

Office of Telecommunications & Regulatory Affairs

Legislative and Regulatory Update – December 10, 2014

Cable/Video Issues:

- The 2014-15 channelAustin equipment purchase contracts for Council approval are being prepared. Key elements will be a new studio lighting system and a complete network systems evaluation.
- The RFP for the equipment needed to upgrade for the GAATN room to include transport of the three channelAustin channels to City Hall and the hand-off of all seven PEG channels to Google Fiber will be issued soon.
- The Community Needs Assessment for public access TV launched a web-based survey of the general public, non-profits, and small businesses with a City press release and 30 second PSA that is running on all PEG channels. To take the survey, go to www.austintexas.gov/PublicAccess.

CITY REGULATIONS

Wireless Regulatory Coordination

TARA continues its coordination activities with affected departments to develop consistent policies on commercial wireless services including the fees associated with the various applications. Wireless cellular and Wi-Fi proposals are pending from Extenet, Crown Castle, AT&T, Verizon, and Google Fiber.

FEDERAL ACTIVITY:

Satellite Television Extension and Localism Act Reauthorization Act of 2014– Late last month, Congress passed the “STELA Reauthorization Act of 2014” and the President signed the bill into law December 5th. The bill gives DISH and DirecTV a five-year extension of their rights to rebroadcast the signals of over-the-air television stations without authorization from every copyright holder of the programming broadcast on those stations.

The Federal Communications Commission adopted a Report and Order (FCC 14-153)

The Order designed to promote deployment of broadband wireless infrastructure is expected to take effect in mid-March. The Report and Order updates and tailors the manner in which the FCC evaluates the impact of proposed deployments on the environment and historic properties. It also adopts rules to clarify and implement statutory limitations on State and local government authority to review infrastructure siting applications—including a “deemed granted” remedy if a State or local government fails to act on an eligible facilities modification request under Section 6409(a) of the Spectrum Act. Finally, it adopts an exemption from the environmental public notification process for “temporary towers” that are in place only for short periods of time,” (quoted from the FCC press release).

Internet Tax Freedom Act

The Act which extends for one year the prohibition of state and local government from levying discriminatory taxes on Internet taxes and services was included in the government spending bill

that must be approved by December 11th. Work will continue to make the bill permanent in the next session.

Net Neutrality – No Recent Change

Debate is heating up following President Obama's call on Monday for the FCC to reclassify broadband as a telecom service under Title II of the Telecommunications Act. FCC chairman Wheeler is said to be exploring all options to address the President's call while also considering the large ISPs' concerns. Large companies like Google, NetFlix, FaceBook, and Amazon are keeping a relatively low profile with smaller service providers being the most vocal in support of the Presidents recommendations.

H.R. 4752 – Broadband Reclass Prevention Act - No Recent Change

On May 28, 2014, Rep. Bob Latta (R-Ohio) introduced H.R. 4752 to prevent the FCC from reclassifying broadband as, at least in part, a Title II common carrier service. The bill would define Internet access as an information service, and would not allow an information service to be classified as a common carrier. It has been referred to the House Committee on Energy and Commerce. The bill has been endorsed by the Independent Telephone and Telecommunications Alliance, the National Cable & Telecommunications Association, the U.S. Telecom Association, and the Telecommunications Industry Association and is opposed by the U.S. Conference of Mayors and other consumer advocacy groups.

AT&T – Direct TV Merger- No Recent Change

In August the Department of Justice approved the proposed \$48 billion merger between AT&T and Direct TV, and Direct TV shareholders overwhelmingly approved the deal in September. Comments on the proposed merger were due to the FCC on Sept. 16, with replies to those comments due on Oct. 16 and final responses due Nov. 5.

Comcast – Time Warner Cable Merger – No Recent Change

On October 3rd, the FCC extended the due date for comments from October 8th to October 29th. The FCC now expects its review of the proposed \$45 billion merger between the two largest U.S. cable providers to be completed sometime near the end of January 2015. Hearings have been held in both the Senate and House with action pending in the FCC and FTC. The merger is opposed by more than 50 consumer advocacy groups including Consumers Union, Daily Kos and MoveOn.org, who point out that a bigger Comcast would have enormous power to raise broadband rates for a significant portion of the country and restrict network access to content providers. The proposed merger would impact about 70 million subscribers, approximately 30 percent of the cable viewers in the U.S. and more importantly, it would affect about 40 percent of all U.S. high-speed broadband Internet subscribers.

FCC requested comment on petitions from Wilson, NC and Chattanooga, TN to restore local broadband authority now prohibited by state law - Pending FCC Action related to filed comments– No Recent Change

FCC Chairman Wheeler in his October 1, speech to the NATOA conference said that they will decide on the petition based on the record and on the merits, and he declined to make any further comments.

CAP Act - S.1789 – No Recent Change

The Community Access Preservation (CAP) Act was reintroduced in the U.S. Senate by Senators Tammy Baldwin (WI) and Edward Markey (MA) in December. It is now pending action in the Senate Committee on Commerce, Science, and Transportation.

Work is ongoing by municipal associations and individual cities to inform elected officials and to gain support for the Community Access Preservation ("CAP") Act and to obtain a replacement sponsor for Republican co-sponsor Steven LaTourette, who retired from Congress at the end of the last session. The CAP Act removes the distinction between capital and operating uses of PEG support fees that currently prevent PEG fees from being used for operational expenses; ensures funding for PEG channels; requires cable operators to transmit PEG channels without charge to the local government; and requires the FCC to undertake a study of PEG operations.

H.R. 3719 Video CHOICE (Consumers Have Options in Choosing Entertainment) Act – No Recent Change

Rep. Anna G. Eshoo (CA-18), Ranking Member of the Communications and Technology Subcommittee and Rep. Zoe Lofgren (CA-19), senior Member of the Judiciary Committee, on December 12, 2013, introduced the Video CHOICE (Consumers Have Options in Choosing Entertainment) Act to eliminate broadcast television blackouts and give consumers greater flexibility to choose the channels they receive each month from their cable, satellite or other pay-TV provider. The bill is pending in the House Energy and Commerce Committee.

S. 912 Television Consumer Freedom Act of 2013 – No Recent Change

Sen. John McCain (R-AZ) and Sen. Richard Blumenthal (D-Conn.) introduced the bill that would allow multichannel video programming distributors (MVPDs) to provide subscribers with any channel of video programming on an a la carte basis.

H.R.2309 & S.1235 Tax Fairness Act of 2013 – No Recent Change

Rep Zoe Lofgren D-CA-19 on June 11th introduced the House bill and Sen Ron Wyden D-OR on June 25th introduced a companion bill that would restrict any State or local jurisdiction from imposing a new discriminatory tax on cell phone services, providers, or property. The House bill has 149 cosponsors and is pending action by the House Committee on the Judiciary.

The Broadband Adoption Act of 2013 (H.R.1685) – No Recent Change

On April 23rd, Congresswoman Doris Matsui (D-CA-06), Member of the Energy and Commerce Subcommittee on Communications and Technology, along with Energy and Commerce Committee Ranking Member, Henry Waxman (D-CA-33) and the Ranking Member of the Communications and Technology Subcommittee, Anna Eshoo (CA-18), introduced legislation to reform and modernize the Universal Service Fund (USF) Lifeline Assistance Program. The Broadband Adoption Act of 2013 would help bridge the digital divide by making in-home broadband services more affordable across the country. The bill allows eligible Americans in rural and urban communities to use Lifeline program for broadband Internet services, and not just voice services. The bill also requires the FCC to implement a national eligibility data base to ensure only one Lifeline per eligible household, to avoid waste, fraud and abuse of the program. The bill is co-sponsored by Reps. Diana DeGette (CO-01), Zoe Lofgren (CA-19), Jan Schakowsky (IL-09), G.K. Butterfield (NC-01), and Ben Ray Lujan (NM-03).

S. 607 & H.R. 1847 - Electronic Communications Privacy Act Amendments Act of 2013 – No Recent Change

The bill was reported out of the Senate Committee on April 25th. Introduced March 19th by Sen. Patrick Leahy, (D-VT) and referred to the Judiciary Committee, the bill increases protections regarding disclosure by a provider of electronic communication service or remote computing service of the contents of a wire or electronic communication that is in electronic storage.

H.R. 624 - Cyber Intelligence Sharing and Protection Act - - No Recent Change

The bill was passed by the House on April 18th by more than a 2 to 1 majority with bi-partisan support. It has been referred to the Senate where it is unlikely to be taken up in its current form. Rep. Mike J. Rogers introduced the bill February 13, when it was referred to the House Committee on Intelligence. It amends the National Security Act of 1947 to add provisions concerning cyber threat intelligence and information sharing. The bill is now in the Senate Select Committee on Intelligence.

The bill has broad-based industry support by many of the same firms who opposed the Stop Online Piracy Act & the Protect Intellectual Property Act. Other privacy rights opponents of SOPA are concerned that CISPA goes much further, permitting ISPs to funnel private communications and related information back to the government without adequate privacy protections and controls. The bill does not specify which agencies ISPs could disclose customer data to, but the structure and incentives in the bill raise a very real possibility that the National Security Agency or the DOD's Cybercommand would be the primary recipient.

H.R. 2844 Federal Communications Consolidated Reporting Act of 2013 – No Recent Change

Rep. John Scalise (R-LA), Rep. Greg Walden (R-OR), and Rep. Anna Eshoo (D-CA) introduced the bill on July 26, 2013, which amends the Communications Act of 1934 to require the FCC to publish on its website and submit to Congress a biennial report on the state of the communications marketplace assessing: (1) competition, including intermodal, facilities-based, and new and emergent services competition and addressing the provision of content, as well as communications using the Internet; (2) deployment of communications capabilities, including whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion; and (3) whether laws, regulations, or regulatory practices pose a barrier to competitive entry or expansion of existing providers of communications services. The bill was unanimously approved by the full House September 9th, and it is now pending action by the Senate.