

Office of Telecommunications & Regulatory Affairs

Legislative and Regulatory Update – April 8, 2015

Cable/Video Issues:

- The RFP for the Public Access TV management contract was issued March 16, with proposals due in early May. We hope to have the new contract to Council for approval in June.
- We are working with Purchasing on the equipment and facility improvements for the Public Access studio which should go before Council for approval in late May or June.
- 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 late next week with proposals due by May 1st.

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.

STATE ACTIVITY:

SB 343 –

Sen. Donald Huffines (R) introduced the bill to prohibit municipalities from enacting any ordinance, rule, or regulation that conflicts with or is more stringent than a state statute or rule. The bill was referred to State Affairs Committee.

SB 1155 –

Sen. Bob Hall (R) introduced a bill very similar to SB 343 that was referred to State Affairs Committee.

HB 1556 –

Rep. Rick Miller introduced the companion bill to SB 1155 in the House that is now in Urban Affairs Committee.

FEDERAL ACTIVITY:

Internet Tax Freedom Act

HR 235 was introduced by Rep Bob Goodlatte (R-Va) on 02/02/2015 and referred to the Subcommittee on Regulatory Reform, Commercial and Antitrust Law. S 431 was introduced by Sen. John Thune on 02/10/2015 and then referred to the Committee on Finance. The bills prohibit state and local governments from levying discriminatory taxes on Internet products and services.

Net Neutrality –No recent developments

On February 26, 2015, the FCC ruled in favor of net neutrality by reclassifying broadband access as a telecommunications service and thus applying Title II (common carrier) of the Communications Act of 1934 to Internet service providers.

Major Provisions of Title II that will apply to broadband providers:

- The proposed Order applies “core” provisions of Title II: Sections 201 and 202 (e.g., no “unjust and unreasonable practices”
- Allows investigation of consumer complaints under section 208 and related enforcement provisions, specifically sections 206, 207, 209, 216 and 217
- Protects consumer privacy under Section 222
- Ensures fair access to poles and conduits under Section 224, which would boost the deployment of new broadband networks
- Protects people with disabilities under Sections 225 and 255
- Bolsters universal service fund support for broadband service in the future through partial application of Section 254.

Major Provisions of Title II that are Subject to Forbearance (would not apply to broadband):

- the Order makes clear that broadband providers shall not be subject to tariffs or other form of rate approval, unbundling, or other forms of utility regulation
- Universal Service Contributions: the Order DOES NOT require broadband providers to contribute to the Universal Service Fund under Section 254
- The Order will not impose, suggest or authorize any new taxes or fees – there will be no automatic Universal Service fees applied and the congressional moratorium on Internet taxation applies to broadband.

On February 26, Angele A. Gilroy with the Congressional Research Service issued an extensive report on the Net Neutrality Debate that can be found at <http://fas.org/sgp/crs/misc/R40616.pdf>.

H.R. 1212, - Internet Freedom Act

Congressman Marsha Blackburn (R-TN), supported by Senator Thom Tillis (R-NC), has reintroduced legislation-- H.R. 1212, on February 26, 2015, the Internet Freedom Act, that would block the FCC’s Net Neutrality rules by stating that they shall have no force or effect and prohibits the FCC from reissuing new Net Neutrality rules.

Wilson, NC and Chattanooga, TN FCC Petition to restore local broadband authority now prohibited by state law

The Federal Communications Commission (FCC) on Feb. 26 approved petitions filed by the Electric Power Board of Chattanooga, Tennessee, and Wilson, North Carolina, to preempt state laws which prevent expansion of their networks. The petitions were approved on a 3-2 party-line vote. On March 20, Tennessee Attorney General Herbert Slatery filed a petition with the 6th U.S. Circuit Court of Appeals to overturn the FCC ruling.

H.R. 734 & S 253: Federal Communications Commission Consolidated Reporting Act of 2015

H.R. 734 by Rep. Steve Scalise passed unanimously on February 24 and was referred to the Senate Committee on Commerce, Science, and Transportation February 25. S.253 by Sen. Dean Heller, is the Senate companion bill. The bills would amend 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.

AT&T – Direct TV Merger-

According to AT&T's management, the DIRECTV transaction will be complete by the end of the first half of 2015. 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.

Comcast – Time Warner Cable Merger

FCC delayed its decision on the proposed Comcast – TWC merger for several weeks with a decision now expected in mid-2015. Industry pundits have reduced the likelihood of approval to less than even odds.

H.R. 279, - No recent developments

On January 12, 2015, 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 FOLLOWING BILLS HAVE NOT BEEN REINTRODUCED IN THE 114TH CONGRESS

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.