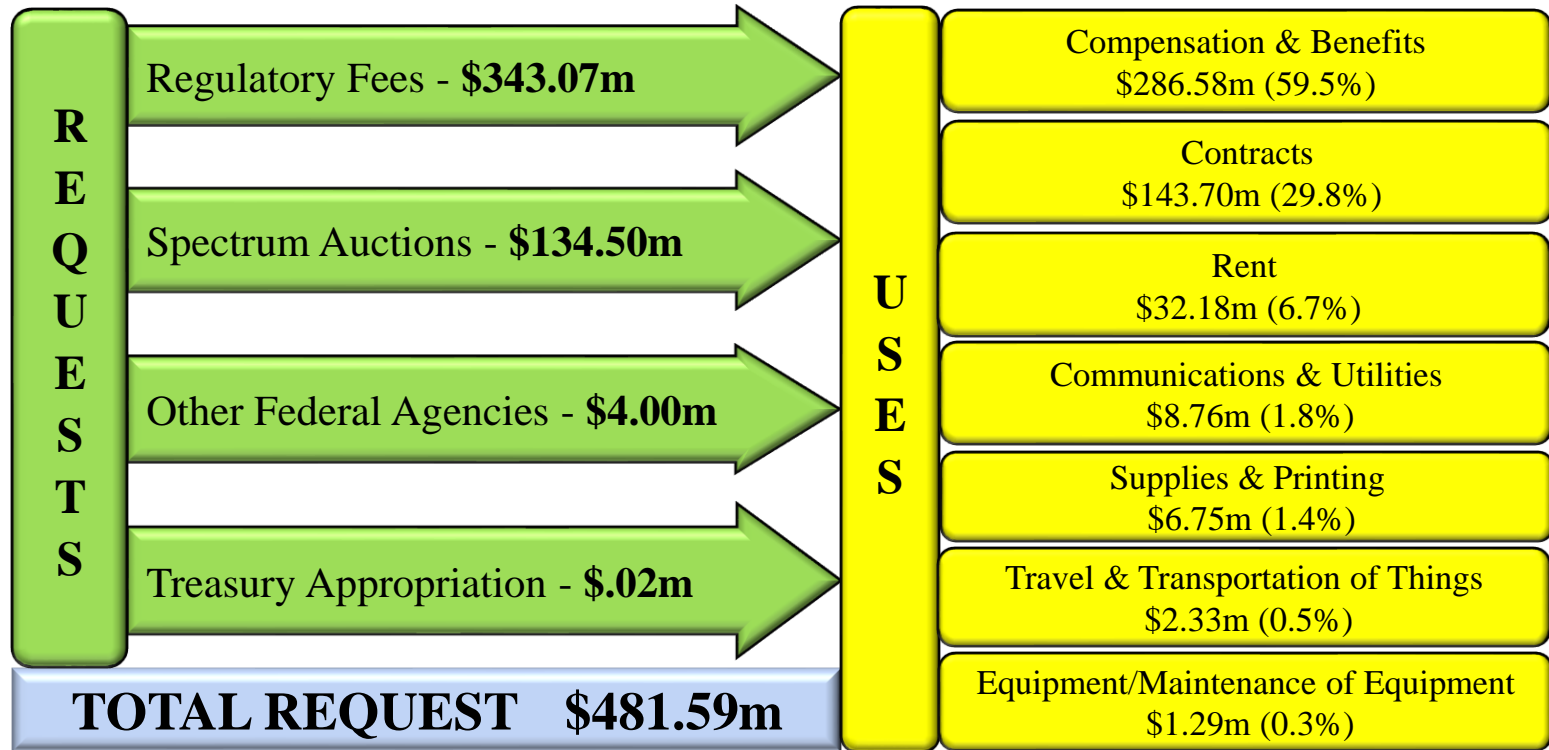


Note: Amounts shown are net winning bids except for Auction 103, which represents total gross bids at the end of the clock phase.

Planned/Upcoming

- FM Broadcast (Auction 106) (4/28/2020)
- 3.5 GHz (Auction 105) (6/25/2020)
- 3.7-3.98 GHz (Auction 107) (12/8/2020)
- 2.5 GHz (upcoming)
- USF - Rural Digital Opportunity Fund (\$20.4 Billion over 10 years) (Auction 904) (10/22/2020)
- USF - 5G Fund (\$9 Billion over 10 years) (upcoming)

FY 2021 Requests & Uses



Other Funds

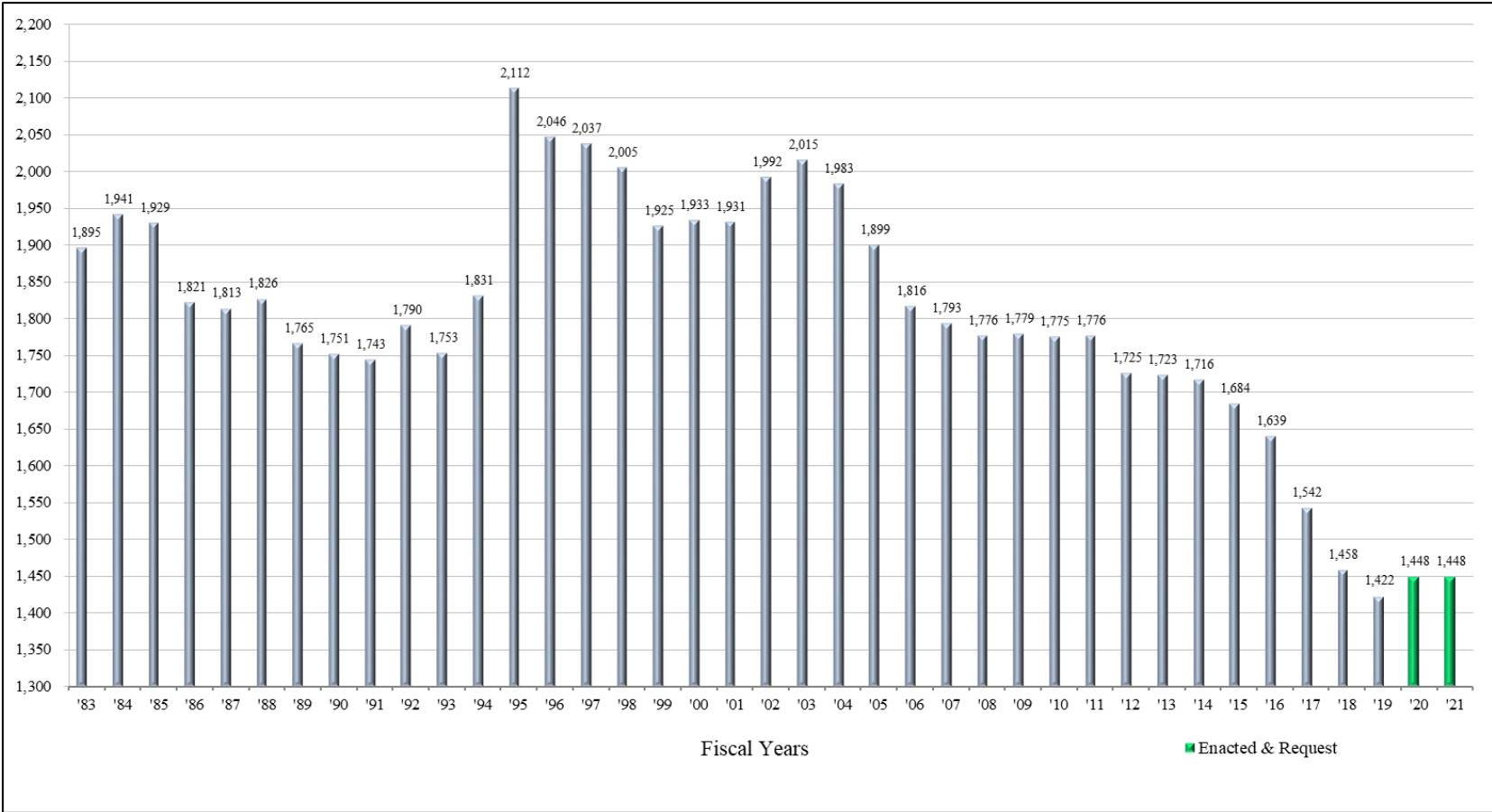
Auctions Receipts*	\$4.5b	Excess Regulatory Fees** (FY19)	\$14m	TV Broadcaster Relocation Fund (cap)	\$2.75b
Application Fees (FY19)	\$23m	De-obligated Regulatory Fees (FY19)	\$1m	HQs Move (appropriated)	\$71m
Fines & Forfeitures (FY19)	\$8m	De-obligated Auction Funds (FY19)	\$9m	(Regulatory Fees & Auctions Funds)	
		Sequestered Amount (FY13)	\$17m		

*26-year average

**Transferred to the Treasury for deficit reduction

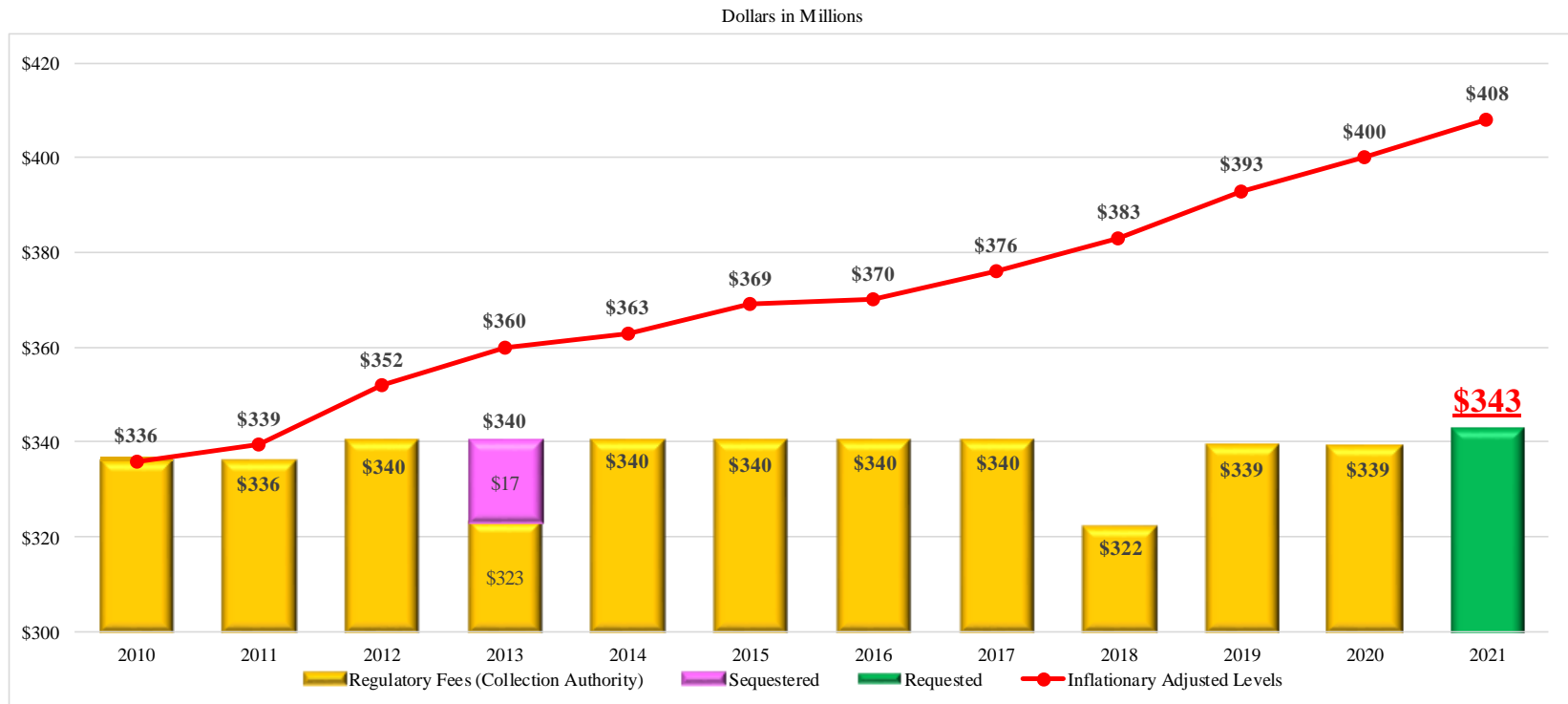
FTEs - Historical & Estimated

FYs 1983 - 2021



Budgetary Resources - Historical

Fiscal Years 2010 - 2021



In FYs 2016 and 2017, \$44 million and \$17 million, respectively, were provided for the necessary expenses associated with moving the FCC headquarters to a new facility to significantly reduce space consumption. Those amounts are not reflected in the above chart to provide a better historical comparison of Commission's regular S&E budget authority.

In FY 2013, FCC's appropriated budget authority was reduced by \$17 million due to the FY 2013 sequestration order implemented on March 1, 2013 as required by the Budget Control Act of 2011. The total amount shown for FY 2013 in the above graph includes the \$17 million sequestered amount.

Source for the Inflationary Adjusted Levels: CPI Inflation Calculator from the Bureau of Labor Statistics using FY 2010 as the base. Used an estimated inflationary rate of 2% for FY 2021.

Headquarters Move Status Update

- **Planned Physical Move – June 2020**
- The new HQs building is in Sentinel Square III at 45 L Street, Northeast Washington, DC.
- Most recent lease at current HQ has 659,030 rentable square feet. New lease planned for 473,000 rentable square feet -- **reduction of 28%**.
- Total estimated **net savings of \$119M** for reduced footprint over 15 years.
- The Commission’s headquarters (HQs) lease for the Portals II building at 445 12th Street SW, Washington, DC expired on October 15, 2017. In June 2018, GSA executed a lease extension for the HQs at the Portals II building that expires on November 30, 2020.



TV Broadcaster Relocation Fund

- The post-incentive auction TV channel repacking is proceeding on schedule. As of February 4, 2020:
 - We are currently in the testing period for Phase 8 (of 10). Over 775 of the 987 full power and Class A stations to be repacked have vacated their pre-auction channels.
 - We have forwarded for payment over \$944 million to full power and Class A TV stations and MVPDs and obligated almost \$1.9 billion for those stations. We have obligated \$17.2 million to eligible FM stations. We are reviewing the eligibility and cost estimates of LPTV and TV translator stations and will make an allocation for them once that review is complete.
- Successfully completing the repack will require continued coordination among government officials, broadcasters, tower companies, equipment manufacturers, and engineers.
 - The FCC's staff is in close contact with stations to help them navigate the transition and find flexible solutions to problems in ways that do not impede the progress of other repack stations.
- We also have a comprehensive consumer education strategy underway that includes a dedicated call center for rescan support in English and Spanish, updated website information, and geo-targeted outreach to over-the-air viewers for each transition phase.



Information Technology Center One Pager

<p>Strategy</p> <ul style="list-style-type: none">• Digital Security• Leverage existing Investments• Transparent and Open communications• Auctions Support• Improving FCC Digital Capabilities• Streamline IT Processes• Automate work• Investment in our people	<p>Priority Projects</p> <ul style="list-style-type: none">• VDI to Cloud• Application Development & Modernization<ul style="list-style-type: none">◦ ECFS - Electronic Comment Filing System◦ ISAS - Integrated Spectrum Auction System◦ ULS - Universal Licensing System◦ EAS - Equipment Authorization System◦ IBFS - International Bureau Filing System• Cloud Modernization• HSPD12 Full Implementation• Security Compliance• NoMA new IT Functionality Roll Out Plan
<p>100/200 Day Key Projects</p> <ul style="list-style-type: none">• Virtual Desktop Infrastructure to Cloud• NoMA IT readiness• FY2023 IT Budget Formulation	<p>Path Forward</p> <ul style="list-style-type: none">• Leverage and enhance ServiceNow as the IT vehicle for automation, adopt• Develop governance model for Bureau and Offices IT requests• Implement Agile Development Support model• Additional FTE resources to manage the business, operational and technical and IT components• Better understanding of overall FCC Priorities<ul style="list-style-type: none">◦ Inter-related and competing priorities

Media Bureau Briefing Sheets
October 2020
Table of Contents

SUBJECT	PAGE NUMBER
ATSC 3.0	1
Cable Rate Regulation FNPRM	5
Charter LEC Effective Competition Petition	6
Children’s Television Programming	7
Communications Marketplace Report: Audio/Video	11
DBS Market Modifications	15
Digital LPTV	17
Diversity in Broadcast Ownership	18
FM Class C4 Stations	24
FM Translator Interference	25
Form 323 Broadcast Ownership Report	27
Leased Access	33
Media Ownership Rules: Quadrennial Review	35
Modernization of Media Regulation Initiative	43
National Television Ownership and UHF Discount	53
Program Carriage	56
Public Inspection File Requirements	60
Retransmission Consent	64
Revitalization of the AM Radio Service	67
Section 621 Cable Franchising	73
Television Ratings Report	75
Twenty-First Century Communications and Video Accessibility Act	78

MB BRIEFING SHEET

SUBJECT: ATSC 3.0 – Next Gen TV

BACKGROUND: On November 20, 2017, the Commission released a Report and Order and Further Notice of Proposed Rulemaking, FCC 17-158, authorizing broadcasters to use the “Next Generation” broadcast television transmission standard, also called “ATSC 3.0,” while they continue to deliver current-generation digital television (DTV) service (“ATSC 1.0”) to their viewers. On June 16, 2020, the Commission released a Second Report and Order and Order on Reconsideration, FCC 20-72, resolving the remaining issues raised in the Further Notice, as well as the petitions for reconsideration of the First Report and Order.

- On April 13, 2016, a coalition of broadcast and consumer electronics industry representatives petitioned the Commission to allow the use of ATSC 3.0, the new broadcast television transmission standard. On April 26, 2016, the Media Bureau issued a Public Notice (DA 16-451) seeking comment on the Petition. On February 24, 2017, the Commission released a Notice of Proposed Rulemaking (FCC 17-13) proposing to authorize broadcasters to use ATSC 3.0 on a voluntary, market-driven basis.
- The upgraded technology is intended to merge the capabilities of over-the-air broadcasting with the broadband viewing and information delivery methods of the Internet using the same 6 MHz channels presently allocated for digital television (DTV).
- The Next Gen TV standard will let broadcasters provide consumers with more vivid pictures and sound – including Ultra High Definition (UHD) television, superior reception, mobile viewing capabilities, enhanced public safety capabilities, enhanced accessibility features, localized and/or personalized content, and interactive educational children’s content.

SUMMARY:

First Report and Order: The First Report and Order gives broadcasters flexibility to deploy ATSC 3.0 on a voluntary basis, while taking steps to minimize any impact on consumers and industry stakeholders. Among other things, the Report and Order:

- Allows television broadcasters to deploy Next Gen TV (ATSC 3.0) service on a voluntary basis.
- Requires Next Gen TV broadcasters to continue to deliver current-generation DTV service (ATSC 1.0) to their viewers through “local simulcasting.” Local simulcasting will be effectuated through voluntary partnerships with other broadcasters (referred to as “host” stations) in their local markets.
- Establishes coverage requirements for the simulcast ATSC 1.0 signal. The 1.0 simulcast signal must continue to cover the station’s entire community of license and, to receive expedited processing, any loss of ATSC 1.0 simulcast service must not be more than 5% of the existing population served.

- Requires the programming aired on the ATSC 1.0 simulcast channel to be “substantially similar” to the programming aired on the 3.0 channel. This means that the programming must be the same, except for programming features that are based on the enhanced capabilities of ATSC 3.0, advertisements, and promotions for upcoming programs. This requirement applies to the Next Gen TV station’s primary channel and expires on July 17, 2023, absent Commission action to extend it.
- Exempts low power TV and TV translator stations from the local simulcasting requirement.
- Permits case-by-case waivers for full-power and Class A stations if a station has no “viable” local simulcasting partner in its market and makes “reasonable efforts” to preserve existing 1.0 service to viewers in its community of license and/or otherwise minimize the impact on such viewers.
- Retains mandatory carriage rights on cable and satellite systems for simulcast (ATSC 1.0) signals and affords no mandatory carriage rights to Next Gen TV (ATSC 3.0) signals.
- Subjects Next Gen TV signals to the public interest obligations that currently apply to television broadcasters.
- Requires broadcasters to provide advance on-air notifications to educate consumers about Next Gen TV service deployment and simulcasting.
- Incorporates by reference into the FCC’s rules specific parts of the Next Gen TV technical standard (ATSC A/321 and ATSC A/322) and explains the methodology used to calculate interference. The requirement to comply with ATSC A/322 expires on March 6, 2023, absent Commission action to extend it.

Second Report and Order: The Second Report and Order resolves the remaining issues raised in the Further Notice that accompanied the First Report and Order.

- First, it provides guidance on how Commission staff will evaluate petitions for waiver of the local simulcasting rules.
 - First, it presumes that a full power Next Gen TV station has “no viable local simulcasting partner” if it has fewer than three (i.e., zero to two) potential full power simulcasting partners in the same DMA that can cover its entire community of license.
 - Second, it requires successful waiver applicants to make “reasonable efforts” to preserve 1.0 service and minimize impact on viewers.
 - Although not required, the provision of free or low-cost ATSC 3.0 converter devices to affected over-the-air viewers was the only method raised in the record for minimizing the impact on viewers.
 - The Second Report and Order determined to look favorably on a waiver applicant choosing to provide ATSC 3.0 converter devices at no cost or low cost to over-the-air households located within its community of

license which will no longer receive the station's ATSC 1.0 signal as a means to minimize the impact of not simulcasting on viewers.

- Waiver applicants are expected to explain in detail their plans for providing converter devices to eligible viewers, including: (1) what types of devices they intend to provide; (2) the cost, if any, that eligible viewers will be required to pay in order to receive the device; (3) how the applicant intends to inform viewers of the need for, and availability of, devices; and (4) how viewers will be able to request and obtain the device.
- Second, it declines to permit broadcasters to use vacant in-band channels for purposes of voluntary ATSC 3.0 deployment.
- Finally, it concludes (as proposed) that the “significantly viewed” status of a Next Gen TV station will not change if it moves its ATSC 1.0 simulcast channel to a host facility.

Order on Reconsideration: The Order on Reconsideration dismisses and, on alternative and independent grounds, denies the petitions for reconsideration to the First Report and Order. There were no changes to the rules as sought by the petitions; however, the Commission took this opportunity to codify the sunset date of July 17, 2023, for the local simulcasting “substantially similar” requirement and to correct the sunset date to March 6, 2023, for the requirement to comply with the ATSC A/322 standard. Prior to these sunset dates, the FCC will seek comment on whether to extend them.

In summary, American Television Alliance (ATVA) sought reconsideration of three issues and NCTA - The Internet & Television Association (NCTA) sought reconsideration of five issues. The Order on Reconsideration:

- Rejects NCTA's request to reconsider the five-year sunset of the “substantially similar” requirement. Prior to sunset, the FCC will seek comment on whether to extend.
- Rejects NCTA's request to reconsider the five-year sunset of the requirement that broadcasters' primary free over-the-air Next Gen TV video programming streams adhere to the ATSC A/322 standard. Prior to sunset, the FCC will seek comment on whether to extend.
- Rejects NCTA's request to require broadcasters to simulcast ATSC 1.0 signals in high definition (HD) format to the extent they are currently broadcasting such signals in HD.
- Rejects ATVA's request to require a station to provide prior notice to viewers and MVPDs before changing its signal format or picture quality.
- Rejects ATVA's request that the Commission reconsider its decision to exempt LPTV and TV translator (LPTV/translator) stations from the local simulcasting requirement.
- Rejects requests by ATVA and NCTA to adopt new rules related to the voluntary carriage of 3.0 signals through retransmission consent.
- Rejects NCTA's request to reconsider the Commission's decision not to require that patents relevant to the ATSC 3.0 standard must be licensed on a reasonable and non-discriminatory (RAND) basis.

ATSC 3.0 DEPLOYMENT STATUS: As of October 8, 2020, 43 full power stations (12 of which have been authorized to convert their facilities to ATSC 3.0 operations and 31 to operate as “guest” ATSC 3.0 stations), as well as 7 Class A TV stations and 8 LPTV stations (all of which have been authorized to convert their facilities to ATSC 3.0 operations), in 14 markets were approved to deploy ATSC 3.0 service. Stations are licensed to operate in ATSC 3.0 in the following markets (Phoenix, Salt Lake City, Las Vegas, Portland, Pittsburgh, Nashville, Dallas, Boise, Austin, Oklahoma City, Los Angeles, Denver, Santa Barbara, Mobile-Pensacola).

- Media Bureau started accepting applications for Next Gen TV licenses in May 2019.
- Prior to the recent pandemic, industry expected that many stations would begin broadcasting in ATSC 3.0 this year (2020).
 - According to NAB and Pearl TV, broadcasters intended to launch ATSC 3.0 service in 61 markets this year (2020). Unclear how these plans are being affected by the pandemic.
- Consumer reception equipment is not available for general public purchase at this time and is expensive to acquire. The first widely-available public receivers are expected in a limited capacity later in the year and into early 2021.
 - According to NAB and Pearl TV, broadcasters expect 20 different television models from three manufacturers to be available with built-in ATSC 3.0 tuners by the end of 2020. Unclear how these plans are being affected by the pandemic.

MB BRIEFING SHEET

SUBJECT: Cable Rate Regulation FNPRM; Modernization of Media Regulation Initiative: Revisions to Cable Television Rate Regulations, et al., MB Docket Nos. 17-105, 02-144; MM Docket Nos. 92-266, 93-215; CS Docket No. 94-28, Further Notice of Proposed Rulemaking, FCC 18-148 (October 2018) (FNPRM)

SUMMARY: As part of its Modernization of Media Regulation Initiative, the Commission issued a Further Notice of Proposed Rulemaking seeking to update the cable television rate regulations in Part 76 and eliminate outdated regulations. Among other things, the FNPRM sought comment on whether to (i) replace the existing rate regulation framework or streamline it by eliminating rules and rate forms that are no longer necessary or useful; and (ii) reduce the amount of equipment subject to rate regulation and end rate regulation for small cable systems owned by small operators.

STATUS: The pleading cycle for the FNPRM closed on March 11, 2019. Comments were received from parties representing local franchising authorities and the cable industry.

MB BRIEFING SHEET

SUBJECT: Charter Communications, Inc., Petition for Determination of Effective Competition in 32 Massachusetts Communities and Kauai, HI (HI0011), MB Docket No. 18-283, CSR No. 8965-E, Memorandum Opinion and Order, 33 FCC Rcd 10229 (Oct. 25, 2019).

SUMMARY: On September 14, 2018, Charter filed a petition seeking a determination that it is subject to local exchange carrier (LEC) “effective competition” in its 32 franchise areas in Massachusetts and Kauai, Hawaii. Because cable operators that are deemed subject to “effective competition” in a franchise area are exempt from rate regulation in that area, Charter claims that it is not subject to any form of rate regulation in the areas covered by its petition. The statutory LEC test for effective competition provides that a cable system is subject to effective competition in any franchise area where “a local exchange carrier or its affiliate (or any [MVPD] using the facilities of such carrier or its affiliate) offers video programming services directly to subscribers by any means (other than direct-to-home satellite services) in the franchise area of an unaffiliated cable operator which is providing cable service in that franchise area, but only if the video programming services so offered in that area are comparable to the video programming services provided by the unaffiliated cable operator in that area.”

Comments and oppositions to the petition were due October 25, 2018 and replies were due November 19. Parties opposing the petition include MDTC, the Office of the Attorney for the Commonwealth of Massachusetts, and the State of Hawaii (through its Department of Commerce and Consumer Affairs). The American Cable Association supports Charter’s petition.

In an October 2019 *Memorandum Opinion and Order*, the Commission agreed with Charter that the LEC test is met because of competition from AT&T’s DIRECTV NOW streaming service (recently re-branded as AT&T TV NOW). Major issues addressed by the Commission in the proceeding include: (1) online video distributors (OVDs), such as DIRECTV NOW, need not offer electromagnetic “channels” of video programming, to meet the definition of “comparable” programming in the Commission’s rules; (2) finding that DIRECTV NOW provides comparable programming does not reclassify OVDs as MVPDs; (3) AT&T “offers” video programming services in the franchise areas, even though it lacks a physical connection to area households and instead relies on subscribers’ broadband Internet access; and (4) AT&T qualifies as an LEC in this context, where it is not using its facilities to provide LEC service in the franchise areas.

STATUS: The Commission released a *Memorandum Opinion and Order* on October 25, 2019. MDTC has appealed to the Court of Appeals for the First Circuit, which remains pending.

MB BRIEFING SHEET

SUBJECT: Children’s Television Programming (MB Docket Nos. 17-105 and 18-202)

SUMMARY: On July 10, 2019, the Commission adopted a *Report and Order* updating the children’s television programming rules to provide broadcasters additional scheduling flexibility, allow broadcasters to offer more diverse and innovative educational programming, and relieve unnecessary burdens on broadcasters, while also ensuring that high quality educational programming remains available to all children. The revised rules reflect the changes to the media landscape since the first children’s programming rules were adopted in 1991, including changes in the way young viewers access video programming and the significant increase in the educational and informational programming options available from both broadcast stations and non-broadcast sources, including children’s cable networks and online video providers. Key changes to the children’s programming rules include:

Core Programming Hours: The 7:00 a.m. to 10:00 p.m. timeframe during which Core Programming must be aired has been expanded to allow broadcasters to begin airing Core Programming one hour earlier, at 6:00 a.m. This change reflects the fact that a significant number of children today are watching television programming or viewing video content between 6:00 and 7:00 a.m.

Regularly Scheduled Weekly Programming Requirement. The majority of Core Programming aired by broadcast stations must be regularly scheduled weekly programming, but broadcast stations now have the option to air a limited amount of programming that is not regularly scheduled weekly programming, such as educational specials and regularly scheduled non-weekly programming. This option will allow children to reap the benefits of viewing educational and informational programming on a regularly scheduled weekly basis, while also providing broadcasters additional scheduling flexibility and the opportunity to offer a greater variety of educational programming.

Requirement that Core Programming Be At Least 30 Minutes in Length. The majority of Core Programming aired by broadcast stations must be at least 30 minutes in length, but broadcast stations now have the option to air a limited amount of short-form programming, including PSAs and interstitials. This option recognizes that programs that are 30 minutes or longer allow more time for educational content to be presented and may be particularly beneficial to children, while also taking into account that many children prefer short-form programming and that short-form programs can be used effectively to educate children.

Processing Guidelines. Under the revised safe harbor processing guidelines, broadcast stations will continue to provide 156 hours annually of Core Programming but will have the opportunity to offer more diverse and innovative educational programming. Under Category A, Media Bureau staff is authorized to approve the children’s programming portion of a broadcaster’s license renewal application if the station airs either (i) three hours per week (as averaged over a six-month period) of Core Programming, or (ii) 156 hours of Core Programming annually, including at least 26 hours per quarter of regularly scheduled weekly programming and up to 52 hours annually of Core Programs that are not aired on a regularly scheduled weekly basis, such as educational specials and regularly scheduled non-weekly programming. Under Category B,

Media Bureau staff is authorized to approve the children’s programming portion of a broadcaster’s license renewal application if the station airs 156 hours of Core Programming annually, including at least 26 hours per quarter of regularly scheduled weekly programming and up to 52 hours annually of Core Programs that are not aired on a regularly scheduled weekly basis and short-form programming. The distinction between Category A and Category B is that under A, all programming must be at least 30 minutes in length, while short-form programs are permitted under B.

Airing of Core Programming. The substantial majority of Core Programming provided by broadcast stations must be aired on their primary program streams, but broadcast stations are permitted to air up to 13 hours per quarter of regularly scheduled weekly programming on a multicast stream. The additional processing guideline applicable to stations that multicast is eliminated.

Preemptions. A broadcast station that preempts an episode of a regularly scheduled weekly program on its primary stream will be permitted to air the rescheduled episode on its primary stream at any time during Core Programming hours within seven days before or after the date the episode was originally scheduled to air, provided that the station makes an on-air notification of the schedule change. Similarly, a broadcast station that preempts an episode of a regularly scheduled weekly program on a multicast stream will be permitted to air the rescheduled episode on the multicast stream at any time during Core Programming hours within seven days before or after the date the episode was originally scheduled to air, provided that the station makes an on-air notification of the schedule change. In addition, the breaking news exemption to the requirement that preempted Core Programs be rescheduled is expanded to permit a station to preempt an episode of a regularly scheduled weekly program in order to air non-regularly scheduled live programming produced locally by the station without any requirement to reschedule the episode.

On-Air Notification Requirement. The requirement that noncommercial broadcast stations identify their Core Programming by displaying the “E/I” symbol throughout the program is eliminated. This requirement is retained for commercial broadcast stations.

Program Guides. The requirement that broadcasters provide information identifying programming specifically designed to educate and inform children to publishers of program guides is retained but broadcasters will no longer require that broadcasters provide program guide publishers an indication of the age group their programming is intended to serve.

Reporting Requirements. The children’s programming reporting requirements are streamlined to remove unnecessary and duplicative reporting burdens on broadcasters. Among other revisions, the Children’s Television Programming Reports (FCC Form 2100 Schedule H) will now be filed on an annual, rather than quarterly basis, within 30 days after the end of the calendar year, and the requirement to publicize the reports is eliminated.

Recordkeeping Requirements for Commercial Limits. The recordkeeping requirements applicable to the limits on commercial matter in children’s programming have been revised to permit broadcast stations, cable operators, and DBS operators to file their certifications of

compliance with the commercial limits in children’s programming annually rather than quarterly and to permit the filing of these certifications within 30 days after the end of the calendar year.

In addition, the Commission adopted a *Further Notice of Proposed Rulemaking* seeking additional comment on the creation of a framework under which broadcasters could satisfy their children’s programming obligations by relying, in part, on special efforts to produce or support Core Programming aired on other stations in their markets.

EFFECTIVE DATES: The following revisions to the children’s programming rules took effect on September 16, 2019: the expanded Core Programming hours, the revisions to the regularly scheduled weekly programming requirement, the revisions to requirement that Core Programming be at least 30 minutes in length, the revised safe harbor processing guidelines, and the preemption exemption for non-regularly scheduled live programming produced locally by the station. The remaining revisions to the children’s programming rules took effect on January 21, 2020, including the elimination of the on-air “E/I” notification requirement for noncommercial stations, the revised program guide requirements, the reporting and public file requirements, the recordkeeping requirements for commercial limits, and the revised preemption rules. In addition, OMB has approved the revisions to the Children’s Television Programming Report (FCC Form 2100 Schedule H). The deadline for filing the first annual Children’s Television Programming Report was extended to July 10, 2020.

BACKGROUND AND KEY ISSUES: The Children’s Television Act of 1990 (CTA) imposes two requirements relating to children’s television programming:

- In reviewing television broadcast renewal applications, the Commission must consider whether commercial television licensees have served “the educational and informational needs of children through the licensee’s overall programming, including programming specifically designed to serve such needs.” In addition to considering the licensee’s programming, the Commission may consider in its review of television license renewals (1) any special non-broadcast efforts by the licensee which enhance the educational and informational value of such programming to children; and (2) any special efforts by the licensee to produce or support programming broadcast by another station in the licensee’s marketplace which is specifically designed to serve the educational and informational needs of children.
- Commercial television broadcast licensees and cable operators must limit the amount of commercial matter that may be aired during children’s programs to not more than 10.5 minutes per hour on weekends and not more than 12 minutes per hour on weekdays.

The Commission adopted rules implementing the CTA in 1991, and revised these rules in 1996, 2004, and 2006. The children’s programming rules apply to both commercial and noncommercial stations, but noncommercial stations are exempt from most of the recordkeeping and reporting requirements.

Commercial Limits

- Under the CTA, commercial TV broadcasters, cable operators, and satellite television carriers limit the amount of commercial matter in children’s programs to no more than 10.5 minutes/hour on weekends and 12 minutes/hour on weekdays.
- The Commission has determined that the commercial limits apply to programs originally produced and broadcast for an audience of children 12 years old and under.
- For purposes of the commercial limits, “commercial matter” is defined as airtime sold for purposes of selling a product or service and promotions of television programs or video programming services other than children’s or other age-appropriate programming appearing on the same channel, or promotions for children’s educational and informational programming appearing on any channel.
- The display of Internet website addresses during program material (in a crawl at the bottom of the screen, for example) is permitted only if the website: 1) offers a substantial amount of bona fide program-related or other noncommercial content; 2) is not primarily intended for commercial purposes, including either e-commerce or advertising; 3) the website’s home page and other menu pages are clearly labeled to distinguish the noncommercial from the commercial sections; and 4) the page of the website to which viewers are directed by the website address is not used for e-commerce, advertising, or other commercial purposes (e.g., contains no links labeled “store” and no links to another page with commercial material). This restriction applies to analog and digital broadcasters as well as cable operators.
- If an Internet address for a website that does not meet this four-prong test is displayed during a promotion, in addition to counting against the commercial time limits, the promotion must be clearly separated from programming material.
- Public service announcements aired on behalf of independent non-profit or government organizations, or media companies in partnership with non-profits or government entities, that display websites not under the control of the licensee or cable company, are exempt from the website display rules. In addition, station identifications and emergency announcements are also exempt.
- Entities subject to commercial time limits under the CTA may not display a website address during or adjacent to a program if, at that time, on pages that are primarily devoted to free noncommercial content regarding that specific program or a character appearing in the program: (1) products are sold that feature a character appearing that program; or (2) a character appearing in that program is used to actively sell products.
- This policy does not apply to: (1) third-party sites linked from the companies’ web pages; (2) on-air third-party advertisements with website references to third-party websites; or (3) pages that are primarily devoted to multiple characters from multiple programs.

MB BRIEFING SHEET

SUBJECT: Communications Marketplace Report, Video and Audio Marketplace Issues

SUMMARY: The 2018 Omnibus Appropriations Bill requires the Commission to produce a biennial Communications Marketplace Report (CMR), which, among other things, must provide an assessment of the state of competition in the communications marketplace, including “competition to deliver voice, video, audio, and data services among providers of telecommunications, providers of commercial mobile service (as defined in section 332), multichannel video programming distributors (as defined in section 602), broadcast stations, providers of satellite communications, Internet service providers, and other providers of communications services.” The CMR must be published in the last quarter of every even-numbered year.

The Industry Analysis Division of the Media Bureau produced two chapters for the first CMR, adopted in December 2018. The first chapter contributed by the Media Bureau addresses the video market, categorizing entities that deliver video programming into three groups: multichannel video programming distributors (MVPDs), broadcast television stations, and online video distributors (OVDs). The video chapter describes the providers in each group, summarizes their business models and competitive strategies, and presents selected operating and financial statistics. The chapter addresses both competition among members of each group (intramodal competition) and between members different groups (intermodal competition). The second chapter addresses the audio market and divides the relevant entities into three groups—terrestrial radio broadcasters, satellite radio providers, and online audio providers. The audio chapter then provides an analysis of the audio programming marketplace similar to that provided with respect to video programming.

STATUS: The Commission adopted the first Communications Marketplace Report at the December 12, 2018 Open Meeting. On March 2, 2020, the Office of Economics and Analytics released a public notice seeking input for the second CMR, which must be completed by the end of 2020.

BACKGROUND AND KEY ISSUES:

Key findings and observations from the 2018 Communications Marketplace Report concerning the video marketplace are set forth below:

- At the end of 2017, seven MVPDs each had over one million video subscribers (Altice, AT&T, Comcast, Charter, Cox, DISH Network, and Verizon). Twelve cable MVPDs and four telephone company MVPDs each had over 100,000 and fewer than one million video subscribers.
- MVPDs as a group have been losing subscribers since 2013. Collectively, MVPDs lost about 3.6 million video subscribers between 2016 and 2017. During this time, Cable MVPDs lost 986,000 subscribers; DBS MVPDs lost 1,693,000 subscribers; and telephone company MVPDs lost 903,000 subscribers.

- MVPD video revenue peaked in 2016 at \$117.7 billion, fell to \$116.1 billion in 2017, and is projected to fall to \$113.2 billion in 2018.
- MVPDs use various strategies to attract and retain customers, such as offering lower prices for a limited time to new subscribers; giving discounts for customers who bundle video service with internet, voice, and/or mobile wireless service; providing TV Everywhere service, which allows consumers to access broadcast and cable channels on Internet-connected devices; marketing “skinny” channel packages, which include a limited selection of channels, often focusing on specific subscriber interests; and offering online channel packages to customers who do not subscribe to traditional MVPD service (*e.g.*, DirecTV Now, Sling TV).
- The video marketplace contains a wide variety of entities that provide OVD service to consumers, including large companies that provide a wide variety of on-demand content (*e.g.*, Amazon, Netflix); entities that provide programming for smaller or niche audiences, and entities that provide linear channels of programming to consumers (including some traditional MVPDs, as discussed above). Cable and broadcast networks, as well sports leagues, increasingly have OVD platforms as well.
- OVDs use a wide variety of business models. Some OVD services are subscription based (*e.g.*, Amazon, Netflix), while others are ad-supported and free to the consumer. In addition, some OVDs rent or sell video content to consumers online. An OVD may employ more than one of these models. For example, YouTube offers free, ad-supported content to consumers, as well as a subscription, ad-free service (YouTube Premium).
- OVDs differentiate themselves in several ways, including size and breadth of content libraries, specific programming, price, and supported devices.
- Advertising is the largest source of revenue for television broadcast stations, but it has been declining as percentage of overall revenue. In 2016 and 2017, respectively, broadcasters earned about 67 percent of total revenue (\$20.7 billion) and 62 percent of total revenue (\$19.1 billion) from advertising sales.
- Retransmission consent fees from MVPDs provide the second largest source of revenue for television broadcast stations, and these fees have been increasing as percentage of overall revenue. In 2016 and 2017, respectively, broadcasters earned about 25 percent of their revenue (\$7.9 billion) and 30 percent of their revenue (\$9.3 billion) from retransmission consent fees respectively.
- Broadcast stations compete and differentiate themselves based on multiple factors, including programming (network and syndicated programming, as well as station-produced content such as local news), provision of multicast channels, and use of the websites, apps, and social media to extend consumer access to broadcast content (especially news programming).
- As of April 2018, 79 percent of all TV households received television broadcast programming via an MVPD, down from 80 percent at the end of 2016 and 83 percent at the

end of 2015. The downward trend in MVPD subscriptions has been accompanied by growth in the number of households relying on over-the-air broadcast service. In 2018, 16.6 million TV households (13.9 percent) relied exclusively on over-the-air broadcast signals, up from 15.7 million TV households (13.2 percent) in 2017, and 13.3 million TV households (11 percent) in 2016.

- Continuing a trend previously noted by the Commission, many video marketplace participants continue to increase their ownership of content. In the report, the Commission notes that:
 - MVPDs that own content can vertically integrate their content and distribution businesses. Content ownership may facilitate efforts by MVPDs to expand VOD and TV Everywhere services, accelerate innovation in the mobile environment, or improve targeted advertising capabilities.
 - Many OVDs have ownership interests in the content they provide, and large OVDs like Netflix, Amazon, Hulu have increased their spending on original content significantly. OVDs indicate that investing in original content makes more economic sense than licensing content from third parties and protects against the future expectation that content owners will place content on their own OVD services or increase licensing costs substantially. In addition, unique original content helps OVDs attract and retain customers.
 - Broadcast television station groups appear to be increasing their content ownership as well, using content exclusivity to differentiate themselves from their competitors, attract viewers, and generate content licensing revenues.
- Several factors impact entry, competition, and expansion in the video marketplace. Most recent entry into the MVPD and broadcast marketplaces has occurred via acquisition of existing facilities. This requires significant capital, and ongoing consolidation in both industries may limit acquisition opportunities going forward. OVDs must ensure that they have access to infrastructure sufficient to deliver video content to consumers, which may require the provider to construct its own content delivery network or lease capacity from a third party. All marketplace participants must invest significant capital to create or acquire content sufficient to attract viewers.

Key findings and observations from the first Communications Marketplace Report concerning the audio marketplace are set forth below:

- The largest terrestrial radio licensees in the United States include iHeartMedia (725 stations in 149 markets), Cumulus Media (368 stations in 88 markets), Entercom Communications (221 stations in 50 markets), and Townsquare Media (219 stations in 51 markets).
- Increasingly, terrestrial radio broadcasters are expanding their offerings via digital platforms such as station websites and mobile applications.

- The primary source of revenue for terrestrial radio broadcasters is advertising. Broadcasters are augmenting traditional OTA advertising packages with platforms that employ consumer data from digital assets to help advertisers target listeners more effectively.
- Online audio providers provide both free (advertising supported) and subscription/paid offerings. The portion of total revenue that these revenue sources represent varies significantly depending on the provider. For example, in 2017, Spotify reported \$5 billion in total revenue, with subscription revenue representing 90 percent of the company's total revenue since 2016. In contrast, advertising comprised \$1.075 billion of Pandora's \$1.467 billion total revenue in 2017 (approximately 73 percent).
- Most users of online music services tend to use just one service, especially those who use a pay music service.
- Online Audio Providers differentiate themselves based on factors such as supported devices, the ability to download content, and availability of premium or original content.
- Some online audio marketplace participants have formed strategic partnerships with entities like wireless providers and equipment manufacturers. For example, Amazon Music and Pandora Premium are offered as choices in AT&T's Unlimited & More Premium wireless offering, and Spotify has partnered with electronics manufacturer Samsung to integrate Spotify into Samsung devices.
- Several factors impact entry, competition, and expansion in the audio marketplace. For example, because entry in the terrestrial broadcast radio industry occurs primarily via acquisition of existing licensees, new market entrants must have the ability to acquire a license (or multiple licenses) on the secondary market, which, along with operational expenses, can require large amounts of capital. Currently, there is only one satellite radio provider, and no additional spectrum is currently allocated for new SDARS entrants. To enter the marketplace as an Online Audio Provider, an entity must invest in access to necessary delivery infrastructure and the development and maintenance of apps or other mechanisms for delivery of content to consumers.

MB BRIEFING SHEET

SUBJECT: DBS Market Modifications (MB Docket No. 15-71)

SUMMARY & BACKGROUND: The STELA Reauthorization Act of 2014 (STELAR) added satellite television carriage to the Commission’s market modification authority, which previously applied only to cable television carriage. Market modification, which long has existed in the cable context, provides a means for the Commission to modify the local television market of a commercial television broadcast station and thereby avoid rigid adherence to DMAs. Specifically, to better reflect market realities, STELAR permits the Commission to add communities to, or delete communities from, a station’s local television market for purposes of satellite carriage, following a written request. In the Commission’s 2015 *STELAR Market Modification Report and Order* implementing Section 102 of the STELAR, the Commission adopted satellite television market modification rules that provide a process for broadcasters, satellite carriers, and county governments to request changes to the boundaries of a particular commercial broadcast television station’s local television market to include a new community located in a neighboring local market. The rules enable a broadcast television station to be carried by a satellite carrier in the new community if it has a local relationship to that community, and if carriage by the DBS carriers is not technically or economically infeasible.

By extending the market modification process to satellite television, Congress sought to address the so-called “orphan county” problem. An orphan county is a county that, as a result of the structure of a local satellite market, is served exclusively, or almost exclusively, by television stations coming from a neighboring state. Satellite television subscribers residing in an orphan county often are not able to access their home state’s news, politics, sports, emergency information, and other television programming. Providing the Commission with a means to address this problem by altering the structure of, and therefore the stations located within, a local market was a primary factor in Congress’ decision to extend market modification to satellite.

Congress recently noted that “despite the reforms made in STELAR, many communities continue to struggle with market modification petitions,” and directed the Commission to continue to “provide a full analysis to ensure decisions on market modification are comprehensively reviewed and STELAR’s intent to promote localism is retained” and “adhere to statutory requirements and congressional intent when taking administrative action under STELAR.”¹

RESOLVED PETITIONS

Petitioner	MB Docket No(s).	Grant?	Date Released
WSAW (Wisconsin)	16-293	Yes	1/17/17
La Plata, CO	16-366, 16-367, 16-368, 16-369	Yes; AFR was denied, Bureau decision affirmed on 6/13/19	3/1/17

¹ Consolidated Appropriations Act of 2019, Pub. L. No. 116-6 (Feb. 15, 2019); Conference Report (H. Rept. 116-9) at 673.

Victory Television Network (Arkansas)	17-157	Yes, upon refileing after initial dismissal for insufficient evidence	10/4/17
Monongalia and Preston, WV	17-274, 17-275	Yes	2/7/18
WYMT/Gray (Kentucky)	18-8	No; AFR was filed, currently under review	5/16/18
Harrison, TX	18-24, 18-25	Yes	6/1/18
Franklin County, GA	18-158, 18-159, 18-160, 18-161	Yes; decision was upheld, AFR denied and dismissed	5/20/20
Hart County, GA	18-250	Yes; decision was upheld, AFR denied and dismissed	5/20/20
Panola County, TX	18-337, 18-338	Yes	3/6/19
Stephens County, GA	18-358, 18-359, 18-360, 18-361	Yes; decision was upheld, AFR denied and dismissed	5/20/20
Elbert County, GA	19-94	Yes	6/7/19
WCJB/Gray (Florida)	19-131	Yes	8/30/19
Titus County, TX	12-1	No; dismissed without prejudice for insufficient evidence	2/19/20
Montezuma County, CO	20-98	No; dismissed without prejudice for insufficient evidence	5/18/20

MB BRIEFING SHEET

SUBJECT: Digital Low Power Television and Television Translator Stations (MB Docket No. 03-185)

SUMMARY: Since 2004, low power television stations (LPTV), TV translator stations and Class A television stations have been transitioning from analog operations to digital broadcast television technology. To complete their transition to digital, stations may either seek an on-channel digital conversion (“flash cut”) or may obtain a “digital companion channel” to operate with their analog channel.

The Class A television digital transition was completed on September 1, 2015. All Class A stations transitioned to digital at or within a few weeks of the transition date. The digital transition for LPTV and TV translator stations was also scheduled to be completed on September 1, 2015, however, the transition date was extended by the Commission to July 13, 2021, one year after the completion of the 39-month post-incentive auction transition.

STATUS OF DIGITAL LOW POWER FACILITIES: Below is a summary of the current status of the digital transition for LPTV and TV translator stations.

	ANALOG	DIGITAL	TOTAL	PERCENTAGE OF DIGITAL STATIONS
TV TRANSLATOR	461	3078	3539	87%
LPTV	419	1437	1856	77%
TOTAL	880	4515	5395	84%

MB BRIEFING SHEET

SUBJECT: Diversity in Broadcast Ownership (MB Docket Nos. 07-294, 09-182, 14-50); Rules and Policies to Promote New Entry and Ownership Diversity in the Broadcasting Services (MB Docket No. 17-289); 2018 Quadrennial Regulatory Review (MB Docket No. 18-349)

SUMMARY: The Commission has undertaken a number of actions related to diversity that remain active, which are discussed below. As part of its 2010 and 2014 media ownership quadrennial reviews, the Commission acted on measures adopted in its 2008 diversity order, which had been vacated and remanded by the Third Circuit. On August 2, 2018, the Commission adopted an order implementing an incubator program to foster new entry into the broadcasting industry (Incubator Order). On December 12, 2018, as part of a Notice of Proposed Rulemaking commencing the 2018 quadrennial review, the Commission sought comment on several proposals offered as potential pro-diversity initiatives in the record of the 2010 and 2014 quadrennial review proceedings.

STATUS: Because some of the diversity issues have become intertwined with the litigation in the U.S. Court of Appeals for the Third Circuit related to the Commission's quadrennial media ownership reviews, it is important to understand the status of that litigation in reviewing the Commission's recent diversity initiatives. Further details about these various items and proceedings are contained below in the Background and Key Issues section.

Judicial challenges to three Commission orders were consolidated before the Third Circuit. On August 10, 2016, a Second Report and Order was adopted that resolved the 2010 and 2014 quadrennial review proceedings, and among other things, addressed the diversity-related issues remanded by the Third Circuit. The item was released on August 25, 2016, and multiple parties subsequently sought appellate review, which were consolidated before the Third Circuit. In addition, several parties sought Commission reconsideration of various aspects of the item.

On November 16, 2017, the Commission adopted an Order on Reconsideration (Recon Order) that eliminated or revised various rules adopted in the Second Report and Order. The item also adopted an incubator program to help promote ownership diversity and initiated a new proceeding in an accompanying NPRM to seek comment on how to structure and implement such a program. As with the Second Report and Order before it, multiple parties, including, Prometheus Radio Project (Prometheus), Free Press, Common Cause, Communications Workers of America, and the Office of Communication of the United Church of Christ have sought judicial review. The appeals were consolidated before the Third Circuit.²

On August 2, 2018, the Commission adopted an incubator program to foster new entry into the radio broadcasting industry. Several parties, including Prometheus and Media Mobilizing

² In addition, Prometheus filed a Mandamus Petition on January 25, 2018, effectively seeking to stay the effectiveness of the Recon Order. The court rejected the petition, and the rules became effective on February 7, 2018. At that time, however, the court, held all related litigation in abeyance pending an update on the incubator proceeding, which it ordered the Commission to provide by August 6, 2018.

Project, jointly, and the Multicultural Media, Telecom and Internet Council (MMTC) and NABOB, jointly, sought judicial review of the Incubator Order. The Third Circuit consolidated the petitions with the challenges to the Second Report and Order and the Recon Order. In addition, one party sought Commission reconsideration of the Incubator Order.

Finally, on December 12, 2018, the Commission adopted an NPRM commencing the 2018 quadrennial review of the media ownership rules (2018 Quadrennial Review NPRM). In the earlier Second Report and Order, the Commission had committed to review further five potential pro-diversity initiatives previously advanced by MMTC. In the 2018 Quadrennial Review NPRM, the Commission has sought comment on three of these proposals, as discussed further below. Comments in the rulemaking proceeding were due by April 29, 2019 and reply comments by May 29, 2019.

Parties to the litigation in the Third Circuit submitted briefs to the court in the spring of 2019, and oral arguments took place on June 11, 2019. On September 23, 2019, the Third Circuit issued an opinion vacating and remanding the Recon Order and the Incubator Order in their entirety as well as the eligible entity definition adopted in the Second Report and Order.³ The Commission sought review of that decision by the Third Circuit *en banc*, which was denied on November 21, 2019.⁴ The court's mandate issued on November 29, 2019, reinstating the media ownership rules adopted in the 2010/2014 Second Report. The Media Bureau issued an Order on December 20, 2019, restoring those rules to the Code of Federal Regulations.⁵

On April 17, 2020, the Solicitor General (on behalf of the Commission), as well as the National Association of Broadcasters, each filed a petition for a writ of certiorari seeking review of the Third Circuit's decision by the United States Supreme Court. Three entities filed briefs in support of the petitions, and Prometheus filed an opposition. On October 2, 2020, the Supreme Court granted the petitions for writs of certiorari, consolidated the cases, and allotted an hour for oral arguments, which have yet to be scheduled.

Advisory Committee on Diversity and Digital Empowerment (ACDDE or Committee): On September 8, 2017, Chairman Pai announced the establishment and membership of a new federal advisory committee, the ACDDE. This Committee provides advice and recommendations to the Commission regarding how to empower disadvantaged communities and accelerate the entry of small businesses, including those owned by women and minorities, into the media, digital news and information, and audio and video programming industries. The ACDDE was chartered for two years and held its first full meeting on September 25, 2017. During its two-year duration, the Committee, through the work of its three working groups, has offered detailed comments in the incubator program rulemaking; hosted a one-day supplier diversity workshop for small, minority-owned, women-owned, and other diverse businesses; offered recommendations to the Commission about supporting supplier diversity and procurement efforts; investigated best practices for attracting and retaining diverse applicants in the tech, media, and communications fields; and hosted a symposium at the Commission examining issues pertaining to the

³ *Prometheus Radio Project v. FCC*, No. 17-1107 et al., slip op. (3rd Cir. Sept. 23, 2019).

⁴ *Prometheus Radio Project*, 939 F.3d 567 (3rd Cir. Nov. 21, 2019), *petition for rehearing en banc denied*.

⁵ *In the Matter of 2014 Quadrennial Regulatory Review*, Order, DA 19-1303 (rel. Dec. 20, 2019).

participation of minorities and women in broadcasting and related industry sectors. The final meeting of the first iteration of the ACDDE was held on June 24, 2019, and the charter for the committee expired on July 5, 2019.

Chairman Pai formally re-chartered the ACDDE for a second two-year term beginning July 2019. The Commission announced the membership of the new Committee and held its initial meeting on October 30, 2019. The re-chartered ACDDE will continue the work of the prior Committee and provide advice and recommendations to the Commission in furtherance of its work.

BACKGROUND AND KEY ISSUES: As defined in the 2008 diversity order, an “eligible entity” is any entity that qualifies as a small business under revenue-based standards established by the Small Business Administration. In adopting measures based on this definition in that order, the Commission concluded that it would “be effective in creating new opportunities for broadcast ownership by a variety of small businesses and new entrants, including minorities and women.” The Commission also noted that adopting this “race- and gender-neutral definition” would avoid the “constitutional difficulties” associated with a race-conscious definition “that might create impediments to the timely implementation” of the measures adopted in the diversity order.

In July 2011, the U.S. Court of Appeals for the Third Circuit vacated and remanded a number of measures adopted in the Commission’s 2008 order on diversity. The court’s decision was issued as part of its review of the Commission’s 2006 media ownership quadrennial review order. Specifically, the Third Circuit vacated and remanded measures that relied on a revenue-based “eligible entity” standard that the Commission had adopted in the 2008 diversity order. The Third Circuit found that the Commission’s revenue-based standard was arbitrary and capricious because the Commission had failed to show that measures relying on the eligible entity standard “will enhance significantly minority and female ownership, which was a stated goal of” the decision in question.

Consistent with the court’s direction, in December 2011, the Commission released a Notice of Proposed Rulemaking in the 2010 Quadrennial Review of the broadcast ownership rules, inviting comment on how the Commission’s “ownership rules and policies can promote greater minority and women ownership of broadcast stations. . . . [and] explor[ing] a broad range of potential actions it might take to that end, consistent with judicial precedent.”

On March 31, 2014, the Commission adopted a Further Notice of Proposed Rulemaking (FNPRM) and Report and Order, which was released on April 15, 2014. Multiple parties (Petitioners) sought appellate review of the FNPRM and Report and Order in both the D.C. Circuit and the Third Circuit. Among other issues raised by Petitioners, Prometheus Radio Project asserted that the Commission failed to comply with the Third Circuit’s order to justify or modify the Commission’s method of boosting minority ownership or to propose new measures to do so. The D.C. Circuit transferred the consolidated proceeding to the Third Circuit on November 24, 2015. Oral arguments in the Third Circuit were held on April 19, 2016.

On May 25, 2016, the Third Circuit issued a decision addressing the various challenges to the FNPRM and Report and Order (*Prometheus III*). The court stated that it expected the

Commission to circulate an Order resolving the quadrennial review process and related diversity issues (specifically, the eligible entity standard) by June 30—with the expectation that it will be finalized and adopted by the end of the year—based on the Commission’s existing commitment to this timetable. As a backstop, the court ordered the Commission into mediation with the public interest petitioners to set a timetable for final agency action on the eligible entity proposals. The court also vacated the television JSA attribution rule—adopted in the Report and Order—finding that it was adopted prematurely due to the long delay in completing a quadrennial review.

In the Second Report and Order, adopted on August 10, 2016, and consistent with the proposals in the FNPRM, the Commission: (1) reinstated the revenue-based eligible entity standard as a means to promote broadcast ownership by small businesses and new entrants; (2) re-adopted the measures to which the standard applied prior to the Third Circuit remand; (3) found that, at this time, the Commission did not have sufficient evidence to adopt a race- or gender-conscious eligibility standard that would satisfy heightened constitutional scrutiny; and (4) committed to evaluating certain diversity-related proposals advanced by MMTC.

Multiple parties sought judicial review of the Second Report and Order in both the D.C. Circuit and Third Circuit. The D.C. Circuit was initially selected as the venue for the case through the judicial lottery, though the case has since been transferred to the Third Circuit. Prometheus challenged various diversity-related decisions, certain media ownership rules, and the decision not to attribute SSAs. MMTC and NABOB jointly challenged the Commission’s decision not to apply the cable procurement rule to all communications sectors. Finally, the News Media Alliance challenged the retention of the newspaper/broadcast cross-ownership rule. NAB initially sought judicial review but withdrew its petition for review in order to file a reconsideration petition with the Commission, though NAB requested intervenor status. Several parties also sought reconsideration of various aspects of the item.

On November 16, 2017, the Commission adopted a Recon Order that eliminated or revised various rules adopted in the Second Report and Order. The item also adopted an incubator program to help promote ownership diversity and initiated a new proceeding in an accompanying NPRM to seek comment on how to structure and implement such a program. Specifically, the NPRM sought comment on the structure, review, and oversight of a comprehensive incubator program that will help create new sources of financial, technical, operational, and managerial support for eligible broadcasters. The item was published in the Federal Register on January 8, 2018. Comments on the NPRM were filed on March 9, 2018; replies were received April 8, 2018.

On August 2, 2018, the Commission adopted an order implementing the incubator program, which is intended to foster new entry into the radio broadcasting industry. Under the program, an established broadcaster (i.e., incubating entity) will provide a new entrant or small broadcaster (i.e., incubated entity) with training, financing, and access to resources that would be otherwise inaccessible to these entities. In return for this support, the incubating entity can receive a waiver of the applicable Local Radio Ownership Rule that it can use either in the same market where the incubation occurs or in a comparable market within three years of the successful conclusion of a qualifying incubation relationship. Pursuant to the Third Circuit’s Order, the

Commission updated the court on the incubator program after the Commission adopted the Incubator Order. One petitioner sought reconsideration of the Incubator Order by the Commission. In addition, several parties sought judicial review of the Incubator Order. The Third Circuit consolidated the petitions with challenges to the Second Report and Order and the Recon Order.

In addition, in the 2018 Quadrennial Review NPRM adopted at the December 12, 2018 Commission meeting, the Commission seeks comment on three diversity-related proposals advanced by the MMTC. The Commission had discussed these proposals in its 2016 Second Report and Order and committed to explore them further.⁶ Consistent with that commitment, the 2018 Quadrennial Review NPRM seeks comment on three proposals: 1) extending cable procurement requirements to broadcasters; 2) developing a model for market-based tradeable “diversity credits” to serve as an alternative method for adopting ownership limits; and 3) adopting formulas aimed at creating media ownership limits that promote diversity.

On September 23, 2019, the Third Circuit issued an opinion vacating and remanding the Recon Order and the Incubator Order in their entirety as well as the eligible entity definition adopted in the Second Report and Order. In its decision, the court rejected petitions from MMTC and NABOB challenging the incubator program’s “comparable markets” definition and arguing that the Commission has unreasonably delayed action on a proposal to extend cable procurement rules to broadcast media. Ultimately, however, the court vacated both the Recon Order and Incubator Order, agreeing with Prometheus, Free Press, and other petitioners that the Commission failed to adequately consider the effect of its rule changes on ownership by women and racial minorities. The Commission sought review of that decision by the Third Circuit *en banc*, which was denied on November 21, 2019.⁷ The court’s mandate issued on November 29, 2019, reinstating the media ownership rules adopted in the 2010/2014 Second Report. The Media Bureau issued an Order on December 20, 2019, restoring those rules to the Code of Federal Regulations.⁸

On April 17, 2020, the Solicitor General (on behalf of the Commission), as well NAB, each filed a petition for a writ of certiorari seeking review of the Third Circuit’s decision by the United States Supreme Court. The petitions contend that the Third Circuit’s decision placed too much emphasis on a single, non-statutory factor (minority and female ownership) at the expense of other factors (e.g., competition) and failed to afford the proper deference to the Commission’s reasoned decision making. The Commission’s petition also asserts that the Third Circuit’s remedy was overbroad in vacating the Incubator Order and eligible entity definition along with the structural rule changes adopted in the Recon Order. Three entities—Gray Television; the ABC, CBS, Fox, and NBC affiliate groups; and the International Center for Law and Economics—filed briefs in support of the petitions. On July 21, 2020, Prometheus filed an

⁶ In addition, the Commission adopted one of MMTC’s other proposals in Second Report and Order itself (namely, making the promotion of minority ownership an integral part of FCC rulemaking proceedings) and implemented another in July 2018 (namely, relocation of the Commission’s EEO functions from the Media Bureau to the Enforcement Bureau).

⁷ *Prometheus Radio Project*, 939 F.3d 567 (3rd Cir. Nov. 21, 2019), *petition for rehearing en banc denied*.

⁸ *In the Matter of 2014 Quadrennial Regulatory Review*, Order, DA 19-1303 (rel. Dec. 20, 2019).

opposition to the petitions. On October 2, 2020, the Supreme Court granted the petitions for writs of certiorari, consolidated the cases, and allotted an hour for oral arguments, which have yet to be scheduled.

MB BRIEFING SHEET

SUBJECT: FM Broadcast Class C4 (MB Docket No. 18-184)

SUMMARY: On June 5, 2018, the Commission released a Notice of Inquiry (NOI) that seeks comment on two proposals. First, SSR Communications, Inc. proposed that the Commission create a new FM station class, Class C4, with a maximum effective radiated power of 12 kilowatts and a reference antenna height above average terrain of 100 meters, as an intermediate FM class between Class A and Class C3. Class A stations that cannot meet the current Class C3 technical requirements would be provided the flexibility to increase their signal contour coverage to meet the new Class C4 parameters. In addition, the creation of a new Class C4 would potentially increase spectrum efficiency by reclassifying existing Class C3 stations that are operating below their class maximum power and/or height. Reclassification to Class C4 would reduce the protected contours of such stations to Class C4 class maximums and thus potentially facilitate the upgrade of nearby stations.

SSR also proposed that the Commission create a new procedure under which certain FM stations could be involuntarily designated as Section 73.215 facilities. Specifically, an FM station that has been operating at less than class maximum height and/or power for ten years would be given an opportunity to modify its facilities or be subject to designation as a Section 73.215 facility. The practical impact of such designation would be that the station would be protected only to its predicted contours based on its actual facilities, rather than to the class maximum power and height, again potentially facilitating the upgrade of nearby stations.

STATUS: The NOI was adopted on June 4, 2018 and released on June 5, 2018. It was published in the Federal Register on July 12, 2018. Comments were due August 13, 2018, replies were due September 10, 2018.

BACKGROUND AND KEY ISSUES: SSR Communications filed its petition for rulemaking on January 22, 2013. The petition appeared on public notice on July 18, 2014. Commission staff estimates that 127 Class C3 stations, or 14 percent of the total number of Class C3 stations, are operating with facilities that are less than the proposed Class C3 minimums and thus could be subject to reclassification to Class C4. A number of smaller broadcasters expressed support for the proposals in the NOI. A number of other broadcasters as well as the NAB have expressed opposition to the proposals in the NOI. This second group has expressed concerns about an increase in the amount of interference in the FM band due to the increase in power for Class A stations. They also have expressed concern about the impact on stations that are operating below the class maximum power that could potentially be downgraded if rules are adopted based on the NOI.

MB BRIEFING SHEET

SUBJECT: FM Translator Interference (MB Docket No. 18-119)

SUMMARY: The Commission released a notice of proposed rulemaking (NPRM) on May 10, 2018, seeking comment on proposals to improve its FM translator interference complaint and resolution process. On May 9, 2019, the Commission adopted a Report and Order in this docket which: (1) allows FM translators the flexibility, upon a showing of interference to or from any other broadcast station, to change channels to any available same-band channel using a minor modification application; (2) requires a minimum number of listener complaints proportionate to the population the complaining station serves to be included with any interference claim; (3) standardizes and codifies the required content of each listener complaint as well as additional information that a complaining station must submit with the minimum number of listener complaints; (4) establishes interference resolution procedures that permit but do not require complaining listeners to cooperate with remediation efforts and implements an alternative, technically-based process for demonstrating that interference has been resolved; (5) establishes an outer contour limit of 45 dBu for the affected station beyond which listener complaints would not be considered actionable; and (6) establishes waiver procedures for interference complaints outside a station's 45 dBu contour. On October 6, 2020, the Commission released an Order on Reconsideration upholding the new rules (while correcting an internal cross-reference) and dismissing or denying four petitions for reconsideration of the Report and Order.

The Commission's Report and Order responds to increasing industry awareness—driven in part by the growing number of translators and their significance to digital and AM station operators—of the need to increase clarity and certainty for translator licensees while preserving translators' status as secondary services. The Commission seeks to improve certain aspects of the current translator interference resolution process, such as establishing listener bona fides and requiring listener cooperation, that have historically led to delay and contention. These measures are expected to conserve both licensee and Commission resources.

STATUS: The NPRM was adopted and released on May 10, 2018 (FCC 18-60). It was published in the Federal Register on June 6, 2018. The Report and Order was adopted and released on May 9, 2019. The revised rules became effective August 13, 2019. The Order on Reconsideration was adopted and released on October 6, 2020.

BACKGROUND AND KEY ISSUES: This proceeding was initiated by petitions for rulemaking filed by the National Association of Broadcasters (NAB) and Aztec Capital Partners, Inc. (Aztec). NAB's primary proposal was that the Commission permit FM translators to change channels to any available same-band frequency to resolve interference with other broadcast stations. NAB also suggested that the Commission adopt a required minimum number of complaints for a valid interference claim. These proposals received broad support in the record and are adopted—with specific parameters—in the Report and Order. Aztec urged the Commission to establish a 60 dB μ contour limit for affected stations beyond which translator interference claims would not be actionable. While translator proponents were generally supportive of an outer contour limit, many full power stations reported that they have substantial listenership outside the 54 dBu limit proposed in the *NPRM*. Taking this listenership data into

account, the Commission concludes in the Report and Order that the outer contour limit for actionable listener complaints should be set at 45 dBu, because most stations' signal at or beyond this point is not strong enough to reliably attract a significant listening audience. The Report and Order also includes waiver criteria for licensees who believe interference is impacting a substantial listenership beyond the 45 dBu contour limit.

SUBJECT: FCC Form 323/Form 323-E, Broadcast Ownership Report

SUMMARY: The Commission is engaged in an ongoing effort to improve data regarding minority and female ownership of broadcast stations. Recognizing limitations in the data collection process, a number of changes to FCC Form 323 were implemented in 2009 that were intended to make the data more reliable, searchable, and aggregable. The Report and Order (*323 Order*), adopted on April 8, 2009, enlarged the class of stations required to file the Form, instituted a uniform biennial filing date, and delegated authority to the Media Bureau to perform random audits and improve data retrieval so that ownership data would be searchable and aggregable and could be cross-referenced electronically. On November 14, 2012, the Media Bureau released a report containing information concerning ownership of commercial broadcast stations from the first two biennial filing windows from 2009 and 2011. On June 27, 2014, the Media Bureau released a report containing information from the 2013 filing window. On May 10, 2017, the Media Bureau released a report containing information from the 2015 filing window. On February 14, 2020, the Media Bureau released a report containing information concerning ownership of broadcast stations from the 2017 filing window. This was the first such report to include information for noncommercial stations.

STATUS: In 2009, the Commission sought comment in the Fourth Further Notice of Proposed Rulemaking (*Fourth Further Notice*) on whether to modify FCC Form 323-E (the noncommercial broadcast ownership report) to require noncommercial broadcast station licensees (NCEs) to submit gender and minority ownership information and whether also to require LPFM licensees to submit ownership reports with comparable information. Also in 2009, the Commission adopted the Fifth Further Notice of Proposed Rulemaking (*Fifth Further Notice*), which sought comment on whether to require that certain non-attributable interest holders be reported on Form 323.

The Sixth Further Notice of Proposed Rulemaking (*Sixth Further Notice*) was released on January 3, 2013. It sought comment on (1) a proposal to eliminate the unrestricted availability of “Special Use” FRNs, which do not require an individual’s Social Security Number (SSN), and require that licensees and other entities filing Form 323 provide an SSN-based CORES FRN for each attributable individual reported; (2) whether to extend this requirement to filers of Form 323-E and to certain non-attributable interest holders as described in the *Fourth* and *Fifth NPRMs* as noted above; (3) whether, to ensure that reporting entities are able to file, to allow them to obtain a Special Use FRN solely in instances where they are unable, after diligent and good faith efforts, to obtain a CORES FRN from a recalcitrant individual with reportable interests; (4) privacy concerns related to the CORES FRN requirement for individuals; (5) whether Commission rules should be revised to clarify that individuals with reportable interests must obtain a CORES FRN; and (6) several proposals to revise Form 323 that were submitted in the *Review of Media Bureau Data Practices* proceeding.

On February 12, 2015, the Commission released the Seventh Further Notice of Proposed Rulemaking (*Seventh Further Notice*). It sought comment on a proposal to create a new mechanism for obtaining an FRN through CORES. This “Restricted Use” FRN (RUFNRN) would be restricted to the reporting of individuals and would be supported by identifying information for attributable individuals that does not include SSNs and that would be housed securely on the

Commission's servers and not made available to the public. This proposal was intended to address some of the privacy and data security concerns that commenters raised with respect to prior proposals while still enabling the Commission to identify reported individuals uniquely, obtain data reflecting a more useful, accurate, and thorough assessment of minority and female broadcast station ownership in the United States and reduce certain filing burdens.

On January 20, 2016, the Commission released the Report and Order, Second Report and Order, and Order on Reconsideration (*2016 Report and Order*), which addressed issues contained in the *Fourth, Sixth, and Seventh NPRMs*. Specifically, the *2016 Report and Order*: (1) requires filers of biennial Form 323 and Form 323-E to provide a CORES FRN or RUFNRN for each reported individual, (2) eliminates (except in limited cases) the availability of SUFRNs on biennial ownership reports, and (3) makes changes to Forms 323 and 323-E designed to reduce filing burdens and improve data collection.

Several NCEs sought reconsideration of the *2016 Report and Order*, specifically challenging the decision to require a unique identifier (CORES FRN or RUFNRN) for attributable interest holders. On January 4, 2017, the Media Bureau released an Order on Reconsideration rejecting the petitions for reconsideration that challenged portions of the *2016 Report and Order* applicable to NCE stations and the use of a unique identifier. On February 2, 2017, by its own motion the Media Bureau set aside its Order on Reconsideration, returning the petitions for reconsideration to pending status. On April 20, 2017, the full Commission adopted an Order on Reconsideration giving NCE stations greater flexibility to report an SUFRN for individuals on Form 323-E. Initially, the 2017 biennial filing window was scheduled to open on October 1, 2017 and close on December 1, 2017. On September 1, 2017, the Bureau released an Order postponing the opening of the window until December 1, 2017 and extending the closing of the window until March 2, 2018. Electronic implementation of the revised Forms 323 and 323-E, along with related changes to CORES necessary to allow users to obtain RUFNRNs, was completed in November 2017. The 2017 biennial filing window opened on December 1, 2017 and closed on March 5, 2018. In 2019, further modifications to the electronic ownership report forms were completed. The 2019 biennial filing window opened on November 1, 2019 and closed on January 31, 2020.

BACKGROUND AND KEY ISSUES: The revised Form 323, adopted in 2009 pursuant to the *323 Order* and *323 MO&O*, has been used in the last five biennial filing periods, collecting ownership information as of November 1, 2009, October 1, 2011, October 1, 2013, October 1, 2015, and October 1, 2017. The Bureau had originally decided, on delegated authority, that each attributable individual (generally, those holding a 5 percent or greater voting stock interest or certain key positions) be identified by a CORES FRN, a unique identifier based on SSNs, to enhance the Commission's and the public's ability to reliably identify and track individual ownership interests. In response to concerns about the disclosure of individuals' SSNs needed to generate a CORES FRN, the Bureau permitted filers to obtain Special Use FRNs, which were accepted in lieu of CORES FRNs for individuals on the 2009, 2011 and 2013 biennial ownership reports. These Special Use FRNs allow Form 323 filers to generate and use FRNs for individuals that are not linked to a unique identifier (*i.e.*, SSNs). The lack of a unique identifier for individuals reported on the Form 323 reduces the reliability and verifiability of the reported data. The Special Use FRN is also accepted on non-biennial Form 323s.

As noted above, the *2016 Report and Order* announced several changes to Forms 323 and 323-E designed to reduce burdens on filers and improve the quality of broadcast ownership data submitted to the Commission. Among other things, the *2016 Report and Order* required Form 323-E filers to provide a CORES FRN or RUFNR for each reported attributable interest holder. In addition, on April 20, 2017 the Commission adopted an Order on Reconsideration (*2017 Order on Reconsideration*) addressing concerns raised by NCE petitioners. Together, the *2016 Report and Order* and the *2017 Order on Reconsideration*: (1) require biennial Form 323 filers to provide a CORES FRN or RUFNR for each reported individual; (2) provide Form 323-E filers with more flexibility to provide SUFRNs for reported individuals; and (3) make other form changes designed to improve data quality and reduce filing burdens.

On February 14, 2020, the Media Bureau released its Fourth Report on Ownership of Broadcast Stations (*Fourth Report*), containing information received in the 2017 biennial filing window. As with prior reports, data for the *Fourth Report* were compiled using both algorithmic analysis and manual adjustments to obtain the best picture of ownership status and trends that the data would permit. The report presents ownership information by gender, ethnicity, and race in tables for commercial and noncommercial broadcast licensees, grouped by full power television, Class A television, Low Power television, AM radio and FM radio stations. The number of stations is listed as a group, and broken out into large, medium, and small television or radio markets. The report presents information on several different measures of ownership.

Summary of 2017 Biennial Broadcast Ownership Data Reflected in the *Fourth Report*:

Commercial Stations

Gender

- Women collectively or individually held a majority of voting interests in 874 commercial broadcast stations, down from 1,024 in 2015. 73 of these stations are full power TV stations (5.3 percent of all such stations), down from 102 (7.4 percent) in 2015.
- Men collectively or individually held a majority of voting interests in 8,736 commercial broadcast stations, up from 8,556 in 2015. 735 of these stations are full power TV stations (53.7 percent of all such stations), down from 833 (60.1 percent) in 2015.
- Women owned 5.3 percent of commercial full power TV stations in 2015 (down from 7.4 percent in 2013); 5.8 percent of commercial Class A TV stations (down from 9.3 percent); 7.4 percent of commercial low power TV stations (down from 11.0 percent); 9.3 percent of commercial AM radio stations (up from 8.9 percent); and 7.2 percent of commercial FM radio stations (up from 8.1 percent).

Ethnicity

- Hispanic/Latino persons collectively or individually held a majority of voting interests in 668 commercial broadcast stations, down from 671 in 2015. 58 of these stations are full power TV stations (4.2 percent of all such stations), down from 62 (4.5 percent) in 2015.
- Non-Hispanic/Latino persons collectively or individually held a majority of voting interests in 9,836 commercial broadcast stations, down from 9,021 in 2015. 850 of these stations are full power TV stations (62.1 percent of all such stations), down from 891 (64.3 percent) in 2015.
- Hispanic/Latino persons owned 4.2 percent of commercial full power TV stations in 2017 (down from 4.5 percent in 2015); 13.6 percent of commercial Class A TV stations (up from 13.4 percent); 13.4 percent of commercial low power TV stations (unchanged); 6.1 percent of commercial AM radio stations (up from 5.0 percent); and 4.1 percent of commercial FM radio stations (down from 4.2 percent).

Race

- Racial minorities collectively or individually held a majority of voting interests in 416 commercial broadcast stations, down from 402 in 2015. 26 of these stations are full power TV stations (1.9 percent of all such stations), down from 36 (2.6 percent) in 2015. These interests were held as follows:
 - American Indian/Alaskan Natives held such interests in 31 commercial broadcast stations, down from 40 in 2015. 4 of these stations are full power TV stations (0.3 percent of all such stations), down from 12 (0.9 percent) in 2015.
 - Asians held such interests in 136 commercial broadcast stations, down from 152 in 2015. 9 of these stations are full power TV stations (0.7 percent of all such stations), down from 10 (0.7 percent) in 2015.

- Black/African Americans held such interests in 239 commercial broadcast stations, up from 180 in 2015. 12 of these stations are full power TV stations (0.9 percent of all such stations), unchanged from 2015.
- Native Hawaiian/Pacific Islanders held such interests in 7 commercial broadcast stations, down from 20 in 2015. Native Hawaiian/Pacific Islanders owned no full power TV stations in 2017, down from 1 full power TV station in 2015.
- Persons of two or more races held such interests in 3 commercial broadcast stations, down from 10 in 2015. Persons of two or more races owned 1 full power TV station in 2015 and in 2017.
- Whites collectively or individually held a majority of voting interests in 10,076 commercial broadcast stations, up from 9,515 in 2015. 871 of these stations are full power TV stations (63.7 percent of all such stations), down from 1,030 (74.4) percent in 2015.
- Racial minorities owned 1.9 percent of commercial full power TV stations in 2017 (down from 2.6 percent in 2015); 2.4 percent of commercial Class A TV stations (up from 1.8 percent); 2.0 percent of commercial low power TV stations (down from 2.4 percent); 5.9 percent of commercial AM radio stations (up from 5.8 percent); and 2.9 percent of commercial FM radio stations (up from 2.3 percent).

Noncommercial Stations

Gender

- Women collectively or individually held a majority of voting interests in 53 noncommercial full power television stations (13.6 percent of all such stations), while men collectively or individually held a majority of voting interests in 258 noncommercial full power television stations (66.0 percent).
- Women collectively or individually held a majority of voting interests in 314 noncommercial FM Radio stations (901 percent of all such stations), while men collectively or individually held a majority of voting interests in 2,086 noncommercial FM Radio stations (60.4 percent).

Ethnicity

- Hispanic/Latino persons collectively or individually held a majority of voting interests in 5 noncommercial full power television stations (1.3 percent of all such stations), while non-Hispanic/Latino persons collectively or individually held a majority of voting interests in 330 noncommercial full power television stations (84.4 percent).
- Hispanic/Latino persons collectively or individually held a majority of voting interests in 96 noncommercial FM Radio stations (2.8 percent of all such stations), while non-Hispanic/Latino persons collectively or individually held a majority of voting interests in 2,515 noncommercial FM Radio stations (72.8 percent).

Race

- Racial minorities collectively or individually held a majority of voting interests in 4 noncommercial full power television stations (1.0 percent of all such stations).
 - Black/African Americans held such interests in 3 stations (0.8 percent).
 - Native Hawaiian/Pacific Islanders held such interests in 1 station.
- Racial minorities collectively or individually held a majority of voting interests in 91 noncommercial FM Radio stations (2.6 percent of all such stations).
 - American Indian/Alaskan Natives held such interest in 51 stations (1.5 percent).
 - Asians held such interests in 2 stations (0.1 percent).
 - Black/African Americans held such interests in 27 stations (0.8 percent).
 - Persons of two or more races held such interests in 11 stations (0.3 percent).

MB BRIEFING SHEET

SUBJECT: Leased Commercial Access; Modernization of Media Regulation Initiative (MB Docket Nos. 07-42, 17-106)

SUMMARY: On June 6, 2019, the Commission adopted a Report and Order and Second Further Notice of Proposed Rulemaking that updated the leased access rules as part of the Commission's Modernization of Media Regulation Initiative. The leased access rules, which implement the statutory leased access requirements, direct cable operators to set aside channel capacity for commercial use by unaffiliated video programmers. In 2018, the Commission adopted a Further Notice of Proposed Rulemaking addressing leased access proposals filed in the Media Modernization proceeding. In the Report and Order and Second FNPRM, the Commission continued its efforts to modernize media regulations and remove unnecessary requirements that can impede competition and innovation in the media marketplace.

In the Report and Order, the Commission first vacated its *2008 Leased Access Order*, which the U.S. Court of Appeals for the Sixth Circuit had stayed for a decade in conjunction with several judicial appeals of the order. Separate from multiple petitions for judicial review pending before the Sixth Circuit, the Office of Management and Budget (OMB) had disapproved of the information collection requirements associated with the *2008 Leased Access Order*. Vacating the *2008 Leased Access Order* clarified the status of the Commission's leased access regime, furthered the Commission's media modernization efforts, and obviated the need to address the significant legal concerns raised in the related Sixth Circuit proceeding and by OMB. On September 4, 2019, the Sixth Circuit granted the Commission's motion to dismiss the pending petitions for review as moot.

Second, the Commission adopted certain updates and improvements to its existing leased access rules, with the goal of modernizing the Commission's leased access regulations given the significant changes in the video marketplace, including specifically the availability of online media platforms. Specifically, the Commission:

- Eliminated the requirement that cable operators make leased access available on a part-time basis;
- Revised section 76.970(i) of its rules to provide that all cable operators, and not just those that qualify as "small systems" under that rule, are required to respond only to bona fide requests from prospective leased access programmers;
- Extended the timeframe within which cable operators must respond to prospective leased access programmers, from 15 calendar days to 30 calendar days for cable operators generally, and from 30 calendar days to 45 calendar days for operators of systems subject to small system relief;
- Permitted cable operators to impose a maximum leased access application fee of \$100 per system-specific bona fide request, and deemed as reasonable under the Commission's rules a security deposit or prepayment equivalent of up to 60 days of the applicable lease fee;

- Required cable operators to provide potential leased access programmers with contact information for the person responsible for leased access matters; and
- Adopted common-sense modifications to the procedures for leased access disputes.

These new rules went into effect on July 22, 2019, except for the rules that required OMB approval, which went into effect on December 18, 2019.

Finally, in the Second FNPRM, the Commission proposed to modify the leased access rate formula so that rates will be specific to the tier on which the programming is carried. It also sought comment on whether it should make additional adjustments to the formula. Finally, it also sought comment on whether leased access requirements can withstand First Amendment scrutiny in light of video programming market changes.

On July 16, 2020, the Commission adopted the Second Report and Order, implementing the proposed tier-based leased access rate calculation. The Commission concluded that a simplified tier-specific rate calculation best reflects regulatory changes that have occurred in the last 20 years and will more accurately approximate the value of a particular channel, while alleviating burdens on cable operators. The Commission also found that, although changes in the marketplace cast substantial doubt on the constitutionality of mandatory leased access, leased access requirements are contained in a specific statutory mandate from Congress, so the Commission did not eliminate its leased access rules.

STATUS: The Second Report and Order was released on July 17, 2020, and the rules went into effect on September 21, 2020 (30 days after the date of publication in the Federal Register).

MB BRIEFING SHEET

SUBJECT: Media Ownership Rules: 2010 Quadrennial Review (MB Docket No. 09-182); 2014 Quadrennial Review (MB Docket No. 14-50); 2018 Quadrennial Review (MB Docket No. 18-349)

SUMMARY: The Commission is required by Section 202(h) of the Telecommunications Act of 1996, as amended in 2004, to review each of its media ownership rules, except for the national television ownership cap, every four years to determine whether each rule is “necessary in the public interest as the result of competition” and to “repeal or modify any regulation [the Commission] determines to be no longer in the public interest.”

STATUS: On August 10, 2016, the Commission adopted a Second Report and Order that resolved the 2010 and 2014 quadrennial review proceedings (largely retaining the existing rules with some modifications), reinstated the television joint sales agreement (JSA) attribution rule, adopted a definition of and disclosure requirements for certain shared service agreements (SSAs), and addressed various diversity-related issues. The item was released on August 25, 2016. Subsequently, multiple parties sought judicial review of the Second Report and Order. In addition, several parties sought Commission reconsideration of various aspects of the Second Report and Order.

On November 16, 2017, the Commission adopted an Order on Reconsideration (Recon Order) that: (1) eliminated the Newspaper/Broadcast Cross-Ownership Rule and the Radio/Television Cross-Ownership Rule; (2) revised the Local Television Ownership Rule to eliminate the Eight-Voices Test and provide a case-by-case review process for top-four combinations; (3) adopted a narrow presumption in the Local Radio Ownership Rule favoring grant of a waiver in certain circumstances involving the New York City and Washington, DC markets; (4) eliminated the Television JSA Attribution Rule; (5) retained the SSA disclosure requirements; and (6) adopted an incubator program and initiated a new proceeding in an accompanying NPRM to seek comment on how to structure and implement such a program. The item was released on November 21, 2017. The media ownership rules adopted in the Second Report and Order and affirmed, modified, or eliminated in the Recon Order are summarized in the Attachment.

Following publication of the Recon Order in the Federal Register on January 8, 2018, Prometheus Radio Project (Prometheus) filed a petition for review in the Third Circuit on January 16, 2018, asking the court to reverse the Recon Order in its entirety. In addition, multiple parties sought review of the Recon Order in the D.C. Circuit. These petitions were transferred to the Third Circuit and consolidated with pending challenges to the Second Report and Order. Prometheus additionally filed a Mandamus Petition on January 25, 2018, effectively seeking to stay the effectiveness of the Recon Order. The court rejected the petition, and the rules became effective on February 7, 2018.

On August 2, 2018, the Commission adopted a Report and Order (Incubator Order) establishing an incubator program to foster new entry into the broadcasting industry. One petitioner sought reconsideration of the Incubator Order by the Commission. In addition, several parties sought

judicial review of the Incubator Order. The Third Circuit consolidated the petitions with challenges to the Second Report and Order and the Recon Order.

The parties submitted briefs to the Third Circuit in the spring of 2019 and oral arguments took place on June 11, 2019. On September 23, 2019, the Third Circuit issued an opinion vacating the 2010/2014 Quadrennial Review Order on Reconsideration and the Incubator Order in their entirety and remanding the matters to the Commission.⁹ In addition, the decision also vacated and remanded the definition of eligible entities adopted in the Commission's 2010/2014 Second Report and Order. The Commission sought review of that decision by the Third Circuit *en banc*, which was denied on November 21, 2019.¹⁰ The court's mandate issued on November 29, 2019, reinstating the media ownership rules adopted in the 2010/2014 Second Report and Order. The Media Bureau issued an Order on December 20, 2019, restoring those rules to the Code of Federal Regulations.¹¹

On April 17, 2020, the Solicitor General (on behalf of the Commission), as well as the National Association of Broadcasters, each filed a petition for a writ of certiorari seeking review of the Third Circuit's decision by the United States Supreme Court. Three entities filed briefs in support of the petitions, and Prometheus filed an opposition. On October 2, 2020, the Supreme Court granted the petitions for writs of certiorari, consolidated the cases, and allotted an hour for oral arguments, which have yet to be scheduled.

Although the 2010/2014 Second Report and Order, Recon Order, and related Incubator Order remain subject to judicial review, the Commission was nonetheless obligated under 202(h) to commence the next quadrennial proceeding. Accordingly, on December 12, 2018, the Commission adopted a Notice of Proposed Rulemaking to initiate the 2018 quadrennial review (2018 Quadrennial Review NPRM). Comments in the rule making proceeding were due by April 29, 2019 and reply comments by May 29, 2019.

BACKGROUND AND KEY ISSUES:

2010 Proceeding: The Media Bureau initiated the 2010 Quadrennial Review with several public workshops. Thereafter, in May 2010, the Commission released an NOI commencing the 2010 Quadrennial Review, which asked fundamental questions regarding the analytical framework and scope of the media ownership review. Further, in June 2010, the Commission issued requests for quotation for nine economic media ownership studies. The studies were awarded between September and December 2010, and each of the studies was completed and released to the public in June and July 2011.

In December 2011, the Commission released an NPRM, tentatively concluding that the public interest was best served by modest changes to the existing rules. Subsequently, on February 26, 2013, consideration of the rulemaking proceeding was extended pending the completion of an independent study by the MMTC regarding the effects of cross ownership on minority ownership

⁹ *Prometheus Radio Project v. FCC*, No. 17-1107 et al., slip op. (3rd Cir. Sept. 23, 2019).

¹⁰ *Prometheus Radio Project*, 939 F.3d 567 (3rd Cir. Nov. 21, 2019), *petition for rehearing en banc denied*.

¹¹ *In the Matter of 2014 Quadrennial Regulatory Review*, Order, DA 19-1303 (rel. Dec. 20, 2019).

and newsgathering. That study was submitted by MMTC on May 30, 2013, after which further public comments were accepted.

2014 Proceeding: On March 31, 2014, the Commission adopted an FNPRM and Report and Order that initiated the 2014 quadrennial media ownership review while also incorporating the extensive record compiled in the ongoing 2010 quadrennial review.

The Report and Order portion of the item found that television JSAs permitting one television station to sell 15 percent or more of the advertising time of another in-market television station are attributable interests under the Commission's rules.¹²

The FNPRM provided tentative conclusions on the media ownership rules; sought input on steps to improve and encourage ownership diversity among new entrants, including small businesses; and sought input on a proposal to increase transparency with respect to SSAs.

Multiple parties (Petitioners) sought judicial review of the FNPRM and Report and Order in both the D.C. Circuit and the Third Circuit. Petitioners challenged the Commission's new rule under which certain JSAs between TV stations in the same market create an attributable interest for purposes of assessing compliance with the Commission's media ownership limits. Petitioners also challenged the agency's decision to defer resolution of certain issues concerning its media ownership rules until it updates the record in the Quadrennial Review proceeding. The D.C. Circuit transferred the consolidated proceeding to the Third Circuit on November 24, 2015. Oral arguments in the Third Circuit were held April 19, 2016.

On May 25, 2016, the Third Circuit issued a decision addressing the various challenges to the FNPRM and Report and Order (*Prometheus III*). The court stated that it expected the Commission to circulate an Order resolving the quadrennial review process and related diversity issues (specifically, the eligible entity standard) by June 30—with the expectation that the proceeding would be finalized and an order adopted by the end of the year—based on the Commission's existing commitment to this timetable. As a backstop, the court ordered the Commission into mediation with the public interest petitioners to set a timetable for final agency action on the eligible entity proposals. The court also vacated the television JSA attribution rule—adopted in the Report and Order—finding that it was adopted prematurely given the continuing delay in completing the 2010/2014 quadrennial review.

On April 28, 2016, the Commission completed an economic study regarding the ownership, viewing, and programming of Hispanic-oriented television stations. The study was peer reviewed and subsequently released for public comment on May 12, 2016.

On August 10, 2016, the Commission adopted a Second Report and Order, which largely retained the media ownership rules with only minor modifications.

¹² By the Consolidated Appropriations Act, 2016, enacted on December 18, 2015, Congress provided that through September 30, 2025, the amendments to the rules adopted by the Commission in the 2014 Report and Order shall not apply to JSAs that were in effect on March 31, 2014.

- Specifically, the Second Report and Order concluded that the current dual network rule and local radio rule should be retained without change, though the item adopted certain procedural clarifications for the processing of applications under the local radio rule.
- The Second Report and Order concluded that the local television rule should also be retained but modified the contour provision of the rule to recognize the digital television transition by replacing the analog contour provisions with the digital noise limited service contour. The Second Report and Order also retained the failed or failing station waiver standard and extended the top-four prohibition of the rule (a provision that prevents mergers of two stations rated in the top four in the market) to affiliation swaps. Additionally, the Second Report and Order reinstated the television JSA attribution rule, which had been vacated on procedural grounds in *Prometheus III*, and provided grandfathering relief for existing television JSAs consistent with expressions of Congressional will.
- The Second Report and Order retained the radio/television cross-ownership rule but modified the rule to update its references to two analog television service contours that became obsolete with the transition to digital television service.
- The Second Report and Order concluded that a restriction on broadcast/newspaper cross-ownership should be retained to promote viewpoint diversity in local markets. The rule adopted in the Second Report and Order generally prohibits common ownership of a broadcast station and daily newspaper in the same local market but provides for a modest loosening of the previous ban on cross-ownership. The modifications include: (1) modifying the rule's geographic scope; (2) revising the trigger of the NBCO Rule to consider both the contour of the television or radio station involved, and whether the station and the newspaper are located in the same Nielsen DMA or Audio Market (if any); (3) adopting an explicit exception to the NBCO Rule for proposed mergers involving a failed or failing broadcast station or newspaper; and (4) considering requests for waiver of the NBCO Rule on a case-by-case basis and granting relief from the rule if the applicants can show that the proposed merger will not unduly harm viewpoint diversity in the market.
- In addition to the structural ownership rules, as directed by the Third Circuit, the Second Report and Order addressed issues related to fostering diversity that were remanded by the court. Specifically, the item: (1) reinstated the revenue-based eligible entity standard as a means to promote broadcast ownership by small businesses and new entrants; (2) re-adopted the measures to which the standard applied prior to the Third Circuit remand; (3) found that, at this time, the Commission does not have sufficient evidence to adopt a race- or gender-conscious eligibility standard that would satisfy applicable constitutional scrutiny; and (4) committed to evaluating certain diversity-related proposals advanced by the Multicultural Media, Telecom and Internet Council (MMTC).
- A final portion of the Second Report and Order adopted a definition of SSAs and required that SSAs involving commercial television stations be disclosed in the station's online public inspect file.

Multiple parties sought judicial review of the Second Report and Order in both the D.C. Circuit and Third Circuit. The D.C. Circuit was selected initially as the venue for the case through the

judicial lottery, though the case was ultimately transferred to the Third Circuit. Prometheus challenged various diversity-related decisions, certain media ownership rules, and the decision not to attribute SSAs. MMTC and NABOB jointly challenged the Commission's decision not to apply the cable procurement rule to all communications sectors. Finally, the News Media Alliance, Bonneville International, and the Scranton Times challenged the retention of the newspaper/broadcast cross-ownership rule. The Third Circuit stayed the News Media Alliance's challenge pending resolution of judicial challenges to the Recon Order (see below). NAB initially sought judicial review but withdrew its petition for review in order to file a reconsideration petition with the Commission, though NAB requested intervenor status.

Several other parties sought Commission reconsideration of various aspects of the item. NAB petitioned the Commission to reconsider its decisions regarding the local television ownership rule, JSA attribution, SSA disclosure, the cross-ownership rules (newspaper/broadcast cross-ownership and radio/television cross-ownership), and the rejection of NAB's proposal to create an incubator program to encourage diversity. Nexstar Broadcasting, Inc. also challenged the local television ownership rule, while Connoisseur Media LLC challenged an aspect of the local radio ownership rule related to embedded markets.

On November 16, 2017, the Commission adopted a Recon Order that: (1) eliminated the Newspaper/Broadcast Cross-Ownership Rule and the Radio/Television Cross-Ownership Rule; (2) revised the Local Television Ownership Rule to eliminate the Eight-Voices Test and provide a case-by-case review process for top-four combinations; (3) adopted a narrow presumption in the Local Radio Ownership Rule favoring grant of a waiver in certain circumstances involving the New York City and Washington, DC markets; (4) eliminated the Television JSA Attribution Rule; (5) retained the SSA disclosure requirements; and (6) adopted an incubator program and initiated a new proceeding in an accompanying NPRM to seek comment on how to structure and implement such a program. The item was released on November 21, 2017.

Multiple parties sought judicial review of the Recon Order. Prometheus filed a petition in the Third Circuit seeking to reverse the Recon Order in its entirety. In addition, three petitions for review were filed in the D.C. Circuit by the following parties: (1) the Independent Television Group (ITG); (2) MMTC and NABOB; and (3) Free Press, the Office of Communication of the United Church of Christ, the National Association of Broadcast Employees and Technicians-Communications Workers of America, and Common Cause. The petitions filed in the D.C. Circuit were transferred to the Third Circuit and consolidated with other pending challenges.

On August 2, 2018, the Commission adopted the Incubator Order, thereby establishing an incubator program to foster new entry into the broadcasting industry. One petitioner sought reconsideration of the Incubator Order by the Commission and several parties have sought judicial review. The Third Circuit consolidated the petitions with challenges to the Second Report and Order and the Recon Order.

On September 23, 2019, the Third Circuit issued an opinion vacating and remanding the Recon Order and Incubator Order in their entirety as well as the eligible entity definition from Second Report and Order. In its decision, the court rejected petitions from MMTC and NABOB challenging the incubator program's "comparable markets" definition as well as ITG's petition

challenging retention of the local TV rule's top-four prohibition. Ultimately, however, the court agreed with Prometheus, Free Press, and other petitioners, finding that the Commission failed to adequately consider the effect of its rule changes on ownership by women and racial minorities. The Commission sought review of that decision by the Third Circuit *en banc*, which was denied on November 21, 2019.¹³ The court's mandate issued on November 29, 2019, reinstating the media ownership rules adopted in the 2010/2014 Second Report. The Media Bureau issued an Order on December 20, 2019, restoring those rules to the Code of Federal Regulations.¹⁴

On April 17, 2020, the Solicitor General (on behalf of the Commission), as well NAB, each filed a petition for a writ of certiorari seeking review of the Third Circuit's decision by the United States Supreme Court. The petitions contend that the Third Circuit's decision placed too much emphasis on a single, non-statutory factor (minority and female ownership) at the expense of other factors (e.g., competition) and failed to afford the proper deference to the Commission's reasoned decision making. Three entities—Gray Television; the ABC, CBS, Fox, and NBC affiliate groups; and the International Center for Law and Economics—filed briefs in support of the petitions. On July 21, 2020, Prometheus filed an opposition to the petitions. On October 2, 2020, the Supreme Court granted the petitions for writs of certiorari, consolidated the cases, and allotted an hour for oral arguments, which have yet to be scheduled.

2018 Proceeding: On December 12, 2018, the Commission adopted a Notice of Proposed Rulemaking to initiate the 2018 quadrennial review. The NPRM seeks comment on whether to retain, modify, or eliminate three structural rules subject to quadrennial review—the Local Radio Ownership Rule, the Local Television Ownership Rule, and the Dual Network Rule. In addition, the NPRM seeks comment on several diversity-related proposals offered in the record of the 2010/2014 quadrennial review proceeding. Comments in the rule making proceeding were due by April 29, 2019 and reply comments by May 29, 2019.

¹³ *Prometheus Radio Project*, 939 F.3d 567 (3rd Cir. Nov. 21, 2019), *petition for rehearing en banc denied*.

¹⁴ *In the Matter of 2014 Quadrennial Regulatory Review*, Order, DA 19-1303 (rel. Dec. 20, 2019).

ATTACHMENT: MEDIA OWNERSHIP RULES

Note: Rules or elements of rules affected by the Third Circuit’s *Prometheus IV* (Sept. 2019) decision are identified in brackets [].

Newspaper/Broadcast Cross-Ownership Rule (Eliminated on Recon; Elimination Reversed by *Prometheus IV*): [Prohibits common ownership of a full-power broadcast station and daily newspaper if the station’s contour (defined separately by type of station) completely encompasses the newspaper’s city of publication and the station and newspapers are in the same relevant Nielsen market, when defined. This prohibition does not apply if the newspaper or broadcast station is failed or failing.]

Local TV Ownership Rule (Revised on Recon; Revision Reversed by *Prometheus IV*): A company can own two commercial TV stations in a DMA if:

- there is no digital noise limited service contour (NLSC) overlap between the two stations sought to be commonly owned; or
- no more than one of the two stations is among the DMA’s top four rated stations (Top-Four Prohibition);
- [provided, however, that applicants may seek case-by-case review of a transaction in order to account for circumstances in which strict application of the Top-Four Prohibition may be unwarranted].

Local Radio Ownership Rule (Revised on Recon; Revision Reversed by *Prometheus IV*):

The number of radio stations in a radio market that may be commonly owned is tiered, depending on the total number of full-power commercial and noncommercial radio stations in the market:

- **45 or more radio stations:** an entity can own no more than eight commercial radio stations, no more than five of which may be in the same service (AM or FM).
- **30-44 radio stations:** an entity can own no more than seven commercial radio stations, no more than four of which may be in the same service.
- **15-29 radio stations:** one entity can own no more than six commercial radio stations, no more than four of which may be in the same service.
- **less than 15 radio stations:** one entity can own up to five commercial radio stations, no more than three of which may be in the same service, provided, however that an entity cannot own more than 50 percent of the radio stations in the market. Despite the latter provision, the rules do allow common ownership of an AM and an FM station in the same market.

[The Recon Order adopted a narrow presumption in favor of a waiver of the rule in certain circumstances involving the New York City and Washington, DC markets.]

Radio/TV Ownership Rule (Eliminated on Recon; Elimination Reversed by *Prometheus IV*): [The rule limits the number of commercial radio and television stations an entity may own in the same market, with the amount of common ownership permitted depending on compliance

with the local TV and radio ownership rules and the number of independently owned media voices (television and radio stations, cable systems and newspapers) that would remain in the relevant market after the proposed transaction is consummated:

- **regardless of market size:** up to two TV stations and one radio station.
- **if at least 10 independently owned media voices remain:** up to two TV stations and four radio stations.
- **if at least 20 independently owned media voices remain:** up to two TV stations and six radio stations, or one TV station and seven radio stations.]

Dual Network Ownership Rule: Mergers are prohibited among any of the top four national television broadcast networks (ABC, CBS, NBC, and Fox).

MB BRIEFING SHEET

SUBJECT: Modernization of Media Regulation Initiative (MB Docket No. 17-105)

SUMMARY: On May 18, 2017, the Commission released a Public Notice initiating a review of its rules applicable to television and radio broadcasters, cable operators, and satellite television providers. Excluded from this review are rules governing media ownership and video accessibility. The objective of the proceeding is to eliminate or modify regulations that are outdated, unnecessary or unduly burdensome. To that end, the Chairman has committed to initiate at least one rulemaking each month for the foreseeable future. The pleading cycle for the Public Notice closed in August 2017. The Commission has launched a total of 22 rulemakings as part of the Media Modernization Initiative:

1) **Paper Copies of FCC Rules (MB Docket No. 17-231)**

The Commission issued a Notice of Proposed Rulemaking in September 2017 proposing to eliminate rules requiring certain broadcast and cable entities to maintain paper copies of Commission regulations.

The Commission issued a Report and Order in February 2018. The order eliminated rules requiring low power TV, TV and FM translators, TV and FM booster stations, cable television relay station (CARS) licensees, and certain cable operators to maintain paper copies of the Commission's regulations. The order became effective on March 30, 2018.

2) **Ancillary and Supplementary Services (FCC Form 2100); Broadcast Public Notice (MB Docket No. 17-264)**

The Commission issued an NPRM in October 2017 that: (i) proposed to amend Section 73.624(g) of its rules to relieve certain television broadcasters of the obligation to submit FCC Form 2100, Schedule G (regarding ancillary/supplementary services) annually; and (ii) sought comment on whether to update or repeal Section 73.3580 of its rules (governing broadcast public notices) to afford broadcast applicants more flexibility in how they provide public notice of the filing of broadcast applications. The pleading cycle closed on January 16, 2018.

The Commission issued a Report and Order in April 2018 relating to its FCC Form 2100 proposals. The Order revised Section 73.624(g) of the Commission's rules to require only those digital television broadcast stations that actually provided feeable ancillary or supplementary services during the relevant reporting period to submit Form 2100, Schedule G to the Commission. The order became effective on May 3, 2018.

On September 26, 2019, the Commission adopted a Further NPRM to update Section 73.3580 of its rules. The Further NPRM proposes to replace the requirement that broadcasters provide newspaper public notice of certain applications with written notice posted online on a publicly accessible website; simplify and standardize the public notice requirements for on-air announcements; clarify certain local public notice obligations, such as those pertaining to international broadcast stations and low-power FM stations; and streamline and update section

73.3594 of the Commission's rules concerning public notice for stations designated for hearing. The record closed on December 2, 2019.

On May 13, 2020, the Commission issued a Second Report and Order (Second R&O) revising section 73.3580 and other associated rules. The Commission adopted, in some cases with modifications, its proposals to update, clarify, and streamline section 73.3580 and the local public notice obligations contained in that and other related rule sections. Specifically, it adopted its proposal to eliminate the obligation to publish public notices in print newspapers, and to require instead that applicants provide public notice through online notices that link directly to the Commission-hosted online public inspection file or application databases, and/or through on-air announcements that direct viewers and listeners to those application resources. The revisions made to section 73.801 of the Commission's rules (codifying the local public notice rule applicability to LPFM stations) became effective on July 20, 2020. Changes to sections 73.3525, 73.3526, 73.3527, 73.3571, 73.3573, 73.3580, and 73.3594 that were adopted in the Second R&O will become effective on a date specified in a forthcoming Federal Register notice.

3) Annual Report of Cable Television Systems (Form 325) (MB Docket No. 17-290)

The Commission issued an NPRM in November 2017 seeking comment on whether to eliminate Form 325, or alternatively, on ways to modernize and streamline the form. The pleading cycle closed on February 26, 2018.

The Commission issued a Report and Order in September 2018 eliminating the annual FCC Form 325 filing requirement for cable television systems. The Order was published in the Federal Register on November 29, 2018 and became effective on that date.

4) Part 76 Notice Requirements (MB Docket No. 17-317)

The Commission issued an NPRM in December 2017 seeking comment on how to modernize certain notice provisions in Part 76 of its rules governing multichannel video and cable television service. Specifically, the NPRM sought comment on proposals to modernize the rules in Subpart T of Part 76, which sets forth notice requirements applicable to cable operators. The NPRM also sought comment on how to update Sections 76.64 and 76.66 of the rules, which require broadcast television stations to send carriage election notices via certified mail. The pleading cycle closed on March 2, 2018.

The Commission issued a Report and Order and Further Notice of Proposed Rulemaking in November 2018. The Order updated the Commission's rules regarding certain information that cable operators currently are required to provide to their subscribers on paper. The Order: (i) permits these notices to instead be provided electronically via verified e-mail, so long as the cable operator complies with certain consumer safeguards; (ii) permits electronic delivery of subscriber privacy information that cable operators and other MVPDs are required to provide; (iii) authorizes cable operators to respond to consumer requests and complaints via e-mail in certain circumstances; and (iv) eliminates Sections 76.1621 and 76.1622 of the Commission's rules. The accompanying Further Notice of Proposed Rulemaking sought comment on whether to permit Subpart T and privacy notices to be delivered electronically to subscribers via means

other than verified e-mail. The rules adopted in the Report and Order became effective on July 18, 2019. The pleading cycle for the Further NPRM closed in April 2019.

In July 2019, the Commission issued a Report and Order and Further Notice of Proposed Rulemaking modernizing its carriage election notice rules by permitting broadcasters to post their carriage elections online and to send notices to covered MVPDs by e-mail only when changing their carriage election status. The Order also requires covered MVPDs to upload e-mail and telephone contact information to either the COALS database or to the online public inspection file. In the accompanying Further Notice of Proposed Rulemaking, the Commission sought comment on whether and how this modernized framework should be extended to certain broadcasters and covered MVPDs that do not use Commission databases. The record for the FNPRM closed on October 15, 2019 and the rules adopted in the Report and Order became effective on October 29, 2019.

On February 25, 2020, the Commission released a Report and Order adopting proposals to modernize the Commission's carriage election notice rules with respect to certain television broadcast stations and open video system (OVS) operators to enhance administrative efficiency. Specifically, the Order: (i) requires low power television stations (LPTVs) that qualify for mandatory carriage (qualified LPTVs) to send notices to affected multichannel video programming distributors (MVPDs) by e-mail when changing their carriage election status in the same manner as full power television broadcast stations, and that qualified LPTV and qualified NCE translator stations need not make their carriage election statements available for public inspection; (ii) finds that MVPDs with carriage-related questions should be able to rely on the contact information provided by qualified LPTV and qualified NCE translator stations in the Commission's Licensing and Management System (LMS) database, and that if an MVPD contacts the phone number or e-mail address provided by the station regarding a concern about carriage, those concerns must be addressed as soon as is reasonably possible; and (iii) concludes that, in the same manner as cable operators, OVS operators must post contact information for questions regarding carriage election to the Cable Operations and Licensing System (COALS) database, accept e-mail election change notices, and timely respond to carriage-related questions. The rules adopted in the Order that did not require OMB approval were effective May 23, 2020; rules requiring OMB approval became effective on July 31, 2020.

5) Filing of Broadcast Station Contracts (MB Docket No. 18-4)

The Commission issued an NPRM in January 2018 tentatively concluding that it should eliminate the requirement that broadcasters routinely file paper copies of station contracts and certain other documents with the Commission and rely instead on the existing public file rules. For international broadcast stations, which do not have public file obligations, the NPRM proposed to eliminate the paper filing requirement but to retain the Commission's ability to obtain the documents upon request. The pleading cycle closed on April 2, 2018.

The Commission issued a Report and Order in October 2018. The order eliminated the paper filing requirement in Section 73.3613 of the Commission's rules (which required licensees and permittees of commercial and noncommercial AM, FM, television, and international broadcast stations to file paper copies of certain documents with the Commission within 30 days of

execution). The rule revisions adopted in the Report and Order became effective on January 22, 2019.

6) Obsolete DTV Rules (MB Docket No. 17-105); Obsolete Public File Rules (MB Docket Nos. 14-127; 00-168)

The Commission issued an Order in January 2018 eliminating obsolete rules relating to the analog-to-digital transition for full power television broadcast stations (which concluded on June 12, 2009) and rules applicable to full power analog television broadcasting (which is no longer permitted). The Order became effective on February 8, 2018.

On March 18, 2020, the Commission issued an Order making non-substantive, editorial revisions to parts 73 and 76 of its rules to eliminate rules that have become unnecessary because they no longer have any applicability. Specifically, the Commission deleted certain rule provisions regarding the maintenance of local public inspection files by commercial broadcast stations, noncommercial educational broadcast stations, and cable system operators.

7) Broadcast EEO Mid-Term Report (Form 397) (MB Docket No. 18-23)

The Commission issued an NPRM in February 2018 proposing to eliminate the requirement in Section 73.2080(f)(2) that certain broadcast television and radio stations file Form 397. The NPRM proposed to rely instead on information available in the online public file to carry out the Commission's statutorily-required review of broadcast stations' employment practices at the mid-point of their eight-year license term. The NPRM also sought comment on how to identify which stations are subject to a mid-term review absent Form 397. The pleading cycle closed on May 15, 2018. In February 2019, the Commission issued a Report and Order adopting the proposal to eliminate the requirement that broadcast television and radio stations file Form 397, which was unopposed. In the Report and Order, the Commission committed to issuing a Further NPRM seeking comment on its track record on EEO enforcement and how it could improve EEO compliance and enforcement. The Report and Order was published in the Federal Register on May 15, 2019 and became effective on that date.

8) Satellite Waivers (MB Docket No. 18-63)

The Commission issued an NPRM in March 2018 proposing to streamline the process for reauthorizing television satellite stations when they are assigned or transferred while ensuring that the Commission and public have adequate information to assess whether reauthorization serves the public interest. The pleading cycle closed on May 29, 2018.

In March 2019, the Commission issued a Report and Order adopting streamlined procedures for reauthorizing satellite status when the license of a television satellite station is assigned or transferred. Specifically, the Report and Order allows applicants to a transaction to use streamlined procedures in situations where there has been no material change in the circumstances that warranted the grant of a station's existing satellite authorization and upon submission of a complete copy of the most recent written Commission decision granting the satellite exception. The Order became effective on May 15, 2019.

9) Cable Channel Lineups (MB Docket No. 18-92)

The Commission issued an NPRM in April 2018 proposing to eliminate the requirement in Section 76.1705 of the Commission's rules that cable operators maintain at their local office a current listing of the cable television channels that each cable system delivers to its subscribers. The Commission also sought comment in the NPRM on whether it should eliminate the requirement in Section 76.1700(a)(4) that certain cable operators make their channel lineup available via their online public inspection file. The pleading cycle closed on June 15, 2018.

On April 12, 2019, the Commission issued a Report and Order eliminating Section 76.1705 and the requirement in Section 76.1700(a)(4) that certain cable operators make their channel lineup available through their Commission-hosted online public inspection file. The Commission concluded that these requirements are unnecessary because channel lineups are readily available to consumers through a variety of other means. The Report and Order was published in the Federal Register on May 1, 2019 and became effective on that date.

10) Posting of Broadcast Licenses (MB Docket No. 18-121)

The Commission issued a Notice of Proposed Rulemaking in May 2018 seeking comment on whether to streamline or eliminate certain rules that require the physical posting and maintenance of broadcast licenses and related information in specific locations. The record closed in August 2018.

In December 2018, the Commission issued a Report and Order eliminating the provisions in Parts 1, 5, 73 and 74 of the Commission's rules that require the posting and maintenance of broadcast licenses and related information in specific locations. The rule revisions adopted in the Report and Order became effective on February 8, 2019.

11) Leased Access (MB Docket No. 07-42)

The Commission issued a Further Notice of Proposed Rulemaking in June 2018 proposing to update its leased access rules. The record closed on August 13, 2018.

In June 2019, the Commission issued a Report and Order and Second Further Notice of Proposed Rulemaking updating the leased access rules and proposing to modify the leased access rate formula, respectively. In the Report and Order, the Commission first vacated its *2008 Leased Access Order*, which the U.S. Court of Appeals for the Sixth Circuit had stayed for a decade in conjunction with several judicial appeals of the order. Separate from multiple petitions for judicial review pending before the Sixth Circuit, the Office of Management and Budget (OMB) had disapproved of the information collection requirements associated with the *2008 Leased Access Order*. Vacating the *2008 Leased Access Order* clarified the status of the Commission's leased access regime, furthered the Commission's media modernization efforts, and obviated the need to address the significant legal concerns raised in the related Sixth Circuit proceeding and by OMB. On September 4, 2019, the Sixth Circuit granted the Commission's motion to dismiss the pending petitions for review as moot.

Second, the Commission adopted the following updates and improvements to its existing leased access rules:

- Eliminated the requirement that cable operators make leased access available on a part-time basis;
- Revised section 76.970(i) of its rules to provide that all cable operators, and not just those that qualify as “small systems” under that rule, are required to respond only to bona fide requests from prospective leased access programmers;
- Extended the timeframe within which cable operators must respond to prospective leased access programmers, from 15 calendar days to 30 calendar days for cable operators generally, and from 30 calendar days to 45 calendar days for operators of systems subject to small system relief;
- Permitted cable operators to impose a maximum leased access application fee of \$100 per system-specific bona fide request, and deemed as reasonable under the Commission’s rules a security deposit or prepayment equivalent of up to 60 days of the applicable lease fee;
- Required cable operators to provide potential leased access programmers with contact information for the person responsible for leased access matters; and
- Adopted common-sense modifications to the procedures for leased access disputes.

In the Second FNPRM, the Commission proposed to modify the leased access rate formula so that rates will be specific to the tier on which the programming is carried; sought comment on whether it should make additional adjustments to the formula; and sought comment on whether leased access requirements can withstand First Amendment scrutiny in light of video programming market changes. The record closed on August 5, 2019.

Rules adopted in the Order that do not require OMB approval became effective on July 22, 2019. Rules requiring OMB approval became effective on December 18, 2019.

On July 17, 2020, the Commission issued a Second Report and Order adopting a simplified tier-based leased access rate calculation, finding that it best reflects regulatory changes that have occurred in the last 20 years and more accurately approximates the value of a particular channel, while alleviating burdens on cable operators. The Second Report and Order also finds that, although changes in the marketplace cast substantial doubt on the constitutionality of mandatory leased access, leased access requirements are contained in a specific statutory mandate from Congress, so the Commission does not eliminate its leased access rules. The rules adopted in the Second Report and Order became effective on September 21, 2020.

12) Children’s Television (MB Docket No. 18-202)

The Commission issued an NPRM in July 2018 proposing to update the children’s television programming rules and give broadcasters greater flexibility in serving the educational and informational needs of children. The NPRM sought input on the Core Programming definition, the Commission’s processing guidelines, and updated rules on multicasting stations. The NPRM

also sought comment on whether there are other changes to the children's programming rules that the Commission should consider. The record closed on October 23, 2018.

In July 2019, the Commission issued a Report and Order and Further Notice of Proposed Rulemaking. The Order modernizes the children's television programming rules to provide broadcasters additional scheduling flexibility, allow broadcasters to offer more diverse and innovative educational programming, and relieve unnecessary burdens on broadcasters, while also ensuring that high quality educational programming remains available to all children. The FNPRM seeks additional comment on the creation of a framework under which broadcasters may satisfy children's programming obligations by relying, in part, on special efforts to produce or support Core Programming aired on other stations in the same market. The pleading cycle for the FNPRM closed on October 15, 2019. Rules adopted in the Order that do not require OMB approval became effective on September 16, 2019. Rules requiring OMB approval became effective on January 21, 2020.

13) Cable Rate Regulation (MB Docket No. 02-144, et al.)

The Commission issued a Further Notice of Proposed Rulemaking and Report and Order in October 2018 seeking to update the cable television rate regulations in Part 76 and to eliminate outdated regulations. The FNPRM sought comment on, among other things: (i) whether to replace the existing rate regulation framework with a new and simple methodology; and (ii) whether to streamline the existing initial rate-setting methodology by eliminating rate forms that may no longer be necessary or useful, reducing the amount of equipment subject to rate regulation, and ending rate regulation for small cable systems owned by small operators. The Report and Order eliminated or revised rules that have become obsolete or are no longer necessary due to the sunset of cable programming service tier regulation. The rule changes adopted in the Report and Order became effective on December 27, 2018. The pleading cycle for the FNPRM closed on March 11, 2019.

14) Open Video Systems Filing Procedures (MB Docket No. 17-105)

The Commission issued an Order in October 2018 establishing electronic filing procedures for parties seeking to operate an Open Video System to submit a certification application and notice of intent. The Order was published in the Federal Register on November 28, 2018 and became effective on that date.

15) Electronic Delivery of Notices to Broadcast Television Stations (MB Docket No. 19-165)

In July 2019, the Commission issued a Notice of Proposed Rulemaking proposing to modernize the notification requirements in Part 76 of its rules requiring that cable operators and other MVPDs provide certain written notices to broadcast stations by paper delivery. Specifically, the NPRM proposed to require that cable operators instead distribute such notices to broadcast television stations electronically via e-mail to an address designated by the station in its online public inspection file (OPIF). The NPRM also sought comment on whether to require that written notices from DBS providers to broadcast television stations similarly be delivered

electronically via e-mail to an address designated by the station in its OPIF. The record closed on September 19, 2019.

On January 31, 2020, the Commission issued a Report and Order updating its rules to require that certain notices be delivered to broadcast television stations electronically. Specifically, after July 31, 2020, notice to full-power and Class A television stations must be made via e-mail to the inbox that the station designates for carriage-related questions in its online public inspection file pursuant to the procedures adopted in the Commission's Carriage Election Notice Modernization proceeding. After July 31, 2020, notice to low-power television stations must be made via e-mail to the address listed for the licensee in the Commission's Licensing and Management System (LMS), and notice to qualified noncommercial educational translator stations must be delivered to the e-mail address listed for the licensee in LMS or, alternatively, the primary station's carriage-related e-mail address, if the translator station does not have its own e-mail address listed in LMS. The Report and Order became effective on April 20, 2020.

16) Improvements to Low Power FM Radio Service Technical Rules (MB Docket No. 19-193)

On July 30, 2019, the Commission issued a Notice of Proposed Rulemaking seeking comment on technical proposals to improve LPFM reception and to increase flexibility in siting while maintaining interference protection and the core LPFM goals of diversity and localism. The record closed on November 4, 2019.

On April 23, 2020, the Commission issued a Report and Order revising the technical rules governing the LPFM service. Specifically, it adopted the following proposals: (1) expanding the permissible use of directional antennas; (2) permitting waivers of protections of Television Channel 6 by reserved channel LPFM, FM, Class D, and FM translator stations; (3) expanding the definition of minor change applications for LPFM stations; and (4) allowing LPFM stations to own boosters. Revisions to sections 1.52, 73.807, 73.810, 73.825, 73.860, 73.871, 74.1201, 74.1263, 74.1283, and 74.1290 of the rules became effective on July 13, 2020. Revisions to sections 73.816, 73.850, and 73.870 of the rules will become effective on a date specified in a forthcoming Federal Register notice.

17) Use of Common Antenna Site – Sections 73.239 and 73.635 (MB Docket No. 19-282)

On October 25, 2019, the Commission issued a Notice of Proposed Rulemaking seeking comment on whether to eliminate or revise sections 73.239 and 73.635 of the Commission's rules, which prohibit the grant or renewal of a license for an FM or TV station if an applicant or licensee controls an antenna site that is peculiarly suitable for broadcasting in the area and does not make such site available for use by other similar licensees. The NPRM seeks comment on whether these rules, which are rarely invoked, are outdated and unnecessary in light of the significant changes in the broadcast marketplace that have occurred since their adoption nearly 75 years ago. The record closed on December 23, 2019.

On August 5, 2020, the Commission adopted a Report and Order that eliminates sections 73.239 and 73.635 of the Commission's rules regarding access to FM and TV broadcast antenna sites.

The Commission concluded that these rules no longer serve any practical purpose in light of the significant broadcast infrastructure development that has taken place since they were first adopted 75 years ago. The Report and Order became effective on September 28, 2020.

18) Amendment of Section 73.3556 of the Commission’s Rules Regarding Duplication of Programming on Commonly Owned Radio Stations (MB Docket No. 19-310)

On November 25, 2019, the Commission issued a Notice of Proposed Rulemaking seeking comment on whether to modify or eliminate section 73.3556 of the Commission’s rules, which prohibits any commercial AM or FM radio station from devoting “more than 25 percent of the total hours in its average broadcast week to programs that duplicate those of any other station in the same-service (AM or FM) which is commonly owned or with which it has a time brokerage agreement if the principal community contours . . . of the stations overlap and the overlap constitutes more than 50 percent of the total principal community contour service area of either station.” Given the changes in the radio broadcast industry since the current rule was adopted in 1992, the NPRM seeks comment on whether the rule remains necessary to serve the public interest. The record closed on February 6, 2020. On August 6, 2020, the Commission adopted a Report and Order eliminating section 73.3556. Federal Register publication of the Order is pending.

19) Cable Service Change Notifications (MB Docket No. 19-347)

On December 12, 2019, the Commission issued a Notice of Proposed Rulemaking seeking comment on whether to amend sections 76.1601 and 76.1603 of the Commission’s rules to clarify that cable operators must provide subscriber notice “as soon as possible” when service changes occur due to retransmission consent or program carriage negotiations that fail within the last 30 days of a contract. The NPRM also seeks comment on whether to amend section 76.1603 to require notice to local franchising authorities (for any service change) only if such notice is required by the LFA. The record closed on February 21, 2020.

On October 1, 2020, the Commission issued a Report and Order that: (i) amends section 76.1603 to clarify that when service changes occur due to retransmission consent or program carriage negotiations that fail within the last 30 days of a contract, cable operators must provide notice to subscribers “as soon as possible,” rather than 30 days in advance; (ii) amends section 76.1603(c) to eliminate the requirement that cable operators not subject to rate regulation provide 30 days’ advance notice to LFAs of rate or service changes; and (iii) amends section 76.1603(b) to eliminate the requirement that cable operators provide notice of any significant change to the information required in the section 76.1602 annual notices, as well as adopts several non-substantive revisions to sections 76.1601 and 76.1603 that clarify the rules and eliminate redundant provisions. Federal Register publication of the Report and Order is pending.

20) Records of Cable Operator Interests in Video Programming (MB Docket No. 20-35)

On February 28, 2020, the Commission adopted a Notice of Proposed Rulemaking seeking comment on: (i) whether the cable operator interests in video programming recordkeeping rule remains useful or relevant given marketplace changes and the 2001 decision of the D.C. Circuit

regarding the Commission's channel occupancy limits; (ii) other potential sources of this information and whether alternative sources would be adequate substitutes for the information currently provided by cable operators; (iii) other methods of disclosing this information that would be more efficient or less burdensome for cable operators than compiling and placing it in a public inspection file; (iv) the regulatory burden for cable operators to file this information and whether the burdens and costs on cable operators outweigh the utility of the information, as well as information and data on the benefits and costs associated with the rule; and (v) whether to eliminate or modify section 76.1700(a)(7), which lists cable operator interests in video programming as one of the records to be maintained by cable system operators in their public inspection file. The record closed on May 18, 2020.

On September 30, 2020, the Commission issued a Report and Order eliminating section 76.1710 of its rules, which requires that: (i) cable operators maintain records in their online public inspection files regarding the nature and extent of their attributable interests in video programming services; and (ii) such public inspection files contain information regarding the operators' carriage of vertically integrated video programming services on cable systems in which they have an attributable interest. Federal Register publication of the Report and Order is pending.

21) Significantly Viewed Stations (MB Docket No. 20-73)

On March 30, 2020, the Commission issued a Notice of Proposed Rulemaking seeking comment on modernizing its methodology for determining whether a television broadcast station is "significantly viewed" in a community outside of its local television market and thus may be treated as a local station in that community, permitted under the Commission's rules to be carried by cable systems and satellite operators. The pleading cycle for the NPRM closed on June 15, 2020.

22) Program Carriage (MB Docket Nos. 20-70; 11-131)

On April 1, 2020, the Commission issued a Further Notice of Proposed Rulemaking and Notice of Proposed Rulemaking (FNPRM) proposing changes to its rules governing the resolution of program carriage disputes between video programming vendors and multichannel video programming distributors. The FNPRM proposed: (1) to modify one of the time limit requirements for filing program carriage complaints in order to make it consistent with the time limits for other types of complaints; (2) to revise for consistency the parallel time limit requirements for filing program access, open video system (OVS), and good-faith retransmission consent complaints; and (3) to revise the effective date and review procedures of initial decisions issued by an administrative law judge (ALJ) in program carriage proceedings so they comport with the Commission's generally applicable procedures for review of ALJ initial decisions, and to extend that change to program access and OVS proceedings. The pleading cycle for the FNPRM closed on June 1, 2020.

STATUS: The Bureau is reviewing the records that have closed thus far.

MB BRIEFING SHEET

SUBJECT: National Television Ownership (MB Docket No. 17-318); UHF Discount (MB Docket No. 13-236)

SUMMARY: The national television ownership rule prohibits a single entity from owning broadcast television stations that, in the aggregate, reach more than 39 percent of the total television households in the nation. The rule also provides for a discount when calculating the reach of stations operating in the UHF spectrum band. By an Order adopted in August 2016, the Commission eliminated this so-called “UHF discount.” On April 20, 2017, the Commission reinstated the UHF discount, granting in part the relief sought by parties on reconsideration. On December 14, 2017, the Commission adopted a Notice of Proposed Rulemaking seeking comment on whether to modify or eliminate the 39 percent audience reach cap, including the UHF discount.

STATUS: In September 2013, the Commission initiated a rulemaking proceeding to consider elimination of the “UHF discount” element of the national television multiple ownership rule. The Notice of Proposed Rulemaking, released September 26, 2013, sought comment on the Commission’s tentative conclusion that the UHF discount is obsolete as a result of the transition of full power television stations to digital operations, and thus should be eliminated. Comments were filed December 16, 2013, and reply comments were filed January 13, 2014.

The Commission adopted a Report and Order on August 24, 2016, which was released on September 7, 2016, eliminating the UHF discount on the basis that it is unnecessary and unjustified following the DTV transition. Following publication of the Report and Order in the Federal Register, Twenty-First Century Fox, Inc., (Fox) filed a Petition for Review with the Court of Appeals for the D.C. Circuit. In addition, on November 23, 2016, ION Media Networks (ION) and Trinity Christian Center of Santa Ana, Inc. (Trinity) jointly filed a petition seeking Commission reconsideration of the Report and Order. On December 21, 2016, the D.C. Circuit granted the Commission’s motion to hold the case in abeyance pending action by the Commission on the petition for reconsideration.

On April 20, 2017, the Commission adopted an Order on Reconsideration reinstating the UHF discount, finding that the Commission’s prior decision erred by eliminating the discount without considering whether the national television audience reach cap remained in the public interest. The Order found that the UHF discount and national television ownership cap are inextricably linked and stated that the Commission would commence a rulemaking proceeding later in 2017 to consider the 39 percent national ownership cap together with the UHF discount.

Several parties, including Free Press, Office of Communication of the United Church of Christ, Inc., and Prometheus Radio Project, jointly filed a Petition for Review with the Court of Appeals for the D.C. Circuit, seeking judicial review of the Order on Reconsideration. Following publication of the Order on Reconsideration in the Federal Register, and a brief administrative stay by the Court of Appeals for the D.C. Circuit while it considered and rejected an emergency motion for stay filed by the petitioners, the reinstatement of the UHF discount became effective on June 15, 2017. On August 23, 2017, the court ordered that Fox’s challenge to the August 2016 Report and Order continue to be held in abeyance pending the outcome of the challenge by

Free Press et al. to the Order on Reconsideration. On July 25, 2018, without reaching the merits of the petition, the D.C. Circuit dismissed the challenge by Free Press et al. to the Order on Reconsideration, finding that the petitioners failed to demonstrate standing to petition the court.

On December 14, 2017, the Commission adopted a Notice of Proposed Rulemaking seeking comment on whether to modify or eliminate the 39 percent audience reach cap, including the UHF discount. This NPRM was released on December 18, 2017. Comments were due on March 19, 2018, and reply comments were due on April 18, 2018.

BACKGROUND AND KEY ISSUES: In 1985, the Commission adopted the national audience restriction limiting a single company or entity from owning broadcast television stations that collectively reached more than 25 percent of television households nationwide. In the 2004 Appropriations Act, Congress instructed the Commission to modify the national cap in its rules to the current level of 39 percent of TV households and removed the rule from the scope of Section 202(h), which requires that the Commission review its other media ownership rules every four years. The national audience restriction is intended to protect localism in the broadcast television industry.

In recognition of “inherent physical limitations” of the UHF band, namely that the delivery of analog television signals was more difficult in the UHF band than in the VHF band, resulting in significantly smaller coverage area and audience reach for UHF stations, the national audience rule includes the UHF discount. The discount provides that for purposes of determining compliance with the national audience restriction, a UHF station is attributed with only 50 percent of the television households in its market area.

As a result of the transition of full power television stations to digital broadcasting, UHF channels are no longer inferior to VHF signals. On August 24, 2016, the Commission adopted a Report and Order that eliminated the UHF discount while leaving the 39 percent national audience cap unchanged, consistent with the tentative conclusions in the underlying NPRM. In addition, the Report and Order grandfathered those existing station groups that would exceed the cap as a result of the elimination of the discount and declined to adopt a VHF discount.

On April 20, 2017, the Commission adopted an Order on Reconsideration reinstating the UHF discount. In doing so, the Commission found that the Commission’s prior decision erred by eliminating the discount without considering whether the national television audience reach cap remained in the public interest. The Order on Reconsideration found that the UHF discount and national television ownership cap are inextricably linked and that, accordingly, the Commission should commence a rule making proceeding by the end of 2017 to consider the 39 percent national ownership cap together with the UHF discount.

On December 14, 2017, the Commission adopted a Notice of Proposed Rulemaking initiating a review of the 39 percent national audience reach cap together with the UHF discount. As a threshold matter, the Commission sought comment in the NPRM on its authority to modify the cap or the discount and whether it should modify or eliminate the cap. In addition, if a cap is retained, the Commission sought comment on how to calculate compliance with the cap, including whether to modify or eliminate the UHF discount. Finally, to the extent any action taken by the Commission in the proceeding would cause any ownership combination to become

non-compliant, the Commission sought comment on whether it should grandfather such combinations, and if so, whether there should be any restrictions on their further transferability.

MB BRIEFING SHEET

SUBJECT: Program Carriage (MB Docket No. 07-42; MB Docket No. 11-131)

SUMMARY: Section 616 of the Communications Act directs the Commission “to establish regulations governing program carriage agreements and related practices between cable television system operators or other multichannel video programming distributors and video programming vendors.” The Commission’s rules promulgated in response to this directive are found at Sections 76.1300-1302. Among other things, the program carriage rules prohibit an MVPD from (i) requiring a financial interest in a program service as a condition for carriage; (ii) coercing a programmer to grant exclusive carriage rights; or (iii) discriminating against unaffiliated programmers on the basis of affiliation or non-affiliation.

2020 FNPRM:

- In April 2020, the Commission released a Further Notice of Proposed Rulemaking proposing changes to the Commission’s rules governing the resolution of program carriage disputes between video programming vendors and MVPDs. The Commission proposes to revise the third prong of the program carriage statute of limitations, which provides that a complaint is timely as long as it is filed within one year of the complainant notifying the defendant of its intent to file a complaint with the Commission, regardless of when the actual act alleged to have violated the rules occurred. Specifically, the Commission proposes to clarify that the third prong applies only in circumstances where there is not an existing program carriage contract or contract offer and a defendant MVPD has denied or failed to acknowledge either a request for program carriage or a request to negotiate for program carriage.
- The Commission also proposes to amend the program carriage procedural rules so that review of initial decisions issued by an ALJ is handled in accordance with the Commission’s generally applicable procedures in Part 1 of the rules for review of ALJ initial decisions. Under this proposal, decisions on the merits issued by an ALJ in program carriage proceedings will not take effect before 50 days after issuance and decisions will be automatically stayed upon the filing of exceptions by an aggrieved party.
- Comments on the FNPRM were due on May 18, 2020, and replies were due on June 1, 2020.

STATUS OF COMPLAINT PROCEEDINGS:

- **The Word Network v. Comcast.** On June 8, 2017, TWN filed a complaint alleging that Comcast discriminated against TWN on the basis of affiliation or non-affiliation in the selection, terms, and conditions of carriage in violation of the non-discrimination condition in the *Comcast-NBCU Merger Order* by reducing distribution of TWN without a valid business justification. In addition, TWN alleges that Comcast demanded exclusive digital distribution rights to TWN in violation of the *Comcast-NBCU Merger Order*’s non-discrimination, exclusivity, and unfair practices conditions. TWN also alleges that Comcast violated Section 616(a)(1) Act and Section 76.1301(a) of the Commission’s rules by requiring TWN to give Comcast a financial interest in TWN’s digital rights as a condition of carriage. On October 27, 2017, the Bureau released an order dismissing the complaint with respect to three of TWN’s allegations. Specifically, the Bureau found that TWN had failed to establish a *prima*

facie case that Comcast discriminated against it in violation of the non-discrimination condition by reducing distribution of TWN or by demanding exclusive digital rights to TWN's programming. The Bureau also found that TWN had failed to establish a *prima facie* case that Comcast violated the financial interest provision of Section 616(a)(1) of the Act and Section 76.1301(a) of the Commission's rules by refusing to negotiate with TWN unless TWN granted Comcast exclusive digital rights to TWN's programming. On May 24, 2018, the Bureau released an order dismissing TWN's complaint with respect to the remaining two allegations, finding that TWN had failed to make a *prima facie* case that Comcast violated the *Comcast-NBCU Merger Order's* exclusivity and unfair practices conditions.

- **Lieberman Broadcasting v. Comcast.** On April 8, 2016, LBI filed a complaint alleging that Comcast violated the program carriage rules and the program carriage conditions in the *Comcast-NBCU Merger Order* by (i) discriminating against LBI in the selection, terms, and conditions of carriage of its Spanish language programming network Estrella TV on the basis of affiliation, to the unlawful benefit of Comcast-owned competing Spanish language networks Telemundo and NBC Universo, and (ii) unlawfully demanding that LBI surrender its digital rights in Estrella TV programming as a condition of any Comcast carriage. LBI seeks FCC-mandated Estrella TV carriage parity with Telemundo and enforcement sanctions against Comcast. On August 26, 2016, the Media Bureau dismissed LBI's complaint, finding that LBI had failed to make a *prima facie* case. Specifically, the Bureau found that LBI failed to demonstrate that it had standing to bring a program carriage complaint because it failed to show that its broadcast stations qualify as "video programming vendors." The Bureau similarly found that LBI failed to demonstrate that it had standing to bring a program carriage complaint with regard to its broadcast television stations under the *Comcast-NBCU Merger Order*.
 - On September 26, 2016, LBI filed a Petition for Reconsideration of the Bureau's decision. On October 31, 2019, the Bureau issued an Order dismissing LBI's Petition, finding that LBI failed to raise a material error or omission warranting reconsideration and that, insofar as LBI presented new facts and arguments in the Petition, this information could have been presented in the complaint, but was not.
- **GSN v. Cablevision.** On October 12, 2011, GSN filed a complaint alleging that Cablevision discriminated against GSN in violation of the program carriage rules by moving GSN from a basic tier to a premium sports tier, resulting in a loss of Cablevision subscribers for GSN. On May 9, 2012, the Media Bureau issued an HDO finding that GSN established a *prima facie* case of program carriage discrimination and referring the case to an ALJ. On June 25, 2013, the ALJ granted the parties' request that the hearing be held in abeyance indefinitely in order to allow the parties to assess the potential impact on the proceeding of the D.C. Circuit's decision in the Tennis Channel case. The proceeding resumed in 2014, after the Supreme Court denied The Tennis Channel's petition for certiorari. On November 22, 2016, the ALJ issued an Initial Decision finding that Cablevision discriminated against GSN on the basis of GSN's non-affiliation with Cablevision in violation of Section 616(a) of the Act and Section 76.1301(c) of the Commission's rules and that Cablevision's discriminatory retiering conduct unreasonably restrained GSN's ability to compete fairly. The ALJ ordered Cablevision to carry GSN on the expanded basic tier at the existing license rate, until such time as the parties enter into a new carriage agreement or for a period of five years, whichever occurs

first, and to pay the maximum applicable forfeiture of \$400,000. In December 2016, Cablevision filed an application for review of the Bureau's HDO, arguing that the Bureau should have dismissed GSN's complaint as untimely because GSN brought it almost a decade after the parties entered into a carriage agreement giving Cablevision the right to move GSN to a premium sports tier.

- On July 14, 2017, the Commission released an Order denying GSN's complaint, granting in part and dismissing in part Cablevision's exceptions to the Initial Decision, and dismissing as moot Cablevision's application for review. On September 11, 2017, GSN filed an appeal of the Commission's decision with the D.C. Circuit. The appeal was subsequently dismissed at the request of the parties after the parties entered into a settlement agreement.
- **beIN Sports v. Comcast.** On March 15, 2018, beIN filed a complaint alleging that Comcast discriminated against it in violation of the program carriage rules and the program carriage conditions in the *Comcast-NBCU Order* by (i) relegating two of beIN's sports networks, beIN and beIN en Español, to lower penetration packages as compared with Comcast's own affiliated sports networks, NBC Sports and NBC Universo; (ii) refusing to carry beIN's programming in High Definition while carrying its own similarly situated programming in High Definition almost ubiquitously; and (iii) failing to authenticate Comcast subscribers to beIN's website and online app, which Comcast affords to all of its own similarly situated programming. beIN seeks FCC-mandated beIN and beIN en Español carriage parity with NBC Sports and NBC Universo, as well as any other appropriate relief. On August 2, 2018, the Bureau released an Order denying beIN's complaint for failure to establish a prima facie discrimination case.
 - On December 13, 2018, beIN filed a second complaint based on the same allegations in its March 2018 complaint with new "evidence to cover the gap identified by the Bureau and prove the requisite specificity and certainty with respect to the rights to be provided by beIN Sports in a renewal agreement." The Bureau released an Order on July 2, 2019, finding that beIN (1) did not make a prima facie case with respect to beIN en Español, (2) made a prima facie case with respect to beIN Sports, and (3) failed on the merits of its case with respect to beIN Sports because Comcast demonstrated a legitimate business reason for its different treatment of beIN Sports and NBC Sports. beIN filed an application for review of this decision on August 1, 2019.
 - On February 5, 2019, beIN filed a third complaint that repeated some of the claims of the second complaint and with an additional allegation of unreasonable refusal to deal. The Bureau dismissed that complaint on March 29, 2019 because beIN failed to follow the procedural requirements for filing. beIN filed an application for review of this decision on April 29, 2019.
- **AMC v. AT&T.** On August 5, 2020, AMC filed a complaint and a standstill petition alleging that AT&T discriminated against the networks AMC and AMC+ in favor of AT&T's affiliated networks HBO and TNT. On August 31, 2020, the Bureau denied AMC's request for a standstill order to preserve AMC's current program carriage agreement with AT&T pending resolution of the program carriage complaint. On September 14, 2020, the

Bureau granted AMC's request to withdraw and dismiss its complaint with prejudice, noting that AMC had entered into an agreement for carriage with AT&T.

MB BRIEFING SHEET

SUBJECT: Public Inspection File Requirements

SUMMARY:

Cable Channel Lineup R&O. On April 12, 2019, the Commission adopted a *Report and Order* (MB Docket Nos. 18-92 and 17-105) as part of its Media Modernization effort that eliminates two unnecessary rules pertaining to cable operators' channel lineups. Specifically, the R&O eliminates Section 76.1705, which requires cable operators to maintain at their local office a current listing of the cable television channels that each cable system delivers to its subscribers, and the requirement in Section 76.1700(a)(4) that certain cable operators make their channel lineup available through their Commission-hosted online public inspection file. The item concludes that these requirements are unnecessary as channel lineups are readily available to consumers through a variety of other means.

Public Notice Reminding Radio Broadcasters of Online Public File Requirements. On November 5, 2018, the Media Bureau released a Public Notice reminding radio broadcasters that all radio licensees were required to transition their public inspection files to the Commission's online public file database by March 1, 2018. The Public Notice also notified stations that had not activated their online public inspection file account that the Media Bureau would activate the account on November 15, 2018.

Order Granting Extension of Time to Comply With the Online Public Inspection File Requirement. On April 24, 2018, the Media Bureau adopted an Order granting 39 radio stations additional time to comply with the requirement that the stations establish an online public inspection file by March 1, 2018. The stations were given an extension of 60 days from the date of the Order, or until June 23, 2018, to comply with the online public inspection file requirement.

Correspondence File and Principal Headend Location. On January 31, 2017, the Commission adopted a Report and Order ("*Public Inspection File R&O*") in MB Docket No. 16-161 eliminating two public inspection file requirements: (i) the requirement that commercial broadcast stations retain in their public inspection file copies of letters and emails from the public; and (ii) the requirement that cable operators maintain for public inspection the designation and location of the cable system's principal headend. The R&O concludes that eliminating these public inspection file requirements will reduce the regulatory burdens on commercial broadcasters and cable operators without adversely affecting the general public, which does not need access to broadcaster correspondence or information regarding the location of a cable system's principal headend. Removing these public inspection file requirements will also enable commercial broadcasters and cable operators to make their entire public inspection file available online and permit them to cease maintaining a local public file, thereby further reducing regulatory burdens on these entities. While the Commission recently moved to an online public inspection file, there are privacy concerns associated with putting the correspondence file online and potential security concerns associated with putting information regarding the location of the principal headend online.

While the general public does not need access to principal headend location information, this information must be made available to certain entities, including the FCC, local television stations, and franchisors. The R&O requires cable operators to provide this information to these entities upon request. In lieu of responding to individual requests for principal headend location information, operators may alternatively elect voluntarily to provide this information to the Commission for inclusion in the Commission's online public inspection file ("OPIF") database and may elect to make the information publicly available there.

Online Public Inspection File. On January 28, 2016, the Commission adopted a Report and Order ("*Expanded Online File Order*") in MB Docket No. 14-127 expanding to cable operators, DBS providers, broadcast radio licensees, and satellite radio (also referred to as "Satellite Digital Audio Radio Service" or "SDARS") licensees the requirement that public inspection files be posted to the FCC's online database. In 2012, the Commission adopted an Order in MM Docket No. 00-168 ("*Second Report and Order*") requiring television stations to post their public file documents to a central, FCC-hosted online database. That proceeding was part of an effort to modernize the procedures television broadcasters use to inform the public about how they are serving their communities, to make information concerning broadcast service more accessible to the public and, over time, to reduce the cost of broadcasters' compliance. The *Expanded Online File Order* expanded the online file to other media entities in order to extend the benefits of improved public access to public inspection files and, ultimately, reduce the burden on these other entities of maintaining these files.

With respect to radio licensees the *Expanded Online File Order* commenced the transition to an online file with commercial stations in markets 1 through 50 that have five or more full-time employees. The Order delayed all online public file requirements for all other radio stations for two years, until March 1, 2018. With respect to cable systems, the Order exempted systems with fewer than 1,000 subscribers from all online public file requirements given that they are exempt from most public file requirements, including the political file. For cable systems with between 1,000 and 5,000 subscribers, the Order delayed for two years, until March 1, 2018, the requirement that these systems commence uploading new political file material to the online public file.

The *Expanded Online File Order* permits entities that are temporarily exempt from part or all online public file requirements to upload material to the online file voluntarily. Thus, radio stations not required to transition to the online file until March 1, 2018 were allowed to voluntarily commence online filing before that date. Entities may also voluntarily upload their existing political files to the online file database. In addition, entities that have fully transitioned to the online public file are permitted to cease maintaining a local public file, as long as they provide online access to back-up political file material via the entity's own website if the FCC's online file database becomes temporarily unavailable.

STATUS: The rule changes adopted in the Cable Channel Lineup R&O went into effect May 1, 2019. The rule changes adopted in the *Public Inspection File R&O* are effective. Television broadcasters completed their transition to the online file in July 2014. Cable systems with 1,000 or more subscribers, commercial radio stations in the top 50 markets with 5 or more full-time employees, DBS providers, and satellite radio licensees were required to begin uploading new

public file material to the online file on June 24, 2016. These entities had 6 months, until December 24, 2016, to upload their existing public file material, with the exception of the existing political file which does not have to be included in the online file. Other radio stations were temporarily exempt from all online file requirements until March 1, 2018. In addition, cable systems with between 1,000 and 5,000 subscribers were required to upload new public file material starting June 24, 2016, but were not required to upload new political file material until March 1, 2018. Cable systems with fewer than 1,000 subscribers are exempt from all online filing requirements.

Online Public File

The television online public file rules were the culmination of a more than decade-long effort by the Commission to modernize television public inspection file procedures. In 2000, the Commission tentatively concluded that television broadcasters should make the contents of their public inspection files, including a standardized form reflecting the station's public interest programming, available on the Internet. In 2007, the Commission adopted a Report and Order implementing this proposal. Following substantial opposition to the 2007 Report and Order, the Commission vacated the order in 2011 and implemented a proceeding that addressed only the online public file requirement and not issues related to replacement of the issues/programs list with a standardized form. That proceeding led to the adoption of the 2012 *Second Report and Order*.

In the *Second Report and Order*, the Commission took a number of steps to minimize the burden of the online file on television stations. Broadcasters were required to upload only those items required to be in the public file but not otherwise filed with the Commission or available on the Commission's website. The Commission determined it would import to the online file itself any document required to be retained in the file that must also be filed with the Commission electronically. In addition, television stations were not required to upload their existing political files to the online file but, rather, were required only to upload new political file content on a going forward basis. In addition, to smooth the transition to the online file, the Commission phased-in the new political file posting requirement. Stations affiliated with the top four national networks (ABC, NBC, CBS, and Fox) and licensed to the top 50 DMAs were required to begin posting their political file documents online starting August 2, 2012, but other television stations were exempted from posting their political file documents online until July 1, 2014.

The *Expanded Online File Order* took the same general approach to transitioning cable operators, DBS providers, broadcast radio licensees, and SDARS licensees to the online file that the Commission took with respect to television broadcasters, tailoring the requirements as necessary to the different services. The Order also took similar measures to minimize the effort and cost entities must undertake to move their public files online. Specifically, the Order required entities to upload only public file documents that are not already on file with the Commission or maintained by the Commission on its own website. The Order also exempted existing political file material from the online file requirement and required that political file documents be uploaded only on a going-forward basis.

Machine-readable online file database

In the *Expanded Online File Order* the Commission required that, if a document already exists in a searchable format, entities upload the document to the online file in that format to the extent feasible. The Order declined, however, to implement a standard format for the online file that would make the information more easily searched and analyzed. Instead, the Order stated that the Commission is prioritizing its efforts to expand and upgrade the online file database before considering other improvements.

In the *Public Inspection File NPRM*, the Commission stated that it was investigating what efforts are necessary to improve the searchability and machine-readability of the contents of the online public file.

MB BRIEFING SHEET

SUBJECT: Amendment of the Commission’s Rules Related to Retransmission Consent (MB Docket No. 10-71); Implementation of Section 103 of the STELA Reauthorization Act of 2014 (MB Docket No. 15-216); Implementation of Section 1003 of the Television Viewer Protection Act of 2019 (MB Docket No. 20-31).

SUMMARY:

- Under Section 325(b)(1)(A) of the Communications Act (the “Act”), broadcast signals cannot be retransmitted without the broadcaster’s consent, otherwise known as “retransmission consent.” Section 325(b)(3)(C) of the Act requires television stations that elect retransmission consent, rather than exercising their must-carry rights, to negotiate retransmission consent in good faith with MVPDs. MVPDs also are required to negotiate retransmission consent in good faith with broadcasters.
- On March 9, 2010, a group of MVPDs and consumer groups filed a Petition for Rulemaking asking the Commission to amend its retransmission consent rules to adopt dispute resolution mechanisms; to adopt rules that prevent broadcasters from requiring a broadcast signal to be tied to other content; and to provide for mandatory interim carriage during good faith negotiations or while retransmission consent dispute resolution proceedings are pending. The Commission sought comment on the Petition.
- On March 3, 2011, the Commission released an NPRM that considered revisions to the retransmission consent and related rules. In the NPRM, the Commission stated its belief that it lacks authority to require either interim carriage or mandatory binding dispute resolution procedures.
- On March 31, 2014, the Commission adopted a Report and Order and Further Notice of Proposed Rulemaking in this proceeding.
 - The Report and Order revised the Commission’s retransmission consent rules to provide that joint negotiation by stations that are ranked among the top four stations in a market as measured by audience share (“Top Four” stations) and are not commonly owned constitutes a violation of the statutory duty to negotiate retransmission consent in good faith.
 - The Further Notice sought comment on whether to modify or eliminate the Commission’s network program non-duplication and syndicated exclusivity rules. These exclusivity rules permit a station to assert its contractual rights to exclusivity within a specific geographic zone to prevent a cable system from carrying the same network or syndicated programming aired by another station.
 - The Further Notice tentatively concluded that the Commission has authority to eliminate the exclusivity rules for cable operators, satellite carriers, and open video systems.
 - The Further Notice asked if these rules are still needed, and if not, the impact of their elimination.

- The record in this proceeding remains open on the other issues discussed in the NPRM.
- On December 4, 2014, the STELA Reauthorization Act of 2014 ("STELAR") became law. STELAR contains provisions relating to retransmission consent, including:
 - Section 103(a): Generally prohibits same-market TV broadcast stations from "coordinating negotiations or negotiating on a joint basis" for retransmission consent unless the stations are under common *de jure* control.
 - Section 103(b): Generally prohibits TV broadcast stations from limiting the ability of an MVPD to carry into its local market television signals deemed "significantly viewed" or that the MVPD otherwise is allowed to carry, unless such stations are under common *de jure* control.
 - Section 103(c): Requires the Commission to commence a rulemaking to review its totality of the circumstances test for good faith negotiations by September 4, 2015.
- On February 18, 2015, the Commission issued an Order (FCC 15-21) that largely codified in its rules the prohibitions in Sections 103(a) and (b) of STELAR.
- On September 2, 2015, the Commission issued a Notice of Proposed Rulemaking (FCC 15-109) in fulfillment of Section 103(c) of STELAR. On July 14, 2016, then-Chairman Wheeler issued a blog posting in which he stated that more retransmission consent rules are not needed at this time. Rather, when impasses occur, the Commission will continue to use its existing authority to help bring negotiations to a conclusion.
- On December 20, 2019, Congress enacted the Television Viewer Protection Act of 2019 (TVPA). Section 1003 of the TVPA revises section 325(b) of the Act by allowing smaller MVPDs to negotiate collectively as a buying group for retransmission consent with large broadcast station groups. The TVPA directed the Commission to adopt rules to implement section 1003 by March 19, 2020.
- On January 31, 2020, the Commission issued an NPRM (FCC 20-10) proposing to adopt rules that, among other things: (i) define "large station group" to mean, in relevant part, an entity whose individual television station members collectively have a national audience reach of more than 20 percent; (ii) define "qualified MVPD buying group" to mean, in relevant part, an entity that negotiates on behalf of MVPDs that collectively serve no more than 25 percent of all households receiving service from any MVPD in a given local market; and (iii) codify in section 76.65 of its rules the provisions governing negotiation of retransmission consent between qualified MVPD buying groups and large station groups.
- The Deerfield Case. On November 8, 2019, the Media Bureau issued a Memorandum Opinion and Order finding that 18 stations in nine station groups refused to negotiate, unreasonably delayed negotiations, and failed to respond to carriage proposals, each constituting a *per se* breach of the duty to negotiate in good faith for consent to retransmit their signals. One station group admitted liability and settled after the Bureau decision, but eight of the station groups appealed. On September 15, 2020, the Commission issued a Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, upholding

the Bureau decision in its entirety and finding each of the stations apparently liable for the maximum penalty permitted by statute (\$512,228).

STATUS: The Commission's rules governing joint negotiation were superseded by Section 103(a) of the STELAR. The Commission's February 2015 Order implementing Sections 103(a) and (b) of the STELAR became effective on April 2, 2015. The pleading cycle for the Commission's January 2020 NPRM proposing to implement section 1003 of the TVPA closed on March 16, 2020. On May 13, 2020, the Commission issued a *Report and Order* revising section 76.65 of its rules to implement provisions in section 1003 of the Television Viewer Protection Act of 2019 (TVPA). The modified rule became effective on July 20, 2020.

MB BRIEFING SHEET

SUBJECT: Revitalization of the AM Radio Service (MB Docket No. 13-249)

SUMMARY: The Commission released a *Notice of Proposed Rule Making* (FCC 13-139) on October 23, 2013 (NPRM), proposing several rule/procedural changes designed to revitalize service on the AM (Standard) Broadcast Band, and to assist broadcasters in that band. The AM band, once the predominant form of radio broadcasting, has seen dramatic declines in listenership over the past several decades, especially among younger listeners. This is due to several factors: lower sound fidelity when compared to other media, including FM broadcast and digital media such as iPhones and Internet streaming; nighttime signal propagation characteristics that require some stations to drastically reduce power or cease broadcasting altogether at night; and high susceptibility to interference from electronic devices ranging from automobile engines to fluorescent lights to power lines to computers. Despite these obstacles, AM broadcasters provide important service to their communities, including news and talk programming, and have proven to be vital communications links in emergencies (for example, WWL(AM) in New Orleans was a crucial source of information to both the public and emergency personnel during and after Hurricane Katrina). The Commission's last comprehensive review of AM radio technical issues occurred more than 25 years ago, with several discrete changes fostering AM improvement in the interim.

Following receipt and review of comments from broadcasters, engineers, trade associations, and listeners, on October 21, 2015, the Commission adopted a First Report and Order, Further Notice of Proposed Rule Making, and Notice of Inquiry. In the First Report and Order, the Commission adopted the following proposals and rule changes:

1. **Open FM Translator Modification and New Auction Filing Windows Exclusively for AM Licensees and Permittees.** The Commission directed the Media Bureau to open, in 2016, two windows during which time an applicant could move an FM translator up to 250 miles and change its frequency to any rule-compliant non-reserved channel, for the purpose of rebroadcasting an AM station. The first window, which closed on July 28, 2016, was restricted to translators rebroadcasting service-limited Class C and D AM stations, with the second window, which closed on October 31, 2016, open to all classes of AM stations. The Media Bureau released two Public Notices in late 2015, announcing outreach efforts as well as filing dates and procedures for the two translator modification windows. Additionally, as part of its outreach efforts, the Media Bureau contacted all Class C and D AM stations to inform them about the modification filing window, created a dedicated email address to promptly answer questions about the modification windows, and provided detailed instructions on the filing procedures. The Commission further directed the Media and Wireless Telecommunications Bureaus to open two new FM translator auction filing windows in 2017, in which an AM station that did not participate in the modification windows may apply for one FM translator to rebroadcast its AM signal. The first filing window, open only to Class C and D AM stations, took place from July 19 – August 2, 2017 and the second, open to all AM stations, took place from January 25-31, 2018.

2. **Modified Daytime Community Coverage Standards for Existing AM Stations.** In order to assist incumbent AM stations that have difficulty providing the required level of daytime service to all or a significant portion of their communities, due to changes in city boundaries and population distribution, or in some cases due to the loss of unique transmitter sites and the unavailability of new sites that could provide the required coverage, the Commission reduced the daytime community coverage requirement, for existing licensed AM stations only, to 50 percent of either the population or the area of the community of license.
3. **Modified Nighttime Community Coverage Standards for Existing AM Stations.** Similarly, to assist AM broadcasters that have difficulty providing the required level of signal to their communities at night, when many AM stations must reduce power due to “skywave” signal propagation (signals that bounce off the ionosphere, potentially traveling hundreds of miles), the Commission eliminated the nighttime community coverage standards for existing licensed AM stations, and required that new AM stations or those changing community of license need only cover 50 percent of the area or population of the community of license with a principal community or nighttime interference-free signal, whichever is greater.
4. **Eliminated the AM “Ratchet Rule.”** In an effort to reduce nighttime interference among AM stations, the Commission adopted a rule requiring that an AM broadcaster seeking to make facility changes, which would modify its AM signal, demonstrate that the improvements will result in an overall reduction in the amount of skywave interference that it causes to certain other AM stations; it must “ratchet back” its signal in the direction of those stations. However, the consensus among AM engineers has been that this so-called “Ratchet Rule,” rather than reducing interference, has instead discouraged service improvements in general, because a station seeking to improve its service as a practical matter must reduce its power to comply with the rule. Typically, this results in a net loss of nighttime interference-free service. The Commission deleted the rule because it has not achieved its regulatory goal.
5. **Permitted Wider Implementation of Modulation Dependent Carrier Level Control Technologies.** Modulation Dependent Carrier Level (MDCL) control technologies allow AM broadcasters to vary either the carrier power level or both the carrier and sideband power levels as a function of the modulation level; in other words, the transmitter power levels drop when there is no sound being broadcast. This reduces power consumption while maintaining audio quality and licensed coverage area. Currently AM stations must obtain an experimental authorization or a waiver before employing such technologies; the Commission amended the rules to allow AM broadcasters to implement MDCL technologies without prior authorization, by notifying the Commission electronically within ten days of commencement of MDCL operation. New FCC Form 338 was created, and was approved by OMB, to allow AM stations to notify the Commission of MDCL implementation.
6. **Modified AM Antenna Efficiency Standards.** Currently, AM transmission systems (consisting of the antenna and the ground radial system – wires buried in the ground

surrounding the antenna) are required to meet certain standards for efficient radiation of energy, mostly involving minimum height of the tower (radiator) and length of ground radials, based on the station's frequency. Some parties argued that, due to lack of land and height restrictions for AM antennas and ground systems, AM broadcasters should be allowed to use higher power, lower efficiency transmission systems, as long as they meet a "minimum radiation" standard. Although commenters did not provide a basis for such a standard, the Commission reduced the current minimum effective field strength values by approximately 25 percent. It also announced that it would entertain proposals for experimental operation with alternative antenna designs and less-efficient transmission systems, in order to collect real world data for potential further evaluation of these standards.

The Commission also released a Further Notice of Proposed Rule Making, proposing the following rule and policy changes:

1. **Modify AM Protection Standards.** The Commission proposed several changes to the rules governing how much signal protection an AM station receives from other stations: (1) Reduce the nighttime and critical hours (two hours after sunrise/before sunset) protection to 50 kW Class A AM stations: the Commission asked whether these powerful stations should be protected, in some cases, for hundreds of miles, forcing smaller local stations to reduce nighttime power or shut down altogether at night, or whether the wide-area service provided by Class A stations should continue to be protected; (2) Change the way in which nighttime interference contributions from AM stations are calculated: this would return to a pre-1991 calculation method, which was changed to reduce interference, but in practice keeps stations from making nighttime service improvements to overcome noise from sources such as computers, LED and CFL lights, and other electronics; and (3) Change daytime protection to Class B, C, and D AM stations: similar to the preceding, this would reverse 1991 rule changes that governed the daytime signal protection smaller AM stations receive from other stations' signals, again in order to allow signal improvements to overcome environmental noise.
2. **Revise Rule on Siting FM Translators Rebroadcasting AM Stations.** Currently an FM translator rebroadcasting an AM station must contain its signal within the lesser of the AM station's 2 mV/m daytime contour or a radius of 25 miles from the AM transmitter. The Commission proposes to change that to the greater of these two distances, in order to assist AM stations needing more flexibility in where to locate a fill-in translator.
3. **Modify Partial Proof of Performance Rules.** These rules govern how AM broadcasters with directional antenna arrays measure their transmissions for compliance with our rules. The Commission proposed to simplify the measurement process, which would save those broadcasters time and money.
4. **Modify Rules for Method of Moments Proofs.** In 2008, the Commission allowed AM broadcasters with directional antennas to use computer modeling – known as a Method of Moments (MoM) proof – to verify the performance of their antenna systems.

Commenters suggested a number of modifications to MoM that would make such proofs simpler and less expensive. Based on the Commission's experience with MoM proofs gained over the last several years, it proposed the suggested changes to ease burdens on these broadcasters.

5. **Require Surrender of Licenses Held by Dual Expanded Band/Standard Band Licensees.** When the Commission opened the Expanded Band (1605-1705 kHz), it allowed licensees migrating from the standard to the Expanded Band to maintain both licenses for a five-year period. At the end of the five years, many licensees surrendered one of the two licenses, but 25 of the licensees did not relinquish one of their licenses and are operating two stations each. This negates the intent of opening the Expanded Band to migrators – namely, to reduce interference in the standard band – and disserves those licensees that complied with the rules. The Commission thus proposes to force these 25 licensees to relinquish one of their licenses.

The Commission also released a Notice of Inquiry as to two items that require more of a record before rules can be proposed:

1. **Utilization of the Expanded Band.** The Commission posed a series of questions regarding whether, and how, to use the Expanded Band to help revitalize the AM service. For example, the Commission asks whether to open the Expanded Band to new applicants or to reserve it for stations migrating from the standard band; what method it should use in allocating facilities in the Expanded Band; and whether to limit new Expanded Band stations to all-digital transmissions.
2. **Relaxed Main Studio Requirements.** The Commission also asked whether it should consider relaxing its requirement that each AM station maintain a main studio within a certain distance of its transmitter or community of license, for example, by allowing a station to co-locate its main studio with a co-owned station. It also asked whether the staffing requirements for AM main studios could be relaxed, given the prevalence of mobile phones and the internet for station inquiries or public file inspection.

In October 2018, the Commission released a Second Further Notice of Proposed Rule Making (SFNPRM), in which it revised its original proposals to modify protection standards for Class A AM stations, based on comments suggesting that the original proposals were unworkable. The Commission presented an updated proposal for Class A daytime protection, and two alternative new proposals for nighttime and critical hours protection for Class A stations. The SFNPRM does not modify the Commission's earlier proposals regarding interference protection to other classes of AM stations, but asks commenters to state whether the modified Class A protection proposals would change their evaluation of the Commission's proposals for protection of Class B, C, and D AM stations, as well as the prior proposals regarding changing nighttime root-sum-square (RSS) calculation methodology. Finally, the Commission seeks specific comment as to the effect of its modified proposals on the functioning of the Emergency Alert System and Integrated Public Alert and Warning System.

STATUS: The First Report and Order, Further Notice of Proposed Rule Making, and Notice of Inquiry was adopted on October 21, 2015. Rule and form changes announced in the First Report

and Order have become effective. Approximately 190 comments on the FNPRM and NOI were filed by the March 21, 2016, comment deadline, and approximately 40 reply comments were filed. 1,098 translator modification applications were filed in the two-translator modification filing windows, the second of which closed on October 31, 2016. The staff has completed its initial review of those 1,098 applications and has granted 1,044 and dismissed 47 of them. (Most of the remaining applications await resolution of international coordination issues or other application conflicts.)

The Second Report and Order was adopted on February 23, 2017. In that Order, the Commission relaxed the rule setting forth where an FM translator rebroadcasting an AM station's signal could be located relative to the AM primary station. Previously, the FM translator's signal had to be contained within the lesser of the AM station's daytime 2 mV/m contour or a 25-mile radius centered at the AM transmitter site; the amended rule allows the translator's signal to be contained within the *greater* of the daytime 2 mV/m contour or a 25-mile radius. This rule change gives AM broadcasters greater flexibility in siting cross-service FM translators, and especially assists AM stations with highly directionalized signals or that are located far from their communities of license. In many cases, the use of FM translators to rebroadcast AM signals enables AM broadcasters to provide full-time service to portions of their communities of license for the first time. The rule change became effective on April 10, 2017. More than 140 translators have filed modifications to take advantage of the relaxed rules. On

April 3, 2017, Prometheus Radio Project filed a Petition for Emergency Stay and Processing Freeze Pending Review of Petition for Reconsideration. On April 10, 2017, Prometheus Radio Project filed a Petition for Reconsideration of the Second Report and Order. On May 22, 2018, the Commission released its Order on Reconsideration denying the Prometheus Petition for Reconsideration; a summary of the Order on Reconsideration was published in the *Federal Register* on June 5, 2018.

The Third Report and Order was adopted on September 22, 2017. In the Third Report and Order, the Commission eliminated, clarified, or eased several of the rules governing AM broadcasters using directional antenna arrays, which comprise almost 40 percent of all AM stations. First, the Commission relaxed the rule for partial proofs of performance of certain directional AM antenna systems, by reducing the number of field strength measurements required. Next, the Commission modified several technical rules pertaining to AM directional stations that use Method of Moments (MoM) models of directional array performance. MoM modeling allows broadcasters to verify the performance of directional AM antenna systems through computer modeling based on internal system measurements and physical models of the antenna system, as opposed to sending engineers into the field to take field strength measurements. A proof using a MoM model is thus a less expensive alternative to taking field strength measurements of an AM station's directional pattern. After evaluating more than 200 such proofs since they were first authorized in 2008, the Commission stated that certain rules governing these proofs can be relaxed. These include eliminating periodic recertifications of the performance of a directional pattern licensed pursuant to a MoM proof; eliminating the requirement to submit additional reference field strength measurements on relicensing of a station licensed pursuant to a MoM proof; and eliminating the requirement of a licensed surveyor's certification when towers in an existing AM array are used. The Commission also

closed the part of the Notice of Inquiry in this proceeding that sought comment on eliminating the main studio rule for AM stations; in a separate proceeding, the Commission eliminated the main studio requirements for all broadcast services.

The Media Bureau has opened and closed both auction filing windows ordered by the Commission in the First Report and Order. The first auction window, designated Auction 99, allowed licensees and permittees of Class C and D AM stations to apply for new cross-service FM translators to rebroadcast their signals full time. 1,081 applications were filed in the first auction window. Over 970 of these applications have been granted and about 100 have been dismissed.

The second and last auction filing window, designated Auction 100, which was open to any AM licensees or permittees that did not participate in either of the modification windows or the first auction filing window, closed on January 31, 2018. A total of 874 applications were filed in this window. Over 760 of these applications have been granted and about 100 have been dismissed.

The SFNPRM was adopted and released October 5, 2018 and published in the *Federal Register* on November 20, 2018. Comments were due by February 8, 2019, and reply comments were due by March 8, 2019.

BACKGROUND AND KEY ISSUES: The AM Revitalization proceeding was initiated in order to retain this service as a vital part of the nation's communications infrastructure, in keeping with the Commission's fundamental goals of localism, competition, and diversity in broadcast media. The proposals adopted in the First Report and Order, along with other proposals that may be put forth in future orders, recognize not only the value of the AM service but also the threats to that service. This is in keeping with the Commission's responsibility to assess the state of the communications marketplace and adapt its regulatory framework accordingly. Thus, the proposed changes are responsive to the Commission's ongoing duty to review, update, and streamline its procedures.

MB BRIEFING SHEET

SUBJECT: Section 621 Cable Franchising Issues (MB Docket No. 05-311)

SUMMARY: On August 1, 2019, the Commission adopted a *Third Report and Order* that addressed issues raised by the remand from the United States Court of Appeals for the Sixth Circuit in *Montgomery County, Md. et al. v. FCC*. In *Montgomery County*, the court reviewed rules and guidance adopted by the Commission governing how local franchising authorities (LFAs) may regulate incumbent cable operators and the provision of non-cable services provided over cable systems. The *Third Report and Order* addressed the following issues:

- *Treatment of “Cable-Related, In-Kind Contributions.”*
 - The *Third Report and Order* concluded that cable-related, in-kind contributions (e.g., free or discounted cable service to local government or schools) required by LFAs from cable operators (both new entrants and incumbents) under a franchise agreement are “franchise fees” subject to the statutory five percent cap on franchise fees. Under an exception set forth in Section 622(g) of the Act, capital costs for public, educational, and government (PEG) channels required by the franchise agreement are excluded from the statutory five percent franchise fee cap. The costs of build-out requirements also are not subject to the franchise fee cap.
- *Mixed-Use Networks.*
 - The *Third Report and Order* concluded that the mixed-use network ruling should apply to prohibit LFAs from using their video franchising authority under Title VI of the Communications Act to regulate any services other than cable services offered over cable systems by incumbent cable operators, except as expressly permitted under the Act.
- *Preemption.*
 - The *Third Report and Order* found that the Act preempts any state or local regulation of a cable operator’s non-cable services that would impose obligations on franchised cable operators beyond what Title VI of the Act allows.
- *State Franchising Regulations.*
 - The *Third Report and Order* concluded that Commission requirements that concern LFA regulation of cable operators should apply to state-level franchising actions and state regulations that impose requirements on local franchising.

Several LFAs appealed the *Third Report and Order*; the case is pending before the Sixth Circuit.

BACKGROUND AND KEY ISSUES:

- Under Section 621(a)(1) of the Act, an LFA may award one or more cable television franchises within its jurisdiction but may not grant an exclusive franchise or “unreasonably refuse to award an additional competitive franchise.”

- In 2007, after finding that the local franchising process was an unreasonable barrier to new competitive entrants in the market for cable services and to their deployment of broadband, the Commission interpreted the meaning of “unreasonable” for purposes of Section 621(a)(1). Among other things, the Commission issued rulings governing the treatment of franchise fees LFAs charge to new entrants and their regulation of new entrants’ mixed-use networks (i.e., facilities used to provide both cable services and non-cable services). The Commission later extended these rulings to incumbent cable operators.
- The Commission subsequently clarified that its findings regarding franchise fees and mixed-use networks were intended to apply only to the local franchising process and not to franchising laws or decisions at the state level but stated that it would revisit this issue in the future if presented with evidence that its findings are of practical relevance to the franchising process at the state-level.
- In response to challenges from LFAs, the court in *Montgomery County* vacated and remanded (1) the Commission’s decision to treat cable-related, in-kind contributions required by LFAs as “franchise fees” subject to the statutory five percent cap on franchise fees set forth in Section 622 of the Act, and (2) the Commission’s decision to extend its “mixed-use” network ruling—which prohibits LFAs from regulating the provision of services other than cable services offered by new entrants over cable systems used to provide both cable services and non-cable services—to incumbent cable operators that are not common carriers.

MB BRIEFING SHEET

SUBJECT: TV Ratings System and the Oversight Monitoring Board (MB Docket No. 19-41)

SUMMARY: The Consolidated Appropriations Act of 2019 required the Commission to report to Congress, by May 15, 2019, on the accuracy of the television content rating system (TV Parental Guidelines), and the ability of the governing body for TV ratings (TV Parental Guidelines Oversight Monitoring Board) to oversee the ratings system and address public concerns.

STATUS: The Media Bureau released a Public Notice seeking comment for the Report on February 26, 2019. Comments were due March 12, 2019 and reply comments were due March 19, 2019. The Bureau received more than 1770 comments. The Media Bureau adopted the Report on May 15, 2019 and released it to the general public on May 16, 2019.

BACKGROUND:

Ratings

The Telecommunications Act of 1996 required that parents be provided with

- timely information about the nature of upcoming video programming and
- technical tools that would allow them to easily block violent, sexual, or other programming that they believe is harmful to their children.

The 1996 Act specifically provided the industry with the opportunity to develop a voluntary system. In response, NAB, NCTA, and the MPAA submitted to the Commission a system of voluntary parental guidelines that broadcaster networks, cable networks and systems, and television program producers would adopt.

One of the commitments was an Oversight Monitoring Board to ensure that the TV Parental Guidelines are applied accurately and consistently to television programming.

In 1998, the Commission found that the Industry's TV Parental Guidelines commitments complied with the 1996 Congressional directive.

Broadcast and cable programming aside from news or sports is rated with one of seven ratings:

- TV-Y (all children);
- TV-Y7 (directed to older children - age 7 or older)
- TV-G (general audience)
- TV-PG (parental guidance suggested)
- TV-14 (parents strongly cautioned-may be unsuitable for children under 14)
- TV-MA (mature audience only - may be unsuitable for children under 17)

Those ratings are supplemented with content-based descriptors:

- V (violence)
- FV (fantasy violence in older children's programming)

- S (sexual content)
- D (suggestive dialogue); and
- L (strong language in programming).

Congress directed the Commission to report on “the extent to which the rating system matches the video content that is being shown and the ability of the TV Parental Guidelines Oversight Monitoring Board to address public concerns.”

Oversight monitoring board

There are up to 24 members of the Board. In addition to the chairman, the Board includes 18 industry representatives from the broadcast, cable and creative communities appointed by NAB, NCTA, and MPAA, and five public interest members, appointed by the Board chairman. The board is currently chaired by NCTA Chairman Michael Powell, and its members include programmers, the American Academy of Pediatrics, Boys and Girls Clubs of America, Call for Action, the Entertainment Industries Council, and the National PTA.

Its purpose is to:

- inform producers and other program distributors about the rating guidelines and addresses public complaints and information requests from the public about the guidelines;
- dialogue with parents about the guidelines and their application; and
- conduct focus groups and issue quantitative studies to determine whether the guidelines are in fact providing useful information to parents and consider changes to the guidelines.

The board conducted surveys on the guidelines in 2011, 2014, 2016, and 2018.

REPORT TO CONGRESS:

The Report noted that nearly all of the commenters voiced concern or dissatisfaction with some aspect of the TV Parental Guidelines, the oversight of the television ratings, and/or the content of television programming, whereas the Industry Representatives asserted that the rating system is effective and the TVOMB provides meaningful oversight. After reviewing the record, the Media Bureau found that the Board has been insufficiently accessible and transparent to the public. For example, the Bureau noted that, when it began work on the Report, the Board’s website did not include a contact telephone number. The Bureau concluded that additional steps should be taken to increase awareness of the Board’s role and the transparency of its operations.

The Bureau provided a number of suggestions for consideration by the Board and industry. First, it urged the Board and the video programming industry to increase their efforts to promote public awareness of the Board and its role in overseeing the rating system. Second, it suggested that the Board consider ways to inform the public regarding the number of complaints it receives, the nature of each complaint, the program and network or producer involved, and the action taken, if any, by the network/producer or the Board in response to a complaint. The Bureau noted that the Board could consider issuing an annual report on the complaints it has received

about the ratings of programs, how the complaints were adjudicated, and whether complaints led to the rating of a program being changed in future airings. Third, the Bureau suggested that the Board hold at least one public meeting every year (providing adequate advance notice) to permit the public to express their views directly to the Board and help the Board better understand public concerns regarding program ratings.

Finally, with respect to the accuracy of the ratings being applied pursuant to the TV Parental Guidelines, the Bureau indicated that, while it was unable to draw any definitive conclusions in the limited time it was given to prepare the Report, it believes that sufficient concerns were expressed in the record to merit additional Board action. The Bureau suggested that the Board consider doing random audits or spot checks to review the accuracy and consistency of the ratings being applied pursuant to the TV Parental Guidelines.

MONITORING BOARD 2019 ANNUAL REPORT:

On January 15, 2020, the TV Parental Guidelines Oversight Monitoring Board released its “first-ever” annual report detailing activities undertaken by the Board in 2019 to “increase awareness of the TV Parental Guidelines and ensure that TV ratings were applied on a consistent basis across networks and programs.” Among the efforts identified in the report were the launch of a new Board website in both English and Spanish, the rebrand of the TV Parental Guidelines logo, the publication of a revised and downloadable fact sheet, the reestablishment of a telephone line for viewer feedback, and implementation of an enhanced policy for responding to correspondence received by the Board. The report includes a summary of the correspondence received by the Board in 2019 and provides examples of specific complaints the Board received and the actions taken to address the complaints. The report also states that the Board plans to launch a spot check review process in 2020 “to internally assess whether television programs are receiving accurate and consistent ratings across different networks and time slots.”

MB BRIEFING SHEET

SUBJECT: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA) (MB Docket Nos. 11-43, 11-154, 12-107 and 12-108)

SUMMARY & BACKGROUND: The CVAA was enacted on October 8, 2010. Pursuant to the CVAA, the Media Bureau has conducted proceedings addressing video description, closed captioning of Internet-protocol (IP) delivered video programming, accessible emergency information, apparatus requirements for emergency information and video description, and accessible user interfaces and video programming guides and menus.

Video Description

“Video description” is the insertion of audio narrated descriptions of a television program’s key visual elements into natural pauses in the program’s dialogue. Thus, video description makes television programming more accessible to persons with visual disabilities. The video description rules adopted by the Commission in 2000 were vacated by the United States Court of Appeals for the D.C. Circuit on the ground that the Commission lacked authority to establish the rules. The CVAA required that the Commission reinstate its video description rules.

The Commission reinstated the video description rules on October 8, 2011. The rules require large-market broadcast affiliates of the top four national networks, and multichannel video programming distribution systems (MVPDs) with more than 50,000 subscribers, to provide video description. The rules also require that, to the extent technically possible, all network-affiliated broadcasters (commercial or non-commercial) and all MVPDs pass through any video description provided with programming they carry.

In 2015, the requirement to provide video description to ABC, CBS, Fox, and NBC affiliates expanded to the top 60 markets. In 2017, the Commission increased the amount of video described programming that must be carried on each included network to 87.5 hours per calendar quarter. It also provided flexibility with respect to the airtimes of the additional 37.5 quarterly hours, allowing them to be provided at any time between six A.M. and midnight. In addition, the list of top five non-broadcast networks subject to the requirement to provide video description was updated in July 2018 (currently, USA, HGTV, TBS, Discovery, and History).

On October 7, 2019, the Media Bureau released a Memorandum Opinion and Order granting USA Network a limited waiver of the Commission’s video description rules subject to the condition that the network airs at least 1,000 hours of described programming each quarter without regard to the number of repeats and describes at least 75 percent of any newly produced, non-live programming that is aired between 6:00 a.m. and midnight per quarter. USA Network’s Petition was supported by advocates for the blind and visually impaired and it will result in a substantial amount of video described programming on USA Network that exceeds the current quarterly requirement during the waiver period. In the Memorandum Opinion and Order, the Media Bureau declined to grant a proposed safe harbor from the video description requirements for other similarly situated, top five non-broadcast networks. The limited waiver covers the remainder of the current ratings period ending on June 30, 2021.

On October 8, 2019, the Media Bureau adopted a second video description report to Congress (Second Report). The CVAA provides that as of October 8, 2020, “the Commission shall have the authority, based upon the findings, conclusions, and recommendations contained in the [Second Report], to phase in the video description regulations for up to an additional 10 designated market areas each year (I) if the costs of implementing the video description regulations to program owners, providers, and distributors in those additional markets are reasonable, as determined by the Commission; and (II) except that the Commission may grant waivers to entities in specific [DMAs] where it deems appropriate.” In the Second Report, the Bureau noted that commenters did not offer “detailed or conclusive information” as to the costs of expanding the video description regulations to additional markets and a station’s ability to bear those costs. Accordingly, the Media Bureau deferred on issuing a determination of whether any costs associated with the expansion would be reasonable.

In April 2020, the Commission adopted a Notice of Proposed Rulemaking in which it proposed to expand its audio description regulations to DMAs 61 through 100, and invited comment on whether the costs of such an expansion would be reasonable. The Commission also sought to refresh the record on its 2016 proposal to revise its rules to use the newer and more commonly used term “audio description,” rather than “video description.” Finally, the Commission proposed to delete outdated references in the audio description rules to compliance deadlines that had passed. The Commission received 11 comments and three replies, all of which supported its proposals. On October 5, 2020, the Chairman circulated a Report and Order that implements all of these proposals from the April 2020 Notice.

IP Closed Captioning

Closed captioning is the visual display of the audio portion of video programming. Prior to the adoption of the CVAA, the Communications Act required the use of closed captioning on television, but not on IP-delivered video programming that was not part of a broadcaster or MVPD service. The CVAA directed the Commission to revise its regulations to require closed captioning of IP-delivered video programming that is published or exhibited on television with captions after the effective date of the new regulations. The CVAA also directed the Commission to impose closed captioning requirements on certain apparatus that receive or play back video programming, and on certain recording devices.

The Commission adopted IP closed captioning requirements and device requirements in 2012. The rules require video programming owners to send program files to video programming distributors and providers with all required captions, and they require distributors and providers to enable the rendering or pass through of all required captions to the end user. The rules also require each video programming owner and each video programming distributor or provider to which the owner has provided or will provide video programming for IP delivery to agree upon a “mechanism” that will inform the video programming distributor or provider of which programming is subject to the IP closed captioning requirements on an ongoing basis. For devices, the Commission adopted functional display standards to specify how covered apparatus must implement closed captioning, and it required apparatus to render or pass through closed captioning on each video output.

All nonexempt full-length IP-delivered video programming is now required to have closed captions if the programming is published or exhibited on television in the United States with captions on or after specified compliance dates. All programming that is already in the video programming distributor's or provider's library before it is shown on television with captions ("archival programming") must be captioned within 15 days after the date it is shown on television with captions on or after March 30, 2016.

In 2013, the Commission released an Order on Reconsideration that affirms, modifies, and clarifies certain decisions regarding closed captioning requirements for IP-delivered video programming and requirements for apparatus used to view video programming. In 2014, the Commission adopted a Second Order on Reconsideration extending the IP closed captioning requirements to IP-delivered video clips if the video programming distributor or provider posts on its website or application a video clip of video programming that it published or exhibited on television in the United States with captions.

The Commission found that compliance with the new requirements would be economically burdensome for video clips that are in the video programming distributor's or provider's online library before January 1, 2016 for straight lift clips and January 1, 2017 for montages, and thus exempted this class of video clips from coverage.

Accessible Emergency Information, and Apparatus Requirements for Emergency Information and Video Description

The Commission's rules define "emergency information" as "[i]nformation, about a current emergency, that is intended to further the protection of life, health, safety, and property, *i.e.*, critical details regarding the emergency and how to respond to the emergency." The CVAA directed the Commission to promulgate rules requiring video programming providers, video programming distributors, and program owners to convey emergency information in a manner accessible to individuals who are blind or visually impaired. The CVAA also directed the Commission to require certain apparatus that receive, play back, or record video programming to make available video description services and accessible emergency information.

The Commission adopted accessible emergency information requirements and device requirements in 2013. The rules require the use of a secondary audio stream to convey televised emergency information aurally, when such information is conveyed visually during programming other than newscasts, for example in an on-screen crawl. The Commission's focus was *not* on emergency information provided visually during a regularly scheduled newscast or a newscast that interrupts regular programming, because it previously required the aural presentation of that visual emergency information to be included as part of the primary program audio stream. For devices, the Commission required certain apparatus to make available the secondary audio stream, which was already being used to provide video description and which will be used to provide aural emergency information.

In 2015, the Commission adopted a Second Report and Order that takes additional steps to make emergency information in video programming accessible to individuals who are blind or visually impaired. First, the Second Report and Order requires MVPDs to pass through a secondary audio stream containing audible emergency information in accordance with Section 79.2 of the

Commission's rules when they permit consumers to access linear programming on tablets, smartphones, laptops, and similar devices over the MVPD's network as part of their MVPD services. Linear video programming is accessed "over the MVPD's network" if it can only be received via a connection provided by the MVPD using an MVPD-provided application or plug-in, and does not include video programming provided over the Internet. In addition, the Second Report and Order requires manufacturers of apparatus subject to Section 79.105 of the Commission's rules to provide a mechanism that is simple and easy to use, such as one reasonably comparable to a button, key, or icon, for activating the secondary audio stream to access audible emergency information.

In 2015, the Media Bureau released an Order granting, subject to certain conditions, a petition filed by the American Cable Association requesting that the Bureau waive the Commission's rules requiring cable systems to pass through emergency information on a secondary audio stream for certain systems. Pursuant to this waiver, certain hybrid digital/analog cable systems can comply with the rule by providing free equipment to analog customers who are blind or visually impaired to enable access to the secondary audio stream. Analog-only cable systems that lack the necessary equipment were granted a waiver of the compliance deadline until June 12, 2018. Subsequently, in May 2018, the Bureau granted the American Cable Association's request for a permanent waiver of the emergency information pass-through requirement for analog-only cable systems that lack the equipment needed to pass through audible emergency information via a secondary audio stream.

In 2015, the Media Bureau granted, subject to certain conditions, a petition filed by the National Association of Broadcasters requesting that the Bureau temporarily waive the rules requiring broadcasters to provide an aural representation of visual emergency information in non-news-cast programming on a secondary audio stream. The Bureau also granted broadcasters a limited waiver allowing broadcasters to exclude school closing information from the requirement to provide aural emergency information on the secondary audio stream while the Commission considers this issue. In 2016, the Bureau granted a joint petition filed by the American Council of the Blind, the American Foundation for the Blind, and the National Association of Broadcasters requesting an extended waiver of the rule requiring broadcasters to provide an aural representation of visual, non-textual emergency information (*e.g.*, radar maps or other graphics) on a secondary audio stream for an additional 18 months, which was set to expire in May 2018. On May 25, 2018, the Bureau granted the joint request of the American Council of the Blind, the American Foundation for the Blind, and the National Association of Broadcasters to extend the existing waiver granted to television broadcasters of the requirement to aurally describe visual but non-textual emergency information, such as maps or other graphic displays, for an additional five years.

User Interfaces, and Video Programming Guides and Menus

In 2013, the Commission adopted rules requiring the accessibility of user interfaces on digital apparatus and video programming guides and menus on navigation devices for individuals with disabilities, which will: (i) enable individuals who are blind or visually impaired to more easily access video programming on a range of video devices; and (ii) enable consumers who are deaf or hard of hearing to more easily activate closed captioning on video devices. Specifically, the

rules require that digital apparatus subject to Section 204 make appropriate built-in apparatus functions (*i.e.*, the functions used to receive, play back, and display video programming) accessible to individuals who are blind or visually impaired. The rules also require that navigation devices subject to Section 205 make on-screen text menus and guides used for the display or selection of multichannel video programming audibly accessible, and that they make the controls used to access covered functions (*i.e.*, power on/off, volume adjust/mute) accessible to individuals who are blind or visually impaired. Covered entities must also provide a mechanism reasonably comparable to a button, key, or icon for accessing closed captioning (under Sections 204 and 205) and video description (under Section 204). The entities responsible for compliance with Section 204 requirements are digital apparatus manufacturers. The entities responsible for compliance with Section 205 requirements are MVPDs leasing or selling navigation devices, equipment manufacturers of navigation devices that place devices into the chain of commerce for sale to consumers, and other manufacturers of navigation device hardware and software.

In 2015, the Commission adopted a Second Report and Order that (i) requires manufacturers of Section 204 digital apparatus to ensure that the appropriate built-in apparatus functions and on-screen text menus or other visual indicators used to access such functions are “usable by” individuals who are blind or visually impaired; (ii) adopts information, documentation, and training requirements comparable to those in Section 6.11 of our rules for entities covered by both Section 204 and Section 205 of the CVAA; (iii) adopts consumer notification requirements for equipment manufacturers of digital apparatus and navigation devices that will require manufacturers to publicize the availability of accessible devices on manufacturer websites, and requires MVPDs, as well as manufacturers, to ensure that the contact office or person listed on their website is able to answer both general and specific questions about the availability of accessible equipment; and (iv) declines to adopt a requirement that MVPDs include more detailed program information for public, educational, and governmental (“PEG”) channels in their video programming guides. Through an Order on Reconsideration adopted with the Second Report and Order, the Commission found that, when a voice control is the sole means of activation for closed captioning, it will not be considered “reasonably comparable to a button, key, or icon” under Sections 204 or 205. At the same time, the Commission found that closed captioning and video description activation mechanisms relying on gesture control will be considered “reasonably comparable to a button, key, or icon” if they are simple and easy to use.

On March 16, 2017, the Media Bureau granted a 20-month waiver of the accessible user interfaces requirements to Honda Motor Co., Ltd., subject to the requirement that Honda provide status reports to the Media Bureau and the Consumer and Governmental Affairs Bureau on efforts to develop and integrate accessible technology for rear entertainment systems in Honda vehicles on July 20, 2017 and January 20, 2018. The waiver applies to rear entertainment systems on the 2017 through 2019 Model Year Honda Odyssey, Honda Pilot, and Acura MDX. On April 30, 2018, the Bureau granted Honda a waiver of the user interfaces requirements with respect to the rear entertainment systems in 2017 through 2020 Model Year Acura MDXs on the basis of achievability. The Bureau also granted Honda a waiver of the requirement to provide a simple and easy to use activation mechanism for closed captioning and video description with respect to the rear entertainment systems in 2017 through 2020 Model Year Acura MDXs, pursuant to the Commission’s general waiver authority.

On September 25, 2017, the Media Bureau granted Fiat Chrysler Automobiles US (FCA US) a retroactive waiver of the accessible user interfaces requirements for certain Dodge Journey vehicles that were manufactured without an accessible rear entertainment system and that have been or will be updated with an accessibility solution before being sold to consumers. The Bureau also granted FCA US a permanent waiver of the accessible user interfaces requirements for certain Dodge Journey vehicles that were manufactured without an accessible rear entertainment system and that have already been sold to consumers, subject to the requirement that FCA US notify all owners of affected vehicles of the availability of an accessibility solution within 30 days of grant of the Order.

On November 2, 2018, the Media Bureau granted two waivers of its rules requiring the accessibility of user interfaces on covered navigation devices for certain small and mid-sized MVPDs, as requested by the American Cable Association (ACA). First, the Bureau granted ACA's request for a limited waiver of the accessible user interfaces requirements for certain mid-sized or smaller systems that utilize quadrature amplified modulation (QAM), as they apply to a system's two-way service offerings (*e.g.*, video on demand). Additionally, the Bureau granted ACA's request for a waiver of the accessible user interfaces requirements for certain small cable systems that offer any video programming channels in only analog format or do not offer broadband Internet access service to their residential video subscribers. These waivers are subject to certain conditions, including customer notice requirements. Covered entities that meet the criteria for waiver are not expected to comply by the December 20, 2018 deadline for small and mid-sized MVPDs.

On September 16, 2019, the Media Bureau granted Google Fiber a limited waiver of the Commission's rules requiring the accessibility of user interfaces on covered navigation devices used to access multichannel video programming for certain functions for a limited time period. Specifically, the Media Bureau granted a limited waiver as follows: (1) for one year from the date of the original petition (*i.e.*, by December 19, 2019) for activating video description and adjusting the presentation and display of closed captioning; and (2) for the sooner of either two years from the date of the original petition (*i.e.*, by December 19, 2020), or the date on which Google Fiber can comply, for the display of current configuration options and activating set-top box configuration options. The Media Bureau granted the unopposed Petition subject to the condition that Google Fiber provide status reports to the Media Bureau and the Consumer and Governmental Affairs Bureau on its efforts to develop accessible functions. Google Fiber filed status reports on January 2, 2020, and June 1, 2020, indicating that it expected to achieve full compliance ahead of schedule.

STATUS:

Video Description: NCTA has filed a Petition for Reconsideration of the Commission's 2017 Order, seeking to expand the number of times a repeat of a described program may be counted under the rules. The Petition was placed on Public Notice, and the Commission is reviewing the record to determine how to proceed.

The Commission is scheduled to vote on the proposed expansion of the video description requirements to DMAs 61-100 at the October 2020 Commission meeting.

IP Closed Captioning: Through a Further Notice of Proposed Rulemaking (FNPRM) adopted with the Order on Reconsideration, the Commission sought comment on: (1) whether to impose closed captioning synchronization requirements on the manufacturers of covered apparatus; and (2) how DVD and Blu-ray players can fulfill the closed captioning requirements of the statute. The Commission has reviewed comments received in response to the FNPRM and is determining how to proceed on these issues.

Through a Second Further Notice of Proposed Rulemaking (Second FNPRM) adopted with the Second Order on Reconsideration on captioning of video clips, the Commission sought comment on: (1) application of the IP closed captioning rules to the provision of video clips by third party video programming providers and distributors; (2) whether to decrease or eliminate the grace periods applicable to video clips of live and near-live programming; (3) application of the IP closed captioning rules to files that contain a combination of one or more video clips that have been shown on television with captions and online-only content that has not (“mash-ups”); and (4) application of the IP closed captioning rules to video clips that are added to the video programming distributor’s or provider’s library on or after January 1, 2016 for straight lift clips and January 1, 2017 for montages, but before the associated video programming is shown on television with captions (“advance” video clips). The Commission has reviewed comments received in response to the Second FNPRM and is determining how to proceed on these issues.

Accessible Emergency Information, and Apparatus Requirements for Emergency Information and Video Description: Through an FNPRM attached to the Report and Order, the Commission sought comment on tagging of the secondary audio stream and the provision of dedicated customer support services for accessing emergency information on the secondary audio stream. Through a Second FNPRM adopted with the Second Report and Order, the Commission sought comment on additional issues related to prioritization of emergency information on the secondary audio stream, whether information on school closings should be conveyed on the secondary audio stream, and whether MVPDs should be responsible for providing a simple and easy to use mechanism for accessing audible emergency information on certain devices. The Commission has reviewed comments received in response to the FNPRM and Second FNPRM and is determining how to proceed on these issues.

User Interfaces, and Video Programming Guides and Menus: The compliance deadline was December 20, 2016, with certain exceptions. Through a Second FNPRM adopted with the Second Report and Order, the Commission sought comment on a proposal to adopt rules that would require manufacturers and MVPDs to ensure that consumers are able to readily access user display settings for closed captioning and on the Commission’s authority to adopt such rules under the Television Decoder Circuitry Act of 1990 (TDCA). The Commission has reviewed comments received in response to the Second FNPRM and is determining how to proceed.

From: Matthew Berry <Matthew.Berry@fcc.gov>

Sent: Tuesday, October 20, 2020 9:30 AM

To: EVERYONE-EX <EVERYONE-EX@fcc.gov>

Subject: MOVE UPDATE

I am writing to provide you with a quick update on the move to our new headquarters. Since the beginning of October, our IT team has been busy finishing its critical move tasks, and OMD has been busy working with GSA and the lessor of our new building to ensure that our new headquarters meets our lease requirements. And as a result of this hard work, I am pleased to report that our OMD landing team was able to start working in our new headquarters yesterday to complete setting up the new building and getting it up and running. We anticipate this process may take a couple of weeks.

Once the landing team finishes its work, our next step will be allowing limited access to the new headquarters, like we did in Portals II, to staff to perform mission-essential work that cannot be performed remotely or delayed. Like in Portals II, any access requests will require approval by the Bureau/Office Chief and the Managing Director. Along those lines, staff members who are identified as having a likely need to work out of the new headquarters at some point in the coming months will be provided an opportunity to sign up for a day to come into the new building, unpack their boxes, and set up their new workspace if they wish to do so. We are in the process of working with Bureaus and Office Chiefs to identify such staff.

In light of the ongoing COVID-19 pandemic, all staff authorized to access the new building will be required to take similar health and safety precautions as those who were allowed to enter our Portals headquarters during the pandemic (wearing a mask, abiding by social distancing guidelines, etc.). The specific set of rules, as well as information related to parking and the new building, will be provided to all who are being authorized to enter the new building.

In the meantime, and as a reminder, the FCC remains in a mandatory telework status. And while we must do the work necessary to get our new building up and running so we have a functional headquarters, I expect, given the pandemic, that we will have a light footprint in the new building for the foreseeable future. Moreover, as previously relayed, regardless of when mandatory telework ends, employees who are currently teleworking and want to continue teleworking may do so, regardless of location, at least through June 2021.

I would like to thank you for your continued patience as we navigate this difficult move and for your continued dedication to serving the public interest during this challenging time.

I anticipate providing you with an additional update in the next two to four weeks.

Matthew

From: [Matthew Berry](#)
To: [EVERYONE-EX](#)
Subject: MOVE AND CORONAVIRUS UPDATE - VERY IMPORTANT - PLEASE READ
Date: Monday, June 29, 2020 1:48:03 PM
Attachments: [FAQs for the Move.docx](#)
Importance: High

In January, we announced that the FCC HQ move would be taking place in June. And had all gone as planned, today would have been our first day in our new building. But all obviously hasn't gone as planned due to circumstances far beyond the FCC's control. Nevertheless, despite all of the changes that the last few months have brought, two things remain the same: (1) The FCC's lease for its Headquarters in Portals II is still ending; and (2) we are still moving to our new HQ in NOMA. While we have been teleworking the last three-and-a-half months, substantial progress has been made on our new building. Indeed, the construction and furniture installation are largely complete. **I am therefore writing to provide you with an update on our new move schedule and the HQ operating status for all FCC HQ staff (employees and contractors). This is a long email, but please read through it all carefully, as it contains extremely important information.**

The first thing you are probably wondering is when the move will take place. Well, **the physical move, itself, is now scheduled to occur from August 10 through August 27, with the move of staff workspaces scheduled to begin on August 17.** Specifically, move vendors will move the library and B/O common files August 10-14 (with vendors packing B/O common files the week before); and packed HQ staff workspaces will be moved from August 17-21 and August 24-26, with a final quality control check on August 27. Like the previous plan, during the physical move, regardless of what is happening with respect to the pandemic, HQ staff will be expected to telework or take leave.

Second, to provide sufficient time for staff to clean out and pack their workspaces, as well as to limit the total number of people accessing HQ in a single day for social-distancing purposes, **workspace clean up and packing will begin on July 1 (this Wednesday) and continue through August 10.** In any event, all staff workspace cleanup and packing must be completed no later than August 10.

Soon, you will receive an email with a link to sign up for a preferred day to access HQ to pack. Access to HQ for packing purposes will be limited to approximately 60 people per day. On the sign-up site, you will be able to request access to the FCC parking garage. You are strongly encouraged to sign up on a different day from other staff who are in workspaces within close proximity to yours to enhance social distancing. You must sign up by July 15 for a day of packing/cleanup; after this date, any staff who have not signed up will be assigned a day to pack/clean-up. All staff should plan to complete packing/clean-up in one day, working as efficiently as possible. If any staff believe they need more than one day, they should sign up for a packing day earlier in the packing period and discuss their need for additional time with their B/O move coordinator. If you end up needing less than a full day, you are obviously free to leave HQ as soon as you are done. **If you cannot or do not want to return to the building, you may designate a willing staff member to cleanup and pack your workspace for you.**

To protect the health and safety of all staff accessing HQ for packing, in addition to limiting the total number of people in the building, the FCC will also require staff to abide by a number of additional safety measures. A list of these safety measures will be sent to you with the email containing the link to sign up for a day to pack. But as a preview, some of these measures will include a requirement to wear a face covering at all times, designated one-way staircases, and limits on the number of people in elevators at one time. Hand sanitizer will continue to be located in all elevator lobbies throughout the building. In addition, on your designated packing day, the FCC will provide each staff member with three three-ply washable face coverings, as well as a pen/stylus combo that can be used to limit the need to physically touch certain high-touch surfaces like elevator call buttons and the Xerox multi-function devices. These face coverings and styluses are reusable, and employees should retain these for future use.

Packing/clean-up will primarily take place during business hours, Monday-Friday, when ASC will have

staff on-site and available to assist (e.g. empty shred and trash bins; assist in transporting large/heavy items, etc.). Requests to access HQ after hours or on weekends will be considered on a limited and case-by-case basis; any such requests must first be discussed with your B/O move coordinator to obtain necessary approvals. Please be aware that ASC staff will not be available outside of normal business hours, and HVAC and elevator systems will be in after-hours operations mode. We will try to be as flexible and accommodating as possible to facilitate the packing process for all staff, but we will also need your cooperation to complete this process in a timely and efficient manner.

Consistent with mandatory telework operating status, prior approval to access HQ for packing or for other mission-critical work is required with a minimum of 48-hours notice (with the exception of July 1, the first day of packing). This will enable us to provide parking at HQ for all designated staff who are authorized to access HQ on a given day, as well as limit the overall number of people in the building and better engage in contact tracing, should that be necessary. After you have signed up for a preferred packing day, you will receive an email confirmation, no later than one day prior to the requested access day, that your access to HQ has been approved, as well as any necessary reminders or other information or instructions about accessing HQ.

Third, because of the length of time the move will require and continued uncertainty regarding unpacking and when staff will start working from the new building, **we have switched from rented crates to cardboard boxes**. The move vendor will provide assembled boxes ready for packing in each workspace prior to your arrival. The cardboard boxes are the same size as the crates, and employees will receive the same quantities (i.e., 1 crate for contractors and interns; 5 crates for employees in 75 SF or 90 SF workstations/offices; 10 crates for employees in 180 SF offices). No additional boxes/packing materials will be made available, and staff should plan and clean out accordingly. A FAQ with more packing and clean-up guidelines is attached. If you have additional questions, please consult available information at <http://www.intranet.fcc.gov/omd/newfcheadquarters/> or contact your B/O move coordinator or newfcheadquarters@fcc.gov.

Fourth, as part of the move, we also must complete the space assignment process for the new HQ by mid-July. Employees should expect to receive an email from Human Resources soon with a snapshot of the floorplan and available workspaces from which employees can select, selection order list, and the date/time of their space selection meeting. Please also be advised that no workspace sharing arrangements will be approved in the new HQ given the operational concerns resulting from the pandemic. However, as a temporary measure because of the pandemic, all majority teleworkers (i.e. those who are not full-time teleworkers, but who are approved to telework three or more days per week or 6 or more days per pay period (in the normal, non-pandemic course of business) that would not have been assigned a sole occupancy workspace in the normal course of business) will be assigned a 75 SF workstation from workstations available after selections by non-majority teleworkers. Additional details regarding the space selection process will be in the forthcoming email from Human Resources.

Fifth, other than for the brief period to pack discussed above, **HQ staff will continue in mandatory telework at least until the move is complete**. This will help ensure that we are able to continue to minimize the overall number of people in our HQ building while also completing the packing process and keeping the move on track, better maintain social distancing and other mitigating measures for those employees who need to access the building (including for packing), and focus resources on being able to timely move and take appropriate measures in the new building upon our arrival. Throughout the period of mandatory telework, employees may continue to avail themselves of the additional workplace flexibilities currently offered (e.g. expanded hours-of-work; up to 10 hours per week of excused absence under evacuation pay regulations). I realize that this extended period of mandatory telework will be disappointing news for some of you, and I wish that circumstances did not compel us to make this difficult decision. But at the end of the day, our top priority must be the safety of those who will be in our HQ packing, cleaning up, and preparing for the move.

We will continue to assess the circumstances, including whether a phased-in approach to opening the new HQ is appropriate, and will communicate arrival plans at the new HQ at a later date. To be clear, our HQ move does not definitively signal a return to pre-pandemic operations as of that date. We will continue to assess the facts and circumstances surrounding the pandemic as we are in the process of moving and will timely communicate appropriate information so staff are well informed of the situation.

The HQ move was never going to be easy, and the pandemic and other factors outside the FCC's control have certainly presented additional challenges. But the Chairman and I are confident that everyone will pull together and adapt to make the move a success in the same manner everyone has done with respect to mandatory telework over these past few months. We again thank you for your dedication, professionalism, and support in continuing to advance the mission of the FCC and serve the public interest during this challenging time.

All the best,

Matthew

From: [Matthew Berry](#)
To: [EVERYONE-EX](#)
Subject: MOVE AND TELEWORK UPDATE - IMPORTANT, PLEASE READ
Date: Friday, July 24, 2020 10:28:09 AM
Importance: High

Thank you for your patience and understanding as we have been considering the path forward with respect to the move. **I am writing to share with you an update on our new HQ move schedule and packing process as well as telework policies. This is a long email, but please read through it all carefully, as it contains important information. There is also a link to a [survey](#) at the end of this email that all HQ staff (employees and contractors) need to complete by COB on Monday, July 27.** Before getting to the specifics, I think that it is important to recognize that moving in the midst of a pandemic, which we must do by necessity, is a very difficult endeavor. And I realize that there isn't any packing process that will please everyone. Nevertheless, we believe that the following plan appropriately addresses lessons learned from what happened during the first two weeks of July. And it responds to the many considerations and concerns that must be taken into account, most importantly, safeguarding the health of FCC staff in the building while still allowing a limited opportunity for those employees who want to come back into the building to do so.

First, given the disruption to the packing schedule, the physical move to the new HQ will be delayed until September. Specifically, library and common files will be moved and unpacked by the move vendors between August 31 through September 11. Boxes from individual staff workspaces will be moved beginning on September 8 through September 22. **Like the previous plan, HQ staff will continue mandatory telework AT LEAST until the move is complete.**

Second, in light of recent announcements by school districts as well as the ongoing nature of the pandemic, regardless of when mandatory telework ends, we will allow employees who are currently teleworking and want to continue teleworking to do so regardless of location at least through June 2021. Thanks to your efforts, the Commission has been able to maintain its productivity and move full speed ahead during this challenging time, and we want to provide those with concerns ranging from childcare to their own health with the peace of mind that they will have the flexibility they need over the coming months.

Third, our move vendor will be packing and boxing staff workspaces for all HQ employees and contractors that have not already completed packing. The move vendor is completing negotiations to partner for the FCC's move with a moving company with experience with Federal agency personnel relocations, one that has been used by the State Department and Department of Defense for both office and household moves around the globe, and is well experienced in packing fragile items, including personal effects, pictures, and wall hangings. The move vendors, however, will not be moving any personal appliances to the new building because, as has been communicated in the Move Town Halls and FAQs, personal appliances are not permitted in the new HQ. The movers will also not be moving personal furniture to the new HQ. **Instead, staff will have the option for personal appliances and furniture to: (1) have the movers box and label the appliances/furniture and deliver them to the loading dock on a pre-arranged day/time for staff pick-up; (2) personally remove the item(s) if granted access to the FCC HQ for such purpose; or**

(3) have the FCC dispose of them. Under Option 1, the FCC will not provide loading assistance, but staff may bring non-FCC persons with them for assistance on the loading dock, which will not require access to the FCC HQ. Under Option 2, the FCC will not provide any packing or removal assistance. In addition, all food, beverages, and other perishable items (such as plants) will also not be moved and will be disposed of by the FCC, unless personally removed by staff granted access to do so.

Consistent with our approach throughout this pandemic to limit the overall number of people at any FCC facility as much as possible and in light of what happened during the first two weeks of July, we **encourage** all staff to take advantage of the movers packing all items in staff workspaces. **Again, it is essential that we limit the number of persons in the building in order to protect all employees and contractors, especially those staff who are required to be in the building to perform essential activities that cannot be performed via telework.** However, we will provide limited exceptions to staff who request and receive approval to access the building for a maximum of one day to retrieve important personal items from the building. We anticipate that a small number of staff will be authorized to access the FCC HQ at any one time for retrieval of personal items. No FCC laborer support will be provided. And all authorized staff must strictly adhere to all health and safety precautions put in place. **To be clear, no staff are required to come into the building to pick up personal items, and staff are encouraged to pick other options, such as having the movers deliver appliances, furniture, or other important personal items to the loading dock for retrieval. Only in exceptional circumstances should staff seek approval to access the building to obtain personal items rather than have them packed and moved by the professional movers.** Any approved access will be only for important personal items. This is not an opportunity to go through work material; all work items will be packed and moved for all staff, regardless of how many boxes it takes.

To help better assess the packing needs for personal items in the current HQ, **all staff (employees and contractors) must complete the following survey by COB on Monday July 27:** <https://forms.office.com/Pages/ResponsePage.aspx?id=7QqXcmk2qEy5YN0Ba8cpc7BPx3U0MptArdQTgHnetVpUNkRKQjdHRDFKVVNZNTThQT1AwVzVTN0dOSy4u>

In particular, all HQ FCC staff are required to complete the survey to indicate: (1) whether your packing is complete; (2) if not, whether it may be completed in whole by the movers; (3) whether you require disposal or delivery to the loading dock of personal appliances, furniture, or other items; or (4) whether you are requesting to access the building to retrieve personal items. We will assess the survey results and send additional instructions for requesting and receiving approval to access HQ for removal of personal items. Based on the results, we anticipate providing a limited time period for authorized employees to schedule a date/time to remove personal items. We will also provide instructions for scheduling the retrieval of appliances, furniture, and/or other personal items from the loading dock.

I understand that having movers rather than staff pack workspaces, particularly workspaces where employees have not yet disposed of old and unnecessary personal files or non-records, is less than

ideal. I wish that circumstances would allow us to permit those employees who want to come back into the building to pack their own workspaces to do so. But in meeting the two goals of (1) trying to ensure the health and safety of FCC staff; and (2) completing the HQ move in a timely manner, we believe that the plan presented above is the best option for moving forward.

If you have any questions regarding the new packing process, please contact newfcheadquarters@fcc.gov or your Bureau/Office move coordinator.

Thank you for your continued cooperation.

Matthew

From: [Matthew Berry](#)
To: [EVERYONE-EX](#)
Subject: MOVE UPDATE
Date: Friday, September 25, 2020 3:30:19 PM
Importance: High

I am writing to provide you a brief update on the status of our move to our new headquarters. I am pleased to report that, thanks to everyone's cooperation and the hard work of OMD and our move vendor, the moving of boxes to our new headquarters from the workspaces at our old headquarters was completed on time this week.

Currently, our IT team is busy finishing its critical move tasks, getting our IT, telephony and audio-visual services up and running at our new headquarters. And while their work is ongoing, the lessor of our new building is completing its final tasks to ensure that the building meets our lease requirements.

I have heard from many of you who you are eager to get into the new building and see, unpack, and set-up your new workspaces, and we hope to be able to provide those interested with an opportunity to do that in a safe and socially distanced manner. We are continuing to work through the details of what that would entail (and in any case, this would be voluntary and no one should feel any pressure to do so). Speaking of getting into the new building, I had the opportunity to take a tour of the building last week and was favorably impressed. In my humble opinion, it is a much nicer and more modern building than our Portals headquarters.

At this juncture, I can't provide you with a definite timeline for these next steps. But I hope to be able to do so in mid-October. I know this move has been a long and complex process with more than a few curveballs thrown along the way, and I appreciate everyone's patience and cooperation.

In the meantime, and as a reminder, the FCC remains in a mandatory telework status. And as previously relayed, regardless of when mandatory telework ends, employees who are currently teleworking and want to continue teleworking may do so, regardless of location, at least through June 2021. In addition, in the event that you are looking for past communication related to the pandemic, please remember the FCC employee portal is available at <https://www.fcc.gov/employee-portal> and has copies of all such communications. Employees may log into the portal using their normal username (FirstName.LastName) and network password.

Have a good weekend,
Matthew

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Wednesday, November 25, 2020 1:27 PM
To: EVERYONE-EX <EVERYONE-EX@fcc.gov>
Subject: NEW HEADQUARTERS UPDATE

I am writing to provide you with a brief update on our new headquarters. The new building is operational, and while we remain in mandatory telework status, we are allowing those with a specific need to enter our new headquarters to do so as was the case when we were in our old building. To enter the headquarters, you must obtain the approval of your Bureau or Office Chief as well as the Managing Director.

Unfortunately, given the ongoing pandemic and the recent rise in COVID-19 cases, we do not anticipate permitting a substantial number of people back into the building to unpack this year. Rather, our top priority at this point is to keep the new building as safe as possible for those staff members who must be there.

I will keep you updated as circumstances warrant. Hopefully, given recent positive news on the vaccine front, we will be able to allow more who want to do so to get situated in the new building in early 2021.

I hope that you have a happy and healthy Thanksgiving.

Matthew

Mission

As specified in section one of the Communications Act of 1934, as amended, the Federal Communications Commission's (FCC's) mission is to "make available, so far as possible, to all the people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex, rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges."¹ In addition, section one provides that the Commission was created "for the purpose of the national defense" and "for the purpose of promoting safety of life and property through the use of wire and radio communications."²

About the Federal Communications Commission

The FCC is an independent regulatory agency of the United States Government. The FCC is charged with regulating interstate and international communications by radio, television, wire, satellite, and cable. The Commission also regulates telecommunications, advanced communication services and video programming for people with disabilities, as set forth in various sections of the Communications Act.

The FCC is directed by five Commissioners appointed by the President and confirmed by the Senate for five-year terms, except when the unexpired term of a previous Commissioner is filled. Only three Commissioners can be from the same political party at any given time. The President designates one of the Commissioners to serve as Chairman.

The FCC is organized by function. There are seven Bureaus and ten Offices. The Bureaus and the Office of Engineering and Technology process applications for licenses to operate facilities and provide communications services; analyze complaints from consumers and other licensees; conduct investigations; develop and implement regulatory programs; and organize and participate in hearings and workshops. Generally, the Offices provide specialized support services. The Bureaus and Offices are:

- **The Consumer & Governmental Affairs Bureau** develops and implements consumer policies, including disability access and policies affecting Tribal Nations. The Bureau serves as the public face of the Commission through outreach and education, as well as responding to consumer inquiries and informal complaints. The Bureau also maintains collaborative partnerships with state, local, and Tribal governments in such critical areas as emergency preparedness and implementation of new technologies. In addition, the Bureau's Disability Rights Office provides expert policy and

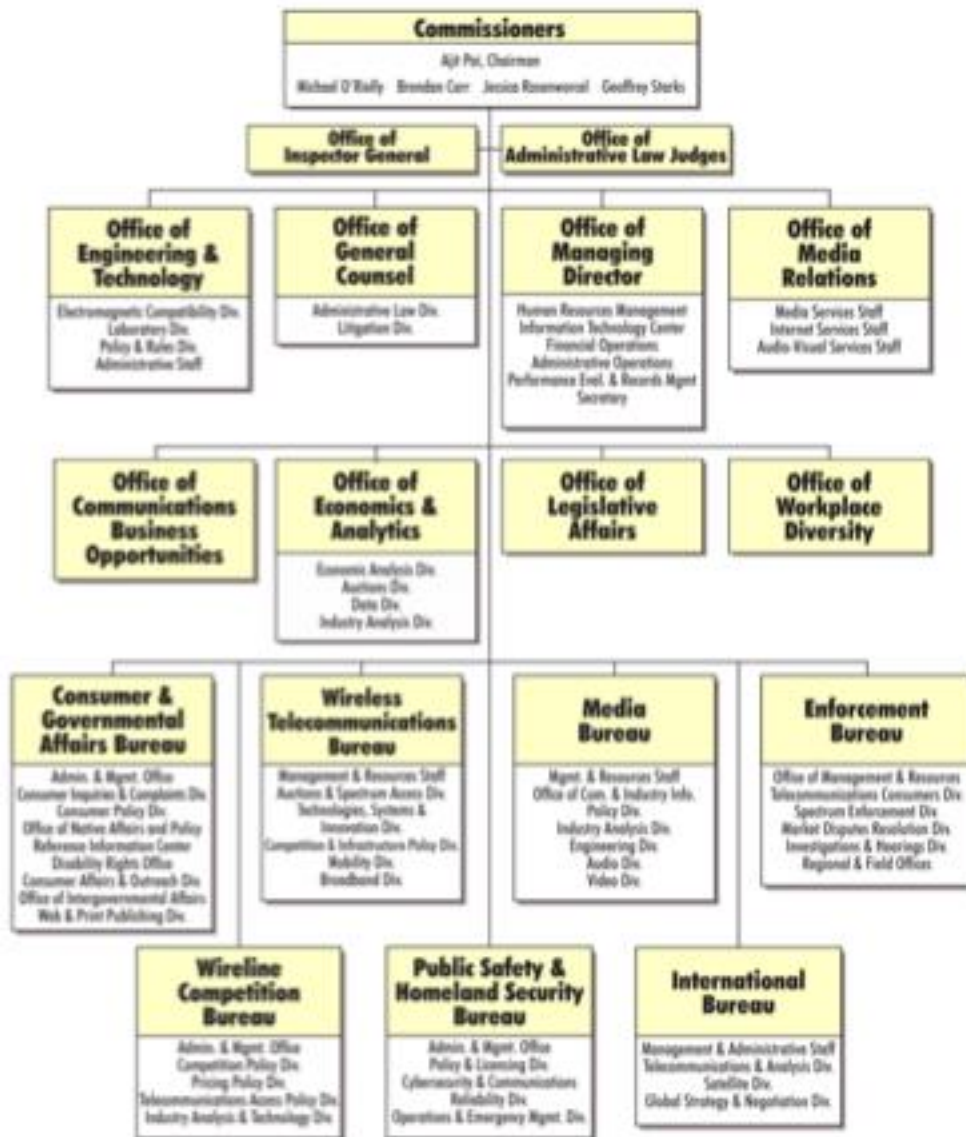
¹ 47 U.S.C. § 151.

² *Id.*

compliance advice on accessibility with respect to various forms of communications for persons with disabilities.

- **The Enforcement Bureau** enforces the Communications Act and the FCC's rules. It protects consumers, ensures efficient use of spectrum, furthers public safety, promotes competition, resolves intercarrier disputes, and protects the integrity of FCC programs and activities from fraud, waste, and abuse.
- **The International Bureau** administers the FCC's international telecommunications and satellite programs and policies, including licensing and regulatory functions. The Bureau promotes pro-competitive policies abroad, coordinating the FCC's global spectrum activities and advocating U.S. interests in international communications and competition. The Bureau works to promote a high-quality, reliable, globally interconnected, and interoperable communications infrastructure that is of high quality and reliability.
- **The Media Bureau** recommends, develops, and administers the policy and licensing programs relating to electronic media, including broadcast, cable, and satellite television in the United States and its territories.
- **The Public Safety & Homeland Security Bureau** develops and implements policies and programs to strengthen public safety communications capabilities that assist the public, first responders, the communications industry, and all levels of government in preparing for and responding to emergencies and major disasters.
- **The Wireless Telecommunications Bureau** is responsible for wireless telecommunications programs and policies in the United States and its territories, including licensing and regulatory functions. Wireless communications services include cellular, paging, personal communications, mobile broadband, and other radio services used by businesses and private citizens. The Bureau also conducts auctions of spectrum licenses and reverse auctions that award support from the Universal Service Fund for broadband deployment.
- **The Wireline Competition Bureau** develops, recommends, and implements policies and programs for wireline telecommunications, including fixed (as opposed to mobile) broadband and telephone landlines, striving to promote the widespread development and availability of these services. The Bureau has responsibility for the Universal Service Fund, which helps connect all Americans to communications networks.
- **The Office of Administrative Law Judges** is composed of one judge (and associated staff) who presides over hearings and issues decisions on matters referred by the FCC.
- **The Office of Communications Business Opportunities** promotes competition and innovation in the provision and ownership of telecommunications services by supporting opportunities for small businesses as well as women and minority-owned communications businesses.
- **The Office of Engineering and Technology** advises the FCC on technical and engineering matters. This Office develops and administers FCC decisions regarding spectrum allocations and grants equipment authorizations and experimental licenses.
- **The Office of the General Counsel** serves as the FCC's chief legal advisor.

- **The Office of the Inspector General** conducts and supervises audits and investigations relating to FCC programs and operations.
- **The Office of Legislative Affairs** serves as the liaison between the FCC and Congress, as well as other Federal agencies.
- **The Office of the Managing Director** administers and manages the FCC.
- **The Office of Media Relations** informs the media of FCC decisions and serves as the FCC's main point of contact with the media.
- **The Office of Economics and Analytics** is responsible for expanding and deepening the use of economic analysis into Commission policy making, for enhancing the development and use of auctions, and for implementing consistent and effective agency-wide data practices and policies.
- **The Office of Workplace Diversity** ensures that the FCC provides employment opportunities for all persons regardless of race, color, sex, national origin, religion, age, disability, or sexual orientation.



Subject: [Please Read] Important IT Information

Date: Tuesday, March 17, 2020 at 7:51:27 PM Eastern Daylight Time

From: FCC CIO

To: EVERYONE-EX

Good Afternoon,

To help provide timely IT information in the current environment we are providing important information and updates via email from Service-Center@fcc.gov. Attached are two important messages regarding Conference Phone Bridge and Forward desk phone. I have also included important information regarding help desk support.

Telecom Carrier Issues Affecting the FCC

The FCC has been notified by their Telecommunication Carrier that they are experiencing higher than expected volumes of calls throughout their networks resulting in calls not being able to be connected and customers receiving a "Fast Busy" signal.

As such, the carrier has identified a few recommendations to ensure call connection success.

1. Instead of using toll-free numbers, ask customers/users to utilize an available direct dial number.
 - a. Direct Dial Number: (646) 746-3008
 - b. "Fast busy" may still be experienced but can be lessened
2. Schedule calls at varying hours, not always at the top of the hour or at the half-hour to avoid "Traffic Jams".
 - a. Instead schedule conference calls at various times throughout the hour. (For Example: 09:15am, 10:40am, 1:20pm, etc.)

FCC IT is continuing to stay in contact with the carrier on this issue.

Transferring the FCC Desk Phone to an Alternate Device via Jabber

The FCC IT Operations Team appreciates how important your ability to communicate in a timely manner is to mission success. To support that mission, the ability to forward all calls from your desk phone to an alternate device has been enabled.

While many of our FCC Staff members are working remotely, we have developed instructions on how to transfer your calls from your desk phone via the Jabber application. By following the attached directions, your co-workers, customers, and counterparts can easily reach you at a number that is most convenient for you to respond to.

Status of FCC IT and Service Desk

Starting tomorrow, Wednesday 3/18/2020, the FCC IT staff will all be working remotely; this includes the service desk. We will continue to support your IT needs in a remotely; if you have or would like to report an issue/problem please contact the help desk via email, Service-Center@fcc.gov, or vial phone: (202) 418-1200.

-Stay Safe

Francisco Salguero

Chief Information Officer

Federal Communications Commission

SENIOR LEVEL (SL) AND SCHEDULE C POSITIONS

The Commission has 3 Schedule C slots. All are currently vacant.

The Commission has 18 SL slots. Five of the 18 are "Stat Exempt" positions - one for the Chairman and each Commissioner. Matthew Berry is in the Chairman's slot (until the Chairman leaves). The four Commissioner slots are currently vacant.

The 13 remaining positions are filled by career employees. Currently, there are no vacancies.

Name	Pay Plan	Title	Bureau/Office
NELSON, ROBERT G	SL	SENIOR ELECTRONICS ENGINEER	IB
SIMPSON, ANDREA E	SL	CHIEF INFORMATION SECURITY OFFICER	OMD
DIEMERT, SUNNY J	SL	AUCTION AND PROCUREMENT ADVISOR	OMD
WELCH, RICHARD K	SL	DEPUTY ASSOC GENERAL COUNSEL	OGC
DRAKE, MARGARET E	SL	SENIOR LEGAL ADVISOR	OGC
FULP, KATHLEEN R	SL	SENIOR LEGAL ADVISOR	OGC
BAKER, KENNETH R	SL	SENIOR ELECTRONICS ENGINEER	WTB
KWEREL, EVAN R	SL	SENIOR ECONOMIC ADVISOR	OEA
DEGRABA, PATRICK J	SL	SENIOR ECONOMIST	OEA
ROSENBERG, STEVEN I	SL	CHIEF DATA AND ANALYTICS OFFICER	OEA
LEVY, JONATHAN D	SL	SENIOR ECONOMIC ADVISOR	OEA
WISE, ANDREW S	SL	ECONOMIST	OEA
RALPH, ERIC K	SL	ECONOMIST	OEA

FEDERAL COMMUNICATIONS COMMISSION

Strategic Plan 2018-2022



Message from the Chairman

It is my great honor to introduce the Federal Communications Commission's (FCC's) Strategic Plan as revised for fiscal years 2018 to 2022.

Our strategic vision centers on bringing the benefits of the digital age to all Americans. Broadband opens doors to opportunity in almost every aspect of modern American life. It helps give rise to the democratization of entrepreneurship, so that anyone with a powerful plan and a digital connection can raise capital, start a business and reach a global customer base. It enables education, providing access to valuable learning resources regardless of one's location. It helps improve healthcare services, promoting better communication between patients and providers, and enabling telemedicine for those in rural or remote areas. It creates opportunities for civic involvement and social connection that were unforeseeable only a generation or two ago. To realize these benefits, the FCC is focusing on bringing the benefits of the digital age to all Americans by emphasizing the following priorities.

- **Closing the Digital Divide** - High-speed Internet access, or broadband, is critical to economic opportunity. But there are too many parts of the country where broadband is unavailable or unaffordable. The FCC has tools it can use to help close this digital divide, bring down the cost of deploying broadband, and create incentives for providers to connect consumers in hard-to-serve areas.
- **Promoting Innovation** - A key priority for the FCC is to foster a competitive, dynamic, and innovative market for communications services through policies that promote the introduction of new technologies and services. We will ensure that the FCC's actions and regulations reflect the realities of the current marketplace, promote entrepreneurship, expand economic opportunity, and remove barriers to entry and investment.
- **Protecting Consumers & Public Safety** - The FCC's core mission has always been to serve the broader public interest, and that means protecting consumers and keeping the public safe. We will work to combat unwanted and unlawful robocalls, which intrude into consumers' lives, and to make communications accessible for people with disabilities. We will also protect public safety, and in particular, take steps to assist and safeguard the communications of our nation's law enforcement officers and first responders.
- **Reforming the FCC's Processes** - As Chairman, I have made it a priority to implement process reforms to make the work of the FCC more transparent, open, and accountable to the American people. We will modernize and streamline the FCC's operations and programs to improve decision-making, build consensus, reduce regulatory burdens, and simplify the public's interactions with the Commission.

I look forward to working closely with Congress, other federal, state, and local agencies, as well as other external parties as the FCC implements its strategic plan. I believe the strategies outlined in this plan will allow the FCC to address both current and future challenges.



Ajit V. Pai
Chairman

Table of Contents

Message from the Chairman.....	i
Mission.....	1
Vision Statement.....	1
About the Federal Communications Commission.....	1
Stakeholder Engagement.....	3
Strategic Goals.....	4
Strategic Goal 1: Closing the Digital Divide.....	5
Strategic Goal 2: Promoting Innovation.....	8
Strategic Goal 3: Protecting Consumers & Public Safety.....	10
Strategic Goal 4: Reforming the FCC’s Processes.....	13
Planning and Performance at the FCC.....	16
Program Evaluations.....	16

Mission

As specified in section one of the Communications Act of 1934, as amended, the Federal Communications Commission's (FCC's) mission is to "make available, so far as possible, to all the people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex, rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges."¹ In addition, section one provides that the Commission was created "for the purpose of the national defense" and "for the purpose of promoting safety of life and property through the use of wire and radio communications."²

Vision Statement

The FCC's vision is to develop a regulatory environment to encourage the private sector to build, maintain, and upgrade next-generation networks so that the benefits of advanced communications services are available to all Americans. The FCC will work to foster a competitive, dynamic and innovative market for communications services through policies that promote the introduction of new technologies and services and ensure that Commission actions promote entrepreneurship and remove barriers to entry and investment. The Commission will also strive to develop policies that promote the public interest, improve the quality of communications services available to those with disabilities, and protect public safety.

About the Federal Communications Commission

The FCC is an independent regulatory agency of the United States Government. The FCC is charged with regulating interstate and international communications by radio, television, wire, satellite, and cable. The Commission also regulates telecommunications, advanced communication services and video programming for people with disabilities, as set forth in various sections of the Communications Act.

The FCC is directed by five Commissioners appointed by the President and confirmed by the Senate for five-year terms, except when the unexpired term of a previous Commissioner is filled. Only three Commissioners can be from the same political party at any given time. The President designates one of the Commissioners to serve as Chairman.

The FCC is organized by function. There are seven Bureaus and ten Offices. The Bureaus and the Office of Engineering and Technology process applications for licenses to operate facilities and provide communications services; analyze complaints from consumers and other licensees; conduct investigations; develop and implement regulatory programs; and organize and participate in hearings and workshops. Generally, the Offices provide specialized support services. The Bureaus and Offices are:

- **The Consumer & Governmental Affairs Bureau** develops and implements consumer policies, including disability access and policies affecting Tribal Nations. The Bureau serves as the public face of the Commission through outreach and education, as well as responding to consumer inquiries and informal complaints. The Bureau also maintains collaborative partnerships with state, local, and Tribal governments in such critical areas as emergency preparedness and implementation of new technologies. In addition, the Bureau's Disability Rights Office provides expert policy and

¹ 47 U.S.C. § 151.

² *Id.*

compliance advice on accessibility with respect to various forms of communications for persons with disabilities.

- **The Enforcement Bureau** enforces the Communications Act and the FCC's rules. It protects consumers, ensures efficient use of spectrum, furthers public safety, promotes competition, resolves intercarrier disputes, and protects the integrity of FCC programs and activities from fraud, waste, and abuse.
- **The International Bureau** administers the FCC's international telecommunications and satellite programs and policies, including licensing and regulatory functions. The Bureau promotes pro-competitive policies abroad, coordinating the FCC's global spectrum activities and advocating U.S. interests in international communications and competition. The Bureau works to promote a high-quality, reliable, globally interconnected, and interoperable communications infrastructure that is of high quality and reliability.
- **The Media Bureau** recommends, develops, and administers the policy and licensing programs relating to electronic media, including broadcast, cable, and satellite television in the United States and its territories.
- **The Public Safety & Homeland Security Bureau** develops and implements policies and programs to strengthen public safety communications capabilities that assist the public, first responders, the communications industry, and all levels of government in preparing for and responding to emergencies and major disasters.
- **The Wireless Telecommunications Bureau** is responsible for wireless telecommunications programs and policies in the United States and its territories, including licensing and regulatory functions. Wireless communications services include cellular, paging, personal communications, mobile broadband, and other radio services used by businesses and private citizens. The Bureau also conducts auctions of spectrum licenses and reverse auctions that award support from the Universal Service Fund for broadband deployment.
- **The Wireline Competition Bureau** develops, recommends, and implements policies and programs for wireline telecommunications, including fixed (as opposed to mobile) broadband and telephone landlines, striving to promote the widespread development and availability of these services. The Bureau has responsibility for the Universal Service Fund, which helps connect all Americans to communications networks.
- **The Office of Administrative Law Judges** is composed of one judge (and associated staff) who presides over hearings and issues decisions on matters referred by the FCC.
- **The Office of Communications Business Opportunities** promotes competition and innovation in the provision and ownership of telecommunications services by supporting opportunities for small businesses as well as women and minority-owned communications businesses.
- **The Office of Engineering and Technology** advises the FCC on technical and engineering matters. This Office develops and administers FCC decisions regarding spectrum allocations and grants equipment authorizations and experimental licenses.
- **The Office of the General Counsel** serves as the FCC's chief legal advisor.

- **The Office of the Inspector General** conducts and supervises audits and investigations relating to FCC programs and operations.
- **The Office of Legislative Affairs** serves as the liaison between the FCC and Congress, as well as other Federal agencies.
- **The Office of the Managing Director** administers and manages the FCC.
- **The Office of Media Relations** informs the media of FCC decisions and serves as the FCC's main point of contact with the media.
- **The Office of Strategic Planning and Policy Analysis** works with the Chairman, Commissioners, Bureaus, and Offices in strategic planning and policy development for the agency. It also provides research, advice, and analysis of complex, novel, and non-traditional economic and technological communications issues.
- **The Office of Workplace Diversity** ensures that the FCC provides employment opportunities for all persons regardless of race, color, sex, national origin, religion, age, disability, or sexual orientation.

Stakeholder Engagement

As an independent rulemaking agency, the FCC regularly solicits comments on issues and conducts workshops, forums, and meetings with outside parties. The FCC receives millions of comments from the public each year on its proceedings, and the FCC welcomes public feedback and input on its strategic goals as well.

Strategic Goals

The FCC is responsible to Congress and the American people for ensuring a vibrant competitive marketplace driven by principles and policies that create an environment for innovation and investment, better products and services for consumers, lower prices, more job creation, and faster economic growth. The FCC must also provide leadership to ensure that the communications needs of public safety officials are met; promote the universal availability and deployment of broadband and telecommunications services; make communications services accessible to all people; and protect and empower consumers in the communications marketplace. The FCC, in accordance with its statutory authority and in support of its mission, has established four strategic goals. They are:

Strategic Goal 1: Closing the Digital Divide

Develop a regulatory environment to encourage the private sector to build, maintain, and upgrade next-generation networks so that the benefits of advanced communications services are available to all Americans. Where the business case for infrastructure investment doesn't exist, employ effective and efficient means to facilitate deployment and access to affordable broadband in all areas of the country.

Strategic Goal 2: Promoting Innovation

Foster a competitive, dynamic, and innovative market for communications services through policies that promote the introduction of new technologies and services. Ensure that the FCC's actions and regulations reflect the realities of the current marketplace, promote entrepreneurship, expand economic opportunity, and remove barriers to entry and investment.

Strategic Goal 3: Protecting Consumers & Public Safety

Develop policies that promote the public interest by providing consumers with freedom from unwanted and intrusive communications, improving the quality of communications services available to those with disabilities, and protecting public safety.

Strategic Goal 4: Reforming the FCC's Processes

Modernize and streamline the FCC's operations and programs to increase transparency, improve decision-making, build consensus, reduce regulatory burdens, and simplify the public's interactions with the agency.

Strategic Goal 1: Closing the Digital Divide

***Vision:** Develop a regulatory environment to encourage the private sector to build, maintain, and upgrade next-generation networks so that the benefits of advanced communications services are available to all Americans. Where the business case for infrastructure investment doesn't exist, employ effective and efficient means to facilitate deployment and access to affordable broadband in all areas of the country.*

Strategic Objective 1.1: Expand broadband deployment in all parts of the country, including hard-to-serve areas, rural areas, and Tribal lands, and reduce the digital divide across America by creating a light-touch regulatory environment that maximizes private sector investment in broadband.

Performance Goal 1.1.1: Expand facilities-based competition among providers of voice, data, and other communications services, domestic and international, by adopting pro-competitive rules.

Performance Goal 1.1.2: Ensure that broadband networks are built and available to all American consumers, regardless of race, gender, religion, sexual orientation, geography or other factors.

Strategic Objective 1.2: Reduce and remove regulatory burdens and barriers to infrastructure investment, and provide opportunities for innovation in broadband services and technologies by developing a flexible approach that will modernize, reform, and simplify the Universal Service Fund (USF) programs to facilitate affordable broadband deployment.

Performance Goal 1.2.1: Efficiently support broadband deployment where it is most needed by implementing USF reverse auctions that use market-based funding mechanisms that are grounded in sound economics.

Performance Goal 1.2.2: Decrease the cost and expedite the construction of next-generation networks by removing regulatory barriers to broadband deployment.

Strategic Objective 1.3: Reduce the digital divide and bring the benefits of the digital age to all Americans by ensuring that effective policies utilizing basic principles of economics are in place to promote entrepreneurship and expand economic opportunity.

Performance Goal 1.3.1: Develop recommendations, model codes, and best practices for accelerating broadband deployment by coordinating with industry, Tribal Nations and inter-governmental organizations, state and local government officials and regulators, consumer groups and community organizations.

Performance Goal 1.3.2: Foster an environment that will encourage participation in broadband markets by new and non-traditional participants.

Strategic Objective 1.4: Reduce the digital divide, create incentives for providers to connect consumers in hard-to-serve areas, meet consumer demand for mobile connectivity, and bring the benefits of communications services to all Americans by developing and implementing flexible, market-oriented policies related to the assignment and use of spectrum.

Performance Goal 1.4.1: Encourage facilities-based competition, embrace a flexible use policy for spectrum and free up spectrum for mobile broadband by pursuing spectrum allocation and license assignment policies to achieve the effective and efficient use of spectrum.

Performance Goal 1.4.2: Continue post-incentive auction repacking and reimbursement efforts for broadcasters so that wireless carriers can begin using spectrum in the 600 MHz band.

Performance Goal 1.4.3: Conduct effective and timely spectrum licensing and equipment authorization activities.

Performance Goal 1.4.4: Facilitate broadband deployment and access by employing effective and efficient means, such as reverse auctions.

Strategies:

- The FCC will use a competitive reverse auction to bring mobile broadband to millions of Americans through the Mobility Fund Phase II Auction.
- The FCC will bring high-speed Internet access to currently unserved rural Americans through the Connect America Fund Phase II auction, and will encourage a wide range of entities to participate, from wireless Internet service providers to electric utilities.
- The FCC will employ effective technical and economic analysis to develop policies that enhance spectrum access, management, and use so as to maximize the availability of broadband.
- The FCC will implement ongoing initiatives that will assist in spectrum policy planning and decision making, promote a robust secondary market in spectrum, and improve communications services in all areas of the United States, including rural, underserved and Tribal areas.
- The FCC will continue to collect and evaluate information on competition in the communications markets.
- The FCC will employ initiatives designed to make it easier for companies to build and expand high-speed broadband networks.
- The FCC will set rules that maximize investment in broadband and promote a regulatory approach of light-touch regulation, facilities-based competition, flexible use policy, and freeing up spectrum to encourage and facilitate the development of 5G networks.
- The FCC will work closely with the National Telecommunications and Information Administration (NTIA), as well as regulators in Mexico, Canada, and other countries, to identify and resolve instances of harmful interference on an international basis and to avoid harmful interference in the future.

External Factors Affecting Achievement of This Goal:

- Barriers to broadband deployment in high-cost areas remain. Sufficient funds may not exist to subsidize buildout in all areas, especially in those areas where costs are the highest.

- Although technological advances make it possible to share spectrum more intensively, explosive growth in new technologies, particularly handheld and wireless devices, has increased demand for new spectrum. Increasing demand for spectrum requires new and innovative management techniques to allocate, assign, and use spectrum more efficiently and effectively. Methods for avoiding and mitigating harmful interference, and increasing opportunities for flexible and efficient use, require continued study.
- Legislation could impact the FCC's spectrum management policies. Differences among international and domestic spectrum allocation policies may lead to disparity and inconsistency among U.S. and foreign licensing processes. Decisions in pending court cases may also affect FCC action in this area.

Strategic Goal 2: Promoting Innovation

Vision: *Foster a competitive, dynamic, and innovative market for communications services through policies that promote the introduction of new technologies and services. Ensure that the FCC's actions and regulations reflect the realities of the current marketplace, promote entrepreneurship, expand economic opportunity, and remove barriers to entry and investment.*

Strategic Objective 2.1: Advance the networks of the future, and the innovative new products and services that take advantage of those networks, by removing barriers to innovation and investment.

Performance Goal 2.1.1: Allow television broadcasters to innovate, leverage the power of the Internet, and fully enter the digital era by implementing the next-generation broadcast standard.

Performance Goal 2.1.2: Foster innovation and promote the efficient use of spectrum by ensuring a competitive and vibrant unlicensed ecosystem.

Performance Goal 2.1.3: Allow new services and devices to come to market by expediting Commission processes.

Strategic Objective 2.2: Take targeted action to address real problems in the marketplace instead of imposing broad, preemptive regulations to address hypothetical harms.

Performance Goal 2.2.1: Promote a flexible approach to oversight and foster investment in 5G networks by considering actions that address real problems in the marketplace. Decisions will be fact-based, relying on economic analysis, ongoing fact-gathering initiatives and data analysis.

Performance Goal 2.2.2: Promote investment in infrastructure and 5G networks by eliminating unnecessary administrative burdens.

Performance Goal 2.2.3: Work to promote a high-quality, globally interconnected communications infrastructure through international telecommunications and satellite programs and policies.

Strategies:

- The FCC will encourage innovation throughout the Internet economy, focusing on growth and infrastructure investment, rules that expand high-speed Internet access everywhere, and giving Americans more online choice, faster speeds, and more innovation.
- The FCC will use light-touch regulation to restore Internet freedom, promote fast, affordable, and reliable Internet access and the benefits that come from competition, among both established providers as well as smaller competitors entering the broadband marketplace.
- The FCC will speed the process of new services and devices coming to market by complying with Section 7 of the Communications Act and acting on applications for new technologies or services within one year.
- The FCC will conduct effective policy and technical analyses, have access to current and relevant data in developing competition policies and rules, and take enforcement action where necessary to

ensure compliance with the pro-competition provisions of the Communications Act and the FCC's rules.

- FCC staff will seek to promote innovation and job growth by continually reviewing the FCC's rules to determine what rules need to be implemented, revised, or eliminated to achieve its objectives effectively and efficiently.
- The FCC will rely on fact-based decisions which eliminate unnecessary administrative burdens to promote investment in infrastructure and next generation networks.
- The FCC will provide expert guidance to other U.S. government agencies regarding communications policy and technology.

External Factors Affecting Achievement of This Goal:

- Significant and necessary changes in the regulatory environment will often be litigated.
- Domestic and global economic conditions will continue to have a major impact on the results of initiatives fulfilling these objectives. The availability of capital for investment in broadband is critical to provide the infrastructure to foster innovation and growth.
- The FCC must consult with industry and maintain relationships with regulators across the country and throughout the world.

Strategic Goal 3: Protecting Consumers and Public Safety

***Vision:** Develop policies that promote the public interest by providing consumers with freedom from unwanted and intrusive communications, improving the quality of communications services available to those with disabilities, and protecting public safety.*

Strategic Objective 3.1: Improve communications services for all Americans, including those with disabilities, by developing and implementing an aggressive consumer agenda.

Performance Goal 3.1.1: Implement proposals to target and eliminate unlawful telemarketing and robocalling.

Performance Goal 3.1.2: Improve the quality of telecommunications relay services to make them more functionally equivalent to voice services available to hearing individuals.

Performance Goal 3.1.3: Work with stakeholders to ensure that Commission proceedings consider and identify consumer protection issues and policies across different technologies and market sectors.

Performance Goal 3.1.4: Implement actions to ensure that individuals with disabilities can access video programming.

Strategic Objective 3.2: Support the ability of first responders, including law enforcement, by developing and implementing policies and procedures to strengthen public safety.

Performance Goal 3.2.1: Combat the use of contraband cellphones in correctional facilities by developing reforms and examining other technological solutions.

Performance Goal 3.2.2: Help protect law enforcement officers by adding a “Blue Alert” option to the nation’s Emergency Alert System, notifying the public of threats to law enforcement and assisting in the apprehension of dangerous suspects.

Performance Goal 3.2.3: Adopt public safety spectrum policies that facilitate interoperable communications by first responders.

Strategic Objective 3.3: Improve public safety and communications reliability across the country and advance access to public safety and emergency communications by developing and implementing policies using a broad range of technologies.

Performance Goal 3.3.1: Promote the nationwide availability of reliable and effective 911, Enhanced 911 (E911), and Next Generation 911 (NG911) service by developing and implementing policies that will ensure the reliability and resiliency of communications networks, particularly for 911 and NG911 networks.

Performance Goal 3.3.2: Collect and analyze outage information for communications networks and 911/NG911 networks and work with stakeholders to understand and address problems.

Performance Goal 3.3.3: Analyze major outages and events, looking for existing practices and/or new practices that could have prevented the outage and could prevent future outages.

Performance Goal 3.3.4: Fulfill the FCC's responsibilities to the National Preparedness System, including support to Emergency Support Function #2 (Communications). Provide situational awareness of communications systems; coordinate with industry and other Federal partners to facilitate communications network preparedness, response, and restoration by working closely with local, state, Tribal governments and Federal partners during a crisis.

Performance Goal 3.3.5: Strengthen consumer access to emergency services and emergency public information sources during emergencies by supporting improved preparedness, reliability of communications networks, and disaster management practices.

Performance Goal 3.3.6: Facilitate the effectiveness and reliability of the Emergency Alert System (EAS) and Wireless Emergency Alerts (WEA), while encouraging the development of new alerting capabilities within emerging technologies.

Performance Goal 3.3.7: Ensure a fair and efficient process for Commission review of interoperability showings by op-out states and thus assist in the development of the FirstNet nationwide public safety broadband network.

Strategies:

- FCC leadership will work with public safety stakeholders to maximize the availability, interoperability, and reliability of communications in the protection of the Nation's critical communications infrastructure.
- The FCC will work on a variety of fronts to confront unlawful robocalls, scams and other unlawful and harmful practices, including investigating and taking appropriate action to penalize those who are breaking the law and working on rules that will make it easier for carriers to stop these unwanted calls.
- The FCC will move aggressively to give providers more leeway to impede illegitimate callers and to protect consumers, many of whom are small businesses, from scams.
- The FCC will act to improve the quality and efficiency of video relay services and help make these services more useful to disabled Americans in their daily lives.
- The FCC will work to ensure the public's safety through the reliability of our nation's communications networks at all times, and especially during natural and manmade disasters.
- Appropriate FCC personnel will utilize technical knowledge of public safety, homeland security, and disaster management issues, including the impact of new or evolving technologies and of existing and proposed best practices for communications providers.
- Working in partnership with other federal agencies as well as state, local, and Tribal governments, the FCC will facilitate discussions and share information among key constituencies to identify and establish best practices and coordinate efforts to protect America's safety and security.
- The FCC will maintain an experienced, educated, and knowledgeable technical and legal staff that stays abreast of technological and policy developments.

External Factors Affecting Achievement of This Goal:

- Economic cycles may make it difficult for communications infrastructure providers to commit large sums of money to the wholesale improvement of network protection and redundancy in a challenging economy, and for state and local governments to fund next generation 911 services and public safety broadband capability.
- The FCC must continually update its understanding of national and international threats to communications technologies. The FCC must maintain ongoing, highly integrated relationships with the communications industries, other federal regulators, and state, Tribal, and local regulators who are heavily involved in public safety matters.
- With respect to robocalls, technological challenges, such as Caller ID spoofing, can make it difficult to determine if the caller is a legitimate caller or one who seeks to annoy or defraud consumers.

Strategic Goal 4: Reforming the FCC's Processes

***Vision:** Modernize and streamline the FCC's operations and programs to increase transparency, improve decision-making, build consensus, reduce regulatory burdens, and simplify the public's interactions with the agency.*

Strategic Objective 4.1: Serve the American public by improving the efficiency, effectiveness, and transparency of the FCC's operations.

Performance Goal 4.1.1: Provide information about the status of matters pending before the FCC by developing and posting information online and communicating with stakeholders.

Performance Goal 4.1.2: Ensure that FCC regulations solve real problems at a reasonable cost by implementing the principles of regulation and requirements for regulatory impact analysis articulated in Executive Order 13563 of January 18, 2011 (Improving Regulation and Regulatory Review), and Executive Order 12866 of October 4, 1993 (Regulatory Planning and Review).

Performance Goal 4.1.3: Ensure the Commission's ability to meet its Mission Essential Functions and other critical activities during emergencies and disasters affecting FCC facilities and/or staff.

Performance Goal 4.1.4: For each program objective, ensure that the Commission adheres to all legal requirements in its operations by providing timely and accurate legal advice and representation regarding proposed and existing policies and rules within the FCC's purview.

Strategic Objective 4.2: Achieve statutory objectives while reducing burdens on industry and promoting innovation and job growth by continuously reviewing the FCC's regulatory and operational processes and significant regulations.

Performance Goal 4.2.1: Implement a regulatory reform agenda guided by the principles of Executive Order 13771 of January 30, 2017 (Reducing Regulation and Controlling Regulatory Costs) and Executive Order 13579 of July 11, 2011 (Regulation and Independent Regulatory Agencies) by reviewing existing FCC regulations and eliminating those regulations that fail to solve real problems at a reasonable cost.

Performance Goal 4.2.2: Eliminate reports and related filing requirements that are unnecessary, duplicative, or fail to produce benefits that justify their costs by reviewing the Commission's information collections processes.

Strategic Objective 4.3: Effectively manage and modernize the FCC's information technology, financial, record keeping, facilities and human capital resources to best achieve the FCC's mission.

Performance Goal 4.3.1: Make information readily available to agency management for decision-making by improving Commission systems.

Performance Goal 4.3.2: Carry out the agency's mission by upgrading and enhancing technology and tools used by Commission staff.

Performance Goal 4.3.3: Maintain a high level of cybersecurity readiness and presence by providing FCC staff with a secure digital infrastructure.

Performance Goal 4.3.4: Ensure that all financial operations are helping control or contain costs, providing high quality customer service, and improving the effectiveness and efficiency of Commission operations by conducting a program of continuous review and evaluation.

Performance Goal 4.3.5: Expand the role of economics and engineering at the FCC by developing workforce recruitment initiatives.

Strategic Objective 4.4: Ensure that the Universal Service Fund programs are well managed, efficient and fiscally responsible and reduce fraud, waste, and abuse.

Performance Goal 4.4.1: Reduce the potential for fraud, waste, and abuse in the USF programs.

Performance Goal 4.4.2: Ensure that the USF programs are administered efficiently and effectively by reviewing the administrative costs of the programs.

Strategies:

- The FCC will implement policies to increase transparency and public information concerning matters before the Commission to promote accountability and effectiveness and will use its website to convey this information to the public.
- The FCC will adopt procedures for economic analysis of prospective new regulations that reflect longstanding principles articulated in executive orders and Office of Management Budget guidance.
- The FCC's efforts to identify, review, and eliminate outdated regulations are rooted in our commitment that FCC rules and policies promote innovation and job growth, while reducing burdens on industry. This includes our commitment to Executive Orders 13771, 13579, 13563, and 12866, which are consistent with the values and philosophy we apply at the FCC. Each Bureau at the FCC conducts regular reviews of rules within its area with the goal of eliminating or revising rules that are outdated or place needless burdens on businesses. The FCC will continue on this regulatory reform track, using effective cost-benefit analysis, thoughtfully and diligently conducting reviews of existing rules and taking other important steps to meet our statutory obligations and mission in a way that fosters economic growth and benefits all Americans.
- The FCC will promote innovation, job growth, and consumer welfare through an ongoing process of identifying and eliminating or amending rules that fail to solve real problems at reasonable cost.
- The FCC will put processes in place that provide for timely introduction, upgrade, or replacement of technologies and identify ways to leverage and integrate technology to eliminate unnecessary redundancy, and promote efficiency and effectiveness while maintaining continued adherence to a high level of information security standards.
- The FCC will routinely assess our financial internal controls and those of our reporting components, and develop and implement corrective action plans as needed so that the FCC obtains "clean" audit opinions on its financial statements each year. We will also continue to make progress in eliminating and recovering improper payments.
- The FCC will continue to recruit and retain talented professionals, and will continue a robust training program to maintain proficiency among its professional staff.

- The FCC will continue to establish improved oversight and robust internal controls for its Universal Service Fund programs to improve management of those programs and reduce fraud, waste, and abuse.
- The FCC will establish an Office of Economics and Data to provide economic analysis for rulemakings, transactions, and actions, managing the Commission's data resources, and conducting longer-term research on ways to improve the Commission's policies.

External Factors Affecting Achievement of Management Objectives:

- Funding for the FCC to carry out its mission is always a significant determinant of our ability to meet our strategic goals and objectives as expressed in this plan. The FCC relies on its annual appropriations and its authorization from Congress to implement its initiatives for the American people, overhaul its data systems and processes, and modernize and reform the FCC with 21st century communications tools and expertise.
- The FCC has many opportunities to improve customer and employee satisfaction and affect mission accomplishment through the introduction of new or enhanced systems and processes. Ensuring that the FCC has access to the human resources necessary to properly plan, implement, and evaluate the use of these technologies is a complementary factor affecting the achievement of the FCC's organizational excellence goal. Recruiting, hiring, redeploying, training, motivating, and retaining such a staff is a challenge.

Planning and Performance at the FCC

The FCC Strategic Plan provides the framework around which the FCC determines its annual performance plan and budget request. The FCC annually submits its performance plan as part of its budget request to Congress. The annual performance plan includes performance targets for the current fiscal year that stem from the FCC's strategic goals and objectives, and serves as the annual guide for implementing the FCC's Strategic Plan. After each fiscal year, an annual performance report is produced that compares the agency's actual performance to its targets. Copies of these documents may be viewed at: <https://www.fcc.gov/about/strategic-plans-budget>.

Program Evaluations

The FCC uses a variety of methods to evaluate its programs including risk assessments, audits from the FCC's Office of Inspector General (OIG) and reports from the Government Accountability Office (GAO). The FCC annually works with its Bureaus and Offices as well as with its reporting components for the Universal Service Fund, Telecommunications Relay Service fund, and North American Numbering Plan fund to assess the risks the FCC is facing to meeting its strategic goals and objectives. Using this information, the FCC is able to make improvements to its operations and program management on an ongoing basis to better achieve its goals. The OIG, an independent oversight organization within the FCC, conducts audits, investigations, and reviews relating to the FCC's programs and operations. Information on the OIG's work can be found at: <http://www.fcc.gov/office-inspector-general>. The GAO, an independent organization established by Congress, conducts evaluations and analyses and makes recommendations to improve practices of the programs it reviews. GAO reports concerning the FCC's activities can be found at: <http://www.gao.gov/>.

Strategic Goals

The FCC is responsible to Congress and the American people for ensuring a vibrant competitive marketplace driven by principles and policies that create an environment for innovation and investment, better products and services for consumers, lower prices, more job creation, and faster economic growth. The FCC must also provide leadership to ensure that the communications needs of public safety officials are met; promote the universal availability and deployment of broadband and telecommunications services; make communications services accessible to all people; and protect and empower consumers in the communications marketplace. The FCC, in accordance with its statutory authority and in support of its mission, has established four strategic goals. They are:

Strategic Goal 1: Closing the Digital Divide

Develop a regulatory environment to encourage the private sector to build, maintain, and upgrade next-generation networks so that the benefits of advanced communications services are available to all Americans. Where the business case for infrastructure investment doesn't exist, employ effective and efficient means to facilitate deployment and access to affordable broadband in all areas of the country.

Strategic Goal 2: Promoting Innovation

Foster a competitive, dynamic, and innovative market for communications services through policies that promote the introduction of new technologies and services. Ensure that the FCC's actions and regulations reflect the realities of the current marketplace, promote entrepreneurship, expand economic opportunity, and remove barriers to entry and investment.

Strategic Goal 3: Protecting Consumers & Public Safety

Develop policies that promote the public interest by providing consumers with freedom from unwanted and intrusive communications, improving the quality of communications services available to those with disabilities, and protecting public safety.

Strategic Goal 4: Reforming the FCC's Processes

Modernize and streamline the FCC's operations and programs to increase transparency, improve decision-making, build consensus, reduce regulatory burdens, and simplify the public's interactions with the agency.

Strategic Goal 1: Closing the Digital Divide

***Vision:** Develop a regulatory environment to encourage the private sector to build, maintain, and upgrade next-generation networks so that the benefits of advanced communications services are available to all Americans. Where the business case for infrastructure investment doesn't exist, employ effective and efficient means to facilitate deployment and access to affordable broadband in all areas of the country.*

Strategic Objective 1.1: Expand broadband deployment in all parts of the country, including hard-to-serve areas, rural areas, and Tribal lands, and reduce the digital divide across America by creating a light-touch regulatory environment that maximizes private sector investment in broadband.

Performance Goal 1.1.1: Expand facilities-based competition among providers of voice, data, and other communications services, domestic and international, by adopting pro-competitive rules.

Performance Goal 1.1.2: Ensure that broadband networks are built and available to all American consumers, regardless of race, gender, religion, sexual orientation, geography or other factors.

Strategic Objective 1.2: Reduce and remove regulatory burdens and barriers to infrastructure investment, and provide opportunities for innovation in broadband services and technologies by developing a flexible approach that will modernize, reform, and simplify the Universal Service Fund (USF) programs to facilitate affordable broadband deployment.

Performance Goal 1.2.1: Efficiently support broadband deployment where it is most needed by implementing USF reverse auctions that use market-based funding mechanisms that are grounded in sound economics.

Performance Goal 1.2.2: Decrease the cost and expedite the construction of next-generation networks by removing regulatory barriers to broadband deployment.

Strategic Objective 1.3: Reduce the digital divide and bring the benefits of the digital age to all Americans by ensuring that effective policies utilizing basic principles of economics are in place to promote entrepreneurship and expand economic opportunity.

Performance Goal 1.3.1: Develop recommendations, model codes, and best practices for accelerating broadband deployment by coordinating with industry, Tribal Nations and inter-governmental organizations, state and local government officials and regulators, consumer groups and community organizations.

Performance Goal 1.3.2: Foster an environment that will encourage participation in broadband markets by new and non-traditional participants.

Strategic Objective 1.4: Reduce the digital divide, create incentives for providers to connect consumers in hard-to-serve areas, meet consumer demand for mobile connectivity, and bring the benefits of communications services to all Americans by developing and implementing flexible, market-oriented policies related to the assignment and use of spectrum.

Performance Goal 1.4.1: Encourage facilities-based competition, embrace a flexible use policy for spectrum and free up spectrum for mobile broadband by pursuing spectrum allocation and license assignment policies to achieve the effective and efficient use of spectrum.

Performance Goal 1.4.2: Continue post-incentive auction repacking and reimbursement efforts for broadcasters so that wireless carriers can begin using spectrum in the 600 MHz band.

Performance Goal 1.4.3: Conduct effective and timely spectrum licensing and equipment authorization activities.

Performance Goal 1.4.4: Facilitate broadband deployment and access by employing effective and efficient means, such as reverse auctions.

Strategies:

- The FCC will use a competitive reverse auction to bring mobile broadband to millions of Americans through the Mobility Fund Phase II Auction.
- The FCC will bring high-speed Internet access to currently unserved rural Americans through the Connect America Fund Phase II auction, and will encourage a wide range of entities to participate, from wireless Internet service providers to electric utilities.
- The FCC will employ effective technical and economic analysis to develop policies that enhance spectrum access, management, and use so as to maximize the availability of broadband.
- The FCC will implement ongoing initiatives that will assist in spectrum policy planning and decision making, promote a robust secondary market in spectrum, and improve communications services in all areas of the United States, including rural, underserved and Tribal areas.
- The FCC will continue to collect and evaluate information on competition in the communications markets.
- The FCC will employ initiatives designed to make it easier for companies to build and expand high-speed broadband networks.
- The FCC will set rules that maximize investment in broadband and promote a regulatory approach of light-touch regulation, facilities-based competition, flexible use policy, and freeing up spectrum to encourage and facilitate the development of 5G networks.
- The FCC will work closely with the National Telecommunications and Information Administration (NTIA), as well as regulators in Mexico, Canada, and other countries, to identify and resolve instances of harmful interference on an international basis and to avoid harmful interference in the future.

External Factors Affecting Achievement of This Goal:

- Barriers to broadband deployment in high-cost areas remain. Sufficient funds may not exist to subsidize buildout in all areas, especially in those areas where costs are the highest.

- Although technological advances make it possible to share spectrum more intensively, explosive growth in new technologies, particularly handheld and wireless devices, has increased demand for new spectrum. Increasing demand for spectrum requires new and innovative management techniques to allocate, assign, and use spectrum more efficiently and effectively. Methods for avoiding and mitigating harmful interference, and increasing opportunities for flexible and efficient use, require continued study.
- Legislation could impact the FCC's spectrum management policies. Differences among international and domestic spectrum allocation policies may lead to disparity and inconsistency among U.S. and foreign licensing processes. Decisions in pending court cases may also affect FCC action in this area.

Strategic Goal 2: Promoting Innovation

Vision: *Foster a competitive, dynamic, and innovative market for communications services through policies that promote the introduction of new technologies and services. Ensure that the FCC's actions and regulations reflect the realities of the current marketplace, promote entrepreneurship, expand economic opportunity, and remove barriers to entry and investment.*

Strategic Objective 2.1: Advance the networks of the future, and the innovative new products and services that take advantage of those networks, by removing barriers to innovation and investment.

Performance Goal 2.1.1: Allow television broadcasters to innovate, leverage the power of the Internet, and fully enter the digital era by implementing the next-generation broadcast standard.

Performance Goal 2.1.2: Foster innovation and promote the efficient use of spectrum by ensuring a competitive and vibrant unlicensed ecosystem.

Performance Goal 2.1.3: Allow new services and devices to come to market by expediting Commission processes.

Strategic Objective 2.2: Take targeted action to address real problems in the marketplace instead of imposing broad, preemptive regulations to address hypothetical harms.

Performance Goal 2.2.1: Promote a flexible approach to oversight and foster investment in 5G networks by considering actions that address real problems in the marketplace. Decisions will be fact-based, relying on economic analysis, ongoing fact-gathering initiatives and data analysis.

Performance Goal 2.2.2: Promote investment in infrastructure and 5G networks by eliminating unnecessary administrative burdens.

Performance Goal 2.2.3: Work to promote a high-quality, globally interconnected communications infrastructure through international telecommunications and satellite programs and policies.

Strategies:

- The FCC will encourage innovation throughout the Internet economy, focusing on growth and infrastructure investment, rules that expand high-speed Internet access everywhere, and giving Americans more online choice, faster speeds, and more innovation.
- The FCC will use light-touch regulation to restore Internet freedom, promote fast, affordable, and reliable Internet access and the benefits that come from competition, among both established providers as well as smaller competitors entering the broadband marketplace.
- The FCC will speed the process of new services and devices coming to market by complying with Section 7 of the Communications Act and acting on applications for new technologies or services within one year.
- The FCC will conduct effective policy and technical analyses, have access to current and relevant data in developing competition policies and rules, and take enforcement action where necessary to

ensure compliance with the pro-competition provisions of the Communications Act and the FCC's rules.

- FCC staff will seek to promote innovation and job growth by continually reviewing the FCC's rules to determine what rules need to be implemented, revised, or eliminated to achieve its objectives effectively and efficiently.
- The FCC will rely on fact-based decisions which eliminate unnecessary administrative burdens to promote investment in infrastructure and next generation networks.
- The FCC will provide expert guidance to other U.S. government agencies regarding communications policy and technology.

External Factors Affecting Achievement of This Goal:

- Significant and necessary changes in the regulatory environment will often be litigated.
- Domestic and global economic conditions will continue to have a major impact on the results of initiatives fulfilling these objectives. The availability of capital for investment in broadband is critical to provide the infrastructure to foster innovation and growth.
- The FCC must consult with industry and maintain relationships with regulators across the country and throughout the world.

Strategic Goal 3: Protecting Consumers and Public Safety

***Vision:** Develop policies that promote the public interest by providing consumers with freedom from unwanted and intrusive communications, improving the quality of communications services available to those with disabilities, and protecting public safety.*

Strategic Objective 3.1: Improve communications services for all Americans, including those with disabilities, by developing and implementing an aggressive consumer agenda.

Performance Goal 3.1.1: Implement proposals to target and eliminate unlawful telemarketing and robocalling.

Performance Goal 3.1.2: Improve the quality of telecommunications relay services to make them more functionally equivalent to voice services available to hearing individuals.

Performance Goal 3.1.3: Work with stakeholders to ensure that Commission proceedings consider and identify consumer protection issues and policies across different technologies and market sectors.

Performance Goal 3.1.4: Implement actions to ensure that individuals with disabilities can access video programming.

Strategic Objective 3.2: Support the ability of first responders, including law enforcement, by developing and implementing policies and procedures to strengthen public safety.

Performance Goal 3.2.1: Combat the use of contraband cellphones in correctional facilities by developing reforms and examining other technological solutions.

Performance Goal 3.2.2: Help protect law enforcement officers by adding a “Blue Alert” option to the nation’s Emergency Alert System, notifying the public of threats to law enforcement and assisting in the apprehension of dangerous suspects.

Performance Goal 3.2.3: Adopt public safety spectrum policies that facilitate interoperable communications by first responders.

Strategic Objective 3.3: Improve public safety and communications reliability across the country and advance access to public safety and emergency communications by developing and implementing policies using a broad range of technologies.

Performance Goal 3.3.1: Promote the nationwide availability of reliable and effective 911, Enhanced 911 (E911), and Next Generation 911 (NG911) service by developing and implementing policies that will ensure the reliability and resiliency of communications networks, particularly for 911 and NG911 networks.

Performance Goal 3.3.2: Collect and analyze outage information for communications networks and 911/NG911 networks and work with stakeholders to understand and address problems.

Performance Goal 3.3.3: Analyze major outages and events, looking for existing practices and/or new practices that could have prevented the outage and could prevent future outages.

Performance Goal 3.3.4: Fulfill the FCC's responsibilities to the National Preparedness System, including support to Emergency Support Function #2 (Communications). Provide situational awareness of communications systems; coordinate with industry and other Federal partners to facilitate communications network preparedness, response, and restoration by working closely with local, state, Tribal governments and Federal partners during a crisis.

Performance Goal 3.3.5: Strengthen consumer access to emergency services and emergency public information sources during emergencies by supporting improved preparedness, reliability of communications networks, and disaster management practices.

Performance Goal 3.3.6: Facilitate the effectiveness and reliability of the Emergency Alert System (EAS) and Wireless Emergency Alerts (WEA), while encouraging the development of new alerting capabilities within emerging technologies.

Performance Goal 3.3.7: Ensure a fair and efficient process for Commission review of interoperability showings by op-out states and thus assist in the development of the FirstNet nationwide public safety broadband network.

Strategies:

- FCC leadership will work with public safety stakeholders to maximize the availability, interoperability, and reliability of communications in the protection of the Nation's critical communications infrastructure.
- The FCC will work on a variety of fronts to confront unlawful robocalls, scams and other unlawful and harmful practices, including investigating and taking appropriate action to penalize those who are breaking the law and working on rules that will make it easier for carriers to stop these unwanted calls.
- The FCC will move aggressively to give providers more leeway to impede illegitimate callers and to protect consumers, many of whom are small businesses, from scams.
- The FCC will act to improve the quality and efficiency of video relay services and help make these services more useful to disabled Americans in their daily lives.
- The FCC will work to ensure the public's safety through the reliability of our nation's communications networks at all times, and especially during natural and manmade disasters.
- Appropriate FCC personnel will utilize technical knowledge of public safety, homeland security, and disaster management issues, including the impact of new or evolving technologies and of existing and proposed best practices for communications providers.
- Working in partnership with other federal agencies as well as state, local, and Tribal governments, the FCC will facilitate discussions and share information among key constituencies to identify and establish best practices and coordinate efforts to protect America's safety and security.
- The FCC will maintain an experienced, educated, and knowledgeable technical and legal staff that stays abreast of technological and policy developments.

External Factors Affecting Achievement of This Goal:

- Economic cycles may make it difficult for communications infrastructure providers to commit large sums of money to the wholesale improvement of network protection and redundancy in a challenging economy, and for state and local governments to fund next generation 911 services and public safety broadband capability.
- The FCC must continually update its understanding of national and international threats to communications technologies. The FCC must maintain ongoing, highly integrated relationships with the communications industries, other federal regulators, and state, Tribal, and local regulators who are heavily involved in public safety matters.
- With respect to robocalls, technological challenges, such as Caller ID spoofing, can make it difficult to determine if the caller is a legitimate caller or one who seeks to annoy or defraud consumers.

Strategic Goal 4: Reforming the FCC's Processes

***Vision:** Modernize and streamline the FCC's operations and programs to increase transparency, improve decision-making, build consensus, reduce regulatory burdens, and simplify the public's interactions with the agency.*

Strategic Objective 4.1: Serve the American public by improving the efficiency, effectiveness, and transparency of the FCC's operations.

Performance Goal 4.1.1: Provide information about the status of matters pending before the FCC by developing and posting information online and communicating with stakeholders.

Performance Goal 4.1.2: Ensure that FCC regulations solve real problems at a reasonable cost by implementing the principles of regulation and requirements for regulatory impact analysis articulated in Executive Order 13563 of January 18, 2011 (Improving Regulation and Regulatory Review), and Executive Order 12866 of October 4, 1993 (Regulatory Planning and Review).

Performance Goal 4.1.3: Ensure the Commission's ability to meet its Mission Essential Functions and other critical activities during emergencies and disasters affecting FCC facilities and/or staff.

Performance Goal 4.1.4: For each program objective, ensure that the Commission adheres to all legal requirements in its operations by providing timely and accurate legal advice and representation regarding proposed and existing policies and rules within the FCC's purview.

Strategic Objective 4.2: Achieve statutory objectives while reducing burdens on industry and promoting innovation and job growth by continuously reviewing the FCC's regulatory and operational processes and significant regulations.

Performance Goal 4.2.1: Implement a regulatory reform agenda guided by the principles of Executive Order 13771 of January 30, 2017 (Reducing Regulation and Controlling Regulatory Costs) and Executive Order 13579 of July 11, 2011 (Regulation and Independent Regulatory Agencies) by reviewing existing FCC regulations and eliminating those regulations that fail to solve real problems at a reasonable cost.

Performance Goal 4.2.2: Eliminate reports and related filing requirements that are unnecessary, duplicative, or fail to produce benefits that justify their costs by reviewing the Commission's information collections processes.

Strategic Objective 4.3: Effectively manage and modernize the FCC's information technology, financial, record keeping, facilities and human capital resources to best achieve the FCC's mission.

Performance Goal 4.3.1: Make information readily available to agency management for decision-making by improving Commission systems.

Performance Goal 4.3.2: Carry out the agency's mission by upgrading and enhancing technology and tools used by Commission staff.

Performance Goal 4.3.3: Maintain a high level of cybersecurity readiness and presence by providing FCC staff with a secure digital infrastructure.

Performance Goal 4.3.4: Ensure that all financial operations are helping control or contain costs, providing high quality customer service, and improving the effectiveness and efficiency of Commission operations by conducting a program of continuous review and evaluation.

Performance Goal 4.3.5: Expand the role of economics and engineering at the FCC by developing workforce recruitment initiatives.

Strategic Objective 4.4: Ensure that the Universal Service Fund programs are well managed, efficient and fiscally responsible and reduce fraud, waste, and abuse.

Performance Goal 4.4.1: Reduce the potential for fraud, waste, and abuse in the USF programs.

Performance Goal 4.4.2: Ensure that the USF programs are administered efficiently and effectively by reviewing the administrative costs of the programs.

Strategies:

- The FCC will implement policies to increase transparency and public information concerning matters before the Commission to promote accountability and effectiveness and will use its website to convey this information to the public.
- The FCC will adopt procedures for economic analysis of prospective new regulations that reflect longstanding principles articulated in executive orders and Office of Management Budget guidance.
- The FCC's efforts to identify, review, and eliminate outdated regulations are rooted in our commitment that FCC rules and policies promote innovation and job growth, while reducing burdens on industry. This includes our commitment to Executive Orders 13771, 13579, 13563, and 12866, which are consistent with the values and philosophy we apply at the FCC. Each Bureau at the FCC conducts regular reviews of rules within its area with the goal of eliminating or revising rules that are outdated or place needless burdens on businesses. The FCC will continue on this regulatory reform track, using effective cost-benefit analysis, thoughtfully and diligently conducting reviews of existing rules and taking other important steps to meet our statutory obligations and mission in a way that fosters economic growth and benefits all Americans.
- The FCC will promote innovation, job growth, and consumer welfare through an ongoing process of identifying and eliminating or amending rules that fail to solve real problems at reasonable cost.
- The FCC will put processes in place that provide for timely introduction, upgrade, or replacement of technologies and identify ways to leverage and integrate technology to eliminate unnecessary redundancy, and promote efficiency and effectiveness while maintaining continued adherence to a high level of information security standards.
- The FCC will routinely assess our financial internal controls and those of our reporting components, and develop and implement corrective action plans as needed so that the FCC obtains "clean" audit opinions on its financial statements each year. We will also continue to make progress in eliminating and recovering improper payments.
- The FCC will continue to recruit and retain talented professionals, and will continue a robust training program to maintain proficiency among its professional staff.

- The FCC will continue to establish improved oversight and robust internal controls for its Universal Service Fund programs to improve management of those programs and reduce fraud, waste, and abuse.
- The FCC will establish an Office of Economics and Data to provide economic analysis for rulemakings, transactions, and actions, managing the Commission's data resources, and conducting longer-term research on ways to improve the Commission's policies.

External Factors Affecting Achievement of Management Objectives:

- Funding for the FCC to carry out its mission is always a significant determinant of our ability to meet our strategic goals and objectives as expressed in this plan. The FCC relies on its annual appropriations and its authorization from Congress to implement its initiatives for the American people, overhaul its data systems and processes, and modernize and reform the FCC with 21st century communications tools and expertise.
- The FCC has many opportunities to improve customer and employee satisfaction and affect mission accomplishment through the introduction of new or enhanced systems and processes. Ensuring that the FCC has access to the human resources necessary to properly plan, implement, and evaluate the use of these technologies is a complementary factor affecting the achievement of the FCC's organizational excellence goal. Recruiting, hiring, redeploying, training, motivating, and retaining such a staff is a challenge

FCC Workforce Profile as of September 13, 2020

Total Workforce Onboard Count

	Total Staff	%
01-Office of Chairman/Commissioners (OCH/COMM)	25	1.7%
02-Office of Inspector General (OIG)	48	3.2%
04-Office of Communications Business Opportunity (OCBO)	10	0.7%
05-Office of Workplace Diversity (OWD)	5	0.3%
07-Office of Legislative Affairs (OLA)	7	0.5%
08-International Bureau (IB)	86	5.8%
09-Office of Administrative Law Judges (ALJ)	4	0.3%
11-Office of Managing Director (OMD)	183	12.3%
13-Office of Engineering/Technology (OET)	77	5.2%
14-Office of General Counsel (OGC)	76	5.1%
20-Wireless Telecommunications Bureau (WTB)	148	10.0%
22-Office of Media Relations (OMR)	12	0.8%
24-Enforcement Bureau (EB)	190	12.8%
40-Wireline Competition Bureau (WCB)	157	10.6%
41-Media Bureau (MB)	135	9.1%
42-Consumer & Gov't Affairs Bureau (CGB)	117	7.9%
43-Public Safety & Homeland Security (PSHS)	98	6.6%
44-Office of Economics & Analytics (OEA)	109	7.3%
Grand Total	1,487	100.0%

Basic Demographics

Average Age	50.23
Average FCC Tenure	15.44
Average Fed Tenure	18.68
Percentage of Full-time Staff	98.9%
Percentage of Permanent Staff	97.0%
Supervisory Ratio	1: 4

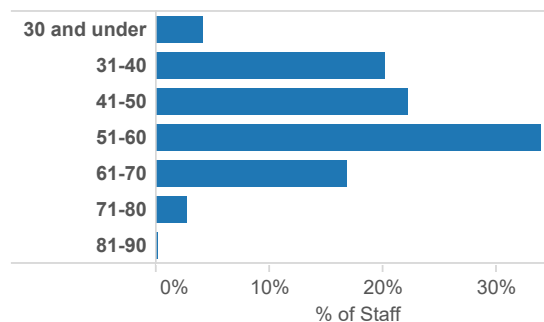
Salary

Grade Distribution

GS-1-4	0.3%
GS-5-8	3.0%
GS9-13	28.4%
GS14-15	64.0%
Executive & SL	4.3%

Average Salary
\$143,496

Age Cohort



Mission Critical Occupations (MCOs)

Series	Total Staff
110 - Economists	63
855 - Engineers	205
905 - Attorneys	596

Diversity Representation

RNO/Ethnicity

Minority	39.5%
Non-minority	60.5%

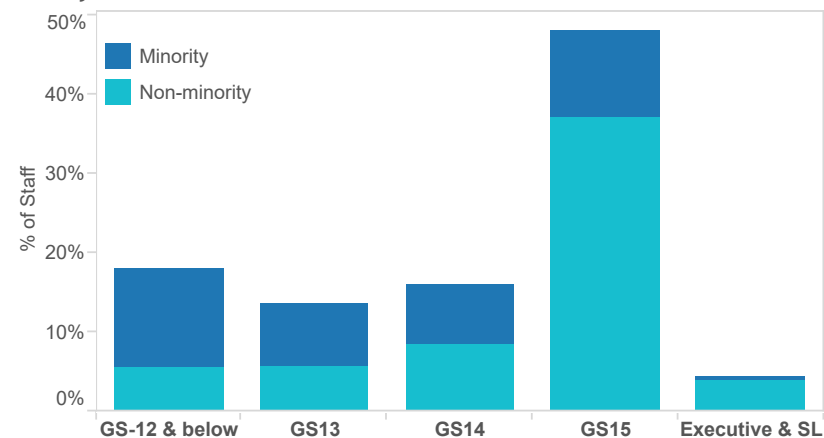
Gender

Female	49.5%
Male	50.5%

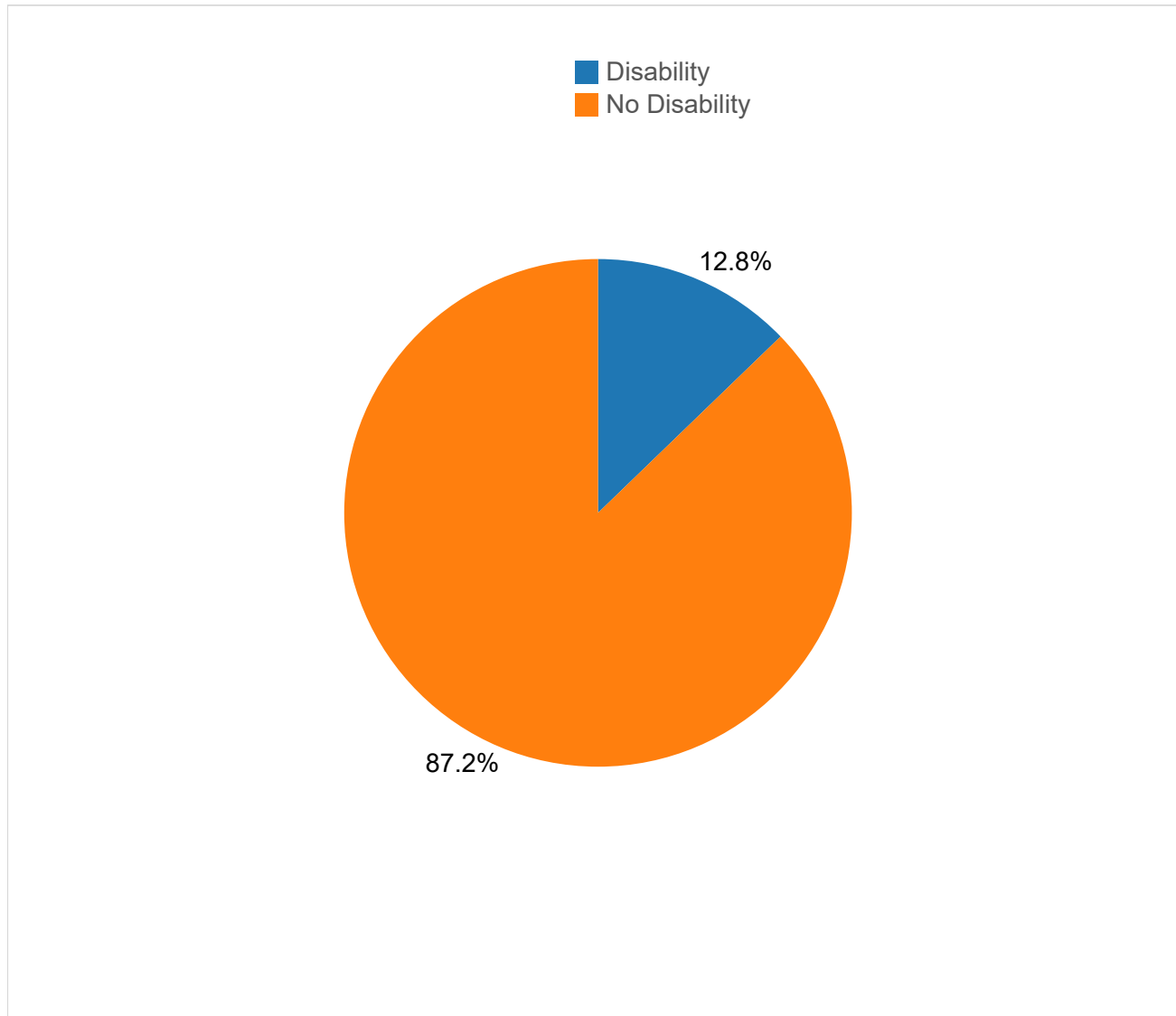
Disability Status

Disability not listed	1.1%
Disability not identified	3.5%
Targeted Disability	3.1%
Non-targeted Disability	5.0%
No disability	87.2%

RNO by Grade

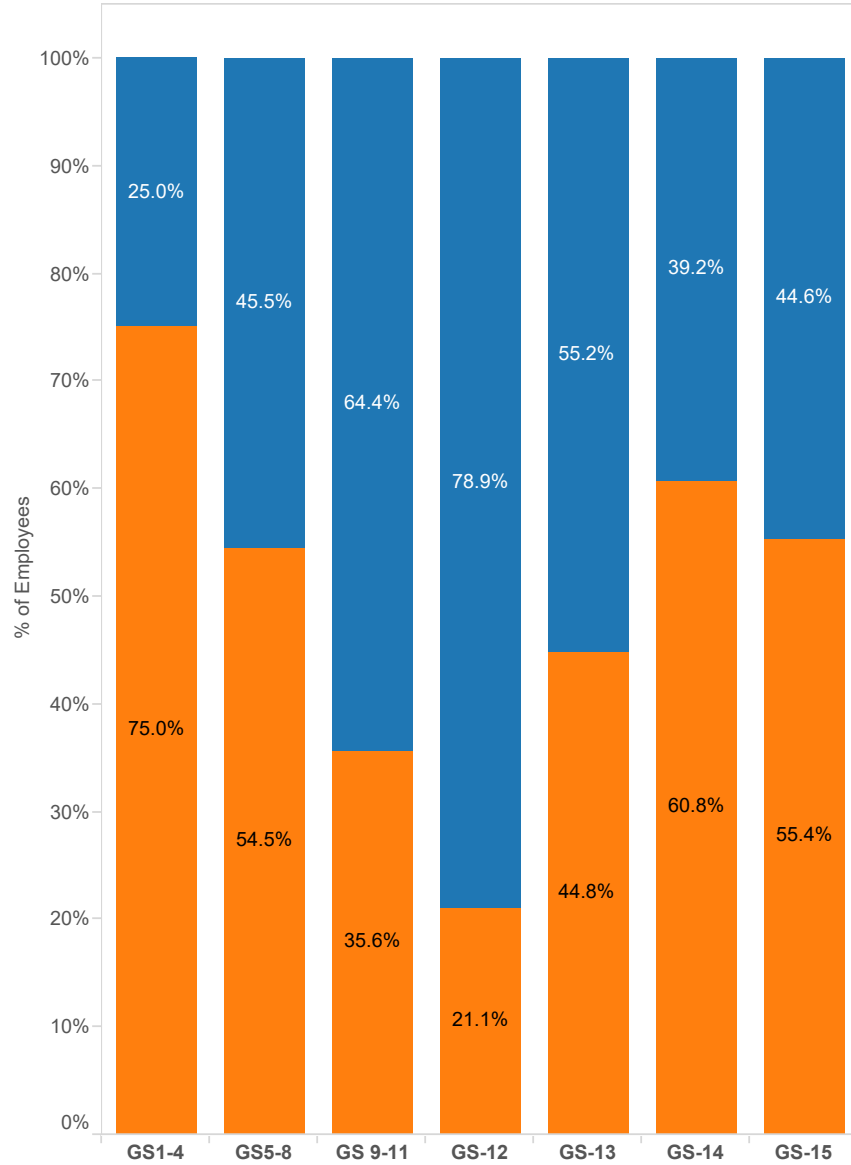


FCC Employees by Disability Status
As of September 13, 2020



Figures do not include students or interns.
Disability category includes "Disability not identified", "Disability not listed", "Non-targeted disability" and "Targeted disability"

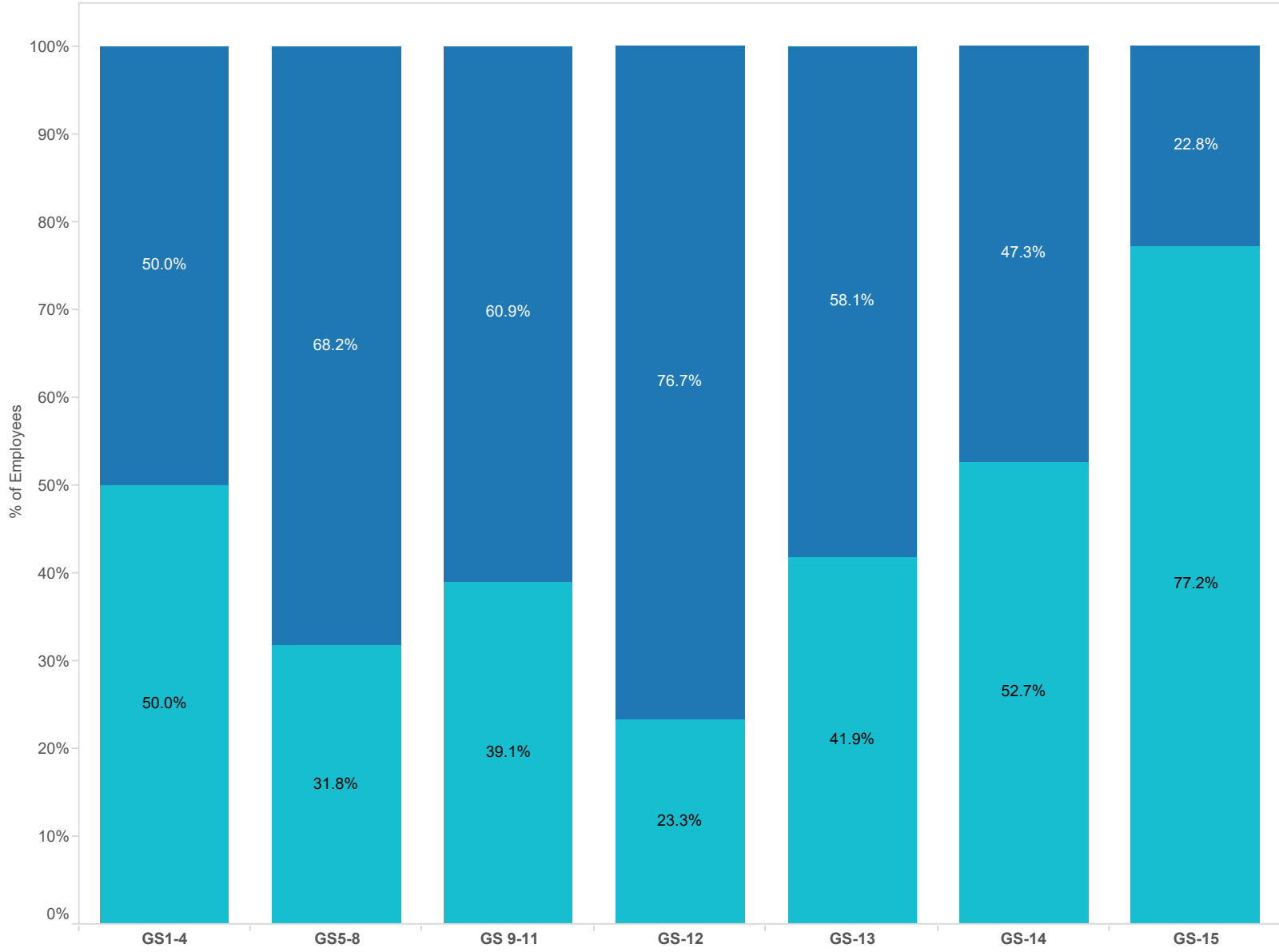
FCC Employees by Gender & Grade (GS 1-15) As of September 13, 2020



Gender
■ Female
■ Male

Figures do not include students or interns.

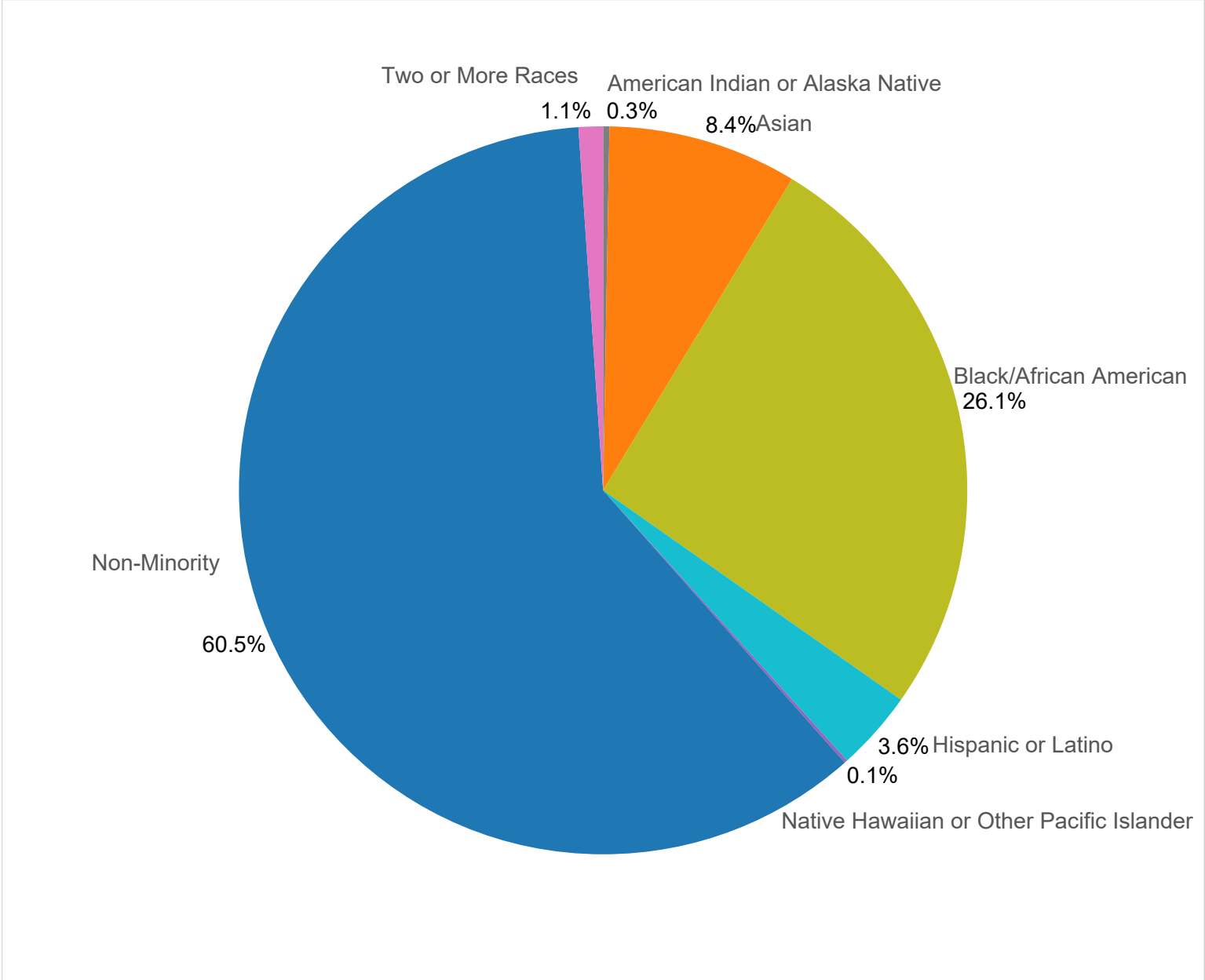
FCC Employment by Race/National Origin & Grade (GS 1-15)
As of September 13, 2020



Race/National Origin
■ Minority ■ Non-minority

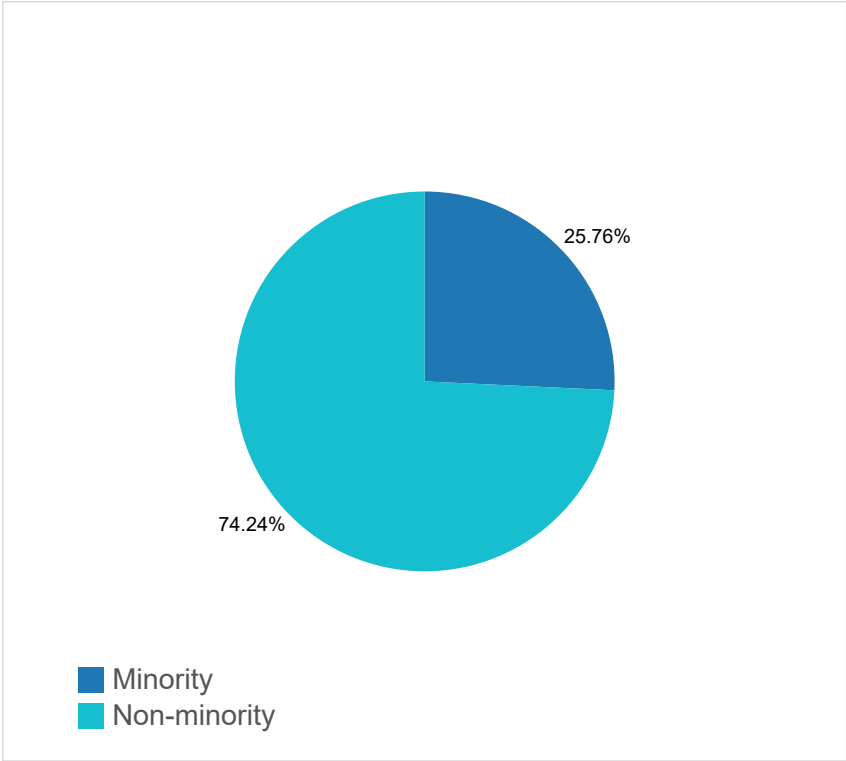
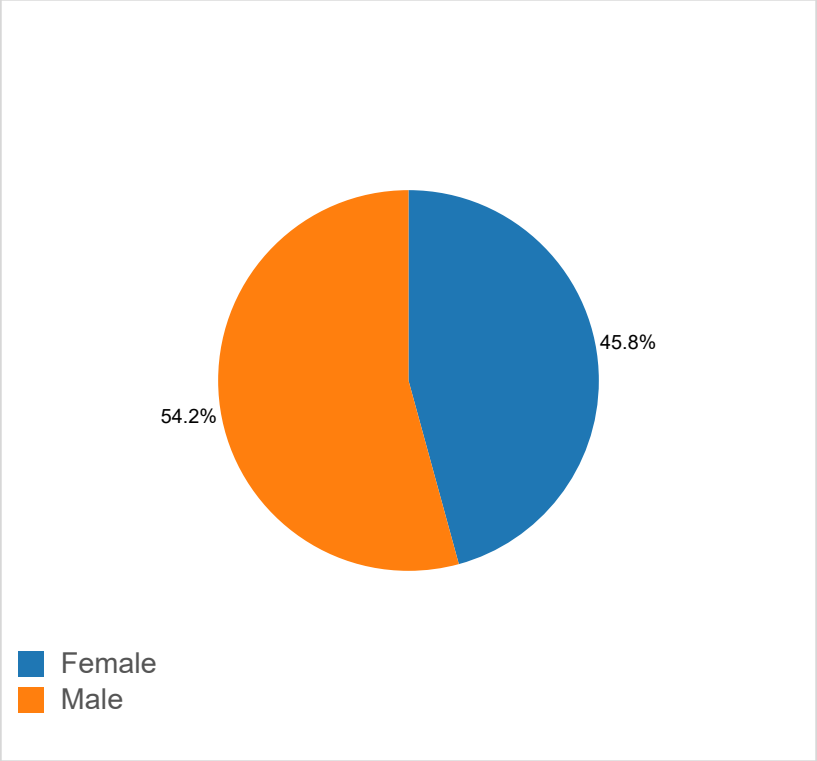
Figures do not include students or interns.

FCC Employment by Race & National Origin
As of September 13, 2020



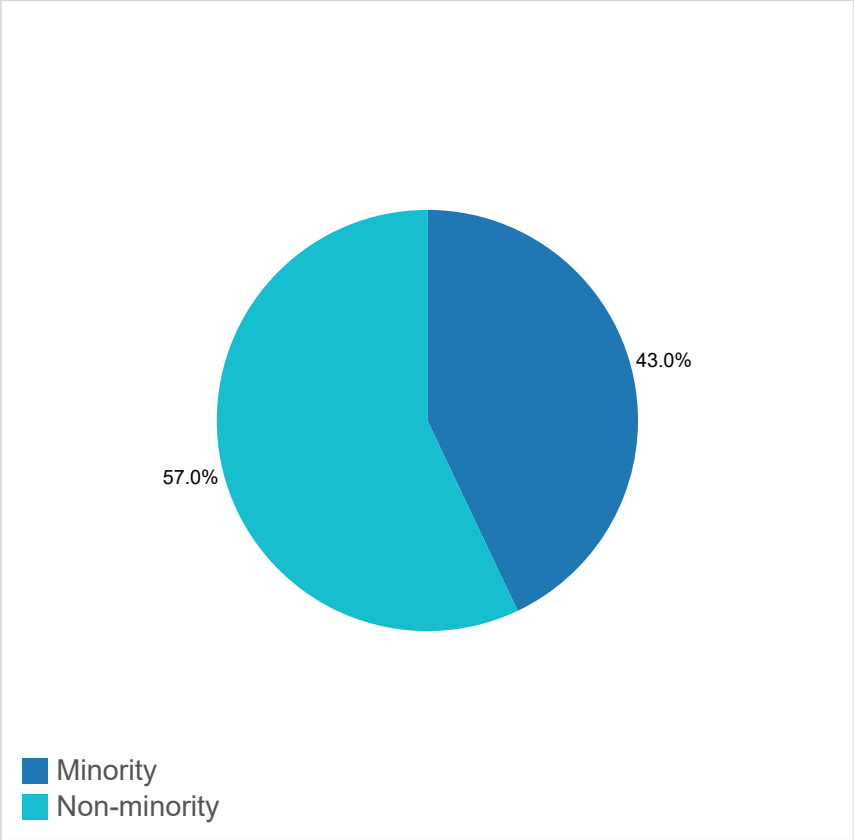
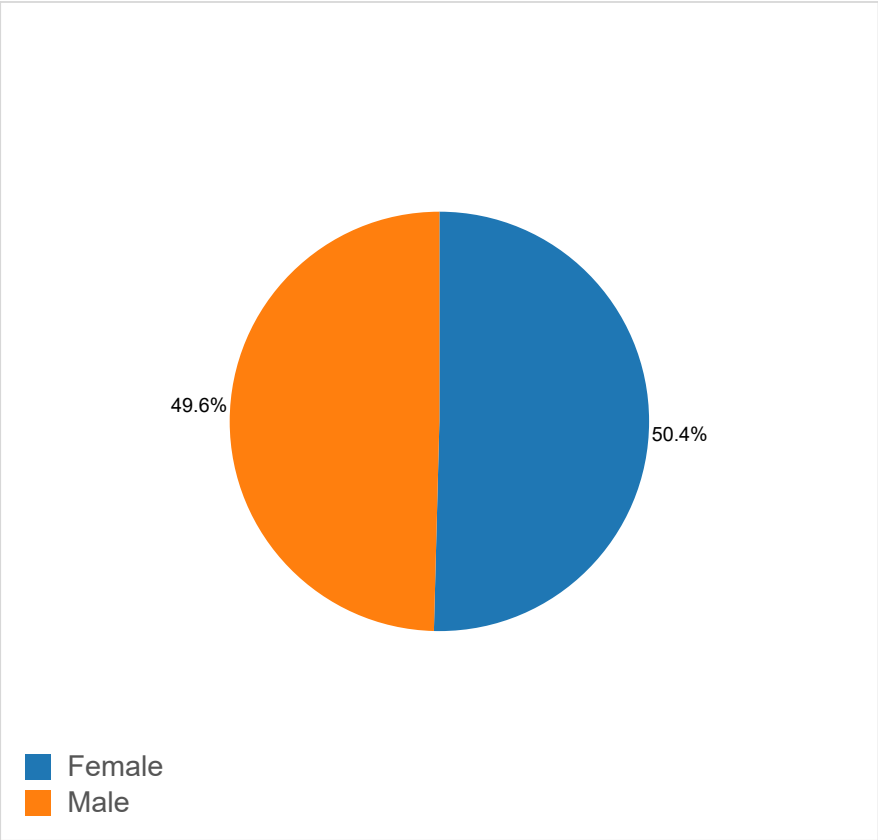
Figures do not include students or interns.

FCC Employment
Supervisors by Race/National Origin & Gender
As of September 13, 2020



Figures do not include students or interns.

FCC Employment
Non-Supervisors by Race/National Origin & Gender
As of September 13, 2020

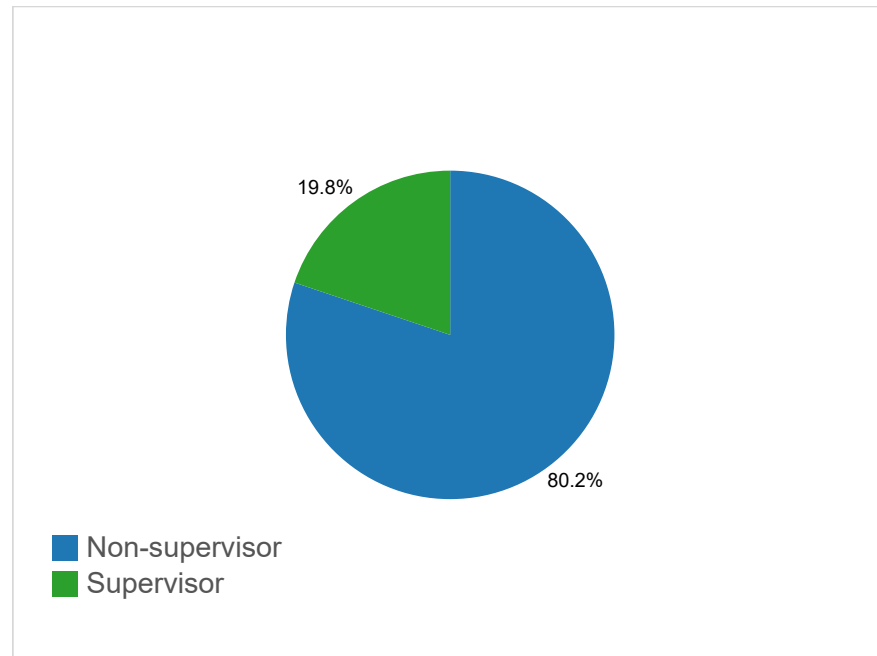


Figures do not include students or interns.

FCC Employment
Headquarters & Field Positions
As of September 13, 2020

HQ-Field	Total Staff	% of Staff
Columbia, MD	33	2.2%
EB Field Offices	48	3.2%
Gettysburg, PA	57	3.8%
Washington, DC	1,349	90.7%
Grand Total	1,487	100.0%

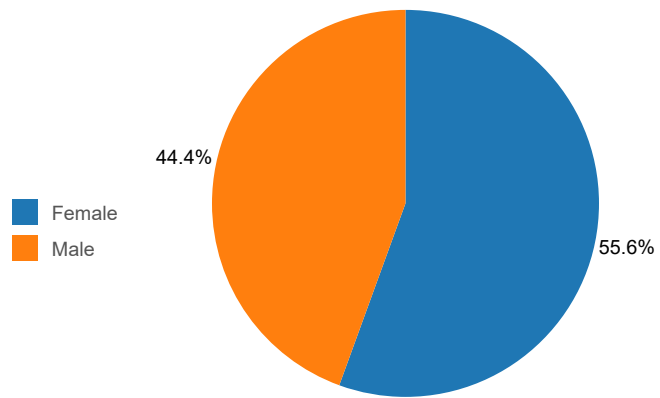
FCC Employment
by Supervisory Status
As of September 13, 2020



Figures do not include students or interns.

Senior Executive Service As of September 13, 2020

FCC Employment Senior Executive Service by Gender



FCC Employment Senior Executive Service by Race/National Origin

