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Sununu Sees Telecom Act Ready for Vote by Mid-2006

Sen. Sununu (R-N.H.), in a remarkably candid Phoenix Center session said Thurs. comprehensive telecom legislation covering the DTV transition could be ready for members' votes by June 2006. Sununu, who spoke about 90 min. and answered dozens of questions from attendees, said telecom reform would be a difficult process with many issues to deal with, most notably universal service fund reform. "Nothing will be agreed to until everything is agreed to," he said of the bill's prospects: "It will be one very large vehicle."

On the Universal Service Fund (USF), Sununu said that the fund is no longer cost-based has become "very problematic," but he said his free market ideas on USF weren't very pragmatic in light of the "populism of the Senate Commerce Committee... I don't have any interest in being a free-market complainer." USF wasn't intended to "rewire affluent suburban schools," a reference to the E-rate fund, nor keep prices low on "Ted Turner's ranch" in N.M. He said it was "crazy" to apply USF taxes to urban families for the benefit of rural upper-class residents. Sununu said USF should be restricted to Americans who really need the subsidy.

Sununu also said rural telcos and state govts. have come to view USF and the access charge regime as an entitlement. "It's become a problem in and of itself," he said of such views. Sununu said even rural ILECs that get 40% of their revenue from access charges admit the "system is broken... some in public, most in private." However, such admissions give him some hope, he said. "I feel good about the honesty in the debate," Sununu said: "We will go to a system that's much better rationalized." He also said he was concerned that USF is collected and distributed by unelected officials. "Defenders of the fund don't seem to be as bothered by this fact as I am," he said. Sununu called the recent controversy over Anti-Deficiency Act regulation of E-rate and USF a case of "bait-and-switch" and said he didn't agree with Congress' action (through HR-5419) to exempt USF temporarily from ADA requirements.

Sununu also focused on Internet protocol (IP) enabled services. He said any bill should create a "fair-minded regulatory

framework for IP-enabled services.” Such a framework can’t be product-specific, he said. Sununu also said any telecom bill shouldn’t create a special telecom court, as some have suggested, but it could include “cleaner mediation” requirements.

On conducting telecom reform, Sununu said incoming Senate Commerce Committee Chmn. Stevens (R-Alaska) and ranking Democrat Inouye (Hawaii) would conduct a series of sessions -- probably 6-8 -- to help determine which directions to go. These sessions likely won’t include corporations or interest groups, but rather “grassroots” and consumer organizations. These sessions will take about 5 months, after which staff will start drafting legislation. Sununu said he hoped a bill would be off the floor of both houses before 2006, and the conference report would be ready to vote on by June 2006. Sununu said that was his realistic timetable, though he hoped legislation would be ready sooner.

Sununu said the FCC’s UNE decision (CD Dec 16 p1) was “almost entirely bad news” for competitive carriers. “The FCC ruling will lead to higher cost structures [for CLECs,]” he said. “There’s no way to get around it.” Sununu said there needs to be an environment that encourages facilities-based competition. The FCC’s market-by-market approach on competitive issues will be “hard to sustain in the long term,” he said. While there are no easy answers, he said, he believes the FCC generally wants an environment that fosters facilities-based competition.

Sununu was asked his opinion of telcos that require consumers to take voice service along with DSL, perhaps to VoIP’s detriment. He answered that he is concerned about such practices that seemed “so 1960s... Those kinds of practices will slow deployment of broadband and IP services.” Such practices are putting the RBOCs in difficult positions, Sununu said. “That’s why the Bells are getting creamed,” he added, noting that the practice of using the wireless phone as a principal line was “just beginning.” -- *Terry Lane*

Technological Parity

CTIA Says Power Rules Benefit GSM, Hurt WCDMA

A CTIA-led group including major equipment makers is pressing the FCC to revise its regulations governing power limits for narrow and wideband technologies, which favor GSM over WCDMA in the brewing battle of 3G technologies. The group briefed top FCC staff from the Wireless Bureau and Office of Engineering & Technology this week, with more lobbying planned next year.

The power-level issue is especially significant in rural areas where coverage can be a problem, but it also affects coverage in more urban areas. Higher power levels mean more robust signal strength. The FCC officials asked questions and seemed to understand the potential need for parity between GSM and WCDMA, but they didn’t commit to any changes, said an engineer who attended the meeting. The FCC had considered the issue as part of its biennial review process.

“Basically, CTIA is asking that the rules be changed to reflect the new technologies... so that innovation and adoption of new technology isn’t handicapped by rules that originated decades ago,” said a source at the meeting. “This isn’t life or death, but it would benefit consumers. If the change is adopted it would remove an inadvertent restraint on new technologies.”

Under the current rules, narrowband technologies can operate at higher average power than wideband technologies because of how their systems operate, CTIA explained in an ex parte letter. GSM systems can operate 2 carriers or more within a single MHz block, with each at a power limit of 1640 watts, for a total of 3280 watts in one MHz. WCDMA signals are carried on much wider channels but face the same per-carrier restrictions, so a 5 MHz channel also has a power limit of 1640 watts.

“You’re spreading the same amount of power over 10 times the amount of spectrum,” said a high-tech source. “You just can’t get the same coverage and distance when you do that. If you’re going to cover the same distance and the same area you have to increase your power.”

The group proposed a new formula that protects GSM while letting WCDMA compete better. The compromise was agreed to by equipment makers Ericsson, Motorola and Qualcomm. “The proposed rule change would allow such a wideband system to roughly match the power used by GSM or CDMA today,” CTIA argued. “Any interference created by a wideband carrier operating at the proposed limits should be no more severe than interference created by the current technology operating at the current limits. Indeed, because the wideband technology is likely to have a flatter power spectral density, interference concerns should be less than from current systems at the proposed power limit.” — *Howard Buskirk*

A La Cart Revival?

Cable Rate Increases No Surprise, But Consumer Groups Angry

Cable companies are planning to increase rates in 2005 about the same percentage as last year, but many hikes will exceed the annual 3.2% inflation rate, according to our spot check of the largest MSOs. Although companies said they're offering more services and higher quality along with price hikes, consumer groups are disgruntled with the pace of increases and packaging of high-end service.

“We’ve seen a lot of 6% raises this year,” said Consumers Union analyst Susanna Montezemolo: “Cable has raised rates with impunity. This is typical of an industry operating as a monopoly, and as a result consumers have little choice.” She said competition from satellite and other multichannel video program distributors (MVPD) has had little effect on cable rates.

Comcast will increase rates 5.9% for a standard analog package of about 70 channels in 2005, a spokeswoman said, noting that prices overall are going up only 3%, factoring in packages of video, broadband and phone. Nearly 1/3 of Comcast's customers opt for multiple service bundles, which enables the company to hold prices down, she said.

Time Warner Cable is increasing prices 4.1%, slightly less than this year's increase of 4.9%, for a standard video package, a spokesman said. Like Comcast, Time Warner offers a host of enhanced services bundled into packages. Customers pay about \$40-\$50 per month for cable service, and usually less if they get high-speed data services or digital phone, he said.

Cablevision's planned rate increase for 2005 is 2.8% across all levels of service, compared to 3.2% last year, a spokesman said. Cox's price hike for the year 2003-04 was 2.6%, but the one for 2005 hasn't been announced, a spokesman said. Not all cable companies are announcing year-end rate increases: Advance Newhouse is postponing its rate increase perhaps well into next year, a spokeswoman said. Other companies, such as Insight and MediaCom declined to comment on pricing plans.

NCTA said it doesn't maintain composite information on industry rates because they vary so widely by company and market. Companies have invested over \$95 billion to upgrade their infrastructure since 1996 to improve transmission of data and \$84 billion on a wide variety of programming, officials there said. These investments have meant more employees to service networks, educate consumers, respond to service requests and install new equipment, an NCTA spokesman said. This year, many cable companies have been hit hard by increased fuel costs for service calls, also driving up costs, he said.

The cable rate percentage increases have in the main been declining slightly after the Telecom Act, according to Bureau of Labor Statistics annual data. The percentage rose the first 2 years after the Act then fell back, with the exception of a 6% hike in 2002. Based on the bureau's data, current through Oct., increases seem headed for about 4% this year. Here are the numbers: 1996, 5.9%; 1997, 7.6%; 1998, 7.2%; 1999, 3.8%; 2000, 4.8%; 2001, 4.3%; 2002, 6%; 2003, 4.9%.

“I’ve become adamant about this -- the cost of monthly service has doubled since the Telecom Act. The companies say you get double the amount of channels, but people have not increased the time they watch,” said Mark Cooper, dir.-research at the Consumer Federation of America. Cooper’s complaint is that the cable company packaging forces consumers to pay for more channels than they may want or would have time to watch: “While they’ve more than doubled the offerings, they don’t give me the choice.”

The FCC reported last year cable rates had risen more than twice as fast 1993-2003 as the Consumer Price Index, 53.1% to 25.5% (CD Jan 29 p7). The next report on competition in video markets is being circulated on the 8th floor and is scheduled to be released in a few weeks, a Media Bureau spokeswoman said. The last report said that along with higher costs, consumers have a much wider choice and higher quality of services available due to the significant investments by operators.

Consumer groups are holding out hope for action in Congress next year on a la carte, a plan that the FCC may have quashed when it released a report casting doubt on the amount of money consumers would save with the pay-per-channel scheme (CD Nov 22 p2). “We think a la carte is the way to go -- we’re hoping Sen. Stevens (R-Alaska) will look at it,” said Consumers Union’s Montezemolo. “I think there is support at a bipartisan level to do something,” she said, adding that her group is “slowly” starting to plan for next year.

Sen. McCain (R-Ariz.), the outgoing chmn. of the Commerce Committee who is expected to become Communications Subcommittee chmn., has long been a critic of rising cable rates and pushed a la carte pricing mainly because he didn’t believe consumers should be forced to pay for high-priced programming they didn’t want, particularly sports programming. McCain held a hearing last March on a la carte, where he said: “I think it’s really time to call the cable companies’ bluff on this one.” -- *Anne Veigle, Terry Lane*

Nothing New?

Bush Lays Out Revised GPS Shutdown Policy

President Bush announced a new policy Wed. to shut down the country’s global positioning system (GPS) satellites temporarily during national crises to thwart terrorists’ efforts to use the navigational technology. Sources said Thurs. any shutdown of GPS would cripple systems in virtually every aspect of American life, including telecom, cable and broadcasting.

On the telecom side, many systems, including digital switches used to transfer calls, would be disrupted by a shutdown because they use clocks controlled by GPS. Telematic systems like GM’s OnStar mapping and cellular calling system would be crippled. E911 would stop functioning in most cases since it’s most commonly uses GPS devices embedded in wireless phones. A wireless technology expert noted that GPS-controlled switches are deep in carriers’ systems: “To turn off GPS would affect a lot of stuff, from the customer to the network.” GPS won’t be turned off “on a whim or on a rumor,” said Mike Swiek, exec. dir. for the U.S. GPS Industry Council. He advised those sounding alarms over the policy announcement to “take a step back [and] take a deep breath.” The policy was crafted in a “sober and rational way” and the real significance of the statement is that it demonstrates that the authorities who own and manage GPS are ensuring that the technology remains a “reliable global utility for legitimate civilian users as the global environment for satellite navigation continues to evolve.”

The only new dimension in the guidance is the inclusion of a coordinating role for the Dept. of Homeland Security, which didn’t exist when the White House last issued a statement on GPS 8 years ago, Swiek said. “Since then, markets have changed, industries have evolved, the U.S. government has changed,” and the document simply refreshes and updates the regulatory structure for GPS, Swiek said.

A GPS disablement would occur only under the most severe circumstances and would be handled at the highest levels of govt., a Bush administration official told us. The fact that the President can disrupt GPS is “old news,” the official said, adding that the govt. has always reserved right to deny GPS in times of conflict.


A shutdown would be accomplished through localized jamming to minimize disruption, not system-wide denial, the official said. As a matter of record, the official said the country’s GPS has never been “turned off” and the Administration realizes how crucial the technology is to national and international communication and commerce.

The administration sees Bush’s new policy as a “forward looking” document: The policy states that the U.S. must continue to improve and maintain GPS augmentation and backup capabilities to meet the growing needs of the public and private sectors. The policy is also intended to help the country continue to provide civil GPS services competitive with foreign-based systems, the govt. said.

Denying GPS on a broad scale outside a “theater of combat” would be an “extraordinary event,” Swiek said: “Even during 9/11, the system continued to operate.” He added that on the battlefield, localized jamming of GPS and wireless communication occurs routinely.

One satellite industry source said the Administration policy isn’t new and reflects White House authority that has never been used. “The President has always had the authority to do this,” the source said. “We had a Gulf War that was won on the back of GPS. We had 9-11 and we have a war now. The President has never shut GPS down. It would bring systems to a screeching halt.”

Broadcasters who use GPS as a standard for precise frequency control of transmitters may be affected, said Lynn Claudy, NAB senior vp-science & technology. But he said he didn’t believe many broadcasters use GPS for transmitter synchronization. -- *Howard Buskirk, Andrew Noyes, Tania Panczyk-Collins*

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BellSouth Left

Covad, Verizon Sign Long-Term Commercial Line Sharing Agreement

Covad said it signed a commercial agreement with Verizon enabling it to use line sharing to provide DSL services to new small and medium businesses and home users in the 19 states within the Verizon territory where Covad offers service. The 4-year agreement takes effect Jan. 1, and until then, Covad said, line sharing pricing would continue under the interim agreement that the companies signed in Sept. (CD Sept 22 p2). Terms weren't disclosed, but Covad said they were "comparable to those of Covad's other commercial line-sharing agreements."

Covad signed agreements with Qwest and SBC earlier this year to continue to provide line sharing services to new small and medium-sized businesses and residential subscribers in their respective regions. The agreement with SBC is interim and covers Covad subscribers in 11 states within the Bell's territory through Sept. 1. The 3-year commercial agreement with Qwest is the only long-term one Covad had with a Bell until now. "With the Qwest, SBC and Verizon agreements, Covad has now secured continued access to line sharing with carriers accounting for approximately 90% of our line-shared customer base and the pricing in these agreements allows Covad to provide very competitive service offerings to our customers and partners," said Covad CEO Charles Hoffman.

FCC Chmn. Powell and Comr. Abernathy applauded Verizon and Covad for reaching the agreement and said they hoped other ILECs and competitors "continue to pursue negotiations to preserve line sharing as a viable model." The FCC last Aug. eliminated federally mandated access to line sharing as a regulated UNE starting Oct. 2004. But the order included grandfathering provisions covering existing Covad customers. "We have been strong proponents of such commercial arrangements, and they take on added importance and urgency as a result of the Commission's elimination of mandatory line sharing last year," Powell and Abernathy said in a joint statement: "This agreement and others that were reached previously will enhance choice and competition in the broadband marketplace, to the great benefit of consumers."

Covad said the agreement with Verizon was comparable with similar deals it had signed with Qwest and SBC, and financial terms were very similar in all agreements. It didn't disclose the terms of the Verizon agreement, but said the SBC deal allowed it to order line sharing at a \$5.75 monthly recurring and \$10 nonrecurring charge per customer.

Covad is in talks toward reaching a long term agreement with SBC, a Covad spokesman said. "The current [interim] SBC agreement is a great foundation to move forward to a more permanent agreement, because Covad is vigorously pursuing long-term agreements with each of the Bells," he said.

BellSouth is the only Bell Covad hasn't reached an agreement with. "Negotiations are ongoing between Covad and BellSouth," a Covad spokesman said. He noted that "when discussing BellSouth, it's important to keep in mind that Covad has already assured access to more than 90% of our customers through our agreements with Verizon, Qwest and SBC." Of the 4 Baby Bells, BellSouth's territory contains the smallest number of customers on our network." A BellSouth spokesman said his company was operating under the line sharing rules that were vacated by the FCC in Aug. He said although the federal mandate for line sharing was phased out in Oct., BellSouth continues to make line sharing available to Covad and other competitive carriers for their existing and new customers. "We are reviewing our options regarding any commercial line sharing offer," he said. -- *Susan Polyakova*

TVs Not Preempted

Cal. Energy Standards Seen as Model for State Legislation Next Year

Cal. became the first state to set energy efficiency standards for CE products as the Cal. Energy Commission (CEC) adopted new regulations Wed. by a 5-0 vote. Claiming the move will hamstring technological innovation, the industry also worried this would fuel legislation in other states. Advocates called the step a major boost to energy efficiency efforts and said the Cal. regulations would guide lobbying efforts next year.

The regulations will apply to a range of audio and video products, including TVs, VCRs and DVDs. Exempted is any multifunction TV that has VCR, DVD, DVR or electronic program guide (EPG) capability or a POD card slot. At the last minute, the CEC also withdrew DVD recorders with EPG functions from the purview of regulations after the industry told it that EPG functionality wasn't compatible with the standards. The Commission put off consideration of cable and satellite set-top boxes to next year but set a standard for over-the-air TV digital converters.

The standards are compact audio, 2 w standby; TVs, 3 w standby; DVD players/recorders, 3 w standby; and direct tape access, 3 w standby and 4 w active. The regulations also cover external power supplies, the small transformers that are used to power answering machines, cell and cordless phones and a host of other CE products.

"Meaningless standards is going to be a challenge for the industry," said Jason Linnell, EIA staff dir.-environmental affairs. He said the industry believes state-based standards aren't the way to go, and energy efficiency of electronics is better dealt with through federal programs such as the EPA's Energy Star. The last-minute exemption of EPG equipped DVD recorders showed "these products are constantly changing," and the energy standards can't keep up with the changes "the technology is demanding," he added: "We could be in a situation very soon where a product could be prohibited on the market just because it wasn't a product envisioned when the standards were originally written."

Linnell said not many states had an agency like Cal.'s that had the authority to set standards. But states could introduce legislation like the bill that have been cropping up in northeastern states the past 2 years to impose cable and satellite set-top box standards, he said: "The advocates for that will be introducing it again next year and they will be pointing to what California has done as justification." The industry, Linnell said, is looking at voluntary standards, and would prefer them over mandates that could limit technology.

"We look to California as the leader," said Isaac Elnecape, energy efficiency project mgr. for the Northeast Energy Efficiency Partnerships (NEEP), which sponsored set-top box legislation in many states. "What California did was a major step forward in energy efficiency and reducing energy" consumption, he added. NEEP hasn't completed its legislative proposals for next year, he said, and would "look at what they [Cal.] have done," and consider incorporating it into bills it submits for the upcoming legislative sessions. Cal., he said, had done a lot of research on cost efficiency and "we look to them to guide our decision-making process."

The industry had raised jurisdictional issues over states' right to set TV standards, because TVs are covered by the Energy Policy & Conservation Act. The U.S. Dept. of Energy (DoE) has determined that states are preempted from setting energy efficiency standards for covered products, it said. Adopting TV standards Mon., the CEC said states were allowed to regulate appliances not covered by national standards. None of the products covered in its ruling is federally regulated, it added. Acknowledging controversy over preemption, Elnecape said NEEP's position was that a product is preempted only when there's a standard in federal law. "If a standard is included in the legislation itself or if the DoE finalizes a rulemaking, then it is probably preempted." Cable and CE industries claimed last year cable and satellite set-top box rules were preempted by the Telecom Act, because the FCC had the authority to set standards on the devices, he said: "That's a claim we disputed." -- *Dinesh Kumar*

Wireline

The FCC's new UNE rules are likely to raise consumer telecom prices, Rep. Conyers (D-Mich.) said Thurs. at an event sponsored by the Phoenix Center. Conyers, ranking member of the House Judiciary Committee, said he'd like to see Capitol Hill get more active in telecom issues. In addition, he commented on the *Trinko* decision, in which the U.S. Supreme Court said antitrust suits can't be filed in Telecom Act disputes. "Yesterday's FCC decision and the *Trinko* decision tell us where we're going. There's a regulatory mentality cutting through many parts of the economy like a butter knife," Conyers said. "There's a corporatization aspect going on. We're actually going back to where we were before the breakup of the Bell System, and I think that's sad and frightening." In a swipe at Chmn. Powell, Conyers said "if I could choose which Powell would be leaving the government you might be surprised who I would have chosen."

The “next big issue” in telecom regulation is intercarrier compensation (ICC), now that the FCC has voted on new UNE rules, attorney Thomas Koutsky said Thurs. at a conference sponsored by the Phoenix Center think tank. Koutsky, who said he expected the rulemaking to surface “sometime in the next few months,” moderated an ICC panel where SBC Senior Vp Dorothy Attwood argued for a bill-&-keep approach as a member of the Intercarrier Compensation Forum (ICF), while Md. PSC Comr. Allen Freifeld said he’d prefer a more “cost-based” approach. “The end game is a deregulatory environment in which intercarrier compensation is determined by commercial agreement,” Attwood said. “We think the only real model [to avoid arbitrage] is commercial bill-&-keep.” CenturyTel Vp John Jones said CenturyTel was “supportive of the [ICF] process” and liked some parts of the group’s proposal such as the network architecture section, but left the group because “we don’t like bill-&-keep.” He said the ICF retained some CenturyTel proposals in its final plan but “we just don’t believe bill-&-keep has to be the end result.” CenturyTel, a holding company of small telcos with a total of 3 million customers, isn’t a member of any plan, Jones said. ALTS Gen. Counsel Jason Oxman said there are common themes in the numerous industry plans presented to the FCC. For example, “everyone is looking for a unifying rate,” he said. The “fundamental difference” appears to be bill-&-keep,” he said. Oxman said a proposal by a group of CLECs calls for a “cost-based rate,” using state TELRIC cost studies as a starting point, instead of bill-&-keep. “You can’t go wrong” when rates are based on cost, said Freifeld. For example, he said, it could be a rate of about a tenth of a cent, paid by all carriers for all forms of traffic. He said such a system could be instituted in combination with a change in the universal service system. Freifeld recommended a universal service plan in which customers would be required to pay a “reasonably affordable rate,” such as a national average price that might be \$20, before universal service subsidies kicked in. Jones said CenturyTel would support “a concept like that,” although he warned that there’s a “value proposition” to take into consideration: “You can’t raise rates from \$8 to \$20 if the customers can only call 2,000 people.”

SBC will make a voluntary payment of \$500,000 to settle an FCC investigation into E-rate irregularities in the New London, Conn., school system that SBC reported to the FCC in Aug. The FCC Enforcement Bureau issued a consent decree Thurs. in which SBC also agreed to a companywide employee training program to avoid such problems in the future. The FCC said SBC invoiced the Universal Service Administrative Co. (USAC) in one funding year for services provided in another, invoiced USAC for some services for which it hadn’t sought authorization and for some not eligible for E-rate support. SBC said it discovered the irregularities during a companywide review of its E-rate involvement. It said its SBC Conn. subsidiary refunded USAC all funds related to the project and withdrew pending invoices. SBC said the problem was limited to the Conn. unit.

BellSouth said it planned to pay off \$400 million in outstanding debt. It said it would pay off all of its outstanding 40-year 6-3/4% debts due Oct. 15, 2033, on Jan. 18. It said the redemption price would be 103.33% of the principal amount.

UBS said it expected the local telephone business that Sprint plans to spin off into a separate company 6 months after it merges with Nextel would generate \$880 million in free cash flow in 2006 and have a payout ratio of about 50%. It now estimated the total enterprise value of the business would be \$17 billion, compared to its previous estimate of \$18.5 billion. “This would still leave the company with enough flexibility to explore potential investments such as fiber to the node,” it said.

Wireless

Consumers Union (CU) and the Consumer Federation of America (CFA), which offered the most vociferous criticism of the Cingular-AT&T Wireless merger, likely will conduct a similar campaign against the planned Sprint-Nextel merger, the groups said Thurs. The groups asked the FCC to oppose the Cingular merger in numerous filings, ultimately fighting a losing battle. CU launched a website Thurs. that looks at consumer issues in the communications world, from the DTV transition to wireless company mergers. “We do expect to file at the FCC,” said Susanna Montezemolo, a policy analyst at CU: “This is a different merger from Cingular. In Cingular, one of our main concerns was the wireline effect. We’re still concerned about rising rates and about handset locking.” Montezemolo said the latter issue will likely be an area of focus: “We want to make sure that consumers have the ability to quickly move between carriers. One of the impediments is that the phones can’t be used,” she said. Mon-

tezemolo added that based on the Cingular merger and the limited conditions imposed by the Justice Dept. and the FCC she isn't optimistic. "We certainly aren't looking positively at our ability to block this merger, but at the same time you have to fight this fight," she said. — **HB**

Mergers aren't always bad for consumers, FCC Chmn. Powell said in an interview Wed. on Fox News' Your World With Neil Cavuto. Asked if there's concern that the Sprint-Nextel merger might result in less competition or higher prices, Powell said that's always a concern, but in an active market such as wireless "some of these shakeouts are going to be good for the consumer." The Sprint-Nextel deal "shows the market continues to be vibrant," he said, noting it would create a combination of non-Bell "independent companies," which "takes away one concern."

Hutchison Whampoa said it has nearly 6 million subscribers for its 3G offerings worldwide. The customers are in Australia, Austria, Denmark, Hong Kong, Italy, Sweden and the U.K. The number of subscribers is up 81% from figures released in Aug.

Motorola said it got a 3-year extension of its iDEN infrastructure and handset supply agreement with Nextel. The announcement followed the decision by the merging Nextel and Sprint to continue to invest in the Nextel's iDEN network until its voice traffic can be supported on Sprint's CDMA network in 2008 and then maintain iDEN for push-to-talk customers (CD Dec 16 p6). Motorola said it would introduce new models of iDEN handsets the next 12 months, including some incorporating the new WiDEN functionality that increases data rates up to 4 times, compared to iDEN. Terms weren't disclosed. Motorola also said it had reached an agreement with Nextel to use Next Generation Dispatch (NGD), a new IP-based push-to-talk call processing engine. It said the NGD technology used with Motorola's iDEN technology would replace the call processing system currently used in Nextel's network. "Commercialization is scheduled to commence in the first half of 2006," it said.

State Telecom Activities

The FCC's new permanent unbundled network element (UNE) rules adopted Wed. (CD Dec 16 p1) were a disappointment and may hinder competition in a number of markets, said Mich. PSC Chmn. Robert Nelson, head of NARUC's Telecom Committee. He said the new policies "will retard competition for residential and small business customers in states such as Michigan where UNE-P has been a major competitive entry strategy." He said that the FCC's decision to allow only 12 months for CLECs to transition out of UNE-P was a major disappointment: "NARUC advocated at least 18 months." He said carriers such as Talk America in Mich., with over 350,000 lines, may not be able in 12 months to install their own switches and then make the batch hot cuts needed to transfer customer loops over to the new switches: "They'll be caught in a really tight grip." He said the 2nd disappointment was that the FCC didn't go for a building-by-building analysis of DS-1/DS-3 competitive impairment, "which was something they might have been able legitimately to delegate to the states." And the final disappointment, he said, was the order's silence regarding line sharing: "We'd hoped the FCC would use this opportunity to address sharing." On the good side, Nelson said, the FCC continued DS-1/DS-3 unbundling in most markets. If unbundled DS-1/DS-3 had joined enterprise switching in oblivion, he said, CLECs would be left with resale and overbuilding as their only entry options, which would effectively restrict competition only to the largest business accounts. Nelson said the demise of UNE-P will have a significantly greater impact on small (under 4 lines) businesses than on residential customers: "The very small businesses will get the major heartburn from this decision. They, more than residential customers, were able to realize cost savings from local UNE-P competition. Those savings in future will be much smaller without UNE-P." Nelson didn't venture a prediction about whether this order will survive judicial review. He said, though, that if the D.C. Circuit rejects this order, "it must be much more explicit than in the past about where the FCC went wrong." Other available state commissioners said they wanted to see the full text of the order before commenting.

Four wireless carriers asked Montgomery Co., Md., and the city of Baltimore to refund nearly \$15 million in local taxes the carriers allege were illegally imposed. Cingular Wireless, Verizon Wireless, T-Mobile and Sprint PCS said the local taxes collected since July 2003 as a percentage of total retail wireless charges were illegal because they apply to any wireless customer with a billing address within the 2 jurisdictions, regardless of the cus-

tomers' actual base of operations or where the service was used. This effectively had the localities illegally taxing activities outside their borders, the petitions allege. The carriers also said the charge levied is indistinguishable from a local sales tax on wireless services, but the state bars municipalities from imposing local telecom sales taxes. The Montgomery Co. petition involves \$13 million and Baltimore's is \$2 million. If the municipalities reject the refunds, the carriers' next step would be an appeal to the Md. Tax Court and then, if needed, to the state circuit courts for the county and city.

The Tenn. Regulatory Authority told BellSouth to respond by Dec. 20 to questions about a directory assistance tariff revision that would reduce free call allowances and exempt handicapped people from DA call completion charges. The plan (Case 04-00416) would reduce to 3 from 6 the number of free DA calls monthly. But the TRA wanted to know the revenue impact of extending free call completion to blind people and others with physical handicaps, why those over age 65 aren't included for the free completions, and what percentage of customers make over 3 intrastate DA calls monthly.

International Telecom

The U.K. Office of Communications (Ofcom) finalized its review of competition in the U.K.'s wholesale local access market, imposing local loop unbundling (LLU) requirements on incumbent British Telecom (BT) and setting charge ceilings for several LLU services. The remedies are essentially the same as those set out in earlier consultations on market definition, findings of significant market power (SMP) and regulatory remedies. The review was required by Europe's new regulatory framework for e-communications networks and services, under which national telecom regulatory authorities must perform competition reviews of 18 separate markets to see if they're candidates for ex ante (sector-specific) regulation. Ofcom found that BT has SMP in the wholesale local access market in the U.K. with the exception of the Hull area, where Kingston is the primary player. Among other remedies, it ordered both telcos: (1) To provide network access to competitors upon reasonable request. (2) Not to unduly discriminate. (3) To notify competitors of charges, terms and conditions and technical information. In addition, Ofcom imposed financial reporting obligations on BT. Besides the general remedies, Ofcom ordered BT to provide several LLU services, including fully unbundled local loops and shared access, and set cost ceilings for several LLU services. Ofcom aims to spur competition "at the deepest levels of infrastructure where it will be effective and sustainable, which in areas of higher customer densities will mean competition based on LLU," the regulator said. Thurs.'s order could help create a more positive environment for LLU, Ofcom said, but it acknowledged that further regulatory steps might be necessary.

The European Commission (EC) approved the sale of EuroTel Bratislava's mobile telephony business to incumbent Slovak Telecom. EuroTel, one of 2 mobile network operators in Slovakia, is owned by Slovak Telecom (51%) and American West. The EC's merger review found that: (1) The change from joint to sole control wouldn't raise EuroTel's market share in mobile telecom services. (2) The incremental effect of EuroTel's activities in business data communications services appears minimal in a market where its presence is being cut back. (3) As the majority shareholder in EuroTel, Slovak Telecom already considerably determines its competitive behavior, so the proposed transaction, won't significantly hamper competition.

Broadcast

TV's treatment of religion has become increasingly negative and doesn't reflect the viewpoints of a majority of Americans, according to a study by the Parents TV Council and National Religious Bcstrs. The study found that NBC aired the most negative depictions of faith, followed by Fox. WB and ABC tied for 3rd, followed by UPN and CBS. Pax didn't have a single negative depiction, according to the study, which didn't include cable programming. The study examined 2,385 hours of prime-time programming on the major networks and found 2,344 times religion was addressed. Although more references to religion were noted than in PTC's last study, in 1997, more of the content was negative. References to faith were most common and less negative, but mention of spe-

cific elements of religion -- such as a particular church or clergy -- were painted in an unfavorable light, according to the study. The study cited an Aug. episode of *Last Comic Standing* in which an actor talked about how good it was to be Catholic. "As long as you're not touching pee pees you got a get-out-of-hell-free card," the actor said. Negativity toward religion increases later in the evening, the study found. At 7 p.m., 16.9% of the content was negative, and by 10 p.m., negative content rose to 28.2%. "These findings lend credibility to the idea that Hollywood accepts spirituality, but shies away from endorsing, or even tolerating, organized religion," said PTC Pres. Brent Bozell. -- *TP*

Granting additional channels to low-power TV (LPTV) and TV translators would eliminate most available spectrum for Part 15 devices, Media Access Project and New America Foundation said in an ex parte filing. The group said the Commission should allow Part 15 devices to operate either on an equal basis or under traditional underlay rules. In Sept., the FCC established rules to allow for the digital conversion of LPTV stations and translators (CD Sept 10 p13). The order allows the stations to seek a 2nd channel if it doesn't conflict with channels sought by others.

The FCC denied the petition of WCVB, licensee of WCVB(AM) Tallahassee, Fla., to reconsider a \$7,000 fine for failure to fence its antenna effectively. The FCC found nothing in financial data submitted by the station that supported canceling the fine based upon financial hardship.

The Atmel T4260 RF tuner chip has been certified for use in automotive and home HD Radio receivers, licenser iBiquity Digital said Thurs. The company described the T4260 as a complete front-end solution for AM and FM digital reception. "The availability of another tuner design option is an important development in the roll-out of HD radio technology as it will help receiver manufacturers get HD radio products to market faster and help reduce the associated manufacturing costs," said iBiquity COO Jeffrey Jury. iBiquity also scheduled a Jan. 5 news conference on the eve of the Las Vegas CES where executives from Bonneville, Clear Channel, Cox, Entercom and Radio One will disclose accelerated nationwide HD radio conversion plans, iBiquity said.

ESPN2 HD, which launches Jan. 6 with 3 consecutive college basketball games is likely to account for about 1/3 of the 300 HD events the sports network expects to broadcast in 2005, said Bryan Burns, ESPN vp-strategic planning & business development. ESPN2 HD will be delivered as a simulcast of ESPN2. ESPN's flagship channel, which is expected to broadcast 187 events in HD this year, will account for the rest, he said. ESPN will seek to avoid having HD programming overlap on the 2 channels, Burns said. The first 85 days of 2005, the 2 channels will show HD programming the same day just twice, he said. "We're trying to spread things out to give the HD viewer more choice," Burns told us Wed. at Madison Sq. Garden, site of the ESPN HD telecast of the N.Y. Knicks-Detroit Pistons NBA game. To offset the loss of the NHL due to the players' strike, ESPN2 is carrying more college basketball games, Burns said. ESPN delivers most of its HD programming using SRS Labs' Circle Surround. Meanwhile, ESPN is switching its productions to Vizrt's real-time broadcast graphics platform effective Dec. 25, replacing Chyron's Duet production graphics system, company officials said. -- *MCS*

Discovery is extending its HD network outside the U.S., focusing on markets where HDTV is gaining a foothold, such as Canada, China, Germany, Japan, Korea, Mexico and the U.K. The international network will be offered as a standalone channel or in programming packages.

Cable

TVN Entertainment is extending its VOD service agreement with Discovery, covering more than 70 hours of programming monthly. TVN will continue to provide VOD services in support of content distribution, including encoding, asset management, site-specific metadata and multicast transport.

Comcast will air a new lifestyle and entertainment channel in southern Cal. starting Dec. 15 to subscribers of Comcast's Digital Classic package. "TV One" will target African-American adults. The official launch is Feb. 15.

CableLabs awarded CableHome 1.1 certified status to 4 devices -- one each from Cisco-Linksys and Netgear, and 2 from Zyxel. CableLabs also recertified a CableHome 1.1 device from Thomson. The announcement marks the conclusion of the 3rd CableHome certification wave and brings the number of certified CableHome devices to 7, officials said.

Charter issued \$550 million in notes due 2010, as planned (CD Dec 3 p13). The notes have an annual interest rate of LIBOR plus 4.125% payable quarterly.

Comcast launched its "ON DEMAND" service in Dallas for about 300,000 customers of digital cable service. Viewers can rewind, fast forward and pause programs, store selections for up to 24 hours and order any time of day.

Mass Media Notes

Easier approval for satellite broadcast of foreign 3rd-language TV channels to Canadians was announced by the Canadian Radio-TV & Telecom Commission. Requests to add the channels will generally be approved, subject to packaging and programming rights requirements aimed at minimizing possible negative impact on Canadian 3rd-language services, the Commission said.

Satellite

EchoStar said accusations made by Dominion Video Satellite in a Nov. 22 letter to the FCC are "misguided." Dominion questioned whether EchoStar's carriage of Daystar TV Network local stations complies with the FCC's must-carry rules and suggested that it doesn't. EchoStar previously said it carried some local Daystar stations and in the new letter to the Commission said that in each local market, where Daystar has a qualified station, EchoStar transmits the feed provided by Daystar. "Dominions' allegations exceed boundaries of any interest it could have in EchoStar's carriage of Daystar stations," EchoStar said: "Dominion simply has no standing to attempt to vindicate the concerns of local viewers, even putting aside the meritless nature of its allegations."

EchoStar's Dish Network added South Asia World to its international programming line-up, the company said.

The Irish govt. formally launched a nationwide survey of satellite broadband users, Ireland On-Line reported Thurs. Noel Dempsey, the country's minister for communications, marine and natural resources said the survey will assess citizens' perceptions and attitudes toward the use of satellite technology by broadband customers.

XM Satellite Radio will broadcast live every major college football bowl game, the company said Thurs. The lineup begins with the Champs Sports Bowl Dec. 21 and concludes with the FedEx Orange Bowl on Jan. 4.

Communications Personals

Dan Harrison promoted to NBC Universal Cable senior vp-cross-network strategy & emerging networks... Promotions at MTV: **Larry Divney** to pres.-network ad sales; **Doug Rohrer** to exec. vp-senior advisor to Divney... AT&T Govt. Solutions named **Stephen Kessinger**, ex-Raytheon, program mgr.-battlefield training contract.