

Communications Daily

The authoritative news source for communications regulation



A service of **WARREN COMMUNICATIONS NEWS**

TUESDAY, SEPTEMBER 25, 2018

VOL. 38, NO. 186

Top News

Net Neutrality CRA Supporters Eye Post-Election Lane Duck for House Vote Push	3
Navy Concerns Seen Possibly Slowing Launch of Sharing in CBRS Band	5
Judges Question Sandwich Isles Attorney's Claims FCC 'Supported' Undersea Cable Plan.....	6
Politics, Chevron Seen as Big Differences Between FCC, Antitrust Regulators	7
Buying Pandora Might Be Good for Artists, Royalties, SiriusXM Chief Says.....	8

Comm Daily® Notebook

DC Circuit Sets Feb. 1 Argument on FCC Net Neutrality Reversal Case.....	9
Disney Seen Selling Sky Stake, but Hulu's Direction Is Hazy in Comcast/Sky Deal	9
Craigslist Founder Consulting Big Tech About New Outlet	10

Capitol Hill

Kavanaugh Not Withdrawing	10
Schatz, Murkowski File Bill to Expand Amber Alert Grant Funding to US Territories	11
House Commerce Democrats Ask for Twitter Civil Rights Audit	11

Wireline

Minnesota Seeks 8th Circuit Review of Panel's VoIP Pre-emption Ruling Favoring Charter	11
--	----

Wireless

CenturyLink CFO to Join T-Mobile, Lead Sprint Integration	12
Many Local, State Officials Support New 5G Rules, Carr Says	12
IHS Markit Seeks TCPA Clarity on Automotive Recall Messages	13
MetroPCS Becoming Metro by T-Mobile	13
FCC Warns Low-Cost 2-Way Radios Must Comply With Agency Rules.....	13
CCA Device Hub Integrated Into Associated Carrier Group	13

Internet

Executive Draft Order Could Mean Further Antitrust Scrutiny for Big Tech	14
--	----

State Telecom

Cell Outages in North Carolina Down to 1 Percent	14
--	----

International Telecom

\$200 Billion of Tariffs Take Effect, as China Retaliates.....	14
--	----

In the global 5G race, we need new rules for new wireless networks.



It takes only a couple of hours to install a small cell but years to get approval. FCC action to modernize state and local reviews of wireless infrastructure will speed 5G deployment, could add up to \$100 billion to our economy, and will help bring next-gen connectivity to more communities.

Visit ctia.org to learn more.



Broadcast

LPFM Coalition Opposes Quick Action on FM Translator Relocation	15
Scripps Expects High Political Ad Revenue for Midterms	15
Hearst Debuts Anyscreen OTT Ad Platform With TV Station Content	15

Cable

Dish, ACA, NCTA Push Back on Gray/Raycom.....	15
---	----

Media Notes

Roku OS 9 to Enable Voice Control, Support Music Streaming.....	16
---	----

Satellite

SES/O3b Urges NGSO ESIM Rules	16
Hughes Renews Pushback Against ViaSat Inter-Satellite Links Plan	16
DirecTV Seeks to Temporarily Relocate T8 Satellite.....	16
Iridium to Test Nanosatellite TechEdSat-8	17
Telesat, ThinKom Partnering on Ka-Band User Terminal	17

Communications Personals	17
---------------------------------------	----

Top News

No 'Lost Cause'

Net Neutrality CRA Supporters Eye Post-Election Lame Duck for House Vote Push

Supporters of a House version of the Congressional Review Act resolution of disapproval aimed at rolling back the FCC 2017 order to rescind 2015 net neutrality rules (House Joint Resolution-129) are eyeing a likely focus on pushing for floor action during the lame-duck session amid acknowledgement there's no time to bring it up before the November elections. House leaders initially projected the chamber would be in session the first two weeks of October. It's now expected to recess at the end of this month if a majority of members agree to pass a combination of FY 2019 minibus federal spending bills and a continuing resolution authority aimed at extending funding for the Department of Homeland Security through Dec. 7.

A vote on the CRA "won't happen" before the elections "because we're only going to be back here" this week, House Communications Subcommittee ranking member Mike Doyle, D-Pa., told us just before the chamber began its weeklong Yom Kippur recess. "I don't think we're going to be back here in October at all. We're going to have to get it done in the lame duck." Pre-election House action on the CRA would have been unlikely even if the chamber were in session for part of October since a discharge petition aimed at forcing a floor vote on Friday had 177 of the needed 218 signers, telecom lobbyists said. That's the number it had after Rep. Mike Coffman, R-Colo., signed on in July (see [1807170048](#)).

The House and Senate Commerce committees' leaders told us they are hopeful the post-election environment will conversely be better for reaching a legislative compromise on net neutrality, though the CRA would still loom large. Democrats have "been trying to politicize" net neutrality "from the very beginning," said House Commerce Chairman Greg Walden, R-Ore.: "They predicted the internet would come to a screeching halt" if the FCC rescinded the 2015 rules "and all their doomsday dire predictions haven't quite come to fruition." The "door remains open" for Democrats to be involved with legislative work on a

net neutrality bill originally drafted in 2015 that returned as a discussion point last year (see [1506040046](#) and [1707310066](#)), Walden said: “I’m open to having those discussions after the election if they’re serious about” a compromise.

“I hope at some point there’s going to be a thawing or softening on the Democrats’ side” on net neutrality but “they’re continuing to push the CRA plan and that’s not going anywhere,” said Senate Commerce Chairman John Thune, R-S.D. Thune collaborated on the 2015 draft bill that Walden resurrected in House discussions. “Do they want a solution or do they want the issue? It seems at the moment they want the issue,” Thune said. The Senate passed its version of the CRA in May 52-47 with support of three Republicans (see [1805160064](#)).

'Conscience' Votes?

The focus of the CRA push remains “largely on” getting other House Republicans to join Coffman as discharge petition signatories, with “a lot of meetings with Republicans planned” through the end of September, said Georgetown Law Institute for Technology Law & Policy fellow Gigi Sohn. “I’d expect by early October, there will be some more signatories on the discharge petition” since “there are an awful lot of members who are seriously considering” signing on. A communications lobbyist who follows Democratic lawmakers questioned CRA supporters’ potential for success given 17 House Democrats still haven’t signed the petition and “none of them are feeling pressure” to join.

Policy Director Matt Wood said the House CRA also remains a top priority for Free Press, though he acknowledged there’s “only so much time left before the end” of this Congress. “We’re obviously in the final months here, even if we do think the lame duck is a time when [the CRA] can still pass,” he said. “We’ll have to move that needle more quickly than we have in recent weeks.” There’s still more than a month left before the election and “nobody’s given up yet,” Sohn said. “This is far from a lost cause.”

Communications Daily

(ISSN 0277-0679)

PUBLISHED BY WARREN COMMUNICATIONS NEWS, INC.

Jonathan Make Executive Editor
Howard Buskirk Associate Managing Editor

Warren Communications News, Inc. is publisher of
Communications Daily, Warren’s Washington Internet Daily,
Consumer Electronics Daily, Television & Cable Factbook,
Cable & Station Coverage Atlas, and other specialized publications.

Send news materials to newsroom@warren-news.com

Follow *Communications Daily* on Twitter:
https://twitter.com/Comm_Daily

Follow Warren Communications News on Facebook:
<https://www.facebook.com/WarrenCommunicationsNews>

Phone: 202-872-9200 Fax: 202-318-8984
<https://warren-news.com>
Email: info@warren-news.com

EDITORIAL & BUSINESS HEADQUARTERS
2115 Ward Court, N.W., Washington, DC 20037

Albert Warren
Editor & Publisher 1961–2006

Paul Warren Chairman and Publisher
Daniel Warren President and Editor
Jonathan Make Executive Editor
Paul Gluckman Executive Senior Editor
Howard Buskirk Executive Senior Editor
Rebecca Day Senior Editor
David Kaut Senior Editor
Matt Daneman Senior Editor
Monty Tayloe Associate Editor
Adam Bender Associate Editor
Jimm Phillips Associate Editor
Karl Herchenroeder Assistant Editor
Debra Rubin News Editor

Michael Feazel Consulting Editor

International Trade Today

Tim Warren Managing Editor
Brian Feito Deputy Managing Editor
Mara Lee Associate Editor

Copyright © 2018 by Warren Communications
News, Inc. Reproduction in any form, without written
permission, is prohibited.

Business

Sheran Fernando Chief Operating Officer
Brig Easley Exec. VP-Controller
Deborah Jacobs Information Systems Manager
Gregory Jones Database/Network Manager
Annette Munroe Dir. Marketing & Circulation
Katrina McCray .. Sr. Sales & Mktg. Support Specialist
JJ Sindhusake Sales & Marketing Administrator
Loraine Taylor Sales & Marketing Support Assistant

Television & Cable Factbook

Michael Taliaferro Managing Editor
Colleen Crosby Sr. Ed. & Editorial Supervisor

Sales

William R. Benton Sales Director
Agnes Mannarelli National Accounts Manager
Bruce Ryan Account Manager
Jim Sharp Account Manager
Lisa Price Account Manager
Matt Long Account Manager

Advertising Sales Representation by
Richard Nordin, Group Nordin
Phone: 703-819-7976 Fax: 202-478-5135
richard@groupnordin.com

Copies of this issue may be purchased for \$50 each by contacting sales@warren-news.com.

By using our email delivery service, you understand and agree that we may choose to use a tracking service to ensure electronic delivery accuracy and monitor copyright compliance. This service provides us certain technical and usage data from any computer that opens the Executive Summary or the complete newsletter. We will not share this information with anyone outside the company, nor will we use it for any commercial purpose. More information about our data collection practices is at <https://communicationsdaily.com/privacy>.

Doyle and others told us it's hard to know how a lame-duck CRA push will fare given uncertainty about the election's outcome, including whether it will result in Democrats winning a House majority. Generic congressional ballot polls conducted since the beginning of September give Democrats a lead of 4-12 percentage points over the Republicans. "Who knows?" Doyle said: "Obviously, there will be a lot of incumbents" who may lose re-election "and we'll see how they" stand on the CRA once the House reconvenes in November.

Pressure on individual House GOP members to support the CRA will "diminish greatly" once they return for the lame duck precisely because they will no longer have to fear immediate voter wrath, said American Action Forum Director-Technology and Innovation Policy Will Rinehart: "For some voters, this has been an issue" in the campaign, he said. Once the next Congress convenes in January, "there could be increased pressure to wrap in" net neutrality legislation "with a potential privacy bill," since California's SB-822 law would take effect in 2020 if Gov. Jerry Brown (D) signs it, Rinehart said. House Minority Leader Nancy Pelosi, D-Calif., and others have been pushing Brown to sign the law by Sunday's deadline (see [1809180024](#)).

"It could cut either way," with GOP incumbents who lost re-election potentially feeling free to "vote the way they feel instead of bowing" to internal GOP leadership pressure to oppose the CRA, as has been the case since introduction in December, Doyle said. How Republican incumbents will stand on the measure "really depends" on whether they lost and what their plans are, Sohn said. If an incumbent lost re-election, "what does he have to lose" by supporting the CRA, she asked. Re-elected incumbents may "feel they have less to worry" about from voters and may be "less willing to defy" GOP leaders, Sohn said.

The lame duck is always a "weird time," Wood said. "Motives and emotions could be all over the place." Plus, "the current political environment is so wild and unpredictable," Wood said. — *Jimm Phillips*
[Share Article](#)

Devil in Details

Navy Concerns Seen Possibly Slowing Launch of Sharing in CBRs Band

The launch of long-anticipated sharing in the 3.5 GHz citizens broadband radio service band could be slowed by interagency conflicts, industry and government officials told us. Use of the band depends in particular on Navy cooperation, but questions were said to have been raised within the powerful Interdepartment Radio Advisory Committee. IRAC looks after the interests of government spectrum managers. NTIA and DOD didn't comment Monday.

The Public Interest Spectrum Coalition flagged potential problems in recent FCC comments on the Spectrum Pipeline Act (see [1809120043](#)). "Inexplicably, progress at the Commission, at NTIA, and particularly with the U.S. Navy has slowed, creating delays that threaten to undermine the enormous public interest benefits of CBRs," the coalition [said](#) in docket 17-258. "By all accounts the U.S. Navy, at least at the staff level, has over the past year moved decidedly away from the stated policy of the Department of Defense to cooperate with the FCC and industry on sharing unused capacity in federal bands." The coalition said the environmental sensing capability shut-down levels being demanded by the Navy "are reportedly so low that the anticipated viability of [CBRS devices] along at least portions of the U.S. coastlines—where a majority of the population lives—is, for the first time, in doubt."

“My understanding is that the Navy is still supportive and wants to move forward but that for reasons that I do not know, the process is taking longer than anyone really wants,” said an advocate of dynamic spectrum sharing. Other industry officials said some of the concerns could stem from a lack of understanding of the protections the Navy needs for its radars in the band.

If interagency red tape slows deployment, “that would be unfortunate for WISPA’s members and the rural Americans that will wait longer for broadband service,” said Claude Aiken, president of the Wireless ISP Association. “With commercial deployment around the corner, we urge the governmental agencies to proactively resolve their issues as soon as possible.”

“When it comes to these complex sharing regimes, the devil is always in the details,” said Doug Brake, director-spectrum policy at the Information Technology and Innovation Foundation. “If the Navy were to set the environmental sensing levels too low, that could significantly disrupt the usability of this band on the coasts. Over 35 countries have identified spectrum spanning this band to be allocated for 5G services. It is important agencies have the spectrum and flexibility to achieve their mission, but being too conservative with the sensing requirements has real trade-offs.” Government is focusing on policies to advance 5G and “the 3.5 GHz band shouldn’t be overlooked,” Brand said.

The FCC is expected to finalize new rules for the band at the Oct. 23 commissioners’ meeting, changing the rules approved during the Obama administration (see [1808310026](#)). The FCC and O’Rielly didn’t comment. — **Howard Buskirk**

[Share Article](#)

Agency, AT&T Also Pressed

Judges Question Sandwich Isles Attorney's Claims FCC 'Supported' Undersea Cable Plan

Judges questioned a Sandwich Isles Communications attorney’s assertions the FCC backed the carrier’s Hawaiian Island undersea cable project before reducing its related access charge revenue. A three-judge panel of the U.S. Court of Appeals for the D.C. Circuit also questioned FCC and AT&T attorneys extensively in oral argument Monday. SIC is challenging a 2016 FCC [order](#) that prospectively disallowed all but \$1.9 million of its annual access collections from a National Exchange Carrier Association rural telco [pooling mechanism](#) (see [1612060032](#)).

SIC counsel Lex Smith’s claims that a 2005 FCC bureau order “supported” its project for a high-capacity undersea cable faced resistance from Judge Laurence Silberman, who repeatedly asked the attorney to substantiate that. Judges Patricia Millett and Gregory Katsas also raised questions as Smith tried to provide answers. When Smith again said the project was “supported” in 2005, but “something changed,” Silberman shot back, “You keep saying ‘supported,’” and noted SIC originally sought Rural Utilities Service financing to construct the cable but was ultimately rejected. That led to an alternative arrangement under which SIC agreed to lease capacity from Paniolo Cable, which borrowed from Deutsche Bank to construct the cable in 2007-09. Smith said the 2005 order instructed SIC to join the NECA pooling, and promised USF support that “isn’t the subject” of the litigation.

Silberman asked about SIC’s duty to show expenditures meet a “used and useful” standard, and noted the carrier served just 2,000 customers, over a network with much more capacity. When Smith said

technology changes made an original \$24 million annual lease payment seem “outrageous” currently, Silberman quipped that it seems “much more outrageous” now but was still “outrageous at the time.” Smith said the excess capacity SIC is leasing adds negligible expenditures to the cable’s fixed costs, and said SIC couldn’t have continued to lease capacity on a lower-quality Hawaiian Telcom cable that was “at the end of its cycle.” Under questioning from Silberman, Smith acknowledged SIC didn’t have a signed agreement to lower the annual lease payment to \$8.1 million after reaching a “handshake” agreement.

FCC attorney Sarah Citrin said ratepayers funding NECA pooling shouldn’t have to pay for SIC’s decision to push a network with capacity to serve all Hawaiian customers. Millett asked about a 2000 NECA letter that she said suggested SIC could recover its projected costs. Citrin said she wasn’t sure what NECA meant but said its letter didn’t bind the FCC. When Silberman also asked about the letter, Citrin said it wasn’t “relevant.”

That sparked Millett to ask numerous questions about SIC’s argument that it relied on NECA and regulatory assurances to make long-term capital investments, but then the FCC Wireline Bureau allowed just 50 percent of its requested pooling recovery and the full commission “pulled the plug” in 2016. Citrin cited NECA’s 2007 cost concerns and later objections, and delved into various complexities in back-and-forth with all three judges. When Millett noted it took the FCC six years to reverse the bureau’s 50 percent funding decision prospectively, Citrin said that delay helped SIC.

Judges also heavily questioned Daniel Feith, representing AT&T, which challenged SIC’s pooling revenue. Much of the questioning was directed at understanding certain details, but Silberman repeatedly pressed Feith not to conflate SIC with Paniolo, despite their relationship.

In rebuttal time, Smith said the FCC knew in 2005 SIC’s projected network costs were going to be \$14,000 per customer, but then changed its mind. He said that can be explained only by “arbitrary and capricious” decision-making. — *David Kaut*

[Share Article](#)

Capture Risks

Politics, Chevron Seen as Big Differences Between FCC, Antitrust Regulators

The ways the FCC and antitrust agencies like DOJ evaluate deals can diverge widely, said experts Saturday at American University-hosted annual Research Conference on Communications, Information and Internet Policy. Steptoe & Johnson’s Jon Sallet said the FCC’s big question is often what range of policy options are “reasonable” under the *Chevron* doctrine of judicial deference to agencies, and what record would support a decision made within that range, while at DOJ the focus was on how does one convince a judge, with the burden of proof being on government to prove its case.

The FTC and FCC ostensibly should go about their regulatory jobs in much the same way, being five-commissioner agencies, but politics seems to play a bigger role in FCC decisions than at the FTC, said Jonathan Baker of AU. Part of the reason may be the FCC, with its focus on a single sector, confronts more concentrated interested groups, he said. He said FTC norms are judicial, with decisions based on law and policy, while the FCC norm is finding a compromise position among interest groups. Both approaches have pros and cons, Baker said, with the FCC able to take longer-term perspective and to supervise relief beyond what an antitrust agency can.

The FCC is seen as more vulnerable to capture by a particular group, but major transactions like mergers aren't captured, Baker said. The agency likely could benefit from expanding the range of information it requires regulated firms to routinely submit, he said. Howard Shelanski of Davis Polk said the FTC and DOJ aren't as invulnerable to capture as some might think since they often still see many of the same lawyers and economists.

The notion of there not needing to be an FCC except to handle specific spectrum matters, with its other work being done by antitrust agencies, presupposes the telecom market has changed fundamentally from the days when obvious market failures resulted in the commission being a sector-specific agency, Shelanski said. There likely is a case for less regulation, but FCC expertise and those market failure dangers mean there's a risk to getting rid of agency regulation and replacing it with competition policy, he said. One thing antitrust can't do well is tackle noneconomic values, like viewpoint diversity in media markets, he said.

A potential problem at both the FCC and FTC is the relative lack of economists compared with lawyers, said Roslyn Layton, American Enterprise Institute visiting scholar. It's also not clear which approach is more effective—having economists embedded in particular bureaus or in their own specialized department like the approach the FCC is taking with its Office of Economics and Analytics. She also said agencies aren't budgeted the way they need to be today so they could have analytic tools such as artificial intelligence that could then lead to more airtight decisions surviving judicial review.

Pointing to the antitrust/regulatory models of other countries, William Kovacic, a George Washington University law professor, said a major flaw in how the U.S. approaches regulation is the Sunshine Act. He said the law restricts too tightly policymakers talking among themselves. — **Matt Daneman**

[Share Article](#)

\$2 Billion Combined Royalties

Buying Pandora Might Be Good for Artists, Royalties, SiriusXM Chief Says

SiriusXM's agreeing to buy Pandora for \$3.5 billion in an all-stock deal means they would pay close to \$2 billion on royalties next year combined, said Sirius CEO Jim Meyer on a Monday conference call. "The two companies have a tremendous respect for what artists bring to our business, what songwriters bring to our business. We obviously fully endorse models that compensate them for what they bring. I think this merger will be good for everyone in music for one simple thing, and that is, if we're successful, we will begin to shift share from those channels that are not paying performance rights to musicians."

Meyer thinks music "labels will wholeheartedly endorse that strategy." RIAA didn't comment. Almost exactly a year ago, Sirius completed its \$480 million "strategic investment" to buy 19 percent of Pandora's stock (see [1709220042](#)).

Pandora can walk away from the new [deal](#) if it pays Sirius a \$105 million termination fee but would be obligated for only \$52 million if it cancels the deal to accept a "superior" offer by Nov. 22 under a "go shop" provision that Pandora wanted written into the contract that enables it to talk with alternative suitors, said an SEC [filing](#) Monday.

How Sirius and Pandora can best mesh their "complementary" services once the transaction closes in early 2019 is something "we're going to have to just evolve our way into and test our way into," Mey-

er told analysts. “My ultimate thinking on this is, whoever comes into one of our trial funnels, no matter where they come in, our goal ought to be that as they exit that trial, somewhere, somehow, they’re in a funnel which we’re monetizing and creating value with.”

Meyer hopes Pandora CEO Roger Lynch “joins us going forward” after the sale closes, he said. Lynch, who was on the call, said nothing about his plans.

Sirius hasn’t “done anything” to cross-promote with Pandora since closing the strategic investment deal last year, said Meyer. It purposely stayed away from doing so to give the new Pandora management under Lynch, who joined the company a year ago, a chance to right its financial “ship,” he said. Lynch thinks there’s “no shortage of ideas that Jim and I have had on things that we can do together,” he said. Meyer’s “gut feel” is that there’s “real money to be made by optimizing cross-promotion” between the Pandora and Sirius “platforms,” he said. “That’s where I see the biggest opportunity.” That could “take share—you can guess where from—from other audio platforms that are out there today,” said Meyer. Spotify didn’t comment.

Sirius subscribers “stream quite a bit,” said Meyer. There’s a “misconception” that the Sirius subscriber base is “technically illiterate,” he said. “That’s nonsense. They stream a lot and they find the content they want. It’s one of the reasons why I think this combination is powerful because I think the offers complement each other as opposed to compete with each other.” — *Paul Gluckman*

[Share Article](#)

Comm Daily® Notebook

DC Circuit Sets Feb. 1 Argument on FCC Net Neutrality Reversal Case

Oral argument is scheduled Feb. 1 on challenges to the FCC’s net neutrality rollback, said an [order](#) (in Pacer) of the U.S. Court of Appeals for the District of Columbia Circuit Friday, in *Mozilla v. FCC*, No. 18-1051. It said the three-judge panel is usually revealed 30 days before argument. Petitioner and intervenor briefs seeking to vacate the order were filed in August (see [1808210010](#) and [1808270040](#)). Responses of the DOJ/FCC and supportive intervenors are due Oct. 11 and Oct. 18, respectively. The Supreme Court is reviewing appeals of a 2017 D.C. Circuit ruling upholding the prior commission’s 2015 net neutrality order.

[Share Article](#)

Disney Seen Selling Sky Stake, but Hulu’s Direction Is Hazy in Comcast/Sky Deal

Disney/Fox will likely shed its Sky stake, but Hulu’s fate is unclear, said analysts after Comcast’s \$40 billion auction bid over the weekend that was accepted by Sky’s independent committee (see [here](#)). Comcast will likely follow up with deal that has it buying the rest of Sky from Disney/Fox “for the same stupendous price,” and possibly as part of a swap where Disney takes Comcast’s stake in Hulu, MoffettNathanson analyst Craig Moffett wrote Monday. He downgraded Comcast stock to neutral. He said Sky could be “an albatross” for Comcast given its satellite TV business and that satellite video distribution “is in-

creasingly becoming obsolete.” He said expanding Sky’s nascent over-the-top business will be a challenge, with a variety of programmers going direct to consumer, meaning Comcast will have to ramp up creation of its own video content. BTIG’s Richard Greenfield wrote investors Monday that given cord-cutting and cord-shaving trends, Disney/Fox and Comcast/Sky are “actually depressing” examples of legacy media staying locked in a comfort zone. He said Disney/Fox will likely tender its Sky stake as part of Comcast’s offer to Sky shareholders since there’s not an obvious strategic benefit to Disney/Fox remaining an investor in Sky. The analyst said Disney wants Comcast’s Hulu stake, but Comcast isn’t likely to sell since it can thus prevent Hulu from becoming a Disney-branded OTT service. He said with the Sky deal, Comcast is signaling that a deal for Charter Communications seems unlikely and that U.S. expansion isn’t a priority. Instead, Discovery could be the next acquisition target for Comcast given Discovery’s investments in Europe in recent years, Greenfield said. Comcast plans to keep its stake in Hulu, an informed person said. U.K. M&A rules are such that it couldn’t make a side deal with Disney to sell its portion, the person noted. Comcast didn’t comment. The company closed down 6 percent at \$35.63. —**MD**

[Share Article](#)

Craigslist Founder Consulting Big Tech About New Outlet

Craig Newmark is in contact with Facebook, Google and Twitter about The Markup, an investigative journalism platform that will use data science to cover big tech, the Craigslist founder said Monday. Newmark, who won’t have an editorial role in the new venture, contributed \$20 million, and it’s headed in part by ex-ProPublica journalists. Newmark said at the National Press Club that he’s working “quietly and diplomatically,” talking to online platform representatives, platform critics and reporters, “to make sure everyone plays well together.” Asked if representatives from Facebook, Google and Twitter are involved in discussions, Newmark said, “It involves everyone.” The event’s moderator noted a *New York Times* [article](#) on the new venture describes concerns that The Markup’s data collection practices might violate platform terms of service. “Getting to the truth” often requires data science, Newmark said. There’s a lot of conjecture about tech platforms, and “we need something real,” he said. Journalism is in “crisis,” he said, suggesting The Markup adopt values that are in line with The Trust Project, a media company collaboration aimed at creating more trust in the press. Asked about platform bias, given claims coming from the White House and conservative lawmakers, Newmark said he’s more interested in the details of platform terms of service and whether companies are upholding promises. He backed more enforcement to hold platforms accountable. Newmark also suggested consumers should have a certain level of “media literacy,” the ability to sniff out when a news story is “fake.” National Religious Broadcasters CEO Jerry Jones [warned](#) big tech platforms Friday there will be calls to re-examine Section 230 of the Communications Decency Act if platform bias isn’t addressed this year. —**KH**

[Share Article](#)

Capitol Hill

Kavanaugh Not Withdrawing

Supreme Court nominee Brett Kavanaugh said he “will not be intimidated into withdrawing” from Senate consideration despite a *New Yorker* report [that](#) a second woman, Deborah Ramirez, is accusing the

nominee of sexual misconduct. Palo Alto University professor Christine Blasey Ford, Kavanaugh's initial accuser, is expected to testify at a Thursday Senate Judiciary Committee hearing on her claims that the nominee sexually assaulted her in the early 1980s. That [hearing](#) is expected to begin at 10 a.m. in 226 Dirksen. Kavanaugh denied both claims in a Monday letter to Senate Judiciary leaders.

[Share Article](#)

Schatz, Murkowski File Bill to Expand Amber Alert Grant Funding to US Territories

Senate Communications Subcommittee ranking member Brian Schatz, D-Hawaii, and Sen. Lisa Murkowski, R-Alaska, filed [S-3461](#) Friday to fund integration of all U.S. territories into the national Amber alerts program. The 2003 Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today (Protect) Act, which originally established national Amber alerts, authorized DOJ to fund grants only for the 50 states and Washington, D.C., to voluntarily implement the program. S-3461 and House companion Amber Alert Nationwide Act ([HR-6350](#)) would reauthorize DOJ's existing Amber alert grant program and extend it to the five U.S. territories: American Samoa, Guam, Northern Mariana Islands, Puerto Rico and the U.S. Virgin Islands. The legislation would integrate territorial law enforcement agencies into the national Amber alert system and directs coordination between DOJ and the Department of Homeland Security. "There's no good reason for U.S. territories to be excluded from this system," Schatz [said](#).

[Share Article](#)

House Commerce Democrats Ask for Twitter Civil Rights Audit

Twitter should follow through with CEO Jack Dorsey's recent commitment to do an independent, civil rights audit, House Commerce Committee ranking member Frank Pallone, D-N.J., and Rep. Bobby Rush, D-Ill., [wrote](#) the company Monday. Facebook and Airbnb have done similar, the lawmakers wrote, claiming it's necessary because of "concerns that some [Twitter] users misuse the platform to promote divisive content and misinformation." Twitter didn't comment.

[Share Article](#)

Wireline

Minnesota Seeks 8th Circuit Review of Panel's VoIP Pre-emption Ruling Favoring Charter

Minnesota asked the 8th U.S. Court of Appeals to review a panel's 2-1 ruling affirming a district court decision that state regulation of interconnected VoIP was pre-empted as an information service, in *Charter v. Nancy Lange*, No. 17-2290 (see [1809070030](#)). The majority ruling is "inconsistent" with the Telecom Act, and "in conflict" with prior 8th Circuit opinions on USF contributions and Vonage's VoIP service and the Supreme Court's cable modem *Brand X* ruling, [petitioned](#) (in Pacer) the Minnesota Office of Attorney General Friday, on behalf of the Minnesota Public Utilities Commission, seeking en banc or panel rehearing: "Consideration by the full Court is necessary to ensure uniformity of this Court's decisions." Charter Phone "is a fixed, interconnected VoIP service with the ability to determine whether calls are interstate or intrastate," Minnesota said. "Under the plain terms of this Court's *Vonage III* ruling and

Paragraph 56 of the FCC's *USF Order* quoted therein, the MPUC has jurisdiction over Charter Phone.” It also cited a 2017 8th Circuit ruling upholding a district court decision relying on that USF language as applied in *Vonage III* “observing that the FCC explicitly said that the Vonage preemption order does not apply to providers with the ability to track the jurisdiction of customer calls and such providers are subject to state regulation.” Pillsbury Winthrop's Glenn Richards, representing the Voice on the Net Coalition, which backed Charter, emailed he's “disappointed, but not surprised” by the petition: “I don't see any issues raised in the petition that are likely to result in a different decision by the full court.” Charter Communications didn't comment Monday.

[Share Article](#)

Wireless

CenturyLink CFO to Join T-Mobile, Lead Sprint Integration

T-Mobile said Sunit Patel is joining as executive vice president-merger and integration lead. “Patel will lead T-Mobile's strategic planning efforts to integrate its business with Sprint as the two companies work through the necessary regulatory reviews and other closing conditions to combine,” T-Mobile [said](#) Monday. Patel leaves CenturyLink, where he was chief financial officer. He will report to T-Mobile President Mike Sievert.

[Share Article](#)

Many Local, State Officials Support New 5G Rules, Carr Says

With a vote scheduled for Wednesday on revised wireless infrastructure rules, FCC Commissioner Brendan Carr [stressed](#) Monday that the small cell-oriented changes have support from local government officials. Major cities urged the FCC to revise the proposed rules (see [1809200007](#)), crafted by Carr. “More than several dozen mayors, local officials, and state lawmakers have called on the FCC to streamline the rules governing small cell buildout,” Carr said. “They want the FCC to build on the commonsense reforms adopted in state legislatures and town councils across the country so that every community—from big city to small town—gets a fair shot at next-generation connectivity.” Carr offered quotes from local officials endorsing the approach. Among filings posted Monday in docket 17-79, Murrieta, California, [opposed](#) the draft rules. “Cities can negotiate with providers to ensure appropriate compensation to taxpayers for private, profit-generating use of public property, and to incentivize development that benefits community residents,” the city said. “Action by the Commission would limit fees and rates that we could negotiate for use of public property and our ability to maximize public benefit.” Middleburg, Virginia, [called](#) the new collocation shot clock “too extreme” and said it needs to be able to protect its historic downtown and charm. Sprint [said](#) in meetings with aides to Carr and Commissioners Mike O'Rielly and Jessica Rosenworcel that the changes don't go far enough. “The Commission's draft order states that government application and recurring fees be cost-based,” the carrier said. “Costs charged by local governments must be ‘direct and actual’ so that local governments cannot increase its costs by incurring unnecessary expenses and passing them on to the wireless industry.” Carr penned a *Pensacola News Journal* [commentary](#) with Pensacola, Florida, Mayor Ashton Hayward (R) on the importance of 5G and infrastructure to that city.

[Share Article](#)

IHS Markit Seeks TCPA Clarity on Automotive Recall Messages

IHS Markit asked the FCC to clarify that auto safety messages it transmits to cellphones are “made for emergency purposes” and don’t violate the Telephone Consumer Protection Act. “Motor vehicle safety recall communications save lives,” said a [petition](#) posted Monday in docket 02-278. IHS Markit “provides critical consumer outreach communications and was recently retained to place calls and deliver text messages regarding manufacturers’ recalls of vehicles equipped with Takata airbag inflators, which are at risk of exploding.”

[Share Article](#)

MetroPCS Becoming Metro by T-Mobile

T-Mobile said it’s rebranding its prepaid MetroPCS product as Metro by T-Mobile. T-Mobile, which completed its buy of MetroPCS in April 2013, said it’s time for a makeover. The combination of T-Mobile’s and Sprint’s prepaid lines under one company is seen as a potential sticking point to their proposed deal (see [1808270049](#)). “Metro by T-Mobile launches next month with new all-unlimited plans, including a tier that features Amazon Prime, making it the only U.S. prepaid wireless brand to include all the shopping and entertainment benefits of Prime ... and, the first and only wireless brand to include Google One, a subscription with expanded cloud storage and mobile backup,” T-Mobile [said](#) Monday.

[Share Article](#)

FCC Warns Low-Cost 2-Way Radios Must Comply With Agency Rules

Low-cost, two-way VHF/UHF radios must comply with rules, said an FCC enforcement [advisory](#) Monday. All such radios must be authorized before being imported, advertised, sold or operated here, the agency said. “Many of these radios violate one or more FCC technical requirements,” the FCC said. “Some can be modified to transmit on public safety and other land mobile channels for which they are not authorized, while others are capable of prohibited wideband operations. Such radios are illegal, and many have the potential to negatively affect public safety, aviation, and other operations by Federal, state, and local agencies, as well as private users.”

[Share Article](#)

CCA Device Hub Integrated Into Associated Carrier Group

The Associated Carrier Group (ACG), Sprint and Competitive Carriers Association said Monday they agreed to integrate the CCA Device Hub into ACG. It’s “another critical step in allowing small- to medium-sized carriers access to niche products and other devices that are challenging to secure,” said ACG President Russ Lipinski. The ACG consortium “enables its members to work with manufacturers, suppliers and other vendors to quickly develop and procure scarce or difficult to obtain products through economies of scale and standardization of coding and other features,” said a [news release](#).

[Share Article](#)

Internet

Executive Draft Order Could Mean Further Antitrust Scrutiny for Big Tech

The White House is exploring antitrust action to prevent political bias on online platforms, said a draft executive [order](#) reportedly circulated over the weekend. By using search and social media, consumers count on platforms to provide “reliable information to shape a host of decisions ranging from consumer purchases to votes in elections,” the order said. Antitrust enforcers should use their authority to “promote competition and ensure that no online platform exercises market power in a way that harms consumers, including through the exercise of bias,” it said. President Donald Trump recently attacked Google, Facebook and other online platforms for alleged conservative bias. DOJ officials are expected to meet with state attorneys general Tuesday to discuss big tech competition concerns (see [1809210047](#)). The White House didn’t comment.

[Share Article](#)

State Telecom

Cell Outages in North Carolina Down to 1 Percent

One percent of cellsites in North Carolina are out of service, said Monday’s FCC disaster information reporting system [report](#) on Hurricane Florence. Sunday’s report listed 1.1 percent of cellsites offline. Cable and wireline outages fell to 110,188 from 176,388 on [Friday](#). Two TV stations and 14 FM stations were listed as off-air Monday.

[Share Article](#)

International Telecom

\$200 Billion of Tariffs Take Effect, as China Retaliates

Tariffs took effect on \$200 billion worth of Chinese imports, including duties the tech industry fought unsuccessfully (see [1809120049](#)). China retaliated later Monday with tariffs on \$60 billion in imports from the U.S. President Donald Trump has threatened to “immediately pursue” a fourth installment of tariffs on \$267 billion worth of additional Chinese imports as a countermeasure. Micron and Voxx (see [1809210002](#)) are among those accepting tariffs as a fact of life and increasingly turning their sights toward mitigation strategies. “Product-specific” exclusion requests are another option, emailed David Cohen, customs law expert with Sandler Travis. The Office of the U.S. Trade Representative had sought exclusions on the first two rounds of tariffs that took effect July 6 and Aug. 23. “No decisions have been made on the thousands of requests,” Cohen said. —PG

[Share Article](#)

Broadcast

LPFM Coalition Opposes Quick Action on FM Translator Relocation

The FCC shouldn't fast-track relaxing the rules on where FM translators can relocate after being bumped from their frequencies for interfering with full-power FM stations, [said](#) the LPFM Coalition in supplemental comments posted in docket 18-119 Monday. The coalition accused NAB of mischaracterizing the coalition's position on the matter in the association's replies (see [1809060051](#)). NAB said the coalition "supports a prohibition against any translator channel changes that reduce spectrum opportunities for LPFM operators." The coalition comments instead argued FCC action on translator interference must comport with the Local Community Radio Act, and preclusion studies could assist with interference disputes. The Administrative Procedure Act "requires an agency to ignore such incorrect information," the coalition said. "Reject both NAB's mis-statements and its ill-founded fast-track channel hopping proposal." NAB "looks forward to the Commission's resolution of this proceeding and appreciates the Commission's efforts to provide translator licensees with more certainty while protecting the existing service provided by FM broadcasters," a spokesperson said.

[Share Article](#)

Scripps Expects High Political Ad Revenue for Midterms

E.W. Scripps expects political advertising revenue to grow by more than half in 2018 compared with the last midterm elections in 2014, it [said](#) Monday: 2018 political advertising revenue for Scripps will top its \$75 million total from 2014 and its \$101 million from 2016.

[Share Article](#)

Hearst Debuts Anyscreen OTT Ad Platform With TV Station Content

Hearst launched Hearst Anyscreen, an over-the-top advertising platform for Hearst-owned programming, it [said](#) Monday. It said Anyscreen ties Hearst TV station local content and content from a variety of other programmers to ad inventory, with audience targeting across a variety of connected TV platforms, including Roku, Android TV, Apple TV, DirecTV Now, Google Chromecast and Sling TV.

[Share Article](#)

Cable

Dish, ACA, NCTA Push Back on Gray/Raycom

Gray Television and Raycom were "heavy on rhetoric but light on the facts" and offered "no serious rebuttal" in their joint response (see [1809130051](#)) to comments about their proposed deal's implications for retransmission consent, said [Dish](#) Network and the [American Cable Association](#) in replies posted Monday in docket 18-230. The deal would lead to an increase in retransmission consent fees, Dish and ACA said. Most of "the supposed benefits" Gray and Raycom said would come from the combination are "euphemisms for reducing or eliminating local content," Dish said. "*Even if it does not violate the national audience reach rules*, the transaction will cause retransmission consent prices to rise," said ACA. "Whether or not bigger broadcasters are 'bad,' the evidence shows that they charge MVPDs higher retransmission fees," said Dish. Along

with criticizing the deal's retrans permutations, ACA praised Gray and Raycom for making it clear that Gray wouldn't acquire the stations it's divesting, and so wouldn't activate after-acquired clauses in their retransmission contracts. NCTA [said](#) the FCC should require companies seeking approval to own two top-four stations in the same market—as Gray and Raycom are—should have to demonstrate “the harms the Commission has recognized that are associated with common ownership are outweighed by unusual benefits.” Gray/Raycom “has not made such a showing regarding their Honolulu stations,” NCTA said. Gray didn't comment. —*MT*

[Share Article](#)

Media Notes

Roku OS 9 to Enable Voice Control, Support Music Streaming

Roku began rolling out an OS 8.2 update for Roku TVs it expects to be complete in November, [said](#) the company Monday. The company will enable use of Google Assistant to voice control Roku streaming devices and is bringing Spotify and Pandora Premium support to Roku devices.

[Share Article](#)

Satellite

SES/O3b Urges NGSO ESIM Rules

The earth stations in motion order and Further NPRM on this week's FCC members' meeting agenda (see [1809040058](#)) should include language seeking comment about ESIMs communicating with non-geostationary orbit (NGSO) constellations in the Ka-band to help develop the record, SES/O3b said in a phone call with aides to Chairman Ajit Pai and Commissioners Brendan Carr and Mike O'Rielly. So recounted a docket 17-95 [posting](#) Monday. SES/O3b urged “more immediate action” on allowing NGSO ESIMs and said at the least the agency should commit in the FNPRM to issuing a separate NPRM proposing NGSO ESIM rules.

[Share Article](#)

Hughes Renews Pushback Against ViaSat Inter-Satellite Links Plan

Since there's no international frequency allocation for inter-satellite links, the FCC should dismiss ViaSat's seeking to use part of the Ka-band for that, Hughes said in a docket 18-86 [posting](#) Monday. It urged the FCC in its small satellite proceeding shoot down ViaSat seeking rules to allow inter-satellite service spectrum use when there's no allocation for such use. Hughes said at least defer authorizing Ka-band fixed satellite service spectrum for inter-satellite links until after technical studies. ViaSat didn't comment. Hughes has opposed ViaSat's inter-satellite links plans in the past (see [1706270014](#)).

[Share Article](#)

DirecTV Seeks to Temporarily Relocate T8 Satellite

DirecTV wants to temporarily move its T8 satellite from 100.85 degrees west to 100.75 degrees west to make way for T15, which is drifting to 100.85 degrees west to temporarily fill additional demand

for direct broadcast satellite capacity (see [1808200003](#)). In an FCC International Bureau [application](#) Friday, AT&T's DirecTV said it hopes to start T8's three-day drift about Oct. 2. It said it also plans to file a special temporary authority request to keep operating T8 at 100.75 degrees west until it returns to its permanently licensed orbital slot.

[Share Article](#)

Iridium to Test Nanosatellite TechEdSat-8

The FCC Office of Engineering and Technology signed off on Iridium's low earth orbit Technical Educational Satellite-8 tests, in a special temporary authority [grant](#) Monday. Iridium said it plans to start testing Jan. 2, with NASA operating an Iridium satellite phone on TechEdSat-8 that will transmit to and from satellites in Iridium's low earth orbit constellation. The company said TechEdSat-8 is to launch Dec. 1 on SpaceX-16, which is to deliver cargo to the International Space Station.

[Share Article](#)

Telesat, Thinkom Partnering on Ka-Band User Terminal

Telesat and ThinKom Solutions will jointly develop a Ka-band user terminal for Telesat's planned low earth orbit constellation, ThinKom [said](#) Monday. It said ThinKom's Ka2517 phased array antenna system will be used for over-the-air testing on Telesat's Phase 1 LEO satellite over the next few months.

[Share Article](#)

Communications Personals

DLA Piper names **Angela DeMahy**, ex-FCC International Bureau, as associate, Telecommunications Practice ... Sheppard Mullin adds three to Intellectual Property practice: from Baker Botts partner **Harper Batts** and special counsel **Chris Ponder**, and from Intel senior associate **Jeffrey Liang** ... Houlihan Lokey adds to Technology, Media and Telecom Group **Roy Kabla**, ex-Nomura, as group managing director-global co-head and **Vikram Pandit**, ex-JPMorgan, as group director.

Viacom moves **Megan Ring** to executive vice president-production, Viacom Media Networks ... Beasley Media Group promotes **Buzz Knight** to executive vice president of strategy-innovation ... Tile, smart location company, hires board member **CJ Prober**, ex-GoPro, as CEO, replacing **Mike Farley**, who will continue as a strategic adviser and keep his board seat.

Nexstar promotes **Robert Simone** to vice president-general manager, WWLP Springfield, Massachusetts, and all associated digital services ... Fox Sports taps ThePostGame founder **David Katz** as executive vice-president-digital ... Infomart Data Centers appoints **Ty Miller**, ex-Digital Realty Trust, chief revenue officer ... WideOrbit hires **Tom Swift**, ex-Bonneville International, as vice president-platform services and **Toufic Moubarak**, ex-SintecMedia, as vice president-advanced TV.

Actor **Robert De Niro** to headline opening keynote session at NAB Show New York Oct. 17, Javits Convention Center ... New York Times Co. appoints **Aman Bhutani**, Expedia, to board.

[Share Article](#)