



Communications Daily

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Today's News

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ADOBE GOES MOBILE, extends desktop multimedia software to mobile phones. Challenges seen. Flash for iPhone under way. (P. 5)

MOBILE BROADCASTING will shake up the industry in next decade, Ion's Burgess predicts. Broadcasters face high debt, other challenges. (P. 6)

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Congress Passes Broadband Bill to Survey Deployment

Congress passed a broadband mapping bill that asks the FCC to examine deployment data in greater detail, with the aim of encouraging carriers to enlarge service areas. The measure, passed late Tuesday, is the only major telecom bill to pass in the 110th Congress. Though never controversial, it had to undergo months of hearings and several drafts for lawmakers to agree on a final version. In the final stages Internet safety provisions were added. President Bush is expected to sign the measure soon.

"There is no single entity or one-size-fits-all formula to get broadband to everyone," said Peter Davidson, Verizon senior vice president of federal government relations. He praised the bill's "roadmap," which calls for public-private partnerships to encourage providers to move into areas where high-speed services are absent or in short supply. "Once we determine where the broadband gaps are, these groups can work together to fill them, and get everyone online," he said.

Connected Nation hopes the next president will "embrace the spirit of the legislation," said CEO Brian Mefford. "We're looking at a possible scenario where the Congress and incoming president both have set broadband as a national priority and have a similarly substantive plan for progress." The non-profit plans statewide mapping projects modeled on its work in Kentucky, subject of several hearings on proposed mapping legislation. In a report, the group projected that a 7 percent rise in broadband adoption would create 2.4 million U.S. jobs, with an annual positive economic impact of \$134 billion.

The bill first called for about \$300 million in state grants to facilitate mapping, but that provision is gone from the final version, said lobbyists familiar with the bill. The bill now calls only for authority to make the grants, putting off the decision to spend

money for a future appropriations bill. But, given Congressional concern over spending money, that excision cleared the last barriers impeding the bill, sources said. States still will have a major role in mapping, an outcome welcomed by the National Association of Regulatory Utility Commissions, said Oregon Commissioner Ray Baum. The plan is for states to match federal data collection grants. TIA, US Telecom, AT&T and the Independent Telephone and Communications Alliance said they were pleased the bill passed.

The bill directs the Commerce Department to set up a grant program to measure broadband services by state, educate the public about technology and increase computer ownership and broadband use. Bidders would have to match up to 20 percent of the federal grant. Surveys must identify broadband speeds for individuals and businesses and create local technology planning teams that set goals for greater use of technology, especially in areas with no high-speed services or where penetration is "significantly" below the national average.

FCC Commissioner Deborah Tate plans to discuss the bill in a speech she's giving at the International Telecommunication Union, according to a letter she sent Wednesday to Senate Commerce Committee Chairman Daniel Inouye, D-Hawaii. The bill "could become a model for other nations both regarding broadband mapping as well as child online protection," her letter said. -- *Anne Veigle*

Nov. 4 Vote?

USCellular CEO Raising Alarms on Pending USF Vote

USCellular CEO John Rooney Wednesday raised an alert about proposed changes in Universal Service Fund rules, likely teed-up for the FCC's Nov. 4 agenda meeting. He said the changes could have a devastating effect on wireless carriers seeking money from the USF. Rooney said the proposed rule changes are huge for companies like USCellular, but they're getting limited attention with a little more than a month before the meeting. US Cellular also submitted to the FCC new poll data showing people want USF support for wireless in five states.

"What the chairman and the FCC are trying to do doesn't make much sense from a public policy viewpoint and is probably ill advised," Rooney told us. "There's a rush to judgment here that probably isn't backed up by the facts." Rooney asked why the FCC would schedule a vote on an important issue like USF reform for election day. "It's devious," he said. "Everyone is going to pay attention to the election. Who the hell is going to pay attention to a little order like that that strikes half a billion or a billion dollars in subsidies for the rural wireless companies?"

Rooney said public safety considerations alone weigh against cutting USF support for wireless. "You're dealing with public safety issues of immense importance," he said. "The FCC makes us go out and spend hundreds of millions of dollars to put in E-911 service so that we can provide rural America with location services when people are in trouble and then doesn't do anything to fund those areas where the service is needed." Rooney said he visited rural areas where US Cellular installed cell towers and spoke with fire, police and other government officials. "They are just ecstatic that someone listened to them and put a cell site in so they could effectively serve their population better," he said. "This is not luxury service anymore, this is essential telecommunications service."

Rooney asked why the U.S. continues to spend each year on wireline companies that installed service decades earlier. "It's not like these guys are out there dramatically expanding service. They're not," he said. "And they can't use the money from the fund for broadband service. It's prohibited." Rooney said he has spoken with Sen. Olympia Snowe, R-Maine, Sen. Jay Rockefeller, D-W.Va., and members of the FCC but has not met with Chairman Kevin Martin, Rooney said. "I'm definitely not on his Christmas card list," he said of Martin. "What the hell is he doing making a major move like this two months before he's scheduled to leave office?"

An attorney active in USF and intercarrier compensation issues on the part of the wireless industry said he has been surprised at the lack of lobbying at the FCC in recent weeks. The lawyer said the FCC likely will approve

changes that will “keep rural ILECs whole at the cost of wireless” competitors. In addition to eliminating the identical support rule, intercarrier compensation reform proposals before the FCC would require wireless carriers and others to pay more for transport between the large ILEC tandem and the rural ILEC’s area, the attorney said. An FCC official said Wednesday the changes that will be proposed at the meeting remain unclear.

Meanwhile, US Cellular said its poll in Maine, Missouri, Oregon, West Virginia and Wisconsin, where the company has service, found that 88 to 92 percent of respondents “feel that it is important to have reliable and consistent cellular phone coverage in rural areas for public health and safety.” -- *Howard Buskirk*

Four Commissioner Votes

FCC Draft Asks if Agency Can Bar Signal Cutoffs as DTV Transition Nears

A draft rulemaking notice asks if the FCC can prevent carriage disputes between broadcasters and pay-TV operators from leading to the cutoff of stations’ signals around the time of the digital transition (CD Aug 13 p1), said agency officials. Chairman Kevin Martin on Sept. 23 circulated the notice, on which the four other commissioners have voted, said an FCC official. The Media Bureau document can be publicized once Martin votes for it, which he hasn’t done, the person said. An FCC spokeswoman declined to comment.

In a nod to the impending DTV transition, the notice seeks public comment on an expedited basis, said commission officials. The deadline for initial comments would be less than the familiar 30 days, and less than the usual 15 days for replies, they said. The American Cable Association thinks “it’s not surprising that the

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FCC would be interested in resolving this issue expeditiously,” said Vice President Ross Lieberman. “In seeking comment on the retransmission consent quiet period matter, Chairman Martin and the other commissioners are demonstrating their continued commitment to ensuring that the digital transition is a smooth one for the public.” An FCC order mandating a quiet period that circulated months ago (CD Aug 7 p6) still has only Martin's vote, said an agency official.

The draft notice with four votes reaches no conclusions on whether the FCC should require broadcasters in contractual disputes with cable, satellite, telco and other TV sellers to refrain from pulling their signals, FCC officials said. The document asks for comment on whether the Communications Act authorizes the regulator to mandate a quiet period, they said. The notice gives the agency a way to notify the public that it's considering an April petition for expedited rulemaking by five small- and medium-size cable operators, they said. Some broadcast lawyers had said it would violate the Administrative Procedure Act were the FCC to approve a quiet period order before notifying the public of the cable petition.

In recent months, support among pay-TV providers on behalf of a quiet period has built, and broadcasters by the hundreds have agreed to not yank signals Feb. 4 to March 4 (CD Aug 14 p2). Monday, the National Telecommunications Cooperative Association and four other groups representing small or rural carriers said the period should run from Dec. 15 to March 31. Most carriage agreements expire Dec. 31, so NCTA wants a ban on broadcasters cutting off signals to start sometime before that, a spokesman said. The group will file comments to that effect in the FCC proceeding, he said.

Broadcasters don't think the FCC has authority to mandate a quiet period of any length, NAB President David Rehr told reporters Wednesday. The FCC is “asking all sorts of questions about the quiet period” in the forthcoming notice of proposed rulemaking, he said. “When the NPRM comes out, I think we'll have a detailed analysis” of why a regulatory mandate won't fly, added Rehr. “The quiet period is a red herring for people in the cable and satellite” industries who don't want to negotiate carriage deals, he said. He termed fair broadcasters' offer not to pull their signals starting Feb. 4. That date is too late, the NCTA spokesman said: “Establishing a quiet period that doesn't include all of January only gives the broadcasters additional leverage to make unreasonable demands or take away the signal from millions of consumers.” -- *Jonathan Make*

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Flash is iPhone-Bound

Adobe Eyes Desktop Software for Mobile Devices

Adobe Systems sees a trend in computer-software customers taking the desktop experience to mobile devices, said company officials. The multimedia software company is introducing its desktop software to mobile handsets but acknowledges that the transition is a challenge. Meanwhile, a Flash Player for iPhone is in development, a company spokesman said.

Adobe sees a growing market in mobile applications, said Carol Linburn, senior product manager for Macromedia Flash at Adobe. The company is working with several smartphone vendors, she said. More than 800 million devices have been shipped with Adobe's Flash, a multimedia software suite by Macromedia, said Anup Murarka, Adobe director of technical marketing for mobile and devices. Adobe is on track to reach a billion devices in 2009, he said. Adobe expects Q3 revenue from its mobile unit to grow to \$27.5 million from \$13 million a year earlier, Chief Financial Officer Mark Garrett said.

The goal is to streamline interplay between designers and developers, enabling designers to bring their content to new devices and media platforms, Linburn said. Adobe recently launched Web-based versions of its Acrobat and Photoshop document and photo-editing programs. It also unveiled Device Central CS4, a testing and preview platform for mobile content, which is to be available this month.

The company signed up Nokia, Motorola and other handset makers, service providers like Verizon Wireless and chip makers like Cisco for what it calls the Open Screen Project, in which Adobe waives licensing fees and other restrictions on some software. The purpose is to develop a way for Adobe's Flash software -- used to power Internet video, graphics and other multimedia content -- to work on various mobile operating systems and browsers, Adobe said. Nokia will continue to install Flash runtime technologies on its devices, said Lee William, Nokia senior vice president for devices software. Verizon said the project complements its Open Development Initiative, which seeks to allow customers to use any device and applications on Verizon Wireless' network.

The biggest challenge is to help multimedia designers and developers, who often specialize in PC applications, learn to distribute mobile content, Linburn said. Testing and optimizing across computer and mobile platforms is another challenge, she said. Developers spend much of their time getting an application to work across a wide range of mobile devices, she said.

Today in

- **WIPO RE-ENERGIZATION** targeted by new director general. Copyright, patents remain key -- as well as rebuilding trust.
- **ICANN 'LEGAL PRESENCE'** proposal stirs concern at D.C. event. Stakeholder diversity called bulwark against state encroachment. Board accountability options called weak.
- **CAPITOL HILL:** Bill requiring convicted sex offenders to register online IDs headed to president.
- **INTERNATIONAL:** Chat rooms can self-regulate, moderator says.
- **SECURITY:** Harvard researcher says VistaPrint should monitor advertising contractors better.
- **INDUSTRY NOTES:** Microsoft lures searchers with reward program.

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Meanwhile, Adobe confirmed it's working on a Flash Player for Apple's iPhone. Adobe plans work with Apple beyond what's available in the software development kit, a spokesman said. -- *Yu-Ting Wang*

'Lot of Turbulence'

Mobile Video to Shake Up Broadcasting, Burgess Says

Mobile video will transform broadcasters the next five to 10 years, shaking up the industry in ways no one can foresee, Ion Chairman Brandon Burgess said Wednesday. TV stations face high debt and vigorous competition for customers as cable, satellite and telco TV sellers vying for market share, he said. "There's a lot of turbulence in the distribution side" that isn't likely to abate until 2011, he added. To prosper, broadcasters must sort out their balance sheets and make fuller use of spectrum, Burgess told a Media Institute lunch.

A "complete changeover" of broadcasting will occur within a decade, Burgess said, declaring the outcome to be "a little bit unclear, scary [and] exciting ... That's all very much in flux." Sales of ads on "linear" broadcasts won't cover the costs of making programs aimed at large audiences, added Burgess. "There is not a lot of latitude for independent broadcast entities" such as Ion, the executive said. Under today's economic conditions, an investor would be unlikely to pony up \$2.5 billion for 60 TV stations, about the size of Ion, he said, calling the company a "countercyclical project."

Big companies with widely varied media investments seem likely to continue to sell or otherwise turn their focus away from broadcast holdings, as General Electric has been doing, Burgess said. He sees more companies "de-emphasizing it to some extent" because cable and film businesses have higher profit margins than broadcasting, Burgess said in an interview. With a "pretty high leverage ratio" in the broadcast industry, "you're going to see some fall-out" from seized-up credit markets (CD Oct 1 p2), he added. Ion doesn't need money now, having refinanced through 2012, but can't get better terms in this economy, he said. Citadel Investments is the majority owner of Ion.

Broadcasters are progressing toward introducing mobile video nationwide, said Burgess, chairman of the Open Mobile Video Coalition. A test of the technology in Chicago had "pretty good results" and trials in other markets may start Q1 or Q2, depending on equipment availability, he told us. He hopes to have a "soft launch" in time for Christmas 2009 and "more robust service" in 2010. Burgess said cable programmers may be asked to participate by allowing shows to run on portable devices, of which there are approximately 500 million in the U.S. capable of getting TV. -- *Jonathan Make*

Comm Daily® Notebook

FCC Chairman Kevin Martin named Jon Peha chief technologist, filling a slot open as long as he's chaired the commission. The agency's most recent chief technologist, David Farber, left in 2001. Commissioner Michael Copps criticized Martin for not filling the post at the FCC's Brooklyn en banc hearing on the future of the 700 MHz D-block (CD July 31 p1). He said the FCC needs to "harden" its "infrastructure" to deal with tough technical questions. Peha is a professor in the departments of engineering and public policy and of electrical and computer engineering at Carnegie Mellon University.

Wireline

A federal law is needed to go after copper thieves, said two lawmakers who circulated a Tuesday "Dear Colleague" letter promoting HR-6831. That bill would require metal recyclers to record scrap metal sales and re-

quire checks on purchases above \$500. Introduced by House Commerce Oversight Subcommittee Chairman Bart Stupak, D-Mich., the bill aims to stem a rise in copper thefts from telecom and electric utility facilities.

Rural carriers asked Congress to intervene in FCC efforts to overhaul intercarrier compensation. In a scathing letter to House and Senate members, CEO Michael Brunner of the National Telecommunications Cooperative Association condemned a \$0.0007 uniform terminating access rate proposed for all traffic by AT&T, Verizon and others. The agency is “seriously considering” the proposal, which Brunner predicts would “wrongly relieve communications industry titans... of more than \$8 billion in annual access and intercarrier compensation responsibilities,” he said: “For rural carriers alone, this disruption could jeopardize more than \$2 billion” annually. The plan also would affect rural telecom lenders, which hold \$9.1 billion total in loans, he said. Brunner condemned the idea of using the Universal Service Fund to replace carriers’ lost access revenue. USF “has already been strained by unbridled program growth resulting from regulatory lapses,” he said.

Verizon, AT&T and Qwest have to deal with questions on forbearance rules, retention-marketing practices and other matters in a Sept. 30 letter from House Commerce Committee Chairman John Dingell, D-Mich. Dingell, who introduced HR-3914 to abolish the “deemed granted” rule, said the policy “perverts the forbearance process and does not serve the best interests of consumers.” He spoke out against the rule at a Telecom Subcommittee hearing in July (CD July 23 p1), but his bill hasn’t passed. The letter asked the carriers whether they have forbearance petitions that would come up between November and “well into 2009,” when only four commissioners’ positions probably will be filled. If that’s the case, is it “appropriate” for the FCC to allow deemed granted petitions without an accompanying written order,” Dingell asked. Verizon was asked whether its retention-marketing practices are “consistent” with section 222 (b) of the Communications Act, which prohibits carriers from using proprietary information received from other carriers for marketing purposes, the letter said. All the companies were asked whether they thought consumer privacy and retention-marketing provisions in the Communications Act should be changed. Noting Verizon’s possible plan not to maintain copper where it installs fiber (CD July 15 p8), Dingell asked the companies what their plans are in cases like that. Verizon was asked how it would reconnect customers to copper lines if they cancel fiber service and whether customers would have to pay the costs. The companies were asked whether the FCC should set a uniform rate for pole attachments and how it would be figured. On number porting, Dingell asked the carriers if a 48-hour interval for intermodal shifts is appropriate. USTelecom told the subcommittee in July that many of its members receive from competitors porting requests which “don’t fall within the four business day standard,” the letter said, asking the companies if they do, too. Would consumers be “well-served if the Commission established a two-day porting interval for the three largest incumbent phone companies,” the letter asked. Responses are due in three weeks. AT&T said it has no forbearance petitions pending. The company is reviewing the letter and “will respond accordingly,” a spokesman said. Verizon and Qwest said they were preparing responses to the letter.

A list broker agreed to a court order proposed by the Federal Trade Commission barring him from violating the Telemarketing Sales Rule, the commission said Wednesday. The order settles an FTC complaint alleging that from 2002 to 2007 broker Glenn Patten and his two companies helped telemarketers of fraudulent “advance-fee” credit cards by selling them unencrypted, unauthorized consumer information, including bank and credit-card information. The order bars Patten from collecting, selling, renting or disclosing consumers’ account numbers, with narrow exceptions. Patten must provide the FTC with account-number lists and destroy all other copies. Patten must monitor customers and investigate complaints about them. Patten must report to the FTC any customer he finds violating commission rules. The order mandated a \$120,000 fine against Patten but suspended it because he can’t pay. Still, the FTC said it can collect the fine if it learns that Patten has misrepresented his finances. The proposed order was filed in U.S. District Court in Chicago.

Pushing for a Universal Service Fund contribution revamp, AT&T and Verizon met Monday with Amy Bender, an aide to FCC Chairman Kevin Martin. AT&T and Verizon contend that carriers should contribute to USF based on their phone number count, instead of interstate revenue (CD Sept 15 p2). The National Association of State Utility Consumer Advocates urged the FCC to reject numbers-based contribution. In a letter to Martin and other commissioners, NASUCA said moving to numbers is “unnecessary, will create new opportunities for arbi-

trage, and will not benefit consumers.” The interstate revenue base for USF “has been remarkably stable for the past six years,” it said. And a numbers system would require exemptions so some carriers don’t overpay, the association said. The exemptions would open new opportunities for fraud, it said. And because a numbers system would treat interstate and intrastate traffic the same, a customer who doesn’t call long distance often would have to pay higher USF fees, the association said.

The FCC wants comment on a request by Rural Health Care Pilot Program participants to merge. The Southern Ohio Health Care Network wants to be treated as the successor to Holzer Consolidated Health Systems, the commission said. Comments are due Wednesday, replies a week later.

Wireless

Service provided T-Mobile subscribers relying on AWS-1 spectrum that the company bought in a 2006 auction will suffer if the FCC adopts AWS-3 spectrum auction rules proposed by M2Z, T-Mobile said in an FCC filing. It said it had used a Monte Carlo simulation involving results of tests at the Boeing Lab in Seattle to measure the risk. T-Mobile said the simulation shows an overall “degradation in system capacity” of 5.3 percent -- double for home traffic. “Users experiencing interference in their homes will have a constant problem that may not happen every day, but will be very frequent and will ultimately push those users to leave T-Mobile service,” the carrier said. For AWS-1 users with AWS-3 routers, probability exceeds 60 percent that an AWS-1 connection will fail during an AWS-3 transmission, T-Mobile said. For users with next-door neighbors having AWS-3 routers, the chance is almost 30 percent that calls will fail when the routers are sending, T-Mobile said. John Muleta, CEO of M2Z, said the FCC should approve the proposed AWS-3 auction rules. “Every interested party has now commented on the results of these observed Seattle tests,” Muleta said. “It is now time for the Commission to make its own technologically neutral judgment on the technical and policy issues raised in the AWS-3 proceeding.”

Correction: MetroPCS made an unsuccessful attempt to acquire Leap last year (CD Sept 30 p6). Leap, not MetroPCS, rejected the offer.

Sprint Nextel said in its October 800 MHz rebanding report that more than 97 percent of the 1,200 Channel 1-120 licensees that must be retuned during Phase I of 800 MHz band reconfiguration now have been retuned. The phase is complete for all non-Sprint Nextel, non-Southern LINC Channel 1-120 incumbent licensees in 47 of the 56 NPSPAC regions, the carrier said. Sprint reported that 265 public safety licensees have completed retuning and more than two-thirds of public safety licensees in non-border areas have signed frequency reconfiguration agreements “and are at various stages of implementation.” The carrier also said it wrapped up all Phase I and Phase II retunes in NPSPAC Region 2, Alaska. Sprint said in the report that cooperation of public safety licensees is critical. “Sprint Nextel remains committed to completing this important initiative,” it said. “However, as the information contained herein demonstrates, Sprint Nextel cannot complete 800 MHz band reconfiguration until all affected incumbent licensees complete their individual retuning activities.”

State Telecom Activities

AT&T asked the California Public Utility Commission to reconsider an August decision to fine the company \$1.7 million for willfully violating a state regulation requiring that installed phone lines in unoccupied residences always must be capable of connecting to “911” emergency services. The PUC said the only exception to the “warm line” rule is when conditions at a residence make 911 connection impossible, but that exception didn’t apply in AT&T’s case (05-11-011). In seeking reconsideration, the telco said the PUC didn’t have evidence to support its finding the omissions were willful, relied on “incompetent testimony” from non-expert witnesses, and improperly cited complaints that were a decade old.

A federal court in New Hampshire ruled the town of Atkinson failed to justify its denial of a tower permit allowing Mariner Tower to replace three paging antennas on an existing wireless tower with three cellphone antennas for T-Mobile cellular service. The town had argued the project would constitute a major change to the original 1985 variance for the tower and would diminish neighbors' property values. T-Mobile said the antenna changeover would be the least intrusive way to fill a wireless coverage gap. The U.S. District Court in Concord in Case 07-CV-209-JM said the change from paging to cellphone service was an alteration of a nonconforming use, but it was consistent with the tower's basic function as a platform for wireless communications. The court said the town failed to support with facts its conclusion that this alteration would cause some new harm to adjacent landowners, and said the antenna change would benefit the public by closing a wireless coverage gap.

The Florida Public Service Commission put on hold a staff complaint seeking \$7.5 million in fines and refunds from the inmate payphone provider at Miami-Dade County jails. The PSC told the parties to work on a settlement and report this month on progress. The staff alleged that during 2001-2007 TCG Public Communications acted improperly by setting up and using software to end three-way calls, a violation of jail policy. The software cut off a large number of lawful two-way calls and forced inmates and relatives to pay to reconnect, the complaint alleged. The staff (Case 060614-TC) estimated that 20 percent of inmate calls ended improperly, calling for \$6.3 million in refunds plus a \$1.2 million fine against TCG for failing to provide adequate service. But the company said it simply was following county corrections officials' orders to tighten security because too many illegal inmate calls were being completed. TCG questioned how staff arrived at its estimate and said it knew of only 50 complaints about improper disconnections. The company offered to create a \$175,000 settlement pool to refund charges caused by an improper disconnection. But the PSC staff said that wasn't nearly enough. Commissioners said the matter isn't clear cut.

California Gov. Arnold Schwarzenegger vetoed a bill that would have had the state Superintendent of Public Instruction set up a task force to update the state's education technology implementation plan. The task force under SB-1330 would have taken up funding, telecom and information system infrastructure, and educational materials. Schwarzenegger said the bill was unnecessary because the state school superintendent already has power to create an internal advisory committee to achieve the bill's goals.

FairPoint plans to build out broadband infrastructure by 2010 to 51 Vermont towns in Rutland, Windsor, Windham and Bennington counties that lack broadband service, it said. The project will help make good on FairPoint's commitment to expand broadband service in Vermont, made to get approval of its purchase of Verizon's state network. FairPoint said it will use a mix of broadband technologies, varying by town.

International Telecom

British Telecom's marketing of its Webwise behavioral-targeting trial to customers (CD Oct 1 p11) isn't meant to deceive anyone about what they're signing up for, a spokesman told us. The invitation screen served to selected customers portrays the service first as protecting them against phishing and then as providing more relevant ads. "We are in no way attempting to pull the wool over their eyes with this," the spokesman said. The Webwise site, which comes up in the browsers of customers chosen for the trial offer, includes much background information on the system, he said. "You have to appreciate that not everybody wants to read in incredible detail" how targeting works. Most people don't worry about Google storing their search queries for months, so BT doesn't think customers will feel the provider is trying to snooker them into signing up for a monitoring service offering more relevant ads, he said. A "handful of ultra-vocal protestors" in the U.K. have objected to BT's deal with targeting provider Phorm, and for reasons unrelated to marketing methods, the spokesman said. BT has no reason to explain to customers that the aim of targeting is revenue, any more than the company should have to tell customers that it offers broadband service to make money, the spokesman said. The U.K. broadband market differs markedly

from its U.S. counterpart, with “hundreds” of ISPs competing for customers and also running on very tight profit margins, so it shouldn't surprise Britons that providers would look for new revenue streams, he said. BT will continue testing the system for at least four weeks, then pause to study its technical performance and customer reaction, before asking all customers to sign up, he said. The trial's “primary purpose is not a customer referendum.” -- *GP*

Providers of pan-EU 116 phone numbers for "social value" services would be chosen via a comparative process under a proposal published Wednesday by the U.K. Office of Communications. Last year, the European Commission (EC) required harmonization of the 116 six-digit range of national numbers for standardized services, reserving numbers for a missing child hotline, child helplines and emotional support helplines, Ofcom said. Because only one 116 number is reserved for each kind of service, Ofcom must allocate the number to a single provider, and it proposed doing so via comparison rather than the usual first-come, first-served approach. Under the proposal, the regulator would seek public input on adding a particular 116 number to the national phone numbering plan. The government then would set up an advisory committee for each 116 number to advise Ofcom on factors relevant to assessing applications for the number. Once the numbering plan is updated, Ofcom would issue a call for interest during which providers could submit details of their offerings and explain how they will meet eligibility requirements, Ofcom said. Once the advisory committee vets applications, Ofcom would invite appropriate applicants to apply for allocation of the number and make a final decision on the winner, it said. The EC decision requires that 116 numbers be free, but in the U.K. "freephone" calls from mobile phones usually incur charges, Ofcom said. It proposed making some 116 numbers of extreme social value to consumers free to callers, and deciding whether less-urgent numbers should be free based on factors such as need and the market environment. Comments are due December 10 -- Elizabeth.Greenberg@ofcom.org.uk.

As of Jan. 1, U.K. communications providers will be given phone numbers tagged for fraudulent practices, the Office of Communications said. Ofcom said it would examine phone numbers to identify those used to cause serious or repeated harm to consumers. Ofcom also will identify and publish lists of people and companies with histories of such activity, and will not allocate numbers in certain ranges to those on the lists, it said. Providers initially will be able to use a self-regulatory approach to using similar tests in assigning numbers themselves, Ofcom said. The test will be used in allocations of numbers in ranges with the strongest evidence of consumer abuse, including 070 personal numbers, 087 special services higher-rate numbers, and 09 premium rate numbers, the regulator said.

A "cynical observer" might believe the net neutrality debate is about cash, but it's really one of several issues that must be resolved to create a digital economy that runs well, said Viviane Reding, the European Commission's information society and media commissioner. Speaking Tuesday at a Copenhagen conference on what network neutrality means for innovation and business online, Reding called the EC's vision clear: "A truly open digital economy based on interoperable networks and inclusive access to the Internet is of crucial importance." The European approach to net neutrality is guided by competition and openness and focuses on innovation, consumer choice and growth, she said. Some net neutrality supporters want equal treatment for all "cast in stone tablets" of e-communications regulatory reform, but openness for innovation can't prevent legitimate network management practices such as traffic prioritization, Reding said. Abusive or anti-competitive behavior that narrows consumer choice, however, could lead to unacceptably low levels of service, which the EC and national regulators won't accept, she said. The EC has proposed setting minimum quality standards for network transmission services based on technical standards set at the EU level, she said. Restricting consumer choice, such as through ISPs' selective blocking of Web sites, never fuels growth, Reding said.

Telecom Notes

AT&T reorganized its senior management, a company spokesman confirmed. The changes form the company into divisions for consumer, business, infrastructure and diversified businesses. Ralph de la Vega,

head of AT&T Mobility, will run the consumer wireline business, too. John Stankey, group president of telecom operations, will become chief executive of the infrastructure division. Ray Wilkins will remain group president of diversified businesses. Ronald Spears, CEO of business solutions, will head the new business unit. The structure will produce new efforts to bundle fixed-line voice, video and Internet services with wireless -- the "quadruple play," UBS analyst John Hodulik said. Commenting on an Associated Press report that AT&T had had trouble selling short-term debt -- commercial paper -- he said the carrier isn't in danger. But telcos face higher borrowing costs through 2009, Hodulik said. -- YW

Members of the Communications Workers of America at Qwest didn't approve a new three-year contract covering 20,000 employees in 13 states, a CWA spokesman said. CWA members met with the telco Wednesday to discuss where the agreement fell short, he said. Union and company bargainers will meet in the next few days to discuss a schedule to resume negotiations, he said. Union members had authorized a strike when the contract expired in August, but the employees continued working. The two sides reached a tentative agreement days later (CD Aug 17 p4). -- YW

Broadcast

The FCC would be required to provide a short-term delay in the digital transition for broadcasters to transmit public safety information, according to a bill introduced Wednesday by Sen. Jay Rockefeller, D-W.Va. The measure is similar to one proposed by Rep. Lois Capps, D-Calif. The Rockefeller bill would require the FCC to act by Jan. 15 on a plan to allow signals to continue 30 days after Feb. 18 for public safety broadcasts.

Two advertising executives endorsed the use of Arbitron devices that electronically measure radio audiences (CD Oct 1 p11). In letters last week to the FCC, Allscope Media and J.L. Media executives said the Portable People Meter, which faces demands for an FCC inquiry on its accuracy, improves on the handwritten "diary" system for tracking radio listening. That system hasn't changed since 1965, wrote Allscope Broadcast Manager Karen Klein. "The PPM will allow radio to obtain what Broadcast Television and Internet advertising has -- accountability that is timely and accurate." Stan Gerber, J.L. Media chief strategy officer and a member of Arbitron's agency advisory board, said the FCC never has analyzed diary surveys. PPMs have created an "uproar" because "we are dealing with a new, more sophisticated and directional correct research methodology that cannot be compared to previous industry standards," he said.

Decency activists complained to the FCC over CBS's Sept. 25 prime-time broadcast of the season premiere of *Survivor: Gabon*. Parents Television Council said footage in the show included a contestant's penis, unobscured as it flopped from his underwear during a race. The group said it's asking its members to file indecency complaints with the commission. The show aired during the 8 p.m. hour in the Eastern and Pacific time zones and an hour earlier in the Central and Mountain zones, the council said. "This was a completely unintentional, inadvertent and fleeting incident that was virtually undetectable when viewed in real time," said a CBS spokesman. "In the first 24 hours after the broadcast, before freeze-frame images were widely posted online, we received one viewer comment from the 13 million who watched."

Executives of Louisiana radio and TV broadcasters asked FCC commissioners not to pass localism rules requiring they have permanent advisory boards, that they staff stations at all times and that they move studios to cities where they're licensed. "Broadcasters commonly visit weekly with mayors, police chiefs, heads of chambers of commerce and other leaders of communities within their service areas to obtain news stories," said ex partes filed last week by the Louisiana Association of Broadcasters. Executives met with Media Bureau Chief Monica Desai, an aide to Chairman Kevin Martin and Commissioners Jonathan Adelstein, Michael Copps and Robert McDowell. They made similar statements at an earlier meeting in New Orleans with Commissioner Deborah Tate (CD May 30 p9).

TeleFutura will air live Thursday's vice presidential candidate debate between Delaware Sen. Joseph Biden (D) and Alaska Gov. Sarah Palin (R), the network said Wednesday. The debate is set to begin 9 p.m. Eastern time.

Cable

AT&T asked the California Public Utility Commission to reconsider an August decision to fine the company \$1.7 million for willfully violating a state regulation requiring that installed phone lines in unoccupied residences always must be capable of connecting to "911" emergency services. The PUC said the only exception to the "warm line" rule is when conditions at a residence make 911 connection impossible, but that exception didn't apply in AT&T's case (05-11-011). In seeking reconsideration, the telco said the PUC didn't have evidence to support its finding the omissions were willful, relied on "incompetent testimony" from non-expert witnesses, and improperly cited complaints that were a decade old.

A federal court in New Hampshire ruled the town of Atkinson failed to justify its denial of a tower permit allowing Mariner Tower to replace three paging antennas on an existing wireless tower with three cellphone antennas for T-Mobile cellular service. The town had argued the project would constitute a major change to the original 1985 variance for the tower and would diminish neighbors' property values. T-Mobile said the antenna changeover would be the least intrusive way to fill a wireless coverage gap. The U.S. District Court in Concord in Case 07-CV-209-JM said the change from paging to cellphone service was an alteration of a nonconforming use, but it was consistent with the tower's basic function as a platform for wireless communications. The court said the town failed to support with facts its conclusion that this alteration would cause some new harm to adjacent landowners, and said the antenna change would benefit the public by closing a wireless coverage gap.

Netflix will add 2,500 movie titles to its online streaming service in a deal with Starz Entertainment, the companies said. Under the deal, Netflix will offer Starz Play-online subscriptions to its site for \$8 a month, a dollar less than its cheapest DVD rental plan. Terms weren't disclosed.

UK cable operator Virgin Media debuted a mobile broadband service. Subscribers get a free USB mobile modem and an 18-month service contract entitling them to 3 gigabits of data usage each month, the company said.

Mass Media Notes

Gannett has not had problems funding itself with short-term debt despite the commercial paper market's recent troubles, the company said Wednesday after Standard & Poor's said it might lower the company's credit ratings. Because of "ongoing market dislocations, Gannett partially drew down on its committed revolving credit facilities sufficient funds to cover all of its commercial paper obligations outstanding," it said. It did so before and completely unrelated to S&P's actions, the company said. "Our underlying fundamentals remain strong and we continue to be a solid investment grade company," Chairman Craig Dubow said.

Warren Buffett's Berkshire Hathaway agreed to buy a \$3 billion stake in NBC Universal parent General Electric, GE said. The deal came as GE announced a separate \$12 billion stock offering. Buffett's company is buying "perpetual preferred" GE shares which pay a 10 percent annual dividend. The agreement also gives Berkshire warrants to purchase \$3 billion of common stock with a strike price of \$22.25 per share, exercisable for five years. The cash infusion will provide GE some flexibility and allow it to "play offense in this market should conditions allow," CEO Jeffrey Immelt said.

Corporate bankruptcies may surge within a year, Moody's said. Companies are trimming their spending plans because of concerns about the economy, it said. That's happening as consumer spending is flagging and

could further slow the global economy, it said. Companies that serve Europe, North America and Japan are at the greatest risk, Moody's said. "Recent events may make a bad situation worse by undercutting consumer spending and economic growth in the months ahead, which could push many more weak companies over the edge of the cliff," said Daniel Gates, Moody's chief credit officer for corporate finance.

A Hollywood impasse between the Screen Actors Guild and the studios over a new contract persisted this week, boosting chances of another work stoppage for TV and film productions. SAG, armed with data from a member survey showing that most don't support accepting the studios' final offer, asked to reopen talks with the Alliance of Motion Picture and TV Producers. "We believe it is clear that our members would fail to ratify your proposal," SAG National President Alan Rosenberg and National Executive Director Doug Allen wrote in a Monday letter to News Corp. President Peter Chernin, Disney Chairman Bob Iger and AMPTP President Nicholas Counter. Among major sticking points for the actors union are coverage for all new media productions and residuals for TV shows and movies shown again online or other new media platforms, they wrote: "The alternative to reaching an agreement as soon as possible is unnecessary and destructive uncertainty." AMPTP is not ready to change its stance on any major negotiating points, Counter said in response Tuesday. Its offer to the actors' union is similar to deals accepted by other Hollywood guilds, he said. "We do not believe it would be productive to resume negotiations at this time given SAG's continued insistence on terms which the Companies have repeatedly rejected."

Cable news channels' ratings spiked Monday afternoon, as viewers sought reports on the failed bailout package, Nielsen said. More than 7 million people watched CNN, CNBC, Fox News or MSNBC Monday 5-6 p.m. -- almost double those networks' average during that period for the four weeks prior. Viewers began to tune in after 2 p.m., when ratings jumped 71 percent above average. On the Web, traffic to online share trading sites spiked the week of Sept. 15, while the total number of people online remained steady, Nielsen said. Fidelity.com drew the most visitors among trading sites, with about 12 million, or 30 percent more than its weekly average July 28-Sept. 14.

New Technologies

The Webcaster Settlement Act will go to President Bush after Senate passage late Tuesday. HR-7084 would authorize SoundExchange and webcasters to continue talks through Feb. 15 on royalty rates to replace those the Copyright Royalty Board set in March 2007. "We are very hopeful of reaching agreement soon, and thereby creating long-term stability that will re-energize the Internet radio business," said Jonathan Potter, executive director of the Digital Media Association. Live365 said it would propose that SoundExchange offer its previous lowered rates for small webcasters -- legislated in 2002 and extended voluntarily by SoundExchange in 2007 -- to all small webcasters. Only those directly registered for representation by SoundExchange now can get the lowered rates, Live365 said. SoundExchange played down expectations for a quick deal on rates, though it has reached agreement "in principle" with NPR. "We are hopeful, but we've been close at other times during the past 18 months," Executive Director John Simson said. SoundExchange expects to "sit down" with DiMA right after the bill is signed and other webcasters "shortly thereafter."

Satellite

Globalstar adequately warned investors in its initial public offering that its first-generation satellites could fail, a federal judge ruled Tuesday, dismissing a shareholder lawsuit. "The investors were informed that more than 15% of Globalstar's satellites had failed completely since launch, and another 30% had experienced

difficulties of a similar nature to those disclosed” in February 2007, wrote U.S. District Judge Loretta Preska in Manhattan. Globalstar went public in November 2006. Less than four months later, Globalstar announced that its two-way services, including voice, were failing due to irradiation of its S-band antennas. The Connecticut Laborer’s Pension Fund and others sued within days of that February 2007 announcement. The pension fund claimed that Globalstar knew of its satellite constellation’s degradation before the IPO, withholding the information from investors because it needed the proceeds of the offering to pay for a new generation of satellites. Preska ruled that the pension fund hadn’t proved its allegations under “heightened pleading requirements of Federal Rule of Civil Procedure.” The fund’s assertions are “based on unspecified internal reports Iridium generated ‘during the summer and fall of 2006,’ a third-party study conducted by Frost and Sullivan in late-January 2007, the Company’s subsequent public filings, and alleged results of undisclosed internal Globalstar testing conducted by anonymous individuals,” Preska wrote. “None of these can sustain a claim under the heightened pleading requirements.” William Adler, Globalstar vice president of legal and regulatory affairs, said “the decision is well-reasoned, and, we believe, will withstand an appeal if one is filed.”

Spacenet and Globecom Systems are joining to offer international satellite communications to businesses and government bodies, the companies said. Spacenet will design and maintain an international customer services network and provide custom and packaged satellite communications to U.S.-based customers with foreign operations. Globecom will provide secure colocation facilities, installation and maintenance. The new service means communications between domestic and foreign locations don’t have to use foreign facilities, the companies said. The core satellite network infrastructure, based on Spacenet’s SkyEdge very small aperture terminal system, will be managed through its network operations centers in Atlanta and McLean, Va. Globecom’s teleport facility can provide government-grade secure communications, the companies said.

The Pentagon will pay ViaSat \$25 million to provide its LinkWayS2 satellite modems to the U.S. Army and the U.S. Marine Corps, ViaSat said. The modems are being bought via various communications programs, ViaSat said.

TeleCable, a Spanish cable operator, will market SES Astra satellite broadband service in Spain, SES said. The service will be rolled-out initially in northern Spain, then in the rest of the country, it said. Fenitel, an installer association representing 70 companies, will manage the installation of the Astra2Connect service in Spain, SES said.

EarthSearch Communications, a GPS tracking and wireless services provider, acquired 45 percent of Republic of Georgia-based Satellite Ltd., renaming the company EarthSearch Georgia, it said. Satellite Ltd. founder David Mumladze will continue to run operations there, it said. EarthSearch plans to use its new Georgia operations to expand into other former Soviet states, CEO Kayode Aladesuyi said.

Norsat International will be paid \$1.2 million to supply satellite terminals and other ground equipment to the U.S. military, it said.

Psi Systems, a satellite integrator, changed its name Wednesday to UltiSat. The company has a new Web address, www.ultisat.com.

Communications Personals

Shelley Sadowsky, ex-Katten Muchin Rosenman, joins Dickstein Shapiro communications practice as counsel... **Kim Besse**, ex-Perot Systems, becomes Belo vice president-human resources... Clear Channel Radio promotes **Michael Oppenheimer** to manager of its Memphis market stations... Siemens Enterprise Communications names **James O’Neill**, ex-CompuDyne, CEO... National Football League names **Jeff Miller**, ex-aide to Sen. Herb Kohl (D-Wis.), vice president-government relations and public policy.