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On the national scene, President Bush is “getting serious about broadband” says one think tank; a handful of lawmakers push for tight regulation of VOIP and FCC Chairman Powell makes yet another push for détente on network leasing agreements. In the industry, Comcast says it will make a major push into phone service with target of 40 million subscribers by 2006; a new study suggests that wireless broadband is already available for enterprises; and the VOIP gold rush continues. Rural providers grapple with portability challenges and a strike at SBC ends. In Pennsylvania, T-Mobile and Comcast team up to provide high-speed wireless Internet access in a Philadelphia neighborhood and Brian L. Roberts will become the next chairman of Comcast. In Johnstown, Atlantic Broadband announces rollout of new cable and Internet service company.

From The Papers

Verizon steps up rollout of fiber optic network.

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Federal lawmakers urge FCC to take VOIP under its wing.

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Comcast hopes to be major phone service provider.

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Comcast and T-Mobile in Philadelphia partnership to offer wireless Web access.

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CNN/Money looks at Net phones, VOIP rush.

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FCC Chairman Powell is “increasing the pressure on regional telephone giants and their rivals to reach new network leasing agreements.”

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In Johnstown, Atlantic Broadband announces rollout of new cable and Internet service company.

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Roberts to assume Comcast chairmanship.

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Number portability problems in rural areas.

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Strike at SBC Communications ends.

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Internet Retail Sales Case Before Federal Court

The 9th U.S. Circuit Court of Appeals will reconsider a ruling from last year allowing an East Coast business to be sued in California, even though it has no stores there.

The jurisdictional hook, a three-judge panel held, was Maine retailer L.L. Bean's Web site, which the company uses to sell its wares worldwide.

Thursday's decision to take the case en banc was closely watched by practitioners in the still-developing realm of e-commerce law. The outcome will help settle disputes involving the myriad companies that post catalogs on the Internet and sell their products all over the world.

The circuit first ruled on *Gator.com Corp. v. L.L. Bean Inc.* in September, when a unanimous panel reversed U.S. Magistrate Judge Maria-Elena James. She had ruled against California-based Gator, saying her court had no jurisdiction over L.L. Bean.

James had granted L.L. Bean's motion to dismiss a declaratory judgment action filed by Gator. Gator went to court after receiving a letter from L.L. Bean threatening to sue over a Gator product that generated pop-up advertisements for an L.L. Bean competitor when Internet surfers using the product visited L.L. Bean's Web site.

The opinion was written by Senior Judge Warren Ferguson and joined by Senior Judge Melvin Brunetti and Judge A. Wallace Tashima, who dispatched the decision in a quick 17 pages - even though the court admitted that e-commerce law is sparse.

"It is increasingly clear that modern businesses no longer require an actual physical presence in a state in order to engage in commercial activity there," Ferguson wrote. "Businesses may set up shop, so to speak, without ever actually setting foot in the state where they intend to sell their wares. Our conceptions of jurisdiction must be flexible enough to respond to the realities of the modern marketplace."

Elizabeth Rader, an attorney and fellow at the Center for Internet and Society at Stanford Law School, said the court's taking the case en banc is significant because the issue of jurisdiction is going to come up again and again as more transactions occur online.

"It's a lot easier to go everywhere and do business," Rader said. Since courts are just starting to deal with the issue, she said, "It's not as easy to get sued."

In a few years, Rader added, instead of being a question of jurisdiction between different states and federal districts, the venue questions will be between different countries.

L.L. Bean argues that other venues were more appropriate for litigation between the two companies and that it is a burden to go to the Northern District.

However, the panel, citing the number and type of contacts L.L. Bean has in California's marketplace, said the court has general jurisdiction based on L.L. Bean's popular Web site.

"Admittedly, L.L. Bean has few of the factors traditionally associated with physical presence," the opinion says. "Nevertheless, its website is clearly and deliberately structured to operate as a sophisticated virtual store."

Portability on Wireless Phones Goes Nationwide

Beginning Monday, May 24, the ability of consumers to change their wireless telephone provider and keep their number expands to cover the entire country as Federal Communications Commission number portability rules take effect in smaller markets, covering an additional 70 million Americans.

"Now all Americans can enjoy the benefits of competition," said FCC Chairman Michael Powell. "These changes will bring lower prices, more innovation and better service to everyone. Wireless carriers will now, more than ever, deliver for rural America."

Last November, the FCC required wireless carriers in only the 100 largest cities to start allowing customers to switch and keep their numbers. Over 3.5 million numbers have been switched. Most of these—approximately 3.34 million—involved wireless customers switching from one wireless carrier to another. Approximately 229,000 involved landline customers taking their landline number to a wireless carrier. Just over 7,000 people transferred a wireless number to a landline phone.

FCC Proposes Rules for Use of Vacant TV Channels for Wireless Broadband Use

The Federal Communications Commission (FCC) has proposed to allow unlicensed radio transmitters to operate in the broadcast television spectrum at locations where that spectrum is not being used. The Commission believes that the proposals will provide for more efficient and effective use of the TV spectrum and would have significant benefits for the public by allowing the development of new and innovative types of unlicensed broadband devices and services for businesses and consumers. Further, new unlicensed broadband operations may provide synergy with traditional broadcast operations and offer broadcasters the opportunity to provide new services. In addition, because transmissions in the TV band are subject to less propagation attenuation than transmissions in the spectrum where existing broadband unlicensed operations are permitted, allowing unlicensed operation in the TV bands could benefit wireless internet service providers (WISPs) by improving the service range of their existing operations, thereby allowing WISPs to reach new customers.

The FCC notes that broadcasters are currently undergoing a transition to digital operation, during which channel availability is likely to change more frequently. In its proposed rules, the Commission accounts for those changes. To ensure that no harmful interference to authorized users of the spectrum will occur, the FCC proposes to define when a TV channel is “unused” and to require these unlicensed devices comply with significant restrictions and technical protections. Unlicensed devices would be required to incorporate “smart radio” features to identify the unused TV channels in the area where they are located. The FCC intends to consider several alternative methods for identifying the unused TV channels, including approaches that would: 1) allow existing television and/or radio stations to transmit information on TV channel availability directly to an unlicensed device; 2) employ geo-location technologies such as the Global Positioning Satellite (GPS) system; or 3) employ spectrum sensing techniques that would determine if the signals of authorized TV stations are present in an area

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