

# Washington Internet Daily

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### At Our Deadline

Noninteractive webcasters will be required to pay 0.17 cent per performance on non-subscription services and 0.22 cent per performance for subscription services beginning Jan. 1, the Copyright Royalty Board said at our deadline Wednesday. The CRB released the [initial details](#) of its 2016-2020 webcasting rate-setting ruling Wednesday but hadn't released a full unredacted version of the ruling to parties in the rate-setting proceeding at our deadline. There had been few clear signs before the ruling about how the CRB would rule (see [1512110064](#)). Noncommercial webcasters will be required to pay \$500 annually for each station or channel for all transmissions totaling no more than 159,140 aggregate tuning hours (ATH) per month, the CRB said. All transmissions above 159,140 ATH per month will pay a 0.17 cent per-performance rate. Rates for commercial and noncommercial webcasters will be adjusted annually between 2017 and 2020 based on the Consumer Price Index, the CRB said.

**Similar to S-754****Cybersecurity Act Near Certain To Remain in Omnibus; White House Response Less Clear**

The text of the Cybersecurity Act—the conference-approved cybersecurity information sharing bill—as anticipated (see [1512070056](#) and [1512150074](#)) is included in the FY 2016 [omnibus spending bill](#) released Wednesday and this almost certainly means the conference language will make it through Congress. What happens once it reaches President Barack Obama is far less clear, industry lawyers and lobbyists said in interviews. The omnibus didn't include policy riders that would have curbed the FCC's February net neutrality order but did include a bipartisan rider that would grandfather broadcaster joint sales agreements from before the FCC limited them in March 2014 (see [1512160061](#)). The omnibus also extended the current ban on NTIA's use of funds for the Internet Assigned Numbers Authority (IANA) transition through the end of FY 2016. NTIA's current contract with ICANN to administer the IANA functions is set to expire at the end of FY 2016. The IANA transition rider doesn't extend into FY 2017 absent "any other law" enacted in the meantime.

The conferenced Cybersecurity Act text included in the omnibus strikes more of a balance between elements of the Senate-passed Cybersecurity Information Sharing Act (S-754) and two House-passed information sharing bills, but multiple digital rights and privacy advocacy groups continued to urge Obama to threaten to veto the omnibus over the conference bill language. Those groups had raised concerns in recent days that more palatable Department of Homeland Security-centric privacy provisions included in the two House bills—the Protecting Cyber Networks Act (HR-1560) and the National Cybersecurity Protection Advancement Act (HR-1731)—were being sidelined.

The Cybersecurity Act's text most closely aligns with provisions in S-754, including S-754's requirements for removing personally identifiable information (PII) when such PII isn't directly related to a cyberthreat. The Cybersecurity Act includes liability protections that are stronger than those suggested in S-754 or HR-1560. The conference bill also continues substantial text from the version of HR-1560 the House submitted to the Senate, which included the full text of the DHS-centric HR-1731.

The conference text would enshrine DHS' role as the main civilian information sharing portal via the National Cybersecurity and Communications Integration Center, but would also allow the president to designate sharing through other civilian agencies when necessary. But the conference bill prohibits the Department of Defense and the NSA from becoming an alternate civilian sharing portal. The Cybersecurity Act also contains text from the Federal Cybersecurity Enhancement Act (S-1869), which would increase oversight of DHS' Einstein cybersecurity program and expand the program's scope to cover all federal agencies. Elements of the Federal Cybersecurity Workforce Assessment Act (S-2007) also were included in the conference language. Cybersecurity Act provisions on general cybersecurity information sharing would sunset in 2025, while others would sunset seven years after the conference bill is enacted.

**Congress, Groups React**

Senate Intelligence Committee Vice Chairwoman Dianne Feinstein, D-Calif., called the conference Cybersecurity Act a "strong bill" that also "maintains Senate language on use of a [DHS] portal to share information." The conference language "restricts the government's use of cyber information to cybersecurity purposes and specific instances of major harm to people or the economy," Feinstein said in a

statement. “The agreement incorporates [S-754’s] robust privacy protections.” House Intelligence ranking member Adam Schiff, D-Calif., urged House members to support the conference language’s inclusion in the omnibus. “Ultimately, there is no greater guarantor of Americans’ privacy than America’s cybersecurity,” he said in a letter.

Several members of both the House and Senate who had previously criticized information sharing legislation protested the Cybersecurity Act’s inclusion in the omnibus. The conference language is “even worse” than S-754, said Sen. Ron Wyden, D-Ore., in a statement. “Americans deserve policies that protect both their security and their liberty,” he said. “This bill fails on both counts.” Reps. Justin Amash, R-Mich., and Zoe Lofgren, D-Calif., were among four House members who sent a [letter](#) to the rest of the House Tuesday to protest secret negotiations on the conference language. “Neither negotiations—nor even bill text—have been made public,” they said. “We cannot cast such a consequential vote with no input.”

Digital rights and privacy groups criticized the Cybersecurity Act for not providing sufficient privacy and civil liberties protections, but representatives of those groups we spoke with were divided about how to address those concerns. “I think the die is cast” on passage of the omnibus with the Cybersecurity Act text intact, said Center for Democracy & Technology Freedom, Security and Technology Project Director Greg Nojeim. “Every member will hesitate to oppose must-pass legislation like the omnibus” simply because it includes the conference text. It’s more likely that the privacy community will pivot following passage of the omnibus to focus on federal agencies’ writing of information sharing guidelines called for in the Cybersecurity Act, Nojeim said.

“This is being rushed through via a non-standard procedure,” said TechFreedom President Berin Szoka. TechFreedom was among four free market-oriented groups that jointly urged House Speaker Paul Ryan, R-Wis., to stop the effort to attach the Cybersecurity Act to the omnibus. “There are some really hard questions that still haven’t been answered, like what duty should companies have to remove [PII]?” Szoka said. “I think both sides are largely talking past each other right now.” The American Civil Liberties Union is still pushing for members of Congress who were critical of privacy protections in HR-1560 and S-754 to actively object to the Cybersecurity Act’s insertion into the omnibus, said Neema Singh Guliani, ACLU’s Washington legislative council. “This bill is significantly weaker than [HR-1731] on privacy protections and in some ways provides even less protection than [S-754],” she said.

### **White House Response?**

Several industry lobbyists said they believe the Cybersecurity Act is certain to remain in the omnibus, but were less unanimous about how the White House will respond. A list of White House priorities for the conference information sharing bill included a strong preference for the “narrowly targeted” liability protections included in S-754 and language from S-1560 and S-754 establishing DHS as the main civilian information sharing portal. The White House also supported language from HR-1560 requiring companies to take “reasonable efforts” to remove PII unrelated to a cyber threat and but didn’t want to fully prohibit Defense and NSA from being information sharing portals. The White House didn’t comment.

“I think [Congress] really resolved all of the most difficult and contentious issues that came up during negotiations and that’s reflected in the text we saw in the omnibus,” said Monument Policy Group lobbyist Andrew Howell. “There was a lot of back and forth between [Congress’] Homeland Security and Intelligence committees to get a product that they could all support. The White House was also involved

throughout the conference process, so to an extent they own this bill too.” The White House’s involvement included review of conference text drafts, so “if they had an objection, I think we would have heard a veto threat by now,” an industry lobbyist said.

The White House “made clear where they believed the line in the sand was” on privacy protections that needed to be included in a conference information sharing bill, so “only they can say whether they think [the Cybersecurity Act] went up to that line or over the line,” said Norma Krayem, Holland & Knight senior cybersecurity policy adviser. “It’s unclear whether this went over that line at this point. [DHS] remains the main civilian portal and there are still many privacy and oversight requirements, but those provisions have changed from what they were” in HR-1560, HR-1731 and S-754, she said. Congressional leaders were also strategically smart to attach the Cybersecurity Act to the omnibus since it’s a must-pass bill, Krayem said. “It would be hard for the White House to justify vetoing the omnibus over this, but on the other hand they’ve said they’re committed to privacy and civil liberties just as much as security.” — *Jimm Phillips*

### Open Internet Order Welcomed

## **Brill Says US-EU Close to Reaching Safe Harbor Agreement**

FTC Commissioner Julie Brill said the U.S. and EU are “really quite close to reaching a conclusion” in negotiating a new, updated safe harbor agreement to ensure that trans-Atlantic data transfers are safe and secure. “I’m really hopeful that we will get over the finish line,” she said Wednesday at the Hogan Lovells law firm. She also said she has been engaged with European officials and data protection authorities to improve their understanding of the ways that the U.S. protects personal data through “constitutional, statutory and administrative efforts.”

Brill said the European Court of Justice (ECJ) decision in October that invalidated the 15-year-old safe harbor framework resulted in three losses. She said that when businesses had signed on to the old safe harbor agreement, “everyone knew it,” but the alternative methods now available to them, including binding corporate rules (BCRs) and model contract clauses, aren’t transparent. With the absence of a safe harbor agreement, the FTC’s power to enforce compliance is limited, she said. Before the ECJ decision, the agency brought 39 enforcement actions for alleged safe harbor violations, she said.

The ECJ decision is also affecting small- and medium-sized companies, which made up about 60 percent of the membership in the previous safe harbor agreement, Brill said. While the biggest companies are able to use BCRs and model contract clauses, those alternatives are typically too expensive for small- and medium-sized businesses and take too long to implement. Experts have said it could cost up to \$1 million and take 18 months to implement BCRs. Brill said new issues like the IoT and big data analytics will have to be addressed when the new safe harbor agreement is reached.

Eric Wenger, Cisco cybersecurity and privacy policy director, said that he expects a new safe harbor agreement to be reached and that it will be challenged again. He said during a panel after Brill’s keynote that the ECJ decision was an “indictment” of the European Commission and the processes it used to agree to the original framework. Becky Burr, Neustar deputy general counsel and chief privacy officer, said the consequences if a new agreement isn’t developed are “too extraordinary for that not to happen” and she was “heartened” by Brill’s comment that negotiators are close to an agreement. She also said U.S. companies

are likely developing model contract clauses as the alternative to ensure the legal flow of data flow across the Atlantic.

Brill also said she welcomes the net neutrality order that has given the FCC an expanded role for enforcing consumer privacy protections. She said the “real-world impact” of this restriction on FTC jurisdiction will be limited. She said FTC authority will continue to extend to apps, edge services, ad networks, advertisers, publishers, data brokers, analytics firms, and others. She said she doesn’t share concerns from people who have said the FTC has been “dramatically shoved aside” by the open Internet order and mentioned the memorandum of understanding that both agencies recently signed to work together (see [1511170038](#)).

In another matter, Free Press Policy Director Matt Wood said law enforcement officials say they want keys to unlock encrypted devices and expand surveillance but he questioned the effectiveness of such actions. For instance, he said during the panel discussion that there’s very little evidence that data collected by federal agencies have been used to prevent attacks. But some federal officials seek more surveillance and more information, which Wood said is “illogical.” Allison Growney, Sprint’s national security and compliance director, said a right balance needs to be struck between privacy and security. — *Dibya Sarkar*

### 'Devil in the Details'

## **New EU Regulation 'Biggest Shake-up to Privacy Rules in 20 Years'**

While details of the EU General Data Protection Regulation (GDPR) remained sketchy Wednesday because the text of the compromise isn’t public, the measure is widely viewed as a major development—be it good or bad. Privacy lawyers said the legislation will strongly affect the way companies handle data protection responsibilities, partly because of the new, higher penalties. “This will deliver the biggest shake-up in privacy regulation for 20 years,” wrote Linklaters (Brussels) Global Head of Privacy and Data Protection Tanguy Van Overstraeten. One industry coalition said the GDPR will scare off investors, while telecom network operators said the agreement will leave in place conflicting rules for telcos and Internet players. Digital rights activists and ISPs said the legislation seemed to lack the ambition of the original European Commission proposal.

The GDPR, which is the first major update to EU data protection law since 1995, was approved Tuesday by the European Parliament and Council (see [1512150004](#)) and is to be voted on Thursday by the European Parliament Civil Liberties, Justice and Home Affairs Committee. If confirmed, the final text is expected to be adopted by Parliament and the Council in early 2016, the EC said, and the new rules will be effective two years later. During the transition, the EC will “inform citizens about their rights and companies about their obligations,” it said.

The agreement “builds a strong basis to help Europe develop innovative digital services,” said EC Vice President-Digital Single Market Andrus Ansip. It will give people more information on how personal information is processed; make it easier for them to transfer their data between service providers; clarify the right to be forgotten (RTBF); and require that individuals be notified in some cases when data is hacked, the EC said.

“We can assume” several changes from the current regime, said Hogan Lovells (London) data protection attorney Eduardo Ustaran. European privacy law will have much wider extra-territorial applica-



bility, he emailed: “The moment a website places a tracking cookie on an EU-based device, you're caught.” There are new rules for “pseudonomized” data and tighter rules on consent to use of personal data, he said. There are “very wide grounds” for exercising the RTBF, and a completely new right to data portability. The regulation requires companies to notify data protection authorities (DPAs) within 72 hours of spotting a data breach incident, and to notify individuals if the risk to their personal information is high, he said. Restrictions on international data transfer remain, but “there is a whole new menu of options to legitimise those transfers,” Ustaran told us in an email. For organizations that break the rules, there are “huge potential fines,” he said.

The step-change in penalties “will make privacy a board level issue” and force business to start taking those issues a lot more seriously, said Van Overstraeten. The biggest change involves sanctions, said Linklaters (London) Global Head of Technology, Media and Telecommunications Richard Cumbley in an interview. Many of the regulation’s building blocks are the same as in the existing data protection directive, but currently DPAs can fine only small amounts of money, he said. The shift to potential fines of 4 percent of annual revenue will compel many companies that are trying to comply with data protection requirements to move from a risk-based approach to strict compliance—a “complete mind-shift,” he said. Some industry sectors, such as search engines, will care deeply about the RTBF provisions, while others, such as cloud services providers, will worry about data portability, he said. For all, the fines are the biggest deal, he said.

The U.S. has played a big part in the evolution of the regulation, said Cumbley. European regulators, politicians and lawmakers have seen how the FTC’s approach to privacy, with its major enforcement actions, have brought about better compliance, he said. It’s ironic that U.S. companies will now be affected by the GDPR as a result of U.S.-style enforcement, he told us.

The regulation “represents a major setback,” said Sébastien Houzé, secretary general of the Federation of European Direct and Interactive Marketing, on behalf of the Industry Coalition for Data Protection. “We

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are concerned that investors will be scared off from investing in Europe and will look outside the continent to finance the next big thing in technology.” EU legislators have underestimated EU citizens’ demand for data-driven services and failed to strike the right balance between protecting privacy and encouraging digital industry, he said. Other coalition members include the American Chamber of Commerce to the EU, BSA|The Software Alliance and the Computer and Communications Industry Association.

The regulation “defines the legal boundaries not just for all digital marketing, but any marketing in any medium that uses consumer data,” said Digital Marketing Association (UK) Solicitor James Milligan in a statement. He said it recognizes that direct marketing is a legitimate interest and personal data is any information about an identified or identifiable person; whether online identifiers such as cookies fall under that definition will depend on where they're placed, while consent for marketing must now be “unambiguous.”

The agreement is an important step toward horizontal rules that apply across the digital value chain, said the European Telecommunications Network Operators’ Association. But electronic communications are still subject to double regulation and the GDPR missed the opportunity to streamline and simplify the rules, it said. The regulation will make redundant several provisions in the EU e-privacy directive, such as on traffic and location data and breach notification, and fails to integrate other e-privacy directive provisions such as on confidentiality of communications and cookies, an ETNO spokesman told us. “As boundaries of communications services are today blurred, the distinction between those provided by telcos and those provided by internet players does not make sense any longer.”

The European Internet Services Providers Association is “disappointed” because the compromise falls short on some key points and differs greatly from the EC proposal, said President Oliver Sueme. He said the text suggests that when creating consumer profiles, online sellers may have to obtain consent for very basic processing, which could result in more personal data being collected just for compliance.

“The bare essentials appear to have been salvaged from the lobby storm,” said European Digital Rights. Faced with what may have been the “world’s biggest ever lobbying onslaught,” the compromise has “left little of the initial ambition” of the privacy proposals,” said EDRi Executive Director Joe McNamee: The “devil is in the detail and the detail hasn’t been published yet.” — *Dugie Standeford*

## 'Fumbled'

### **FCC Extends Net Neutrality Transparency Exemption for Year**

The FCC extended for another year, until Dec. 15, 2016, a temporary small-business exemption from the net neutrality order’s enhanced transparency reporting requirements. The exemption provides relief for ISPs with 100,000 or fewer broadband subscribers. Without further action, it was to end Tuesday. The FCC released the order Tuesday, as expected (see [1512140048](#)). Chairman Tom Wheeler promised to seek a commission vote on the exemption next December.

House Republicans immediately slammed the order, saying the exemption should have instead been made permanent. Commissioner Mike O’Rielly said that merely extending the exemption is a “monumental mistake in judgment.”

Transparency provisions in the 2010 order remain in effect. The 2015 [order](#) added a requirement that broadband providers always disclose promotional rates, all fees and surcharges, as well as data caps or data allowances. The order also added packet loss as a measure of network performance that must be disclosed. The enhanced requirements are still under review by the Office of Management and Budget and have yet to kick in for any provider.

The Consumer and Governmental Affairs Bureau, which issued the order, said it found that “at this time it cannot fully evaluate the impact of removing the temporary exemption.” CGB said the FCC hasn’t made a finding on the burden on industry posed by the requirement. The agency in May sought comment on that issue in light of the 1995 Paperwork Reduction Act (PRA), CGB said. In another year “the PRA process will be complete and . . . the full Commission will be able to consider whether and, if so, how best to extend the temporary exemption from the enhanced transparency requirements with the benefit of more complete information,” the bureau said.

The bureau said customers of small ISPs also would benefit from increased transparency. “It is a matter of historical record that Open Internet issues do not necessarily concern the actions of only large broadband providers,” the [order](#) said. The bureau said it decided to stick with the 100,000-subscriber threshold as the cutoff for the exemption. “Moving from a threshold of 100,000 to 500,000 or fewer connections to qualify for the exemption would nearly double the number of connections served by exempted providers,” it said.

Small ISPs “never had the imaginary market power envisioned by the Commission, and they shouldn’t have to comply now or in the future with burdensome requirements that divert limited resources from broadband deployment and provide no real value to consumers,” O’Rielly said in a [statement](#). The full commission should have been asked to vote, even though the commission majority approved issuing the order on delegated authority by CGB, he said.

Wheeler said he’s concerned about protecting nearly 7 million subscribers who buy services from exempt ISPs. “It would be premature to end the temporary exemption until the Bureau has had sufficient time to conduct a data-driven review of the burden through the PRA process,” he [said](#).

Commissioner Mignon Clyburn said she backed the exemption, but agreed no final decision should be made until all the facts are in. “Increased transparency is always beneficial and we have a duty to ensure that the benefits outweigh the burdens, particularly for our small businesses,” she [said](#).

“Permanent protection should have been an easy call, but the FCC fumbled it,” said House Commerce Committee Chairman Fred Upton, R-Mich. Consumers will be hurt if small ISPs have to spend money to comply with the rules, he said in a [statement](#). “The FCC should save the red tape for Christmas, not our small businesses.”

“Small businesses across the country have more than enough on their plate without the prospect of new regulations from unelected bureaucrats in Washington,” said House Small Business Committee Chairman Steve Chabot, R-Ohio.

The Wireless ISP Association, which had urged a permanent exemption, nonetheless was pleased. “The public record overwhelmingly supports a permanent exemption, and we are cautiously optimistic that the FCC commissioners ultimately will follow the strong record in support of a permanent exemption,” said WISPA President Alex Phillips. American Cable Association President Matthew Polka said



the FCC was right to extend the exemption “even though ACA believes the record supported a permanent exemption now.” — *Howard Buskirk*

## **\$384 Million**

### **Democrats Score Omnibus Victory on Net Neutrality, Boost to FCC Funding**

Lawmakers stand ready to allocate the FCC a one-shot burst of cash to allow it to change headquarters in FY 2016, part of a bigger deal that’s thrilling Democrats and frustrating Republicans. The budget has been frozen at \$340 million annually for years, a *Communications Daily* special report on the FCC showed (see [1512150011](#)). The long-awaited FY 2016 omnibus funding bill, released at 1:34 a.m. Wednesday, would slate that much in addition to \$44.17 million “available until expended for necessary expenses associated with moving to a new facility or reconfiguring the existing space to significantly reduce space consumption,” the [text](#) of more than 2,000 pages said.

Net neutrality advocates were pleased appropriators excluded policy riders that would have curbed the FCC’s February order. Appropriators included, as expected (see [1512110060](#)), a bipartisan rider that would grandfather broadcaster joint sales agreements from before the FCC limited them in March 2014. Commerce Committee Democrats in both chambers had blasted the JSA proposal, which would grandfather JSAs through Sept. 30, 2025. An NAB spokesman lauded the inclusion and said the JSA rider “would allow TV stations to better serve our viewers in smaller markets, and ensure that constituents in those communities continue to have access to numerous free, local programming options.” The omnibus measure would also extend the Internet Tax Freedom Act to Oct. 1, amid debate about permanently extending this measure that’s expected to resume in January (see [1512150056](#)).

The extra funding for the FCC and the lack of anti-net neutrality provisions are a victory for Democratic priorities in the funding bill, lawmakers said Wednesday.

The FCC’s \$384 million budget is only \$4 million shy of the administration’s budget request to Congress this year. It’s dramatically higher, as some appropriators predicted was possible, than the amount lawmakers would have initially allocated this year. Free Press and Public Knowledge issued statements praising the lack of net neutrality riders. The partisan House Republican budget from this summer would have slashed the budget \$25 million—a difference of \$69 million from what appropriators are now preparing for the agency.

#### **Riders Thwarted**

FCC Chairman Tom Wheeler called House Appropriations Financial Services Subcommittee ranking member Jose Serrano, D-N.Y., Wednesday to chat about the omnibus deal, Serrano said in an interview. Serrano was a big defender of the FCC’s net neutrality order and its full funding request, opposing the three House riders on net neutrality. The one bicameral rider would have prohibited FCC rate regulation of broadband and possibly more due to what open Internet advocates said was the rider’s broadness.

“I saved it!” Serrano told us of net neutrality. “It’s great. Net neutrality is something that is so important to us as a country. And it was one of my priorities, to make sure [the riders] didn’t happen.” He

said he's very pleased with the omnibus deal, both due to the lack of riders on net neutrality and due to the overall FCC funding. When asked about the far higher funding for the FCC, Serrano simply bowed.

Senate Commerce Committee Chairman John Thune, R-S.D., helped exert influence to keep anti-net neutrality riders off the omnibus, ranking member Bill Nelson, D-Fla., said in an interview: "We kept any rider on net neutrality that would go on this omnibus bill off so that Thune and I could continue our negotiations." Thune asked appropriators to avoid such riders earlier in the year, and he and Nelson were doubtful during interviews in recent weeks that such riders would make it into the final omnibus deal. GOP appropriators in both chambers told us last month they hoped to preserve these partisan riders as part of a final deal.

"I'm pleased we were able to help secure the FCC's budget," said Sen. Brian Schatz, D-Hawaii, ranking member of the Communications Subcommittee and a member of the Appropriations Committee, in a statement. "The FCC must be properly funded to protect consumers, enable continued private sector competition and investment in the nation's communications networks, and to support continued innovation in new internet based services, content, and tools."

### **'Hand You're Dealt'**

Two Republicans in Senate leadership are unhappy with aspects of what resulted, they said on Capitol Hill Wednesday. Sen. Roy Blunt, R-Mo., was the Hill leader pushing for the JSA grandfathering proposal. Despite success in attaching his proposal to the omnibus, even he saw a lot to lament in the deal.

"You play the hand you're dealt," Thune said. "We didn't have a whole lot of leverage in this negotiation because Democrats didn't want anything. They get everything they want because they've got an administration that's imposing all these heavy-handed regulations on the country, and we're trying to roll back some of the harm that's been done. But it made it a very difficult negotiation, so yeah, there's a certain amount of frustration with that. But it's also kind of a recognition you have to deal with when you have a Democrat president and you don't have 60 votes in the Senate." He acknowledged victories of individual senators, aware of the JSA rider that succeeded. "Hopefully next year will go better," Thune said of the appropriations process, criticizing handling of the funding in one giant omnibus package this year.

"If you look at this spending bill as just a spending bill, there's a lot to be pleased about," Blunt said. "If you look at it as a vehicle to dramatically change non-spending policy, a lot of frustration. This was a particular year to do that because it would have slowed down many of these policy items during most of the last year of the Obama administration. I'm disappointed that we weren't able to have more policy. I believe we have a better chance always to add one or two policy items to an individual appropriations bill than you do to add 12 or 15 to a big bill at the end."

Those initial House and Senate FY 2016 proposals came under earlier, lower budget caps. Democrats had opposed those caps as draconian and blocked the resulting spending measures. The omnibus would provide \$307 million for the FTC, \$14 million more than in FY 2015. NTIA is to receive \$39.5 million, nearly \$10 million less than the administration requested, though the Commerce Department overall would receive \$779 million more and be funded at \$9.2 billion. The National Institute of Standards and Technology would receive \$964 million, \$100 million above what was enacted this year. The Corporation for Public Broadcasting would receive \$485 million, \$40 million more than in FY 2015.

FY 2015 funding expired Sept. 30, and the administration and lawmakers negotiated a two-year budget deal this fall, while government was funded under a continuing resolution, to guarantee higher budget caps. The CR funding expired Friday, followed by another short-term CR set to expire Wednesday. Lawmakers were advancing another CR under suspension of the rules Wednesday that would fund the government through Dec. 22. That time was considered necessary to allow the House and Senate to consider the omnibus before any votes, which are expected to happen later this week. — *John Hendel*

## 'Time Is Right'

### **Telecom, Tech Companies Seek National IoT Strategy, Light-Touch Rule Approach**

Telecom, Internet and technology sector representatives backed a light-touch regulatory approach to the IoT to ensure continued innovation, during an Information Technology and Innovation Foundation event Wednesday. ITIF's Center for Data Innovation released a [report](#) Wednesday detailing reasons the U.S. and other countries should adopt national strategies for IoT. It urged the government to adopt "smart public policies" for the IoT, including resisting the impulse to regulate or, if needed, regulating with a light touch. "We need an active strategy to make sure we don't get [IoT development] wrong and that we get it right," said ITIF President Robert Atkinson.

Steve Crout, Qualcomm vice president-government affairs, said he agrees "wholeheartedly" that there's a need for a national strategy on the IoT. "There are bits and pieces being done [in the IoT] across the federal government, which are great, but there really is a need to coordinate all these activities under one national plan," he said. Crout said the government is undertaking several initiatives in the IoT, most notably a smart cities initiative, but he would like to see more coordination among government agencies.

Jeff Brueggeman, AT&T vice president-global public policy, backed a national strategy, saying "the time is right." Brueggeman wants a light-touch governmental approach, and said a lot of IoT-related areas are "going to probably work just fine" in the private sector if government regulation doesn't get in the way. But there are some "interesting opportunities" for the government to help with the IoT, he said. "It's very difficult for the federal government to have a long-term [technology] plan," said Brueggeman, but "there really is an opportunity for the federal government to embark on what is going to be a longer-term transition [to IoT]." Separating IoT-related activities by governmental department runs the risk of duplicative and inconsistent regulation, said Brueggeman. "In the absence of a strategy, we run the risk of having this patchwork quilt and fusion of regulation, and it creates a lot of issues not only for consumers and for the industry."

Mark Ryland, Amazon Web Services worldwide public sector director, said a bottom-up approach to government IoT could be necessary, since strategies don't always resonate with people until they "see some actual benefit." Ryland said Amazon looks at the IoT from a broader perspective, which takes into account the IoT, cloud services and big data—all of which are "coming together in a kind of perfect storm of innovation."

Congressional IoT Caucus co-chairs Reps. Darrell Issa, R-Calif., and Suzan DelBene, D-Wash., cited caucus efforts to make the IoT a more notable topic in Congress and to look closely at the connected technology from a legislative perspective. Issa said the IoT is challenged by government, and

there's "so little" information in Congress about the technology. There needs to be a debate about IoT in Congress, including topics such as back-door encryption and device vulnerability, he said. "We have to find a way to create strong, safe, reliable connectivity," said Issa. "And if we do, then it is an almost unlimited potential for efficiency and, in fact, a better life for our families. If we fail to do so, and we get mired in the usual government bureaucracy, we will probably succeed, [but] we'll just make it a lot harder." DelBene said it's important that Congress becomes more thoughtful and forward-looking about IoT policy, and makes sure they don't enact policies that prevent innovation or discourage interoperability. The IoT Caucus is exploring issues of bandwidth and gaining additional efficiencies for "low-powered devices," Issa said. It's also looking at the upgradability and obsolescence of IoT devices, which are thought of as having a short life but could be configured to update software to adapt with changing technology, said Issa. — *Jacob Rund*

### 'Long Past Due'

## **Tech Industry, Including CTA, Reacts With Glee to ITA Expansion Pact**

Tech industry reaction was overwhelmingly positive Wednesday to the news that the U.S. and more than 50 of its World Trade Organization partners completed work on a final Information Technology Agreement (ITA) expansion proposal. A [statement](#) from the Office of the U.S. Trade Representative (USTR) said the pact means more than \$180 billion in yearly U.S. tech exports will no longer face tariffs in key markets around the world. The original ITA was reached in 1996, prompting many to say the new agreement was long overdue.

The ITA expansion "will open overseas markets" for many IT and CE products, the USTR's office said in a Wednesday [fact sheet](#). "Next generation semiconductors, medical equipment, GPS devices, video game consoles, and computer software are among the high-tech products that will see tariff elimination," it said. For example, the tariffs of "up to 30 percent" on loudspeakers, solid-state drives and videogame consoles would be "reduced to zero" under the agreement, the fact sheet said.

The ITA expansion will cover 99 percent of the value of global information and communications technology (ICT) goods, and 80 percent of all product lines in that category, the U.N. Conference on Trade and Development said in a Tuesday [statement](#). A UNCTAD [technical note](#) titled "Trade in ICT Goods and the 2015 Expansion of the WTO Information Technology Agreement" said the expanded list covers several goods not classified as ICT products under the original IT agreement, including medical appliances and electric conductors.

The technology industry "has worked side-by-side with the U.S. government negotiators for four years to see this day," Consumer Technology Association President Gary Shapiro said in a [statement](#). The agreement is "a win for the U.S." because it could contribute hundreds of billions to the U.S. economy and create 60,000 new American jobs, Shapiro said. "We now urge all parties to continue the fast-paced forward momentum to meet the goal of implementing the ITA" in July, Shapiro said.

"At long last," ITA expansion "is now irreversibly bound for implementation" in July, wrote Semiconductor Industry Association President John Neuffer in a Wednesday [blog post](#). The deal "represents a huge step forward for innovation and economic growth the world over," Neuffer said. For next-gen semiconductors alone, "tariff savings will amount to hundreds of millions of dollars annually," he said.

Including next-gen semiconductors in the ITA expansion, as well as the “sophisticated manufacturing and testing equipment” used in chip production, “is important to Intel,” Lisa Malloy, the company’s director-government relations and policy communications, wrote in a Wednesday [blog post](#). “Equally as important is the potential for broader technological growth made possible by ITA expansion,” she said. “If the success of the original ITA is any indication, this \$1.3 trillion expansion is a significant step forward in strengthening our global economy and fostering innovations through expanded IT trade.”

The ITA “has been one of the most commercially successful trade agreements in history,” so the Information Technology and Innovation Foundation (ITIF) is “very happy to see it expanded to cover hundreds of new ICT products,” said Stephen Ezell, vice president-global innovation policy, in a [statement](#). “Completion of this agreement is not just a win for exporters” but also a “win for the millions of potential new users around the world who can now access high-tech products at lower costs,” Ezell said. “Technology use is the key driver of productivity and growth in the global economy, so this is a victory for all involved.” Like others, the ITIF thinks “it was long past due to update the ITA,” he said. “The technology we use every day has evolved significantly since 1996, but the products covered under the agreement have not.”

The U.S. Chamber of Commerce regards the ITA expansion agreement as a “huge tax cut,” and that’s “good news for consumers and should spur growth in one of the world economy’s most dynamic sectors,” Executive Vice President Myron Brilliant said in a [statement](#). The original ITA “helped deliver a dizzying array of innovative technology products to the world,” he said. “However, many products developed over the past two decades fell outside the ITA’s reach, so expanding its coverage became imperative.”

The additions to the agreement are “relevant to the use of information and communications technology for development because ICT goods generate a multitude of social and economic benefits,” as shown in [recent reports](#), said UNCTAD Deputy Secretary-General Joakim Reiter in a statement. “Making ICTs more affordable, for example, by lowering import duties, can lead to higher adoption rates and increasingly complex applications. Beyond the ICT sector itself, ICTs can be used to boost the competitiveness of other sectors, such as automotive and business services, which have ICT goods as intermediate inputs, and enable participation in global value chains.” — *Paul Gluckman*

## **Strengthening Ties**

### **Wheeler Takes FCC Lessons on Net Neutrality to European Regulatory Forum**

FCC Chairman Tom Wheeler and his staff offered the U.S. perspective on net neutrality at a workshop that was part of last week’s plenary session of the Body of European Regulators for Electronic Communications (BEREC), said outgoing BEREC Chairwoman Fátima Barros during a public briefing on the plenary Wednesday. The briefing was streamed from Brussels.

Wheeler presented the rules “and what were the most important issues under discussion,” said Barros, a regulator from Portugal. EU official Roberto Viola also spoke and explained the steps being taken in Europe, she said. “We had the opportunity to exchange views on the impact of these regulations.” Net neutrality is “one of the most interesting issues that is now under discussion on both sides of the Atlantic,” she said.



Discussions covered special services, reasonable traffic management, empowering end-users and enforcement, Barros said. BEREC has been asked to work on the guidelines for net neutrality, she said. “This was a good opportunity for BEREC members to have some input from the experience in the” U.S., she said. BEREC wants to strengthen ties to the FCC, she said. “We plan to work more intensively together in the future on these issues.”

BEREC said in a statement that it’s developing guidelines on the obligations of national regulatory agencies on the supervision, enforcement and transparency measures for ensuring open Internet access as part of Europe’s telecom single-market regulation. BEREC guidelines must be finalized in August, the group said Tuesday.

“BEREC has met with a number of stakeholders to gather views,” the group said in the news [release](#). Topics under examination include “the kinds of traffic management practices which will be allowed under the new rules,” rules for special services, measuring Internet quality of service and “the extent to which ‘commercial practices,’ such as zero-rating, can co-exist with the new rules,” BEREC said.

“Right now ... what we are doing is listening,” Barros said Wednesday.

Former Commissioner Robert McDowell, who voted against the FCC’s 2010 net neutrality order, said in a Media Institute blog [post](#) Wednesday that the agency’s moves in the area are having negative effects internationally. “China continues to advance a proposal to make a special committee of the U.N. General Assembly the dominant body to determine global Internet governance,” wrote McDowell, now at Wiley Rein. “Meanwhile, Russia has joined China in sponsoring an ‘international code of conduct for information security’ at the U.N. that would authorize Internet censorship and enshrine multilateral state control of the global network. These countries have many client states that would support them in a one-country-one-vote treaty adoption.” — *Howard Buskirk*

## **Mobile Said Crucial**

### **Connectivity, Broad Content Crucial to Closing Digital Divide, Say Baker, Clyburn**

Communications companies should be challenged to be more inclusive, said FCC Commissioner Mignon Clyburn at a Rainbow PUSH Coalition conference Wednesday. Clyburn cited digital content as a primary driver of influence among Americans, and said decision-makers, including herself, should be doing more to push past the status quo. “We need to concentrate on what is happening behind the scenes—the decision-making processes behind the screens [and content],” said Clyburn. “If decision-makers only come from one side of the track, our side will never be seen. Images matter [and] like it or not, we are dependent on the things and influenced by the things we see on screens big and small.”

CTIA President Meredith Baker said mobile connectivity is critical to narrowing the digital divide, and the U.S. is in a “critical time” in wireless. Baker urged the FCC to maintain an approach that maintains the robust wireless competition and provides opportunities to connect the unconnected. “Mobility could be the great equalizer if we make this platform strong enough,” she said. Baker said zero rating can promote connectivity and wireless adoption. “The disconnect in the debate over net neutrality may be best evidenced by the degree of venom that was directed at zero rating,” said Baker, saying it has begun gaining a negative

connotation. “It’s toll-free, it promotes adoption, drives broadband usage and provides a platform for new services to find an audience.”

The wireless industry also needs “hundreds of megahertz” more spectrum to keep up with the increasing mobile data traffic, said Baker. She warned of what might happen if the industry falls behind: “The potential consequences of falling behind are stark.”

Rainbow PUSH Coalition CEO Jesse Jackson announced a resolution to encourage the members of various advocacy organizations to become proficient in using mobile video to document public events and keep law enforcement accountable. Jackson said the increased use of mobile video can help minority communities document instances of police misconduct and ensure justice for the families of victims. — *Jacob Rund*

### RLEC Tactical Divergence

## **NTCA Proposes Two-Step Path for Rural USF Model; ITTA Prefers Single Move**

Rural telcos are taking different tactical approaches as the FCC looks to overhaul rate-of-return USF subsidies for the broadband era. NTCA this week suggested a two-step path for giving rate-of-return carriers the option of receiving high-cost funding support based on a broadband cost model. The small-carrier RLEC group said the FCC could “adopt the concept of a model-based support option in relatively short order” that defines “key parameters”—along with a standalone-broadband fix and other changes—while taking more time to fine-tune the model. But ITTA, representing midsize carriers, said the FCC should soon approve a model-based mechanism in one order.

NTCA said its proposal would allow the FCC “to offer RLECs a voluntary option” to receive model-based support while also addressing continuing concerns about the model. “The Commission can and should adopt in the very near term, as part of a package of reforms with a simple fix for the standalone broadband problem and other measures as previously noted, a voluntary model-based path to support,” NTCA said in a [filing](#) posted Wednesday in docket 10-90. “The Commission could approve key parameters of that voluntary model path such as election procedures, terms of support, and obligations, while then promptly pursuing several essential steps to refine the model in anticipation of final publication of offers and distribution.” NTCA said various details of the model and its ramifications, including for special access and other tariffed services, need more work.

ITTA President Genny Morelli disagreed with that approach. “We think the commission will be ready to adopt a final order establishing a model-based support plan very soon, if not by January then very soon thereafter,” she told us. “There is no need for the commission to adopt an interim order on a model-based plan with details to be followed later. We think all the elements of a model-based plan can be put in place in the next month or two.”

NTCA said it generally supports draft rules proposed in a Dec. 4 [filing](#) by ITTA and USTelecom to begin implementing the model option, but it made various suggestions for modifications or clarifications. For instance, NTCA proposed any “budget headroom” freed up when a carrier elects a certain model transition path be used “to lessen the impact of budget controls and other reforms on RLECs that do *not* elect model-based support, and thereby address concerns about reasonable comparability in rates for consumers

served by such RLECs.” Such a guarantee is “essential” to “address serious concerns highlighted by the recent ‘price-out’ filings that show negative impacts of ‘budget controls’ on carrier support and consumer rates under a ‘bifurcated approach’ to USF reform.” NTCA has said the FCC also needs to take more time to finalize its proposed bifurcated approach for updating legacy mechanisms. — *David Kaut*

## White House

The Obama administration is willing to discuss transparency with journalists and others, White House Press Secretary Josh Earnest said in a Society of Professional Journalists [news release](#) Tuesday, shortly after he met with representatives of SPJ, the American Society of News Editors and the Society of Environmental Journalists. “This Administration isn’t just committed to the principle of transparency, we’ve committed to engaging advocates and journalists to discuss legitimate ideas that advance it. We look forward to continuing this conversation.” SPJ said among issues discussed in the hourlong meeting were “anonymous background briefings” and “other policies that prevent information from flowing to the public.” Agencies such as the FCC routinely hold such briefings with groups of reporters, sometimes more often than on-the-record media events (see [1511200019](#)). The White House didn’t comment Wednesday.

## Capitol Hill

Law enforcement and intelligence agencies would have to coordinate their actions to combat terrorist messaging and recruitment efforts online under [HR-3654](#) that the House passed by unanimous voice vote Tuesday. Rep. Ted Poe, R-Texas, who sponsored the bill, said in a [statement](#) the bill would require the president to come up with a comprehensive strategy to ensure agencies work together. A Senate bill ([S-2372](#)), introduced by Sen. Dianne Feinstein, D-Calif., Dec. 8, would require technology companies to inform law enforcement agencies about terrorists’ activities on social media websites (see [1512110066](#)).

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GAO on the IP transition recommended the FCC “strengthen its data collection efforts to assess the IP transition’s effects,” GAO said of the [report](#), released Wednesday. “FCC did not agree or disagree with the recommendation and stated it has a strategy in place to oversee the IP transition.” The agency “could do more to ensure it has the information it needs to make data-driven decisions about the transition,” GAO said. “GAO found FCC lacks a detailed strategy that outlines how it will address its remaining information needs. Developing a strategy for collecting information about how the IP transition affects public safety and consumers would help FCC make data-driven decisions and address areas of uncertainty as it oversees the IP transition.”

## Agencies

The FCC should move forward “expeditiously” with an NPRM proposing the competitive navigation device solution backed by the Consumer Video Choice Coalition, the CVCC said in a Friday meeting

with staff from Commissioner Jessica Rosenworcel's office, according to an [ex parte](#) letter posted in docket 15-64 Wednesday. The CVCC also demonstrated its proposed technology for an aide to Commissioner Ajit Pai Monday, said a second [ex parte filing](#). Competitive third-party navigation devices could save consumers an average of \$232 per year in leasing fees paid to multichannel video programming distributors, the CVCC said. Commissioners may soon have an NPRM to vote on (see [1512150072](#)).

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The Justice Department signed off on Altice's planned \$9.1 billion acquisition of a majority of Suddenlink. In a [petition](#) asking the FCC to adopt conditions Monday in FCC docket 15-135, DOJ said it had no objections as long as commission conditions include terms of the national security agreement signed Dec. 11 by Altice, Suddenlink and DOJ. Altice, which has said it hoped to close the deal by year's end (see [1507240027](#)), didn't comment Wednesday.

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A spokesman for the National Radio Astronomy Observatory said nothing is unusual about NRAO's decision to give wrist-worn activity monitors to staff, even though the monitors are an interference threat to the observatory's sensitive telescope (see [1512140030](#)). "These devices were provided to employees as part of a program to promote health and wellness among our staff," the spokesman said Tuesday. "Our employees have received guidance on their use when near our antenna sites from our interference engineers. Our employees are aware of the importance of avoiding interference to our sensitive telescopes and are accustomed to avoiding the use of numerous electronic devices, not just Fitbits, at our observing sites. This is a well-established practice that dates back to our observatory's founding."

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The FCC is soliciting comments on a petition for rulemaking from the Schools, Health & Libraries Broadband Coalition (SHLB) and others seeking to revise the agency's rural healthcare USF program. Initial comments are due Jan. 14, replies Jan. 29, a Wireline Bureau [public notice](#) in docket 02-06 said Tuesday. The program needs to be modernized to "address disparities in health[care] availability and health outcomes between rural and non-rural areas," said a recent [joint filing](#) by SHLB and several regional telehealth organizations (see [1512080051](#)). The groups proposed an increase in the discount percentage in the Healthcare Connect Fund for rural healthcare providers, the establishment of mechanisms for short-term relief if program demand exceeds the set cap, and an expanded definition of the word "rural."

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The Consumer Technology Association urged the FCC to make changes to equipment certification rules aimed at keeping commission-certified labs in business. CTA endorsed the thrusts of petitions for reconsideration or clarification by the Telecommunications Industry Association and Motorola Solutions. CTA urged the FCC to clarify the path for re-qualification of test labs in nonmutual recognition agreement countries that were either accredited or listed under Section 2.948 of agency rules. CTA also encouraged the FCC to establish a two-year transition period during which Section 2.948-listed labs would be allowed to submit data in support of certification applications. "The Commission should act promptly to ensure that the dynamic consumer technology industry continues to have access to a sufficient quantity of FCC-recog-

nized laboratories that help ensure that consumers have the most innovative, safe, and reliable technologies available at market speed,” CTA [said](#) in docket 13-44.

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The FCC should reject Twilio’s calls for clarification that messaging services should be regulated under Title II of the Communications Act (see [1510130040](#)), the Free State Foundation said in reply [comments](#). “The wireless messaging services market is competitive and consumers have choices not only among messaging services provided by wireless carriers but among wirelessly-accessible IP-based alternatives, including instant messaging, social media, and email,” FSF said. “Title II regulation would saddle messaging services with special burdens and unnecessary costs and put them at a competitive disadvantage vis-à-vis those alternatives.” Replies are due Monday in docket 08-07.

## Courts

The Electronic Frontier Foundation said the possibility that journalist Matthew Keys, who was convicted in October under the Computer Fraud and Abuse Act (CFAA) for providing access to Tribune Co.’s content management system, could get up to 25 years in prison is another reason that updating the federal anti-hacking statute is “long overdue.” Keys provided the content management system username and password to the hacktivist group Anonymous in an online chat room and an individual used those credentials to make “some relatively silly changes” to a *Los Angeles Times* story, amounting to “vandalism,” said EFF in a Wednesday [blog post](#). The federal government charged Keys with three felony violations under CFAA, including “conspiracy to cause damage to a protected computer, transmission of computer code that resulted in unauthorized damage, and attempted transmission of malicious code to cause unauthorized damage.” His sentencing is scheduled for Jan. 20. EFF acknowledged the government may seek a five-year sentence but said many prosecutors and judges use the maximum punishment to indicate a crime’s severity and also to put pressure on defendants to plea bargain or settle. The amount of damages claimed under CFAA could also result in a longer prison sentence, said EFF, saying the government said Tribune incurred nearly \$930,000 in losses based on the 40 minutes that the vandalized article was posted. “How much of the claimed ‘damages’ are actually the result of ‘hacking’ and how much are part of an attempt to ratchet up loss to ensure a felony CFAA conviction?” asked EFF. It cited a 2nd U.S. Circuit Court of Appeals ruling (see [1512040036](#)) in a different case that CFAA doesn’t apply to violations of employer-imposed use restrictions. EFF also said the Keys case “is an illustration of prosecutorial discretion run amok.”

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Dish Network’s argument for a delay in certifying the class in a lawsuit focuses on an “attenuated and nebulous” argument that the Supreme Court’s pending decision in a separate case could have some bearing, the plaintiffs in *Ernst et al. v. Dish and Sterling Infosystems* said in an opposition [memorandum](#) of law filed Tuesday in U.S. District Court in Manhattan. The 2012 suit (case No. 1:12-cv-08794-LGS) alleges Dish and background check company Sterling violate the federal Fair Credit Reporting Act (FCRA) in their use of credit reports to do background checks on prospective employees or subcontractors. Dish earlier this month filed a [motion](#) to stay the plaintiffs’ motion for class certification, saying the *Spokeo vs. Robbins* case now before the Supreme Court—which also involves alleged FCRA violations—will affect class certification and court jurisdiction issues. But Dish has litigated the case for months with Spokeo pending, and



“only now, facing an adverse decision on class certification” does the Supreme Court matter come up, the plaintiffs said. For Spokeo to overlap into the Dish case, they said, “the Court would be required to issue a sweeping decision extending well beyond the issues presented and to overturn well-established precedent regarding informational injuries.”

## States

The California Department of Motor Vehicles released draft regulations on equipment requirements, performance standards, safety certifications and other issues for the operation of autonomous vehicles. “These regulations create a framework that allows manufacturers to transition from testing to deployment, promotes the continued development of autonomous vehicle technology, and ensures that autonomous vehicle technology is deployed in a safe and responsible manner on California public roads,” said a DMV [summary](#). The [draft](#) includes a provision that requires manufacturers to notify operators about data “collected by the autonomous technology that is not necessary for the safe operation of the vehicle.” The provision said manufacturers must get written approval from the operator to allow for that collection. The state agency plans two workshops—Jan. 28 in Sacramento and Feb. 2 in Los Angeles—to get feedback.

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Alaska Communications Services Group doesn’t support the entire Consensus Alaska Plan as proposed by Alaska Telecommunications Association, said Alaska Communications in an FCC [filing](#) posted Wednesday in docket 10-90. The plan doesn’t address the need for adequate and affordable terrestrial middle-mile service that is needed to reach universal service reform, Alaska Communications said. The company submitted its own proposal called “Closing the middle mile gap in Alaska: A proposed plan of action for all of Alaska.” It said that “allows the commission to fulfill its statutory duty to ensure that all Americans, including Alaskans, have access to reasonably comparable, affordable, advanced broadband capability.”

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Marion County, Florida, picked Airbus DS Communications to build the its next-generation 911 system, said a [news release](#) from Airbus. The system will serve the county’s 350,000 residents and handle more than 700,000 calls per day. Instead of operating two separate public safety answering points, Airbus said its Vesta 911 system will consolidate the county’s call centers to operate as one entity.

## Industry Notes

Global average connection speed increased slightly to 5.1 Mbps from the second quarter, and increased 14 percent from the previous year, said a [report](#) released by Akamai Wednesday. The Third Quarter State of the Internet Report said South Korea had the top average connection speed of 20.5 Mbps, and the global average peak connection speed declined by nearly 1 percent to 32.2 Mbps in the third quarter. In the U.S., 10 states had 10 percent or more of unique IP addresses connected to Akamai at average speeds of at

least 25 Mbps, while the District of Columbia held the top spot with 22 percent unique IP addresses connected to Akamai, the report said.

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TV Everywhere is becoming increasingly ubiquitous, as 53 percent of consumers in pay-TV homes use a TVE service to watch content on a computer, mobile device or TV, up from 43 percent three years ago, GfK said in a [news release](#) Wednesday. GfK said its TV Everywhere 2015 report indicated 42 percent of pay-TV households received TVE offerings from signal providers, while 46 percent used TV network services. Mobile devices are the big driver of increased TVE use, GfK said, with monthly use of mobile apps and mobile sites doubling between 2012 and 2015. TVE viewership is particularly strong in younger demographics—from two to four times higher among Generation Xers and millennials than baby boomers, GfK said.

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Cord-cutting trends and network experimentation with lower advertising loads only explain some of the declining market values of large public content companies—a \$57 billion drop over the past 13 months, a Needham analyst wrote investors Wednesday. Investors also worry that multichannel video programming distributors are undermining their own revenue growth by putting identical content on less lucrative distribution platforms, said Laura Martin. Content companies putting their content also on digital platforms with low or no ad loads “are undermining their most valuable asset—the dual revenue stream business model of linear TV—because they retrain a consumer to expect high content quality at a significantly lower cost to that consumer,” she said. When VOD contains full ad loads that can’t be fast forwarded through, those viewers “are more valuable” than DVR views, she wrote. Meanwhile, 15 percent of ads are being blocked by consumers, and Apple’s announcement this fall it would enable ad blocking apps points to accelerated adoption of consumer ad blocking, Needham said. But ad blocking “makes it less likely that the online video ecosystem will be a successful disrupter of the TV ecosystem,” said the analyst, saying any possible demise of TV will come from incumbent companies shifting viewing identical content from high-value linear TV viewing hours to lower value digital platforms. A la carte channel offerings ultimately will likely account for less than 10 percent of total U.S. TV revenue “owing to the ‘tyranny of choice,’” Needham said: “Too many choices overwhelm consumers and often leads to lower customer satisfaction levels or, worse, stops them from buying anything at all.”

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“Significant” enhancements to Bluetooth will help drive the market for enabled devices to 4.6 billion shipments annually by 2020, from 2.8 billion this year, said ABI Research analyst Andrew Zignani in a Wednesday [report](#). A throughput increase from 1 Mbps to 2 Mbps will reduce latency and increase responsiveness, while providing a “very compelling power consumption ratio” compared with competing technologies including 802.15.4, which tops out at 250 kbps, or the more power-hungry Wi-Fi, Zignani said. Smartphones will remain the bulk of the Bluetooth product market, with 45 percent of shipments in 2020, said ABI, but beacons, smart lighting, home automation and consumer robots will grow to 20 percent of shipments by 2020. Chipset suppliers are working toward integrating IPv6 over Bluetooth Smart, which will help provide the foundation for IP-based application layer-level interoperability between different types of devices operating on different transport layers, said Zignani. As more device types enter the IoT,

adopting a common language will become increasingly important to ensure interoperability, he said. The development of Bluetooth and near-field communication combination integrated chips can secure provisioning of IoT devices, Zignani said.

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The ZigBee Alliance ratified 3.0, opening the door to improved communication and interoperability among IoT products, it [said](#) Wednesday. ZigBee 3.0 extends from the physical to the application layer, the nonprofit alliance said. The alliance also [said](#) it's collaborating with EnOcean Alliance to develop an open, global specification for energy-harvesting wireless communication technology for interoperable, self-powered IoT sensors. The effort will bring together EnOcean equipment profiles for sub-GHz networking with ZigBee 3.0 in the worldwide 2.4 GHz band, called "the key to the consumer market" by EnOcean Alliance Chairman Graham Martin. It will provide a foundation to bring data to IoT frameworks of other industry initiatives and facilitate interoperable communication from the sensor to the cloud, they said.

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Kymeta and Intelsat finished initial mobility-related testing of Kymeta's flat-panel antennas on Intelsat's satellite network for maritime and automotive applications, they said in a [news release](#). The automotive testing involved embedding a Kymeta Ku-band antenna into an auto roof and using it to acquire and track satellite signals while mobile. Kymeta also built and tested a glass-on-glass thin-film-transistor-based antenna for maritime use, it said Tuesday.

## Internet People

European Commission names **Tiina Astola**, Finnish Ministry of Justice, director general-justice and consumers, effective Feb. 1; effective immediately it names from the EC **Sixtine Bouygues** and **Margaritis Schinas** deputy-directors general, DG Communication; and moves **Claire Bury** to deputy director general-DG Communications Networks, Content and Technology, effective in January ... Time Inc. hires **Jennifer Wong**, ex-PopSugar, as president-Time Inc. Digital, new position ... Disney Consumer Products and Interactive Media promotes **Courtney Holt** to executive vice president-head, Maker Studios, succeeding **Ynon Kreiz**, Maker president, leaving the company effective Jan. 11 ... Nielsen promotes **Steve Hasker** to global president-chief operating officer, effective Jan. 1.

LogRhythm hires **Daniel Wilbricht**, ex-Dell, as senior director-federal sales ... **John McAdam**, onetime CEO-president of F5 Networks, resigns as chairman to return to CEO post, succeeding **Manuel Ravelo**, who the company [said](#) resigned from that job and the board "for matters regarding personal conduct unrelated to the operations or financials of the Company"; **Alan Higginson**, lead independent director, named nonexecutive chairman; McAdam remains on board ... Univision Communications names **Alberto Cairo**, University of Miami, visualization innovator-in-residence, Univision Digital, new position ... 4G Americas elects **Tom Keathley**, AT&T, 2016 chairman ... Society of Motion Picture and Television Engineers board OKs SMPTE U.K. region and names **Bruce Devlin**, Dalet, its first governor ... Equinix names to board **Nanci Caldwell**, ex-PeopleSoft ... Dialogic adds to board **Chris Burke**, ex-Vodafone ... IBM CEO **Ginni Rometty** to keynote CES Jan. 6, 4:30 p.m., Venetian's Palazzo Ballroom.