

that the FCC's 1997 *California Payphone Order* should be the "starting point for analysis." The FCC said there that a law prohibits providing telecom service if it imposes "an express legal prohibition of service covering all of the relevant geographic market," and it has the effect of prohibiting if it "materially inhibits or limits the ability of any competitor or potential competitor to compete in a fair and balanced legal and regulatory environment."

Level 3 has no plans to back down from its effort to overturn what it sees as an "overly narrow application of Section 253," said John Ryan, the company's assistant chief legal officer. "At a time when the federal government is encouraging and even funding the construction of broadband networks, state and local governments should not be permitted to charge unfair, unreasonable and discriminatory franchise fees," he said. Sprint didn't get back us to right away. -- *Adam Bender*

### Amber Alerts

## **Operators: Rulemaking Would Slow Vital Decisions on Travelers Radio**

The American Association of Information Radio Operators is asking the FCC not to issue a rulemaking notice, triggering a long proceeding, and instead provide basic guidance to the group's members on what they can broadcast under federal rules on the travelers information service. The travelers-aid stations involved could be use to broadcast Amber Alerts to help find missing children.

The stance puts the association at odds with the American Association of State Highway and Transportation Officials. They filed a petition at the FCC asking that operators in the information service be allowed to broadcast both missing children alerts and information on 511 travelers' aid services on the emergency channel. The FCC has cited a few agencies for broadcasting non-emergency weather information on emergency frequencies.

The radio operators group -- which represents public safety agencies as well as transportation, bridge and airport authorities -- said the transportation association was wrong to seek a rulemaking. The radio operators had earlier sought clarification from the FCC. "Nowhere does AASHTO explain why the relief sought requires the rulemaking," the group told the FCC.

"When we filed our petition we were careful not to file a petition for rulemaking because of the length of time they take to move through the commission, and because we were looking merely to clarify allowable communications under TIS," said Joseph Di Scipio, who represents the radio operators group. A clarification is a "quicker way to provide guidance to TIS licensees on allowable means to meet the public safety needs of travelers without being pulled in all kinds of different directions."

In other comments, APCO referred to an earlier filed statement that "unfortunately, the FCC's rules regarding TIS have sometimes been construed to prohibit broadcast of information such as NOAA weather reports that would clearly promote public safety." APCO asked the FCC to "eliminate any ambiguity in its rules" that might prevent public safety information from being disseminated to the public on TIS stations. "While it is not clear that a rulemaking is necessary to achieve that purpose, we certainly agree with AASHTO that AMBER Alerts should be permitted on TIS stations," APCO said. -- *Howard Buskirk*

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