

What to Expect at the FCC's July 2017 Open Meeting

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Below is Kelley Drye's preview of the items under consideration at the Federal Communication Commission's (FCC's) upcoming monthly Open Meeting, to be held on July 13, 2017. Consistent with the trend since he took over the Commission, Chairman Ajit Pai continues to schedule a large number of items. Indeed, for the sixth month in a row, the Commission has six or more items on its agenda. This month, the agenda consists of eight items, two Notices of Proposed Rulemaking, two Notices of Inquiry, two Reports and Orders, and one Order on Reconsideration.

Each agenda item is summarized below. Note: these brief summaries are based on draft items, which may differ from the final items released following the Open Meeting. Please check with Kelley Drye after the meeting for more information on the items below.

Call Authentication Trust Anchor Notice of Inquiry (NOI)

The Commission will consider a [Notice of Inquiry](#) on call authentication frameworks to allow telephone service providers to identify fraudulent calls. The authentication procedures are intended to allow subscribers and carriers to know that callers are who they say they are. The Commission seeks comment on the three-phase process put forward by the Alliance for Telecommunications Industry Solutions (ATIS) and SIP Forum. Phase one involves the development of the the **Secure Handling of Asserted** information using to**KENS** (SHAKEN) framework, based on the protocols developed by the Internet Engineering Task Force (IETF) Secure Telephone Identity Revisited (STIR) working group. As the Commission explains, "in the SHAKEN/STIR model, a call is authenticated when it is signed with a digital signature by an authentication service, operating on behalf of the party originating the call." Phase two will define how the authentication services are to receive certificates in the first place. Phase three is still being developed by ATIS and the SIP Forum.

The Commission seeks comment on what the Commission should do, if anything, to promote adoption and implementation of authentication frameworks (such as the SHAKEN and STIR frameworks). The Commission asks for comment on the appropriate time frames and milestones for implementation of the frameworks. ATIS has suggested that the SHAKEN and STIR models require a "governance authority" and "policy administrator." In the NOI, the Commission asks what entity or entities would best serve in those roles, recognizing that the Commission could serve some of the functions, but may not be best positioned to handle all aspects of the positions. Because the SHAKEN and STIR proposals apply to SIP-based, but not SS7-based systems, the Commission also seeks comment on the role of SS7 and other legacy technologies in this proceeding.

As with most items under Chairman Pai, the NOI seeks comment to inform a cost and benefit analysis. The Commission asks for high-level estimates of the costs of implementing call authentication, as well as estimates of the benefits of an authentication system. The Commission

asks how these costs might be shifted among relevant stakeholders, and if end-user fees could be expected to cover service costs.

Advanced Methods to Target and Eliminate Unlawful Robocalls Second NOI

Chairman Pai has proposed a [Second Notice of Inquiry](#) to gather feedback on using numbering information to create a comprehensive list that businesses can use to identify telephone numbers that have been reassigned from a consumer that consented to receiving calls to a consumer who has not consented to the calls. Approximately 35 million telephone numbers are disconnected each year.

The Commission begins with asking how service providers can report number reassignments in an accurate and timely manner, and what information the provider would need to report. The Commission asks if a report when a telephone number is disconnected and is now “aging” would be adequate, or if the provider should also report when numbers become classified as available, or when the classification changes from available to assigned. The FCC asks if the reporting requirement should apply to all voice service providers, or whether it should apply only to wireless providers (given the Telephone Consumer Protection Act’s greater protections for wireless over wireline numbers). The Commission seeks comment on extending the reporting requirements to interconnected VoIP providers or Mobile Virtual Network Operators (MNVOs).

The Commission seeks comment on four mechanisms for voice providers to report reassignments and for robocallers to access that information. Option one is for voice providers to report to an FCC-established database, similar to what the FCC did to facilitate Local Number Portability. Option two is for providers to report reassigned number information to robocallers directly or to number data aggregators. Option three is for providers to operate internal databases and field inquiries from robocallers via an API. Option four is for providers to produce publicly available reports.

For each of these options, the Commission seeks comment on whether voice service providers should be compensated for the reassigned number information; the appropriate format of the information; the frequency with which voice providers would need to update reassigned information; managing access to reassigned number information; and the level of risk to customer proprietary network information (CPNI) and how to address any risk.

Protecting Consumers from Unauthorized Carrier Changes and Related Unauthorized Charges Notice of Proposed Rulemaking (NPRM)

The Commission will consider a Notice of Proposed Rulemaking (NPRM) that proposes rules to strengthen consumer protections against “slamming” and “cramming” practices. Slamming is the unauthorized change of a consumer’s preferred service provider, while cramming is the placement of unauthorized charges on a consumer’s telephone bill. Slamming and cramming violations represent one of the largest sources of consumer complaints to the Commission and have resulted in multiple enforcement actions imposing significant fines in recent years. However, the Commission continues to find slammers and crammers targeting vulnerable populations like the elderly, recent immigrants, and small businesses. The Commission’s NPRM specifically highlights abuses of the third-party verification (“TPV”) process, where agents hired by carriers speak with consumers to “verify” service provider switches. The NPRM includes reports of agents misrepresenting their identities, pretending to call on behalf of the consumer’s existing service provider. Agents have also prompted consumers to answer questions about unrelated matters (e.g., fake package deliveries) and then spliced the responses together to fabricate carrier switch verifications. The Commission proposed the NPRM on its own motion, reflecting its apparent continuing concern with slamming and cramming’s impact on consumers.

The Commission proposes five major reforms in the NPRM. First, the Commission plans to adopt rules explicitly prohibiting cramming and misrepresentations by carriers and their agents during carrier switch sales calls. While the Commission previously punished violators for such actions under its general consumer protection authority, the Commission stated that clear prohibitions would serve as a deterrent to carriers, provide clarity to consumers, and aid Commission enforcement efforts. Second, the Commission proposes requiring carriers to automatically “freeze” a consumer’s carrier choice until the consumer affirmatively chooses to switch carriers. Current Commission rules place the burden on consumers to request a carrier freeze, but many consumers do not know such protections exist. Third, the Commission proposes requiring carriers to automatically block all third-party fees for local and long-distance services, which are a frequent source of crammed charges on consumers’ bills. Consumers would need to affirmatively opt-in with their existing carriers to be billed for such third-party services. Fourth, the Commission is considering a rule change allowing carriers to “double-check” with their subscribers before confirming a switch to another carrier. The Commission previously prevented carriers from performing this check, worried they would delay carrier switches to try to retain subscribers. The Commission asks whether the double-check would unnecessarily burden carriers and comply with regulations covering the use of consumer information for commercial purposes. Finally, the Commission proposes requiring carriers that rely on TPVs to record the entire sales call leading up to a carrier switch to discourage misrepresentations, and asks whether it should go further and ban TPVs entirely in light of prior abuses. The Commission states that the proposed reforms will deter further slamming and cramming, while making enforcement actions against violators easier to prosecute.

Rural Call Completion Second Further Notice of Proposed Rulemaking

At its open meeting on July 13, 2017, the FCC commissioners will consider a draft [Second Further Notice of Proposed Rulemaking](#) (Second FNPRM) regarding the completion of long-distance calls to rural parts of the country. Poor call completion performance may refer to a number of incidences, including: the called party’s phone never ringing; significantly delayed calls; or, callers experiencing false ring tones or busy signals.

The Second FNPRM proposes and/or seeks comment on two ideas to improve call completion performance. The first proposal seeks to “adopt new rules that would, consistent with industry best practices, require providers to (1) monitor the rural call completion performance of their intermediate providers, and (2) hold those intermediate providers accountable for their performance.” The second proposal recommends eliminating the FCC’s current rural call completion data collection and reporting rules. The Commission suggests these existing rules may become needless by the adoption of the proposed rules.

The rural call completion Second FNPRM follows years of FCC actions designed to address poor performance and relies on information and recommendations in the FCC Wireline Competition Bureau’s [Rural Call Completion Data Report](#).

Video Description Report and Order

The Commission adopted this item on Wednesday, July 12, 2017. The summary below is based on the draft Report and Order. The final text of the item was not available at the time this advisory was published.

The 21st Century Communications and Video Accessibility Act of 2010 (CVAA) gives the Commission the authority to require certain video programming providers to provide video descriptions that make the programming accessible to individuals who are blind or visually impaired by aurally

describing a program's key visual elements during pauses in the program's dialogue. Under current Commission rules, commercial broadcast television stations affiliated with ABC, CBS, Fox, and NBC that are located in the top 60 television markets are required to provide 50 hours per calendar quarter of video descriptions for prime time or children's video programming. Multichannel video programming distributor (MVPD) systems must provide this same video description for each of the top five national non-broadcast networks that they carry. In the draft [Report and Order](#), the Commission will adopt rules that increase the required amount of video described programming from 50 hours to 87.5 hours beginning in January 2018. The rule would afford covered entities some flexibility in meeting this requirement by allowing them to count video descriptions for any programming that occurs between 6 A.M. and midnight, which would include more than just prime time and children's programming.

Updating the Part 2 Equipment Authorization Program First Report and Order

The Commission will consider a Report & Order that would revise the Part 2 Equipment Authorization Program. The [draft order](#) takes several steps to reduce burdens associated with the equipment authorization rules. The most important aspect of the proposed order is that it combines two existing self-approval processes into a single process. Currently, manufacturers may self-approve certain devices either via verification or Declaration of Conformity (DoC). The Order will replace verification and DoC with a single process – “Supplier’s Declaration of Conformity” (SDoC).

The proposed Order also seeks to lower manufacturing costs by allowing electronic (rather than physical) labeling for the display of information required for disclosure under the Commission’s rules, eliminate the requirement to file a form with U.S. Customs and Border Protection (CBP) for imported RF devices, and streamline measurement procedures for devices operating in different RF services.

Radar Services in the 76-81 GHz Band Report and Order

In the [draft Report and Order](#), the FCC considers adopting a more flexible and streamlined approach for a variety of radar operations in the 76-81 GHz band. Specifically, the draft Order would designate the contiguous five gigahertz block of millimeter wave spectrum for vehicular and foreign object debris radar operations. This spectrum block would be able to support not only currently authorized long range radar operations but newer short range radar applications that can require up to four gigahertz of bandwidth. The draft Order would also permit expanded use of non-vehicular fixed and mobile radars to be used in airport air operations areas. To effectuate this result, the FCC will consolidate all radar operations under the Part 95 licensed-by-rule model, in contrast to the licensed and unlicensed regimes currently in effect under Parts 15 and 90. The new rules would harmonize U.S. operations with international efforts to create a global allocation for vehicular radars.

Wireless Microphone Operations Order on Reconsideration and Further Notice of Proposed Rulemaking

The Commission will vote on an Order on Reconsideration and Further Notice in several proceedings that seek to offset reductions of some spectrum previously accessible to wireless microphones and by providing access in new bands for users of wireless microphones.

The [draft Order](#) addresses several petitions for reconsideration with respect to wireless microphone operations in the TV bands, the 600 MHz guard bands and duplex gap, the 600 MHz service band, and the 1435-1525 aeronautical mobile telemetry band. The Draft Order primarily focuses on relaxing or clarifying technical rules and post-incentive auction operations for licensed and unlicensed wireless mikes. It also affirms the Commission’s decision to limit licensed wireless

microphone users in a given area to access no more than 30 megahertz of spectrum in the 1435-1535 MHz band, absent special temporary authority.

While the draft Order declines to permit unlicensed wireless microphone users to register their operation in the television white spaces database to obtain interference protection from white space devices, in the Further Notice of Proposed Rulemaking, the Commission proposes to “permit certain qualifying professional theaters, music, and performing arts organizations to obtain a ... license that would allow them ... to obtain such interference protection in the TV bands and, when needed, also to operate in other spectrum bands available for licensed wireless microphone operations.” The Commission also inquires in the Further Notice whether to institute minor relaxations in the eligibility requirements for licensed microphones in several bands.