

## **TECHNOLOGY AND DISABILITY POLICY HIGHLIGHTS 8.01**

December 2007/January 2008

### **Overview**

The Wireless RERC's policy team was busy in December, with the group filing comments with the Federal Communications Commission (FCC) in response to the Commission's solicitation for comments on Hearing Aid Compatible handsets. The Center's comments noted that ongoing Wireless RERC research suggests that consumers continue to have problems with the interoperability of cell phones and hearing aids.

In judicial news, in January the Supreme Court declined to rule on whether states can prohibit wireless carriers from breaking out various state and local taxes as line-item fees on a customer's bill. Wireless companies would prefer to line item state and local taxes and fees, while state governments prefer to lump all fees and taxes in with wireless service charges.

Text messaging has been a concern to both lawmakers and consumer advocacy organizations over the past two months. The Virginia General Assembly, along with four other state governments, is considering a pair of bills [H.B. 39 and H.B. 609] that would ban the sending of text messages while driving a car, bicycle, motorcycle and even an electric wheelchair. Separately, consumer advocacy groups have filed a joint petition for declaratory ruling with the FCC, asking the Commission to declare that text messaging services are governed by the anti-discrimination provisions of Title II of the Communications Act. The groups assert that wireless service providers are currently allowed to arbitrarily choose which messages are sent over their network and often refuse to send content that the company finds controversial or that competes with the mobile carrier's services. The FCC is currently accepting comments on the matter.

Finally, the United States Access Board is in the process of reviewing the accessibility of the nation's airports. Of particular interest to the Wireless RERC was the Board's focus on the accessibility of self-service kiosks. As self-service kiosks become increasingly common in airports and transit stations, stores, and other venues, accessibility concerns arise for people with disabilities. These devices feature various interface technologies, such as touch screens, that by themselves are not accessible to all users, particularly those with vision impairments. The Wireless RERC is working in this field and is working on the addition of indoor location tracking capabilities to its Communications Assistant to better suit the needs of people with sensory impairments in airports, hospitals and museums.

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## **Legislative Activities**

### ***House Drafts Accessibility Amendment to Telecom Act***

December 21, 2007: The U.S. House of Representatives released a draft bill, the "Twenty-first Century Communications and Video Accessibility Act," an amendment to the Telecom Act of 1996 that would add new consumer protections for people with disabilities. Its main focus is to ensure the accessibility of communication technologies as such as telephones and television programming that increasingly relies on digital and Internet Protocol technologies. Section 102 of the draft "extends federal law that currently requires hearing aid compatibility on newly manufactured and imported telephones, to comparable customer premises equipment used to provide Internet-enabled communication service." One purpose of the draft is to make sure that people with hearing loss have access to telephone devices used with advanced technologies, including cell phones or any other handsets used for Internet-based voice communications.

[Sources: COAT, AAPD, and Rep. Edward Markey (D-MA)]

#### **Additional Information:**

Summary: [Draft bill of the Twenty-first Century Communications and Video Accessibility Act \(In MS Word format\)](#)

[[http://markey.house.gov/docs/telecomm/summary\\_of\\_telecom\\_legislation.doc](http://markey.house.gov/docs/telecomm/summary_of_telecom_legislation.doc)]

### ***Senators Resurrect Wireless 411 Privacy Act***

January 7, 2008: Senators Barbara Boxer (D-CA), Arlen Specter (R-PA) and Sherrod Brown (D-OH) introduced S. 2454, the Wireless 411 Privacy Act, designed to prevent wireless consumers from being listed in a national cell phone directory without their consent. If the proposed bill seems familiar, it's because similar bills were introduced in the House and the Senate in 2005 and 2006. The Senators believe that CTIA-The Wireless Association is compiling a national cell phone directory. CTIA, as well as large wireless service providers like Verizon, ceased plans to create such a directory after harsh

criticism from lawmakers and privacy advocates. Lawmakers, however, are not necessarily convinced and consider the Senate bill an additional step to protect the privacy of wireless consumers.

[Sources: Library of Congress and RCR Wireless News]

#### **Additional Information**

[S. 2454] [Wireless 411 Privacy Act](#)

[<http://thomas.loc.gov/cgi-bin/query/z?c110:s.2454.is:>]

#### ***Virginia Lawmakers Contemplate Ban on Texting While Driving***

January 11, 2008: The Virginia General Assembly is considering a pair of bills [H.B. 39 and H.B. 609] that would ban sending of text messages (“texting”) while driving a car, bicycle, motorcycle and even an electric wheelchair. Four other states are considering similar proposals. In 2007 six states considered anti-texting laws with Washington state and New Jersey passing their versions. Under the Virginia proposal, texting while driving would be a misdemeanor punishable by a fine of up to \$250 and court costs. A spokesperson for CTIA-The Wireless Association said the organization does not oppose the texting while driving ban.

[Source: *Washington Post*]

#### **Additional Information**

H.B. 39: [Wireless telecommunications device; prohibits use of text messaging while driving certain vehicles.](#) [<http://leg1.state.va.us/cgi-bin/legp504.exe?081+ful+HB39>]

H.B. 609: [Wireless telecommunications device; prohibits use of text messaging while driving certain vehicles.](#) [<http://leg1.state.va.us/cgi-bin/legp504.exe?081+ful+HB609>]

### **Judicial Activities**

#### ***Supreme Court Denies Cell Phone Tax Case***

January 22, 2008: Wireless service providers were dealt a setback in January when the Supreme Court declined to rule on whether states can prohibit wireless carriers from breaking out various state and local taxes as line-item fees on a customer’s bill. The case is *Sprint Nextel Corp. v. National Association of State Utility Consumer Advocates*, 06-1184. The wireless companies argued that state and local governments try to disguise taxes and fees by preventing wireless service providers from listing them as line items on a monthly statement. Rather, the fees are lumped in with the rest of a carrier’s monthly charges. State utility regulators argue that the fees and taxes they impose are generally meant to be paid by the wireless carriers themselves – not their consumers – and that these companies should raise their rates to offset the costs of the state and local fees and taxes.

The issue at hand is whether or not the FCC was correct when it ruled in 2005 that federal law prohibits the states from barring separate line items. Federal communications law bars state regulation of rates but allows states to regulate “other terms and conditions” of service.

The FCC's ruling was overturned in 2006 by the 11th Circuit Court of Appeals' ruling that line items on bills were "other terms and conditions" that states could prohibit. The Supreme Court's decision to decline to hear the case allows the lower court's ruling to stand, however, the issue is not completely settled. The Justice Department's solicitor general urged the court to turn down the case, even though the solicitor general disagreed with the appeals court's ruling. This disagreement stemmed from the fact that the appeals court sent the case back to the FCC, and, according to the solicitor general, the agency is considering additional grounds for pre-empting state regulation of the wireless industry.

[Sources: U.S. Department of Justice, *Kansas City Star* and CNET News.com]

**Additional Information:**

*Sprint Nextel Corp. v. National Association of State Utility Consumer Advocates*, 06-1184.

[<http://www.usdoj.gov/osg/briefs/2007/2pet/6invit/2006-1184.pet.ami.inv.html>]

## **Regulatory Activities**

### ***FCC Begins Auction of Coveted Federally-Owned Wireless Airwaves***

January 28, 2008: Top bidders have put up a total of \$6.1 billion during the opening rounds of the FCC's 700 MHz wireless spectrum auction which is expected to bring the federal government as much as \$10 billion. The 700 MHz spectrum is valuable because signals sent through it can go long distances and penetrate thick walls. The identity of the bidders will be revealed after the auction closes, however, companies such as Verizon, AT&T, Google, EchoStar Communications and Cablevision Systems are qualified to bid. Analysts suspect that there are currently two bidders for the bundle of airwaves known as the C block - the bundle considered the most valuable of those up for auction because the airwaves are open to all devices. Bidding for the D block - the other closely-watched group of airwaves up for auction - has stopped at \$472 million with no new bids for the block since January 24. The D block is subject to an FCC condition requiring the winning bidder to build out a national network and share it with public safety agencies. FCC Chairman Kevin Martin expressed concern over the timing of the auction in early January when a potential D-block bidder, Frontline, dropped out of the auction. Martin said that he was concerned that "the overall economic conditions could end up impacting the auction." The FCC set a minimum reserve of \$1.6 billion for the D-block spectrum.

[Sources: Reuters and *New York Times*]

### ***FCC Releases Results of Section 504 Triennial Review***

December 17, 2007: The FCC's rules implementing Section 504 of the Rehabilitation Act of 1973 require that the FCC conduct a self-evaluation every three years. The results of the report covering July 2004 through July 2007 were released, citing the Commission's success in providing access to its programs and activities for persons with disabilities in accordance with Section 504. Section 504 of

the Rehabilitation Act prohibits discrimination against persons with disabilities under any program or activity receiving federal funds. The FCC reported providing accessible services in the form of: sign language interpreting, captioning, CART (computer assisted real-time translation), re-voicing, Braille, large print, electronic formats, and audio (MP3 files, CDs, cassette tapes). The full text of this document is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554.

[Source: FCC]

### ***RERC Files Comments with FCC over Hearing Aid Compatibility***

December 16, 2007: The Wireless RERC filed comments to the FCC on "Amendment of the Commission's Rules Governing Hearing Aid Compatible Mobile Handsets," WT Docket No. 07-250. The Wireless RERC noted in response to the FCC's solicitation, that ongoing Wireless RERC research suggests that consumers continue to have problems with the interoperability of cell phones and hear aids. In a recent Wireless RERC Policy Delphi study, an overwhelming majority of respondents, identified "device incompatibility or poor interoperability", as a very important or important issue with cell phones. Further, the Wireless RERC's Survey of User Needs (2002-present) continues to find evidence that consumers with hearing impairments have difficulty finding cell phones in the marketplace that are compatible enough with hearing aids. These findings reveal that cell phone users with hearing impairments are running up against barriers to full usability of their device, which could be addressed through the regulatory process.

### **Additional Information**

[Summary and Full Text of the RERC's Comments on "Amendment of the Commission's Rules Governing Hearing Aid Compatible Mobile Handsets", WT Docket No. 07-250.](#)

[<http://www.wirelessrerc.org/publications/fcc-filings/fcc-hac-filing>]

[Wireless RERC Policy Delphi Study](#)

[<http://www.wirelessrerc.org/publications/policy-briefs>]

### ***Groups Petition FCC to Prohibit Discrimination against Text Message Content***

December 11, 2007: A group of consumer advocacy organizations petitioned the FCC to clarify how much control wireless service providers can have over the messages and services they deliver over their networks. The joint petition for declaratory ruling, filed on behalf of the groups Public Knowledge, Free Press, Consumer Federation of America, Consumers Union, EDUCAUSE, Media Access Project, New America Foundation, and U.S. PIRG, asks the FCC to declare that text messaging services are governed by the anti-discrimination provisions of Title II of the Communications Act. The coalition asserts that text messaging is used as a "replacement for and a complement to traditional voice communications." The group also stated that wireless service providers are currently allowed to arbitrarily choose which messages are sent over their network and often refuse to send content that the company finds controversial or that competes with the mobile carrier's services. In response, the

FCC issued a request for comments on the Petition for Declaratory Ruling. Comments are due to the FCC by February 13, 2008 and Reply Comments are due by March 14, 2008.

### **Additional Information**

[Petition for Declaratory Ruling of Public Knowledge, Free Press, et al. \(PDF Format\)](#)

[[http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-08-78A1.txt](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-08-78A1.txt)]

[FCC Wireless Telecommunications Bureau Seeks Comment on Petition...](#)

[<http://www.publicknowledge.org/pdf/text-message-petition-20071211.pdf>]

[Sources: FCC, *Washington Post*, and Public Knowledge]

### **Studies/Reports**

#### ***Access Board Explores Airport Accessibility/Wireless RERC Airline Travel Survey***

December 12, 2007: The Access Board is examining airport terminal accessibility as part of an ongoing program to explore airport accessibility issues in depth in to improve compliance and to promote effective design. The Board conducted a full-day session on the topic as a first step in this initiative. Speakers briefed members on a range of topics, including ticketing kiosks, telecommunications, security screening, boarding bridges, research, and consumer surveys.

Building on the success of, and interest in, its wireless personal captioning system, the Wireless RERC has added indoor location tracking capabilities to the system to better suit the needs of people with sensory impairments at three targeted venues. These venues include airports, museums/aquariums, and hospitals. The RERC is currently trying to gain user insight on airline travel to help best determine how Location-Based Services can improve future travel. They are asking for input from people with visual impairments who have traveled by plane. URL for the Airline Travel Survey follows below.

[Source: U.S. Access Board]

[Wireless RERC Airline Travel Survey](#)

[[http://cansurvey.wirelessrerc.org/survey/airport\\_survey\\_v2.htm](http://cansurvey.wirelessrerc.org/survey/airport_survey_v2.htm)]

#### ***National Council on Disability Releases 2005-2006 Annual Report***

January 15, 2008: The National Council on Disability (NCD) released its annual report titled *National Disability Policy: A Progress Report* which notes progress in the disability policy arena and makes recommendations to the federal government in particular areas that need improvement. NCD Chairperson John R. Vaughn cited the Help America Vote Act as progress in helping people with disabilities get access to elections and developments under the Assistive Technology Act that hold promise for enhanced coordination of service delivery. Vaughn noted several areas in which challenges to people with disabilities persist. These include: affordable accessible housing,

transportation and long-term services and supports. During the past year, the NCD has worked to address these issues by issuing “a series of policy evaluations and evidence-based studies that measure progress toward implementation of the Americans with Disabilities Act.”

[Source: NCD]

**Additional Information:**

[National Disability Policy: A Progress Report](#)

[[http://www.ncd.gov/newsroom/publications/2008/NationalDisabilityPolicy\\_A\\_Progress\\_Report.html](http://www.ncd.gov/newsroom/publications/2008/NationalDisabilityPolicy_A_Progress_Report.html)]

**Other Items of Interest**

***Apple Reports Progress on Captioning***

January 24, 2008: Apple’s Senior Product Manager of Worldwide Product Marketing, Mike Shebanek, reported that Apple now includes closed captioning playback in Apple’s QuickTime software, iTunes, and in the latest software for the iPod, and iPhone. In addition, the company reported at Macworld 2008, that the new AppleTV supports captioned playback. The software for the new AppleTV will also be available to existing AppleTV owners as a software update over the Internet. This is welcome news to persons who are deaf or hard of hearing, as this group has been unable to fully enjoy the features of many Apple devices due to a lack of accessibility.

[Source: AAPD’s Justice for All]

***Environmental Protection Agency Launches Cell phone Recycling Campaign***

January 8, 2008: The EPA, in partnership with a number of retailers, manufacturers and service providers, has launched a cell phone recycling education campaign. As part of EPA’s Plug-In to eCycling program, partners supporting the cell phone recycling campaign include AT&T Wireless, Best Buy, LG Electronics, Motorola, Nokia, Office Depot, Samsung, Sony Ericsson, Sprint, Staples, and T-Mobile. To kick-off the campaign, EPA released today a series of print public service announcements, “Recycle Your Cell Phone. It’s An Easy Call,” which highlight the convenience and environmental and social benefits of recycling a cell phone. EPA also introduced a podcast that addresses many common questions on cell phone recycling. EPA started the campaign because many consumers still do not know where or how they can recycle their unwanted cell phones. Consequently, less than 20 percent of unwanted cell phones are recycled each year.

[Source: EPA]

**Additional Information:**

[EPA: Plug-In To eCycling Home Page](#)

[<http://www.epa.gov/epaoswer/osw/conserves/plugin/index.htm>]

[EPA: Recycle Your Cell Phone. It’s an Easy Call.](#)

[<http://www.epa.gov/cellphone/>]

### ***NCD Hosts New Orleans Meeting on Emergency Preparedness***

January 29, 2008: The National Council on Disability (NCD) heard presentations on emergency preparedness for people with disabilities at an open meeting held by the Council in New Orleans, Louisiana. The primary focus of the meeting was to gather information and listen to the presentations of stakeholders and professionals as well as to receive public comment on emergency preparedness, homeland security, and other issues of importance to people with disabilities. Under the Homeland Security Appropriations Bill (H.R. 5441) signed by President Bush on October 4, 2006, NCD was assigned key responsibilities for disability-related issues in homeland security. More information on the outcomes of the meeting will be reported in the next edition of *TDPH*.

[Source: NCD]

## **International Activities**

### ***Emergency Preparedness Focus at United Nations Roundtable***

December 18, 2007: Local government's role in emergency preparedness for people with disabilities was the focus of a United Nations Global Initiative for Inclusive Information and Communication Technologies (G3ICT) meeting held on December 11, 2007 in Washington, DC. Topics discussed included Leveraging mobile cellular wireless networks for emergency alerts along with data casting and integrating multi-modal emergency warning systems.

The agenda included the following speakers:

- William Lane, Ph.D., Chief Engineer, Public Safety & Homeland Security Bureau, Federal Communications Commission (FCC)
- Axel Leblois, Roundtable Chair and G3ict Executive Director, G3ict
- Judy Harkins, Ph.D., Professor and founding Director of the Technology Access Program at Gallaudet University, Gallaudet University's Department of Communication Studies
- Eilyn Sheffield, Ph.D. Senior Research Fellow, NPR Labs (LIVE DEMO)
- Elizabeth Christopherson, New Jersey Network, Executive Director, NJN Public Television and Radio (LIVE DEMO)
- Susan Mazrui, Director of Regulatory Affairs for AT&T Services, Inc.
- Karen Peltz Strauss, Esq., of KPS Consultants, LLC.
- Jenifer Simpson, Senior Director, Telecommunications and Technology Policy, AAPD and Member, of the Coalition of Organizations for Accessible Technology (COAT)

[Source: G3ICT]

## **Upcoming Events**

### ***911 Call Center Operations and Next Generation 911 Technologies Summit***

On February 6, 2008, the FCC's Public Safety and Homeland Security Bureau (PSHSB) will convene a summit on issues relating to the deployment and use of Next Generation 911 technology and the

coordination of those efforts among the communications industry, manufacturers and Public Safety Answering Points. A detailed agenda will be released as summit date nears.

**Additional Information:**

[911 Call Center Operations and Next Generation 911 Technologies Summit](#)

[<http://www.fcc.gov/pshs/summits/911/>]

***International Conference on Aging, Disability and Independence (ICADI)***

The International Conference on Aging, Disability and Independence (ICADI), to be held February 21-21, 2008, will focus on approaches to support people as they age in maintaining independence in daily living at home, at work and in the community. The Wireless RERC is an ICADI sponsor.

**Additional Information:**

[ICADI Conference Registration](#)

[<http://www.icadi.phhp.ufl.edu/index.php>]

***Technology and Persons with Disabilities Conference***

The hundreds of sessions offered at CSUN's Technology and Persons with Disabilities Conference represent a comprehensive variety of topics, tracks, research and products across all areas of disability and technology. General Sessions will begin Wednesday, March 12, 2008 and run through Saturday, March 15, 2008.

**Additional Information:**

[CSUN's Conference Registration](#)

[<http://letsgoexpo.com/expo/index.cfm?EID=80000093>]

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Technology and Disability Policy Highlights reports on national and local public policy events and recent wireless technological advances and political activities; and tracks emerging issues of interest to individuals with disabilities and their families. Technology and Disability Policy Highlights is published monthly by the Wireless RERC. The Wireless RERC is a research center focusing on promoting universal access to wireless technologies and explores their innovative applications in addressing the needs of people with disabilities. For more information on the Wireless RERC, please visit our web site at [<http://www.wirelessrerc.org>].

For further information on items summarized in this report, or if you have items of interest that you would like included in future editions, please contact this edition's editor, Lynzee Head, RERC

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