

Telecom Alert: Chevron Deference Overturned; \$1,050,000 Consent Decree; NG911 Proposed Rules; Net Neutrality Litigation; BDC Filing Window [Vol. XXI, Issue 27]

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Chevron Deference Overturned

Last week, the Supreme Court overturned its 1984 decision in *Chevron U.S.A., Inc., v. Natural Resources Defense Council, Inc.*, which had directed courts to defer to agencies when interpreting statutes that were silent or ambiguous on certain issues and the interpretation was based on a permissible construction of the statute. The Court reasoned that so-called “Chevron deference” violated the separation of powers and ran afoul of the Administrative Procedure Act. The Court noted, however, that agency actions that were permitted pursuant to cases relying on Chevron deference would not be overruled based on this decision.

\$1,050,000 Consent Decree

The FCC entered into a [consent decree](#) with Verizon Wireless (“Verizon”) to resolve an investigation into whether Verizon violated FCC rules by failing to deliver 911 calls during an outage in December 2022. FCC rules require wireless service providers to transmit all 911 calls to 911 call centers. On December 21, 2022, Verizon Wireless experienced an outage that impacted 911 wireless Voice over Long-Term Evolution (“VoLTE”) traffic in Alabama, Florida, Georgia, North Carolina, South Carolina, and Tennessee, resulting in hundreds of failed 911 calls over Verizon’s network. Verizon is required to pay a \$1,050,000 civil penalty and implement a compliance plan.

NG911 Proposed Rules

The FCC released the [proposed text](#) of a Report and Order related to Facilitating Implementation of Next Generation 911 (“NG911”) Services. The FCC proposes requiring Originating Service Providers

("OSPs"), including wireline, commercial mobile radio service, covered text, interconnected Voice over Internet Protocol, and Internet-based Telecommunications Relay Service providers to transition to NG911 in two phases in response to a request from a State or local 911 authority. In Phase 1, OSPs would be required to deliver 911 traffic in IP-based Session Initiation Protocol ("SIP") format to delivery points designated by the 911 authority. In Phase 2, OSPs would be required to deliver 911 traffic to designated delivery points in an IP-based SIP format that supports routing, caller location, and transmission of emergency information in accordance with NG911 commonly accepted standards.

Net Neutrality Litigation Stays in Cincinnati

The U.S. Court of Appeals for the Sixth Circuit ruled last week that it will keep the Net Neutrality litigation currently before it in Cincinnati. The FCC had asked for the case to be moved to the U.S. Court of Appeals for the D.C. Circuit because it has more experience with Net Neutrality litigation. The Sixth Circuit stated that the FCC's reliance on the D.C. Circuit's precedents wasn't persuasive because the Commission has inconsistently classified broadband Internet access service over the years.

Broadband Data Collection Filing Window

The fifth Broadband Data Collection ("BDC") [filing window](#) for submitting broadband availability and other data as of June 30, 2024, will open on July 1, 2024. Facilities-based broadband service providers may submit data into the BDC system specifying where they made mass-market broadband Internet access service available as of June 30, 2024. Such entities, as well as providers of fixed and mobile voice services, must also submit their June 30, 2024, subscription data required under Form 477 into the BDC system. All availability and subscription data must be submitted no later than September 3, 2024.

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