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Subject: question from Communications Daily

Chaney,

I covered yesterday's contraband cellphone event. Was hoping for a follow up comment on what's next for the FCC. I am looking at whether the agency will now wrap up its 2013 rulemaking. I'm including my story from yesterday.

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'It's Wrong'

Pai Vows To 'Reboot' FCC Look at Contraband Cellphones in Prisons

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FCC efforts to address contraband cellphones in prisons have stalled and it's time for the agency to move forward, Commissioner Ajit Pai said at a field hearing Wednesday, streamed from Columbia, South Carolina. Pai was joined by Gov. Nikki Haley (R). She said it's time to stop protecting the wireless industry and focus on public safety. A CTIA official said the industry supports a solution that still allows "lawful" use of cellphones.

"We're going to be loud," Haley said. "Every governor in the country is going through what I'm going through, and it's wrong." There's too much focus on protecting the telecom industry and not enough on public safety, she said. "That's sick," she said. "It's sick when you look at what I have to hear on a weekly basis from my director of corrections."

South Carolina will continue to push to get the FCC and the federal government as a whole to do more to fight contraband cellphones, Haley said. "These correctional officers and the staff at these prisons deserve it," she said. "They deserve to feel safe. They deserve to feel secure."

"We typically think of cellphones as useful devices," Pai said. "But in the hands of inmates, contraband cellphones are weapons. Inmates are using them to run drug operations, direct gang activity, order hits, extort money from inmates' families, defraud the elderly, and harass innocent members of the public." Contraband phones are "flooding" the jails and prisons, he said. "They are flown into institutions via drones. They are thrown over prison fences. They are smuggled into facilities inside everything from underwear to legal papers." In one prison, during one 23-day period, detection technology logged more than 35,000 call and text attempts from prisoners, Pai said.

Under then-Chairman Julius Genachowski, the FCC started to look for technological solutions to curb contraband phones, Pai said. But those efforts have stalled, he said. The FCC released an NPRM in 2013 asking a battery of questions about how to clamp down on contraband cellphones (see 1305030026).

Progress can be made, but only if the FCC, carriers, technology companies and corrections officials work together, Pai said. "I hope today's field hearing will reboot the conversation and build a foundation for a strong response," Pai said. "The FCC needs to do everything it can to help law enforcement combat this problem. I intend to do my part to make that happen." The FCC posted Pai's remarks.

In October, FCC Chairman Tom Wheeler said in response to Pai, who had raised the issue during an FCC meeting, the FCC was working with industry to find a solution (see 1510220047). "The commission hasn't been just sitting on its hands," Wheeler said then. The FCC didn't comment Wednesday.

The field hearing offered testimony from Robert Jackson, a captain at the Lee Correctional Institution in South Carolina, shot six times in the stomach and chest in 2010 in a hit ordered from within the prison. Jackson almost died and said he continues to suffer the aftereffects of the attack.

Before the attack, Jackson said he exercised regularly. "I have no abdominal muscles, so pushups are out of the equation," he said. "Sit-ups are not part of my equation. My walking takes great effort and riding a bike is no longer in my vocabulary." How did the attack happen? he asked. "It started with a cellphone," he said. The Department of Corrections isn't allowed to stop signals from leaving prisons, he said. "This technology is available, but the cellphone industry is blocking this change in the law that would allow it to be used." As fast as prison officials collect contraband phones, prisoners' friends and families bring replacements back in, he said.

"If what we just heard does not compel the FCC and the industry to get together and fix this, then I'm wasting my time," said Homer Bryson, commissioner of the Georgia Department of Corrections, who spoke after Johnson. "We have long been concerned with inmates gaining access to cellphones because they are used to carry out criminal activities both inside and outside the prison and they place the public, our staff and other inmates at great risk of harm."

Cellphone seizures in Georgia are in the thousands every year, Bryson said. Georgia has tough laws against bringing cellphones into prisons, Bryson said. States need help, he said. "With cellphones representing a significant threat to the public and staff, it would seem the simplest way to keep inmates from using them would be to render them ineffective," he said. "At present, however, that is beyond our ability because of current federal restrictions."

CTIA Eyes Solution

Gerard Keegan, assistant vice president at CTIA, defended the industry. "Our carriers have no legitimate subscribers residing in correctional facilities," he said. "We have no interest in seeing inmates use wireless services for any reason. ... We want to have a solution."

Years before the FCC released its 2013 NPRM, CTIA members met with technology vendors to examine managed access systems and other solutions, Keegan said. "Managed access systems have proven to be highly effective; they're used throughout the country." CTIA opposes cell jamming as clearly illegal under federal rules, he repeated. "There are many harmful side effects" to the use of jamming equipment, he said.

Tests in Baltimore showed jammers in a detention center blocked legitimate communications well outside its walls, including calls to 911, Keegan said. "This creates an extremely dangerous proposition for a legitimate user outside a facility." CTIA also supports better security at prisons, and carriers have expressed a willingness to terminate service to contraband phones when they're identified, Keegan said.

"We've got the technology to fix this," said Marjorie Conner, outside counsel to CellAntenna which sells jamming technology and managed access systems. "We meet with resistance from the industry." Conner said she was pleased the field hearing was taking place. "But we've been talking about this a long time," she said.

"I'm not happy right now," said Bryan Stirling, director of the South Carolina Department of Corrections, responding to the industry comments. "I just don't see how the industry can sit here and look at Captain Johnson and his wife and repeat the same solutions that they've been repeating for the last 10 years." Who's the next corrections officer who's going to be shot in a hit arranged using a contraband cellphone, Stirling asked.

"This isn't fairy tale stuff," said Mitch Lucas, assistant sheriff with the Charleston County Sheriff's Office. "This is not HBO and Showtime. This is the real world." Lucas said he didn't want to "bash" the FCC. But he also said he's "befuddled" the carriers didn't push for a solution after Johnson was shot. "That is criminal," he said. "I know that there are some of you out here representing the cellphone companies, then shame on you."

written by Howard Buskirk