

# The Metropolitan Corporate Counsel®

National Edition

www.metrocorpcounsel.com

Volume 23, No. 3

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March 2015

## Communications and Technology 2015 Forecast

*A look ahead at regulatory and legislative developments*

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MCC presents an executive summary of a report from **Akin Gump Strauss Hauer & Feld LLP**. The report, entitled “Communications and Technology 2015 Forecast,” is based on input from 15 members of the firm’s Communications and Information Technology Regulatory and Policy team, including partner and practice head **Tom W. Davidson**, senior partner **Joel Jankowsky** and partner **Jennifer L. Richter**. Following is a substantive overview of critical issues facing technology regulators and legislators in 2015, and the full report can be accessed here: <http://bit.ly/18kTzAn>

Communications and technology regulators have fertile ground for issues under consideration in 2015, including:

- A new net neutrality proposal from the FCC
- Continuing work on the broadcast incentive auction (BIA)
- New spectrum bands for wireless broadband service
- In aviation, rulemakings on small unmanned aerial vehicles and in-flight broadband service
- Progress on privacy, data security and cybersecurity issues

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- Copyright and patent reform
- A code of conduct relating to facial recognition data

On the international front, the report notes that telecommunications is one of seven “closed chapters” in Trans-Pacific Partnership (TPP) negotiations, the cornerstone of the Obama administration’s economic policy in the Asia Pacific.

### Big Issues for the FCC

#### Net Neutrality/Open Internet

The FCC was expected to vote on an order on net neutrality, or open Internet, at its meeting on February 26, after original publication of the report. Prior to the FCC’s vote on the order, Chairman Tom Wheeler released a teaser (fact sheet) describing the general direction of the proposed rules, which are rooted in Title II of the Communications Act and Section 706 of the Telecommunications Act of 1996.

The most significant developments involve (i) the application of Title II, (ii) extension of the rules to mobile wireless services, and (iii) potential extension of the rules to interconnection and peering arrangements. The report covers highlights from the fact sheet, including:

- **Breadth of the Rules.** Broadband Internet access service – the retail service to which consumers subscribe, whether through cable, phone or wireless – will be reclassified under Title II, with forbear-

ance from certain regulations. But the FCC also makes clear that “if a court finds that it is necessary to classify the service that broadband providers make available to ‘edge providers,’ [such service] too is a Title II telecommunications service.” Edge providers include companies that offer content, applications and websites accessed through the Internet, and the extension would grant the FCC jurisdiction to hear complaints that particular interconnection and peering arrangements fail the “just and reasonable” standard that applies to common carriers. To date, such arrangements have been left purely to commercial negotiations.

Although data services that do not traverse the public Internet – such as Voice over Internet Protocol (VoIP) carried via cable or a dedicated heart monitoring service – would not be subject to Title II oversight, Chairman Wheeler’s proposal, the fact sheet notes, “will ensure these services do not undermine the effectiveness of the Open Internet rules.”

- **Consumer Protections.** The anticipated consumer protections will apply, banning practices that are presumed harmful to an Open Internet: blocking, throttling and paid prioritization. There will be an “enhanced” requirement of transparency; broadband providers may not favor some traffic over others or create paid “fast lanes”; and a “general Open Internet conduct standard” will be adopted to prevent Internet service providers (ISPs) from “harming” consumers or edge providers.

- **Reasonable Network Management.** ISPs may engage in reasonable network management practices related to their technology (fiber, DSL, cable, unlicensed wire-

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less, mobile, etc.), but only if tailored to the legitimate network management need, and not a commercial purpose.

- **Forbearance.** While certain aspects of Title II regulation will apply to ISPs, the fact sheet notes that the proposals do not include “utility-style” rate regulation: no explicit rate regulation or tariffs (such as a ban on “zero-rating” plans), last-mile unbundling requirements, administrative filing and accounting standards, or Universal Service contribution requirements. The parts of Title II that will apply to ISPs include the prohibitions against unjust and unreasonable practices, authority to investigate consumer complaints, consumer privacy protections, fair access to poles and conduits, and protections for people with disabilities.

### **BIA Implementation**

The FCC is in the midst of a complex proceeding to implement a broadcast incentive auction (BIA), pursuant to which the agency seeks to recapture and auction for flexible use television broadcast spectrum in the UHF band. The BIA will consist of two components: (i) a reverse auction (television broadcasters elect to relinquish all or some of their spectrum rights in exchange for compensation) and (ii) a forward auction (new, flexible-use licenses suitable for mobile broadband services up for bid).

To reduce the amount of spectrum in the UHF band occupied by television stations, the FCC will require as part of the BIA that certain television broadcasters who elect to remain on the air relocate to another broadcast channel.

Broadcasters applying to participate in the reverse auction may elect to (i) relinquish all spectrum usage rights and go off-air; (ii) relinquish all spectrum usage rights and channel share with another market station; (iii) move from a UHF channel to a high-VHF channel; (iv) move from a UHF channel or high-VHF channel to a low-VHF channel; or (v) if involuntarily relocated, reject reimbursement of relocation costs and file a waiver request for enhanced spectrum flexibility.

The FCC is statutorily required to make all reasonable efforts to protect the coverage areas and populations served by full-power, Class A television facilities licensed as of February 22, 2012, that elect not to participate in the BIA, subject to certain limited exceptions.

The BIA could take place as early as 2016. The FCC has taken the following actions toward achieving this goal:

- **Report and Order.** In June 2014, the FCC released an order establishing the

general rules for the BIA. This order is the subject of a significant number of administrative appeals, as well as appeals before the D.C. Circuit filed by the National Association of Broadcasters (NAB) and Sinclair Broadcast Group (Sinclair). The NAB and Sinclair raise concerns with the methodology that the FCC will use to determine a station’s coverage area for purposes of the repacking process. Oral argument in the D.C. Circuit currently is scheduled for March 12, 2015. If the D.C. Circuit overturns the FCC order, it is likely to delay commencement of the BIA.

- **Broadcaster Information Package.** On February 6, 2015, the FCC’s Incentive Auction Task Force released an updated information package for broadcasters to use in evaluating whether to participate in the Incentive Auction. The FCC released its initial broadcaster information package, prepared by Greenhill & Co., LLC, in the fall of 2014. The updated package released today takes into account the FCC’s proposals in the Comment Public Notice described below and includes, inter alia, the maximum and median opening bid prices in each television market, calculated using the methodology proposed by the FCC in the Comment Public Notice; details on channel sharing and UHF-to-VHF bidding options; information on bidding processes; and a summary of how the repacking process will work for stations that do not relinquish spectrum rights in the BIA.

- **Pre-Auction Licensing Deadline.** The FCC’s Media Bureau has set May 29, 2015, as the Pre-Auction Licensing deadline, i.e., the date by which certain television stations, either previously deemed to be entitled to discretionary protection under the Spectrum Act or whose facilities were destroyed in the 9/11 attacks, must obtain a license to be eligible for protection in the repacking process.

- **Comment Public Notice.** In December 2014, the FCC released a public notice seeking comment (deadline passed) and reply comments (by March 13), on establishing (i) auction design requirements (e.g., the initial broadcast television spectrum clearing target), (ii) opening bid prices and (iii) final television channel assignment procedures.

- **Low Power Television Services.** The FCC is neither required to protect LPTV services in the repacking, nor are LPTV stations eligible to participate in the BIA. Accordingly, in October 2014, the agency released a Notice of Proposed Rulemaking (NPRM) seeking comment (deadline passed) on measures to (i) facilitate the final conversion of LPTV and TV translator

stations to digital service and (ii) mitigate the potential impact of the BIA and the repacking process on LPTV and TV translator stations.

### **Universal Service Reform**

In December 2014, the FCC moved forward with reforms to the Connect America Fund, laying the groundwork for price cap carriers to receive support for deployment of broadband under Phase 2 of the CAF. The agency also announced requirements for rural broadband experiment participants and adopted interim reforms to the high-cost loop support program for rate-of-return providers. Meanwhile, a decision is expected in early 2015 on the competitive bidding process for areas where price cap carriers decline model-based support, and the FCC may take other steps to reform support for rate-of-return carriers.

### **E-rate Reboot**

In December 2014, the FCC released a Second E-rate Modernization Order, in which it took additional steps toward achieving the robust Internet connectivity targets the agency set for eligible schools and libraries in its July 2014 order. Those targets included (i) high-speed broadband (HSB) access of at least 100 Mbps per 1,000 students and staff in the short term; (ii) 1 Gbps per 1,000 users in the longer term; and (iii) connections scalable to 10 Gbps per 1,000 students for WANs for schools.

The latest order raises the program’s spending cap to \$3.9 billion from \$2.4 billion and takes steps to maximize schools’ and libraries’ purchasing power, including (i) providing more flexible payment options for large, non-recurring, HSB-related capital costs related to high-speed broadband; (ii) equalizing the treatment of lit and dark fiber; (iii) allowing E-rate-funded schools and libraries to build HSB facilities themselves or use a managed-services option; and (iv) increasing predictability of Wi-Fi funding by providing support for Category 2 internal connections through 2019.

### **Spectrum**

#### **Advanced Wireless Services Auction a Success**

The AWS-3 auction concluded on January 29 with overall bids reaching almost \$45 billion. The nationwide average for the spectrum (which included paired and unpaired bands), was roughly \$2.21 an MHz-pop and AWS values for spectrum in the paired bands averaged \$4-\$5 an MHz-pop in many major metropolitan markets. The auction’s success augurs well for (i) the BIA (where anticipated values for spectrum in the reverse auction may be adjusted

upward) and (ii) first responders, assuring the First Responder Network Authority (FirstNet) of the \$7 billion needed to begin building a nationwide wireless interoperable network, RFPs for which are expected to be released in the coming months.

#### ***Spectrum Bands for Mobile Radio Services***

In October 2014, the FCC released a notice of inquiry (NOI) to explore the possibility of permitting mobile radio services in spectrum bands above 24 GHz. Mobile broadband networks generally use spectrum bands below 3 GHz due to the propagation characteristics and ready availability of equipment and, until recently, the general consensus was that higher frequency bands – where radio waves at those frequencies travel in straight lines and can therefore provide only line-of-sight service – were infeasible. However, advances related to the development of 5G mobile technology now allow operators to provide non-line-of-sight services in the higher-millimeter bands and the FCC's NOI (deadlines passed) sought to determine what frequency bands above 24 GHz would be most suitable for mobile services with the aim of developing mobile service rules and a licensing framework in those bands.

#### ***Citizens Broadband Radio Service***

In April 2014, the FCC released a further notice of proposed rulemaking (FNPRM) proposing specific rules for a new Citizens Broadband Radio Service (CBRS) in the 3.5 GHz band. It would encompass 100 MHz of spectrum from 3550 to 3650 MHz, and another 50 MHz of spectrum, from 3650 to 3700 MHz, could be added. The service would authorize small cellular and other broadband operations on a shared basis with incumbent users already licensed in the band, such as the DoD radar systems that currently use federal ground-based, shipboard and airborne platforms as well as non-federal fixed satellite service (FSS) earth stations.

The FCC proposes to establish a three-tiered authorization framework consisting of (i) incumbent access, (ii) priority access and (iii) general authorized access. Licensees would register with a Spectrum Access System that would coordinate use of the spectrum to avoid interference between users. The public comment cycle for the FNPRM ended last August, and an order adopting final rules is expected to be released in early to mid-2015.

#### ***Radars for Vehicular Collision Avoidance***

Addressing issues raised in two separate petitions filed by Honeywell International Inc. and Robert Bosch LLC, the FCC on February 5 released an NPRM to permit

additional and enhanced vehicular radar services in the 76-81 GHz band. Honeywell asked the FCC to amend its Part 15 rules to clarify that vehicular radar devices operating in the 76-77 GHz band may be used on aircraft *as long as they are on the ground*. (Part 15 makes no distinction between land and air). Bosch, for its part, asked the FCC to open a rulemaking to permit unlicensed use of ground-based vehicular radars *in the 77-81 GHz band*, as well as the 76-77 GHz band already in use.

In the NPRM, the FCC also seeks comment on proposals to expand radar operations in the spectrum band on a licensed basis under Part 95 of the agency's rules, rather than on an unlicensed basis under Part 15; and evaluates the compatibility of incumbent operations, including amateur radio, with radar applications in the spectrum band. The comment date was 30 days after publication in the *Federal Register* and the reply date 15 days later.

### **Aviation**

#### ***Small Unmanned Aircraft Systems***

On Sunday, February 15, the FAA released its long-awaited NPRM on the use of small unmanned aircraft systems (sUAS) for the commercial operations. FAA's proposed rule would allow commercial operations of small UAVs, weighing less than 55 pounds including payload, but only in very limited circumstances. Under the proposal, operations would be permitted only within the visual line-of-sight of an FAA-certified pilot (although FAA is proposing a new certificate that would not require manned aircraft flying experience), only during daylight hours, not over any person who is not directly involved with the operations and at least five miles to any airport and over any populated area. Comments must be submitted by April 24. A final rule, however, is not expected until next year.

While Congress in 2012 authorized the FAA to grant exemptions to allow commercial UAV operations in advance of the sUAS rule, the agency to date has granted only 33 exemptions of the 480 petitions docketed. The exemptions include a number of conditions and limitations, some of which are reflected in the proposed sUAS rule. Congress has already held hearings on this subject and is likely to hold more as it considers the reauthorization of FAA programs, as those programs expire September 30, 2015. We expect both House and Senate FAA reauthorization bills to address the commercial operation of small UAVs.

#### ***In-Flight, Air-to-Ground Broadband***

A rulemaking proceeding to make a third spectrum band available to support

broadband services aboard airplanes is on circulation at the FCC now. Initially proposed by Qualcomm, the new service will use 500 MHz in the 14-14.5 GHz band on a secondary basis for air-ground mobile service over the contiguous United States, enabling multi-gigabit broadband service on airplanes and, the FCC predicts, increasing the number of aircraft offering broadband from 3,000 in 2012 to 15,000 by 2021.

The two options for in-flight broadband today are (i) Gogo's 800 MHz service, which utilizes just 3 MHz of spectrum (to be expanded to 4 MHz) for air-ground communications and (ii) the Earth Stations Aboard Aircraft (ESAA) service, which communicates with satellite antennas mounted to the exterior of airplanes. The FCC believes the new spectrum option will "increase competition, improve the quality of service, and lead to lower prices for broadband aboard aircraft." A primary issue in the rulemaking was preventing interference with other users of the 14 GHz band. We understand that the order in this proceeding has already been vetted by federal law enforcement and national security agencies; that the FCC will authorize at least two, and possibly three, licensees; and that, nationwide, there will be one block of 250 MHz and two of 125 MHz.

#### ***Privacy/Data Security/Cybersecurity***

While Chairman Wheeler has made clear that he expects industry to be proactive on the issue of cybersecurity, he has also said that if private-sector efforts fall short, "we must be ready with alternatives." The FCC has already been at work in this area via its primary federal advisory committee, the Communications Security, Reliability and Interoperability Council (CSRIC), which was scheduled to issue an important report on cybersecurity, the result of a massive effort involving numerous trade associations, companies and government agencies. The report will include a set of recommendations and best practices, and will advance the understanding and application of the National Institute of Standards and Technology (NIST) Cybersecurity Framework to critical communications infrastructure.

After its release, the FCC will focus on implementation, while continuing to work closely with other government agencies and to provide a reconstituted CSRIC with additional assignments.

#### ***Facial Recognition Code of Conduct***

Use of biometrics and facial recognition data and technologies increased in 2014, a trend that is expected to continue. Privacy concerns are obvious, and the White House

is expected soon to release a privacy “bill of rights,” which will set forth “basic baseline protections across industries” limiting the ability to collect data without consumer consent, or to collect data for one purpose and then use it for another.

At its 11th meeting in December, the National Telecommunications and Information Administration’s (NTIA) privacy working group focused on drafting a voluntary code of conduct governing commercial uses of biometric and facial recognition technology and data. Security and strong encryption, as well as how such data will be collected, stored, transmitted and handled, were key topics. Other subjects included consumer opt-outs and withdrawals, authentication, access limitations, retention and disposal policies, and use in crime fighting. The hope is that this multi-stakeholder process, which involves leading facial recognition companies, trade associations and privacy advocates, will obviate the need for formal rulemaking or legislation.

#### ***TCPA Petition Backlog***

The FCC continues to chip away at a long list of petitions seeking clarification or waiver of various rules implementing the Telephone Consumer Protection Act. In October, the agency released an order addressing requests for clarification or waiver of the TCPA’s opt-out notice requirement for faxes. The agency confirmed that senders of fax advertisements must include certain information on each fax that will allow consumers to opt out, even if the consumers previously agreed to receive fax advertisements from the senders. However, the FCC softened the blow by granting retroactive waivers of the requirement and giving petitioners until April 30, 2015, to become fully compliant. Additionally, the FCC is giving similarly situated parties until April 30 to file their own petitions for retroactive waivers.

Many of the other pending petitions seek clarification regarding the requirement that parties obtain prior express consent before making calls to a wireless number using an automatic dialing system or an artificial or prerecorded voice. In particular, a number of petitions seek clarification (i) that callers do not run afoul of this requirement when they call wireless numbers that have been reassigned, without their knowledge, to individuals who have not consented to receive such calls; and (ii) that the TCPA’s prior express consent requirements do not apply in certain situations (e.g., on-demand texts sent in response to a consumer’s request, or time-sensitive informational calls to consumers concerning fraud, iden-

tify theft or data breach). Finally, a number of petitions seek clarification regarding the definition of an “automatic telephone dialing system” and what types of equipment fall within the scope of the definition.

#### ***Cyber/Data Security Lessons***

In late 2014, the FCC brought its first data security case (and its largest privacy case) ever, when it announced plans to fine TerraCom Inc. and YourTel America \$10 million fine for failing to protect the privacy of phone customers’ personal information, including storing unencrypted SSNs, addresses and other personal information on servers without the most basic and readily available security protections. The FCC also claimed the companies misled consumers, were deceptive, did not live up to representations they made in their own privacy policies, and, after learning of the breach, failed to notify potentially affected consumers so they could take steps to protect themselves. The case may well be a signal from the FCC that it intends to use enforcement to prod the industries it regulates to offer their customers a better level of security.

#### **Transactions/International**

##### ***“Team Telecom” Weighs in on Foreign-Ownership Issues***

Under the public interest standard, the FCC considers whether there are national security, law enforcement or trade/foreign policy concerns in its review of various applications, licenses, petitions, declaratory rulings or transfers of control that include certain levels of foreign investment. On these questions, the FCC typically seeks input and defers to the executive branch (which gathers and coordinates input by a group of agencies referred to informally as “Team Telecom”). The executive branch usually asks the FCC to wait for answers from Team Telecom before acting. The February 2014 Process Reform Report issued by the FCC recommended that FCC staff meet and coordinate with the executive branch on an ongoing basis to determine what improvements can be made to the timeliness and efficiency of this process. It also recommended seeking to establish firm time frames for these executive branch reviews of foreign ownership issues.

Subsequently, the International Bureau of the FCC engaged, on a regular basis, with the executive branch in meetings, phone calls and information sharing to improve understanding of the process, issues and status of particular matters, and to identify potential ways to improve timeliness where possible. While it does not appear that firm timetables have been established, there are reports that this closer, more frequent and ongoing dialogue – as recommended in the

Process Reform Report – is bringing about some improvement. That said, many of those awaiting Team Telecom action on their foreign investment matters will not find the transparency and timeliness that they may desire. Although this may be inevitable for some matters, given the sensitive nature of these reviews and the information that may be considered by the executive branch, it is also expected that the FCC will continue work in 2015 to improve the process.

#### ***Trans-Pacific Partnership***

U.S. trade officials are optimistic regarding the prospects for completing negotiations on the TPP in 2015. The agreement ultimately will cover 40 percent of the world’s economic output, making it an integral component of the Obama administration’s economic agenda. Trade expansion also represents an opportunity for bipartisan cooperation and, consequently, the administration is already working closely with congressional Republicans to enact “trade promotion authority,” which would smooth the path for TPP and other trade agreements by disallowing amendments and limiting congressional action to an “up or down vote” on free trade agreements.

While negotiators still must resolve a number of difficult items in the current TPP framework, telecommunications issues have proven to be non-controversial. The telecommunications text is designed to promote access for foreign telecommunications providers in TPP markets and covers issues related to technology choice, the high cost of international mobile roaming, reasonable network access for suppliers and access to physical facilities. As early as June 2013, officials from Malaysia revealed that the telecommunications chapter was “substantially closed.” Subsequent reports have confirmed that telecommunications is one of seven closed TPP chapters.

#### **114th Congress**

##### ***Communications Act Update***

As the 114th Congress gets underway, there is renewed interest in moving forward expeditiously with reforms to the Communications Act. This effort will benefit from the White Paper series conducted in the last Congress, which explored a range of issues, including FCC jurisdiction and structure, competition, universal service reform, interconnection, media and spectrum policy. More than 350 comments were filed from parties representing the various providers of the specific communications services, edge companies, and public and consumer interest groups.

A review of the filings reveals few areas of consensus. There is disagreement on both the general and specific direction to reform our country’s communications law. A num-

ber of interests believe that a fundamental overhaul is warranted, given changes in the market, new entrants, removal of barriers and evolving consumer expectations. Others call for minor tweaks to address shortcomings they have identified as barriers in their particular market segment. The 114th Congress will provide a forum for discussion with an eye on updating the Communications Act. While net neutrality is a potential threat to moving forward on broader reforms, both chairman of the Senate Committee on Commerce, Science and Transportation John Thune (R-SD) and chairman of the Subcommittee on Communications and Technology of the House Energy and Commerce Committee Greg Walden (R-OR) have indicated a desire to move forward sooner rather than later.

### **Copyright Reform**

In the last Congress, Chairman of the House Judiciary Committee Bob Goodlatte (R-VA) held a series of hearings exploring topics for consideration in reform of the copyright laws to better reflect new technologies. As Chairman Goodlatte noted at a copyright hearing, "In a world of instant and constant access to entertainment options on Internet-connected devices, laws that hinder or stunt access to legal music not only hurt consumers, but also the artists and the services that provide music to consumers. Unfortunately, consumers who want to be able to easily access their favorite songs anytime on all of their digital devices face a legal framework written for the world of vinyl albums and 8-track tapes." These challenges in the current law, and others throughout the copyright law, have raised concerns and interest in reform.

On February 4, 2015, the Copyright Office released a report outlining the findings of its comprehensive review of the music licensing framework. In it, the Copyright Office outlines issues that the "aging music licensing framework" faces and more than 20 recommendations for reforms that "respect the needs of those who create and invest in music." The recommendations touch on licensing parity, compensation and streamlining of the government's role in licensing and royalty. We expect the report will help inform Congress's decision-making process as it moves forward with reform in this area of the copyright laws.

### **Patent Reform**

The 114th Congress is poised to consider patent reform legislation as an early priority. There is bipartisan agreement on the need for legislation to curb so-called patent trolls, entities that assert patent rights in frivolous and costly litigation. We expect the congressional debate to focus on litigation reforms aimed at ending patent troll litigation while preserving the enforcement rights of legitimate patent holders and examining the implementation of reforms at the U.S. Patent and Trademark

Office (PTO) under the America Invents Act of 2011, which was the first major overhaul of the patent system in the last 60 years.

On February 5, Chairman Goodlatte reintroduced his Innovation Act, which won broad bipartisan support in the House in the previous Congress, as well as the support of the Obama administration. Rep. Darrell Issa (R-CA), the new chair of the Intellectual Property Subcommittee of the House Judiciary Committee, will be working with Chairman Goodlatte, and others possibly, to update the legislation in order to take into consideration litigation and judicial developments since the House passed the Innovation Act in 2013.

On the Senate side, the new Senate Judiciary Chairman Chuck Grassley (R-IA), along with Sen. John Cornyn (R-TX) and Sen. Orrin Hatch (R-UT), plans to introduce similar patent reform legislation in the first quarter of 2015. Ranking Member of the Senate Judiciary Committee Patrick Leahy (D-VT), Sen. Chuck Schumer (D-NY) and Sen. Chris Coons (D-DE) have expressed interest in support of various reforms to the patent system. Chairman Grassley has committed to moving patent reform legislation as one of the first legislative items for the Senate Judiciary Committee.

### **Leadership Changes in Congress and on Committees of Jurisdiction**

With Republicans now controlling both the U.S. House of Representatives and the U.S. Senate for the first time since 2007, the dynamics of policy-making in Washington have shifted dramatically. While many Republicans view this as their opportunity to put the conservative imprimatur on the work product of both chambers of Congress, all Republicans are keenly aware of the coming 2016 elections and the less than two years they have to convince voters to extend their lease on the congressional leadership. Unlike the Senate, where the political balance of power switched to put Republicans in charge of the chamber, the House remains in Republican control. However, that constancy should not be overvalued as a predictor, since the House now has a Republican Senate with which to coordinate its efforts. The legislative agenda has changed for this new Congress, but the list of House luminaries and leaders on technology and communications issues remains largely the same, with a few notable changes.

**House Committees:** The House Energy and Commerce Committee will continue to be led by Chairman Fred Upton (R-MI), although he now has a new ranking member in Rep. Frank Pallone (D-NJ). Ranking Member Pallone is a 14-term representative and has a long history serving on the Energy and Commerce Committee.

The Subcommittee on Commerce, Manufacturing and Trade will now be led by Rep.

Michael Burgess (R-TX). He replaces Rep. Lee Terry (R-NE), who was defeated in the midterm election. Rep. Jan Schakowsky (D-IL) will serve as the new ranking member. The subcommittee is already working on data breach and security legislation and will also focus on reforms to promote innovation and technology in the delivery of healthcare. The subcommittee will take a look at the Internet of Things in an upcoming hearing.

The Subcommittee on Communications and Technology will continue to be led by Chairman Greg Walden (R-OR) and Ranking Member Anna Eshoo (D-CA). The lack of change in leadership on the subcommittee bodes well for preserving its momentum to update the Communications Act to reflect the sea change in communications platforms, technologies and offerings, and, no doubt, net neutrality will be a focus for Chairman Walden.

The House Judiciary Committee will be led by Chairman Bob Goodlatte (R-VA) and Ranking Member John Conyers (D-MI). Patent and copyright reform are likely areas of interest to the committee.

The Subcommittee on Courts, Intellectual Property, and the Internet will be led by Chairman Darrell Issa (R-CA) and Ranking Member Jerry Nadler (D-NY).

**Senate Committees:** The Senate Committee on Commerce, Science and Transportation will be led by Chairman John Thune (who, as Republican Conference chairman, also serves as the third highest-ranking member of the Senate Republican leadership). Sen. Bill Nelson (D-FL) replaces outgoing Sen. Jay Rockefeller (D-WV) as the new ranking member for the Committee. Former Chairman Rockefeller counted as his recent achievements the expansion of E-Rate funding and the creation of a public safety network funded by proceeds for a series of spectrum auctions. We expect Chairman Thune will focus on a broad range of technology and telecommunications policies, including net neutrality and a full review of the Communications Act. Ranking Member Nelson and Chairman Thune are also expected to work on data breach and security legislation early in the 114th Congress.

The Subcommittee on Communications, Technology, Innovation and the Internet will be led by Chairman Roger Wicker (R-MS) (who is also the new chairman of the National Republican Senatorial Committee (NRSC)) and Ranking Member Brian Schatz (D-HI). This subcommittee will play an integral role in any Senate effort to update the Communications Act.

The Subcommittee on Consumer Protection, Product Safety, Insurance and Data Security will be led by Chairman Jerry Moran (R-KS) and Ranking Member Claire McCaskill (D-MO).