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TELECOM REGULATORY NOTE

Broadband Provisions of the House Stimulus Package

- **The House version of the stimulus package totals \$825 billion and consists of a combination of \$275 billion in tax cuts and \$550 billion in grants and loans. The Senate will have its own version, which is likely to vary somewhat, so the final shape of the package is not clear at this point.**
- **The focus of the \$550 billion American Recovery and Reinvestment Act of 2009 is on projects that will have an immediate economic impact, with a goal of using at least 50% of the funding for projects that can be initiated in 120 days. There are “use it or lose it” provisions. The bill has substantial provisions for oversight and accountability.**
- **The grant/loan package includes \$6 billion for broadband deployment. In addition, it includes \$650 million for the DTV transition. There will probably be an additional impact from stimulus to related areas such as electric Smart-Grid projects, investments in healthcare information-technology projects, school construction and upgrades, and housing rehab.**
- **The numbers may be somewhat different once the House and Senate reach a final compromise, but the publication of the House bill at least provides a sense of the likely magnitude.**
- **However, because the broadband infrastructure funding is for “open-access” networks, some service providers that might otherwise qualify may not choose to apply.**
- **We cannot yet quantify how much of the tax relief would benefit the telecommunications - broadband industry, but note that most of it is focused on individuals and small businesses.**

Allocation of the grant/loan funding:

- **The USDA's Rural Utilities Service (RUS) would get \$2.825 in rural Broadband Infrastructure Recovery Funding. The funding would be for grants, loans and loan-guarantees for the installation of open-access broadband networks and would be strongly oriented toward unserved areas. The focus here is on rural broadband infrastructure.**
 - **Of the funding for any project, 75% is for rural areas that do not have enough broadband infrastructure to facilitate rural economic development.**
 - **Priority would be given for project applications from borrowers or former borrowers under title II of the Rural Electrification Act of 1936.**
 - **Priority is for projects that demonstrate that the projects will be fully funded if the awards are granted and activities can commence promptly. The area of a project covered by RUS funding is not to overlap with the NTIA grants (described below).**
 - **Timing: 50% of grants, loans and guarantees are to be awarded no later than September 30, 2009. Funding will remain available till September 30, 2012.**

- **NTIA would get \$2.825 billion for the Wireless and Broadband Deployment Grant Programs to subsidize the development of broadband and wireless services in unserved and underserved areas. Of that, \$1 billion would be grants for the deployment of wireless voice service or advanced wireless broadband (3 Mbps down/1 Mbps up) and \$1.825 billion would be for grants for basic broadband service (5 Mbps down/1 Mbps up) or advanced broadband service (45 Mbps down/15Mbps up). Up to 20% of the funding could be transferred between the two programs, after giving 15 days notice to the House and Senate Appropriations Committees.**
 - **The focus here is on non-recurring costs, for the deployment of broadband in rural, suburban and urban areas.**
 - **Timing: No later than 75 days after enactment, states intending to participate must submit a report to NTIA indicating geographic areas of the state which the state considers priorities for wireless voice in unserved areas, wireless advanced broadband in underserved areas,**

basic broadband in unserved areas and advance broadband in underserved areas.

- **Report to Congress from NTIA is due on planned spending and actual obligations within 120 days after enactment. 50% of grants to be made available no later than September 30, 2009.**
 - **Of the Wireless funding, 25% is for voice and 75% is for advanced wireless. Of the Broadband Grants, 25% is for basic broadband and 75% is for advanced broadband.**
 - **Recipients must meet buildout requirements, maximize use of the infrastructure by the public, operate basic and advanced broadband and advanced wireless broadband networks on an open access basis, and adhere to the FCC's August 2005 Broadband Policy Statement.**
 - **Grant distribution consideration by NTIA would include (to the extent practical): Awarding at least one grant per state. Considering the impact on public safety, health care delivery, education, enhancing computer literacy. Availability of state or local matching funds.**
 - **Grants can be to service providers, states or local governments, other entities such as construction companies or tower-building companies.**
- **NTIA will get \$350 million for broadband mapping. Competitive grants would be provided to track broadband availability and adoption state by state. Funding will remain available till September 30, 2011.**
 - **NTIA will get \$650 million for additional DTV converter box coupons, as well as DTV outreach and consumer support. The funding is to be available till September 30, 2009.**
 - **While this is not part of the broadband program, it is worth noting that the stimulus package includes \$4.5 billion for Electric Smart-Grid research and development, demonstration and pilot projects and qualifying Smart Grid investments. To the extent that telecommunications companies can partner with utilities on these projects, this would be helpful to the telecom industry. On the other hand, in some communities, this could stimulate broadband-over-powerline projects, which would become competitors to traditional broadband networks.**
 - **The package includes many projects oriented toward other goals that could also create demand for broadband. For example, there are several health-care**

projects that are broadband-complementary: the \$20 billion Health Information Technology project which would computerize health-care records, the \$1 billion for renovating community clinics and making health technology improvements, and the \$550 million for upgrading Indian Health Service Facilities. There is over \$20 billion for constructing and upgrading schools. There is also more that \$10 billion for various forms of housing rehabilitation, which may include upgrading housing for broadband. All of these projects have the potential for stimulating demand for broadband.

What this means to investors:

- **There will probably be some tax-based stimulus, but what is clear now is the portion of the stimulus package that is directly oriented to broadband. That consists of grants, loans, and loan guarantees amounting to \$6 billion.**
- **The funding comes with an open-access condition, and in the case of the NTIA-funding also with a condition of maximizing use of the infrastructure by the public. It is not clear what these conditions mean and who will define them, and how those definitions will fit in with existing or yet-to-be set FCC regulations. Traditional wireline, cable, and wireless providers with large networks may hesitate to apply for funds under those conditions, especially if it appears that acceptance of funds to construct in a few new areas may subject their entire networks to those conditions.**
- **Thus, the direct broadband funding may appeal more to small or municipal players, rather than traditional telecom, wireless or cable companies.**
- **The overall package will, nevertheless, have a major effect on broadband deployment because the much larger spending on upgrading technology in healthcare, education, and housing is bound to create demand for broadband throughout the country. And, of course, whatever this entire package does to help the economy recover will be helpful to the industry inasmuch as it inspires consumers to spend on broadband services and products.**

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