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What's New in Wireless - January 2025

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The wireless industry has revolutionized the way we connect, from facilitating teleworking, distance learning, and telemedicine to allowing the American public to interact virtually in almost all other aspects of their daily lives. Leading policymakers – federal regulators and legislators – are making it a top priority to ensure that the wireless industry has the tools and resources it needs to keep pace with this evolving landscape. This blog provides monthly updates on actions by federal regulatory bodies responsible for communications policy and Congressional efforts to support wireless connectivity. And this month we highlight two FCC proposals to enhance U.S. cybersecurity in communications networks in the wake of the Salt Typhoon hack.

Regulatory Actions and Initiatives

The FCC Announces Two Initiatives to Enhance Security Due to the Salt Typhoon Hack. In response to news reports concerning the Salt Typhoon hack, FCC Chairwoman Rosenworcel announced that she has circulated two draft proposals intended to enhance the cybersecurity of U.S. critical communications infrastructure. *First*, she circulated a draft Declaratory Ruling that would clarify that Section 105 of the Communications Assistance for Law Enforcement Act creates an affirmative legal obligation for telecommunications carriers to secure their networks from unlawful access or interception of communications. Importantly, the proposed clarification would extend this obligation beyond carriers' equipment to how they manage their networks. If adopted, the Declaratory Ruling would be effective immediately upon release. *Second*, the Chairwoman circulated a draft Notice of Proposed Rulemaking ("NPRM") that would propose requirements for communications service providers to (i) create, update, and implement cybersecurity risk management plans, and (ii) annually certify to the FCC compliance with those plans. The NPRM would also seek comment on expanding cybersecurity requirements to a range of communications providers and identifying other ways to enhance the cybersecurity and defenses of communications systems. Once the NPRM is adopted and released, interested parties will have an opportunity to provide input. Drafts of the documents have not yet been made public and will not be released unless they are adopted.

Spectrum

The FCC Announces the Next Auction of Spectrum. On January 6, 2025, FCC Chairwoman Rosenworcel issued a News Release announcing that she circulated to her colleagues an NPRM that would, if adopted, update the service rules for AWS-3 spectrum currently held in the FCC's spectrum

inventory (the 1695-1710 MHz, 1755-1780 MHz, and 2155-2180 MHz bands) so that it may be made available for auction. Although the FCC does not currently have authority to auction spectrum generally, the recently passed Servicemember Quality of Life Improvement and National Defense Authorization Act for Fiscal Year 2025 ("NDAA") provides the Commission with specific authority to conduct an auction of AWS-3 spectrum so that funds generated from the auction can be used to fully fund the rip-and-replace program, discussed further below. The News Release notes that "[t]he AWS-3 auction will be the Commission's first spectrum auction since its general auction authority lapsed in March of 2023." A draft of the NPRM has not yet been made public and will not be released unless it is adopted.

The FCC Revises the Emissions Limits for the 24 GHz Band. On December 2, 2024, the FCC released a Report and Order revising its rules for the 24.25-24.45 GHz and 24.75-25.25 GHz bands (collectively, the "24 GHz band") to, among other things, implement the Resolution 750 emissions limits adopted at the International Telecommunication Union's ("ITU") 2019 World Radiocommunication Conference ("WRC-19"). In particular, the FCC adopted the Resolution 750 unwanted out-of-band emissions limits of (i) -33 dBW/200 MHz for base stations and -29 dBW/200 MHz for mobile stations until September 1, 2027; and (ii) -39 dBW/200 MHz for base stations and -35 dBW/200 MHz for mobile stations on and after September 1, 2027. The FCC also applied the limits to all mobile operations in the 24 GHz band, instead of only International Mobile Telecommunications ("IMT") base and mobile stations as adopted by WRC-19. The FCC declined to apply the Resolution 750 emissions limits to fixed operations, including point-to-point and point-to-multipoint operations, because WRC-19 only studied IMT operations under a mobile service allocation as well as a proposal to exempt indoor small-cell systems from the Resolution 750 emissions limits because there was insufficient support for the proposal in the record. The revised rules will become effective on January 13, 2025.

NTIA Releases a Report on the 37 GHz Band. The National Telecommunications and Information Administration ("NTIA") made available a Report and summary on federal and non-federal sharing of the 37-37.6 GHz band, known as the lower 37 GHz band. The Report recommends, among other things, that the Department of Defense ("DoD") have priority access to the 37-37.2 GHz band, with co-equal access in the remainder of the band. NTIA also issued a Joint Statement with DoD on the Report, noting that "[i]t represents the first deliverable under the National Spectrum Strategy directive to examine a key set of bands to ensure U.S. leadership in spectrum-based services now and into the future."

The FCC Announces Renewal Procedures for 3.5 GHz Spectrum Access Systems and Approves Additional Sensors. On December 9, 2024, the FCC's Wireless Telecommunications Bureau ("WTB") and the Office of Engineering and Technology ("OET") released a Public Notice announcing the procedures that Spectrum Access System ("SAS") administrators in the 3.5 GHz band must follow in order to renew their initial five-year certifications for full commercial deployment. The five-year terms for four of the six SAS administrators (CommScope, Federated Wireless, Google, and Sony) expire January 27, 2025. SAS administrators that seek renewal of their terms to conduct full commercial operations must certify that they will satisfy all applicable compliance obligations in a filing with the FCC no fewer than 14 days before the expiration of their existing certifications.

In addition, the WTB and OET released a Public Notice on December 23, 2024, approving the new and modified Environmental Sensing Capability ("ESC") sensor deployment and coverage plans for Federated Wireless. Federated Wireless is now authorized to operate its ESC sensors in the Hawaii 2 through 4 dynamic protection areas. Federated Wireless must operate in conjunction with at least one SAS that has been approved for commercial deployment and provide the FCC with a notification

that affirms that its sensors are constructed and operational and that lists the approved SASs with which the ESC is communicating.

The FCC Proposes to Rationalize Local Multipoint Distribution Service ("LMDS") Spectrum. On December 12, 2024, the WTB issued a Proposed Order of Modification, effectively granting a request by California Internet, L.P. DBA GeoLinks ("GeoLinks") to rationalize its LMDS holdings in the 29.10-29.25 GHz and 31.00-31.30 GHz bands. Geolinks had requested that the FCC allow it to swap some of its LMDS holdings for LMDS spectrum that is in the FCC's inventory. Parties have until January 13, 2025, to oppose the WTB's action.

Wireless Networks and Equipment

The FCC Selects a Lead Administrator for its IoT Cybersecurity Labeling Program. On December 4, 2024, the FCC's Public Safety and Homeland Security Bureau ("PSHSB") issued a Public Notice announcing the selection of UL LLC ("UL Solutions") to serve as both the Lead Administrator as well as a Cybersecurity Label Administrator ("CLA") for the FCC's Internet of Things ("IoT") Cybersecurity Labeling Program ("IoT Labeling Program"). As Lead Administrator, UL Solutions will be responsible for identifying or developing, and recommending to the FCC for approval, the IoT-specific standards and testing procedures for the IoT Labeling Program and for acting as a liaison between the FCC and other CLAs. The purpose of the IoT Labeling Program is to allow qualifying consumer smart products that meet critical cybersecurity standards to display a label, including a new U.S. government certification mark, which will help consumers make informed purchasing decisions, easily identify trustworthy products, and encourage manufacturers to prioritize higher cybersecurity standards. According to this News Release, UL Solutions is a global leader in applied safety sciences and meets the FCC's criteria to be a CLA and Lead Administrator.

In addition, on December 11, 2024, the PSHSB issued a Public Notice announcing the selection of additional conditionally approved CLAs for the IoT Labeling Program. These CLAs will be responsible for certifying use of the FCC IoT label and U.S. Cyber Trust Mark and the day-to-day management of the IoT Labeling Program. Each entity's CLA approval is conditioned upon its execution of a Trademark Use Agreement with the FCC and its commitment to obtain International Organization for Standardization/International Electrotechnical Commission (ISO/IEC) 17065 accreditation with the appropriate FCC program scope within six months of the effective date of the FCC's adoption of IoT cybersecurity labeling standards and testing procedures.

NTIA Announces Third Round of Funding for Open RAN. On December 17, 2024, NTIA announced that up to $450 million in funding will be made available for software-focused Open RAN solutions. Applications in response to NTIA's Notice of Funding Opportunity for this third round of funding will be due March 17, 2025, and will target two areas:

- Development of software solutions that use Open RAN innovations to generate value for industry verticals such as utilities, mining, manufacturing, and others.
- Development of software solutions that reduce the cost and complexity of multi-vendor integration through automation.

The FCC Denies Relief for an International Telecommunications Services Provider. The FCC, on December 11, 2024, released an Order on Reconsideration denying UPM Technology, Inc.'s ("UPM's") request for reconsideration of the Commission's earlier Memorandum Opinion and Order, which found that Digicel Haiti did not offer a telecommunications service in the U.S., did not act as a telecommunications carrier, was not subject to the FCC's jurisdiction, and therefore did not violate

the Sections 201(b) and 202(a) of the Communications Act by deactivating Subscriber Identity Module (SIM) cards that UPM purchased in Haiti and had shipped to the U.S. for use in UPM's international wholesale call termination business. In the Order on Reconsideration, the FCC reiterated that it has not ever asserted authority over international roaming calling offered by foreign carriers and has consistently declined to regulate foreign carriers that handle international calls between the U.S. and foreign countries.

The FCC Grants Additional Relief to Rip-and-Replace Support Recipients. The Wireline Competition Bureau ("WCB") released a Public Notice on December 30, 2024 announcing that it has granted 11 requests for extension of support recipients' rip-and-replace deadlines. The Public Notice explains that grant of these requests continues to be based on funding and supply chain issues. It also recognizes that additional funding for the program has now been made available by Congress, as discussed below, and notes that the WCB will work expeditiously to secure this funding and make it available to program recipients.

The FCC Reminds Rip-and-Replace Support Recipients of their Status Update Deadline. The WCB also released a Public Notice on December 6, 2024, reminding all rip-and-replace support recipients of their obligation to file a status update with the FCC by January 3, 2025. Support recipients are under the continuing obligation to file status updates every 90 days until they file their final certification.

Legislative Efforts

President Biden Signs the FY 2025 NDAA Into Law. On December 23, 2024, President Biden signed into law the NDAA, which, among other things, appropriates $3.08 billion to fully fund the FCC's rip-and-replace program through proceeds from an auction of AWS-3 spectrum, see discussion above.

FCC Commissioners praised Congress' work to secure funding for the program. Chairwoman Rosenworcel noted that fully funding the program "'will not only help protect our Nation's communications infrastructure but also ensure that rural communities who rely on these networks maintain vital connectivity.'" Commissioner Starks explained that the program will enable rural providers, in particular, to "complete the job and evict insecure equipment and services from our domestic networks." And Commissioner Gomez added that it is "imperative that we continue to remove insecure equipment from our nation's network."

Following the NDAA's enactment, the WCB and the Office of Managing Director released a Public Notice explaining that the FCC "will take quick steps to secure the additional funding through the borrowing authority granted by Congress."

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