

# TR VoIP Policy Report

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## Regulatory

### Some VoIP Service Providers Fear Loss of Independent MCI

The fate of MCI, Inc.'s wholesale service business — and its importance to some VoIP service providers — has become a point of contention in the FCC's review of Verizon Communications, Inc.'s proposed acquisition of MCI.

Bright House Networks, a cable TV system operator managed by Advance/Newhouse Communications, says it can't do without MCI. Bright House says its VoIP business depends on various support services from MCI, including interconnection, call termination, long distance transport, directory assistance, and Internet backbone service.

In comments filed late last week at the FCC, Bright House notes that Verizon helps justify its acquisition of MCI by pointing to the growth of competition from VoIP service providers like Bright House. "Bright House Networks is proud to count itself among the growing list of cable operators providing IP-enabled digital voice telephony to its subscribers, as cited by the applicants [Verizon and MCI]," it said.

"However, neither the applicants nor their economists address the heavy reliance placed by Bright House Networks and other cable operators on the competitive, nondiscriminatory long distance access, PSTN [public switched telephone network] interconnection, and Internet backbone access made available to them by non-incumbent providers such as MCI," Bright House said.

"MCI has been the only available 'one-stop' vendor for Bright House Networks," the company said in its filing in the Wireline Competition docket 05-75 proceeding. "Post-merger, Bright House Networks will be forced to rely upon its principal retail competitor [Verizon] for provisioning of long distance service, interconnection/call termination, and back-office services."

### Verizon: Wholesale Providers Abound

But Verizon says MCI is not the only wholesale vendor. "There are a number of competing providers in the market

*(Continued on page 7)*

## Report: Nations Differ Widely In Regulatory Approach to VoIP

**D**espite being a global service, VoIP is subject to a wide range of country-by-country regulations, according to a new report by the Global IP Alliance, a trade association of IP-enabled service providers that aims to promote “industry-based” solutions in the hope of heading off government intervention.

The report, unveiled in Stockholm, Sweden, details VoIP policies in more than 30 countries and finds a wide range of regulatory approaches. The report itself is available only to members of the alliance, but some of its findings were presented late last week to *VPR*.

Some countries, including the U.S. and Canada, have recently acted to regulate VoIP, particularly with respect to access to emergency-calling services, the report says. But many other nations are choosing not to regulate VoIP or to apply only a minimum level of regulation.

Countries with minimal or no regulation include Australia, China, Cyprus, Hong Kong, Ireland, Japan, Poland, Singapore, and the United Kingdom, the report says. Countries that apply some licensing and other basic requirements, such as quality of service rules, include the Czech Republic, Greece, Israel, Malaysia, and Panama.

According to an alliance official, the report concludes that the “disparate” global regulatory approaches “suggest that the VoIP environment is currently uncertain and is changing rapidly. It is expected that countries currently lacking a specific VoIP policy could quickly adopt regulations in the future. In addition, a number of proceedings tracked in the report will shortly result in regulations.”

**“The emerging IP-based communications industry is capable of self-governance without the need for stringent regulatory interference.”**

The alliance describes the report as “the first in a series of evolving, updateable resources that will establish the alliance as the ‘go-to resource’” for global data on IP-based communications. “By supplying information and support regarding regulatory activities, the alliance will also serve to demonstrate that the emerging IP-based communications industry is capable of self-governance without the need for stringent regulatory interference or prescriptive oversight,” the alliance said.

“While the report is not available to the general public at this time, some of the findings may be released to government regulators and other officials, particularly in

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developing countries, to assist them in devising policies that encourage the advancement of IP-based communications,” an alliance official told *VPR* in a statement.

“The alliance will develop liaison activities for the disparate entities worldwide concerned with issues related to achieving widespread success of IP communications in a global environment,” said Jonathan Askin, the alliance’s acting executive director, in a statement.

“We understand that there are many entities throughout the world attempting to address the social issues and other challenges confronting the IP-based community,” he added. “Through joining with other members of the Global IP Alliance, companies and organizations will help to speed the development of awareness, resources, and approaches to foster the rapid deployment and ubiquity of IP communications.”

Marilyn Cade, a strategy consultant to the alliance, said, “Rules are being set right now that affect IP-enabled services, especially VoIP. Lawmakers and regulators have both questions and concerns that need to be addressed.”

The alliance, formed last August, doesn’t intend to become a lobbying or standards-setting organization. Members include *pulver.com*, Skype Technologies S.A., SBC Communications, Inc., Global Crossing Ltd., KMC Telecom, Inc., Coretel, EarthLink, Inc., Volo Communications, Inc., and Internet Foundation Austria. **VPR**

## FCC Bureau Chief Expects Work in ‘Brand X’ Aftermath

**W**hen the Supreme Court rules in the *Brand X* cable modem regulatory classification case, the FCC is “prepared to move swiftly” in dealing with broadband policy issues, the new chief of the FCC’s Wireline Competition Bureau said this week.

Speaking at Pike & Fischer’s Broadband Policy Summit in Washington on June 1, Thomas Navin said one of the more important issues that will have to be resolved in the wake of the court’s ruling is how it affects the FCC’s *Computer Inquiry* framework.

He added that FCC Chairman Kevin J. Martin is committed to broadband competition as “pivotal” to both an expanding competitive communications market and to President Bush’s goal of ubiquitous broadband access by 2007.

Regarding potential changes in the universal service mechanism, Mr. Navin said the FCC Chairman “has long

avored a numbers-based approach” as a predictable and stable method of assessing contributions. **VPR**

## FCC’s VoIP E911 Deadline ‘Stringent,’ Analyst Says

**T**he FCC’s 120-day deadline for VoIP providers to offer enhanced “911” (E911) services comparable to those offered by wireline providers “seems a bit stringent” and is “unlikely” to be met by all providers of VoIP services, according to Atlantic-ACM, a Boston-based analyst and consulting firm.

“Hopefully, the FCC and Congress will reconsider their blanket policy on VoIP providers’ E911 responsibility, but it is important this policy discussion get under way,” according to a report from Fedor Smith of Atlantic-ACM.

With 20% of U.S. households projected to use VoIP within four years, it would be “irresponsible” if the FCC and Congress didn’t demand reliable 911 services for those subscribers, the report said. “However, it would likewise be inappropriate for government regulators to smother the exploding consumer VoIP industry, and their demands should be tailored accordingly.”

Atlantic-ACM suggested that the “presentation of VoIP services should dictate the haste with which 911 is made available” to customers. “VoIP providers that position themselves as alternatives to conventional residential phone services, allowing consumers to utilize their existing phones and providing the same functionality as conventional phone service, should certainly be expected to deliver reliable E911 access immediately.

“But the same cannot be said for PC-based ‘free’ VoIP services that offer little more than cheap calling over the Internet,” the report says. “Services like Skype, which specializes in peer-to-peer calling, particularly internationally, should not be expected to offer the same degree of consumer protection as a Time Warner service bundled with a cable offering — for technical and other reasons.”

One key will be ensuring that public safety answering points have the funding to handle the information from VoIP 911 calls. “Perhaps this discussion will result in new funding that will help upgrade all emergency services across the board, so regardless of whether you are calling from a cellphone, a landline, or a laptop, the person on the other end of the line will have as much information as possible.” **VPR**

# On the Record

## TV Signals Seen As Key To Locating VoIP Calls

In an order adopted in May, the FCC mandated enhanced “911” (E911) capability on calls using interconnected VoIP service. It also said it planned to seek comments on the possibility of a VoIP E911 solution that does not rely on users to update their location information with their providers.

John Metzler, director-business development at Rosum Corp., spoke to VPR this week about his company’s location solution using broadcast TV signals to calculate caller location. An edited transcript of that discussion follows:

**VPR:** Could you explain the technology that Rosum uses for its TV-GPS (Global Positioning System) solution and how it differs from the GPS technology that wireless carriers use to locate 911 callers?

**Metzler:** I’ll start with what GPS is. GPS is 28 satellites in the sky. What you’re doing is using three or more to triangulate device position. You’ll figure out how long the satellite [transmission] traveled to get to where the device is. If you have three of those, you can triangulate where the device is on the globe.

We use the same principle of triangulation, but [it is] done with TV transmitters on the ground. They’re not moving, and there are multiple channels on each one of them, sometimes 10 to 20, so what we’ll do is pick the best available channels from any given transmitter, look for three or more of them, and triangulate based on that.

The big difference vis-à-vis GPS is the signals are much higher power, sometimes megawatt power versus watt power for GPS. GPS is 500 watts. TV transmitters can be up to 5 megawatts.

[TV signals are] much lower in frequency, which means that you can receive the signals much better indoors. Basically the lower the better as far as getting signals indoors. You might remember in the first place that TV was designed to be receivable indoors. . . .

Another advantage that sounds kind of simple but does help is that the signals are coming in horizontally from the horizon. What that means is that they’re punching through glass windows as opposed to multiple floors of concrete or steel or whatever the building happens to be made of, so there’s an orientation advantage as well.

One further advantage is . . . if you have multiple channels on any given transmitter . . . some [signals] might bounce more than others. Since you have a diverse channel body to choose from, you can pick the best of the best and find the line-of-sight signal, which is a huge advantage vis-à-vis GPS, because GPS is all locked on the same frequency, and there’s only one channel coming from the satellite.

**VPR:** So does each broadcast station’s transmission carry some kind of information that lets you know which tower it’s coming from and what time it left?

**Metzler:** That’s not actually in there. There isn’t an ID in there saying this left Mt. Wilson in Los Angeles, or wherever it is, although the ATSC [Advanced Television Systems Committee] is working on [an RF (radio frequency) watermark that would essentially serve as a transmitter ID], but that doesn’t exist right now. . . .

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**“We use the same principle of triangulation [as GPS] but done with TV transmitters on the ground.”**

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We don’t add anything to the signal, nor do we actually demodulate the TV picture. We’re not looking for a given broadcast or a certain broadcaster. What we are looking for — and they exist in both digital and analog — [is] something that basically serves as a timing component for us.

In digital it’s what’s called the field segment sync, which occurs each TV frame. In analog it’s called the ghost-canceling reference [GCR]. You might recall in the good old days you would see ghosting on your TV screen; you would probably be asked by your parents to go out and hold the antenna and make sure that didn’t happen.

The GCR . . . eliminates that. It has the fortuitous byproduct that we [can] use it to correlate, which means we’re looking for that pulse in the signal, and we figure out how long it traveled from the transmitter to the receiver. . . .

**VPR:** The receiver is a chip in the VoIP phone?

**Metzler:** Yeah. The mole device — let’s use a VoIP phone as an example — will have an antenna, obviously. . . . It’s not demodulating picture; it’s just pulling that timing component out of it.

It’s not [calculating the position] on the device. We’re actually positioning on a server. What a VoIP phone is for us is basically a TV measurement device that meas-

ures the amount of time [a signal] took to go from transmitter to device. Then we'll send it back to our server for calculation. . . .

*VPR: How many broadcast towers does the caller need to be in range of, and how close does the caller have to be to the towers?*

**Metzler:** There are 2,800 towers in the U.S., which is nice, especially when compared with GPS. There are 20 satellites, and [the system] is designed so you can probably see six or seven at any given time. Signals are receivable for our purposes usually for a range of 50 to 100 kilometers. That depends on terrain. You can see [the signals for positioning purposes] much further than you would if you were to watch TV, for example. The power levels we can use are far lower.

*VPR: Those 2,800 towers are obviously concentrated in more densely populated areas. If someone were to take their VoIP device on vacation to some ranch in the middle of Montana, for example, are they likely to run into spots where this location technology is not going to work?*

**Metzler:** Certainly the towers are more correlated with urban areas. Fortunately for our purposes that's where most people and most assets of value tend to be. Certainly if you were to go out to a ranch in Montana, you might only see two transmitters, as opposed to three.

In the first product with Trimble, the reason we went with a TV and a GPS solution was for that purpose. We recognized that we certainly are sufficient as a stand-alone for urban area applications, but people might want to take their cars out to more rural areas. And the same would apply in VoIP as well. We would look at that as a hybrid TV and GPS implementation.

*VPR: Right now with the VoIP providers you're working with, are you looking at just a TV implementation?*

**Metzler:** The demonstrations we have done have been TV only, and the merit of that has been to show how deep the signals punch within buildings. We were out a couple weeks ago in the Washington area. We were doing locations in the National Press Club, in the Watergate Hotel, the J.W. Marriott Hotel, for example, so certainly very challenging RF environments. For a longer-term product that is more a national implementation as opposed to a metro implementation, we would envision a TV and a GPS implementation.

*VPR: I've been in some of those hotels that you mentioned and had trouble picking up the cell signal on my wireless phone at the lower [underground] levels of the hotel. Did the TV technology work at the lower levels?*

**Metzler:** We were pleasantly surprised actually; we had no connectivity issues whatsoever. We were getting fixes in some really challenging crannies within the building, so I was quite pleased. It has not proven to be an issue so far.

*VPR: How closely can you pinpoint the caller's location?*

**Metzler:** The benchmark we use publicly is the FCC's specifications for wireless E911. It's 50 meters 67% of the time for handset solutions, and we would fall in that category.

Wireless E911 for the cellphone carriers was a national average, so what you did is you went to the rural areas you mentioned such as Montana, you went to urban centers, and you aggregated that nationally to say you are or you are not compliant.

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## **"We were getting fixes in some really challenging crannies within the building."**

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What we've done is throw out all the open-sky environments and just tested indoors in urban centers. We are hitting those specs in some highly challenging locations, such as those I mentioned. Certainly 50 meters is not where we want to stop, and we do better than that in some locations. What I'll say is tens of meters.

The VoIP providers have recognized that we're probably the best performing indoors, and they have asked for higher accuracy specs, and certainly we can understand why they would do that. We're working on refinements that would get us even more accurate.

What we're emphasizing now is the combination of accuracy and availability. We will go into locations where nothing works and we will get a location, which obviously has high value in terms of preserving public safety.

*VPR: In terms of the business arrangement, do VoIP providers pay for the technology and the chips? Do they pay a per-subscriber or per-use fee?*

**Metzler:** It's hard to comment now, to be honest. I'm not sure what would appear on a subscriber's bill, for example. Speaking personally as a VoIP subscriber — I am a Vonage customer — one of the great advantages is that it is inexpensive. I think the last thing anyone wants to do is cut off that oxygen while the market is still going through this incredible growth. So the onus is on us and the other 911 stakeholders to make sure that whatever is proposed is cost competitive.

The other element of that is how do you avoid a cost burden on the PSAP [public safety answering point]. One of the lessons of wireless 911 was that the carriers implemented this technology at some expense, but no one really remembered that the PSAPs had to embrace new technology to accept some of those calls.

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**“From the carrier’s point of view, location can be a revenue generator, not just a public safety 911 issue.”**

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What we desire is to make sure that whatever is sent to the PSAPs is in a format where they don’t need new equipment, and that certainly is possible with the interconnectors such as Intrado or TCS, and that what is delivered to the service providers doesn’t put an onerous burden on them. Now, it would require some modifications to the handset, so certainly a chip would go on that, and the purchase of servers by the service provider or their preferred service operator. But I can’t really comment on pricing at this point.

*VPR: So you don’t plan to provide location resolution through your servers yourself? Do you prefer someone else to purchase the server?*

**Metzler:** We do that [provide location resolution] right now in the fleet management trials that we’re conducting. What I would envision and what we’re discussing in VoIP is what you’ve seen in wireless 911, where the interconnectors host what is called PDE — position determining entity — in a hosted server model. We’re a technology company; we’re latitude-longitude finders basically. For the scale of VoIP, which is millions of subscribers, certainly we would want to turn that over to the trusted partners of carriers.

*VPR: We haven’t seen the text of the FCC’s VoIP 911 rulemaking notice yet, but the agency said it planned to ask about the possibility of a solution that does not depend on users updating their location information, which sounds like what you’re offering. If the FCC does not require a user-independent solution, do you see other advantages to VoIP providers in adopting a TV or GPS-TV solution?*

**Metzler:** We’re hoping that they do go with a device-based solution. I think there are significant advantages to not requiring user interaction. Personally I’ve mistyped my address before when I was updating my location. In its

present state there are fairly significant lags between when you update your location and when you actually have that 911 call location transferred. So doing away with that is to the advantage of both subscriber and carrier.

There are other benefits. As the handsets go more mobile . . . moving away from the user-interaction model would certainly relieve a whole lot of burden on the user and the service provider. People tend to forget those things. When I take it with me, I don’t always remember to update my location, or I just [take it with me] in a caveat emptor fashion, where I know I’m not covered for 911, and just sort of accept that.

The other merit of robust call-location ability isn’t just 911, but location-based services. Conversations with the VoIP service providers have indicated they are interested in looking beyond 911 to what they can do around location.

*VPR: Sort of an Onstar PDA?*

**Metzler:** Yeah, you see nascent services in cellular, where you have friend finder, or location-specific traffic information. From the carrier’s point of view, location can be a revenue generator, not just a public safety 911 issue.

*VPR: In developing this solution, have you been working with NENA [National Emergency Number Association] and the telecom industry?*

**Metzler:** We were in discussions with NENA last week. What the VoIP providers have said is that they want whatever 911 capability they go with to be standards-compliant. The FCC’s [VoIP E911 order] selected NENA as the standards-creation [organization].

As far as the other stakeholders, the interconnectors are present in wireline and wireless, and I would see them having the same role in VoIP. A lot of the usual suspects will certainly be present.

*VPR: Would the standards generally deal with the formatting of the information that’s delivered to the PSAPs?*

**Metzler:** Yeah, there’s the formatting issue, and I think there’s also a comfort issue, where the VoIP providers want to be sure that they’re not putting out a stand-alone solution, that they’re going with what industry has recognized as a valid solution, and I can see why they would want to do that.

*VPR: Can you say whether you have a commercial agreement yet with any VoIP providers?*

**Metzler:** We are working on those; we do not as yet. **VPR**

### Loss of Independent MCI *(Continued from page 1)*

today offering wholesale services to providers of VoIP,” it told the FCC.

“Cable and other VoIP providers today obtain wholesale VoIP services from numerous carriers other than MCI, including Level 3, Sprint, Teleglobe, Global Crossing, Broadvox, Symmetric Broadband, Volo, RNK, CommPartners, Kancharla, Global Telecom, Nuvio, PacWest, and Covad,” Verizon said.

It added that “a growing number of VoIP providers, including cable companies such as Cablevision and Cox, use their own technology and facilities to provide VoIP service.”

Bright House, however, says the wholesale service providers listed by Verizon are not reasonable substitutes for MCI. Sprint, for example, is the incumbent local exchange carrier (ILEC) in several markets where Bright House competes, which puts it in the same position as Verizon.

Level 3 Communications also is “an unattractive alternative to MCI for provision of wholesale services,” Bright House said. “Bright House Networks considered partnering with Level 3 when initially developing its telephone product, but Level 3 could not provide access to the rate centers required to serve Bright House Networks’ customers.”

“Furthermore,” Bright House added, “Level 3 has ceased providing business-class wholesale services and is generally retreating from the provision of residential wholesale services as well.”

As for its ability to rely more on its own facilities, Bright House says its “ability to partner with MCI has been essential to its timely rollout of cost-competitive telephone service due to the expense and delay associated with constructing duplicative back-office facilities, and because of MCI’s proven expertise in handling number-porting requests quickly and efficiently.”

### Internet Backbone Worries Cox

Bright House is not the only cable TV system operator or VoIP service provider to express concern about the loss of MCI. Others, including Cox Communications, Inc., which is less reliant than Bright House on wholesale network service providers, say MCI plays a vital role in the voice market.

Along with AT&T Corp., which is being acquired by SBC Communications, Inc., MCI has fought costly battles to secure favorable interconnection arrangements with ILECs, Cox told the FCC.

“The loss of AT&T and MCI as independent voices in the competitive marketplace will inevitably change the dynamics by which competitive LECs secure efficient interconnection arrangements,” Cox said.

Cox also expressed concern about Verizon’s acquisition of MCI’s “Tier 1” Internet backbone and wholesale transport businesses, which are vital to VoIP service providers.

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**“Verizon could afford to sacrifice such wholesale revenue to protect its core retail service revenues.”**

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“The merged company would have an increased capability and incentive to raise or maintain its [Internet] transit rates at supra-competitive levels or engage in other anticompetitive conduct,” Cox said. “Such actions would have the external effect of raising the costs for Cox and other IP service providers to compete against Verizon’s core retail services.”

“Whereas a pre-merger MCI would be concerned about a potential loss in wholesale revenue if other Tier 1 Internet providers offered lower transit rates, Verizon could afford to sacrifice such wholesale revenue to protect its core retail service revenues,” Cox argued.

“Cox and other customers of MCI’s transit services could not readily respond by switching to another Tier 1 Internet backbone provider and certainly could not switch without suffering a loss, given that they already have spent substantial time, money, and resources to install connections to MCI’s backbone facilities,” it said.

### Verizon Disputes Claims

Verizon, however, says claims that its purchase of MCI would enable it to hurt competitors are “at war with the facts.”

Combining its existing Internet backbone business with MCI’s, for example, would give the combined company only a 10% share of North American Internet traffic, it said. “The combined company would not have close to a market share that would threaten competitive harm.”

Wholesale customers “will benefit from the creation of a stronger nationwide provider with a broader facilities-based reach,” Verizon added. Service providers have a variety of wholesale service providers from which to choose, Verizon said, and it intends to compete for wholesale business.

“While a carrier would generally prefer to have the end user as its customer and collect the resulting retail revenues, it is a simple fact of life that it is going to lose customers to retail competitors,” Verizon told the FCC.

## “Verizon intends to honor MCI’s existing contracts to provide wholesale VoIP services.”

“That being so, a carrier would rather collect revenue generated by having some of the wholesale traffic on its network than forfeit this revenue entirely because that traffic ended up on alternative facilities,” it said.

### FCC Seeks Data

The issue apparently is on the FCC’s radar screen. Thomas Navin, chief of the Wireline Competition Bureau, asked Verizon and MCI last month for additional data about the companies’ wholesale and VoIP businesses (*VPR*, May 20).

Several of Mr. Navin’s requests focused on MCI’s converged cable solutions wholesale unit, which supports VoIP offerings of cable TV system operators. He asked, for example, what would happen to the unit if the merger was approved.

Verizon and MCI responded to Mr. Navin’s requests last week with several hundred pages of filings, much of it

redacted. “Verizon and MCI have not conducted detailed integration planning and therefore have made no definitive plans with respect to MCI’s converged cable solutions or other matters,” they said.

“Consistent with the foregoing, however, Verizon generally intends to continue with MCI’s business plans,” they added. “In particular, Verizon intends to honor MCI’s existing contracts to provide wholesale VoIP services, so there will be no disruption to any customer that today purchases wholesale service from MCI.”

But that response won’t mollify Bright House. “The concern raised by this merger is not that Verizon will stop providing wholesale access and related services to other carriers,” Bright House said. “Rather, the concern is that Verizon will drive up its competitors’ costs of purchasing ... services needed to compete.”

Bright House, Cox, and others are urging the FCC to impose conditions on the merger requiring Verizon to provide wholesale and Internet backbone services at reasonable, equitable, and nondiscriminatory rates.

“For any such condition to be meaningful, it is essential that Verizon’s internal cost allocation be used as a benchmark for ‘reasonableness’ when determining acceptable rates,” Bright House said. “Otherwise, the merged firm will simply be able to extract similarly anticompetitive rents from all buyers, all the while asserting its equitability and nondiscrimination.”

Verizon, not surprisingly, views such conditions as unnecessary. “Competitive pressures” will prevent it from behaving anticompetitively against VoIP service providers, it says, and companies like Bright House are motivated by “fears that [the merger] will create a more efficient rival, or on their selfish hopes that they will benefit from the imposition of unnecessary conditions.” **VPR**

## Legislative

### Hill Staffers Still Hope For Telecom Bill in 2005

**S**taffers for House and Senate commerce panels and panel members are still optimistic that Congress will manage to pass some telecom legislation this year beyond the pressing issue of the digital TV (DTV) transition.

Amy Levine, legislative counsel to Rep. Rick Boucher (D., Va.), and Rachel Welch, Democratic counsel to the Senate Commerce, Science, and Transportation Committee, both suggested that the odds of broader telecom legislation being enacted this year are as high as 50%.

Mike O’Rielly, senior legislative assistant to Sen. John Sununu (R., N.H.), said he was an “eternal optimist” and believed legislation would be passed “this year or early next.”

The need for legislation seems clear, according to congressional staffers at a June 1 Pike & Fischer Broadband

Policy Summit in Washington. “We can see that the silo approach that we’ve had since essentially 1934 has created a lot of dilemmas at the FCC,” Ms. Levine commented.

Moderator Howard J. Symons, a partner in the law firm of Mintz, Levin, Cohn, Ferris, Glovsky & Popeo P.C., asked whether universal service and intercarrier compensation — troublesome regulatory hangovers from the analog world — should be “the preeminent issues for consideration” in any major telecom legislation, rather than broadband and Internet protocol [IP] issues.

“It would be very helpful if the FCC would go ahead and address these issues,” responded **Peter Filon**, minority counsel to House Energy and Commerce Committee.

Universal service and intercarrier compensation “are part of the debate, and you’re not going to be able to separate them out,” Mr. O’Rielly said.

Ms. Welch said, “We may be pushed up against a wall, because the [Universal Service Fund] contribution factor has gone over 10%. We also have the Antideficiency Act issue, with the one-year exemption expiring this year.” Legislation to extend the ADA exemption could provide a vehicle for comprehensive universal service reform, she added.

Regarding whether Congress might want to pass legislation regarding the classification of cable modem and other broadband services if the Supreme Court rules against the FCC in the pending *FCC v. Brand X Internet Services et al.* case, Ms. Levine said, “Regardless of how *Brand X* comes down in court, you’ll see someone or someones coming to Congress for a fix.”

“From Congressman Boucher’s perspective, he would like to see regulatory parity,” she added.

On his first day as president of CompTel/ALTS, **Earl Comstock**, the lone nonstaffer on the panel, called for network access guarantees, as opposed to principles of network neutrality. “Net neutrality assumes you’re already on the network, which kind of begs the question [of what happens] if they won’t let you on the network.”

Mr. O’Rielly, however, suggested that such guarantees were unnecessary, because “it’s in the best interest of network providers to allow subscribers to go wherever they want to go.”

Ms. Levine disagreed. “The Vonage-Madison River [port-blocking] incident demonstrates that there are providers that will block access to services,” she said. “Maybe it’s time for Congress to step in and say consumers have the right to go wherever they want and attach whatever devices they want.”

Mr. O’Rielly responded, “Could I just suggest that one example doesn’t make a rule? Before this I had never heard of Madison River.”

Mr. Symons asked Ms. Levine whether IP deregulatory legislation introduced by her boss and Rep. Cliff Stearns (R., Fla.) would create a situation where traditional voice service and VoIP service would be regulated differently. “It’s possible,” she said. “It’s something that Congress needs to look at.”

Sen. Sununu introduced IP deregulatory legislation last year, but during markup much of its potential effect in preempting state regulatory efforts was undercut by amendments, and ultimately the bill died without a floor vote.

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**“Maybe it’s time for Congress to step in and say consumers have the right to go wherever they want and attach whatever devices they want.”**

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Mr. Symons asked Mr. O’Rielly whether Sen. Sununu planned to reintroduce the legislation and if so, whether he would stick with the original version or offer something closer to the committee’s markup.

“The time period since the bill was marked up has only made our arguments stronger,” Mr. O’Rielly replied. “How do you do [wiretap obligations under the Communications Assistance for Law Enforcement Act] in a scenario where it doesn’t apply to IP data but it does to IP VoIP?”

Regarding wireless services, Mr. O’Rielly suggested there was a need for Congress to consider preempting state efforts to use the authority reserved to them by the 1934 Communications Act, as amended, to regulate wireless service terms and conditions other than pricing and marketing entry. He added that Congress might look at preempting states in the area of telecom taxation as well.

Regarding a telecom regulatory role for the states going forward, Ms. Welch said, “There’s a balance that needs to be found between what are the core competencies [of state commissions and the FCC]. An ‘800’ number for consumer complaints [to the FCC] doesn’t seem to be the right answer.” **VPR**

## States

### Texas Lawmakers Side With Cable in IP Fight

**A**n effort by some Texas lawmakers to allow Verizon Communications, Inc., and SBC Communications, Inc., to provide Internet protocol (IP) video services to consumers without having to win approval from localities died in conference committee last weekend when legislators couldn't reconcile differing proposals.

The battle is part of a larger war between telcos and cable TV system operators to deploy a "triple play" of voice, video, and data to consumers over IP networks.

**"A statewide video franchise would have brought about genuine competition for video services more quickly than today's time-consuming process that favors the monopoly cable providers."**

The House last week added language to SB 408, sponsored by Sen. Jane Nelson (R.), giving the state — as opposed to individual municipalities — exclusive franchising authority over broadband services offered by telephone companies. But the Senate refused to accept the changes.

Steve Banta, Verizon's Southwest region president, said the decision to scrap the measure would hurt, but not halt, his company's efforts to deploy IP video services in Texas.

"Competition for video services will occur much slower without a statewide video franchise," he said. "A statewide video franchise would have brought about genuine competition for video services more quickly than today's time-consuming process that favors the monopoly cable providers."

The state's cable TV association hailed the decision by lawmakers, saying it would have enabled SBC and Verizon to pick and choose which customers would receive access to advanced services, as well as set their own rates for phone customers.

"Phone companies don't need incentives in order to invest in Texas," said Tom Kinney, chairman of the Texas Cable & Telecommunications Association. "We welcome competition, but companies should not ask the Texas legislature for special treatment in order to compete."

Aryeh B. Bourkoff, a financial analyst at UBS AG, said the situation in Texas would boost cable TV system operators' efforts to deploy VoIP and other advanced services. "It extends their window of opportunity to leverage the time-to-market advantage of bundled triple-play offerings," he said in a report.

But Verizon and SBC aren't giving up. They will seek similar legislation in other states and the U.S. Congress.

"It's sometimes easier to stop legislation than to pass it," Tom Tauke, Verizon's senior vice president-public policy and external affairs, told reporters. "But this is not a short-term effort. This is a long-term effort. We're going to be in the video business."

### Ohio Panel Adopts Bill To Limit VoIP Regulation

**T**he Public Utilities and Energy Commission of the Ohio House has adopted a substitute for a bill that, among other things, would restrict the authority of the state's Public Utilities Commission to regulate VoIP services.

HB 218, offered by Rep. David Daniels (R.), would prohibit the PUC from exercising any jurisdiction over broadband services or IP-enabled services inconsistent with FCC rules.

The legislation also would revise the state's policy regarding the handling of unbundled network element (UNE) issues by prohibiting the PUC from establishing any UNE requirements, or UNE pricing for interconnection or resale, which are inconsistent with federal law.

It also calls upon regulators to encourage the commercial negotiation of interconnection agreements. The legislation says it is the policy of the state to "rely on market forces, where they are present, to maintain just and reasonable rates ... for public telecommunications services."

Revisions made to the bill in committee include a section that would require the market forces to be capable of supporting a "healthy and sustainable, competitive telecommunications market." **VPR**