

MiCTA Legislative & Regulatory Update January 2009



The News You REALLY Can Use!

By
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Happy New Year! Here's hoping all MiCTA members had a great holiday season, and are all ready and "pumped" to dive into 2009 and make it a successful year!

With the state of not only the U.S. but the global economy, many would have us believe it is time to not only hunker-down but shrink-back from moving forward in our ICT environments. Although it is true that we must proceed with a heightened sense of awareness and caution, this is also a time to showcase the areas of ICT that provide cost-savings and cost-avoidance benefits in tough financial times. Two of the most obvious are audio and video conferencing in lieu of travel/face-to-face meetings. At my institution, audio conferencing requests were already increasing steadily but have shown a great increase the past few months...I'm presuming video conference requests have also risen similarly. The potential for cost savings and efficiencies gained via other individual and unified communications technologies can also be utilized to promote expanded use and report on the important contributions ICT can make in tough economic times. And, with the beginning of winter comes snow, ice, heavily blowing winds, school and business delays/closings, colds/flu (sick days working at home), and tons of fun on the roads! It's amazing how a little snow & ice greatly increases the popularity of such technologies....use this to your advantage as well in encouraging your end users to make use of these cost-efficient services!

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A New Day at the FCC; Genachowski to be Chairman

In a move that was no real surprise to anyone, President-Elect Obama announced he would nominate his old college buddy Julius Genachowski to Chair the FCC.

Forty-six year old Genachowski is no stranger to the FCC, as he had been chief counsel to then-FCC Chairman Reed Hundt, during the Clinton Administration and had also been special counsel to former FCC Chair William Kennard, while Kennard was FCC general counsel. Genachowski also served as law clerk for Supreme Court Justices William J. Brennan and David Souter. Genachowski and Obama were classmates at Harvard, and Genachowski served on the Harvard Law Review when Obama headed it.

Genachowski was the chief architect of the Obama Innovation and Technology plan; he strongly advocates universal broadband, and is also an advocate of network neutrality although many note that since the term has numerous definitions it's a bit unclear as to Genachowski's specific take on it.

General consensus is that Genachowski will have no problem in the confirmation process.

In other FCC Commissioner news, Commissioner Deborah Tate left the FCC in early January as her term expired, and it's reported that current FCC Chairman Kevin Martin will take a position at the Aspen Institute.

Early Surprise in 111th Congress! Kerry Re-Introduces Cellphone Bill

In quite a surprise, Senator John Kerry (D., Mass), who had introduced one of the cellphone/IRS issue bills last year, introduced S.144, the MOBILE bill (Modernize Our Bookkeeping in the Law for Employees) on January 6th.

As you may recall, the issue of cellphones being under the designation of "listed property" by the IRS, making the value of employee personal calls on employer-provided cellphones being considered taxable income, has introduced cumbersome logging requirements, hefty fines for non-compliance, and has caused companies and institutions to move to alternatives such as providing stipends for employees to use their personal cellphones and mobile devices for business purposes.

The bill is certainly short-and-sweet; it simply states that the IRS code should be amended to remove cellphones and other mobile communications devices from "listed property" under section 280F of the Internal Revenue Code. If passed, the amendment would apply to taxable years beginning after December 31, 2008.

After being introduced and read twice, it was referred to the Committee on Finance.

Legislation similar to Kerry's original legislation and this legislation introduced in the U.S. House in 2008 was passed but became bogged-down in the Senate. We will monitor this issue closely, as passage of this legislation would be of substantial assistance to many MiCTA members.

Text of Bill:

<http://www.thomas.gov/cgi-bin/query/z?c111:S.144>

Universal Service in the News

First Quarter 2009 USF Contribution Factor Decreases!

In a very much appreciated announcement in this troubled economy, the FCC office of the Managing Director (OMD) announced the proposed universal service contribution factor for the first quarter of 2009 will be lowered to **9.5%**, from its six-month run at 11.4%.

This great news is a result of what I've so often called both the mathematical formula and wizardry in the determination process that reviews both the projected quarterly costs & needs to sustain universal service support mechanisms and the USF contributors' projected net interstate and international telecom revenues.....from which the contribution is obtained, to ultimately come-up with the percentage contribution factor.

So, hopefully this at-least temporary drop in the USF contribution fee will be helpful to all MiCTA members!

The FCC, the USF, & ICC? So With The Latest, What Will They Do?

In the last issue, we provided a bit of history of both Universal Service and Intercarrier Compensation, as well as to outline what the FCC might choose to do regarding a certain aspect of ICC that had a judicial deadline of November 5th. Since that time, the FCC's action & inaction has led to a current stalemate, which might take some time to resolve, with not only the FCC but congressional as well as White House involvement.

In a quick recap, by November 5th, the FCC was to issue a new ruling pertaining to ISSP-bound traffic. Chairman Martin also wanted to announce various reforms of the USF and ICC as well. However, knowing he did not have the votes, he pulled the item from the agenda. The other four Commissioners, not being pleased with Martin's actions, voted to approve a Report on Remand on the ISP issue, rejected the proposals on USF from the FCC Federal-State Board, but also issuing a Further Notice of Proposed Rulemaking (FNPRM) on USF and ICC, including three proposals for USF/ICC reform (including the Chairman Martin proposal). The four Commissioners believed they could receive comments/reply comments back, digest the information, and make a ruling by December 18th (which almost no one else believed). Ultimately, time indeed ran short, and the issue was left awaiting action at some future date by an FCC of a different makeup.

The Obama Administration, in its Innovation and Technology Plan, calls for a universal broadband initiative, utilizing a number of means including the Universal Service Fund and the Administration's economic stimulus plan. However, the details have yet to be worked-out and I predict the Administration will receive some surprises in their first attempt at this, which may appear more like a square peg in a round hole...until it is indeed fleshed-out. So, do not hold your breath for USF/ICC reform action to take place in the near future!

You can read details of the FCC/USF activity at:

Order: [Word](#) | [Acrobat](#)

Martin Statement: [Word](#) | [Acrobat](#)

Copps, Adelstein, Tate and McDowell Joint Statement: [Word](#) | [Acrobat](#)

FCC Adopts/Releases Orders November 5th on USF/ICC Reform

+Order Concerning Compensation Rates for ISP-Bound Traffic (from Judicial Deadline)

+R&O Declines to Adopt Fed/State Joint Board Recommended Decisions

+FNPRM regarding USF/ICC Reform/3-Proposals

Order: [Word](#) | [Acrobat](#)

Martin Statement: [Word](#) | [Acrobat](#)

Copps, Adelstein, Tate and McDowell Joint Statement: [Word](#) | [Acrobat](#)

International News

EU To Require Reductions in Texting/Termination Fees

Pending approval by the European Union Parliament, the EU will implement reductions in texting & wireless data fees, responding to the large number of "bill shocks" received by mobile users when seeing up to thousands of Euros in SMS and mobile data download charges from roaming among EU countries.

With Viviane Reding's European Commission for the Information Society and Media offering-up the proposal and the European Commission (EC) issuing its approval, only the European Parliament and the European Council (the two entities are "co-deciding" this issue) have yet to give their approval and the proposed reduction plan will be implemented, effected or in-force July 27, 2009. The plan calls for a cap on SMS message fees at 11 Euro cents per sent message (4 Euro cents wholesale), which is a reduction from the current average of 29 Euro cents per sent message (with a current high of 75 Euro cents per sent message). The plan also caps mobile data download charges at 1 Euro per 1 Mb data, which is a reduction of about 90% from the estimated EU roaming average.

Ms Reding noted, "Using your mobile phone abroad in the EU should not cost unjustifiably more than at home, whether for making calls, sending texts or surfing the web. Europe's 37 million tourists and 110 million business travelers are waiting for the promise of the borderless single market to finally have a positive impact on their phone bills."

For those MiCTA members who have interests in the EU, this action could substantially reduce current mobile fees incurred by their employees traveling throughout the EU.

For more information:

<http://ec.europa.eu/information-society/activities/roaming>

Recently-Released FCC Reports

OFFICE OF THE INSPECTOR GENERAL SEMI-ANNUAL REPORT TO CONGRESS.
04/01/2008 – 09/01/2008, 2008. Action by: Inspector General by REPORT.
Corrected:

http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-287601A1.pdf

Revisions:

http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-287600A1.pdf

USF - HIGH COST PROGRAM INITIAL STATISTICAL ANALYSIS OF DATA FROM THE 2007/2008 COMPLIANCE ATTESTATION EXAMS. Action by: IG by Report.

http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-286971A1.pdf

(Good explanation of high cost fund; also finds \$900 million + in overpayments; may spur debate on USF reform)

USF - Federal-State Joint Board Staff Releases Monitoring Report.

News Release: [Word](#) | [Acrobat](#)

Complete Report: [Acrobat](#)

Introductory pages: [Acrobat](#)

Report Sections: [[1](#) | [2](#) | [3](#) | [4](#) | [5](#) | [6](#) | [7](#) | [8](#) | [9](#) | [10](#) | [11](#)]

USF - RELEASE OF FUNDING YEAR 2009 ELIGIBLE SERVICES LIST FOR SCHOOLS AND LIBRARIES USF MECHANISM. Action by: the Commission

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-08-265A1.pdf

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-08-265A2.pdf

USF - OFFICE OF INSPECTOR GENERAL RELEASES STATISTICAL ANALYSIS OF AUDIT OF LOW INCOME FUND.

Release http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-287310A1.pdf

Report http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-287304A1.pdf

USF - OFFICE OF INSPECTOR GENERAL RELEASES STATISTICAL ANALYSIS OF AUDITS OF SCHOOLS & LIBRARIES FUND. http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-287311A1.pdf

E911 - TELECOM RELAY AND SPEECH-TO-SPEECH SERVICES FOR THOSE WITH HEARING & SPEECH DISABILITIES E911 REQUIREMENTS FOR IP-ENABLED SERVICE PROVIDERS.

(implement timely 10-digit numbering/interoperability for IP-based users).

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-08-275A1.pdf

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-08-275A2.pdf

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-08-275A3.pdf

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-08-275A4.pdf

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-08-275A5.pdf

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-08-275A6.pdf

FCC QUARTERLY REPORT ON INFORMAL CONSUMER INQUIRIES AND COMPLAINTS.

http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-287780A1.pdf

FCC QUARTERLY REPORT ON INFORMAL CONSUMER INQUIRIES AND COMPLAINTS.

http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-287778A1.pdf