

BloostonLaw Telecom Update

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REMINDER: 911 RELIABILITY CERTIFICATION DUE OCTOBER 15

Covered 911 Service Providers, which are defined as entities that “[p]rovide 911, E911, or NG911 capabilities such as call routing, automatic location information (ALI), automatic number identification (ANI), or the functional equivalent of those capabilities, directly to a public safety answering point (PSAP), statewide default answering point, or appropriate local emergency authority,” or that “[o]perate one or more central offices that directly serve a PSAP,” are required certify that they have taken reasonable measures to provide reliable 911 service with respect to three substantive requirements: (i) 911 circuit diversity; (ii) central office backup power; and (iii) diverse network monitoring by October 15. Certifications must be made through the FCC’s portal.

BloostonLaw Contacts: [Gerry Duffy](#) and [Sal Taillefer](#).

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Headlines

FCC Announces Tentative Agenda for October Open Meeting

On October 7, the FCC announced that the following items are tentatively on the agenda for the November Open Commission Meeting, currently scheduled for October 27:

- **Restoring Internet Freedom Order Remand:** an [Order on Remand](#) that would respond to the remand from the U.S. Court of Appeals for the D.C. Circuit and conclude that the *Restoring Internet Freedom Order* promotes public safety, facilitates broadband infrastructure deployment, and allows the FCC to continue to provide Lifeline support for broadband Internet access service. (WC Docket Nos. 17-108, 17-287, 11-42)
- **Establishing a 5G Fund for Rural America:** a [Report and Order](#) that would establish the 5G Fund for Rural America to ensure that all Americans have access to the next generation of wireless connectivity. (GN Docket No. 20-32)
- **Increasing Unlicensed Wireless Opportunities in TV White Spaces:** a [Report and Order](#) that would increase opportunities for unlicensed white space devices to operate on broadcast television channels 2-35 and expand wireless broadband connectivity in rural and underserved areas. (ET Docket No. 20-36)
- **Streamlining State and Local Approval of Certain Wireless Structure Modifications:** a [Report and Order](#) that would further accelerate the deployment of 5G by providing that modifications to existing towers involving limited ground excavation or deployment would be subject to streamlined state and local review pursuant to section 6409(a) of the Spectrum Act of 2012. (WT Docket No. 19-250; RM-11849)
- **Revitalizing AM Radio Service with All-Digital Broadcast Option:** a [Report and Order](#) that would authorize AM stations to transition to an all-digital signal on a voluntary basis and would also adopt technical specifications for such stations. (MB Docket Nos. 13-249, 19-311)
- **Expanding Audio Description of Video Content to More TV Markets:** a [Report and Order](#) that would expand audio description requirements to 40 additional television markets over the next four years in order to increase the amount of video programming that is accessible to blind and visually impaired Americans. (MB Docket No. 11-43)
- **Modernizing Unbundling and Resale Requirements:** a [Report and Order](#) to modernize the FCC's unbundling and resale regulations, eliminating requirements where they stifle broadband deployment and the transition to next-generation networks, but preserving them where they are still necessary to promote robust intermodal competition. (WC Docket No. 19-308)

Each summary above contains a link to the draft text of each item expected to be considered at this Open Commission Meeting. However, it is possible that changes will be made before the Meeting. One-page cover sheets prepared by the FCC are included in the public drafts to help provide an additional summary.

BloostonLaw Contacts: [Ben Dickens](#), [Gerry Duffy](#), and [John Prendergast](#).

FCC Extends Deadline for Call Authentication Requirements for Small Providers

On October 1, the FCC issued its *Second Report and Order* in the implementation of caller ID authentication requirements known as STIR/SHAKEN. Among other things, the FCC extended the implementation deadline for STIR/SHAKEN for small providers. This extension will remain in place until call ID authentication technology is “reasonably available” for such networks, with the FCC re-evaluating availability on an annual basis.

Specifically, the FCC adopted a **two-year extension** of the June 30, 2021 implementation deadline for small voice service providers, which are defined as those with 100,000 or fewer voice subscriber lines (counting the total of all business and residential fixed subscriber lines and mobile phones and aggregated over all of a provider’s affiliates). **However, the FCC is also requiring any voice service provider that received an extension to implement and certify that it has implemented a robocall mitigation program by June 30, 2021.**

According to the FCC, a robocall mitigation program is sufficient if it includes “detailed practices that can reasonably be expected to significantly reduce the origination of illegal robocalls.” The requisite certification will include:

- (1) the voice service provider’s business name(s) and primary address;
- (2) other business names in use by the voice service provider;
- (3) all business names previously used by the voice service provider;
- (4) whether a voice service provider is a foreign voice service provider; and
- (5) the name, title, department, business address, telephone number, and email address of a central point of contact within the company responsible for addressing robocall-mitigation-related issues.

The STIR/SHAKEN framework allows voice service providers to verify that the caller ID information transmitted with a particular call matches the caller’s number, through the use of digital certificates transmitted with the call. Specifically, the STIR/SHAKEN technical authentication and verification processes rely on public key cryptography to securely transmit the information that the originating voice service provider knows about the identity of the caller and its relationship to the phone number it is using throughout the entire length of the call path, allowing the terminating voice service provider to verify the information on the other end. The encrypted caller ID information is contained within a unique header to the message used to initiate a SIP call (the SIP INVITE message), called an “Identity” header.

BloostonLaw Contacts: [Gerry Duffy](#) and [Sal Taillefer](#).

FCC Moves Forward on 3.45-3.55 GHz, Seeks Comment on Licensing and Operating Framework

The FCC last Wednesday proposed to make 100 megahertz of mid-band spectrum in the 3.45-3.55 GHz band available for 5G deployment across the contiguous United States. The Commission also adopted rules for, and proposed additional changes to, the broader 3.3-3.55 GHz band. This item marks an important step toward allowing commercial use in the 3.1-3.55 GHz band.

In a companion *Further Notice of Proposed Rulemaking* (FNPRM) issued as part of the item, the Commission proposes allocating the 3.45-3.55 GHz spectrum band for flexible-use service. It seeks comment on an appropriate regime to coordinate non-federal and federal use and proposes a band plan, as well as technical,

licensing, and competitive bidding rules for the band. However, rather than proposing a licensing framework that is similar to or consistent with the adjacent CBRS service (which spectrum was recently auctioned by county-sized license areas in 10-megahertz spectrum blocks, with opportunistic “license by rule” use permissible when and where licensees and federal operations are not using this spectrum), the Commission’s draft proposal would align the 3.45-3.55 GHz band with rules for 3.7 GHz C-band spectrum, which is slated for auction in December and provides for exclusive licenses, higher power levels, and larger geographic license areas.

Comments on the 3.45-3.55 GHz band FNPRM will be due 30 days after the item is published in the Federal Register, with reply comments due 45 days following Federal Register Publication.

With this 3.45 GHz band item, the upcoming December C-band auction (Auction 107) and the recently completed auction for Priority Access Licenses in the 3.5 GHz band (Auction 105), the Commission is on track to make more than 500 megahertz of continuous mid-band spectrum available for 5G.

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Comments on Caller ID Authentication Best Practices Due October 16

On October 1, the FCC issued a *Public Notice* seeking comment on the North American Numbering Council (NANC) Report recommending best practices related to caller ID authentication. **Comments are due October 16, 2020, and reply comments are due October 26, 2020.**

In its report, the NANC recommends seven best practices related to: (1) subscriber vetting; (2) telephone number validation; (3) A-level attestation; (4) B- and C-level attestation; (5) third-party validation services; (6) international call originators; and (7) ongoing robocall mitigation programs. The FCC seeks comment on these recommendations, as well as any additional or alternative best practices commenters would recommend to achieve the TRACED Act’s goal of ensuring the calling party is accurately identified.

As we reported in a previous edition of the BloostonLaw Telecom Update, the TRACED Act directs the FCC, by December 30, 2020, to issue “best practices that providers of voice service may use as part of the implementation of effective call authentication frameworks . . . to take steps to ensure the calling party is accurately identified.” On February 27, 2020, the FCC charged the Call Authentication Trust Anchor (CATA) Working Group of the NANC to recommend a set of best practices that would, in the NANC’s view, satisfy Congress’s direction if adopted by the FCC.

A copy of the report can be found [here](#).

BloostonLaw Contacts: [Gerry Duffy](#), [Mary Sisak](#), and [Sal Taillefer](#).

Law and Regulation

FCC Settles with Telecom Providers for Failing to File 911 Reliability Certifications

On October 2, the FCC announced that it has entered into settlements with seven telecommunications providers that did not file timely 911 service reliability certifications last year. **Each provider agreed to pay a**

civil penalty between \$2,400 and \$4,000, and abide by a compliance plan to ensure it meets its filing responsibilities going forward.

The FCC's rules require 911 service providers—generally, the wireline phone companies that route both wireline and wireless calls to 911 call centers or provide administrative lines directly to 911 call centers—to take reasonable measures to provide reliable and resilient 911 service. To that end, the rules require 911 service providers to certify annually that they have either implemented certain industry-backed best practices or acceptable alternative measures with respect to circuit diversity, central office backup power, and network monitoring.

As indicated earlier in this edition of the BloostonLaw Telecom Update, **this year's reliability certification is due on October 15, 2020.**

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FCC Streamlines Rules for Executive Branch Review of Transfers of Control

On September 30, the FCC adopted a *Report and Order* streamlining the timeliness and transparency of the process by which it coordinates with the Executive Branch agencies for assessment of any national security, law enforcement, foreign policy, or trade policy issues regarding certain applications filed with the FCC. This sort of coordination is typically invoked where an application involves foreign ownership.

Specifically, when an applicant has a 10% or greater direct or indirect foreign investor, the FCC has referred the following types of applications to the Executive Branch agencies for their input on any national security, law enforcement, foreign policy, and trade policy concerns: (1) international section 214 authority; (2) assignment or transfer of control of domestic or international section 214 authority; (3) submarine cable landing licenses; and (4) assignment or transfer of control of a submarine cable landing license.

In the wake of the *Report and Order*, those applications that are referred to the Executive branch will require the applicants to provide responses to a set of standardized national security and law enforcement questions directly to the Executive Branch at the time the applicant files its application with the FCC. All applicants for international section 214 authorizations and submarine cable landing licenses, applications to assign, transfer control of or modify such authorizations and licenses (including those that do not have reportable foreign ownership), and petitioners for section 310(b) foreign ownership rulings will be required to provide certain certifications. Applications subjected to Executive Branch review will have a specific 120-day initial review period followed by a discretionary 90-day secondary assessment. The new rules governing such applications will be published in a new subpart CC in Part 1 of the FCC's rules.

BloostonLaw Contacts: [Ben Dickens](#), [Gerry Duffy](#), and [John Prendergast](#).

Remaining Wireless Radio Service Renewal, Discontinuance Rules are Now in Effect

On October 1, the FCC issued a *Public Notice* announcing that the last of its updated and consolidated service-specific renewal and permanent discontinuance rules for Wireless Radio Service (WRS), originally adopted in August of 2017, are finally effective following publication of approval by the Office of Management and Budget on September 29. Those revisions that did not require approval went into effect at the beginning of September, 2017.

The specific revisions that went into effect last week were amendments to sections 1.949, 1.950, and 1.953 of the FCC's rules. These three sections govern application for renewal under the new WRS standard;

geographic partitioning and spectrum disaggregation, and discontinuance of service or operations. Accordingly, licensees – which encompasses most of our CMRS and private user licensee clients – must now comply with all the requirements of these rule sections regarding license renewals, discontinuance of service, and partitioning and disaggregation.

For CMRS providers, the FCC has defined the time-line for a permanent discontinuance of operation, as follows:

- Geographic Area Licenses – 180 consecutive days in which the licensee does not provide service to at least one unaffiliated subscriber.
- Site-Based Licenses – 365 consecutive days in which the licensee does not provide service to at least one unaffiliated subscriber.

In order for a commercial service provider to be considered operational, it must be providing commercial service **to at least one unaffiliated subscriber**. Thus, the FCC could conclude that a commercial station has permanently discontinued operation if it is not providing service to at least one unaffiliated customer, even though the station was fully operational and the licensee was ready, willing and able to provide service if requested. Any for-profit licensee, and anyone holding a license classified as “CMRS” must be ready to meet this additional requirement. **If despite a CMRS status the company only uses its station for private, internal communications, it may be advisable to convert to “PMRS” status, so that the customer requirement and other common carrier reporting requirements do not apply to the station. We can assist clients with this process.**

See our more detailed discussion of these requirements in last week’s edition. Certain commercial geographic auction licenses will have until January 1, 2023 before the new renewal process applies.

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Supreme Court Agrees to Hear Media Ownership Case

On October 2, the Supreme Court of the United States granted the FCC’s petition for review of the Third Circuit’s decision in *FCC v. Prometheus Radio Project*, which vacated revisions to the FCC’s media ownership regulations in 2017. The case is the fourth law suit since 2002 regarding the FCC’s media ownership – and particularly, diversity – rules, prompting the Third Circuit to begin the challenged opinion with the line, “Here we are again.”

“I am very pleased that the Supreme Court has agreed to review the Third Circuit’s *Prometheus* decision, which vacated the FCC’s long-overdue reforms of its media ownership rules. This is a breakthrough: a real chance to finally have media ownership rules that better match today’s realities. For seventeen years, the same divided panel of the Third Circuit has repeatedly frustrated the FCC’s efforts to amend its rules to allow broadcasters to compete in today’s dynamic media marketplace. Upon review, I hope that the Supreme Court will affirm the FCC’s reforms, which empower struggling local news outlets to thrive in today’s increasingly competitive media landscape.”

BloostonLaw Contacts: [Gerry Duffy](#).

Industry

Rural Broadband Providers Offer Discount Tariff Services During Pandemic

On October 1, NECA announced that worked with the FCC's staff on tariff revisions that will allow carriers to provide eligible new customers of rural carriers a 25% discount on certain broadband services and offer existing eligible customers faster connections at no cost. Households with a student in grades kindergarten through 12 who qualify for a reduced cost or free lunch through the National School Lunch Program are eligible. The tariff revisions went into effect on October 1, and the promotional offerings will be in effect through the end of June 2021.

"I applaud the hundreds of NECA members that are committed to helping low-income students in their service areas connect and stay connected to the Internet," said FCC Chairman Ajit Pai. "With the continued reliance upon remote learning in many parts of the country, students need connectivity to learn from and communicate with their teachers and classmates. I'm pleased the Commission worked with these rural carriers to enable more low-income."

Deadlines

OCTOBER 15: 911 RELIABILITY CERTIFICATION. Covered 911 Service Providers, which are defined as entities that "[p]rovide[] 911, E911, or NG911 capabilities such as call routing, automatic location information (ALI), automatic number identification (ANI), or the functional equivalent of those capabilities, directly to a public safety answering point (PSAP), statewide default answering point, or appropriate local emergency authority," or that "[o]perate[] one or more central offices that directly serve a PSAP," are required certify that they have taken reasonable measures to provide reliable 911 service with respect to three substantive requirements: (i) 911 circuit diversity; (ii) central office backup power; and (iii) diverse network monitoring by October 15. Certifications must be made through the FCC's portal.

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NOVEMBER 1: FCC FORM 499-Q, TELECOMMUNICATIONS REPORTING WORKSHEET. All telecommunications common carriers that expect to contribute more than \$10,000 to federal Universal Service Fund (USF) support mechanisms must file this quarterly form. The FCC has modified this form in light of its decision to establish interim measures for USF contribution assessments. The form contains revenue information from the prior quarter plus projections for the next quarter. Form 499-Q relates only to USF contributions. It does not relate to the cost recovery mechanisms for the Telecommunications Relay Service (TRS) Fund, the North American Numbering Plan Administration (NANPA), and the shared costs of local number portability (LNP), which are covered in the annual Form 499-A that is due April 1.

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If you would like to receive an e-mail version of the newsletter, contact Althea Pierce at 828-5521 or abp@bloostonlaw.com.

This newsletter is not intended to provide legal advice. Those interested in more information should contact the firm.

Calendar At-a-Glance

October

Oct. 15 – 911 Reliability Certification.

Oct. 15 – Petitions to Deny 2.5 GHz Tribal Spectrum License Applications are due.

Oct. 16 – Second E-Rate Application Window closes.

Oct. 16 – Comments on Caller ID Authentication Best Practices are due.

Oct. 19 – Comments are due on Priority Services NPRM.

Oct. 16 – Reply comments on Caller ID Authentication Best Practices are due.

Oct. 26 – Oppositions to Petitions to Deny 2.5 GHz Tribal Spectrum License Applications are due.

Oct. 29 – Comments on Rural Call Completion Report and Request for Comment are due.

November

Nov. 1 – FCC Form 499-Q (Quarterly Telecommunications Reporting Worksheet) is due.

Nov. 2 – Replies to Oppositions to Petitions to Deny 2.5 GHz Tribal Spectrum License Applications are due.

Nov. 17 – Reply comments are due on Priority Services NPRM.

Nov. 30 – Lifeline Income Documentation, De-Enrollment/Reverification Requirement waivers expire.