

Aug. 26th panel discussion, "The Federal Landscape"

NATOA's 2024 Annual Conference, Charleston Marriott in Charleston, SC.

Monday morning's agenda includes a session on "The Future of Franchising " preceding our panel, which is then followed by a Keynote Luncheon featuring Mignon Clyburn.

Ms. Clyburn's planned keynote:

Make It Make "Cents,"... A Perspective on Net Neutrality, Digital Discrimination, USF/ACP and more...

Monday, August 26, 2024

11:00 a.m. – 12:15 p.m. (A CONCURRENT SESSION)

The Federal Landscape

Are you listening? Local governments have a lot to say about important issues such as streaming and revenue, digital discrimination, Title II reclassification, USF contribution, ACP and affordability and more. Learn how you can get involved in today's issues... and, more importantly, why you should.

Panelists:

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Question	Angelina	Ceilidh	Cheryl
<p>The election is looming large this year as we prognosticate on what the remainder of 2024 and 2025 will bring -- what are you seeing as the most important impacts from the outcome in November?</p>	<p>DNC observations</p>	<p>ACP and USF - USF senate working group - <i>brief</i> explanation of USF and working group (will say more later)</p> <p>BEAD - luckily it's started, but still role for NTIA</p> <p>Pole attachment and preemption - explain CWA's interest; industry push around BEAD</p>	<p>The most important thing you need to know, no matter who wins the presidential or any other election, is make connections during the election.</p> <p>10,000 foot level Trump FCC priorities & Harris priorities</p> <p>House/Senate committees based on election outcomes & priorities.</p> <p>Who is in charge in the Senate depends on elections in OH & MT and in the House on 20 swing districts</p>
<p>We are finally seeing the state plans under the massive BEAD program roll out. NTIA has just announced the Competitive Digital Equity Act grant application deadline. What have we learned from BEAD so far and what should cities be paying attention to?</p> <p>And other grant programs are coming up on major filing deadlines--what do we need to know?</p>	<p>BEAD - overall status across states, general trends we're seeing from state plans, impact of ACP wind-down</p> <p>DEA - application deadline, refer people to dedicated programming</p> <p>Deadlines - ARPA deadlines coming up!</p>	<p>Implementation of BEAD - local government voice can be valuable in process</p> <p>CWA Report Card - Lessons learned from ARPA - Transparency, equity, labor standards</p>	<p>[Mike talk about NATOA plan for competitive grant?].</p> <p>See deadlines on BBK Top Telecommunications Handout</p>
<p>Washington DC is chattering about the impact of the big</p>		<p>I can just add to Cheryl, that this is example of importance of federal</p>	<p>Explain Chevron deference quickly & Loper Bright.</p>

<p>Supreme Court decision to overturn Chevron deference. How do you see that playing out for issues that matter to local governments?</p>		<p>engagement - this didn't happen in one election cycle</p>	<p>Localities often oppose FCC efforts to preempt, could be helpful there. Very important in the wireless citing context. But also leads to unpredictability in areas where locals rely on predictable rules such as digital non-discrimination; affordability.</p>
<p>Broadband affordability has taken a hit with the end of funding for the Affordable Connectivity Program and threats in court to the Universal Service Fund which pays for e-rate, lifeline and rural providers --what do you see coming there?</p>	<p>Talk about E-rate rulings & tee up USF reform, 5th circuit for Ceilidh & Cheryl</p>	<p>Intro to USF reform - What is USF; why should you care; the problem (shrinking base; ACP); the solutions - expanding base</p> <p>Huge effort around ACP in DC this year - USF and ACP tied together</p>	<p>5th circuit en banc decision vs. other circuit court opinions - don't panic yet.</p> <p>USF Reform - bipartisan TF in the Senate. Activity on other bills in the Senate, need to pay for ACP funding. Congress lame duck.</p>
<p>The questions about corporate contributions to the greater good can also</p> <p>lead local officials to think about how private companies that use the public right of way often fail to compensate taxpayers for that use. How do these debates at the national level impact us at the local level?</p>	<p>Discuss how we talk about the role of local government in broadband access & digital equity. How do we proactively position local governments to be perceived as partners and problem-solvers, rather than scapegoats in our advocacy?</p>	<p>Often we think of the burdens - permitting preemption, pole attachment</p> <p>Also the possibilities - funding - USF, BEAD, digital equity</p>	<ul style="list-style-type: none"> ● Cities and counties need to be part of that conversation. ● Broadband is local and local governments are too often considered barriers not partners. ● For example, if big tech starts contributing at a national level, what does that mean for localities who are still holding the bag regarding infrastructure and deployment? ● Section 621 at the FCC & open internet

			maybe.
What haven't we spoken about yet that NATOA's members should know about?	Two big rules impacting operations are coming up: web accessibility final rule, and CIRCIA proposed rule. Get ready for compliance with these.	Workforce conversation with BEAD	Prison phone justice & incarcerated populations being addressed in DE plans.

Topics/Issues:

COURTS

Chevron Reversal: Supreme Court's decision to abolish the Chevron Doctrine in *Loper Bright Enterprises v. Raimondo* and its impact on telecom regulation and rulemaking, particularly, Open Internet, USF.

FCC's Open Internet/ Net Neutrality

- 621 related
- ISP's challenges to block the rule
- Benton's challenge to FCC forbearance on ISP's contributing to USF
- 6th Circ. Won't Move Net Neutrality Challenges To DC; Stays Order
 - The Sixth Circuit granted the industry's motion to stay the FCC's Open Internet Order pending appeal.
 - Judicial panel says "Absent a clear mandate to treat broadband as a common carrier, we cannot assume that Congress granted the commission this sweeping power, and petitioners have accordingly shown that they are likely to succeed on the merits."

NTIA

NATOA is planning a coalition application for our member communities following the **NTIA NOFO on the Digital Equity Competitive Grant Program (DECP)** ---

NATOA member communities will look at:

- Likely applications of \$5-10M and a 4-year performance timeline and a year of reporting.
- Between 5-20 NATOA communities participating
- MOA's for participating communities.
- In-kind contributions for match 10%

NATOA's member community could offer as part of a proposal:

- Training programs similar to OATS or TGH in participating communities. Perhaps video-delivered trainings?

- Gov channel programming for outreach, assistance, etc.? (Talk shows, instructional, updates, psa's, etc.)
- A local ACP replacement?
- Grassroots outreach to seniors, vets, etc.?
- Local gov staff training as digital navigators.
- Wi-Fi?
- PEG Centers as Computing Centers

Equity (Broadband Access & Affordability)

- **Broadband Equity, Access, and Deployment Program**
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- **Affordable Connectivity Program (ACP)** or successor opportunity;
 - Senate committee passes ACP bill
- **Senate Universal Service Fund (USF) Working Group** Eyes Potential Revamp Impact of 5th Circuit Ruling
- FCC's Universal Service Fund ruled unconstitutional by the U.S. Court of Appeals for the Fifth Circuit in challenge brought by Consumers' Research, a non-profit conservative organization, which conflicts with decisions in the 6th and 11th circuits that upheld USF's constitutionality. In June, the Supreme Court refused to hear Consumers' Research's appeal.
- **Broadband Equity, Access, and Deployment (BEAD) program:**
 - Biden Administration's \$42.45 billion BEAD program and the future projects' timeline in 2025, 2026.
- **CWA Study** Measures Public Benefit of Broadband Projects from ARPA ahead of BEAD funding & deployment.
- DOJ and FCC Defend **Digital Discrimination Rules** to Eighth Circuit; Industry groups sued to block the rules in February. Oral arguments are set for late September.

Preemption & Permitting

- Status of HR 3557 - the American Broadband Act of 2023
- Senate Bill Aims to Streamline Broadband Permitting on Federal Lands (July 2024 - the "Accelerating Broadband Permits Act")
 - The U.S. Government Accountability Office (GAO) studying federal broadband programs.... again.
- The Georgetown broadband local permitting summit
 - Anticipate report by Gigi Sohn & Drew Garner (both of Benton and Georgetown.)

Franchising & PEG

- Mixed use rule: 621 Order, MB Docket No. 05-311
 - *NATOA Encourages member communities to reach out to the FCC and request the Commission immediately act to repeal the mixed-use rule and amend the in-kind rule adopted in 621 Order.*

- Junk Fees, Truth in Speed, Broadband Labels and the future of consumer-oriented FCC
- Future of Franchising (covered in a separate session)
- Streaming and fees, revenue opportunities (covered in a separate session, sort of....)

Presidential Election

By Aug. 26th, the Democratic National Convention will be wrapped up in Chicago (w/o the chaos of '68!) We'll know our VP candidate, and JD will have crashed and burned. Angelina will give us the on-the-scene recap as it relates to broadband, FCC, and local gov.

Miscellaneous

- AI and the impact on local governments (covered in a separate session)