



Small Cells in 2018

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Program

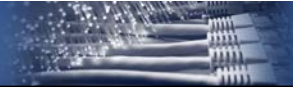
- Federal Activity
 - Congress
 - FCC
 - BDAC
- State Legislation
- Litigation
- What's Next



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Capitol Hill

- Big picture – Congress likely done w/ major legislation for the year & focusing on midterms
- Omnibus spending bill survived attempts to attach wireless-related riders
- Industry dominates the conversation, using 5G as justification for broad agenda of deregulation & preemption



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Capitol Hill

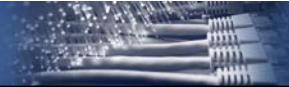
- Siting-specific legislation
 - Draft 5G bill – Thune/Schatz – TBD
 - RAPID Act – Moran/Scalise – TBD
- General FCC Matters
 - MOBILE NOW (S.15) – included in omnibus spending package
 - FCC Reauthorization – included in omnibus spending package



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Capitol Hill

- Infrastructure
 - Whenever Congress gets to infrastructure, expect preemption & deregulation to accompany any action on wireless
 - Highly unlikely before 2019, but industry continues laying groundwork and pushing their 5G message



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FCC

- Big picture – this FCC is very receptive to industry wishes around wireless & small cells
- What wireless industry wants :
 - Greater access – right to use ROW & poles
 - Lower costs – capping fees & rents at cost or below market rates
 - Streamlined processes – restricting local zoning & permitting, more shot clocks & deemed granted remedies, federal preemption of localities
- Litigation expected on many of these issues



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FCC

- Local zoning & siting preemption
 - No action yet on 2017 NPRMs, but FCC in March signaled action on those issues in coming months.
- Environmental/historic review
 - March 2018 order exempts all small cells from NEPA/NHPA Federal review
 - Raises concerns for small cell collocations & future actions



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Recurring Theme at the FCC: Local Government as Part of Problem, Not Solution, to Broadband Deployment

- Multiple FCC items describe local government policies as “barriers to entry and investment”
 - Mobile wireless siting petition
 - Wireless and wireline infrastructure proceedings
 - Preemption Petition Targeting San Francisco MDU Ordinance
 - Multiple Tenants Environment Proceeding
 - Section 706 Inquiry
 - BDAC



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BDAC

FCC's Broadband Deployment Advisory Committee

Established in 2017, dominated by industry voices with minimal local representation

Final recommendations due April 2018 – FCC action likely to follow



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BDAC Structure & Purpose

- Charged with identifying ways to eliminate barriers to infrastructure investment
- Working groups focusing barriers, model state & local codes, federal issues, & costs
- Minimal local gov't representation, proposals adopted consistently mirror industry agendas & dismiss local gov't perspectives & concerns

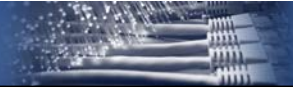


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BDAC Recommendations

- Model State Code
 - Includes wireless industry modeled state small cell preemption language
- Barriers Working Group
 - Identified numerous local gov't practices as barriers
 - Rejected local gov't efforts to include minority report w/ dissenting views



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BDAC Recommendations

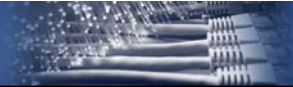
- Costs
 - Recommendations due in April, expected focus on capping application & ROW access fees below market rate
- Model Local Code
 - Sole working group with meaningful local representation & balanced approach, reflects reasonable recommendations



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BDAC Recommendations

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State Small Cell Legislation

- Many states have adopted legislation. Details vary but generally:
 - Liberal definition of “small cell” based on federal definitions; may or may not deal with structures
 - Shot clocks /bulk permits
 - Eliminate discretionary authority.
 - Access to government vertical assets and other property
 - Regulated low rental rates
 - Other state level fixes (permit renewals)
 - Cable industry / oppose without amendments
 - Then propose their agenda in amendments
- Some better, some worse than CA’s vetoed SB649



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What Local Leaders Need to Do

- Show up – Congress, FCC, state legislatures, & courts
- Form coalitions to fight state bills
- Commit time and resources to policy & prepare to face challenges at multiple levels simultaneously
- Educate elected officials about your views and work to tell the other side of the story and create a counter-narrative



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