

# Communications Daily

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**Starks Vote?**

**8th Floor Expected to Get Array of Proposed C-Band Plan Stakeholder Asks**

The FCC is likely to face a variety of suggested changes to its C-band clearing and auction order on the February agenda (see [2002050057](#)), including arguments for limits on spectrum aggregation and trying to ensure earth station repacking isn’t done in a slapdash fashion, we are told. Chairman Ajit Pai has support of the two Republican commissioners. Democrat Jessica Rosenworcel, a critic of the band plan, is seen as a likely no vote, but fellow Democrat Commissioner Geoffrey Starks may be undecided.

The draft takes a pass on spectrum aggregation limits. It [says](#) putting limits on the amount of spectrum one party could acquire might unnecessarily restrict providers’ ability to participate in the auction. It would have the 280 MHz licensed in 20-MHz “sub-blocks,” arguing that size gives enough flexibility for bidders.

A wireless industry lawyer said that beyond seeking aggregation limits, some in the industry might push for 10 MHz channels. A cable lawyer said there are earth station concerns that the proceeding focuses on speed of clearing the spectrum, perhaps to the detriment of guaranteeing that clearing work is done in a way that protects incumbents. Nothing in the draft order addresses doing the earth station repacking work well, he said.

The FCC “will endeavor to keep members and staff of the Senate and House Appropriations and Commerce Committees apprised of our progress” in planning the C-band auction “in a timely” manner, Pai wrote Senate Appropriations Financial Services Subcommittee Chairman John Kennedy, R-La., in a [letter](#) released Friday. Kennedy pressed Pai in January to keep the senator fully informed of the commission’s planning for the auction, including how it wanted to compensate satellite incumbents on the C band (see [2001140033](#)).

The draft C-band order and auction procedures public notice commissioners will vote on Feb. 28 are “a critical procedural step toward a 2020 auction, and ultimately toward” repurposing the C-band “spec-

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trum so that it can be used to provide next-generation wireless services to the American people,” Pai said. Kennedy has since vocally opposed Pai’s proposed \$15 billion allocation of sale proceeds for relocation and incentive payments. The senator said Thursday he wants to meet again with or talk to President Donald Trump about the direction of the auction plans, despite endorsements of Pai’s proposal from Vice President Mike Pence and National Economic Council Director Larry Kudlow (see [2002130053](#)).

Senate Minority Leader Chuck Schumer, D-N.Y., signed on Thursday as a co-sponsor of Kennedy’s C-band-centric Spectrum Management And Reallocation for Taxpayers (Smart) Act. [S-3246](#) would set aside some sale proceeds for relocation, incentive and U.S. Treasury payments. It would reserve the bulk of the money for rural broadband and next-generation 911. Senate Commerce Committee ranking member Maria Cantwell, D-Wash., and Communications Subcommittee ranking member Brian Schatz, D-Hawaii, are also co-sponsoring the measure (see [2001280041](#)).

The C-band plan got numerous industry plaudits. They reflected general acceptance of the plan framework, and there’s wiggle room on issues like satellite spectrum for backhaul, said Public Knowledge Senior Vice President Harold Feld. He expects money negotiations about how compensation for expenses will work, with satellite operators wanting maximum flexibility on what expenses are eligible for compensation, and wireless interests will want some control of those costs and certitude about how much they’re bidding at the time of the auction.

A satellite industry executive said earth station operators may push to reopen the FCC’s database for another attempt at making sure as many incumbents as possible are registered, since only registered earth stations get reimbursed, saying many remain unregistered. Discussions are possible about the timing of the September 2021 deadline, such as the need to start clearing antennas almost immediately to meet that deadline, and about some terms and conditions for clearing, like paragraphs 173-174 and 262-265, she said. There could be programmers upset over the five-year sunset of the band instead of the seven to 10 years that has been more traditional with the FCC, she said.

Eutelsat, in meetings with aides to Chairman Ajit Pai and other commissioners, in a docket 18-122 posting Friday, [said](#) it has “great concern” about the accelerated relocation payment plan. The company said it should be allocated based on a satellite operator’s relative proportions of stranded capacity so as not to “fundamentally alter the competitive landscape of the satellite service sector.”

The draft order is legally flawed, ABS CEO James Frownfelter told Commissioners Brendan Carr, Rosenworcel and Starks. Absent that, small satellite operator Hispasat should be eligible for relocation costs and accelerated relocation payments because it has at least nine earth stations in the U.S., serving a customer who didn’t register those earth stations with the agency, he [said](#). He said the FCC should reimburse incumbent satellite operators for recently constructed facilities that won’t have comparable use after the transition, for example ABS’ ABS-3 satellite that got U.S. market access approval just months before the FCC froze new C-band applications, forestalling ABS from getting customers.

NAB, Disney, Fox, ViacomCBS and Discovery, meeting with aides to Pai, Starks, Rosenworcel and Commissioner Mike O’Rielly, urged that the order explicitly say satellite operators are obliged to preserve C-band broadcast service and that such preservation should be part of the definition of a successful transition. “Satellite companies should be held to the commitments made to their customers throughout the course of this proceeding,” the programmers [said](#). That includes satellite customers getting to comment on each satcom operator’s transition plan before the agency OKs it, and the FCC getting information from

stakeholders beyond satcom operators to confirm the transition was successfully completed, they said. They said the FCC created “a hazardous set of incentives” for satcom operators that makes meeting deadlines the primary obligation, and suggested a sliding scale alternative where acceleration payments decrease over time and extensions of the final clearing deadline in the event of external delays.

Lobbying was notably light in the docket in the days after the draft order was issued, though that will change, predicted Kelley Drye communications lawyers Chip Yorkgitis and Josh Guyan in a [podcast](#) Thursday. They said the issue of whether limiting fixed satellite service operators to just the upper 200 MHz of the band would constitute a modification of FSS licenses or a fundamental change could still be an issue lobbied over and even subject of litigation. There could be lobbying over how incumbent earth station operators are reimbursed, they said.

A party in the C-band proceeding told us many are upset at the large size of the incentive payments and that there might not be enough time to pass legislation ensuring auction proceeds get directed toward such needs as rural broadband infrastructure and public safety. He said multiple potential bidders would have liked lower incentive payments because a mandate for \$14.7 billion outside the auction could jack up overall costs. — *Matt Daneman and Jimm Phillips*

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**Road Map for Monopolists?**

**Experts Weigh Coming 9th Circuit Chip Monopoly Decision**

SAN FRANCISCO—Observers are split on whether the 9th U.S. Circuit Court of Appeals will side with the FTC or Qualcomm in a key tech antitrust decision expected in the coming months (see [2002130058](#)). Qualcomm, Intel, Ericsson and Samsung didn’t comment Friday, after the previous day’s oral [argument](#). We interviewed experts following oral argument.

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Public Knowledge backed the FTC, while an analyst said two of the three judges appeared highly skeptical of the agency's case. An R Street Institute expert said if the court sides with Qualcomm, it offers a road map for monopolists to overcharge consumers by using questionable patent licensing practices.

Based on Qualcomm's licensing structure, Apple must pay Qualcomm to use chips from a rival like Intel, said Public Knowledge Legal Director John Bergmayer. That "obviously means Qualcomm can always make it so Intel is not truly competitive," Bergmayer said. This echoes the heart of the FTC's argument, said Constantine Cannon antitrust attorney Ankur Kapoor.

The three-judge panel questioned whether the case would be best resolved through antitrust, patent or contract law. Judge Consuelo Callahan seemed most skeptical of the FTC's argument, said Financial Research CEO Michael Cohen. Judge Stephen Murphy was tougher to read, Cohen said, but Judge Johnnie Rawlinson also seemed skeptical of FTC arguments.

Rawlinson asked FTC counsel what case law the agency has to defend itself if the 9th Circuit disagrees with its assertions about *Caldera v. Microsoft*, a case Microsoft settled after being accused of exclusionary licensing. The FTC argued Qualcomm is requiring a similar surcharge. "Qualcomm's effort to camouflage its surcharge as a patent royalty does not materially alter the straightforward antitrust analysis," the FTC argued in November.

Rawlinson noted the Supreme Court asked the 9th Circuit to focus on competition, not competitors. The nature of business is to make it more difficult for your competitors, Rawlinson said.

Qualcomm made its patent essential through standard setting and made a commitment to license its patent to anyone through fair, reasonable and nondiscriminatory (FRAND) terms, said Bergmayer. But Qualcomm has selectively chosen not to license its patent, most notably for competitors like Intel, he said: "You can't just say we're not going to license it to our competitor. That's a flat antitrust violation, and the FTC agreed, and the district court agreed."

The FTC offered a concession Thursday. U.S. District Judge Lucy Koh's assertion that Qualcomm has a duty to deal was incorrect, said FTC attorney Brian Fletcher. That was the most vulnerable aspect of Koh's opinion, said University of Minnesota Law School professor Thomas Cotter, but the FTC claims its argument can stand without the duty to deal.

In antitrust, duty to deal only applies in narrow circumstances. But Kapoor said he was surprised the FTC offered the concession, which wasn't included in the agency's brief.

The panel seemed to lean toward Qualcomm for the first 40 minutes, but then it questioned why original equipment manufacturers like Apple have to pay Qualcomm no matter what, given Qualcomm's licensing, Kapoor said: "That seemed to give the panel some pause." It will come down to whether the panel recognizes case law outside the 9th Circuit, he said. There's case law that says if a monopolist violates contractual obligations, that can form the basis of an antitrust claim. The decision will hinge on whether the panel believes a FRAND commitment breach can give rise to a competition violation, he said.

Charging a royalty that exceeds the FRAND commitment potentially enables Qualcomm to put its rivals at a disadvantage, said Cotter. Callahan seemed more skeptical of the FTC's argument, but the other two jurists were more difficult to read, said Cotter. Discussing Murphy's question about whether this is more a contract issue, Cotter said a contract violation can be a pattern of conduct that amounts to an antitrust violation.

The R Street Institute filed a brief in favor of the FTC. The court rightly seemed to dismiss DOJ's argument Thursday that antitrust enforcement could harm national security, since Qualcomm is competing with China for 5G, said R Street Director-Technology and Innovation Charles Duan, who helped write the [brief](#). The U.S. protecting individual companies in the name of national security is contrary to capitalism, he said: Having more competition leads to more innovation and greater security. — *Karl Herchenroeder*

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## SCOTUS Appeal Extended

### **FCC Broadcast Ownership Report Uses Old Data, Say Starks and Others**

The FCC's latest broadcast ownership data shows falling minority and female ownership in 2017 and is already 3 years old, said Commissioner Geoffrey Starks and groups opposed to media consolidation, about Friday's [report](#). "To effectively address the lack of media ownership diversity, we cannot use stale data and must get better at assessing the extent of the problem in a timely manner," Starks [said](#). "While supposedly the FCC improved data collection in 2016, the data released today is from 2017," said Cheryl Leanza, the United Church of Christ Communications Office attorney who successfully represented Prometheus Radio Project and other petitioners before the 3rd U.S. Circuit Court of Appeals in the most recent FCC media ownership case. The data "is out of date upon release," Leanza said.

The FCC is expected to appeal the 3rd Circuit decision to the U.S. Supreme Court (see [2001300042](#)). Justice Samuel Alito granted U.S. Solicitor General Noel Francisco an extension Wednesday until March 19 to petition for certiorari. "The Solicitor General has not yet determined whether to file a petition for a writ of certiorari," said the extension [request](#). "The additional time sought in this application is needed to continue consultation with the Commission and with other components of the Department of Justice." Former FCC Commissioner Robert McDowell tweeted Friday blasting the 3rd Circuit's decision and backing an appeal. "I hope the FCC & @TheJusticeDept appeal the 3rd Cir's miscarriage to @Scotus. #freedom," he [said](#).

The volume of information collected from 2017 "was approximately twice the size" of prior years because it included noncommercial stations for the first time, an FCC spokesperson emailed. That complicated the agency's task, the spokesperson said. The agency has taken "decisive action" under Chairman Ajit Pai to promote broadcast ownership diversity by creating an incubator program subsequently struck down by the 3rd Circuit, said the spokesperson: "It's extremely unfortunate that the Third Circuit vacated that program without any explanation." The agency has improved the compilation of the 2017 data, upgrading the ownership forms and the license and management system to "ensure the efficient operation of the recently concluded 2019 filing window," the spokesperson said.

"The time that it has taken to generate a report that shows the downward spiral in diverse media ownership is not surprising," emailed Nicol Turner-Lee, a fellow at the Center for Technological Innovation and a member of the FCC Advisory Committee on Diversity and Digital Empowerment. "We live in a period where embracing the range of voices from people of color is not on anyone's priority list." When diverse voices aren't represented in media, "people of color lose and so does all of society who will never benefit from hearing their perspectives," she said.

The data tally is collected from Form 323 ownership filings submitted by licensees. "Results ultimately rely on the accuracy and completeness of those filings," the document said. The data in the report

depicts broadcast ownership as of Oct. 1, 2017, while the last report's filing cycle ended in 2015. "The FCC just finished collecting the most recent data from 2019 a few weeks ago," Leanza said.

The Multicultural Media, Telecom and Internet Council, League of United Latin American Citizens and National Association of Black Owned Broadcasters didn't comment.

The details show "no minority group is better off" on ownership of full-power broadcast stations than it was in 2015, Starks said. African Americans owned 12 full-power stations in 2015, and the same in 2017, Starks said, calling the lack of change "striking—but not surprising." The report shows ownership of full-power stations declining to 5.3 percent for women, from 7.4 percent in 2015, and to 4.2 percent, from 4.3 percent in 2015, for Latinos. African Americans owned less than 1 percent of full-power broadcast stations in both the 2015 and 2017 reports. "An anemic figure," Starks said.

"The FCC's own report shows what happens when this issue is neglected year after year," [said](#) Free Press Policy Manager Dana Floberg. "The Trump FCC has shown a profound indifference to this issue." A lack of ownership diversity in broadcasting is important because the medium reaches nearly 90 percent of people in the U.S., Floberg said. "We need comprehensive reforms to remedy the historical discrimination that continues to block women and people of color from becoming station owners."

NAB "is committed to broadcast ownership diversity for women and people of color," emailed a spokesperson, citing the trade group's broadcast leadership training program. "We also support legislation reinstating the minority tax certificate program that fostered a 550 percent increase in minority owners of broadcast stations," the spokesperson said. "Our goal is to have broadcast station owners better reflect the changing demographics of America."

The lack of improvement in ownership diversity shows the agency should follow the 3rd Circuit's directive to collect data on effects of ownership rules, Starks said: "We have much work to do. It starts with us fulfilling our direct order from the Third Circuit to implement a data program that would help understand the impact of our regulatory efforts." — *Monty Tayloe*

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## **28 State Laws**

### **Road to More State Small-Cells Laws May Toughen as Industry Pushes**

The wireless industry is making another push for small-cells laws, after 28 states and Puerto Rico enacted them over the past four years. Remaining states should "take notice that they might be left behind if they don't get with the program," though the wireless industry's goal isn't all 50, said Wireless Infrastructure Association CEO Jonathan Adelstein in an interview. Representing skeptical municipalities, NATOA General Counsel Nancy Werner told us she thinks industry will have a harder time persuading remaining states because such laws aren't proven to drive deployment.

Legislatures weighing small-cells bills this year include Alabama's ([SB-172](#)), New Jersey ([AB-1116](#), [SB-860](#)), New York ([A-9508](#), [S-7508](#)), Pennsylvania ([HB-1400](#)), and South Carolina ([HB-4262](#)). Bills to extend sunsets on existing laws are in Iowa ([HF-2213](#), [SF-2196](#)), Vermont ([HB-682](#)) and Missouri ([HB-2182](#)).

“There’s not enough cap-ex to go around everywhere,” so states without laws should lower local barriers to deployment, said Adelstein. Laws may not be needed in all 50 states, as some “are easier than others to deploy in already.” Extending sunsets on existing state laws should be easy “because we have a track record now showing that the bills are not really causing problems that ... alarmists said [they] would,” he said.

The FCC is defending federal wireless infrastructure rules from local and others’ lawsuits at the 9th Circuit U.S. Court of Appeals (see [2002100054](#)). In oral argument last Monday, state bills and laws came up. Werner wondered if industry is still pushing for state laws “because they aren’t sure the FCC rules are going to withstand the challenge in the 9th Circuit.” Adelstein countered that “the FCC has helped enormously in setting the stage for national deployment, but there are limits on what they can do and I think it’s important for states to back that up.”

States that have avoided laws are running into problems, claimed Adelstein. California’s then-Gov. Jerry Brown (D) vetoed a bill in 2017 and the state is “now paying the price,” said the WIA head. “I was out in a fairly dense, suburban, populated area in Marin County—I couldn’t get a signal.” New Orleans hurt itself when it rejected a proposal that would have brought 500 small-cell nodes to the city, he said. The city later approved a deal after “major delay and hassle,” but “there was only enough money left to do 200 nodes,” Adelstein said. New Orleans didn’t comment.

Werner disagreed that pre-emption drives deployment. “The industry is going to deploy where it makes sense for them to deploy.” Neither FCC rules nor state laws “changed that equation,” she said. Big cities were already going to get 5G, and the state laws aren’t bringing fifth-generation wireless to smaller communities “where there were no plans to deploy anyway,” she said.

## Roadblocks

Some states in this year’s batch aren’t fresh. Pennsylvania legislators failed to pass a bill the past three sessions and municipalities remain strongly opposed (see [2001140055](#)). Passing New York’s measure could be complicated by slotting it into the governor’s proposed budget next to many other measures, including net neutrality rules that industry opposed in states (see [2002130011](#) and [2001230043](#)).

Enacting South Carolina’s bill is no sure thing even though it already passed the House and municipalities are neutral, emailed Municipal Association of South Carolina Director-Advocacy Scott Slatton. “It still has a way to go before passage.”

Cities negotiated with AT&T and other telecom companies to preserve local authority over aesthetics in historic and redevelopment districts and certain other areas requiring higher levels of review, Slatton said. After House passage, Myrtle Beach negotiated further revisions, he said. That city and AT&T testified at a Senate Judiciary subcommittee hearing about two weeks ago, but the subcommittee gave more time to work out final details, he said. If South Carolina’s bill gets to the Senate floor, “it and many other bills could fall prey to the rapidly approaching end of the session in early May and the gridlock currently gripping our Senate,” Slatton said.

Alabama proposed a small-cells bill Tuesday. It appeared at a Senate committee hearing the next day but was carried over for a week, emailed Alabama League of Municipalities Executive Director Ken Smith. Three states bordering Alabama have small-cells laws.



Localities oppose the proposal “because of the negative impact it has on municipal right of way authority,” Smith said. Sponsor Sen. Arthur Orr (R) didn’t comment. Smith’s group, he said, recognizes “the need to work with industry to help with the deployment of 5G technology, but it should not come at the expense of protection of the public’s rights of way.” — *Adam Bender*

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## Comm Daily® Notebook

### Industry Addressing Confusion on Kari’s Law Implementation

Telecom carriers and equipment vendors are addressing confusion over who must comply with Kari’s Law [rules](#) that were to take effect Monday (see [1802160032](#)). The law requires multi-line telephone systems to give direct access to 911 without the need to dial a prefix. The MLTS must notify a representative, such as the front desk or security, once 911 is dialed. “This is a reminder to building managers and others responsible for multi-line telephone systems that they must adhere to the new requirements,” FCC Chairman Ajit Pai [said](#) Friday. “There’s some confusion for enterprise customers,” said Tricia McConnell, Bandwidth 911 product marketing manager. “They’re responsible for compliance, but they don’t know what compliance means.” MLTS managers such as hotels and corporate campuses must ensure someone on site or monitoring operations there knows when a 911 call has been placed, to greet first responders and direct them to where the call originated. In a large complex, building security might also provide preliminary assistance to the caller before first responders arrive, McConnell said. Outbound emergency calls can’t be screened by building security before they’re sent to 911 operators, however, McConnell said. In the past, some hotels might have screened such calls to protect employees or for fear of misdials, she said, but as of the compliance date, “that’s no longer acceptable.” As the compliance date approached, carriers “focused on helping their customers provision these MLTS with the direct-dialing and notification capabilities required,” emailed Incompas Policy Adviser Chris Shipley. “They are also working with their enterprise and business customers to clearly identify who is responsible for the system’s day-to-day management and operation, particularly with larger companies that are interested in exercising greater control.” Requirements also apply to government agencies and nonprofits using MLTS, and to cloud-based and VoIP and traditional circuit-based systems, Hogan Lovells [blogged](#) Feb. 10: MLTS operating before the compliance deadline don’t need to meet the new rules unless they’re modified after the compliance date. Most business customers aren’t looking to meet only minimum standards, McConnell said. Recent talks about Kari’s Law are driving meaningful conversations on how organizations respond in an emergency, she said. Some larger companies may consider coming into compliance sooner than required under the law because “no company wants to be outed on social media for restricting access to 911,” McConnell said. There are other E-911 laws in roughly half the states, McConnell said: Bandwidth is pushing for a federal law. —*MH*

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### Correction

The state that Sen. John Kennedy (R) represents is Louisiana (see [2002130053](#)).

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## Capitol Hill

### Free-Marketers Support FCC 6 GHz Sharing NPRM; WISPA Criticizes CTIA Licensing Push

The Center for Individual Freedom, Taxpayers Protection Alliance and eight other free-market groups wrote the FCC Friday in support of the NPRM to allow sharing the 6 GHz band for Wi-Fi and other unlicensed uses (see [1810230038](#)). The proposal “would enable massive technological innovation by designating a highly underutilized portion of radio spectrum for wider and more efficient use,” the groups said in a [letter](#) to Chairman Ajit Pai. Utilities and some others are “claiming that shared use of the spectrum will lead to harmful interference, and are conjuring up extreme hypothetical examples,” but “there are too many benefits to opening up this valuable spectrum to take these extreme warnings at face value.” Also signing were Consumer Action for a Strong Economy, Discovery Institute, Innovation Defense Foundation, Innovation Economy Institute, Institute for Liberty, Institute for Policy Innovation, Less Government and the Market Institute. “More unlicensed spectrum for next-generation Wi-Fi would deliver faster speeds ... and be a bridge to the next generation” of IoT, augmented reality and virtual reality devices for consumers, the groups said. It “can help break down digital divides.” Though “some incumbent users of the 6 GHz spectrum paint a bleak and fearsome picture of sharing this spectrum, technology already successfully in use can enable coexistence,” the groups said. Reps. Jerry McNerney, D-Calif., and Morgan Griffith, R-Va., supported the NPRM last week, as did tech companies (see [2002120055](#)). The Wireless ISP Association [opposed](#) CTIA’s continued push for the FCC to allocate the band’s upper part for exclusive-use licenses (see [2002100039](#)). CTIA “is attempting to resurrect study of licensed spectrum in this band well after the Commission has made clear that the exclusive focus of this proceeding is to enable unlicensed services,” said WISPA Vice President-Policy Louis Peraertz in its filing to docket 18-295. CTIA “ignores the benefit to rural Americans of use of this spectrum for point-to-point backhaul and Internet connectivity, and waves away the significant practical difficulty of clearing extensive incumbent fixed point-to-point microwave use. ... It provides no specifics as to where operations would be located, or even any general assessment of the impact on incumbents.” CTIA didn’t comment.

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### House Communications Democrats Urge FCC to Reconsider RDOF Order

Rep. Donald McEachin of Virginia led a [letter](#) with House Commerce Committee Chairman Frank Pallone of New Jersey and 21 other House Communications Subcommittee Democrats urging the FCC to reconsider its Rural Digital Opportunity Fund order, given the addition of new language. That language allows ISPs that win RDOF bids to not be prevented from seeking additional support from state broadband programs, but the program’s Phase I auction won’t be open to census block groups that received state subsidies for 25/3 Mbps (see [2002070031](#)). Commissioners voted along party lines to approve the order Jan. 30 (see [2001300001](#)). “The RDOF Order may inadvertently undermine the ability of states to help close the digital divide due to the rushed process,” the lawmakers [wrote](#) FCC Chairman Ajit Pai. The order’s language blocking 25/3 Mbps recipient census blocks from the Phase I auction “contains no substantive analysis of how this provision would affect states’ broadband deployment and investments, and leads to many questions about how the language will be applied to the various funding arrangements that have developed at the state level,” the Democrats said. “It may also lead to disruptions and delays in deployment if states decide to wait to spend their money before they see where RDOF funds are ultimately awarded.” The

FCC’s “goal is to deploy broadband to as many unserved Americans as possible through the [RDOF], and it doesn’t make sense to use the FCC’s limited dollars to subsidize broadband deployment to locations that are already going to be served with at least 25/3 Mbps broadband through another federal or state broadband funding program,” a spokesperson emailed. “Rather, those funds should be used to expand broadband to locations that would remain unserved without money from the Rural Digital Opportunity Fund.” McEachin and Rep. Abigail Spanberger, D-Va., meanwhile plan a “conversation on rural broadband” in Disputanta, Virginia, “with local officials, community leaders and broadband advocates to discuss federal solutions to challenges expanding broadband access to unserved areas,” House Commerce [said](#). The event is in place of a House Communications Subcommittee hearing on rural broadband issues (see [2002070044](#)). It begins at 2 p.m. at the Prince George County Wellness Center.

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## Wireline

### USF Suspension, Debarment Rules Should Temper Burdens, Industry Says

Industry supports FCC goals to protect USF from waste, fraud and abuse but wants clearer standards and sufficient due process procedures in proposed suspension and debarment rules, said comments posted through Friday in docket 19-309. “The proposed rules reach a far broader range of conduct than contemplated by the OMB guidelines, potentially punishing many good actors for the sake of expediting penalties against a few bad ones,” [said](#) CTIA and USTelecom. “Consider alternative measures before initiating suspension or debarment procedures,” [said](#) America’s Communications Association, Incompas and NTCA. Encourage self-governance and consider mitigating factors, they said. Bureaus “should be given delegated authority to grant exceptions” when it serves the public interest, [said](#) the Wireless ISP Association. USF participants should be allowed to continue receiving services from a suspended provider for the duration of a contract that existed before the FCC acts, [said](#) the Schools, Health & Libraries Broadband Coalition and State E-rate Coordinators’ Alliance. Don’t apply new rules retroactively, [said](#) NCTA. “Grounds for suspension or debarment should only include egregious offenses,” [said](#) Cellular South. E-Rate Central [said](#) the NPRM doesn’t discuss “the necessity of coordinating any planned enforcement action, if only on an advisory basis, with appropriate state agencies.” —*MH*

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## Wireless

### NFC Payments, Smartwatches Driving Wearables, Researcher Finds

The wearables market will grow at a 13 percent compound annual rate through 2024 to \$35.48 billion, said Technavio Friday. A key driver will be growing adoption of contactless payments, it [said](#). Wearables vendors are integrating near-field communication into wearable devices such as smartwatches, smart bands and smart rings, said the researcher. Some vendors are introducing hybrid styles to attract customers who prefer old-school mechanical watches integrated with smart features. Functions are handled by a smartphone through an app.

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## Internet

### Google Makes Connected TV Advertising Push Via Identifier Data Tracking

Google is investing in connected TV ad solutions to reach households at scale with messages that are relevant to users “and respectful of their privacy,” [blogged](#) Jake Jolly, product manager-Display & Video 360. A Comscore analysis commissioned by Google found marketers can reach 76 percent of all connected TV households in the U.S. and 89 percent of ad-supported connected TV households, or more than half of all Wi-Fi households. That will grow as connected TV penetration broadens, Jolly said Thursday. In addition to YouTube, Display & Video 360 provides access to nine of the top 10 most watched U.S. ad-supported connected TV apps from cable and broadcast channels. Google uses Identifier for Advertising (IFA) to manage connected TV ad frequency, and it can be disabled or reset by the user. Now, it’s working with inventory providers to support IFAs at the exchange and publisher levels, and advertisers can control frequency in a “user-first” way on apps such as Hulu, Pluto TV or Lifetime.

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## State Telecom

### T-Mobile, Sprint to Meet California Commissioner Aides Wednesday

T-Mobile and Sprint plan to blitz California commissioner offices Wednesday as the carriers push for a proposed decision by Feb. 25 on their transaction (see [2002120003](#)). The carriers have in-person

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meetings scheduled at the California Public Utilities Commission with aides to President Marybel Batjer and Commissioners Genevieve Shiroma, Liane Randolph and Cliff Rechtschaffen, said a Thursday [filing](#) in T-Mobile/Sprint review docket A.18-07-011. The carriers plan to meet in person or via videoconference that day with an aide to Commissioner Martha Guzman Aceves, said [another](#). California is the last state standing in the deal's way, after state attorneys general lost their challenge at U.S. District Court for the Southern District of New York (see [2002110026](#)).

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## Maryland 911 Audit Bill Flies Through House

Maryland senators received a 911 fee auditing bill Friday that passed the House 132-0 Thursday. [HB-6](#) would require wireline and wireless providers keep records of 911 fees collected and remitted for at least four years, and require the state comptroller to adopt procedures for auditing surcharge collection and remittance. The House voted 131-0 for [HB-44](#) extending the terms of state next-generation 911 committee through June 30, 2022, and requiring reports to the governor and legislature by Dec. 15 this and next year.

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## Telecom Notes

### 11th Circuit Petitioned for Rehearing in TCPA-Related 'Glasser v. Hilton'

The plaintiff petitioned the 11th U.S. Circuit Court of Appeals Friday for en banc rehearing of the Telephone Consumer Protection Act-related *Melanie Glasser v. Hilton Grand Vacations* (see [2001270056](#)). The [case](#) is [18-14499](#) (in Pacer).

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## Consumer Electronics

### 'Supply Challenges' Spur Nvidia to Forecast \$100M Coronavirus Revenue Hit

Nvidia expects to take a \$100 million revenue hit from the coronavirus in fiscal Q1 ending late April, though it's "still early and the ultimate effect is difficult to estimate," [said](#) Chief Financial Officer Colette Kress on a Q4 call Thursday. This "reflects what may be supply challenges" or a reduction in "overall demand," she said. Nvidia gets about 30 percent of gaming revenue from China, she said. Q1 gaming revenue likely will decline by "low-double" digits sequentially from Q4, which ended Jan. 26, she said. China also is "a very important market" for Nvidia's data center business, she said. Revenue in that sector "moves from quarter to quarter, just based on the overall end-customer mix as well as the system builders that they may choose," she said. "It's a little harder to determine" the impact of the coronavirus impact in that sector, she said. Q4 [sales](#) rose 41 percent from the year-ago quarter to about \$3.1 billion. It expects Q1 revenue to be about flat. "Discussions with China's regulatory agency, the State Administration for Market Regulation"

on the takeover of Mellanox “are progressing,” and the deal likely will be completed in the early part of this calendar year, Nvidia said. The stock closed 7 percent higher Friday at \$289.79. —*PG*

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## Intellectual Property

### CCIA, ITI Urge EU, WIPO to Take Balanced Approach With AI

Balanced intellectual property protections are needed to ensure artificial intelligence technology fulfills its potential, the Computer & Communications Industry Association [commented](#) Friday. “Widespread availability of patents on AI generated inventions would lead to less innovation by placing ordinary creativity into the realm of monopoly and chilling the rationale to pursue such creativity,” CCIA [told](#) the World Intellectual Property Organization as it works through a draft issues paper on AI and IP. The white paper will be “a milestone for Europe’s regulatory vision on how to advance innovation and help European companies thrive,” Information Technology Industry Council CEO Jason Oxman [said](#). It’s important the EU not look only at potential AI harms but also consider the potential “social harms of limiting the use of AI, which may decrease its positive impact,” ITI [wrote](#).

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## Broadcast

### Judge Rejects GMR Call to Decide Music License Case on Pleadings

A federal judge rejected Global Music Rights’ request for an immediate judgment on the pleadings in the group’s lawsuit against the Radio Music License Committee (see [2002110028](#)), said an [order](#) issued Friday (in Pacer) in U.S. District Court in Los Angeles. GMR “alleged sufficient facts” to state its claims, but “whether GMR can, ultimately, prove its claims is not a proper consideration at this juncture,” ruled Judge Terry Hatter. He also granted NAB’s request to be allowed to file an amicus brief.

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## Media Notes

### Roku CEO Sees Most US TV Homes as Streamers-Only in 2024; Stock Down After Q4

Streaming remains a minority of TV viewing, said Roku CEO Anthony Wood on Thursday’s [call](#) on [Q4](#). Over the next 10 years, “consumers around the world will choose streaming as their primary way of viewing TV,” Wood said, citing a confluence of consumers, “the biggest names in media,” leading advertisers and global TV brands embracing over-the-top video. By 2024, half of U.S. households will have cut the cord “or never had traditional pay TV,” he said. Roku added 9.8 million incremental active accounts last year, reaching 36.9 million, and streaming hours there swelled by 16.3 billion to a record 40.3 billion, it

[reported](#). In 2019, just under one in three smart TVs sold in the U.S. was a Roku TV, placing it as the No. 1 streaming TV brand, said Wood, up from one in four the prior year. Scott Rosenberg, general manager-platform business, said half of Roku users don't have a pay-TV package so are "not reachable through linear television," and the other half are "very light linear TV viewers." The company has been able to show advertisers the "vast majority" of Roku viewers aren't reached by linear TV, he said. Pivotal Research recommends investors sell the stock, it wrote them Friday. "All areas of the ecosystem [are] beginning to squeeze Roku." Analyst Jeffrey Wlodarczak noted traditional distributors are attacking the direct-to-consumer aggregation opportunity with free equipment and programming, citing Comcast's \$5 monthly discount on NBC's Peacock service. Wlodarczak expects all non-virtual MVPD DTC players to follow Netflix' lead and sign distribution deals with traditional distributors to be bundled into pay-TV offerings, eliminating the need for Roku. Wedbush Securities' Michael Pachter sees "tremendous opportunities for revenue growth" at Roku, driven by licensing partnerships, and advertising growth from The Roku Channel and ad VOD partners. Pachter was less sanguine about the company's road to profitability and said 2020 guidance implies "minimal growth in Player sales in 2020 and at zero margin." Friday, the stock closed down 6.3 percent at \$130.25. —*RD*

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## Satellite

### DOD's Ligado Objections Setting 'Dangerous Precedent,' PK Says

DOD, in its objections to Ligado's L-band license modification applications (see [1911210055](#)), is violating the legal requirement NTIA be the executive branch coordinator and representative on federal spectrum issues, setting "a dangerous precedent for future spectrum proceedings," Public Knowledge said in an FCC docket 11-109 [posting](#) Friday. Now other agencies are emboldened to circumvent NTIA, it said, noting concerns raised by House Commerce Committee Chairman Frank Pallone, D-N.J., and ranking member Greg Walden, R-Ore., that the federal spectrum management system "broke down" (see [2001240034](#)). Ligado "has participated in good faith" and deserves an answer, PK said. DOD emailed that NTIA, "on behalf of the Executive Branch, has transmitted to the FCC the unambiguous and unanimous federal government position to deny the Ligado request. Therefore, we defer all inquiries related to the Ligado matter to NTIA."

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## Communications Personals

America's Communications Association hires **John Higginbotham**, ex-Frankfort Plant Board, as executive vice president-membership and finance and chief of staff, succeeding **Rob Shema** (see this section, Feb. 14) ... Perkins Coie announces partners, from Vinson & Elkins, **Andy Smetana**, corporate-tech; **Craig Tyler**, patent litigation; and **Wendy Wang**, intellectual property; and from Wilson Sonsini, **Jose Villarreal**, also patent litigation ... DLA Piper taps, from Squire Patton, **Matthew Miller** as partner-cryptocurrency; **Robert Nolan**, partner-intellectual property; and **Michael Fluhr**, of counsel-blockchain and digital assets ... Industry Data Exchange Association names **David Oldfather**, ex-Jigsaw Systems, president-CEO.

Kansas City Southern promotes **Adam Godderz** to senior vice president-chief legal officer and corporate secretary ... Yelp hires **David Schwarzbach**, ex-Optimizely, as chief financial officer; and names **Christine Barone**, True Food Kitchen, to board, replacing **Mariam Naficy**, resigned ... NSSLGlobal taps **Neil Fraser**, ex-Viasat, for defense and space programs.

Nielsen names **Tom Castro**, El Dorado Capital, and **Janice Marinelli**, ex-Disney, to board ... Nano Dimension appoints **Yaron Eitan**, DeepCube, to board of the provider of intelligent machines for making subassemblies in drones, satellites, smartphones and other devices.

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## Communications Daily Calendar

- Feb 17–19 Milestone Systems 2020, Gaylord Texan Resort and Convention Center, 1501 Gaylord Trail, Grapevine, also livestream — [see here](#)
- Feb 17–20 National Association of Tower Erectors annual conference, Raleigh Convention Center, 500 S. Salisbury St. — [see here](#)
- Feb 18 Information Technology and Innovation Foundation panel on export controls on tech to China, 10 a.m., Suite 600, 700 K St. NW — [see here](#)
- Feb 19 National Initiative for Cybersecurity Education webinar on privacy and cybersecurity workforce, 2 p.m. EST — [see here](#)
- Feb 19 Brookings Institution event on artificial intelligence and criminal justice, 10 a.m., Falk Auditorium, 1775 Massachusetts Ave. NW, also webcast — [see here](#)
- Feb 19 National Public Safety Telecommunications Council meets via teleconference, 1 p.m. EST, 510-227-1018, code 1927086#, also webinar — [see here](#)
- Feb 19 DOJ Communications Decency Act Section 230 workshop, 9 a.m., FBI Auditorium, 935 Pennsylvania Ave. NW — [see here](#)
- Feb 19 Center for Strategic and International Studies, National Institute of Standards and Technology privacy framework rollout, with keynote by NIST Director Walter Copan, 2 p.m., second-floor conference center, 1616 Rhode Island Ave. NW — [see here](#)
- Feb 19 FCBA Wireline Committee brown bag lunch on Connect America Fund, 12:15 p.m., Jenner & Block, Suite 900, 1099 New York Ave. NW — [see here](#)
- Feb 19 FCBA International Telecom Committee CLE on Committee on Foreign Investment in the U.S. and team telecom under Foreign Investment Risk Review Modernization Act, 3 p.m., Sheppard Mullin, 2099 Pennsylvania Ave. NW — [see here](#)



- Feb 19–20 ReConnect technical assistance workshop, InterContinental Buckhead Atlanta, 3315 Peachtree Road NE — [see here](#)
- Feb 20 CANCELED -- House Communications and Technology Subcommittee field hearing on rural broadband access, 2 p.m., Prince George County Central Wellness Center, 11023 Prince George Drive, Disputanta, Virginia — [see here](#)
- Feb 20 Reps. Donald McEachin and Abigail Spanberger, both Virginia Democrats, host conversation on rural broadband, 2 p.m., Prince George County Central Wellness Center, 11023 Prince George Drive, Disputanta, Virginia — [see here](#)
- Feb 20 Hudson Institute conversation with U.S. Chief Technology Officer Michael Kratsios, lunch, 11:30 a.m., Suite 400, 1201 Pennsylvania Ave. NW — [see here](#)
- Feb 20 FCBA Mass Media and Video Programming and Distribution committees brown bag lunch with FCC Media Bureau staff, noon, Cooley, Suite 700, 1299 Pennsylvania Ave. NW — [see here](#)
- Feb 20 New York Metropolitan and Northern New Jersey Regional Planning committees meet, 10 a.m., Rockland County Fire Training Center, 35 Firemens Memorial Drive, Pomona, New York — [see here](#)
- Feb 21 George Mason Law Review antitrust symposium, Van Metre Hall, 3351 Fairfax Drive, Arlington, Virginia — [see here](#)
- Feb 24–26 America’s Public Television Stations summit, Ritz-Carlton, 1150 22nd St. NW — [see here](#)
- Feb 24–27 CANCELED MWC Barcelona, Fira Gran Via, Av. Joan Carles I, Barcelona, Spain — [see here](#)
- Feb 25–28 National Religious Broadcasters Christian Media Convention, Gaylord Opryland Resort & Convention Center, 2800 Opryland Drive, Nashville — [see here](#)
- Feb 26 Webinar on U.S. Copyright Office modernization, noon EST — [see here](#)
- Feb 26 FCC Disability Advisory Committee meets, 9 a.m., Commission Meeting Room — [see here](#) and [see here](#)
- Feb 26–27 ReConnect technical assistance workshop, Key Bridge Marriott, 1401 Lee Highway, Arlington, Virginia — [see here](#)
- Feb 27 FCBA CLE on Telephone Robocall Abuse Criminalization Enforcement and Deterrence Act, noon, CTIA, 1400 16th St. NW — [see here](#)

- Feb 28 Washington Space Business Roundtable lunch, including House Space subcommittee member Bill Posey, R-Fla., 11:30 a.m., City Club of Washington, 555 13th St. NW — [see here](#)
- Feb 28 FCC commissioners' meeting, 10:30 a.m., Commission Meeting Room — [see here](#)
- Mar 2 FCBA CLE on telehealth, 6 p.m., Wiley, 1776 K St. NW — [see here](#)
- Mar 2–3 BakerHostetler forum on advertising, e-commerce, data privacy and security law, including keynote by FTC Commissioner Noah Phillips, various locations in Washington — [see here](#)
- Mar 3 Incompas policy summit, New America, Suite 900, 740 15th St. NW — [see here](#)
- Mar 4 FCBA Consumer Protection Committee CLE on FTC items, including communications sector, 3:15 p.m., Hogan Lovells, 555 13th St. NW — [see here](#)
- Mar 5 Silicon Flatirons conference on copyright infringement in music, 1 p.m., University of Colorado Law School, Wolf Law Building, Wittemyer Courtroom, 2450 Kittredge Loop Road, Boulder — [see here](#)
- Mar 6 FCBA Legislative Committee brown bag lunch on spectrum auction and budget scoring, 12:15 p.m., Brattle Group, Suite 700, 1800 M St. NW — [see here](#)
- Mar 7–12 ICANN67 community forum, Cancun, Mexico — [see here](#)
- Mar 9–12 Satellite 2020, Washington Convention Center — [see here](#)
- Mar 10 Cato Institute conference on Section 230 and online speech, including Sen. Ron Wyden, D-Ore., 1000 Massachusetts Ave. NW; also webcast — [see here](#)
- Mar 10 Free State Foundation telecom policy conference, 8:30 a.m., National Press Club — [see here](#)
- Mar 10 Washington Space Business Roundtable lunch with Arianespace CEO Stephane Israel, 11 a.m., Washington Convention Center — [see here](#)
- Mar 11 DOJ and FTC workshop on draft vertical merger guidelines, 1 p.m., DOJ, 950 Pennsylvania Ave. NW — [see here](#)
- Mar 16–18 Consortium for School Networking conference, Washington Hilton, 1919 Connecticut Ave. NW — [see here](#)
- Mar 16–19 Wireless ISP Association's WISPAmerica 2020, Sheraton Dallas Hotel, 400 Olive St., Dallas — [see here](#)

- Mar 17–19 America’s Communications Association Summit 2020, including FCC Commissioner Mike O’Rielly, Grand Hyatt Washington, 1000 H St. NW — [see here](#)
- Mar 18 FCBA Wireline Committee brown bag lunch panel on national broadband plan, 12:15 p.m., Jenner & Block, Suite 900, 1099 New York Ave. NW — [see here](#)
- Mar 18 DOJ and FTC workshop on draft vertical merger guidelines, 1 p.m., FTC, 600 Pennsylvania Ave. NW — [see here](#)
- Mar 19 FCBA Privacy and Data Security Committee and American Bar Association’s Forum on Communications Law hold privacy and data security symposium, 2 p.m., Arnold & Porter, 601 Massachusetts Ave. NW (see p. 4) — [see here](#)
- Mar 25 Washington, D.C., Maryland and Northern Virginia Regional Planning committees meet, 10 a.m., Prince George’s County Public Safety Communications Center, 17321 Melford Blvd., Bowie, Maryland — [see here](#)
- Mar 25 WashingTech and New York University daylong tech conference, NYU Academic Center, 1307 L St. NW — [see here](#)
- Mar 26 Information Technology and Innovation Foundation on antitrust policy and global competitiveness, 11:30 a.m., Suite 600, 700 K St. NW — [see here](#)
- Mar 27 FCC commissioners’ meeting, 10:30 a.m., Commission Meeting Room — [see here](#)
- Mar 30–Apr 1 Competitive Carriers Association show, Sheraton Dallas Hotel, 400 North Olive St. — [see here](#)
- Mar 30–Apr 3 International Wireless Communications Expo, Las Vegas Convention Center — [see here](#)
- Apr 6–9 World Summit on the Information Society Forum, ITU, Geneva — [see here](#)
- Apr 8–22 NAB Show, Las Vegas Convention Center — [see here](#)
- Apr 16 NEDAS Boston Symposium, Convene Boston, 12:30 p.m., 201 Washington St. — [see here](#)
- Apr 19 American Bar Association and FCBA daylong broadcasters conference, Encore at Wynn Las Vegas — [see here](#)
- Apr 20 Women of National Association of Tower Erectors summit, Gleacher Center, 450 Cityfront Plaza Drive, Chicago — [see here](#)
- Apr 22 Schools, Health & Libraries Broadband Coalition program on national broadband plan, 5:30 p.m., The Hamilton, 600 14th St. NW — [see here](#)