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ALERT

Congress Passes the RAY BAUM'S Act of 2018, and Other Telecom Provisions as Part of Omnibus Spending Bill

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March 23, 2018

The U.S. Congress passed the Consolidated Appropriations Act, 2018 (H.R.1625), which includes an amended version of the Repack Airwaves Yielding Better Access for Users of Modern Services (RAY BAUM'S) Act of 2018 (H.R.4986), the Clarifying Lawful Overseas Use of Data (CLOUD) Act (H.R.4943; S.2383), $600 million for a rural broadband pilot program managed by the U.S. Department of Agriculture, Rural Utilities Services (RUS), funding for the Federal Communications Commission (FCC), and funding for the National Telecommunications and Information Administration (NTIA), with $7.5 million specified to update the national broadband map. President Trump is expected to sign the bill later today.

Amendments to RAY BAUM'S Act

The final version of RAY BAUM'S Act, as passed in the Omnibus spending bill, differs slightly from the House version of the bill (summarized here). First, the bill incorporates two new provisions, Sections 606 and 608, that require the Administrator of General Services to (i) develop a common application form and master contract to streamline applications for federal easements, rights-of-way, and leases, and (ii) collect information from each agency on the ability of Federal property to support communications facility installations and make such information available by database.

Second, RAY BAUM'S Act includes new provisions intended to encourage repurposing of Federal spectrum for commercial use. Specifically, Section 612 extends the spectrum auction start date from 5 to 8 years after the transfer of pre-auction costs from the Spectrum

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Relocation Fund, and Section 613 authorizes the Director of Office of Management and Budget (OMB) to immediately transfer funds to eligible Federal agencies once frequencies have been reallocated by competitive bidding.

Third, Section VI of the House bill containing provisions from the Viewer Protection Act (H.R.3347) to authorize additional repack funding have been relocated to a Division E, Title V of the Omnibus bill. The Omnibus bill allocates $1 billion to the existing TV Broadcaster Relocation Fund ($600 million in fiscal year 2018 and $400 million in fiscal year 2019) to be used to reimburse relocation costs of eligible broadcasters and multichannel video programming distributors (MVPDs), television translator stations and low-power television stations, and FM broadcast radio stations. The bill also authorizes the FCC to use up to $50 million from the TV Broadcast Relocation Fund for purposes of consumer education.

Finally, it eliminates a provision to require the FCC to submit to Congress copies of budget estimates, legislative recommendations, testimony, and comments on legislation provided to the President or OMB, as well as any semiannual reports.

CLOUD Act

Division V of the Omnibus bill incorporates the CLOUD Act, which establishes a new legal framework for U.S. authorities to access data stored abroad. This framework promotes the use of bilateral agreements to resolve potentially conflicting legal obligations. A more detailed analysis of the CLOUD Act is available here.

RUS Broadband Program

Division A, Title VII of the Omnibus bill provides $600 million for a new broadband loan and grant pilot program under the Rural Electrification Act of 1936 (7 U.S.C. § 901) intended to improve service to rural households lacking access to broadband services with speeds of 10/1 Mbps or faster. The program will be managed by the U.S. Department of Agriculture, Rural Utilities Services.

NTIA and National Broadband Map Funding

Division B, Title I of the Omnibus bill provides $39.5 million in NTIA funding, $7.5 million of which must be used to update the national broadband availability map in coordination with the FCC and States.

Click here to read the full Wiley Rein summary.