MORRISON | FOERSTER

Legal Updates & News

Bulletins

Communications Law Bulletin - February 2007

March 2007

Communications Law Bulletin - February 2007

In this issue:

The Month in Brief

In February, the new Congress asserted its oversight of the Federal Communications Commission ("FCC" or "Commission") with probing questions to the commissioners and hearings before the Senate Commerce Committee. House hearings will follow, and it is clear that there is skepticism on the Hill about the Commission's handling of merger reviews, media concentration, broadband deployment, universal service, broadcast content, and other issues. In the meantime, one court challenge already has been brought to conditions attached to the AT&T-BellSouth merger, and both the Commission and the Senate Commerce Committee proposed hearings on universal service reform.

These developments and many others are covered in this issue of our Bulletin, along with our usual list of deadlines for your calendar.

Staff Reports in 2006 Biennial Review Released – Quicker Action on Section 214 Applications Recommended

The FCC has released staff reports and recommendations from the various bureaus in the 2006 biennial review proceeding. Of particular interest is one item in the International Bureau report, which recommends that the Commission initiate a proceeding to shorten the Section 214 application review process for streamlined applications (which are currently subject to a 14-day public notice period). The Bureau notes, however, that any revised process must provide for appropriate review of national security issues by Executive Branch agencies. In addition, the staff recommends that this proceeding consolidate, reorganize, and clarify the various rules applicable to international carriers.

The Wireline Competition Bureau staff report included the following recommended changes: (1) revising Rule 42.4 to eliminate the requirement that carriers retain a master index of documents at their headquarters (so long as information remains accessible to the FCC); and (2) modifying Rule 51.333 to eliminate filing and Bureau notification requirements for network changes that are posted on a carrier's website.

Senate Holds FCC Oversight Hearings; House Hearings Are Postponed

On February 1, 2007, the FCC commissioners were grilled by members of the Senate Commerce Committee on a number of issues, including merger enforcement, media concentration, and broadband deployment.

On the merger front, Committee Chairman Inouye (D-Hawaii) questioned FCC Chairman Martin about the Chairman's expressed skepticism concerning special access conditions on the FCC's approval of the AT&T-BellSouth merger. Martin repeated his concern that enforcement of discriminatory special access conditions against a company that is not a party to the merger would be unlawful. Democratic commissioners Copps and Adelstein, however, assured the Senators that they considered the special access conditions to be lawful.

Media ownership and the content of commercial television also were on the Senators' minds. Senator Jay Rockefeller (D-West Virginia) was particularly harsh in his characterization of television content, and suggested that content issues should play a bigger role in the FCC's decisions to review broadcast licenses. Senator Dorgan (D-North Dakota) assailed what he saw as the general inadequacy of the FCC's media ownership rules and insufficient attention to broadcast localism.

Senator Stevens of Alaska, the Republican Vice Chairman of the Committee, expressed his continuing interest in universal service reform. Chairman Martin, in response, endorsed a "numbers-based" system for calculation of eligibility for universal service funds.

Finally, Senator Inouye emphasized the Committee's concern with privacy of telephone customer information, which has been under assault from "pretexters" who pretend to be customers or their authorized representatives.

FCC oversight hearings also were scheduled by the Telecom Subcommittee of the House Commerce Committee, but those hearings were postponed because of the funeral of Representative Charles Norwood (R-Georgia). In preparation for those hearings, Chairman Dingell (D-Michigan) sent questions to the commissioners to be answered in advance of the hearings. Those questions covered considerable ground, including sharing of information by telephone companies with the National Security Agency. Commissioners Martin and Tate also were expected to be grilled on their disagreement with conditions in the AT&T-BellSouth merger.

Broadcast Developments

The FCC reportedly is currently circulating a draft report on the treatment of violent programming under current indecency law. The report, expected to surface soon, apparently will state the Commission's policy of not fining television broadcasters for violent material. The Media Bureau allegedly finds, among other things, that the FCC has not been authorized by Congress to regulate violent programming under the existing indecency statutes. The report will acknowledge the difficulty of formulating a coherent definition of violent content, and will note that violent content also enjoys full First Amendment protections, further complicating the FCC's authority to penalize broadcasters for including such content in their programs. Given the Commission's reluctance to regulate violent programming without a specific legislative directive, Congress likely will need to enact new legislation to spur further FCC action on this issue.

The FCC still has a backlog of hundreds of television license renewals, despite claims by the Media Bureau that staffers are processing applications as quickly as possible. Numerous applications have been held up due to complaints filed involving, among other things, indecency violations, the misuse of video news releases, and failure to comply with children's television programming rules. The current renewal period for these pending applications ends in August.

In the past month or so, the FCC has issued a number of fines for various violations in connection with renewal applications, including the Commission's equal opportunity employment rules, late-filed renewal applications, and public file requirements. For the first time, the FCC has imposed fines for late-filed FM translator renewals, not just main broadcast license renewals.

The FCC's February 23 open meeting was held in Harrisburg, Pennsylvania, and concentrated on media ownership. The media ownership review process will continue throughout 2007, with Chairman Martin promising two localism hearings, a report on broadcast localism, and ten economic studies. With all of these components of the process, the release of a media ownership order easily could be delayed until 2008 (or later).

FCC Conditionally Grants Qwest Forbearance Relief from Dominant Carrier Regulation of Its In-Region, Unseparated Long Distance Services

On February 20, 2007, the FCC adopted an order conditionally granting in part and denying in part a forbearance petition filed by Qwest Communications International, Inc. seeking relief from "dominant carrier" regulation of any interstate, interLATA (i.e., long distance) service that Qwest provides through the same entities that provide its local services. In the absence of such relief, Qwest would have to continue providing interstate, interLATA service in its local service region ("in-region service") on a structurally separated basis (i.e., through affiliates that are separate from the affiliates that provide its local services) in order to avoid tariffing requirements and other strict regulation of its interLATA service. The relief granted permits Qwest to combine its long distance services with its local operations without triggering heightened regulation of the long distance services. In granting forbearance, the FCC imposed conditions on Qwest's provision of access services to ensure that Qwest does not raise its long distance competitors' costs by discriminating in its provision of access service to the competitors.

The FCC has imposed tariffing and other requirements on Bell Operating Companies ("BOCs") and other dominant carriers – i.e., carriers with market power – for over 20 years. As part of the Telecommunications Act of 1996, Congress added Section 272 to the Communications Act, which requires that BOC in-region, interstate, interLATA service be provided through affiliates meeting stringent separation requirements. In applying its dominant carrier requirements to BOC long distance services, the FCC held that BOC long distance services provided through separate affiliates meeting the Section 272 criteria should be treated as non-dominant and thus not subject to tariffing and other dominant carrier rules, while BOC long distance services provided on an unseparated basis, either through the same affiliate that provides local service or through another affiliate not compliant with the Section 272 criteria, would be subject to dominant carrier regulation. As a result, even after Qwest's Section 272 requirements sunset by operation of the statute in 2006, its long distance services would continue to be subject to dominant carrier regulation unless they are provided through Section 272-compliant affiliates.

Qwest argued that, in light of the vigorous competition in long distance services, the continued imposition of dominant carrier regulation on its unseparated long distance services serves no regulatory purpose, justifying forbearance. Qwest is in the anomalous position of having to maintain its Section 272 affiliates after the sunsetting of the Section 272 requirements simply to avoid dominant carrier regulation of its in-region long distance services.

In the public notice adopting its forbearance order, the FCC stated that it agreed that Qwest lacks market power in the provision of in-region long distance services but found that it is still able to exercise exclusionary market power in the provision of bottleneck access services to its long distance rivals. Accordingly, the FCC imposed conditions to prevent Qwest from exercising its bottleneck power and, based on those conditions, granted forbearance from the application of dominant carrier regulation to Qwest's unseparated in-region long distance services to the extent stated in the notice. Qwest thus is relieved of certain tariffing requirements, discontinuance and transfer of control requirements, and certain contract filing requirements. Qwest is not relieved of the non-discrimination requirements of Section 272(e) or the accounting requirements applied to its in-region long distance services. The FCC also imposed additional conditions, including the implementation of special access performance metrics for two and a half years to ensure that Qwest does not discriminate in its provision of special access service and the imputation of Qwest's tariffed access rates to its long distance services, thereby ensuring that it charges itself the same access rates that it charges its long distance service rivals.

The FCC vote was 4-0 for adoption of the forbearance order, with Commissioner McDowell not participating because CompTel had opposed the petition. Commissioners Copps and Adelstein expressed concern that the FCC has not completed its pending rulemaking addressing the regulatory treatment of post-Section 272 sunset BOC long distance services and that a comprehensive resolution would be preferable to deciding individual petitions. Nevertheless, because granting the petition with conditions is a "clearly superior" outcome to granting it "by Commission inaction," they concurred in the result. The order was adopted on the last day that the FCC could deny or place conditions on the petition. AT&T and Verizon have filed similar forbearance petitions, although Commissioners Copps and Adelstein cited Qwest's "unique competitive position" and commented that the conditions imposed by the FCC "may well be . . . insufficient as applied to the situation of industry participants not present here."

State Legislators Focus on Wireless Consumer Protection Issues

The New York and Nebraska state legislatures are considering bills that would, if adopted, increase their states' oversight of wireless carriers. In New York, Assembly Bill 2030 would create the "Wireless Telephone Service Consumer Protection Act." The drafters of the bill explain that, although wireless services have evolved so that many customers now use them as their primary mode of communication, many consumers are confused by the different types of plans and the providers' failure to always disclose the terms of service. AB 2030 will give the New York Consumer Protection Board the authority to regulate wireless providers with respect to consumer protections and assess penalties on carriers for their failure to comply. The bill also would require that providers, amongst other things, disclose detailed information about their geographic service coverage areas, allow customers to cancel service without penalty within fifteen days of receipt of their first invoice, disclose up front all charges and other fees that will apply to the service, and provide good-faith estimates of monthly bills that are clear and written in plain language. AB 2030 has been approved by the Consumer Affairs and Protection Committee but must be considered by other committees with jurisdiction before moving to the full Assembly.

In Nebraska, the Transportation and Telecommunications Committee of that state's unicameral legislature is considering LB-330. This bill would permit the state Public Service Commission to resolve billing and service disputes between wireless carriers and their customers. LB-330 also would allow the PSC to order restitution, void disputed agreements, and impose fines. At the present time, the PSC does not have any jurisdiction over wireless carriers.

Virginia Legislature Passes Bill to End State Review of Telecommunications Company Mergers

Both houses of the Virginia legislature have approved HB-1755. As noted in the December 2006-January 2007 issue of this Bulletin, HB-1755 would end Corporation Commission review of telephone company mergers and acquisitions, except for those filed before July 1, 2007. Supporters of the bill argued that state oversight is not necessary given the level of competition and the fact that major transactions are reviewed by the US Department of Justice and the FCC. The bill now awaits signature by the governor.

Federal Court Finds that San Francisco's Encroachment Permit Ordinance Is Preempted by the Telecommunications Act

The Federal District Court for the Northern District of California has found in favor of Verizon in its dispute with the City of San Francisco over the installation of antennas in the public right-of-way. Verizon challenged the city's ordinance that required all utilities, including telecommunications companies, to obtain a major encroachment permit in order to place facilities in the public right-of-way. Under the ordinance, the city has unfettered discretion to approve or deny a permit application and to impose other requirements and restrictions. Agreeing with Verizon, the judge held that the ordinance is preempted by Section 253(a) of the Communications Act because the unlimited discretion provided to the Board of Supervisors, without any governing or limiting standards, may have a prohibitive effect on the provision of telecommunications services and is not saved by the safe harbors of Sections 253(b) and (c). In reaching her conclusions, the judge relied on the court's recent decision in a virtually identical complaint brought by NextG Networks against San Francisco, as well as *Qwest Corp. v. City of Portland* and *Qwest Communications v. City of Berkeley*.

Texas Challenges Sprint Nextel Tax Recovery Surcharge

Texas Comptroller Susan Combs has told Sprint Nextel to stop charging a 1% "Texas margin fee reimbursement" to recover the state's new business tax until the legislature has an opportunity to review the issue. If Sprint Nextel does not follow Combs' advice, she may ask the Texas attorney general to force the company to stop collecting the fee, which she also claims exceeds the tax amount that Sprint Nextel will likely have to pay. The tax, a version of the corporate franchise tax, was imposed last year to offset the reduction in school property taxes, but companies are not required to start paying it until 2008. To date, the comptroller's office has not approved reimbursement for the tax. Sprint Nextel asserts that its recovery fee is legal, however, and plans to continue its collection.

Court Strikes Down Approval of Verizon-MCI Merger in Pennsylvania

Although its decision will not unwind the Verizon-MCI merger, which was completed over a year ago, a Pennsylvania court recently remanded the Pennsylvania Public Utility Commission's ("PUC") approval of the merger for further proceedings. According to the court, the PUC failed to support its conclusion that the merger would encourage deployment of advanced services and save consumers money. Accordingly, the PUC is directed to reject the merger or "impose conditions that will benefit the public in a substantial way."

Qwest Brings Mandamus Petition to Suspend AT&T Tariff

In a filing made February 12, 2007, with the U.S. Court of Appeals for the D.C. Circuit, Qwest Communications International ("Qwest") asked the court to direct the FCC to suspend certain provisions of an allegedly discriminatory special access tariff that AT&T proposed one day before the FCC approved the merger between AT&T and BellSouth.

The dispute arises from a complex concession AT&T made as a condition of approval of the AT&T-BellSouth merger. Specifically, AT&T effectively agreed to reduce its rates for certain special access services, but conditioned the availability of those reductions to other "price cap [incumbent local exchange carriers]" on the filing of reciprocal in-region discounts by those carriers within 90 days of the merger's closing.

In its petition, Qwest argues that it was "blindsided" by this proposal when it was made to the Commission at the end of December, 2006. Subsequently, on January 12, 2007, AT&T formally notified Qwest that AT&T would file a tariff confirming its "discriminatory treatment of Qwest" unless Qwest first committed to offer reciprocal special access rate concessions. AT&T gave Qwest a deadline of February 12, 2007, to respond to its demand, and Qwest elected to file its petition for mandamus on that date.

Qwest argues that the normal tariff review process will not protect its interests in this case, and asks the court to intervene with an order to the FCC to suspend the AT&T tariff before it takes effect.

Universal Service Developments

The administration of the Universal Service Fund ("USF") is the subject of several recent developments. The developments specifically concern the continuing efforts to control the growth of the USF and ensure that it is not subject to waste, fraud, and abuse.

The Federal-State Joint Board on Universal Service held an en banc hearing in February to discuss high-cost USF support in rural areas. The hearing consisted of two panels, the first of which addressed the use of reverse auctions, and the second of which discussed the use of geographic information systems and mapping techniques. The members of the Joint Board include FCC Chairman Martin, Commissioners Michael J. Copps and Deborah Taylor Tate, and five state officials. Chairman Martin stated at the hearing that he is against allocating USF subsidies to multiple carriers in the same area and that holding reverse auctions to distribute USF support would be a reasonable solution to the "unsustainable" growth of the USF. Martin also indicated that he may back allocating USF support to promote broadband deployment. According to Martin, several reverse auction proposals had been submitted to the FCC and were being reviewed. Although Commissioner Tate also agrees with reverse auctions, Commissioner Robert M. McDowell has not yet decided whether he will join the other Republican commissioners in supporting reverse auctions.

A recently enacted continuing resolution to keep several federal agencies running included a one-year exemption from certain accounting requirements in the Anti-Deficiency Act for the USF. Under the ADA, the USF administrator must keep cash on hand to cover all of its funding obligations, instead of its past accounting practices which allowed it to make commitments based upon monies it will collect in the future. Without the exemption, the Universal Service Administrative Company ("USAC") would have to change its accounting practices from GAAP (generally accepted accounting principles) to government accounting principles. The exemption expires December 31, 2007.

Further, the White House has proposed a budget for 2008 funding that would increase the USF program budget from approximately $7.73 billion to $8.25 billion. If approved, the personnel assigned to the FCC's Office of Inspector General would increase from 20 to 39 and an extra $1 million would be allocated for USF audits.

In addition, the Senate Commerce Committee held a hearing on the USF on March 1, 2007.

FTC's Two-Day Broadband Workshop Highlights Net Neutrality Divide, and Maryland Steps into the Fray

In mid-February, the Federal Trade Commission ("FTC") held a two-day Broadband Connectivity Competition Policy Workshop in Washington, D.C. This workshop highlighted the divide between the proponents and opponents of the imposition of so-called "network neutrality" or "net neutrality" regulations on broadband Internet access providers. FTC commissioners in attendance urged the parties to aim for a more constructive dialogue.

Opponents of new net neutrality regulations cautioned that such regulations would harm competition, innovation, the development of new services, and therefore consumers. Instead, they urged monitoring and case-by-case assessment of discrimination and blocking problems, arguing that existing FTC or FCC authority can address most such consumer issues.

Proponents of new net neutrality regulations urged the need for broad rules so that small start-up companies are not hindered in developing new Internet applications. Some proponents supported the recent AT&T/BellSouth merger conditions on net neutrality as a good definition and starting point.

FTC Chairman Deborah Platt Majoras has publicly opposed enacting new regulations unless there is evidence of consumer harm. FTC Commissioner Jon Leibowitz, however, seemed open to the possibility of some affirmative, middle-ground role for the FTC. Although acknowledging that the FCC has a "major role to play" on net neutrality issues, FTC Commissioner Leibowitz argued that the FTC's consumer protection mandate makes that agency a natural to enforce certain aspects of net neutrality, particularly consumer disclosure.

Panelists also discussed whether there is any need for regulation regarding wireless net neutrality, which largely turned on their views of how competitive the wireless industry is.

Public comments on the workshop were due at the end of February, and an FTC task force will now prepare a report to Congress on its conclusions and recommendations regarding broadband policy, including whether the FTC needs additional regulatory authority. The report is expected to be issued by the summer.

On the wireless front, Skype filed a petition for rulemaking asking the FCC to apply its old *Carterfone* framework to the wireless industry. *Carterfone* held that consumers should be able to attach non-harmful devices and hardware to the wireline public switched network, and Skype is now arguing that wireless consumers need similar rights to use any software application and any non-harmful device on wireless networks. The FCC has not yet established a pleading cycle on this petition.

At the state level, a bill was just introduced in Maryland that (a) would require quarterly reporting from broadband providers regarding the extent of broadband deployment and (b) includes the net neutrality conditions from the AT&T/BellSouth merger.

White House Budget for 2008 Proposes Increase in FCC Spending and Announces Plans for Spectrum-Related Legislation

The Bush Administration has proposed a $313 million budget for the FCC for fiscal year 2008, representing an increase of approximately $25 million over the estimated FCC spending for fiscal year 2007. The proposed budget would double FCC spending for investigating waste, fraud, and abuse in the federal Universal Service Fund. It also would provide an additional $2 billion in first-responder preparedness grants, as well as funding for educating consumers about the digital TV transition, renovating FCC labs, and replacing public safety support vehicles.

Additionally, the budget proposal revealed plans to propose spectrum-related legislative initiatives that, according to the Administration, could raise billions of dollars for the U.S. Treasury over the next decade. Notably, the Administration announced that it would propose legislation requiring an auction of licenses for the terrestrial components of future satellite licenses, as well as for domestic satellite services such as direct broadcast satellite and satellite digital audio radio services. The Administration also noted that it would continue its efforts to obtain legislation authorizing the FCC to impose user fees on unauctioned spectrum licenses. This initiative has not gained much traction in Congress in the face of strong opposition from TV broadcasters.

Legislative Developments

As expected, the change in control of Congress has brought major changes to the communications legislative agenda. Instead of reviving efforts in the prior Congressional session to enact sweeping communications reform, Democrats have adopted a piecemeal strategy of pursuing smaller measures that target specific issues. This strategy is intended to allow Congressional leaders to move quickly on urgent policy issues, as well as to avoid the pitfalls of pursuing a bloated legislative package that ultimately collapses in the face of opposition from varied interests.

Since the beginning of the year, Senate Commerce Committee Chairman Daniel Inouye (D-Hawaii) has introduced targeted legislation such as a bill to provide guidance to the National Telecommunications and Information Administration on awarding grants for interoperable emergency communications services. Additionally, Sens. Snowe (R-Maine), Nelson (D-Florida), and Clinton (D-New York) introduced a bill requiring telephone companies to give Voice over Internet Protocol ("VOIP") providers access to 911 networks and requiring VOIP providers to inform their customers if they are unable to properly route 911 calls.

New Prepaid Calling Card Quarterly Reports and Certifications Due 2Q2007
In June 2006, the FCC released its *Prepaid Calling Card Order*, which directed prepaid calling card service providers to comply with certain new reporting and certification requirements. The new requirements, which were recently approved by the Office of Management and Budget ("OMB"), are now effective. Under the new requirements, all prepaid calling card service providers must report percentage of interstate usage ("PIU") factors and call volumes to those carriers from which they purchase transport services by the 45th day of each calendar quarter. Prepaid calling card providers also must file quarterly certifications with the Commission, which must include certain information regarding their prepaid calling card services. The certifications are due no later than the last day of each quarter. (Therefore, the first certification deadline is the last day of the second quarter of 2007, or June 30, 2007.)

XM and Sirius to Merge

In a move anticipated by Wall Street and industry observers, XM Satellite Radio Holdings Inc. ("XM") and Sirius Satellite Radio Inc. ("Sirius") announced on February 19 that they have agreed to a tax-free "merger of equals." XM shareholders will receive 4.6 shares of Sirius stock for each of their XM shares. The deal is valued at approximately $13 billion, which includes around $1.6 billion of debt. Mel Karmazin of Sirius will become Chief Executive Officer of the merged company, and Gary Parsons of XM will become chairman. The combined company's name and location have yet to be determined.

An expensive race to sign on-air talent over the last several years, heavy marketing expenses, and technical challenges have caused both companies to lose billions of dollars and their stock value to decline. The companies hope that the cost-cutting and combining of resources associated with the merger will help strengthen financial performance and result in a more competitive content provider.

After the merger, the resulting company would be the sole remaining satellite radio operator in the U.S., sparking regulatory issues that certainly will stall, and could prevent, consummation of the deal. The FCC must approve the combination and waive or change a 1997 rule that requires that there be two operators using the satellite radio spectrum. In addition, the merger will have to pass Department of Justice antitrust review. While traditional radio broadcasters and some consumer groups plan to fight the merger as anticompetitive because it will leave only one satellite radio provider, XM and Sirius likely will argue that the relevant market is broader than just satellite radio because traditional broadcast radio, high-definition radio, personal music players (such as iPods), and Internet radio are all competitors. Given the legal and political obstacles, opinion has been mixed among media industry observers regarding the probability that the deal will close.

House Committee Moves Measure on CFIUS Review Process

The House has been working on a bill that would tighten U.S. scrutiny of foreign investments. This process is conducted by the Committee on Foreign Investment in the United States ("CFIUS"), which comprises representatives of 12 government agencies, including the U.S. Treasury Department, the Department of Homeland Security, the Depart of Defense, and the State Department. As reported in the December 2006-January 2007 issue of this Bulletin, CFIUS has imposed increasingly stringent conditions on recent transactions.

Now, the House is considering a bill to raise U.S. scrutiny of foreign investments. Among other things, this bill would require an automatic extended 45-day investigation (beyond the normal review) of all investments involving companies controlled by foreign governments. A Treasury Department assistant secretary cautioned the House Financial Services Committee not to unduly hinder open investment in the United States or to unduly extend review of routine transactions.

The House Financial Services Committee, however, did approve an amendment that would limit the government's ability to impose the so-called "evergreen" condition that would permit the government to later unwind deals that were previously approved. Specifically, the bill as amended would now permit such a reopening of a transaction only at the most senior levels of the government and only if there has been a breach by the foreign company of a previous security agreement with the U.S. government. Business groups urged that the bar for such action should be set even higher or perhaps even prohibited entirely, due to the uncertainty such a condition creates for foreign investment. The House Financial Services Committee also approved an amendment that would require the President to approve transactions involving investment from countries the U.S. deems to be sponsors of terrorism.

Video Franchising Developments

Video franchise reform bills designed to shift franchising authority from municipalities to the state level have made progress in several states:

- In late January and February, the legislatures of Florida, Georgia, Idaho, Iowa, Tennessee, Utah, and Washington all introduced video franchise reform bills that would shift video franchising authority from municipalities to a state-level authority.
- On February 1, the Michigan Public Service Commission approved a standardized application form for video providers seeking a statewide video franchise under legislation adopted in 2006.
- The Missouri State Senate on February 21 voted 32-2 to adopt a bill shifting the video and cable franchising authority from local municipalities to the state Public Service Commission. The bill, initially lauded by cable companies, has come under attack for failing to include three key provisions. The provisions would have charged satellite TV providers a 5% video tax in place of cable franchise fees, maintained FCC oversight of VOIP communications, and specified that should one provision of the bill be found unconstitutional, the whole bill would be struck down. The bill, which enjoys the support of Governor Blunt, now moves on to the Missouri House for a vote.
- The Tennessee legislature is currently working on a bill to give video entrants a choice of seeking a state video franchise or individual municipal franchises. New providers may either (1) seek a statewide franchise from the secretary of state, or (2) negotiate with individual municipalities for new terms or opt into an incumbent's local franchise terms.

Other video franchise reform efforts suffered setbacks:

- A video franchise bill in Colorado was introduced in February, but defeated shortly afterwards.

Cable operators in Texas, seeking to block a statewide franchising law recently enacted, are appealing to the Fifth Circuit a lower court's decision to uphold the law.

Upcoming Deadlines for Your Calendar

Note: Although we try to ensure that the dates listed below are accurate as of the day this edition goes to press, please be aware that these deadlines are subject to frequent change. If there is a proceeding in which you are particularly interested, we suggest that you confirm the applicable deadline. In addition, although we try to list deadlines and proceedings of general interest, the list below does not contain all proceedings in which you may be interested.

March 6, 2007	Comments due on **aviation radio NPRM**.
March 7, 2007	**Broadband PCS spectrum (Auction No. 71)** short-form application window opens.
March 7, 2007	Reply comments due on proposal to **remove certain non–U.S.–licensed satellites from the exclusion list**.
March 12, 2007	**CALEA VOIP SSI Plans due.**
March 12, 2007	Reply comments due on **700 MHz public safety broadband spectrum NPRM**.
March 16, 2007	**Broadband PCS spectrum (Auction No. 71)** short-form application window closes.
March 16, 2007	**TV license post-filing announcements due** for New York and New Jersey.
March 16, 2007	**TV license pre-filing announcements due** for Delaware and Pennsylvania.
March 19, 2007	Comments due on **Missoula Plan amendments to address "early adopter"**

	issues.
March 23, 2007	Comments due on **transfer of DirecTV from News Corp. to Liberty Media**.
March 31, 2007	**Circuit status reports due** for international facilities-based carriers.
March 31, 2007	**Circuit addition reports due** for international private line resellers.
April 1, 2007	**TV license expiration date** for Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.
April 1, 2007	**TV license post-filing announcements due** for New York and New Jersey.
April 1, 2007	**TV license renewal applications and post-filing announcements due** for Delaware and Pennsylvania.
April 1, 2007	**Telecom Reporting Worksheet (FCC Form 499A) due.**
April 2, 2007	Reply comments due on **retirement of copper lines**.
April 3, 2007	Reply comments due on **Missoula Plan amendments to address "early adopter" issues.**
April 5, 2007	Reply comments due on **aviation radio NPRM**.
April 9, 2007	Reply comments due on **transfer of DirecTV from News Corp. to Liberty Media**.
April 16, 2007	**TV license post-filing announcements due** for New York and New Jersey.
April 16, 2007	**TV license post-filing announcements due** for Delaware and Pennsylvania.
April 20, 2007	**Broadband PCS spectrum (Auction No. 71)** up-front payments due.
April 23, 2007	Comments due on **migratory birds NPRM**.