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TODAY'S NEWS

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Markey, Shapiro Clash on Disabilities Bill

A hearing on Internet accessibility legislation exploded into a political brawl after Rep. Ed Markey, D-Mass., lashed out at CEA President Gary Shapiro. Testifying Thursday to the House Communications Subcommittee, Shapiro had said Markey's bill (HR-3101) could kill start-up consumer electronics manufacturers by requiring them to make all products accessible to people with any disability. Republicans defended the CEA executive and scolded Markey. Chairman Rick Boucher, D-Va., tried to steer the discussion back toward areas of agreement.

Before the skirmish, Democrats and Republicans had been upbeat about passing Markey's bill quickly. House Commerce Chairman Henry Waxman, D-Calif., said he hoped to have the legislation on the House floor July 26, the 20th anniversary of the Americans with Disabilities Act. A subcommittee markup date isn't set, but it's "just around the corner," Boucher said, citing bipartisan consensus. Industry executives and members from both parties suggested minor tweaks but largely seemed confident that the bill would pass.

Republicans accused Markey of a set-up after he asked retired Sgt. Maj. Jesse Acosta if he agreed with Shapiro that accessibility should be completely voluntary. Acosta lost his vision in a bomb attack on a battlefield. Industry isn't designing accessibility into enough products, and people with disabilities can't rely on them to start doing it voluntarily, said Acosta. Shapiro replied, "You cannot require every new product to be responsive to every disability." Markey shot back, "My bill does not do that," and he called it "very deceptive" for Shapiro to say otherwise. "I wish you would just stop repeating that. It is untrue."

Markey highlighted language in the bill limiting rules to larger companies that can afford to build in accessibility. But Shapiro said the law is overly burdensome, because it would force companies seeking exemption to prove that they shouldn't be covered.

Markey has created an "emotional frenzy," protested Subcommittee Ranking Member Cliff Stearns, R-Fla. "It's terrible, totally unfair for you to set up a war hero with the CEO of an association and try to play that emotional game that you do continually," he said. Markey

did the same with the V-chip, a technology that ended up failing, Stearns said. Shapiro wasn't suggesting that there should be no law requiring accessibility, Stearns said. "It's a noble goal that we're doing here," Stearns said, and he wants to solve the problem, but raising emotions "isn't the way to do it." He refused to yield time to Markey when the Democrat asked to respond, and Markey glowered afterward.

"I just feel slimed right now, politically slimed by the set-up" arranged by Markey, Rep. Lee Terry, R-Neb., said later in the hearing. "That just seems to be the tone right now with the leadership that's in charge of this place. It's intimidation." He decried "pitting two witnesses against each other to create a fight between them," calling the maneuver "demeaning" to the subcommittee.

"Notwithstanding the intensity of the dialog, I would underscore once again that we are in a collaborative process," Boucher said after Stearns spoke. "We're working our way to consensus, and we're actually making a great deal of progress."

Legislators from both parties urged edits to the bill. Stearns and other Republicans said the bill must balance making the Internet more accessible with promoting industry innovation. Failing to find balance could result in unintended consequences, said Rep. Marsha Blackburn, R-Tenn. Rep. Parker Griffith, R-Ala., one of the bill's co-sponsors, said he didn't like language requiring specific technologies but said he's optimistic legislators could work through the problem and pass the bill. The final bill mustn't be limited to current technology, said Rep. Jay Inslee, D-Wash. Technology becomes obsolete in a matter of weeks, he said.

Boucher stressed consensus among the interest groups and between the political parties but struggled to find it as he questioned witnesses. Executives from CEA, USTelecom, CTIA and NCTA agreed that inexpensive third-party apps may be a sufficient substitute for accessibility software built into devices. But advocates for people with disabilities wouldn't commit to the idea. "I'm not sure," said Lise Hamlin, director of public policy for the Hearing Loss Association of America. "I would want to be absolutely certain" that the features are available and functional. Acosta said people with disabilities shouldn't have to pay extra for accessibility devices.

Hamlin would support requiring companies to make accessible only a percentage of devices available, similar to the FCC's hearing-aid compatibility rules, she said. But there would need to be strong enforcement of the percentage and a clear marketing campaign to educate users, she said.

USTelecom backs the Markey bill, said Walter McCormick, the association's president. USTelecom's work with the Coalition of Organizations for Accessible Technology is reflected in HR-3101, he said. The telephone association prefers the House bill to the Senate version (S-3304) by Senate Communications Subcommittee Chairman John Kerry, D-Mass., because Markey's "more appropriately reflects the need for technological parity and a level parity for all advanced communications service providers and manufacturers," McCormick said. Kerry told McCormick at a hearing last month that he would try to relieve USTelecom's concerns (CD May 27 p5).

Other industry executives backed the goals of Internet accessibility legislation but resisted strict rules for industry action. Legislators should be patient as cable operators develop video-described programming and ways to make audible versions of menus and program guides for the blind and visually impaired, said James Assey, NCTA executive vice president. Closed-captioning requirements for Internet video shouldn't take effect until standards in development are completed, and rules should give leeway for technical glitches moving video online, Assey said.

Legislation shouldn't make carriers or manufacturers responsible for accessibility of third-party applications, said Bobby Frankin, CTIA executive vice president. Evolution to open platforms means carriers and device makers don't always have control of everything on the network or device, he said. And the subcommittee should scale back reporting requirements because they would be costly and raise confidentiality concerns. The bill should instead require companies to maintain records on recent accessibility efforts, and produce them upon the FCC's request, he said.

Rep. Doris Matsui, D-Calif., plans to add her name as a co-sponsor to the accessibility bill, she said in opening remarks. — *Adam Bender*

International Consequences

Baker Says Compromise Remains Possible on Reclassification

The ongoing fight over whether broadband should be reclassified as a more heavily regulated "telecom" service has resulted in chaos for the broadband industry, FCC Commissioner Meredith Baker said Thursday at the annual Broadband Policy Summit, sponsored by Pike & Fischer. Baker also said work on the "third way" reclassification plan by FCC Chairman Julius Genachowski has distracted attention from the National Broadband Plan. Another danger is that increased FCC regulation of the Internet could lead to more government control of the Internet in other nations, she warned.

A divided FCC will approve a reclassification notice of inquiry (NOI) at the June 17 meeting, but work on a compromise will continue, Baker predicted. Baker said she spoke with Genachowski Thursday morning: "He asked me to keep up an open mind ... and he promised he would do the same." The last Baker checked, there were "three votes for [the NOI] next Thursday," she said. She predicted the commission will vote on a final order based on the NOI in October. Baker said the FCC has received a strong message from Congress not to move forward: "I hope that getting those letters, hearing those voices, will cause the FCC to put a pause on the net neutrality agenda."

Baker said she remains convinced that reclassification would be a mistake. "If it isn't broken, don't fix it. And, our Title I regime for broadband is certainly not broken," she said. "While the chairman continues to speak about the need for regulatory certainty, he seems to overlook that we had certainty until this classification debate began last month."

The reclassification push comes at a time when investment in broadband is critical per the national plan, Baker said. "We need to create incentives for those with capital to invest aggressively in our field," she said. "I am afraid this reclassification debate will have the opposite result — a feeling shared by over half the members of Congress" who have gone on record in opposition to reclassification.

International regulators are watching the FCC closely, Baker said. They "will feel compelled to act if we do," she said. "Regulating any part of the Internet as a telecommunications service carries significance in the ITU and in other international regulatory bodies. Even more troubling, the stated goal to maintain Internet openness may well be used as a pretense for closing it in other parts of the world."

Baker made clear she remains an opponent of net neutrality rules as proposed by Genachowski last year. "There is no consensus ... that the government should step in and adopt rules to preserve the openness provided today by competitive markets," she said. "We are ill-equipped to define reasonable network management or managed services, or to distinguish good prioritization from bad in a workable and consistent manner across the Internet." Baker said she was pleased to see the announcement Wednesday (CD June 10 p1) of the new Broadband Internet Technical Advisory Group (TAG). "I am hopeful that the formation of this group represents a significant first step towards a viable self-governance model to address open Internet challenges," she said.

Baker said in an interview that TAG "could be a key part of the solution. It's engineering based. It's industry self-regulating," she said. "It can be flexible enough to address the situation as the Internet evolves. I have

great hope for the TAG." Compromise is possible on reclassification, but not before next week's vote on the third-way proposal, she said. "I want the commission to focus on the real important deployment and adoption issues of the National Broadband Plan." — **Howard Buskirk**

Broadband Forum Notebook

A survey by the conference sponsor mainly of communications executives that also included academics in the field and government officials found skepticism that FCC proposals for reallocating spectrum will free up enough to satisfy demand for wireless broadband. One-third of the 99 survey respondents — who may not have been a representative sample of the telecom and media industry because they weren't randomly selected — said they believe the 500 MHz of spectrum that the National Broadband Plan seeks to reallocate to high-speed Internet service over 10 years isn't sufficient to meet demand. One-third said it is. The rest were undecided, said Pike & Fischer, which ran the survey in April and May. "Respondents predict that network equipment vendors and consumer electronics manufacturers will gain the most from the broadband plan," said the research firm. "Few see software vendors as garnering major benefits from the plan." Thirty-six percent said network-gear makers have the most to gain immediately from follow-through on the plan, and 15 percent said CE makers do. Public safety agencies came in third at 12 percent of respondents. Three percent said software vendors have the most to gain, Pike & Fisher said. "Industry professionals generally believe all forms of broadband technology should be given equal support in the implementation of the broadband plan, although sizeable chunks of professionals view fiber-to-the-home or premises and WiMAX as the most important platforms," the researcher said. "A large percentage of industry professionals believe building broadband infrastructure should be the FCC's primary objective, ranking the importance of that step over promoting broadband adoption, reforming the Universal Service Fund (USF), and other telecommunications policy initiatives." Twenty-eight percent of respondents said the broadband plan's top priority should be supporting infrastructure construction, and 13 percent said it should be funding a nationwide, interoperable public-safety network. — **JM**

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All at Once 'Most Elegant'

FCC Economist Spells Out Three Ways TV Spectrum Could be Auctioned

STANFORD, Calif. — A veteran FCC economist fleshed out alternatives for auctioning spectrum that broadcasters give up for reuse in mobile broadband. The commission could give out overlay licenses, hold separate auctions to clear and re-license the spectrum, or set up a process to make both changes at the same time, said Evan Kwerel, senior economic adviser to the FCC's Office of Strategic Planning and Policy Analysis, saying he spoke only for himself.

Simultaneous auctions to clear and re-license the spectrum have "a certain appeal to economists" as the "most elegant" of the three formats, Kwerel said late Wednesday at a conference by the Technology Policy Institute and the Stanford Institute for Economic Policy Research on the National Broadband Plan. The commission would run "an exchange in which broadcasters offer to channel share, contribute an entire channel or clear UHF spectrum in other ways (FCC reassigns TV channels and calculates amount of contiguous UHF spectrum made available) and mobile operators bid on new unencumbered licenses *simultaneously*," a presentation slide said. In this way, the exchange itself, rather than the commission, "determines the amount of spectrum cleared," it said.

Methods other than the overlay would require congressional action, Kwerel said. That's because Section 309(j) of the Communications Act bars any auction proceeds from going "to broadcasters to clear spectrum" as those methods would involve, and because the FCC lacks express authority to act as a third-party auctioneer, he said. A draft bill by Rep. Ed Markey, D-Mass., would fill in the commission's powers in this connection (CD May 27 p10). The FCC has clear authority to create overlay licenses and has used it for PCS, Kwerel said.

The formats that Kwerel discussed aren't the only possibilities, a commission official said Thursday. In the ordinary course, the Media and Wireless bureaus and any others involved would recommend one of the auction methods to Chairman Julius Genachowski for circulation to the other commissioners in anticipation of a proceeding, the official said. The commission plans to put out some time from July to September a rulemaking notice to "seek comment on proposals to increase spectrum efficiency and innovation" in connection with broadcast TV frequencies, according to an agenda for broadband-plan follow-up that the FCC has posted online. Beyond that, the timing isn't clear, the official said. It's an "ongoing process" and "for the most part, we don't have answers" about how it will play out.

Under the two-step format, a reverse auction would be held to clear a set amount of broadcast spectrum or to produce a supply curve that shows how much spectrum would be sold at what price, Kwerel said. Licensees could offer to share "a channel in same market through multicasting with other broadcasters, while retaining must-carry rights for primary program stream," contribute "an entire channel" or clear "UHF spectrum in other ways," a slide said. The FCC could "repack channels to clear contiguous blocks." The second step would be a "forward auction for cleared UHF spectrum."

With an overlay, the FCC would "auction new licenses with defined geographic areas" or "a single nationwide license" for ease of clearing "combined with divestiture of some or all cleared spectrum to promote competition," a slide said. The overlay wireless licensees would have to protect the incumbent broadcasters from interference, but they would have great leeway in making their own arrangements to get the stations off the spectrum, Kwerel said. — *Louis Trager*

Broadband Plan Conference Notebook

"Totally cleared beachfront property" in the spectrum makes sense for iPhone service and other licensed uses, Kwerel said, referring to the analog broadcast spectrum. "We should think very carefully — very carefully —

before allocating ... for unlicensed use" spectrum that's very well suited to licensed use, he said. The "broadcasting white space may be appropriate" for unlicensed use, Kwerel said, saying he was speaking only for himself.

The new Broadband Internet Technical Advisory Group of large Internet companies (CD June 10 p1) may develop into something like the National Advertising Division of the Better Business Bureaus, a self-regulatory body for complaints with the FTC as a backstop for those that don't get resolved, said Joe Waz, senior vice president for external affairs at Comcast, a member of the group. "The whole concept is pretty brilliant," and the effort is run by former FCC official Dale Hatfield, "who is respected by everybody," Waz said. The group's creation is just a "first step" toward progress by private players toward defining "reasonable network management" for nondiscrimination purposes, said Senior Policy Director Rick Whitt of Google, another member. The announcement Wednesday was a "call for action" for "other people to join us," notably Internet users and academics, he said. The group grew out of activity including discussions between Google and Verizon, and then a March meeting at the Silicon Flatirons called by Hatfield, Whitt said. "Having engineers in charge can open up possibilities" for the advisory group, said Jeff Campbell, senior director for technology and trade policy at Cisco, another member. Engineers understand that problems can have multiple solutions and can try to agree on an acceptable range, he said. That's in contrast to lawyers, who seem to "get a chip in your brain that turns you into a binary thinker," Campbell said.

"Assurances" about the permanence of forbearance concerning the great majority of Title II duties "are going to be essential" to the positions of Comcast and Wall Street on reclassification, Waz said. Citing Commissioner Mignon Clyburn as having said there will be no reclassification without forbearance, he said "forbearance is not foreclosure." The FCC's justifications for forbearance may not persuade appeals judges, and there's a major question about how the current commission could bind a future one, Waz said.

Government agencies and their employees are discouraged from aiding the spectrum sharing needed to support wireless broadband, Hatfield said. "Sharing in frequency, space and time" is required, and it won't happen without reversing the incentives for federal users, he said. The employees who can deal with sharing are "really scarce" and usually "terribly overworked," Hatfield said. "The issues are really hard," and "there's no financial reward" for employees for resolving them, he said. And "there's no payoff for the agency," because payments for sharing "go to the Treasury," Hatfield said. The agency would have to devote its scarce resources to sharing techniques that sometimes are risky, he said. There are no awards for success, but officials get called on the carpet for foul-ups, Hatfield said. "It's just easier to say no," directly or by inaction, he said.

Indications in the wireless competition report that the FCC considers spectrum below 1 GHz special raise fears that "some policy levers might be pulled to keep the largest carriers from participating" in some auctions, said Charla Roth, Verizon public policy vice president. She alluded to the SkyTerra order, restricting spectrum leases to the largest carriers, which she said "didn't really have a rationale behind it" and which had to be based on companies' revenue rather than spectrum holdings to make it apply to AT&T and Verizon Wireless.

Whitt highlighted evidence mentioned in the broadband plan that, by 2012, no more than 15 percent of the U.S. population may have a choice of providers of "robust," very high-speed access, by way of DOCSIS 3.0 cable and fiber to the premises. He said this had received little attention in Washington. "If it's true, this is a pretty significant fact," Whitt said. If the spectrum recommendations ride on what any appeals court panel happens to think of the FCC's authority when it happens to decide a challenge, "the plan risks turning into Swiss cheese," he said. The FCC should change the plan as it sees what's working and should ensure that rather than being "top-down" the follow-through gives states and localities a large role, Whitt said. He suggested that Verizon's decision to stop its FiOS expansion in a deregulated market confounds incumbents' arguments that holding down government rules encourages network investment. Whitt raised the question of whether "there's a need for the government to come in" and extend fiber "the rest of the way." Waz said if Wall Street believed the prediction about ultra high-speed access, "our shares might be worth a little more." He said many technology predictions have been dashed. "I would not stake my entire policy position on that prediction," Waz said. Campbell

said, "Let's make sure we have a structure that encourages another provider to come in" to compete with incumbents, an effort that regulation now discourages.

Regulation allowing service providers flexibility in tiering both prices and service quality and in financial arrangements concerning third-party applications is needed to achieve the National Broadband Plan's goal of increasing adoption of high-speed access by meeting residents' varying needs and desires, Campbell said. He was discussing what he considers downsides to the proposed reclassification of broadband under Title II of the Telecom Act. Now there's pricing freedom formally but in practice a "sword of Damocles" hanging over providers that "will come down and kill you" for a misstep, he said. Campbell alluded to an outcry against Time Warner Cable's abortive plans for tiered broadband, saying it scared off the other service providers until AT&T recently announced usage-based prices for iPhone service. Reclassification of Internet access under Title II of the Telecom Act would be "the first step that's going to fundamentally unbalance that balance" in the government's handling of the Internet that has allowed the innovation that Silicon Valley has produced, he said. If the courts upheld the action, "we're going to live in a world of complaint," because "there are public-interest groups that have a strong interest in maintaining conflict," Campbell said. Every change in broadband-service terms would bring a regulatory complaint, he said. But reclassification probably would be thrown out in court, tossing the matter to Congress to take years to resolve, Campbell said. — *LT*

Presidential Kill Switch?

Cybersecurity Bill Gets Big Capitol Hill Rollout

A long-awaited cybersecurity bill introduced Thursday in the Senate Homeland Security Committee would give the president authority to declare a "national cyber emergency" and take emergency measures to fight it without further congressional approval. It would establish a national cybersecurity center and a formal cybersecurity czar appointed by the president and confirmed by the Senate. The bill was introduced by committee Chairman Joe Lieberman, I-Conn., ranking member Sen. Susan Collins, R-Maine, and Sen. Thomas Carper, D-Del.

The bill would "provide a responsible framework" developed with private industry for the president to authorize "emergency measures" to protect critical cyber infrastructure in the event of an attack on networks, it said. The authority would expire after 30 days but could be extended by presidential order. The president would have to notify Congress in advance of the threat and emergency measures, but would not need congressional approval. The bill's supporting documents explicitly say no new surveillance authorities are authorized and that the federal government cannot "take over" private networks. But they do not state what rises to the level of a cybersecurity emergency other than if the nation's most critical infrastructure is being or is about to be exploited.

The bill would establish a White House Office for Cyberspace Policy and a director appointed by the president and confirmed by the Senate. The director would advise the president on cybersecurity matters, lead federal efforts and develop a national strategy to protect cyberspace. To maintain transparency and congressional oversight, the director would have to report to Congress on a regular basis about the office's activities. The bill also would create a National Center for Cybersecurity and Communications organization at the Department of Homeland Security, that would lead federal efforts to protect public and private sector cyber and communications networks. It also would establish security requirements for the most critical portions of the nation's communications infrastructure, including vital components of the electric grid and telecom networks. Private networks could choose how they would comply with the requirements. Private networks that complied with the requirements would receive liability protections. The center would have its own Senate-confirmed director who would advise the president on cybersecurity in federal networks.

Other cybersecurity initiatives proposed in the bill include changing the Federal Information Security Management Act to give it a faster response to cyberthreats against the federal government, reshape procurement so

contracting officers would consider the security risks in IT procurements and require training for the federal acquisition workforce to improve network security.

"I commend Senators Lieberman and Collins for proposing solutions to this critical national security challenge," said Sen. Jay Rockefeller, D-W.Va., on Thursday. Rockefeller helped introduce the Rockefeller-Snowe Cybersecurity Act earlier this year, which was approved by the Senate Commerce Committee in March (CD March 25 p11). It awaits a Senate vote. The bill's other sponsor also gave it glowing reviews. "The broad overlap between this measure and the Rockefeller-Snowe initiative further underscores the bipartisan consensus within the Congress to confront the urgent threat," said Sen. Olympia Snowe, R-Maine.

Reaction was more cautious off Capitol Hill. The bill includes some privacy protections for Internet communications that federal agencies may want in connection with cybersecurity, but it doesn't clarify whether the president's broad emergency powers give him authority to shut down or limit Internet traffic, said Center for Democracy and Technology President Leslie Harris. The bill said the president isn't supposed to have an Internet "kill switch," and CDT will work to ensure the final version reflects that intention. Harris also said the legislation should clarify what critical infrastructure is subject to its "exacting" requirements. The Lieberman bill is well-intentioned but could have "unintended consequences," said Phillip Bond, president of TechAmerica. While the bill tries to restrict itself to critical infrastructure, the interconnected nature of networks makes that almost impossible, said Bond. "If the bill passes in its current form, it will turn DHS into a significant regulatory agency. Regulations like these could seriously undermine the very innovation we need to stay ahead of the bad actors and prosper as a nation." TechAmerica does support elevating the federal government's cyberdefense efforts to a center at DHS and a White House cyberczar.

Meanwhile, the IWeb has grown into a global community of 1.8 billion users since the Internet age began 41 years ago with the transmission of a single word — "login" — between computers at Stanford and UCLA, wrote Lieberman, Collins and Carper in an op-ed piece in *Politico* Thursday. "It is a necessity for millions of consumers, businesses and governments worldwide. But it is also a dark alley, where criminals can lurk, and a battleground that our enemies will try to seize and use against us." — *Dave Hansen*

Satellite Broadband Allocations

More Mobile Satellite Spectrum, Modified Filing Procedures Sought at WRC-12

BRUSSELS — European and other countries have narrowed the list of frequencies for possible new mobile satellite service allocations at WRC-12 to six bands, an executive said at a conference preparatory workshop. European countries are also considering proposing changes to ITU satellite network filing and coordination procedures, said Samuel Blondeau, senior space development manager at SES Astra in Luxembourg. European countries will sign off on common proposals next year.

An ITU-R report found a shortfall of spectrum available in the Earth-to-space direction of between 19 and 90 MHz by 2020 for systems using the International Mobile Telecommunications-2000 standard, Blondeau said. It found a shortfall of 144 to 257 MHz in the space-to-Earth direction, he said. Studies are focusing on bands between 4 and 16 GHz, he said. The WRC-03 only allocated 2 x 7 MHz, he said.

Officials now are focusing on spectrum for both the IMT-2000 satellite component and requirements for high-speed broadband access, Blondeau said, referring to a speed of between 2 and 4 Mbps. Studies have identified the need for two blocks of 300 MHz for high-speed broadband services to complement terrestrial networks, he said. Six potential bands are under consideration in the ITU and the European Conference of Postal and Telecommunications Administrations, Blondeau said. He listed 5150-5250 MHz for (downlink), 7055-7250 MHz (downlink) —

although Europe is only focusing on 7100-7190 MHz — 8400-8500 MHz (uplink), 10.5-10.6 GHz (downlink), 13.25-13.4 GHz (downlink), and 15.43-15.63 GHz (uplink). The bands have a lot of constraints because of the need to share with other services, Blondeau said.

European countries are also developing several possible modifications to procedures for advance publication, coordination, notification and recording of satellite networks' frequency assignments under another agenda item, Blondeau said. He referred to the possibility of maintaining operator rights for a certain time period in cases of launch or orbit failure or for moving another satellite to recover the service. The proposals would affect provisions for certain broadcasting-satellite service networks under appendices 30 and 30A in the Radio Regulations. A regulatory change would harmonize with practices found in other bands, Blondeau said.

Another proposal aims to clarify notification procedures for certain coordination requests, Blondeau said. Some ITU coordination requests for new network filings prompt the Radiocommunication Bureau to identify specific satellite networks or earth stations that need coordination. The European proposal aims to make the list definitive in an effort to simplify coordination, Blondeau said. "At the beginning of the process, you know exactly the name and the position and the administration with which coordination is required," Blondeau said.

A third proposal aims to clarify the rules in cases of filings under an alternative procedure that's used when the results of coordination are unfavorable, Blondeau said. The procedure allows the network to commence operation and get registered in the master registry if it operates for 120 days without raising complaints from other operators. The provision was originally designed for exceptional cases, the Radiocommunication Bureau director said in a recent interview, however it is being used for coordination of an increasing number of new networks. Blondeau didn't provide further details on the European proposal to clarify the rules. — *Scott Billquist*

Alaska Lessons Underlined

Emergency Alert System Needs More Clarity, Accuracy, Training, Relevance, FCC/FEMA Workshop Told

Public safety and emergency experts emphasized the need for more clarity, accuracy and relevance in emergency alert procedures and systems, they said at the FCC and Federal Emergency Management Agency's 21st Century emergency alerting workshop Thursday, citing lessons learned from an emergency alert system test in Alaska in January. The FCC should extend the deadline for installing updated Emergency Alert System (EAS) gear and the federal government should fund more training to use it, some said.

National testing showed the need for consistency on EAS and some confusion about what should be used for location code, what originator code should be used and how decoders react to messages, said Steve Johnson, consultant to the NCTA. He noted that during the Alaska test, an incorrectly coded message resulted in an invalid message on cable operators' EAS equipment. He also urged establishing training programs and having a clarification of the national alerting procedures. The cable industry has its own challenges, he acknowledged. Cable operators are delivering programming to TV sets and various consumer devices, he said. "We have all these different platforms we need to support," he said. For broadcasters, looking forward, there hasn't been much clarity on how many different sources need to be monitored, said Kelly Williams, a senior director with NAB.

"We still have challenges in the area of training the originators," said Henry Black, manager of the Maryland Emergency Management Agency's Communications Branch. More funding is needed for training, he said. Additionally, officials should make sure the terminology used in alerts is clear and accurate so that when an alert goes out, everybody understands, he said. A lot of work needs to be done in reaching ethnic communities, he said.

There should be a large educational effort, said Brian Josef, and educating the alert originators and the public is critical. CTIA has been working with various agencies on standardization of alert systems, he said. Making sure the Commercial Mobile Alert System (CMAS) can work is a top priority, he said.

Having national drills on a regular basis is key to creating awareness, said Wade Witmer, deputy division director with FEMA's Integrated Public Alert and Warning System Programs, which aims to develop next-generation infrastructure for alert and warning networks. "We are developing a system based on standards, protocols and technologies," said Mark Paese, a director with the National Weather Service. He emphasized the importance of partnership with broadcasters, telecom operators and government and non-profit agencies. The FCC has several responsibilities, including to help the entry of new technologies into alert systems and enable reasonable transition, among other things, said Gregory Cooke, associate chief of the FCC Public Safety & Homeland Security Bureau's (PSHSB) Policy Division. PSHSB chief James Barnett said broadband has the ability to reach more people faster. A comprehensive alert system will leverage multiple technologies, he said.

Extending the deadline for EAS participants to accept a Common Alerting Protocol-based alert is necessary as the 180-day "shot clock" may not be enough time for manufacturers to design, build, test and distribute new EAS gear, said Williams. The FCC is aware of the concerns on constraint of the 180-day shot clock and is looking at the comments carefully, said Cooke.

Emergency managers need standard practices for warnings, said Art Botterell, a public warning consultant. Many emergencies are local but there have been a growing class of emergencies on the federal level, involving different jurisdictions, he said. Some state and local jurisdictions are ahead of the federal agencies on emergency alert systems and procedures, he said. Denis Gusty, a deputy director with Department of Homeland Security, agreed, saying the current version of EAS, a federal system, has its limitations. The real question is how next-generation EAS works with state and local systems, he said.

Brian Daly, a director at AT&T Mobility Service, said different types of media support are needed. Yet agencies have to be careful not to overwhelm the public, he said. Meanwhile, updating alert information and targeting alerts are critical, he said, urging timely and effective distribution of messages. It's important to send out alert messages in more than one format, said Claude Stout, executive director with Telecom for the Deaf and Hard of Hearing. He also urged the FCC to make more spectrum available.

It's the people at the local level that use the emergency systems that need to be addressed, said Darryl Ernst, chief technologist with ErnsTek, urging government officials to look at training requirements. Technology can facilitate training of local officials too, he said. Going from traditional networks to next-generation systems, there's more dependence on traffic load, said Mike Nawrocki, an executive director with Verizon. Other panelists also raised the potential issue of congestion on next-generation networks. When it sends alerts in different languages, it's the government's responsibility to make sure the language is precise and accurate, several panelists said. — *Yu-Ting Wang*

Comm Daily® Notebook

The FCC's efforts to promote broadband expansion are similar to past attempts to deliver electricity to homes across the country, FCC Chief of Staff Edward Lazarus said at the Broadband Policy Summit, sponsored by Pike & Fischer. "Running power lines long distances to reach patchworks of farms was too expensive," and "as with broadband, the potential advantages of electricity weren't obvious." As the FCC takes on spectrum availability, universal service and other goals of the plan, it has highlighted "the roles that government and the private sector need to play moving forward," Lazarus said: A better-educated and better-paid middle class "fueled the economy for decades all because of the powerful combination of private and government actions that brought electrification

to the whole country." "Broadband holds as much potential as electricity to elevate the quality of life and grow our economy," he said. Everyone will be linked to unprecedented educational resources and "homes will be increasingly smart." There will be a greater explosion in the number of devices and applications and video "from any source played on any device," he said. With better broadband access, small businesses would probably benefit the most by having applications to manage customers and drawing "from a pool of more educated workers," Lazarus said. Lazarus called Wednesday's announcement of a Broadband Internet Technical Advisory Group a "good step," saying engineers working together on network management issues "is something Chairman Julius Genachowski has embraced from the very beginning of his tenure." The group should consist of reasonable-minded engineers thinking through problems and solving them "before they bubble up before the commission." Lazarus also supported the broadband plan's recommendation to hold incentive auctions for spectrum and suggested that broadcasters share unused spectrum: "The opportunity to share in the proceeds will enhance their financial position," and "it's a way to get out ahead of the problem that in five years is going to be much worse." — *KL*

Clarification: FCC Commissioner Michael Copps replied to a question about the contention that Google is one of the gatekeepers whose control threatens Internet freedom (CD June 10 p11) that the issue the commission confronts is a challenge to its authority over access providers.

Sen. Debbie Stabenow of Michigan became the first Democratic senator to oppose FCC Chairman Julius Genachowski's plan to reclassify broadband transport under Title II of the Communications Act. In a letter Thursday to Genachowski, Stabenow also backed House and Senate Commerce Committee leaders' effort to update the Communications Act. "I urge the Commission to withdraw its Title II classification effort and work with the Chairs of the appropriate Congressional committees to develop a suitable and clear statute that will help us achieve our national broadband goals." Stabenow is the 39th senator and 288th member of Congress to oppose the FCC proposal.

Wireless

T-Mobile and Verizon Wireless locked horns at the FCC over spectrum below 1 GHz and how critical it will prove to be for mobile broadband. "Lower-frequency spectrum bands are not per se more 'effective' than higher-frequency bands and, in fact, higher-frequency bands offer advantages in many capacity-driven deployments," Verizon Wireless said in a filing last month, which said it's T-Mobile's own fault it didn't buy spectrum in the recent 700 MHz auction: "Nearly 100 bidders other than Verizon Wireless and AT&T acquired licenses in the 700 MHz auction, including one in every market." T-Mobile fired back in a letter this week, which notes that Verizon's purported goal is greater clarity. "Far from offering a clarification, however, Verizon Wireless seeks to obfuscate T-Mobile's argument that making more spectrum available in the lower bands would be especially effective in promoting competition in the wireless marketplace," T-Mobile said. Verizon Wireless CEO Lowell McAdam has made clear in various comments that 700 MHz spectrum is key to the company's 4G rollout, T-Mobile said. "Verizon Wireless's attempt to minimize the value of lower band spectrum ... is contradicted not only by its CEO's recent statements, but by the prices it paid for 700 MHz spectrum in urban areas in Auction 73," the carrier contended. "In the A Block alone, for instance, it spent \$429 million for the New York City-Long Island area and its surroundings, \$247 million in the Philadelphia-Atlantic City area and its surroundings, [and] \$122 million in the Washington-Baltimore area."

The House Communications Subcommittee plans to review a discussion draft of 700 MHz D-Block legislation at a hearing planned June 17, said a Commerce Committee spokeswoman. The subcommittee also plans to discuss bipartisan 911 legislation by Rep. Anna Eshoo, D-Calif., the spokeswoman said. The draft public safety bill would provide funding to construct and maintain a nationwide, interoperable public safety broadband network. The hearing is planned for 10 a.m. in Room 2322, Rayburn.

International Telecom

The European Commission wants major changes to standard-setting policies in order to boost interoperability, Digital Agenda Commissioner Neelie Kroes said Thursday at the Open Forum Europe 2010 summit in Brussels. The new EU digital strategy calls for more and better standards to be created and recognized in Europe, for better use to be made of them and for more interoperability in the absence of the standards, she said. Reform of the way information and communication technology (ICT) standards are handled is badly needed because Europe's standardization framework is out of sync with fast-moving technology markets, she said. By year's end, the EC will propose changes to the regime, some of which will be particularly relevant for the ICT sector, she said. The standards that power the digital world are made by economic actors, but in Europe only the European Telecommunications Standards Institute allows them to participate directly, she said. That means the standards that underpin the Internet and the World Wide Web are developed elsewhere, Kroes said. Revamping Europe's ICT standard-setting system is an easy way to bring relevant standards from non-traditional standard-setting organizations such as the World Wide Web Consortium on an equal footing with European standards, she said. The EU must also take every opportunity to promote appropriate rules for prior disclosure of essential intellectual property rights (IPR) and licensing conditions in standard-setting. The EC is drafting guidelines on how antitrust rules apply to horizontal agreements, but Kroes said she wants all standard-setting bodies to have prior, but not uniform, IPR-disclosure rules. "We want smart rules that are adapted to their respective fields," Kroes said. "Standard-setting for software interoperability is not the same as setting a new standard for, say, digital television or mobile telephony." The EC will also offer guidance on how to analyze a technology buyer's requirements in order to make the best use of ICT standards in tender specifications, she said. Many authorities have locked themselves into proprietary technology for decades, wasting taxpayers' money and forcing people to buy specific products to make use of a public service, she said. The EC also wants a new system to ease interoperability among public administrations, she said. Kroes said she will "seriously explore all options" to prevent major market players from denying interoperability of their products. Ensuring companies offer the required information for licensing won't be easy, she said. It will likely be limited to certain kinds of IT products and involve some form of price constraint, she said. Kroes said she may seek a legislative solution which could have a strong impact on the industry.

The GSM Association is trying to rally support for harmonizing spectrum identified for advanced wireless communications at the WRC-07, said Simon Wilson, spectrum policy manager at Telefonica on behalf of the association. Spectrum identified at WRC-07 for International Mobile Telecommunications (IMT) "is somewhat fragmented," Wilson said. The harmonization and a possible extension in spectrum identified for IMT will be sought at the WRC in 2015 or 2016, he said. The association will begin raising international support for the ideas before bringing it into the European WRC-12 preparatory process.

Telecom Notes

FCC Public Safety Bureau Chief Jamie Barnett expressed concerns Thursday about reports of a recent breach of AT&T's network under which the e-mail addresses of more than 114,000 Apple iPad 3G consumers were made public. "This breach underscores the need for robust cyber security," Barnett said. "The FCC's cyber security mission is to ensure that broadband networks are safe and secure for the consumers and businesses that depend on them." AT&T said in a statement it was informed Monday by a business customer that their iPad ICC IDs had apparently been exposed. "The only information that can be derived from the ICC IDs is the e-mail address attached to that device," AT&T said. "This issue was escalated to the highest levels of the company and was corrected by Tuesday; and we have essentially turned off the feature that provided the e-mail addresses." The breach was reportedly discovered by a group that calls itself "Goatse Security." AT&T said: "The person or group who discovered this gap did not contact AT&T. We are continuing to investigate and will inform all customers whose e-mail addresses and ICC IDs may have been obtained."

Broadcast

It's clear the FCC is wasting no time on spectrum reallocation, from the scheduling Wednesday of a June 25 broadcast engineering forum on the subject (CD June 10 p15), said a lawyer whose firm represents TV stations. "The FCC is full speed ahead on its proposed reallocation of spectrum from the TV bands" and the proceedings should be of interest to "just about everyone in the television broadcast industry," Brendan Holland wrote on the Davis Wright blog.

FCC Commissioner Mignon Clyburn talked up community radio in comments Thursday to a conference on the subject in St. Paul, calling that medium "an essential piece of the American experience." She wants a vote soon on an order on circulation (CD March 31 p6) that could pave the way for more low-power FM stations. She said she's "optimistic that Congress will act to permit the licensing of new community stations under extremely flexible FM translator-type protection standards. Should Congress pass the Local Community Radio Act, we could realize a unique opportunity to license a great number — many hundreds — of new low-powered, community-oriented radio stations." For those who "really want to know what is going on in your local community," the Internet often isn't the first place they turn, but rather nearby radio stations, she said. "Sure, there are so-called 'hyperlocal' web-sites here and there that provide important neighborhood information. But this is the exception, and not the rule. And while someday the Internet may be able to reliably link us all to our local communities, today is not that day."

Canada's Canwest and Canadian Broadcasting Corp. have been using the back-office online video services of Comcast's thePlatform, the vendor said Thursday. The terms weren't disclosed.

NBC Telemundo got an FCC permit to deliver full-service Spanish-language programming from the San Diego and Tijuana areas to Mexico's XHAS-TV Tijuana, said an International Bureau public notice Thursday. That TV station is licensed to a Mexican company operated by U.S.-based Entravision, said the notice, which granted a permit to deliver programs to foreign broadcasters.

Total Q1 broadcast TV sales gained 11 percent from a year earlier to \$18.9 billion, the TV Bureau of Advertising said, citing Kantar Media data. Network revenue gained 11 percent while spot sales were up 21 percent. Syndicated TV sales fell 13 percent. "These are very strong numbers," said Susan Cuccinello, TVB senior vice president of industry research. The figures show that "TV stations are leading the industry as the economy recovers," she said. That recovery was strongest among auto advertisers, who increased Q1 broadcast TV outlays 76 percent from a year earlier, TVB said. Communications companies also increased their spending: AT&T's was up 83 percent to \$68.4 million, Comcast's 12 percent to \$52.9 million, and Time Warner Cable's 6.7 percent to \$30.7 million. At \$77.5 million, Verizon spent more on broadcast TV than any other communications company, but pulled back 1.2 percent from what it spent a year earlier.

Cable

Cablevision is not a "shoe in" to win the auction for Bresnan's cable systems, Wachovia analyst Marci Ryvicker wrote in a note to investors. Other reported private equity and strategic buyers such as Charter, Suddenlink or Ascent Media would make more sense, Ryvicker said. Buying Bresnan would be bad for Cablevision and its shareholders, she said. "We would rather see the Dolans [who control the company] put their free cash flow to use via an increase in the dividend ... or a share repurchase authorization (which has never been done) — not an acquisition of cable assets so far outside of CVC's current footprint," she said. "While we believe that CVC is fundamentally undervalued, it is hard to put up a solid argument as to why investors should step up until this overhang is resolved," she said.

Charter Communications settled an employment class-action lawsuit, agreeing to pay \$18 million to resolve all claims on wages and overtime by plaintiffs and class members, said the cable operator and a lawyer representing

those who sued. Company policy is to pay hourly employees for all hours worked, and Charter denied any liability under the settlement, it said. U.S. District Court Judge Barbara Crabb in Madison, Wis., who gave preliminary approval last month to the settlement in *Marc Goodell et. al. v. Charter*, must give the final okay.

Viacom's new dividend and stock repurchases won't affect the company's credit-rating outlook, Standard & Poor's said.

Mass Media Notes

There's little evidence that pay-TV subscribers are fleeing the service in favor of free online video, Leichtman Research Group said. The industry added more than 1.7 million video subscribers the past 12 months, it said. Though the top 10 cable operators lost 1.4 million subscribers total Q1, DBS and phone companies added far more than that, leaving the pay-TV industry about 580,000 larger overall after the quarter, it said. Pay-TV penetration is at an all-time high, but growth is poised to slow, Bruce Leichtman said. "Multi-channel video industry gains will likely be slower in the coming year than they were in the past year, due to the saturated market, coupled with tepid new housing growth, and a slowdown in the rollout of Telco TV services," he said. "Consumers' decisions to disconnect from the multi-channel video services to only watch video from other sources are unlikely to have a substantial impact on the market in the near term."

Ads running on ESPN 3D were produced in native 3D and will air in 3D, the network said Thursday. Sony, Gillette, and Disney/Pixar will all run 3D spots when the network begins programming Friday, it said. Additionally, ESPN, also owned by Disney, will air 3D spots for its *SportsCenter* program. "We have interest from several of our clients to include ESPN 3D in their packages and we will do everything we can to accommodate them," said Ed Erhardt, president of ESPN custom marketing and sales. ESPN 3D debuts Friday with the opening World Cup match between Mexico and South Africa.

London-based media consulting and publishing company Screen Digest agreed to sell itself to iSuppli for an undisclosed sum, the companies said. They expect the deal to close before the end of the year.

NBC affiliates likely will support Comcast's plan to buy control of NBC Universal, they told FCC staffers reviewing the deal, Commissioners Michael Copps and Robert McDowell and aides to the other three commissioners. That's as long as the agency conditions the deal on preventing local affiliates from being bypassed by a direct feed from the broadcast network to Comcast's systems, ensure retransmission consent and affiliation agreement talks remain separate and don't move sports from terrestrial TV to the cable operator's channels, said a filing posted Wednesday in docket 10-56, <http://xrl.us/bhoa92>. The affiliates are "optimistic about the discussions they have had with Comcast" on its intention to support terrestrial TV and the network-affiliate relationship, executives from companies including E.W. Scripps, Gannett and Raycom Media said, according to the filing. Affiliate representatives said they're worried cable and satellite operators seeking FCC involvement in retransmission consent deals have an incentive to create disputes to advance their proposals and that National Broadband Plan proposals to reallocate TV spectrum could "chill" investment in mobile DTV, HD programming and multicasting. Separately, Comcast, NBC Universal and NBCU parent General Electric on Tuesday asked the commission for enhanced confidential treatment of some information requested by the regulator in its discovery request. "Most of the information and documents to be submitted fall within existing categories of enhanced confidential treatment that the Commission has already recognized in this proceeding," said a filing from the three companies. Such categories of information include Comcast's detailed customer and financial data, and, from the company and NBC Universal, carriage deals and business strategies and plans.

Satellite

The FCC prohibited the manufacture, sale, installation or continued use of Inmarsat emergency position indicating radiobeacons because they no longer provide a safety benefit and could "jeopardize the safety of mariners who might mistakenly rely on them," the agency said in a report and order on amendments to rules on maritime communications. The agency also concluded that VHF-DSC handheld radiotelephones should include global positioning system capability, but deferred adopting the requirement until the Radio Technical Commission for Maritime Services completes work on GPS standards. The new rules will also require that any small passenger vessel that does not have a reserve power supply carry at least one VHF handheld marine radio transceiver, it said. It also eliminated the limits on the number of frequencies that can be assigned to a private coast station or marine utility station.

Space Systems/Loral, preparing for an initial public offering of up to 19.9 percent of the company's common stock, filed a registration statement with the SEC Thursday, Loral said. The proceeds will be used for "working capital and other general corporate purposes, including to finance further growth and expansion," the company said. Loral didn't respond to a request for details on the offering.

Intelsat will distribute BBC World News programming in the Asia-Pacific and Americas regions through a renewed and expanded contract with BBC, said Intelsat. The contract includes satellite capacity on four satellites and teleport and fiber services, it said. BBC will use capacity on Intelsat 8 at 166 degrees east, Intelsat 5 at 169 degrees east, Intelsat 9 at 58 degrees west and Galaxy 13 at 127 degrees west, Intelsat said. Terms weren't disclosed.

Comtech Telecommunications will provide an aviation transceiver, ground mobile transceivers, technical support, equipment leases and satellite network bandwidth to the U.S. Army Communications Electronics Command (CECOM), Comtech said. The \$6.1 million order is part of an indefinite delivery/indefinite quantity contract with CECOM, Comtech said. The equipment will be used for the Army's real-time situational awareness and control system called Blue Force Tracking. The bandwidth will be used to support the system's update to a new software version, Comtech said.

Skycasters, a satellite Internet provider, applied for \$5.1 million in federal broadband stimulus funding through the Rural Utilities Service Broadband Initiative Program, the company said. The proposal involves giving 80 communities and counties in 17 states free satellite broadband for two years and free equipment, said Skycasters. Each organization would receive the service at a minimum of 2 Mbps downstream and 768 kbps upstream and would increase communications abilities of public safety officials, it said. Beyond the initial two years, the project would be sustainable due to the use of equipment that will work on any iDirect network, it said. The proposed plan could reach about 37 million people and would create 266 jobs, Skycasters said. There is at least \$100 million set aside by RUS for satellite broadband projects. The dollar amount for satellite projects may increase depending on if there are any leftover funds that were allocated for terrestrial projects.

Communications Personals

Discovery names **Cinnamon Rogers**, ex-Time Warner, vice president-legislative affairs ... Investor **Kurt Cellar** to join Hawaiian Telcom board after it emerges from bankruptcy ... **John Deushane**, ex-Granite Broadcasting, hired by Gannett as president and general manager of WXIA-TV and WATL Atlanta ... **Tony Thakur**, ex-Network Technologies and Systems, hired by Ethernet exchange operator CENX as executive vice president of engineering and operations.