

CONSUMER ADVISORY COMMITTEE MEETING

Federal Communications Commission

Commission Meeting Room TW-C305, 445 12th Street, Southwest, Washington, DC

Friday, October 14, 2016

Welcome & Call to Order; Debra Berlyn, CAC Chairperson

Chair Berlyn called the final meeting of this Consumer Advisory Council (CAC)'s term to order at 9:10 am and expressed her appreciation to the members for their service.

Remarks of Chairman Tom Wheeler

Federal Communications Commission (FCC) Chairman Wheeler thanked the CAC members for their service and recommendations. These recommendations have led to FCC accomplishments such as the disclosure label for broadband, the creation of the Robocall Strike Force, and a rulemaking on robocalls. Bringing industry members together at this high level to discuss underlying technical issues with robocalls was impressive. He thanked the CAC for their work on the "No Surprises" Recommendation. The FCC will reconstitute the CAC and is looking through the large number of interested people to form an effective a group as possible. New members as well as current members will be considered in order to bring some fresh perspectives to the CAC.

Introductions & Meeting Logistics; Debra Berlyn, Scott Marshall, CAC DFO, Beau Finley, CAC Deputy DFO

Chair Berlyn announced that the "No Surprises" Task Force would be meeting during lunch to discuss and finalize their recommendation. Members were asked to stay for the afternoon session so that the CAC would have a quorum to vote on the Task Force's recommendation. Chair Berlyn thanked Larry Walke and the National Association of Broadcasters for sponsoring this CAC meeting. Mark Stone of the Consumer and Governmental Affairs Bureau (CGB) introduced CAC members by presenting them all with Certificates of Appreciation. Chair Berlyn was presented with an engraved gavel in honor of her nine years of service as CAC Chairperson. She expressed that it has been an honor to represent consumers in this capacity, especially because of the devotion of other CAC members. She thanked FCC staff and Scott Marshall, the Designated Federal Official (DFO). Mr. Marshall thanked Beau Finley, the Deputy DFO.

Member Herrera suggested that new CAC members go through an orientation before beginning their service and that the CAC's task force process be altered so that issues to work on are chosen before the different task force groups are formed. Chair Berlyn and Mr. Marshall agreed with these points. Mr. Marshall added that the CAC is increasingly receiving specific topic requests from the FCC. Member Fazlullah suggested that the CAC have introductory speakers come in for the first few meetings of its new term to ease members into the new Administration and its new agenda. Chair Berlyn added that the CAC might meet before the goals and requests of the new Administration are well established.

Member Herrera suggested that in the future, more time be allotted for FCC presentations to the CAC in order to give members more time to ask questions. As an alternative, she suggested that presenters give a pre-meeting presentation to a specific CAC task force so that they can field questions and make any necessary additions or revisions to the presentation prior to meeting with the full CAC.

Consumer and Governmental Affairs Bureau (CGB) Update; Mark Stone, Deputy Bureau Chief, CGB, Karen Peltz Strauss, Deputy Bureau Chief, CGB

Mark Stone began by thanking Scott Marshall and Beau Finley for their work. The FCC has recently had several robocalls developments. In July, the FCC clarified the parameters of prior expressed consent, which, generally, robocallers must obtain before contacting a consumer. A consumer giving their number to an entity can satisfy the Telephone Consumer Protection Act (TCPA)'s requirement of prior expressed consent, as long as the purpose of the robocall is reasonably related to the purpose for which the consumer provided their telephone number. However, the FCC has stated that the best way for a robocaller to obtain consent is to be as explicit as possible. The FCC has also implemented a new TCPA section, which builds off of a CAC recommendation and is based on legislation passed by Congress in the Bipartisan Budget Act of 2015. This section exempts federal debt collection and servicing calls from the TCPA's consent requirements but imposes some important limits. For example, these calls can only be made to collect or service the debt and can only be directed to the debtor or someone who is also liable for the debt. A service or collector can make no more than three calls to a consumer per month, and a consumer has the right to stop these federal debt collection calls at any time. Robocallers must inform consumers of this right.

Although the TCPA is a good deterrent for responsible robocallers, it is not always effective at deterring robocallers with the intent to harass and defraud consumers. Robocall blocking and filtering complement the TCPA and provide other ways for consumers to stop unwanted robocalls. Last fall, the FCC convened a workshop with providers, third-party developers, and other regulators to discuss ways to improve robocall blocking and filtering, in which it was agreed that caller ID spoofing undermines the effectiveness of robocall blocking solutions. As a result, the FCC has asked call authentication standards bodies to accelerate their work on authentication. The Robocall Strike Force will deliver a plan later in October to accelerate better robocall blocking solutions.

Ms. Peltz Strauss then presented on work that she and her team have been doing. The FCC has recently released a white paper on the communication needs of people with cognitive disabilities and discussed features on communication devices that address these needs. Although these features already exist, many consumers don't know about them. The white paper was accompanied by a set of best practices put together by industry members and consumers regarding how to address the needs of people with cognitive disabilities in designing and developing communications products. The FCC's Disability Advisory Committee (DAC) approved these best practices. The FCC is open to more entities signing on to these best practices. Chairman Wheeler has also signed on to a pledge from the Coleman Institute for Cognitive Disabilities regarding the importance of considering the needs of people with cognitive disabilities when designing information and communication technologies.

The FCC recently sent Congress its biennial report on the 21st Century Communications and Video Accessibility Act (CVAA). This report is based on two rounds of comments made to the FCC by the public. The report found that industry has done a good amount of work to make its products and services accessible to consumers. However, accessibility barriers were found to still be present in feature phones and office phones. Although many have switched to using smartphones, there are still people who rely on these other devices. The FCC recently held a real-time text proceeding, in which they took comments and met with various stakeholders. An issue of concern is ensuring that real-time text works for 911 calls. The FCC is working with public safety communication organizations and companies to address this issue. In August, the FCC adopted its National Deaf-Blind Equipment Distribution permanent rules. Unlike the previous pilot program, the permanent program extends to Guam, Northern Marianas, and American Samoa. The FCC also now provides state-certified programs under this national program the funds to train trainers, who would then teach people how to use this equipment. This resolves a gap that was present in the pilot program. Other changes include the creation of a centralized database for improved reporting and of several additional enforcement mechanisms.

In August, the FCC adopted a hearing aid compatibility order that increases the number of wireless telephone handsets that have to be hearing aid compatible within two years to 66% and within five years to 85%. This order also establishes a commitment to 100% compatibility by 2024 if it is achievable. This feasibility will be examined by a task force that will report back to the FCC. The FCC already has a 100% compatibility requirement for wireline and cordless phones. In September, the DAC made recommendations on amplified phones in the technology transition, 911 training for video relay service communication assistants, and for establishing rules and standards for IP caption telephone service (CTS) quality of service.

Questions from the CAC

Member Fazlullah asked for more information about the digital inclusion plan. Member Bartholme asked if the TCPA's revised prior expressed consent parameters give consumers the ability to opt out of robocalls. Mr. Stone responded that although overall the TCPA doesn't prescribe an automated process for consumers to opt out of robocalls, for certain subsets of robocalls it does. However, under the TCPA a consumer always has the right to reasonably revoke consent. Member Herrera asked if the FCC could make simple-to-read factsheets regarding 4G and 5G tower siting to help members of the general public better understand the technology and the associated federal laws. Member Leech supported this request. Member Schroeder thanked Ms. Peltz Strauss and her team for all of their work and expressed his support for the white paper on the communication needs of people with cognitive disabilities. Chair Berlyn also thanked Ms. Peltz Strauss for her work.

Lifeline Developments and Outreach; Garnet Hanly, Special Counsel, Telecommunications Access Policy Division, Wireline Competition Bureau

The FCC has recently adopted a 2016 order to modernize Lifeline. The order has received Paperwork Reduction Act (PRA) approval and so almost all of the rules have an effective date of December 2nd,

2016. Reforms in this order include providing discounted service for broadband, eliminating waste, fraud, and abuse in the eligibility process by creating the National Lifeline Eligibility Verifier, and implementing minimum service standards. Eligible telecommunications carriers (ETC) will have the option of providing this broadband service, but High Cost ETCs will have the obligation to offer Lifeline-supported broadband. The minimum service standards for voice service implemented on December 2nd will be 500 minutes. The minimum for voice service and data will increase on a yearly basis. Fixed broadband providers must offer at least 4 Mbps of download and 1 Mbps of upload in order to receive Lifeline support. The order also requires that any new devices given through the Lifeline program must be WiFi capable and that at least one device must have hotspot capability.

Through these reforms, the FCC has also created a Lifeline Broadband Provider (LBP) designation process. If a company meets certain threshold requirements, they can be subject to a streamlined designation process, after which they can begin offering Lifeline-supported broadband. Some companies have already sent in designation requests, which the FCC is evaluating. The FCC is planning to put a list of these applications on their website to keep all interested parties informed, and encourages interested parties to file comments on these applications. The FCC has provided a guidance regarding what is important to include in these applications. Companies who would like to also offer voice service must complete the traditional ETC process. Companies who are already ETCs in the market can utilize their ETC designation to offer broadband without going through the LBP designation process.

Questions from the CAC

Member Herrera asked if the FCC has considered certifying local governments that are offering telecommunication services to entities such as low-income residents and schools as ETCs so that they can offer these services without charging for them. Ms. Hanly responded that local governments could work with existing ETCs to obtain subsidies for these services. Member O'Boyle suggested creating fact sheets to address these types of situations. Member McEldowney asked how the FCC will educate the public about the Lifeline program and expressed concern about the current web material for Lifeline. Member Wein commented that it would be helpful for the FCC to develop a mapping tool to show who offers service and where.

Update on August Technology Transition Order & September Workshop; Peter Saharko, Assistant Chief, Competition Policy Division, Wireline Competition Bureau

The Order provides a framework that allows for carriers to receive streamlined treatment of Section 214 discontinuance applications involving a legacy voice service undergoing the technology transition. The Order only includes legacy voice services; other services such as data are still covered under the traditional Section 214 framework. Under the traditional framework, all application processes are streamlined unless an objection is raised during comment period. However, the application processes under the technology transition framework are more rigorous unless the applicant can comply with the adequate replacement test.

The adequate replacement test allows applicants to give empirical data to show why the alternative service they've provided will serve as an adequate replacement for their legacy voice service. This test

has three prongs which must be met: (1) new service needs to provide similar levels of network infrastructure and security, (2) it needs to demonstrate compliance with existing federal and industry standards to ensure that critical applications remain available and (3), it must allow for interoperability and/or compatibility with key operations and functionalities. The FCC will consider the affordability of a service when determining whether an application is eligible for streamlined treatment. The Order has also established a detailed consumer education requirement. The notice requirements have been expanded to include tribal governments and can be emailed to customers by request. Two parties have filed reconsiderations of the Order, which the FCC will consider. The FCC hopes to make these rules effective by early 2017.

Questions from the CAC

Member Wein asked for more information on the affordability and battery backup issues. Mr. Saharko responded that any requirements concerning battery backup are built into the adequate replacement test. The Wireless Competition Bureau will not place an application on streamline processing if there's a material increase in the price for the replacement service compared to the service to be discontinued. Member Fazlullah asked if the price of the battery is included in this affordability consideration. Member Herrera asked if any consumer guides have been created, to which the answer was yes.

Introducing the Task Force on Optimal Public Safety Answering Point Architecture and the Transition to NG911; David Furth, Deputy Bureau Chief, Public Safety and Homeland Security Bureau

Roughly 75% of 911 calls are made from wireless phones. Public safety answering points (PSAPs) are primarily configured at the county or city level and are not within the FCC's regulatory authority, which makes for a decentralized system. Next Generation 911 (NG911) addresses how the transition from legacy to IP-based technology will affect 911. This new system will have the ability to handle text, videos, and photos. NG911 has the potential to be more capable and cost-effective than the current legacy system. However, proper planning and coordination between states is necessary to ensure this. State and local governments must take other public safety technologies into account when implementing the NG911 transition. Not doing so could lead to gaps in coverage and security. Many states have already begun actively planning for the NG911 transition.

The Task Force on Optimal PSAP Architecture (TFOPA) was convened in 2014 to examine the challenges that PSAPs face in transitioning to NG911. TFOPA created a comprehensive report and has sent it to every state governor and several public safety organizations. TFOPA is now working to translate some of the recommendations from this report into more user-friendly materials. TFOPA has three workgroups focused around cybersecurity, network architecture, and resource allocation. The cybersecurity workgroup will conduct an in-depth review of the Emergency Communications Cybersecurity (EC3) concept, which works to bring a more collective approach to PSAP cybersecurity between states. The network architecture workgroup will be developing a framework and a "NG911-Ready" Scorecard to help states understand what is needed to make the NG911 transition. The resource allocation workgroup will be looking more practically at various funding sustainment options presented in the report.

911 is largely funded by 911 fees on legacy wireline and wireless service. The state collects these fees and then distributes them at the state or local level. Some states have been using a portion of these fees to fund NG911 technology, and others have diverted a portion of the fees into general funds. Although the FCC can report on fee diversion, it cannot take enforcement action to stop it. The issue of creating a sustainable funding model for NG911 is under debate because many users of NG911 will be accessing it from non-legacy services, but currently 911 is heavily funded by those using legacy services. The FCC and National Highway Traffic Safety Administration (NHTSA) are working on a NG911 cost study that is expected to be out in September 2017.

Questions from the CAC

Member McEldowney asked about the timeline for the NG911 transition and if it could be sped up. Mr. Furth responded that the FCC is working to help states create a more organized approach to the transition, which in turn could make the transition move faster. Member Wein asked what group is working on 911 call authentication. Mr. Furth responded that along with their own work on the issue, the TFOPA is interested in leveraging authentication solutions developed by the Robocall Strike Force. Member Feerick asked if the NG911 transition would give individual emergency services personnel more or less independence.

EAS National Test Update; Gregory Cooke, Associate Division Chief, Policy Division, Public Safety and Homeland Security Bureau

The Federal Emergency Management Agency (FEMA) initiated a nationwide test of the Emergency Alert System (EAS) on September 28th, 2016. This test was done over television, radio, and cable but not over mobile phones. This test was more accessible than previous tests by having identical audio and text components that clearly displayed that it was a test and by being in both English and Spanish. Prior to the test, the Public Safety and Homeland Security Bureau performed outreach to various organizations to give their members an opportunity to provide feedback on the accessibility of the test. Out of the 60 that responded, a third reported no problems with the test. Over 95% of the EAS reporting participants received the test and almost 95% were able to retransmit it, making the test a success. Reports show the incidents where a participant couldn't receive or retransmit the test to be fairly isolated.

The FCC has augmented the EAS's legacy distribution system with one based on the internet, allowing for the text and audio of the alert to be identical. The biggest issue found when testing this system was that at least 40% of EAS participants picked up the alert only over the air and not through the internet, causing discontinuity between the audio and text components. Another issue was that some stations ran the text crawl too quickly to be understandable. The FCC is developing a set of best practices for stations to help combat this issue.

Questions from the CAC

Member McEldowney asked if the FCC is working to make the EAS test available in different Asian languages. Mr. Cooke responded that it is in the early stages of pursuing this. Member Bartholme asked

how the Advanced Television Systems Committee (ATSC) 3.0 will be factored into the EAS test. Mr. Cooke responded that the integration of ATSC 3.0 has a lot of potential.

Remarks of Commissioner Mignon Clyburn

The process of signing up for phone, internet, or paid TV service is not transparent for many consumers. The final quoted price for service often doesn't include taxes or other fees, meaning that consumers can end up paying several hundred dollars in unexpected fees. Commissioner Clyburn and Congressman Mike Doyle recently penned an op-ed stating their position that consumers should know exactly what they will pay when signing up for service. The op-ed called on communications providers to voluntarily improve transparency of their fees for consumers. Commissioner Clyburn is very pleased by the fact that the CAC has established the "No Surprises" Task Force and that the Task Force has created recommendations to address these concerns. She thanked the Task Force, CAC, and CGB for their work in addressing this issue.

Commissioner Clyburn described her experience of visiting an inmate facility in Essex County, New Jersey during her Connecting Communities Tour. Although Essex County provides affordable phone service rates to inmates, legislative security measures prevent inmates from calling cellphones. This is a problem because many families exclusively use cellphones. This is one example of how the Connecting Communities Tour showed how legislative policies impact communities. The FCC will have the Solutions 2020 Policy Forum at the Georgetown Law Center on October 19th, 2016. This forum will be livestreamed for those who can't attend. Commissioner Clyburn expects tangible results from this forum.

Questions from the CAC

Member McEldowney requested that the FCC view and promote the "No Surprises" Task Force's recommendations as requirements rather than best practices. Member Leech commented that the CAC will also need to work on the issue of caps for internet service. Oftentimes, internet service caps are small and easy to exceed, creating extra charges for the consumer. Commissioner Clyburn added her belief that all consumers should have access to high-quality service regardless of their financial status. She stated that everyone in the U.S. should have the opportunity to lawfully express and expand themselves and their potential, and that the FCC and communications industry has the capacity to continue to make that happen.

From 4G to 5G Wireless: What Does it Mean for Consumers? ; Paul Powell, Assistant Division Chief, Mobility Division, Wireless Telecommunications Bureau

4G has continued the melding of wireless technologies and the internet by enabling higher speeds for sophisticated services. In many ways, 5G will continue this network evolution. It has the potential to virtually erase the trade-off between speed and mobility and will connect the internet of things (IoT). 5G networks will bring reliable high-speed service and additional competitive broadband choices to unserved and underserved areas of the U.S. Enabling 5G will involve a combination of technological advances that will work together to bring consumers better services. 5G networks will require more

spectrum up and down the bands, higher responsiveness, and lower latency than is currently seen. To unlock the 5G opportunity, the FCC can (1) ensure ample availability of flexible use spectrum for a wide range of users, (2) take steps to foster a competitive provision of infrastructure and (3), help remove unnecessary hurdles to siting. The FCC is continuing to pursue a light-touch regulatory approach. The demand for spectrum has grown exponentially and is expected to continue growing well into the future.

Strategies to meet this demand include providing exclusive and unlicensed access, site and area-based models, and blurring the lines between these categories to improve efficiency and promote robust use of spectrum resources. The FCC is working to implement rules that will foster innovation without preference for one type of user or technology. However, spectrum has largely been allocated and utilized by a variety of federal and non-federal users. The FCC, in cooperation with industry and its federal partners, is exploring innovative methods of sharing spectrum among a variety of different users. The FCC is actively working to make new low-band, mid-band, and high-band spectrum available as well as on the first-in-the-world spectrum incentive auction. Mid-band spectrum is often overlooked but acts as a balancing space. High-band spectrum will be needed to support the new consumer services that will require more spectrum capacity. In the past, the FCC has addressed complex sharing issues by implementing a three-tiered sharing model that protected the incumbent users while allowing new access for new users.

Questions from the CAC

Member Herrera asked if the network drivers come from new IoT devices or from people increasingly using mobile broadband networks instead of wireline services. Mr. Powell responded that it is a combination of these factors as well as the next generation of network deployment.

Report & Recommendation of the No Surprise Billing Task Force; Ed Bartholme & Debra Berlyn, Co-Chairs

Chair Berlyn began by thanking members of the Task Force for their service. Member McEldowney made a motion to move the Task Force's recommendation from the floor, and the motion was seconded. Chair Berlyn reviewed some recent editorial and wordsmithing changes that the Task Force made to the recommendation. These changes removed redundancies and increased clarity. Member McAuliffe asked about proper bill itemization. Member Bartholme responded that the "No Surprises" recommendation wasn't really geared towards bill itemization but rather towards price clarity at service sign-up and notification when promotional or other price changes for consumers occur. Member Stout expressed his concerns that the recommendation's best practices would not be effective in practice and about the trustworthiness of the chart that they were based on. This chart was published by the FCC and detailed consumers' dissatisfaction with billing practices for communications services. However, Member Stout felt that this chart was incomplete because it did not contain sufficient social science analysis regarding the billing problems and the costs and benefits of fixing these problems. He was worried that passing the recommendation's best practices without complete information would trap companies in the future.

Member Stout moved to amend the recommendation to state that if the FCC were to rely on these best practices as part of a proceeding or enforcement action, that they would first conduct a consumer benefits analysis to determine if the best practices make sense in that given context. Member McAuliffe seconded the motion and it was moved to the floor for discussion. Member Morris opined that the amendment would open up another set of questions surrounding the nature of a consumer benefits analysis and overall wouldn't be necessary because the recommendation contains best practices rather than requirements. Although Member Calabrese agreed with Member Stout in general, he was comfortable endorsing this recommendation because it contained such baseline best practices. Chair Berlyn called for a vote on the amendment. The amendment was not approved with a vote of two aye and 18 no. Members Pociask, Walke, and Feerick abstained.

Member McAuliffe moved to amend the recommendation to add "to the extent allowed by law" to a sentence in one of the resolutions. The sentence would now read, that total monthly bill that includes all company-imposed fees, surcharges, and equipment charges just prior to sign-ups, and imposed taxes and fees to the extent allowed by law. This modification would take into account taxes and fees that aren't allowed to be disclosed. Member Stout seconded the motion and it was moved to the floor for discussion. Member Calabrese raised the point that even if a company couldn't specifically break down fees, it would still have to provide consumers with the total cost of fees. Member McAuliffe withdrew her motion. There being no other discussion, Chair Berlyn called for a vote on the "No Surprises" recommendation. The recommendation was approved and adopted with a vote of 17 aye and one no. Members Feerick, Lancetti, Kearney, Poday, and Walke abstained.

Comments from the Public

There were no public comments.

Renewal of CAC Charter; Scott Marshall & Beau Finley

Mr. Marshall thanked CAC members and FCC staff for their work.

Adjournment

There being no other comments, Chair Berlyn called for a motion to adjourn the meeting. A motion was made, seconded, and passed unanimously. The meeting adjourned at 2:33 pm.