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California AG Submits Final Privacy Rules at Deadline

Businesses will soon have to comply with the California Consumer Privacy Act despite calls for delay and speculation the state DOJ would miss an important procedural deadline. California Attorney General Xavier Becerra (D) submitted final rules for implementing CCPA just before Monday night’s Office of Administrative Law deadline (see 2006020039). Final text included no substantial changes to regulations from a March revised draft submitted for OAL review.

The AG had to submit rules Monday to get laws into effect by July 1 when enforcement starts, or they could have been delayed until October (see report, June 2). It’s up to OAL what date they are released. The AG office asked the administrative office for an expedited review of 30 business days. The office normally has 30 working days but due to COVID-19 may take an additional 60 calendar days to approve state regulations. After OAL approves, the final regulation text would be filed with the secretary of state and become enforceable.

CCPA took effect Jan. 1 but gave the AG extra time to write rules. The law allows enforcement before the AG’s final regulations are in force. “We are committed to enforcing it starting July 1,” Becerra said Tuesday. About 60 business groups sought delay due to COVID-19 (see 2004020043). A November ballot vote could again change California privacy laws (see 2005080037).

Submitting the rules less than a month before they can be enforced is “troubling” to the Association of National Advertisers, one of the groups that sought a six-month delay, said Group Executive Vice President-Government Relations Dan Jaffe in an interview. Uncertainty remains because they aren’t approved and it’s unclear when they will be, he added. The situation puts companies that want to comply in a “difficult position” he said. ANA is reviewing the final text and had concerns about legal problems with the previous version, said Jaffe. CCPA will have “enormous impacts” statewide and beyond, he said.
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No changes from the last draft is good and bad, emailed Media Alliance Executive Director Tracy Rosenberg. Privacy advocates are glad the AG rejected many business requests that would have weakened CCPA but “disappointed that a few changes we recommended were not incorporated,” including to accept browser do-not-track requests as opt outs.

The AG rejected that and every other suggestion from comments on the March draft, showed a new appendix. “The regulations do not prohibit a business from responding and respecting a user’s ‘do not track’ signal,” the AG office said. “The business has discretion to treat a ‘do not track’ signal as a useful proxy for communicating a consumer’s privacy choices.” — Adam Bender

Republicans Support

Cities and Democrats Ask FCC to Delay Vote on Infrastructure Rules

Cities struggling with COVID-19 asked the FCC Tuesday to delay a planned June 9 FCC vote on CTIA and Wireless Infrastructure Association proposals for wireless infrastructure clarity until they have more time to respond. A few local governments filed in support of the rules (see 2005290052). House Commerce Committee Democrats and Republicans delivered diverging opinions about FCC plans to consider the declaratory ruling next week.

Commissioner Geoffrey Starks supported a delay. Industry said action is overdue because of the need to accelerate siting of towers and other 5G facilities. The ruling would clarify FCC authority over siting decisions under the 2012 Spectrum Act (see 2005190058).

The Western Communities Coalition, joined by Mackinac Island, Michigan, asked the FCC to hold off on a vote due to the pandemic, in comments posted Tuesday in docket 19-250. That “will allow lo-
cal governments more time to provide insights into the practical impacts of the proposals and prevent the unnecessary diversion of scarce resources to adapt” to the proposed new rules and respond to the NPRM, they said. Sumner, Washington, said it’s struggling because of the coronavirus. “Staff is working remotely,” the city said, with public agencies limited “from holding public meetings and conducting public business.” Mountlake Terrace and Gig Harbor, also in Washington, had similar concerns, as did New Carrollton, Maryland (see here, here and here).

House Commerce Chairman Frank Pallone of New Jersey, Communications Subcommittee Chairman Mike Doyle of Pennsylvania and 22 other committee Democrats urged the FCC to wait. “We are especially troubled by the burden responding to this Declaratory Ruling will place on local governments that are rightfully focused right now on combatting the ongoing coronavirus pandemic,” the lawmakers wrote Pai. “Local public servants and elected officials are filling the void left by their federal counterparts. These local officials cannot be expected to conduct a meaningful review and respond to an item of this nature within the very limited time provided.”

“Cities across the nation are stretched to the limit addressing #COVID19 and protests,” Starks tweeted: “They’ve asked for more time to review an @FCC proposal that they first saw 2 weeks ago. It’s a reasonable request.”

House Commerce ranking member Greg Walden of Oregon and other panel GOP leaders lauded the FCC’s plan to vote next week on the order. “This Order marks the next major step that the Commission can take to promote broadband buildout,” the lawmakers wrote Pai Monday. “Reducing unnecessary regulatory burdens to promote broadband deployment is a top priority for Congress, and we urge the Commission to approve this Order” at the June 9 meeting. Others signing the letter included House Minority Whip Steve Scalise, R-La., and Communications ranking member Bob Latta, R-Ohio.

“The petitions have been before the Commission for nine months and local governments have submitted nearly 650 pages of comments,” emailed an aide to Commissioner Brendan Carr, who’s overseeing FCC work on wireless infrastructure. Carr tweeted Tuesday it’s “great to see so many Congressional leaders voice strong support for” the 5G ruling, citing the House Commerce Republicans’ letter. He also touted it in a statement.

NATOA, the National Association of Counties, U.S. Conference of Mayors and National Association of Towns and Townships said in a Tuesday filing their concerns continue. “Though billed as clarifications, the draft Ruling requires, at a minimum, every local government to review current ordinances, policies, application forms and staff training to ensure compliance with the new order. This would come just over a year after local governments were required to revise wireless siting ordinances and standards,” the groups noted.

The Edison Electric Institute urged the FCC to deny the CTIA petition as it relates to pole attachments. Utilities “share the goal of leveraging streetlight infrastructure to support 5G deployment,” EEI said: “There is already an effort” by utilities “to develop and deploy ‘smarter’ streetlight infrastructure that will meet the needs of multiple stakeholders and that will serve multiple public purposes.” EEI spoke with an aide to Carr.

The clarifications will “accelerate broadband deployment” and “alleviate the confusion that has existed regarding the meaning of certain, key terms in the Commission’s rules,” WIA and member compa-
nies said in calls with aides to the commissioners other than Pai. American Tower, Crown Castle and SBA representatives participated. “By reducing the amount of uncertainty that currently exists regarding Section 6409 and the Commission’s implementing rules, the changes the Commission offers will have a meaningful impact on the speed of deployment and the ability of localities, states, and industry to work together,” CTIA said. — Howard Buskirk and Jimm Phillips

Other Stakeholders Want Change

**Senators Seek DMCA Update That IA Deems Unnecessary**

Senate Intellectual Property Subcommittee Chairman Thom Tillis, R-N.C., Tuesday voiced support for an update to the Digital Millennium Copyright Act, and ranking member Chris Coons, D-Del., also appeared on board with an update (see 2005280038). Witnesses sought changes, other than the Internet Association.

DMCA “is working” as intended and shouldn’t be altered, IA interim CEO Jon Berroya testified. Content creators said the law’s notice and takedown regime is broken. They contend it unfairly requires artists monitor the entire internet.

IA’s argument is belied by accounts from artists required to scour platforms for infringements, which becomes a full-time effort, Sen. Richard Blumenthal, D-Conn., told Berroya. The lawmaker echoed musician Don Henley and Authors Guild President Douglas Preston. Witnesses testified remotely.

The current system is “failing badly,” Tillis said: Fixing the framework, including Section 512, isn’t enough, and it might be necessary to create a new system that captures a modern balance, he added.

Coons asked why the tech industry and artists haven’t come together with solutions. He asked for suggestions how DMCA can be improved. There needs to be a notice-and-stay-down process, Henley and Preston told Coons. Section 512 was never intended to be a get out of jail free card, Henley said.

The overwhelming majority of online content is legal, and some copyright claims are made in bad faith, which means decisions aren’t always straightforward, IA’s Berroya said. The system incentivizes collaboration between the two sides, which allows solutions that better keep pace with technology than amending laws could, he continued. The act “is working as it’s intended to and preserves a critical balance between all stakeholders,” he said.

Tillis said illegal streaming has become far easier because of technology, asking Berroya why Congress shouldn’t take this into account when weighing an update. DMCA sets a floor, the basic standards of what it takes for the industry to enjoy safe harbors, Berroya said. It doesn’t limit companies from doing more, which is done through ongoing conversations with creators, he said.

Old-fashioned collaboration is tailored to a process that isn’t appropriate for the present technology, Blumenthal said. The tech industry has broad immunity, which is in need of revision, he argued. He asked if witnesses thought DMCA needs to be changed. Berroya was the only one of the four-person panel, which included Henley, Preston and Hansen, to back the status quo.
Tillis noted the Copyright Office recently reported the “grand bargain” (see 2005210057) is no longer working or achieving the intended policy goals. Piracy has become easier, faster and more common, he said: Pirated material appears on the same websites, sometimes minutes later, despite takedowns.

Section 512 works relatively well for academic authors, Duke University Associate University Librarian David Hansen testified: “We do not believe its overall balance is askew,” though it could be improved. There’s some lack of clarity about rights on notice and takedown, he said, but changing 512 could hurt research and teaching.

Piracy has exploded in the past 12 years, Preston noted, saying he gets dozens of piracy notices daily. It’s a never-ending game of whack a mole, which he gave up on. In the past decade, full-time authors have experienced a 42 percent drop in writing income due to rampant piracy, he said.

Changing DMCA would “shift the ground for startups,” devaluing safe harbors and potentially making litigation far more costly, testified Engine IP Counsel Abby Rives. YouTube’s content identification has been an amazing technology for locating illegal music, testified composer Kerry Muzzey, saying he has identified tens of thousands of stolen pieces of his music. But the only remedy is to file lawsuits, which isn’t feasible for an independent artist, he said, calling this law broken. — Karl Herchenroeder

‘Pie in the Sky’

O-RAN Getting Attention, and Some Traction, in US

The move to open-radio access networks in wireless is a natural evolution, follows trends in other industries and could help the U.S. make networks more secure, speakers said during a Hudson Institute webinar Tuesday. The FCC postponed a March 26 summit on 5G-focused O-RAN technology because of coronavirus concerns (see 2003120071) and hasn’t set a new date, a spokesperson confirmed now. In February, Attorney General William Barr said the O-RAN is “just pie in the sky” and a “completely untested” approach that would “take many years to get off the ground.”

The Barr statement could lead to “backsliding” away from the new technology, said Bob Everson, Cisco senior director-5G architecture. “There’s a lot of work going on,” he said. “We need to keep this moving forward because there’s so much inertia.” There’s “always risk in change” but also in sticking with the status quo, he said.

Fifth-generation uses the same modulations and is packet-based like 4G, which is why it’s moving forward quickly, but it also requires more flexibility than other generations of wireless, said Stein Lundby, Qualcomm head-corporate technology strategy. O-RAN shifts the architecture from “one monolithic network” to “a set of modules, each of them supplied by a different company,” he said.

Policymakers are watching, said Doug Brake, Information Technology and Innovation Foundation director-broadband and spectrum policy. Driving the discussion is the security “threat” from Huawei and its dominant role in the equipment market, he said. Brake was “a little disappointed” by what Barr said. “We have this short-term security risk represented by Huawei,” Brake said, but that’s easy to solve by not using
Chinese equipment. There’s a bigger risk if the market “continues along the same integrated, non-modular way that it has for so long and Huawei continues to grab more and more market share,” he said. The company didn’t comment.

Cisco has always focused on multiple vendors, Everson said: “Some may argue that we had to be because we didn’t make a radio.” Cisco was an early proponent of O-RAN “back when people were really shaking their head a lot, thinking this was not going to be a deal development and now it’s great to see the progress,” he said. O-RAN combines IT with telecom, he said. O-RAN can make networks more efficient, with lower costs, Everson said. The basic network architecture has been the same for decades, he said. “As we move to 5G, operators have a choice to make, whether they want to just add 5G to that existing legacy and extend it further or if they want actually want to transform the network.”

If companies are able to take parts of the network “and run them as software, virtualize them over generic, low-cost commodity hardware, you can dramatically lower the cost of the actual equipment” and “increase your ability to innovate and roll out new services,” Brake said. The O-RAN Alliance is working on the new technology and has major equipment makers’ support, not Huawei, which is “more skeptical” of open network architecture, he said. He noted Vodafone recently sought O-RAN quotes across the 14 countries where it has operations. Providers in Japan and India are looking at the technology, he said. In the U.S., the national carriers are interested, especially Dish Network that’s building a fifth-gen network, he said.

The FCC, meanwhile, asked the 5th U.S. Circuit Court of Appeals to reject Huawei asking the court overturn the agency’s ban on rural eligible telecom carriers using USF to buy from the Chinese firm (see 1912050050). In November, commissioners voted to ban Huawei and ZTE equipment on networks bought with USF dollars (see 1911220033).

“The Court lacks jurisdiction over the entire petition because it is not ripe, and separately over the portion of the Order initially designating Huawei as a covered company because that is not ‘final action,’” the FCC said in docket 19-60896: It “considered ample evidence that Huawei posed a potential threat to America’s communications networks, including information it received from members of Congress and Executive agencies with national security expertise.” — Howard Buskirk

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'High-Tech Wedge'

Cotton, Others Urge UK to Rethink Huawei Policy

China may be “attempting to drive a high-tech wedge” between the U.S. and U.K. via concerns about the national security implications of allowing equipment from Huawei on telecom infrastructure, Sen. Tom Cotton, R-Ark., told the U.K. House of Commons’ Defense Select Committee Tuesday. Cotton and other U.S. lawmakers criticized the U.K. allowing Huawei on “non-core” parts of communications infrastructure but bar it from “sensitive locations” like military bases (see 2001280074). Recent media reports claim the U.K. government may be planning to change that.

“I do hope that as the government refines its decision, that if it doesn’t reverse it outright, it will mitigate it and minimize the use of Huawei technology, put it on a shorter time frame,” Cotton said. “I would
welcome” a potential decision to end the presence of Chinese gear in U.K. telecom infrastructure by 2023 “and I would urge you to try and do so even sooner.” It remains important “for our nations to cooperate and to help lead that coalition of advanced industrial democracies” on issues including on telecom infrastructure security, he said. Divisions between the U.S. and U.K. let China “continue to try to replace” the U.S. “as the dominant power and to rewrite the international rules of order.”

Conservative Party MP Sarah Atherton, Scottish National Party MP Martin Docherty-Hughes and Labour Party MP Kevan Jones were among those who dug into concerns that a continued Huawei presence on U.K. infrastructure could hurt the intelligence sharing relationship with the U.S. Cotton filed S-3153 in January to bar the U.S. from sharing intelligence information with any country that permits Huawei-produced 5G equipment (see 2001080002). The Network Security Trade Act (S-3994) aims to ensure U.S. communications infrastructure security is a clear negotiating objective of U.S. trade policy (see 2003050067).

Jones suggested legislation like S-3153 and National Security Council review of whether to pull U.S. intelligence and military assets out of the U.K. are simply “threats” aimed at changing U.K. policy. There’s “no evidence” such cooperation “is going to be compromised” by limited Huawei presence on U.K. infrastructure, Jones said. “There’s no way that Huawei equipment will come anywhere near anything” involving U.K. intelligence data. Experts from the U.S., Australia and Japan “disagree” with that view, Cotton said.

Huawei gear could give the Chinese People’s Liberation Army “hackers a window into our military logistics operations,” Cotton said. He asked Jones “why are you so eager to put a criminal organization’s technology into your networks? An organization whose technology is being used to repress millions of Muslim minorities in Xinjiang province, who is a serial sanctions violator, building out the networks in Iran and Syria. You seem very eager to use their technology.”

5G Action Now Chairman Mike Rogers and Hudson Institute’s Robert Spalding also urged the U.K. to reverse course. Even allowing Huawei in non-core parts of the U.K.’s telecom infrastructure is problematic because 5G is “about pushing the security to the edges, to the end users,” Rogers said. “If you have the ability to do any administrative function, you have the ability to disrupt that function.” It “might not be your whole network goes down,” but “what you could do is jeopardize certain parts,” he said. “If you know” China is “interested in economic extortion,” then “I think you’d have to be concerned about their ability to go in and make things really difficult or even just slow it down.”

The Chinese government created “a moat around their population to ensure that they can’t be attacked and then have the freedom to attack others by deploying” malicious hardware in other countries’ infrastructure via companies like Huawei, Spalding said. “They subsidize the deployment” of Huawei’s equipment “because they want access to the data.” China’s “goal is to behind that firewall collect and then monetize” data for both “economic dominance” and to influence global policy, he said. The Chinese government has “learned very well how the internet can be used to influence populations … by using Huawei as one of the avenues.”

The House of Commons’ Defense Committee “concentrated on America’s desire for a home-grown 5G company that can ‘match’ or ‘beat’ Huawei,” said company Vice President Victor Zhang in a statement. “It’s clear that market position, rather than security concerns, is what underpins America’s attack on Huawei. The committee was given no evidence to substantiate security allegations.”
FCC Chairman Ajit Pai highlighted the hearing, noting in a tweet “the need for trans-Atlantic co-operation” on 5G security matters. The FCC asked the 5th U.S. Circuit Court of Appeals Tuesday to reject Huawei’s legal challenge asking the court to overturn the FCC’s ban on rural eligible telecom carriers from using USF money to buy equipment that from the Chinese firm (see 2006020064). — Jimm Phillips

Comm Daily® Notebook

Ligado Recon Petitions Have Backers, Critics

Calls for the FCC to reconsider its approval of Ligado’s terrestrial L-band network plans (see 2005280005) got backers and opponents in docket 11-109 postings Tuesday. Deere doesn’t object to Ligado’s terrestrial L-band network under the technical parameters laid out in the FCC approval, but contended the commission wrongly characterized it as endorsing the plan. It said it backed petitions for reconsideration of the approval that would substitute the 1 dB standard of GPS interference protection instead of “the impracticable ‘performance-based’ metric” the FCC went with. The FCC went with. The recon petitions don’t bring up new evidence that would justify reconsideration, Ligado consultant Roberson and Associates said. The various recon arguments—including that 1 dB standard is more appropriate and that the GPS compatibility tests don’t show GPS devices can operate without harm—lack factual basis and are contrary to evidence presented in the order, it said. The Brattle Group, also a Ligado consultant, said the FCC “appropriately weighed the benefits and costs” of the license modifications. “The 23 MHz guard band, reduced power levels, and other conditions imposed on Ligado’s ATC network operations will drive down the potential cost of allowing low-power terrestrial deployment nearly to zero, as there appear to be limited interference concerns,” Brattle said: “Any potential remaining costs decline with time as they are mitigated and the stock of GPS devices turns over.” Aviation consultant JHW Unmanned Solutions countered arguments the modifications pose a threat to air safety. The FCC’s order “appropriately accepted the analyses of the Federal Aviation Administration, the expert Federal agency on issues regarding potential interference with aviation GPS devices and, more broadly, aviation safety,” the firm said: “Petitioners advance no legitimate challenge to the Order’s comprehensive analysis of these issues nor do they provide any new information.” Backers and opponents of Ligado’s terrestrial wireless plans “seem to be talking past each other,” with each side seemingly convinced it’s in the right and puzzled by the opposition, the Resilient Navigation and Timing Foundation blogged Monday, citing letters from FCC Chairman Ajit Pai to House Armed Services Committee members (see 2005270045). The problem is “fundamental disconnects” in interpreting data, and there should be an independent expert evaluation of test results and a cost-benefit analysis, it said. Ligado said the FCC “fully consulted” with NTIA, considered its views and correctly rejected the proposed 1 dB standard, evaluating harmful interference by measuring actual performance. —MD and HB

Wi-Fi 6 Devices May Come for Holidays, Pai Tells Wi-Fi Alliance

The “consumer-facing pop” for Wi-Fi 6 device introductions will be “relatively short term,” perhaps even in time for the 2020 holiday season, FCC Chairman Ajit Pai told the Wi-Fi Alliance’s virtual member-
ship meeting Tuesday. “This is not a case in which a year-one decision may yield results in a decade.” He cited the agency making 1,200 MHz of bandwidth available (see 2005260025). The new standard is rolling out, said Pai. It will be more than 2.5 times faster than current Wi-Fi and “will offer better performance for connected devices,” he said. Qualcomm launched such products last month (see 2005280046). Wi-Fi 6 is “such a big deal” partly because Wi-Fi “has become such a big deal,” said Pai. It carries more than half the internet’s overall traffic, he said. “Offloading mobile data traffic to Wi-Fi is vital to keeping our cellular networks from being overwhelmed.” COVID-19 “amplified how indispensable Wi-Fi has become,” said Pai. —PG

### Coronavirus

**FCC, NARUC Seek to Raise Lifeline Awareness**

The FCC and states will partner to raise Lifeline awareness amid the pandemic, said Commission Chairman Ajit Pai and NARUC President Brandon Presley in a Monday letter to NARUC members. The FCC is expanding access to the national verifier to allow state agencies to help consumers sign up, “much like Lifeline service providers do today,” said the Republican FCC chairman and Democratic Mississippi commissioner. “We hope that state public utility commissions, state departments of health and human services, and state social service agencies will take advantage of this new feature.” Pai and Presley urged state commissions to share Lifeline information with consumers. Industry, policymakers and consumer advocates seek new ways to expand Lifeline enrollment and benefits (see 2004240014).

**Eltek CEO Sees Chance to Grow in US During Trade War With China**

Israeli printed circuit board supplier Eltek sees opportunity to grow its U.S. business “due to the worsening of the relationship between the U.S. and China,” said CEO Eli Yaffe on a fiscal Q1 call Tuesday. “The impact of any trade war between the U.S. and China will also impact the Israeli market.” Any heightened tension would likely accompany increased “U.S. pressure on the Israeli government to reduce the Israel-China trade activity,” he said. The company’s Q1 ended March 31. Trump administration officials say punitive tariffs against China are being considered. COVID-19 “created new operational and business challenges” for Eltek, said the CEO. The stock closed 13.5% lower Tuesday at $4.05. —PG

**FCC Wireless Bureau Grants Temporary 2.5 GHz Access to Kentucky County**

Seeking to support a rural area amid the pandemic, the FCC Wireless Bureau granted a request for temporary spectrum access to Harlan County, Kentucky, the agency said Tuesday. The FCC gave Harlan two-way access to 2.5 GHz spectrum for 60 days.
Biometric Platform Works With Smartphone Facial Recognition and Masks

Sensory developed a face and voice biometric platform to recognize users wearing masks, it said Tuesday: With the “new normal” requiring people to wear masks to avoid spreading the coronavirus, many smartphones’ facial recognition systems can’t detect the user’s face.

Capitol Hill

Cantwell, Cassidy, Klobuchar Introduce Bill Limiting COVID-19 Data Collection

Senators introduced privacy legislation Monday that would require consumer consent for COVID-19-related tracking apps, limit data collection and create safeguards against potential discrimination. Introduced by Senate Commerce Committee ranking member Maria Cantwell, D-Wash.; Bill Cassidy, R-La.; and Amy Klobuchar, D-Minn., the Exposure Notification Privacy Act would mandate public health official involvement with app deployment. Consumer participation would be voluntary and participants could delete their data. “We need to regulate apps that provide COVID-19 exposure notification to protect a user’s privacy, prevent data misuse, and preserve our civil rights—and this bill offers a roadmap,” said Public Knowledge Policy Counsel Sara Collins Tuesday.

McConnell Files Cloture on BBG CEO Nominee Pack

Senate Majority Leader Mitch McConnell, R-Ky., filed cloture Tuesday on confirmation of Broadcasting Board of Governors CEO nominee Michael Pack. President Donald Trump nominated Pack, president of Manifold Productions, in 2018 and re-upped it in February after the Senate failed to consider him during the last Congress (see 2002250053). The Senate Foreign Relations Committee advanced Pack’s confirmation before the Memorial Day recess on a 12-10 party-line vote amid opposition from ranking member Bob Menendez of New Jersey and other Democrats.

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Wireline

FCC Opens Docket for Comments to Terminate Dormant Proceedings

The FCC Consumer and Governmental Affairs Bureau will take comments for 30 days, replies 15 days later, after Federal Register publication, on whether to terminate as dormant 515 docketed proceedings, said a public notice Tuesday for docket 20-158.

Wireless

ATIS Developing New Power Standard, Expected to Take Year or Longer

ATIS is developing a power standard to speed deployment of 5G, small cells and other distributed networks, a process expected to take at least a year. “The work addresses the need for a standard for remotely powering distributed devices that consume more than the 100-Watt constraint identified by other industry standards,” ATIS said Tuesday.

Internet

CDT Challenges Trump’s Social Media EO With First Amendment Lawsuit

President Donald Trump’s social media-related executive order violates the First Amendment by “chilling the constitutionally protected speech of online platforms and individuals,” the Center for Democracy & Technology argued in a lawsuit Tuesday (see 2005290058). CDT accused the president of trying to intimidate Twitter. The EO is “designed to deter social media services from fighting misinformation, voter suppression, and the stoking of violence on their platforms,” CEO Alexandra Givens said. She accused Trump of threatening retaliation and regulation and thereby influencing content moderation policies. The White House directed questions to DOJ, which didn’t comment. The lawsuit cites Trump’s “attack” on Twitter for exercising First Amendment rights to comment on the president’s statements, as well as a “willingness to use government authority to retaliate against those who criticize the government.” The order would circumvent Congress and purports to “empower multiple government agencies to pass judgment on companies’ content moderation practices,” CDT claimed. It “clouds the legal landscape in which the hosts of third-party content operate and puts them all on notice that content moderation decisions with which the government disagrees could produce penalties and retributive actions.”

Federal Register Publishes Trump's Social Media Executive Order

The Federal Register published the executive order Tuesday from President Donald Trump that seeks to alter tech industry content moderation liability protections (see 2005280060 and 2006020071).
International Telecom

USTR Probes Digital Services Taxes From EU, UK, Others; ITI Backs Investigation

The Office of the U.S. Trade Representative is starting Trade Act Section 301 investigations into digital services taxes (DSTs) that were adopted or are under consideration, the agency said Tuesday. Investigations focus on Austria, Brazil, the Czech Republic, EU, India, Indonesia, Italy, Spain, Turkey and the U.K. Comments are due July 15. Evidence “suggests the DSTs are expected to target large, U.S.-based tech companies,” USTR said. “The European Commission is considering a DST as part of the financing package for its proposed COVID-19 recovery plan.” The EU’s delegation to the U.S. didn’t comment. The “investigation initially will focus on the following concerns with DSTs: discrimination against U.S. companies; retroactivity; and possibly unreasonable tax policy,” the USTR said. While the Information Technology Industry Council “hoped to avoid further escalation of tensions, increasingly-expansive unilateral tax measures have necessitated a stronger response,” said CEO Jason Oxman. “ITI continues to support the U.S. government’s efforts to investigate these complex trade issues.” Tariffs are a possible result of Section 301 investigations. The agency previously started a Section 301 investigation into France over such taxes and tariffs that were proposed but not implemented (see 1912030002). “An increasing number of countries have proposed or enacted discriminatory and unilateral digital taxes in recent months, despite ongoing [OECD] negotiation,” noted Internet Association Director-Trade Policy Jordan Haas. “The U.S. must continue sending a strong message to trading partners that targeted discriminatory taxes against U.S. firms are not an appropriate solution.” Instead of “unilateral DSTs, the world needs a multilateral solution,” said U.S. Chamber of Commerce Head-International Affairs Myron Brilliant. “The Chamber supports efforts to address these challenges through multilateral negotiations under the aegis of the OECD. We urge all parties to double down on those negotiations.” —TW and JM

Telecom Notes

T-Mobile Seeks Action on IP Relay Petition

T-Mobile asked the FCC Consumer and Governmental Affairs Bureau to act on a Sprint petition for a waiver of telephone relay service rules (see 1903220065). T-Mobile “demonstrated that the proposed $1.71 rate does not fairly compensate Sprint for its provision of IP Relay services,” T-Mobile said in a call with bureau staff, per a filing posted Tuesday in docket 03-123: “The use of cost averaging relying on one year actual/one year projection results in a depressed rate and an effective operating margin well below the 12.35% prescribed.”

Almost 1/5 of US Broadband Households Have Smart Control, Parks Reports

Just under a fifth of U.S. broadband households have a home control system, reported Parks Associates Tuesday: Adoption rose 38% in 2019. “The conversion of legacy security subscribers to interactive security services that support smart home automation is driving the increase in home control systems,” said
analyst Brad Russell, while adoption of do-it-yourself home control systems independent of security “has remained flat.” Parks surveyed 10,000 broadband households.

**Consumer Electronics**

**RF Device Conditional-Sale Restrictions Need Revision, Says FCC’s O’Rielly**

The FCC’s decades-old prohibition on presale or conditional sale of RF devices, except to wholesalers and retailers, is “past its prime in today’s commercial marketplace,” blogged Commissioner Mike O’Rielly Tuesday. Kickstarter presale of devices shows consumers want the option, he said, adding there’s no discernable harm if a device is marketed before OK, and delivered to consumers after approval. That would let manufacturers gauge consumer interest before putting money and time into getting regulatory yes, he said. He urged an exception for advertising and retail display preparation purposes to FCC import rules for foreign-made RF devices that haven’t received the agency’s nod.

**Broadcast**

**Cumulus Creates Poison Pill as COVID-19 Defense**

Cumulus Media established a “poison pill” plan to protect itself from acquisition while its value is depressed by COVID-19, it said May 21. “The move is a mechanism to make an acquisition of the company, without negotiations with its Board, prohibitively expensive,” Noble Capital Markets analyst Michael Kupinski emailed investors Tuesday. The plan is to expire April unless extended, Kupinski said. The FCC recently approved an unopposed request from Cumulus that would allow it to be up to 100 percent foreign owned (see 2005290046).

**DC Circuit Should Reject Foundation for a Beautiful Life Stay Request, FCC Says**

The U.S. Court of Appeals for the D.C. Circuit should deny Chinese-language radio broadcaster Foundation for a Beautiful Life’s emergency request for a stay order to allow its Saratoga, California, low-power FM station to continue broadcasting, the FCC said in an opposition filing Tuesday. “Given the company’s clear and repeated flouting of FCC rules and procedures, the Bureau was fully justified in refusing to authorize FBL to operate the station.” FBL constructed its station in Saratoga several miles from the Cupertino location in which it was licensed, and continued broadcasting after having its license application dismissed and without waiting for the agency to rule on a special temporary authority request the FCC said was improperly submitted. FBL sought the STA to provide information on COVID-19 to Cupertino’s Mandarin-speaking population, the FCC filing said. “FBL has no right to operate a radio station in northern California because it has never obtained a license from the Federal Communications Commission to do so.”
Salem Q1 Revenue Down 3.7%; Stock Falls

Salem Media Q1 sales decreased 3.7% to $58.3 million from the year-ago quarter, the radio broadcaster reported Monday evening. Salem estimated April revenue was down 24% and May down 23%, but numbers are edging up for June. In an investor call, CEO Edward Atsinger said revenue was “clearly impacted by financial fallout from COVID-19.” Salem has laid off 10% of employees, reduced base salary for every employee, suspended 401K matching, and asked for forbearance from lenders, Atsinger said. The stock closed down Tuesday 12%, below $1. —MT

Media Notes

Starks Connects Media Diversity, Broadband Access to Inequality Protests

Advocating for inclusive broadband access and diverse media ownership are ways communications policymakers can fight for equality, said FCC Commissioner Geoffrey Starks Tuesday on nationwide protests against racial injustice. “Policymakers must do more to include Black people and other communities of color and create a better world for future generations,” he said. “Access to robust and affordable broadband allows our communities to call attention to civil rights violations, mobilize and organize for social change, and advocate for policy changes,” he said. “Similarly, diverse ownership within the media landscape allows us to promote and take control of our own stories.” Chairman Ajit Pai and other commissioners commented Monday (see 2006010056).
Satellite

Swarm Pushes Back on NVNG Processing Round Opposition

Arguments against Swarm being part of the non-voice non-geostationary mobile satellite service processing round are just trying to keep “a dynamic, technologically innovative, and well-funded competitor from competing,” the company said in an FCC International Bureau consolidated opposition Monday. The precedent of denying or deferring action involves applications that came years after an initial processing round cut-off date, while Swarm narrowly missed the deadline and it had its petition for market access filed before the commission took action on other applications, it said. The opposition was in response to Hiber, Myriota and Kineis petitions to defer or dismiss or arguments against Swarm’s market access ask.

Obituary

LPTV Spectrum Rights Coalition founder Mike Gravino, 69, died last week at Virginia Hospital Center in Arlington, his partner said. He had pancreatic cancer and had been planning to go to hospice but died sooner than expected, said his life partner, Vicki Lancaster. In recent days, Gravino had emailed us about retiring from the low-power TV group (see 2005290061). He invested in LPTV and previously helped broker airtime for such stations, those who knew him recalled Tuesday. Gravino earlier started Garbagio, a recycling business, said Lancaster. He was “a strong [LPTV] advocate” and “always began and ended every meeting with me with a smile,” tweeted FCC Chairman Ajit Pai. Gravino is survived by two nieces; no funeral is now planned.

Communications Personals

IP attorney Jodi DeSchane, ex-Faegre Drinker, joins Ballard Spahr as of counsel; her practice includes copyright, advertising, social media and internet-related issues ... Comcast’s Jason Armstrong, chief financial officer of Sky, returns to corporate headquarters as executive vice president-treasurer after his relocation to Sky’s HQ in U.K. complicated by COVID-19; Comcast Treasurer Bill Dordelman retiring; and Armstrong succeeded at Sky by Simon Robson, promoted from his deputy to full CFO.

Viamedia names John Piccone, ex-Simulmedia, to newly created position of president-QTT, just formed cloud-based TV ad business, and Brendan Condon, ex-Comcast’s Effectv, as strategic adviser for third-party network and operator deployment ... TDS announces from AT&T Laurent Therivel for U.S. Cellular president-CEO, effective July 1, succeeding Kenneth Meyers named senior adviser to CEO until Sept. 4 retirement; Therivel also to replace Meyers on TDS and U.S. Cellular boards.

UL hires Linda Chapin, ex-Johnson Controls, as senior vice president-chief human resources officer ... RedSea appoints Bryan Barney, ex-Symantec, CEO, succeeding Ray Rothrock, who transitions to executive chairman ... Nexstar Broadcasting moves Ron Romines to vice president-general manager of broadcast and digital operations, Charlotte, North Carolina ... Hearst Television elevates Justin Antoniotti to president-general manager, WGAL Lancaster, Pennsylvania, succeeding Kyle Grimes, who moved to run company’s WCVB-TV Boston (see this section, May 29).