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USPS Starts Internet-Based Program To Certify Government E-Documents

Secure document delivery, long a function of the U.S. Postal Service through certified and registered mail, just took a step into the present electronic world. No more future about it – it's here. In a service introduced last week, the USPS (<http://www.usps.com>) will coordinate with government agencies to let government employees use smart cards to store digital certificates for sending electronic files securely and privately across government computers.

In cooperation with development teams from AT&T Corp. and IBM Corp., the new NetPost.Certified Internet-based service was designed by the USPS to meet specific government requirements while delivering technical, management and support resources. The Social Security Administration will be the first to use the service, providing a prototype for several applications, such as obtaining vital statistics records from state governments.

With the USPS's Electronic Postmark and Certificate Authority, NetPost.Certified allows government users to obtain a USPS-issued digital certificate stored on a NetPost.Certified smart card. Just as physical certified mail provides a return receipt verifying delivery, the NetPost.Certified service generates an electronic return receipt from USPS verifying delivery of each transaction with an electronic time and date stamp.

The USPS "has for more than 225 years played a pivotal role in enabling faster, more efficient and secure communication between the United States government and its citizens," said Deputy Postmaster General John Nolan. "NetPost.Certified was specifically designed to support e-government initiatives by expediting the movement of documents online, and ensuring users that those documents sent electronically would be secure and private at all times while in transit."

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STANDARDIZED BENCHMARK MEASURES MAIL SERVER PERFORMANCE

The nonprofit organization that establishes, maintains and endorses standardized benchmarks for high-performance computers – Standard Performance Evaluation Corp. (SPEC) (<http://www.spec.org>) – Jan. 24 released a standardized benchmark that measures mail-server performance using a real-world workload. The benchmark, SPECmail2001, has been tested, and initial performance results are posted at <http://www.spec.org/osg/mail2001/>.

SPECmail2001 was designed and implemented by Compaq, Mirapoint, Openwave Systems and Sun Microsystems. Netscape Communications Corp., Critical Path Inc., SGI, IBM Corp., Hewlett-Packard Co. and the University of Pavia (Italy) also have contributed to its development in recent years. It enables performance evaluations for systems supporting the Post Office Protocol (POP3) and Simple Mail Transfer Protocol (SMTP). It is designed for Internet service providers (ISPs) and company IT departments that require performance data to support mail-server purchase decisions. It also allows mail-server and computer systems vendors to test and fine-tune products under development.

“SPECmail2001 furthers our mission to provide reliable, repeatable performance measurement tools for the systems that drive Web-based business,” said Kaivalya Dixit, SPEC president. “It complements SPECweb99, our Web server benchmark, and SPECjvm98 and SPECjbb2000, our server- and client-side Java benchmarks.”

SPECmail2001 models the stress placed on a mail-server system from an ISP’s consumer users: sending email, checking for new mail and retrieving messages. The benchmark profiles the typical mix of message sizes, connectivity bandwidth, origins of received and sent mail, and other factors that are critical to performance. Mail servers under test are required to store a certain number of mail messages and to meet service quality criteria.

Results from SPECmail2001 are based on a “messages-per-minute” rating that indicates the load the mail server can sustain with a reasonable quality of service. Higher ratings indicates more powerful mail servers. Results can be used for capacity planning.

SPECmail2001 is available from SPEC for \$1,800, with a discount price of \$900 for universities and other nonprofit organizations. Additional information on SPECmail2001 is available in the FAQs document at <http://www.spec.org/osg/mail2001/docs/FAQ.html>.

“IBM looks forward to working with the U.S. Postal Service and AT&T to deliver this new set of secure messaging capabilities,” said Tom Burlin, vice president of the IBM Global Services Public Sector. NetPost.Certified supports the Government Paperwork Elimination Act, the Health Insurance Portability and Accountability Act and the Presidential Memorandum on e-Government initiatives.

The USPS will own the smart cards, and each has information printed on it indicating it is the property of the USPS. As well, the USPS owns and protects the database containing the information supplied by the user. Secure management of the messaging environment is maintained at the data center network, with locations at the Postal Service National Address Information Center in Memphis, Tenn., and data centers in San Mateo, Calif., and Raleigh, N.C.

The USPS will share revenue in this venture with AT&T, IBM and the technology vendors. During the trial use, a government-only fee structure charges 50 cents for each successful file transmission, regardless of the size of the file. The USPS would not reveal the cost-recovery distribution.

PubliCARD is collaborating with TecSec Inc. to provide the constructive key management (CKM) encryption technology and smart card reader infrastructure for the NetPost.Certified service. Other companies participating in the program include Cylink Corp., Gemplus, KeyCorp, RSA Security Inc., ValiCert Inc. and WareOnEarth Communications Inc.

NetPost encompasses a suite of USPS electronic commerce services. The NetPost Mailing Online service launched in September 2000, and the NetPost CardStore in December 2000.

Internet/E-Commerce

Cannon, Eshoo Unveil Internet Privacy Bill

Reps. Chris Cannon (R-UT) and Anna Eshoo (D-CA) Jan. 23 unveiled the Consumer Internet Privacy Act, which would require operators of commercial Web sites that collect personally identifiable information to define what type of information is collected, and to state how it will be used and who is collecting it. The bipartisan bill would allow the Federal Trade Commission to issue civil penalties of up to \$22,000 per violation, or a total of \$500,000.

Cannon said the bill is a good starting point for addressing the issue of Internet privacy. "We are going to rely heavily on the marketplace to help define how to implement the guidelines established in this bill's language, just as the market has commendably worked with government officials to develop other standards and seals for privacy," he said.

Eshoo, who said consumers shouldn't have to "reveal their life story every time they surf the Web," added that privacy must be protected without impeding the free flow of information on the Internet. "This legislation achieves that goal – the bill doesn't regulate the Internet, it empowers the consumer," Eshoo said.

HR 237 also would require Web site operators to give users an opportunity to limit the use and disclosure of their personal information for marketing purposes in a "clear, conspicuous, and easy manner to execute."

In related online privacy matters, AeA, formerly the American Electronics Association, last week urged the 107th Congress to make federal pre-emption of multiple state privacy laws "one of the top legislative concerns" for the coming session. Federal privacy legislation "should play a crucial role" in maintaining consistency and certainty" in the marketplace, said William T. Archer, AeA's president and chief executive officer.

Archer warned, however, that "poorly crafted legislation" could have the unintended effect of "imposing burdensome, impractical new

requirements" on e-commerce and Internet businesses. "Only the federal government is in a position to create uniform U.S. privacy standards and work for international harmonization," he said. "Otherwise, online business could face 50 conflicting sets of privacy rules. Consumers and businesses alike would lose."

AeA urged lawmakers to consider its "privacy principles" in drafting federal pre-emption legislation. The principles recommend the creation of uniform, transmission medium-neutral national standards to protect privacy. AeA wants standards to require merchants to notify consumers of information collection practices, while allowing them to "opt out of the use or disclosure" of information if it's unrelated to the initial transactions between consumers and merchants.

The AeA principles also urge lawmakers to build on private-sector privacy seal programs and privacy codes, while relying on the Federal Trade Commission's existing authority to enforce information-collection notice requirements.

Concerns on Ashcroft and Privacy

John Ashcroft, President George W. Bush's nominee to be attorney general, has established a "mixed" record on privacy and electronic surveillance issues, according to a report released Jan. 17 by the American Civil Liberties Union. It's titled "Not Moderate, Not Compassionate, Not Conservative: John Ashcroft's Radical Revisionism of Basic Constitutional Values in America."

According to the ACLU, Ashcroft has opposed an amendment to antiterrorism legislation that would have allowed government wiretapping of phone conversations for 24-hour periods without a court order. He also "led the fight" in Congress to ease restrictions on encryption technology exports, despite opposition from the Justice Department, the ACLU noted.

On the other hand, Ashcroft voted in favor of a "roving wiretap" amendment that would have enabled the government to tap phones that a suspect "might" use. "An altered form of this amendment became law in other legislation, and

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will likely result in the interception of hundreds of thousands of innocent conversations each year," the ACLU said.

It also criticized Ashcroft for sponsoring a bill that would have expanded the government's ability to conduct " 'secret searches' without notifying the target of the search or whether any information was obtained during the search."

At the EMMS deadline, Ashcroft's nomination had not been approved.

Ending Speculation, Bush Names Powell FCC Chairman

President George W. Bush wasted little time Jan. 22 in naming Federal Communications Commission (FCC) Commissioner Michael K. Powell to succeed former FCC Chairman William E. Kennard. Powell's appointment was effective immediately. No Senate confirmation is needed for a sitting commissioner to assume the chairmanship.

The announcement drew praise from key congressional lawmakers. Senate Commerce, Science, and Transportation Committee Chairman John McCain (R-AZ) believes Powell will make "an exceptional chairman," his spokeswoman told EMMS.

In the House, Energy and Commerce Committee, Chairman W.J. "Billy" Tauzin (R-LA), who was backing Powell to succeed former FCC Chairman Kennard (EMMS, Dec. 15, 2000, p. 9), called the move one of President Bush's "best and most exciting selections for his new

administration." And new House telecommunications subcommittee Chairman Rep. Fred Upton (R-MI) said Powell was his "first and only choice" to be FCC chairman.

Meanwhile, as an independent agency, the FCC is not legally subject to President Bush's directive that executive agencies put a hold on the publishing of new rules and orders until someone from the new administration can review them. But the directive, which was signed during the past weekend, does encourage voluntary compliance by independent agencies. An FCC spokesman said Jan. 22 that the commission was studying the directive.

A spokesman for the Commerce Department's National Telecommunications and Information Administration said the directive would not affect any rulemaking there. Last week, NTIA proposed reimbursement procedures for federal government spectrum users that are relocated to other bands. The spokesman noted that the notice was published in the Federal Register last week and involved proposed, and not final, rules.

Transition Team at FCC

The "transition advisory team" that will work with the new administration on critical FCC issues includes telecom policy advocates, to balance out the group top-heavy with common carrier service interests, observers note.

Prior to the inauguration, the entire FCC advisory team was listed on the Bush-Cheney transition team's Web site at <http://www.bushcheneytransition.com/media/pdfs/teams.pdf>. More names could be added later. As of Jan. 17, the FCC advisory team had a total of about 42 members, which is "six to eight" more than earlier posted on the transition team Web site.

Four FCC team members have been plucked from the Bell operating companies. The lone competitive local exchange carrier representative is Royce Holland, chairman and chief executive officer of Texas-based Allegiance Telecom Inc.

The new FCC transition team advisers from the Bell companies are William P. Barr, Verizon Communications Inc.'s executive vice president and general counsel, who also is on the Justice Department's transition team; Timothy McKone, vice president of congressional relations for SBC Communications Inc.; Daniel Mattoon, vice

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president of congressional affairs at BellSouth Corp.; and Thomas J. Tauke, Verizon's senior vice president for external affairs and public policy.

Numerous trade association officials have been added to the FCC advisory lineup. They include Information Technology Industry Council President Rhett Dawson; Information Technology Association of America Vice President and Counsel Mark Uncapher; Jay Kitchen, president and chief executive officer of the Personal Communications Industry Association; and Peggy Binzel, executive vice president of the National Cable Television Association.

The wireless industry has three representatives. They are Richard Barth, vice president and director-telecom strategy and regulation at Motorola Inc.'s Washington office; PCIA's Kitchen; and David Gross of Vodafone Group PLC.

FCC transition advisers who hail from the Washington "think tank" community are J. Gregory Sidak of the American Enterprise Institute; the Cato Institute's Adam Thierer; and Progress and Freedom Foundation fellows Jeffrey A. Eisenach and Randolph J. May.

At a Jan. 17 meeting of the Bush administration's FCC transition team, nearly all of the members participated. It was described as "good" and "productive."

An advisory team member who didn't want to be identified said the meeting lasted about one and a half hours and mostly focused on general FCC reform issues. "There wasn't much time for a lengthy discussion on specific points, and they didn't mention any names" for the soon-to-be vacant chairman seat, the source said.

"But there was a sense that things need to be speeded up at the FCC, and there ought to be less FCC involvement in the merger review context," the source reported.

Meanwhile, documents circulated among the FCC advisory team members show the Bush transition team sought feedback on the following six subjects: (1) the top five issues facing the FCC; (2) what rules and/or policies are in most need of reform; (3) what management, administrative or procedural issues need to be addressed; (4) what can be done to expedite the FCC's decision-making process; (5) what significant challenges will the new administration and FCC face with

Congress, public perceptions, or the press; and (6) what organizational changes should be reviewed early in the new administration.

Likely Commission Priorities

Kitchen of PCIA and a team member told EMMS he was encouraged that finding more spectrum for third-generation (3G) technology "was near the top of everybody's list." Progress and Freedom Foundation fellow Randolph J. May, also a member of the FCC advisory team, called the meeting "productive," and said it gave the Bush transition team a "good chance to offer their views on what they thought was most important and pressing" issues at the FCC. "At the top of my list," May said, "was changing the strategic focus of the FCC toward becoming a market deregulator."

SBC Communications, Inc., recently submitted a paper to the Bush team recommending, among other things, "ensuring that the marketplace regulate broadband Internet service," an SBC spokesman told EMMS.

FCC Begins Inquiry Into Interactive TV Services

The Federal Communications Commission (FCC) Jan. 18 began an inquiry into the status of the market for high-speed interactive TV (ITV) services, seeking comment on what types of ITV services are being offered and what, if any, steps the agency should take to regulate them. The commission said it launched the proceeding after comments in its recently completed proceeding on the America Online Inc.-Time Warner Inc. merger (EMMS, Jan. 12, p. 18) "raised the possibility" that a vertically integrated cable TV and ITV service provider could discriminate against alternative ITV service providers.

The inquiry in Cable Services docket 01-7 seeks comments on what services constitute ITV services, how they will be delivered, and other questions about the status of the ITV market. It also asks whether cable TV providers will have the "superior platform" for distribution of high-speed ITV service and seeks comment on the ITV capabilities of DBS (direct broadcast satellite) providers and DSL (digital subscriber line) service providers.

The FCC also wants comments on the legal classifications of ITV services, what public and statutory objectives ITV rules would promote, and what authority the FCC has over such services.

Then-FCC Chairman William E. Kennard (who left the position Jan. 19) acknowledged that ITV services are in the “early stages of development” but said the FCC would “do well to get ahead of the curve.”

AOL-Time Warner Merger Brings Up Instant Messaging

When the Federal Communications Commission two weeks ago announced its long-awaited decision to clear the merger of America Online Inc. and Time Warner Inc., it marked the agency’s first effort to oversee Internet “instant messaging” services.

All five commissioners on the pre-Bush administration panel voted to approve the merger-related application, but the majority’s vote to attach conditions as competitive safeguards prompted sharp criticism from Commissioner Michael K. Powell, who now is FCC chairman. He warned that the FCC was taking a “substantial leap” by declaring broad jurisdiction over the Internet. And Commissioner Harold Furchtgott-Roth reiterated his strong view that the FCC lacks authority to extract conditions through its public interest reviews of merger-related license transfers.

The FCC’s merger conditions mandate that the combined company – known as AOL Time Warner Inc. – allow all customers to choose Internet service from any unaffiliated Internet service provider (ISP) that has a contract with the merged company to use its cable TV facilities. Customers must be able to have their chosen ISPs provide their “first screen” when they go online, without going through an AOL Time Warner-affiliated ISP as an intermediary.

The merged company must allow unaffiliated ISPs to have direct billing relationships with its subscribers. And it may not discriminate in favor of its affiliated ISP in terms of caching services, customer technical support, multicasting capabilities, address management or other technical functions.

The FCC also indicated its concern that, without conditions, AOL Time Warner would be able to leverage its dominance in text-based instant messaging (IM) into the nontext-based IM market. As a condition of the merger approval, therefore, the FCC prohibited AOL Time Warner from offering any new advanced, IM-based high-speed service (AIHS), feature or enhancement that includes one- or two-way streaming video communications using a “names and presence directory” (NPD).

The prohibition could be lifted, however, if AOL Time Warner demonstrated that it had complied with certain safeguards.

Powell said the majority had “given in too much to their collective imaginations” in imposing the IM conditions. In a separate statement, he said he was unwilling to join them in making the “substantial leap” to find that the FCC “has jurisdiction to regulate virtually every Internet product.”

Neither the record nor anticompetitive theory supports mandating IM interoperability, Powell said. “No competent antitrust authority, to my mind, would conclude intervention was necessary, nor do I believe such an analysis would withstand judicial review,” he said.

During a press briefing the morning after the decision, then-Chairman William Kennard insisted that the IM conditions were “very narrowly tailored and minimally intrusive.” Although he wouldn’t speak directly to Powell’s criticism, the former chairman said, “At the end of the day, I felt – and my two other colleagues felt – that in order to protect consumers, we had to impose some conditions.”

White Paper Views Fraud, E-Crimes at ‘Crisis’ Level

The rapid growth of economic and Internet crime is costing the United States billions of dollars, prompting the head of the National Fraud Center (NFC) (<http://www.nationalfraud.com>) to call it a “national crisis.” In a new white paper, the NFC urges the use of smart cards and other hardware and software to boost online security and authentication, along with the enactment of Internet regulations, to tackle economic and Internet crimes.

In the paper, "Economic and Cyber Crime: A Growing Global Threat," NFC, a division of Lexis-Nexis Risk Solutions, states that economic crime now costs Americans more than \$500 billion annually, compared to about \$100 billion in 1990 and \$5 billion in 1970.

"For decades, our society has focused primarily on violent crime and has ignored many of the warning signs of growing economic crime," said NFC Chairman Norman Willox. "The growth of economic crime is increasing far faster than normal and has the potential to become a serious national crisis. For this reason, we can no longer afford to view economic crime merely as the cost of doing business. Further, we must recognize that victims of economic crimes are in many instances just as seriously victimized as many violent crime victims."

The NFC paper, co-written with The Economic Crime Investigation Institute of Utica College, states that the Internet can enable scoundrels to spoof or hijack a Web site, compromise payment systems and enable identity theft and credit card fraud. For example, the white paper states that identity theft affected up to 700,000 victims in 2000, costing about \$50 billion for the year.

"As more electronic banking occurs, as more securities are purchased over the Internet, and as other financial services are provided, the consumer will be more vulnerable and the risk of theft of private information will increase," the report states. "This does not mean that stolen personal information will grow rapidly online. In fact, traditional identity theft is still much easier. But transmitting fraud online is easier. Preventing, detecting, investigating and prosecuting economic crimes must become a priority in order to lessen their impact on the economy and the public's confidence."

Among the recommendations NFC proposes in the white paper are:

- Enacting laws, regulations and improved reporting systems, adding that future legislation addressing Internet security and fraud should use language that will be easily adaptable to future technological changes to help deter economic crime.
- Fostering public-private partnerships to prevent and combat these crimes, including sharing tools and fraud databases.

- Increasing law enforcement budgets for personnel and hardware and software to investigate and prosecute Internet criminals.
- Increasing global interaction and cooperation through multinational organizations, treaties, alliances and consistent laws.
- Balancing privacy interests, weighing personal privacy concerns against the need for prevention, investigation and prosecution.

"The United States must take the lead in fostering cooperation throughout the global community in the development of uniform laws, meaningful and comparable privacy policies, effective assistance to prosecutions by foreign countries and sharing information," Willox said. "Current and future administrations must recognize the full impact of economic and cyber crime, both domestically and globally, and make a concerted, strategic effort to combat it. A national plan of action must be developed."

Fraud Prevention Tips Now Online

In another fraud matter, the Worldwide E-Commerce Fraud Prevention Network (WECFPN) has launched a Web site (<http://www.merchantfraudsquad.com>) that provides advice about how to combat online fraud. The site now contains articles on tools for preventing the use of stolen credit cards online; secure Web hosting tips; how to effectively report online crime; the future use of e-signatures for fraud prevention; and consumer tips for shopping safely online.

"Combating online fraud represents a huge challenge since merchants can be vulnerable to a wide range of criminal tactics, even if their own Web sites are secure," said WECFPN co-chair Jennifer Bennett, vice president for customer service strategy at American Express Corp. WECFPN "seeks to identify these vulnerabilities and provide smart solutions for fighting back."

The Network seeks to educate merchants about fraud prevention techniques and to encourage online enterprises to adopt best practices and anti-fraud technology such as smart cards. Since the coalition's launch, more than 375 businesses and organizations have signed on as charter members.

"The number of companies that have joined the Network over the last three months indicates there is a broad interest in learning more about

OECD GROUP AGREES ON BASIS FOR TAXING FOREIGN WEB SITES' PROFITS

An e-commerce business shouldn't be taxed on its business profits in a country just because it has a Web site accessible there, or its Web site is hosted on a server located there, according to an agreement announced Jan. 9 by the Organization for Economic Cooperation and Development's Committee on Fiscal Affairs.

The committee also has reached a consensus that except in "very unusual circumstances," a foreign e-commerce company's use of an Internet service provider in a country doesn't constitute a "permanent establishment" in that country. A country that signs the OECD's Model Tax Convention agrees not to tax the profits of a foreign company unless it carries on business through a "permanent establishment" within its borders.

The agreement among the 29 member nations of OECD's tax forum is reflected in amendments to a document interpreting the tax convention, which allows for bilateral agreements among countries. The amendments can be found on the Web at http://www.oecd.org/daffa/material/mat_07.htm#material_final.

combating online fraud," added WECFPN co-chair Travis Fagan, vice president for customer support at buy.com. "As more merchants use our site to get educated and adopt fraud prevention practices that fit their businesses, we hope they will see a meaningful reduction in fraud losses."

Future of DSL Providers In NorthPoint Tea Leaves?

As the consumer and business demand for faster Internet access and greater bandwidth proceeds apace, service providers are turning up problems left and right.

San Francisco-based DSL provider NorthPoint Communications Group Inc., doesn't expect to emerge from bankruptcy as an independent entity but has asked the bankruptcy court to allow a "structured sale" of the company's assets. "The purpose of our filing is to use the breathing room Chapter 11 provides to sign an agreement with a financially sound strategic partner who is interested in our world-class network," said Elizabeth A. Fetter, NorthPoint's president and chief executive officer, in a conference call with analysts.

NorthPoint filed for chapter 11 protection Jan. 16 in U.S. Bankruptcy Court for the Northern District of California, ending a financial slide for which NorthPoint largely blames Verizon Communications Inc. In November, Verizon cancelled plans to acquire 55 percent of NorthPoint

and provide \$350 million in premerger financing (EMMS, Dec. 15, 2000, p. 6).

NorthPoint has laid off workers, scaled back operations, and sold stakes in joint ventures in Europe and Canada, but those moves apparently weren't enough to keep the company solvent. In conjunction with its bankruptcy filing, the company obtained agreements for as much as \$38 million in "debtor-in-possession" financing to continue operations.

"The company's available cash only funds its operations for a few weeks," said Kenneth Hoexter, an analyst with Merrill Lynch & Co. "Even with the nearly \$12 million in cash received through recent divestitures, we believe that the company has virtually run out of additional funds to keep operations running."

NorthPoint's condition has raised further doubts about the other independent "data CLECs" (competitive local exchange carriers) – Rhythms NetConnections Inc. and Covad Communications Group Inc. – whose business models depend almost entirely on deployment of digital subscriber line (DSL) service.

"A year ago investors had genuine fear that DSL CLECs ... would be able to profitably take significant share" from Bell companies and incumbent local exchange carriers (ILECs), Credit Suisse First Boston Corp. analyst Daniel P. Reingold said Jan. 17 in a report. NorthPoint's bankruptcy and cutbacks at Rhythms and Covad mean the market for high-speed Internet access will be left to ILECs, Bell companies and cable

TV operators, he predicted. "This is certainly a plus" for Bell companies and ILECs, he noted.

As part of its ongoing effort to save money, NorthPoint dissolved its Canadian joint venture with Call-Net Enterprises Inc. Toronto-based Call-Net will pay US\$5.3 million for NorthPoint's half of the venture, NorthPoint Canada Communications. The venture, which offers DSL service in four Canadian cities, will continue to operate as a Call-Net subsidiary.

NorthPoint invested \$25 million when the venture was formed last year. But NorthPoint said it no longer could afford to operate the Canadian business. NorthPoint still is recovering from the unexpected cancellation of its proposed merger with Verizon, which it continues to fight in court. "Verizon dealt us a crippling blow," Fetter said. The retreat from Canada "is one of a number of steps we have taken to refocus our resources."

Meanwhile, a Washington, D.C., law firm has filed a class-action lawsuit against Verizon and Verizon Internet Services Inc. in the Superior Court of the District of Columbia on behalf of "all persons and entities throughout the U.S." who have purchased DSL service from Verizon.

The complaint alleges Verizon failed to keep its marketing promises to provide continuously available DSL service except for regularly scheduled maintenance. The two D.C. residents representing the purported class say they experienced "significant access disruptions and significant delays in obtaining technical service."

The complaint seeks an injunction to prevent Verizon from continuing to sell DSL Internet access until the service problems are resolved and to require Verizon to compensate customers for the poor service.

The plaintiffs allege that Verizon was aware that it wouldn't be able to provide DSL service as promised. Verizon knew its customers would experience significant disruptions and delays obtaining support, yet it still "engages in extensive advertising" to promote DSL service and continues to "sign up more than 3,000 new customers a day," the complaint says.

Gary E. Mason, lead attorney for the law firm of Cohen, Milstein, Hausfeld, and Toll P.L.L.C., said, "Verizon is acutely aware of the service interruptions and service delays, yet has failed

to disclose these problems to current and potential customers." A Verizon Internet Services spokesman said the company wouldn't comment directly on the complaint but noted that DSL technology still is new and "evolving rapidly, with the attendant stress and strain." The spokesman said Verizon will continue to support the technology and is committed to providing good service.

Cutting Back At Rhythms

DSL competitor Rhythms NetConnections Inc. intends to reduce its expected losses this year by 15 percent, to \$395 million. The Englewood, Colo.-based "data CLEC" said it would achieve those savings by cutting 450 employees – or 23 percent of its work force – and by eliminating its presence in about 20 of its smaller markets, leaving it with a 40-market presence.

The pullback from smaller markets will enable Rhythms to cut 100 employees who work in those cities, while productivity gains and improved back-office systems will enable the company to cut 300 installer positions. By scaling back – as other data CLECs already have done – Rhythms will be able to last a few additional months before having to seek funding in an iffy capital market. Rhythms said it would have enough funding to stay in business until early next year.

Some Wall Street analysts, however, seem unimpressed by Rhythms' efforts. The elimination of 300 installer positions is an "aggressive" move that "could result in a degradation of service," said Merrill Lynch & Co.'s Kenneth Hoexter. Rhythms' losses could be deeper than the \$395 million the company predicts, Hoexter said Jan. 17 in a report. "We are only lowering our loss estimate by 10 percent to \$430 million ... as we believe employee cutbacks will also result in slower revenue growth."

Mark Kastan, an analyst with Credit Suisse First Boston Corp., estimates the cutbacks will give Rhythms only two additional months to obtain funding. Contrary to the company's projection that it can last until early 2002, the company will require new financing late this year, Kastan said in a report. "While we are somewhat relieved to see that Rhythms management has scaled back its business plan, we still estimate that the company needs to raise over \$1 billion of additional capital to be fully funded, and we believe that the capital markets will remain closed to data CLECs for the foreseeable future."

FLORIDA TASK FORCE MAKES PRIVACY RECOMMENDATIONS

A state Task Force on Privacy and Technology has released the preliminary recommendations that it will make to Gov. Jeb Bush (R) and the Florida Legislature on identity theft and other privacy issues. The report isn't due until Feb. 1, but the task force released it early to facilitate further consideration of its recommendations.

The task force recommends expanding the venue for prosecuting identity theft, extending Florida's statute of limitations to cover such crimes, and enhancing existing penalties for the crime. It also recommends increasing the role of the state Department of Law Enforcement in technology-based and identity theft-related law enforcement efforts.

The group recommends creating a statewide clearinghouse for identity theft victims and expanding their eligibility for restitution. Providing greater access for correcting public records and some modifications of the practices of credit reporting agencies also are proposed, as are measures to restrict illicit access to government-issued identification. It recommends a broad campaign to raise public awareness of the problem.

Underpinning its recommendations, the task force wants the state to conduct a privacy audit to determine precisely what sensitive personal information the state collects, uses and sells. It recommended that the governor issue an executive order directing state agencies to review existing forms and information collection and compilation policies to ensure that sensitive personal information isn't being collected and used unnecessarily.

The task force recommends designating a chief privacy and public access officer to focus on emergency privacy concerns. The officer would be responsible for conducting the privacy audit, making policy recommendations to the Legislature, and reviewing major data sharing/sale contracts between the state and third parties.

The group also suggests that the state enact legislation requiring the prominent posting of Internet privacy policies on state-sponsored Web sites. It recommends holding legislative hearings to determine whether new laws regarding secondary uses of sensitive personal data are necessary.

The task force's recommendations are available at <http://www.myflorida.com/myflorida/government/learn/pttf/index.html>.

Financing Also at Issue In Asian Internet Markets

Future telecom infrastructure projects in Asia will require "creative financing solutions" if development is to keep pace with demand, a Washington, D.C.-based international telecom lawyer said Jan. 15. The greatest obstacle to meeting Asia's demand for Internet and other telecom networks is "meeting the communications sector's demand for capital," according to Glenn S. Gerstell, a Milbank, Tweed, Hadley & McCloy LLP partner.

Speaking at the Pacific Telecommunications Council's conference in Hawaii, Gerstell presented a "white paper" describing the benefits and drawbacks of various financing methods – and how a combination of approaches can secure needed financing in spite of the reluctance of financial institutional to take risks in less developed nations.

"Techniques for Financing Telecoms and Internet Infrastructure Buildout in Asia," which was co-authored by Milbank, Tweed Senior Associate Alisa Fiddes, focuses on projects and companies in "start-up mode," rather than on more "mature" businesses.

Vendor financing historically has provided limited options to purchasers. Continued telecom industry privatization, combined with a "proliferation of start-up companies," has further limited this option, according to the paper. However, national export credit agencies (ECAs) often are eager to finance and participate in projects involving sales of domestic high-tech goods.

Combining vendor financing with ECA or multilateral credit agency funding could help overcome weaknesses in either financing method, the paper says. Likewise, reaching out to a combination of commercial bank markets and capital markets or entering into strategic partnerships

“can reduce project risks by bringing together partners with different resources and expertise,” it adds.

ITEMS OF INTEREST

- U.S. government agency officials now have guidance addressing key security concerns when offering Internet and other electronic services. A publication released Jan. 19, “Securing Electronic Government,” resulted from an eight-month collaboration between the Information Technology Association of America and the government’s CIO Council and CFO Council.

The report covers e-security concerns in three principal areas – government e-procurement, Web-based information services and governmental financial transactions. It focuses on five security goals – data availability, user identification and authentication, confidentiality, information integrity and nonrepudiation – that is, the principle that electronic transactions are binding when concluded.

“What we will do is provide this to the federal community, and based on their feedback, we will expand to other areas or refine these three areas,” said John Gilligan, deputy chief information officer and principle deputy assistant secretary for business and information management for the U.S. Air Force. “That becomes the roadmap ahead.”

Gilligan stressed that the government needs to ensure secure electronic documents to avoid a loss of public confidence. ITAA and the CIO Council and CFO Council initially met in May 2000 to develop guidelines for adequate security measures that government agencies can use.

- DoubleClick Inc. has elected not to match an offer from an unrelated third party that has proposed to acquire all of the outstanding shares of NetCreations Inc. As a result, DoubleClick will end the merger agreement with NetCreations originally signed in October. NetCreations is required to pay to DoubleClick a breakup fee of \$8.6 million plus expenses following the termination. “We are disappointed that NetCreations won’t be a part of our success, but considering NetCreations’ recently announced operating results and our own internal progress on email, we have decided not to raise our existing offer,” said Stephen Collins, chief financial officer of DoubleClick. “Going forward, we will continue to aggressively pursue opportunities to grow our email business both

organically and through acquisitions.” DoubleClick, contact Bruce Dalziel, (212) 683-0001. <http://www.doubleclick.net>

- The Descartes Systems Group Inc. and BCE Emergis Inc. have partnered to offer high-performance Internet logistics solutions. Under the agreement, BCE Emergis will sell Descartes’ DeliveryNet solution as part of its broad e-commerce service offerings to major North American enterprises. “BCE Emergis gains a strong addition to its service offering and the logistics messaging service customers will benefit from the depth and expertise of Descartes,” said Brian Edwards, vice chairman and chief executive officer of BCE Emergis. “Both companies will benefit from this partnership and from each others’ business relationships.” BCE Emergis, contact John Gutpell, (514) 868-2232. <http://www.emergis.com>

- Time Warner Telecom Inc. will be the first carrier to deploy Lucent Technologies Inc.’s WaveStar 1.6T, an optical networking system that Lucent said can transmit the equivalent of 320 million simultaneous one-page email messages. The competitive local exchange carrier has signed a \$100 million, three-year agreement with Lucent to deploy the DWDM (dense-wave-division multiplexing) equipment.

- The Internet Corporation for Assigned Names and Numbers (ICANN) said its board elected M. Stuart Lynn to succeed Michael Roberts as president and chief executive officer. Roberts has held the position since October 1998, overseeing ICANN’s start-up as an organization and commercial entity. Lynn is a former chief information officer for the University of California system. He’ll take over the CEO post at the conclusion of ICANN’s board meeting in Melbourne, Australia, March 10-13.

- The House Energy and Commerce Committee’s telecommunications subcommittee plans to hold a hearing in February to examine the process by which the Internet Corporation for Assigned Names and Numbers (ICANN) selects Internet domain name suffixes, Commerce Chairman Rep. W.J. “Billy” Tauzin (R-LA) announced Jan. 12. “There have been a number of reports that ICANN’s process to create a new generation of Internet domain name suffixes may be thwarting competition in the registration and assignment of Internet domain names,” Tauzin said in a letter that was sent Jan. 12

to ICANN President and Chief Executive Officer Michael M. Roberts. "As the committee of jurisdiction over the issue, the committee wants to ensure that this process is open and fair, and most important, successfully sparks competition," Tauzin added.

- AT&T Corp. will boost its stake in cable modem Internet access provider Excite@Home after two partners, Comcast Corp. and Cox Communications Inc., decided to trade \$2.9 billion worth of Excite@Home shares for AT&T shares. Comcast and Cox were given the right to exchange their shares in an agreement announced last year. AT&T said the exchange would increase its voting interest in Excite@Home to 79 percent from 74 percent. Its economic interest would increase to 38 percent from 23 percent.

The March agreement also allows Comcast and Cox to end their exclusive relationship with Excite@Home and invite other cable modem service providers onto their systems as early as December 2001. If they do that, however, Comcast and Cox will forfeit warrants that give them the right to purchase Excite@Home stock at favorable prices.

- The Commerce Department Jan. 16 announced formation of the Information Technology Information Sharing and Analysis Center (IT-ISAC), a group of government and industry interests that will work on critical infrastructure issues. Commerce Secretary Norman Mineta said IT-ISAC would "enable the high-tech industry to take the lead in spotting potential threats to the Internet and information infrastructures, sharing state-of-the-art Internet and information infrastructure security measures, and responding in a more coordinated way." Listed among the group's 19 "founding members" are AT&T Corp., Cisco Systems, Inc., Nortel Networks Corp. and Microsoft Corp.

- Spending on telecom services and equipment increased by 12.5 percent in 2000, generating revenues of \$609.2 billion, according to a report released Jan. 16 by the Telecommunications Industry Association. In "2001 MultiMedia Telecommunications Market Review and Forecast," TIA said spending on telecom transport services reached \$287.6 billion in 2000, which is an 8.9 percent increase over 1999 levels. Spending on "specialized" services such as unified messaging, voice messaging and broadband Internet access, reached \$5.8 billion

last year, or 62.2 percent over the previous year's figures, the report shows.

- The U.S. Department of Justice has issued a manual to help law enforcement agencies nationwide fight trademark counterfeiting, copyright piracy and the theft of trade secrets. "Prosecuting Intellectual Property Crime" was created by the Computer Crime and Intellectual Property Section of DOJ's Criminal Division and was published by DOJ's Office of Legal Education. The manual includes a list of commonly charged intellectual property crimes, explanations of relevant criminal laws, and information on such recent criminal IP laws as the No Electronic Theft Act and the Digital Millennium Copyright Act. It's available online at <http://www.cybercrime.gov/ipmanual.htm>. The DOJ manual is part of a federal Intellectual Property Initiative, launched in San Jose, Calif., in July 1999 by DOJ, its Federal Bureau of Investigation and the U.S. Customs Service. Also participating are U.S. attorneys' offices in New York, New Jersey, California, Florida and Massachusetts.

- Focal Communications Corp. has launched high-speed Internet access service in the New York/Northern New Jersey area. The company said the launch brings its total number of live "Internet eXchanges" to four. Focal said its Internet eXchange enables area customers to bypass Internet bottlenecks and obtain direct access to multiple global backbone providers.

- Level 3 Communications Inc. Dec. 14, 2000, announced plans to begin offering Internet and other communications services in Indianapolis and Sacramento, Calif. The company operates advanced data centers in 54 markets in the United States, Europe and Asia.

- During his inaugural speech Jan. 9, North Dakota Gov. John Hoeven (R) outlined a proposed budget that will include funding to complete the state's high-speed data network. He said the network will provide high-speed Internet access to 194 communities, expanding distance education and technology work force development programs. "For business and education, this is the infrastructure upon which our next level of economic growth will come," Hoeven said.

- Hughes Electronics Corp. Jan. 8 announced plans for its DirecTV Inc. direct broadcast satellite business and its Hughes

ALCATEL TO BUILD TRANS-ATLANTIC NETWORK FOR DATA TRAFFIC

Alcatel SA said it will build a trans-Atlantic telecommunications network for Cable & Wireless PLC of London, which will use the new undersea cable system in anticipation of data traffic growth between Europe and North Atlantic. The Apollo network project, which Alcatel said is worth "several hundred million U.S. dollars," will be designed to handle high-speed data transmissions and will be "adaptive to future traffic patterns."

A Yankee Group analyst expressed confidence that Alcatel will complete the project by the promised delivery target of summer 2002, and cited Alcatel's proven track record in deploying top-notch submarine networks. Nancee Ruzicka, a long-haul telecom infrastructure analyst, also said that C&W's projections for trans-Atlantic data-traffic growth likely will prove accurate.

Ruzicka said she believes data capacity on the network, which will handle 3.2 terabit-per-second speeds, will be exhausted in a short period of time. Continued growth in the deployment of VPN (virtual private network) and Internet protocol systems will contribute to escalating demand, she said. "The demand is starting to show up," she said. "I think that capacity will get used up pretty quickly."

Alcatel said the Apollo network will be built using DWDM (dense-wavelength division multiplexing) technology. Apollo will have four fiber pairs equipped with 80 wavelengths at 10 gigabits per second, "the highest capacity and lowest unit cost of any transatlantic system," Alcatel said. The project includes an additional four-year marine maintenance contract. Alcatel will devote two cable-vessels for cable fault and marine repair services.

Network Systems Inc. satellite data networking business units to launch a new high-speed satellite Internet access service. Hughes Electronics said the venture will enable DirecTV to bundle high-speed Internet access service with its digital multichannel video programming offerings and offer it to its base of 9 million customers, as well as new customers, nationwide. Introduction is expected in the first quarter of this year.

- Montana state Sen. Steve Doherty (D-District 24) has prefiled a bill (LC 413) that would prohibit government agencies or political subdivisions from offering Internet services to the general public in a specific area where an Internet service provider (ISP) also offers those services. The bill would allow an agency or political subdivision to act as an ISP if no for-profit ISP is available in the area.

- The Kentucky Senate Economic Development, Tourism, and Labor Committee is considering a resolution that would require the House subcommittee on information technology to study the availability of high-speed Internet access. The study would seek to (1) identify areas of the state where technologies such as digital subscriber line and integrated services digital network are unavailable, (2) determine the reasons for the slow diffusion of high-speed Internet access, and (3) recommend ways to improve offerings in

traditionally underserved areas. Sen. Ed Worley (D-District 34) introduced SCR 16.

- SBC Communications Inc. has agreed to provide a \$110 million line of credit to Prodigy Communications Corp. SBC disclosed the arrangement in a filing Jan. 4 with the Securities and Exchange Commission. Last year SBC transferred its Internet access business to Prodigy and acquired a 42 percent stake in the White Plains, N.Y., Internet service provider.

- The Commerce Department's National Telecommunications and Information Administration will award about \$42.5 million in Technology Opportunities Program (TOP) grants in 2001, NTIA Administrator Gregory L. Rohde announced Jan. 11. NTIA has begun accepting applications, which are due by March 22. The agency is encouraging applicants "to develop projects of national significance which demonstrate how digital network technologies can be used to extend valuable services and opportunities to all Americans, especially the underserved."

NTIA will hold a series of free regional workshops next month to discuss the TOP program. They'll be held Feb. 2 in Washington, Feb. 6 in Denver, and Feb. 8 in St. Louis. Registration information is available on NTIA's Web site at http://www.ntia.doc.gov/otiahome/top/conference_workshops/workshops.htm.

- Two new committees that will examine electric and telecom issues during the Montana Legislature's 2001 session met Jan. 4. The new committees – the Senate Energy and Telecommunications Committee and the House Federal, Energy, and Telecommunications Committee – met jointly for an educational forum. Three separate briefings on the telecom portion focused on industry “jargon.” Mike Strand of Montana Independent Telecommunications Systems (MITS) led that discussion. Geoff Feiss of the Montana Telecommunications Association led the second briefing on “The New Economy: Where We Are Now and Where We Want to Be – What’s at Issue?” The last briefing, provocatively titled “The Digital Drama, as Told by the Players Themselves,” included officials of Qwest Corp., Touch America, AT&T Corp., MITS, Ronan Telephone Co., the Public Service Commission and the state Consumer Counsel.

- The U.S. Army Dec. 14 announced the award of a five-year, \$453 million contract to PricewaterhouseCoopers LLC to lead its distance education initiative. PwC’s infrastructure support partners include Fiberlink Communications Corp., a Pennsylvania-based VPN (virtual private network) service provider, and Intel Corp.’s Online Services division. The Army University Access Online program, which involves 29 colleges and universities, will launch pilot projects next year at Fort Hood, Texas, Fort Benning, Ga., and Fort Campbell, Ky.

- JENS Corp., a wholly owned subsidiary of Japan Telecom, has signed agreements with AT&T Corp. and BT Ignite Content Hosting (a subsidiary of BT), to provide worldwide Internet data center services. According to JENS, the agreements will enable it to offer a global service spanning 30 locations – two in Japan, eight in the United States and 20 in eight European countries – to meet the rapidly expanding demand for international Internet data centers. In addition, AT&T and BT Ignite will offer server-hosting facilities through JENS’ Internet data centers in Japan. AT&T and BT each own 15 percent of Japan Telecom, which is affiliated with Japan Railway.

- Virginia has scheduled its second annual Global Internet Summit March 5-7 in Fairfax. Gov. Jim Gilmore (R) and John T. Chambers, president and chief executive officer of Cisco Systems Inc., will be the summit’s co-chairmen. The governor’s office said the summit will examine

various aspects of “the emerging global framework, including conditions conducive to fostering the growth of the Internet and e-commerce.”

Alfred R. Berkeley III, vice chairman of the board of directors of the Nasdaq Stock Market, will be chairman of the summit’s program committee. Confirmed speakers include John Sidmore, vice president of WorldCom Inc.; Stratton Sclavos, president of VeriSign; Bruce McConnell, president of McConnell International; and Klaus Zumwinkel, chairman of the board of management of Deutsche Post World.

Gilmore also said the state would “be a major sponsor” in VentureQuest 2001, a conference scheduled for July 11-13 in Fairfax “aimed at celebrating and advancing minority-owned technology firms and entrepreneurs.” To register for the Global Internet Summit, go to <http://www.internetsummit.org>.

- New York state Assemblywoman Aurally Greene (D., District 77) has introduced two bills intended to “protect personal privacy.” AB 725 would expand the state’s prohibition on fax solicitations to include messages received through email. The bill also would expand the range of remedies available to victims of the solicitation. Currently a victim can bring a civil action in his or her own name to recover \$100 or “actual damages.” AB 725 would allow the attorney general’s office to bring actions against violators and request injunctions or impose civil penalties of up to \$500. AB 725 has been referred to the Assembly Committee on Consumer Affairs and Protection. A Senate version (SB 602) has been referred to the Senate Committee on Consumer Protection. The text of AB 725/SB 602 is available at <http://assembly.state.ny.us/cgi-bin/showtext?billnum=A00725>.

- The National League of Cities has announced that its March 9-13 conference will feature legislative and policy sessions on topics including telecommunications and the “digital divide.” The Congressional City Conference, which is intended to inform congressional and administrative leaders about federal issues that are most critical to cities and towns, also will discuss issues relating to privacy, municipal rights-of-way, and ways to provide financing and initiatives to build and maintain infrastructure for cities.

The conference will be held at the Washington Hilton and Towers in Washington, D.C. For more information, contact the National League of Cities at <http://www.nlc.org>.

- Texas state Rep. Glen Maxey (D-District 51) has introduced two bills in the House that address voter registration applications submitted by digital transmission. SB 613 would permit the voter registrars to accept a voter registration by digital transmission, and SB 615 would require the registrars to accept a voter registration by digital transmission. Both bills state that a digital signature would have to be present on a registration application submitted digitally. The bills also would call on the secretary of state to adopt rules regarding the technologies needed to create a digital signature.

- Nebraska state Sens. Mike Foley (Ind.-District 29) and Chris Beutler (Ind.-District 28) have introduced LB 839 to require all local exchange carriers (LECs) to provide to residential subscribers annually information about unsolicited telemarketing calls and faxes. The LECs would have to provide the information either as an insert in the residential subscriber's billing statement or as a separate written communication. The communication would include a brief description of language covering unsolicited telemarketing calls or faxes that was included in the federal Telephone Consumer Protection Act of 1991 and the federal Telemarketing and Consumer Fraud and Abuse Prevention Act. It also would include the names and addresses of all entities identified by the Public Service

Commission as maintaining a comprehensive national no-call database. The PSC would promulgate rules to implement the proposed legislation. It has been referred to the Transportation and Telecommunications Committee.

- The Federal Trade Commission Jan. 22 closed its investigation of Double Click Inc., finding that the company didn't use consumers' personal information for purposes other than those it disclosed in its privacy policy. The FTC opened an investigation of the Web marketing firm's advertising services and data collection practices in February 2000. In a letter issued Jan. 22, the FTC stated, "It appears that DoubleClick has not used sensitive data for any online preference marketing product." The FTC's finding cleared the company of charges that it had engaged in unfair or deceptive acts or practices in violation of section 5 of the Federal Trade Commission Act.

The FTC urged DoubleClick to fulfill the privacy protection commitments it pledged during the agency's investigation. According to the FTC, DoubleClick has agreed to disclose the use of Web tracking and information collecting devices and allow consumers to opt out of information collection systems employed by the company. DoubleClick also has agreed to notify consumers that names and address lists won't be sold to third-party users without consumers' consent.

Wireless Messaging

NTIA Proposes Rules On Clearing 3G Spectrum

The National Telecommunications and Information Administration is proposing rules to establish procedures for reimbursing federal government spectrum incumbents that relocate to other bands to make way for commercial users.

NTIA head Gregory L. Rohde said the rules could bolster the leftover effort from the Clinton administration to identify and allocate spectrum for third-generation (3G) wireless services, which were launched in October 2000 by executive memorandum.

As part of that effort, NTIA is studying the possible use of the 1755-1850 megahertz band,

which is used heavily by the Defense Department. The proposed rules would cover such future reallocations, Rohde said during an industry-government meeting on the 3G plan at the Commerce Department Jan. 17.

The National Defense Authorization Act for fiscal year 1999 required private entities to reimburse federal spectrum users for the cost of relocation or modification of their systems as a result of reallocation. The notice of proposed rulemaking NTIA released Jan. 17 proposes rules for implementing that reimbursement requirement.

Comments are due 60 days after publication of the notice in the Federal Register, with reply comments due 30 days after that in docket no. 001206341-0341-01.

SigmaOne COUNTER-SUES ON PATENT INFRINGEMENT

SigmaOne Communications Corp. (EMMS, Aug. 11, 2000, p. 2) says a patent-infringement lawsuit filed against it by TruePosition Inc. is "totally without technical merit and motivated strictly by commercial considerations." TruePosition's action, filed in U.S. District Court in Delaware, claims that SigmaOne infringed on three patents related to its network-based wireless location systems.

SigmaOne has decided to counter-sue. "We believe that our counter-suit will produce an unequivocal declaration that TruePosition's patents have no relation to, and are not infringed by, SigmaOne's technology, and that, in addition, the patents are invalid," said SigmaOne President Mark Licht. "SigmaOne will also aggressively enforce its own intellectual property rights in the field of wireless location technology."

In its notice, NTIA seeks comments on whether federal government spectrum incumbents should be required to relocate if sharing is technically possible in their present bands.

If incumbents are not required to relocate, under what conditions should they be permitted to remain in their current bands and who would pay for any system modifications that would improve spectrum sharing, NTIA asks. It also seeks comments on whether federal incumbents should be required to stay in the band on a noninterference basis with 3G systems.

NTIA proposes which relocation costs should be eligible for reimbursement. It also suggests a process for resolving differences over those costs, including a mandatory negotiation period, third-party mediation and nonbinding arbitration.

NTIA says federal incumbents should not be forced to relocate until a "comparable facility" is available for a reasonable period of time. It proposes adopting a cost-sharing plan that it says could require a spectrum bidder or licensee or group of licensees to pay a disproportionate share of relocation costs.

At the direction of the Omnibus Budget Reconciliation Act of 1993 and the Balanced Budget Act of 1997, NTIA identified 255 Mhz of spectrum that can be reallocated from federal government to private use. The bands part of that spectrum in which federal incumbents qualify for reimbursement are 216-220 Mhz, 1432-1435 Mhz, 1710-1755 Mhz, and 2385-2390 Mhz.

The FCC has proposed allocating the 1710-1755 Mhz band for 3G services. In addition, Rohde said the reimbursement rules would apply

to the 1755-1850 Mhz band if federal incumbents there are relocated under the 3G initiative.

During the 3G meeting, Rohde said he didn't know if the Bush administration would make any changes to the 3G effort, which is trying to meet a tight schedule that calls for the FCC to issue licenses for 3G spectrum by Sept. 30, 2002. But he said he has stressed its importance in his dealings with the Bush transition team.

At his Senate confirmation hearing for Commerce secretary earlier this month, Donald L. Evans indicated the Bush administration was committed to finding spectrum for 3G services.

Several industry representatives expressed frustration about not getting access to key data needed for them to make recommendations to regulators on the use of the 1755-1850 Mhz and 2500-2690 Mhz bands in time for NTIA and the FCC to use as they identify and allocate 3G spectrum. Industry representatives are reviewing the bands through working groups formed to advise government regulators.

"One concern is we're going to do a lot of work and in the end it will be too late to be included in your final report," said Joanne C. Wilson, director of global public affairs for Lucent Technologies Inc.

NTIA and FCC officials said some of that data won't be known until final reports on band studies are released, and encouraged the industry representatives to continue their participation in the process. The 3G initiative calls for final reports on studies of the two bands to be released in March, with the spectrum selected and the FCC issuing an order allocating the bands in July.

KPN, DOCOMO, TELECOM ITALIA JOIN FOR EUROPEAN WIRELESS DATA MARKETS

A joint venture to deploy wireless data services throughout Europe has been proposed by KPN Mobile NV, NTT DoCoMo Inc. and Telecom Italia Mobile SpA. The venture will attempt to extend NTT DoCoMo's experience in providing its Japanese "i-mode" service to the European market. The companies aim to deploy mobile data services – including games, email, messaging and Internet access – in the second half of this year in Belgium, Germany, Italy and The Netherlands.

Separately, NTT DoCoMo and KPN Mobile will create a new wireless data company that will be 25 percent owned by NTT DoCoMo and 75 percent owned by KPN Mobile. Creation of the company is the latest step in an ongoing alliance that was launched when NTT DoCoMo acquired a 15 percent stake in KPN Mobile.

The new company will begin life with \$132 million in funding – \$85 million from KPN Mobile and \$47 million from NTT DoCoMo. The company will take possession of the mobile data assets of KPN Mobile and its subsidiaries, E-Plus Mobilfunk GmbH and KPN Orange. The new company will be based in The Netherlands and will be established in March, the companies said.

Spectrum Cap Lifts Urged

Thomas Wheeler, chairman and chief executive officer of the Cellular Telecommunications & Internet Association, again urged the FCC to lift the cap on how much spectrum a carrier may hold in any market while the high-level effort to identify and allocate 3G bands winds its way through the regulatory process.

Wheeler told reporters in Washington Jan. 23 that such access to additional spectrum is crucial for the U.S. to maintain its leadership in developing the Internet as access via wireless devices takes off and spreads worldwide.

Japan and European countries have moved more quickly to allocate frequencies for 3G services, setting aside twice as much as the United States, he said. "The other governments of the world have stolen a page from our play book," Wheeler said.

Wheeler noted that newly named FCC Chairman Michael Powell has indicated he would favor lifting the spectrum cap. "Clearly, in some of the opinions that he's written in the spectrum proceeding, he's asked the question, 'Why should this continue?'" Wheeler said. "We're hopeful."

Commenting on Verizon Wireless' request to postpone the scheduled March 6 auction of 700 megahertz band spectrum, Wheeler said the carrier's request was legitimate. Still, CTIA hadn't decided whether it would support it in comments it files with the FCC this week, he said.

Other issues Wheeler said CTIA hopes the FCC or Congress will act on this year include privacy guidelines for location-based services, "calling party pays" and reciprocal compensation.

ITEMS OF INTEREST

- Nextel Communications Inc. has agreed to purchase 900 megahertz band specialized mobile radio (SMR) licenses from Arch Wireless Inc. for \$175 million and to invest \$75 million in the largest U.S. paging carrier. In exchange for the investment, Nextel will receive a new series of Arch preferred stock. The two companies also agreed to explore ways to collaborate on marketing. Arch said the carrier doesn't expect to need the SMR spectrum because of upgrades to its two-way messaging network. It said it will use the funds from the sale to pay down debt and use the equity investment for working capital and general corporate purposes.

Nextel said the spectrum acquisition will give it about 20 Mhz of SMR spectrum in the 800 and 900 Mhz bands in 52 of the top 100 U.S. markets.

- There were only eight new bids in the last round on Jan. 24 of the FCC's ongoing reauction of 422 "C" and "F" block PCS (personal communications service) licenses. Net bids remained at \$16.8 billion by the end of that round, the 91st. The top bidders had the same net bids. Verizon Wireless had \$8.7 billion in bids, while Alaska Native Wireless LLC, had \$2.8 billion, and Salmon PCS LLC had \$2.3 billion.

Thirty-five bidders remained eligible after bidding was completed at EMMS's deadline.

- Telefon AB L.M. Ericsson is forming a separate company to focus on mobile Internet networks and applications. The company will be called Ericsson Internet Applications and Solutions AB.

- NTT DoCoMo Inc. will borrow up to 1.2 trillion yen (US\$10.2 billion) to fund its purchase of a 16 percent stake in AT&T Wireless, the Japanese company disclosed in a filing with the U.S. Securities and Exchange Commission (EMMS, Jan. 12, p. 11). The Bank of Tokyo-Mitsubishi Ltd., Industrial Bank of Japan Ltd., Dai-ichi Kangyo Bank Ltd., Fuji Bank Ltd. and Sumitomo Bank Ltd. were identified as the lenders. The proposed financing is intended as a short-term bridge loan, NTT DoCoMo said. The Japanese company said last month it would buy a \$9.8 billion stake in AT&T Wireless as part of an alliance to sell wireless data services in the United States.

- Following a recent Federal Communications Commission proposal to encourage the growth of third-generation (3G) wireless services, AT&T Corp. this week announced it's creating a new, wholly owned subsidiary to develop high-speed wireless services, including graphic presentation of data, video email and streaming audio and video. AT&T has finalized its alliance with Japanese mobile communications company NTT DoCoMo Inc. to begin producing the new technology.

- The Wireless LAN Association (WLANA), a trade association for the wireless local area networking industry, announced that wireless technology leaders Alcatel (see box, p. 13), Colubris Networks and WaveLink have joined WLANA as "Sponsor" members. Each company gets a vote on the WLANA board. WLANA's mission is to create a growing awareness among users and the industry that wireless LANs are a convenient way for interconnecting computers. Greg DiCillo, managing director of WLANA, said, "Our growing membership reflects the tremendous increase in interest in using wireless networks as a connectivity solution in home, office and public access locations." Marc Hermans, president of Alcatel's Customer Premises Division, said, "Alcatel strongly believes that WLANA is the ideal forum for creating a shared understanding of the wireless LAN as one of the building blocks of the Internet world."

"Our decade of wireless LAN experience allows us the opportunity to provide leadership in this rapidly evolving market, and work with other industry leaders to resolve the key issues surrounding the convergence of wireless LAN and the mobile Internet," said Robert Whelan, WaveLink chief executive officer and president.

WLANA is a nonprofit educational trade association that provides a clearinghouse of information about wireless local area applications, issues and trends, and serves as a resource to customers and prospects of wireless local area products and wireless personal area products, and to industry press and analysts. <http://www.wlana.org>

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